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# HOURS OF SERVICE ACT AMENDMENTS OF 1969

## HEARINGS

BEFORE THE

## COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE HOUSE OF REPRESENTATIVES

NINETY-FIRST CONGRESS

FIRST SESSION

ON

## H.R. 8449, H.R. 84, and H.R. 9515

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

JUNE 24, 25, AND JULY 8, 9, 1969

## Serial No. 91–20

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Association of American Railroads:
- Goodfellow, Thomas M., president.
- Manion, R. R., vice president, Operations and Maintenance Department.
- Welsh, Philip F., counsel.

Brotherhood of Locomotive Engineers:
- Coughlin, Charles J., grand chief engineer.
- Kraushaar, Richard H., attorney.
- McCulloch, E. L., national legislative representative.
- McGuire, W. S., local chairman, division 92.
- Ross, Harold, attorney.
- Skutt, W. E., assistant grand chief engineer.

National Railway Labor Conference:
- Greer, H. E., director of research.
- Hiltz, J. P., Jr., chairman.
- Lee, E. P., general attorney.

Penn Central Co.:
- Schofield, Albert M., assistant vice president–operation planning.
- Sperry, Jack, operations planning department.
- Wells, Hermon M., assistant general counsel.

Railway Labor Executives' Association: Al H. Chesser, chairman, committee on safety.

Seaboard Coast Line Railroad Co.:
- Charron, Edward A., counsel.
- Hastings, D. C., vice president, transportation and maintenance.

Southern Pacific Co.:
- Burton, Sam B., assistant general manager.
- Denton, William R., attorney.

Transportation, Department of, Federal Railroad Administration:
- Corcoran, Lee, Chief Counsel.
- Hilsinger, Henry L., Acting Chief of Safety Programs.
- Whitman, Hon. Reginald N., Administrator.

United Transportation Union:
- Chesser, Al H., national legislative director.
- Homer, Winfield M., Labor Bureau of the Middle West.
- Lampley, A. M., assistant national legislative director.
- Sage, Marshall, legislative research assistant.

# HOURS OF SERVICE ACT AMENDMENTS OF 1969

TUESDAY, JUNE 24, 1969

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

The committee met at 10 a.m., pursuant to notice, in room 2123, Rayburn House Office Building, Hon. Harley O. Staggers (chairman), presiding.

The CHAIRMAN. The committee will come to order.

This morning the Committee on Interstate and Foreign Commerce is opening hearings on H.R. 8449 and 29 other bills, all having to do with the promotion of safety on railroads by limiting the number of hours of service of employees thereon.

These bills fall into three general classes: the first, H.R. 8449 and 24 others, in general, reduce the maximum number of hours now set out in the act for train service employees from 16 to 12 and provide for other changes as to certain other employees; second, H.R. 84 and two other bills are generally the same as H.R. 8449 except for a difference in definition as to what constitutes on-duty service; and third, H.R. 9515 and H.R. 11442 have an additional provision to the effect that where an engine crew consists solely of a locomotive engineer the maximum on-duty hours shall be 9.

This subject has been heard at some length as recently as the last Congress when extensive hearings were held by our Subcommittee on Transportation and Aeronautics under the chairmanship of Mr. Friedel.

It had been my hope following these hearings that representatives of employees concerned and of the railroads might have been able to resolve some of the problems connected with this matter and that the committee accordingly would be considering legislation where there was substantial agreement by these parties.

While some progress appears to have been made, this matter has not yet been resolved.

It is my belief that in this day and age under the technological progress which the country has had everywhere, and has had in the railroad industry, there no longer is reason for permitting men to continuously work for 16 hours, especially here where such a vital matter as safety is concerned. I am hopeful that we may pursue this matter to an expeditious conclusion, and that is the intent of the Chair, to do just that: to pursue this as soon as we come back after the July 4 recess.

Today, we will hear from the representatives of the brotherhoods, and following the July 4 recess we shall hear from the representatives of the railroad and from others and try to come to some con-

clusion because this act was passed in 1907 and after these 62 years I think that it is time that we do something about it.

I thought the last Congress was the time. The time element caught up on us and we didn't get it completed, but I think that now we have started in time and I see no reason why these two can't get together.

There might be some points of difference but I am sure they would have to be small and they certainly ought to try to resolve these differences to come before this committee with some kind of suggestion so that the committee could proceed to pass out a bill.

(The texts of H.R. 8449, H.R. 84, and H.R. 9515, and departmental report thereon follow:)

**[H.R. 8449, 91st Cong., 1st sess., introduced by Mr. Staggers on March 6, 1969]**

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' means an individual actually engaged in or connected with the operation of any train.

"(3) Time on duty shall commence when an employee reports for duty and terminate when the employee is finally released from duty, and shall include:

"(A) Interim periods available for rest at other than a designated terminal;

"(B) Interim periods available for less than four hours rest at a designated terminal;

"(C) Time spent in deadhead transportation by an employee to or from duty assignment;

"(D) The time an employee is actually engaged in or connected with the movement of any train; and

"(E) Such period of time as is otherwise provided by this Act.

"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

"(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 employee is on duty, there shall be counted, in addition to the time such employee is actually engaged in or connected with the movement of any train, 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 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.

"(b) For the purposes of subsection (a), in determining the number of hours an employee 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 of 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 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.

"(b) It shall be the duty of the Department of Transportation to lodge with the appropriate United States attorney information of any violation as may come to the knowledge of the Secretary.

"(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.

"(d) 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 Department of Transportation to carry out the provisions of this Act."

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

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**[H.R. 84, 91st Cong., 1st sess., introduced by Mr. Anderson of Tennessee on January 3, 1969]**

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.

"(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 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 logged 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 Department of Transportation 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 Department of Transportation to execute and enforce the provisions of this Act, and all powers granted to the Department of Transportation 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.

---

**[H.R. 9515, 91st Cong., 1st sess., introduced by Mr. Clark on March 26, 1969]**

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 Representative 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 pruposes 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.

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INTERSTATE COMMERCE COMMISSION,
*Washington, D.C., February 25, 1969.*

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

DEAR CHAIRMAN STAGGERS: This responds to your request of February 7, 1969, for a report on H.R. 84, 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".

All of the functions in the area of railroad safety formerly exercised by the Commission have been transferred to the Department of Transportation. For this reason, we have no comments to offer on the provisions of this bill.

Sincerely,

VIRGINIA MAE BROWN, *Chairman.*

The CHAIRMAN. Our first witness this morning will be Mr. Al H. Chesser, national legislative director of the United Transportation

Union and chairman of the Safety Committee of the Railway Labor Executives' Association.

You may proceed and you will identify the gentlemen you have with you.

**STATEMENT OF AL H. CHESSER, NATIONAL LEGISLATIVE DIRECTOR, UNITED TRANSPORTATION UNION, AND CHAIRMAN, COMMITTEE ON SAFETY, RAILWAY LABOR EXECUTIVES' ASSOCIATION; ACCOMPANIED BY A. M. LAMPLEY, ASSISTANT NATIONAL LEGISLATIVE DIRECTOR; WINFIELD M. HOMER, LABOR BUREAU OF THE MIDDLE WEST, AND MARSHALL SAGE, LEGISLATIVE RESEARCH ASSISTANT, UNITED TRANSPORTATION UNION**

Mr. CHESSER. Mr. Chairman, and members of the committee.

To my right is Mr. A. M. Lampley, assistant national legislative director of the United Transportation Union. To my left is Mr. Winfield M. Homer of the Labor Bureau of the Middle West, and next to Mr. Homer, his immediate left, is Mr. Marshall Sage, our legislative research man in our office of the United Transportation Union.

The CHAIRMAN. You may proceed.

Mr. CHESSER. Mr. Chairman and members of the committee, my name is Al H. Chesser. I am national legislative director of the United Transportation Union which was formed by merger of the Order of Railway Conductors and Brakemen, the Brotherhood of Railroad Trainmen, the Brotherhood of Locomotive Firemen and Enginemen, and the Switchmen's Union of North America. It was effective January 1 of this year.

I also serve as chairman of the Committee on Safety of the Railway Labor Executives' Association. A list of organizations affiliated with the Railway Labor Executives' Association is appended to my complete statement.

The United Transportation Union and the Railway Labor Executives' Association wholeheartedly support H.R. 8449 as does the AFL–CIO to change existing statutory limitations on the hours of service of railroad employees.

I have a complete statement covering the factual basis underlying this legislative proposal. I shall not read it, but I ask that it be inserted in the record.

The CHAIRMAN. Without objection, it is so ordered.

Mr. CHESSER. You will note there are a number of appendices and tables with statistical information attached. These also should be included in the record.

The CHAIRMAN. They will be.

Mr. CHESSER. The statement deals with the proposed changes in the hours of service law from a historical point of view. It discusses conditions and standards of 1907 when the present law was enacted and traces changes in such standards and conditions since that time.

The statement also reviews findings of authorities on fatigue and the effects of long hours on safety and on the health of workers.

Last, the statement reviews standards limiting the hours in other transportation industries for bus and truck drivers and for airline flight personnel.

In addition to my statement and its appendices, I offer two supplementary memoranda prepared in connection with certain technical problems that have arisen in past proceedings on operating employees' work hours and on the use of railroad safety statistics. These memoranda were prepared by Mr. Winfield M. Homer of the Labor Bureau of Middle West.

They are entitled: "The Dual System of Pay" and "Technical Matters Arising in the Use of Railroad Accident and Safety Statistics."

I shall discuss each of the sections in my statement briefly. Before I do so, however, I would like to express my basic feeling of amazement and even exasperation that we should be here in the Congress of the United States asking for a 12-hour day in the year 1969.

This was a goal workers were fighting for and gaining in 1869, a century ago, and even earlier. In my statement you will find quotations from experts on fatigue. Most of these statements were made 30 and 40 years ago and they were made in the context of controversies over the relative merits of the 8-hour day versus the 10-hour day.

These authorities generally found that an 8-hour day was less fatiguing and much safer than a 10-hour day—20, 30, and even 40 years ago.

And here we are in the railroad industry—1969—asking to have our maximum day reduced from 16 to 12 hours. Furthermore, there is going to be opposition to this request. Representatives of the railroads are here in this room today to tell you that you should not make this change.

I am sure they will oppose this bill but I cannot even surmise the basis for their opposition. As the members of this committee must know, the safety record of the railroads in recent years has been unbelievably bad, and there is pending before Congress legislation to broaden the scope of the Government's authority in the field of railway safety—hopefully, to bring about an improvement in that record.

Our evidence will show that there are railroad employees today who are working 13, 14, and 15 hours within the limits of the existing statute, and that the railroads are working some employees even beyond the present 16-hour statutory limit.

Manifestly, this is an impossibly unsafe situation—men working even as long as 10 hours are far less efficient than they are during their normal working hours, and it is downright foolhardy to work these men in excess of 12 hours.

If we can judge from their past appearances on similar or related legislative proposals, the railroads will claim that a 12-hour day is impractical: Is it impractical to limit the worktime of a locomotive engineer operating a 10-unit diesel locomotive pulling 200 cars over the track at 50 miles an hour?

Is it impractical to limit his time to 12 hours per day?

Is it impractical to limit the hours of conductors, brakemen, and firemen in charge of and working on this train?

Is it impractical to enforce such an hours' limitation on yard employees who have some of the most dangerous tasks in the industry?

This is unadulterated, Simon pure nonsense. The railroads have made this same kind of argument for 50 years in opposition to every

change that has been made in the working conditions of railroad employees.

In every instance, when and after the change was made, the railroads have revised their schedules, tightened up their procedures, reoriented their supervisors, and continue to operate—always with more efficiency than in the period before the change.

I turn now to the changes proposed in the bill and to the material we are submitting in support of such changes.

The current standard which was enacted in 1907 provides that 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.

When employees have worked 16 consecutive hours, the law requires them to be given 10 consecutive hours off duty before being returned to duty. If the employee works 16 hours within a 24-hour period, but not continuously, the law requires that the employee be given 8 consecutive hours off duty.

H.R. 8449 will reduce the 16 hours to 12 hours and will require 10 hours off duty after any period of 12 consecutive duty hours; it will require that each employee be given not less than 8 consecutive hours off duty in the 24-hour period prior to any tour of duty.

The proposed bill defines time on duty as including any interim periods available for rest of employees in between terminals and for any time spent in deadheading to or from duty assignments.

The proposal also provides that interim periods of release at designated terminals shall be at least 4 hours. These proposals are intended to prevent abuses of the clear intent of the law and to insure that off-duty time of the employees can be devoted exclusively for purposes of rest.

Under the existing law, carriers avoid the requirement to provide for bona fide rest time by directing employees to take short periods off duty; by this device, employees may be required to work extremely long hours (but not exceeding 16 hours) with no allowance of 8 or 10 hours off-duty rest time.

The present Hours of Service Act applies penalties ranging from $200 to $500 for each violation by the railroads. Experience has shown that $200 is too little to deter the railroads from working the employees excessive hours. The bill proposes that this penalty be increased to $500 for each and every violation.

In sections I and II of my statement, pages 4 to 10, I have reviewed the conditions that existed in 1907 when the 16-hour law was passed and some of the changes that have taken place since that time.

I believe it to be unnecessary to recite this material orally. All of the committee know generally how we have passed from the age of the horse and buggy, the steam locomotive, and the medieval working standards of 1907 to the moon-landing age of 1969.

However, to make the record complete, we have filled in details on some of the more material changes that have occurred, in these first two parts of my statement.

Beginning on page 10, I have cited statistics on the current safety performance of the railways.

The Department of Transportation has reported that 2,359 human beings were killed and 24,608 were injured in railroad accidents in the

year 1968; 146 employees on duty were killed and 17,600 were injured.

There were 8,028 train accidents—a record for recent years for which comparable figures are available. Train accidents last year exceeded the 1967 levels by over 10 percent. Virtually all types of accidents have increased—collisions, derailments, and rail-highway grade-crossing accidents. Some train accidents involved inflammable and explosive materials, causing evacuation of whole towns and resulting in many deaths and injuries as well as millions of dollars in property damage.

Unfortunately, the existing system of reporting information on railroad accidents provides no information on the hours of duty of crew members. Thus, we have no direct current statistics showing the relationship between long hours and accident occurrence.

We do have information, however, on accidents caused by errors in operation. These would be the class of accidents most likely to be caused by long hours.

In 1967 (the latest year for which data are available), 1,987 train accidents were caused by operational errors. There has been a substantial increase in such accidents since 1961. Operational error accidents include all accidents resulting from things employees do or fail to do in operations.

Errors due to visibility failures, to misunderstandings, to various communication failures, and to mistakes in judgment all fall within this group.

Such errors are caused by many circumstances: Weather or uneven terrain can interfere with visibility and the exchange of hand signals; crew reductions have imposed larger burdens on remaining crewmembers; pressures for increased speeds and greater expedition in switching; and, of course, fatigue—when employees are worked for longer periods than usual, or become exhausted as a result of other environmental factors such as noise, vibration, continued motion, and heat. A table showing the trend of operational error accidents has been appended as table 3 to my statement.

The deplorable railroad safety record has been commented on by officials of the Interstate Commerce Commission and of the Department of Transportation in recent years. Typical of such comments are those made by Mr. Joseph J. O'Connell, former Chairman of the National Transportation Safety Board, in a letter to the Director of the Federal Railroad Administration on April 3, 1968:

> The railroad accident picture is extremely serious. Furthermore, higher speeds, longer and heavier trains, and the growing carriage of deadly and hazardous materials may well increase the already serious consequence of unsafe practices. We are sure you are aware of the disquieting picture described in this letter and concur in the view we hold that every reasonable step be taken to arrest and reverse the trend toward increasing incidents of train accidents.

In section IV of my statement, pages 14 to 20, I have presented statements of authorities on the relationship of long hours and fatigue to safety. These materials are included for the committee's general information. I shall not read them into the record.

Beginning at page 20 in section V, I have reviewed materials on the question of the practicability of the 12-hour standard. I believe there can be no serious challenge to the fact that a 12-hour day as a maximum limitation is not impractical.

At any rate, if evidence is pertinent here, it should be on the other side of the question; that is, if the railroads believe there is a problem here, they should undertake the burden of demonstrating the problem.

Our evidence in this section shows the wide variation in the hours worked by railroad-operating employees. In other words, some railroads are requiring their employees to work unconscionably long hours; other railroads are not doing so.

We believe that standards practical on one railroad are practical on all railroads, and that good and intelligent railroad management can solve any resulting problems if they are required to do so.

Beginning on page 25, I have discussed some of the results for the employees of the present regulations and of the legal loopholes in the existing law. In order to clarify the circumstances under which some of our men must work, I have attached as appendix 8 to my statement the Federal Railroad Administration's memorandum on application of the Hours of Service Act.

First of all, I call attention to the paragraph on the first page of the memorandum defining "on duty" time:

> An employee goes on duty when he reports for service at the time and place specified by rules or instructions of the carrier. He remains on duty until relieved of all responsibilities and is free to go and do as he pleases. Time spent in "deadheading" is generally considered as time not on duty.

The sentence "He remains on duty until relieved of all responsibilities and is free to go and do as he pleases" suggests a wide degree of choice and freedom for the employee to use the time for rest, for dining, for recreation or for other similar purposes.

This, however, is not the fact. Let me cite for you some of the circumstances that have been found to meet this definition for time off.

On the Chicago & North Western Railway on October 22, 1962, a freight crew reported for duty at 8:54 p.m. at Fremont, Nebr., for a run to Superior, Nebr., 161 miles distance.

After traveling all night, it became evident the train could not reach its destination within the 16-hour time limit. Therefore, at 11:40 a.m.—15 hours and 40 minutes after the crew began duty—it was "relieved."

The "relieved" crew members were required however to continue on the train, in the caboose to Superior for a period of approximately 7 additional hours. There were cushions on the caboose on which three of the five crew members could rest during this 7-hour movement. The other two had to fend for themselves, but they were completely "free" to do "what they pleased" within the confines of the caboose during that 7-hour interval, which was time off duty and supposedly rest.

I want you to take cognizance of this fact after the arrival at Superior.

The CHAIRMAN. The gentleman from Maryland says at this point he would like to ask a question.

Mr. FRIEDEL. On this statement you are making here, that a crew left Fremont for a run to Superior, that is a 161-mile distance and after traveling 15 hours and 40 minutes they had to ride 7 hours in the caboose.

Mr. CHESSER. Yes, sir.

Mr. FRIEDEL. Why is that? Why would it take that long on a 161-mile run?

Mr. CHESSER. This could have been a train which had some switching or setting out and picking up, and it could have experienced trouble en route.

Mr. FRIEDEL. I thought it was a steady run, 161 miles.

Mr. CHESSER. It probably was a steady run. That is an assigned run. But they may have experienced some trouble en route or I think probably more or less this is an assignment which sets out and picks up.

After arrival at Superior, the five crewmembers were afforded an additional 3-hour period at the terminal.

Now, I suppose at least half or more of that time was spent going to the restaurant to eat. Certainly no time to take a bath and go to bed with 3 hours and get any rest.

After this 3 hours, which is at 9:40 p.m., the crew was required to go back on duty for the return trip to Fremont where they arrived and were released 16 hours later, at 1:40 p.m. the next day.

Gentlemen, this is 41 hours and 40 minutes.

The Federal Government contended this was a violation of the Hours of Service Act, and requested the U.S. District Court for the District of Nebraska to impose the appropriate penalties. The carrier contended the men were afforded a 10-hour period off duty—7 hours en route in the caboose, and 3 hours at Superior. The court held with the carriers, and no violation of the act was found.

And there is a precedent set on the hours of service.

Clearly, in this instance, this crew was required to work without a real rest period for almost 32 hours within a period of only 42 hours.

The 7-hour period of release en route was classed as deadhead time, and as such was not "on-duty time" within the meaning of the act as it has been interpreted.

Manifestly, the later 3-hour period of release in Superior was not enough for rest purposes. To require a crew in such circumstances to go back on duty for 16 more hours was unfair, unhealthy, and extremely unsafe. Yet, it was found to be permissible under the present law.

I have cited this only as an example. Hundreds of such instances occur every year. Appendix 9, attached, is a listing of more examples of long hours which have been reported by some of the employees we represent.

Gentlemen, there is a large number there. If you have room in your file I will cart many, many more over here to you for your examination and information.

Mr. THOMPSON. May I follow up on the gentleman from Maryland's question concerning the distance back?

The CHAIRMAN. Since I allowed him time, I will allow you time but we won't have any more in the presentation. So you go ahead.

Mr. THOMPSON. I am still confused as to the total distance. It is only 161 miles between the two, and then you stated on the return trip it took 16 hours for the return trip, after having taken so long for the trip coming up there?

Mr. CHESSER. Yes, sir.

Mr. THOMPSON So then that basically the train apparently was going about 10 miles an hour?

Mr. CHESSER. Yes. And as I explained before, the train may have stopped enroute switching, at towns on the way, or setouts and pick up of merchandise.

Mr. THOMPSON. Would you say that this was a normal procedure? Would this be an exception?

Mr. CHESSER. This run?

Mr. THOMPSON. Yes.

Mr. CHESSER. This particular assignment?

Mr. THOMPSON. Yes.

Mr. CHESSER. No. And I don't want to leave the impression this happens on every assignment. I refer in my statement later here to just approximately the number of employees this would involve every day on the railroads. No, this doesn't happen on every run.

Mr. THOMPSON. On every run between these two locations is what I am getting at.

Mr. CHESSER. On every run between these two locations it could very well. I can certainly get that information.

(The following letter was received by the committee:)

UNITED TRANSPORTATION UNION,
NATIONAL LEGISLATIVE DEPARTMENT,
*Washington, D.C., July 7, 1969.*

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

DEAR CONGRESSMAN STAGGERS: In the course of my oral presentation with respect to H.R. 8449, I was asked about the operations of a certain Chicago and North Western Railway assignment between Fremont and Superior, Nebraska. I had described the hours of one trip on this assignment for a specific run in October, 1962. Congressman Thompson asked if the hours described in my testimony were normal or exceptional on this assignment. His question appears on page 18 of the transcript. In response to this question, I enclose a communication from Mr. James M. Shores, Local Chairman of the United Transportation Union on the Chicago and North Western for the division involved.

Mr. Shores' tabulation shows fifteen trips between Fremont and Superior in the period from May 19 to June 21, 1969. In addition to these trips which ran the full distance between these two points, there were six trips which covered only a part of the distance. One such trip on May 28 ran from Superior to Lincoln, and a relief crew had to be called to bring the train in when the hours of the regular crew out of Superior were approaching the sixteen-hour limit—a circumstance similar to the one described in my testimony.

Of the fifteen trips making the full run, two of them were shown as taking fifteen hours, fifty-nine minutes. One required fifteen hours, twenty-five minutes. Two others took between fourteen and fifteen hours; seven trips took between twelve and thirteen hours. Thus, of the fifteen trips making the full run between the points, all but three required more than twelve hours. In addition, three of the trips which did not make the complete run were on duty more than fifteen hours.

Mr. Shores refers to two circumstances that have affected the hours of this assignment. First, he mentions the abolishment of regularly assigned switch engines at Lincoln and Superior under the provisions of Article V of the National Agreement of June 25, 1964. This Agreement set forth certain guide lines under which yard crews could be eliminated and their work turned over to road crews. According to Mr. Shores, the elimination of these two yard switching crews has added to the work of this local freight crew and has lengthened their working hours.

Mr. Shores also mentions the condition of the track which has imposed restricted running speeds over certain sections of the route. A train order of June 23, 1969, attached to the letter, shows where these speed restrictions apply.

I am attaching with Mr. Shores' letter the enclosure referred to above, a page of the timetable covering this operation, and the pertinent section of the Agreement of June 25, 1964 which resulted in the elimination of the switching crews at Lincoln and Superior.

Kindest personal regards.

RESPECTFULLY YOURS,

AL H. CHESSER,
*National Legislative Director.*

Enclosure.

DEAR SIR AND BROTHER: Referring to our telephone conversation this morning, I have compiled a rather small amount of information on the hours spent in service on the Lincoln Subdivision of the Iowa (formerly Nebraska) Division of the Chicago & Northwestern Railway.

You referred to a complaint made in 1962 against this Carrier by, I believe, State Legislative Chairman A. W. Westphal, former BRT.

The general working conditions on this particular part of the C & N W Property have not improved, but actually have gone down hill due to the abolishment of regularly assigned switch engines at Lincoln and Superior under the provisions of Article V, National Agreement of June 25, 1964.

Present track conditions indicate a minimum running time of Six hours, thirty six minutes. This leaves nine hours, twenty four minutes for necessary work and meals at the twenty one stations and delays at the ten railroad crossings encountered on this subdivision.

At the time the complaint was made, the service on this line was tri-weekly with regularly assigned crews, with such extras as necessary to handle the work.

Service since the first of this year has been very poor, with trains going through to Superior only twice a week presently. On the next page I will show the time enroute for the trains operated through to Superior during the past thirty days.

In addition to the through trains to Superior, there is a recently established Fremont to Lincoln to Fremont turn working daily, Monday through Friday, which takes a considerable portion of the work load off the Superior train.

Following a long interruption of service to Superior account of a washed out bridge just west of Oak, Nebraska, trains again ran into Superior as follows:

May 19, 1969: Fremont to Superior, 12 hours 44 minutes.
May 20, 1969: Superior to Lincoln, 15 hours 55 minutes.
May 21, 1969: Lincoln to Fremont, 4 hours 25 minutes.
May 26, 1969: Fremont to Geneva (119 miles), 15 hours 30 minutes.
May 27, 1969: Geneva to Superior, 8 hours 40 minutes.
May 27, 1969: Superior to Lincoln, 15 hours 55 minutes.
May 28, 1969: Lincoln to Fremont,[1] 5 hours 50 minutes.
May 29, 1969: Fremont to Superior, 15 hours 59 minutes.
May 30, 1969: Superior to Fremont, 15 hours 59 minutes.
June 2, 1969: Fremont to Superior, 12 hours 35 minutes.[2]
June 3, 1969: Superior to Fremont, 15 hours 25 minutes.
June 6, 1969: Fremont to Superior, 11 hours 25 minutes.
June 7, 1969: Superior to Fremont, 14 hours 8 minutes.
June 10, 1969: Fremont to Superior, 10 hours 45 minutes.[2]
June 11, 1969: Superior to Fremont, 12 hours 30 minutes.
June 14, 1969: Fremont to Superior, 12 hours 35 minutes.
June 14, 1969: Superior to Fremont, 12 hours 15 minutes.
June 17, 1969: Fremont to Superior, 14 hours 10 minutes.
June 18, 1969: Superior to Fremont, 12 hours 20 minutes.
June 20, 1969: Fremont to Superior, 12 hours 30 minutes.[2]
June 21, 1969: Superior to Fremont, 11 hours 55 minutes.

Based on the last seven round trips listed here, I find an average of 13 hours 10 minutes per day. This would run higher if the first two trips were figured in, but I don't know how to pro rate them properly.

Sincerely hoping this information will be of some benefit to you in your efforts, I remain willing to give any more assistance you may require.

Fraternally yours,

JAMES M. SHORES, *Local Chairman.*

* * *

[1] This trip was a relief crew called to bring train in.
[2] It was necessary for me to estimate these times in order to expedite this report. Based on normal operations, I believe they are correct.

3

# Lincoln Subdivision

WESTWARD (Read Down) — 25 M.P.H. Maximum — EASTWARD (Read Up)

| Mile Posts | Distance from Fremont | Timetable No. 1 June 1, 1967 STATIONS | | Distance from Superior | Capacity of Sidings |
|---|---|---|---|---|---|
| | | DQ FREMONT | Y | 164.2 | |
| | | 6.2 | | | |
| 6.2 | 6.2 | NORTH PIT | | 158.0 | |
| | | 3.5 | | | |
| 9.7 | 9.7 | CEDAR BLUFFS | | 154.5 | |
| | | 6.9 | | | |
| 16.6 | 16.6 | COLON | | 147.6 | |
| | | 5.9 | | | |
| 22.5 | 22.5 | WAHOO | | 141.7 | |
| | | 11.7 | | | |
| 34.2 | 34.2 | D CERESCO | | 130.0 | |
| | | 5.5 | | | |
| 39.7 | 39.7 | DAVEY | | 124.5 | |
| | | 12.0 | | | |
| 51.7 | 51.7 | C&NW-MP JCT | Y | 112.5 | |
| | | 0.4 | | | |
| 52.1 | 52.1 | Q LINCOLN | | 112.1 | |
| | | 28.5 | | | |
| | | Between Lincoln and Seward C. & N. W. trains operate over tracks of the C. B. & Q. R. R. and are governed by timetable and rules of that Railroad. | | | |
| 38.7 | 80.6 | D SEWARD | Y | 83.6 | 19 |
| | | 8.1 | | | |
| 46.8 | 88.7 | GOEHNER | | 75.5 | |
| | | 5.6 | | | |
| 52.4 | 94.3 | BEAVER CROSSING | | 69.9 | |
| | | 5.6 | | | |
| 58.0 | 99.9 | CORDOVA | | 64.3 | |
| | | 7.2 | | | |
| 65.2 | 107.1 | EXETER | | 57.1 | |
| | | 11.8 | | | |
| 77.0 | 118.9 | D GENEVA | | 45.3 | |
| | | 6.2 | | | |
| 83.2 | 125.1 | MARTLAND | | 39.1 | |
| | | 3.9 | | | |
| 87.1 | 129.0 | SHICKLEY | | 35.2 | |
| | | 8.6 | | | |
| 95.7 | 137.6 | D DAVENPORT | | 26.6 | |
| | | 7.8 | | | |
| 103.5 | 145.4 | OAK | | 18.8 | |
| | | 6.8 | | | |
| 110.3 | 152.2 | NORA | | 12.0 | |
| | | 4.8 | | | |
| 115.1 | 157.0 | CADAMS | | 7.2 | |
| | | 6.6 | | | |
| 121.7 | 163.6 | C&NW-ATSF JCT | Y | 0.6 | |
| | | 0.6 | | | |
| 122.3 | 164.2 | D SUPERIOR | | | |

Mo. Pac. trains and engines are authorized to operate on main track and yard tracks within yard limits at Lincoln.

A. T. & S. F. trains and engines are authorized to operate on main track and yard tracks within yard limits at Superior.

Form 151-A
Rev. 5-64

# CHICAGO AND NORTH WESTERN RY. CO.

TRAIN ORDER NO. 761

NORFOLK JUNE 23 19 69

To: C&E WESTWARD TRAINS

To: LINCOLN SUBDIVISION

To:

To:

At: FREMONT

X Opr.: M.

DO NOT EXCEED THE SPEED INDICATED AT THE FOLLOWING LOCATIONS

20 MPH BETWEEN FREMONT AND MP 16

20 MPH BETWEEN MP 28 AND MP 28,8
LOCATED BETWEEN FREMONT AND LINCOLN

20 MPH BETWEEN CBQ CROSSOVER SWITCH AT SEWARD AND EAST SWITCH AT GOEHNER

10 MPH BETWEEN EAST SWITCH AT GOEHNER AND MP 48

20 MPH BETWEEN MP 48 AND MP 53

10 MPH BETWEEN MP 53 AND MP 55,2

20 MPH BETWEEN MP 55,2 AND MP 80,5

10 MPH BETWEEN MP 80,5 AND MP 82

20 MPH BETWEEN MP 82 AND MP 121,7

10 MPH OVER HIGHWAY CROSSING AT MP 65,9
LOCATED BETWEEN SEWARD AND SUPERIOR

D J O

EACH EMPLOYEE ADDRESSED MUST HAVE A COPY OF THIS ORDER.

Mail COMPLETE Time 456 A. M. MUHM Opr.

* * * (3 sheets)

EXCERPT FROM AGREEMENT DATED JUNE 25, 1964 BETWEEN CARRIERS REPRESENTED BY THE NATIONAL RAILWAY LABOR CONFERENCE AND THE EASTERN, WESTERN AND SOUTHEASTERN CARRIERS' CONFERENCE COMMITTEES AND THE EMPLOYEES OF SUCH CARRIERS REPRESENTED BY THE BROTHERHOOD OF LOCOMOTIVE ENGINEERS, BROTHERHOOD OF LOCOMOTIVE FIREMEN AND ENGINEMEN, ORDER OF RAILWAY CONDUCTORS AND BRAKEMEN, BROTHERHOOD OF RAILROAD TRAINMEN, AND SWITCHMEN'S UNION OF NORTH AMERICA

*Article V—Combination Road-Yard*

The last yard crew assignment in a yard, or on a shift where more than one yard assignment is employed, may be discontinued under the following conditions: (Yard as used herein is defined to mean a common terminal point where a seniority roster for yard ground men is maintained.)

1. In the case of the last yard crew assignment in a yard, such assignment may be discontinued if a joint study indicates that the average time consumed in switching is less than four hours within a spread of ten hours for ten consecutive working days. The ten hours referred to will begin concurrently with the starting time of the particular yard crew assignment. If switching increases to the point where there is an average of more than four hours of such work within any spread of the same ten hours for ten consecutive working days, as previously assigned, the yard crew assignment will be restored.

In the case of a yard crew assignment on a particular shift (in yards where more than one yard crew is operated), such yard crew assignment may be discontinued if a joint study indicates that there is an average of less than four switching within the spread of 12 hours for ten consecutive working days, this spread to begin at the starting time of the yard crew assignment which the carrier seeks to discontinue. In computing the time engaged in switching only the time consumed by the yard engine the carrier seeks to discontinue will be considered, subject to the provisions of section 10 hereof. The same formula will be adhered to in the restoration of the discontinued assignment, using the second twelve-hour period as set forth in section 5.

NOTE.—The studies referred to in this Section 1 shall be conducted in the following manner:

Where a carrier proposes to discontinue the last yard crew assignment in a yard or on a shift where more than one yard assignment is employed, it shall give ten (10) days' written notice of the proposed discontinuance to the representatives of the employees involved, advising the names of the carrier's officials who are designated as its representatives for the purpose of the study, and the date on which the study will begin. At anytime prior to the date the study is to begin, the representatives of the employees involved shall advise the carrier of the names of their representatives for the purpose of the study. If such representatives are not so named, or fail to participate, the study may be conducted by the representatives of the carrier. In either event, the result of the study shall be binding on the parties for the purpose of this rule.

The same procedure will be adhered to in conducting studies proposed by the representatives of the employees for the restoration of assignments that have been discontinued under the provisions of this Section 1.

2. The provisions of section 1 hereof are not intended to impose restrictions in regard to discontinuing yard crew assignments where restrictions do not now exist.

3. Road crews may perform any yard service at yards where yard crews are not employed.

4. Road crews may continue to perform any yard service now permitted, without additional payments, if such payments are not now required.

5. At points where a yard crew or yard crews are employed, the starting time of the first yard crew assignment shall begin a twelve-hour period (herein called the first twelve-hour period) within which road crews may not perform yard service not permitted on the day immediately preceding the effective date of this agreement. Road crews may be required to perform any yard service during a second twelve-hour period beginning at the expiration of the first twelve-hour period provided yard crew assignments are not assigned to start or terminate during such second twelve-hour period.

6. No change in work permitted or compensation paid to combination assignments, such as Mine Run, Tabulated assignments, etc.

7. Switching service in yards by road crews when yard crew is not on duty, as a result of the discontinuance of yard crew assignment pursuant to section 1 hereof, shall be paid for on the minute basis, with a minimum of 1 hour at appropriate yard rates.

8. If overtime accrues under applicable road overtime rules during the period switching is being performed, such overtime payments will be made in addition to the payments required under section 7 hereof.

9. Initial and final terminal delay rules shall not be disturbed by this agreement except that when road crews preform yard service for which they are compensated under the provisions of section 7 hereof during a period to which initial terminal delay or final terminal delay rules are otherwise applicable, such road crews will be paid either terminal delay or switching, whichever will produce the greater amount of compensation.

10. The yard switching work for which compensation is previously allowed to road crews for that specific yard work and yard switching work by road crews which required penalty payments to yard crews will be considered switching for the purpose of section 1 of this Article.

11. Every employee deprived of employment as the immediate and proximate application of this rule, shall be entitled to the schedule of allowances set forth in Section 7(a) of the Washington Agreement of May 21, 1936; or to the option of choosing the lump-sum separation allowance set forth in Section 9 of said Agreement. In addition to the foregoing, employees who do not elect to accept the lump-sum separation allowance set forth in Section 9 of said Agreement, if qualified, may elect within one year from the date of their furlough to prepare themselves for some other occupation for which training is available (of the type approved by the Veterans Administration under the Veterans' Readjustment Assistance Act of 1952), with the carrier paying 75 per cent of the tuition costs of such training for a period not exceeding two years. Whenever and to the extent that the United States Government makes provisions for retraining out of public funds, the obligation of the carrier shall be reduced correspondingly. Those employees who elect to accept the lump-sum separation allowance set forth in Section 9 of the Washington Agreement of May 21, 1936 will not be entitled to retraining benefits.

Mr. THOMPSON. Thank you very much.

Thank you, Mr. Chairman.

Mr. CHESSER. Here are a few typical instances of the circumstances resulting in long hours for the men we represent:

On November 26 and 27, 1968, a Penn-Central conductor and his crew went on duty on train PB–2/BP–1, at 8:30 a.m. in Watertown, N.Y. They were released at Benson Mines, N.Y., at 5 p.m. for a 4-hour period.

At 9 p.m. they went back on duty; they were not relieved again until they reached Harrisville at 8:45 a.m. on November 27, 24 hours after first reporting for duty. Thus, they had only 4 hours off duty during that full 24-hour period.

A brakeman on the New York Central, working on Train No. 63, on January 25, 1968, went on duty at Toledo, Ohio, at 2:48 p.m., bound for Chicago. He was released in Chicago at 8:30 p.m. At 10:15 p.m. (1 hour and 45 minutes later) he began his return trip to Toledo on Train 90. He went off duty in Toledo at 10:30 a.m. on January 26, 19 hours and 42 minutes after beginning his assignment.

H.R. 8449 makes it clear that so-called "release" time enroute and "deadhead" time are to be included as on-duty time for the purposes of the hours of Service Act. I believe the safety of operations clearly requires this modification.

There is no accepted minimum period of release in applying the present law applicable to all circumstances. Courts have varied the time requirement depending on all related factors. The proposed bill

provides that periods of release at designated terminals shall permit at least 4 hours of rest. We think this is reasonable.

This employee would find it necessary to eat. If he had the remainder of the time he might lie down for some rest.

A period shorter than 4 hours is not sufficient to provide a minimum opportunity for rest even under ideal circumstances with adequate sleeping facilities.

Inadequacy of the present law is illustrated in the Federal Railroad Administration Memorandum explaining the significance of the term "On duty in the Aggregate," included on page 1 of Appendix 8. This explanation cites the possibility that an employee on duty for 4 hours, off duty for 4 hours, then on duty again for 4 hours, and so on alternatively, would not ever exceed 16 hours in any 24-hour period and could be kept on such a schedule indefinitely without ever being afforded an 8-hour rest period.

The Federal Railroad Administration Memorandum (Appendix 8, page 3) provides another example of legal "on duty" time under the present act. It shows a crew going on duty at 7 a.m. on January 5, and working intermittent shifts until 11:41 a.m. on January 7—over a total elapsed time of 52 hour and 41 minutes.

We always thought lately 40 hours were a record work week. We are talking about 1 day's work.

Within that period the crew has worked 36 hours and 25 minutes, and was allowed 4 rest periods, the longest of which was 4 hours and 15 minutes. The fact that such a work schedule is possible is in itself an amazing circumstance. That it could be legal under the Act and could be cited as a permissive practice by the Federal Railroad Administration is even more remarkable.

In section VII of my statement, pages 29 to 31, I have cited for the committee's reference the hours' limitations imposed on motor and air carriers. Such standards were established by the Interstate Commerce Commission and the Federal Aviation Administration under their administrative authority in past years.

These standards now are under the jurisdiction of the Department of Transportation. The maximum hours for bus and truck drivers and airline flight personnel are all substantially more restrictive than the 12-hour standard proposed in H.R. 8449 for railroad operating employees.

Such regulations have been imposed explicitly on the premise that operating employees of transportation agencies must be constantly alert at all times and that the fatigue induced by long hours on duty would impair their efficiency and cause accidents. Such considerations are equally pertinent with respect to railroad operating employees.

Conclusion: This is 1969; 62 years have passed since the Hours of Service Law was enacted. Passage of this act was premised on industrial standards and operating conditions that have faded away many years ago.

The 16-hour law belonged with the 12-hour basic day, and with 10 mile an hour train speeds. The railroads and all other American industry have come a long way since 1907. It is appropriate, of course, that a maximum hours' standard be set at a level somewhat higher than normal or basic hours.

Since the 10- and 12-hour standards were normal and basic in 1907, the 16-hour maximum limitation was proper probably at that time. Today, with the 8-hour day and with much greater operating speeds, a 12-hour maximum will provide more leeway for abnormal and emergency circumstances than the 16-hour standard provided in the circumstances of 1907.

Fatigue from long hours and from the effect of other environmental factors is a cause of accidents. The railroad safety record has been deplorable in the last few years. As former Chairman O'Connell of the National Transportation Safety Board said last year after reviewing the recent railroad safety performance—"we hold that every reasonable step be taken to arrest and reverse the trend toward increasing incidence of train accidents."

Mr. Chairman and members of this committee, we believe the imposition of a 12-hour maximum hours' standard today is a reasonable step which will make a significant contribution toward and improvement in railroad safety.

Under the present law, the hours of dispatchers and telegraphers who direct the operations and movements of traffic over the railroads have an outside limitation of 13 hours. This limitation is manifestly too high in the light of current work hours' standards.

However, it should be noted that these standards for dispatchers and telegraphers are substantially superior to those which apply to the operating employees whose trains are controlled by their orders.

If a dispatcher or a telegrapher should fall asleep, the consequences might be serious. But if a locomotive crew member should fall asleep, you will have a train accident.

I have emphasized throughout my written statement and in my oral presentation here the relationship of the proposed changes in the hours of service law to railway safety. Considering the recent railway accident record such factors alone should persuade this committee of the need for shorter hours for these employees.

However, I believe the members of this committee should also consider the personal and social effects of the hours many of these employees work.

As our table 6 shows, 30.4 percent of the local freight employees work 12 hours or more and we estimate about 8 percent of all operating employees work such long hours. This means over 12,000 human beings are working at their jobs more than one-half of the total hours in each 24-hour period. Twelve working hours plus 8 hours for sleep leaves only 4 hours for everything else.

If we assume each employee needs one hour at both the beginning and end of his work day to go to and from his job and his lodging, these men have virtually no time left for their families, their homes, for community life, for recreation.

There was a time, I expect, many years ago when such a condition may have been acceptable to society. Certainly, it is not an acceptable condition today.

I hope by our statement we have demonstrated the need for this change that these men are being required work under in the hours of service.

I certainly hope that this committee would not submit to a study, another study, and another study; gentlemen, it has been studied since

1907. The record is replete and we will furnish it to you for your information that the time has long, long passed for study.

They talked about studying the hours of service every time it is mentioned. Nobody has come up with any study other than what they began with in the Interstate Commerce Commission, the Department of Transportation could say we will study it.

You can study and study and study and the results are the same. Fatigue is there. You and I know it. You and I know you can't go on any job, your job, my job, and work excessive hours without experiencing some type of fatigue.

Gentlemen, we beg of you to give this serious consideraton and amend this law so our people can live with the rest of society as they do in 1969.

Thank you very much for affording us this opportunity, Mr. Chairman and members of the committee.

(Mr. Chesser's prepared statement and attachments follow:)

STATEMENT OF MR. AL H. CHESSER, NATIONAL LEGISLATIVE DIRECTOR, UNITED TRANSPORTATION UNION, AND CHAIRMAN, COMMITTEE ON SAFETY, RAILWAY LABOR EXECUTIVES' ASSOCIATION

Mr. Chairman and Members of the Committee, my name is Al H. Chesser. I am National Legislative Director of the United Transportation Union which was formed by merger of the Order of Railway Conductors and Brakemen, the Brotherhood of Railroad Trainmen, The Brotherhood of Locomotive Firemen and Enginemen, and The Switchmen's Union of North America. I also serve as Chairman of the Committee on Safety of the Railway Labor Executives' Association. A list of organizations affiliated with the Railway Labor Executives' Association is appended.

The United Transportation Union and the Railway Labor Executives' Association wholeheartedly support H.R. 8449 to change existing statutory limitations on the hours of service of railroad employees.

The current standard which was enacted in 1907 provides that 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. When employees have worked 16 consecutive hours, the law requires them to be given 10 consecutive hours off duty before being returned to duty. If the employee works 16 hours within a 24-hour period, but not continuously, the law requires that the employee be given 8 consecutive hours off duty.

H.R. 8449 will reduce the 16 hours to 12 hours and will require ten hours off duty after any period of 12 consecutive duty hours; it will require that each employee be given not less than 8 consecutive hours off duty in the 24-hour period prior to any tour of duty.

The proposed bill defines time on duty as including any interim periods available for rest of employees in between terminals and for any time spent in deadheading to or from duty assignments. The proposal also provides that interim periods of release at designated terminals shall be at least four hours. These proposals are intended to prevent abuses of the clear intent of the law and to insure that off-duty time of the employees can be devoted exclusively for purposes of rest. Under the existing law, carriers avoid the requirement to provide for bona fide rest time by directing employees to take short periods off duty; by this device, employees may be required to work extremely long hours (but not exceeding 16 hours) with no allowance of 8 or 10 hours off-duty rest time.

The present Hours of Service Act applies penalties ranging from $200 to $500 for each violation by the railroads. Experience has shown that $200 is too little to deter the railroads from working the employees excessive hours. The bill proposes that this penalty be increased to $500 for each and every violation.

For many years, the standard railway labor organizations have supported bills introduced to modify these antiquated hours' standards. The last such proposal was considered by the 89th Congress in 1966. The proposal was opposed by the railroad industry and it failed to be enacted. This was true of all the past efforts to change this law. Modernization of the law has continued to be blocked in spite

of the fact that all other standards, conditions and statutes have gone far beyond those of 1907.

It hardly seems necessary to review for this Committee today all of the changes which have occurred since the first decade of the twentieth century when the present statute was passed. In these years there have been four major revisions in the laws relating to collective bargaining, mediation and arbitration in the railway industry, and a number of minor revisions. Major changes have been made in the Interstate Commerce Act, in 1920, in 1940, in 1958, and in 1966 with the establishment of the Department of Transportation which has been granted control over the safety functions formerly lodged with the I.C.C. Most important have been the changes in the conditions of operations, and the changes and the changes in the collective bargaining provisions governing the work hours of employees subject to the Hours of Service Act. In my statement I shall discuss these latter changes in some detail, and I shall review the railroad's safety record. I have appended as Exhibit No. 1 a listing of important legislative enactments that have affected railroad employees over the years since passage of the 1907 law.

### I. INDUSTRIAL CHANGES SINCE 1907

Students of labor history have told us that during the early years of the last century, much of the emphasis in labor union activity was devoted to elimination of the dawn-to-dusk work day, replacing it with first a regularized 12-hour day and later by the ten-hour day. They were discussing efforts made more than 150 years ago, when our society was just emerging from a predominantly agricultural economy into the industrial revolution. To me it is almost unbelievable that we are still trying to amend the 16-hour law for railroad workers in the year 1969. American workers had come a long way by 1907 when the present act was passed, but hours of labor still were quite long in many industries. Hours of some workers at that time ranged up to 84 per week—seven 12-hour days. Even as late as 1919, half of the steel workers in the nation were still on such a schedule. Average factory hours in 1907 were 60.6 per week.[1] The ten-hour day was the prevailing standard in most industries.

In industry generally since that time, there has been a striking improvement in work hours. First, daily hours were reduced from ten to a general standard of eight. This occurred during the First World War and in the 1920's. Then, in the 1930's—with the National Industrial Recovery Act and the Fair Labor Standards Act—the five-day week became virtually universal.

The railroad industry adopted the basic eight-hour day in the years from 1916 to 1918. The Adamson Act established the basic eight-hour day for operating employees in 1916; the orders of the Federal Railroad Administration during the first World War established the eight-hour day for other classes. The five-day week for most classes was achieved during the post World War II years. There are a few railroad classes within the operating group that still have not gained the five-day week. Nevertheless, there has been a marked improvement in work hours over the last 60-odd years for all classes through collective bargaining procedures.

As I will point out in a later section of this statement, the changes in basic hours under collective bargaining agreements have effectively reduced the actual work hours of most employees—including most of those subject to the Hours of Service Act. However, there are still many instances of long work hours by some classes and we still know violations of the 16-hour law. These will be reviewed later.

### II. CHANGES IN RAILWAY OPERATIONS SINCE 1907

Passage of the Federal Hours of Service Act in 1907 was preceded by an extended period of efforts by the railroad Brotherhoods to get hours controls in individual states. As early as 1892, an hours of service law was passed in New York, and similar laws were passed in Georgia, Florida, Minnesota, Michigan and Ohio during the 1890's and early 1900's. In the same period, so-called "rest rules" were adopted in the operating rules of some railroads. Thus, on the Union Pacific, after continuous service of 16 hours, trainmen were to be allowed 8 hours

[1] United States Department of Labor, "History of Wages in the United States from Colonial Times to 1928," and U.S. Department of Commerce, "Historical Statistics of the United States, Colonial Times to 1957."

for rest before being called to go out, "provided they so desire." Activity by the organizations and the rise in railroad accidents led to national attention to the need for regularized hours controls. This development was described in a historical review by Professor William Z. Ripley, made in behalf of the Eight-Hour Commission which was established by the Adamson Act in 1916:

> The history of the Hours of Service Act of 1907 may be epitomized. Public opinion became considerably aroused by the political activity of the Brotherhoods and by a notable increase in the number of railroad accidents. The President of the United States in three successive messages to the Fifty-eighth Congress called attention to the long hours of labor in railroad employment; and the Interstate Commerce Commission in its annual reports of 1904 and afterward officially called attention to the need of legislation.[2]

We do not have precise information on the totality of circumstances which led to the Hours of Service Law, but we do know that speeds of operations were comparatively slow and hours were long. Train lengths varied considerably, but trains in excess of 50 cars were comparatively rare in 1907. Studies made by the Eight-Hour Commission in 1916 and 1917—ten years after passage of the Act—indicate that more than half of freight operations then were at speeds well below 12.5 miles an hour, and local freight operations were frequently as low as 4 and 5 miles per hour. Hours on duty in freight service varied from 9 and 10 hours in fast freight service to 13, 14, and 15 in slow freight service.[3] Some ran in excess of the statutory standard although reliable statistics on such violations are not available. The Ripley Report mentioned—

> All that one can gather from the official statistics . . . is the number of cases of violation of the statute which have been brought to book. . .
>
> It is certain that dissatisfaction among the men with the effect of the law is widely prevalent. They allege that the general result has been "to create a 16-hour day" . . . some of the statistics certainly point toward the conclusion that while an actual excess of hours above 16 has now become quite infrequent, the number of runs consuming between 10 and 14 hours is still considerable.[4]

I.C.C. data on freight train operations indicate that the average train in 1907 was only 27.2 cars and net tons per train were only 357.[5] Thus, train operations were slower and lighter, and hours on duty were very long. In 1907, of course, there was very little automobile traffic, and the potential for grade-crossing accidents was negligible. There were only 43,000 passenger automobiles and 2,900 trucks and buses in 1907 in the entire United States.[6]

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 to 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 one hour.

Today, railroad operations are more complex, faster, longer and heavier. The average freight train in 1968 had 71.1 cars and hauled net freight loads of more than 1,760 tons. Some trains exceeded 200 and 250 cars. Speeds of operation have increased substantially over the years, but there are no satisfactory data on average speeds to compare with those of past years. Studies made by the Presidential Railroad Commission in 1961 showed passenger train operations at 80 miles per hour and freight train speeds in excess of 60 miles an hour at that time. Today, the new Metroliners are operating in excess of 100 miles an

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[2] Report of the Eight-Hour Commission, Transmitted to the President of the United States December 29, 1917, *Appendix VI. Railway Wage Schedules and Agreements.*
[3] Report of Eight-Hour Commission, 1917, pages 19 to 21.
[4] Report of Eight-Hour Commission, 1917, *Appendix VI*, pages 303 and 304.
[5] Interstate Commerce Commission, *Statistics of Railways in the United States*, 1950.
[6] Department of Commerce, "Historical Statistics of the United States," page 462.

hour and new high speed "Super C" freight trains are moving at 70 miles an hour and better. Moreover, today trains have the immense problems of heavy motor vehicle traffic at grade crossings.[7] Modern railroad operations have special complexities with the hauling of piggy-back cars, automobile rack cars, and tank cars containing hazardous commodities such as propane, anhydrous ammonia, liquified gases of all kinds, rocket fuels, cyanide compounds, and explosives.

These industrial changes and changes in operating conditions have substantially influenced the work and responsibilities of individual engine and train service employees.

First of all, the tempo of industrial activity has added immeasurable pressures to railroad operations. Many shippers today demand precise and rapid service. Railroads advertise their abilities to provide service with 24-hour deliveries from the East Coast to the Midwest, and 3- and 4-day deliveries to the Pacific Coast.

Heavier power on locomotives has added to the burdens of engine service employees, and longer trains have increased the job content of conductors and brakemen.[8] Faster operating speeds have called for greater alertness by all crew members. Both the increased length and increased speeds of operations have added potential hazards. For every car there is added a potential for more defective brakes, more defective wheels, and more potential hot boxes. Heavier power and larger train loads have increased track wear and possible track defects. When the faster speeds are considered with these greater defect potentials, the hazard outlook is appalling.

### III. THE RECENT RAILWAY SAFETY RECORD

The Department of Transportation has reported that 2,359 human beings were killed and 24,608 were injured in railroad accidents in the year 1968; 146 employees on duty were killed and 17,600 were injured. There were 8,028 train accidents—a record for recent years for which comparable figures are available. Train accidents last year exceeded the 1967 levels by over 10%. Virtually all types of accidents have increased—collisions, derailments, rail-highway grade-crossing accidents, accidents involving track motor cars, accidents involving inflammable and explosive materials, accidents affecting both operating and non-operating classes of employees.

Unfortunately, the existing system of reporting information on railroad accidents provides no information either on the crew consist or on the hours of duty of crew members. Information on hours of service of crew members is reported only for the very small proportion of railroad accidents for which investigations are made by the Department of Transportation—which is usually less than ½ of one per cent of the train accidents which occur each year. For this reason, we have no direct statistical information on the relationship between long hours and accident occurrence.

We do have information, however, on accidents caused by errors in operation.[9] In 1967 (the latest year for which data are available), 1,987 train accidents were caused by operational errors. There has been a substantial increase in such accidents since 1961. Operational error accidents include all accidents resulting from things employees do or fail to do in operations. Errors due to visibility failures, to misunderstandings, to various communication failures, to mistakes in judgment all fall within this group. Such errors are caused by many circumstances: Weather or uneven terrain can interfere with visibility and the exchange of hand signals; crew reductions have imposed larger burdens on remaining crew members;[10] pressures for increased speeds and greater expedition in switching; and, of course, fatigue—when employees are worked for longer periods than usual, or become exhausted as a result of other environmental factors such as noise, vibration, continued motion, and heat. A table showing the trend of operational error accidents has been appended as Table 3.

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[7] See Table 2, appended for statistics on current operation.

[8] The effect of heavier power and longer trains on the work and responsibility of engine and train service employees is recognized in the pay scales of such employees which grade compensation in accordance with such factors.

[9] A technical discussion of the nature of these accidents is in the supplementary memorandum appended.

[10] Removal of firemen and some brakemen in recent years as a result of Arbitration Award 282 undoubtedly has added heavy burdens to the remaining crew members and has increased the potential for accidents in operation.

The effect of noise on the work of the crew was dramatically illustrated in the catastrophic accident which occurred at Laurel, Mississippi on January 25, 1969. In that accident, explosions of tank cars caused enormous damage to an entire community and caused evacuation of much of the population. Yet the engineer, who was 30 to 40 cars ahead of the cars which exploded, was completely unaware of what had happened. The noise of his diesel locomotive units and the noises resulting from his movement over the track drowned out the tremendous sound of the tank car explosions.

As we have noted in an earlier section of this discussion, the increase in the length and weight of trains in addition to its direct effect on the work of operating employees, has increased the potential for accidents due to equipment and track defects. In 1967, 1,897 accidents were caused by defects in equipment, and 1,844 were caused by defects in roadway and track. In both areas, these statistics have been increasing. Thus, in these respects, just as in operational elements, the railroad safety record has deteriorated badly in recent years. These statistics are shown in Table 4.

The deplorable railroad safety record has been commented on by officials of the Interstate Commerce Commission and of the Department of Transportation in recent years. Typical of such comments are those made by Mr. Joseph J. O'Connell, former Chairman of the National Transportation Safety Board in a letter to the Director of the Federal Railroad Administration on April 3, 1968.

> The National Transportation Safety Board's review of data covering the last several years for train accidents shows progressively worsening trends in rates, occurrences, deaths, and damage. Furthermore, and especially disturbing, many train accidents in recent years have involved hazardous or poisonous materials, resulting in fires, or the escape of poisonous or hazardous materials followed by evacuation of populated areas. The latter collateral factors, coupled with a rising accident rate increase the probability of catastrophic occurrences.
>
> * * * * * * *
>
> The railroad accident picture is extremely serious. Furthermore, higher speeds, longer and heavier trains, and the growing carriage of deadly and hazardous materials may well increase the already serious consequences of unsafe practices.
>
> We are sure you are aware of the disquieting picture described in this letter and concur in the view we hold that *every reasonable step be taken to arrest and reverse the trend toward increasing incidence of train accidents.* [Emphasis added.]

### IV. THE EFFECTS OF FATIGUE ON ACCIDENT EXPERIENCE

Industrial engineers and students of environmental influences on work performance have long recognized the relationship between long hours, fatigue, and accident potentials.

Before the original passage of the Hours of Service Act in 1907, studies were made of the relationship between the long hours of railroad operating employees and the railroad safety record. The eighteenth Annual Report of the Interstate Commerce Commission, in 1905 stated:

> The part played by excessive hours of labor in causing railroad accidents is a question that calls for serious consideration. The bulletins published by the Commission record many accidents where the employees involved have been on duty an excessive number of hours, and many complaints from employees that they have been required to work for excessive periods of time have been brought to the attention of the Commission. . . . 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 *alertness* and intelligence of train employees. (Eighteenth Annual Report of the I.C.C. to Congress, 58th Congress, 1905, page 105) [Emphasis added.]

This statement was made 65 years ago. Over the years since that time many other experts have noted the relationship between long hours and accident occurrence. A key study was made by the United States Public Health Service in its Bulletin No. 106 (issued February, 1920) entitled "Comparison of an Eight-Hour Plant with a Ten-Hour Plant." The summary findings in that study were as follows:

> The main conclusions of this study . . . are as follows: It apears to be established that industrial accidents are due to a complex of causes in which speed of production and fatigue are determining factors . . .
>
> The importance of fatigue in the causation of accidents is emphasized by the fact that a higher accident risk accompanies the deeper decline of working capacity—
>
> (1) In the second spell [of work] as compared with the first;
>
> (2) In muscular work as compared with dexterous and machine work;
>
> (3) *At the 10-hour plant as compared with the 8-hour plant.* [Emphasis added.]

Similar findings were reported in a Bureau of Labor Statistics Study made by Mr. Max D. Kossoris during World War II and the immediate postwar years:

> Work injuries increased disproportionately as daily hours are raised above 8 and weekly hours are raised above 40. The frequency of work injuries rises even more sharply as weekly hours are raised to 54 or more. (U.S. Department of Labor, Bureau of Labor Statistics, Bulletin No. 917)

Authorities have found that, in addition to the effect of long hours, fatigue is intensified by other environmental factors such as noise, heat and vibration.

The National Safety Council has dealt extensively with the causes of fatigue in its Bulletin "Practical Methods for Reducing Fatigue," published in 1940. With respect to long hours, the Council commented:

> The number of hours spent at work has a definite relationship to fatigue.
>
> * * * * * * *
>
> Despite the fact that work days and weeks have been shortened and many labor-saving devices installed, fatigue presents an increasing problem for study. The introduction of high-speed machinery tends to create fatigue due to vibration, noise, the increased speed of the operator, and the accompanying strain on nerves. The tension, the speed, the specialization of work, and the rhythm which is not controlled by the workmen promote fatigue, which is characterized by a decrease in the power to work, in the pleasure taken in work and in the enjoyment of leisure hours.

Speed also has been identified as a contributing factor to both fatigue and accidents in the National Safety Council study:

> Speed is a contributing factor to both fatigue and accidents. The capacity of workers varies greatly in their ability to work at high speeds for long periods of time. Rest periods help workers to maintain a constant output at high speeds. . . . Fatigue is least where the speed is synchronized with the worker's customary rhythm and the production may be twice as great as with the speed slower or faster than his.

The Council's bulletin also commented on the effect of noise during work periods:

> Long exposure to noisy conditions may produce fatigue. Although scientific experiment has not demonstrated that working under condition of continuous noise is conducive to fatigue, it is generally accepted as an axiomatic fact. Exceedingly loud noises, those of a droning nature rapidly repeated, and monotonous noises are particularly conducive to fatigue. It would appear that the character and quality of noise are of the greatest importance and, where noise cannot be eliminated, efforts at changing or supplanting the character of the sound have met with remarkable success.

Vibration has also been identified by the Council as a major fatigue element:

> Some investigators believe that vibrations set up in industrial plants by heavy and high speed machinery, pneumatic tools and working processes have a serious effect on the efficiency of workers; and that such vibrations contribute to industrial fatigue. Students of this subject have found that vibrations are disagreeable, uncomfortable and distracting. Where heavy vibrations, especially those accompanied by noise, have been eliminated, efficiency has been increased and the work made more agreeable and comfortable.

Other students have noted effects of environmental factors on accident occurrence. Floyd and Welford in their treatise on "Fatigue," written in 1953, noted especially the effect of heat on accident liability:

> Vernon (1918) made the first recorded observations of the influence of temperature on accident frequency during the first World War. Accidents in

munition factories were at a minimum when the shop temperature lay between 65° and 69° F. The incidence was 23 per cent higher at temperatures of over 75° F., and 32–35 per cent higher when the temperature fell below 55° F.

In the burning of petroleum products, inevitably there is the emission of some quantities of carbon monoxide; some carbon monoxide can and does enter the cabins of diesel locomotives. Studies conducted by the Harvard Fatigue Laboratory some years ago show that exposure over a continuous period to even very small concentrations of this gas increases the physical fatigue of any individual. Depending upon the time during which the individual is exposed, carbon monoxide in the bloodstream can produce serious health impairments and can adversely affect the sight, hearing, and manual functions of an individual very substantially. Such continuous exposure to carbon monoxide has been found to constitute serious hazards for air crews and have caused air accidents. Information on the effects of exposure to carbon monoxide are included in Appendix 5.

Each of these factors is present in the work of operating employees. As we show in the next section, some employees are still working long hours—hours that exceed the eight- and ten-hour standards dealt with in most fatigue studies. Work in an engine cab or a caboose is noisy, frequently dusty, and subject to continuous vibrations from the reciprocating diesel engine and from movement over the track. There are wide variations in temperatures in both locomotives and cabooses. In winter, temperatures, even inside such units, drop down near to freezing levels. In summer, temperatures rise to 90 and 100 degrees in some operations. As noted above, many operations today are at very high speeds, another factor emphasized by the National Safety Council study.

Emphasis in the above discussion has centered on the effect of fatigue on safety of operations. Long hours of work also have a serious effect on the permanent health of individual workers. This has been observed for many years by public health authorities and industrial engineers. For example:

> Subjective fatigue tends to be cumulative, and to react on the health of the workers, and if his health gives way he may perforce lose his productive capacity entirely until his health is regained. (H. M. Vernon, "Industrial Fatigue and Efficiency," 1921.)
>
> Excessive fatigue when neglected leads to a depression of vital powers to such a degree that recuperation is not possible under a continuance of the same conditions of life and work; indeed, when these are persisted in there is a continued lowering of vitality, so that each day one is less able to bear the exhausting fatigue, and thus a vicious circle is formed, often ending in a complete breakdown." (Dr. L. Duncan Bulkley, in paper presented to the American Academy of Medince, 1914.)
>
> Fatigue and Disease.—The connection between fatigue and disease is probably much more frequent and close than is usually recognized. To disease fatigue stands in the relation of both cause and effect. That it may be a factor in causing disease is, indeed, often believed, and this belief is justified by laboratory experiments." ("Diseases of Occupation and Vocational Hygiene," 1916.)
>
> Fatigue becomes harmful, however, if carried to the point where complete recuperation does not take place after a reasonable period of rest. Such fatigue not only lowers the efficiency of the worker, but also slowly undermines his health. (National Safety Council, Safe Practices Pamphlet No. 50, 1940.)

It is also clear that long hours now permitted by the Hours of Service law can interfere with the social and community life of railroad operating employees. A man working 16 hours a day manifestly will have no time for anything except working and sleeping. He will have no opportunity for social activities, recreation, clubs and lodges, or even any substantial amount of time to be with his wife and children.

### V. PRACTICALITY OF A 12-HOUR MAXIMUM HOURS LIMIT IN 1969

Before enactment of the 16-hour law in 1907, a large proportion of railroad employees worked very long hours. The Ripley Report to the Eight-Hour Commission mentioned continuous service for individuals as long as 18 and 20 hours per day.[11]

[11] Report of the Eight-Hour Commission, Appendix VI, page 302.

There are some employees today who still work excessive hours, and this fact has provided much of the impetus behind the current proposals for change in the 16-hour limit. However, a majority of railroad assignments fall well within the 12-hour limit proposed. Extensive studies were made of the work time of operating employees in 1960 and 1961 by the Presidential Railroad Commission. Summary tabulations showing a distribution of employees by their total daily work hours have been included in Table 6 attached. Separate tabulations were made for each major class of service—passenger, through freight, local freight and yard service. In straightaway passenger service, less than 3/10ths of one per cent of the trips lasted 12 or more hours. Short-turn-around passenger service (primarily in commuter trains) showed about 6 per cent of total trips of 12 or more hours. In through freight service, only 1.3 per cent of the trips exceeded that standard, and in yard service only 2 per cent were for 12 hours or more. Only in local feight service was there a considerable proportion of the trips in the 12-hour and over category—about 30 per cent of the total trips.

The Presidential Railroad Commission commented on the substantial proportion of local freight trips with excessive hours:

> But the extreme variation in hours on duty per trip and per week among classes of road service and among employees in the same class of service cannot be defended. The extent of these differences is unwarranted; such wide disparities cannot possibly command the respect of the American community.
>
> It is understandable that the Carriers would stress the low hours on many through freight runs and seek to increase these hours, and it is equally to be expected that the Organizations would seek to reduce the number of hours which constitute a basic day. It is not quite so clear why both parties have not exhibited more concern with the fact that 30 percent of the local freight trips of engineers—generally representative of all crafts—involved time on duty over 12 hours per trip and 34 percent of the local freight engineers worked 60 hours or more a week.
>
> * * * * * * *
>
> There is a further feature of hours on duty among operating employees to be noted. By act of Congress in 1916 [sic] operating employees may not be kept on continuous duty more than 16 hours. Although none of the proposals of the parties suggests a reduction in this limit by collective bargaining, it may well be that the actual hours on duty are in fact influenced by this ceiling. It is to be recognized that some of these long hours arise out of breakdowns, operating delays, weather, and other unusual occurrences, but it is clear that only a minority of these long-hour trips arise in this way.

The Presidential Railroad Commission condemned the long hours thus required for local freight employees. Lacking the power to alter the statute, the Commission recommended rather that the parties establish a maximum limitation gradually through collective bargaining:

> *1. Hours on Continuous Duty.*—It is recommended that the present limitation of 16 hours of time on continuous duty, established by Federal law, be reduced gradually by collective bargaining. The reduction should be 1 hour on July 1, 1962, and 1 additional hour on July 1, 1963. The rules which are currently applicable regarding relief of crews and rest after 16 hours shall apply at the reduced hours. We urge 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.

This recommendation of the Presidential Railroad Commission was made almost eight years ago. There has been no improvement in the provisions controlling or limiting the hours of service of railroad employees since that time.

The existence of long hours in local freight is widespread in the industry, but this condition can be changed. We have indicated that 30 per cent of the trips covered by the Presidential Railroad Commission study ran hours of 12 or more. The P.R.C. also made studies of some individual railways. On one of these, the Louisville & Nashville Railroad, only 14.6 per cent of the local freight trips ran 12 hours or longer.[12] Over the years, there has been some reduction in average hours in spite of the continued leeway in the maximum standard. In 1922, the *average* work hours of local freight engineers were 10.8 per trip; by 1967, this average had been reduced to 9.7—a ten per cent reduction. This

[12] Report of the Presidential Commission, Appendix, Vol. II, table 2, page 10.

shows that hours' reduction can be accomplished even though the resulting standards are still far too high.

We have noted above that the hours per trip for through freight engineers on the railroads included in the Presidential Railroad Commission sample were practically all less than 12 hours—with only 1.3 per cent of trips exceeding that number. However, on the Pennsylvania Railroad—which was also separately surveyed by the P.R.C.—11.9 per cent of through freight trips were for 12 or more hours.[13] We believe there are no conditions on the Pennsylvania that would make it necessary that their through freight operations could not be brought within limits found to be practical on almost all other carriers.

Table 7 appended shows the average hours actually worked by through freight and local freight engineers for individual Class I Railways in the United States. This tabulation shows that all railroads have been able to maintain their local freight average work hours under 12 per day. In through freight, only one railroad exceeded that standard. A large proportion of the carriers showed average hours for their local freight engineers within the range of 8 to 10 hours. Only about ⅓ of the total carriers showed average hours in excess of ten per trip. The substantial variation from railroad to railroad indicates that reduction in excess hours is within the discretion and the ability of individual railroad managements.

In summary, most trips and tours of duty of operating employees now fall well within the 12-hour limit proposed. Where hours now exceed such limits, past experience has indicated that reductions can be accomplished. The Presidential Railroad Commission recognized this and recommended that such a limitation be gradually established by agreement between the railroads and the organizations.

In the 1966 hearings on proposals to revise the hours of service regulations for these employees, the suggestion was made by representatives of the railroad industry that this proposal was intended as a "make-work" device to create more jobs for railroad employees. This is not true. The effect of the proposed legislation is likely to be such as to influence only a very small proportion of the present operating assignments where the hours of service are clearly excessive. If it is necessary to hire more employees to avoid the need for working individuals 13, 14 and 15 hours a day, then such employees should be hired. However, this is certainly not the purpose of a proposal to institute a maximum 12-hour regulation in the year 1969. This argument has been made by the railroad industry in opposition to every change in hours proposed for railroad employees over the last 40 years. At no time during that period, however, has the argument held less validity than it does in connection with this request.

As we shall discuss in a later section, hours' standards of other transportation workers—on the bus and truck lines and the air carriers—are far more restrictive even than the 12-hour limitation proposed in H.R. 8449. These carriers also faced practical considerations in meeting such requirements, but they managed to do so, and the work hours of such workers are far shorter than those affecting railroad local freight classes.

## VI. LOOPHOLES IN THE PRESENT LAW

I have discussed the facts underlying the basic need for changing the 16-hour law to a 12-hour law. I believe the changes in work standards and operating conditions since 1907 all justify this reduction in maximum work hours. I turn now to some of the other features of our proposal which are extremely important. The 16-hour standard is absurdly out of date today; however, loopholes in the 1907 statute—as interpreted by the Courts—have made this standard useless or inoperative in many circumstances. As a reference guide to this Committee, I have attached as Appendix 8 the Federal Railroad Administration's memorandum on application of the Hours of Service Act.

First of all, I call attention to the paragraph on the first page of the memorandum defining "On duty" time:

> An employee goes on duty when he reports for service at the time and place specified by rules or instructions of the carrier. He remains on duty until *relieved of all responsibilities and is free to go and do as he pleases.* Time spent in "*deadheading*" is generally considered as time not on duty. [Emphasis supplied.]

[13] Ibid.

The sentence "He remains on duty until relieved of all responsibilities and is *free to go and do as he pleases*" suggests a wide degree of choice and freedom for the employee to use the time for rest, for dining, for recreation or for other similar purposes. This, however, is not the fact. Let me cite for you some of the circumstances that have been found to meet this definition for time off.

On the Chicago and North Western Railway on October 22, 1962, a freight crew reported for duty at 8:54 p.m. at Fremont, Nebraska for a run to Superior, Nebraska, 161 miles distant. After travelling all night, it became evident the train could not reach its destination within the 16-hour time limit. Therefore, at 11:40 a.m.—15 hours and 40 minutes after the crew began duty—it was "relieved." The "relieved" crew members were required however to continue on the train, in the caboose to Superior for a period of approximately seven additional hours. There were cushions on the caboose on which three of the five crew members could rest during this seven-hour movement. The other two had to fend for themselves, but they were completely "free" to do "what they pleased" within the confines of the caboose during that 7-hour interval. After arrival at Superior, the five crew members were afforded an additional 3-hour period at that terminal.

At 9:40 p.m. the crew was required to go back on duty for the return trip to Fremont where they arrived and were released 16 hours later at 1:40 p.m. the next day.

The Federal government contended this was a violation of the Hours of Service Act, and requested the United States District Court for the District of Nebraska to impose the appropriate penalties. The carrier contended the men were afforded a 10-hour period off duty—7 hours enroute in the caboose, and 3 hours at Superior. The Court held with the carriers, and no violation of the Act was found.

Clearly, in this instance, this crew was required to work without a real rest period for almost 32 hours within a period of only 42 hours. The 7-hour period of release enroute was classed as deadhead time, and as such was not "on-duty time" within the meaning of the Act as it has been interpreted. Manifestly, the later 3-hour period of release in Superior was not enough for rest purposes. To require a crew in such circumstances to go back on duty for 16 more hours was unfair, unhealthy and extremely unsafe. Yet, it was found to be permissible under the present law.

I have cited this only as an example. Hundreds of such instances occur every year. Appendix 9, attached is a listing of more examples of long hours which have been reported by some of the employees we represent.

H.R. 8449 makes it clear that so-called "release" time enroute and "deadhead" time are to be included as on-duty time for the purposes of the Hours of Service Act. I believe the safety of operations clearly requires this modification.

There is no accepted minimum period of release in applying the present law applicable to all circumstances. Courts have varied the time requirement depending on all related factors. The proposed bill provides that periods of release at *designated terminals* shall permit at least four hours of rest. A period shorter than four hours is not sufficient to provide a minimum opportunity for rest even under ideal circumstances with adequate sleeping facilities.

Inadequacy of the present law is illustrated in the Federal Railroad Administration Memorandum explaining the significance of the term "On duty in the Aggregate," included on page 1 of Appendix 8. This explanation cites the possibility that an employee on duty for 4 hours, off duty for 4 hours, then on duty again for 4 hours, and so on alternatively, would not ever exceed 16 hours in any 24-hour period and could be kept on such a schedule indefinitely without ever being afforded an eight-hour rest period.

The Federal Railroad Administration Memorandum (Appendix 8, page 3) provides another example of legal "on duty" time under the present Act. It shows a crew going on duty at 7:00 a.m. on January 5, and working intermittent shifts until 11:41 a.m. on January 7—over a total elapsed time of 52 hours and 41 minutes. Within that period the crew has worked 36 hours and 25 minutes, and was allowed 4 rest periods, the longest of which was 4 hours and 15 minutes. The fact that such a work schedule is possible is in itself an amazing circumstance. That it could be legal under the Act and could be cited as a permissive practice by the Federal Railroad Administration is even more remarkable.

## VII. REGULATIONS OF HOURS FOR EMPLOYEES OF OTHER TRANSPORTATION INDUSTRIES

Motor carrier hours were long regulated by the Interstate Commerce Commission before the transfer of such safety functions to the Department of Transportation. Currently, drivers of motor carriers (both passenger and

freight) are restricted to a total of ten hours' driving time per day. Such driving hours must follow a period of not less than 8 consecutive hours off duty, with certain exceptions which provide alternative arrangements for drivers operating equipment with sleeper-berth facilities permitting rest periods enroute.[14] Studies of the I.C.C. have developed a direct relationship between fatigue and motor carrier accidents. Mr. John W. Bush, former chairman of the Interstate Commerce Commission, commented on such studies in his testimony before the Senate Commerce Committee in connection with proposed amendments of the Railroad Hours of Service law in 1966:

> The records with respect to truck accident investigations identifying fatigue as a principal cause have not been tabulated prior to 1958. Therefore, I hope that the eight calendar years beginning with 1958 and concluding with 1965 will serve the Committee's purpose. Our staff made careful investigations of 2,944 motor carrier accidents. Of that number fatigue was identified as the principal cause in 296, or 10 percent of the cases investigated. Fatigue, combined with other factors, was found to be a major cause in 49 additional cases, or 1.6 percent, thus identifying fatigue as an important factor in 11.6 percent. (Transcript of Senate Committee Hearings on S. 2180, August 22, 1966, page 218.)

Civil Air Regulations impose even more strict hours' limitations on pilots and flight engineers. Such employees are limited to 8 hours duty aloft during any 24 consecutive hours, unless they are provided intervening rest periods at or before the termination of 8 hours duty aloft. The rules prescribe also that flight crew members shall not fly more than 30 hours in any seven consecutive days, 100 hours in any month, or 1,000 hours in any year. (Civil Aeronautics Manual, 40.320)

Like the Motor Carrier regulations, the Air Carrier crew limitations are premised on the need for constant alertness by crew members.

## CONCLUSION

This is 1969; 62 years have passed since the Hours of Service Law was enacted. Passage of this Act was premised on industrial standards and operating conditions that have faded away many years ago. The 16-hour law belonged with the 12-hour basic day, and with 10-mile an hour train speeds. The railroads and all other American industry have come a long way since 1907. It is appropriate, of course, that a maximum hours' standard be set at a level somewhat higher than normal or basic hours. Since the 10- and 12-hour standards were normal and basic in 1907, the 16-hour maximum limitation was proper at that time. Today, with the 8-hour day and with much greater operating speeds, a 12-hour maximum will provide more leeway for abnormal and emergency circumstances than the 16-hour standard provided in the circumstances of 1907.

Fatigue from long hours and from the effect of other environmental factors is a cause of accidents. The railroad safety record has been deplorable in the last few years. As former Chairman O'Connell of the National Transportation Safety Board said last year after reviewing the recent railroad safety performance—"We hold that every *reasonable step* be taken to arrest and reverse the trend toward increasing incidence of train accidents." Mr. Chairman and members of this committee, we believe the imposition of a 12-hour maximum hours' standard today is a *reasonable step* which will make a significant contribution toward an improvement in railroad safety.

Under the present law, the hours of dispatchers and telegraphers who direct the operations and movements of traffic over the railroads have an outside limitation of 13 hours. This limitation is manifestly too high in the light of current work hours' standards. However, it should be noted that these standards for dispatchers and telegraphers are substantially superior to those which apply to the operating employees whose trains are controlled by their orders. If a dispatcher or a telegrapher should fall asleep, the consequences *might* be serious. But if a locomotive crew member should fall asleep, you will have a train wreck.

I thank the members of the Committee for affording me the opportunity to present this statement in support of this important proposal.

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[14] The Motor Carrier Rules do permit non-driving on-duty time in excess of the 10-hour limit up to a maximum total time of 15 hours.

ORGANIZATIONS AFFILIATED WITH RAILWAY LABOR EXECUTIVES' ASSOCIATION

American Railway Supervisors Assn.
American Train Dispatchers' Assn.
Brotherhood of Maintenance of Way Employes.
Brotherhood of Railroad Signalmen.
Brotherhood Railway Carmen of the United States and Canada.
Brotherhood of Railway, Airline and Steamship Clerks, including Transportation-Communication Division.
Hotel & Restaurant Employes & Bartenders' Int'l. Union.
United Transportation Union (ORC&B, BRT, BLF&E and SUNA).
Int'l. Association of Machinists and Aerospace Workers.
Int'l. Brotherhood of Boilermakers and Blacksmiths.
Int'l. Brotherhood of Electrical Workers.
Int'l. Brotherhood of Firemen and Oilers.
Brotherhood of Sleeping Car Porters.
Int'l. Organization Masters, Mates and Pilots of America.
National Marine Engineers' Beneficial Association.
Railroad Yardmasters of America.
Railway Employes Dept., AFL–CIO.
Seafarers' Int'l. Union of North America.
Sheet Metal Workers' International Association.

* * *

[EXHIBIT No. 1]

A. Changes in Statutes Relating to Collective Bargaining. Mediation and Arbitration of Railway Labor Disputes Enacted Since 1907.

1. Newlands Act: An act providing for mediation, conciliation, and arbitration in controversies between certain employers and their employees. Approved July 15, 1913.
2. Title III, Esch-Cummins Act. Approved February 28, 1920.
3. Railway Labor Act. 1926. Approved May 20, 1926.
4. Railway Labor Act, 1934. Approved June 21, 1934.

Further amendments of the Railway Labor Act were passed in 1936, 1937, 1940, 1951, 1964 and 1966.

B. Amendments to the Interstate Commerce Act.

1. Transportation Act of 1920—Esch-Cummins Act. Approved February 28, 1920.
2. Transportation Act of 1940. Approved September 18, 1940.
3. Transportation Act of 1958. Approved August 12, 1958.
4. Department of Transportation Act of 1966. Approved October 15, 1966.

TABLE 2.—*Selected statistics in railroad operations class I line-haul railroads*

| | |
|---|---|
| Averages for the year 1968: | |
| Cars per freight train | 71.1 |
| Cars per passenger train | 8.7 |
| Net tons per freight train | 1,768 |
| Gross tons per freight train | 4,153 |
| Gross tons per passenger train | 828 |
| Freight train-miles per hour | 20.4 |
| Passenger train-miles per hour | 41.0 |
| Average Speed Per Hour [1] | |
| Passenger straight-away | 37.2 |
| Through freight | 22.9 |
| Converted through freight | 15.3 |
| Local freight | 10.1 |

[1] Speed per hour of engineer trip assignment from the PRC Sample Study of 31 railroads, various weeks, July 1–Dec. 1, 1960.

Source of basic data: Interstate Commerce Commission, "Statement Q–210": "Report of the Presidential Railroad Commission," App. vol. II, table 3.

TABLE 3.—NUMBER OF TRAIN ACCIDENTS RESULTING FROM ERRORS IN OPERATIONS BY MAIN SUBCLASSES OF CAUSES, ALL U.S. RAILROADS, 1961–67

| | 1961 | 1962 | 1963 | 1964 | 1965 | 1966 | 1967 |
|---|---|---|---|---|---|---|---|
| Train orders | 9 | 14 | 16 | 11 | 19 | 20 | 16 |
| Cab signals | | 1 | 1 | 1 | | 3 | 1 |
| Automatic train control | | | 3 | | | | |
| Fixed signals | 43 | 35 | 35 | 45 | 44 | 37 | 49 |
| Hand signals | 73 | 59 | 81 | 65 | 93 | 88 | 88 |
| Train flagging | 11 | 17 | 8 | 6 | 7 | 5 | 2 |
| Air brakes | 39 | 36 | 27 | 43 | 36 | 41 | 60 |
| Hand brakes | 199 | 237 | 275 | 321 | 367 | 423 | 373 |
| Switches | 257 | 286 | 285 | 366 | 426 | 521 | 536 |
| Other causes | 594 | 564 | 704 | 713 | 749 | 861 | 862 |
| Total | 1,225 | 1,249 | 1,435 | 1,571 | 1,741 | 1,999 | 1,987 |

Source: Interstate Commerce Commission, Accident Bulletin, Nos. 130–136, Department of Transportation, Federal Railroad Administration.

TABLE 4.—NUMBER OF TRAIN ACCIDENTS CAUSED BY OTHER THAN HUMAN ERRORS IN OPERATION, 1961–67

| Year | Roadway defects | | Defects in equipment | | Rail-highway grade-crossing accidents | |
|---|---|---|---|---|---|---|
| | Number | Rate [1] | Number | Rate [1] | Number | Rate [1] |
| 1961 | 587 | 0.64 | 1,474 | 1.61 | 3,204 | 3.51 |
| 1962 | 647 | .70 | 1,475 | 1.60 | 3,149 | 3.43 |
| 1963 | 702 | .76 | 1,658 | 1.80 | 3,373 | 3.66 |
| 1964 | 855 | .91 | 1,670 | 1.78 | 3,755 | 4.01 |
| 1965 | 1,148 | 1.22 | 1,738 | 1.84 | 3,820 | 4.05 |
| 1966 | 1,428 | 1.50 | 1,843 | 1.93 | 4,117 | 4.31 |
| 1967 | 1,844 | 2.03 | 1,897 | 2.0 | 3,955 | 4.35 |

[1] Rate per million locomotive and motor train-miles.

Source of basic data: Interstate Commerce Commission and Department of Transportation, Federal Railroad Administration, Accident Bulletin, Nos. 130–136, Rail-Highway Grade-Crossing Accidents, for the year ended Dec. 31, 1965, Statements M–400 and M–300.

[APPENDIX 5]

## EFFECTS OF CARBON MONOXIDE ON HUMAN BEHAVIOR

Since carbon monoxide gives rise to a form of oxygen want, its influence on behavior is similar to the effects of high altitude. The initial reactions caused by anoxia are insidious and not noticeable by the subject. They consist primarily of lowered attention, difficulty in concentration and retention, slight muscular incoordination, sleepiness, and mental and physical lethargy. These effects, while not permanently injurious to health, are hazardous in air crews and may cause serious accidents. Persistent headaches and lowered efficiency should always be regarded with suspicion. A headache is the most prominent symptom noticeable up to 30 per cent saturation of the blood with carbon monoxide. Beyond this amount the impairment of behavior may be quite extreme and result in weakness, nausea, or loss of consciousness. The most common symptoms of carbon monoxide poisoning are outlined briefly in Table 6.3.

TABLE 6.3.—*Symptoms Resulting from Various Concentrations of Carbon Monoxide in the Blood (Adapted from Sayers and Yant)*

| *Resulting symptoms* | *Percent COHb saturation* |
|---|---|
| None subjectively noticeable; however, initial visual impairment is revealed in objective tests | 0–10 |
| Tightness across forehead, slight headache, dilatation of cutaneous blood vessels | 10–20 |
| Frequent headache with throbbing in temples; on exertion, breathlessness, and more severe symptoms | 20–30 |
| Severe headache, weakness, dizziness, dimness of vision, nausea and vomiting, and collapse | 30–40 |
| Same as preceding symptoms, with increased pulse rate and respiration, and greater possibility of collapse | 40–50 |
| Loss of consciousness, with increased or irregular respiration, rapid pulse, coma with intermittent convulsions | 50–60 |
| Coma with intermittent convulsions, depressed heart action, respiratory failure; and ultimate death | 60–80 |

Source: "Human Factors in Air Transport Design," Ross A. McFarland, page 222.

TABLE 6.—TRIPS OF ENGINEERS BY HOURS ON DUTY PER TRIP

| Hours on duty per trip [1] | Percent of trips [2] | | | | | |
|---|---|---|---|---|---|---|
| | Passenger straight-away | Passenger short turn-around | Through freight | Converted through freight | Local freight | Yard service |
| Under 8 hours | 98.8 | 49.5 | 87.8 | 47.3 | 25.0 | [3] 71.0 |
| 8 hours and over | 1.2 | 50.5 | 12.2 | 52.7 | 75.0 | 29.0 |
| 8 and under 9 | .4 | 16.1 | 5.0 | 15.9 | 10.0 | 17.4 |
| 9 and under 10 | .3 | 9.4 | 2.9 | 11.0 | 10.6 | 5.3 |
| 10 and under 11 | .1 | 11.5 | 1.7 | 9.2 | 12.0 | 2.9 |
| 11 and under 12 | .2 | 7.1 | 1.3 | 3.1 | 12.0 | 1.2 |
| 12 and under 13 | | 3.6 | .4 | 5.4 | 9.8 | 1.1 |
| 13 and under 14 | .3 | 2.2 | .4 | 2.5 | 6.5 | .5 |
| 14 and under 15 | | | .1 | 3.4 | 6.0 | [4] .6 |
| 15 and over | | .6 | .4 | 2.2 | 8.1 | |
| Average hours on duty | 4.0 | 8.0 | 5.6 | 8.5 | 10.2 | 8.3 |

[1] Based on the PRC sample study of 31 railroads, various weeks, July 1–Dec. 31, 1960.
[2] May not balance due to rounding.
[3] Tabulated as under 8.01 hours.
[4] Tabulated as 14 hours and over.

Source of basic data: Report of the Presidential Railroad Commission, Appendix vol. II. table 2.

TABLE 7.—AVERAGE HOURS WORKED PER TRIP BY THROUGH AND LOCAL FREIGHT ENGINEERS, CLASS I LINE-HAUL RAILWAYS, 1965

| Railroad | Hours actually worked per trip | |
|---|---|---|
| | Through freight engineers | Local freight engineers |
| Akron, Canton & Youngstown | 11.91 | 11.72 |
| Ann Arbor | 6.37 | 10.11 |
| Atchison, Topeka & Santa Fe | 4.30 | 8.21 |
| Atlantic Coast Line | 6.21 | 10.20 |
| Baltimore & Ohio | 6.51 | 9.89 |
| Bangor & Aroostook | 7.39 | 9.49 |
| Bessemer & Lake Erie | 9.17 | 9.08 |
| Boston & Maine | 8.13 | 9.77 |
| Canadian Pacific Lines in Maine | 6.55 | 7.65 |
| Central of Georgia | 6.65 | 9.69 |
| Central RR. of New Jersey | 5.22 | 7.95 |
| Central Vermont | 4.72 | 5.71 |
| Chesapeake & Ohio | 5.98 | 8.99 |
| Chicago & Eastern Illinois | 5.86 | 11.47 |
| Chicago & Illinois Midland | 6.20 | 8.09 |
| Chicago & North Western | 6.19 | 9.48 |
| Chicago, Burlington & Quincy | 4.73 | 9.18 |
| Chicago Great Western | 6.60 | 10.09 |
| Chicago, Milwaukee, St. Paul & Pacific | 4.29 | 9.41 |
| Chicago, Rock Island & Pacific | 4.95 | 8.52 |
| Clinchfield | 7.67 | 9.54 |
| Colorado & Southern | 5.98 | 8.49 |
| Delaware & Hudson | 6.82 | 8.50 |
| Denver & Rio Grande Western | 6.36 | 10.14 |
| Detroit & Toledo Shore Line | 8.36 | 11.68 |
| Detroit, Toledo & Ironton | 8.46 | 11.78 |
| Duluth, Missabe & Iron Range | 4.38 | 3.11 |
| Duluth, Winnipeg & Pacific | 6.85 | 7.63 |
| Elgin, Joliet & Eastern | 7.69 | 9.37 |
| Erie-Lackawanna | 5.29 | 10.29 |
| Florida East Coast | 3.44 | 8.02 |
| Fort Worth & Denver | 4.78 | 9.90 |

[ATTACHMENT 8]

FEDERAL RAILROAD ADMINISTRATION BUREAU OF RAILROAD SAFETY
WASHINGTON, D.C.

MEMORANDUM

*Hours-of-Service Act:*

This law applies to common carriers by railroad and employees actually engaged in or connected with the movement of any train operated in interstate or foreign commerce. The Federal Railroad Administration administers provisions of the act in accordance with the interpretations thereof as handed down in decisions of the Federal Courts.

ON DUTY

An employees goes on duty when he reports for service at the time and place specified by rules or instructions of the carrier. He remains on duty until relieved of all responsibilities and is free to go and do as he pleases. Time spent in "deadheading" is generally considered as time *not* on duty.

TRAIN AND ENGINE SERVICE

When an employee has been continuously on duty for a period of 16 hours, the law stipulates he may not be permitted or required to remain on duty, or again go on duty until he has had at least 10 consecutive hours off duty.

When an employee has been on duty 16 hours in the aggregate *in any 24 hour period*, the law decrees he may not be permitted or required to remain on duty, or again go on duty without having had at least 8 consecutive hours off duty.

The two above-mentioned off-duty periods are the *only* ones prescribed in the law.

If an employee has not been continuously on duty for a period of 16 hours, or for 16 hours in the aggregate *in any 24-hour period*, there is nothing in the Act that requires the carrier to provide him with any minimum off-duty period.

ON DUTY IN THE AGGREGATE

The Act permits an employee to remain on duty 16 hours in the aggregate *in any 24-hour period.* 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. It is possible for the employee to remain on duty in the aggregate for an indefinite period of time without an off duty period of eight consecutive hours and yet perform service in compliances with the law. For example, 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 *in any 24 hour period.* Consequently, the carrier would not have been required to provide him with an off duty period of at least eight consecutive hours.

IN ANY 24-HOUR PERIOD

This term is construed to mean *any* cycle of 24 consecutive hours. The law places a restriction on service *within* "any 24-hour period" and, therefore, service performed outside the 24-hour period may not be included in the calculation when computing total time on duty.

The employee may readily sum up his time on duty in any 24-hour period by calculating such time in 24-hour periods that begin when he returned to duty after having had a bonafide off-duty period. This method is demonstrated by examples at the end of this memorandum.

RELEASE PERIODS

To be considered as time off-duty, a release from duty must be of sufficient duration to break continuity of the employee's service and provide him with opuportunities to obtain facilities for rest and relaxation. "Trifling" periods of release are not of sufficient duration to break continuity of service.

Decisions of the courts have not established a minimum period of release which would be bondafide in all cases and circumstancmes. Whether a release period is of sufficient duration to break the continuity of service depends upon the factors involved in each individual case.

COMMINGLED SERVICE

In computing total time on duty in any 24-hour period, when the employee has performed set vice subject to the law and service not ordinarily subject to the law, all service performed for the carrier in that period must be included in the computation.

When the employee performs service covered by more than one restrictive provision of the law, his hours of service in any 24-hour period must be confined within limitations prescribed by the most restrictive provision under which he performed service.

An employee subject to the 16-hour provisions of the law does not become subject to the 9 or 13-hour provisions merely because he may occasionally receive, transmit, or deliver orders pertaining to or affecting train movements.

TRAIN DISPATCHERS, OPERATORS, ETC.

A provisio in the law prescribes 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—

(*a*) 9 hours in any 24-hour period in all towers, offices, etc., continuously operated night and day.

(*b*) 13 hours in any 24-hour period in all towers, offices, etc., operated only during the daytime.

In case of emergency they may be permitted to remain on duty four additional hours in any 24-hour period but not exceeding three days in any week.

An "office operated only during the daytime" has been interpreted to mean an office not open in excess of 13 hours in a 24-hour period and that it is not necessary that the 13 hours be daylight hours.

SWITCHTENDERS AND LEVERMEN

Switchtenders and Levermen who use the telephone to transmit, report, deliver, dispatch, or receive orders pertaining to or affecting the movement of trains perform service subject to the 9- and/or 13-hour provisions of the law.

The word "orders" as used in the law is defined in its broadest sense; it does not pertain only to train orders as prescribed in the carrier's operating rules.

PENALTY

The penalty provision of the law applies to carriers, not their employees.

EXEMPTIONS

The provisions of the law do not apply to the crews of wrecking or relief trains.

The restrictive provisions do not apply in case of casualty, unavoidable accident, act of God, or where the delay was the result of a cause not known to the carrier at the time the employee left a terminal, which delay could not have been foreseen. However, in such case, the carrier must exercise diligence to avoid excess service or keep it at a minimum.

Method used to compute service in the aggregate in any 24-hour period.

*On Duty*

Jan. 1—12:01 a.m. to 6:01 a.m.—6′00″
Jan. 1— 9:30 a.m. to 1:30 p.m.—4′00″
Jan. 1— 5:00 p.m. to 10:30 p.m.—5′30″
Jan. 2— 2:30 a.m. to 8:45 a.m.—6′15″

In the first 24-hour period beginning at 12:01 a.m., the total time on duty was 15 hours 30 minutes. In the second 24-hour period beginning at 9:30 a.m., the total time on duty was 15 hours 45 minutes. In the third 24-hour period beginning at 5:00 p.m., the employee was on duty 11 hours 45 minutes, and under the law he may be permitted or required to be or continue on duty for not longer than 4 hours 15 minutes within that period.

*On Duty*

Jan. 5—7:00 a.m. to 1:00 p.m.—6'00"
Jan. 5—5:00 p.m. to 11:30 p.m.—6'30"
Jan. 6—3:45 a.m. to 11:45 a.m.—8'00"
Jan. 6—3:45 p.m. to 11:40 p.m.—7'55"
Jan. 7—3:41 a.m. to 11:41 a.m.—8'00"

In the first 24-hour period beginning at 7:00 a.m., the total time on duty was 15 hours 45 minutes. In the second 24-hour period beginning at 5:00 p.m., the total time on duty was 15 hours 45 minutes. In the third 24-hour period beginning at 3:45 a.m., the total time on duty was 15 hours 59 minutes. In the fourth 24-hour period beginning at 3:45 p.m., the total time on duty was 15 hours 55 minutes.

These examples show the working of the law when 24-hour periods expire while employees are on duty.

An employee on duty as shown in the above two examples would not have performed service in violation of the law. Nor was the carrier required by law to provide him with an off-duty period of eight consecutive hours. It is *only* when an employee has been on duty 16 hours in the aggregate *in any 24-hour period* that it is required he be provided with an off-duty period of at least eight consecutive hours.

[APPENDIX 9]

EXAMPLES OF LONG HOURS OF DUTY WORKED IN 1969 BY YARD AND ROAD OPERATING EMPLOYEES

REQUEST LOCAL CHAIRMAN COMPLETE AND RETURN TO GENERAL CHAIRMAN

RAILROAD Santa Fe Railroad DIVISION Plains TERMINAL Wellington Kansas

| TIME OFF DUTY PRIOR TO TRIP | DATE | NAME OF ENGINEER | ENGINE OR TRAIN NUMBER | TIME ON DUTY | TIME OFF DUTY | TOTAL TIME ON DUTY |
|---|---|---|---|---|---|---|
| 24 hrs. | 4/21/69 Monday | R.L. Schuchman | Engine 2866 Train #69-70 | 9 00 am | 12 50 am | 15 hrs. 50 min. |
| 8 hrs. 10 min. | 4/22/69 Tuesday | R.L. Schuchman | Engine 2866 Train #69-70 | 9 00 am | 12 59 am | 15 hrs. 59 min. |
| 8 hrs. 01 min. | 4/23/69 Wednesday | R.L. Schuchman | Engine 2809 Train #69-70 | 9 00 am | 10 25 pm | 13 hrs. 25 min. |
| 10 hrs. 35 min. | 4/24/69 Thursday | R.L. Schuchman | Engine 2809 Train #69-70 | 9 00 am | 12 05 am | 15 hrs. 05 min. |
| 8 hrs. 55 min. | 4/25/69 Friday | R.L. Schuchman | Engine 2751 Train #69-70 | 9 00 am | 12 40 am | 15 hrs. 40 min. |
| 24 hrs. | 4/28/69 Monday | R.L. Schuchman | Engine 2751 Train #69-70 | 9 00 am | 12 55 am | 15 hrs. 55 min. |
| 8 hrs. 05 min. | 4/29/69 | R.L. Schuchman | Engine 2751 Train #69-70 | 9 00 am | 10 25 pm | 13 hrs. 25 min. |

REQUEST LOCAL CHAIRMAN COMPLETE AND RETURN TO GENERAL CHAIRMAN

RAILROAD Atchison, Topeka and Santa Fe DIVISION Middle, District #2 TERMINAL Newton, Kansas

| TIME OFF DUTY PRIOR TO TRIP | DATE | NAME OF ENGINEER | ENGINE OR TRAIN NUMBER | TIME ON DUTY | TIME OFF DUTY | TOTAL TIME ON DUTY |
|---|---|---|---|---|---|---|
| 9'35" off duty | Apr. 30 | E. D. Whitaker, without a fireman. (Quote) This is too many hours to work without rest. | Train 45, Units 342L-340A-310 167 mile local freight. | 12:15 PM | 4:05 AM | 15'50" |
| 4' off duty | Apr. 3 | E. D. Whitaker. no fireman. | Train 71, Units 2716-2844 153 mile local. | 8:30 AM | 9:55 PM | 13'25" |
| 12' off duty | May 14 | E. D. Whitaker. no fireman. | Train 45, Units 268L-240B-225A 167 mile local. | 6:45 AM | 7:50 PM | 13'05" |
| 12' | May 16 | D. E. Morton. no fireman. | Train 45, Units 21L-336B-308A-17B | 1:00 PM | 3:10 AM | 14'10" |
| 11'30" | May 9 | O. E. Brunner. no.fireman. | Train 72, Units 2729-2664 153 mile local. | 8:50 AM | 11:55 PM | 15'05" |
| 10' | Mar. 28 | G. O. Stukey ← | Train 45, Units 332L-27B-311L-2821-2797 | 8:00 AM | 10:05 PM | 14'05" |
| 7'45" | Mar. 28 | Frmn. G. D. Butcher tied up enroute with above Engr. ← | Train 45, Units 332L-27B-311L-2821-2797 | 8:00 AM | 8:00 PM | 15'55" |

REQUEST LOCAL CHAIRMAN COMPLETE AND RETURN TO GENERAL CHAIRMAN

RAILROAD Santa Fe DIVISION Eastern TERMINAL Argentine Kans

| TIME OFF DUTY PRIOR TO TRIP | DATE | NAME OF ENGINEER | ENGINE OR TRAIN NUMBER | TIME ON DUTY | TIME OFF DUTY | TOTAL TIME ON DUTY |
|---|---|---|---|---|---|---|
| off of vacation 16 hr | 5/1/69 | W. B Bradley | Train 183-184 | 7 30 a | 11 25 p | 15 hrs 55 min |
| 14 hrs-50 min | 5/1/69 | J. W. Taylor | " 161-162 | 8 30 a | 11 10 p | 14 hrs + 40 MIN |
| 11 hrs | 5/1/69 | R. Palmer | " 167-168 | 10 00 p | 5-2-69 2 00 p | 16 hrs |
| 16 | 5/5/69 | H. L. Larimore | " 183-184 | 7 30 a | 11 29 p | 15 hrs 59 MIN |
| 8 hr 1 MIN | 5/6/69 | H. L. Larimore | " 183-184 | 7 30 a | 11 29 p | 15 hrs 59 MIN |
| 8 hr 1 MIN | 5/8/69 | H. L. Larimore | " 183-184 | 7 30 a | 9 20 p | 13 hrs 50 MIN |
| 10 hr-10 MIN | 5/9/69 | H. L. Larimore | " 183-184 | 7 30 a | 11 10 p | 15 hrs 40 MIN |

REQUEST LOCAL CHAIRMAN COMPLETE AND RETURN TO GENERAL CHAIRMAN

RAILROAD A T & S F Ruy Co. DIVISION Ill. 4 Dist TERMINAL Marceline to Argentine Kans

| TIME OFF DUTY PRIOR TO TRIP | DATE | NAME OF ENGINEER | ENGINE OR TRAIN NUMBER | TIME ON DUTY | TIME OFF DUTY | TOTAL TIME ON DUTY |
|---|---|---|---|---|---|---|
| Rested ~~Home Terminal~~ Marceline | 4/12 | H A Wright | 1128 1 Mint Extra West | 6 30 A to 11 40 pm 16 hrs lacking in yard 1 10 min to pit | 7 to 10 hrs before return to service | 17:00 |
| Rested Home Terminal Marceline | 4/16 | J. P. Owens | 1100 Extra West | 6 40 Am | 9 40 P | 15 hrs |
| Rested Home Terminal Marceline | 5/12 | J. F. Stuart | 1146 Extra West | 6 30 Am | 10 45 pm | 16 hr 15 min |
| Rested Home Terminal Marceline | 5/22 | B F Thornton | 1127 Extra West | 7 15 Am | 10 45 pm | 15 hr 30 min |
| Rested Away from Home Terminal Argentine Kans | 5/8 | W. W. Hattle | 1108 Extra EAST | 6 30 Am | 10 30 pm | 16 hrs |
| Rested away from Home Terminal Argentine Kans | 5/12 | K. E. VANWYE | 1119 EXTRA EAST | 7 00 AM | 10 50 P | 15 hr 50 min |
| Rested Away from Home Terminal ARGENTINE, Kans | 5/21 | L. D. Serfass | 1119 Extra EAST | 10 00 Am | 2 00 Am | 16 hrs. |

These Engineers working in pool Freight Service between Marceline Mo and Argentine Kansas

J. S. Still E 486

P. C. Yothers, E-646

REQUEST LOCAL CHAIRMAN COMPLETE AND RETURN TO GENERAL CHAIRMAN

RAILROAD PENN. CENTRAL DIVISION PH6 TERMINAL PITCAIRN

| TIME OFF DUTY PRIOR TO TRIP | DATE | NAME OF ENGINEER | ENGINE OR TRAIN NUMBER | TIME ON DUTY | TIME OFF DUTY | TOTAL TIME ON DUTY |
|---|---|---|---|---|---|---|
| 8 HR 45 MIN | 5/23/69 | PAUL N. ERRETT<br>D.J. GUNSALLUS | PWC 1<br>ENG 2270-3129 | ORDERED 5-23-69<br>9 AM | MARKE-OFF 5-24-69<br>12 40 A | 15 HRS 40 MINUTES |
| 24 HRS + | 5/23/69 | C. R. HALL<br>W.H. BROWN | PT 6 AND 7<br>ENG - 6053 | ORDERED 10 15 a | MARKED-OFF 5 40 a | 19 HRS 25 MIN |
| 24 HRS | 5/24/69 | J. W. CARMICHAEL<br>J. LANG | COAL-TRAIN<br>2343-3028-1728 | ORDERED 6 45 a PITCAIRN | MARKED OFF-ENGLA 3 10 a | 20 HRS 25-MIN |
| 20 HRS | 5/24/69 | E.H. ZOUTENIZER<br>B.E. NOEL | EXTRA-HELPER<br>7092-7154 | ORDERED 3 AM | MARKED-OFF 6 15 P | 15 HRS 15 MIN |
| 16 HRS | 5/7/69 | J.W. CARMICHAEL<br>S.A. SUTOR | HOPPER-EXTRA # 408-CREW<br>6052<br>3807 | ORDERED-1 45 PM | MARKED-OFF 6 15 a | 17 HRS 30 MIN |
| 17 HRS | 5/13/69 | C.R. HALL<br>D.J. GUNSALLUS | EXTRA-HELPER<br>6540 | ORDERED- 2 15 P | MARKED-OFF 5 45 a | 15 HRS 30 MIN |
| 19 1/2 HRS | 5/14/69 | L. METZKER<br>E.B. STEEL | COAL-TRAIN<br>4363<br>3458<br>2292<br>7039 | ORDERED 12 30 a | MARKED-OFF 4 40 PM | 16 HRS 10 MIN |

N. V. Stachowski, E-85

REQUEST LOCAL CHAIRMAN COMPLETE AND RETURN TO GENERAL CHAIRMAN

RAILROAD Penn Central DIVISION Buffalo-Williamsport TERMINAL Buffalo

| TIME OFF DUTY PRIOR TO TRIP | DATE | NAME OF ENGINEER | ENGINE OR TRAIN NUMBER | TIME ON DUTY | TIME OFF DUTY | TOTAL TIME ON DUTY |
|---|---|---|---|---|---|---|
| 16 | 5/16/69 | C.A. Russell | 6516-1147 BF4A | 16 hrs | - | 16 hrs |
| 9 | 1/3/69 | J.H. Dick | 6231-6504 EB5A | 16 hrs | - | 18 hrs |
| 12 | 1/5/69 | J.H. Dick | 6051-6130 ENF1a | 16 hrs | | 18 hrs |
| 12 hrs 45 min | 1/11/69 | J.H. Dick | 2298-2641 NFE-2 | 16 hrs | | 16 hrs 5 min |
| 24 | 1/22/69 | J.H. Dick | 2203-6226 BF4A | 16 hrs | | 16 hrs |
| 9 hr 35 min | 1/24/69 | J.H. Dick | 6178-6047 BF4B | 16 hrs ~~30 min~~ | | 16 hr 30 min |
| 21 | 2/3/69 | J.H. Dick | 2277 - 2382 - EB5A | 16 hrs | | 16 hrs |
| 19 hrs 45 min | 3/23/69 | J.H. Dick | 6194-4359-3151-BF4B | 16 hrs | | 18 hrs |

167 hrs.



31-998 O—69—4

REQUEST LOCAL CHAIRMAN COMPLETE AND RETURN TO GENERAL CHAIRMAN

RAILROAD PENN-CENTRAL DIVISION CLEVELAND TERMINAL CLEVELAND, OHIO

| TIME OFF DUTY PRIOR TO TRIP | DATE | NAME OF ENGINEER | ENGINE OR TRAIN NUMBER | TIME ON DUTY | TIME OFF DUTY | TOTAL TIME ON DUTY |
|---|---|---|---|---|---|---|
| 14 Hrs 44 MINS | 5/20/69 | J W BROWN | 6119 6106 6113 HOPPER EXTRA | 5-30 PM | 9-00 AM | 15 hrs 30 minutes. |
| 16 HRS 1 MIN | 5/21/69 | J J SETNY | 3089-3000 | 11-30 PM | 4-45 PM | 17 hrs 15 MINS |
| 14 HRS 45 MINS | 5/23/69 | R J JOLLY | 6118-6204-6169 | 6-00 PM | 9-30 AM | 15 hrs 30 MIN. |
| 16 hrs. | 5/23/69 | W F WILSON #2 | 1784-1760 | 1-30 PM | 6-15 AM | 16 hrs 45 MINS |
| 16 hrs. | 5/23/69 | R C YEDLICKA | 6062-3040-3062 | 6-30 AM | 12-30 AM | 18 hrs |
| 8 hrs. | 5/22/69 | E F GUINN | 2563-2504 | 9-45 AM | 1-30 AM | 15 hrs 45 min |
| 13 hrs 10. | 5/23/69 | J W BROWN | 6119-6106-6113 | 1-30 AM | 4-30 PM | 15 HRS. |

REQUEST LOCAL CHAIRMAN COMPLETE AND RETURN TO GENERAL CHAIRMAN

RAILROAD PENN CENTRAL DIVISION MICHIGAN + FT. WAYNE TERMINAL - AWAY FROM HOME - KALAMAZOO, MICH. TERMINAL - HOME - FT. WAYNE, IND

| TIME OFF DUTY PRIOR TO TRIP | DATE | NAME OF ENGINEER | ENGINE OR TRAIN NUMBER | TIME ON DUTY | TIME OFF DUTY | TOTAL TIME ON DUTY |
|---|---|---|---|---|---|---|
| 9 HRS 5 MINS | 3-26-69 | P.D. Quick | ENG. NO. 7417 TRAIN NO. GR2 | 11:07 AM | 2:32 AM | 15 HRS 25 MINS |
| 8 HRS 45 MINS | 3-27-69 | P.D. Quick | " " 3219 " " GR1 | 11:17 AM | 4:32 AM | INCLUDES 2 HR RESPITE 17 HRS 15 MINS |
| 8 HRS 45 MINS | 3-28-69 | P.D. Quick | " " 3219 " " GR2 | 1:17 PM | 4:37 AM | 15 HRS 20 MINS |
| 16 HRS 55 MINS | 3-31-69 | P.D. Quick | " " 7002 " " GR2 | 11:07 AM | 3:07 AM | 16 HRS. |
| 10 HRS | 4-1-69 | P.D. Quick | " " 7002 " " GR1 | 1:07 PM | 2:12 AM | 13 HRS 5 MINS. |
| 8 HRS 55 MINS | 4-2-69 | P.D. Quick | " " 7002 " " GR2 | 11:07 AM | 6:27 AM | INCLUDES 2 HR. RESPITE + 1 HR 20 MINS DEADHEAD - TOW - IN. 19 HRS 20 MINS |
| 10 HRS | 4-3-69 | P.D. Quick | " " 7002 " " GR1 | 4:27 PM | 7:32 AM | 15 HRS 5 MINS. |

REQUEST LOCAL CHAIRMAN COMPLETE AND RETURN TO GENERAL CHAIRMAN

RAILROAD Penn-Central DIVISION Columbus TERMINAL Columbus

| TIME OFF DUTY PRIOR TO TRIP | DATE | NAME OF ENGINEER | ENGINE OR TRAIN NUMBER | TIME ON DUTY | TIME OFF DUTY | TOTAL TIME ON DUTY |
|---|---|---|---|---|---|---|
| 48'00 | May 9, | R. M. Scott | 7202 | 10:30 A.M. | 2:15 A.M. | 15'45" |
| 8'15 | May 12, | R. M. Scott | 7205 | 10:30 A.M. | 2:29 A.M. | 15'59" |
| 8'01 | May 13, | R. M. Scott | 7119 | 10:30 A.M. | 1:15 A.M. | 14'45" |
| 9'15 | May 14, | R. M. Scott | 7119 | 10:30 A.M. | 2:29 A.M. | 15'59" |
| 8'01 | May 15, | R. M. Scott | 7119 | 10:30 A.M. | 3:30 A.M. | 17'00" |
| 8'00 | May 16, | R. M. Scott | 7118 | 11:30 A.M. | 2:30 A.M. | 15'00 " |
| 8'00 | May 19, | R. M. Scott | 7216 | 10:30 A.M. | 2:10 A.M. | 15'40" |

REQUEST LOCAL CHAIRMAN COMPLETE AND RETURN TO GENERAL CHAIRMAN

RAILROAD PENN-CENTRAL DIVISION SOUTHWEST TERMINAL LOGANSPORT

| TIME OFF DUTY PRIOR TO TRIP | DATE | NAME OF ENGINEER | ENGINE OR TRAIN NUMBER | TIME ON DUTY | TIME OFF DUTY | TOTAL TIME ON DUTY |
|---|---|---|---|---|---|---|
| 24 hrs | 5/7/69 | K.L. Delp | DEAD HEAD & LOCAL JL-1 | 7 45 P 5/7/69 | 9 05 Pm/4/8/69. | 25 hrs. & 20 min. |
| 12 hr | 4/9/69 | K.L. Delp | NS-7 | 5 10 Pm 4/9/69 | 6 15 am 4/10/69 | 12 hrs. 55 min |
| 9 hrs | 3/24/69 | K.L. Delp | JL-2 | 7 am/3/24/69 | 10 15 P/3/24/69 | 15 hrs & 15 min. |
| 9 hrs & 45 ~~[illegible]~~ min. | 3/27/69 | K.L. Delp | JL-1 | 8 am 3/27/69 | 8 25 P - 3-27-69 | 12 hrs & 25 min. |
| 8 ~~[illegible]~~ | 4/4/69 ~~[illegible]~~ | K.L. Delp | ~~[illegible]~~ JL-2 | 7 00 am 4/4/69 | 10 55 Pm 4/4/69 | 15 hrs & 55 min |
| 11 hrs & 42 min. | 4/6/69. | K.L. Delp | NS-7 | 11 00 Pm 4/6/69 | 11 40 am 4/7/69 | 12 hrs & 40 min. |
| 11 hrs. | 3/13/69 | K.L. Delp | JL-2 | 8 49 am 3/13/69 | 2 05 am 3/14/69 | 17 hrs. 16 min. |

K.L. Delp
U.T.U. # E-53
Logansport. Ind

REQUEST LOCAL CHAIRMAN COMPLETE AND RETURN TO GENERAL CHAIRMAN

RAILROAD Penn Central DIVISION Pittsburgh, Pa TERMINAL Scully, Pa

| TIME OFF DUTY PRIOR TO TRIP | DATE | NAME OF ENGINEER | ENGINE OR TRAIN NUMBER | TIME ON DUTY | TIME OFF DUTY | TOTAL TIME ON DUTY |
|---|---|---|---|---|---|---|
| 8 hours. | May 23. 69 | J. W. ECOFF | SM 1 & 2 | 1020p | 425p | 18 hr 5 min |
| 8 hours | May 22' | H. V. MANNING | SM 1 & 2 | 800p | 220p | 18 hr 20 min |
| 8 hours | 21 | H. V. MANNING | SM 1 & 2 | 825p | 12 noon | 15 hr 35 min |
| 8 hours | 20 | H. V. MANNING | SM 1 & 2 | 820p | 1225p | 16 hr 5 min |
| 8 hours | 19 | H. V. MANNING | SM 1 & 2 | 8p | 1220p | 16 hr 20 min |
| 24 hours. | 16 | E. M. STROAS | SM 1 & 2 | 955p | 139p | 15 hr 40 min |
| 8 hours | 15 | H. V. MANNING | SM 1 & 2 | 10pm | 159pm | 15 hr 59 min |
| 8 hours | 14 | H. V. MANNING | SM 1 & 2 | 1050p | 2p | 15 hr 10 min |

REQUEST LOCAL CHAIRMAN COMPLETE AND RETURN TO GENERAL CHAIRMAN

RAILROAD Penn Central DIVISION NEW YORK TERMINAL WAVERLY, N.J.

| TIME OFF DUTY PRIOR TO TRIP | DATE | NAME OF ENGINEER | ENGINE OR TRAIN NUMBER | TIME ON DUTY | TIME OFF DUTY | TOTAL TIME ON DUTY |
|---|---|---|---|---|---|---|
| 10 Hrs. | 4-/-29-69 | H.W.COFFEY | WV-3- WS-2- 6083-6199-6535- 2635-2558-2905-- | 11:15 P.M. 4/29/69 | 3:55 P.M. 4/30/69 ~~-17Hrs.~~ | 17 Hrs 40 MIN |
| 9'30" | 2-/18/69 | C.P.Kephart | PC-3a 2214-2217 | 10:00 A.M. 2-/18/69 | 3:45 A.M. 2-/19/69 | 17'45" |
| 8'50 | 4-/28/69 | W.C.Nye | NS-1- NH-2- 3141-3120-3147 | 2:00 P.M. 4-/28/69 | 12:10 P.M. 4-/29/69 | 22'10" |
| 8'30" | 4-/24/69 | D.Mahoney | Trains #1118.1124/1143 | 1:16 A.M. 4-/24/69 | 12:46 A.M. 4-/25/69 | 23 Hrs 30 Min |
| | | | | | | |
| | | | | | | |
| | | | | | | |

REQUEST LOCAL CHAIRMAN COMPLETE AND RETURN TO GENERAL CHAIRMAN

RAILROAD Penn-Central DIVISION Indiana TERMINAL Hawthorne - Ind'pls, Ind.

| | TIME OFF DUTY PRIOR TO TRIP | DATE | NAME OF ENGINEER | ENGINE OR TRAIN NUMBER | | TIME ON DUTY | TIME OFF DUTY | TOTAL TIME ON DUTY |
|---|---|---|---|---|---|---|---|---|
| * | 8 hrs. | Jan. 15, 1969 | H.K. Shepard | #7151 | IS 19+20 | 10 A.M. | 3 25 am | 17 hrs. 25 min. |
| | 8 hrs. | Jan. 17, 1969 | S.N. Cox | #7151 | IS 19+20 | 9 25 am | 1 40 am | 16 hrs. 15 min. |
| | 24 hrs. | Jan. 23, 1969 | S.N. Cox | #7025-7157 | IS 15+16 | 2 45 pm | 6 30 am | 15 hrs. 45 min. |
| * | 8 hrs. | Jan. 24, 1969 | S.N. Cox | #1825 - 1729 1665 - 1742 | IS 15+16 | 2 30 pm | 6 55 am | 16 hrs. 25 min |
| * | 12 hrs. 20 min | Apr. 23, 1969 | G.C. Bowen | #7063 | IS 19+20 | 7 45 am | 1 20 am | 17 hrs. 35 min. |
| * | 10 hrs | May 9, 1969 | G.C. Bowen | #7157 | IS 19+20 | 7 45 am | 5 05 am | 21 hrs. 20 min. |
| * | 13 hrs 45 min | May 23, 1969 | G.C. Bowen | #7150 | IS 19+20 | 7 45 am | 3 00 am | 19 hrs. 15 min. |

* These times on duty are figured with a respite and Tour-in Time. The respite period always occurs at a time when no food is available and your rest is taken on the engine.
We have three Local assignments here that have such hours as shown above as a daily routine S.N. Cox

Tangley
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REQUEST LOCAL CHAIRMAN COMPLETE AND RETURN TO GENERAL CHAIRMAN

RAILROAD PENN CENTRAL DIVISION SYRACUSE TERMINAL DEWITT, N.Y.

| TIME OFF DUTY PRIOR TO TRIP | DATE | NAME OF ENGINEER | ENGINE OR TRAIN NUMBER | TIME ON DUTY | TIME OFF DUTY | TOTAL TIME ON DUTY |
|---|---|---|---|---|---|---|
| MORE THAN 8 HRS | 2-13-69 | E.O. WOODS<br>C.H. GRAY | DA-24 | In all cases these men supposedly | | 19 hrs. |
| " | 12-20-68 | W.F. PATTERSON<br>C.K. COE | VD-21 | did not exceed the 16 hr. law, but | | 19' HR. 30" MIN. |
| " | 12-19-68 | J.P. PENDERGAST<br>M.L. GORMAN | DV-20 | this information has been compiled | | 18 hrs. |
| " | 1-20-69 | E.K. SULLIVAN<br>C.L. WALTERS | BM-5 | from details from timekeepers office at | | 17' hrs. 15" min |
| " | 1-12-69 | W.F. GOLBACH<br>F.J. LYONS | NY-12 | Utica, N.Y. File #14 & total time on | | 17' hrs. 10" min |
| " | 12-13-68 | E.J. EVANS<br>C.H. GRAY | VD-31 | duty as shown includes waiting for | | 17' hrs. |
| " | 1-21-69 | H.B. POLLARD<br>W.C. GREENE | DA-24 | & or riding in taxicabs to the | | 17' hrs. 15" min |

conclusion of the trip or to the terminal.

REQUEST LOCAL CHAIRMAN COMPLETE AND RETURN TO GENERAL CHAIRMAN

RAILROAD UNION PACIFIC RAILROAD Co. DIVISION CALIFORNIA TERMINAL LAS VEGAS, NEVADA

| TIME OFF DUTY PRIOR TO TRIP | DATE | NAME OF ENGINEER | ENGINE OR TRAIN NUMBER | TIME ON DUTY | TIME OFF DUTY | TOTAL TIME ON DUTY |
|---|---|---|---|---|---|---|
| 8 hrs 1 min | 5-22-69 | Westley May Fireman L.E. Mess | Eng. 302 Boulder Local | 4 00 am | 7 59 pm | 15 hrs + 59 Min |
| 16 hrs 45 mins | 5-22-69 | W.J. Casey Fireman None | 420 | 1 30 am | 4 30 am | 15 hrs 00 min |
| 10 hours | 5-21-69 | McDonald Fireman None | 429 X-West | 11 10 am | 3 10 pm | 16 hrs |
| 24 hrs 10 min | 5-25-69 | R. Loveday Fireman None | 417 X-West | 8 25 am | 12 25 pm | 16 hrs |
| 10 hrs | 5-26-59 | C.A. Parker Fireman None | 3082 Ex-East | 12 45 pm | 3 20 am | 14 hrs 35 min |
| 12 hrs | 5-17-69 | R.R. Coady Fireman A.F. Buck | 802 Ex-East | 4 15 am | 8 14 pm | 15'59" |
| 16 hrs 45 min | 5-15-69 | A.M. Callaway Fireman none | 3024 Ex-East | 11 00 pm | 1 45 am | 14 hrs 45 min |

REQUEST LOCAL CHAIRMAN COMPLETE AND RETURN TO GENERAL CHAIRMAN

RAILROAD Union Pacific DIVISION Utah TERMINAL Milford, Utah

| TIME OFF DUTY PRIOR TO TRIP | DATE | NAME OF ENGINEER | ENGINE OR TRAIN NUMBER | TIME ON DUTY | TIME OFF DUTY | TOTAL TIME ON DUTY |
|---|---|---|---|---|---|---|
| 8 hrs. | 6-12-69 | W. G. Daniels | | 10 PM | 2 AM | 14 hrs. |
| 9 hrs. | 6-11-69 | D. L. Peterson | Ex 3610 West<br>Ex 3046 East | [redacted] 10:30PM | 2:30 PM | 16 hrs. |
| 10 hrs. | 6-10-69 | D. C. Reese | Work Ex 704 | 6:30AM | 10 PM | 15:30 |
| 12 hrs. | 6-10-69 | O. P. Memmott | Ex E 835 | 7 AM | 9:20 PM | 14:20 |
| 9 hrs. | 6-10-69 | C. J. Killam | Ex 403 East | 6:30 PM | 6:45 AM | 12:15 |
| 8 hrs. | 6-9-69 | F. B. Rabb | Ex 704 East | 6:30 AM | 10:30 PM | 16 hrs. |
| 12 hrs. | 6-9-69 | J. R. Hardy | Ex 702 East | 6:30 AM | 10:30 PM | 16 hrs. |
| 9 hrs. | 6-9-69 | K. Barton | Ex 835 East | 7 AM | 10 PM | 15 hrs. |
| 13 hrs. | 6-8-69 | O. P. Memmott | Ex 824 East | 9:45 AM | 11:55 PM | 14:10 |
| 34 hrs. | 6-8-69 | C. E. Burbidge | Ex 498 West | 6:15 AM | 10:15 PM | 16 hrs. |
| 12 hrs. | 6-8-69 | W. L. Myers. | Ex 3078 East | 7:45 AM | 8:15 PM | 12:30 |
| 9 hrs. | 6-7-69 | K. Barton | Ex 837 East | 7 AM | 7:15 PM | 12:15 |
| 48 hrs. | 6-7-69 | Fair | Ex 330 East | 4 PM | 8 AM | 16 hrs. |
| 15 hrs. | 6-7-69 | H. M. Lund | Ex 403 East | 5 PM | 6 AM | 13 hrs. |
| 11 hrs. | 6-6-69 | C. M. Griffith | Ex 837 East | 6:30 AM | 10:30 PM | 16 hrs. |
| 9 hrs. | 6-6-69 | L. W. Harton | Ex 855 East | 7 AM | 9:10 PM | 14:10 |
| 10 hrs. | 6-6-69 | C. J. Killam | Work Extra 873 | 6:30 AM | 8:30 PM | 14 hrs. |
| 9 hrs. | 6-5-69 | L. W. Harton | Ex 865 West | 5:30 PM | 9:25 AM | 15:55 |
| 9 hrs. | 6-5-69 | J. B. Rabb | Ex 870 East<br>Ex 405 East | 7 AM<br>4:30 AM | 10:59 PM<br>12:05 PM | 15:59<br>15:35 |

May 27, 1969

REQUEST LOCAL CHAIRMAN COMPLETE AND RETURN TO GENERAL CHAIRMAN

RAILROAD Union Pacific Railroad DIVISION Nebraska-First Seniority District TERMINAL Council Bluffs Iowa

| TIME OFF DUTY PRIOR TO TRIP | DATE | NAME OF ENGINEER | FIREMAN | ENGINE OR TRAIN NUMBER | TIME ON DUTY | TIME OFF DUTY | TOTAL TIME ON DUTY |
|---|---|---|---|---|---|---|---|
| 10' 30" | April 28,69 | D.L. Wood | None | Extra 168 Zone Local | 13' 30" | None | 13' 30" |
| 8' 50" | " 29 " | S.S. Fimple | " | " 182 Mainline Local | 15' 10" | " | 15' 10" |
| 8' 50" | " 29 " | D.L. Wood | " | " 168 Zone Local | 15' 10" | " | 15' 10" |
| 10' 15" | " 30 " | J.L. Renon | " | " 257 " " | 14' 45" | " | 14' 45" |
| 8' 15" | " 30 " | D.L. Wood | " | " 168 " " | 15' 45" | " | 15' 45" |
| 10' 5" | May 1 " | R.L. Henle | " | " 257 " " | 13' 55" | " | 13' 55" |
| 8' 1" | " 2 " | D.L. Wood | " | " 168 " " | 15' 59" | " | 15' 59" |
| 10' 20" | " 3 " | B.P. Ficker | " | " 257 " " | 13' 40" | " | 13' 40" |
| 8' 1" | " 3 " | J.L. Burnon | " | " 168 " " | 15' 59" | " | 15' 59" |
| 8' 1" | " 5 " | D.L. Wood | " | " 168 " " | 15' 59" | " | 15' 59" |
| 8' 25" | " 6 " | D.L. Wood | " | " 168 " " | 15' 35" | " | 15' 35" |
| 9' 15" | " 7 " | D.P. Thomas | " | " 257 " " | 14' 45" | " | 14' 45" |
| 8' 15" | " 7 " | D.L. Wood | " | " 168 " " | 15' 45" | " | 15' 45" |
| 10' 30" | " 8 " | R.E. Freeman | " | " 257 " " | 13' 30" | " | 13' 30" |
| 8' 1" | " 8 " | D.L. Wood | " | " 168 " " | 15' 59" | " | 15' 59" |
| 10' 10" | " 9 " | R.E. Freeman | " | " 257 " " | 13' 50" | " | 13' 50" |
| 8' 50" | " 9 " | D.L. Wood | " | " 168 " " | 15' 10" | " | 15' 10" |
| 10' 30" | " 10 " | R.E. Freeman | " | " 257 " " | 13' 30" | " | 13' 30" |
| 8' | " 12 " | R.R. Mathewson | " | " 168 " " | 16' | " | 16" |
| 9' 50" | " 13 " | R.E. Freeman | " | " 257 " " | 14' 10" | " | 14' 10" |

Note: The Above Indicates The General Work Pattern Of All Mainline, Branchline, And Zone Locals Worked On The First Seniority District Between Council Bluffs Iowa And Grand Island Nebraska, Of Which There Is 10 In Number As Of May 27, 1969.

Dallas A Bailey
Local Chairman
Local # 123 UTU (E)

REQUEST LOCAL CHAIRMAN COMPLETE AND RETURN TO GENERAL CHAIRMAN

RAILROAD St Joseph Terminal DIVISION _____ TERMINAL St Joseph Mo.

| TIME OFF DUTY PRIOR TO TRIP | DATE | NAME OF ENGINEER | ENGINE OR TRAIN NUMBER | TIME ON DUTY | TIME OFF DUTY | TOTAL TIME ON DUTY |
|---|---|---|---|---|---|---|
| 9 hrs. | 5/14 | W I Hathaway | Lv. 1213 | 7 59 a | 9 PM | 13 hr. |
| 14 hrs | 5/15 | W I Hathaway | Lv 1213 | 7 59 a | 11 10 PM | 15 hr + 10 Min |
| 8 hr + 50 m | 5/16 | W I Hathaway | Lv 1213 | 7 59 a | 10 45 P | 14 hr + 45 m. |
| 8 hrs. | 5/17 | B I Morris | Lv 2 | 7 59 a | 10 59 P | 15 hr. |
| 43 hrs. | 5/19 | W I Hathaway | Lv 1213 | 7 57 a | 11 49 P | 15 hr + 50 Min |
| 8 hr 10 Min | 5/20 | W I Hathaway | Lv 1213 | 7 59 a | 10 09 P | 14 hr + 20 Min |
| 9 hr + 50 Min | 5/21 | W I Hathaway | Lv 1213 | 7 59 a | 9 44 P | 13 hr 45 min |

W. I Hathaway

REQUEST LOCAL CHAIRMAN COMPLETE AND RETURN TO GENERAL CHAIRMAN

RAILROAD Southern DIVISION Knoxville TERMINAL Bulls Gap

| TIME OFF DUTY PRIOR TO TRIP | DATE | NAME OF ENGINEER | ENGINE OR TRAIN NUMBER | TIME ON DUTY | TIME OFF DUTY | TOTAL TIME ON DUTY |
|---|---|---|---|---|---|---|
| 12 hrs 20 min | May 18 | S P Seneker | 98 - 3/56 & extra 8215 | 3 45 p | 7 10 a | 15 hr 25 mi |
| 24 hrs | May 21 | W E Wade | 98 X 3068 | 1030 a | 2 30 a | 16 hrs |
| 22 hrs | March 24 | S P Seneker | #19 + 1/92 | 2 45 a | 6 45 p | 16 hrs |
| 7 hrs | April 19 | A N Bounds | Extra 3057 | 3 10 am | 5 45 pm | 14 hrs 55 |
| 15 | April 12 | K C Warwick | Extra 3009 | 9 40 am | 1 15 am | 15 hrs 35 mi |
| 22 | April 8 | A N Bounds | Extra 3009 | 9 15 am | 11 30 pm | 14 hrs 15 mi |
| | | | | | | |

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GC CHAIRMAN

REQUEST LOCAL CHAIRMAN COMPLETE AND RETURN TO GENERAL CHAIRMAN

ROAD Southern Railway DIVISION Eastern TERMINAL Alexandria, Va

| TIME OFF DUTY PRIOR TO TRIP | DATE | NAME OF ENGINEER | ENGINE OR TRAIN NUMBER | TIME ON DUTY | TIME OFF DUTY | TOTAL TIME ON DUTY |
|---|---|---|---|---|---|---|
| 24 hrs | 4/15/69 | James E. Smith | 2300 2546 Train # 75 | 945 a | 4/16/69 145 a | 16 hrs |
| 10 hrs | 4/16/69 | James E. Smith | Train # 76 | 1145 a | 4/17/69 150 a | 14 hrs 05 mins |
| 9 hrs 30 mins | 4/17/69 | James E. Smith | Train # 75 | 1120 a | 4/18/69 135 a | 14 hrs 15 mins |
| 8 hrs 25 mins | 4/18/69 | James E. Smith | Train # 76 | 1000 a | 4/19/69 1245 a | 14 hrs 45 mins |
| 8 hrs | 4/20/69 | James E. Smith | Train # Ex 2577 | 140 p | 4/21/69 520 a | 15 hrs 40 mins |
| 24 hrs | 3/24/69 | James E. Smith | 2606 Train 74-73 | 745 a | 1144 p | 14 hrs 59 mins |
| 10 hrs | 3/28/69 | James E. Smith | 2606 Train 74-73 | 850 a | 1000 p | 13 hrs 10 mins |

REQUEST LOCAL CHAIRMAN COMPLETE AND RETURN TO GENERAL CHAIRMAN

RAILROAD Colorado And Southern DIVISION Southern TERMINAL Trinidad Colorado

| TIME OFF DUTY PRIOR TO TRIP | DATE | NAME OF ENGINEER | ENGINE OR TRAIN NUMBER | TIME ON DUTY | TIME OFF DUTY | TOTAL TIME ON DUTY |
|---|---|---|---|---|---|---|
| 24 | 3/7/69 | McKinnon | No75 Return No 76 | 3.50 PM | 2/8 7.50 a | 16 |
| 24 | 3/5/69 | McKinnon | No75 Return No76 | 3.45 p | 3/6 7.45 a | 16 |
| 24 | 3/28/69 | McKinnon | 75 Return 76 | 5.50 p | 3/29 8.30 a | 14 Hrs 35 min |
| 16 | 4/12/69 | Sanders | 75 Return 76 | 4.00 p | 4/13 6.40 a | 14 hrs 40 min |
| 18 | 4/28-69 | Snyder | 75 Return 76 | 2.45 p | 4/29 5.10 a | 14 hrs 25 min |
| 24 | 4/30-69 | McKinnon | 75 Return 76 | 4.45 p | 5/1 8.30 a | 15 hrs 45 Min |
| 24 | 5/3-69 | McKinnon | 75 Return 76 | 5.45 p | 5/4 7.10 a | 14 hrs 35 min |
| 24 | 5/5-69 | Sanders | 75 Return 76 | 5.30 p | 5/6 6.50 a | 13 hrs 20 min |
| 18 | 5/10-69 | Snyder | 75 Return 76 | 4.40 p | 5/11 8.39 a | 15 hrs 59 min |
| 24 | 5/14-69 | McKinnon | 75 Return 76 | 5.40 p | 5/15 7.20 a | 12 Hrs 40 min |
| 24 | 5/17-69 | Snyder | 75 Return 76 | 3.55 p | 5/18 7.00 a | 15 Hrs 5 min |
| 24 | 5/18-69 | McKinnon | 75 Return 76 | 3.50 p | 5/19 4.55 a | 13 Hrs 5 min |
| 24 | 5/22-69 | Snyder | 75 Return 76 | 4.15 p | 5/23 4.45 a | 12 Hrs 30 min. |
| | | | | | | |

Francis R. Aldenorey
1905-1 Ave. S. W.
Minot, N. Dak. 58701

REQUEST LOCAL CHAIRMAN COMPLETE AND RETURN TO GENERAL CHAIRMAN

RAILROAD Great Northern Rwy. Co. DIVISION Minot TERMINAL Minot, N. DAK.

| TIME OFF DUTY PRIOR TO TRIP | DATE | NAME OF ENGINEER | ENGINE OR TRAIN NUMBER | TIME ON DUTY | TIME OFF DUTY | TOTAL TIME ON DUTY |
|---|---|---|---|---|---|---|
| 8 HRS. | 5/27/1969 | WINSTON BLACK | ENGINE #315 A TRAIN #219 and 220 | 16 hours | CALLED 10 am 5/26/69 tied up 2 am | 5/27/69 |
| 8 HRS. | 5/24/1969 | ROBERT WALKER | 594-615-2503. | 16'35" 35" D. HEADING | called 6 am tied up 10 3/5 PM | 5-24-69 5-24-69 |
| 8 HOURS | 5/22/1969 | WALLACE KLINE | ENGINE 316C TRAIN #219 & 220 | 16 HRS. | called for tied up | 10 1/5 am - 5-21-69 2 1/5 am - 5-22-69 |
| 10 HOURS | 5/21/1969 | ROBERT WALKER | ENGINE 2029-670 | 16' 30" 30" D. HEADING | called for tied up | 6 am - 5-21-69 10 3/5 PM - 5-21-69 |
| 8 HRS. | 5/16/1969 | DONALD RUSSELL | ENGINE # 593 | 16 HOURS | CALLED FOR tied up | 7 am - 5-16-69 11 PM 5-16-69 |
| 8 HRS | 5/4/1969 | HARRIS TOGSTAD | ENGINE #664 | 18'15 2'15" DEAD HEADING | CALLED FOR tied up | 7 3/5 am - 5-3-69 14 3/5 am - 5-4-69 |
| 8 HRS. | 4/28/1969 | WINSTON BLACK. | ENGINE #2016 TRAIN #219 & 220 | 16 hours | called for tied up | 7 am - 4-28-69 11 PM - 4-28-69 |



31-998 O—69——5

REQUEST LOCAL CHAIRMAN COMPLETE AND RETURN TO GENERAL CHAIRMAN

RAILROAD Southern Pacific (T+L) DIVISION Dallas TERMINAL Houston

R. F. Kramer Lodge 506-E

| TIME OFF DUTY PRIOR TO TRIP | DATE | NAME OF ENGINEER | ENGINE OR TRAIN NUMBER | TIME ON DUTY | TIME OFF DUTY | TOTAL TIME ON DUTY |
|---|---|---|---|---|---|---|
| | 3-13-69 | M. J. Brodeuk | X-3633 | 3 pm | 6.35 am | 15.35 |
| | 3-20-69 | " " " | X-3405 | 12.35 pm | 1.50 am | 13.15 |
| 16.30 | 3-21-69 | " " " | X-2933 | 6.30 pm | 8:20 am | 13.50 |
| | 3-25-69 | " " " | X-6513 | 8.15 AM | 9.35 pm | 13.20 |
| 8- | 3-26-69 | " " " | X-3636 | 5.30 AM | 6.15 pm | 12.45 |
| | 3-28-69 | " " " | X-3413 | 11.00 am | 3.00 a | 15. |
| | 4-1-69 | " " " | X-3401 | 1 pm | 2.05 am | 13.05 |
| 11.05 | 4-2-69 | " " " | X-3679 | 1 pm | 3.20 am | 14.20 |
| 11.55 | 4-3-69 | " " " | X-6640 | 3.15 pm | 7.25 AM | 16 |
| | 4-10-69 | " " " | X-3633 | 1.35 pm | 2.am | 12.25 - 12-25 |
| 11.40 | 4-11-69 | " " " | X-2879 | 11.40 AM | 2.45 pm | 15.05 |
| | 4-15-69 | " " " | X-3418 | 11 45 AM | 3.45 pm | 16 |
| | 4-18-69 | " " " | X-4033 | 2.30 pm | 3 25 AM | 12.50 |
| | 4-22-69 | " " " | X-3522 | 6.40 AM | 10.35 pm | 15.55 |
| | 4-24-69 | " " " | X-5012 | 11 40 AM | 2.05 AM | 14.25 |
| 8 | 4-25-69 | " " " | X-3437 | 10.05 AM | 10.55 pm | 12.50 |
| 18.20 | 4 26-69 | " " " | X-2951 | 11.15 AM | 11.30 p | 12.15 |
| | 5-1-69 | " " " | X-3418 HOG LAW & BRYAN | 8.35 AM | 4.35 AM | 16 |
| | 5-3-69 | " " " | X-3552 | 5.30 p | 9.25 AM | 15.55 |
| | 5-7-69 | " " " | X-3669 | 3 pm | 7.am | 16 |
| | 5-13-69 | " " " | X-4087 | 7.15 AM | 9.35 pm | 14.20 |
| | 5-15-69 | " " " | X 3491 | 8.00 AM | 8.50 pm | 12.50 |

REQUEST LOCAL CHAIRMAN COMPLETE AND RETURN TO GENERAL CHAIRMAN

RAILROAD Southern Pacific Co. (T&L) DIVISION San Antonio TERMINAL Eagle Pass, Texas

| TIME OFF DUTY PRIOR TO TRIP | DATE | NAME OF ENGINEER | ENGINE OR TRAIN NUMBER: TRAIN NO. | ENGINE OR TRAIN NUMBER: ENGINES | TIME ON DUTY | TIME OFF DUTY | TOTAL TIME ON DUTY |
|---|---|---|---|---|---|---|---|
| | | J.F. Luedecke | | | | | |
| | Feb 12-1969 | J.F. Luedecke | 227+228 | 3638-3622 | 8:00 A.m. | 11:45 P.m. | 15 hrs. 45 mins |
| 8 hrs - 15 mins | " 13 - " | " | " + " | " + " | 8:00 A.m. | 11:30 P.m. | 15 hrs. 30 " |
| 8 hrs 30 " | " 14 " | " | " + " | " + " | 8:00 A.m. | 11:45 P.m. | 15 " 45 " |
| 8 " 45 " | " 15 " | " | " + " | " + " | 8:30 A.m. | 11:45 P.m. | 15 " 15 " |
| 14 " 15 " | " 16 " | " Sunday | " + " | " + " | 2:00 P.m. | 12:25 Am ~~8:30 P.m.~~ 2-10-69 | 10 " 25 " |
| 8 " 05 " | " 17 " | " | " + " | " + " | 8:30 A.m. | 11:50 P.m. | 15 hrs 20 mins |
| 8 hrs 10 mins | Feb 18 - 1969 | " | " + " | " + " | 8:00 A.m. | 11:55 P.m. | 15 hrs 55 mins |
| 8 hrs - 05 mins | Feb 19 - 1969 | J.F. Luedecke | 227+228 | 3638+3622 | 8:00 A.m. | 11:30 P.m. | 15 hrs + 30 mins |
| 8 hrs + 30 mins | Feb 20, 1969 | J.F. Luedecke | 227+228 | 3638+3622 | 8:00 A.m. | 11:50 P.m. | 15 hrs + 50 mins |
| 8 hrs + 10 mins | Feb 21, 1969 | J.F. Luedecke | 227+228 | 3614+3689 | 8:00 A.m. | 11:50 P.m. | 15 hrs + 50 mins |
| | | | | | | | |

Eagle Pass Branch assignment working Eagle Pass, texas to Spofford, Texas, return daily, working about 15 hours daily except for Sunday works about 8 to 10 hours

Signed by, John F. Luedecke Extra engineer, San Antonio, Texas

All yard Jobs.
C.B.&Q.R.R.

R.E. Stringer
K.C. - E - 326
K. City, Mo

RECEIVED MAY 16 1969 26
F-2888

Please complete and return to General Chairman K. E. Smith, Rooms 257-258, 311 West Galena Blvd., Aurora, Illinois, 60506, as soon as possible.

| J | # | DATE | ENGINEER'S NAME | FIREMAN'S NAME | TIME REPORTED FOR DUTY | LOCATION | TIME LAID UP | LOCATION | TOTAL TIME ON DUTY |
|---|---|---|---|---|---|---|---|---|---|
| 5 | - | 5/1/69 | Collins | | 8:00AM | K.C. Mo | 8:40pm | K.C. Mo | 12hrs 40min. |
| 3 | - | 5/1/69 | Craft | | 8:00AM | K.C. Mo | 9:00pm | K.C. Mo | 13 hrs. |
| 12 | - | 5/1/69 | Lord | | 7:45AM | K.C. Mo. | 9:40pm | K.C. Mo. | 13hrs 55min. |
| 20 | - | 5/1/69 | Yingling | Boban | 4:00pm | K.C. Mo. | 5:10am | K.C. Mo | 13hrs 10min. |
| 21 | - | 5/1/69 | Luber | Dally | 2:30pm | K.C. Mo. | 5:30am | K.C. Mo. | 15 hrs. |
| 22 | - | 5/1/69 | Lewis | Basford | 4:00pm | K.C. Mo | 7:30am | K.C. Mo. | 15hrs 30 min. |
| 37 | - | 5/1/69 | Knefel | | 11:45pm | K.C. Mo. | 2:55pm | K.C. Mo | 15hrs 10 min. |
| 3 | - | 5/2/69 | Craft | | 8:00AM | K.C. Mo. | 9:25pm | K.C. Mo. | 13hrs 25 min. |
| 5 | - | 5/2/69 | Collins | | 8:00AM | K.C. Mo. | 10:00pm | K.C. Mo. | 14hrs. |
| 12 | - | 5/2/69 | Lord | | 7:45AM | K.C. Mo | 11:00pm | K.C. Mo | 15hrs 15 min. |
| ; | - | 5/2/69 | Yingling | Boban | 2:30pm | K.C. Mo. | 6:00am | K.C. Mo | 15hrs 30min. |
| 20 | - | 5/2/69 | Luber | Dally | 4:00pm | K.C. Mo | 7:00am | K.C. Mo | 15hrs. |
| 22 | - | 5/2/69 | Lewis | Basford | 4:00pm | K.C. Mo. | 7:00am | K.C. Mo | 15hrs. |
| 43 | - | 5/2/69 | Simmons | | 12:00pm | K.C. Mo. | 1:00pm | K.C. Mo. | 13hrs. |
| 37 | - | 5/2/69 | Rook | | 11:45pm | K.C. Mo. | 1:00pm | K.C. Mo | 13hrs 15min. |
| 12 | - | 5/3/69 | Wood | | 7:45AM | K.C. Mo. | 10:45pm | K.C. Mo. | 15hrs. |
| 5 | - | 5/3/69 | Sartin | Hunter | 8:00AM | K.C. Mo. | 11:55pm | K.C. Mo | 15hrs 55min |
| 21 | - | 5/3/69 | Lamkins | | 2:30pm | K.C. Mo. | 6:25AM | K.C. Mo | 15hrs 55 min |
| 37 | - | 5/3/69 | Conkling | | 11:45pm | K.C. Mo | 3:10pm | K.C. Mo | 15hrs 25min. |
| 43 | - | 5/3/69 | Simmons | | 12:00pm | K.C. Mo | 1:30pm | K.C. Mo. | 13hrs 30 min |
| 12 | - | 5/4/69 | East | | 7:45AM | K.C. Mo. | 8:55pm | K.C. Mo | 13hrs 10 min |
| 5 | - | 5/4/69 | Craft | | 8:00AM | K.C. Mo. | 9:30pm | K.C. Mo | 13hrs 30min |
| 7 | - | 5/4/69 | Cessar | | 7:45AM | K.C. Mo. | 10:00pm | K.C. Mo | 14hrs 15min |
| 22 | - | 5/4/69 | Jones | | 4:00pm | K.C. Mo | 6:30AM | K.C. Mo. | 14hrs 30 min |
| 22 | - | 5/5/69 | Lewis | Basford | 4:00pm | K.C. Mo | 7:35AM | K.C. Mo | 15hrs 35min |
| 37 | - | 5/5/69 | Knefel | | 11:45pm | K.C. Mo | 3:30pm | K.C. Mo | 15hrs 45min. |
| 12 | - | 5/6/69 | Truitt | | 7:45 AM | K.C. Mo. | 11:44pm | K.C. Mo | 15hrs 59min |

C.B.&Q. R.R.

RECEIVED MAY 14 1969

27

F-2888

Please complete and return to General Chairman K. E. Smith, Rooms 257-258, 311 West Galena Blvd., Aurora, Illinois, 60506, as soon as possible.

| DATE | ENGINEER'S NAME | FIREMAN'S NAME | TIME REPORTED FOR DUTY | LOCATION | TIME LAID UP | LOCATION | TOTAL TIME ON DUTY | |
|---|---|---|---|---|---|---|---|---|
| EX - 5-6 | Gudgel | — | 11 00 a | Nett | 2 00 a | Hannibal | 15 | 703 |
| EX - 5-6 | Perkins | — | 10 30 a | Hannibal | 2 30 a | Hannibal | 16 | turn |
| EX - 5-5 | Wilcox | — | 2 00 p | Hannibal | 3 20 a | Hannibal | 13-20 | turn |
| EX - 5-5 | Perry | Shrace | 2 30 p | Hannibal | 6 30 a | Hannibal | 16 | turn |
| EX - 3-9 | Burk | — | | Buel | | Hannibal | 16 | 2/110 |
| EX - 5-6 | Hubbard | — | 3 00 p | Hannibal | 2 55 a | Hannibal | 11 55 | turn |
| EX - 5-6 | Murphy | — | 2 30 p | Hannibal | 6 30 a | Louisiana | 16 | Coy turn |
| EX - 5-6 | Wells | — | 9 00 p | Buel | 12 55 p | Hannibal | 15 55 | 742 |
| EX - 5-7 | Hamilton | — | 2 00 p | Nett | 2 50 a | Hannibal | 12 50 | 703 |
| " " 5-9 | Wilcox | — | 4 45 | Hannibal | 7 05 p | Hannibal | 14-20 | turn |
| EX - 5-9 | Perkins | — | 1 45 p | Hannibal | 5 45 p | Hannibal | 16 | turn |
| EX - 5-10 | Burger | — | 1 30 | Nett | 4 00 p | Hannibal | 14-30 | EX |
| EX - 5-10 | Holbrook | — | 8 00 a | Hannibal | 10 45 p | Hannibal | 14-45 | turn |
| EX - 5-10 | Hubbard | Dudgeon | 8 15 p | Hannibal | 12 15 p | Hannibal | 16 | turn |

[illegible]
Local Chairman Lodge No. UTU E-290

3/M

## The Dual System of Pay

(A Summary Description Prepared by Winfield M. Homer, Labor Bureau of Middle West, Washington, D.C.)

Road operating employees are compensated for their services by a form of piece work system which is usually called the dual system of pay. The system pays road freight and passenger employees by the mile run in each assignment with a minimum pay mileage for each type of service. Thus the mile run is the basic piece-work unit. All freight employees and engineers and firemen in passenger service are assured of a minimum of 100 miles per day; passenger conductors and brakemen are assured of a minimum of 150 miles per day. When employees run miles in excess of these minimum standards they are paid additional amounts but at a lower rate per mile. If their run is less than the minimum, they are paid the minimum number of miles regardless of the miles run or the hours worked.

Overtime is paid on a variable basis but never until hours exceed eight. Eight hours is the overtime base for runs which do not exceed the basic day—100 or 150 miles depending on the service. The threshold of overtime for runs which exceed the miles in the minimum or basic day is determined by dividing the miles run by the standard speed—12½ miles per hour in freight service and 20 miles per hour in passenger service. Thus, a freight service employee running 125 miles will get overtime after 10 hours (125+12.5=10). A passenger service employee running 180 miles will get overtime after 9 hours (180+20=9). There is no weekly basis for overtime. Pay for road employees working seven consecutive days is computed the same way on the 6th and 7th day of the week just as it is on the first 5 days of the week.

Since there is wide variation in the miles run by individual road operating employees there are substantial differences in their earnings. Like piece workers generally, road operating employees expect to earn more than the minimum basic pay for 100 or 150 miles. Most, but not all, of them do so—either earning more than the basic mileage or—in slow operations—accruing overtime from long daily hours.

The basic daily rates of engineers and firemen are graded in accordance with locomotive size in all services. The rates for conductors and brakemen in freight service are graded by length of train. Conductors and brakemen in passenger service are paid uniform daily rates with no graduations.

As is usual in piece rate systems, the dual pay basis provides certain special payments to compensate for unusual circumstances affecting assignments or for special non-normal tasks added to assignments. Such special payments are added to the pay from other pay components.

Passenger service and local freight employees have minimum daily guarantees (slightly larger than the basic daily rates), and passenger conductors and brakemen also have monthly earnings' guarantees.

It must be kept in mind when appraising the dual system of pay that it is premised on a need to cover widely varying circumstances from railroad to railroad, from division to division on individual railroads, and even from day to day for any given assignment.

A full description and discussion of this pay system is contained in the Report of the Presidential Railroad Commission, pages 79 to 100.

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## Technical Matters Arising in the Use of Railroad Accident and Safety Statistics

(Prepared by Winfield M. Homer, Labor Bureau of Middle West, Washington, D.C.)

In the presentation of statistics on railroad casualties and accidents, certain terms and statistical techniques are used that may require some explanation—particularly for the benefit of individuals who have not had any occasion or opportunity to review railroad safety problems before. This memorandum is intended to clarify the more important elements of this character included in the statement filed in behalf of the United Transporation Union and the Railway Labor Executives' Association. The folowing elements are discussed herein:

1. Methods of computing accident and casualty rates.

2. "Train accidents" as a measure of railway safety experience.
3. The effect of price and wage levels on statistical reports of "train accidents."
4. The significance of the term "negligence of employees" as applied to railroad accident statistics.

### 1. METHODS OF COMPUTING ACCIDENT AND CASUALTY RATES

Accident and casualty statistics must be analyzed and accident and casualty rates computed by application of appropriate factors expressing the exposure of the elements or individuals covered to the potential or opportunity for accidents.

In tabulations presented by the Railway Labor Executives' Association witnesses, man-hours have been used in computing rates for railway employees, and locomotive and motor train-miles have been used in computing train accident rates. In both instances, the exposure measures thus used are those used in the past by the Interstate Commerce Commission. The Bureau of Labor Statistics and the National Safety Council also use man-hours as the accepted factor in computing employee casualty rates. The Bureau of Labor Statistics describes the need for this use in the following terms:

"The standard injury-frequency rate is defined as the average number of disabling work injuries *for each million employee-hours worked.* The lack of comparability inherent in simple injury totals, arising from variations in employment and operating time, is thus overcome by expressing the injuries in terms of a *standard unit of exposure.*" [Emphasis added.]

A key word in this statement is the term "*exposure.*" The number of injuries is related to a standard expressing the opportunity or potential for injury-occurrence, or "exposure." The standard unit measuring *exposure* or *potential* for *industrial injuries or fatalities* to workers is the *man-hour*, used in multiples of one million.

Locomotive and motor train-miles express the potential for train accidents more directly than any other railroad operating factor. In road service, they indicate the movement of trains over the road, in yard service, they show the movement of locomotives in yard switching. Although accidents occur in yards as a result of unexpected movements of cars alone, such movements are usually related to the general level of activity in the yard which is best measured by the locomotive movements. No other all-embracing factor is available for measurement of both road and yard movements, and the Interstate Commerce Commission has accepted this factor as the basis for computing train accident rates for many years.

It is sometimes suggested by the railroads that accident rates and casualty rates might also be computed using car-miles or gross ton-miles in place of locomotive and motor train-miles and employee work hours. Such a use would introduce serious distorting elements which would be unacceptable as measures of railroad *safety* experience.

Consider first the use of gross ton-miles in computing employee casualty rates. Such a use has very frequently been employed by the Association of American Railroads. *Ton-miles* clearly are no measure of *employee exposure.* If they measure anything in this area, it is the exposure of freight and equipment to loss and damage through accidents. A train crew is exposed in the same degree to casualties *for each hour worked* whether its train weighs 100 tons or 1,000 tons. The hazards in the latter case may be somewhat greater, but the *human exposure* is the same.

Gross ton-miles, and car-miles are equally unreliable in gauging *safety* as measured by train accidents. Among the factors that have caused the increase in railroad accidents in recent years have been the longer and faster trains and the greater weight of such trains. These developments have caused greater wear to car wheels, and brakes, for instance, and greater impact on track and roadways. These circumstances create need for additional maintenance attention—perhaps for more careful inspection, perhaps for more maintenance employees. But, one defective wheel on a train can cause a train accident to the whole train, and to the crew members on that train. The number of cars and wheels increases the number of wheels that may be defective, but the *exposure* to casualties is not increased in the same sense. *Only one crew on a train is exposed even though the likelihood of an accident may be greater on longer trains.* Car-miles, as a

standard for computing accident rates may be of great interest to those who are in charge of maintaining wheels, track or other items, but it does not measure the potential for train accidents or for crew casualties. In fact, as such factors increase (car-miles or gross ton-miles) the computed rate will correspondingly decline. Thus, given two accidents—one on a short train killing five men and one on a long train killing five men, the accident rate for the long train will be much lower than the rate for the short train, using car-miles or gross ton-miles. But the same number of persons are killed on each. Using either number of train-miles, or number of persons *exposed*, the rates would be the same.

This is not intended to suggest that, for restricted types of accidents, some other alternative exposure indexes may not be accurately applied. When we compute collision rates within the train accident group, it is correct to apply locomotive and motor train-miles, just as for total train accidents. However, if we were to restrict the comparison to switching collisions, it would be appropriate to use yard locomotive-miles only. Thus, the following historical comparison restricted to yard switching collisions is quite valid:

[Switching collisions per million yard locomotive miles]

| Year: | |
|---|---|
| 1961 | 2.84 |
| 1962 | 3.05 |
| 1963 | 3.46 |
| 1964 | 3.88 |
| 1965 | 4.29 |
| 1966 | 4.87 |
| 1967 | 4.91 |

It might also be appropriate for some purposes to relate the derailments due to defects in the track and roadway to the employment statistics of maintenance of way classes and the derailments due to failures of car wheels to the employment data for car inspectors. In these instances, however, one would not be measuring *safety*. Rather, one would be appraising the wisdom of employing policies for such employee groups.

It may be understood that the railroads, faced with their sadly deteriorating safety record, seek statistical methods to conceal the degree of such deterioration. But such techniques should not be allowed to obscure the facts which stand out when the accepted statistical measures and techniques are used.

### 2. "TRAIN ACCIDENTS" AS A MEASURE OF RAILWAY SAFETY EXPERIENCE

Questions have occasionally been raised as to the significance of "train accidents" as a measure of the railroad safety performance. In simplest terms, a "train accident" is a *train wreck*, an incident involving collisions of cars or locomotives, or derailments of such equipment or contacts between such railroad equipment and highway vehicles. For purposes of statistical consistency, a minimum "cost of damage" standard is used to define a "train accident." This minimum, of course, is far below the actual cost of most train accidents which had an average cost per accident in 1967 of over $13,000.[1] The train accident, or train wreck, is the railroad counterpart of the airplane crash; although the latter entails more casualties per incident, it is no more or less a guide to air safety than is the train wreck a guide to rail safety.

Of course, railroading, by its nature, is a hazardous business. As a result, there are thousands of circumstances occurring every year that cause deaths and injuries but do not involve train wrecks or "train accidents." Men are caught between two moving cars and are maimed; some simply stumble and fall beneath the wheels of moving equipment and are killed. The railroad accident reports are coded in such a way as to delineate hundreds of such individual causes of casualties. If such accidents occur in service connected with train or car movement, they are referred to as train-service accidents; if not, they are called non-train accidents. In common safety parlance, where they concern employees, they are referred to as industrial accidents. Casualties in train accidents must be added to such accidents to drive the totality of the railroad safety record.

But train accidents are the major occurrences that create heavy potential

[1] A discussion of the effects of changes in the price level on the train accident experience is included in the next section of this memorandum.

safety problems for everyone—employees, and the general public. They are a direct—and historically consistent—measure of railroad safety, long accepted by everyone as a meaningful standard for this purpose.

### 3. "TRAIN ACCIDENTS" AND THE PRICE LEVEL

Over a period of many years, the Interstate Commerce Commission used a cost-of-damage standard to define "train accidents." Prior to 1956 this standard included the damage to equipment and roadbed plus the cost of clearing the wreck. Beginning in 1957, this latter cost was eliminated from the standard.

For years, the Interstate Commerce Commission made a practice of reviewing the dollar amount of the standard and of revising it as changes in the price level tended to affect its usefulness in preserving historical continuity. The following table indicates how the standard was changed in the years between 1939 and 1956 in relation to the costs of materials and supplies purchased by the railroads:

| Year | Minimum damage for reportable train accidents | | Index of chargeout prices of railroad materials and supplies[1] | |
|---|---|---|---|---|
| | Amount | Index, 1939=100 | Index, 1957–59=100 | Index, 1939=100 |
| 1939 | $150 | 100.0 | 35.0 | 100.0 |
| 1948 | 250 | 166.7 | 64.1 | 183.1 |
| 1949 | 275 | 183.3 | 69.8 | 199.4 |
| 1951 | 300 | 200.0 | 78.2 | 223.4 |
| 1952 | 325 | 216.7 | 80.8 | 230.9 |
| 1953 | 350 | 233.3 | 83.2 | 237.7 |
| 1955 | 375 | 250.0 | 87.1 | 248.9 |

[1] Excluding fuel.

Source: Interstate Commerce Commission, Accident Bulletins Nos. 125 and 133; Association of American Railroads Railroad Transportation.

Over this period, there was a rough conformity in the standard used by the Commission and the changes in prices of materials the railroads purchased. Over the whole period, the change in the standard was almost exactly equal to the total increase in the price index.

Effective in 1957, the Commission raised the standard from $375 to $750. Also, since the cost of clearing the wrecks was eliminated as a component in the estimate, the effect of the change was even greater than this doubling of the standard.

Although the method of reporting accidents was completely overhauled beginning in 1961, this standard was not changed and it has been applied consistently throughout the period since that time. The following table shows the change in the number of train accidents and the index of materials and costs for the period 1961 to 1967:

| Year | Number of train accidents | Index, cost of materials and supplies (1957–59=100) |
|---|---|---|
| 1961 | 4,149 | 103.7 |
| 1962 | 4,378 | 103.1 |
| 1963 | 4,822 | 102.8 |
| 1964 | 5,317 | 103.7 |
| 1965 | 5,967 | 104.5 |
| 1966 | 6,793 | 106.3 |
| 1967 | 7,294 | 110.1 |
| Increase, 1967 over average 1961–64 (in percent) | 56.3 | 6.6 |

Clearly, the increase in prices of materials the railroads buy can have had very little effect in increasing the number of reported train accidents. There was virtually no increase in such prices in the years 1961 through 1964; yet accidents increased very substantially. In the last three years, although prices have risen 6.6 per cent, the number of accidents rose 56.3 per cent. There may have been some small relationship here, but it certainly cannot explain the tremendous increase in accidents that occurred.

A table prepared last year by the Federal Railroad Administration shows the effect of the changing of the cost-of-damage threshold on the accident experience since 1961. In its adjustments the F.R.A. used an index of the AAR which included the changes in wage rates as well as the prices of materials and supplies. Because of the tremendous improvements in employee productivity over the years which have substantially offset increases in wage rates and have kept unit wage costs comparatively low (see table 1) the F.R.A. technique tends to overstate the adjustment required in these accident figures and thus to understate the recent accident experience.

| Year | AAR[1] index (1957–59=100) | AAR[1] index (1961=100) | Adjusted[2] reporting threshold | Train accidents | | | |
|---|---|---|---|---|---|---|---|
| | | | | Not reportable (with adjusted threshold) | Actually reported | Adjusted | Adjusted (percent increase over 1961) |
| 1961 | 108.2 | 100.0 | $750.0 | ---------- | 4,149 | ---------- | ---------- |
| 1962 | 110.2 | 101.9 | 763.9 | 29 | 4,378 | 4,349 | 5 |
| 1963 | 111.1 | 102.9 | 770.1 | 40 | 4,821 | 4,781 | 15 |
| 1964 | 113.1 | 104.5 | 783.9 | 57 | 5,316 | 5,259 | 27 |
| 1965 | 118.2 | 109.2 | 819.3 | 170 | 5,967 | 5,797 | 40 |
| 1966 | 121.7 | 112.5 | 843.6 | 251 | 6,791 | 6,540 | 57 |
| 1967 | 128.6 | 118.9 | 891.4 | 428 | 7,294 | 6,866 | 66 |

[1] Railroad material prices and wage rates.
[2] Reflecting increased cost of labor, material, and fuel.

Source: Supplied to the House of Representatives Committee on Interstate and Foreign Commerce by FRA Administrator A. Scheffer Lang, May 25, 1968.

As this table indicates, there has been some effect of rising prices on the reporting threshold. A revision in the standard each year in response to this price rise would have reduced slightly the number of accidents reported. Undoubtedly, in the near future, the Department of Transportation will give some thought to revising this standard, hopefully on a more precise basis than the one embodied in the above table. However, the rise in the price level can be considered only a minor influence on the number of train accidents reported.

### 4. ACCIDENTS DUE TO "NEGLIGENCE OF EMPLOYEES"

The term "negligence of employees," in the government's system of accident reporting, is applied to a broad group of "train accident" causes. "Negligence" in this context and use does not mean legal "negligence," nor does it necessarily denote fault on the part of employees. The accident causes included in this category delineate the act, or failure to act, in *operations*, as distinguished from accidents caused by unsatisfactory maintenance of track and equipment, by acts of motor vehicle drivers at grade crossings, or by other factors set forth in the reporting rules.[2]

Railroad *operations* are conducted by a highly trained, experienced, and responsible team. The work of this team requires skills and judgment that are obtained only through long practice on the job and long exposure to unnumbered and unclassifiable conditions and exigencies. An error by one member of the team or crew can lead to an accident if not recognized in time or corrected by another crew member. Visibility, and continuing and certain communication, are vital at all times. Thus, when circumstances—character of equipment, curvature of the track, difficult topography, or bad weather—affect visibility or communication, the potential for accidents is increased. Speed of movement is largely a matter of judgment, principally by the members of the engine crew; determination of what is a safe speed will vary with many circumstances and conditions. A mistake in judgment by one member of the engine crew, if not corrected in time, can be critical. Communication, of course, requires and assumes understanding. Misunderstanding of a signal, or of a physical circumstance, can be critical.

Railroad operations are frequently conducted under extreme pressures. As a competitive transportation agency, the railroad continually imposes demands

[2] "Other factors" include acts by non-employees, forces of nature, shifting of freight loads, and by any number of miscellaneous circumstances beyond any identifiable controls.

on its operating personnel for optimum speed in performing all functions: the making up and breaking up of trains in yard switching must be performed with the greatest possible speed and efficiency; the movement over the line of road must be accomplished in the shortest time as conditions make possible; delivery of freight cars, their unloading, and the return and re-routing of all equipment must be done as quickly as possible. All of these elements have been made more complex in recent years with the increased length and weight of trains, and by reductions in the number of employees available for service in the operating occupations.

Railroad operations are geared to a very high standard of performance. In 1966, the industry moved 738 billion revenue ton-miles with a total employee force of 631,000 individuals. Forty years earlier, in 1926, the industry moved 444 billion ton-miles with a force of 1,800,000 employees. Thus, the carriers today provide about twice the transportation service of forty years ago with only about one-third the work force they had at that earlier time. Thus, schedules and operating procedures at *"normal"* levels today assume a very high level of performance by the employees—and specifically by the operating crews.

*But railroad operations seldom are conducted at a fixed "normal" level.* The average freight train consists of about 70 cars; however, some trains run to 150, 200 and even more cars. A time schedule feasible for a 100-car train may be very difficult to achieve by a 200-car train; the extra power needed for the longer train may not be immediately available. When such a long train enters a yard for switching service *late*, the pressure on the yard crew will be greatly intensified. The volume of work required will be greater than the normal expectancy; the time for doing the work is shortened. Such circumstances, which cannot always be anticipated—even with all other conditions ideal—increase the accident potential. This is but one illustration of the type of circumstances that lead to "operational" accidents, referred to in the railroad reports as having been caused by "negligence of employees."

Such is the environment of operations in which the so-called "negligence of employees" accidents occur. Among the specific causes included in this category are the following:

Code 1003—Misunderstanding of train order by train or engine crew;
Code 1307—Disregard of stop signal;
Code 1402—Failure to pass hand signal, including failure to be in position to pass;
Code 1406—Misunderstanding of hand signals given by member of own train or yard crew;
Code 1407—Acceptance of hand signal given by member of another train or yard crew;
Code 1702—Failure to secure by hand brake including failure to set hand brakes on sufficient number of cars;
Code 1807—Equipment fouling switch;
Code 1808—Running through switch;
Codes 1901 and 1902—Excessive speed;
Code 1910—Failure of engineman to keep proper lookout;
Code 1917—Absence of man on or at leading car being pushed;
Code 1932—Attempted or actual coupling at excessive speed.

Railroad operating employees do not try to have accidents. If, in the course of operating pressures or because of weather or other physical difficulties, a hand signal is missed, a stop signal overlooked, a train order misunderstood, and an accident results, it is recorded in the railroad's report as "employee negligence." In some cases, it may be a result of carelessness or neglect by one or more members of the operating crew; more frequently, however, the intensified pressures of operations under nearly impossible conditions are the real underlying cause of the accident. Crews consisting of too *few* trained individuals are asked to do too much;[3] physical circumstances, visibility, weather or other elements are unfavorable; supervisory pressures to get the job done are applied; all things combine to impair and sometimes break down the teamwork on which safe operations are completely dependent.

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[3] Certain types of train accidents—particularly those depending on visibility from both sides of the locomotive—have increased heavily since the removal of many firemen and brakemen pursuant to the award of Arbitration Board No. 282.

TABLE 1.—UNIT WAGE COST, MAINTENANCE OF WAY AND MAINTENANCE OF EQUIPMENT EMPLOYEES, CLASS LINE-HAUL RAILROADS, 1961–68

| | Total wage costs per thousand train-miles | | Total wage costs per thousand car-miles | |
|---|---|---|---|---|
| | Amount | Index (1961=100) | Amount | Index (1961=100) |
| **MAINTENANCE OF WAY EMPLOYEES** | | | | |
| 1961 | $947.39 | 100.00 | $18.65 | 100.00 |
| 1962 | 958.71 | 101.19 | 18.61 | 99.78 |
| 1963 | 947.10 | 99.97 | 18.28 | 98.02 |
| 1964 | 956.05 | 100.91 | 18.31 | 98.18 |
| 1965 | 982.98 | 103.75 | 18.50 | 99.20 |
| 1966 | 998.54 | 105.40 | 18.50 | 99.20 |
| 1967 | 1,089.12 | 112.85 | 19.33 | 103.65 |
| 1968 | 1,153.30 | 121.73 | 20.08 | 107.67 |
| **MAINTENANCE OF EQUIPMENT EMPLOYEES** | | | | |
| 1961 | $1,584.94 | 100.00 | $31.21 | 100.00 |
| 1962 | 1,608.90 | 101.51 | 31.23 | 100.06 |
| 1963 | 1,586.20 | 100.08 | 30.62 | 98.11 |
| 1964 | 1,579.31 | 99.65 | 30.24 | 96.89 |
| 1965 | 1,618.20 | 102.10 | 30.46 | 97.60 |
| 1966 | 1,634.12 | 103.10 | 30.27 | 96.99 |
| 1967 | 1,732.40 | 109.30 | 31.32 | 100.35 |
| 1968 | 1,840.70 | 116.14 | 32.05 | 102.69 |

Source of basic data: Interstate Commerce Commission, Transport Statistics in the United States, Statement Q–210, and Statement A–300; Association of American Railroads, Yearbook of Railroad Facts.

The CHAIRMAN. Thank you, Mr. Chesser.

We will depart from our usual procedure.

If you all will stand aside we will hear from the grand chief engineer here and then we will come back for questioning.

Mr. Charles J. Coughlin, accompanied by Mr. E. L. McCulloch.

If you have a formal statement, could you put it in the record and summarize it.

## STATEMENT OF CHARLES J. COUGHLIN, GRAND CHIEF ENGINEER, BROTHERHOOD OF LOCOMOTIVE ENGINEERS; ACCOMPANIED BY E. L. McCULLOCH, NATIONAL LEGISLATIVE REPRESENTATIVE; W. E. SKUTT, ASSISTANT GRAND CHIEF ENGINEER; AND HAROLD ROSS, ATTORNEY

Mr. MCCULLOCH. Mr. Chairman and members of the committee, I am E. L. McCulloch, National Legislative Representative and to present our statement for the Brotherhood of Locomotive Engineers is our grand engineer and chief executive officer, Mr. Coughlin, and to the right is our attorney, Mr. Harold Ross, and Bill Skutt, Assistant Grand Chief Engineer on my left.

Mr. COUGHLIN. We will be happy to insert our statement in the record. I will be just as brief as I can in summing up.

Our position, Mr. Chairman, is one in which we feel that an amendment to the current Hours of Service Act is long overdue. We have gone through a period particularly since the advent of the mergers

in the railroad industry alone, whereby our people are being required in many, many cases to work excessively long periods of time.

As a brief illustration, we have one run between Fort Worth and Houston, a distance of 267 miles, and as you gentlemen are well aware, as a result of the elimination of firemen from some runs, that engineer is up there practically by himself, and it is almost an impossibility for that man to operate over that 267 mile district in less than from 12 to 16 hours, each way, every trip.

Now, in the yard service alone, there are many, many times our people are required to work 15 hours 55 minutes to 15 hours 59 minutes. They have been instructed by the carrier representatives not to work 16 hours but to work and show on the register as being on duty 15 hours 59 minutes, returning at the expiration of 8 hours off duty for another tour of duty.

That goes on day after day. We have many long distance local freight assignments in which that engineer is up there all by himself. There are more complaints being registered in my office constantly.

In order to get over the road within the time of the present law, our people are being denied the right to stop and have a warm meal.

So, gentlemen, its an almost necessity if we are going to have any degree of home life, if we are going to have any degree of safety on the Nation's rails today, to bring about a reduction in the total hours of service on duty.

We can no longer keep this up. Our people are taking enormous risks.

We have many of our locomotive engineers today that are being sent to the doctor for physical examinations because they are having the so-called unseen heart attack. And this is in our opinion brought about by the long hours on duty, the fumes from the diesel locomotive, something that was not prevalent many years ago in the steam engine days.

Our work is becoming more exacting. Our work is becoming more technical. And to keep a man right under the gun, so to speak, for as high as 15 hours 59 minutes, I think is not conducive to the best interests of safety on the railroads.

Now why does the carrier persist in doing this? The answer is quite obvious. It is cheaper for the industry to keep a man working right up to 15 hours every day than it is to hire another man.

When you take into consideration the health and welfare policies that are in effect today, the tax that the carrier pays and railroad retirement annuity, it is much cheaper for the carrier to keep this one man than it is to hire the second one.

In practically every one of our contracts today we have provisions for vacation privileges. Many of our engineers are being restricted to a period of a year when it is not at all conducive to take a vacation.

In many cases they can't even get a vacation. They are paid in lieu thereof, which our contracts provide. It isn't a question that our people want to be paid for vacations. They want the right to take them. But because the industry is so lacking in what we believe is foresight in having sufficient number of employees so that our people will not be required to work these long hours, our people are being denied, and we certainly think and we hope that you gentlemen in considering this petition for a change in the Hours of Service Act will take into ac-

count the fact that 12 hours is an ample time for any human being to be in service for any industry at one time in a 24-hour period.

And with that, gentlemen, I won't take up any more of your time. I do thank you for your very kind attention.

(Mr. Coughlin's prepared statement follows:)

STATEMENT OF C. J. COUGHLIN, GRAND CHIEF ENGINEER, BROTHERHOOD OF LOCOMOTIVE ENGINEERS

My name is Charles J. Coughlin. I am Grand Chief Engineer of the Brotherhood of Locomotive Engineers. As chief executive officer of the BLE, I am appearing for the oldest railway labor organization in the United States. In behalf of the 35,000 active members of the Brotherhood who are currently employed as locomotive engineers and firemen on the railroads of the United States, I wish to record our support of H.R. 8449 and similar pending legislation to amend the Hours of Service Law. 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. This union also holds contracts for locomotive firemen on a substantial number of small railroads.

I began my connection with the railroad industry in 1925 as a clerical employee with the Union Pacific Railroad. In 1928, I was hired by the Spokane, Portland & Seattle Railroad (S. P. & S.). I worked as a locomotive fireman and hostler on that railroad until 1942. At that time and continually thereafter to 1959, I worked as a locomotive engineer for the S. P. & S. I retain seniority as a locomotive fireman and as a locomotive engineer on that property.

During the period of 1950 to 1959, I was General Chairman for the BLE on the S. P. & S. As general chairman, it was my duty under the Railway Labor Act to represent those employees of that railroad in the craft of locomotive engineers in the negotiations, maintenance and interpretation of agreements covering the rates of pay, rules and working conditions of that craft.

In 1959, I assumed the position of Assistant Grand Chief Engineer, a national office of the BLE. I was elected to that office at the 1962 BLE Convention. In 1964, I was elected by the BLE Advisory Board to complete the term of office for First Assistant Grand Chief Engineer, which office became vacant due to the death of the then Grand Chief Engineer. I was re-elected to this office by the delegates to the 1966 BLE Convention. In my capacity as Alternate Grand Chief, I became the chief executive of BLE on the retirement of my predecessor, effective April 1, 1969.

As spokesman for locomotive engineers, the men operating the locomotives and chiefly responsible for the safe movements of trains, we vigorously support the proposed legislation to amend the present Hours of Service Law for railroad employees, an Act passed in 1907—over 60 years ago. During its long existence, BLE has been in the forefront in encouraging the enactment of safety legislation for railroad employees. History records the BLE as one of the major initiators or proponents of much of the safety legislation in the industry, including the Safety Appliance Acts, the present Hours of Service Act, the Accident Reports Act, the Block Signal System Act, the Locomotive Inspection Act, and the Power or Train Brakes Safety Appliance Act of 1958, and has participated in the implementation and enforcement of these enactments. As recently as May 21, 1969, BLE appeared before Congress to testify in support of S. 1933, another needed safety bill for the railroad industry. This latter proposal not only shows BLE's continuing concern with the current safety record on the railroads but also establishes the increasing interest of Congress in railway safety legislation due to the apparently deteriorating safety record on the railroads. We, therefore, urge enactment of H.R. 8449 for reasons of safety.

But as importantly, the reduction in hours of service for locomotive engineers from a maximum of 16 to 12 hours is needed as social and humanitarian legislation. In other transportation industries in the United States as well as in the railroad industry in other countries, it has been recognized that limiting hours of work at a point below the maximum presently prescribed for railroad operating employees is necessary in providing those employees with adequate, unbroken rest from their onerous and arduous tasks. Testimony presented by the railroads to the Subcommittee On Transportation And Aeronautics in regard to the 1966

bills to amend the Hours of Service Act reveals that over 9 percent of all engineers in the various classes of service for October 1965 worked on an average of 12 or more hours per trip or tour of duty, and slightly over one-half of one percent exceeded 16 hours (p. 387).[1] The material submitted also proved that about 30 percent of those engineers in local and way freight worked 12 or more hours per trip or tour of duty in the same period. Some 1.85 percent of that group worked 16 hours or more (pp. 386, 389).

Beginning in the latter part of 1967 and the early part of 1968, the BLE directly and through its general chairmen began to receive written and verbal complaints from its members that they were continuously being required to work excessively long hours, that these periods were the norm rather than the exception and were not due to seasonal fluctuations in forces, that they were being required to work during their vacation, that in some instances they were not being allowed to take days off, that their relief or release periods were not sufficient to provide adequate rest, and that many of them, therefore, felt that they were at the physical breaking point. In other words, they were just plain tired. Part of this change in having to work extended hours over continuous periods of time is probably due to the increase loading resulting from the Vietnam conflict, and some of this may be attributable to the increased demand for commodities and goods required to operate our industries and to satisfy the wants of the general public. However, as we continuously warned the railroads, the major cause is simply due to a shortage of qualified locomotive engineers. In short, most if not all carriers are now understaffed as to locomotive engineers. And, except for two carriers, they have refused BLE's efforts to provide the necessary corps of trained engineers through modern programs which we have proposed. That the carriers were aware that this shortage of engineers would take place in 1968 and 1969 can be discerned from testimony submitted by them in litigation in which this organization has participated.

The following figures sustain the conclusion that by the Fall of 1968 the anticipated shortage of engineers had taken place and, as a result, engineers in all classes of service were working more hours on the average than at the time of or before the 1966 hearings. At the 1966 hearings, the carriers did testify as to the average weekly hours for engineers in the various classes of service on the Class I railroads during 1964 (p. 383). I ask you to compare that with the average weekly hours for September 1968. The last figures were prepared by BLE's Research Department from the same sources used by the carriers' witnesses in preparing the earlier statistics.

| Class of service, engineers | 1964 | September 1968 |
|---|---|---|
| Passenger | 30.5 | 40.1 |
| Through freight | 28.3 | 41.6 |
| Local freight | 55.5 | 62.5 |
| Yard | 48.6 | 51.8 |

From this, it is apparent that the average number of hours on duty has significantly increased in the last several years. In the last two categories particularly, local freight and yard, the hours on duty are so far out of line with the normal hours worked by other categories of employees in the various industries that immediate rectification thereof is required for social reasons.

That is why BLE is here today. It is critical that something be done immediately, that is enactment of this bill. The BLE is unequivocally in favor of H.R. 8449 as drafted.

BLE has always been in favor of the concept of placing the number of work hours of locomotive engineers 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. In 1966, BLE's National Legislative Representative E. L. McCulloch, after referring to our basic view pointed out several specific objectionable features of the bills before the committee. In conclusion, he said that BLE "could support and, in fact, would encourage passage" of the proposed legislation if modified to include amendment of the Adamson Eight-Hour Act.

[1] Reference herein, unless otherwise indicated, is to the printed Hearings on H.R. 8476 Before the Subcommittee on Transportation and Aeronautics of the House Committee on Interstate and Foreign Commerce, 89th Cong. 2d Sess. (1966).

The two objectionable portions of that proposal are not included, and properly so, in this bill. Those objections went to the nine hour provision and the section relating to use of radio-telephone equipment. This bill is strictly a 12 hour proposal insofar as it applies to operating employees. In addition, I believe it is clear that section 3(a) in H.R. 8449 pertains solely to telegraphers, operators and non-operating personnel located in or at a tower, office, station or nonmovable facility at which employees are employed on a shift basis.

So that the air may be cleared on this subject, I acknowledge that one of the major disturbances to BLE in 1966 was the fact that some engineers would suffer a loss in take home pay. We still think that is true. For that reason, I would hope that you would favorably consider an amendment to the Eight Hour Act by reducing that figure to 6. Previously, however, BLE argued that the Adamson Act should be amended simultaneously with enactment of the reduction in hours of service or that alternatively we be given the opportunity to bargain in good faith with management over the subject of extended overtime hours in conjunction with hour pay structure. We now believe the situation to be so critical that it is essential that this bill be passed immediately. If Congress sees fit, and we hope it does, the six hour work day can be placed into effect at a later time. More specifically, our experience is such that we are now sure that the carriers will not bargain in good faith on the problem of extended overtime hours or pay provisions which will provide a monetary incentive forcing the carriers to attempt to schedule their work and runs in an effort to get their crews over the road within a reasonable number of hours on duty. In this respect, I point out two factors. First, as to the six hour day requested by the collective bargaining notices of BLE, which were mentioned in 1966 hearings, the carriers subsequently refused to consider or discuss this subject on the basis that a pattern had been set by the agreements reached prior in time with organizations other than BLE. The carriers contended that all of the organizations which represented the operating crafts would have to be agreeable to a six hour day before it could be placed into effect and, therefore, it would not consider the proposition.

Emergency Board No. 174, which was appointed in the waning hours of the past administration, accepted this pattern thesis of the railroads. Although we ultimately obtained what we believe to have been a satisfactory settlement of the basic question, having given due consideration to the public interest by foregoing a strike and also the dilemma which would have faced Congress if we had engaged in economic self-help, it is quite apparent that legislation on the subject is needed now as it was needed in 1907 to accomplish the necessary purposes. As the Honorable Arnold Olson, Congressman from Montana, stated at the 1966 hearings, negotiation of safety is never successful enough and it is therefore necessary to have laws regulating safety (pp. 51–52). Second, the present wage structure has within it a built in feature fostered by the so-called White House Agreement of 1964, which tends to promote long hours of service in that it is cheaper to the carrier to have longer assigned runs. This results from the fact that the rate for over miles, that is miles exceeding 100, did not receive any of the percentage increases from the White House Agreement until July 1, 1968. Possibly as a result of this, among other things, there has been a tendency for railroads to lengthen assigned runs where possible. Although we are not necessarily opposed to the lengthening of some runs to conform to modern operations and requirements so long as protective features are placed in our agreements, we are opposed to elongated runs which consistently require engineers to exceed reasonable hours of on-duty time.

A good example of what has transpired in this area during the past several years recently took place on the Missouri Pacific Railroad. Stemming from the Interstate Commerce Commission's approval of an application for abandonment, that carrier created an assignment running between Fort Worth and Houston, Texas, a distance of 267 miles. BLE's admonishment to the carrier that the new run could not be consistently traversed within the 16 hour requirement—let alone a more reasonable time span—was disregarded by the Missouri Pacific. As a result, the crews in this assignment are required to work the maximum hours day after day. This instance is not unique. It is not the exception to the rule.

Under the circumstances, we are here in 1969 with unqualified and unequivocal support of H.R. 8449.

At this time I shall now discuss the specific sections of the present law and the proposed amendments. I shall also show the reasons BLE thinks each of these changes are necessary insofar as they relate to the craft of employees we represent.

The present hours-of-service law, which has not been amended in any material respect since its original passage 60 years ago, makes it unlawful for any common carrier by railroad subject to its provisions to require any operating employee 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.

As to locomotive engineers and other operating employees, the general purpose of the changes proposed in H.R. 8449 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, to provide for a definition of time on duty in order to properly administer the law, and to set an adequate penalty for violations of the law.

There are four changes provided for in H.R. 8449 with which we are concerned. They are:

1. The maximum permissible number of hours of continuous time on duty is reduced to 12 hours from the present 16 hours.

2. Employees would not be required to go on duty nor continue on duty unless they have had at least 8 consecutive hours off duty during the preceding 24 hours.

3. Time on duty subject to the provisions of the law would include rest at other than designated terminals and interim periods available for rest of less than 4 hours at a designated terminal. In addition, time on duty would include time spent in dead head transportation by an employee to or from duty assignment.

4. Crews of wreck or relief trains, excluded from coverage under the present law, would be permitted to remain on duty for a longer period than provided by the law when necessary to clear the track at the scene of a wreck. However, such crews could only work until the track is cleared sufficiently to permit the movement of trains.

5. The penalty for violations of the law would be set at the uniform figure of $500.00 rather than the present $200 to $500 penalty provision.

The aforementioned amendments would provide necessary and important benefits to those employees engaged in the operation of trains, particularly locomotive engineers. First, at present, engineers may be required to operate a train for 16 consecutive hours without rest. As previously noted, they are more and more frequently being required, at least in some classes of service, to work for periods of time approximating the maximum permitted under the law. Further, in this day and age, it is difficult to justify a law which requires a man to work 16 consecutive hours without rest. It is inconsistent with every other principle in our society. While we can see that a too narrow limitation on the working time of railroad operating employees would not be feasible due to the problems of scheduling and the exigencies of railroad service, the proposed 12 hour provision would allow adequate flexibility to the carriers in providing for the scheduling of trains and crews. Regardless, the carriers cannot have any significant objection to reducing the number of consecutive hours on duty. If they contend, as they tried in 1966, to show that only a small percentage of engineers have tours of duty exceeding 12 hours, it necessarily follows that the proposed reduction would not constitute any insoluble problem for them.

Secondly, the present law requires a carrier to provide an employee with 10 consecutive hours off duty after having been continuously on duty for 16 hours. However, that employee can be required to work 15 hours and 59 minutes, a common practice, without any minimum off duty rest period. This problem would be resolved by the proposed amendments.

In addition, under the present law, if an employee has been on duty 16 hours in the aggregate in any 24-hour period, the carrier must provide him with at least 8 consecutive hours off duty. Again, the present law fails to provide for any minimum off duty rest period if that employee has not been on duty for 16 hours in the aggregate in a 24-hour period. Thus, there are presently only two situations where an employee is required to have a minimum off duty rest period. It is proven that these requirements can be easily circumvented. Under the proposed bill, there is no aggregating provision. Thus, one of the most incon-

gruous provisions of the present law is eliminated. For example, under the existing provision, it is possible for an employee to remain on duty in the aggregate for an indefinite period of time without an off duty period of at least 8 consecutive hours, and he would still be entitled to perform service in compliance with the law. In explaining this provision, the Federal Railroad Administration has issued a memorandum which notes:

"For example, 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 *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."

H.R. 8449 would now insure that an employee will have at least 8 consecutive hours off duty in a 24 hour period.

Third, the present law prohibits employees from remaining "on duty" for longer than 16 consecutive hours. The definition of "on duty" time has created difficult and perplexing problems. In general, time that the employee spends in dead head transportation to or from duty assignments is generally considered as time not on duty. And the courts have usually defined time on duty under the law as not including dead heading. At the present time, therefore, an engineer may be required to work up to the 16 hour limitation and then be required to report for duty after 8 consecutive hours "off duty." However, some or all of these 8 hours "off duty" can be composed of dead heading time. In the last 12 months, we have received numerous complaints from our members on various railroads pointing out that they are receiving inadequate rest because dead heading time is counted as "off duty" time. For example, one complaint came to my attention where an engineer had been on duty for 15 hours and 55 minutes. Since he was relieved before he reached his terminal, he began his dead heading time which took approximately 3 hours. After commuting to his home, which is also included in "off duty" time, he sat down to eat his breakfast and received a call informing him that he was required to report for duty at slightly over 8 hours after he had been released from being on duty. In view of the fact that the time commuting to report for duty was included in his 8 so-called rest hours, he received less than 3 hours sleep before he made his next trip.

In April of this year, we received an opinion from the Federal Railroad Administration that dead heading by taxi, handi-bus, train or private transportation is not of such character to be considered as time on duty. The reason that BLE requested an advisory opinion was due to the fact that the St. Louis-San Francisco Railway Company was requiring its locomotive engineers, or other operating employees, to transport the crews to or from the point of actual train service. The carrier claimed that driving the employees in this fashion did not constitute any violation of the Act in that the member of the crew was not actually performing train service. However, as to this aspect of the case, the Federal Railroad Administration advised us that the employee driving Frisco's handi-bus would be performing commingled service, all of which would be governed by the 16 hour proviso of the Act. However, this narrow distinction can be circumvented merely by requiring the employees to drive their own cars. This problem should be resolved by H.R. 8449, since time spent in dead head transportation is considered time on duty.

Fourth, the present law does not specify a minimum period of time in which the employee is released from duty that will be considered as time off duty. Whether an employee is released from time on duty under the existing provisions depends on the particular facts involved in each case. Decisions of the courts have not, however, established a minimum period of release which would be bona fide in all cases and circumstances. The definition of time off duty, that is a release period, and whether the period of release is of sufficient duration is important with respect to determining the employee's continuity of service.

With respect to the objective determination required, the Federal Railroad Administration has stated:

"To be considered as time off duty, a release from duty must be of sufficient duration to break continuity of the employee's service and provide him with opportunities to obtain facilities for rest and relaxation. 'Trifing' periods of release are not of sufficient duration to break continuity of service."

Under the present law, an engineer who is relieved from his responsibilities for minimal periods of time is considered to have received a release period breaking the continuity of his service for purposes of the 16 consecutive hour provision. However, those minimal periods of time are just that and do not provide the engineers with adequate rest or relief from the duties of their oc-

cupation. For instance, I have received complaints from our general chairmen on the Penn Central Railroad that the operating officers of that railroad have contended that a break of one hour and 29 minutes is a sufficient period of relief. Under the existing law, the only protection that such individuals would receive would be under the aggregating provisions of the law, which as we have already shown do not provide adequate protection to the individual.

Section 1(b)(3) of H.R. 8449 would, for the first time, clarify the time on duty limitations of the law in regard to periods of release from duty.

The new provisions, I submit, are as important to our members as the reduction in the maximum hours of service. The bill would provide that at designated terminals only periods of 4 or more hours would be regarded as off duty time. At other than a designated terminal, interim periods available for rest would be considered on duty time.

As previously mentioned, the resolution of the question as to what constitutes an adequate period of relief or release is of vital importance to locomotive engineers. The specific time established by the bill should resolve those conflicts. In addition, the other provisions of the bill should remove the abusive practices with respect to relief time as a result of the aggregating provisions in the existing law.

While we could lengthen this record by examples and statistics concerning the safety aspects relative to long hours of service, I believe that the above portrayal of our reasons for supporting H.R. 8449 establishes the necessity for the immediate enactment of this legislation. The fact that locomotive engineers are being required to work abnormally long hours, that the requirements of existing law are being often violated, that dead heading time is not considered on duty time, and that engineers are not permitted adequate periods of relief due to the present aggregating provision all point to the social and humanitarian necessity for adopting these amendments. Since the hours of service of employees in other modes of transportation are presently regulated, there can be no qualms with regulating the number of hours which a locomotive engineer may be required to work. As I have informed you, in this day and age it seems incongruous that locomotive engineers can be required to work the hours that management has seen fit to impose upon them.

For these reasons, I submit on behalf of the BLE and its members on the property that H.R. 8449 should be enacted and immediately.

The CHAIRMAN. Thank you very kindly, you and the gentlemen with you, for coming and giving us the benefit of your views. If we could reverse this again and let Mr. Chesser come back and we will have you all for questioning in just a few minutes.

Mr. Chesser.

## STATEMENT OF AL H. CHESSER, NATIONAL LEGISLATIVE DIRECTOR, UNITED TRANSPORTATION UNION, AND CHAIRMAN, COMMITTEE ON SAFETY, RAILWAY LABOR EXECUTIVES' ASSOCIATION, ET AL.—Resumed

Mr. FRIEDEL. I want to compliment Mr. Chesser for his very fine statement. I haven't had a chance to review your charts but just glancing over them I was noticing hours of service like 15 hours, 50 minutes; 15 hours, 59 minutes; somewhere 16 hours, 15 minutes.

What happens in 15 hours and 59 minutes? Is that to a station where another crew comes on or do they have to stop where they are?

Mr. CHESSER. Mr. Friedel, if the real facts were known, in 90 percent of those cases you would find probably there is a violation there. They actually work over 16 hours but the carrier asked them to put down time as 15 hours and 59 minutes so they can be called back again in 8 hours off instead of 10.

Now the unreasonableness of that is if you are at a terminal and you are given 8 hours off, certainly you couldn't get home in your

automobile, take a bath, have something to eat and go to bed in less than an hour and a half. The same with being called back to work.

It is at least an hour and a half call, sometimes 2 hours.

So you see you subtract that three from eight and you have only got five, the man hits that bed and goes to sleep immediately. But, if it is 15 hours and 59 minutes it only requires 8 hours off. It is a cute little trick that can be used.

Mr. FRIEDEL. Do they get any overtime pay over 8 hours?

Mr. CHESSER. No.

Mr. FRIEDEL. All straight time?

Mr. CHESSER. No.

Mr. Friedel, there is attached with our statement an explanation of the dual system of pay. We placed that in the record.

Mr. FRIEDEL. I haven't had a chance to go over all of that.

Mr. CHESSER. I just want to call it to your attention.

The CHAIRMAN. Dr. Carter.

Mr. CARTER. Thank you, Mr. Chairman.

Certainly I think the time is long overdue that members be required to work 16 hours a day. We can well see their efficiency would be impaired by such lengthy hours. Furthermore, there are serious problems about having adequate time at home for family life and so on and I think your presentation has been very good.

Mr. CHESSER. Thank you.

Mr. CARTER. I appreciate it.

Thank you, Mr. Chairman.

The CHAIRMAN. Mr. Rooney.

Mr. ROONEY. Mr. Chairman, I would like to commend Mr. Chesser on the excellent presentation he gave here this morning. I consider Mr. Chesser one of the finest and most able members of the labor movement, legislative directors in Washington, and his statement today reaffirms my thinking along that line.

Mr. Chesser, how many members of the union do you represent?

Mr. CHESSER. Approximately 280,000.

Mr. ROONEY. 280,000?

Mr. CHESSER. Yes, sir.

Mr. ROONEY. Now, if this bill, H.R. 8449 were enacted into law, how many additional employees would that cause the carrier to employ?

Mr. CHESSER. Well, Mr. Rooney, it is rather difficult to determine. With their rescheduling of their work hours and reworking their jobs, it could be very few.

Mr. ROONEY. In other words, this bill, if it were enacted into law, would not cause the carrier to have any unburdensome additional employees, is that correct?

Mr. CHESSER. Absolutely not. And I think this: I think we might find it might save money because when you relate fatigue to long hours of service that might cause an accident, one accident could pay for a lot of employment.

Mr. ROONEY. The figures you related to the accidents in 1968, what percentage was due to the individuals operating trains?

Mr. CHESSER. I believe—just a minute, I had that figure.

Mr. ROONEY. Is it in your testimony?

Mr. CHESSER. Yes.

Mr. ROONEY. Then I can look it up. I have no further questions.

Mr. CHESSER. I wanted to give you the figure that coincided with my testimony but it is there exactly, yes.

Mr. ROONEY. I have no further questions.

The CHAIRMAN. Mr. Brotzman.

Mr. BROTZMAN. Thank you, Mr. Chairman.

Mr. Chesser, I want to welcome you and your staff to the committee again. It is my recollection—and I think I am correct—that you testified on the bill; was it the last session of Congress?

Mr. CHESSER. No, sir.

I testified before the committee in the last session of Congress on the safety bill.

Mr. BROTZMAN. I remember that. Has this bill been before us before?

Mr. CHESSER. Yes.

Mr. BROTZMAN. When was it?

Mr. CHESSER. 1966.

Mr. BROTZMAN. In 1966.

Now, it was my further recollection at that time that there was some difference of opinion among the various unions at that time. I don't think they were all in support of this bill.

Is my recollection correct on this?

Mr. CHESSER. There were some varying opinions, Mr. Brotzman, and I think one thing that probably hastened all to reevaluate this thing—I know our mail tripled on this one item—was the stepped up abuse by the carriers of this 16-hour law.

In other words, taking advantage of the loopholes where you could work a man 16–18–20 hours without a violation, was the loophole. The violations that we received through our office of those statutes that is under the authority of the Department of Transportation now, the Safety Applicance Act, the power brake law, et cetera, I would say in the last 18 months, 90 percent of them are hours of service violations.

Mr. BROTZMAN. Now, is the hours of service, a subject of negotiation or collective bargaining or does the 1907 act set it right here in the law?

Mr. CHESSER. No, sir; this is the law. It is not a subject of bargaining negotiations.

Mr. BROTZMAN. Within that framework is there any collective bargaining on this particular point so it might be the subject of contract, for example, to actually have fewer hours?

Mr. CHESSER. No, sir; I am not an attorney but any agreement you would make would certainly be preempted by this law. It is not a subject for negotiation.

Mr. BROTZMAN. What I am wondering is would this bill set the maximum number of hours that could be worked?

Mr. CHESSER. Yes, sir.

Mr. BROTZMAN. My question, more particularly, is this: Within that maximum number are there any agreements for working the longer hours that is a rather common practice in the railroad industry?

Mr. CHESSER. No, sir.

Mr. BROTZMAN. I see.

I have no further questions.

The CHAIRMAN. Mr. Adams.

Mr. ADAMS. Thank you, Mr. Chairman.

Mr. Chesser, I appreciate your presentation and I think it is an excellent one. And I felt in 1966 when we went through this that since 1907 had been enough years we should review and change this, and I feel that just 3 years stronger now.

I do have one question on your statement, on pages 4 and 5. I am having a little confusion between the 16- and 12-hour provisions and the 5-day, 8-hour week. Can you give me some idea of how the work schedule goes in terms of how many hours a week your men are being required to work?

In other words, I am sure you are not working five 16-hour days, or six 16-hour days. What are you working, a day or 2 days on a run, or 3 days with then a day off?

For instance, how many hours a week does the average man work?

Mr. CHESSER. Well, for yard service, for instance, Mr. Adams, where the assignment is 8 hours, they can be required to work five 16-hour days, by the 15–59 route, signing off in 15 hours and 59 minutes, so they only have to be off duty 8 hours.

So it is very possible and it is being done, let us put it that way, now in road service.

Mr. ADAMS. On the trip itself?

Mr. CHESSER. Yes.

In other words, I cited one example there, I believe. That example was set out by the Department of Transportation——

Mr. ADAMS. The Nebraska example here.

Mr. CHESSER. Yes; and another that followed. As an example in our memorandum which was possible in that case 52 hours and something.

Mr. ADAMS. In other words, they would work say 15 hours and 59 minutes or 16 hours out, with a layoff of 8 hours, and 16 hours back, which would make 32 hours, and maybe a day off and 16 out and 16 back?

Mr. CHESSER. Yes, sir.

Mr. ADAMS. I am trying to get some idea of how it generally works.

Mr. CHESSER. Yes. It would depend on the traffic and we have several examples attached to the statement.

Mr. ADAMS. I didn't get a chance to read all of those but these contain an analysis of typical road trips that you have received within the last 2 or 3 months?

Mr. CHESSER. Yes.

We didn't want to burden the committee with a whole volume, but we do have several there as examples. These are actual examples as they were sent to us in their own handwriting. It is appendix 9 to the statement.

Mr. ADAMS. Thank you very much, Mr. Chairman, I have no further questions. I support the bill.

The CHAIRMAN. Mr. Brown.

Mr. BROWN. Mr. Chesser, as usual, your presentation is thorough and excellent. I am sorry that I didn't have the opportunity to hear it from the beginning.

Mr. CHESSER. Thank you, sir.

Mr. BROWN. I was delayed in my office coming over here. I want to ask you about two or three areas.

What about the portal-to-portal situation? Let us say that somebody lives in community A and he must go and pick the train up at community B.

How is the time that it takes him to get from A to B figured? Is that his own time?

Mr. CHESSER. Yes; if he was called from, as your example, A maybe was his home terminal, and if I understand your question right, he was sent to B, to take a train and work back to A. Is that your question?

Mr. BROWN. Actually, I was going to carry that on from there and say be picked up the train at B and took it to C, took it to a third community.

Mr. CHESSER. Well, he would be deadheaded there on another freight train or in an automobile and that would not count as time on duty.

Mr. BROWN. Does he get expenses for going from A to B?

Mr. CHESSER. No.

Mr. BROWN. So that is his own expense. And if he takes a train to C, what does he do, lay over at C?

Mr. CHESSER. He might.

Mr. BROWN. If his worktime is up and he has 4 hours or whatever it is that he has to lay off——

Mr. CHESSER. Yes.

Mr. BROWN (continuing). What happens to him? Does he lay off there?

Mr. CHESSER. No; he is relieved there until his off duty time. He may have deadheaded for 7 or 8 hours and then worked 16. Then he would be relieved at the away-from-home terminal or point C until he secured his as described in the law "rest," which we have some quarrel with.

Then he would go back on duty and come back home.

Mr. BROWN. All right, conceivably he would come back from C to A?

Mr. CHESSER. Yes.

Mr. BROWN. If he works a 16-hour day, or gets in his full 16 hours, does he get time and a half for the period after 8 hours?

Mr. CHESSER. Well, maybe and maybe not.

According to the basis of pay as we outlined in the statement, it would be according to the miles he worked.

Mr. BROWN. This is one that is a technical matter?

Mr. CHESSER. If it was 200 miles, I believe he wouldn't have any overtime; no.

Mr. BROWN. Even though he put in a 16-hour day?

Mr. CHESSER. Yes, sir.

Mr. BROWN. Is it possible for him to work more than 40 hours in the week under this system?

Mr. CHESSER. Yes.

Mr. BROWN. If he works more than 40 hours does he get overtime for the time over 40 hours?

Mr. CHESSER. No, sir.

Mr. BROWN. And you mentioned a lunch break, at least in a portion of your testimony, and I do not know whether you elaborated on that earlier.

What is the lunch break arrangement?

Mr. CHESSER. Well, that is only in yard service. There is no lunch break arrangement for a freight crew going from one town or one city to another. There is a lunch break for yard employees. I think most of them are 20 minutes he gets off for lunch.

Mr. BROWN. What are the arrangements made for anybody who is on a train working an 8-hour shift on an over-the-line run of 8 hours?

Mr. CHESSER. This is road service now you are talking about?

Mr. BROWN. Yes.

Mr. CHESSER. Well, there is no arrangement actually. He can take his lunch and eat it on the road. But there is not a designated place to say we are going to stop now and you can go have lunch. There is no such thing as that.

Mr. BROWN. In other words, he eats while he is working on the train.

Mr. CHESSER. Yes.

Just as an example yesterday we received, among several violations that we got, which actually wasn't a violation because he had been relieved 2- or 3-hour periods, being from home 32 hours and 20 minutes, I believe, and it had been 12 hours and 30 minutes since the man had anything to eat or the whole entire crew.

Mr. BROWN. You mentioned in your comment at the end of your testimony that you have been seeking a change in this bill since 1907. I imagine that was more drama than accurate; and somebody else mentioned that the bill had been up in 1966.

When was an effort for legislative change initiated in this?

Mr. CHESSER. I think, if my memory is correct, I believe about 1922.

Mr. BROWN. In regard to the adjustment factor to the railroad and to the economics of this, I don't want to challenge your comment but I think I know what you meant when you said it would not cost the railroads they would save in accident rates and so forth.

But, will this require additional employees?

Mr. CHESSER. Well, it may or may not, Mr. Brown. I am not trying to dodge your question or issue. I just can't tell you how many, I don't have those figures, and honestly there is not a carrier that can come to this witness stand right now and tell you exactly how many, because of the variations in there, particularly their operations in road service, or maybe rescheduling some of their yard work.

Mr. BROWN. Well, I am inclined to think there is need for this legislation. I am unsure in my own mind whether it ought to be dropped abruptly from 16 to 12 hours, in view of the economics involved with railroad transportation generally in the country today. And I am inclined to a thought that I would like to have your comment on, and that is a drop from 16 to 14 now and a drop to 12 later, either in a prearranged two-step drop or a drop to 14 and a consideration given to the drop to 12 at a future date.

Would you comment on that?

Mr. CHESSER. Well, we really hadn't given that too much thought for this reason.

I think we have had enough abuse from 1907 and there have been many attempts to change this law and some of them were in lesser degrees, until there comes a time when I think you have to say 12 hours I think is an excessive amount.

I think we have been very reasonable to agree and say 12 hours. Certainly we will give thought to any suggestion of the committee. We will give thought. We don't have a closed mind.

Mr. BROWN. Thank you.

The CHAIRMAN. Mr. Blanton.

Mr. BLANTON. Thank you, Mr. Chairman.

I want to add my comments to commend Mr. Chesser on his very excellent statement and I have no questions.

The CHAIRMAN. Mr. Skubitz.

Mr. SKUBITZ. Mr. Chesser, are all the brotherhoods in agreement with respect to this legislation?

Mr. CHESSER. My answer is "Yes." The engineers organization has just testified that they are. They are not represented in the RLEA. The remainder of them are. So all of the organization, the answer is "Yes." There are no differences of opinions as far as I know.

Mr. SKUBITZ. Your response to Congressman Brown's query regarding overtime was not clear to me.

If a man works 16 hours does he get overtime?

Mr. CHESSER. We made the example there that he very possibly could. If the mileage run was 200 he would receive no overtime.

Mr. SKUBITZ. What do you mean, "if the mileage run was 200 you might not receive any overtime?" Do you mean that if you traveled so many miles that is considered a day?

Mr. HOMER. May I explain that?

Mr. SKUBITZ. Yes.

Mr. HOMER. We have tried to cover it in the memorandum we passed to you. But overtime basis for road operating employees is based on the number of miles that they run. It is a simple formula. They take the total number of miles and divide it by the standard speed.

An example he cited, he took 200 miles and there are runs that are as long as 200 miles. You divide 200 by the standard speed which is 12.5 miles per hour. The resulting figure is the overtime base.

Now when you divide 200 by 12.5 you get 16 hours.

Mr. SKUBITZ. You mean the average speed of the train was 12.5 miles per hour?

Mr. HOMER. That is the standard speed, Congressman, just for use in determining overtime. In passenger service they use 20 miles an hour. If he went 200 miles in passenger service, the overtime would not start until after 10 hours because they divide by 20.

Mr. SKUBITZ. Suppose passenger train traveled 60 miles an hour.

Mr. HOMER. It will normally do that. He will never get overtime. He will never be able to get overtime. If a freight train travels 30 miles an hour he will never get any overtime under any practical circumstances.

Mr. SKUBITZ. I notice, Mr. Chesser, in your statement that you quote from the report of the President's Railroad Commission, which indicates that the Commission recommended there be a reduction of 1 hour in 1962 and another reduction of 1 hour in 1963. What is meant by the words—"continuous study of a possibility"——

Mr. CHESSER. I beg your pardon.

Mr. SKUBITZ. Continuous study of the possibility of lowering to 12 hours. This leaves the impression that there may be instances where the 12-hour day would not be practical or economic.

Would you care to comment on that?

Mr. CHESSER. Yes, this was a recommendation of the Presidential Commission.

Mr. SKUBITZ. Let me read to you—

We urge 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.

The use of the word "possibilities" by the Commission may raise the question whether it is possible in fact to get down to 12 hours.

What would you say?

Mr. CHESSER. I would say if it was possible for the parties to agree. There has certainly never been an agreement.

Mr. SKUBITZ. It says the, "possibilities of lowering the hours." I would think that there might be some reason for the inclusion of those words. Practical for one reason or another to not get down to the 12 hours.

Mr. CHESSER. I don't wnow of any other reason.

Mr. SKUBITZ. You don't know of any other reason?

Mr. CHESSER. No, sir.

Mr SKUBITZ. Now let me ask this question: Isn't hours of employment a matter for negotiation? Can't you lower these hours by negotiating with the railroads?

Mr. CHESSER. No, sir.

Mr. SKUBITZ. Why not?

Mr. CHESSER. Because there is a law.

Mr. SKUBITZ. The law doesn't say that, let me read it to you—

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 for a longer period of time.

It doesn't say anything about a shorter period of time.

As Mr. Brotzman pointed out, I believe that the law establishes what the maximum shall be. It doesn't say anything about a minimum.

Mr. CHESSER. But if there was such a thing as making an agreement that was in violation of that law——

Mr. SKUBITZ. If it went above 16 hours this would be in violation of the law. Anything below 16 would not be in violation—as I read the law.

Mr. CHESSER. Yes.

Mr. LAMPLEY. May I say if we had this and the carriers didn't live up to it, the only way we would have to force them to live up to it would be to strike—and apparently we have not been able to strike these days—we wouldn't have any way of enforcing it.

You would have one railroad negotiating for 8 hours and one for 10 hours and you would have different railroads across the country.

Mr. SKUBITZ. Using your argument, then, are you suggesting that we set the standards then, the wages of labor as well?

Mr. LAMPLEY. No, sir.

Mr. SKUBITZ. You would strike for wages, wouldn't you?

Mr. LAMPLEY. We have.

The CHAIRMAN. The gentleman from Georgia, Mr. Thompson.

Mr. THOMPSON. Thank you, Mr. Chairman.

I, too, would like to congratulate you on the very fine statement but I would like to follow up on a point here.

I cannot understand why the unions have not negotiated for a shorter work period. Because clearly from the way I interpret the law there is nothing that would preclude your negotiating for a shorter work period and this could be included in any contract that you may have with the railroads.

Has any attempt ever been made in the negotiations to negotiate this 16-hour period down?

Mr. CHESSER. Mr. Thompson, I am not sure of that. I think back in some negotiations—and I am not in that department of negotiations and I have nothing to do with it and haven't had. This has in some notices been discussed but evidently never did get off the ground because it would have to be some kind of national agreement, if you agreed to less than an 8 hour day on all railroads.

Now there is no problem here. No problem at all. If you speak of negotiations. If the railroads want to talk about this thing—and they never have—all they have done is just come to this committee and said no, period.

Mr. THOMPSON. I am not speaking of the committee, I am speaking of your negotiations with the railroads. I cannot understand why if this is such a hardship and from you you have shown here it indicates it is quite a hardship, that the unions' officials have not insisted on this being included in negotiations.

Frankly, it would be my opinion that the union officials are not doing their job and are not adequately representing the people if they do not insist on some negotiations. That would be my offhand comment.

Because from what I have seen here, I cannot justify a 16-hour work day in my own mind.

You gave this example of the railroad going from Fremont, Nebr., to Superior, Nebr., and it took 22 hours and 40 minutes. And after 16 hours, after 15 hours and 40 minutes a relief crew came on.

Now apparently they had anticipated this run was going to take longer so they were carrying an extra crew and the relieved crew was required to stay on the train in the caboose.

So those people, even though they worked 15 hours, if they had to stay on the train they might as well be working. It appears to me there has been a pretty horrible abuse of the rights of the individual employee and I would think the union official should have tried to negotiate some——

Mr. CHESSER. As I said before, there has been some discussion of this, but just a minute. Supposing you represented the carriers and this law was on the statute books.

Mr. THOMPSON. All right.

Mr. CHESSER. What basis would you have for negotiations?

Mr. THOMPSON. The law simply sets a maximum limit, it does not say that the union cannot negotiate a shorter period of time with management. There is nothing in the law prohibiting that.

Mr. CHESSER. Neither does it say that the carriers would negotiate. Neither does it say the carriers would have to negotiate.

Mr. THOMPSON. At any time you have negotiations with the management, the law doesn't say that you shall not negotiate.

Mr. CHESSER. No.

Mr. THOMPSON. The law is silent except in one respect. It says you shall not have more than 16 hours, but I would think that the railroad union officials should very definitely make this a strong point in their negotiations, and I have every confidence that there is every legal basis by which they can do it if they will press hard enough on it.

Mr. CHESSER. Well, I would suggest when the carriers testify they be asked if they would be willing for a 7-hour day or a 6-hour day.

Mr. THOMPSON. I am not talking about a 7-hour day or a 6-hour day. I am talking about a 16-hour day, negotiating that down.

Mr. CHESSER. Yes. But you have to have some basis of what a day is, what the mileage is.

Mr. THOMPSON. Well, I simply cannot accept the statement that you are giving that this cannot be negotiated between the parties, that the law prohibits. The law does not prohibit. You are very mistaken on that point.

Mr. CHESSER. I didn't say that the law would prohibit negotiations if you could get negotiations. What I am saying is the carrier would have no reason to negotiate less than what that law calls for.

Mr. THOMPSON. I think the carrier has every reason to negotiate just that point as well as any other point as well as you have every reason to negotiate.

Mr. CHESSER. We would be happy to do that.

Mr. THOMPSON. That is the purpose of negotiating, to work out your employment problems.

Mr. CHESSER. We would be happy to do that now and set down and place it in the law.

Mr. SKUBITZ. You say they wouldn't negotiate. Using your same argument, why would they negotiate wages since we have a minimum wage?

Mr. CHESSER. Well, I think you have a different situation altogether. Let us look back.

Mr. SKUBITZ. It seems to me that the law was placed on the books really because they were trying to protect labor at the time against the condition that existed then.

Now, times have changed and I think that perhaps this could be a negotiable——

Mr. CHESSER. Let us go back to 1963 when we had this very thing and the President said there will not be a national railroad strike and every one of the rules was national, and said there will not be a national railroad strike. Why should the carriers negotiate? They came before this committee and we got compulsory arbitration.

Mr. THOMPSON. We have a quorum call. The second bells have rung.

The CHAIRMAN. The time of the gentleman has expired.

Mr. HASTINGS. Mr. Chairman, very briefly, Mr. Chesser, the chart on table 6, I see this was 1960 when it was tabulated. Would you say that is fairly reasonable today, in accuracy?

Mr. HOMER. These are the facts for 1960 and 1961.

Mr. HASTINGS. Would you expect that they might be reasonably accurate today?

Mr. HOMER. I think so.

Mr. HASTINGS. The chart on table 7 also?

Mr. HOMER. Table 7 is for 1965. It would not have changed very much.

Mr. HASTINGS. And one other question. Has the Interstate Commerce Commission expressed anything recently on your request to reduce the hours of work to 12 hours?

Mr. CHESSER. I believe in 1966 they supported this.

Mr. HASTINGS. In 1966 they supported. Recently they have not indicated a position?

Mr. CHESSER. No; it hasn't been back before the Congress since 1966.

Mr. HASTINGS. Thank you very much.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, gentlemen, very much for coming and giving us the benefit of your views. The committee had other business scheduled for tomorrow. It looks like we will have to call off that business and continue with this one.

If you gentlemen can come back, Mr. Coughlin and Mr. McCulloch, we will continue with you, and we have one other witness then who has signified that he would like to testify tomorrow. So we will continue with these hearings tomorrow.

The committee stands adjourned until tomorrow morning at 10 o'clock.

(Whereupon, at 11:40 a.m., the committee adjourned, to reconvene at 10 a.m., Wednesday, June 25, 1969.)

# HOURS OF SERVICE ACT AMENDMENTS OF 1969

WEDNESDAY, JUNE 25, 1969

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

The committee met at 10 a.m., pursuant to notice, in room 2123, Rayburn House Office Building, Hon. Harley O. Staggers (chairman) presiding.

The CHAIRMAN. The committee will come to order.

This is a continuation of the hearings on H.R. 8449 and related bills.

We have as our first witness this morning one of our distinguished colleagues from the State of Montana, Mr. Arnold Olsen, who has always been interested in the plight of the workingmen in the Nation, and we are glad to have you with us, Arnold, so you may proceed as you see fit.

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

Mr. OLSEN. 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.

One such 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 they are also permitted to work the men an aggregate of 16 in 24 hours without having to provide them with an 8-hour consecutive rest period.

The amendments offered in H.R. 8449 reduce 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.

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 ade-

quate 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 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.

During 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. Again in 1969 during the last session of the Montana Legislature, H.R. 258 was introduced and passed. I am enclosing the State House bill for the record.

In my testimony I set forth the fact that in 1965, the State Legislature of Montana passed a Joint Resolution No. 3, which was also signed by the Governor, supporting this legislation, and again in 1969 the same thing happened. And I want unanimous consent to enter those resolutions in the record.

The CHAIRMAN. Without objection, so ordered.

Mr. OLSEN. Thank you, sir.

(The documents referred to follow:)

HOUSE JOINT RESOLUTION NO. 3

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 conseuctive 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 at 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.

Approved February 8, 1965.

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HOUSE BILL NO. 258

INTRODUCED BY FEDA, BRAND, RYGG, ZIMMER, JORDAN, LUND, ASPEVIG, KOLSTAD, STAIGMILLER, MELCHER

41–1123

A bill for an act entitled: "An Act amending section 41–1123, R.C.M. 1947, relating to hours of labor of railway employees, to reduce the maximum consecutive hours of labor for railway employees."

*Be It Enacted by the Legislative Assembly of the State of Montana:*

Section 1. Section 41–1123, R.C.M. 1947, is amended to read as follows:

"41–1123. Railway employees—hours of labor. On all lines of steam railroad or railways operated in whole or in part within this state, the time of labor of locomotive engineers, locomotive firemen, conductors, trainmen, operators, and agents acting as operators, employed in running or operating the locomotive engines or trains on or over such railroads or railways in this state, shall not at any time exceed sixteen *twelve (12)* consecutive hours, or to be on duty for more than sixteen *(16)* hours in the aggregate in any twenty-four *(24)* hour period. At least eight *(8)* hours shall be allowed them off duty before said engineers, firemen, conductors, trainmen, operators, and agents acting as operators, are again ordered or required to go on duty; provided, however, that nothing in this section shall be construed to allow any engineer, fireman, conductor, or trainman to desert his locomotive or train in case of accident, storms, wrecks, washouts, snow blockade, or any unavoidable delay arising from like causes, or to allow said engineer, fireman, conductor, or trainmen to tie up any passenger or mail train between terminals."

Mr. OLSEN. I want to note that the resolution signed in 1965 was a Republican Governor and the one in 1969 was a Democratic Governor. The legislatures have been kind of mixed, Republican and Democrat, and I say that to note the unanimity of support for this legislation in Montana.

This is the fourth time that I have introduced this kind of legislation. It is the fourth consective session in Montana. And I must say that when I had it the first time I knew there was unanimity among my workers and I am speaking of all of the railroad brotherhoods, and that is of course being demonstrated here before your committee today, but it has been a great unanimity in my State over the years.

I thank the chairman for this opportunity to testify for this very important legislation, now if I may off the record.

(Discussion off the record.)

The CHAIRMAN. Thank you very much for coming and giving us the benefit of your views and putting into the record what the State of Montana, their beliefs, and I think this will have great effect or should on this committee, showing what one of the great States of the Union has done in regard to this legislation.

So I want to thank you again for coming over and giving us the benefit of your views.

Mr. OLSEN. Thank you, Mr. Chairman.

The CHAIRMAN. Our next witness is the Honorable Thaddeus J. Dulski of New York. Welcome, sir. Proceed as you see fit.

## STATEMENT BY HON. THADDEUS J. DULSKI, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW YORK

Mr. DULSKI. Mr. Chairman, I appreciate this opportunity to present my views on H.R. 11572, which I introduced last month and which is identical to your bill, H.R. 8449, a measure to limit the hours of service of railroad employees.

At the outset, Mr. Chairman, I want to compliment you for setting these hearings promptly. The matter of railroad safety is one which has been of increasing concern to me and to the public in general. As you probably know, I also have joined you in sponsoring a general rail safety bill; my H.R. 11573 follows very much along the lines of your H.R. 7068.

As for H.R. 8449, which is under consideration here today, it seems to me that this is long overdue attention to a most important facet of railroad safety.

The law now on the books has gone unchanged for 62 years so far as it concerns the maximum permissible number of hours of continuous time on duty for railroad employees. The 1907 law set the maximum at 16 hours. Our bills call for reducing the maximum to 12 hours.

To point up the outdated factor as it applies to railroad employees, one needs merely to look to the law applying to motor carrier drivers, which restricts their duty maximum to 10 hours' driving time. Or to look to the law applying to airline pilots who are restricted to a maximum of 8 hours on duty.

These other laws also specify the minimum rest period in between shifts, but the present railroad law has been interpreted by the courts as permitting a man to be required to work 4 hours on and 4 hours off for as long as the carrier wishes.

Except in the most extraordinary circumstances, it seems to me that no railroad employee should be liable for shift orders that would deny him at least 8 hours rest in any 24-hour period.

While it is true that there have been many technological improvements in rail operations in the past 60 years, there still remains the human factor. With today's high speed and powerful equipment, there is more physical strain and responsibility than ever before. Employees need adequate rest periods to maintain their alertness on the job.

A Presidential Railroad Commission recommended 8 years ago that the hours of service law be lowered to 12 hours. That's what we are proposing here today and I hope sincerely that the committee will report this legislation favorably.

Mr. Chairman, if I may add a word on the general subject of railroad safety, I hope that your committee can soon consider the various pending comprehensive proposals.

The rash of rail accidents, particularly derailments, makes it clear that our rail safety laws are inadequate. Our Federal rail inspectors

are hamstrung today with inadequate authority and a shortage of manpower to check on the multitude of violations which are being brought constantly to their attention.

Thank you, Mr. Chairman, for this opportunity to present my views.

The CHAIRMAN. Thank you, Mr. Dulski, for the benefit of your views. Are there any questions? If not, then thank you again, sir.

Our next witness is also from New York, our colleague, Mr. Frank J. Horton. We appreciate your taking time to present us with your thoughts on the legislation pending before the committee today. Please, come forward and proceed, sir.

## STATEMENT OF HON. FRANK J. HORTON, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW YORK

Mr. HORTON. Mr. Chairman, I appreciate this opportunity to appear before the committee, which is considering H.R. 8449 and related bills including H.R. 10594 which I have sponsored. I am here to give my full support to this proposal to reduce the hours of service of operating employees on our railroads. I was a supporter of this proposal in previous years and am today.

The major thrust of the proposal is, of course, the reduction in hours of service from a maximum of 16, allowed under a law enacted back in 1907, to 12. I have noted, Mr. Chairman, that a major difficulty I have experienced with members not familiar with this legislation has been to explain how, in this time when the 8-hour day is almost universal, we can seriously be giving consideration to a 12-hour day.

I have had to explain that we were not setting up a standard by which to measure a day's work in terms of pay. This was done under the Adamson Act, back in 1916. A day's work on railroads has been, in terms of pay, 8 hours since then. I have had to explain that we were concerned with the maximum allowable length of the actual working day. In a word, Mr. Chairman, our concern here is with the health and safety of railway workers and with the safety of the public.

I may say, in passing, Mr. Chairman, that as a railroad buff, the public with which we are concerned is all too rapidly becoming limited to motorists and pedestrians who risk being struck by a train, a freight train, operated by an engineer exhausted by fatigue. The public which travels by train and risks injury or death as passengers becomes each year ever smaller.

It is not necessary to review at length with the committee the need for this bill. The testimony has been ample, and, in my reading, persuasive. The bill is long, long overdue. We are proposing today to replace a 16-hour standard, set 62 years ago, with a 12-hour standard. But in 1907 most European countries already had a 12-hour standard and some had 10-hour standards.

In 1907 our freight trains averaged less than 50 cars, running under 20 miles an hour, and hauling loads under 400 tons. Today we have freights which average over 70 cars and haul net loads of over 1,700 tons, at speeds sometimes in excess of 60 or even 70 miles an hour.

In 1907 a major railroad safety problem was that trains frightened horses. There were only 43,000 automobiles and less than 3,000 trucks and buses in the entire United States. Today there are few horses around, except on racetracks and in showrings, but we have over 80

million automobiles registered and over 18 million trucks and buses. The hazard from accidents at grade crossings would be intolerable today, were it not for the progress we have made in a major program of eliminating single-level crossings and substituting underpasses and overpasses.

In recent years we have encountered a new type of hazard to the public from railroads; one of which we have been repeatedly reminded, unpleasantly, in recent months. I refer, of course, of the hazard caused by the increasingly dangerous nature of the materials being carried by rail freight.

I cite as an example the much debated proposal to transport tons of nerve gas across the United States by rail for disposal by dumping in the Atlantic Ocean. But this is only an extreme and, actually, somewhat isolated example of a general practice which has been of increasing concern and which will continue to be of increasing concern. The nerve gas is not going to be shipped across America. But every day endless cars of propane gas, anhydrous ammonia, rocket fuels, cyanide compounds, explosives of all kinds move through our cities, our suburbs, our towns, and our countryside.

We have all been made aware of this hazard by the publicity given, not only to the nerve gas proposal, but to such spectacular accidents as that in January of this year in Laurel, Miss. But, in fact, the hazard to the public is not only from the increase in railroad accidents which involve derailments, fires, and explosions. All types of railroad accidents are on the increase, not only those arising from defective equipment and defects in the roadbed and tracks, but those reported as due to "operational error."

There has been some argument over the trend. But whether or not there was a 10-percent increase in accidents in 1968 over 1967, it is a fact that in 1968 a total of 146 railroad employees were killed at work and well over 17,000 were injured. The last year for which figures on accident causes are available appears to be 1967. In that year I note that 1,844 accidents were reported to have been due to defects in roadway or tracks, 1,897 accidents were reported due to defective equipment, but 1,987 train accidents were caused by operational error—human failure.

Fatigue, Mr. Chairman, contributes very substantially to human failure. I regret, Mr. Chairman, that our accident statistics are so defective that we have no way of knowing the extent to which long hours of operating employees contributed to "operational error." But we cannot doubt that there would be less fatigue and less operational error if hours of service were limited to 12.

I have already noted, Mr. Chairman, how obsolete our hours of service law for railroads has become. The Federal law for motor carriers limits the driving time of truckdrivers and bus operators to not over 10 hours a day. The law limits the hours aloft of airplane pilots to 8 in any day. There is no reason why the railroad carriers cannot adjust their runs to a maximum 12-hour day. Ample testimony has been presented that this can be done without substantial hardship to either employers or employees. Railway labor is united behind this proposal, as they were not when we considered it in 1966. There is not sound reason or excuse for not acting, this year.

It would seem that the 91st Congress may well be known as the safety Congress. We have already acted on construction safety. Mine safety is under full consideration. A general health and safety bill is being prepared. It is time to also move to bring railroad safety a little farther into the 20th century than 1907.

The CHAIRMAN. Are there any questions? Thank you, again, Mr. Horton.

Our colleague from the State of Minnesota, the Honorable Donald M. Fraser, wishes to present a short statement. Proceed, sir.

## STATEMENT OF HON. DONALD M. FRASER, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MINNESOTA

Mr. FRASER. Mr. Chairman, I am pleased to be able to convey to this committee my support for the amendments to the hours of service law, which I have introduced (H.R. 9929).

The bill would limit the length of time that a railroad employee can be kept on duty. An employee could not be required, under its provisions, to work longer than 12 hours in any 24-hour period and he must be given at least 8 consecutive hours off duty before he begins work. This requirement will be a big step forward in preserving the health of employees and, thus, in maintaining safety on the railroads.

The bill would, in addition, direct that released time resulting from an employee's release between terminals, be counted as time on duty. Crews now released "out in the country" between railroad terminals are not considered as being on duty.

Also, time spent "deadheading"—that is, in transit from one terminal to another after going on duty at their home terminal—would be counted as time on duty.

It should be emphasized that the bill contains special provisions allowing longer working hours during bona fide emergencies. For example, crews clearing the tracks at the scene of a wreck would be allowed to remain on duty for a period longer than the prescribed limits. But they would have to be released when the track is cleared sufficiently to permit movement of trains.

Mr. Chairman, an updating of this legislation is long overdue. The 1907 regulations now governing hours of service for railroad employees are little short of medieval. I urge your endorsement of these amendments to the "Hours of Service Law."

The CHAIRMAN. Thank you, Mr. Fraser, for your brief statement.

Mr. FRASER. Thank you, Mr. Chairman; it has been a pleasure.

The CHAIRMAN. At this time if Mr. Coughlin, Mr. McCulloch and those that were with him yesterday will take the stand.

Would you mind if we reversed this just a moment to bring one other man to testify and then I think after that we might have some of the members of the minority here. I believe they are having a caucus this morning, so they will have perhaps an opportunity to ask some questions.

I think it might be wise.

Is Mr. W. S. McGuire, local chairman of division 92, Brotherhood of Locomotive Engineers, here?

Would you come forward, sir.

I understand you have a prepared statement. I don't know whether you want to give the prepared statement. If you don't want to put it in the record we will carry it in the record and you may proceed as you see fit.

## STATEMENT OF W. S. McGUIRE, LOCAL CHAIRMAN, DIVISION 92, BROTHERHOOD OF LOCOMOTIVE ENGINEERS

Mr. McGUIRE. Thank you, Mr. Chairman.

Mr. Chairman and distinguished members of this committee, I sincerely appreciate having the opportunity and the honor to appear here today to offer testimony in support of the 12-hour amendment.

Before beginning, I would like to make it known for the record that I am quite proud of my profession as a locomotive engineer and the fact that I work for the Penn Central.

However, this doesn't detract from the fact that I wish to speak out on the merits of this vital and necessary piece of humanitarian legislation.

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 district, a point on the Pittsburgh division of the Penn Central Transportation Co. halfway between Columbus, Ohio, and Pittsburgh, Pa., the latter two 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 career, for over 28 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 large trucking firm in various capacities and operated heavy interstate highway rigs in the eastern United States. Thus I feel qualified to speak on the merits of the proposed legislation.

The Hours of Service Act, as now constituted, after over 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. At point B, a yard where food and lodging would be available, it could develop that certain cars were not 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. After the expiration of 3 hours (respite), they (crew) could again resume duty; that is, with respect to the 16-hour law.

In a case of this kind the employees could legally be required to put in 19 hours. A road crew could be at the point of outlawing after being on duty nearly 16 hours 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.

For instance, on May 20, 1969, at 2:30 p.m., I was called for a 200-mile turnaround local with a two-unit, 5,000-horsepower locomotive. On the return leg of our trip, we were put in on a rural siding some 18 miles from our home terminal where we outlawed. The crew was not relieved, thereby leaving the train unattended. We were subsequently transported to our terminal by station wagon and marked off after having been on duty 17 hours and 30 minutes.

Another example of how the 16-hour law has been and can be circumvented was demonstrated in the case of J. J. Boyd, a Penn Central engineer, who was called for local service and signed the register at 10 p.m., July 18, 1967, at Mingo Junction, Ohio, a point on the Pittsburgh division of said railroad. Engineer Boyd, with his crew, was transported approximately 38 miles by cab to a point where they relieved another local crew that was nearing the outlaw time. En route back to their home terminal the train was stopped at an intermediate point due to workmen having the track blocked. When Engineer Boyd was finally relieved he had been on duty a total of 20 hours and 15 minutes.

Long hours are not necessarily confined to locals. On November 8, 1968, I relieved an engineer on a through freight train who was nearly outlawed after having traveled 107 miles. The train in question was composed of 176 cars (approximately a mile and three-quarters) and was hauled by five diesel-electric units capable of delivering some 9,000 horsepower. We spent 12 hours and 55 minutes in moving the train the remaining 100 miles to the division terminal.

A few assignments involving long hours that I have recently worked as an engineer are as follows:

| Date | Total hours | Service |
|---|---|---|
| Oct. 20, 1968 | 15 hours, 59 minutes | Freight. |
| Dec. 4, 1968 | 16 hours, 25 minutes | Yard. |
| Dec. 11, 1968 | 13 hours, 45 minutes | Local. |
| Dec. 18, 1968 | 15 hours, 35 minutes | Yard. |
| Dec. 20, 1968 | 15 hours, 5 minutes | Local. |
| Dec. 26, 1968 | 15 hours, 35 minutes | Do. |
| Feb. 26, 1969 | 14 hours | Yard. |
| Apr. 28, 1969 | 12 hours, 45 minutes | Local. |
| May 12, 1969 | 13 hours, 50 minutes | Yard. |
| May 16, 1969 | 16 hours, 55 minutes | Do. |
| June 1, 1969 | 12 hours, 35 minutes | Local. |

The following assignments are ones that I worked for a 5-consecutive-day period:

| Date | Total hours | Service | Miles |
|---|---|---|---|
| May 19, 1969 | 10 hours, 15 minutes | Local | 200 |
| May 20, 1969 | 17 hours, 30 minutes | do | 200 |
| May 21, 1969 | 13 hours | do | 200 |
| May 22, 1969 | 14 hours, 50 minutes | do | 200 |
| May 23, 1969 | 15 hours, 55 minutes | do | 200 |
| Total (5 days) | 71 hours, 30 minutes | | 1,000 |

The aforesaid examples clearly demonstrates that a locomotive engineer is required to work excessive hours, hours that are arduous and

tiring, particularly in the one-man operations that were unwisely forced upon the locomotive engineer by Arbitration Award 282. These assignments may also help to explain why I believe that the present law is not only full of loopholes but also permits duty 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 a voluminous amount of written data. One may ask with a clear conscience: Does the 16-hour law, in light of present day working standards, fit into the general scheme of labor policies now in vogue within the United States? The history of labor law is replete with the trend toward reduced hours, that is, the 8-hour day. Since October 1, 1888, up to and including the 88th Congress, the lawmakers have passed some 290 statutes dealing with labor in one form or another. Among these laws were quite a number governing the hours of labor, many providing for a 40-hour week. However, as heretofore mentioned, I was on duty 71 hours and 30 minutes in a 5-day period. Therefore, we believe that our petition for a 12-hour day is justified.

Arguments that may be put forth by the carriers that the reduction of the 16-hour law to 12 hours would create a hardship on their operations is without foundation. Neither do I believe that the 12-hour amendment will land any of the management family in the poor house. For instance, it has been reported that in 1950 there were 42,951 locomotives in use on the American railroads and that 2,710,919,000 tons of freight were moved by rail in the same period. However, in 1966 there weree some 30,124 locomotives listed in service while 2,850,756,332 tons of freight were moved by the iron horse. Within a span of 16 years the carriers were able in 1966 to move 139,837,332 more tons of freight with 12,827 less locomotives than were in service in 1950. In 1950 it was also reported that there were 1,237,000 employees working in the railroad industry.

In 1966, the figures show that the work force had been reduced to 645,336 or a loss of 591,664 employees during the 16-year period. At the same time the net income of the carriers had risen from $854,951,000 in 1950 to $957,359,346 in 1966 or an increase of $102,408,346 at the end of the 16-year period. Further, in 1950 there were 223,779 miles of trackage owned by the carriers. However, in 1966 this trackage had been reduced to 210,573 miles or a reduction of 13,206 miles during the 16-year period. This would be like tearing up a track that had been laid from New York City to Saigon, South Vietnam. 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, the output per man-hour (railroad transportation revenue traffic) (1957–59=100) rose from 72.8 in 1950 to 142.7 in 1964 or an increase of 69.9 in said period. This tremendous increase in output per man-hours, generally speaking, can be attributed to the advent and development of the diesel-electric locomotive, a locomotive that may be made up of one to six or more units, manned by one engineer and fireman-helper—and in many cases by one engineer. These giant locomotives can move trains of 200 or more cars of upward and in excess of 10,000 tons at speeds up to 50 or 60 miles per hour.

Thus, we have the unique situation in the railroad industry where statistics from the Interstate Commerce Commission taken over a 16-

year period—1950–66—show that the carriers are operating with less employees, fewer locomotives, less trackage, hauling more freight and making more money while enjoying unprecedented records of productivity from the employees than ever before. We think it is not too much to ask of the Congress to lighten the load on the backs of the operating crews by enacting the 12-hour day for the operating crews.

Our local supports the 12-hour amendment, and I have yet to hear one voice in opposition from among the men that I have talked to, operating men, whose seniority extends over some 500 miles of railroad.

It is our understanding that the truckdriver who is subject to the rules and regulations of the Interstate Commerce Commission 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 move 200 or more loaded highway trailers—piggyback—200 or more miles. To move these trailers a like distance in the same time would require 200 men or more.

Therefore, in light of what has been said we earnestly petition this august committee to recommend to the Congress that the hours of service for the operating railroad employees be reduced from the present 16 to 12 hours. Sixteen hours or more of 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.

Thank you.

The CHAIRMAN. Thank you, Mr. McGuire.

You are an operating engineer now?

Mr. MCGUIRE. Yes, sir.

The CHAIRMAN. Thank you for your presentation. I think it is very comprehensive and understandable.

Mr. Van Deerlin, any questions?

Mr. VAN DEERLIN. The term "outlaw" refers to the time when your maximum number of hours have expired, is that correct, when you say you are "outlawed" on the siding?

Mr. MCGUIRE. Yes. It is an expression used by the railroaders, referring directly to the 16-hour law; yes, sir.

Mr. VAN DEERLIN. The practice is that if your 16 hours are up and you are still out there, you bring the equipment in and just log the overtime; is that it?

Mr. MCGUIRE. No; we do not bring the equipment in. We stop wherever we are at.

Mr. VAN DEERLIN. And have to send another crew out?

Mr. MCGUIRE. Sometimes we do and sometimes we don't

Mr. VAN DEERLIN. What happens if they don't?

Mr. MCGUIRE. They leave the train set where it is at—usually on a siding.

Mr. VAN DEERLIN. For——

Mr. MCGUIRE. Whenever they get ready to haul it in.

Mr. VAN DEERLIN. And then they have to bring you back by other transportation?

Mr. MCGUIRE. Usually in a case of that nature the dispatcher sends another crew out or they will have another crew that is going through to couple onto that train and double it up and haul it to the terminal and set it off. Then maybe for various operating reasons they might not be ready for that train, and when they get ready for it they will send a crew out to bring it in.

Mr. VAN DEERLIN. When you indicate in these time logs, which you have entered with your statement, where you have been out 19 hours—you are actually operating only for the first 16 of those 19 hours; is that correct?

Mr. MCGUIRE. Yes.

Mr. VAN DEERLIN. And although it is unlawful for you to operate the equipment any longer than that, are you paid? You are certainly compensated for that extra time, aren't you, at a premium figure; is that correct?

Mr. MCGUIRE. Yes, sir; the question at bar here, sir, is not the monetary figures, it is the humanitarian aspects of this.

Mr. VAN DEERLIN. Obviously it is bad practice.

Mr. MCGUIRE. Yes, sir; they pay the crews; yes, sir.

Mr. VAN DEERLIN. So that week when you came up with 71 hours, or whatever it was, you were raking in the money but you still don't think it is a good idea?

Mr. MCGUIRE. When you use the term "raking in"——

Mr. VAN DEERLIN. I use it with friendly intent. Your wife was probably pleased when the check came in, but it was still a bad practice all the way around.

Mr. MCGUIRE. In that particular period I made an hour and 30 minutes' overtime.

Mr. VAN DEERLIN. An hour and 30 minutes' overtime?

Mr. MCGUIRE. Yes, sir.

Mr. VAN DEERLIN. In a 71-hour——

Mr. MCGUIRE. The reason being we get back to the business of the miles versus the hours. If you are on an hourly job it is like the local, it is 100 miles or less. After 8 hours you go on overtime. In this particular instance, it is a 200-mile local so the only overtime that would be involved would be anything over 16 hours.

Mr. VAN DEERLIN. This puts you at a standard considerably below the protection of the Fair Labor Standards Act that applies to most workmen in interstate commerce.

Mr. MCGUIRE. I am acquainted with the Fair Labor Standards Act; yes, sir. Generally speaking, the Fair Labor Standards Act does not apply with respect to the operating crews, and conversely with most of the operations of the railroad, per se.

However, I am not certain after the railroad industry has become involved with the transit authority, high-speed passenger service, that the Department of Transportation is going to be involved, I am not too certain they wouldn't come under it eventually.

Mr. VAN DEERLIN. I find it inconceivable that anyone could work more than 71 hours in a week and get only a portion of an hour and a half in overtime.

Mr. McGuire. This is rather unique, sir. But I mean there is no complaint. I want to make it certain in deference to all concerned that at this point I am not complaining about the money end of it. It is the humanitarian aspects about long hours.

Mr. Van Deerlin. Money is part of humanitarian treatment.

Mr. McGuire. Yes, sir.

Mr. Van Deerlin. What was your schedule like the week following this 71½-hour week?

Mr. McGuire. Very irregular; I am what they refer to as an extra engineer. I work when the regular man doesn't want to or he is off or on vacation or an extra job comes up. I work anything.

Mr. Van Deerlin. Would this have something to do with the fact that you got this unusually long week?

Mr. McGuire. The job was vacant and I would come in and I just happened to fall in line for these 5 straight days. Yes, sir. It happens.

Mr. Van Deerlin. Would it happen to a man working a regular schedule rather than this relief schedule that you were working?

Mr. McGuire. Had the regular man been on here he would have been involved in the same situation. And I might add, without going into detail, I can assure you that if you had the time of the regular man on there you would find much the same pattern, maybe with a little more hours involved.

Mr. Van Deerlin. Thank you, Mr. Chairman.

The Chairman. Mr. Skubitz.

Mr. Skubitz. Thank you, Mr. Chairman.

Am I to understand that under existing law the hours of work is not a negotiable issue?

Mr. McGuire. Congressman, when you say "negotiate," you are taking in a lot of territory. In fact, it would be like opening up Pandora's box to get into this subject, but I will be glad to do whatever I can to answer your questions.

Mr. Skubitz. Wages are a negotiable item?

Mr. McGuire. Yes, sir.

Mr. Skubitz. Hours of employment are not negotiable in the railroad business?

Mr. McGuire. Might I answer your question in my own fashion, please?

Mr. Skubitz. Yes.

Mr. McGuire. I am one of the individuals that come down here from the grassroots level. I don't get into these places very often.

Congressman, did you ever hear of an expression called: Why buy the cow if you can get the milk for nothing?

Mr. Skubitz. It is a good expression.

Mr. McGuire. It is. In fact, I think it could be applied to this question.

Wait a minute. The railroad people are not foolish. Why negotiate a law or a rule that would reduce, say, the 16-hour law down to 12 as in the instant case?

Mr. Skubitz. Is it a negotiable item? Is it something that the union could bring up and ask that it be negotiated?

Mr. McGuire. Are you acquainted with the procedures that have been used to negotiate between the railroad brotherhoods and management in recent years?

Mr. SKUBITZ. No.

Mr. MCGUIRE. Well, I would like to cite you one example.

Now, when you say "negotiate," you think one way. When the railroads say "negotiate," they think another way. Here is a guy like me caught right between.

I am a local chairman of the engineers. I have sympathy with the problems that these people have.

Mr. SKUBITZ. Mr. Chairman, I am asking the wrong person for answers. Mr. McGuire, I thought you were an official.

Mr. MCGUIRE. No. I would be glad to answer that question.

Mr. SKUBITZ. Go right head.

Mr. MCGUIRE. Now, you asked about negotiations. You know I mentioned a moment ago in the introduction of my testimony here that I was proud of my profession.

Mr. SKUBITZ. Please I don't want to take too long.

Mr. MCGUIRE. I am not going to take too long. That is why I mentioned Pandora's box a minute ago. I would like to cite you an example of how they negotiate. You negotiate a touchy issue, this safety issue could drag out maybe 5 years. I would like to cite you the case of the firemen-helpers issue.

Mr. SKUBITZ. Have you ever been a negotiator?

Mr. MCGUIRE. Yes; I would like to cite you the case of the firemen-helpers issue. I want to clarify that to apply on the local level. I have people over me in the union that does the negotiation on a national system level.

Let us get back to the firemen-helper issue. I don't want to get into it.

Mr. SKUBITZ. I would like to ask you a few other questions. I would like to ask this for the record: Mr. Van Deerlin raised a point that I wish you would clarify—over 8 hours doesn't mean that you are going to get overtime; is this correct?

Mr. MCGUIRE. It depends on whether I am on an assignment that is running 100 miles or less.

Mr. SKUBITZ. Isn't the rule 8 hours or 100 miles the guidelines followed?

Mr. MCGUIRE. On the first day, yes.

Mr. SKUBITZ. All right. If you have a 200-mile run, you can divide that by 12½ miles and you get 16 hours. Under existing laws, the railroad can work you up to 16 hours; is this correct?

Mr. MCGUIRE. They can work us 16 hours, up to 16 hours.

Mr. SKUBITZ. Now, after 16 hours you supposedly have a 10-hour rest period; is this correct?

Mr. MCGUIRE. Depending on, if the individual had been on duty 16 hours.

Mr. SKUBITZ. Suppose you start at 8 o'clock in the morning, you have a 200-mile run, it takes you until midnight to get to the end of your run. That is 16 hours.

Under existing law, you have a 10-hour rest period due you. If you get a bite to eat, clean up, that takes you a minimum of hour. So in fact the rest period is down to 9 hours. Now, railroads are required to give you a call, an hour and a half ahead of reporting time; isn't that right?

Mr. MCGUIRE. It varies in different places, but I would say that is usual.

Mr. SKUBITZ. That means your actual rest period then is about 7½ hours; right?

Mr. MCGUIRE. Well, don't forget we are going both ways. We are going out to the place where we are going to rest.

Mr. SKUBITZ. Now then, if you work 15 hours and 55 mintues, then the rest period or off duty is 8 hours; is that correct?

Mr. MCGUIRE. The period is eight.

Mr. SKUBITZ. And if you are called to work the next morning, they must call you an hour and a half before starting time—is this correct?

Mr. MCGUIRE. If I follow your line of reasoning, yes, sir.

Mr. SKUBITZ. That means you would have at best a 6½-hour rest period?

Mr. MCGUIRE. Yes, sir.

Mr. SKUBITZ. Now then, suppose they don't call you, they don't have a run back for you, and you are held over for 16 hours.

Mr. MCGUIRE. Yes, sir.

Mr. SKUBITZ. How much compensation do you get for the 16 hours?

Mr. MCGUIRE. That would vary on various properties with respect to the agreement.

Mr. SKUBITZ. Wages is what we are talking. You haven't worked for 16 hours, they hadn't given you a run back and say they don't have anything for a return trip—Do you get paid for the 16 hours you stay at point B?

Mr. MCGUIRE. No, this is governed, of course, by the individual contracts involved between the general committees, what we refer to as general committees and the carrier.

Mr. SKUBITZ. Suppose a trip from point A to point B is 200 miles, and you have a 10-hour layover. Suppose at the end of 10 hours, you are required to lay over an additional 16 hours. How much salary would you draw by staying at point B?

Mr. MCGUIRE. You mean 16 hours or less?

Mr. SKUBITZ. Yes.

Mr. MCGUIRE. None.

Mr. SKUBITZ. All right.

Mr. MCGUIRE. I want to clarify.

Mr. SKUBITZ. Do you get any per diem?

Mr. MCGUIRE. I want to clarify one thing, Congressman. There is a proviso with respect to a meal allowance which——

Mr. SKUBITZ. That is not wages. You get no wages but do you get a per diem for meals and lodging?

Mr. MCGUIRE. I think for the day we get around $1.25.

Mr. SKUBITZ. For your meals. How much do you get for your room?

Mr. MCGUIRE. With respect to where we are at they furnish the quarters.

Mr. SKUBITZ. Do you know what the average——

Mr. MCGUIRE. No, I couldn't answer that.

Mr. SKUBITZ. I was told it runs about $3 to $4 a day and I wondered if this was correct.

Mr. MCGUIRE. If they told you this, $3 or $4 a day, I would say well now, what kind of a room could you get for $3 or $4 a day?

What I am getting at is I am glad they mentioned this. This opens up something else.

Mr. SKUBITZ. Mr. McGuire, I am not arguing with you.

Mr. McGuire. This is a very complex problem.

Mr. Skubitz. $3 a day and the kind of room you are going to get isn't complex to me.

Mr. McGuire. Not very good either, is it?

The Chairman. At this time I intend to do this.

You step aside and we will have these gentlemen back. We will take up with you again at the same point where we left off with the other gentlemen. So if you will step aside.

Mr. Coughlin.

Mr. Adams. Might I suggest that maybe he could sit with them and we could save some time? My questions to the gentleman would be very limited and I would be very willing to have him with the others.

The Chairman. I think perhaps they represent the entire Brotherhood and it might be wise to get our questions of them first.

Mr. Adams. All right.

The Chairman. Gentlemen, I hope that we can finish up with you at this time and Mr. Van Deerlin will start with you again.

Mr. Van Deerlin. No.

The Chairman. Mr. Skubitz, we will let you start out again on your side if you care to continue with your questions.

Mr. Skubitz. I wonder if any of these gentlemen want to comment on the questions I asked of the last witness.

## STATEMENT OF C. J. COUGHLIN, GRAND CHIEF ENGINEER, BROTHERHOOD OF LOCOMOTIVE ENGINEERS; ACCOMPANIED BY E. L. McCULLOCH, NATIONAL LEGISLATIVE REPRESENTATIVE; W. E. SKUTT, ASSISTANT GRAND CHIEF ENGINEER; HAROLD ROSS, ATTORNEY; AND RICHARD H. KRAUSHAAR, ATTORNEY

Mr. Coughlin. I would be happy to, Mr. Chairman, and gentlemen of the committee.

In fact, I believe that these questions that Congressman Skubitz asked did arise yesterday.

Now, as I understand the Hours of Service Act, there is a limitation, maximum limitation of 16 hours in any 24.

To get to the particular question that you asked, Congressman, it would be in my opinion negotiable, to attempt to negotiate a lesser number of hours.

However, for your information, gentlemen, this has been attempted on not one occasion but numerous occasions. And in each instance the carrier will undoubtedly, as they have in the past, inform us that they are not going to bargain for any limitation on any run or assignment with a limitation less than that now provided in the Hours of Service Act, contending that the Congress granted to them a certain managemental prerogative for the maximum and they had the right to request the employee to work within that maximum limit.

I could cite numerous occasions when we have attempted to negotiate a shorter workweek, workday, but without exception we run into the same proposition. The most recent notice that we served under section 6 of the Railway Labor Act was one on the Milwaukee Lines East, which had for its purpose the lowering of the maximum under the present hours of service from 16 to 12.

The carrier takes the position immediately that we are changing the basic rates of pay, consequently the notice is illegal, it is not a proper notice.

Now if we were to attempt then to progress these cases we are without exception denied in our request, and if we attempt to exercise economic self-help, without exception the carrier will invoke the assistance of the courts, which, as you gentlemen know, is a very expensive procedure, it brings about internal delays, and certainly does not bring about good labor relations in the industry.

Now in my statement that was read into the record yesterday, on page 5, we did list some of the average time on duty—page 6. Those hours on duty are gradually increasing.

We have, Congressman, attempted to avoid that, particularly in yard service. We have attempted to negotiate with the carrier from two avenues. One from the standpoint of attempting to obtain agreements from the carrier whereby they will not assign new work to a yard crew after the expiration of the first 8 hours.

But so far, to answer your question, Congressman, we have not been successful.

Mr. SKUBITZ. Under existing regulation 8 hours or 100 miles is considered a day. I think that averages 12½ miles per hour. If you have a 200-mile run this would take 16 hours.

Under existing law you would be required to make this run but would you be entitled to any overtime? You would work 16 hours at regular pay; isn't that correct?

Mr. COUGHLIN. That is correct, yes, sir.

Mr. SKUBITZ. So you do work 16 hours but you don't get any overtime for it?

Mr. COUGHLIN. That is correct.

Mr. SKUBITZ. Suppose a trip requires 16 hours to cover 200 miles—under existing law you are entitled to a 10 hour rest period. But isn't it true that if you get a call for a return trip, you are called an hour and a half before you are to be on duty?

Isn't this correct?

Mr. COUGHLIN. I would say that is the average call.

Mr. SKUBITZ. What I am trying to get across is that your actual rest time is about 7½ hours, at best.

Mr. COUGHLIN. That is correct.

Mr. SKUBITZ. Now, if this run takes 15 hours and 55 minutes, then under existing law this is cut down to 8 hours. Isn't this correct?

Mr. COUGHLIN. That is correct.

Mr. SKUBITZ. So that if you took an hour to wash, clean up, eat, get to your room, and go right to bed, and you were called back to service, they could call you an hour and a half early again; is this correct?

Mr. COUGHLIN. That is correct.

Mr. SKUBITZ. This means you get 5½ hours of rest; is this correct?

Mr. COUGHLIN. This is correct.

Mr. SKUBITZ. If by chance you were not called back the next day and you had to layover for another day, you do not draw compensation; is this correct?

Mr. COUGHLIN. This is correct.

Mr. SKUBITZ. You are just stuck in town B. You have no wages coming for his time. You are allowed a per diem, I mean an allowance for meals and for room. What is this allowance?

Mr. COUGHLIN. The allowance, Congressman, is $1 in that example it would be $1.50 for a meal.

Mr. SKUBITZ. For a meal or meals?

Mr. COUGHLIN. For a meal. One meal in the period of time that you are——

Mr. SKUBITZ. You are there 16 hours.

Mr. COUGHLIN. $1.50.

Mr. SKUBITZ. $1.50 for the time you are there. How much for your room?

Mr. COUGHLIN. Room depends upon what the prevailing price was at the time that the committee negotiated with the carrier. I would say it is on an average someplace between $2.50 and $3.

Mr. SKUBITZ. $2.50 and $3 for a room?

Mr. COUGHLIN. Yes, sir.

Mr. SKUBITZ. How many engineers do you have in the locomotive, one or two?

Mr. COUGHLIN. One.

Mr. SKUBITZ. You work 15 hours and 55 minutes going down, 6 hours rest and called back for 16 more hours; is this correct?

Mr. COUGHLIN. Yes, sir.

Mr. SKUBITZ. This is the point you are trying to get across isn't it, from the standpoint of safety. Am I correct?

Mr. COUGHLIN. Yes.

Mr. SKUBITZ. Thank you.

Mr. COUGHLIN. I might, if I may, give you one incident that came to my attention last night. There is the Missouri Pacific Railroad has initiated a freight run between El Dorado, Ark., to Gurdon, Ark., a round trip distance of 132 miles. There is about 1 or 2 days of the week that they go the entire distance from El Dorado to Gurdon. The reason they don't go there more often than the 1 or 2 days is because they cannot make the round trip within the 16 hours.

They have been almost without exception on duty every day of the week between 15 hours and 15 hours and 59 minutes. That is the position that we are trying to correct, Congressman.

The CHAIRMAN. Mr. Adams.

Mr. ADAMS. Yes.

We are obviously, as you gentlemen can see, having trouble understanding your piecework rate system, though I have the very good memorandum that was prepared here by Mr. Homer on it.

I am still not quite certain, in following through with Mr. Skubitz question, do you bargain out the rate for a run either itself and its distance, in other words, 100 miles or 150 miles or whatever it is, which you apply to this piecework system by locals, or do you do it by railroad lines, or how do you arrive at your establishment of the piecework rate?

In other words, does an individual local within your international sit down with a railroad and bargain out an area or do you take a whole line like, for example, the Northern Pacific and bargain the whole thing at once, or how do you establish your system of pay?

Mr. COUGHLIN. Oh, for the past, I would say, 40 years, Congressman, they have bargained on a national basis.

Mr. ADAMS. I see.

Mr. COUGHLIN. In other words, we represent the engineers and we bargain with the like committee representing the Nation's industry on a national basis.

Mr. ADAMS. And you set these things up around the whole Nation then; is that correct?

Mr. COUGHLIN. That is correct.

Mr. ADAMS. I am becoming more and more in support of your bill, which I was in the first place, because I think your system is so devilishly archaic here, it is out of place and time with everything else that we are doing in the country and that is why we are having trouble understanding how you get paid and when you get paid.

Now, the second point that I have is that I have this 12½ miles an hour for freight trains and 20 miles an hour for passenger trains, which you divide into the run, and then you pay overtime after that division.

In other words, the 9 hours or 8 hours or 12 hours or whatever it comes out.

What do you get for overtime? Do you get straight rate or do you get one and a half?

Mr. COUGHLIN. In miles it would amount to 18⅔. Time and one-half for overtime.

Mr. ADAMS. Time and one-half you get after that?

Mr. COUGHLIN. Correct.

Mr. ADAMS. All right. But now——

Mr. COUGHLIN. That is, Congressman, in freight service.

Mr. ADAMS. In freight service.

Mr. COUGHLIN. If that were in passenger service, and passenger service is based on the rate of 20 miles per hour.

Mr. ADAMS. Right. I understand that.

But if you go beyond like the example you use, if you have a passenger service employee running 180 miles he would get overtime after 9 hours. That is 180 miles divided by 20 miles an hour means he has to work 9 hours before he gets any overtime. But if he does go beyond 9 hours does he get time and a half or straight rate or what does he get?

Mr. COUGHLIN. Three-eights of the daily rate which drops him back to 12½ miles an hour.

Mr. ADAMS. He drops back to 12½ miles per hour?

Mr. COUGHLIN. Yes, sir. This is for passenger service now.

Mr. ADAMS. What the devil does he get then? Does he get his regular pay plus three-eights or does he get——

Mr. COUGHLIN. He would get his regular pay for the 180 mile distance but the overtime in hours now he would get that at the 12½ mile rate.

Mr. ADAMS. In other words, let us take your example. He is going to go 180 miles but for some reason they don't make it in the regular period of time, the train is slower, it is slowed down or something, so he is out there 10 hours.

Now for that 10th hour what does he get for that hour?

Mr. COUGHLIN. He would get 12½ miles pay. In other words, he would get the 180 miles for the run that he made.

Mr. ADAMS. Yes.

Mr. COUGHLIN. In the 10 hours.

Mr. ADAMS. Yes.

Mr. COUGHLIN. That normally, he would have made in the 9 hours. But this particular day it took him 10 hours.

Mr. ADAMS. Right.

Mr. COUGHLIN. So he gets 180 miles pay for the first 9 hours and that is the last hour or 10th hour he gets 12½ miles pay.

Mr. ADAMS. What does that come out to be?

Mr. COUGHLIN. I don't have the passenger rate here.

Mr. ADAMS. I am trying to figure out, is he making more than his regular straight time or less than his straight time.

Mr. COUGHLIN. Less than his straight time.

Mr. ADAMS. In other words, after he gets beyond a period of time for his overtime he gets less than he would ordinarily get?

Mr. COUGHLIN. Absolutely, yes, sir.

Mr. ADAMS. In other words, you are working a real piecework system; if you don't perform your assigned task you start losing money after the number of hours. By "losing money" I mean you get less than your regular rate.

Mr. COUGHLIN. You are correct, Congressman, as far as money goes. But I don't like the phrase if we don't perform our task. Because we have no control over this getting over the road.

Mr. ADAMS. I am well aware of this. But that is the only word I can use for a piecework basis. We left the piecework system in most of America several years ago and it is very difficult to translate back into it particularly when you have people working hours and performing tasks that are similar to what other industries do on an hourly basis.

My next question is that if you are required, and the example was given by the other gentleman here, this "respite proviso" where apparently you get out there and for some reason you can't continue with the train and so they put you "on respite," and pull the train over.

Do you get paid for that period?

Mr. COUGHLIN. Oh, yes.

Mr. ADAMS. And you are paid at what kind of a rate?

Mr. COUGHLIN. At the regular passenger rate of 20 miles per hour so long as it is under the recognized 9 hours in this case now.

Mr. ADAMS. Now if your run takes you longer than it would, say you have to lay over now for, we will keep your same example here, because if I ever get beyond that I will never understand it.

The same example that you had here and you are going 180 miles with a passenger train, and it ordinarily takes you 9 hours and you have to lay over for 3 for some reason, you go on this respite provision.

So it really takes you 12 hours to run it, because you go back on then.

Now, what do you get for the 12 hours?

Mr. COUGHLIN. For the additional 3 hours you would be paid at the rate of 12½ miles for each one of those 3 hours.

Mr. ADAMS. So your respite provision is at the 12½, what you refer to as the 12½-mile-an-hour rate.

Mr. COUGHLIN. Right, if you are on overtime.

Mr. ADAMS. Now, explain to me the 12½-mile-an-hour rate as opposed to the 20-mile-an-hour rate. I assume that means you take your total pay and you divide it by 20 miles an hour, and that would give you such and such a rate of compensation. Is that right?

What do you mean when you say to me 12½-mile-an-hour rate as opposed to 20-mile-an-hour rate?

Mr. COUGHLIN. Well, in freight service through negotiation now we have negotiated a separate rate for the freight service based on the day's pay or the 100 miles. In other words, we will just as an illustration say that a locomotive engineer gets $20 a day in freight service for 100 miles.

Mr. ADAMS. I see, OK.

Mr. COUGHLIN. He may get $18 a day in passenger service for 100 miles.

Mr. ADAMS. I see.

Mr. COUGHLIN. Now if you want to get the exact mileage rate you can divide the amount of money by your——

Mr. ADAMS. I see, so that is what you are referring me to, is that you get an accepted standard so when you refer to the 20-mile-an-hour rate or the 12½-mile-an-hour rate you come up with a definite accepted figure?

Mr. COUGHLIN. Right.

Mr. SKUBITZ. Would the gentleman yield?

Let us get one point here.

You are talking about 20 miles an hour for passenger service, right?

Mr. COUGHLIN. That is correct.

Mr. SKUBITZ. Do you know of any passenger train that travels 20 miles an hour? The fact is our freights are running faster than any 12½ miles average.

Mr. COUGHLIN. I believe that is correct.

Mr. SKUBITZ. However, on freight hauls time is consumed when you are on the siding or switching cars. Things like that bring the average down.

But when you talk about 20 miles an hour for passenger service this is absurd. I don't know of a passenger train that travels at that rate.

What would happen, for example, on the Kansas City run from Kansas City to Pittsburgh, Kans., to Joplin, a distance of 150 miles? It makes this run in about 3 hours.

You get a full day's pay for that; isn't that correct?

Mr. COUGHLIN. That is correct.

Mr. ADAMS. I want to follow on that.

You ordinarily would make the run maybe in 4 hours. But you would be assured you wouldn't get any extra money either straight time or overtime, if it took you 5 more hours to make it, so the setup would be you never make anything beyond your straight package on it unless you got hung up on a siding someplace; isn't that right?

Mr. COUGHLIN. That is correct.

I want to make one point here. You want to remember that the carrier, the industry itself, is the one that set these figures up. We didn't.

Mr. ADAMS. Right.

And that is the last point that I want to make, which is, I have sat through, and some of the other members on this committee did, 30 days of trying to unravel, or not unravel but settle a management labor dispute in the railroad industry and anybody that thinks you can bargain anything in this industry any more beyond a few minor points I think are kidding themselves because both parties seem to

have been aware particularly. I have been critical of management of this that nobody is going to let the strike occur.

So I think you can forget negotiating and I hope we pass the bill, Mr. Chairman.

Mr. PICKLE. Thank you, Mr. Chairman.

Immediately following the point the gentleman just made, I would ask first the gentleman suggests this problem not be settled by negotiations.

Mr. ADAMS. It can't be. They have tried.

Mr. PICKLE. That was going to be my question to you.

Have you asked the management to negotiate, to settle this question?

Mr. COUGHLIN. Numerous times, Congressman, yes, sir.

Mr. PICKLE. And they have refused to set down with you?

Mr. COUGHLIN. Yes, sir, you bet they have. They have not refused to sit down with us. Oh, no, the carrier will always sit down with us and they will talk with us. But they will just talk, period.

This is all they do is talk. They will never agree with you.

Mr. PICKLE. If I would ask the management the same question I would imagine they would say they are willing to sit down with you but you won't talk. So we are faced as a committee and the Congress that both sides are contending this situation can't be settled by collective bargaining.

And the thing that distresses me about it is this particular case you come and want us to negotiate or to settle what you can't settle, you say, by collective bargaining and at the same time you tell us on the other hand that collective bargaining is the sacred cow of the entire American management and labor industry and it is the best weapon we have, but I think both parties leave us in the position that you don't want it on the one hand but you do on the other.

Mr. COUGHLIN. Congressman, if I may answer that statement of yours.

I hope I am not leaving you with the impression that we are asking you to negotiate anything for us. All we are asking you to do is to do what you have done in other years, the last time when the Hours of Service Act was amended, to bring that maximum level of 16 hours down to 12 hours and we will take care of the negotiations over wages and rules and other things through bargaining.

Mr. PICKLE. I submit to you that there is a question of how much difference there is about whether we are handling this through collective bargaining or whether we are amending the law.

But aside from that, are the engineers together this time on this particular bill?

Mr. COUGHLIN. Yes, sir, 100 percent.

Mr. PICKLE. Heretofore, you hadn't been and I think that is interesting. I think this is an interesting fact.

One other question.

Have we received, either this committee or you as the group representing the engineers, or management, if you know, any kind of statement from the Department of Transportation or from the National Safety Board, that the present hours of service is unsafe and is a threat to the hauling of passengers?

Mr. COUGHLIN. No, sir.

Mr. PICKLE. As I recall it from last time they would not make such a statement.

Mr. COUGHLIN. No; we have not received that.

Mr. PICKLE. So, so far as you know then there is no statement from any safety board that the present hours is unsafe?

Mr. COUGHLIN. I know of none; myself; no, sir.

Incidentally, Congressman, if I may take this moment, I don't believe you were here when I injected my statement yesterday. In case you don't know, my name is Coughlin and I am the chief executive of the Brotherhood of Locomotive Engineers.

Mr. PICKLE. Yes, I have your testimony here. I have not read it all. I intend to do it. I appreciate your testimony. I hope we can resolve this question.

Like so many questions, I always think that more can be done by both management and labor but I guess if it can't be settled we will have to be the referee on it.

The CHAIRMAN. Mr. Eckhardt.

Mr. ECKHARDT. I would like to clear up this question concerning the El Dorado run that you described. I think it is 130 miles and you stated that this round trip could not be completed in the 16-hour period.

How does that work out?

Mr. COUGHLIN. The information, Congressman, that came to me is it is 132 miles a round trip which would be 60-some-odd miles in each direction.

Now the reason that they cannot leave El Dorado, Ark., and go all the way to Gurdon and return to El Dorado within the 16 hours is because it is a local freight run doing switching at numerous, I would assume, industries between those two points.

So they can only go so far and then the dispatcher who has complete control of the operation instructs that crew to return to El Dorado before they get to the other end of the line.

There are about 1 or 2 days out of the week that they do make the full run to Gurdon and return to El Dorado but in each case, according to my information, as late as yesterday, they have been on duty between 15 hours and 15 hours and 59 minutes every day.

Mr. ECKHARDT. This is a physical limitation, not one related to the rule of calculations?

Mr. COUGHLIN. That is correct.

Mr. ECKHARDT. Now with respect to the question of whether or not this matter could be met by collective bargaining, I would imagine that in many instances if a matter of this nature is brought up in collective bargaining there may be certain offers of trade-out with respect to wages or other working conditions that might be more desirable than a change of the rule here.

Would that be the case?

Mr. COUGHLIN. That is possible.

However, one of the things that we usually meet in attempting to resolve problems of this nature in collective bargaining is the carrier's estimate that if we were to grant you people this we deviate from the so-called pattern.

Now the carrier insists on a pattern settlement in most instances, particularly with regard to wages, rates of pay, and certainly on the assignments.

So they will not deviate from this so-called pattern.

Mr. ECKHARDT. What do you mean, a pattern that is established for all the railroads or do you mean—I understood you were bargaining with all the railroads at once with respect to the question.

Mr. COUGHLIN. Wages, correct. But on something like this, this is a situation that is peculiar to the particular railroad only so we would not be bargaining with the entire industry on a run of this nature.

Mr. ECKHARDT. But suppose you were bargaining with the railroad industry generally to reduce the hours from 16 to 12. that would be a conceivable situation that would in effect change the total pattern; is that not correct?

Mr. COUGHLIN. That is correct.

Mr. ECKHARDT. But you say that this is for some reason not a practical way to meet this problem.

Mr. COUGHLIN. I do not see how there is any chance to accomplish it, Congressman, because the carrier consistently takes the position that the law gives them the right to keep a man on duty 16 hours out of every 24.

Therefore, they say to us that you are attempting to inject yourself into managemental prerogatives. Consequently, they just will not concede so we just talk and get no place.

Mr. ECKHARDT. It seems to me that is no different than the employer saying that because the minimum wage is set at $1.60 an hour to establish by contract a higher minimum wage goes beyond the standard of the law. It seems to me we frequently establish by collective bargaining a higher standard than the law says.

Mr. COUGHLIN. I would agree with that.

But when you have one side such as we are confronted here that just will not budge because they are depending on this law to protect them, or if we on the other hand attempt to exercise economic self-help they will come to the Congress and contend that we are going to attempt to tie up the entire economy of the Nation.

Where do we go from there?

Mr. ECKHARDT. Then, of course, you do not in that sense practically have the complete right to strike?

Mr. COUGHLIN. No, sir, we do not.

Mr. ECKHARDT. And, furthermore, I would assume that again if this is a safety regulation, and if the incentive of the union to establish this objective may be traded off for certain economic advantages, the matter would almost have to be set by law because the safety consideration is not necessarily determined by it or at least is not determined properly for the public interest by those parties who have an interest on one side or the other of the question.

Do you feel this is primarily a safety regulation, primarily something that has to do with convenience of the employees?

Mr. COUGHLIN. I think it goes beyond just a safety measure, Congressman. I think it is a social problem. Certainly it is a humanitarian problem. We have individual employees in engine service that could stand 16 hours every day where as another individual may not.

Yet both individuals are in a position to pass the physical requirements of the carrier but sooner or later one of them is going to give in. And as I tried to point out yesterday, just what kind of a home-

life, a family life can a man have if he is required to work on such assignments 16 hours every day?

We have many younger people in our organization that are running locomotives trying to raise a family. And when you take a man on duty 16 hours, 5 to 7 days a week, and as has been testified to already, he gets maybe an hour and a half at the end of his run to get home and get cleaned up, get something to eat and get to bed, and then he called another hour and a half to 2 hours after he is supposedly having rest, to come back to work and do it all over again, from the humanitarian and social aspect of the life I think that has a definite bearing on what we are asking.

Mr. ECKHARDT. I don't think there is any question about that and I certainly agree with you. The only question I was raising is that these objectives are objectives generally common to all negotiations, are they not? The social effect on the employee is frequently the subject matter of negotiations whereas the question of safety to the public is usually the subject matter of law.

Mr. COUGHLIN. I couldn't disagree with that.

Mr. ECKHARDT. Thank you.

Mr. TIERNAN. Thank you, Mr. Chairman.

Could you clear up in my mind this question of, for example, the run that you spoke of 66 miles in one direction and 66 miles back to the terminal. And you say that they have been averaging 15 hours to 15½ hours and then they bring them back into the terminal.

What happens if that crew was to make the run and get back in 13 hours, the job is completed? Do they receive the same amount of money as the crew that works 15 or 15½ hours, or does the crew that works 15 hours get paid more money?

Mr. COUGHLIN. In this particular example, the crew that would take 15 hours to make the run would get more than the crew that made the same run in 13 hours, yes.

Mr. TIERNAN. So that run then does breakdown into hours worked?

Mr. COUGHLIN. Correct.

Mr. TIERNAN. Terminal to terminal or terminal to return terminal?

Mr. COUGHLIN. Correct.

Mr. TIERNAN. What is the rate of pay on that run? Do you have any idea?

Mr. COUGHLIN. Oh, I would say right at the present time that it would be in the neighborhood—and I wouldn't want to be held to the actual figure—I would say around $26 for 100 miles.

Mr. TIERNAN. You keep saying that.

Mr. COUGHLIN. You have 132 miles here now. And that would be $32 or $35 for that distance.

Mr. TIERNAN. Who gets the $32, the crew that works 13 hours or the crew that works 15 hours?

Mr. COUGHLIN. No, we will say the crew that makes it in 13 hours.

Mr. TIERNAN. Gets $32?

Mr. COUGHLIN. The crew that works 15 hours would get overtime which would be additional overtime over and above the amount that the crew having the 13 hours.

Mr. TIERNAN. The crew that works 13 hours gets $32 pay for that day. The crew that works 15 hours gets $32 plus 2 additional hours work.

Mr. COUGHLIN. Correct.

Mr. TIERNAN. What rate of pay does that crew get pay for the 1 hour of the additional 2 hours?

Mr. COUGHLIN. Well, he would get paid at the rate of time and a half.

Mr. TIERNAN. But give me the dollars and cents.

Mr. COUGHLIN. I don't have those figures here. I am told it would be on the basis of these figures, it would be around $6 an hour.

Mr. TIERNAN. He would get an additional $12. Suppose the train is down the road, down the tracks 20 miles from the terminus and they get some difficulties in switching, or they get put aside, and it goes 15 or 15½ hours they are out on the job.

The dispatcher has to send a station wagon or other equipment or tell them to take a taxi back into town; is that correct?

Mr. COUGHLIN. They often do that; yes, sir.

Mr. TIERNAN. In other words, they have to get them off that equipment within the 16 hours?

Mr. COUGHLIN. No. No. In your example this train breaks down 20 miles from the final terminal and the man is there 16 hours. Many is the time that that man is liable to set there for 3 or 4 hours waiting for a car to come out and bring him in.

Mr. TIERNAN. Does he receive any compensation for those hours?

Mr. COUGHLIN. Yes; he is on continuous time until he gets back to his terminal or he is relieved.

Mr. TIERNAN. There is no safety violation there, in the sense that the crew cannot operate after 16 hours?

Mr. COUGHLIN. That is correct.

Mr. TIERNAN. In other words, that is the company or management's loss, if they have a crew sitting there for 2 or 3 hours?

Mr. COUGHLIN. I would say that is correct.

Mr. TIERNAN. As Mr. Eckhardt pointed out, there is no involvement of the public safety?

Mr. COUGHLIN. No.

Mr. TIERNAN. That is just a question of poor management?

Mr. COUGHLIN. Only in case this would be a wreck action or of an emergency nature.

Mr. TIERNAN. There is an exception for that.

The fact that the crew was out there 18 hours continually on the payroll doesn't affect public safety because after 16 hours they are not allowed to operate the equipment?

Mr. COUGHLIN. It certainly doesn't affect the public safety at this trip but maybe the next trip out it would.

Mr. TIERNAN. I agree with you on that. If they were out there 18 hours, the law requires them to be put down for 10 hours or to be rested for 10 hours; is that correct?

Mr. COUGHLIN. That is correct.

Mr. TIERNAN. That is the safety factor?

Mr. COUGHLIN. However, now, in this respect, you want to remember——

Mr. TIERNAN. I am trying to be educated on this.

Mr. COUGHLIN. Let us take this example and if the carrier knows they cannot get you into your terminal within the 16 hours, there is nothing to prevent the carrier from telling you to go off duty

after you have been out there 15 hours and 59 minutes. Then you can wait there for 2 or 3 or 4 hours waiting for some type of transportation back into your home terminal and they can call you within 8 hours after they have relieved you out on the road.

So in that case you probably wouldn't even be in bed over 4 hours.

Mr. TIERNAN. In other words, say the 15 hours was at 12 o'clock at night and the company told you to knock off and it took you an hour or 2 hours to get from that location back to your home, into your bed. That would be 2 a.m. in the morning. They could call you at what time?

Mr. COUGHLIN. Six-thirty.

Mr. TIERNAN. An hour and a half before boarding time?

Mr. COUGHLIN. Yes, sir.

Mr. TIERNAN. You would have been in bed 4½ hours?

Mr. COUGHLIN. Correct.

Mr. TIERNAN. And you have to be on the job at 8?

Mr. COUGHLIN. Yes, sir.

Mr. TIERNAN. Conceivably you could work another 15½ hours?

Mr. COUGHLIN. Correct.

Mr. TIERNAN. Running a passenger train or would it have to be freight service?

Mr. COUGHLIN. Depends on what class of service they call you for.

Mr. TIERNAN. Is there any limitations on the qualifications of an engineer in freight or passenger?

Mr. COUGHLIN. Yes; there are on certain roads.

Mr. TIERNAN. Can men be qualified to run both?

Mr. COUGHLIN. Yes; most of our engineers are qualified.

Mr. TIERNAN. Suppose the man works a freight train under that example that you just gave. Could he be put on a passenger run at 8 a.m.?

Mr. COUGHLIN. He sure could.

Mr. TIERNAN. And then run that for 15 hours?

Mr. COUGHLIN. Yes, sir; if they had that situation they sure could.

The CHAIRMAN. Mr. Rogers.

Mr. ROGERS. Is it archaic to say that 100 miles is a day's work now, or what?

Mr. COUGHLIN. Oh, I wouldn't say it was archaic, Congressman, because we have many runs that they don't make the 12½ miles in an hour. These locals. These long locals don't make it because there is so much work involved.

There is maybe a type example of your high-speed freight runs that you could say that perhaps the 12½ miles is archaic, but I wouldn't say it as an overall rule of thumb that that is correct.

Mr. ROGERS. I wondered if it ought to be geared more to hours of work rather than mileage covered?

Mr. COUGHLIN. Well, of course, that is certainly a negotiable matter and something that we would always be more than willing and happy to talk to the carriers if they see fit to want to talk.

Mr. ROGERS. I just wondered.

Of course, I guess, the passenger trains have diminished in number but this still applies in passenger trains, too, doesn't it?

Mr. COUGHLIN. Well, there are a few left, yes.

Mr. ROGERS. Pardon?

Mr. COUGHLIN. There are a few passenger trains left but the way they are eliminating them I would judge that they will be out of existence in a short time unless something takes place.

Mr. ROGERS. Thank you very much.

Mr. VAN DEERLIN. Does the entire crew come on and quit work at the same time—the brakeman, the conductor, the engineer, altogether?

Mr. COUGHLIN. As a general rule I believe that is true. There are certain instances, however, on some individual railroads where the engine crews usually come on perhaps a little bit before the rest of the crew but on the average I would say that they do.

Mr. VAN DEERLIN. Would you ever have a situation where part of the crew's time was up and they had to get off, but the rest of the crew was still on duty?

Mr. COUGHLIN. We have had that numerous times, yes, sir; but never over a difference of perhaps 30 to 45 minutes.

Mr. VAN DEERLIN. It never presents any insurmountable problem?

Mr. COUGHLIN. I don't believe it has, no.

Mr. TIERNAN. In my own mind I am not clear yet.

In your earlier testimony you said 12½ miles on freight service is equivalent to 1-hour's pay; is that correct?

Mr. COUGHLIN. That was the rate and the distance that was established by the railroads when it was established.

Mr. TIERNAN. When was it established, in 1907?

Mr. COUGHLIN. I believe before that I would say so.

Mr. TIERNAN. Twenty miles on passenger runs is equivalent to 1-hour's work?

Mr. COUGHLIN. Correct. I believe it was 1917, if I am not mistaken. Right in there.

Mr. Ross. May I clarify the answers to two questions that were asked this morning so that the record is straight?

The CHAIRMAN. Identify yourself for the record.

Mr. Ross. I am Harold Ross, general counsel for the Brotherhood of Locomotive Engineers.

In reference to Congressman Van Deerlin's question in regard to the Fair Labor Standards Act, if you review section 7 of that act, you will see that the hours therein are not applicable to railway employees.

Secondly, in regard to Congressman Pickle's question as to whether any governmental agency such as the Department of Transportation or the Interstate Commerce Commission have ever submitted anything to this committee, there has been a letter presented. That was in the 1966 hearing before this committee, on the chairman's bill H.R. 8476.

At that time the Interstate Commerce Commission, per Charles Webb, stated that they supported enactment of H.R. 8476. The only qualification they placed on it was a peculiar provision in the bill with regard to a 9-hour day where you work without a fireman, but the ICC did support the 1966 bill and I would assume that support would clearly be applicable to this bill.

Mr. PICKLE. I have been trying to recall ever seeing a statement from the ICC at that time that they submitted, or would submit, a statement to us that these 16-hour trips were a safety factor.

They may have supported the legislation and I don't recall, but I do seem to recall that they were not making a flat statement that the

present practice was a safety hazard. If I am incorrect on that I certainly want——

Mr. Ross. I think you are correct in the assumption that you make, there was no flat statement, although they had correspondence related to the fact——

Mr. PICKLE. We asked the question and I think that was a factor, among other things, why the legislation wasn't advanced.

Mr. Ross. You will also recollect what they said at that time that they had never asked for the information in accident investigation as to the hours on duty of the employees involved in accidents and, therefore, they couldn't come out and give you the information that you wanted and I think during the hearings several of the Congressmen said you ought to start taking that information.

Mr. PICKLE. Well, I certainly think we ought to ask that specific question and with appropriate examples that you mentioned or any others because I think we should have that kind of statement in our files.

Mr. SKUBITZ. I would like to ask the witness one more question.

Mr. Coughlin, is this matter of limiting the hours of service of employees a negotiable matter or nonnegotiable matter?

Mr. COUGHLIN. It is a nonnegotiable matter insofar as the maximum is concerned. I would say that is my understanding.

Mr. SKUBITZ. Insofar as this legislation is concerned, if this committee in its wisdom would follow the recommendations of the President's Railroad Commission, as stated in the testimony of Mr. Chesser yesterday on page 22, and cut the hours down, say 1 or 2 hours the first year and an hour the following year, would this make sense to you or is this nonnegotiable as far as you are concerned?

Mr. COUGHLIN. Oh, it is not nonnegotiable, no. We would be more than happy to discuss it with the carrier. Anything that would improve our situation we would discuss with them.

Mr. SKUBITZ. If the committee decided to do that, this would be acceptable to you?

Mr. COUGHLIN. No. We are asking the committee to put the limit on it, Congressman, as it comes up here, and the Congress is asked to do something. We might as well correct the situation once and for all.

Mr. SKUBITZ. This is a nonnegotiable thing as far as you are concerned, 12 hours or nothing; is this correct?

Mr. COUGHLIN. Well, that is what we are asking in the bill. The evidence, I think supports our position there.

Mr. SKUBITZ. I notice the President's Commission, for example, said it should be one hour in 1962, and then this didn't happen, and they recommended an additional hour in 1963 and said:

> We urge 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.

Mr. COUGHLIN. Of course, you want to remember, Congressman, that has been some 8 years ago.

Mr. SKUBITZ. But the point that bothered me is that the Commission said, "We urge the parties to continue to study the possibilities of lowering,"—I stress the words "possibilities of lowering." In my mind one can only infer that to go lower should be studied.

Mr. COUGHLIN. Well, I don't believe that the Presidential Study Commission made that recommendation insofar as the maximum hours

now per se. They did make that recommendation but it had to do with the impact on wages of the employees.

It was strictly in line with what they were discussing at that time, that was the employees' request for improvement in the wage structure.

Mr. SKUBITZ. Thank you.

Mr. ECKHARDT. I just want to clear up one point in my own mind.

There has been a good deal of talk about miles and hours. So far as this act is concerned, 16 hours simply means 16 hours, it is not a translatable with respect to miles, is it?

Mr. COUGHLIN. That is correct.

Mr. ECKHARDT. In other words, there are some arbitrary considerations with respect to pay and miles and hours but as far as limitation of 16 hours work permitted under the bill, operating work, that means just 16 hours?

Mr. COUGHLIN. That is exactly what it means, yes, sir.

The CHAIRMAN. If there are no further questions, we want to thank you gentlemen for coming and being with us and giving us the benefit of your views.

Mr. COUGHLIN. Thank you for your attention.

The CHAIRMAN. Mr. McGuire, would you come back to the stand, please?

## STATEMENT OF W. S. McGUIRE, LOCAL CHAIRMAN, DIVISION 92, BROTHERHOOD OF LOCOMOTIVE ENGINEERS—Resumed

The CHAIRMAN. Mr. Adams.

Mr. ADAMS. I have no questions of this witness, Mr. Chairman.

The CHAIRMAN. Mr. Eckhardt.

Mr. ECKHARDT. No questions.

The CHAIRMAN. Any further questions?

It seems there are no further questions of you, sir, so we are glad to have you back.

Mr. MCGUIRE. May I say something, Mr. Chairman?

The CHAIRMAN. Yes.

Mr. MCGUIRE. I don't want to leave the gentleman over there, the Congressman, with respect to his question——

Mr. CHAIRMAN. Mr. Van Deerlin?

Mr. MCGUIRE. I believe that was the gentleman.

He raised a question about the Fair Labor Standards Act. I don't want to leave him with the impression that the railroad employees as such are covered by the act. This is not the case.

My statement was with respect to the Fair Labor Standards Act and it is possible that some railroad employees could become later covered with respect to the agreement having been consummated between the Department of Transportation and certain carriers.

I want to make that point clear.

The CHAIRMAN. Do you have any further questions?

Mr. VAN DEERLIN. No, this point was made by one of the earlier witnesses just a moment ago. There is one question that I do have since you are back.

May an engineer on a passenger line take a train more than 200 miles on a given day?

Mr. MCGUIRE. Yes, sir.

Mr. VAN DEERLIN. He may?

Mr. MCGUIRE. Yes, sir.

Mr. VAN DEERLIN. Thank you.

Mr. SKUBITZ. If he can do that, suppose his run is 180 miles and the present agreement provides at a day is 8 hours or 180 miles on a pasenger train——

Mr. MCGUIRE. Go ahead.

Mr. SKUBITZ. Suppose he completes his trip in 4 hours—which is possible—could he take a train right back to the point of original destination and get 2 day's pay for it?

Mr. MCGUIRE. Yes, sir.

Now that you have raised the question I personaly have what we call doubled the road many times in passenger service and I have done it on occasion, hand-fired a locomotive 400 miles without rest.

Mr. SKUBITZ. How many hours did it take to do it?

Mr. MCGUIRE. I was so tired when I got back at the terminal I couldn't even get my watch out of my pocket to look at.

Mr. SKUBITZ. What I am getting at, on a run from Kansas City to, say, 180 miles south, a fellow could make that run in 4 hours?

Mr. MCGUIRE. Would you repeat that, sir?

Mr. SKUBITZ. From Kansas City, Kan., down to, I believe, Joplin, Mo., is considered a day's run. It actually takes 3 or 3½ hours?

Mr. MCGUIRE. Yes, sir.

Mr. SKUBITZ. Could the employees get a train from Joplin to Kansas City, and get 2 days' pay in that 8-hour period?

Mr. MCGUIRE. I am not quite certain I understand the question.

Mr. SKUBITZ. Let me state it again.

From point A to point B is a distance of I would say 180 miles.

Mr. MCGUIRE. Let us take 180 miles.

Mr. SKUBITZ. That is considered a day's run on the passenger line. That takes 3 hours and a half. The engineer immediately takes a train from point B back to point A and the round trip takes 8 hours.

Does he get 2 full days' pay for 8 hours he worked?

Mr. MCGUIRE. He would get the pay. He would get twice the pay, yes. That is what we call doubling the road. In other words, if they are short of men and conditions warranted it and the engineer thought he could make it, in most cases he would go along. It is not a standard practice, you understand.

Mr. SKUBITZ. It is not a case of going along. I can remember a couple of years ago when some of the engineers wanted that sort of thing.

Mr. MCGUIRE. I am here talking about the humanitarian aspect of the 16-hour law and I want to reiterate my position that I humbly plead with you and this committee to pass this legislation. We need it. I am a man from out on the field, I work on the locomotive, I work with other men and believe me, it is a big job.

And these hours are too long.

And I am quite certain if you were driving, well say, to Washington from Pittsburgh over the old route, rather than the new superhighway, and something happened, bad weather, snow, you put in about 12 hours, you are getting pretty weary.

So you can imagine, sir, what a locomotive engineer feels like, when you compound these problems, and he has a lot of responsibility out there.

One mistake could be his last. He only has to make one error. And for this reason, and the reasons that have been propounded here by all interested witnesses on behalf of this testimony, this legislation is needed, gentlemen, most urgently needed.

The CHAIRMAN. Thank you for your testimony.

This will end this portion of our hearings. The committee on this particular legislation will reconvene on July 8. I believe that is the tentative schedule to hear the carriers and other interested parties. And we will complete the bill at that time and then we will take up other legislation.

So the committee now stands adjourned until tomorrow morning at 10 o'clock when the committee goes into executive session.

(Whereupon, at 11:45 a.m. the committee adjourned, to reconvene on Tuesday, July 8, 1969.)

# HOURS OF SERVICE ACT AMENDMENTS OF 1969

TUESDAY, JULY 8, 1969

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

The committee met at 10 a.m., pursuant to notice, in room 2123, Rayburn House Office Building, Hon. Harley O. Staggers (chairman) presiding.

The CHAIRMAN. The committee will come to order.

The Committee on Interstate and Foreign Commerce is continuing today with hearings on H.R. 8449 and some 30 similar bills concerning the Hours of Service Act of 1907.

Our first witness this morning will be our colleague, the Honorable Michael A. Feighan of Ohio.

Welcome, Mr. Feighan, it is good to have you with us today. Proceed as you see fit.

## STATEMENT OF HON. MICHAEL A. FEIGHAN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF OHIO

Mr. FEIGHAN. Mr. Chairman, I am grateful to the committee for the opportunity to present testimony in support of my bill, H.R. 10125, which amends the Hours of Service Act by reducing the maximum number of hours that can be worked by railroad employees engaged in the operation of trains.

Three years ago when hearings were first held on proposals to amend the Hours of Service Act, I was privileged to testify before the distinguished members of this committee in behalf of the legislation. At that time, there was great exultation by all sponsors of these proposals since it marked the first time that formal congressional hearings had been held on the Hours of Service Act since its enactment in 1907. It was readily acknowledged then that action to amend this 60-year-old law was long overdue and that effective legislation was required to assure the safety and well-being of both employees and travelers upon railroads. Certainly, Mr. Chairman, in the 3-year period that has elapsed since these first hearings, the need for meaningful legislation has not lessened. If anything, it has intensified.

Since enactment of the Hours of Service Act in 1907 and particularly since the advent of the diesel locomotive, we have witnessed a tremendous technological advance in rail operations. Trains have become longer, speeds have increased and greater responsibility is borne by a severely reduced railroad work force. With such progress and such dramatic change in operations in this period, it is incredible that no provision has been made to achieve a more realistic work-hour limit

for railroad employees. The year 1916 saw the standard workday reduced to 8 hours, yet under the 1907 act, trainmen are frequently subject to 16 hours of continuous service in 1 day. There is no question that a 16-hour workday dulls a man's senses and greatly impairs his performance on the job. The fatigue brought on by long hours of consecutive duty is the primary cause of careless accidents. In addition to the need for safety, we must consider the human factor involved here. For an employee's own health and well-being, he should not be required to work 16 hours. There is a desperate need to provide the kind of working conditions that will not only assure acceptable hours for our hard working railroad employees but will also provide safety for our rail passengers. My bill satisfies these requirements and I urge the committee to report this legislation favorably to the House.

For the interest of the distinguished members of the committee, I would like to state briefly the provisions of H.R. 10125. The bill:

(1) Reduces the permissible number of hours of continuous time on duty from 16 to 12 hours.

(2) Makes it unlawful 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 during the preceding 24 hours.

(3) Exempts crews of wreck or relief trains for time needed to clear the track to permit the movement of trains.

(4) Limits telegraphers, dispatchers, and other employees using electrical or mechanical devices in directing control of train movement to 9 hours in any 24-hour period when two or more shifts are employed and to 11 hours where one shift is employed.

(5) Provides that time on duty shall include interim periods available for rest of less than 4 hours and time spent by an employee traveling to or from his duty assignment.

(6) Increases the penalty for each violation to $500.

My bill also applies to all employees actually engaged in or connected with the movement of any train on the tracks of the common carrier. This insures that employees handling intrastate traffic are to be covered when working on tracks of interstate carriers.

I believe these provisions are responsive to the needs of the railroad employees who at this time are forced to cope with the potential hazards of long hours and little opportunity for rest between assignments. Adequate working conditions must be given to rail employees and high safety standards must be guaranteed to rail passengers. I urge favorable action by this committee.

The CHAIRMAN. Are there any questions? If not, then thank you again, Mr. Feighan, for the benefit of your views.

The Honorable Melvin Price, from the State of Illinois, is our next witness.

Welcome, sir. It is a pleasure to see you today. Please proceed.

## STATEMENT OF HON. MELVIN PRICE, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF ILLINOIS

Mr. PRICE. Mr. Chairman, while attempting to phrase my remarks to this committee on why a limit should be placed on the number of consecutive hours a railroad employee could be required to work, I

found my defense superfluous—the need for this type legislation was almost too apparent.

However, to avoid the possible misfortune of its being overlooked or held up by its seeming simplicity, I would like to take this opportunity to explain and justify it briefly.

Essentially H.R. 9627 and its related bills perform a valuable service by removing the assumption that a railroad employee can perform the superhuman feat of working to his full capacity for the presently allowed 16 straight hours. Casey Jones was great, yes, but under normal circumstances, human beings have certain basic requirements such as food and sleep to be able to function efficiently.

Related to this and infinitely more consequential is the safety aspect. Allowing a man to work under pressure for this extended period of time can only result in toying with possible disaster. Personally, I wouldn't feel entirely safe knowing that the engineer on the train I was riding hadn't slept in a 24-hour period. Nor would I feel particularly safe knowing the same applied to the switchman or any of the men involved so closely with an operation of this size and importance.

My bill requires that any employee actually engaged in or connected with the operation of any train who has been on duty continuously for 12 hours must be released from duty for at least 10 consecutive hours. In addition, an employee must not be required to go on duty if he has not had at least 8 consecutive hours off during the preceding 24 hours. The only exception would involve crews of relief trains or wreck trains who may be permitted to remain on duty for a longer period 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.

Section 3 of this bill regulates the hours of those who control the movement of any train even more strictly. No more than 9 consecutive hours in a 24-hour period for those employed where there are two or more shifts and no longer than 11 hours in that same period of time where there is only one shift.

Penalties of $500 on common carriers, officers, or agents requiring or permitting any employee to go, be, or remain on duty in violation of these terms will be imposed for each violation.

Thank you for listening. I think the significance and necessity of this bill is obvious. There is no alternative to its passage.

The CHAIRMAN. Thank you, Mr. Price, for your fine though brief statement.

Our next witness this morning is Mr. Rex R. Manion, vice president, operations and maintenance department, Association of American Railroads. Mr. Manion.

## STATEMENT OF R. R. MANION, VICE PRESIDENT, OPERATIONS AND MAINTENANCE DEPARTMENT, ASSOCIATION OF AMERICAN RAILROADS; ACCOMPANIED BY PHILIP F. WELSH, COUNSEL

Mr. MANION. Good morning, Mr. Chairman, gentlemen. With your approval I will introduce Mr. Welsh, counsel for AAR, Philip F. Welsh.

The CHAIRMAN. For the record, Philip F. Welsh; okay.

Mr. MANION. My name is R. R. Manion. I am vice president, operations and maintenance department, Association of American Railroads, a voluntary association composed principally of class I railroads with headquarters in Washington, D.C. The members of this association operate about 93 percent of the mileage of all railroads in the United States, and their annual revenues amount to about 95 percent of the total annual revenues of all railroads. Their employees represent approximately 95 percent of all railroad employees.

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 have worked in the engineering, maintenance of way, and operating departments.

I appear on behalf of the members of the AAR in opposition to H.R. 8449 and other pending bills to amend the Hours of Service law.

My testimony will constitute a general overview of the railroad industry's position, and many of the points that I will deal with will be expanded upon in detail by other witnesses who will follow me.

Before I present my statement, I should like to make two preliminary observations. The railroad industry's position on the pending bills stems from the inherent physical character of the railroad industry and the operation of trains. In order to understand the problems presented, it will be extremely helpful for the members of the committee to have an explanation of the operating background. This will include definitions and descriptions of the different kinds of railroad service, such as passenger service, through freight service, local freight service, and yard service, and a description of the way in which different kinds of trains operate. In the interest of conserving time, I have written a brief description of the railroad industry and its operations, which it attached to my statement as appendix A, and I hope that the members of the committee will have an opportunity to read it. The problems presented by the hours of service proposals are, unfortunately, complicated and complex, and it is difficult to discuss them without going into the specifics of concrete railroad operations. I believe that appendix A will aid you in understanding those operations.

Second, I know that on its face, opposition to reduction of maximum hours below 16 for railroad operating employees appears archaic, as an outmoded attitude of a hardhearted industry. This, I believe, is a false impression, and I hope I will be able to show you that our position is grounded in fact and reason and not blind resistance to change.

### 1. THERE IS NO EVIDENCE THAT RAILROAD SAFETY REQUIRES A REDUCTION IN THE HOURS OF SERVICE

The present law was enacted in 1907 to promote the safety of employees and travelers on railroads, and the essential purpose of the law has always been recognized as one of safety. It is not and was not social or economic legislation.

In hearings before a subcommittee of this committee in 1966 on bills quite similar to H.R. 8449, the proponents, primarily the Brotherhood of Locomotive Firemen & Enginemen, expressly stated that safety was the sole and exclusive justification for the bills, not social or economic reasons. However, supporters of the present bills declare that, in addition to safety, "social and humanitarian" considerations form at least part of their case. Nevertheless, I gather that safety is really the paramount consideration and it is therefore essential to consider whether the safety argument has any factual basis, and I will consider that question apart from the alleged social and humanitarian considerations, which I will discuss separately.

The position of the railroads—in 1966 and today—is that there is no evidence that present hours of service are causing railroad accidents. Witnesses supporting the bills in 1966 offered no evidence showing a casual connection between working hours of operating employees and railroad accidents, and the witnesses supporting the bills in 1969 offer no such evidence, either. Indeed, Mr. Chesser conceded that there are no "direct current statistics showing the relationship between long hours an accident occurrence."

In the hearings before a subcommittee of this committee in 1966, testimony was given by the Chairman of the Interstate Commerce Commission—which at that time had the statutory responsibilities in the fields of railroad safety and hours of service that now belong to the Department of Transportation—and he was asked specifically whether the Commission had any factual evidence showing that long hours of work by employes are a cause of accidents. His reply was that the Commission had "no facts or figures on this."

Following the 1966 hours of service hearings, the chairman of this committee wrote to the chairman of the Interstate Commerce Commission and requested a review of information in the Commission's files concerning accidents to determine whether there was any correlation between employees' hours on duty and railroad accidents. On March 2, 1967, the Commission filed with the committee its study of the subject. After reviewing the data considered, which included a sample of serious accidents and other data, the Commission stated in conclusion:

> While some accidents could possibly have been caused by long hours of duty, we were unable to develop any conclusive information to establish such correlation.

From these circumstances, the railroads surmised that this committee did not act favorably on the 1966 proposal because it was not satisfied that they had a proper factual basis and that more information was required. Certainly the response from the ICC in March of 1967 failed to supply this need, and the proponents of the 1969 bills have likewise failed to supply it.

These bills would have far-reaching and costly consequences, as will be shown later. Congress should not adopt them without a solid factual foundation establishing a safety justification. We believe that the proper source of definitive information would be a scientific and medical investigation of the effects on railroad operating employees of hours of work, fatigue, and other factors conducted under the auspices of the Department of Transportation or other governmental agency. No such investigation has yet been made.

## 2. RAILROAD OPERATING EMPLOYEES AS A CLASS DO NOT WORK EXCESSIVE HOURS

And as I am saying this, you might wish to look at my appendixes B and C, which are the results of recent studies and the study the last time around.

Proponents of the pending bills assert broadly that the present hours of service of railroad operating employees deprive them of relaxation, family life, and opportunity for nonrailroad activity, and are inhuman. This committee should not be misled by those arguments.

It is true that some railroad operating employees—on some occasions—work long hours. Sometimes they work up to the limits of the 16-hour law. However, this is certainly not a universal, or invariable, or general rule.

The true test of whether hours of service conflict with social and humanitarian considerations is not the amount of time a man is on duty on a particular day, but the average number of hours he is on duty per week throughout a year, and the amount of time he spends at home.

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 they actually work, the number of miles they actually run, the total number of trips of which at least a minimum day's pay was paid, and other information pertaining to employee compensation. From these figures, average hours worked per week have been computed for the calendar year 1968. These averages cover the different classifications of employees in passenger service, freight service, and yard service.

The computations show that the average hours worked per day by railroad operating employees vary among the different kinds of service that I have mentioned in appendix A, which describes the general nature of railroad operations and service. The following averages cover both straight time and overtime:

In passenger service, the traincrews average 33.5 hours per week; engine crews, 29.6 hours per week. In through-freight service, traincrews averaged 29.2 hours per week; engine crews, 28.2 hours per week. In local and way freight service, traincrews averaged 52.4 hours per week, and engine crews averaged 51.4 hours per week. In yard service, traincrews averaged 38.5 hours per week, and yard engine crews averaged 43.4 hours per week. All 18 classes of railroad operating employees worked an average of 38.5 hours per week in the year 1968.

Contrary to assertions of proponents of the bills, the average weekly hours of railroad operating employees in 1968, as compared with the average weekly hours of the same groups of employees for the year 1964, are actually less; they are smaller for the average of all 18 classes of operating employees. This comparison appears on the tables attached to my statement as appendix B and appendix C, which indicate there is no rising trend in the number of hours that are being worked. Appendix B shows employment, average hours, and compensation of train and engine service employees for class I railroads for 1968. Appendix C shows the same information for the year 1964.

Employees in the different classes of operating service, who work the average hours that I have mentioned, obviously have adequate time for family life, rest, pleasure, and nonrailroad activities. It is a well-known fact—even outside the railroad industry—that many railroad employees work a substantial number of hours on 1 day, and then may not work at all for 2, 3, or even 4 days, during which they may well carry on independent businesses and pursuits of their own. The proponents of H.R. 8449 have failed to take into account the fact that passage of this bill will mean more time away from home and reduced earnings for many men. We do not think those so affected will regard the bill as a humanitarian measure.

A very important factor limiting the work of operating employees is the maximum mileage provision in railroad collective bargaining agreements. These provisions fix a maximum number of miles that an employee can be operating within a month. When he reaches the maximum number, he is not supposed to work any more. The maximum is not a guarantee but a ceiling.

One of the standard mileage figures is 3,800 per month in freight service. Suppose, as an illustration, that a freight service employee works a train from A to B, a distance of 150 miles, and then works another train back to A on the same day, a round trip of 300 miles. Such tours of duty are not uncommon. This employee would reach his maximum mileage in approximately 13 days and under the collective agreement would not be able to work during the remainder of that month. This employee would have 17 nonworking days in any such month. These mileage limitation provisions, as I say, are in collective bargaining agreements that were entered into by representatives of the employees themselves.

Apropos of social and humanitarian considerations—such as the 8-hour day and the 40-hour week—both of these are standard in the railroad industry for all employees except the operating crafts, and the reason they do not apply to the latter is that the inherent character of railroad operations makes them impracticable.

H.R. 8449 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 industry, made up of engine and train service employees: engineers, firemen, conductors, brakemen, and switchmen. There were approximately 165,446 such employees in service in 1968 on class I railroads—out of a total railroad work force of 590,536 on class I railroads for the same year—and they are represented today by two principal labor organizations, the United Transportation Union and the Brotherhood of Locomotive Engineers. These organizations, and their predecessors, are among the oldest labor unions in the United States, with a long history of effective collective bargaining on behalf of their members and a position in the American labor movement that has caused them to be referred to on a recent occasion by a President of the United States as the "aristocrats" of the American labor movement.

In comparison with other industrial employees in the United States, operating employees have more than held their own. Their average annual and weekly compensation for the year 1968 are also shown in the table on appendix B, attached to my statement.

The weekly average compensation of $198.53, for 18 classes of operating employees, compares favorably with the 1968 average of $122.51 weekly gross earnings for production workers on the payroll of nonagricultural businesses, and $132.07 for productive workers in the durable goods industry. In 1968, the average annual compensation of 18 classes of railroad operating employees was $10,380, as compared with average annual estimated earnings for full-time manufacturing employees of $7,330.

With respect to other employee benefits—vacation, holidays, health and welfare benefits—railroad operating men compare favorably with nonrailroad workers.

3. THE PROPOSED HOURS OF SERVICE LIMITS WOULD CAUSE DRASTIC DISRUPTIONS IN THE CONDUCT OF RAILROAD OPERATIONS WITHOUT FURTHERING SAFETY

Since 1907, the hours of service limits in existing law have been a fundamental ground rule of the railroad industry. Operations have been laid out and train movements scheduled with reference to the allowable working time available under that law. Terminals and crew change points have been established with reference 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 existing law. These arrangements for running the railroads have made sense.

The proponents of H.R. 8449 dismiss too lightly the serious practical problems which this measure, if enacted, would create not only for the railroads but also for the operating employees who would be directly affected. We feel that the Congress must know about these problems and weigh them very carefully.

In the short time allowed us, we have conducted a survey of representative carriers operating in different sections of the country to evaluate the impact of H.R. 8449. We believe that this survey accurately reflects what Congress can expect if this bill becomes law.

The consequences will vary, of course, with particular classes of service—to a certain extent—from railroad to railroad. Generally, the impact will be the greatest on road freight service where "aggregating" is common, on branch line turnaround freight service, and on yard operations in which the men frequently "double."

For example, take the case of a crew which now works a freight from A to B, a distance of 165 miles, in 6½ hours, lays over at B for 3½ hours, and then works another freight back from B to A in 6 hours. Their total time away from home is 16 hours, but they earn 3.3 days' pay. The particular men involved will not make this move every day. With the 3,800 mileage limitation, they could only make it about 12 times a month.

Under the proposed law, this type of operation would not be possible, because all of the 16 hours elapsed time would be counted as "on duty" and would, of course, exceed the 12-hour limitation. The men would have to stay at B for at least 8 hours before they could start back to A. If they are released at B for 4 hours but less than 8 hours, the operation described above would violate the provision in section

2(a)(2) of H.R. 8449 that a man may not continue on duty when he has not had at least 8 hours off duty during the preceding 24 hours. They could not even be safety deadheaded back to A because the time spent deadheading would have to be counted as "on duty" even though they were in no way engaged in running the train and management could not be reasonably sure of their return to A within 12 hours after departure. In order to accommodate the men during their layover at B, the company would incur additional meal and lodging expense and would, in many cases, be required to construct and operate meal and lodging facilities. The men would each have to spend a minimum of 4½ hours more away from home per round trip. At 12 round trips a month, this would mean 54 more hours "on the road" a month, with no change in income. We question that they would be very enthusiastic about this.

In any particular situation of this kind, there would be a variety of possible solutions. I have mentioned only one in connection with the hypothetical being considered. Another possibility would be to cut the run from A to B in half, to stop the crew 82.5 miles out from A so that the men could work 82.5 miles out and 82.5 miles back in the same day without an 8-hour layover at the midpoint. In this way, the daily mileage for the crew would be cut in half. The men would either suffer a 50-percent reduction in income or they would have to work twice as many days a month in order to preserve their income level.

Consider also turn-around branch line service. In this example, a crew operates on a branch line from A to B and back again in 1 day. Typically, there would be two crews assigned to this service, each operating on alternate days. If the distance between A and B is 65 miles, the assignment totals 130 miles. The basic pay for the assignment would be 1.3 days' per round trip. However, overtime would start after 10.4 hours, and, since these assignments generally involve a good deal of switching en route, they regularly generate overtime. We can assume that the men will usually consume 15 hours per day, earning 4.6 hours' overtime at 18.75 miles credit for each overtime hour—total 86.25 miles for overtime. Consequently, on the average day, the men will record 216.25 miles—130 times 86.25—and thus will receive 2.1625 days' pay.

If H.R. 8449 becomes law, this type of branch line operation will obviously have to be changed. Again, a number of alternatives are available. B could be established as a home terminal, with one crew operating on a given day from A to B, resting at B, with a new second crew operating the training back from B to A. This would involve establishment of rest and eating facilities at B or at least additional meal and lodging expense at that point. It would mean that the men would have to work twice as many days, each trip would involve a night away from home—deadheading from B to A would be out—whereas, now the men are home every night, and the men would be denied the right to substantial overtime earnings.

Another alternative would be to lighten the load by putting another train on the run and dividing among two trains the work now done by one. In this way, each train could get from A to B and back again in 1 day. However, this would involve the railroad in a substantial investment for added equipment, additional train miles, and

more wage expense. At the same time, the men working this assignment would be denied the opportunity for overtime earnings and thus would have to work more days per month to preserve their income level.

Still a third alternative would be to run from A to B one day and then back from B to A the next. This would mean less-frequent service to shippers, meal and lodging expenses at B, and reduced daily earnings for the crew.

There is also this to be considered in evaluating the impact of H.R. 8449 on branch line service: These operations now are frequently only marginally profitable. Any change adding to the carrier's expenses or reducing income by driving traffic to competing modes through reduction in the quality of rail service may render a particular operation unprofitable. In such case, the carrier will be required to consider seriously abandonment of the line altogether.

The impact of H.R. 8449 on yard service, where the basic day is 8 hours, would be dramatic. It would prohibit "doubling"—that is, working two successive shifts—when the press of work in relation to available manpower requires it, the second shift being paid for at time and one-half rates. In view of the fact that the second shift does involve overtime pay, the carriers would prefer that men do not double. For the same reason, the men do like to have the opportunity for substantially increased earnings.

The principal problem confronting the carriers in this connection is one of manpower. We simply do not have and cannot get the men necessary to man our yards without doubling. If the men in our yards cannot double, their earnings will be reduced to the point where we think we would lose many of the men we now have. As a result, yard service would inevitably be seriously impaired, with resulting congestion and delays which would affect all our service adversely and lead to diversion of traffic to competing modes.

4. THE PROPOSED AMENDMENT OF THE LAW WOULD BE INJURIOUS TO THE RAILROADS, DETRIMENTAL TO SHIPPERS, AND DISADVANTAGEOUS TO OPERATING EMPLOYEES

A. EFFECT ON RAILROADS

In order to determine the effect on the industry of the pending bills, 11 representative railroads were requested to conduct detailed and exhaustive studies. Those 11 railroads, which are a fair cross section by any standards, are Atchison, Topeka & Santa Fe, Baltimore & Ohio, Louisville & Nashville, Missouri Pacific, Norfolk & Western, Penn Central, Reading, Seaboard Coast Line, Southern, Southern Pacific, and Union Pacific.

These roads were asked to make a comprehensive analysis of their entire systems for a test period 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, including, of course, the effect of provisions for deadheading. The study was conducted and witnesses from several individual railroads will present testimony based upon studies made on their roads.

Each road selected a recent day in its own operations and conducted a systemwide study of all operations on that day. They determined, on an hour-by-hour, 24-hour basis, the actual facts about the working time and the off-duty time of operating employees. They applied the provisions of H.R. 8449 to determine which of them would have exceeded the proposed limits and which would not. They next made what might be called a constructive 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 railroad operating departments that have day-to-day responsibility for running the railroads.

The total additional cost in annual operating expense for the 11 road systems of complying with the provisions of H.R. 8449 was estimated to be $147 million. The main categories of expense for which costs were estimated were additional train miles resulting from the runnings 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 other additional expenses. The gross additional capital investment for the 11 railroads was estimated to be $212 million for the cost of new locomotives, cabooses, rest facilities, and other expenses. The estimates varied considerably from railroad to railroad, reflecting the diverse operating conditions that exist throughout the country.

The operating expenses of the 11 railroads are nearly 60 percent of the total operating expenses of all class I line-haul railroads of the United States. Based on these facts, it is obvious to us that enactment of this legislation would increase the annual operating expenses of all class I railroads in the United States by more than $200 million and their gross additional capital investment by more than $300 million. This does not include the costs of railroads other than class I roads, though many other smaller railroads would be covered by the law. It does not include the costs that would result from section 3 of H.R. 8449, which would reduce the hours of service of employees who use telephone, telegraph, radios, and other electrical and mechanical devices in connection with the movement of trains. The special studies that were conducted did not cover that section of the law. We believe, however, that section 3 would also add substantially to railroad costs.

I have attached to my statement a table giving breakdowns of the cost estimates arrived at by the 11 study roads, marked appendix D.

This enormous outlay would contribute nothing to railroad safety. There is no evidence whatever to prove that considerations of safety require reductions in the hours of service limits.

In addition to increasing operating expenses unjustifiably 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 their present flexibility.

### B. 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. Those

on branch lines might be served every other day instead of daily and some would some would lose rail service altogether if such lines were 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. If operating expenses are increased by reducing hours of service limits—as they would be—the public interest in reduced transportation charges will suffer. Costs and rate reductions will be much more difficult to make, and there is no question but that the bills would have an inflationary effect, contrary to a paramount national objective at the present time of countering and restraining inflation.

Tight freight-car supply, as this committee knows, has been a continuing problem of the railroads. They are buying as many new cars as possible to help meet this situation. If the hours-of-service bills should add more than $200 million of new annual operating costs, plus a capital outlay of over $300 million, we would reasonably expect the railroads to be able to buy fewer freight cars rather than more. The main victims of freight-car shortages, of course, are the shippers and the commerce of the country.

### C. EFFECT ON RAILROAD OPERATING EMPLOYEES

The investigations on the 11 test railroads disclose that the bills would adversely affect many railroad employees, and the possible results in lowered morale and increased conflict properly concern the carriers.

The studies on the test 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 proposed limits might not lose pay, but many others would.

As part of the studies that were conducted, the test railroads were asked to provide an estimate of the number of employees who would have their earnings reduced and the average monthly reduction in pay of those employees. The 11 test railroads reported that over 18,000 employees would have their earnings reduced and that such employees would suffer an average monthly reduction in earnings of more than $200. The total dollar loss for the operating employees of the test railroads who would be adversely affected was estimated to be more than $40 million per year.

It is easy to see, in a concrete case, how this loss of earnings would occur. An employee who now runs a 200-mile round trip 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 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 earning losses.

The 11 test railroads were also asked to calculate the number of employees who would be required to spend additional time away from their home terminal if the pending bills were enacted and the average monthly amount of additional time that would be spent away from the home terminal. The estimated number of employees who would be required to spend such time away from home on the test railroads was over 11,000, and the average monthly amount of additional time per employee so spent was estimated at 110 hours.

Consider the foregoing figures in light of the claim that the bills would further "social and humanitarian" ends. It is no doubt true they would reduce the hours of service, but they would increase the time away from home, away from an employee's normal relaxation, and away from his ordinary nonrailroad pursuits. We believe 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. The proposed law would dislocate their lives seriously.

Our investigations show that in instance after instance the assignments that have long hours have been chosen by 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 desired 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 the character of the assignments and the hours of 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 other assignments, with shorter hours—is another answer to the charge of inhumanity that is made by the proponents of the bills.

### D. EFFECT OF BILLS ON EXISTING LABOR AGREEMENTS

If the hours-of-service law were amended, the railroads would have to make extensive changes in their operations to comply with the amendments. Many of the things they would be obliged to do would run counter to the provisions of existing labor agreements and would require such agreements to be renegotiated. The problems that would arise in this regard will be discussed with you by Mr. J. P. Hiltz, Jr., a witness before your committee.

### 5. THE INEVITABLE RESULT OF THE PENDING BILLS WILL BE TO MAKE WORK BY CREATING NEW JOBS ON THE RAILROADS

The 11 test railroads were asked to calculate the number of additional employees they would require if the bills were enacted. The aggregate number of additional employees that would be required by the 11 test railroads was nearly 9,000. In our considered opinion, all of the class I railroads in the United States would require at least 12,000 additional employees.

6. DEADHEADING SHOULD NOT BE COVERED BY THE HOURS-OF-SERVICE LAW

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 train crew—and operate it on to a different point. They may go out to relieve another train crew 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 or unavailable for some reason. 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. 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. Deadheading is a widely used operating practice.

The first thing to note is that the employees are riding as passegers in the most suitable means of transportation available. They are not working. The second thing is that they are being paid for all travel-time. 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.

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 employees are aggrieved over railroad practices in regard to deadheading, their recourse is to seek a remedy through collective bargaining. 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.

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. 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 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 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 obliga-

tion would be in direct conflict with the duty to obey the hours of service law as amended.

However, under another provision of H.R. 8449—section 1(b)(3)(A)—periods available for rest "at other than a designated terminal" will be included as time on duty. Consequently, if a crew reaches the hours of service limit in the country and is relieved there, it will still be on duty for hours-of-service purposes because it is not relieved at a designated terminal. In this situation, the railroad will be obliged to violate the law, whatever it does, which, of course, is an absurd result.

Suppose that a train crew 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 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. And if my understanding is correct, point A would have to be a designated terminal for us to be able to even do that. You can imagine what this amendment would do to the operation of the country's railroads. There are many situations in which this deadhead amendment would disrupt and disorganize efficient, synchronized operations of the railroads.

### 7. SECTION 3 OF H.R. 8449 IS UNCLEAR AND UNJUSTIFIED

Section 3 of H.R. 8449 would revise and expand the provisions of existing law prescribing special hours of service limits for operators, train dispatchers, and other employees who handle train orders and would establish new hours of service limits for covered employees. The new limits would be extended to employees who direct or control train movements by designated means, a function not previously covered by the hours of service law, and they would apply to employees who use radios and other electrical or mechanical devices for that purpose. The use of radios and other electrical or mechanical devices is not covered by the existing law.

The present 9- and 13-hour limits for this special class of employees become 9- and 11-hour limits, and the installations to which they would apply would be differently defined.

There is no evidence that these changes are required by railroad safety. No accidents have been caused by long hours of work of employees who are covered by the existing law, or of the new classes of employees who would be covered by the amended law. Telegraph operators and train dispatchers normally work an 8-hour day and a 40-hour week. These employees work beyond the normal workday in emergency situations when extended services are needed.

The language of section 3 is vague and uncertain. Many different employees may be said to direct or control train movements by using

telephones or radios. This group could conceivably include yardmasters, trainmasters, stationmasters, superintendents, operating vice presidents, railroad presidents, and other supervisory officials. These employees are not covered by the existing hours of service law, and they sometimes work very long hours. There is no reason to limit the time of such people.

The present law is well understood and there is no reason for changing it. The amendments would give rise to numerous problems of interpretation. We believe there is no justification for changing the time limits for this special class of employees under existing law.

I thank you very much for the opportunity to appear before your committee.

(The appendixes referred to in Mr. Manion's statement follow:)

## APPENDIX "A"

### Nature of Railroad Industry and Railroad Operations

Railroad operations are not limited to confined locations at fixed places like those of manufacturing and most other businesses. They are extended over space through every state in the Continental United States, reaching and serving thousands of cities and towns. In 1968, there were approximately 209,000 miles of railroad lines on line-haul railroads, not including yards, sidings, and parallel tracks. Total trackage, in 1968, was 340,000 miles. Railroad lines traverse every kind of terrain in this country. All of the roads in the United States constitute a single connected network for cars and trains moving freely from railroad to railroad.

Rail operations are moving operations, consisting of cross-country movements of trains between thousands of points. In 1968, freight trains moved a total of 429 million miles on Class I railroads, and passenger trains moved 123 million miles, a total of 552 million train-miles.

There are different kinds of railroad operations and different kinds of service in which railroad employees work, and these should be described.

The main types of service are train and yard. The main kinds of train service are freight and passenger. Freight service is broken down into through and local freight and there are also converted-through freight, mine-run freight, and switching freight service. In the different kinds of train service, crews may operate trains from a home terminal to an away-from-home terminal and after a brief layover operate back home, or they may remain at the away-from-home terminal for periods of eight hours or more before coming back. When the layover away from home is less than eight hours, the combination of outward and return trips is called "aggregating." If the crew has eight or more hours off duty at the away-from-home terminal, it is said to have "full rest" and to be starting a new 24-hour period under the Hours of Service Law.

Through freight service consists of the operation of freight trains over a railroad line between major terminals or division points. A division is a major operating segment of a railroad with headquarters at a division point. A railroad system commonly includes a number of such divisions. Through freight trains often operate over a railroad according to a schedule or timetable. Other through freights do not operate on schedule or timetables.

Through freight train crews usually run between fixed points. Normally a through freight train is operated by a series of crews, each operating the train between a regular pair of terminals and turning it over to a new crew at the end of the run. The new crew runs the train on between its pair of terminals. In a typical operation, the crew that works a train out in one direction works another back in the reverse direction after a layover of at least two or three hours and less than eight hours at the away-from-home terminal. The outward trip is aggregated with the return trip. Crews are often assigned to a pool of crews at the home terminal. Pool crews may be rotated on the basis of first-in, first-out, both at the home and away-from-home terminals. Some crews are assigned to specific trains that operate on fixed schedules in both directions. There are many kinds of arrangements.

The length of a run depends on the distance between points, traffic on the line, weather, terrain, and many other factors. Distances between freight terminals in through freight service are ordinarily 100 to 175 miles. In a typical

operation, through freight trains work an outbound run in from three to seven hours. Crews stay at the away-from-home terminal for varying lengths of time depending on the number of other crews in the pool and the schedule of trains returning through that point in the home direction. The crew may be at the away-from-home terminal from two to three hours up to eight hours and possibly more.

Another kind of freight service is local freight, sometimes referred to as "way" freight. These trains stop at numerous points along the line, drop off cars for delivery and pick up cars for transportation elsewhere. Locals usually work out from terminals or central points. They are slower than through freights because of numerous stops they must make and the amount of switching they do. Local freights make way for passenger trains and through freight trains. The number of such trains varies from road to road. A local freight is often assigned to a specific run between fixed points. Local freights often operate over branch lines, and serve small towns and localities, rather than over main lines that serve larger cities. Local freight crews are paid a higher rate than passenger and through freight crews.

Local freights may run from a headquarters to a point at the end of the run in one day and operate back the next day, in which case the crew takes rest at the away-from-home point. Or they may go out and back in one day. Hours on duty in local freight vary considerably. Locals often work long hours in harvest seasons and at times of heavy business activities of industry along the lines that have cars to be switched in and out.

Another fairly common form of service is known as mine-run freight service which consists of the movement of empty cars to mining areas, switching cars within such areas, and the hauling of loaded trains back to terminals.

Passenger trains are faster than freight trains and the distances run by passenger crews are longer than those of freight crews. Runs of 150–300 miles are not uncommon. Because of their greater speed, passenger trains often take less time than shorter freight runs. Passenger crews are frequently assigned to specific pairs of trains operating in opposite directions instead of working out of pools, this being referred to as "assigned" service, and crews often aggregate passenger runs. A familiar illustration is the Penn Central service between Washington and New York. Train crews work up and back on the same day. Typically they are on duty six hours going up and six hours coming back with a release in New York of about three hours. The six-hour periods include not only actual travel time over the road but preliminary time on duty before the trip begins and time on duty at destination after the trip has ended but before employees are relieved.

Another major category of railroad service is yard service. A yard is an area within defined limits, where outgoing trains are made up, incoming trains are broken up, and cars are classified and sometimes stored. Yard work is done by yard crews consisting of engineers, conductors, and brakemen. Yard forces may also include switch-tenders and yard masters.

Some yards operate around the clock in successive eight-hour shifts. Others operate for two eight-hour shifts and others for only one. Yard employees ordinarily work eight hours a day, five days a week and are paid on the basis of time worked, not mileage.

The labor force at a yard normally consists of employees assigned to regular shifts and other employees listed on a "yard extra board." The latter employees are a stand-by force who are called for duty when regularly assigned employees are not available. Men move from the extra board to regular assigned duties on the basis of seniority.

These descriptions indicate briefly some of the complexity of the operations of a railroad. Operations of this kind obviously do not permit the use of narrow limits in scheduling the work of operating employees such as are used in manufacturing industries where the eight-hour day is the rule.

Cross-country movements of trains take time. Railroads operate around the clock every day of the year. Different kinds of trains move at different speeds. Trains must connect with other trains on the same line and at junction points and with other railroads. Many outside factors influence the amount of time that trains will take in getting over the road. These include the weather, equipment problems such as hot boxes, traffic density, loading and unloading requirements at the plants of shippers, and the arrival of connecting trains. Time, in a word, is an all-pervasive, ever-present consideration in the day-to-day operations of a railroad system. Apropos of the eight-hour day, most employees in the railroad industry, except for the operating crafts, are on an eight-hour day. The reason that operating employees are not is that the inherent character of railroad operations makes it an impracticable standard for them.

APPENDIX B

EMPLOYMENT, AVERAGE HOURS, AND COMPENSATION—TRAIN AND ENGINE SERVICE EMPLOYEES, CLASS I RAILROADS, YEAR 1968

| 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 | 2,533 | 34.0 | $11,584 | $221.56 |
| 112 Ticket collectors | 1,919 | 36.3 | 10,790 | 206.37 |
| 115 Baggagemen | 882 | 32.8 | 10,247 | 195.98 |
| 116 Brakemen and flagmen | 2,318 | 31.0 | 10,119 | 193.53 |
| Total passenger train crews | 7,652 | 33.5 | 10,787 | 206.31 |
| 121 Engineers | 2,946 | 30.3 | 13,097 | 250.48 |
| 125 Firemen | 2,327 | 28.7 | 11,569 | 221.26 |
| Total passenger engine crews | 5,273 | 29.6 | 12,422 | 237.58 |
| Through freight service: [1] | | | | |
| 113 Conductors | 8,366 | 30.9 | 11,520 | 220.34 |
| 117 Brakemen and flagmen | 19,387 | 28.5 | 9,658 | 184.71 |
| Total through freight train crews | 27,753 | 29.2 | 10,219 | 195.45 |
| 122 Engineers | 10,043 | 28.4 | 12,515 | 239.35 |
| 126 Firemen | 5,648 | 27.8 | 9,868 | 188.73 |
| Total through freight engine crews | 15,691 | 28.2 | 11,562 | 221.13 |
| Local freight service: [1] | | | | |
| 114 Conductors | 6,267 | 53.3 | 12,663 | 242.19 |
| 118 Brakemen and flagmen | 12,852 | 52.0 | 11,383 | 217.71 |
| Total local freight train crews | 19,119 | 52.4 | 11,803 | 225.74 |
| 123 Engineers | 6,442 | 52.1 | 14,507 | 277.45 |
| 127 Firemen | 2,980 | 50.0 | 11,403 | 218.80 |
| Total local freight engine crews | 9,422 | 51.4 | 13,525 | 258.68 |
| Yard Service: | | | | |
| 119 Conductors | 18,887 | 40.9 | 10,000 | 191.26 |
| 120 Brakemen and helpers | 38,616 | 37.4 | 8,367 | 160.02 |
| Total yard train crews | 57,503 | 38.5 | 8,903 | 170.28 |
| 124 Engineers | 16,003 | 44.9 | 11,099 | 212.27 |
| 128 Firemen | 7,030 | 40.0 | 8,766 | 167.65 |
| Total yard engine crews | 23,033 | 43.4 | 10,386 | 198.65 |
| Total, 18 classes, passenger, freight, and yard service | 165,446 | 38.5 | 10,380 | 198,53 |

[1] See note 1 at end of app. C.

ource: Computed from ICC Statement A–300, year 1968.

APPENDIX C

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 | 2,618 | 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: [1] | | | | |
| 113 Conductors | 8,039 | 30.6 | 9,531 | 182.28 |
| 117 Brakemen and flagmen | 19,436 | 27.5 | 7,686 | 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 throught freight engine crews | 17,865 | 27.4 | 9,252 | 176.95 |
| Local freight service: [1] | | | | |
| 114 Conductors | 5,555 | 56.8 | 11,467 | 219.31 |
| 118 Brakemen and flagmen | 12,474 | 54.8 | 10,330 | 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.

[1] 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 3 or more points, or when the time consumed in picking up or setting off cars exceeds 1 hour and 30 minutes in the aggregate during the trip, the crew will be paid local freight rates for the entire trip. The local freight rate is somewhat higher 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.

APPENDIX D

*Summary of systemwide cost estimates under the provisions of H.R. 8449*

| *Item* | *Amount* [1] |
|---|---|
| 1. Annual operating expense: | |
| (*a*) Additional train-miles | $44, 743, 952 |
| (*b*) Additional payroll expense not requiring additional train-miles | 49, 608, 826 |
| (*c*) Additional locomotive expense | 23, 929, 244 |
| (*d*) Additional rest facilities | 1, 371, 468 |
| (*e*) Additional meal and/or lodging allowances | 7, 384, 903 |
| (*f*) Other cost items | 20, 269, 570 |
| Total | 147, 307, 963 |
| 2. Gross additional investment: | |
| (*a*) Locomotives | 200, 069, 802 |
| (*b*) Cabooses | 10, 351, 829 |
| (*c*) Rest facilities | 2, 100, 450 |
| (*d*) Other | 81, 600 |
| Total | 212, 603, 681 |

[1] Based on data submitted by 11 test roads.

The CHAIRMAN. Thank you, Mr. Manion. You say that the present laws are suitable and no reason for changing?

Mr. MANION. Yes, sir.

The CHAIRMAN. How long has the law been in existence?

Mr. MANION. Over 60 years, since 1907.

The CHAIRMAN. Most other laws governing everything in America have changed in that time, have they not?

Mr. MANION. I don't know about all of the other laws, but I do know that during this period of over 60 years there have been many agreements made that affect the conditions under which these employees work, including rest periods.

The CHAIRMAN. I said "most of the other laws"; I mean for most of the employees that work for a living under contracts and so forth, the laws have been changed for shorter hours, have they not—child labor laws, 8-hour law, 40-hour week, many other changes have taken place?

Mr. MANION. Yes.

The CHAIRMAN. But this has not changed?

Mr. MANION. Well, I think these others have a different situation.

The CHAIRMAN. You know if you work a horse 12 hours, you would have every humane society in America hollering at you and you would stop it the next day; I believe you would.

From everywhere there will be a terrific hue and cry, and I don't doubt but what there should be and there will be. I will get hundreds of letters and every one of the Congressmen here will get hundreds of letters for inhumane treatment to that animal, because I have gotten some before on this same subject.

I am not sure but what if the railroad system would exercise some of the vision and the ability they have—and they have great men such as you and many of the others—that I think that you could accommodate yourself to a 12-hour day if you would exercise all of the expertise, all of the know-how, and all of the other things you might be able to do, instead of saying: "We are going to stand pat with some-

thing in effect 60 years when everything else has been changing all around."

I believe this.

Mr. MANION. Well, you have not asked me a question, but I would like to comment. As the table shows and as our studies have shown, the majority of the employees do not work these long hours.

The CHAIRMAN. We know that.

Mr. MANION. I know you do, because you have been there. As a matter of fact, I think you have done this yourself personally. Take, for instance, the road freight crews, the long freight runs; it is the exceptional case where the crew gets involved in long hours, and our studies show, and we checked back incidentally on some of the examples that were in Mr. Chesser's table and statements, and we found for the through freight runs a man might encounter something like a trip like that once a month and in the meantime he is not working every day, either, and the people that are really having the long hours are in general the branch line or other local crews, the switch locals; and the amazing thing is, they ask for those runs. If these hours were so difficult and were so trying on them, I can't imagine why the man who has really the choice would ask for these long runs unless he thought they were pretty good.

The CHAIRMAN. I don't think it has anything to do with the law that is before us. You mentioned what Mr. Chesser has to say. Here is testimony from a man who testified before the committee. W. B. McGuire, and he mentions here the different hours he had to run, and in one 5-day week, 71 hours and 30 minutes. I know these are exceptions and I know the railroad industry can take care of all of these with just a little readjustment because these are the small, very exceptional groups. I don't see why all of this amount of money it is going to cost you, I just don't believe it.

I believe with a little energy put toward the fact of readjustment, these could be taken care of easily. I hate to think in America that we say we still have an industry that works a man 16 hours and sometimes they work a lot longer than that. I can't see why we can't get this job done in 12 hours when most of industry can do it in 8 hours.

This thing of efficiency, we do know that men get tired and we do know they are less efficient after a certain period of time. That is only a matter of fact. The human body can only take so much.

I know we can bring up all kinds of statistics. The ICC does not keep records on efficiency. They don't ask it in their questions, as you know, in these railroad actions, but I know you and I get tired, and all of the men get tired; so I just make that as a statement.

Thank you so much for your testimony.

Mr. Friedel.

Mr. FRIEDEL. Mr. Manion, you have made a very good case for the railroads and I want to compliment you. In previous testimony from Mr. Chesser, chief spokesman for the unions, we were offered charts which showed case histories of hours worked by individual trainmen and engineers including a chart that showed where one man worked 15 hours and 59 minutes and another 15 hours and 10 minutes.

He also mentioned a case where there was a five-man crew which had to return to its place of departure, they were deadheading back, but

they had only two bunks on the caboose so three men had to stand up. Do you care to comment on this?

Mr. MANION. I think we can do a little better than that actually, Mr. Friedel. We have sent those charts out to the railroads where they were named and we have gotten back a number of responses from these railroads, showing what the work month or the work week was like for the particular crews that were involved.

If you would like, we will supply those responses to you for your study and the record. I think it would be quite useful because they show quite a lot of interesting information.

With respect to the accommodations on the particular caboose, I can't really, because I don't know what railroad that was you were talking about or even what caboose you might have been talking about, but I traveled on cabooses, too, and generally you can accommodate a lot of people rather comfortably on a caboose, particularly the modern ones.

(See letter dated July 17, 1969, on p. 159.)

Mr. FRIEDEL. But that testimony was documented; you can look it over and refute that if you can, but I wanted you to know that it was in the record.

Then you said the long runs are the exceptions and that the men ask for it themselves. If they are only exceptions and not the general rule then how can it possibly cost as much money as you stated—$200 million or $300 million?

Mr. MANION. I think I can give you an illustration. These long runs—and I didn't say the long runs were exceptional, but what I said was, the long hours of service on a through freight rate are exceptional. It is occasional when something occurs that is out of the ordinary that delays one of the trains, that ties it up on the road or approaches the hours of service limit.

When you stop to think that the whole fabric of railroad operations, the location of terminals, the scheduling of trains, the scheduling of trains from one railroad to another, and the connections they make, are all built up within a framework of this law, and you shorten that, then you no longer can depend on being able to get these trains from one terminal to another within the permissible time limit and you would have to change all of these terminals or all of these run lengths, you would have to change their schedules.

Mr. FRIEDEL. Well, if you change the schedules, you would probably make other arrangements so that they wouldn't have to work all of these long hours. It might work a little hardship for 1 year, but in your testimony, you said there would be extra costs each year. There might be an original outlay for some equipment, but you said there would be extra costs every year.

Mr. MANION. I said additional operating expense for each year and additional capital outlay.

Mr. FRIEDEL. Well, once it is done, it is done.

Mr. MANION. Well, you would also have higher wage costs and more people.

Mr. FRIEDEL. Can you give me a little clearer definition about how you figure your overtime? I didn't get it clearly. I understood that even if they worked 16 hours, there was no overtime pay. Is this correct?

Mr. MANION. This gets to be kind of complicated and usually runs into a complicated discussion that runs into a lot of questions, and if you don't mind, I would like to defer it to one of the fellows that works

with this thing all the time. I would stumble over that one, I think.

Mr. FRIEDEL. Thank you.

The CHAIRMAN. Mr. Harvey.

Mr. HARVEY. No questions at this time. Thank you for your statement.

The CHAIRMAN. Mr. Rogers.

Mr. ROGERS. Thank you, Mr. Chairman. I am not exactly sure how this 16 hours works with your maximum number of miles you discuss on page 6. Suppose, in a week's time—I believe you have a maximum time limit per months, is it; is that the way you generally work it, or per week or per day?

Mr. MANION. The limitation on the amount they can work?

Mr. ROGERS. Mileage.

Mr. MANION. That is a matter governed by agreement between the employees and the railroads. I have given here this situation.

Mr. ROGERS. Does that conflict with the working of the law on 16 hours or 12 hours? How does it jibe?

Mr. MANION. No; it is within that framework. In other words, in order to, I would say, in order to distribute the work more equally among the working force, the employees on the railroad have agreed in some instances that the road crews can work a certain maximum number of miles per month, at which time they have to lay off and somebody else gets the work. But within that framework they still are limited to not working longer than 16 hours.

Mr. ROGERS. Well, suppose if we were to change it to 12, would it be advisable to change the maximum number of miles?

Mr. MANION. I don't suppose it would be. They would have to work more days. They would probably, or an individual man would have to work more days in order to approach it.

Mr. ROGERS. But the hours would not be as long, would they?

Mr. MANION. In this situation.

Mr. ROGERS. Suppose by law we say that there shall be no maximum number of miles but maximum number of hours; how would that affect the situation?

Mr. MANION. I don't know. We would have to take a concrete example and work it out. I think what you are getting at the minimum now is this.

Mr. ROGERS. I understand in some trains they are 100 or 150 miles which is considered as a day's work.

Mr. MANION. That is right.

Mr. ROGERS. It might not take 16 hours but it might take 12 hours, right?

Mr. MANION. Yes, and the people who are now making those runs in less than 12 hours probably wouldn't be affected. The people who are affected are the people whose runs and working hours now exceed 12

Mr. ROGERS. Well, how would it affect those that do work the long hours if you just reduce the number of hours to 12 instead of 16, which is what is to be accomplished by the thrust of this legislation; when you remove mileage limitations, wouldn't it give greater flexibility in operating and still accomplish the goal the employees desire in working only 12 hours?

Mr. MANION. I believe this is what would happen: The men who average now over the 12 hours or work over 12 hours would either suffer a reduction in income or have to work more days per month in order to maintain their present income.

Mr. ROGERS. Well, I presume if you are going to keep the railroads working and reduce hours, somebody is going to have to work a few more days, but I understand from your testimony they are sometimes off 2, 3, or 4 days a week.

Mr. MANION. That is right.

Mr. ROGERS. This would probably require, this legislation, some of those men no matter whether you change the mileage or not presently, would have to work more hours or more days?

Mr. MANION. That is right.

Mr. ROGERS. Simply spread it out. But it seems to me it might facilitate the operation of the railroads themselves if you don't have a limitation of 100 miles or 150 miles but you make your limitations conform to 12 hours of work.

The CHAIRMAN. Would you yield?

Mr ROGERS. Yes.

The CHAIRMAN. I don't believe the limitation of miles is a matter of law but matter of negotiation between the unions.

Mr. ROGERS. I understand, but there is no reason it can't be a matter of law if necessary to accomplish the goal of cutting down the period of time that one works. This is the only thing I would like a comment on by the industry and how it would affect this, and I would be interested in knowing if you could supply it for the record.

Mr. MANION. If we have got your point, we will try to answer it.

Mr. ROGERS. I won't pursue it further now, but I will be glad if you have the answer to what I wanted.

(See letter dated July 17, 1969, on p. 159.)

The CHAIRMAN. Mr. Nelsen.

Mr. NELSEN. No questions.

The CHAIRMAN. Mr. Adams.

Mr. ADAMS. Thank you, Mr. Chairman. On your testimony on pages 12 and 13, you indicate there will be a great increase in cost and you indicate at one point that you would believe that 1,200 more jobs will be created if this goes into effect.

Now, I have a little trouble with that, Mr. Manion, because I have gone over some of the testimony in the past and I noticed that in 1948, when you had the nonoperating people negotiating on hours and your industry made the point that to establish a 5-day week, you said it would take you about 210,000 more employees because a 5-day week was put in for the nonoperating people.

But according to the ICC statistics, you had 1,012,000 people in 1948 and 937,000 in 1950 and 553,000 in 1960 and only 417,000 in 1967. So productivity and so on has gone up and you didn't need more people then, did you?

Mr. MANION. A careful examination of what has happened in this period of time will show that the railroads have had to exercise great ingenuity and make complete use of every possible technological improvement they could in order to bring up productivity, in order to get the work done that has to be done to run these railroads with a work force that they can afford.

And I believe—I am just picking this out of the air—I believe if you at the same time examine the cost of labor that goes into the total railroad costs over that same period, you will find it has gone up and that the percentage of the railroad dollar that is paid for labor is still over 50 or 52 percent.

Mr. ADAMS. I have the same kind of figures and same arguments when you went to the 5-day week being recommended for yard employees in 1950. At that time there was testimony that this would cause a great many more men to have to be hired, but in 1951 you had 93,000, in 1952 it was 93,000, and in 1955 it was 91,000, and in 1962 it is 82,000, and in 1967 it is 64,000; so instead of more jobs coming because you got into this kind of a situation, actually you dropped your job level throughout the industry, is that right, the number of people employed?

Mr. MANION. Yes, our job level has been dropping. I can't say that our business has been growing the way it ought it, either.

Mr. ADAMS. You also testified in here you have your terminals set up and an operating system based upon the 1907 law; I believe you testified to that on page 3 and again on page 13. Now, since 1907 you have increased your available speeds, too, particularly on your longer runs, and your efficiency in switching, communications, and so on.

Now, it would seem to me that in doing this, you have probably greatly reduced your running time between your terminals and also your original system of work and have been required to readjust these things during the years since 1907. You have made other changes, have you not?

Mr. MANION. I think that is correct, and the adjustments that have been made, of course, have still been made within the framework of the hours-of-service limitations.

Mr. ADAMS. Well, what I am getting to is this: Would another adjustment similar to the one you have made as you have increased your speeds and changed your communication systems and so on be possible in this case? It is not something that is at all impossible for the railroads to do, is it?

Mr. MANION. I don't think it is impossible, but I think it would be extremely costly.

Mr. ADAMS. Let us go to that cost factor. You testified there would be some costs of at least $147 million. We had testimony from the representatives of the Brotherhoods and, I believe, Mr. Chesser that only 8 percent of the people on the present railroad structure would be affected by this change.

In other words, we are dealing with people that are really down at the squeeze level in this bill. Those men who are doing 16 hours. In other words those who can, under your piecework system, do their 150 miles in 8 hours or 6 hours and be paid for it will not be affected by this bill. Those are naturally attractive jobs, but if we are dealing with only 8 percent of the people in the long-hour jobs and those that are on, you say, the branch line, I have a great deal of trouble in translating that this 8 percent could statistically on any other way cost $147 million.

Mr. MANION. Well, I don't think that Mr. Chesser and I quite agree on the number of people involved here.

Mr. ADAMS. Well, what is your percentage then?

Mr. MANION. We are saying that there are 18,000 people who would have their earnings reduced, and let me go back a bit; I think we are talking about the total work force.

Mr. ADAMS. The total work force, if you have 500,000, 10 percent is 50,000, so I imagine we are somewhere in the ball park.

Mr. MANION. Mr. Adams, I am talking about the number of people in the service; 165,000 is the figure, so we are talking about this.

Mr. ADAMS. You are talking about 12 percent, roughly, instead of 8 percent.

Mr. MANION. Yes. That one figure, that is the number of people who would have their earnings reduced, and we are talking about 11,000 people who would be affected on the amount of time they had to stay away from home.

Mr. OTTINGER. Will you yield?

Mr. ADAMS. In just a second I will. I have gone through at some length when the Brotherhoods were testifying about the piecework system, which, as I understand, it means the men bid on every mileage area throughout the whole country, and when you talk about people having reduced earnings or losing work, you are talking about the system remaining exactly the same as you have it now, and yet you have also testified that the system cannot remain the same as it is now if we change this law, because you are going to have to reorient your terminals and your running time; so really the two statements are contrary, are they not?

Mr. MANION. I think they are, and I think it points up what the next step would be. I think if this law—and I mentioned in here, I think I used the term "conflict"—if this law were passed, I am quite sure I know what the employees would require their union leaders to do next.

Mr. ADAMS. What you have here from your testimony is, throughout most of the country people can make these runs in less than at the 12½-hour rate that is given, at less than 16 hours.

All we are saying, if you go down to 12 hours, you can adjust your runs and not have men having to work 16 hours and then get very little sleep because they go back in 8 hours and, as I understand it, you require an hour and a half notice time before a man goes back on, so if you put an hour and a half notice time and you have worked him 15½ hours and you arrive at the terminal, he can't possibly go home and back and still receive more than 4 to 4½ hours' sleep; is that right?

Mr. MANION. In some cases that might be a fair assessment of it.

Mr. ADAMS. Now, is that what we are talking about; are there some cases; we are not talking about the whole industry but a safety-factor area and I want to ask you on that: You indicate there is no safety correlation. I don't believe we know. I have here ICC form T that has been referred to in these hearings, and there is nothing on this form giving hours of service, is there?

Mr. MANION. I don't believe so the last time I looked.

Mr. ADAMS. So there aren't any official statistics anywhere that we could tie to, to show a correlation between long hours worked and safety. I have checked with ICC, and for example in 1967 they only investigated 35 accidents out of some 7,000, so the ICC doesn't have any statistics. It is not a question that there is no proof that long hours cause a safety situation, but the problem is, there are no statistics which do this and probably we should have some.

The CHAIRMAN. Do you care to answer that?

Mr. MANION. That makes one of my points, I think, and that is, before we tinker with this thing and say that the law has to be changed for safety, we ought to find out.

Mr. ADAMS. Well, you did answer to the chairman, though, there is no question if you start at 20 hours and begin to work your way down, like with a horse or anything else, you get more tired as you serve longer and longer hours, and this has been proved throughout all American industry. You don't question that fact, do you?

Mr. MANION. I think the Chairman's question when he asked it, was related to or talking about the cost.

Mr. ADAMS. Strike out of my question any reference to the chairman's question. You don't question the fact as you move up over 8 hours and move out toward 20 hours, the longer a man works, the more tired he is, less efficient, and the more accidents you can have. You don't question that do you?

Mr. MANION. I don't question part of it.

The CHAIRMAN. Mr. Watson.

Mr. WATSON. Thank you, Mr. Chairman. Mr. Manion, pursuing the matter of safety just a little further, I have not attended all the hearings on this problem this year but I was present at most of the hearings in 1966 when we discussed this very matter, and just as the gentleman from Washington, I am disturbed that over the past 3 years, we have come up with absolutely nothing so far as establishing the relationship between the hours of service and safety. That is most unfortunate.

The committee, the able chairman, requested ICC to look into it, and their answer was: "We are unable to develop conclusive information to establish such correlation." Also, this applied to the proponents of this legislation over the past 3 years, when obviously they were alerted to the fact that there was a shortage of information so far as safety features. Yet we are still at exactly the same point as we were 3 years ago.

Now, that is disturbing to me, and I certainly applaud Mr. Chesser; he is honorable and honest, when he says there is no direct current statistics showing relationship between long hours and the accident occurrences.

I think we all might just agree with the basic proposition, as the gentleman from Washington said, the longer you work, if you are working, the more tired you get, and I assume that is a pretty fair assumption; but it is amazing to me that we have no statistics over the past 3 years; despite the fact that this committee has asked for some, we have no statistics proving that.

Now let us look one step further. Since the proponents of this legislation were so disturbed about the hours of service, and I am concerned about it, what has been the experience of the railroads about the number of requests for these long hauls? Have you seen any appreciable reduction in the bidding on these long hauls?

Mr. MANION. As far as I know, there has not been. We are going to have a couple of witnesses from some of the railroads.

Mr. WATSON. So far as you know, has there been any reduction in the demand for them or the bidding on them?

Mr. MANION. I believe not. But there are a couple of witnesses coming who can tell you what the experience on their own railroals is.

Mr. WATSON. It would seem to me that if safety is a factor there would have been a reduction in the number of requests of the bids on these jobs. As I recall, a very distinguished white-haired gentle-

man with great seniority testified some 3 years ago in this area and said he was willing to sacrifice his seniority to help some of the younger fellows.

Now, aside from the safety, which is in the same status as 3 years ago, despite the fact we alerted everybody that we wanted some more information, we are still completely in the dark.

Now let us look at the humanity aspect, and I am really concerned about that, as the chairman pointed out, that we don't work even the few mules we have, and so forth.

These hours of service, and I notice about the deadheading, and so forth, you state that is a matter for collective bargaining, but are these matters, matters for collective bargaining so far as the hours of service are concerned? I notice you have the legislative limitations.

Mr. MANION. If I understand your question correctly, there are many related factors in this that are matters for collective bargaining. For instance, on many railroads the engine crews and in some cases train crews have bargained and gotten agreement that permit them to demand and receive a certain amount of rest after working so many hours.

In other words, some of these conditions that were explained to us as being horrible examples on some railroads, the crews would not have to do that because they have made agreement that when they consider themselves as requiring additional rest they sign up for it when they come in and it can't be disturbed. Is that the point that you are trying to arrive at?

Mr. WATSON. Well, that is it. I mean the law establishes a maximum, I am sure, that you negotiate for hours of service or other benefits less than that, but I am disturbed about what we might do, what effect this legislation or other legislation might have on the rights of collective bargaining.

Let me ask you this: Despite the contention that this is very inhuman, again we still have people bidding, there is a clamor for these inhuman jobs.

Mr. MANION. Yes, the example of the through-freight train which is now quite often aggregated, I think, is an extremely interesting point, where these men will bid in jobs that require them to go both directions in 1 day, made a round trip. They take these jobs and they earn in effect 2 or 3 days' pay, they take these jobs that will have them work 12, 13, or 14 hours in order to get back home instead of having to lay over at the other end and because of the additional earnings they have made they can afford to stay home for a couple of days.

It is a pretty nice setup. I wish I had one like it.

Mr. WATSON. But deadheading and the inclusioin of that time as time on duty, that is subject to negotiation now and I believe you said that on page 19 that some existing labor agreements have such provisions within them; is that not true?

Mr. MANION. I didn't quite get your question.

Mr. WATSON. So far as the matter of deadheading, and the inclusion of that time as time on duty, I believe you said that some of the labor, existing labor agreements do have such provisions within them?

Mr. MANION. I don't think that is what I said. The deadheading time is time under pay.

Mr. WATSON. Whatever it is, on page 19 you say:

Deadhead travel has been the subject of collective bargaining in the past and is covered by provisions in many existing labor agreements.

Mr. MANION. That is right. The conditions under which they deadhead, the pay that they get for deadheading are matters that have been under collective bargaining. The thing I would like to repeat on this thing is that the way the bill is written right now, you have one completely impossible situation and that is you couldn't possibly comply with the law if the crew becomes outlawed on the road, you can't bring them home and you can't leave them. You are violating the law whatever you do.

Mr. WATSON. I listened to you as you told us about it, and on page 19 it apparently puts you in an impossible situation. I am sure that this Congress or this committee would never want that, but I am sure again people with your knowledge and others with you, can work it out so you can get the crew back in or what have you.

But we are disturbed about this thing, we still don't have any authorization and it is in two of the vital areas that we were searching for information 3 years ago, but still do not have it.

The CHAIRMAN. Mr. Ottinger.

Mr. OTTINGER. Thank you, Mr. Chairman. This is the most incredible bit of testimony I have ever heard. It is just inconceivable to me anyone could come before a committee of Congress in 1969 and argue that in order to be able to operate a business you have to work people 16 hours a day. It seems to me this is a carryover from the Dark Ages and if that is the situation in your industry, your industry needs quite a bit of change.

You say on one hand that this only affects people occasionally in situations where delay is unanticipated and yet on the other hand that 18,000 people will lose pay by these provisions.

Which is the truth? Is this something that does affect 18,000 people in the ordinary course of their jobs or is this something that happens occasionally when a delay can't be foreseen?

Mr. MANION. Mr. Ottinger, I think we are mixing up a couple of things here. We are not talking simply about keeping people from working 16 hours. We are talking about not permitting any of them to work over 12. We are also talking about not being able to double a yard crew.

Mr. OTTINGER. But they should be allowed to work 16?

Mr. MANION. At an outside limit. I think so. You say it is incredible. It is not too unusual.

We had a storm around here over the weekend that blew down the powerlines and shut off the lights and telephones and, how long do you think those people worked?

Mr. OTTINGER. It is just a rare occurrence that is caused by an unusual phenomena of that kind, or does it affect 18,000 people?

Mr. MANION. On some of the local crews it is pretty much of a regular thing that they work more than 12 hours and work in the neighborhood of 14 or 15 hours and maybe more than 15 hours. It is the nature of the operations on a local train where you move and switch. When you stop and think about this, you are not looking at just any ordinary industry, you are not looking at a manufacturing industry where a person stays at one point to do his work. This is

something like a crew on a ship, you know, they are practically on duty all the time, they might not be, they are on their bunk maybe, but they are right there.

This is a dynamic moving type of thing and you have to be able to make it move. You can't sit a guy at a desk and say, "You work 8 hours and you have done your work."

Mr. OTTINGER. I don't say it is that much different from trucking and airline travel, all of which have more severe limitations on their hours of work than you have provided and those are your competition, but with respect to the unforeseen delay, the rainstorm or whatever it might be that knocks out the service, it seems to me this act adequately protects you.

On page 6 of the act, subdivision (d) of section 4, reads:

> The provision of this act shall not apply in any case of casualty or unavoidable accident or an act of God, nor where the delay was a result of a cause not known to the carrier or officer or agent in charge of the employee at the time said employee left the terminal and which could not have been foreseen.

So, if the primary issue is unforeseeable delay, it seems you are adequately covered. If you are, in effect, talking about something that affects the lives of 18,000 people year in and year out, day in and day out, you are engaging in practices that emanate from the Dark Ages and ought to be changed and should have been changed a long time ago.

Mr. MANION. I think I have answered your point to the extent it is possible.

Mr. ADAMS. Will you yield?

Mr. OTTINGER. Yes.

Mr. ADAMS. What is your position, Mr. Manion, as to whether or not the provision (d) on page 6 does not avoid the situation that you referred to on deadheading, which is on page 2 starting at line 17? In other words, if, when the man leaves the terminal, you don't know that he is going to be stuck out there, then you are relieved of the provisions of this law. This law would prevent you from scheduling him out there and that is all. What is your position on that?

Mr. MANION. I don't think that the relief covers anywhere near the circumstances that arise in cases that result in crews outlawing.

Mr. ADAMS. Well, it says:

> If it is a cause not known to carrier or officer or agent in charge of employee at the time he left terminal, it could not have been foreseen and it covers everything it seems to me except the situation where you deliberately send him out there and know he is going to be stuck.

Mr. MANION. The interpretation of whatever body, now the Department of Transportation, which administers the law, their interpretation of what you should be able to foresee and what you can't is involved.

Mr. OTTINGER. Well, if it shows a tremendous amount of compassion for the degree of disruption it causes in the lives of employees and amount of lost pay they suffer and so forth, why do you think the representatives of the employees then are arguing for this act?

Mr. MANION. I think that is a real good question.

Mr. OTTINGER. No further questions.

The CHAIRMAN. Will you yield?

Mr. OTTINGER. Yes.

The CHAIRMAN. In the bill, page 3 at the bottom. It says:

Use of relief trains or wrecked trains may be permitted to remain on duty for a longer period than otherwise permitted by this section.

So, it takes care of that.

Mr. MANION. No; if you read on, it says, "until the track is cleared."

The CHAIRMAN. That is right.

Mr. MANION. So I can see a wreck train out there and outlawed as soon as the track is cleared and no way to get it back.

The CHAIRMAN. Somebody has not been thinking, then?

Mr. MANION. No.

The CHAIRMAN. They should have time for everybody to be cleared.

Mr. MANION. No; you would still be outside the law at that time because suppose they were on duty for 13 hours at the time, just the crew on wrecking had been there 13 hours at the time they got the track cleared, you can't go on.

The CHAIRMAN. For 16 hours?

Mr. MANION. Under the proposed bill, I mean.

Mr. CHAIRMAN. I would be apt to disagree. They would be counted on time, and I think that would be the interpretation of that.

Mr. MANION. No, sir; under wording of this proposed bill, you cannot because they would be on duty and they would be exceeding the hours-of-service law.

The CHAIRMAN. I don't believe this would be the interpretation but, if it is, we will correct it in the bill.

Mr. MANION. Mr. Chairman, that would help.

The CHAIRMAN. If that is one of the points that is disturbing you against the bill, we will change it so that you will not be held accountable.

Mr. MANION. That is just one item.

The CHAIRMAN. We will clear that one up.

The gentleman from Kentucky, Dr. Carter.

Mr. CARTER. What about the efficiency of these engineers after working 8 hours? Does it diminish sharply, or do you know?

Mr. MANION. I don't really think we know. We don't have any studies that I know of that measure their efficiency on that basis.

Mr. CARTER. After 12 hours, are they still just as efficient or after 15 hours?

This to me is quite a problem. Loss of lives is involved and the engineers have lives in their hands including the crews and at the different crossings. It seems that we may well be working people far beyond their endurance.

Mr. MANION. We have said we think this area should be studied.

Mr. CARTER. I think it is common knowledge the man's efficiency diminishes the longer he works, particularly on a job requiring great skill and careful attention such as an engineer's position does.

That is all I have to say, thank you, Mr. Chairman.

The CHAIRMAN. Mr. Blanton.

Mr. BLANTON. Thank you, Mr. Chairman.

Mr. Manion, you stated that you felt like this hours of service could be part of negotiations; is that correct?

Mr. MANION. Many of the areas that are involved in the working conditions surrounding the operation of this law can be and have

been negotiated, and if there are inequities involved, I think they can be straightened out.

Mr. BLANTON. Do you feel that the provision under this act, H.R. 8449, should be negotiated by the legislative?

Mr. MANION. Do you mean the maximum hours?

Mr. BLANTON. Yes.

Mr. MANION. I am not sure about that in my own mind.

Mr. BLANTON. Well, do you, or you don't feel it should be negotiated, it should be legislated?

Mr. MANION. I say I don't have any position on that with respect to the maximum hours. With respect to all of the other things involved in there, I think they can be. I think the things that people complain about, the working conditions that surround those things or are brought about by it, such as deadheading or not getting home, I think these things can be answered by negotiation.

Mr. BLANTON. But you still object to the bill even though you haven't got your mind made up about whether it should be legislated or negotiated?

Mr. MANION. Yes, sir.

Mr. BLANTON. Evidently you feel it should not be legislated?

Mr. MANION. I think I said that. I don't think it should be changed.

Mr. BLANTON. No further questions, Mr. Chairman.

The CHAIRMAN. Mr. Brotzman.

Mr. BROTZMAN. Mr. Manion, do I understand that maximum hours are not a subject of collective bargaining and negotiation? Is there any negotiation in any of the railroads relative to hours that an employee works?

Mr. MANION. I am not sure. There may be. I think Mr. Hiltz could probably answer better than I, because I don't know what negotiations are going on.

Mr. BROTZMAN. I don't think I have ever had a satisfactory answer on this, and it seems rather fundamental to what we are talking about here. I understand we don't have a study recording exactly the relationship between hours worked and fatigue as related to safety but, right there, I wonder does the National Safety Board have any statistics on this particular question?

Mr. MANION. I don't believe anybody has.

Mr. BROTZMAN. It is my understanding that a particular agency is supposed to determine the proximate cause——

Mr. MANION. You are talking about the National Transportation Safety Board?

Mr. BROTZMAN. Yes. They are supposed to come up with what is known as proximate cause, and it would seem to me this might involve supplying this information. If they are determining proximate cause, then if the fatigue of a particular employee is in some way contributing to a particular accident, it would seem to me that fact should show up in a report.

I wonder if this source has ever been probed by the railroads or unions, and perhaps I should also ask "by this committee" because it seems to me they should be a source of this kind of information.

Mr. MANION. I have read the reports that the National Transportation Safety Board has published so far, and I have not seen any report that I would recall where this point had been involved. Of course, they

have only been in operation a relatively short time, as you know.

Mr. BROTZMAN. Now, back to the question I asked you originally. Undoutedly in your capacity you are familiar with the contracts openly arrived at between carriers and the unions; right?

Mr. MANION. Yes.

Mr. BROTZMAN. Now I will ask you this question to try to get a specific answer: Have you ever seen in the body of such a contract a limitation on hours of work?

Mr. MANION. I don't recall that I have.

Mr. BROTZMAN. Now, the second question: Do you know if there is any collective bargaining on this particular point between employees and unions and railroads in this country now?

Mr. MANION. Whether it is active or not I don't know. I think there have been some statistics.

Mr. BROTZMAN. Do the unions come in and make a point of this in the collective bargaining?

Mr. MANION. Again, I think I would like to defer this to Mr. Hiltz. I think he is in much better position to talk about it.

Mr. BROTZMAN. All right, a related question, and that relates to the maximum mileage provision. I understand this is a subject of negotiation; right?

Mr. MANION. Correct.

Mr. BROTZMAN. My question is, is a maximum mileage provision related to safety? Is this to try to limit in some way the time that an employee works or are there other considerations that give rise to this particular position?

Mr. MANION. As far as I know, it is not related to safety at all.

Mr. BROTZMAN. What, in your opinion, is it related to?

Mr. MANION. Distribution of work among the work force.

Mr. BROTZMAN. That means the 3,800-mile limitations?

Mr. MANION. Let me say this. I think at least in some cases it is to keep the men lower down on the seniority roster from getting discouraged because they don't get enough work to make a living. It limits the amount of work the persons higher on seniority can perform so the fellow down the list gets better work.

Mr. BROTZMAN. I see. A little while ago, you were about to testify what you thought the next step would be in the event this particular law was passed and I wonder what is the next step, in your opinion?

Mr. MANION. I think we were talking about employees whose earnings would be reduced and I said the next step would be a clamor by them to take whatever steps necessary to get themselves restored to their previous level which means my cost estimates are understated on this.

Mr. BROTZMAN. No further questions.

The CHAIRMAN. Mr. Tiernan.

Mr. TIERNAN. Thank you, Mr. Chairman.

With regard to your statement, Mr. Manion, you make a point in the beginning of the statement that previous witnesses have testified on factors in the bill other than safety, and I would have to say your statement, probably two-thirds of it, relates to matters other than safety. I think probably you would want to reply to those points that are raised but I find on page 7 you make great reference to the two strong unions representing these employees and how they have done

effective jobs. In fact, you referred to a reference by a president to the quality of the representations by their leaders and representatives. Yet in response to Mr. Ottinger's question, you didn't reply, you said, "That is a good question," and I have not heard your answer to the question "Why these gentlemen come before us and say it is in the interest of their people that the law be reduced from 16 to 12 hours."

Also, you relate to us other economic factors rather than the point that they raised. I just have not heard your answer to the question. Are you saying that you know what is in the best interests of these employees better than the gentlemen that represent them?

Mr. MANION. No, I think probably my response would have been clearer if I said, "That question occurred to me, too."

Mr. TIERNAN. Would I say then to this comittee that you know what is in the best interests of those employees better than the men representing them?

Mr. MANION. I couldn't possibly say that, no.

Mr. TIERNAN. Okay. Also, in response to the chairman's question, you say that you think you have shown to the comittee what this would result in. Yet I find in the statement you refer to only estimates and you say that "we believe." This, of course, goes back to the question of Mr. Adams concerning the previous testimony before these committees with regard to what the effect of the change in law would be. I think he has clearly demonstrated that thef acts after the enactment of the law have been shown to be contrary to the testimony given by the industry to the committee.

Along that line, has the industry ever made a survey with regard to the accidents that occur as a result of the engineer or a conductor working long hours or rather because of work fatigue? Has the industry ever undertaken that survey?

Mr. MANION. No.

Mr. TIERNAN. But you can undertake a survey in such a short time to present to this committee estimates from the nine representative lines as to the effect this bill would have on those railroads and yet you can't present us with any survey that the industry would undertake with regard to the safety factors involved in work fatigue?

Mr. MANION. That is correct. We were working here with figures that exist, specific things you can go out and get your hands on.

Mr. TIERNAN. You don't have figures with regard to accidents?

Mr. MANION. We do not have the basic information.

Mr. TIERNAN. You can't ask those nine lines to provide you with results of accidents on the lines involving work fatigue? Couldn't you request this of your members?

Mr. MANION. We could request it, but I don't think they could give it to us because I don't think they have the basic information.

Mr. TIERNAN. When a carrier has an accident on your line, don't they make investigations?

Mr. MANION. Indeed they do.

Mr. TIERNAN. They do. Don't they, as Mr. Brotzman indicated, have some kind of examination as to the proximate cause of the accident, whether it was a hotbox on the axle of one of the cars or whether it was a faulty bed or whether it was a switch that was not properly turned?

Mr. MANION. They do. But, as far as I know, there are no studies that relate the hours of service to fatigue.

Mr. TIERNAN. I am not talking about studies, but I am saying if you requested the same nine lines to give you a report on last year's accidents and what in their opinion was the proximate cause, along with contributory factors involved, couldn't you get that information?

Mr. MANION. We have that information and we get it from the Department of Transportation records now, except that it does not treat with this point you are making.

Mr. TIERNAN. Yes, but couldn't you request your companies?

Mr. MANION. I don't believe they have the basic information to answer the question.

Mr. TIERNAN. I am not asking that. You are not answering my question. I am saying, "Couldn't you request?" In other words, if you wanted to come to the committee and show us, in fact, work fatigue was not a factor in any accident last year, couldn't you document that statement before this committee?

Mr. MANION. I doubt it.

Mr. TIERNAN. You doubt it?

Mr. MANION. Yes, sir.

Mr. TIERNAN. Yet you say that every one of these accidents are investigated by the companies involved and you say that you couldn't document it. That does not seem right.

Mr. MANION. I don't think you can document the question about fatigue because that is not something you can put your finger on.

Mr. TIERNAN. You can come before us and say that last year there was not one accident involving a crew that worked more than 12 hours.

Mr. MANION. That is something else.

Mr. TIERNAN. You can show us that, couldn't you?

Mr. MANION. That is something else. I think that we can get a survey that would relate the number of hours.

Mr. TIERNAN. That is all I am asking you, Mr. Manion, because you did get a survey with regard to how the bill might affect the cost to the railroads and I think if you really wanted to show us what the bill is intended for, safety, you could have gotten a survey with regard to safety. That is all I suggest.

I think the industry should, so that if, in fact, there is no question of work fatigue being a safety factor, and I think Mr. Watson and other members of this committee indicated, and the chairman said we have stopped working mules and other animals long hours, yet we allow an industry to keep a man on a job up to 15½ hours, subject to 1½-hour modification, and you could have him back on this train the next morning with 5½ hours' sleep to operate for another 15 hours.

That, to me, is a very serious practice. I think you must recognize it even though it is a small percentage, 8 or 12 percent of the cases.

Mr. ADAMS. Would you yield?

On the point, you do have records, both of the accident and of the payroll, or piecework records that reflect how many hours a man works, so those two factors alone would give you a statistical correlation on 12 hours up to 16 hours; wouldn't they?

Mr. MANION. In most cases, I think you could do that.

Mr. OTTINGER. Would the gentleman yield?

The CHAIRMAN. He has gone past his time.

Mr. Brown.

Mr. BROWN. Mr. Manion, on page 6 you comment that railroad workers, because of unusual work schedules, may well carry on independent business pursuits of their own. Do you have any figures that indicate whether or not railroad employees do generally have other sources of income and other ways in which to spend their time?

Mr. MANION. I don't have any myself. I understand some surveys have been made by some roads, though.

Mr. BROWN. Could you supply any surveys in this area that would help us?

Mr. MANION. Yes. There is a recent one that I know of and we will ask for it and supply it.

(See letter dated July 17, 1969, p. 159.)

Mr. BROWN. On page 9 you have given an example in the second paragraph of a crew which works a freight from (A) to (B), distance of 165 miles, in 6½ hours and lays over at (B) for 3½ hours and works another freight back from (B) to (A) in 6 hours.

The total time away from home is 16 hours, you say, but they earn 3.3 days' pay. You lost me when you converted the hours into days' pay.

What I want to know is, during that period of time, for what are they paid?

Mr. MANION. Well, the 165 miles is controlling in this case.

Mr. BROWN. That is what I was afraid of, and I am not sure I understand that mileage arrangement with reference to pay. Are they paid for 12½ hours or paid for 16 hours?

Mr. MANION. 230 miles are paid for.

Mr. BROWN. Are you telling me that they are paid by the mile and not by the hour?

Mr. MANION. That is right. The discussion that they had here a week or so ago when the hearings were on, and also in a paper presented by one of the boys from the organization, explains the dual rate of pay; they are paid by the time or the miles, depending on which one controls.

Mr. BROWN. Am I then to understand that we are asked to change legislatively the hours of service and to leave to collective bargaining the mileage provisions?

Mr. MANION. What you are asked to deal with here has nothing to do with the rates of pay or the method by which the rates of pay are arrived at. What this proposed legislation is dealing with is a maximum limit of time that a man can work and then what all goes into including time on duty with relationship to that maximum number of hours.

Mr. BROWN. Then it does have a bearing on how they are paid?

Mr. MANION. Yes.

Mr. BROWN. Well, their earnings are what they are paid and that is what I am trying to get at. We are asked to regulate the maximum hours of service and for what a man is paid during the period of hours he works?

Mr. MANION. And by regulating the maximum hours of service, it upsets the whole fabric, the way this thing is done, so the man either has to work more hours, more days in a month to make the earnings he now makes or makes less money.

Mr. BROWN. I don't know if you have a copy of Mr. Chesser's testimony handy there or not, but he has a table in which he speaks of the engineer's hours on duty per trip.

Do you know what the term "on duty" means?

Mr. MANION. Under present law, under the present act, that is between the time he starts until the time he finishes the trip, less any time relieved over a certain minimum. It varies a little bit from one railroad to another.

It might require 2 hours on some railroads and maybe 3 on another railroad to have the time off, or the time relieved deducted from the total time on duty.

Mr. BROWN. In other words, when we talk about 16 hours maximum work, we are not talking about 16 hours behind the throttle of a train, is that right?

Mr. MANION. Not necessarily, because it depends on the class of service. There might be a lot of time spent, they might be on the engine but standing still and waiting for instructions from the yardmaster.

Mr. BROWN. Sixteen and one-half hours layover and then 6 hours from (B) to (A): What period of time in that span is actually on the job at work?

Mr. MANION. I think 12½ hours because of certain preparatory time involved, which is work time.

Mr. OTTINGER. Will you yield?

Mr. BROWN. Let me finish one issue involving the 3½ hours of layover time. Is there any function to be performed during that 3½ hours?

Mr. MANION. No, they would be off duty for that period of time.

Mr. BROWN. What is the railroad paying when a railroader is obliged to go to a distant community and stay overnight in order to get the full 8 hours in?

Does the railroad or does the worker pay for his meals and lodging?

Mr. MANION. There are agreements on that, very recent ones, I am not sure what they are, but most of them include lodging and food allowance. Now that is not necessarily the amount in a particular case. It is a standard amount usually in most agreements for lodging and meals allowance. If the employee is held at the away-from-home point over an agreed amount of time, he gets on a form of pay.

Mr. BROWN. I am sorry, I didn't get that.

Mr. MANION. If he is held at the away-from-home point over a certain time, in most agreements he gets paid for being held beyond a certain length of time.

Mr. BROWN. Can you give me some idea of what the figures are?

Mr. MANION. I can't tell you. I am out of touch with the rates.

The CHAIRMAN. Mr. Preyer.

Mr. PREYER. No questions, Mr. Chairman.

Mr. OTTINGER. Will you yield for one question. This is just one point. Has there been any railroad disciplinary actions against employees for being asleep on duty either in terms of switching employees or the actual operating employees?

Mr. MANION. I wouldn't know.

Mr. OTTINGER. Is that explanation available? Can you get that information?

Mr. MANION. I suppose so. I have not asked anybody for that kind of information.

(The information requested was not available to the committee at the time of printing.)

The CHAIRMAN. Mr. Hastings.

Mr. HASTINGS. We have a table provided to us with testimony on the number of train accidents resulting from errors in operation, an ICC study, inclusive 1961 to 1967, and it breaks down the various causes of accidents on railroads and in the year 1967 there were 1,987 accidents investigated and several categories of causes and reasons for such accidents.

Why would it be so difficult in compiling a set of statistics like this to include a figure representing accident causes or happenings while under the control of a crew that had in fact worked over say 12 hours? It wouldn't seem to be too difficult to me.

Mr. MANION. It wouldn't if the initial report would include the information.

Mr. HASTINGS. What if they don't? Is there any reason why the railroad couldn't or wouldn't do that?

Mr. MANION. Well, I might say this, that we have been working very closely with the Department of Transportation and also the labor unions on the question of the kind of information that we need in order to do a better job of studying accident causes and in order to prevent them and we have a joint effort underway right now looking at this T form, so-called T form, report form, to find out what we need to have on it so we can make the proper statistical studies so we can analyze these things and do it on the basis that we have a handle on what we need to do to correct them. This is going to be a good effort.

Mr. HASTINGS. I hope so. It would seem to me it is a little bit late if safety is such a factor, I don't understand why the question was not asked and included before, either by railroads, unions, or the ICC or Department of Transportation.

Mr. MANION. The forms T have been revised before. We have ways of getting at these now that we didn't have before. We hope to get these things on a computer so we get current information.

Mr. HASTINGS. It would be very helpful to this committee and me to have that. One other question. In relation to the question as to whether safety is the motivating factor for the introduction of this legislation and support of it by the operating brotherhoods and the fact that your testimony seems, as has been mentioned by Mr. Ottinger and Mr. Tiernan, suggested that this legislation would not be good for the brotherhood, I would like to know if, in fact, there is something underlying this here that has not been brought forth, that it is not a question of safety that we are talking about and if we are not talking about this legislation from viewpoint of safety of the railroads what is it we are talking about?

Mr. MANION. Well, I really don't know. We didn't introduce it. We didn't propose this legislation.

Mr. HASTINGS. That will conclude my remarks. Thank you.

The CHAIRMAN. This will conclude our hearing this morning. We will resume again at 2 o'clock this afternoon and I will say that our first witness then will be Mr. D. C. Hastings and, Mr. Hastings, you can finish with him as he will be our first witness.

Mr. HASTINGS. I don't know if I will.

The CHAIRMAN. I want to thank you gentlemen for coming and being with us. You have been helpful to the committee and tried to answer the questions I know the best you would. We appreciate your courtesy and help.

(The following letter was received for the record:)

ASSOCIATION OF AMERICAN RAILROADS,
*Washington, D.C., July 17, 1969.*

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

DEAR MR. CHAIRMAN: During my testimony before your committee on July 8, 1969 in the course of hearings on H.R. 8449 and other bills to amend the Hours of Service Law, members of the committee requested that additional information be furnished for the record and the following report is submitted in response to those requests.

1. At page 152 of volume 3 of the transcript, Mr. Friedel referred to testimony that had been given by Mr. Chesser on behalf of the United Transportation Union, appearing at pages 14–18 of volume 1 of the transcript, concerning the operation of a freight train crew on the Chicago and North Western Railroad on October 22, 1962 from Fremont, Nebraska to Superior, Nebraska and return. According to the testimony, the train crew was on duty for 15 hours and 40 minutes on the outgoing leg of the journey, after which it was relieved and continued on the train for an additional 7 hours which was spent riding in a caboose in a "deadhead" capacity until the train arrived at Superior, a distance of 161 miles. After arrival at Superior, the crew was given an additional period off duty of 3 hours, and then operated a return trip back to Fremont which lasted 16 hours. This series of operations was held by a U.S. District Court not to violate the Hours of Service Law by reason of the fact that the time spent deadheading in the caboose on the outgoing run was not time on duty.

We have been informed by the Chicago and North Western that in 1962, when these events occurred, the run between Fremont and Superior normally lasted 10 hours in one direction, the outgoing run took place on one day, and the return trip took place on the next. These particular trips in October 1962 were unusually delayed by reason of the fact that rail was being laid on the line between Fremont and Superior and the train in fact was obliged to detour for part of the distance over the line of a neighboring railroad. This was not a typical operation on that railroad.

What is more important, in connection with Mr. Chesser's apparent suggestion that the train crew should have been given a longer period of time off duty at Superior before making the return run, is the fact that under the provisions of an applicable collective bargaining agreement the railroad was under contractual obligation to allow that crew to operate back to Fremont the particular train that it did operate, i.e., the train leaving for Fremont three hours after the crew had reached Superior. If another crew had been put on that train, the railroad would have been required to make penalty payments to the crew that was entitled to the run and was not used. The other alternative, to hold the returning train itself at Superior until the crew had more rest, e.g., eight hours, would have made no sense from the point of view of providing transportation service by railroad.

2. In a colloquy at pages 155–158 of the Transcript, Mr. Rogers asked whether a removal of mileage limitations would produce greater flexibility in operating and also accomplish the goal of reducing hours of work.

At the present time, the number of miles that employees can work is not limited by law but by agreement between the railroads and labor organizations. One of the standard provisions fixes a maximum of 3800 miles per month for employees in road freight service. The purpose of these provisions is to distribute the work among available members of the work force; they are primarily related to pay and not safety. Maximum mileage limits are not fixed on a daily basis but on a monthly basis or for other substantial period of time.

A removal of the mileage limitations by law would not, in our judgment, enhance the flexibility of railroad operations.

3. Mr. Brown inquired (at page 186 of the Transcript) whether the railroads have any information about nonrailroad pursuits and sources of revenue of railroad operating employees. There are no statistics on this subject. However, one

large railroad has collected a sampling of facts about nonrailroad occupations of engineers, firemen, conductors, brakemen, and switchmen which illustrates the range and variety of their off-the-job activities, and I attach it as of possible interest.

Sincerely,

R. R. MANION, *Vice President.*

[Attachment]

*Sample of railroad operating employees engaged in other occupations as reported by one large railroad*

| *Operating craft and type of work/business* | *Number of men reported* |
|---|---|
| Engineers: | |
| Antique business | 1 |
| Auto sales | 1 |
| Carpenter-contractor | 1 |
| Contractor | 2 |
| Dog kennel | 1 |
| Farmer | 9 |
| Garage mechanic | 1 |
| Nursery operator | 1 |
| Real estate | 2 |
| Rooming house operator | 2 |
| Storm doors and windows | 1 |
| Tavern owner | 1 |
| Firemen: | |
| Auto sales | 1 |
| Building supplies sales | 1 |
| Carpenter | 1 |
| Carpenter and machine operator | 1 |
| Contractor | 1 |
| Farmer | 3 |
| Grocery store | 1 |
| Ice cream wagon | 1 |
| Insurance | 1 |
| Radio and TV shop | 1 |
| Conductors: | |
| Appliance and hardware | 1 |
| Ceramic shop | 1 |
| Farmer | 17 |
| Floor wax (manufacturer) | 1 |
| Fraternal hall operator | 1 |
| Grocery store | 3 |
| Insurance | 3 |
| Mayor | 1 |
| Mortician | 1 |
| Police judge | 1 |
| Real estate | 1 |
| Rug cleaning | 1 |
| Window awning sales | 1 |
| Brakemen and switchmen: | |
| Auto sales | 3 |
| Auto trim shop | 1 |
| Bartender and musician | 1 |
| Book sales | 1 |
| Carpenter | 5 |
| Cattle ranch | 1 |
| Chicken ranch (eggs) | 1 |
| Coin laundry | 2 |
| Contractor | 1 |
| Dairy bar | 1 |
| Dry cleaning | 1 |
| Electrician | 2 |
| Farmer | 8 |
| Firearms | 1 |
| Furniture | 2 |
| Garage owner | 1 |
| Insurance | 5 |
| Justice of peace | 1 |
| Musician | 1 |
| Plumber | 1 |
| Private club operator | 1 |
| Professional athlete | 2 |
| Repairman | 1 |
| Rooming house operator | 1 |
| Tavern owner | 2 |
| Shoe sales | 1 |
| Taxidriver | 1 |
| TV repairman | 3 |
| Truck stop operator | 1 |
| Upholstery shop operator | 1 |
| Washing machine repairs | 1 |
| Wood cutter | 1 |

(Whereupon, at 12:05 p.m., the committee recessed, to reconvene at 2 p.m. the same day.)

AFTER RECESS

(The committee reconvened at 2 p.m., Hon. Harley O. Staggers, chairman, presiding.)

The CHAIRMAN. The committee will come to order.

In the continuation of the hearings on H.R. 8449, the first witness this afternoon will be Mr. D. C. Hastings, vice president, transportation and maintenance of the Seaboard Coast Line Railroad Co. Mr. Hastings.

## STATEMENT OF D. C. HASTINGS, VICE PRESIDENT, TRANSPORTATION AND MAINTENANCE, SEABOARD COAST LINE RAILROAD CO.; ACCOMPANIED BY EDWARD A. CHARRON, COUNSEL

Mr. HASTINGS. Mr. Chairman, I have Mr. Edward A. Charron of our law department with me, if he may be seated, please?

The CHAIRMAN. Yes.

Mr. CHARRON. Thank you, Mr. Chairman.

Mr. HASTINGS. Mr. Chairman, my name is D. C. Hastings and I am vice president, transportation and maintenance of the Seaboard Coast Line Railroad Co. with offices at 500 Water Street, Jacksonville, Fla. For 32 years I have worked in various capacities in the engineering, maintenance-of-way, transportation and operating departments of the Pennsylvania, Richmond, Fredericksburg & Potomac, Clinchfield, former Atlantic Coast Line and now Seaboard Coast Line Railroads. I have held my present position with the Seaboard Coast Line since it was formed by the merger of the former Atlantic Coast Line and Seaboard Air Line Railroad Companies on July 1, 1967. My formal education commenced in the public schools of Richmond, Va., with graduation from Fishburne Military School at Waynesboro, Va. Thereafter, I graduated from the Virginia Military Institute at Lexington, Va., receiving a bachelor of science degree in civil engineering.

Mr. Rex Manion, of the Association of American Railroads, has already testified before this committee giving you an overview of the railroad industry position respecting the proposed amendments to the Hours of Service Act. We have learned from his testimony and that of union representatives before him that there is no clear evidentiary link between the hours a railroad man works and safe operations. We have learned that these amendments, if passed in their present form, would result in vast changes in the industry's mode of operations. We have also learned that many employees would suffer wage losses that they can ill afford in these inflationary times, and further, that the cost to railroads would, in their present financial posture, result in unwarranted hardship. We have learned that the competitive disadvantage that is already being suffered by railroads when compared with other transportation modes would be further distorted. And lastly, the more than 20 collective bargaining agreements existing between each railroad and the many unions representing employees on each railroad are geared to, and consonant with, the laws as they now exist. I suggest to this committee that these inflexible and restrictive labor contracts would require substantial changes to allow for efficient railroad operations that would conform to the proposed amended Hours of Service Act.

The Seaboard Coast Line Railroad operates 9,280 miles of road through six Southeastern States, including Virginia, North Carolina, South Carolina, Georgia, Florida, and Alabama. This company is one of 10 railroads that has been selected to undertake comprehensive studies designed to project a meaningful comparison between our present operations and those operating changes that would be mandatory in order to comply with the proposed amendment to the Hours of Service Act. It might be helpful to this committee for me to point out that following the merger I have already alluded to, it took more than 1 year to merge all of the labor agreements that existed on the two

separate railroads. To illustrate, the merged company was obligated to comply with the two separate labor agreements that existed with every union on the two former railroads, which meant we still operated two separate railroads that were merged in name only. Extensive negotiations brought about the combination of each of these two sets of agreements into one agreement between the company and each union. You can appreciate that this was an enormous task. Just at the time when this company can begin to realize some greatly needed merger benefits, the proposed amendments would deprive us of these anticipated efficiencies.

Moving now to the impact that the proposed amendments would have upon this railroad, it should be recognized that the sampling we offer is typical of the problems our railroad would experience in both road and yard situations.

TYPICAL ROAD

Operationally, railroads are broken down into divisions and subdivisions. In south Georgia, the Brunswick subdivision of our Waycross division spans 56 miles and has two trains in each direction daily. Under the existing Hours of Service Act, the Seaboard Coast Line utilizes two crews on a turnaround basis with each crew normally spending approximately 2 hours at Brunswick before making the return trip to Waycross, their home terminal. Since these crews now take approximately 14 hours in performing their work, a period which includes 2 hours with no duties—the time in Brunswick—the proposed changes in the act would impose substantial burdens upon this particular line because it would necessitate adding a third crew on the assignment. This is highly impractical, both from an economic and operational point of view, because we would be reducing the onduty time while attempting to provide the same standard of service. An operation that was once profitable would become marginal.

In considering this particular operation, the two Waycross to Brunswick trains both perform local switching work on the southward trip for deliveries to the Brunswick yard. At the yard itself, separate engine crews and yard engines render assistance and then the return to Waycross again involves local work at two locations enroute. The new law, if enacted, would severely handicap these operations because the crews would have insufficient time to operate this turnaround service and a new complete crew would have to be brought in in the assignment. More importantly, the crew which can perform this task in 1 day's time and return to home terminal would, under the new law, have to lay over each night away from the home terminal for departure the following day, which would result in additional costs to the company for meals and lodging expenses for the crews. The result would be considerable layover time in Brunswick for all three crews, inconvenience to all crews and an extreme reduction in their normal earnings, as well as a drastically increased financial burden upon the company. As an example, the enginemen on one of these trains earned $1,450.79 in April of 1969, but under the new law he would only have earned $855.66 in that same month. How can it be said that such a reduction in earnings is in the best interest of this railroad employee?

I might add this run is presently considered by the crews to be highly preferred because they spend each night at home. The new proposal would necessarily convert these jobs to what we refer to as "minimum day" work and most undesirable.

Again, it should be emphasized that this is a typical example and would have extensive application throughout this railroad, since both passenger and freight assignments on the merged company, as well as on the constituent lines prior to the merger, have historically been arranged in turnaround service for the precise and logical purpose of having our train service employees relieved from substantial inconvenient layovers at points other than their home terminals.

TYPICAL YARD

The Jacksonville terminal at Jacksonville, Fla., is essentially this company's gateway to the entire peninsula of Florida and the vast majority of inbound and outboard traffic for the State must pass through this terminal. All of the work performed therein is normally accomplished by yard service employees and on the test date in question the company had eight four-man jobs that were involved in what is known as "doubling." Doubling means that a second tour of duty without intervening 8-hour rest period is performed by yard service employees. The volume of rail traffic is unpredictable and a sudden influx of traffic combined with an insufficient number of men available for work requires doubling. Otherwise, freight shipments are delayed and we cannot render service that is competitive with other modes of transportation. Should the proposed amendment to the act be enacted, eight additional crews would be required to operate the same number of engines on a 24-hour basis. Of course, by eliminating the doubling crewmember, earnings would be drastically cut. Naturally, the hiring of additional personnel would fulfill the unions' basic desire to create more jobs, even though there is no statistical support for the alleged safety factor that supposedly would be accommodated. I should add that finding and hiring qualified personnel is most difficult. During May and June of this year we rejected more than one-third of the applicants for physical reasons alone.

It should be stressed that the multitude of problems that would befall the company at its Jacksonville terminal would be representative of other comparable yards and the cost would be staggering.

Deadheading warrants an additional comment. Under the present act and existing collective-bargaining agreements, when arrangements for the operations of special trains are made, as well as for the relief of men away from home terminal and supply points, considerable deadheading results. However, should the law require that such time spent in deadheading be applied to on-duty time, untold preparation by the management would be vital to arrange for men to be at outlying points and further to provide for their securing rest before going on duty—all of which would require substantially more time away from home and additional expense on the company to comply with meal and lodging requirements of the existing collective bargaining agreements. In addition, there would be more frequent deadheading of relief crews to line of road points to bring in trains tied up under the proposed law.

Designated terminal provision and 4-hour provision also deserve comment. This company, under the present law, has to allow 3 hours relief time as a rest period at other than the home terminal in order to break the continuity of a man's service time and the individual actually performs no productive duties. If we consider the new proposal as law, then anything less than 4 hours would be considered as on-duty time and the management would be even further hamstrung in attempting to maintain turnaround service. The result would obviously have to be additional crews plus additional expense with employees away from home for longer periods since there would be insufficient time to complete the return trip home before a rest period would be required.

Clearly, the railroad industry deserves favorable consideration from the U.S. Congress on legislation that would have such a detrimental effect upon its future stability. It is one thing to seek safer railroad operations and take the necessary legislative measures to assist in improving those operations. However, it is quite another to cloak a legislative proposal with the aura of "safety" when actually it has no basis in safety whatever. I might add here for the record, please, Mr. Chairman, that in my 32 years of experience, while I have never collected any statistics, I have never known of an accident that we could definitely say was because of the fact that the employee had been on duty an excessive number of hours. Efficient railroad operations are becoming more and more difficult to achieve. As an example, this company was required last year, after a disastrous strike by the Brotherhood of Railroad Trainmen, to restore 204 unneeded positions that it is estimated will cost $2,669,000 annually, notwithstanding the fact that we had operated safely and efficiently for several years without these trainmen. When comparing this company's net income with its shareholders' equity the percentage of return during the year 1968 was 1.68 percent. If net income were to be compared with total capital of the company, the return would be 1.11 percent. Such a meager return would in virtually all other industry be wholly unacceptable.

We recognize that railroads provide a public service and with this the obligation to render as complete a service as possible. This necessarily results in marginal branch lines being subsidized by main line operations. It is axiomatic that when the overall operations are burdened even more by spiraling wage costs industrywide then such marginal lines must be considered for abandonment.

Similarly, more unneeded crewmen must be hired to meet the requirements of such restrictive legislation, in the case of this company—531—I would like to add for the record, please, at a cost of $11,680,950 annually, which compared with last year's net income of only $12.2 million would leave the company a relatively meager amount as net income.

The entire industry's, as well as this company's, ability to survive becomes questionable.

As two examples of additional equipment needs, it is estimated that SCL would be required to purchase 122 locomotives and 66 cabooses at a cost of almost $30 million. This is only a part of the overall increased costs to this company alone. Surely, in these less than prospering times for the railroad industry, we can ill afford the financial burdens that would be inflicted by the passage of H.R. 8449.

The CHAIRMAN. Mr. Hastings, I want to thank you for making your statement brief. That is one thing that some of the witnesses failed to do.

Mr. HASTINGS. Mr. Chairman, I would like to state that our complete statistics are a part of Mr. Manion's attachments that he presented this morning.

The CHAIRMAN. Fine, thank you. I want to thank you for a concise statement.

You say that if this bill is passed you would have to make some revisions and would have to do some other things. That is what you have to do in any time of emergency, is it not, to make some revisions and try to do the best we can?

Mr. HASTINGS. Yes, sir; we meet emergencies by doing the best we can.

The CHAIRMAN. I am sure that you and the other men of your railroad have the vision and the ingenuity, the energy, to do all right if we pass the bill.

We are not trying to hurt the railroad industry. You know that. This bill is not intended to do that. You talk of it as a safety bill.

There is a safety board appointed by the Secretary of Commerce's office to study safety.

Mr. HASTINGS. That has not been my experience that the passage of a 12-hour hours of service law would improve our safety performance one bit.

The CHAIRMAN. I undoubtedly think, and you do, too, that when a man is on duty 12 hours he is apt to make more mistakes than when he has worked 10 or 8 hours, and if you go on up to 12 and 14 and 16 he is certainly apt to make more. I think we know that. I don't think there is any question about that.

Mr. HASTINGS. It was indicated it was a safety measure because of the fact that employees, after having been on duty long hours, were susceptible——

The CHAIRMAN. We have a safety measure coming before this Congress within the next month or two; designed solely for safety.

This is incidental to it. This hits many other factors.

I will ask you this: If you were a Member of Congress sitting here to judge, and you were to make a decision, would you consider the welfare of the men and their rights beyond that of, say, material things, if you had to make a decision?

Would you say, "All right, the railroad has to make money, they have got to have more time out of the men, they have got to do this and that," besides the point put on the other side, the humanitarian social aspect of this—which would you decide?

Mr. HASTINGS. I think I would have to decide in favor of the fact that the present law restricting service to 16 hours does not in any way affect the employee's health, his welfare, his social benefits or anything else. We do not work all of our people 16 hours every day.

We have the privilege in cases of emergency and also the privilege in turnaround service by allowing time off to utilize the employees up to 16 hours, which in the instances I cited and in many other instances is not only to the employee's benefit but also to the benefit of our company.

We have never deliberately set out to work our people any such continuous tour of duty day after day at 16 hours. Turnaround servsice with time off at the away-from-home terminal and then returning all within the span of 1 day certainly makes sense not only for the employee but also for the company.

The CHAIRMAN. You think it is all right to work a man 14 or 16 hours if he wants to work?

Mr. HASTINGS. I see nothing wrong with the present hours of service law, which places an absolute restriction on the management of railroads to work a man beyond 16 hours.

The CHAIRMAN. You think, then, that the laws governing our pilots that fly, that have the safety of men and goods under them, or truckers who deliver things, that they are unusually restrictive and perhaps they should be abandoned, and that truckdrivers be allowed to drive on the highways 16 and 20 hours?

Mr. HASTINGS. Mr. Chairman, I am not qualified to speak about the requirements of hours of service on either the airlines or the truck-lines. I have spent 32 years in the railroad industry.

The CHAIRMAN. That is a good record.

I am talking from the humanitarian standpoint. I just cannot understand those who oppose this reducing from 16 to 12 hours. If you worked your horse that long you would have every citizen in this country up and they would probably want to lynch you.

Now, I know there are many men who would rather work 16 hours straight and be off for a time, I know that. But we are just saying, let's make this a reasonable law.

I have no further comments unless you do.

Mr. Keith?

Mr. KEITH. My grandfather on my mother's side was a Hastings. He worked more than 14 hours a day as a baker. But they don't operate that way now. Of course, he was the owner and he got the profits.

Tell me more about this 14 hours limitation. You mentioned in your testimony that it includes 2 hours with no duties. How many successive days do they work 14 hours a day with 2 hours off?

I got up yesterday morning, it was 5 o'clock, and left my house at 6:30 and arrived down here at 7 o'clock and worked until 8 o'clock in the evening, and I was down here this morning in time for breakfast. I probably could not do that day in and day out.

The average employee who is going to be excused if this legislation passes will no longer be able to work as many hours. He is going to be able to work 12 hours a day.

How many days in a row are they expected to work under the present statute?

Mr. HASTINGS. Most of these turnaround assignments are in what are known as pool service, and in this particular instance where you have two crews moving each day, there would be three crews in the pool. So he would make his turnaround run and take a day off, and he would make another turnaround run.

If he reaches his maximum mileage allowable under the bargaining agreements before the end of the month, then he would have to lay off until the end of the month and pick up again at the beginning of the following month on fresh mileage.

Mr. KEITH. We have had people up here testifying on other safety legislation pertaining to the air transport industry, who indicated that it was pretty difficult to prove in some cases that fatigue did adversely affect their efficiency.

But assuming that there is a point at which fatigue does begin to affect efficiency, how many hours in the course of a week's time would a man be working on this run?

Mr. HASTINGS. Normally every other day; some of them are 7-day assignments and some of them are six.

Mr. KEITH. So he would work three or four, or 3½?

Mr. HASTINGS. Three or four.

Mr. KEITH. Three and a half, on the average, times 14, is that correct, 3½ times 14 for the hours per week?

Mr. HASTINGS. He would work three this week and four the next if it was a 7-day assignment.

Mr. KEITH. So 3.5 times 14 hours, he works a 49-hour week on the average?

Mr. HASTINGS. But he has time out at the away-from-home terminal while they are reassembling his train.

Mr. KEITH. Probably that would be 6 or 8 hours that would be subtracted, so he is getting paid for 49 hours but actually he is having 2 hours off in each of these 14-hour spans?

Mr. HASTINGS. That is right. He is paid for his off-duty time at the away-from-home terminal but he performs no service during that time.

Mr. KEITH. But he is nevertheless compensated?

Mr. HASTINGS. He is compensated for it, but he is not working.

Mr. KEITH. What does he get for this, the average man on this crew?

Mr. HASTINGS. The specific example that we cited is the engineman.

Mr. KEITH. You cited an example that is pretty darned good. What about the average guy?

Mr. HASTINGS. The engineman is the highest paid man on the crew.

Mr. KEITH. What about the lowest man on the totem pole?

Mr. HASTINGS. I would have to furnish that figure.

Mr. KEITH. Well, roughly.

Mr. HASTINGS. I don't have it accurately. I can furnish you the wages of each member of the crew.

(See letter dated July 14, 1969, p. 174.)

Mr. KEITH. This is a sacrifice that this fellow is making in being away from his family for an extended period of time. He is getting some monetary return that makes this job perhaps more desirable. However, this depends upon his objectives, whether they be financial or family oriented. Or perhaps in the long run he would have the money so he could do more things for his family later on.

You don't know roughly what the average pay is?

Mr. HASTINGS. About $1,000 a month, Mr. Charron tells me. I could furnish the information accurately.

Mr. KEITH. Mr. Chairman, we are going to hear from people in the union who will speak to this point, will we not?

The CHAIRMAN. They have already spoken.

Mr. KEITH. It is quite like the State police in Massachusetts, who work many hours and then have a long time off for a long period of

time. Their hours are getting shorter, I might add, because we want them to live normal lives.

Mr. HASTINGS. These people would average between 36 and 48 hours of actual work per week. They would be compensated for time in excess of that, quite naturally, because they are compensated for their off-duty time at the away-from-home terminal where they turn around. They get back home at night.

Mr. KEITH. Have we heard, Mr. Chairman, from one of the individuals involved, one of the employees?

The CHAIRMAN. We have heard from one individual.

Mr. KEITH. Who was it, an employee?

The CHAIRMAN. It was an employee, yes.

Mr. KEITH. That is all the questions I have.

The CHAIRMAN. Mr. Blanton?

Mr. BLANTON. Thank you, Mr. Chairman.

Mr. Hastings, I assume that you are opposed to the H.R. 8449 in its entirety, is that correct?

Mr. HASTINGS. Yes, sir.

Mr. BLANTON. Then you believe that the 16-hours a day is a worthwhile thing, should be sustained, is that correct?

Mr. HASTINGS. I think the present hours of service law which limits the service of a man to 16-hours adequately takes care of our situation today just as it did when it was first enacted.

Mr. BLANTON. If, indeed, the representatives of the brotherhoods differed with you and you believed in private industry settling their own differences, do you think that this should be a subject of negotiations with the brotherhoods and management?

Mr. HASTINGS. If negotiated on a national level I think it might be an answer to the problem.

Mr. BLANTON. Then you say that it might?

Mr. HASTINGS. Not on an individual, as compared to an individual railroad level, is what I was trying to say.

Mr. BLANTON. Then you say, may be a subject of negotiations?

Mr. HASTINGS. The maximum hours of service is not now a subject to be negotiated, it is a law.

It could be a subject to be negotiated.

Mr. BLANTON. Had you rather it be that way?

Mr. HASTINGS. We would rather it be that way than to have it legislatively enacted to limit it to 12 hours.

Mr. BLANTON. Suppose we did provide legislation whereby you could negotiate this, what hours of service would you agree to negotiate on?

Mr. HASTINGS. I say I see nothing wrong with the present limit of 16. It works very effectively for both the employees and the company.

Mr. BLANTON. If we as members of this committee left it to negotiations, then you would negotiate it for the 16-hour statute?

Mr. HASTINGS. As an individual company we would not be in that position, because anything as important as this should be negotiated on a national level.

Mr. BLANTON. Nationally you would support the 16-hour limitation, your company?

Mr. HASTINGS. I would prefer for Mr. Hiltz to answer that question when you get him here.

Mr. BLANTON. Does he represent your company?

Mr. HASTINGS. He represents our company, yes, sir.

Mr. BLANTON. The principal objection that you have, as I see it in your testimony, is that it would not cause safety hazards and it would be detrimental to the employees. That is the gist of what I get out of your statement here.

Mr. HASTINGS. Not that it would not cause safety hazards—I said that the enactment of a 12-hour service limitation would not improve safety.

Mr. BLANTON. Do you really believe that?

Mr. HASTINGS. In my experience of 32 years of railroading, we have no statistics.

Mr. BLANTON. You honestly believe a man is just as efficient as he is after a 14-hour day or a 15-hour day?

Mr. HASTINGS. I think a man naturally tends to get tired and if he is alert and a good employee, when he gets tired he will be more careful.

Our experience has been that the employee who is involved in a personal injury to himself or as a result of his own negligence causes an accident of some kind, it has not in any way been influenced by the length of time he has been on duty. Quite to the contrary, some of the worst accidents we have had have occurred when a man has been on duty less than 5 hours.

Mr. BLANTON. Some of them, but where is the largest percentage?

Mr. HASTINGS. We don't keep the statistics.

Mr. BLANTON. You have the statistics. You may not personally file them, but you have to have them, because you have to have the records of the men employed and when they start to work and when they quit and the time the train has the wreck.

So you have the statistics. It is not a matter of not having them. You may not have them compiled as such, but you have them.

Mr. HASTINGS. We have them. I think the limitation is 3 years that we have to keep our formal records and our train and engine service time return reports, and we could back off 3 years and produce the very statistics that you are asking for.

Mr. BLANTON. Would you produce that for this committee and let us insert it in the record?

Mr. HASTINGS. If it is the desire of this committee, I would be glad to.

Mr. BLANTON. Mr. Chairman, I would like to request this. We have been told all morning that you didn't have such records and I know it is impossible for you to keep the books and not have these records. It is a facade, because you have to have them.

So, if you would, I would appreciate having this entered into the record.

Mr. HASTINGS. For the period that we are required to keep those, I will back off and furnish the committee with the statistics. (See letter dated July 14, 1969, on p. 174.)

Mr. BLANTON. Fine. I have no further questions, Mr. Chairman.

The CHAIRMAN. Mr. Kuykendall?

Mr. KUYKENDALL. To follow just a moment on the gentleman from Tennessee's statement, I am sure he joins with me in saying we are talking about any sort of personal injury or accident, whether it effects personal injury or property damage or both.

Mr. HASTINGS. We are talking about the type of accident which is reportable to the Department of Transportation. If it is a personal injury, the loss time must exceed 24 hours.

Mr. KUYKENDALL. How much property damage?

Mr. HASTINGS. $750.

Mr. KUYKENDALL. That is not much to a railroad, is it?

Mr. HASTINGS. With today's costs almost everything that happens is more than $750; yes, sir.

Mr. TIERNAN. Would the gentleman yield?

Mr. KUYKENDALL. Yes.

Mr. TIERNAN. Isn't it true that you determine the amount of damage?

Mr. HASTINGS. The railroad company assesses its own damage and makes the report. The reports, of course, are subject to review by the Department of Transportation.

Mr. TIERNAN. If the amount is determined to be less than $750 by you, there is no report filed, is there?

Mr. HASTINGS. That is right.

Mr. TIERNAN. So there is nothing to review.

Mr. HASTINGS. I don't think you will find that the case with our company, sir.

Mr. KUYKENDALL. Mr. Chairman, the thing continues to pop up in these hearings, and in my short 3 years on this committee it has popped up too many times.

I don't know why you folks can't settle your own problems and not have to bring them up before this committee. You really have no business here. You ought to be out there settling this problem.

I think I have spent about 90 percent of my time on this committee since I have been in Congress listening to railroads argue about things management and labor ought to settle in ordinary labor-management negotiations.

Everybody deplores compulsory arbitration but you ask for it about seven times a year before this committee.

Mr. HASTINGS. Sir, the railroad company did not propose this bill.

Mr. KUYKENDALL. I know, but you didn't settle it. Now, when it comes to hours, for instance, I don't find anybody that has any record or any recollection of this matter of 12 or 14 or 16 hours having been negotiated between management and labor.

Has it been or has it not been negotiated between management and labor?

Mr. HASTINGS. The maximum number of hours that employees are able to work is a matter of law, it is not now a matter of negotiaton.

Mr. KUYKENDALL. You can surely lower it by agreement, can you not?

Mr. HASTINGS. We could.

Mr. KUYKENDALL. All right, then. It is subject to negotiation. You cannot raise it but you can surely lower it by negotiation.

My question to you is: Has labor asked you to lower it in a labor-management negotiation?

Mr. HASTINGS. I think Mr. Hiltz is going to have to answer that.

Mr. KUYKENDALL. Do you have any record of labor ever having asked you to lower that figure?

Mr. HASTINGS. They have never asked my company.

Mr. KUYKENDALL. I wonder why.

Mr. HASTINGS. I don't know, sir.

Mr. KUYKENDALL. Why isn't it negotiated nationally if it is a national issue? They have brought everybody else before labor-management negotiations. Why can't this be negotiated nationally?

In other words, if you bring us in an agreement here that says, "We agreed on 13½ hours and this term and that term," I promise you it will be easy to rubberstamp your agreement because that is the kind of thing we like to do.

Mr. HASTINGS. I see no reason why that approach would not be successful.

Mr. KUYKENDALL. I am talking to both sides equally on this business. Here is a simple matter of how many hours you are going to work. I don't know why you can't settle it between yourselves and your employees, or nationally, if you will, as to how many hours you are going to work.

I think this is going to get to be a growing attitude in this committee. Sure, when it comes to matters of a national emergency, strike, both of you throw in the sponge and admit that you have failed in all of your bargaining, and then you have to come here and help save the country, I realize that.

But later this week we are going to get into another issue we should not be handling. It is on another issue entirely, and yet labor and management simply won't get together across the desk and handle it. I don't care if we are talking about one company or the whole industry.

I have one last question. Do you consider the matter of the actual number of hours the critical part of this bill or do you consider the matter of having to count deadhead time in those hours the critical part of this bill?

Mr. HASTINGS. My personal opinion is that the bill would be more palatable, we could probably live with it easier, if the deadheading was taken out and if the layover time at designated terminals would remain as 3 hours rather than changed to 4, and the doubling was still permissible in yards, because to have enough employees in yard service to be able to eliminate doubling, I am afraid would be absolutely prohibitive.

If you put enough people on the exta boards to eliminate it, then they would not make their minimums and they would have to be paid. If you cut the extra board to keep them from having to be paid for time not worked, then you would have to get into doubling, because railroad service over a weekend is such that it is absolutely impossible to be able to have enough people to do the job without either doubling or calling a man back on short time.

Mr. KUYKENDALL. My main reason for this question was to point out, as I was sure that you would, that there are some areas in this bill that are certainly negotiable, but the least qualified people I know to negotiate are those of us sitting on this committee.

Thank you, Mr. Chairman.

The CHAIRMAN. Mr. Tiernan?

Mr. TIERNAN. Thank you, Mr. Chairman.

Mr. Hastings, on page 4 you speak of this requirement of present service that takes 14 hours on a turnaround basis. Your objection to the bill is that you would not normally be able to continue that type of run without additional costs to your company.

For example, on page 5 you say that it means enlarging the cost of meals. What do you pay the crew that has to put up away from the home terminal, what do you pay for the meals and lodging?

Mr. HASTINGS. It is a fixed amount, it is a fixed meal allowance and it is a fixed lodging allowance. I don't have the figure. It is $3.50 to $5 per day for lodging, and $1.50 per day for meals, depending on the location. Each of the locations is subject to individual negotiation.

I would prefer, sir, if I could send to the committee the actual figures, so we would have the record straight.

Mr. TIERNAN. Speaking specifically of the run that you make reference to on page 4, if you would supply this for the record it would be helpful. (See letter dated July 14, 1969, on p. 174.)

Mr. HASTINGS. The big item on that particular run is the fact that this crew would only go 56 miles, for which they would be paid 100 miles, which is the minimum day.

Mr. TIERNAN. That "minimum miles" item is subject to negotiations?

Mr. HASTINGS. Yes.

Mr. TIERNAN. That is a true item for collective bargaining between you and your unions, so that is not a fact that we should consider here?

Mr. HASTINGS. No, sir, but it is an expense in that we would have to pay what is known as constructive mileage.

Mr. TIERNAN. I understand that very well, but that again is a matter for negotiation between you and the union.

The next question I have is with regard to pages 8 and 9, where you speak of the number of years you have had safe operations of the trains without these unneeded positions. You keep referring to the fact that apparently you have had to restore some positions that you felt were not needed.

Could you tell us the number of years that you are referring to?

Mr. HASTINGS. Yes, sir, I am referring to award 282, and we were able to withdraw the extra members under award 282 in 1964. We suffered the strike in 1968 which required that we put back 204 train crew members that we had operated successfully without.

Mr. TIERNAN. That is a period of how many years now?

Mr. HASTINGS. 1964 to 1968.

Mr. TIERNAN. And in that 4 years, how many accidents did you have?

Mr. HASTINGS. I don't have the figures, but we didn't have any accidents that were attributable to the fact that we didn't have a man on the crew.

Mr. TIERNAN. How many accidents did you have?

Mr. HASTINGS. I don't have the figure.

Mr. TIERNAN. How do you determine that it was attributable to the fact that you didn't have the extra man?

Mr. HASTINGS. Each individual accident is investigated and in the event the cause of the accident is the human element or the so-called man-failure, it could definitely be determined whether or not it was because of the fact that they were short one man.

Mr. TIERNAN. Who does that investigation, your company, your line does that?

Mr. HASTINGS. The company makes its own investigations.

Mr. TIERNAN. Do you have those reports available with you today?

Mr. HASTINGS. No, sir.

Mr. TIERNAN. Will you make them available to the committee; do you have a yearly summary of accidents?

Mr. HASTINGS. You just asked me to furnish those figures to the committee, which we plan to do. (See letter dated July 14, 1969, on p. 174.)

Mr. TIERNAN. These are the figures for the 4-year period.

Mr. HASTINGS. I don't think the records are available but for 3 years, and we are talking about accidents where we are measuring the length of time that the man has been on duty, and the accident is caused by the so-called human element or man failure.

Mr. TIERNAN. Are these accidents investigated by any independent agency other than your company?

Mr. HASTINGS. Only when the Department of Transportation or the ICC, prior to their taking over, see fit to come down and engage in the investigation, which they frequently do.

Mr. TIERNAN. That is what—about the last 2 years?

Mr. HASTINGS. The ICC engaged, that is, participated in the investigation of accidents, and the Department of Transportation, Bureau of Safety and Service, under the Federal Railroad Administrator, now participates; they are actually the same people.

Mr. TIERNAN. And on this report does it indicate whether it was investigated by the ICC?

Mr. HASTINGS. We would have records to indicate whether or not the ICC or the Department of Transportation man was present, and they are whenever we have a serious accident.

Mr. TIERNAN. So you only have the records for 3 years, you say? What do you do with the records that are 4 years old? Do you destroy those?

Mr. HASTINGS. I said "3 years" and I qualified it by saying I was not real sure. We are required by the Commission to maintain certain records for certain periods of time.

Mr. TIERNAN. But the Commission doesn't destroy those records, do they? Do they microfilm them?

Mr. HASTINGS. No, they are not microfilmed; those records are destroyed.

Mr. TIERNAN. They are destroyed?

Mr. HASTINGS. To the best of my knowledge they are.

Mr. TIERNAN. Who would have better knowledge of whether they were destroyed or not? Are these records under your supervision?

Mr. HASTINGS. The records of accidents are under my supervision.

Mr. TIERNAN. Have you sent a directive that they be destroyed?

Mr. HASTINGS. We destroy them in accordance with the law.

Mr. TIERNAN. The law does not require you to destroy them. It merely says that you don't have to have them available for more than 3 years.

Mr. HASTINGS. We don't have to keep them beyond that period.

Mr. TIERNAN. Do you keep them or do you destroy them?

Mr. HASTINGS. I am sure they are destroyed, but I will let you know.

Mr. TIERNAN. If you made a directive to that point, wouldn't you know of it today? Have you made any such directive to destroy those records after 3 years?

Mr. HASTINGS. The destruction of records has been a Commission requirement for years and years and years, long before I was in a position to make directives of this sort.

Mr. TIERNAN. The Commission rule was not to destroy the records. It was merely to keep them for 3 years. They didn't tell you to destroy them after 3 years.

Mr. HASTINGS. They told us they did not have to be kept.

Mr. TIERNAN. They told you to keep them for 3 years. You could keep them for 100 years and the Commission has no authority.

Mr. HASTINGS. There comes a time when you run out of space.

Mr. TIERNAN. I meant, as a good business practice, you would destroy them after a certain period of time.

I am asking: Have you established the policy for destroying those records?

Mr. HASTINGS. We have told our people that the records should be destroyed after they are no longer required to be kept.

Mr. TIERNAN. Thank you.

The CHAIRMAN. Mr. Skubitz?

Mr. SKUBITZ. No questions.

The CHAIRMAN. Mr. Preyer?

Mr. PREYER. I have no questions at this time.

Mr. TIERNAN. Will the gentleman yield?

You have indicated in your statement, in the last paragraph, that these are less than prosperous times for the railroad industry. Could you tell us whether or not your line was operated at a profit last year?

Mr. HASTINGS. Yes, sir. I made that in my original statement. Our net income last year was $12,332,000 and this legislation would cost us $11,680,000, leaving us about $600,000 net income.

Mr. TIERNAN. you are saying that you estimated the cost at $11 million?

Mr. HASTINGS. We pretty accurately estimated it. We reconstructed the train service that was operated in order to arrive at these statistics.

Mr. TIERNAN. What was your profit the year before, more or less than $12 million?

Mr. HASTINGS. In 1967 the net income of the company was $27 million.

Mr. TIERNAN. $27 million?

Mr. HASTINGS. In 1968 it was $12.2 million.

Mr. TIERNAN. What was it in 1966?

Mr. HASTINGS. I don't have it.

Mr. TIERNAN. I have nothing further.

The CHAIRMAN. That completes your testimony, Mr. Hastings, and we appreciate your coming. Thank you.

Mr. HASTINGS. I appreciate the opportunity to appear.

(The following letter was received for the record:)

SEABOARD COAST LINE RAILROAD CO.,
*Jacksonville, Fla., July 14, 1969.*

Hon. HARLEY O. STAGGERS,
*U.S. House of Representatives,*
*Washington, D.C.*

DEAR CONGRESSMAN STAGGERS: Again I wish to express appreciation to you and your Committee for the opportunity to testify on behalf of the Seaboard Coast Line Railroad on the proposed amendment to the Hours of Service Act, H.R. 8449. The following narrative report with one exhibit is in response to requests

of various members of the Committee for specific information arising from my testimony on July 8, 1969.

As a preface to the statistics I should reiterate a point that has been the subject of prior testimony on both sides of the proposed amendment, that there is no evidence that relates man-failure train accidents to the time that the man has been on duty. Further, I suggest to the Committee that merely because an accident happens to take place after a man has been on duty for twelve hours or more does not conclusively establish that it resulted from fatigue. However, as Exhibit "A" clearly shows, the man-failure accidents reported by this Company to the Department of Transportation (pursuant to DOT regulation those involving damage exceeding $750.00 are to be reported) clearly demonstrate that long hours do not result in more accidents. In fact, the statistics prove the contrary—*that accidents throughout the employee's work day do not relate to the time he has been on duty.* Since the time of our merger, July 1, 1967, this Railroad has had 115 reportable man-failure accidents. The average time on duty for the crew was approximately 4 hours and 30 minutes and only two of the accidents occurred when the crew was on duty in excess of twelve hours.

It should be noted that these figures commence July 1, 1967, and run for a two-year period. It is true that we are required to maintain Form "T" accident records by the Department of Transportation for three years (and, as a matter of information, our Form "T" records have been retained for at least a four-year period), but our time records only go back for two years and, therefore, a comparison can only be made for the latter period of time. It should also be recognized that the Seaboard Coast Line Railroad Company resulted from the merger of two separate and distinct railroads, the former Atlantic Coast Line and Seaboard Air Line Railroads on July 1, 1967, and from that date such records have likewise been merged.

One other explanatory note: the statistics on Exhibit "A" cover reportable train accidents in which there may or may not have been personal injuries. There are occasional personal injuries where there is no train accident, but simply a man-failure injury. We do not have statistics indicating the time on duty prior to the accident in this latter category since our time and payroll records only show a total time period for which the employee is to be paid on the day in question.

This Company was also requested to provide statistics relating to lodging and meal allowances, as contained in our collective bargaining agreements. The most recent available monthly lodging expenses paid for by the Company for train crews are for the months of March and April 1969, in which $64,249.59 and $60,909.11 were paid, respectively. These amounts covered 18 locations throughout our six-state rail system. With respect to meal allowances, the Company pays a meal allowance to each member of the crew who is tied up at other than his designated home terminal for a period of four hours or more, regardless of the time of day involved. For the same months noted above the Company paid $38,430.00 and $36,273.00, respectively.

A third item related to my original testimony covering a typical road assignment and in my example was our Waycross to Brunswick, Georgia, and return daily run. We were asked to provide the wages of those crews, a total of eight men. These train service employees operating the two trains involved had gross earnings, including their vacation allowances, for the year ending May 31, 1969, of $129,962.76 or an average for each employee of $16,245.35. I again emphasize that the Hours of Service Act if amended would substantially reduce each of these employee's earnings.

Lastly, I was requested to advise how many accidents could be attributable to our having reduced the number of trainmen on various road and yard assignments pursuant to provisions of Arbitration Award 282 that in turn arose from Public Law 88–108. An exhaustive check into our records, along with a confirmation by both our Labor Relations and Safety Departments, leads to the conclusion that absolutely no accidents were a result of our having reduced the number of trainmen pursuant to that Award.

It is hoped that this information assists the Committee in its deliberations on the proposed amendment to the Act. I wish to conclude with these observations:

The Hours of Service Act as presently in force with provision for a maximum 16-hour day functions most satisfactorily for both employees and companies.

The Act sets a maximum number of hours that may be worked and it is not customary for an employee to work up to this maximum.

Our Company critically needs a measure of flexibility to temper restrictive labor agreements.

These labor agreements, while containing many outdated provisions, are extremely difficult to modernize because the railroad industry cannot afford work stoppages when negotiations reach an impasse.

If the Federal Government is to further restrict the railroad industry in labor relations matters, then a final and binding method of resolving labor disputes in this most vital of industries should also be legislated.

Thank you for the courtesies you have extended to me.

Very sincerely yours,

D. C. HASTINGS,
*Vice President, Transportation and Maintenance.*

SEABOARD COAST LINE RAILROAD CO., MAN-FAILURE ACCIDENTS JULY 1, 1967, THROUGH JUNE 30, 1969

| Date of accident | Time of day | Time on duty prior to accident | Kind of accident | Reported to DOT | Investigated by DOT | Cost |
|---|---|---|---|---|---|---|
| July 8, 1967 | 4:35 a.m. | 10 hrs. 35 mins | Collision | Yes | No | $3,183 |
| July 13, 1967 | 10:05 p.m. | 1 hr. 5 min | Derailment | Yes | No | 2,425 |
| July 14, 1967 | 5:15 p.m. | 2 hrs. 15 mins | Collision | Yes | No | 2,015 |
| Do | 9:30 p.m. | 5 hrs. 31 mins | do | Yes | No | 3,308 |
| July 20, 1967 | 8:00 a.m. | 7 hrs. 59 mins | do | Yes | No | 1,460 |
| July 27, 1967 | 11:00 a.m. | 1 hour | do | Yes | No | 5,500 |
| Aug. 4, 1967 | 7:10 a.m. | 10 hrs. 20 mins | do | Yes | No | 3,410 |
| Aug. 7, 1967 | 4:50 a.m. | 4 hrs. 35 mins | do | Yes | No | 1,582 |
| Aug. 11, 1967 | 2:45 p.m. | 1 hr. 45 mins | do | Yes | No | 1,350 |
| Aug. 12, 1967 | 1:25 a.m. | Yard engine, 1 hr. 26 mins | do | | | |
| | | No. 517, 13 hrs. 10 mins | do | Yes | No | 1,671 |
| Do | 3:15 a.m. | 3 hrs. 15 mins | do | Yes | No | 1,100 |
| Aug. 25, 1967 | 1:05 a.m. | 2 hrs. 35 mins | do | Yes | No | 1,900 |
| Sept. 11, 1967 | 1:50 a.m. | Waldo locomotive, 2 hrs. 20 mins | do | | | |
| | | Yard engine 1481, 2 hrs. 50 mins | do | Yes | No | 1,250 |
| Sept. 22, 1967 | 5:00 p.m. | 10 hrs. 15 mins | do | Yes | No | 9,260 |
| Sept. 24, 1967 | 6:20 p.m. | 9 hrs. 20 mins | Derailment | Yes | No | 15,892 |
| Oct. 3, 1967 | 9:30 p.m. | 1 hr. 30 mins | Collision | Yes | No | 1,200 |
| Oct. 19, 1967 | 11:50 p.m. | 2 hrs. 40 mins | Derailment | Yes | No | 1,286 |
| Nov. 1, 1967 | 7:05 p.m. | 3 hrs. 10 mins | Collision | Yes | No | 1,300 |
| Nov. 9, 1967 | 2:30 a.m. | 2 hrs. 31 mins | do | Yes | No | 955 |
| Nov. 18, 1967 | 6:00 p.m. | 12 hrs | do | Yes | No | 988 |
| Nov. 28, 1967 | 4:55 p.m. | 1 hr | do | Yes | No | 2,150 |
| Nov. 29, 1967 | 4:55 a.m. | 4 hrs. 56 mins | do | Yes | No | 785 |
| Dec. 1, 1967 | 1:05 a.m. | 5 hrs. 10 mins | do | Yes | No | 2,043 |
| Dec. 8, 1967 | 12:45 a.m. | 1 hr. 45 mins | do | Yes | No | 1,280 |
| Dec. 17, 1967 | 7:40 p.m. | 5 hrs. 55 mins | do | Yes | No | 1,165 |
| Dec. 20, 1967 | 11:38 p.m. | 38 mins | do | Yes | No | 1,091 |
| Jan. 4, 1968 | 7:30 p.m. | 5 hrs. 15 mins | do | Yes | No | 1,256 |
| Jan. 6, 1968 | 3:30 p.m. | 3 hrs | Derailment | Yes | No | 1,154 |
| Jan. 7, 1968 | 12:45 p.m. | 1 hr. 45 mins | do | Yes | No | 2,640 |
| Jan. 9, 1968 | 7:55 p.m. | 3 hrs. 56 mins | do | Yes | No | 955 |
| Jan. 20, 1968 | 4:00 p.m. | 9 hrs | do | Yes | No | 1,000 |
| Jan. 21, 1968 | 11:40 p.m. | 40 mins | Collision | Yes | No | 2,800 |
| Jan. 27, 1968 | 12:25 a.m. | 5 hrs. 55 mins | Derailment | Yes | No | 7,900 |
| Feb. 4, 1968 | 10:25 p.m. | 5 hrs. 25 mins | do | Yes | No | 3,280 |
| Feb. 17, 1968 | 6:39 a.m. | 6 hrs. 40 mins | do | Yes | No | 2,052 |
| Feb. 18, 1968 | 9:30 p.m. | 5 hrs. 30 mins | Collision | Yes | No | 37,000 |
| Feb. 28, 1968 | 6:02 a.m. | 5 hrs. 32 mins | Derailment | Yes | No | 11,185 |
| Feb. 29, 1968 | 12:18 p.m. | 1 hr. 18 mins | do | Yes | No | 172,655 |
| Mar. 2, 1968 | 7:30 p.m. | 3 hrs. 35 mins | Collision | Yes | No | 4,211 |
| Mar. 9, 1968 | 7:15 p.m. | 3 hrs. 20 mins | Derailment | Yes | No | 1,128 |
| Mar. 12, 1968 | 4:25 p.m. | 40 mins | Collision | Yes | No | 62,303 |
| Mar. 24, 1968 | 7:10 a.m. | 40 mins | do | Yes | No | 1,175 |
| Mar. 27, 1968 | 2:45 p.m. | 6 hrs. 45 mins | do | Yes | No | 9,195 |
| Mar. 31, 1968 | 11:35 p.m. | 1 hr. 5 mins | do | Yes | No | 3,003 |
| Apr. 14, 1968 | 12:30 a.m. | 9 hrs. 30 mins | do | Yes | No | 1,819 |
| Apr. 21, 1968 | 10:25 a.m. | 5 hrs. 25 mins | Derailment | Yes | No | 2,613 |
| Apr. 20, 1968 | 8:40 p.m. | 5 hrs. 40 mins | do | Yes | No | 1,811 |
| May 1, 1968 | 12:30 p.m. | 6 hrs | do | Yes | No | 8,641 |
| May 3, 1968 | 8:45 p.m. | 5 hrs. 45 mins | Collision | Yes | No | 3,081 |
| May 28, 1968 | 8:30 p.m. | 5 hrs | do | Yes | No | 1,863 |
| June 20, 1968 | 5:45 a.m. | 6 hrs 30 mins | Derailment | Yes | No | 1,450 |
| July 16, 1968 | 9:40 p.m. | 7 hrs | Collision | Yes | Yes | 18,948 |
| July 29, 1968 | 6:45 p.m. | 3 hrs 15 mins | do | Yes | No | 1,205 |
| July 30, 1968 | 4:30 p.m. | 1 hr. 20 mins | do | Yes | No | 1,400 |
| Aug. 5, 1968 | 12:47 p.m. | 4 hrs. 17 mins | do | Yes | Yes | 589,124 |
| Aug. 10, 1968 | 7:50 a.m. | 50 mins | Derailment | Yes | No | 947 |
| Aug. 22, 1968 | 2:30 p.m. | 9 hrs. 30 mins | Collision | Yes | No | 3,300 |
| Aug. 23, 1968 | 4:45 a.m. | 4 hrs. 46 mins | Derailment | Yes | No | 961 |
| Aug. 28, 1968 | 12:30 a.m. | 1 hr. 30 mins | Collision | Yes | No | 1,038 |
| Sept. 6, 1968 | 4:00 a.m. | 5 hrs. 30 mins | do | Yes | No | 950 |
| Sept. 23, 1968 | 6:30 a.m. | 6 hrs. 5 mins | Derailment | Yes | No | 3,816 |
| Sept. 26, 1968 | 7:48 a.m. | 57 mins | Collision | Yes | No | 3,750 |
| Do | 11:40 a.m. | 3 hrs. 41 mins | do | Yes | No | 2,400 |
| Oct. 7, 1968 | 12:01 a.m. | 7 hrs. 16 mins | do | Yes | No | 12,695 |

| Date of accident | Time of day | Time on duty prior to accident | Kind of accident | Reported to DOT | Investigated by DOT | Cost |
|---|---|---|---|---|---|---|
| Oct. 13, 1968 | 7:35 a.m. | 35 mins | do | Yes | No | $875 |
| Oct. 28, 1968 | 5:20 a.m. | 3 hrs. 20 mins | do | Yes | No | 39,358 |
| Oct. 30, 1968 | 6:00 p.m. | Express 1046—13 hrs | | | | |
| | | Yard engine 214—3 hrs | do | Yes | Yes | 33,590 |
| Nov. 20, 1968 | 6:17 a.m. | 32 mins | Derailment | Yes | No | 820.00 |
| Nov. 23, 1968 | 10:45 a.m. | 3 hrs 45 mins | Collision | Yes | No | 2,765.00 |
| Dec. 5, 1968 | 9:50 a.m. | 1 hr 51 mins | do | Yes | No | 6,445.00 |
| Dec. 9, 1968 | 4:55 a.m. | 5 hrs 10 mins | do | Yes | No | 3,200.00 |
| Dec. 29, 1968 | 2:38 p.m. | No. 546, 1 hr 8 mins | | | | |
| | | No. 1107, 5 hrs 38 mins | do | Yes | Yes | 65,875.00 |
| Do | 9:20 p.m. | 5 hrs 20 mins | do | Yes | No | 2,938.00 |
| Jan. 5, 1969 | 5:15 a.m. | 5 hrs 16 mins | do | Yes | No | 1,296.00 |
| Jan. 8, 1969 | 11:50 a.m. | 3 hrs 20 mins | Derailment | Yes | No | 2,167.00 |
| Jan. 18, 1969 | 12:40 p.m. | 4 hrs 10 mins | do | Yes | No | 800.00 |
| Jan. 25, 1969 | 9:45 a.m. | Yard engine 895, 2 hrs 45 mins | | | | |
| | | Yard engine 900, 1 hr 46 mins | Collision | Yes | No | 1,250.00 |
| Jan. 29, 1969 | 7:55 a.m. | 2 hrs 40 mins | do | Yes | Yes | 149,468.00 |
| Feb. 2, 1969 | 10:15 a.m. | 3 hrs 15 mins | do | Yes | No | 2,672.00 |
| Feb. 4, 1969 | 5:00 a.m. | 5 hrs 1 min | do | Yes | No | 1,704.00 |
| Feb. 7, 1969 | 6:12 a.m. | Engine, 6 hrs 42 mins | | | | |
| | | Train, 11 hrs 12 mins | do | Yes | Yes | 48,228.00 |
| Feb. 9, 1969 | 11:30 p.m. | 4 hrs | do | Yes | No | 3,882.00 |
| Feb. 15, 1969 | 4:20 a.m. | 4 hrs. 21 mins | do | Yes | No | 3,684.00 |
| Feb. 20, 1969 | 4:40 p.m. | 8 hrs. 10 mins | do | Yes | No | 1,000.00 |
| Do | 10:10 p.m. | 6 hrs. 11 mins | do | Yes | No | 1,685.00 |
| Feb. 26, 1969 | 6:30 a.m. | 7 hrs | do | Yes | No | 1,300.00 |
| Mar. 2, 1969 | 1:45 p.m. | 2 hrs. 45 mins | do | Yes | No | 802.00 |
| Mar. 6, 1969 | 1:30 a.m. | 2 hrs. 30 mins | do | Yes | No | 8,669.00 |
| Mar. 12, 1969 | 7:00 a.m. | 7 hrs. 1 min | do | Yes | No | 2,666.00 |
| Mar. 16, 1969 | 5:30 p.m. | 1 hr. 31 mins | do | Yes | No | 779.00 |
| Mar. 23, 1969 | 3:15 a.m. | 4 hrs. 15 mins | do | Yes | No | 3,450.00 |
| Apr. 2, 1969 | 7:45 a.m. | 1 hr. 15 mins | do | Yes | No | 2,800.00 |
| Apr. 12, 1969 | 3:00 a.m. | 3 hrs. 30 mins | do | Yes | No | 931.00 |
| May 2, 1969 | 1:45 a.m. | 3 hrs. 15 mins | do | Yes | No | 1,400.00 |
| May 4, 1969 | 1:40 a.m. | 1 hr. 41 mins | do | Yes | No | 1,635.00 |
| May 5, 1969 | 4:30 a.m. | 5 hrs. 30 mins | Derailment | Yes | No | 1,425.00 |
| May 6, 1969 | 11:50 p.m. | 7 hrs. 51 mins | Collision | Yes | No | 5,610.00 |
| May 7, 1969 | 7:45 a.m. | 40 mins | do | Yes | No | 3,675.00 |
| May 13, 1969 | 12:20 p.m. | 4 hrs. 21 mins | do | Yes | No | 2,600.00 |
| May 16, 1969 | 7:05 a.m. | 35 mins | do | Yes | No | 3,350.00 |
| May 20, 1969 | 5:58 p.m. | No. 831–2 hrs 43 mins | | | | |
| | | No. 312–57 mins | do | Yes | No | 3,672.00 |
| Do | 2:45 a.m. | 5 hrs 15 mins | do | Yes | No | 33,918.00 |
| May 29, 1969 | 3:25 a.m. | 10 mins | Derailment | Yes | No | 874.00 |
| Do | 6:25 p.m. | 2 hrs 26 mins | Collision | Yes | No | 1,376.00 |
| June 3, 1969 | 10:20 p.m. | 6 hrs 50 mins | Derailment | Yes | No | 1,507.00 |
| June 6, 1969 | 2:19 a.m. | 2 hrs 20 mins | Collision | Yes | No | 1,562.00 |
| June 15, 1969 | 8:00 a.m. | Yard engine 59–8 hrs | | | | |
| | | Yard engine 940–30 mins | do | Yes | No | 8,369.00 |

Note: Total number of accidents during 2-year period, 115. Average time on duty of employees prior to these accidents approximately 4 hours 30 minutes. Number of accidents occurring exceeding 12 hours on duty, 2.

The CHAIRMAN. Mr. Sam B. Burton, assistant general manager, Southern Pacific Co.

Mr. Burton.

## STATEMENT OF SAM B. BURTON, ASSISTANT GENERAL MANAGER, SOUTHERN PACIFIC CO.; ACCOMPANIED BY WILLIAM R. DENTON, ATTORNEY

Mr. BURTON. I have with me Mr. William R. Denton, our attorney from San Francisco.

The CHAIRMAN. I was wondering how long will your statement take?

Mr. BURTON. About 15 minutes, Mr. Chairman.

My name is Sam B. Burton. I am assistant general manager for the Southern Pacific Co. My office is at 65 Market Street, San Francisco, Calif.

My experience in the railroad industry began in 1940. In the course of my work with Southern Pacific I have been a train dispatcher, trainmaster, and superintendent. I have occupied my present position since April 1964.

I appear before your committee in opposition to H.R. 8449 which would reduce the limitations on the hours of service of railroad employees.

I have worked closely with the men engaged in operating our trains. As a dispatcher my primary responsibility was handling of train crews 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 trainmaster and 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.

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. 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 the corresponding effect of the act on the movement of employees.

We are not comparable to an industrial plant where the employees actually spend their on-duty hours statutionary and in productivity. Because of the nature of railroading the men travel.

The committee 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 employees 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 employees 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 and have no responsibilities en route.

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, if the men must wait over 3 hours before returning to the home terminal, that waiting period is not on-duty time.

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.

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 operating employees to obtain rest. Collective bargaining agreement provisions control their schedule of rest. Enginemen can even rest after deadheading if they want by taking either 8, 10, or 12 hours undisturbed rest. The company cannot interfere with their right to rest even if it has a critical need for them.

At this point Mr. Chairman, I would like to call your attention to the exhibits that have been included in our report. I would like to read engineer's rest rule: "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 roads 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 numbers of hours he requires, which must be either 8, 10 or 12 hours, but in no case to exceed 12 hours; the hours to be considered from the time of registering in until time called. After marking rest the hours as indicated on the register will not be changed."

The CHAIRMAN. You are inserting these in the record, you don't intend to read all of them?

Mr. BURTON. No, sir, I don't. The others which are attached are almost identical to the engineer's. The conductor's and trainmen's agreements are attached with the attachments indicating that this rest provision has been waived at several of the away-from-home terminals on our railroad, and quite recently also.

The negotiated agreement provisions on rest are attached to my testimony as exhibit A. The engineers rest rules dates back to 1895.

The most important rule on the railroad is safety first. The Southern Pacific has won the E. H. Harriman Memorial Silver Medal Award in recognition of outstanding safety performance for the years 1967 and 1968.

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 saw 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.

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 working list is usually kept trim to maximize the earnings at about 3,800 miles per month.

The rest of conductors and trainmen is controlled by them through their respective collective bargaining agreements. (Exhibits.) In fact, both the conductors' and trainmen's organizations have waived the right to control the rest of train crews at away-from-home terminal by local lodge action in order to minimize the layover time at certain terminals. Train crew organizations are continually requestng that the company decrease the number of crews in through freight pools and the number of men on the extra board in order to allow more trips (on-duty time) per month and thereby maximize earnings.

On the basis of my experience with train operations and crews, I should like to advance several specific observations and conclusions. I have, I believe, acquired an understanding of manning 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 doubt that these proposed changes even represent any consensus of the employees. If they did we certainly would have been made aware of the feelings of our employees. I would anticipate a sharp negative reaction if we have to change assignments and shorten their time on duty because of the proposed amendments. I suspect that the effort of the unions to change the law is for the purpose of laying the foundation for collective bargaining on related subjects.

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. They can often earn a week's pay in less than 20 hours, 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 employees operating our trains and company officers. The men are very attentive to operations and not hesitant about suggesting 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 offduty before returning home. It would also cut their earnings.

For example, one run preferred by the men is 101 miles each way and the enginemen are paid 140 miles each way. The run takes from 3½ to 4⅓ hours normally, and the engineers receive more than $40 each way. Their total onduty time each way is between 5 to 6 hours. They almost always double, that is, make the round trip in 1 day. They are then off at the home terminal 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 the away-from-home terminal 8 or more hours. This increases their personal expenses, the company's expenses, and takes away from their leisure time at their homes.

I would like to comment on our local and road switcher assignments concerning the length of time worked. These assignments traditionally operate at slower stop and go speeds and work longer hours than the pool freight crews. The local and road switcher assignments are preferred by employees, and, therefore, it takes a lot of seniority to hold the jobs. These long-hour assignments are preferred by the men because of high earnings, return to home each day, and opportunity for rest during the tour of duty. One of the most difficult tasks of the supervisors on districts of the railroad, and one that occupies a great deal of his time, is the control of local freight and road switcher overtime. It is a continual battle to keep it within reason. In my experience as an operating officer on several divisions, I have found that I could not keep experienced employees on locals unless they were long-hour, and therefore high-paying jobs.

Perhaps the committee is aware that seniority is one of the most zealously guarded provisions of the agreements in effect between the employees 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.

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 heavy impact on these high paying assignments by reducing the mileage, reducing the hours, or increasing uncompensated time away

from home, or by having any combination of these effects. The senior men would leave these assignments. 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 employees. They would all have the same earnings and amount of time off if they all worked the same assignments, but they don't. It is the variety of assignments that enable 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 would fragmentize the hours of work and thereby tend to equalize assignments and prevent the men from having their income and time off grow with their seniority. Seniority to a railroad operating employee 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 seniority 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 in some instances, but they would spread them more inconveniently into many more, shorter tours of duty. The irregularity of the work of the operating employees would be increased by the amendments.

A study was made of operations on the Southern Pacific. The proposed amendments to the Hours of Service Act were applied to our present operations to determine the changes in operations, if any, that would be necessary. The impact of the changes on the employees is not one that would be welcomed. For example, most through freight crews would have to be given a full 8 hours' rest at their away-from-home terminal. Deadheading of through freight crews would have to be done sufficiently in advance to assure the crews getting 8 hours' rest before going on duty. More crews would have to be added to the pools to provide rested crews. Many local and road switcher assignments would be added to reduce the hours worked by the present assignments. The net effect on employees systemwide would be to reduce the earnings of over 2,000 operating employees by $100 to $450 per month. Over 2,000 operating employees each would be required to spend from 50 to 250 hours of additional time away from home per month.

I am personally satisfied that a part of the success we have had in attracting and keeping intelligent and capable employees has been 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 law, it is reasonable to expect that the interest of present employees 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 employees' place on their assignment or even losing employees 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 employees 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.

I have, to this point, emphasized primarily what I see as the adverse impacts on railroad employees 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.

Because of Southern Pacific's widespread operations from Portland, Oreg., to New Orleans, serving many varied industries, flexibility of operations is essential to satisfy today's demands of shippers and consignees. H.R. 8449 would place stringent limitations on the flexibility of operations by reducing the maximum hours of service to 12 from the present 16. I want to emphasize that the present 16-hour limitation under the act is the outer limit of working hours, and by no means does the Southern Pacific require its operating employees to work that long with regularity. As I mentioned earlier, we continually expend great effort to keep the assignments within reasonable limits of overtime against the employees' desire for longer hours and greater earnings.

Whereas only approximately 5 percent of the through freight trains exceed 12 hours on duty, the 16-hour service limitation is required in order to keep the necessary flexibility of doubling (or aggregating) crews back from their away-from-home terminal and to rapidly clear up operating problems en route. Roughly 33 percent of our local freight and road switcher assignments are on duty over 12 hours, the bulk of them between 12 and 13 hours. This is necessary to keep trained men on the jobs and to efficiently and economically serve our customers.

The continuous service provision of 16 hours under the present act is needed to provide for flexibility in crew handling and the ability to move trains as efficiently as possible. Southern Pacific through freight crews are worked back to their home terminal with less than 8 hours off duty at away-from-home terminals approximately 70 percent of the time, and the train and engine crews desire that this be done so they can maximize their time at home and earnings. Under H.R. 8449, because of the continuous service provision, this could not be done.

If deadheading is included as time on duty, as it would be under the proposed amendments to the act, the flexibility in crew handling would disappear. Operating employees would be away from home much longer and their expenses as well as company expenses will increase. 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.

(The attachments to Mr. Burton's statement follow:)

REST RULE

*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.

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ARTICLE 46. FIREMEN ENTITLED TO REST

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.

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ARTICLE 50. TIME OFF AT TERMINALS

*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 wrecks, washouts, etc.

NOTE: See Agreement TRN 1–178, dated January 7, 1952; Letter Agreement TRN 1–301, dated May 13, 1942; Interpretation Agreement TRN 1–534, dated December 1, 1947; and Interpretation Agreement TRN 22–179, dated April 11, 1946.

*Section* (*c*). Conductors will not be tied up for rest between their terminals at points where food and lodging cannot be procured.

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*Section* (*b*). When a trainman arrives at his terminal and has been on duty twelve (12) or more consecutive hours, computed from time on duty until time tied up, he shall not be brought on duty for subsequent service until after the expiration of ten (10) hours, except in cases of wrecks, washouts, etc.

If a trainman has been on duty twelve (12) or more consecutive hours as referred to in the preceding paragraph, he may be deadheaded from the away-from-home-terminal prior to receiving ten (10) hours off duty at such terminal, subject to the following:

1. He shall not be injected into service at an intermediate point while deadheading, except in cases of wrecks, washouts, etc.
2. He shall be given ten (10) hours off duty after arrival at the opposite terminal, except in cases of wrecks, washouts, etc.

EXHIBIT A

TRN 1-996-1

MEMORANDUM OF AGREEMENT BETWEEN SOUTHERN PACIFIC COMPANY (PACIFIC LINES) (EXCLUDING FORMER EP&SW) AND ITS CONDUCTORS REPRESENTED BY THE ORDER OF RAILWAY CONDUCTORS AND BRAKEMEN

It is agreed that *insofar as conductors are concerned*, in the application of the provisions of Article 50, Section (b), Conductors' Agreement, on the Stockton District, San Joaquin Division, the following will govern:

(a) Tracy: The provisions of Article 50, Section (b) shall apply to Pool No. 1 at Tracy and all other assignments with home terminal Tracy.

(b) Roseville: The provisions of Article 50, Section (b) shall apply to Pool No. 2 at Roseville and all other assignments with home terminal Roseville.

(c) The provisions of Article 50, Section (b), shall be temporarily waived in their application to conductors operating in freight service at all other locations other than those set forth above.

This Memorandum of Agreement shall become effective May 6, 1968, and during its existence shall supersede any agreement or portion thereof with which it may conflict. It shall remain in effect until the expiration of twenty (20) days' written advance notice given by one party to the other party for its cancellation.

Signed at San Francisco, California, this 25th day of April, 1968.

For the Company:

H. A. TEAL,
*Assistant Manager of Personnel.*

For the Employes:

R. H. WOODHAMS,
*General Chairman, Order of Railway Conductors and Brakemen.*

* * *

TRN 1-1031-3

MEMORANDUM OF AGREEMENT BETWEEN SOUTHERN PACIFIC COMPANY (PACIFIC LINES) (EXCLUDING FORMER EP&SW) AND ITS CONDUCTORS REPRESENTED BY THE ORDER OF RAILWAY CONDUCTORS AND BRAKEMEN

It is agreed that the provisions of Article 50, Section (b), Conductors' Agreement, shall be waived in their application to conductors operating in the pool freight districts, Palmdale-Bakersfield and Palmdale-Indio, at their away-from-home terminals, Bakersfield and Indio.

It is understood that the twelve (12) hour rest provisions applicable to crews operating in the Los Angeles-Bakersfield freight pool shall not be applicable to the Palmdale-Bakersfield freight pool at Bakersfield.

This Memorandum of Agreement shall become effective with the inauguration of service in the two new freight pools, and shall supersede any agreement or portion thereof with which it may conflict; it will continue in effect subject to cancellation upon the expiration of twenty (20) days' advance notice, in writing, given by one party to the other party for its cancellation.

Signed at San Francisco, California, this 31st day of March, 1967.

For the Company:

H. A. TEAL,
*Assistant Manager of Personnel.*

For the Employes:

R. H. WOODHAMS,
*General Chairman, Order of Railway Conductors and Brakemen.*

* * *

TRN 1–470

MEMORANDUM OF AGREEMENT BETWEEN SOUTHERN PACIFIC COMPANY (PACIFIC LINES) (EXCLUDING THE FORMER EP&SW) AND ITS CONDUCTORS REPRESENTED BY THE ORDER OF RAILWAY CONDUCTORS AND BRAKEMEN AND ITS TRAINMEN REPRESENTED BY THE BROTHERHOOD OF RAILROAD TRAINMEN

It is agreed, between the parties hereto, that on the effective date hereof the provisions of Article 50, Section (b), Conductors' Agreement, and Article 46, Section (b), Trainmen's Agreement, shall be temporarily waived in their application to conductors and trainmen of the Los Angeles District, Los Angeles Division, operating in pool freight service, at their away-from-home terminals; i.e., Santa Barbara for the Los Angeles-Santa Barbara District; Indio for the Los Angeles-Indio District, and Yuma for the Indio-Yuma District.

This Memorandum of Agreement shall become effective 12:01 AM, December 27, 1965, and during its existence shall supersede any agreement or portion thereof with which it may conflict. It shall remain in effect until the expiration of thirty (30) days' written advance notice given by one party to the other two parties for its cancellation.

Signed at San Francisco, California, this 7th day of December, 1965.

For the Company:

H. A. TEAL,
*Assistant Manager of Personnel.*

For the Conductors:

R. H. WOODHAMS,
*General Chairman,*
*Order of Railway Conductors and Brakemen.*

For the Trainmen:

J. J. CORCORAN,
*General Chairman,*
*Brotherhood of Railroad Trainmen.*
J. E. TEAGUE,
*Secretary, General Committee,*
*Brotherhood of Railroad Trainmen.*

* * *

TRN 1–810

MEMORANDUM OF AGREEMENT BETWEEN SOUTHERN PACIFIC COMPANY (PACIFIC LINES) (EXCLUDING FORMER EP&SW) AND ITS CONDUCTORS REPRESENTED BY THE ORDER OF RAILWAY CONDUCTORS AND BRAKEMEN AND ITS TRAINMEN REPRESENTED BY THE BROTHERHOOD OF RAILROAD TRAINMEN

It is agreed between the parties hereto that, coincident with Agreements identified as Company files TRN 1–977 and TRN 1–977–1, dated May 3 and May 2, 1963, respectively, becoming effective, the provisions of Article 50, Section (b), Conductors' Agreement reading:

"When a trainman 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."

and Article 46, Section (b), Trainmen's Agreement reading:

"When a trainman 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."

shall be temporarily waived at all away-from-home-terminals on the Sparks-Carlin, Carlin-Wendel, Sparks-Wendel and Alturas-Wendel freight districts, in their application to conductors and trainmen.

This Memorandum of Agreement, during its existence, shall supersede any agreements or portions thereof with which it may conflict. It shall remain in effect subject to cancellation on the expiration of twenty (20) days' written advance notice, served by one party on the other two parties for its cancellation.

Signed at San Francisco, California, this 5th day of September, 1963.
For the Company:

F. S. GRIMM,
*Assistant Manager of Personnel.*

For the Conductors:

M. BIEUMER,
*General Chairman,*
*Order of Railway Conductors and Brakemen.*

For the Trainmen:

J. J. CORCORAN,
*General Chairman,*
*Brotherhood of Railroad Trainmen.*
J. E. TEAGUE,
*Secretary, General Committee,*
*Brotherhood of Railroad Trainmen.*

* * *

TRN 1–912

MEMORANDUM OF AGREEMENT BETWEEN SOUTHERN PACIFIC COMPANY (PACIFIC LINES) (EXCLUDING FORMER EP&SW) AND ITS CONDUCTORS REPRESENTED BY THE ORDER OF RAILWAY CONDUCTORS AND BRAKEMEN AND ITS TRAINMEN REPRESENTED BY THE BROTHERHOOD OF RAILROAD TRAINMEN

It is agreed, between the parties hereto, that on the effective date hereof the provisions of Article 50, Section (b), Conductors' Agreement, and Article 46, Section (b), Trainmen's Agreement, shall be temporarily waived in their application to conductors and trainmen of the Sacramento Division as follows:

1. At all locations other than Sacramento and Roseville on the runs or assignments operating out of those points.
2. At the away-from-home-terminal of runs or assignments tying up at outside points.
3. At locations other than Sacramento and Roseville for work train service, including snow service.

This Memorandum of Agreement shall become effective 12:01 AM December 31, 1959, and during its existence shall supersede any agreement or portion thereof with which it may conflict. It shall remain in effect until thirty (30) days' written advance notice is served by one party on the other two parties for its cancellation.

Signed at San Francisco, California, this 28th day of December, 1959.
For the Company:

F. G. GRIMM,
*Assistant Manager of Personnel.*

For the Conductors:

GEO. F. LECHNER,
*General Chairman,*
*Order of Railway Conductors and Brakemen.*

For the Trainmen:

J. J. CORCORAN,
*General Chairman,*
*Brotherhood of Railroad Trainmen.*
J. E. TEAGUE,
*Secretary, General Committee,*
*Brotherhood of Railroad Trainmen.*

* * *

TRN 1–984

MEMORANDUM OF AGREEMENT BETWEEN SOUTHERN PACIFIC COMPANY (PACIFIC LINES) (EXCLUDING THE FORMER EP&SW) AND ITS CONDUCTORS REPRESENTED BY THE ORDER OF RAILWAY CONDUCTORS AND BRAKEMEN AND ITS TRAINMEN REPRESENTED BY THE BROTHERHOOD OF RAILROAD TRAINMEN

* * *

It is agreed, between the parties hereto, that on the effective date hereof the provisions of Article 50, Section (b), Conductors' Agreement, and Article 46, Section (b), Trainmen's Agreement, shall be temporarily waived in their application to conductors and trainmen of the Western District, Western Division,

operating in pool freight service at all locations other than the home terminal of the respective pool freight assignments.

This Memorandum of Agreement shall become effective 12:01 AM, April 25, 1966, and cancels that certain Memorandum of Agreement identified by Company file TRN 1–984, effective March 26, 1963; and during its existence shall supersede any agreement or portion thereof with which it may conflict. It shall remain in effect until the expiration of thirty (30) days' written advance notice given by one party to the other two parties for its cancellation.

Signed at San Francisco, California, this 12th day of April, 1966.

For the Company:

H. A. TEAL,
*Assistant Manager of Personnel.*
R. H. WOODHAMS,

For the Conductors:

*General Chairman,*
*Order of Railway Conductors and Brakemen.*

For the Trainmen:

G. W. CRAWFORD,
*Act'g. General Chairman,*
*Brotherhood of Railroad Trainmen.*
J. E. TEAGUE,
*Secretary, General Committee,*
*Brotherhood of Railroad Trainmen.*

TRN 1–1061

* * *

MEMORANDUM OF AGREEMENT BETWEEN SOUTHERN PACIFIC COMPANY (PACIFIC LINES) (EXCLUDING THE FORMER EP&SW) AND ITS CONDUCTORS REPRESENTED BY THE ORDER OF RAILWAY CONDUCTORS AND BRAKEMEN AND ITS TRAINMEN REPRESENTED BY THE BROTHERHOOD OF RAILROAD TRAINMEN

It is agreed, between the parties hereto, that on the effective date hereof the provisions of Article 50, Section (b), Conductors' Agreement, and Article 46, Section (b), Trainmen's Agreement, shall be temporarily waived at Watsonville Junction in their application to conductors and trainmen of the Coast District, Western Division, *operating in pool freight service between San Francisco (Bayshore) and Watsonville Junction.*

This Memorandum of Agreement shall become effective 12:01 AM, October 1, 1967, and during its existence shall supersede any agreement or portion thereof with which it may conflict. It shall remain in effect until the expiration of thirty (30) days' written advance notice given by one party to the other two parties for its cancellation.

Signed at San Francisco, California, this 29th day of September 1967.

For the Company:

H. A. TEAL,
*Assistant Manager of Personnel.*

For the Conductors:

R. H. WOODHAMS,
*General Chairman,*
*Order of Railway Conductors and Brakemen.*

For the Trainmen:

GEO. R. PERKINS,
*General Chairman,*
*Brotherhood of Railroad Trainmen.*
J. E. TEAGUE,
*Secretary, General Committee,*
*Brotherhood of Railroad Trainmen.*

* * *

TRN 1–996

MEMORANDUM OF AGREEMENT BETWEEN SOUTHERN PACIFIC COMPANY (PACIFIC LINES) (EXCLUDING THE FORMER EP&SW) AND ITS TRAINMEN REPRESENTED BY THE BROTHERHOOD OF RAILROAD TRAINMEN

It is agreed, between the parties hereto, that on the effective date hereof, the provisions of Article 46, Section (b), Trainmen's Agreement, shall be temporarily waived in their application to trainmen of the Stockton District, Western Division, operating in all freight service at all locations other than Tracy.

This Memorandum of Agreement shall become effective May 6, 1968, and during its existence shall supersede any agreement or portion thereof with which it may conflict. It shall remain in effect until the expiration of twenty (20) days' written advance notice given by one party to the other for its cancellation.

Signed at San Francisco, California, this 29th day of April, 1968.

For the company:

H. A. TEAL,
*Assistant Manager of Personnel.*

For the Employes:

GEO. R. PERKINS,
*General Chairman,*
*Brotherhood of Railroad Trainmen.*
J. E. TEAGUE,
*Secretary, General Committee,*
*Brotherhood of Railroad Trainmen.*

* * *

Excerpts from local agreement, applicable in territory between Palmdale and Indio, modifying rest provisions of basis Trainmen's Agreement.

"TRN 1-1031-6

"AGREEMENT BETWEEN SOUTHERN PACIFIC COMPANY (PACIFIC LINES) (EXCLUDING FORMER EP&SW) AND ITS TRAINMEN REPRESENTED BY THE BROTHERHOOD OF RAILROAD TRAINMEN

"It is agreed that:

* * *

"7. (a) Trainmen assigned to, or filling vacancies in the Palmdale-Indio freight pool after making a divisional trip Indio-Palmdale, will be given twelve (12) hours off duty, except in emergency.

(b) The twelve (12) hour rest provisions applicable to crews operating in the Los Angeles-Bakersfield freight pool, appearing on page 17, Trainmen's Agreement, shall not be applicable to the Bakersfield-Palmdale freight pool at Bakersfield.

(c) The provisions of Article 46, Section (b), Trainmen's Agreement, shall be waived in its application to trainmen operating in the Palmdale-Indio freight pool at all points other than Palmdale.

(d) The provisions of Article 46, Section (b), Trainmen's Agreement, shall be waived in its application to trainmen operating in the Bakersfield-Palmdale freight pool at all points other than Bakersfield.

* * *

"Signed at San Francisco, California, this 26th day of June, 1967.

"For the Company:

"C. A. BALL,
"*Manager of Personnel.*

"For the Employes:

"GEO. R. PERKINS,
"*General Chairman,*
"*Brotherhood of Railroad Trainmen.*
"J. E. TEAGUE,
"*Secretary, General Committee,*
"*Brotherhood of Railroad Trainmen.*"

* * *

TRN 1-1035-5

MEMORANDUM OF AGREEMENT BETWEEN SOUTHERN PACIFIC COMPANY (PACIFIC LINES) (FORMER PACIFIC ELECTRIC) AND ITS CONDUCTORS AND BRAKEMEN REPRESENTED BY THE BROTHERHOOD OF RAILROAD TRAINMEN

It is agreed between the parties hereto that on the effective date hereof, the provisions of Article 50, Section (b), Conductors' Agreement, and Article 46, Section (b), Trainmen's Agreement, shall be temporarily waived in their application to former Pacific Electric conductors and trainmen operating on "Pacific Electric Protected" road switcher assignments, including relief assignments

therefor, and on Pacific Electric extra madeup crews in the so-called "Merged Territory", Los Angeles District, Los Angeles Division.

This Memorandum of Agreement shall become effective 12:01 AM, November 27, 1967, and during its existence shall supersede any agreement or portion thereof with which it may conflict. It shall remain in effect until the expiration of thirty (30) days' written advance notice given by one party to the other two parties for its cancellation.

Signed at San Francisco, California, this 21st day of November, 1967.

For the Company:

H. A. TEAL,
*Assistant Manager of Personnel.*

For the Conductors and Brakemen:

GEO. R. PERKINS,
*General Chairman, Botherhood of Railroad Trainmen.*
J. E. TEAGUE,
*Secretary, General Committee, Brotherhood of Railroad Trainmen.*

Mr. PICKLE (presiding). Thank you, Mr. Burton.

Mr. Tiernan, do you have any questions?

Mr. TIERNAN. Yes, Mr. Chairman. Mr. Burton, you and the previous witness whether consciously or unconsciously have been using the word "service." On pages 14 and 15 you say reducing the maximum hours of service to 12 from the present 16. Have you had an opportunity to read the bill?

Mr. BURTON. Yes, sir.

Mr. TIERNAN. Could you tell me on what page, what line the hours of service is included in the bill?

Mr. BURTON. Right in the title of the bill.

Mr. TIERNAN. And where else in the hours of service does it appear?

Mr. BURTON. Line 5, page 1.

Mr. TIERNAN. That is in the description of the bill, but where in the act do you find it? Isn't it section 2, page 3, that we are really concerned about, to require or permit employees in cases where employees shall be continuously on duty for 12 hours, to continue on duty?

Mr. BURTON. Yes.

Mr. TIERNAN. The point I am making is just speaking in the statement in regards to service of the company being reduced from 16 hours to 12 hours, but that is not the case, your railroad would be able to provide service 24 hours a day whether this act passed or not?

Mr. BURTON. We can provide service but we certainly can't do it as efficiently.

Mr. TIERNAN. Why?

Mr. BURTON. Because of the requirement of the 12 hours we cannot. As our railroad is affected most it is bringing the crews back that are away from home.

Mr. TIERNAN. That is not efficiency, you are talking about inconvenience to its crew. You said efficiency.

Mr. BURTON. I can give you an example, and I think Mr. Manion covered this in his testimony this morning. On branch line service where you have one crew that can work out and back say working an average of 13 to 14 hours per day it would then require two crews to do this same thing.

Mr. TIERNAN. Does that mean the service is going to be less efficient?

Mr. BURTON. It could very easily be.

Mr. TIERNAN. More to the point, it would be more expensive?

Mr. BURTON. It would be more expensive and probably less efficient.

There is a possibility that it does not become compensatory and you have to do away with one local or actually the branch line.

Mr. TIERNAN. You have had a great deal of experience in the railroad for some 30-odd years, and when you went to work for the railroad how many freight cars were on the long-haul freight trains?

Mr. BURTON. On our railroad about a hundred.

Mr. TIERNAN. What year was that?

Mr. BURTON. 1940.

Mr. TIERNAN. In 1940 you were hauling a hundred. How about in 1957 and how many would you say were on?

Mr. BURTON. I don't know.

Mr. TIERNAN. Do you think there were 100?

Mr. BURTON. I would think not.

Mr. TIERNAN. They were probably doubled-ended locomotives pulling 60 to 70 cars.

Mr. BURTON. I can't tell you.

Mr. TIERNAN. Would you say I was wrong if I said that?

Mr. BURTON. I would say you are wrong in one respect. I am sure that most of the trains would not be double-ended.

Mr. TIERNAN. How many boxes are you putting on now?

Mr. BURTON. It varies anywhere from 50 up to 150, even 200.

Mr. TIERNAN. Isn't it management's custom to try to get these trains so that they are over a hundred cars?

Mr. BURTON. That is not ours; no, sir.

Mr. TIERNAN. You don't hold the freight cars trying to get these made up so that they are going in one direction with so many cars?

Mr. BURTON. Oh, certainly we do that but I would say the average number of cars on the Southern Pacific freight trains average somewhere in the neighborhood of 80 to 85 cars.

Mr. TIERNAN. You make mention on page 5 of the Silver Medal Award. Who makes that presentation, who presents that? Is that the Department of Transportation or is that the National Safety Council Award for the railroad?

Mr. BURTON. It is the National Safety Council Award; yes, sir.

Mr. TIERNAN. Is that an industry council award?

Mr. BURTON. No; it is made through the National Safety Council.

Mr. TIERNAN. Railroad Safety Council, not the highway?

Mr. BURTON. No, not the highway.

Mr. TIERNAN. Is this a Government agency?

Mr. BURTON. Yes, it is.

Mr. TIERNAN. How many accidents did you have in the year 1967 and 1968?

Mr. BURTON. This is made not only on the reduced number of accidents we have, also the personal injuries that we have had. I don't have that information available, but I can make it available.

(The information requested was not available to the committee at the time of printing.)

Mr. TIERNAN. You don't have that. Does your company keep records of the accidents and the proximate cause?

Mr. BURTON. Yes.

Mr. TIERNAN. Does it also indicate whether the ICC or the new safety board investigates?

Mr. BURTON. No, it doesn't in all cases. We keep a record of our accidents moneywise that are in excess of $750 damages and we keep a record of any injury to an individual on the railroad where they have had more than 24 hours disabled service in the first 10 days.

Mr. TIERNAN. Thank you, Mr. Chairman.

Mr. PICKLE. Mr. Skubitz.

Mr. SKUBITZ. I reserve my time.

Mr. PICKLE. Mr. Preyer.

Mr. PREYER. I just have a few questions. On the number of employees that you mentioned that would be affected by having their earnings reduced and also being able to spend less time at home would you have some estimate of what percentage of the total number of your employees that would be?

Mr. BURTON. Yes, sir; that would be 20 percent, wait a minute. It would be 40 percent.

Mr. PREYER. That would be about 40 percent you say?

Mr. BURTON. Yes, sir; 40 percent of those operating employees by moneywise and 20 percent spending additional time away from home.

Mr. PREYER. So it is 40 percent moneywise and 20 percent additional time away from home.

Mr. BURTON. Yes, these are operating reports.

Mr. PREYER. I didn't hear the union's testimony earlier but I understood that was their contention was it affected 8 percent. I gather then that you are saying that because of this loss of time and loss of earnings and loss of time away from home that you don't think this bill does represent the wishes of your employees?

Mr. BURTON. No; I don't think it does. I have talked to some of our employees and if it were from the representative number of employees I am sure that I would have been contacted by the general chairman of the various organizations asking for agreement on this subject.

Mr. PREYER. Do you think the purpose of it then is to create more jobs, is that your belief in what the purpose, the motivating force behind this is?

Mr. BURTON. Yes, sir; I think that is the purpose of it to create more jobs and to require the railroads to put on more people.

Mr. PREYER. You say on page 7 of your statement that the unions wish to change the law for the purpose of "laying the foundation for collective bargaining on related subjects," what do you have in mind?

Mr. BURTON. I have in mind here just what I suggested before that we suspect that the unions want to change the law in order to create more jobs and to eventually, I think, even bargain for a 6-hour day.

Mr. PREYER. Let me ask one other question. You mentioned "the pool working list" on page 5 by which engineers control the size of their respective pool working lists; that is, they control the number of men available for work. How does that operate?

Mr. BURTON. This is negotiated through the superintendent of the division and the local chairman on the division regulates the size of the pool, in other words he regulates the number of men working in any particular pool so that the pools, the engineers and they try to keep them on about 3,800 miles a month. Actually, the local chairman of the organization regulates that pool on each pool area.

Mr. PREYER. They, in some sense then, can control the number of people working the jobs?

Mr. BURTON. They do control it; yes, sir.

Mr. PREYER. And thus control their earnings also?

Mr. BURTON. Yes, sir.

Mr. PREYER. This new law doesn't affect this pool working list arrangement I take it?

Mr. BURTON. No; it would not.

Mr. PREYER. Thank you sir.

Mr. PICKLE. Mr. Burton, 2 years ago I believe when we had this bill before us the representatives of the railroad organizations were divided on this measure. Now the testimony they presented last week, if I remember correctly, showed that they were united this time, that they were in agreement in this particular legislation. Throughout your testimony you have stated rather flatly that the men would not like this proposed change and the hours would be shorter but the money would be less and they would spend more time away from home. Now is this just a statement of fact on your part or is this testimony that you are quoting from some authority?

Mr. BURTON. No, this is testimony of my own, Mr. Chairman, and my experience on the railroad from the time I was a dispatcher to my present position, I think, I have a fair idea of how the men feel about this. I have occasion to talk to many of the men on our railroad plus the general chairmen on our railroad.

I know from our experience with those people that this is the way they feel. As a matter of fact, the assistant general manager in dealing with the general chairmen of the organizations, I think, the one complaint that comes to my office more than any other complaint that is made is the excessive time that the crews are held at the away-from-home terminal. They want to double back.

I don't think that there is hardly a day goes by at the office that I don't hear some complaint from some crew someplace on our railroad that we are not turning them back fast enough at the away-from-home terminal back to their home terminal.

So, I have had a great deal of experience in this.

Mr. PICKLE. I don't doubt that you have had a great deal of experience in your years. Of course, you are familiar with the working habits and the hours of service of the employees. As far as the committee is concerned, though, as I see it, you have to look at the fact that they have testified they want this change and they are not in agreement with your position.

You are just making an individual opinion. You have people who are trainmen or who represent organizations who testify to the contrary, I presume it has been presented for this committee. Have we had witnesses from the union organizations against the bill this time?

Mr. BURTON. Not that I am aware.

Mr. PICKLE. Another question, I know it is in your testimony on page 15 you point out when you talk about the hours of service up to 16 that you make a special point to mention that is just the hour limit, working hours, and that only 5 percent of the through freight trains exceed 12 hours.

Now, just below that I notice you said that roughly 33 percent of our local freight and road switcher assignments are on duty over 12 hours, the bulk of them between 12 and 13. Is it possible for us on the committee to distinguish between your passenger service or your

through freight service as compared to the local freight? How would you as a representative of management feel if we said the hours on local freight would not exceed the 12 hours and keep the 16?

Mr. BURTON. I don't see how we could distinguish between the two because there are locals that run the entire district of the pool. I think the thing that I would point to here is the deadheading actually, counting those hours on duty that would really affect our operations not only from the freight standpoint but also from the local freight standpoint.

Mr. PICKLE. Are you saying by your testimony that only about 5 percent of the trips now reach the 16-hour outer limit?

Mr. BURTON. Yes, sir; in the pool freight category, yes, sir; that is correct.

Mr. PICKLE. And 33 percent of the local freight does not exceed the 12 hours or 12 to 13 hours?

Mr. BURTON. Yes, sir; 12 to 13 hours, that is correct.

Mr. PICKLE. Mr. Adams, I noticed you came in. Do you have any questions?

Mr. ADAMS. Yes; I have a couple of questions. One thing I gather from your statement is that seniority, Mr. Burton, controls in this whole area; is that not true on selection of piecework assignments?

Mr. BURTON. Yes; in most areas that is true.

Mr. ADAMS. And seniority takes time which means that you move toward older men; is that not correct?

Mr. BURTON. This is correct.

Mr. ADAMS. And it takes a number of years for a man to work his way up in the railroad?

Mr. BURTON. That is right.

Mr. ADAMS. The thing that bothers me from a public interest point of view is that you state in your testimony on page 9 that senior men prefer to take as long a run as possible, and work as many hours as possible at one time to make more money in a short time. You don't work on a time basis but you work on a piecework basis; in other words, you bid for a job, a piece of work. You mentioned particularly on page 9 the 140-mile or the 101-mile journey each way.

Now, what I would like the answer to is, shouldn't this committee do something from a safety viewpoint to protect the public from older men who have the seniority taking long-hour jobs and doubling up in order to make more money fast. The older a man is and the more hours you work him the more dangerous it is for the general public.

That is in the public's viewpoints, not the railroads or the unions but just the people who are involved with trains from a public safety viewpoint.

Mr. BURTON. I think that I should clarify this point. Now, I think that most of the men with the greater amounts of seniority will take the more preferential pool runs, that is the run from the home terminal to the away-from-home terminal and back, where not a great deal of switching is done on these particular runs.

There are those, however, that would prefer the local runs so that they can usually be at home every night after performing on the local or the road switchers. This doesn't mean, and I don't wish to interpret it this way, that most of our men with the most seniority are on the long-hour jobs, on the long-hour local jobs we refer to here.

Mr. ADAMS. But the whole thrust of the way your system works and the hours that we have established pushes them that way doesn't it? The incentive is there?

Mr. BURTON. No, no it is not.

Mr. ADAMS. What they call in operations research an incentive vector, is that right?

Mr. BURTON. On local and road switchers this is true but not in the pool freight areas.

Mr. ADAMS. I am talking about the total overall picture. You have testified you use a piecework system and we have gone through that and analyzed it in some degree. So you don't have overtime in this industry, basically, you have to buy a package and your overtime comes very hard and very seldom on the road. In getting this package you get it by seniority and if we don't put a top limit on that package which is all this committee is talking about, a top limit of how many hours out and how many hours back without resting, then your piecework package is going to push your older men into the tougher piecework packages, isn't it?

Mr. BURTON. No, it is not.

Mr. ADAMS. Not tougher in the sense of their taking the nastier job but they are going to take the more financially attractive job?

Mr. BURTON. That is right, and the financially attractive jobs in most cases on our railroad is where the men are working the lesser number of hours. In other words, they are running from their home terminal to their away-from-home terminal with the high mileage jobs so that they can make several miles or maybe 2 or 3 hundred miles and double right back and make the same number of miles and then lay over at their home terminal.

Mr. ADAMS. And this is precisely what this bill is all about, we are trying to say to you that we don't want that man because of the financially attractiveness to go out and back and take more than 12 hours at it because if we don't put that limit on it and we leave the 16-hour limit it means that he can run out 8 hours or something over seven hours and come back 7 or 8 which means that he works a double workday and by the time he is coming in on the run back in we are dealing with a man that has been out there 12, 13 hours and if he is the older man we have been discussing he is pretty tired. We have been trying to find out and have not been able to, the relationship between safety factor and fatigue.

It seems to me in logic that the man used in the example above is in a dangerous position at that point and he is less dangerous if he can only go out 6 and back 6, isn't he?

Mr. BURTON. There is another factor that I think we may have overlooked in this fatigue business that we have talked about. We have no assurance, at least we don't on our railroad, that when a man reports for duty even at his home terminal that he is rested. Under the Hours of Service Act he may be rested, he may have had his 8 or 10 hours off, whichever is required, or he may have had 24, 26 hours off, but we don't know definitely that this man is actually rested, if he has been in bed and had his rest just prior to reporting for duty.

So, in that respect we have no control of a man's rest.

Mr. ADAMS. I know, but we are dealing with a legislative matter, and under your example on say page 9 if he has a total duty time of

5 to 6 hours, you mentioned three and a half to 4 hours normally, and we take what we have as the law now, you could run him out 7 hours, run him back 7 hours, that is 14 hours, lay him off for his 8 hours, but you call him a hour and a half early so he has six and a half hours total, that can be defined as rest time, and you put him back on the next day and this is a good run and he likes this package and you have given him the incentive of earning more money by going for this package so it runs it out and back again, and as you point out in your statement, he may run it out and back again because he wants to get all of his time in so he has 4 days off.

This means in a total of 3 days he has done 48 hours time out there and has had roughly 18 hours off. Now it seems to me without knowing the safety records that you are beginning to deal with a pretty dangerous fatigue situation particularly with an older man who has the seniority to get this job.

Mr. BURTON. We have agreements with the conductors and also with the trainmen to prevent doing what you have suggested here.

Mr. ADAMS. They can request rest but you have just told me that you have everything running against these men wanting to do that. That is what I meant by this incentive victor.

Mr. BURTON. Were you here when we presented the exhibits?

Mr. ADAMS. I have them, I have section 9(a) and article 46 and article 50. Which one did you want?

Mr. BURTON. Section (b) of the trainmen's agreement. It is the fourth exhibit, Mr. Adams. "When a trainman arrives at his terminal and has been on duty twelve (12) hours or more consecutive hours, computed from time on duty until time tied up, he shall not be brought on duty for subsequent service until after the expiration of ten (10) hours, except in cases of wrecks, washouts, etc.

"If a trainman has been on duty twelve (12) or more consecutive hours as referred to in the preceding paragraph, he may be deadheaded from the away-from-home terminal prior to receiving ten (10) hours off duty at such terminal, subject to the following:"

Mr. ADAMS. In other words you think that is a pretty good provision that they have got there?

Mr. BURTON. There have been some changes in this at the away-from-home terminal.

Mr. ADAMS. If you think that is a pretty good one I agree with you and that is what we are going to pass in this statute.

Mr. BURTON. There is only one thing about this the statute would not permit your deadheading and this is the troublesome thing.

Mr. ADAMS. You prepare an amendment on deadheading as to how you want it stated. You have in this memorandum of agreement basically aimed the laws precisely as we suggest it be aimed by dropping it to 12 hours with 10 off and I will buy your package.

Mr. BURTON. That has been on duty 12 or more consecutive hours, you are correct, and we have negotiated this with the brotherhoods.

Mr. ADAMS. That is what we are doing in the bill for everybody, to drop it from 16 hours to 12. I have no further questions.

The CHAIRMAN. Does anybody want any more questions of this gentleman?

Mr. TIERNAN. I would like to ask him a question. In rseponse to Mr. Preyer's question, could you tell me whether or not you are a member of the negotiating committee on the railroad?

Mr. BURTON. I am in most nonagreement matters, yes.

Mr. TIERNAN. We had this previous witness talking about doubling up, we are talking about men in what is called the yard-like area?

Mr. BURTON. I didn't hear you.

Mr. TIERNAN. Doubling up, my understanding is this is where a man would be in the yard?

Mr. BURTON. Oh, doubling in the yards; this is doubling two shifts.

Mr. TIERNAN. This is where a man will work from 7 in the morning until 3 and if the man to relieve him does not show up he doubles up by working another 8-hour shift?

Mr. BURTON. Yes.

Mr. TIERNAN. Does he get paid time and a half for overtime?

Mr. BURTON. He gets paid time and a half for any shift within a twenty-two and a half hour period, any second shift.

Mr. TIERNAN. How about if he worked more than 40 hours a week even if he doesn't double up?

Mr. BURTON. If he works more than 40 hours a week the way I figure it, there will be at least one shift at time and a half.

Mr. TIERNAN. Even if there is no agreement as I understand it he doesn't come under the present labor law with regard to a 40-hour workweek unless he has an agreement with the company? Is that correct?

Mr. BURTON. That is correct.

Mr. TIERNAN. So if there is nothing in the agreement covering overtime after 40 hours a week, he does not get paid, he gets paid straight time if he works 5 or 6 days in 1 week, 8 hours?

Mr. BURTON. No, any time he works in excess of five, 8-hour shifts a week in the yard there will be an overtime shift involved.

Mr. TIERNAN. In the absence of agreement?

Mr. BURTON. No; there will not, I am sorry.

Mr. TIERNAN. So, in other words, it has to be by agreement?

Mr. BURTON. Yes.

Mr. TIERNAN. No further questions.

The CHAIRMAN. We want to thank you for coming in and being our witness. I had several questions I wanted to ask you but the time is such that we sometimes have to forego this.

The committee will stand in adjournment until 4:15.

(Whereupon the committee adjourned at 3:50 p.m. until 4:15 p.m.)

The CHAIRMAN. I might say to the gentlemen assembled here the vote is still in progress, but I came on back so we would be able to finish. If we were to adjourn now until tomorrow, we would get behind. So I am hoping to keep up with the day's work by finishing this, if we can.

Is Mr. Schofield here?

## STATEMENT OF ALBERT M. SCHOFIELD, ASSISTANT VICE PRESIDENT, OPERATIONS PLANNING, PENN CENTRAL CO.; ACCOMPANIED BY HERMON M. WELLS, ASSISTANT GENERAL COUNSEL; AND JACK SPERRY

Mr. SCHOFIELD. To my left is Hermon M. Wells, assistant general counsel, Penn Central; and on my right, Mr. Jack Sperry, an associate in my department on Penn Central.

My name is Albert M. Schofield, assistant vice president—operation planning of the Penn Central Co., with headquarters at Philadelphia, Pa. I am a graduate of Drexel Institute of Technology, with a degree of Bachelor of Science in Civil Engineering. I have attended the AMA Management Course and the Advanced Management Course at Northwestern University Graduate Business School.

My employment with the Penn Central Co. started in 1936, and, except for service in World War II, and the Korean war (serving in the Transportation Corps, with a railway operating battalion in both instances), has been continuous.

During this space of 30 years I have held positions at various places on the Pennsylvania Railroad—track supervisor, division engineer, superintendent of truck train service, transportation superintendent, regional manager, assistant general manager, assistant to vice president—operations, general manager and assistant vice president—operations planning of the Penn Central Co.

I would like to discuss the impact of H.R. 8449 on the operations of the Penn Central Co. and to explain why this company is opposed to the bill.

The Penn Central Co. was formed on February 1, 1968, by merger of the former New York Central and Pennsylvania Railroad companies. Since the merger the system has taken in the former New York, New Haven & Hartford Railroad Co. Penn Central Co. is the largest railroad system in the country, operating some 22,000 miles of road, and serving 16 States, the District of Columbia and two Provinces of Canada. Our lines extend from Boston through New York and Philadelphia to Washington, and westward as far as Chicago and St. Louis. This is one of the most heavily industrialized and populated areas of the country. We dispatch approximately 3,000 freight and passenger trains every 24 hours, and transport some 300,000 passengers daily.

I can assure you that an operation of this scope involves many diverse operating situations which affect the hours on duty of employees. The present hours of service law has been a major factor in establishing the patterns of our operations. It has influenced the establishment of runs and terminals, the determination of manpower needs and the establishment of efficient operating practices. It is a consideration in all of our efforts to supply economical transportation service to the public.

The proposal to reduce the 16-hour limitation to 12 hours is one which would involve a profound and wide restructuring of our operations and employment practices. These changes would have not only an extremely serious effect on the railroad from the cost standpoint, but also from the standpoint of service to the public and the ability of the industry to compete with other forms of transportation and thus our ability to stay in business as a private enterprise. Furthermore, the proposed changes will bring little, if any, benefit to the affected railroad employees and will result in their being required to spend additional hours away from their homes and receiving less take-home pay.

I would like to comment on three principal aspects of the legislation: namely, the reduction of the maximum hours, the provisions that requires deadheading to be counted as time on duty, and the provision that requires any interim rest period of less than 4 hours to also be counted as time on duty. All of the provisions of this bill will adversely affect the railroad industry, but these three are the most disturbing.

With respect to the 12-hour limitation, I do not wish to give you the impression that all of our train and engine employees are now engaged in operations which require them to exceed 12 hours on duty. On the contrary, the great majority of employees work substantially less than 12 hours. In connection with the previous proposals for changes in the hours of service law, it was developed that the average tour of duty for all enginemen was 9 hours and 6 minutes, and for all conductors, 9 hours and 9 minutes. Only 14 percent of the trips or tours of duty by enginemen in all classes of service, at that time, exceeded the 12-hour limitation. In the case of conductors, only 12.5 percent exceeded the limitation.

It might seem that the problem of a 12-hour limitation would be minor in such circumstances. This is not the case. Specific types of service and operations have been established in the light of the present law. Changes in these particular operations would be a most expensive undertaking, and a more restrictive law would seriously affect our service to the public.

As an illustration, beginning early in the 1930's the Penn Central Co. became a leader in the industry in developing interdivisional service, eliminating unnecessary terminal switching delay, thus providing improved service for our customers and increased earning power for our employees. As technological changes in equipment and motive power permitted, through freight runs were established, eliminating many crew change points. At the present time we are operating freight trains from East St. Louis to Indianapolis, a distance of 240 miles, with one crew which is paid for the mileage run, or 2.4 days' pay. Crews are changed at Indianapolis, Ind., and run to Columbus, Ohio, a distance of 185 miles. Crews are again changed and operate rom Columbus, Ohio, to Conway, Pa., a distance of 191 miles. Freight destined for the Eastern seaboard is then moved by a single crew from Conway, Pa., to Enola, Pa., a distance of 275 miles, where the train is either relayed or classified. Then a single crew will either take the train to a New Jersey point, a distance of 190 miles, or to Potomac yard near Washington, a distance of 150 miles.

The hours of service involved in these through freight assignments illustrate how our operations have been planned with the present law in mind. In the light of our knowledge of the average speed of freight trains, we have been able to establish runs of the lengths described, which permit the most efficient possible rail service to the public, while providing incentive pay to our employees. We fully expect these runs to be easily completed within the legal limitation and, in fact, most of them are. In the few cases where it is necessary, because of unusual and unforeseen circumstances, to relieve a crew short of its final terminal, the present regulations provide the necessary flexibility to do so, which I do not see possible under the proposed legislation.

Further, if the proposed legislation were enacted, it would be necessary for us to revert to short runs and reestablish crew change points which were eliminated many years ago. In some cases, we would have to negotiate the establishment of new terminal points with the operating labor organizations, which in our experience is not always possible. Under the proposed hours of service law, a crew would operate between St. Louis, Mo., and Terre Haute, Ind., and an additional crew from Terre Haute to Indianapolis. The relieving crew would take the

train from Indianapolis to Bradford, Ohio, and an additional crew from Bradford, Ohio, to Columbus, Ohio. A crew from Columbus Ohio, to Dennison, Ohio, recrewing again at Dennison, Ohio, to Conway, Pa. This would result in revising the schedules of all freight trains operating between St. Louis and Conway, Pa., to include a minimum of 2 additional hours in running time over our present method. Consequently, connections would be scheduled later at Conway, thus delays to traffic east of Conway would be prevalent.

In moving traffic from Conway to Enola, two crews would be necessary; one crew from Conway to Johnstown, Pa., and an additional crew from Johnstown to Enola, Pa.

These changes would result in nine crews being used to perform the same service presently provided by five crews. It would require the building or enlarging of rest facilities at Terre Haute, Ind.; Bradford, Ohio; Dennison, Ohio; and Johnstown, Pa., at an approximate cost in capital investment of $1,250,000 for lodging facilities and an additional expenditure of approximately $260,000 per year lodging expense for the men using the facilities. The additional operating time for a train between St. Louis and the eastern seaboard would have an adverse effect on our competitive position with other modes of transportation and adversely affect the utilization of our motive power and add to our per diem expense. These and other increased costs would have to be passed along in the form of increased freight rates and would result in further inflation of the Nation's economy.

Under the proposed law, crews' mileage and wages per trip would be cut in half, requiring twice the number of trips to earn the same money. To enjoy free time at home, presently available to him, it would be necessary to reduce his income. Another condition, which should also be considered, is the enforced relocation of many employees who would be assigned to the terminals either reestablished or created. We know from past experience that such moves are always a source of dissatisfaction to the employees affected.

The impact on both the Penn Central Co. and its employees of changes in this one operation covers but a small segment of our overall operation. In all, there would be approximately 60 locations on the Penn Central property which would either have enlarged or new lodging facilities provided.

This is only one example of the many through freight assignments which would be affected by the reduction in the 12-hour limitation.

A corollary part of our service is the local freight train. This is our principal means of service to industry located on our right-of-way, designed to deliver and pick up freight as promptly as possible.

Approximately 50 percent of the local freight trips, in a recent study, were 12 hours or more in length. These local freight trains operate in mainline territory, performing station switching and industrial service to shippers and consignees located in towns and cities of various sizes. These trains, servicing patrons on a section of the mainline, are usually assigned on a straightaway basis, i.e., 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 mainline junction and peddle

out the cars destined to branch line points which were set off by mainline through freight trains. Then the crews return with cars which have been picked up on the branch for further movement by mainline trains.

Many of the local runs exceeding the proposed 12-hour limitation do so as a direct result of delays for clearing other trains, or mountainous grades, which 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 with the proposed 12-hour limitations in local freight service. Some of the alternatives we would have to consider would be:

1. Take work away from present local freight crews with a corresponding increase in the number of crews;
2. Reduce overall trip mileages of through freight crews 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.

These changes would curtail or eliminate our service in many instances. Many small businesses might not survive. These actions throughout the railroad industry could have an adverse affect on the economy of the Nation.

The impact of the legislation on local freight service may be illustrated by the operation of train DFO–1 and OFD–2. This is a straightaway local freight assignment which operates from DeWitt, N.Y., to Oswego, N.Y., and return. Under the present operation, the hours of service are such that we can operate this crew on what we call "aggregating," that is, the crew is paid a basic day's pay on the run from DeWitt to Oswego, is released from duty for a short time, and is then paid a second day's pay for the run from Oswego to DeWitt. The hours required for this service are such that it can be carried out within the framework of the present law. Under the proposed law, however, it would be necessary to rest the crew for 8 hours at Oswego before the return to its home terminal. Lodging would cost approximately $15,000 per year. Meal allowances and taxicab costs would be $5,500 per year. Total additional cost for crew rest would total $20,000 per year. The loss of utilization of the motive power and the reduction of service to the patrons served by this operation have not been included. Due to the reduced number of trips operated, the revised service would result in a decrease in monthly wages to the men and increased away-from-home time.

The operation of certain passenger service would also affected by the 12-hour limitation. A survey carried out by our company in May 1969 showed that out of 2,716 passenger service tours of duty by all classes of operating employees, 187 exceeded 12 hours.

The impact on certain of our passenger operations would be substantial. We now operate the New York-to-Washington passenger service in the "aggregate." Train crews in this service have their home terminals at both New York and Washington, and are assigned to run

to Washington or New York, and return. The schedules are such that they are normally able to complete these assignments well within the present law. However, with the proposed changes, all the present enginemen and firemen, 34 of the 40 conductors and 72 of the 84 trainmen would have to be given additional rest at the away-from-home terminal. This would result in lodging expense to the company of approximately $32,000 a year and meal allowances of approximately $48,000 a year. The employees, however, would receive the same compensation as they are now receiving for the service which they perform, since this is service paid for on a straight mileage basis. The only difference would be that they would have to spend approximately 50 percent additional time away from home to earn the same compensation. These additional expenses and inconvenience would be a discouraging development in connection with the New York-to-Washington service which our company has made great efforts to improve in recent years, and are presently engaged with the Department of Transportation and other agencies in operating on a trial basis of a Metro-liner service in a new concept of transport and passengers.

I would like to comment briefly on the impact of the proposed legislation on yard operations. This service consists of the classification of cars for road movement, the servicing of local industries within the switching limits of the terminal and the preparation of trains, both through and local, for road movement. Yard employee assignments are for 8 hours per day. Relatively few of our existing yard assignments exceed 12 hours per day. In our present operation, we are required to pay time and a half rates for all work in excess of 8 hours in the yards and, consequently, make every effort to avoid yardmen working overtime.

Nevertheless, service requirements or manpower shortages make it essential in some cases either to "double" yard crews, by which I mean work them for two complete tours of duty, a total of 16 hours in a 24-hour period. A survey of a recent day of operations indicate that we encounter a necessity for working overtime or doubling in approximately 10 percent of our tours of duty in yard service. A major factor is the current manpower shortage in many areas, which makes it impossible for us to obtain men to properly man the required number of crews on a straight time basis.

The necessity for working yard overtime may also arise from the demands of industries which are served from the yards which require specified service at certain times in order to maintain the operation of their production lines. Finally, we have the usual situations, such as absenteeism, sickness, et cetera, which creates temporary shortages, forcing us to work available forces on a second tour of duty. In this area, the present 16-hour limitation allows doubling of yard crews where necessary and should be maintained.

The proposed legislation provides that time spent deadheading shall be considered time on duty. This is a mortal restriction from a company's point of view. By the nature of our operations, it is necessary for us to balance crews and to get men to the points where operations must be carried out. Under present law this is achieved by deadheading employees to locations where they go on active duty or deadheading them from active duty to their home terminals. Employees deadheading are paid at the same rates as the service with which deadheading is associated, even though they have no train duties during such times.

Under our present operation, an employee deadheading into a terminal to go on duty is available on arrival and may immediately start his return trip home. Under the proposal, however, in many cases those who have deadheaded to the away-from-home terminal either on a train, or by public transportation would have to take rest before going on duty. This would appreciably increase the cost of operation, reduce the use of employees, and could result in serious train delays.

In practically all cases, under the proposed legislation, deadheading crews from a home terminal to an outlying point, would result in insufficient time for performance of service requirements. If in addition it became necessary to deadhead back to the home terminal and count that as time of duty, time for actual service would be further reduced.

Another feature of the bill is a restriction that requires any respite of 4 hours or less, at a designated terminal will be considered time on duty. This provision would have a major impact on our commuter service, which is operated in large volume in the Philadelphia, New York, and New Haven areas. The nature of this service is such that a large number of crews are required for the morning rush hours and late afternoon rush hours to adequately meet the hours of the commuting population. These crews work on a short turnaround basis, with a rest period in the middle of the day when very little commuter service is required. During the middle of the day the crews are free to come and go as they wish and are able to obtain substantial rest and, in fact, are expected to do so.

If this time is to be considered as time on duty with a 12-hour maximum, our company would be required to reduce the number of turnarounds made by each crew by 33⅓ percent. This would also mean the employees necessary to provide the same service must be increased in proportion.

This would impose further burdens on commuter service which is essential, but which has been an uneconomical one for many years, and will require additional subsidies.

We have estimated the additional cost which would be imposed on our company by the proposed legislation. The principal items of cost which we foresee are the necessity for additional payroll expense, additional locomotive expense, additional rest facilities and meal or lodging allowances, and other miscellaneous expenses. Our estimates of these costs are approximately $68 million annually. Are the users of rail service and public agencies prepared to underwrite this additional expense?

We have also estimated the impact on our employees. A 1969 survey, made recently, in conjunction with the Association of American Railroads, indicates that we would require 3,500 additional employees under the proposed law. About 4,700 employees would have their earnings reduced. In addition, about 2,500 employees would be required to spend more time away from their homes.

The statement of Mr. Chesser for the United Transportation Union before your committee listed several examples of Penn Central train service employees which, according to Mr. Chesser, illustrate the long hours which are required by employees represented by the union. We have investigated these examples and offer the following comments.

Mr. Chesser has selected principally local freight runs which, of course, are the slowest-moving road operation and have apparently

picked out those which do require an extended tour of duty. However, it can be stated that the employees in these examples are not suffering any hardship or running any risks in these types of operations. On the contrary, we find that these runs are always manned by senior employees to enjoy the high earnings.

For example, Mr. Chesser cited the case of engineman H. B. Manning (app. 9, p. 12). He is shown as having been on duty for 6 days in May for hours approaching or in excess of 16. The run held by Mr. Manning is a regular assignment between Scully and Mingo Junction, a distance of 46.3 miles, and return. The assignment is a straightaway local freight so that a day's pay is paid for each leg of the trip. Mr. Manning apparently prefers this assignment to many others available to him. He is No. 49 on a roster of approximately 377 employees, and thus has a wide choice of assignments in the exercise of his seniority. There are at least three yard assignments at Scully which work 8 hours a day, 5 days a week, available to him, and also nine passenger assignments which work short hours.

However, Mr. Manning apparently prefers the slower-moving operation in which he is engaged. The average number of cars handled by his train is about 20 in each direction. It is apparent that this operation is a very slow-moving one, since it only covers 46 miles each direction, and handles very few cars. On the other hand, the earnings are very good. Mr. Manning received $1,293 for services performed in May 1969.

Another example cited by Mr. Chesser is the case of Engineman J. H. Dick (app. 9, p. 7). This man is regularly assigned in the Buffalo and east pool and stands No. 33 on a roster of 240 engine service employees. As in the case of Mr. Manning, there are many yard assignments at Buffalo available to him which only work 8 hours a day.

Mr. Dick's assignment involves a run of 188 miles and he is ordinarily paid on a mileage basis for each leg of his run. This is the equivalent to nearly 2 basic days' pay for each run. In addition, he would receive overtime for any time spent after 15 hours and 2 minutes of his run.

During the months covered by Mr. Chesser's example, in 1969 Mr. Dick's earnings were: January, $1,251; February, $1,475; March, $1,517; and May, $1,034.

There is nothing arduous or unsafe about Mr. Dick's assignment, although it does require considerable time and generates correspondingly high earnings.

Generally speaking, the examples shown by Mr. Chesser point out many cases where men are described as on duty in excess of 16 hours. This is because the employees have chosen to include as time on duty periods spent in deadheading, and also periods of substantial rest between runs in certain cases. Of course, these hours are not to be counted as time on duty under the present law, and do not indicate any violation of the present law.

The CHAIRMAN. Thank you very much.

Mr. Blanton?

Mr. BLANTON. I have no questions.

The CHAIRMAN. Of course, there is a dispute about the deadheading and about the extra costs. That seems to be the contention between the men. There are two sides to all questions.

We have a saying up home that a pancake doesn't get so flat but what it has got two sides to it. So usually that is the job of the committee, after hearing both sides, is to try to come up with an answer that is equitable.

I think the committee will try to do just that after they have heard all of the evidence on both sides, to try to come up with something that will be equitable and just.

I think your statement is a very good statement. I tried to read it before we started here, to get the essence of it. I think you did a good job in presenting the essentials.

We are hoping that we can get to some kind of executive session in this next week or two. We do hope to finish the hearings. I don't see any reason for prolonging them, so tomorrow we will continue in the hearings.

I am sorry more of the committee isn't here, but as you understand, we have had two rollcalls.

I want to thank you and your associates very kindly for coming and having the patience with us and staying around to give us the testimony. Thank you very much.

Mr. SCHOFIELD. We thank you.

The CHAIRMAN. This will end our hearings until tomorrow morning at 10 o'clock.

(Whereupon, at 5:05 p.m., the committee adjourned, to reconvene at 10 a.m., Wednesday, July 9, 1969.)

# HOURS OF SERVICE ACT AMENDMENTS OF 1969

WEDNESDAY, JULY 9, 1969

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

The committee met at 10 a.m., pursuant to notice, in room 2123, Rayburn House Office Building, Hon. Harley O. Staggers (chairman) presiding.

The CHAIRMAN. The committee will come to order. We are in continuation this morning of the hearings on H.R. 8449 and other related bills on limiting the hours of service of the employees. Our first witness this morning will be Mr. J. P. Hiltz, Jr., chairman of the National Railway Labor Conference.

Mr. Hiltz.

## STATEMENT OF J. P. HILTZ, JR., CHAIRMAN, NATIONAL RAILWAY LABOR CONFERENCE; ACCOMPANIED BY H. E. GREER, DIRECTOR OF RESEARCH; AND E. P. LEE, GENERAL ATTORNEY

Mr. HILTZ. Good morning, Mr. Chairman. I am accompanied by Mr. H. E. Greer, our director of research and Mr. E. P. Lee, general attorney.

The CHAIRMAN. You gentlemen may be seated. I just wonder Mr. Hiltz, how long your statement will be?

Mr. HILTZ. It will take between 15 and 20 minutes.

The CHAIRMAN. All right.

Mr. HILTZ. My name is J. P. Hiltz, Jr. My home address is 1306 Bishop Lane, Alexandria, Va., and my business address is 1225 Connecticut Avenue NW., Washington, D.C. I am chairman of the National Railway Labor Conference. The conference—along with the Eastern, Southeastern and Western Carriers' Conference Committees—handles labor matters for the railroad industry at the national level.

I appear before your committee as a spokesman for the railroad industry now 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 effects upon the labor-management relationship in the railroad industry which we believe would result from enacting this proposed legislation into law.

THE PENDING PROPOSAL IS NOT AN APPROPRIATE MATTER FOR LEGISLATION

I have read with care the statements of union officials offered in support of the proposed legislation. These officials have cited a number of alleged hardships and abuses suffered by employees under the present legislation as justification for the proposed amendments. However, it is my firm opinion that by trying to eliminate alleged hardships presently being visited on the employees which they represent by seeking changes in the existing laws, the railroad unions are trying to accomplish, through legislation what they can accomplish and what should equitably be accomplished through collective bargaining—a process which they profess to unequivocally support as the humanitarian and democratic way of resolving the differences between labor and management.

That alleviation of alleged hardships related to hours of service has been accomplished in the past through the process which the unions ordinarily espouse is attested to by the fact that they have negotiated rules covering the 40-hour week in yard service, monthly mileage limitations for road service employees, span of service in short turn-around passenger work, overtime rules, and many other collectively bargained rules of various types which relates to working hours.

In testimony before this committee the union witnesses have laid great stress on the fact that the 8- and 10-hour rest provisions of the present law do not provide such periods of actual rest for the employee because of deadheading to the point of rest, calling in advance and other interruptions; and that in many cases men actually obtain only 2 or 3 hours of undisturbed rest instead of 8 hours.

This contention leads to a perfect example of how alleged hardships can be alleviated through collective bargaining. After hearing this testimony, I asked the director of research of the National Railway Labor Conference to arrange for a telephone canvass of the major railroads to determine whether this problem had ever been resolved through collective bargaining. Twenty-five railroads were contacted. It developed that on these railroads alone the various unions representing operating employees had negotiated 56 "guaranteed" rest rule provisions. Under these rules it is provided in general, that if, at the time an employee marks off of a particular run he feels that he needs a certain amount of undisturbed rest before being called for his next run, he can so specify to the crew dispatcher and his request will be honored. Typical of such a rule is that negotiated by the BLE with the Southern Pacific Railroad which reads:

> 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 making rest the hours as indicated on register will not be changed.

An identical rule is found in the firemen's agreement.

Thus an employee can determine whether he wishes to be off duty for 8, 10, or 12 hours. And the carrier must accept his determination.

The off-duty period begins only when the employee registers to go

off duty and he cannot be called until his "undistributed" rest is over. Thus, any time spent deadheading would not be included in determining his rest period for purposes of meeting the requirements of this collectively bargained provision and his rest period cannot be cut short by an advance call.

A similar negotiated rule which tackles this problem in a different way—by omitting deadhead time—is found in the Louisville and Nashville agreement with the former Brotherhood of Locomotive Firemen and Enginemen, now part of the United Transportation Union. This rule provides that:

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 deadheadings, 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.

Thus the employee governed by this provision will receive 8 hours of rest from the time he arrives at his home terminal regardless of the amount of time spent deadheading unless the employee himself insists that the requirements of the Hours of Service Act be narrowly applied.

The foregoing clearly illustrates then that alleged hardships or abuses can be eliminated or alleviated through collective bargaining. It is not necessary to ask Congress to effect this correction. The carriers in the past have negotiated rules which permit their employees to obtain sufficient rest before returning to service, as well as to correct other alleged hardships. They are willing to do so in the future.

I also requested our director for research to inquire during the telephone canvass whether any carriers had received any local section 6 notice from any organization representative which would reduce the maximum limitation on the number of consecutive hours on duty, reduce the hours constituting a basic day or change the threshold for overtime. I have appended to my statement a tabular summary of these surveys. Only one carrier, the Milwaukee Railroad, has pending a notice from any of the operating unions to reduce the maximum number of consecutive hours of service on duty. Not one carrier is currently handling a notice to reduce the hours constituting a basic day. And finally, on only two carriers, are the organizations progressing proposals to change the threshold for overtime. The sparse affirmative response suggests to me the lack of interest in changing these proposals on the part of the employees and their representatives at the local level.

I might add as an aside at this point that many of these alleged abuses are self-inflicted. For instance, there are rules prevalent in the working agreements of operating employees which require crews in road service to be permitted to work as close to the 16-hour limit as possible before being relieved. Typical of these rules is the following:

(b) Engineers in train service will not be tied up unless it is apparent the trip cannot be completed within the lawful time, and not then until after the expiration 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. (Seaboard Coast Line—BLE).

In our telephone canvass of 25 carriers, it was discovered that on each carrier there were similar provisions requiring management to

refrain from tying up employees until the maximum limit under the Hours of Service Act is approached.

Another example of self-inflicted abuse can be found in the practice of operating employees who in many cases seek to avoid being run-around by another employee by taking certain precautions when they mark off duty.

By that I mean they mark off in such a manner as to make themselves available at the earliest possible moment under the law so that another employee cannot become available earlier than they and thus be called in their place. This might explain some of the numerous 15 hours and 59 minute mark-offs which appear in the unions' horrible examples. By keeping his service under 16 hours the employee makes himself available in 8 instead of 10 hours—he thereby protects himself against a run-around and deprives himself of additional rest. It is significant to note that even if the carrier felt that an employee needed more rest, it could not provide him with such rest without incurring liability for a penalty claim for failure to use him within the provisions of working agreement.

In fact, where, even where the employee marks off for additional rest, the carrier may find itself the object of a time claim. Recently, for example, a conductor on the Chicago and North Western exercised his privilege to request undisturbed rest for a period longer than that required by the Hours of Service Law. However, the conductor claimed that his assignment should also have been held to await expiration of his additional rest period or alternatively that he should be paid for not being used on that assignment.

The claim in this case was not sustained (PL Bd. 187, award 3, March 5, 1969); yet it graphically illustrates both the opportunity and that the individual has to obtain additional rest at his own option and also the reluctance on the part of the employees to be run around.

With regard to the ability of the unions to correct, through collective bargaining, the alleged hardships and abuses associated with the present Hours of Service Law, a spokesman for the unions who appeared before you in support of the pending bill has indicated that collective bargaining proposals aimed at this objective have not been served on the carriers because the unions have considered this field to have been preempted by Congress by reason of the present Hours of Service Act. This is, indeed, a revelation to me because I have never known a union to have been inhibited by such a conception or consideration. Certainly they were not inhibited by such a conception in the case of proposals which led to collectively bargained agreements covering the 40-hour week, mileage limitations, and the other agreements, which I have previously mentioned. Neither was the Brotherhood of Locomotive Engineers so inhibited when it recently served a notice on the Chicago, Milwaukee, St. Paul & Pacific Railroad to, among other things, reduce the maximum hours of service from 16 to 12.

I express no judgment about this 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 been never subjected to proper review as to its legality. I can say, however, that numerous rules of various kinds having to do with working hours and matters affected thereby have been negotiated through collective bargaining in the past without a legal challenge.

CHANGES IN HOURS OF SERVICE SHOULD BE ACCOMPLISHED THROUGH COLLECTIVE BARGAINING AS A MATTER OF EQUITY

There are other reasons why matters of this kind should not be a subject for legislation. Aside from the fact that relief can be accomplished through collective bargaining where a real need has been demonstrated, it is only equitable that the alleviation of alleged hardships and abuses resulting from the application of the present Hours of Service Act be handled in this forum. Collective bargaining agreements in the railroad industry, unlike those in 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 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 part of this structure, through collective bargaining, within the framework of the existing Hours of Service Act. A statutory change in one aspect of the complex structure of work assignments and pay basis for operating employees, such as that now under consideration, would distort the system that has developed over an extended period of time.

The fact of the matter is that the existing pay structure for operating employees and the characteristics of their assignments, having evolved over a period of many years, do not lend themselves to piecemeal restructuring which isolates certain components from the integrated whole. Changes in the law such as those proposed would inevitably introduce imbalances having a serious effort on both management and employees. The proposed changes, although it would not so appear when viewed in isolation, would have a multiplier effect when viewed in terms of the impact on existing agreements and practices.

The subject of working hours of operating employees is central to innumerable and varied provisions of existing agreements. The 40-hour week was adopted through collective bargaining for yard operating employees. 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. There are overtime rules which are directly related to working hours. All of these provisions and many others would lose some of their vitality and intent if the proposed changes were to be adopted.

The integrality of the railroad operating employees wage structure is not merely my personal appraisal nor that of railroad management alone, but is a view shared by those neutral authorities which have investigated this subject. For example, the Presidential Railroad Commission in its 1962 report described operating pay rules as "highly interdependent" and "the most complicated of any major industry in the United States" (PRC Report, p. 79), with each component affecting in some way the total compensation and relative earnings of the employees (PRC Report, p. 84). The Commission's work, I might add, is recognized as the most thorough and comprehensive analysis of the wage structure and assignments of railroad operating employees ever undertaken.

It is certainly true that the Commission did, as cited by previous organization witnesses before this committee, recommend a gradual reduction in the 16-hour maximum limitation on continuous service. However, to stop at that and cite the Commission as support for the proposed legislation would be misleading. For the present purposes of this committee, the significance of the Commission's report lies not in the single proposal to reduce the maximum hours, but rather in the fact that this was but one of a number of interrelated recommendations designed to reform the entire compensation structure for operating employees. This recommendation was but one of 16 specific proposals submitted by the Commission for the purpose of "changing gradually over a period of years the pay rules, hours, and earnings relationships they yield." (PRC Report, p. 101.) These recommendations covered every aspect of the existing wage structure, including the dual basis of pay, overtime pay, mileage limitations, and numerous others. As the Commission itself said:

> Since the pay rules are highly interdependent, the recommendations regarding the wage structure have to be presented as a whole. The full effects of proposed changes in the pay rules on compensation will depend not merely on their direct effects, but also upon physical and operating changes in the railroad system, upon changes in other rules considered in other chapters of this report, as well as on associated changes in technology and business developments. (PRC Report, p. 133)

The railroads were willing to and did accept the entire list of recommendations submitted to it by the PRC. However, the unions chose to reject them. Through this proposed legislation the unions seek the benefits of one isolated recommendation without consideration of either the remaining PRC recommendations or the impact of this single proposal upon the other facets of the wage structure for operating employees.

Thus, we object to the piecemeal tinkering with the compensation structure of railroad operating employees without affording the parties themselves an opportunity to concurrently negotiate the changes such an adjustment would require. The subject matter of this legislation is simply one which cannot be "separated out" and handled in isolation by the Congress. We concur in the PRC's analysis that the highly integrated nature of the operating employees' wage structure prohibits an approach which fails to consider the entire spectrum of rules affecting compensation.

In addition to the interdependence of the rules comprising the operating employees' wage structure, there are a number of 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. The proposed legislation would also deprive these rules of their intended meaning.

If the proposed legislation were to become law, collective bargaining provisions based upon the existing Hours of Service Act would have to be renegotiated in order to have them conform to the changed provisions of the Hours of Service Act. The process of give and take in collective bargaining is generally recognized as being fundamental to an equitable outcome. However, in the collective bargaining which would become necessary to rationalize present rules to the modifications proposed in this legislation, there could, in many cases, evolve a

situation where the carriers could only give while the unions would be in position to confine their activities to taking. In these instances the carriers would be forced by law to change the rules and they would have to do so without being able to obtain ameliorating concessions in return from the unions.

In other cases where the employees' interests might be adversely affected by the proposed changes, the carriers would be requested to alleviate the adverse effects upon the employees with little chance of gaining concessions from the employees which might help the carriers defray the additional expense involved in doing so. It is important to take particular note of this in relation to the fact that the pending bill would cause a loss of earnings on the part of many employees. It is fair to assume that efforts would be quickly mounted by the brotherhoods to restore these losses with no regard to the fact that these legislative changes which they themselves sponsored were the cause of such wage losses.

If, however, correction of the alleged hardships or abuses is initially accomplished through collective bargaining instead of by Federal fiat, the carriers and the unions can each appraise the effect of the correction being considered upon their own interests and upon each others' interests and by a trading process obtain an agreement which would not only accomplish the desired correction, but would accommodate other matters involving rules, wages, and working conditions with the greatest amount of equity for all concerned.

This attempt, through legislation, to correct alleged hardships would, in fact, create other hardships and, in fact, impossibilities, which would certainly not be the case if the unions and the carriers had time, through collective bargaining, to jointly consider the full implication of the proposed changes.

For example, section 1(b) (3) (c) of the proposed legislation would require time spent in deadhead transportation to be included in determining time on duty for purpose of the hours of service matters. The implications of this proposal are far from innocent. The railroads for many years have had collective bargaining rules applicable to deadheading. These rules provide for different types of deadheading for the different situations that require deadheading, and prescribe varying pay bases for time spent while deadheading. The suggested change in the law would affect these rules and, in addition, would not be responsive to the varying conditions and circumstances involved in present deadheading practices. If the proposed 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. The suggested change would create the ridiculous situation under which a crew which ran out of time under the Hours of Service Act at a point out on the road, would have to be left there forever because deadheading them home would violate the law while deadheading them to a location for lodging would not only violate the proposed deadhead provision, but also would constitute additional "time on duty" under section 1(b) (3) (c) of the bill, because such lodging facilities might not be at their designated terminal.

Perhaps one of the most significant consequences of the proposed legislation would be its 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. Many of the high-earning assignments presently held by senior employees would no longer be available. 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.

CONCLUSION

In closing, let me summarize the position of the carriers. We oppose this bill because it amounts to piecemeal tinkering with the complex and interdependent compensation structure for railroad-operating employees. A number of existing rules in collective-bargaining agreements would become meaningless if the proposals contained in the subject bill become law because they were designed within the framework of the existing Hours of Service Act. In any subsequent negotiations to restore vitality to these provisions, the carriers would proceed under a distinct handicap. Yet, the railroads' opposition to this proposed legislation does not mean that we admantly resist any solution to real problems. Any hardship which was alleged to have been incurred because of long hours of continuous duty should be and has been resolved through collective bargaining, not legislation.

I hope that my statement has adequately shown that the matter of alleviating alleged hardships and abuses created by the present Hours of Service Act can be more effectively and equitably handled through the processes of collective bargaining and should be progressed in that forum rather than through legislation. Certainly the unions cannot consistently quarrel with such a suggestion which conforms to their repeated assertions that only through the give and take which results from bargaining across the table between parties of equal stature can labor-management differences be resolved to the satisfaction of all concerned.

Thank you, Mr. Chairman, for the opportunity of appearing before you.

(The attachment to Mr. Hiltz' statement follows:)

SUMMARY OF 25-RAILROAD SURVEY CONDUCTED BY NATIONAL RAILWAY LABOR CONFERENCE ON JUNE 30, 1969

| | Have you received local sec. 6 notices from any organization representing engine and/or train service employees which would have the effect of— | | | | | | | | | Do you have any rules, agreements, local understandings or practices in effect which— | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | Placing a maximum limitation on the number of consecutive hours on duty? | | | Reducing the hours constituting a basic day? | | | Changing the threshold for overtime? | | | Permit engine and/or train service employees to ask for periods of undisturbed rest, other than those established in accordance with hours of service laws including those that extend rest periods by excluding deadhead time or advance calling time? | | | Limit the maximum time on duty in a class of service or in a territory? | | |
| Railroads | Yes | Organization | No | Yes | Organization | No | Yes | Organization | No | Yes | Organization | No | Yes | Organization | No |
| (1) | (2) | (3) | (4) | (5) | (6) | (7) | (8) | (9) | (10) | (11) | (12) | (13) | (14) | (15) | (16) |
| Atchison, Topeka & Santa Fe | | | X | | | X | | | X | | | X | | | X |
| Baltimore & Ohio | | | X | | | X | | | X | X | BLE, B.L.F. & E., O.R.C. & B., BRT | | | | X |
| Chesapeake & Ohio | | | X | | | X | | | X | X | BLE, B.L.F. & E., O.R.C. & B., BRT | | | | X |
| Chicago & North Western | | | X | | | X | X | O.R.C. & B. | | X | BLE, B.L.F. & E., O.R.C. & B., BRT | | | | X |
| Chicago, Burlington & Quincy | | | X | | | X | | | X | | | X | | | X |
| Chicago, Milwaukee, St. Paul & Pacific | X | BLE | | | | X | | | X | X | BLE, B.L.F. & E., O.R.C. & B., BRT | | X | BRT | |
| Chicago, Rock Island & Pacific | | | X | | | X | | | X | | | X | | | X |
| Delaware & Hudson | | | X | | | X | | | X | X | B.L.F. & E. | | | | X |

SUMMARY OF 25-RAILROAD SURVEY CONDUCTED BY NATIONAL RAILWAY LABOR CONFERENCE ON JUNE 30, 1969—Continued

| Railroads | Have you received local sec. 6 notices from any organization representing engine and/or train service employees which would have the effect of— | | | | | | | | | Do you have any rules, agreements, local understandings or practices in effect which— | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | Placing a maximum limitation on the number of consecutive hours on duty? | | | Reducing the hours constituting a basic day? | | | Changing the threshold for overtime? | | | Permit engine and/or train service employees to ask for periods of undisturbed rest, other than those established in accordance with hours of service laws including those that extend rest periods by excluding deadhead time or advance calling time? | | | Limit the maximum time on duty in a class of service or in a territory? | | |
| | Yes | Organization | No | Yes | Organization | No | Yes | Organization | No | Yes | Organization | No | Yes | Organization | No |
| (1) | (2) | (3) | (4) | (5) | (6) | (7) | (8) | (9) | (10) | (11) | (12) | (13) | (14) | (15) | (16) |
| Erie Lackawanna | | | X | | | X | | | X | X | BLE, B.L.F. & E., BRT | | | | X |
| Great Northern | | | X | | | X | | | X | X | BLE, B.L.F. & E., O.R. C. & B., BRT | | | | X |
| Gulf, Mobile & Ohio | | | X | | | X | | | X | | | X | | | X |
| Illinois Central | | | X | | | X | | | X | X | BLE, B.L.F. & E., O.R. C. & B., BRT | | | | X |
| Louisville & Nashville | | | X | | | X | | | X | X | BLE, B.L.F. & E., O.R.C. & B., BRT | | | | X |
| Missouri Pacific | | | X | | | X | | | X | X | BLE | | | | X |

| | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|
| Norfolk & Western Atlantic & Pocahontas | X | | X | | X | | | X | | X |
| Northern Pacific | X | | X | | X | | | X | | X |
| Penn Central Co. (former PRR) | X | | X | | X | | | X | | X |
| Reading Co | X | | X | | X | | | X | | X |
| St. Louis-San Francisco | X | | X | | X | X | BLE, B.L.F. & E., O.R.C. & B., BRT | | | X |
| Seaboard Coast Line | X | | X | | X | X | BLE, B.L.F. & E., O.R.C. & B., BRT | | | X |
| Soo Line | X | | X | | X | X | BLE, B.L.F. & E., O.R.C. & B., BRT | | | X |
| Southern Railway | X | | X | | X | X | BLE, B.L.F. & E., O.R.C. & B., BRT | | | X |
| Southern Pacific Co. Pacific Lines | X | | X | | X | X | BLE, B.L.F. & E., O.R.C. & B., BRT | | | X |
| Texas & Pacific | X | | X | | X | X | BLE, B.L.F. & E., O.R.C. & B., BRT | | | X |
| Union Pacific | X | | X | X | BRT | | | X | | X |

The CHAIRMAN. Mr. Hiltz, we thank you. I am sorry I did not get to hear all of your statement but I am sure that it was a well-prepared statement expressing your views and those of the railroads.

I would only have one or two questions to ask you. First, you said that when these men are deadheaded if we don't do something about them they might stay out there forever.

Mr. HILTZ. That is what the present law provides, the present proposal, I should say.

The CHAIRMAN. You believe in the 8-hour law, do you not, about working, that is generally in most industries and so forth?

Mr. HILTZ. Insofar as it pertains to overtime which I understand the 8-hour law pertains to. It is not an absolute restriction on service itself, just as threshold for overtime.

The CHAIRMAN. And you believe in the 40-hour week?

Mr. HILTZ. Yes, again as far as it pertains to the threshold of overtime.

The CHAIRMAN. I wonder if we would be working these children under any age under any conditions if we did not have a child labor law?

Mr. HILTZ. I guess the child labor law was resolved some years ago. But this present law has been in effect for 62 years and if there was any need of changes I should think they would have been found in that time.

The CHAIRMAN. That is the reason this bill is up because there is some thought for a need for a change. The bill does provide for relief crews and wrecking crews for any amount of time that is needed, you do know that?

Mr. HILTZ. Yes, it is a little bit vague with regard to that. It allows the relief crew to clean up the wreck but I don't know what we would do with them then if we deadheaded them back or something else, we would probably be in violation of this provision as it is proposed.

The CHAIRMAN. We hope that can be worked out all right.

Mr. Friedel.

Mr. FRIEDEL. This law was written back in 1907 and at that time the trains were running anywhere from 10 to 20 to 30 miles an hour. The trains are now going 85 and 90 miles an hour, not counting the new high-speed trains.

Don't you think it is time for a change from 16 hours down to 12, considering the advances in rail technology?

Mr. HILTZ. Well, Congressman, there have been many other changes since 1907, too.

Mr. FRIEDEL. I am talking about the hours of service.

Mr. HILTZ. There have been many other changes which have changed the exertion which a man puts into his job. I don't think we had many airbrakes in 1907 and many, many other things that have been developed since then.

Mr. FRIEDEL. That pertains to safety.

Mr. HILTZ. Well, it certainly has an effect upon the exertion which a man puts into his job when he does not have to climb over cars and put on handbrakes as he used to in 1907.

Mr. FRIEDEL. Is it true that because the law stipulates 16 hours you cannot enter into collective bargaining to reduce the hours? The law

says 16 hours and all the collective bargaining is based on 16 hours.

Mr. HILTZ. I am sorry, sir, I don't quite understand your question.

Mr. FRIEDEL. As I gather from your statement you said there has been a lot of collective bargaining but you cannot collectively bargain the 16 hours because it is the law today and everything is based on the 16 hours.

Mr. HILTZ. I don't know that I subscribe to that view, Congressman Friedel.

Mr. FRIEDEL. But now everything is done around 16 hours.

Mr. HILTZ. I would like to be responsive to your question but I still don't quite understand it.

Mr. FRIEDEL. As I understand it when you go into collective bargaining you must work around the present 16-hour law. You have this law on the books and it says 16 hours is the law of the land and you can't collectively bargain the 16 hours issue. Is this correct?

Mr. HILTZ. I think I understand you now and I will try to respond to it. This is true, all of the rules we have now have been collectively bargained within the framework of the 16-hour law, this is correct, yes, sir.

Mr. FRIEDEL. Couldn't it be just as well done on a 12-hour basis?

Mr. HILTZ. As I explained they would have to all be changed and there should be compensating changes made to defray the additional expenses which the carriers would be put to but this can be done, yes.

Mr. FRIEDEL. There could also be losses in wages.

Mr. HILTZ. That is correct.

Mr. FRIEDEL. And the men understand that, where they might work 8, 9, 12 days of the month now; they will have to work maybe 18 days of the month to earn the same pay.

Mr. HILTZ. I am sure that the union leaders who are sponsoring this bill understand that. I am not too sure that the men understand this. I have not seen anything in the union papers, for instance, which explains all of the disadvantages to the men of going from 16 down to 12 hours.

Mr. FRIEDEL. If I remember correctly the last time we held hearings on the yard service bill back in 1963, we had some engineers testifying that they would be in favor of reducing the hours.

Mr. HILTZ. I think you had one testify as to that effect in this proceeding, he is a local chairman.

Mr. FRIEDEL. Oh, there was more than one.

Mr. HILTZ. I mean in this present proceeding.

Mr. FRIEDEL. Now getting back to what I heard Mr. Chesser testify to: I thought he said there was no overtime pay. Now, can you explain to this committee how the railroads pay overtime?

Mr. HILTZ. We pay overtime in yard service after 8 hours of duty.

Mr. FRIEDEL. How's that?

Mr. HILTZ. We pay overtime in yard services after 8 hours of duty; we pay overtime in road service after 8 hours of duty unless the mileage component overrides the hourly component.

But we pay overtime after 8 hours in all yard service.

Mr. FRIEDEL. We had testimony that men worked 15 hours and 59 minutes and did not get paid for overtime.

Mr. HILTZ. This is not true in yard service at all. If they worked 15 hours and 59 minutes in yard service, they will get 7 hours and 59 minutes at time and a half.

Mr. SKUBITZ. Will the gentleman yield?

Mr. FRIEDEL. I will yield.

Mr. SKUBITZ. I am more interested in the men on the road than the men in yard service. Do they get overtime, can they be worked 15 hours and 59 minutes with no overtime?

Mr. HILTZ. It depends entirely on the length of the run. In other words, if, in the 15 hours and 59 minutes they ran less than a hundred miles in road freight service, they would get 7 hours and 59 minutes of time and a half overtime.

The CHAIRMAN. Mr. Springer.

Mr. SPRINGER. Mr. Hiltz, as often happens when we have witnesses testifying, we have a long statement here of 21 pages, and I would like to get your testimony in capsule form so the members of the committee can remember what you said.

It is my understanding that one of the points you have made is that this matter with reference to hours ought to be bargained collectively between labor and management; is that one point?

Mr. HILTZ. That is correct.

Mr. SPRINGER. Now, the second point that I understand you make is an objection to certain types of deadheading; is that correct?

Mr. HILTZ. Well, Mr. Springer, I pointed out just one inconsistency in the law. The deadhead provision is an inconsistency which the chairman said would be overcome.

I just pointed this out as one inconsistency.

Mr. SPRINGER. Would you define deadheading so that these people understand what deadheading is?

Mr. HILTZ. Deadheading is being transported from one point to another at carrier's orders without performing any service.

Mr. SPRINGER. Does he get paid for that under any circumstances now?

Mr. HILTZ. Under most circumstances he is paid for deadheading.

Mr. SPRINGER. Percentagewise, is it 50, 60, 90 percent?

Mr. HILTZ. I would say 90 percent.

Mr. SPRINGER. Nine out of ten instances he gets paid for deadheading?

Mr. HILTZ. Yes.

Mr. SPRINGER. Is this he gets paid at the normal rate for those hours?

Mr. HILTZ. That is correct.

Mr. SPRINGER. Deadheading, does this mean for instance we will say in Washington he has to go to Frederick in order to get on the train, is that what is known as deadheading?

Mr. HILTZ. Yes, sir; that is correct.

Mr. SPRINGER. And he gets paid for that elapsed time?

Mr. HILTZ. Yes, sir.

Mr. SPRINGER. At the present time there is an objection by the labor brotherhoods to any part of that?

Mr. HILTZ. Apparently there is an objection to the fact that this deadheading at the present time is not counted against the 16 hours under the Hours of Service Act.

I don't think there is any objection to the deadheading.

Mr. SPRINGER. Suppose that it takes an hour, on the train, to get from Washington to Frederick and then he works.

Is that part of the hours he can work?

Mr. HILTZ. It is not under the present 16-hour law; no.

Mr. SPRINGER. He could then be an hour of deadheading and then he could have 16 hours on top of that; is that correct?

Mr. HILTZ. That is correct. Yes, sir.

Mr. SPRINGER. He would get paid for the deadheading at the hourly rate?

Mr. HILTZ. He would get deadheading pay at the prevailing hourly rate.

Mr. SPRINGER. Then he would get 16 hours of which he would get 8 in at the regulate rate and 8 in addition for time and a half unless his mileage was greater; is that correct?

Mr. HILTZ. Unless his mileage components took over.

Mr. SPRINGER. All right, I think we sort of understand what deadheading is and what he gets paid.

Now, when this bill was up several years ago I had quite a few letters from people in my district who were engineers. What would be the difference, roughly, in the average engineer's income if we put this at 12 hours instead of 16 hours?

Would you give us some estimate of what the differentiation would be for the earnings of an engineer? Just take any railroad, could you give us an average for some railroad?

Mr. HILTZ. I don't think I could even start to approach that, Congressman, because it would presume that the man is working 16 hours every day which, of course, is not the case.

He only works occasionally 16 hours and you would be cutting that down.

Mr. SPRINGER. You don't have an idea of what an engineer for a year at the normal rate gets?

Mr. HILTZ. Yes.

Mr. SPRINGER. How much would that be, roughly?

Mr. HILTZ. Roughly $12,000 to $14,000 a year.

Mr. SPRINGER. Would that include this overtime?

Mr. HILTZ. Yes.

Mr. SPRINGER. Twelve to fourteen?

Mr. HILTZ. You said the normal rate; some of them are way above that.

Mr. SPRINGER. The ones that wrote to me several years ago were making considerably more than these figures and I could understand why they did not want theirs reduced.

Mr. HILTZ. Some of them can make $20,000 a year.

Mr. SPRINGER. I am trying to get this straight. We will say he is making $12,000. Does it mean by reducing this from 16 to 12 that he would then be making $9,000?

Mr. HILTZ. No, I can't say that. It would depend entirely on how he produced his $12,000 per year.

Mr. SPRINGER. We could not say it would be an automatic reduction?

Mr. HILTZ. It might be that it would have no effect upon his salary at all if he were not working over 12 hours a day.

Mr. SPRINGER. If he was working 16 then, of course, it would. May I ask this, I don't think anybody here understands this on this committee, is it the normal thing that he works 16 hours?

Mr. HILTZ. No, it is the unusual thing.

Mr. SPRINGER. The normal thing is that he works 12 hours?

Mr. HILTZ. I think it was really testified here by Mr. Manion yesterday that the average working week is somewhere in the neighborhood of 38 hours a week, I believe that is what the figure was.

Mr. SPRINGER. Does that include the yardmen?

Mr. HILTZ. That includes all. The local freights work a little bit more than that. I think the average is up to 52 or 53 hours a week.

Mr. SPRINGER. Is it the usual thing that the engineer works more than 12 hours?

Mr. HILTZ. No, it is not.

Mr. SPRINGER. But it is the usual thing that he works more than 8 hours?

Mr. HILTZ. Yes.

Mr. SPRINGER. Now I have developed those three points. Could you capsulize any others for the committee?

Mr. HILTZ. I think the two big points that I tried to make in my testimony were that first these alleged hardships or abuses which have been cited by the union representatives that the employees that they represent are being subjected to can be alleviated through collective bargaining.

The second point was that a piecemeal tinkering or piecemeal interference with this whole complicated wage structure which the Presidential Wage Commission found to be the most complicated of any industry in the United States could only produce chaos by just taking one part of that wage structure and changing it.

Mr. SPRINGER. Who did you say said this?

Mr. HILTZ. The Presidential Railroad Commission which investigated the entire operating employee wage structure.

Mr. SPRINGER. Can you tell me when that was?

Mr. HILTZ. The report was made in 1962.

Mr. SPRINGER. Is that the last one that was made?

Mr. HILTZ. By a Presidential Railroad Commission, yes.

Mr. SPRINGER. Let me ask you is there anything in the legislation having to do with anything like pay, money?

Mr. HILTZ. This has nothing to do with pay, no, sir.

Mr. SPRINGER. The only thing that is involved here is hours, is that right?

Mr. HILTZ. That is correct.

Mr. SPRINGER. And the substantial part of this has to do with a reduction of the maximum hours from the present 16, to 12, is that correct?

Mr. HILTZ. Yes.

The CHAIRMAN. Mr. Van Deerlin.

Mr. VAN DEERLIN. Mr. Hiltz, are you the principal bargainer for management in negotiating railroad labor contracts?

Mr. HILTZ. On a national basis, yes, sir, on any matter that is handled on a national basis.

Mr. VAN DEERLIN. You have the position formerly occupied by Mr. Wolfe?

Mr. HILTZ. That is correct, sir.

Mr. VAN DEERLIN. How long have you been involved in this work?

Mr. HILTZ. I would say too long but it is almost 2 years.

Mr. VAN DEERLIN. I don't mean as top man, I mean how long have you been in labor relations?

Mr. HILTZ. I have been in the railroad business for 35 years but during all of that time not directly involved in labor relations, I should say not exclusively involved in labor relations during that time but indirectly involved in negotiations.

Mr. VAN DEERLIN. I doubt that there is anyone in Congress who would not agree that we should hesitate to legislate in any area where collective bargaining can do the job. It has been a source of some agony to Congress that we have become involved to the extent that we have in recent years in labor disputes.

However, we had a labor representative here before the committee just 2 weeks ago who testified that whenever they tried to bring up the subject of reducing the 16-hour limitation, railroad management refuses to discuss the matter because they say that this is set by law and therefore it is inappropriate for negotiation.

Now you have testified this morning that one of your two principal points is that this is a matter that ought to be taken up through negotiation, rather than by law.

I just wonder if you keep memoranda on negotiations that might be made available, so we could see whether we were bamboozled by the testimony 2 weeks ago, or whether there is an opportunity for honest collective bargaining on this point?

Mr. HILTZ. I can say unequivocally that on the national basis there has never been a position taken by the carriers with regard to hours of service that it could not be negotiated.

Mr. VAN DEERLIN. It just may seem, in the normal course of negotiation where both sides take positions which may appear at the outset to be nonnegotiable, that your position was misread by the——

Mr. HILTZ. I don't think we ever had the opportunity, Mr. Van Deerlin, to bring this up.

I happened to hear the witness about whom you are speaking and if I recall correctly he referred to a recent notice which was served on the Chicago and Milwaukee and St. Paul and Pacific Railroad to reduce the hours from 16 to 12.

Now in reply to that notice it is my understanding and this was handled on a local basis, that the Milwaukee Railroad stated that this notice violates an existing moratorium on wages and working conditions which the Brotherhood of Locomotive Engineers and the railroads had agreed to on a national basis only 2 months ago.

That was the defense taken there.

Mr. VAN DEERLIN. It was not that the matter could not be discussed and negotiated?

Mr. HILTZ. That is correct.

Mr. VAN DEERLIN. I notice that your text did not touch on any safety angle in regard to 16 hours versus 12. As you see it, is there no safety factor involved here?

Mr. HILTZ. As I stated in the beginning of my statement I was addressing it mainly to the labor-management relationship area. Now I don't feel that I am qualified at the present time, I have not made any study of safety, but all I can say is through the basis of my experience which is 35 years of experience in various departments of the railroads, including operating maintenance, real estate, accounting, from one of the lowest positions to the president of a railroad, I have never found that the matter of hours of service being particularly associated with safety.

Mr. VAN DEERLIN. Of course, if it involves safety it would be an area for proper concern by Congress.

Mr. HILTZ. I can only give you my answer as I have, Mr. Van Deerlin. My opinion is that I don't think safety has any bearing on the matter.

Mr. VAN DEERLIN. Thank you.

The CHAIRMAN. Mr. Keith.

Mr. KEITH. No questions.

The CHAIRMAN. Mr. Pickle.

Mr. PICKLE. Thank you, Mr. Chairman.

Mr. Hiltz, in this from your testimony can we assume that there have been no negotiations through collective bargaining by either union or management to solve this problem, no meaningful negotiations in the last year or two or three?

Mr. HILTZ. No, sir.

Mr. PICKLE. There is none?

Mr. HILTZ. No, sir.

Mr. PICKLE. We are all agreed, I am sure, that collective bargaining would be the better approach to this problem. How would you feel if the Congress took the position that the best thing to do under the circumstances was to do away with the 1907 law and let you have at it in a true collective bargaining approach?

Mr. HILTZ. I think this would probably be the most equitable way to handle it for all concerned.

Mr. PICKLE. The testimony yesterday was that approximately 5 percent of the instances would approach the 16-hour limitations, a relatively small amount of the men were actually involved in working hours that would reach this outer limit of 16 hours?

That would indicate to me that it is an important sum, but certainly a rather minor figure. Therefore it is not really a major problem. Would you assume that is a fair assumption?

Mr. HILTZ. It is a major problem insofar as unlooked for emergencies are concerned. This I think is our great resistance to the change.

Where it is only 5 percent these are instances where unlooked-for incidents have occurred to delay that particular crew.

Given the 16-hour leeway we are able to get that crew from its origin point to its destination where we might not be able to if it were a 12-hour law.

Mr. PICKLE. Are you saying the 16-hour limit is used as the norm only in an unusual, or abnormal situation?

Mr. HILTZ. That is my experience.

Mr. PICKLE. Is 5 percent a fair estimate of the number of instances?

Mr. HILTZ. I would have to defer to someone who has made a survey on that but I would say it certainly is not greater.

Mr. PICKLE. Well, if that is correct, and let's assume that the testimony is correct on it, the converse would also work that it is not a major problem. I wonder why then management and labor can't work out a solution.

If it would not be major for the union it would not be major for the management.

Mr. HILTZ. As I tried to say it is major insofar as these unlooked for circumstances are concerned. We don't know when we are going to

get a broken rail or a hotbox or some other occurrence which delays that crew unduly and the management would like to have the opportunity to get that crew to its terminal and not disrupt all of the crew assignments, crew setups, and so forth that are prevalent on that particular division.

Mr. ADAMS. Would the gentleman yield?

Mr. PICKLE. I yield to the gentleman.

Mr. ADAMS. Mr. Hiltz, I still cannot understand this position that you and other witnesses take on these unforeseen occurrences. On page 6 of the bill provision (d) starting at line 3 it says:

> The provision of this Act shall not apply in any case of casualty or unavoidable accident or 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.

To me that is just a clear coverage and exception of the carriers from this situation that you describe.

Mr. HILTZ. In the interpretation of the present law, Mr. Adams, I do not believe that such items as broken rails or hotboxes or train partings or things of that sort, are classed as unavoidable accidents or acts of God.

Mr. ADAMS. Or a cause not known to the carrier at the time when he left the terminal? I mean if there is some other language that you want to draft that makes that more clear if you will give it to us we will try to draft it.

But to me that is as clear as we can possibly make it. So if you think there is something else we should say would you please give it to us, that you feel would cover this situation, if this does not?

Mr. HILTZ. Mr. Adams, as I said in my statement I am here to cover the labor-management relationships. I don't profess to be an operating expert. We have had our operating experts on here as witnesses.

Mr. ADAMS. Mr. Hiltz, I can say this, we asked them also when they were here. But if you want to make that point or you want this committee to act on it somebody from someplace in railway management if they don't think that provision covers it, had better give us one.

Because we think it does.

Mr. FRIEDEL. (presiding). The gentleman from Texas time has expired. Mr. Watkins.

Mr. WATKINS. Thank you, Mr. Chairman.

Pursuing the questioning of the gentleman from Texas, particularly as to the matter of negotiating or the possibility of negotiating the 16 hours downward, now let us get one thing in proper perspective.

The present law, the 16-hour limitation that is a maximum limitation, of every person required to work 16, you can negotiate at below that.

As you say in 95 percent of the cases the employees work under the 16 hours. Do you understand the question?

Mr. HILTZ. No, I don't quite.

Mr. WATKINS. In other words the present law is a maximum limitation and 95 percent of your employees or 93 percent work less than 16 hours or what have you.

Now you are talking about 12 hours. If a person works for 12 hours, even if it should be reduced to 12, that would present some problems. Now what I want to know if this thing was brought up in 1966, have

you had any requests since then for negotiating this particular matter, any requests from the unions?

Mr. HILTZ. The appendix to my statement shows the requests that we have had on the basis of the 25 carriers surveyed for changes in the matter dealing with the hours of service.

We have had only one request which is quite a recent one, and the only one to my knowledge that has ever been served asking for a reduction from 16 to 12 hours.

Mr. WATKINS. You have only had one request?

Mr. HILTZ. Yes.

Mr. WATKINS. Over what period of time?

Mr. HILTZ. To my knowledge that is the only request we have ever had.

Mr. WATKINS. Only one?

Mr. HILTZ. Yes, sir.

Mr. WATKINS. Perhaps we are getting one picture here that all of a sudden becomes a period of emergency during the period of hearing, but we don't have any activity in the absence of a congressional hearing or a committee hearing here.

That is real disturbing to me. Let me ask you this: How many complaints have you had or the railroads, so far as you know, concerning the problems of inhuman working conditions of 16 hours and so forth?

Mr. HILTZ. As I said in our 25 carriers surveyed our response from them showed there were only a total of three notices having to do with hours of service at all.

Mr. WATKINS. Only one complaint?

Mr. HILTZ. One was the 16 to 12 and the other two had to do with the threshold for overtime. But there were no complaints about abuses. Now as I have stated in my testimony there probably have been complaints about alleged abuses or hardships in the past because these undistributed rest rules have been negotiated, also the 40-hour week has been negotiated in yard service and so forth.

Mr. WATKINS. What activity is generally included in deadheading because under the provisions of this bill you would not only have the reduction or the limitation of 12 hours but also deadheading as I understand would be included as duty time, would it not, under the provisions of this bill?

Mr. HILTZ. That is correct.

Mr. WATKINS. What generally is the activity included in deadheading?

Mr. HILTZ. No activity but riding.

Mr. WATKINS. But riding, sitting?

Mr. HILTZ. Sitting.

Mr. WATKINS. Sitting generally?

Mr. HILTZ. That is correct.

Mr. WATKINS. What would be the length, generally, of deadheading, an hour, 2 hours?

Mr. HILTZ. This could vary.

Mr. WATKINS. It varies from what to what, 15 minutes to what?

Mr. HILTZ. It could go up to 5 or 6 hours.

Mr. WATKINS. But there is no activity generally, it is generally just a sitting nature?

Mr. HILTZ. That is correct.

Mr. WATKINS. Under present bargaining agreements on negotiated contracts have you had any complaints in your bargaining sessions about these deadheadings being unusually tiring or what have you?

I am just trying to look into this picture. I can't understand that we had so many complaints 3 years ago during the course of the hearings but yet there was silence for 3 years and now we are back at it again.

Mr. HILTZ. To my knowledge we have had no notices with regard to deadheading.

Mr. WATKINS. One final question, yesterday it—in trying to get some figures and bringing the relationship between long hours of service and the safety factor, you said that you had never collected any figures, not you, but I believe Mr. Manion said that he had never collected such figures.

Have you had any request for such figures from either the ICC or the Department of Transportation?

Mr. HILTZ. Mr. Watkins, I in my capacity would not get those requests. That would be through some other association.

Mr. FRIEDEL. The gentleman's time has expired.

Mr. Adams, you may proceed.

Mr. ADAMS. Thank you. Welcome to the committee, Mr. Hiltz. We spent a great deal of time with your immediate predecessor here back during the last 2 or 3 years.

I will try to limit my questions to the area of labor negotiations which I understand is your particular field of specialty, is that correct?

Mr. HILTZ. That is correct, Mr. Adams.

Mr. ADAMS. We have heard these requests from the unions. Have you ever served or anybody under you on behalf of the railroads a request on labor to negotiate these hours of service rather than having this statute enacted?

Mr. HILTZ. No; we have not served that.

Mr. ADAMS. In other words, you have never taken any action in the labor negotiations field to handle it by collective bargaining rather than having it done by statute?

Mr. HILTZ. Usually you don't serve a notice, Mr. Adams, unless you are dissatisfied with something and we are satisfied with the present 16 hours.

Mr. ADAMS. You are satisfied with it, All right, now, on page 10 I need to know an answer to this because I am not satisfied with your statement. It says, and this is the middle of the page, "I express no judgment about this 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 subjected to proper review as to its legality."

Now we on the committee need a yes-or-no answer as to whether or not the position of railroad management on labor negotiations is whether can you negotiate maximum hours of service or can you not?

Mr. HILTZ. Yes; we can.

Mr. ADAMS. You can. In other words your statement here that you can't venture anticipatory opinions applies only to some specific proposal, but that you are stating flatly to this committee that you can negotiate this?

Mr. HILTZ. That is correct, except as I say I venture or express no judgment as to the doctrine of preemption.

Mr. ADAMS. I want to be sure of it though, because we have had some very bad experiences in this negotiation area. By we, I mean the members of this committee on labor disputes.

I am not at all satisfied that collective bargaining on really hard issues is any longer possible under the present Railway Labor Act. The last two disputes, the firemen disputes and the one that you got into in 1966 that eventually came here a year ago this summer, have both had to be solved by compulsory arbitration emanating out of this committee.

So I don't want to rely on collective bargaining if it is going to mean that it is 5 years before you get to bargaining and then there is a legal challenge by the railroad management along the lines saying we can't bargain this anyway because it is covered by statute.

That is what everybody here has been kind of edging around. You are here now and we want to get a position.

Mr. HILTZ. Mr. Adams, may I say first you have mentioned two matters, two disagreements that have come to your attention. I think there are probably thousands that have not come to your attention which have been successfully resolved through collective bargaining including many, many national agreements, and this entire round of wage negotiations in 1968 and 1969 have all been resolved without coming to your attention.

Mr. ADAMS. That is what I want to get to next. But I have your basic opinion, which I will really rely on for now. You believe that this can be negotiated and so I will tell you this, if this thing does get into negotiation, in other words, this statute does not come through and there is some challenge by the railroad industry that this thing is not legal, if we don't pass a statute I for one am going to see that there is hell to pay up here. Just because you have to get these things in line and do them one way or the other.

I don't mean that as a threat but just tell us how we can rely.

Mr. HILTZ. Mr. Adams, I cannot set myself up and neither can the National Railroad Conference nor the carriers set themselves up as a judge of preemption. This will have to be decided by the courts if this matter is preempted by law.

I say that a notice for reduction of hours from 16 to 12 can be legally served and we will bargain on it until it is decided that it is preempted by hours of service or not. But that is a matter for the courts to decide, it is certainly not for me to decide.

Mr. ADAMS. On that basis I think we had better pass a statute. Now that gets to point of what this statute does. You have on page 12 of your statement a description of the runaround. I got into this with one of your other operating people, I think Mr. Burton, yesterday, and he deferred to you on it.

As I understand this statute and your piecework system you have a series of pieces of work that are bid on by men and then you rotate these pieces of work in each division or each dispatch point and men get them and they want them.

Now, as I understand, it works at 12½ miles an hour for freight trains and 20 miles an hour for passenger trains so that on the present statute you can set up a run of just under 200 miles for a man. In

other words at 16 hours at 12½ miles an hour you go 200 miles.

So you can set up presently a package to run a man that many miles or just under it, now as I gather what we are trying to deal with here is not the emergency, that is why I asked you the question before.

If you want to redraft that section we would be pleased to see it, but we are trying to prevent packages being set up that are, in effect, attractive for the older man because by seniority he gets the top spots.

So that you are putting him out.

This was testified to by Mr. Burton and on this kind of operation. The man actually just drives himself farther than he should. He goes out and he does 200 miles or he does 100 out and 100 back.

He does it in just under 16 hours because that is the package. He then can only lay off 8 hours and he goes back and he does 100 out and 100 back and 8 hours and then 100 out and 100 back and 8 hours, 100 out and 100 back and 8 hours and then is off for 3 or 4 days because, as was pointed out by Mr. Burton, and I think by you, he wants more time at home and he wants to get as much time as he can in as rapidly as possible and all at one time.

So the result of this is you take the oldest men in your service and because of this statute you run them the longest hours and with your hour and a half callback that means they get at most six and a half hours' sleep.

Now isn't what we are trying to do here not to screw up all of your packages all over, but prevent the dangerous package being created?

Isn't that what this statute does?

Mr. HILTZ. Mr. Adams, you are talking about a package run which is 200 miles and takes 16 hours. I don't know why 200-mile runs should take 16 hours or why management should presume that 200 miles would——

Mr. ADAMS. Because you are packaging by this statute, this statute says the biggest run or the biggest package you can create is 16 hours. All of your bargaining, nationwide, as I understand it, is based on a 12-and-a-half-mile-an-hour freight run.

Mr. HILTZ. Excuse me; that is the pay basis. This not the average speed of trains or anything else.

Mr. ADAMS. Well, I know that but that is the package. Now if we reduce it to 12 hours all I see that happens in the United States is that about 8 percent of your employees, we had an argument with Mr. Burton, it might be 12 percent, but a small percentage of your employees are in a dangerous safety situation, probably the older men, and they are told you can't get out on that line for more than 12 hours at a stretch. Now isn't that all we are doing with this statute?

Mr. HILTZ. That may be all you are trying to do, Mr. Adams, but you are doing a great deal more as has been testified to by these other operating witnesses. The men testified as far as I am concerned that this will affect the entire pay compensation structure.

Mr. ADAMS. But in negotiations that is all you would have to change this law from 16 to 12 hours, is those packages that run over——

Mr. HILTZ. I have to take exception to your talking about a package, setting up a 16-hour run. I don't think there is a railroad in this country that sets up a similar run.

Mr. ADAMS. I will defer and come back.

Mr. FRIEDEL. The gentleman's time has expired. Mr. Harvey.

Mr. HARVEY. You said there was not a railroad in the country that does that?

Mr. HILTZ. I don't think there is a railroad in the country that would set up a 16-hour run as a general thing. Insofar as talking about the 200-mile run taking 16 hours our freight trains run 60 miles an hour today and why should a 200-mile run take 16 hours?

Mr. HARVEY. In rereading Mr. Manion's statement last night I was impressed that he stressed this 16 hours situation which was a most unusual situation. Is that correct?

Mr. HILTZ. That is the way I regard it, yes, sir.

Mr. HARVEY. Do you have any figures or statistics which would indicate how unusual it is and what part of your operations it plays?

Mr. HILTZ. I don't Mr. Harvey. As I said I am prepared to testify only on the labor-management relationship angle here.

The other witnesses have included, I think Mr. Pickle mentioned, 5 percent of them reached the 16-hour provision here.

Mr. HARVEY. The reason I mentioned it was that again in rereading Mr. Manion's statement I was impressed that he also emphasized how disruptive changes of that figure would be. I read it and I had difficulty reconciling the two. If as he said, the 16-hour workday is so unusual then it was hard for me to understand where changing it would be so disruptive.

Would you care to comment?

Mr. HILTZ. I would much rather have Mr. Manion comment on that.

Mr. HARVEY. I gather from your testimony that the 16-hour day is most unusual and you have emphasized also that it would be disruptive and surely you must have some thoughts as to why it would be so disruptive if it is unusual circumstances.

Mr. HILTZ. As I say if we were held down to 12 hours and got into one of these unusual circumstances which ran over 12 hours—the railroads would have to take measures to deadhead crews out to relieve these crews, and so forth, and so on, at a much greater rate than they do at the present time. This would be completely disruptive of the crew assignments, the runs on the road, and so forth, and they would be in complete disorganization as far as the regular assignments are concerned.

Mr. HARVEY. I am not certain you understand me. I still conclude that is a rare thing when that happens, if I understood the testimony correctly. It is hard to understand how such a rare thing can be so disruptive. This bothers me. I don't know if it does anybody else on the committee.

Mr. KEITH. Will the gentleman yield?

Mr. HARVEY. Yes.

Mr. KEITH. American railroad management and labor have not established a worldwide reputation for imagination or innovative practices in either personnel or equipment.

I just wondered as I listened from time-to-time in this hearing if anybody has given any thought to jumping these crews back by use of a helicopter?

If you only have to go a couple of hundred miles to get back and it only takes a half an hour to do it in a chopper or an hour, is there not some value to consider the possibility of using another kind of transport to return them to their starting point.

Mr. HILTZ. Mr. Keith, I don't know whether it has ever been tried. To my knowledge it has not. But I am sure if it were tried you would find that the crew would refuse to ride in a helicopter.

Mr. SKUBITZ. Will the gentleman yield?

Mr. HARVEY. I will yield.

Mr. SKUBITZ. If you gave the crew members their druthers, riding a passenger train back or a helicopter, which do you think they would take?

Mr. HILTZ. I think I have already answered that.

Mr. SKUBITZ. I doubt that you have. I think he would take the helicopter.

Mr. HILTZ. I don't think so.

Mr. FRIEDEL. Mr. Murphy.

Mr. MURPHY. No questions at this time.

Mr. FRIEDEL. Mr. Brotzman.

Mr. BROTZMAN. I understand the main thrust of your testimony is that you believe this particular matter can best be handled by the collective bargaining process, is that right?

Mr. HILTZ. That is essentially correct.

Mr. BROTZMAN. Is there some question in your mind really relative to the legality of this?

Mr. HILTZ. As I have said, I am not a judge as to the legality in regard to reducing the 16-hour time. This has never been tested in the courts and I can't judge it.

But insofar as we are concerned it would be proper to serve notice, for the union to serve notice to reduce from 16 to 12, and we would negotiate it.

Mr. BROTZMAN. As far as you know it could be the subject of negotiation, right?

Mr. HILTZ. That is correct.

Mr. BROTZMAN. Did you say that there has only been one complaint brought to your attention concerning hours of work?

Mr. HILTZ. Only one which sought to reduce the 16 hours to 12.

Mr. BROTZMAN. And that is over how long a period of time?

Mr. HILTZ. That is the only one that I know of that has even been served in the history of the Railway Labor Act.

Mr. BROTZMAN. You say that the bargaining approach is better because it gives more flexibility to management and labor to deal with a rather complex structure, is that right?

Mr. HILTZ. That is correct, plus the fact that various changes can be accommodated. The rules are all interdependent and the various changes necessary brought about by any changes in one can be accommodated by collective bargaining where I don't think they can be properly accommodated by legislation.

Mr. BROTZMAN. When you use the term multiplier is that what you are referring to?

Mr. HILTZ. That is correct. It has a multiplier effect on the various rules that have been negotiated over the past 30 or 40 years.

Mr. BROTZMAN. Thank you. I have no further questions.

Mr. FRIEDEL. Mr. Eckhardt.

Mr. ECKHARDT. Mr. Hiltz, I believe you said you don't put together 16-hour packages, this is not a custom, and I believe you also stated that generally an engineer will work over 8 hours in a particular day

but he ordinarily will not work over 12, as a matter of fact, that this is the custom ordinarily

It falls between about 8 and 12 hours, is that correct?

Mr. HILTZ. These were generalizations, Mr. Eckhardt, I don't have the figures to substantiate that. This is my opinion with regard to that.

Mr. ECKHARDT. When certain conditions occur which have not been foreseen by the personnel that sends the engineer out on the job that they may work over 12 or even up to 16, that is generally what you are saying is it not?

Mr. HILTZ. Yes, sir.

Mr. ECKHARDT. If those conditions which require work from say 12 to 16 hours fell in this category that an officer or agent in charge of the employees at this time that employee left the terminal could not foresee the conditions, for instance the hotbox situation, I don't suppose he could foresee that, could he?

Mr. HILTZ. No, sir.

Mr. ECKHARDT. He could not foresee a derailment. That is not the kind of think he would certainly be anticipating. That would be unforeseeable would it not?

Mr. HILTZ. That is correct.

Mr. ECKHARDT. And it would be this kind of a situation only where the package of 12 to 16 hours would be put together, is that not correct?

Mr. HILTZ. I think that is generally true, yes, sir.

Mr. ECKHARDT. Then of course, if that were the case, if that were true, you would not be discommoded with respect to pay scale unless that 12 to 16 hour requirement happened to occur; is that correct?

Mr. HILTZ. Well——

Mr. ECKHARDT. If this law were to be put now into effect?

Mr. HILTZ. Generally correct; yes, sir.

Mr. ECKHARDT. Well now this law as I read it gives you an exception on the only situation in which you work people between 12 and 16 hours. In what way then would the law in any way restrict you?

Mr. HILTZ. As I said in answer to a question from Mr. Adams, the present law has this same provision and its certainly interpreted today as you indicate.

Mr. ECKHARDT. Can you give me any examples in which the law has been enforced to preclude you?

Mr. HILTZ. I can't give you an answer at the present time; no, sir. I have been disassociated with active operations for over 2 years, but I am sure that examples could be given by the operating employees who have testified.

Mr. ECKHARDT. I rather agree with Mr. Adams, I certainly read it as being lenient with respect to the situations we are calling for, because you don't say there must be an emergency, you simply say something occurs which the assigning foreman could not foresee.

It seems to me that covers virtually every situation that you might complain of here. But if it does not perhaps you need another definition, as Mr. Adams has suggested. I assume when you say that this matter is properly the subject of negotiations and therefore not the proper subject of the law, you assume that safety is really not in the formula at all, because if it were, then, obviously the public would not

be in on the negotiations, the negotiations would be between the employees and the company.

As you very ably pointed out in your statement, sometimes employees want to engage in rather long and fatiguing hours in order to trade off for higher pay.

That is generally true, is it not?

Mr. HILTZ. Yes, sir.

Mr. ECKHARDT. So if the employee wants to trade off for higher pay and the company wants to keep the flexibility of a long assignment then the only way that excessive hours can be limited would be by Federal statute or by State statute, would it not?

Mr. HILTZ. Well, if your assumptions are all correct then I think we would have the union leaders in here asking for a reduction. If they don't get it through legislation I assume they will try some other way.

Mr. ECKHARDT. On the contrary, you are urging here that they have not made any such requests, that there has been only one request for a negotiated change with respect to hour limitations and that the subject of negotiations has been pretty well limited to rest periods, of which I think you said there had been 59 occasions of contracts dealing with that.

Mr. HILTZ. Fifty-six of the carriers that we surveyed, sir.

Mr. ECKHARDT. I think that you have said that you don't see that this does relate to safety. But you have to make that assumption before any of your arguments carry weight with respect to settling this by negotiations, don't you?

You have to assume that the public's interest is really not here involved if safety is not involved, that it is a proper thing for the employee and the management to argue out at the bargaining table and when they are satisfied then we should all be satisfied, because there is no safety factor involved.

Aren't you really saying that at this stage?

Mr. HILTZ. No, I think both the employees and management have an interest in safety.

Mr. ECKHARDT. But do you think safety is involved?

Mr. HILTZ. I did not say that.

Mr. ECKHARDT. If you don't think safety is involved, and employer and employees don't think safety is involved, and they negotiate on the basis that they think safety is not involved why then there may be some other opinion on the side of those who are concerned about whether or not they will be hit by a train when they cross railroad crossings when an engineer has been running a train for some 15 hours.

There may be a difference in opinion between the public generally and the employee and the employer, is that not at least conceivable?

Mr. HILTZ. Yes, indeed, sir, but I thought that was the purpose of this hearing, to bring out to the best of our judgment that there was no safety factor.

Mr. ECKHARDT. That is right, so if you think there is no safety factor involved and you think the matter should be subject to negotiations, and if we submit it to negotiation, and you and the employees decided without the public being involved then we run at least the risk that there may be a safety factor involved which you do not recognize, is that not correct?

Mr. HILTZ. That is correct. However, I have not heard the unions say that they don't think a safety factor is involved.

Mr. ECKHARDT. I don't know what they say.

Mr. FRIEDEL. Mr. Thompson.

Mr. THOMPSON. Thank you, Mr. Chairman.

Mr. HILTZ. I am somewhat disturbed by——

Mr. FRIEDEL. Pardon me, should it be Mr. Skubitz?

Mr. THOMPSON. Excuse me. I suddenly achieved a little more seniority than I should have.

I am somewhat disturbed by the equivocation you made as to the legality as to entering into negotiations to reduce this 16-hour period with the unions.

The unions in their testimony almost unequivocally stated that it was illegal for this to be a subject of competitive bargaining. I am of the opinion that it is a proper subject for competitive bargaining just as your minimum wage.

You have a minimum wage and by law you cannot pay less than this. But do you bargain with the unions and in effect because of your collective bargaining enter into wage scales higher than the statutory limit?

Mr. HILTZ. We do, sir.

Mr. THOMPSON. Why should there be any equivocation on the fact that if there is a statutory top limit on work hours then there should be any question as to the legality of bargaining for a lesser time?

Mr. HILTZ. Mr. Thompson, I can't set myself up as a court of law. I think that this will have to be determined by a court of law as to whether or not it is.

Mr. THOMPSON. Let me say this, I cannot understand the position you are taking. Now am I to assume that you are saying there is some question as to the legality and if the unions do come in and say we want to bargain on this issue and we want a 12-hour limitation rather than a 16 then you are going to come to the bargaining with them with the statement, "well, I am not certain whether we have this right and therefore we are going to have to let the courts decide," or are the railroads going to bargain in good faith with the union?

Mr. HILTZ. This would depend on the form of the notice they serve and so forth. In general I would say we would bargain.

Mr. THOMPSON. I would like something more than in general. This disturbs me. I see no need for a piece of legislation such as this so far as general working hours are concerned. I think the unions have done a lousy job of representing their employees if they have not brought this issue up, except for the fact that if their statements are correct they have been told that max-working hours is not a subject for collective bargaining and the law prohibits your bargaining on it. Maybe that is the reason they have not in the past demanded that this be bargained.

Now what I want to know from you is whether or not if these other railroads do come in and want to bargain on this issue are you going to throw up a legal question and say we have to have this decided in the courts?

Mr. HILTZ. As I said before, Mr. Thompson, this would depend entirely on the type of notice. In general I would say we would bargain.

Mr. THOMPSON. That really does not satisfy me. I was basically not in favor of this bill unless there is a showing to me that there is a real safety factor involved.

I have not been convinced that there is a safety factor involved. I think that is the only basis on which we as representatives of the people should become involved in this.

However, I am disturbed in that there appears to be some equivocation on the part of management as to whether you have a legal right to bargain with the union for a lessening of the maximum work hours.

I think you do. I think there should be no equivocation and the mere fact that you are equivocating indicates to me that there may be sometime in the future when a union will come in and say let's bargain on this and some railroad is going to say I am sorry we are prevented by law from talking to you about it and therefore we are not going to bargain.

Mr. HILTZ. The only thing I can say about that, Mr. Thompson, is that the only notice that has been served so far having to do with this, I don't believe you were here when I made this statement, but the only notice having to do with this has been served on the Milwaukee Railroad.

Mr. THOMPSON. I was here when the statement was made and I have gone over your graph illustrating this with all of the various railroads and it is a mystery to me why if this is such a burning issue it has not been brought up in the past unless there has been some thought among the railroads and the unions that it was not subject of collective bargaining and what I want to know, to determine right now is whether this is or is not true.

If it is not then maybe this committee should act. If it is then I think this committee should not act.

Mr. HILTZ. To my knowledge it has never been discussed between the railroads and the union.

Mr. OTTINGER. Will the gentleman yield?

Mr. HILTZ. The only place it has been brought up in this particular hearing is in Mr. Chesser's statement where he states that they have always considered it to be a matter which was preempted by law.

Mr. OTTINGER. If it is going to be preempted by law then possibly we should act. If it is not and there will be bargaining between the parties I would rather see the bargaining.

But I don't like the equivocation I am getting from you as to whether this is precluded. I say there is nothing to preclude collective bargaining on this point. But the unions in their testimony take the position that it has been precluded by law and while you say you feel that it is a subject for collective bargaining you say it must be determined in the courts.

Now with this record that we are establishing right here I can very well visualize what could happen in some collective bargaining after this issue is set aside if we do nothing.

Then the unions will come in and serve notice they want to bargain and the railroad does not want to bargain and they will say it is not a subject of bargaining.

Mr. HILTZ. They have been the ones who raised the preemption issue, Mr. Thompson. To my knowledge it has never been raised before between the carriers and the unions.

Now I can't determine who is going to raise this, whether they will raise it or we will raise it or who will raise it. But it has to be decided by the courts if it is raised.

I don't think it is going to involve an interminable delay as these matters are decided rather promptly as far as the courts are concerned. There may be some delay.

The CHAIRMAN. Your time is up.

Mr. Tiernan.

Mr. TIERNAN. Thank you, Mr. Chairman.

In your testimony you referred to the Presidential Railroad Commission in February of 1962. You cite pages 79 and 84 and 101. I frankly can't find in the report this reference to those pages.

Now I am wondering if you are referring to some precise summary of the Commission's report. I have the pages marked and sometime later I would appreciate it if you would show me the references on pages 78 and 84 and 101.

Mr. HILTZ. Mr. Lee says you have the wrong one.

Mr. TIERNAN. I have the report of the Presidential Railroad Commission. That is the main report. All the others are appendages, volume 1, volume 2, volume 3, volume 4. I found no reference. So I would appreciate it after the hearing if you would point this out.

In regards to your replies to Mr. Springer in defining deadheading would you say to the committee that that definition covers the complete description of deadheading or is it limited to that requested by the company?

Is there any other deadheading other than that requested by the company?

Mr. HILTZ. Mr. Tiernan, deadheading is a widely used term. But I think in labor-management relationships this is more or less the complete definition.

Mr. TIERNAN. You don't want to add anything to the definition you gave to Mr. Springer with regards to what deadheading is?

Mr. HILTZ. I don't think so.

Mr. TIERNAN. What about in the example Mr. Springer gave you, where the man leaves Washington, his home terminal, and he terminates in Frederick?

What do you call the time from termination of his duties as a conductor or trainman from Frederick back to the home terminal, what do you call that?

Mr. HILTZ. You say he was——

Mr. TIERNAN. Ordered by the dispatcher to board a train in Frederick and serve in some capacity on that crew and he worked that day and ended up in Frederick.

How do you consider the time he takes from Frederick to return to his Washington home?

Mr. HILTZ. That is deadheading.

Mr. TIERNAN. What is that included in? Is it included in on duty time?

Mr. HILTZ. No.

Mr. TIERNAN. Pay time?

Mr. HILTZ. It could be included in pay time.

Mr. TIERNAN. In what circumstances?

Mr. HILTZ. If the company ordered him up there to cover a vacancy which was not on his seniority board.

Mr. TIERNAN. But a man could ride for 4 hours on the train on deadheading, right?

Mr. HILTZ. Right.

Mr. TIERNAN As long as 4 or 5 hours?

Mr. HILTZ. Right

Mr. TIERNAN. And that is not considered under the law now——

Mr. HILTZ. It would not be under the interpretation of the law determined by the Department of Transportation.

Mr. TIERNAN. So conceivably a man could ride for 4 or 5 hours to a deadhead point and then board a train and serve for 14 hours and then have to ride 4 or 5 hours back to his home terminal?

Mr. HILTZ. That is correct; yes, sir.

Mr. TIERNAN. And then he could be eligible to report for work 2½ hours after he concluded his service after the 14 hours of work?

Mr. HILTZ. I don't quite get that.

Mr. TIERNAN. In other words when he gets back after being on board that train for 14 hours he is considered then to be on his 8 hours rest time. After 8 hours of rest he is eligible to return to work, am I correct, under the law?

Mr. HILTZ. That is correct.

Mr. TIERNAN. So he takes a train ride for 4 hours and then 3½ hours later he reports for duty. A half hour later he is back on a train; isn't that correct?

Mr. HILTZ. Yes, unless he takes advantage of an undisturbed rest rule or a deadheading rule.

Mr. TIERNAN. This is the possibility under the present law?

Mr. HILTZ. That is a possibility.

Mr. TIERNAN. Now under the proposed law he could only work for 11 hours and 59 minutes and then take a day off as a rest period?

Mr. HILTZ. That is correct.

Mr. TIERNAN. Also you would have to include the 4-hour train ride up to that point as on duty time?

Mr. HILTZ. That is correct.

Mr. TIERNAN. So you would not be able to use that type of personnel for that type of a run?

Mr. HILTZ. Especially if you had to get him back.

Mr. TIERNAN. The point I am trying to make is that presently you can have a man ride 4 hours to a point, work 14 hours ride 4 hours back and 4 hours later he can go back on duty and work another 14 hours and not violate the law.

Mr. HILTZ. That is correct.

Mr. TIERNAN. Well someone disagrees with you.

Mr. HILTZ. Who disagrees?

Mr. TIERNAN. Someone in the audience, they are shaking their heads. The point is at the end of the second run, the 14 hours, do you think that person is really subject to any fatigue or could be subject to any fatigue?

Mr. HILTZ. That is a wide question. I don't know whether he has been asleep on the 4 hours up and asleep on the 4 hours back.

Mr. TIERNAN. An engineer is going to be able to sleep?

Mr. HILTZ. You said he would be deadheading.

Mr. TIERNAN. Suppose he drives his car, suppose he drives to that point as many of these men do, or have to do.

Mr. HILTZ. If he does he could not sleep, I hope.

Mr. TIERNAN. I hope so too. So the point is the man drove to the

point by car and on my understanding he is paid 6 cents a mile for that travel, many of the men use that?

Mr. HILTZ. Some of them are as high as 12 cents. It depends on the local agreement.

Mr. TIERNAN. The point is a person could drive for 4 hours to a job, work 14 hours, drive 4 hours back to his home and then work 14 hours again.

That is a lot of work hours without any time actually spent sleeping.

Mr. HILTZ. It could be done, as I say, unless he took advantage of the undisturbed rest rule or something of that sort.

Mr. TIERNAN. With regards to this point all the testimony has been what this law would affect. On through trains it would affect only 5 percent of the personnel involved and about 20 percent of the local freight service.

Is that a fair estimate or are you going to rely on the testimony of other people?

Mr. HILTZ. That is all I can do.

Mr. TIERNAN. So what we are talking about is limiting the hours of about 5 percent of the personnel on through-freight service and about 20 percent of the number of men working on local-freight service?

Mr. HILTZ. I don't know about those figures there Mr. Tiernan but I don't think that is true. You said 5 percent gets up to 16 hours, I don't know what percent go above 12 hours so if you bring them down to 12 you are going to be affecting more.

Mr. TIERNAN. Your own testimony is that most of the men do not work more than——

Mr. HILTZ. I said that was a generalization.

Mr. TIERNAN. We have had testimony to substantiate that.

Mr. HILTZ. I have been asked for a lot of generalizations which I have to make to try to be responsive.

Mr. TIERNAN. You are familiar with the recent task force report by the President. It is dated June 30, 1969, they say that the fatalities resulting from railroad accidents occur mostly at grade crossings. This is a serious concern of mine.

Apparently neither the industry nor the unions nor the Government have taken any time to compile statistics with regard to fatigue involved in accidents. Fatigue of employees, apparently is not a factor considered in the determination of the approximate cause of these fatalities or these accidents involving railroads at grade crossings.

Mr. HILTZ. At grade crossings although the statistics don't bring it out I think you will find a major portion of the accidents involve the motorists running into the side of the train and another factor involved is if a train is going at any speed at all, there is nothing that an engineer or anybody else can do about stopping it short of an automobile that should suddenly come onto a grade crossing, whether he has been on duty 1 hour or 3 hours.

Mr. TIERNAN. The point I want to make is the fact that we don't have any statistics. You even say that in your statement. We don't have any statistics to back that up. It is just sort of a presumption.

Mr. HILTZ. I think there are statistics to back up the number of automobiles that run into the sides of trains rather than being hit by trains.

Mr. TIERNAN. There is nothing to even relate that to here, whether or not the operating engineer was on duty for 14 hours and this is the point in the testimony.

Mr. HILTZ. I don't know how he could get out of the way of that motorist if he was on duty for a half hour.

Mr. TIERNAN. He might not be as alert as he would have been if he was on duty for 5 hours. That is the point, we don't know.

The CHAIRMAN. Mr. Hastings.

Mr. HASTINGS. Mr. Skubtiz was skipped over.

The CHAIRMAN. Mr. Skubitz.

Mr. SKUBITZ. Mr. Thompson has raised the very question that disturbs me. I too believe that this is a negotiable item.

I took this up with Mr. Chesser when he testified. I discussed it later with Mr. Chesser and I told him that we were misled.

If I understand the position of the railroad brotherhoods they feel that even if this matter was brought up for negotiation the railroads would say that it was not a negotiable item. Therefore the only way they can get any action at all would be to come to Congress.

Now from your testimony if I thought for a moment that this Congress did nothing or this committee did nothing and if the brotherhoods came forth and wanted to negotiate and the railroads chose to go into the courts to test the law, I would be ready to come in here at midnight and take action.

If they tried to negotiate hours of service and you refused on the grounds that it is not negotiable I would be willing to come back here immediately and take steps.

I believe that someone asked you the question whether a 16-hour day is considered a normal day and your answer was "No," is this correct?

Mr. HILTZ. Whether 16 hours was a normal day and my answer is certainly "No."

Mr. SKUBITZ. What about 12 to 13 hours?

Mr. HILTZ. Well, Mr. Skubitz, when you say normal the only thing I can do sir, is refer to the testimony given by Mr. Manion wherein he so cites the average workweek of these employees.

This would seem to me to be average or normal, I guess, on the overall basis the workweek I think in his testimony indicates it would be 38 hours per week.

Mr. SKUBITZ. I think Mr. Manion also said that roughly 33 percent of the freight and road switch assignments are indeed over 12 hours and the bulk from 12 to 13 hours. Do you want to comment on that?

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

Mr. SKUBITZ. Do you think that concerning a man working day in and day out 12 to 13 hours a day that safety would not be involved?

Mr. HILTZ. May I ask what Mr. Manion's statement again was?

Mr. SKUBITZ. Roughly 33 percent of our freight and road switch assignments are on duty over 12 hours, the bulk of them, that is the balance, two-thirds of them, were 12 to 13 hours.

He did not talk about less than 12 hours. He talked two-thirds of them were 12 and 13 hours and a third of them over 12 and 13 hours.

Mr. HILTZ. I think he referred to the bulk as to the 33 percent, the bulk of those 33 percent.

Mr. SKUBITZ. You mean two-thirds of the one-third?

Mr. HILTZ. Yes.

Mr. SKUBITZ. All right. You don't want to leave the impression with this committee that freight trains travel 60 miles an hour and therefore a 200-mile run normally takes 3 hours?

Mr. HILTZ. I wanted to leave the impression with the committee that the freight trains do travel 60 miles an hour; yes.

Mr. SKUBITZ. I appreciate that but you certainly don't want to say that the average run of 200 miles only takes 3 hours?

Mr. HILTZ. No, sir, I do not, but conversely I don't want to leave the impression that the average 200-mile run takes 16 hours, which I think Mr. Adams was saying.

Mr. SKUBITZ. The fact that a train travels 60 miles does not mean that it is going from point A to B and this is a day's work.

Mr. HILTZ. No, it certainly does not, Mr. Skubitz, but at the same time all through freight trains don't do switching. We have through freight trains that cover 16 division points or 1,600 miles in 33 hours.

Mr. SKUBITZ. But most of your trains have a lot of switching to do.

Mr. HILTZ. I would have to disagree. I think the majority of the through freights are through freights and only the local freights do switching.

Mr. ADAMS. Would the gentleman yield?

Mr. SKUBITZ. Yes.

Mr. ADAMS. I would like to know, and this comes right to the heart of this legislation, if most of your packages and everybody has talked about this piece work basis like Mr. Skubitz mentioned 130-mile run or a 160-mile run, that nearly all of these are scheduled to be completed in less than about 12 hours and if you take more time on the run you don't get paid any more for it because you are supposed to make that run.

Now what we are asking you is if that is the situation around the country. And if we drop the maximum time from 16 to 12 it should not be that disruptive of your overall labor negotiations.

You might have to change a few packages around the country to take and tailor to 12 instead of 16 hours but you have not told this committee how many.

We heard yesterday 18,000 people. We heard that it was a rare thing. We heard that it was an occasional thing. Can you tell us?

Mr. HILTZ. I think these other witnesses have told you. There is no use in my repeating.

Mr. ADAMS. You are the man who negotiates the packages.

Mr. HILTZ. I am the man who negotiates the national rules but not the individual runs on the carriers.

Mr. ADAMS. Surely you know how many packages would be affected by this legislation, how many you have to renegotiate, you must know that.

You are in charge of this all over the country.

Mr. HILTZ. I am not in charge of such a thing as this. I am in charge of negotiation of national labor agreements. I have nothing to do with individual runs on individual properties.

There are some 36,000 runs I think it is that will run every day and I would certainly not have knowledge of the details of those.

Mr. ADAMS. But you would have knowledge coming into testify as to how many would be affected by dropping the total top level on the

package from 16 hours to 12 hours. You have said it is a big thing but I want to know how many?

Mr. HILTZ. I think Mr. Manion testified to that.

This is the area covered by Mr. Manion. I did not even attempt to cover this particular angle. I tried to cover the effect upon labor-management relationships in my testimony. I did not try to cover the effect on these individual runs or on operating changes that would be necessary.

I just really tried to cover the changes that would be necessary in labor-management relations.

Mr. ADAMS. Thank you for yielding, Mr. Skubitz.

The CHAIRMAN. Mr. Hastings.

Mr. HASTINGS. You say that generally by going into bargaining you could approach this situation. The fact is that the attempt to reduce the hours from 16 to 12 has not been tried by collective bargaining, the fact is that safety in your judgment is not a factor.

Have you got a judgment as to what the real purpose of this legislation is, if there is a purpose of it that is not stated?

Mr. HILTZ. Yes, I have an opinion as to what it is.

Mr. HASTINGS. I would like to hear it.

Mr. HILTZ. It is to put more men on the rolls of the railroads and perhaps gain more union membership.

Mr. HASTINGS. Thank you, that is all, Mr. Chairman.

Mr. ECKHARDT. May I ask one question?

The CHAIRMAN. Mr. Eckhardt.

Mr. ECKHARDT. On this point I have had some little experience with crossing accidents and on occasion you run into a situation like this where there is fog, the freight train is running through the fog. Cars are traveling on the highway.

In the particular occasion I am thinking of there was a conflict of testimony as to whether or not the whistle was blown. Now you say it is ordinarily the automobile that drives into the train.

In a sense that occurred here. But the question was whether or not there was the ordinary prudence on the part of the crew. Now do you mean to tell me, sir, that under the circumstances that were described here by Mr. Tiernan, long periods of operating a train, the long period of traveling to and from that train and then going on duty after 4 hours of sleeping, do you mean to tell me that an engineer operating a train under those conditions is operating it so safely that the public may be assured that he is alert enough to blow the whistle in the circumstances that I described?

Mr. HILTZ. The only thing that I can tell you with regard to that, Mr. Eckhardt, is that there are no statistics which show otherwise.

Mr. ECKHARDT. Then we had better get them.

Mr. ADAMS. Mr. Chairman, may I ask one question in light of his comment as to what he felt the motivation of this legislation was?

As I understand it, Mr. Hiltz, and this is in the field of labor negotiations, you have negotiated out a series of limits of total time that a man can run on the road.

Mr. Manion's testimony says most of these men or a great portion of them are not working a 40-hour week, that the work is trying to be spread around.

I therefore cannot understand your statement and please explain it to me, how you are going to have any more men on the road if we simply say to the men that are there you can't run 16 hours, you can only run 12, which may mean you will have to run more days or you may have to run shorter segments at one time.

Because as Mr. Eckhardt says, we want you alert. But there is so much slack in there now that the same number are going to be handling the trains but just in shorter work segments.

Mr. HILTZ. I don't think that is so, Mr. Adams. I think you are only gauging your remarks toward road service. I believe Mr. Manion showed a perfect example of local service where it would take two crews to do the job of one.

Also you have not touched on yard service where it is customary or not unusual I should say to have yard crews double and work 16 hours on a double.

This can be for various reasons. If we eliminate those occasional doubles that occur why we are going to have to have more men to cover the second shift of that yard crew.

Mr. ADAMS. I just referred to his appendix here and I am sure you can and with the exception of the local freight service category, I think, and part of the yard service category, all the rest are substantially below the 40-hour week, and I assume that in this area what you are dealing with is the fact that your piecework packages or what you have put together in yard service, I guess yard service is under-time plus overtime, isn't it?

Mr. HILTZ. Yes; it is time plus overtime.

Mr. ADAMS. You have got a different situation than you do in your piecework area which is what all of our discussion has been about.

Mr. HILTZ. But the hours of service act covers yard and local freight service as well as the piecework, as you call it.

Mr. ADAMS. I know but in that area the man gets paid extra for his extra hours. In the piecework system he does not get paid extra until he arrives out and completes his assigned piecework.

Mr. HILTZ. That is not so, Mr. Adams. If his piecework is 100 miles and he does not make that 100 miles until 9 hours he gets 8 hours' straight time plus 1 hour time and a half.

Mr. ADAMS. That is based on the 12 and a half mile an hour run, in other words it is—it takes him more than 12 and a half miles an hour to make it. Then he would get some overtime.

Mr. HILTZ. That is correct.

Mr. ADAMS. But if it slows him down, if he, in his normal situation, does not get it until he does his 100 miles or goes over 12 and a half divided into a hundred miles, that is what I mean, it is still straight time.

Mr. HILTZ. On that 100-mile trip he could start in overtime only completing 50 miles of it if he goes over 8 hours.

Mr. ADAMS. If he goes over 8 hours.

Mr. WATKINS. Mr. Chairman.

The CHAIRMAN. Mr. Watkins.

Mr. WATKINS. First I would like to ask unanimous consent to put a letter in the hearing record.

This request is made on behalf of my colleague from Kentucky, Dr. Carter. A copy of a letter from Mr. Bill Selby of the Kentucky

legislative board of the United Transportation Union addressed to Mr. Chesser.

It relates to this particular matter. So on behalf of Dr. Carter I would like unanimous consent.

The CHAIRMAN. Without objection it will be so done.

(The letter referred to follows:)

KENTUCKY LEGISLATIVE BOARD,
UNITED TRANSPORTATION UNION,
*Danville, Ky., July 2, 1969.*

Mr. AL. H. CHESSER,
*National Legislative Director,*
*Washington, D.C.*

DEAR AL: I have reported the manner in which the Southern railroad has, and still are, handling crews on the 2nd. district of the C.N.O. & T.P. Division to Brother Lampley, and he has been very successful in having an I.C.C. Investigator assigned to the problem. The Investigator informed me, on his last visit, that he would check the records at Atlanta and see just how many crews were required to exceed 16 hours combining their deadhead with working time. If conditions prevail on the rest of the system as it does here it would prove to happen daily.

I will cite you a most recent case of men required to be in service, although according to the "Hours of Service Law" is not a violation. On June 30, 1969, due to mishandling of crews #63, a local freight assignment, was called for 11:20 p.m. to deadhead to Oakdale, Tenn., they arrived in Oakdale July 1 at 11:20 a.m. was called on arrival for 12:40 p.m. and registered off in Danville at 4:05 a.m. July 2, 1969. The crew was on the engine for 28 hours and 40 minutes. You can imagine the condition these men were in when they arrived home.

Cases of this nature are becoming more frequent rather than corrected. I am aware this will not be prosecuted, but if the Department could write the Southern a strong letter perhaps it would discourage them in this type of abuse to their employees. Many similar cases are not reported because the employees know it is not a violation and it would not be difficult for the Investigator to build quite a volume of cases where employees have been abused.

With best wishes, I remain,
Fraternally yours,

BILL SELBY, *Assistant Director.*

Mr. WATKINS. One question I might ask, Mr. Hiltz, as I understood when Mr. Springer was capsulizing, as he said, your particular testimony, you took the position that this matter was a proper area for collective bargaining.

Mr. HILTZ. The entire matter is a proper area for collective bargaining.

Mr. WATKINS. As I understand it now you think not only the hours of service but the entire salary structure, mileage and everything, all of that is an item for collective bargaining?

Mr. HILTZ. That is correct.

Mr. WATKINS. And you still maintain that position?

Mr. HILTZ. Yes, sir.

Mr. WATKINS. And you are so ready to do so?

Mr. HILTZ. Yes, sir.

Mr. WATKINS. If served with the proper notice, whatever that might be and I have no idea as to what it might be?

Mr. HILTZ. Yes, sir.

Mr. WATKINS. Certainly you could not argue that the present law, which establishes 16 hours as a maximum, you could not successfully argue that you cannot negotiate for a lesser number of hours, and you do not take that position now?

Mr. HILTZ. As I say in my testimony I take no position with regards to the preemption matter at this point. The Brotherhood raised the

preemption matter. I did not raise it. They raised it as being a bar to negotiations.

Where they got this opinion I don't know.

Mr. WATKINS. You have never raised it?

Mr. HILTZ. No, sir.

Mr. WATKINS. They have never served notice in this regard?

Mr. HILTZ. That is correct.

Mr. WATKINS. I am certainly in hopes that you can get to the bargaining table on this. As the gentleman from Georgia and others have said we have had too much responsibility here in trying to resolve these disputes in other matters; the gentleman from Washington mentioned the strike earlier.

We have another one coming up tomorrow, haven't we?

Mr. HILTZ. That is correct.

Mr. WATKINS. Another one here that this committee is trying to resolve a question which should be a matter of collective bargaining. Now I just caution somebody somewhere along the line if we believe in collective bargaining we had better not keep coming to Congress because the more you come the deeper we are going to get involved in this, and the parties are going to lose what I think is a substantive right, the right of collective bargaining.

The CHAIRMAN. Thank you very kindly, Mr. Hiltz, for coming and giving us the benefit of your views. You have been very patient.

Mr. SKUBITZ. May I ask another question?

The CHAIRMAN. Yes.

Mr. SKUBITZ. If it is a matter for the negotiating table, you would not talk just about cutting from 16 to 12 hours. You would also ask the unions in turn to give, isn't that correct?

Mr. HILTZ. This is collective bargaining, yes, give and take.

Mr. SKUBITZ. It is a matter of wages and whether this old rule of 1907, a hundred miles is a day's work. This would all come up for discussion?

Mr. HILTZ. This is absolutely correct and that is what the Presidential Railroad Commission points out.

Mr. SKUBITZ. Thank you.

The CHAIRMAN. Thank you very kindly. The committee will stand adjourned until 3 o'clock this afternoon.

(Whereupon, at 12:20 p.m., the committee recessed, to reconvene at 3 p.m. the same day.)

AFTER RECESS

(The committee reconvened at 3:50 p.m., Hon. Harley O. Staggers, chairman, presiding.)

The CHAIRMAN. The committee will come to order.

Our first witness this afternoon will be Mr. Thomas M. Goodfellow.

## STATEMENT OF THOMAS M. GOODFELLOW, PRESIDENT, ASSOCIATION OF AMERICAN RAILROADS; ACCOMPANIED BY PHILIP F. WELSH, GENERAL ATTORNEY

Mr. GOODFELLOW. I have Mr. Philip Welsh, our general attorney with me.

The CHAIRMAN. Fine. You may proceed as you wish to.

I want to halfway apologize that we have to continue this time of evening, but as you gentlemen know, we have to make the most of the time we have, and proceed when we can.

So, you may proceed, Mr. Goodfellow, as you see fit.

Mr. GOODFELLOW. We appreciate your taking the time to listen to us, particularly this late in the afternoon. I hope our witnesses have given you enough information so that you can decide what you want to do about this matter, and if there is more information, of course you and the staff have only to ask if you want to get us.

I guess you already know my name is Thomas M. Goodfellow, and I am president of the Association of American Railroads.

Preceding railroad industry witnesses have described in detail the adverse effects the proposed amendments of the law would have on railroad operations and operating costs and also on railroad employees themselves.

I would now like to discuss the bills in the broader perspective of the overall situation in which the railroad industry finds itself in the year 1969 and to call your attention to the grave economic problems with which it is confronted. I think these things have a direct bearing on the pending bills.

The railroad industry is in no position to bear the burden of unwarranted increases in its operating costs.

Railroads are already suffering the pangs of capital starvation, symptoms of a long period of financial malnutrition and economic belt-tightening, and they cannot freely turn to increased rates and fares to meet their rising costs.

Transportation is a highly competitive game in which the cards have already been partially stacked against the railroads by various Government aids to other modes. In pricing their services, railroads must keep in mind the realities of that competitive situation.

Railroads are characteristerized by a very large investment in relation to annual revenues, on the order of nearly three to one, requiring large annual outlays for maintenance and replacement. They have also been characterized for a long period of years by a narrow margin of net earnings and low rates of return. The railroads' return on net investment in 1968 was but 2.44 percent—far below rates enjoyed by other industries and even below levels found by the Interstate commerce Commission to be "substandard and inadequate". The industry has not earned as much as 4 percent on net investment since 1955—14 years ago.

Railroads have been spending billions of dollars for modernization of their properties and rolling stock, but have had to curtail these programs in recent years under pressure of rising costs and shrinking earnings. There is no question but that this industry needs to spend at least $2 billion yearly for new cars and other capital improvements, a level reached in 1966, but financial stringency has required these outlays to be reduced sharply in the past 2 years.

Business statistics of the Department of Commerce show that corporations in the United States, taken as a whole, generate their needed capital funds through depreciation and retained income. Railroads have not been able to do so, however, even though they held their dividend payments to lower levels than other industries, and have had to resort to heavy borrowing just to sustain their curtailed rate of capital spending. Loans against railroad equipment exceeded

$4 billion for the first time in 1967 and the total is even greater now. Such increased debt and rising interest rates have caused a further drain on railroad earnings.

Freight rate increases authorized by the Interstate Commerce Commission and many State commissions in 1967 and 1968 have served to offset part of cost increases experienced in those years in 1969. But they have been sufficient only to maintain earnings at the depressed level to which they fell in 1967 and not to overcome the sharp decline experienced after 1966.

I must add that in the present inflationary economy there is little or no prospect for relief. Wage contracts with almost all rail unions call for wage rates in the second half of 1969 at least 5 percent greater than in the last half of 1968, and thees contracts can be reopened to provide even higher rates of pay in 1970. Prices of materials needed to operate and maintain the railroads are still rising and the end is not in sight.

In these difficult circumstances, to add to already severe inflationary pressures by imposing costly restraints on hours of service of railroad operating employees would clearly be contrary not only to the interest of the railroads but to the national interest as well.

In addition to the heavy additional costs that would be imposed upon the railroads by the hours-of-service bills, as detailed by other witnesses for the railroads, I bring to your attention various other proposals which would likewise result in large costs that the railroads are in no position financially to bear.

Here I refer, for example, to proposals now pending to place more severe limitations than now upon railroads compelled to seek the discontinuance of deficit-ridden intercity passenger trains which have been virtually abandoned by the traveling public; various costly measures addressed to the safety of operations, including greatly expanded programs for highway-railway grade crossing protection devices and separations for the principal benefit of motor vehicle operators; bills to require the illumination of freight cars for the benefit of motorists; the pending withdrawal of the investment tax credit which since 1962 has helped the railroads so materially to carry on, though inadequately, with their urgently needed programs for improved supplies of rolling stock and other facilities; recurrent increases in payroll taxes to finance railroad retirement annuities and, now, tomorrow, the supplemental annuities for certain retired employees; and various proposals for dealing with problems of freight car supply.

Consideration of such matters, and of many others, which are presented from time to time, cannot realistically ignore the severe limitations that exist on the financial resources of the railroads and their access to capital and operating funds with which to pay the costs. There is clearly a bottom to this barrel and the railroad industry, especially in these times of rapid inflation, is periously close to it.

Improvements, reforms, better pay, reduced hours of work—all of these and many more always have an attractive sound. But wherever they entail heavy costs, as in the present instance, and where the industry concerned has no financial recourse except its own resources and those it can attract from investors on tolerable terms, the costs simply must be considered.

In this respect, I remind you also that the situation of the railroads is vastly different from that of the principal other modes of transportation with which the railroads must endeavor to compete. Regardless

of the financial circumstances of operators in these other modes, public funds continue to flow in vast and often increasing sums for programs to provide highways, airways and airports, and waterways. This fundamental difference with respect to the magnitude and the incidence of costs has an extremely important bearing on the feasibility of railroad measures which may, in the abstract, seem altogether desirable.

For example, if restraints on hours of service were imposed on our competitors, the financial blow would no doubt be covered by Government aid in one form or another. Not so with the railroads. We have to make it on our own.

Fortunately, we have some inherent advantages over the other modes of transport. We have a capacity to move large volumes over great distances at reasonable speed and at low cost. We're more efficient from the engineering standpoint. We have greater fuel economy. We have an existing plant. We have near invulnerability to weather. Add these and other plusses, and the flanged wheel on the steel rail hangs on because it's still the best all-around form of transportation.

Because I believe we are the best and because I believe the predictions about the future of this country, I see a great need for healthy railroads in the decades ahead. Economists predict a gross national product of nearly $2 trillion by 1980. That's doubling the present GNP in a decade.

There will be 245 million people and 77 million households. There will be an incredible demand for homes, automobiles, recreation equipment—for everything the mind can devise and the heart desire.

Zooming consumer needs—and the related unprecedented production—will combine to place unheard of demands and dependence on transportation.

Railroads are doing their best to prepare for the role they must play in our future. Their services will be vital. But the name of the game these days is modernization—and that takes money. Railroads can ill afford to have more money taken away from them—or more financial burdens put upon them.

In the circumstances now confronting the railroad industry, and for other reasons which the qualified railroad witnesses have presented in this hearing, I earnestly urge that you not give favorable consideration to the pending bills on hours of service.

Thank you.

The CHAIRMAN. Thank you, Mr. Goodfellow.

I think you have given your side very clearly. I am glad to see that you have great faith in the future of this country, as I am sure we all do, and also in the railroad industry. I certainly would not do anything knowingly to hurt the railroad industry. We need it as a means of transportation, and I am sure that as the years go by, we are going to need it more, perhaps, than we do now.

So, we have some common views in mind.

Mr. GOODFELLOW. Mr. Chairman, we are trying to build a modern plant, but we just sometimes feel that everything that is happening to us in this last couple of months, or the last couple of years, has been designed to keep us starved when we ought to be real healthy and be able to borrow the money and spend the money that our railroads need to spend.

The CHAIRMAN. I am sure it is not the intent of any member of this committee to hurt the railroads.

Mr. Eckhardt?

Mr. ECKHARDT. Mr. Goodfellow, this bill that we seek to amend, that we are considering amending, it was originally passed, it was 1907. Of course, you had a much less modern plant at that time than you do now. Is that correct?

Mr. GOODFELLOW. That is right.

Mr. ECKHARDT. I would assume from what we have here of practices with respect to pay, that railroad trains must have traveled at an average rate over a particular haul at somewhere near that 12½ miles an hour figure. Would that be a reasonable assumption?

Mr. GOODFELLOW. I suppose it was. That was the year I was born. I don't remember too well.

Mr. ECKHARDT. I assume you have a considerable background in railroading, which would give you access to that information. I would assume, also, that must have meant the trains, for instance freight trains, traveling at a reasonable rate were probably traveling twice that fast, maybe 25 miles an hour. Would that be a reasonable assumption?

Mr. GOODFELLOW. Oh, I expect that would be a reasonable assumption, when the trains were out on the road there was a great deal faster road—there is faster movement on the road today than there was in those days.

Mr. ECKHARDT. What would you think would be a comparable speed today? We have testimony that freight trains travel 60 miles an hour.

Mr. GOODFELLOW. Sixty miles an hour is a pretty top speed. Many of our freight trains will operate at 25, 30, or 40 miles an hour, but I would expect the average speed comes somewhere in the 40's, which would be some amount more than what we were able to operate in 1907.

Mr. ECKHARDT. It would be, say, approximately twice the speed, would it not?

Mr. GOODFELLOW. On the road, yes.

Mr. ECKHARDT. Of course, that would make the average approximately half.

Mr. GOODFELLOW. The average from the time the crew is called until the time the crew is signed off, with the yard delays, which, unfortunately, we haven't reduced as much as we would like to, it probably would be higher than it was in 1907.

I wouldn't be in any position to tell you just how much higher.

Mr. ECKHARDT. We might make a ballpark estimate that the average yard speed at that time would be somewhere around 12 miles an hour——

Mr. GOODFELLOW. Of course, you understand that this 12½ miles an hour was purely for pay purposes. It might have had something to do with it in 1907. I don't know when the hundred miles or an 8-hour day was established. I should know, but I don't.

Mr. ECKHARDT. But it did have some realistic basis then with respect to actual operations.

Mr. GOODFELLOW. I imagine that was true.

Mr. ECKHARDT. So if trains are traveling about twice the speed now than they were then, don't you have an increased factor of danger, increased necessity for alertness, or paying attention to the safety of the train and of those who may come in contact with it?

Mr. GOODFELLOW. Oh, I don't know that that can be made as a flat statement. I think we have better men, better equipment, and better

track than we had in 1907, so I think those things have kept pace with the increased speed.

Mr. ECKHARDT. I was interested in that comment. I believe we had something mentioned about that from the last witness, and I am reluctant to question experts in this field, but I do question whether fatigue is proportionate to the degree of physical exertion, whether or not fatigue may be more related to operation in a rather tedious, continuous responsible position over a long period of time.

For instance, driving an automobile requires almost no physical exertion, but over a given period of time fatigue sets in, and, frankly, I would rather be occupied more physically while driving than simply have to direct my total attention to a single verly limited task.

Does anything like that exist with respect to driving railroad engines?

Mr. GOODFELLOW. As you remember, Mr. Manion, and I think Mr. Chesser, too, said there were no figures that would prove the effect of fatigue on the operations of trains. There really are no figures. We have never had such figures, because I guess we in the management side were always satisfied with the 16 hours, and had no particular reason to look into it.

Personally, of course, I was superintendent and division engineer, and had quite a bit to do with the operation of trains. My personal opinion is that I could never see any particular relationship between the hours of service and the number of accidents we had or how well men ran the trains.

I know this is a little bit silly to say, that you don't get more tired. After all, the second hour you work you are more tired than the first hour you work, and I suppose it would be silly to say the men weren't tired, but I have never felt that this had too much to do with the way men ran the trains.

Mr. ECKHARDT. I just can't understand that. I know from anyone's personal experience, any constant operation of a vehicle or constant doing of anything——

Mr. GOODFELLOW. Maybe railroaders are a different breed of cats, and we thought we never got tired and could go on forever.

I have never heard anybody complain. Maybe after a snowstorm and a snowplow has worked a whole week, and the men have worked that long, they may say, "I'm tired," but when a man works 14 or 15 hours and comes back 14 or 15 hours and has a couple of days off, I have never heard too much complaint.

Again, this is my own personal opinion. We have nothing to support it in the way of a research project.

Mr. ECKHARDT. Why don't you look into this problem?

Mr. GOODFELLOW. I think we should. I think Mr. Manion suggested we do that before we do anything.

Mr. ECKHARDT. But you have had 62 years to do that, and nothing has been done along those lines?

Mr. GOODFELLOW. I suppose most of the men who had to do with this felt like myself, that there was no particular reason to look into this.

Mr. ECKHARDT. Mr. Goodfellow, do you really believe that after a person is involved in operating a locomotive for, say, 15 hours, is not in a worse position to continue during the next hour than he would be if he had simply operated it for 7 or 8 hours?

Do you really think that fatigue has nothing to do with one's alertness under these circumstances?

Mr. GOODFELLOW. I would be silly to say that you weren't more tired after so many hours. Each hour makes you increasingly tired, but I have no idea where we should look for this. Should we look for it after 5 hours, 10 hours, 8 hours, 12 hours? I don't know. That is the thing that I guess talking about this has made us think about it, and we have already suggested that such a study be made.

In fact, we think there may be some move to do such a thing now.

Mr. BROWN. Would the gentleman yield?

It occurs to me that some years ago at Harvard Business School, a study on physical fatigue and its effects on people was made, and I wonder if it would be appropriate, since we don't seem to be getting any place in the questioning, for the staff to make an inquiry into whether the study is available and is germane to the discussion undertaken here.

Mr. ECKHARDT. I certainly would welcome such material if we might get unanimous consent to put it in the record.

The CHAIRMAN. If we can get it, we will see what we will find.

Mr. Watson?

Mr. WATSON. Thank you, Mr. Chairman.

Mr. Goodfellow, we appreciate your statement directed to the increased costs of the railroad operations, and the increased costs that would probably result were this bill to be enacted into law.

Likewise, as your railroad costs have gone up, the cost of living for employees has also gone up, hasn't it?

Mr. GOODFELLOW. That is right.

Mr. WATSON. I am concerned, and deeply concerned about this, and I will be very candid. I wouldn't think there would be anyone in the audience, you or anyone else, who would expect members of this committee or otherwise to stand up in 1969 and support a 16-hour day, a 16-hour workday. And I believe that you can appreciate the practicalities of that fact. Even 12 hours a day. The provisions of this bill here—the average person really, in my judgment, is not aware of the fact that you have some folks who are working 16 hours and, again, I can appreciate the fact that those who are working the 16 hours bid on it, they request it.

My friend from Texas is concerned about fatigue, and I am, too. We can look all the way around the spectrum. We have a great percentage of Federal employees who are moonlighting. Maybe we should look into that. They are holding down a couple of jobs.

I am concerned about one principal thing now, and that is collective bargaining. Is it failing, or has it pretty well failed so far as this matter is concerned, and you mentioned the other, the supplemental benefits, annuities, which I believe is coming up tomorrow and later on, and other things.

Is collective bargaining pretty well failing so far as the railroads are concerned, and we are going to have to resolve things from here on out through legislation? Is that what we are beginning to see, and do you really feel that is what is ultimately going to happen, that we are going to be running to Congress to resolve all these issues?

Mr. GOODFELLOW. I don't think so. I think collective bargaining has worked very well in connection with the 16 hours.

Several of the witnesses yesterday, and I think Mr. Hiltz this morning spoke of the collective bargaining agreement that had been made

in connection with 16-hour jobs, where the man has worked 16 hours and desires to have a little time off, more than just standard 8 hours.

Now, those things have been very nicely, or very well collectively bargained, but we have never, to my knowledge, attempted to collectively bargain with 16 hours, and as I said before, because we have been satisfied with the 16 hours, we had no particular reason to serve a complaint on the unions, and they never served one on us from a national standpoint that I know of.

Mr. WATSON. I believe you said you had one complaint.

Mr. GOODFELLOW. There was one complaint served on the Milwaukee by the Brotherhood of Railroad Engineers.

Mr. WATSON. I know this would be in the province of your lawyers, but would you have a layman's opinion as to whether or not the present law—I mean must stop at 16 hours—whether or not that would prevent you from going in and negotiating for a shorter period?

Mr. GOODFELLOW. I see no reason why we shouldn't negotiate.

Mr. WATSON. It seems elementary to me that the law is establishing the maximum, and that you could negotiate for a short period.

Let me ask you this: Mr. Hiltz pointed out there was an agreement with the Brotherhood of Locomotive Engineers and the Southern Pacific Railroad, and he referred to it as a typical agreement. I will read section 9, Engineers:

"When an engineer feels he needs rest, he must so indicate in writing on the roundhouse register," and so forth. He is given that rest in an 8, 10, or 12 hour period.

Is that common practice?

Mr. GOODFELLOW. I would have to say it is typical. I couldn't say whether it was common practice. I think he got this from the telephone canvass that he made of the 23 roads, so it should be a pretty good statement.

Mr. WATSON. Let me ask you, what is going to happen to these people who have been bidding on the long runs, and I, too, am concerned that ever since this matter was brought up in 1966, there has been no experiment to establish the relationship between long hours and safety, though I think ordinarily we might think the longer a person is at a job, whether it requires a lot of exertion or not, the more tired he becomes. I think that is a basic assumption.

But why haven't there been any more complaints, if this is a critical problem, since 1966? Do you have any idea? Are these people pretty well satisfied?

Another thing, the practical aspect of it, these folks who have been pulling these long runs, and making a lot of money, I assume they have set up their family budgets, if they are, as I am, and most people, live right up to the brink of their income. What is going to happen? I wish I could afford the standard of living I now enjoy. That is my problem.

But what is going to happen to these people who have been accustomed to this high figure and all of a sudden they are cut back? Has anyone discussed that with the employees as to what they might do?

Mr. GOODFELLOW. Well, we haven't discussed it. I don't know whether the union representatives have tried to make a survey of this. All I know is that if some of these jobs are not going to make 16 hours,

and some of these men are not going to make the time that they used to make, and so therefore their earnings are going to be less.

That is what I think Mr. Manion tried to point out yesterday, that the earnings are going to be less, we are going to have more men working, but some of the men will find their earnings cut. We fear that this might have the usual result, that there will be section 6 notices served on us to try to restore their earnings.

Mr. WATSON. Thank you, sir.

The CHAIRMAN. The time of the gentleman has expired.

Mr. Brown?

Mr. BROWN. Mr. Goodfellow, did I understand you to say that there had been no section 6's served on the railroads with reference to collective bargaining on the hours of service?

Mr. GOODFELLOW. This one notice that was served within the last, I would say the last 6 weeks on the Milwaukee is the only one I know of. This was served by the Brotherhood of Locomotive Engineers. That is the only one I am aware of. We could find out about it.

Mr. BROWN. Could you give me some estimate of what the percentage of those railroad workers who now work over 12 hours?

Mr. GOODFELLOW. No, I don't have that. It is in some of the statements of the witnesses yesterday. I think that it ran from 12 percent down to 5 percent.

I am not sure that that is quite true, whether we were talking about men who worked over 12 hours, or whether we were talking about men who worked close to 16 hours. I am not so sure. I can't answer your question.

Mr. BROWN. It concerns me that that percentage is so low, and yet the economic impact of reducing hours to 12 is so significant. I find it difficult to put those two statements together and make sense of them.

If the percentage is very low, it seems that the economic impact has to be in relatively the same percentage range, doesn't it?

Mr. GOODFELLOW. Of course, our men that we are talking about are among our highest paid men. They probably make the highest hourly rate on the average than any of the rest of them, and so I don't believe that the $200 million that was quoted as the cost is out of line. It is probably understated. Even though we are only dealing with men who work over 12 hours—in other words, if you have a run for a crew that normally will be run in 10 or 11 hours, with 16 hours as the upper limit, you can afford to schedule runs like that.

Now, if the upper limit is 12, you are going to have to cut that run back, because there are days when the crew is not going to get over the road in the 10 or 11 hours that we figure it takes them, and so we probably would have to cut down to where the hours we would schedule would be closer to 8 or 9 hours, and this means, probably, more crews. It means possibly changing crew points. All of these things were brought out, and these are some of the things that bother us.

I don't know what we are going to do, for instance, in the commuter business. I rode the Long Island Railroad for a while. If we had men come to work in the morning and take a train out of the terminal maybe at 8 o'clock, and they would go into the city and take another train out, until they got off duty, until they put their train away and all, they were probably on duty 13 or 14 hours. They

work 3 days a week, they bid the job in, and the whole operation of the railroad was based on the men working 5 days a week, 12 or 14 hours a day.

Now, we had a little latitude here. All of those will have to be put back, and so I find it very difficult to believe that we are going to get away with this for $200 million, rather than thinking it is too much.

Mr. BROWN. Wouldn't it also mean that the mileage limitation would change in its relationship to whether or not you had somebody working for a full month?

In other words, I understand that the mileage limitation factor applies after a person has worked that many miles in a month, and then he doesn't work any more that month.

Mr. GOODFELLOW. Engineers have that scheme, so many miles a month.

Mr. BROWN. They are the highest paid people to whom you were making reference a while ago?

Mr. GOODFELLOW. Well, they are part of them. The conductors, too.

Mr. BROWN. Wouldn't that apply?

Mr. GOODFELLOW. I don't know whether we could renegotiate them, but as Congressman Adams said this morning, something will have to be done about it. People will have to make more runs a month to keep their earnings up.

Mr. BROWN. To get the miles. But right now, if they make the run for 16 hours, they get the miles quicker, and then under the negotiated contract, as I understand it, you have to have people who can make the runs later in that month. Is that correct?

Mr. GOODFELLOW. Yes, I guess that is the way you would say it. What they usually do is markoff so that they get their time off through the month, so they try not to end up at the end of the month with nobody on the board.

Mr. BROWN. But there has to be somebody on board to cover.

Do you know the percentage of deadhead time versus running time on the railroads now as compared with 10 years ago?

Mr. GOODFELLOW. No, I don't know.

Mr. BROWN. Isn't that a relative factor here? Because, as I understand, what is involved here in this legislation is that the deadhead time is to be paid for by the railroads, but it does not count on the hours of service. Is that correct?

Mr. GOODFELLOW. That is right. This is a very serious problem. This helps to make up for the increased costs and the additional people, because many of these runs that we now work a man and plan to deadhead him will not be possible in 12 hours with deadheading included. We will have to change crew points, and we will have to lay over away from home. We will have to change the whole method of operation.

Mr. BROWN. What would be your reaction if this whole matter were taken out of legislation and thrown open to collective bargaining?

Mr. GOODFELLOW. I think it would be a good idea.

Mr. BROWN. What would be the various attitudes on this?

Mr. GOODFELLOW. I don't know. It would have to be turned over to negotiating people, people who negotiate with people. I don't do that. I am in legislation. This gets it out of my hair and gets it back into Mr. Hiltz', but maybe this is the way to solve it.

I realize that we are putting you gentlemen in a very bad situation to sit here and try to explain our very complicated pay schedule, which I don't think sometimes some of us understand very well, and try to get you to understand that and then try to tie 16 hours versus 12 hours onto it.

It is not fair to you, but at the same time, we are very much concerned about it, because just to arbitrarily drop this thing from 16 hours to 12 hours can mean a great change in railroad operations and an expensive change.

I find it hard to sit down and work it out.

Mr. BROWN. I find it very interesting that the piece of legislation we are considering was transferred from the Department of Transportation, which has jurisdiction for safety, and, therefore, now is considered, as it was in 1907, a piece of safety legislation as opposed to a piece of economic legislation, which is, the concern that everybody on both sides of the fence has expressed an interest in.

I think it would be beneficial if some place along the line railroad management and labor could sit down and come up with some negotiation of this particular problem to relieve this committee of the necessity of being labor negotiators. Maybe what we need is not specifically this piece of legislation, but a complete rewrite of the Railway Labor Act.

The CHAIRMAN. Mr. Skubitz.

Mr. SKUBITZ. Thank you, Mr. Chairman.

Mr. Goodfellow, I am glad to hear you say you think this is a negotiable item. To make sure some member of your association—from going into court to test constitutionality of such negotiations, do you think that an amendment to the present law, which would permit the negotiation of hours would be acceptable? Do you object to that?

Mr. GOODFELLOW. I don't think so. I think this would be—Again, we are getting into a legal situation, and I know Mr. Hiltz was saying this morning he didn't want to trample on anybody's toes by negotiating this statute, which is a congressional statute, and he thought maybe somebody in the Congress might bring suit against us. Maybe your amendment, which would relieve us of any fear on that, would give us a chance to go ahead and negotiate. This is not to guarantee that it would become an agreement, but it could be tried.

Mr. SKUBITZ. I understand that negotiation has got to be a give and take proposition on a number of items.

What do you think of the President's Commission recommendation of cutting it from 16 hours to 14 hours the first year and from 14 to 13?

Mr. GOODFELLOW. I would rather not give you an off-the-cuff answer on that. It would appear that in order to have anything on this sort work that it would have to be stepped in some way, that you can not expect us to go from 16 hours to 12 hours overnight. They said something in there, but I don't know what background of their study was.

Mr. SKUBITZ. One other question: Isn't the "100 mile-one day's work, obsolete"?

Mr. GOODFELLOW. It is negotiable, and we have had talks about it many times in the wage negotiations over the years, but for some reason or other we have never found an adequate substitute for it.

Mr. SKUBITZ. That is all. Thank you.

The CHAIRMAN. Mr. Watson.

Mr. WATSON. I would like to ask Mr. Goodfellow another question or two. You state on page 4 of your prepared testmony, at the bottom of the page—

> For example, if restraints on hours of service were imposed on our competitors, the fiscal blow would no doubt be covered by Government aid in one form or another.

I am sure we appreciate that you have to provide your own bed, whereas the other modes of transportation are assisted by various Government entities in providing the bed of travel.

Are there restrictions now? I went over to counsel and he didn't have it right at his fingertips, but aren't there some restrictions on airlines, certainly on airlines so far as the hours of service, and are there not some restrictions on motor vehicle operators, truck drivers?

Mr. GOODFELLOW. I am not familiar with what they are. I am sure there are some restrictions.

Mr. WATSON. The next question I wanted to get at is, are these restrictions by Government fiat, or by collective bargaining? Perhaps we can get that for the record.

I am hopeful that this matter can be negotiated. I am not impressed by people who come in and say, "I don't think it would work." While I am not surprised by anything that might come out of the Supreme Court, because they go all over the ballpark, but I can't see how they would say that on a 16-hour limitation that the parties couldn't get together and negotiate for a lesser number of hours.

But the thing that disturbs me is that we are now called upon to literally engage in compulsory arbitration. You have got a conflict, and we are called upon to again invade this very, I thought, sacred field of collective bargaining.

I remember a couple of years ago the agony that the Chairman and everybody went through on the railroad situation and the airline strike, and apparently now the easy way to get things done is to run to the Congress, and I particularly am distressed that apparently there has been not one scintilla of effort on the part of labor and management to try to negotiate this matter.

Is that true, so far as you know? You have never attempted——

Mr. GOODFELLOW. We have never attempted to negotiate the 16 hours. We have certainly negotiated matters that applied to it, so that a man could have more time off if he wanted it, or something of that sort.

Mr. WATSON. Thank you, sir. I hope we can get some information about the restrictions on airline pilots and also truckdrivers, because they are handling pretty big pieces of equipment here, too. (See p. 274.)

The CHAIRMAN. Mr. Eckhardt?

Mr. ECKHARDT. I have just one question that was led to by some of the previous questions.

I believe you stated that there were some negotiations, and there are some rules like that set out on page 4 in Mr. Hiltz' testimony. For instance, no engineer should be required to be on duty when he needs rest.

Of course, there are some provisions about the notice and so forth.

Suppose he says, "I need rest, and I can't run this engine over 12 or 13 hours," and suppose management says, "Well, you have to continue to operate the engine to the end of the period," and there is a dispute as to whether or not this rule is abided by or violated.

How does that engineer raise his grievance, and how does he enforce this contractual right?

Mr. GOODFELLOW. Well, I have had this thing happen. An engineer says, "I need rest," and if I didn't have an engineer ready to go out, I would say, "Don't you think you can take the train in?" And maybe he would or wouldn't. If he said he couldn't, I got a road foreman to bring in the train. I never remember of any case where an engineer was refused rest under one of these agreements.

Mr. ECKHARDT. Suppose he is?

Mr. GOODFELLOW. If he is, this is a negotiated agreement and he has redress by starting with his local chairman and continuing on through to the various steps that are provided for in the labor agreements.

Mr. ECKHARDT. This would be a minor dispute, would it not, and one on which he could not strike?

Mr. GOODFELLOW. If it involved one man for something like this, I suppose it would be a minor incident. I suppose if a railroad did this enough times, they might have a protest strike on their hands.

I don't know of any cases of anybody going back on their word like this, so it is pretty hypothetical.

Mr. ECKHARDT. I have seen some conditions where labor feels that management has gone back on its word.

Mr. GOODFELLOW. We don't fool with these kinds of things, Congressman. If an engineer told me he was pooped and he did not want to run the engine any more, I wouldn't want that fellow on there. We would get somebody qualified to take the place, and we would tie the train up right there, and I think this is pretty much what would happen on any railroad.

The CHAIRMAN. Mr. Brown, did you have a question?

Mr. BROWN. Mr. Goodfellow, we have had testimony that the statistics on railroad accidents do not relate railroad accidents to fatigue. Am I to understand that this question is never asked in the case of a railroad accident, or rather, that these statistics are for some reason not available to railroads in the accident investigation?

Mr. GOODFELLOW. I would not say that in no investigation was this never, never raised. It probably has been in individual investigations as to how long the man was on duty. But our form T, which is used now to report to the Department of Transportation on our accidents has no place on it where they ask how long this man has been on duty.

Perhaps, as Mr. Manion told you, we are helping the labor people and the Department of Transportation to try to make a better form T report, and perhaps this will be one of the questions. It is not a question now.

Mr. BROWN. I seem to recall a third of the accidents are equipment, a third are rails, and a third are human failure——

Mr. GOODFELLOW. I think it is about a quarter each. It runs about the same, the human factor, the equipment, and the roadbed, are three-quarters of it. Another quarter of it is the miscellaneous things.

Mr. BROWN. One quick question for a comment, and maybe you will not be able to respond at all after I make the observation.

It seems to me that one of the problems of the railroads is that the Federal Government maintains the right-of-way; that is, the highway, for the truck competition, and the airways and safety factors for the air competition.

Maybe what we ought to consider is some matching idea whereby the Federal Government maintains the track beds by the railroads and

let you concentrate on labor relations and selling stock. I am somewhat at a loss to know how we would make that arrangement in view of the fact that the right-of-way was provided initially, as a means of getting a railroad started.

I wonder if there has been any imaginative thinking on the part of the railroads in regards to equalizing this competition.

Mr. GOODFELLOW. The suggestion has been made that the Government buy the railroad rights-of-way, and when we speak of rights-of-way, we include the track and the signals and all of that kind of thing, and then maintain it and charge the railroads a certain amount for running on what would then be Government track.

But this suggestion is relatively new, and I can't say that there has been too much done about it other than the suggestion has been made.

The CHAIRMAN. Mr. Skubitz?

Mr. SKUBITZ. Mr. Goodfellow, I think I understand what is meant by on duty and off duty and its relationship to wages. Tell me what happens when a trip starts at point A and ends at point B.

Suppose the employee lays over at point B for 4 hours. Does he get paid for 4 hours at point B?

Mr. GOODFELLOW. I can't really answer that. I would have to know the individual agreements and the individual details of that particular thing. I don't think it just falls into a category that I could say yes or no. I would say he probably would get paid for it, but I can't say that this is not advertised

Mr. SKUBITZ. It is my understanding that if an employee gets to point B, the railroads can hold him there for 16 hours, and all he will get is $1.50 for one meal and an allowance for room rent.

Mr. GOODFELLOW. These are all agreements.

Mr. SKUBITZ. If he should get to point B and the railroad orders him back to point A, does the railroad have to pay him for the return, even though he doesn't take a trip back?

Mr. GOODFELLOW. I would think so. I hesitate to give you an answer on that without having everything in front of me that bears on that particular situation. I apologize for our pay agreements being so complicated, but they are that way. I can't give you a yes or no answer on that.

The CHAIRMAN. Thank you, Mr. Goodfellow. You have been very patient. You are a good representative of the American railroads.

Mr. GOODFELLOW. Thank you, Mr. Chairman. It is a pleasure to be with you again.

The CHAIRMAN. Our next witness is Mr. Reginald N. Whitman, Administrator, Federal Railroad Administration.

## STATEMENT OF HON. REGINALD N. WHITMAN, ADMINISTRATOR, FEDERAL RAILROAD ADMINISTRATION, DEPARTMENT OF TRANSPORTATION; ACCOMPANIED BY HENRY L. HILSINGER, ACTING CHIEF OF SAFETY PROGRAMS; AND LEE C. CORCORAN, CHIEF COUNSEL

Mr. WHITMAN. Mr. Chairman.

The CHAIRMAN. I believe this is your first appearance before the committee. You have been recently appointed Federal Administrator, and we hope you will enjoy your stay. We apologize for the lateness of the hour, but sometimes these things occur.

We welcome you to the committee.

Would you identify those with you?

Mr. WHITMAN. Mr. Henry L. Hilsinger, Acting Chief of Safety Programs, and on my left is Mr. Lee C. Corcoran, the Chief Counsel of the Federal Railroad Administration.

My name is Reginald N. Whitman, and I reside at 6308 Stoneham Lane in McLean, Va.

Mr. Chairman, since this is my first appearance before your distinguished committee, I would like you to know that I feel privileged to be able to represent the Department of Transportation and Federal Railroad Administration before you.

As you know, I am charged with administering the Federal railroad safety laws passed by Congress. At my confirmation hearings before the Senate Committee on Commerce I pledged myself to fulfill that obligation according to the law and as fairly as possible. I feel very strongly that railroad safety must be improved, if the industry is to meet its responsibility of providing safe and efficient rail service. I would like to place that same pledge before your committee.

For the committee's information, I will first review my background. I was appointed Federal Railroad Administrator on February 26, 1969. I understand that because this is my first appearance that it is in order that I give you a written resume of my background.

Prior to my appointment, I served as general manager, Lines East, of the Great Northern Railway. In this position, I supervised nearly 5,000 miles of railroad located in five States. At the same time, I served as president of the Lake Superior Terminal and Transfer Railroad and vice president of the Portal Pipe Line Co. Both are subsidiaries of the Great Northern Railway.

My 40-year railroad career began in 1928 when I joined the Great Northern as a telegrapher. Following service on three divisions and advancement to dispatcher, I was appointed trainmaster at Great Falls, Mont., in November 1942. During World War II, I was an officer in the 732d Army Railroad Operating Battalion.

Following military service I returned to the Great Northern as trainmaster and later served as rules examiner, terminal trainmaster and superintendent of the Cascade Division with headquarters at Seattle.

In April 1955, I was given a leave of absence to serve as general manager of the federally owned Alaska Railroad, and returned to the Great Northern in August 1956.

In 1964, following the disastrous Good Friday earthquake in Alaska, I was sent to Anchorage to see what mainland railroads could do to assist in restoring service as quickly as possible. In 1967, I was appointed to Alaska's North Commission to start an interim study of some of the transportation problems in northern Alaska.

You have invited me here today to give my views on the proposed changes in the Hours of Service Act which sets the maximum number of hours certain railroad employees may work. I must tell you frankly, at the outset, that I am personally dedicated to the view that railroad safety problems cannot be adequately dealt with on a fragmented or piecemeal basis. The industry has many inherent hazards that are complex and interrelated. Their solution calls for comprehensive treatment. In the day-to-day operation of our railroads, management and the employees live with the whole safety problem. I would like

to see a Government approach encompassing the full scope of railroad safety.

Therefore, I think it is essential that we look at the question of hours of work limitations for operating employees and those employees involved in dispatching and handling of train orders in the framework of the entire railroad safety problem.

As background for consideration of the safety problem as a whole, I would like to give you a brief review of what I see as the present state of safety on the railroads. The most significant statistic confronting us today is the 66 percent increase in the rate of railroad train accidents over the 1963 to 1968 timespan, as is shown in attachment A to my statement. The chart shows an increase in the monthly average of train accidents from 400 in 1963 to 669 in 1968. Our reporting requirements define train accidents as those which cause at least $750 damage to track and/or equipment whether or not a reportable injury is involved. Since repair costs are up, more accidents come within the reportable category. However, even with an allowance for increased costs, we find the train accident rate has increased 42 percent through 1967.

Train derailments make up the substantial portion of the problem. In 1968, there was a monthly average of 457 derailments reported, compared to a 264 average in 1963. The second category of train accidents is classified as collisions. There was an increase from an average of 92 per month in 1963 to 144 in 1968. Other train accidents—those which are not classified either as a derailment or collision, increased from a monthly average of 47 in 1963 to 68 in 1968. This last category includes such accidents as equipment fires, explosions, landslides, acts of God: snowstorms, and so forth.

Causes of train accidents are listed in the broad classifications of (1) defects in or failures of equipment, (2) defects in or failures of track or roadbed, (3) human factors, which include employee performance, and (4) miscellaneous causes. Attachment B shows the precentage relationship of these causes. Attachment C breaks down the cause factors in more detail for the years 1963–1968. In general, the incidence of derailments is related largely to track and equipment defects, while collisions are mainly attributable to human performance.

I think it is essential that we look at the question of railroad safety in terms of people. Attachment D shows total casualties and indicates the obvious fact that the major problem of rail safety—when it comes to public impact—is the rail-highway grade crossing accident. In 1968, of the 2,359 persons killed and 24,608 injured in all types of railroad accidents, 1,547 died and 3,807 were injured at grade crossings.

The second largest group involved, strangely enough, is the trespasser—a person who wanders onto or enters railroad property without authorization. In this group, 568 persons were killed and 561 injured in 1968.

Employees are, of course, a major concern. In the total casualty figures, they account for approximately 6 percent of the total deaths and 71 percent of total injuries. I don't have the absolute figures here in front of me, but I am sure that the deaths of employees in 1968 were 146. I do not have the injuries. In Attachment E, we show the employee casualty rate per million man-hours worked by class of employee. A review of the 5 years, 1963–1967, indicates that the casualty

rate is static. In other words, employee safety has not improved, particularly for those employees in the transportation classification.

Here are some of the problems we have found in our accident investigations.

Track problems include such things as broken rail, insufficient ballast, insufficient rail anchoring, deteriorated ties, and poor drainage conditions. We have also noted contributing causes to track failures include increased amount of traffic on a line or branch due to industrial development or changes in traffic routings. Changes in freight car and locomotive sizes and weights are also a factor.

We have seen previously from the charts that equipment failures cause more than 25 percent of the train accidents. In this area, we note such problems as axle and journal failures; broken wheels; undue strain on couplers and draft gears due to bigger cars and larger train consists; inability of longer freight cars to negotiate sharp curves, crossovers, and turnouts due to truck center spacing and long overhang; buckling of jumbo tank cars (without center sills) when the car is subjected to compressive drawbar force; and harmonic rocking of freight cars with high centers of gravity.

The charts then show that human failures are also a factor as they relate to operational efficiency and safety. This could include problems of age, health, fatigue, training, and qualification of railroad operating employees. Medical standards and requirements for annual medical examinations and programs to qualify and train certain railroad workers have been established by individual railroad companies, but not on a uniform basis. There is some evidence that these standards are not consistently applied. Also, railroad operating rules are not always uniform or consistent.

Railroad accidents and the three basic areas of cause—track defects, equipment failure and human factors—take on added significance when dangerous materials are in the train consist. The increasing shipment of hazardous materials has brought a new dimension to the railroad safety problem. Where once a train derailment caused only equipment, track and loading damage, the presence of dangerous commodities has resulted in concern for public safety.

Very briefly, that is how we see railroad safety today. It is the reason for our concern that all factors contributing to the railroad accident experience be given appropriate attention. It is also the reason that Secretary Volpe asked railroad management, railroad labor and the State regulatory commissions to examine the scope of the problem and advise him of their views on what the Federal role in railroad safety should be. The task force reported to the Secretary on June 30, and information copies of the report have been provided to committee members.

I am very proud to have served as chairman of the task force on railroad safety that the Secretary established. It was most encouraging to see three groups—with diverse views—sit down and reach agreement on a very difficult issue. From your copy of the task force report you know that their first recommendaton was:

> The the Secretary of Transportation, through the Federal Railroad Administration, have authority to promulgate reasonable and necessary rules and regulations establishing safety standards in all areas of railroad safety, through such notice, hearing and review procedures as will protect the rights of all interested parties.

Let me say that the formation of the task force followed a careful review of the extensive hearings held last year by this committee on a general railroad safety bill. Throughout the hearing record on H.R. 16980, it was abundantly clear that the chairman and many committee members were concerned that those groups most affected by the proposed bill had not been given the opportunity to jointly study the problem, nor did they have the opportunity to agree on solutions. Recognizing the urging of this committee, the Secretary provided a forum in which management, labor and the States could examine the problem, discuss their particular positions and agree on a unified approach. I think the high caliber of men who represented the three groups justified your faith in this approach, and gave to the Federal Government strong, sensible and workable guidelines which should help reverse the upward trend of railroad accidents.

I would like to quote one more paragraph from the report:

> Railroad safety is wide in scope and requires a more comprehensive national approach. Of first priority is treatment of total rail safety by relating all its facets to definite goals. This demands a coordinated approach by industry, labor, State and Federal governments.

Mr. Chairman, this unanimous statement is of great significance. It sets the stage for a new era of cooperation in building a safer railroad system. I think it also has a bearing on the specific issue before this committee today.

H.R. 8449 would substantially amend many of the provisions of the present Hours of Service Act. The most significant change is the reduction of the work hours limit for rail operating employees from 16 down to 12. The present 9 and 13 hour limits applicable to operators, train dispatchers, and others handling train orders pertaining to train movements would continue to be 9 hours where two or more shifts were employed, and would be reduced to 11 hours where only one shift is employed.

Other revisions in the proposed bill are discussed in a technical analysis which I would like to submit for the record.

The present Hours of Service Act was passed more than 60 years ago when it was not uncommon to have train crews on duty 24 hours or more without sufficient rest. While the law has not been amended materially since its enactment, other factors have had the practical effect of further limiting the hours worked by most employees. The 8-hour-day provision of the Adamson Act of 1916, and overtime premium pay developed through collective bargaining has had an effect on reducing the work hours of all railroad employees including those covered by the Hours of Service Act.

The extent to which present work-hour limitations affect railroad safety has never been adequately determined. The Interstate Commerce Commission which administered the law prior to April 1, 1967, testified at previous hearings that available statistics do not show a relationship between the 16-hour limitation and the occurrence of railroad accidents. Railroad accident reports are not sufficiently detailed to make such a determination.

I would like to submit for the record the number of instances of excess service reported to us or developed through examination of carrier records for the years 1964 through 1968, as shown in attachment F. While these statistics are a report on the administration of the law,

I do not believe they have any significance in defining the more complex question of how hours on duty affects safety.

I cannot advise you with any degree of accuracy, either through personal experience or from present statistics whether the 16-hour limit is unduly hazardous or whether it should be a lesser number of hours. I do know that the hours a man works is only one of the many factors affecting safe human performance. Age, health, the working environment, and the like are all important. Of basic significance is that all of these factors together add up to safer performance—not just one or two.

This takes me back to the policy enunciated by the railroad safety task force—that of looking at the total rail safety picture when searching for solutions. While the task force did not discuss hours of work, I would think that, if Congress saw fit to give us regulatory authority over the human factors and other causes of railroad accidents as suggested in the task force report, the hours-of-work limitations would be one of the more important areas we would be concerned about, along with other related factors. In my opinion, a broad approach permits Government, management, and labor to be more effective in their mutual support of safe railroad operations.

In summary, the basis for my views on proposed amendments to the Hours of Service Act are:

1. Accident records are not sufficiently detailed to establish a relationship between hours on duty and the occurrence of accidents.
2. Human errors that are listed as causing accidents would seem to be affected by many factors including length of time on duty.
3. The Railroad Safety Task Force has suggested a policy of looking at the total rail safety problem. We are hopeful that, with the further assistance of the Task Force and the Committee, we will be able to develop the necessary means to accomplish an improvement in railroad safety.

I have heard testimony and questions at these hearings concerning the lack of a study in connection with determining whether or not the hours of service and other human factors relate to railroad safety. You may be interested to know that the Federal Railroad Administration has put out a request for research proposals seeking a study to relate human factors, including hours of service, to railroad accidents. Factors to be studied include fatigue, age, training, the influence of alcohol and drugs, and the state of health.

Our proposed initial study would require 120 days for the development of a research program. Depending on the extent of the research plan, we hope to complete an analysis of human factors in the rail accident experience in 2 years. Portions of the research plan would be available before that time, but I don't know how soon.

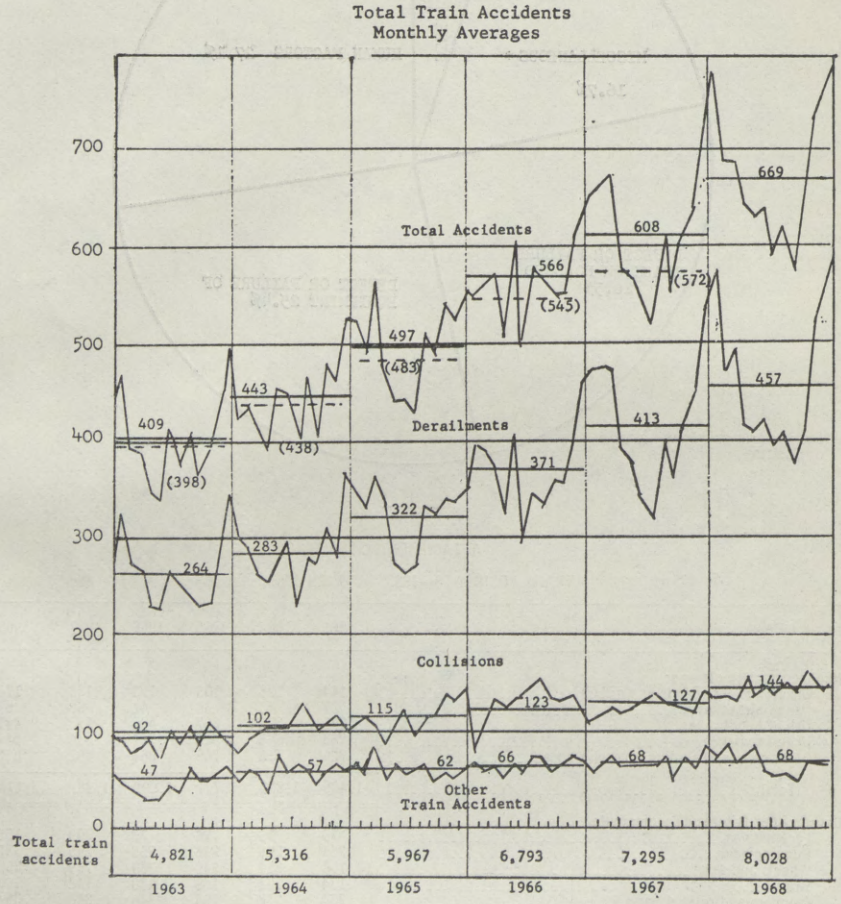
The cost of this total program is estimated to be about $500,000. I would also like to point out that we have been working for some months with the highway and air safety people to develop a workable research effort to fill the gap of human factors information in the rail industry. From what I gathered from the evidence and my knowledge since I have been here, this appears to have been pretty badly lacking.

One further item that may be of interest to you, Gov. John W. Reed, the chairman of the National Transportation Safety Board, has offered, and we have accepted, the use of one of his experts in the field of human factors to work with us in investigation of rail accidents. This man has gained some expertise in this particular field.

This completes my testimony, sir.

(The attachments to Mr. Whitman's statement follows:)

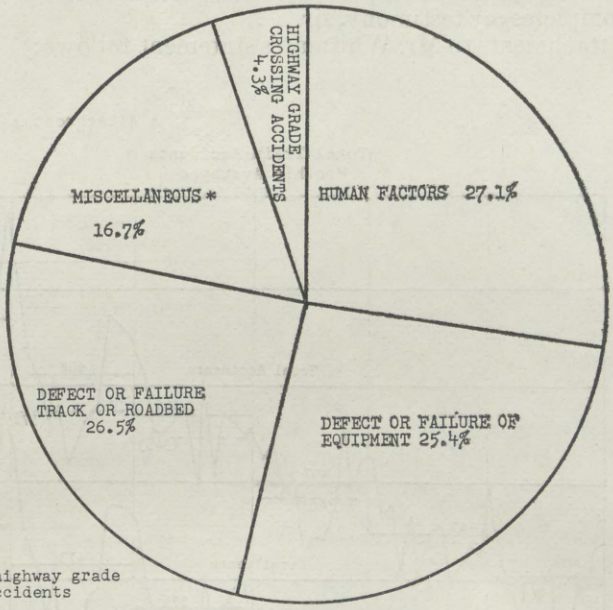
Attachment A




( ) = adjusted train accidents.

Attachment B

# TRAIN ACCIDENTS BY GENERAL CAUSE 1968




*Excluding highway grade crossing accidents

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ATTACHMENT C

TRAIN ACCIDENTS—1963 THROUGH 1967

| Cause | 1963 | 1964 | 1965 | 1966 | 1967 | 1968 |
|---|---|---|---|---|---|---|
| Negligence of employees: | | | | | | |
| Observance of signals and orders | 144 | 128 | 163 | 153 | 156 | 174 |
| Use of airbrakes | 27 | 43 | 36 | 41 | 60 | 57 |
| Use of handbrakes | 275 | 321 | 367 | 423 | 373 | 431 |
| Use of switches | 285 | 366 | 426 | 521 | 536 | 544 |
| Other causes, including excessive speed | 704 | 713 | 749 | 861 | 862 | 968 |
| Total | 1,435 | 1,571 | 1,741 | 1,999 | 1,987 | 2,174 |
| Defects in or failures of equipment: | | | | | | |
| Locomotives | 75 | 76 | 76 | 76 | 99 | 101 |
| Running gear | 254 | 205 | 236 | 265 | 295 | 331 |
| Wheels and axles | 758 | 819 | 849 | 789 | 769 | 865 |
| Brakes | 134 | 122 | 109 | 180 | 142 | 199 |
| Couplers and related parts | 284 | 272 | 194 | 346 | 366 | 367 |
| Car structure and other parts of equipment | 153 | 176 | 174 | 187 | 226 | 179 |
| Total | 1,658 | 1,670 | 1,738 | 1,843 | 1,897 | 2,042 |
| Defects in or improper maintenance of way and structure: | | | | | | |
| Track | 516 | 631 | 886 | 1,038 | 1,233 | 1,435 |
| Other way and structure | 183 | 220 | 260 | 390 | 610 | 688 |
| Signal systems | 3 | 4 | 2 | 0 | 1 | 5 |
| Total | 702 | 855 | 1,148 | 1,428 | 1,844 | 2,128 |
| All other causes (including unknown) | 1,027 | 1,221 | 1,340 | 1,523 | 1,566 | 1,684 |
| Grand total | 4,822 | 5,317 | 5,967 | 6,793 | 7,294 | 8,028 |

ATTACHMENT D

TOTAL CASUALTIES—1963 THROUGH 1968

| Accidents, all types | 1963[1] | 1964 | 1965 | 1966 | 1967 | 1968 |
|---|---|---|---|---|---|---|
| All employees: | | | | | | |
| Killed | 162 | 180 | 171 | 162 | 171 | 146 |
| Injured | 19,268 | 20,358 | 18,992 | 18,522 | 17,948 | 17,993 |
| Passengers: | | | | | | |
| Killed | 13 | 8 | 11 | 13 | 12 | 10 |
| Injured | 2,074 | 1,464 | 1,147 | 1,216 | 1,030 | 1,303 |
| Nontrespassers: | | | | | | |
| Killed | 136 | 115 | 113 | 116 | 87 | 88 |
| Injured | 1,985 | 1,351 | 1,248 | 1,157 | 1,091 | 944 |
| Trespassers: | | | | | | |
| Killed | 527 | 576 | 569 | 611 | 580 | 568 |
| Injured | 569 | 621 | 576 | 584 | 607 | 561 |
| Rail-highway grade crossings: Number of accidents | 3,399 | 3,782 | 3,839 | 4,117 | 3,955 | 3,835 |
| Total persons: | | | | | | |
| Killed | 1,302 | 1,544 | 1,535 | 1,782 | 1,633 | 1,547 |
| Injured | 3,560 | 3,820 | 3,826 | 4,073 | 3,847 | 3,807 |
| Total all classes: | | | | | | |
| Killed | 2,140 | 2,423 | 2,399 | 2,684 | 2,483 | 2,359 |
| Injured | 27,456 | 27,614 | 25,789 | 25,552 | 24,523 | 24,608 |

[1] Employees not on duty, included in nontrespassers. (1963 only)

ATTACHMENT E

EMPLOYEE CASUALTY RATE PER MILLION MAN-HOURS WORKED

| Class of employee | 1963 | | 1964 | | 1965 | | 1966 | | 1967 | |
|---|---|---|---|---|---|---|---|---|---|---|
| | Killed | Injured | Killed | Injured | Killed | Injured | Killed | Injured | Killed | Injured |
| III. Maintenance of way and structures | 0.17 | 10.64 | 0.29 | 11.85 | 0.22 | 10.76 | 0.18 | 10.76 | 0.24 | 10.70 |
| IV. Maintenance of equipment and stores | .09 | 9.57 | .06 | 10.04 | .07 | 8.85 | .08 | 9.48 | .07 | 8.83 |
| V. Transportation (other than train engine and yard employees) | .02 | 9.12 | .04 | 9.01 | .04 | 8.97 | .03 | 7.56 | .05 | 7.22 |
| VI(a). Transportation (yardmasters, switchtenders, and hostlers) | .12 | 10.05 | .08 | 9.40 | .04 | 8.91 | .04 | 9.17 | .09 | 9.07 |
| VI(b). Transportation (train and engine service) | .21 | 24.60 | .20 | 25.93 | .23 | 25.97 | .22 | 25.60 | .22 | 26.10 |
| All employees | .11 | 11.92 | .12 | 12.50 | .12 | 11.98 | .11 | 11.93 | .12 | 12.03 |
| Total man-hours (in thousands) | 1,398,535 | | 1,385,202 | | 1,319,580 | | 1,294,926 | | 1,224,809 | |

ATTACHMENT F

INSTANCES OF EXCESS SERVICE REPORTED BY CARRIERS AND BUREAU OF RAILROAD SAFETY ENFORCEMENT ACTIVITIES, FISCAL YEARS 1964-68

| | 1964 | 1965 | 1966 | 1967 | 1968 |
|---|---|---|---|---|---|
| Instances of excess service reported by carriers | 2,872 | 3,119 | 3,761 | 4,328 | 3,583 |
| BRS enforcement activities:[1] | | | | | |
| Number of regular inspections | 649 | 751 | 770 | 781 | 634 |
| Instances of excess service investigated | 1,348 | 1,543 | 2,724 | 3,022 | 2,776 |
| Violations disclosed by regular inspection | 87 | 105 | 66 | 176 | 103 |
| Number of complaints investigated | 112 | 130 | 145 | 151 | 178 |
| Violations disclosed by complaints investigated | 209 | 283 | 290 | 299 | 304 |
| Violation counts transmitted for prosecution | 300 | 388 | 356 | 475 | 407 |

[1] Includes instances of excess service reported by carriers.

TECHNICAL COMMENTS ON AMENDMENTS TO HOURS OF SERVICE ACT CONTAINED IN H.R. 8449

1. Section 1 of H.R. 8449 would amend the Hours of Service Act in its entirety. Section 2 of the bill would make the amendments effective 30 days after enactment.

All references are to the Hours of Service Act as amended by H.R. 8449.

Section 1(a) remains substantially the same as the first sentence of section 1 of the existing law.

Section 1(b)(1) changes the definition of "employee" to mean an individual actually engaged in or connected with the *operation* of any train, instead of with the *movement* of any train. The effect of this change is not immediately clear, but it does appear to enlarge the class of employees subject to the Hours of Service Act and consequently may generate considerable litigation.

2. Section 1(b)(3) is new. It provides that "time on duty" shall include interim periods available for rest at other than a designated terminal and interim periods available for less than four hours rest at a designated terminal; however, the terms "interim periods" and "designated terminals" are not defined.

It also provides that time spent in deadhead transportation by an employee to or from duty assignment shall be counted as "time on duty." The term "deadhead transportation" is not defined. Does it include transit time to and from an employee's residence and the point where he reports for duty? Should time spent in deadhead transportation by an employee returning from duty assignment be considered "time on duty" or should it be considered as something separate and distinct from both "time on duty" and "time off duty"?

The subsection further provides that the time an employee is actually engaged in *or connected with the movement* of any train shall be counted as "time on duty." The intent and scope of the italicized language is not clear.

3. Section 2(a) provides that it shall be unlawful for any common carrier, its officers or agents, to allow an employee who has been continually on duty for 12 hours to continue on duty or go on duty until he has had at least ten consecutive hours off duty.

Instead of the "aggregate" provision in section 2 of the present Act, H.R. 8449 merely provides that an employee should not be allowed to continue on duty or to go on duty when he has not had at least eight consecutive hours off duty during the preceding 24 hours. The reason for this change is not immediately clear. Moreover, it is not consistent with the "aggregate" provisions of section 3(a).

4. Sections 2(b) and 3(b) provide that all time on duty *in other service performed for the common carrier* during the 24 hour period involved shall be counted as "time on duty."

5. Section 2(c) provides that crews of relief or wreck trains may remain on duty for longer periods of time *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.* This appears to require immediate relief of such crews as soon as a track is cleared sufficiently to permit limited movement of trains. Consequently, it appears that another crew would have to be dispatched to move the wreck or relief train away from the actual site of the wreck.

6. Section 3(a) limits the hours of service of the operators, train dispatchers, etc., to nine hours, whether consecutive or in the aggregate, in any 24 hour period at a place where two or more shifts are employed and to 11 hours where only one shift is employed. The term "shifts" is not defined. Does it mean eight hours, six hours, four hours or any period which might be agreed upon through collective bargaining?

7. Section 4(a) provides a flat penalty of $500 for each and every violation; requires that suits for violations be brought in the District Court of the United States having jurisdiction in the locality where such violations have been committed; provides that it shall be the duty of the District Attorney to bring such suits upon satisfactory information being lodged with him; and drops the present one-year statute of limitation. Since it would require imposition of a flat $500 penalty for all violations the Courts would no longer be allowed discretion in imposing heavier fines for flagrant violations and lesser fines for minor or technical violations. The requirement that suits be brought in the jurisdiction where the violation occurred would preclude the consolidation of all violations committed by a carrier into a single action in the jurisdiction

where the carrier has its principal offices. The provision making it a duty of the District Attorney to bring suit appears to be surplusage. Deletion of the present one-year statute of limitation would increase this period to five years. This would be in conformity with the statute of limitation periods for other railroad safety statutes.

8. Section 2 of H.R. 8449, provides that this Act shall take effect 30 days after the date of its enactment. In view of the major adjustments in work schedules which would be necessary if this bill were enacted, an effective date of 180 days after enactment would be more appropriate.

The CHAIRMAN. Mr. Whitman, I want to thank you. I appreciate your waiting this long to make your presentation. I compliment you on your patience.

I also want to compliment you on the task force, and on the report to industry and the Congress.

I would ask you this: In working, of course men may want to work longer, for different reasons. I wouldn't say they wanted to work 16 hours because they need the money, or the family needs the money, or for other purposes, but we take into consideration the factors, all the factors, and what we know of them, and 12 hours certainly would be long enough for a man to work, ordinarily.

Would you, in this bill, give the right to go any extended period that might be necessary?

We are trying to set the everyday pattern, if we can, to say that a man should not be required to work more than 12 hours a day.

In our modern environment, social, cultural, economic and so forth, we have been trying to better man's life, and is one way of trying to put working hours at a reasonable level.

I made the statement, half jokingly, that if a person can do a good job in 16 hours, why not have him work 20 hours. Why was the law put into effect in the first place? If we can get more work out of a man in 20 hours, maybe we should work him 20 hours. We are trying to make this a reasonable thing. This was put in 1907, 62 years ago. We think that everything in life has improved, and that man is certainly entitled to more leisure time, time to spend, time to enjoy life.

We say, "Well, we are cutting him out of some wages and other things." That is true, and I am just making a statement sort of summarizing my thoughts, and I sort of hesitate to ask you your views on what I am talking about here, but I would like to know if you have an expression about this at all, because I am very much impressed with your presentation today and that of the task force. I want to compliment you on both of them.

Mr. WHITMAN. I think we both have the same thoughts, Mr. Chairman. There seems to be a difference of opinion on how to accomplish it; 16 hours seems like an abnormally long time in this day and age. However, I hesitate as an advisor to this committee to say whether it should be 16, 15, 14, or 12 without more facts than I have at the present time, and I think these facts should be obtained. There is no question about it, and it should have been done, probably long since.

The CHAIRMAN. Mr. Eckhardt, do you have any questions?

Mr. ECKHARDT. Thank you, Mr. Chairman.

I too, want to compliment you on the task force, which is a frank and forceful presentation of the problems.

As you have indicated, it is a broad problem and calls for a broad answer.

I was particularly impressed by, of course, the statistics of an increase of train accidents from 1961 to 1968, by about double, and also by references on page 4 of that report to the increasing quantities of the various hazardous materials, such as chemicals, gases, explosives and fuels which, of course must be transported.

I think this marks up the need for doing everything that can be done to increase safety, because any single human error, no matter how slight, carries a much more potentially hazardous result today than it did many years ago.

I am a little bit concerned, though, about what seems to be the implication of your approach, that we have to make a study first and then go about it in a comprehensive way. That seems to be the pattern these days. Sometimes it seems to me we study things to death.

Why not act now with respect to a rather limited portion of the problem. This doesn't preclude the study going further; does it, sir?

Mr. WHITMAN. Mr. Congressman, I am not suggesting that you don't act. I am simply pointing out that so far as I have been able to determine, there does not seem to be anything that shows, including a study made by the ICC, that there is any great correlation between hours of service and accidents. But the question has never been answered, and I think that it should, in all fairness to all the parties.

This particular bill says 12 hours. I don't know who arrived at that, I don't know how they arrived at it. It may be correct. Maybe it should be 8, or perhaps 14. This is what bothers me. Can we simply reach out and say, "I have decided this is proper"?

You are correct, I think we do study things too much, but this is one point I feel should be studied. It should have been studied a long time ago.

Mr. ECKHARDT. I agree on that, and I don't think I am in basic disagreement with you, that there should be studies, but in the meantime it seems to me it is perfectly easy for any man to figure this out.

If I drive an automobile between here and Houston, as I frequently do, if I go beyond Roanoke in one day, I am not as good a driver after that. Can't we draw from experience other than having examined a great number of railroad engineers that there is such a thing as human fatigue over a period of time in which the efficiency of the human machine drops?

We have figures that we can draw from other sources besides railroading from which we can determine these conclusions; have we not? We don't have to make a study of railroad men specifically.

Has there been anything done in your Department to check on the general effects of fatigue?

Mr. WHITMAN. I think there have been studies of airlines and motor carriers. There has been nothing in the Federal Railroad Administration that I can find.

Mr. ECKHARDT. I don't believe engineers are a different breed of cat, and I think they are affected as truck drivers and others are, any human, over a period of time.

Why do you have to make studies specifically with respect to railroaders?

Mr. WHITMAN. I don't think I am expert enough to answer that question. I think what you have said as to your opinion of fatigue, and so on, doesn't differ too much from mine. However, I think

each person you might ask as to what his fatgue point might be would differ, depending upon what he is doing.

I think noise, or the age of a man would determine to some extent how many hours he should work. I think his well-being, his health, the noise factor—I think there are a great many things that we don't know about. If it is unsafe for a man to work more hours, I certainly am going to be one of the first people to do something about it to the extent that I can.

I am just not sure yet, and I don't think in my position that I should impose my layman's opinion on this committee, and I have simply tried to say that.

Mr. ECKHARDT. I appreciate that, but here we have the noise factor, we have the age factor involved, and if we should conclude from studies made generally of persons involved in things like truck driving or in things like driving an automobile, or in things like clinical studies, it would seem to me we would almost have to conclude that the same factors apply to railroad engineers who are a little above the normal age of working forces, and who are operating under considerable strain, and in an environment in which there is considerable noise.

Would you not conclude that that is correct?

Mr. WHITMAN. Well, I am going to recommend to the Secretary, and he has not indicated as yet just how he will react, that the task force help us in the formation of a railroad safety program. This will be one of the subjects, and I will bring this up at that time.

I think with the kind of people that we are dealing with, we may be able to get some kind of an agreement between them as to what they feel might be a reasonable figure, and I don't like to prejudge them, however, before we have had a chance to do that.

The task force hasn't had a chance to meet after the initial report, and we did not specifically discuss the hours of service at that time.

Mr. ECKHARDT. I certainly want to commend you for your plans in this respect.

The CHAIRMAN. Mr. Watson?

Mr. WATSON. Thank you, Mr. Chairman.

We are happy to welcome you to the committee, Mr. Whitman, and we trust we will have a happy relationship over these years. Certainly, as I glance over your background and qualifications, you certainly have the expertise in your particular field.

You are not only here as Federal Railroad Administrator, but you are also here representing the Department of Transportation; are you not?

Mr. WHITMAN. Yes, sir.

Mr. WATSON. I believe the Department of Transportation has been given the authority to issue some safety regulations directly relating to the motor transport industry.

Do you know what restrictions, if any, may have been promulgated in reference to the hours of operation of the motor vehicles, trucks?

Mr. WHITMAN. I asked for a rundown of the Federal regulations of human factors in my studies of this problem, and I can give you what I have here. I think you asked this question of one of the other witnesses, and my information indicates that the number of hours in a day that—in the aviation business—is set at 10 hours, motor carriers 10 hours, rail carriers 16 hours. Those are the outside limits.

Mr. WATSON. Those are the outside limitations?

Mr. WHITMAN. Yes, sir.

Mr. WATSON. Air, 10?

Mr. WHITMAN. Yes, motor carriers 10, and rail 16. However, this didn't add up to me. I did a little more checking and I asked about a trip from New York to Paris. They say they can fly this in from 8 to 12 hours, so I don't reconcile this with the 10 hours.

Mr. WATSON. Actually, sir; has there not been a little change there, a reduction in domestic pilots, to 8 hours, and 12 hours on international flights?

Mr. WHITMAN. I am not really qualified to answer these questions, but this leads me to believe that they must have some rules other than what I have here.

Mr. WATSON. One thing, I am convinced after just a cursory examination of some of the regulations that we have that probably this whole field of hours of service needs to be examined. According to information supplied to me by Dr. Stevenson, it is possible for a truck driver to go out here and operate 20 hours out of 28 hours. Are you aware of that?

Mr. WHITMAN. No, sir; I was not.

Mr. WATSON. He can operate 10 hours, off 8 hours, and back on 10 hours.

We are concerned here about the operation of locomotives, to be sure they do have a track which helps them stay in line, but these big trucks, when you allow them to operate 20 hours out of 28 hours, it looks as if perhaps that would bear looking into a little bit, wouldn't it?

Mr. WHITMAN. I am not really familiar with that.

Mr. WATSON. Let me ask you this, sir: You do not have any recommendations so far as this particular legislation is concerned? You do recommend its passage?

Mr. WHITMAN. My point is that we should take a look at the overall human factor problem, and there is a problem here. I would hope that we can do that. I don't like to say yes or no to the legislation. It does not seem to me that I am qualified to say that 12 hours is correct, or any other number of hours, and yet I must agree that 16 hours certainly seems to be a long time. But we can not find, and I have checked as much as I can, any correlation between 16 hours and fatigue, although I am sure there is a fatigue factor, and probably there is a problem so far as certain people are concerned.

Mr. WATSON. Certainly you are not responsible for this, but as I have expressed earlier, I am shocked that over the last 3 years since this issue was brought up that apparently we have still come up with in figures to correlate between hours of service and the safety factor, and I really am concerned about it.

One final thing, you have four or five pages of technical comments and amendments to the Hours of Service Act.

Is that yours? I have been handed four and a half pages of technical comment. Is that yours?

Mr. WHITMAN. Yes, sir.

Mr. WATSON. While you do not recommend one way or the other amendment of H.R. 8449, I note that some specific amendments which

would be recommended in this four or five page document, would it be fair to assume that if this should be favorably considered that these amendments that you recommend be incorporated into H.R. 8449, would that be a fair statement?

We are just trying to make it as clear as possible, to ascertain your position.

Mr. WHITMAN. Well, we didn't feel we were making recommendations. We did raise questions that bothered us a little bit. I would think if we were to make recommendations, they would be a little more concise than this.

Mr. WATSON. Yes, you did make some suggestions in this, and I assume they are well thought out suggestions, and that you would commend them to the consideration of this committee anyway, would you not, sir?

Mr. WHITMAN. Yes. These are questions that came to our mind as we read the bill from a practical standpoint.

Mr. WATSON. And these should be resolved by way of clarification if the committee should consider this legislation.

The CHAIRMAN. Mr. Brown.

Mr. BROWN. I was impressed with the nature of your report and even more impressed with the initial success you apparently had in getting the divergent elements involved and in getting the safety study together on some recommendations. I would like to recommend to you that if you decide to leave your job any time soon, that you go into labor negotiations, because I think you have been highly successful in reaching agreements.

If you are not doing anything over the weekend, I suggest you get some of these fellows together and talk about this piece of legislation and see if you can't come to some agreement on what ought to be done with this. It would help all of us a great deal, and would reduce the time necessary for this committee to take on the collateral duties of labor negotiation.

I want to ask several specific things. Do I understand you to say on page 10 that the Interstate Commerce Commission, which administered the safety law prior to April 1, 1967, testified at previous hearings that there were no available statistics. When was that testimony given? Was that given in 1967 or was it given prior to that?

Mr. WHITMAN. It was given in 1966.

Mr. BROWN. The only conclusion I can draw from that is that in spite of the fact that the ICC said that these statistics didn't exist, no effort has been made up to this point by the Federal Administration, either in the ICC or the Department of Transportation as we established it April 1, 1967, to get these statistics.

Mr. WHITMAN. Not that I can find, other than the fact that when I came aboard, I find that the boys were in the process of putting together a proposal. They had it pretty well along. I lent what weight I could to it.

Mr. BROWN. When did you come on board?

Mr. WHITMAN. In March of this year..

Mr. BROWN. In 2 years, not much was done, is that right?

Mr. WHITMAN. Apparently not. I think there was a money problem in that this study does cost considerably. They may not have had the funds.

Mr. BROWN. Where did that form T, come from, the one that talks about the accident, reports for accidents, but doesn't say anything about the situation as regards the human frailty involved?

Mr. WHITMAN. My understanding is that this has been in existence for many years.

Mr. BROWN. No doubt something the Department of Transportation has inherited from the ICC when they had this responsibility.

Mr. WHITMAN. Yes, sir. One of our recommendations, or one of the recommendations of the task force is that this reporting system be upgraded. We agree with you that the reporting system is lax.

Mr. BROWN. I must make this observation: I also sit on the Government Operations Committee wherein we occasionally investigate the efficiency and economy of the Government itself. That this problem of railroad safety has existed for so long is in the nature of a plague not only on both your houses but on all of our houses.

Apparently railroad labor has to some extent ignored it, and railroad management has to some extent ignored it, in spite of the grievous costs for both in this area. But most notably, perhaps, the Government has ignored it when it had this responsibility. And the Department of Transportation has apparently proposed to ignore it for the last couple of years in spite of the problem that was evidenced when the ICC said in 1966 that statistics in this area did not exist and that something should be done to find them.

Mr. WHITMAN. I think that railroad labor and railroad management and also the public, State regulating representatives, are to be commended. They did go into this. I think they in essence agree with what you said. There is a lack. There is a need for it .They had a very statesmanlike approach to it. I was most impressed. This is my first effort with these groups. I was most impressed with the way they attacked it. They all lent their full support.

Mr. BROWN. I am pleased because I sat in on the hearings of last year's proposal of railroad safety legislation. I am talking about the ideas that sprang from the Department of Transportation last year and were introduced by various members of this committee. I am pleased that in undertaking the drawing of new legislation, and I presume that will be the result, you have sat down with both labor and management and the public elements involved to try to come up with some agreement. Pleased because, as I recall the testimony last year, there was not that degree of consultation with reference to legislation that was drawn and presented before this committee. I think that the only intelligent way for Government ever to approach these problems is to get all of the views together and then try to equate them logically in the public interest.

But I am concerned that Government also has a bad record in this area.

Mr. Chairman, I want to clarify what I have said, if I may.

When I say that I think labor and management both have the responsibility in the safety problem, it is based on this thought: If, in fact, the 16-hour work schedule is too long, apparently there has not been a serious effort to negotiate this reduction. At least that is the testimony that seemed to be developed here, to the effect that it hasn't been adequately made a part of section 6, nor has railroad man-

agement apparently been concerned nor do they seem to be concerned at this point about the implication of this problem with reference to accidents. They study accidents, too, I assume, in order to reduce the costs to their industry and either don't have the statistics on fatigue or have chosen to ignore them if they exist. At least they have not been able to bring them forth here to give us any information. Government has ignored it, too.

If it is such a big issue all of a sudden, somebody has to get this information. I have a strong feeling that if this law has transferred to the Department of Transportation as a safety responsibility, that when 2 years ago we created the Department of Transportation somebody thought that hours of service had something to do with safety. And that in 1907 when the law was written, it was called safety legislation, so that hours of service must have something to do with safety. Yet everybody, including the Government up until the present has ignored the problem.

I want to commend you on the approach you have taken in this area. Maybe, at long last, we will begin to get some real progress in this lengthy discussion that we have had over the last several years regarding the problem of the railroads, whatever that problem is, and solution to the problem.

The CHAIRMAN. Mr. Skubitz.

Mr. SKUBITZ. Thank you, Mr. Chairman.

I have no questions to ask at this point. I would like to make one observation, if a man works continuously 16 hours, it is going to affect his health—he is going to get tired. If it affects his health, it is going to affect his manner of operating.

However, I think there is one point we are losing track of: We seem to assume that all of the workers are working 16 hours every day. I don't think this is true. We ought to know how many men are actually working 16 hours a day and how often they worked 16 hours a day.

Also if we are going to change from 16 hours to 12 hours, what is the effect going to be upon the railroad? Is the cost going to reach a place where they are entitled to rate increases and shouldn't they be given these rate increases at the same time we make the changes?

Will these rate increases be so high that the railroads will cease to be competitive? I think these are things that this committee has got to look into when we consider reducing the hours of employment from 16 to 12.

Thank you, Mr. Chairman.

Mr. ECKHARDT. Mr. Chairman, could I ask if we might perfect the record with respect to the number of permissible hours for airline pilots, both international and domestic, with respect to truck drivers and with respect to, of course, railroad employees, which we know to be 16?

I would like to have it in comparable figures so that we are talking about continuous hours. I think it was a little misleading a minute ago when it was stated that a truck driver could drive 20 hours and 24. That means in two breaks, I understand.

The CHAIRMAN. Twenty hours of 28 hours.

Mr. ECKHARDT. He can drive 10 hours, and then he can be off 8, and then he can drive another 10, just as a railroad engineer can drive 16, and then be off for a period of time and then drive another 16.

So I think it is important that we make these comparable figures available.

Mr. WHITMAN. We will furnish this.

The CHAIRMAN. If you will do this for the record? Can you do this on all modes of transportation?

Mr. WHITMAN. I am sure we can.

(The following information was received for the record:)

HOURS OF SERVICE OF RAILROAD EMPLOYEES

Section 2 of the Hours of Service Act (45 U.S.C. 62) makes it unlawful for a carrier to require or permit an employee actually engaged in or connected with the movement of any train to be or remain on duty for a longer period than 16 consecutive hours. When an employee has been on duty for 16 consecutive hours, he must be given at least 10 consecutive hours off duty. When an employee has been on duty for 16 hours in the aggregate in any 24-hour period, he must get at least 8 consecutive hours off duty.

Section 2 also provides that train dispatchers, operators and telegraphers may not be permitted to be or remain on duty (1) for more than 9 hours in any 24-hour period in facilities continuously operated night and day (over 13 hours) or (2) for more than 13 hours in facilities operated during the daytime (13 hours or less).

An exception is made for situations such as casualty, act of God, or certain unforseen causes.

No implementing regulations have been made under the statute.

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HOURS OF SERVICE OF MOTOR CARRIER DRIVERS AND AIRLINE PILOTS

MOTOR CARRIER DRIVERS

Section 204 of the Interstate Commerce Act, as amended (49 U.S.C. 304) authorizes the Federal Highway Administrator (formerly the ICC) to "establish reasonable requirements" with respect to "qualifications and maximum hours of service" of both common and contract carriers by motor vehicle.

This authority has been implemented by regulations contains in 49 C.F.R. Part 295 (copy attached).

Section 295.3 of these regulations provides that, with certain stated exceptions, no motor carrier shall permit or require a driver to drive more than 10 hours following 8 consecutive hours off duty or drive for any period after having been on duty 15 hours after 8 consecutive hours off duty. However, drivers using sleeper-berth equipment, or off duty at a natural gas or oil well location may cummulate the 8 hours off duty in two periods of not less than two hours each.

AIRLINE PILOTS

Section 601 of the Federal Aviation Act of 1958 (49 U.S.C. 1421) provides in part that "the Administrator of the Federal Aviation Administration is empowered and it shall be his duty to promote safety of flight of civil aircraft in air commerce by prescribing and revising from time to time:

* * * * * * *

(5) Reasonable rules and regulations governing in the interest of safety, the maximum hours or periods of service of airmen, and other employees, of air carriers;

* * * * * * *

This authority has been implemented with respect to both domestic and flag air carriers, supplemental air carriers and commercial operators, and helicopter service. Subpart Q of Part 121 of Title 49 of the Code of Federal Regulations prescribes flight-time limitations for domestic air carriers. Subpart R of Part 121 prescribes such limitations for flag air carriers. Subpart S establishes limi-

tations for supplemental Air Carriers and Commercial Operators, and Subpart M of Part 127 sets flight-time limitations for helicopters. Copies of these subparts are attached.

Subsection (b) of § 121.471 of Subpart Q prohibits domestic air carriers from scheduling a flight-crew member for duty aloft for more than 8 hours during any 24 consecutive hours without a rest period at or before the end of that 8 hours, equal to twice the number of hours of duty aloft since the last period but not less than 8 hours. However, under certain stated conditions, crew members may be scheduled for up to 10 hours of continuous duty in the case of transcontinental nonstop flights.

Subsection (c) of § 121.471 provides for at least 16 hours rest for crew members who have been on duty aloft for more than 8 hours during any 24 consecutive hours.

Subsection (f) of § 121.471 provides that transportation to or from duty is not considered rest time.

With respect to flag air carriers, pursuant to § 121.481 of Subpart R, the basic limitation for one or two pilot crews in 8 hours in any 24 consecutive hours. The rest period must be at least twice the hours flown since the preceding rest period, but not less than 8 hours. The pilot must be relieved of all duty during the rest period.

Where a pilot exceeds 8 hours during 24 consecutive hours, he must be given at least 18 hours rest before being assigned to any duty with the air carrier.

Where an airplane has two pilots and at least one additional crew member, there is a maximum of 12 hours during any 24 consecutive hours.

As in the case of domestic carriers, deadheading time is not considered part of a rest period.

Similar restrictions are placed with respect to supplemental carriers and operators, and helicopter service.

The CHAIRMAN. Mr. Skubitz.

Mr. SKUBITZ. How often does he do it? Does he do it every day, twice or three times a week? I think this is the thing that would affect the safety. I can conceive of a condition arising where a man has got to work 16 hours—even Members of Congress.

Mr. WHITMAN. You have today. I don't know if I could get that for you, sir. I don't have that type of record. I think the industry would probably have to furnish that.

The CHAIRMAN. Thank you.

Mr. WHITMAN. We can get the practice as it is handled by the FAA and the Federal Highway Commission.

The CHAIRMAN. That is right.

I want to thank you again, Mr. Whitman. I want to compliment you again and thank you for coming. I apologize for the late hour for all of you, but you have helped this committee immensely.

Mr. WHITMAN. Thank you, Mr. Chairman.

The CHAIRMAN. Is Mr. Howard Croft present?

If not, he has a statement on this subject, and it will be inserted at this point in the record.

(The prepared statement of P. Howard Croft follows:)

STATEMENT OF P. HOWARD CROFT, PRESIDENT—THE AMERICAN SHORT LINE RAILROAD ASSOCIATION

Mr. Chairman and members of this committee, I am P. H. Croft, president of The American Short Line Railroad Association which has its general offices here in Washington. Our association is a voluntary, unincorporated, nonprofit organization with a membership of 212 Class I and Class II line-haul and switching railroad common carriers operating in 43 states.

To give you a thumbnail sketch of our membership, 176 of our members operate less than 50 miles of main line and 26 operate between 50 and 100 miles. The balance, of course, operate more than 100 miles. There is a high degree of intimacy present—there has to be in operations this small. The jack-of-all-trades type employee is quite common.

You have previously heard witnesses testify as to the varying degrees of economic and operational impact this bill would have on railroads and individual employees. You have also heard testimony on the operation revisions necessary to assure compliance. It is fallacious to equate revenues or corporate income to humanitarian interests. By and large, seniority or individual desire place the individual on the longer-hours assignment. Continued discussion on my part would be repetitious and time consuming.

I do wish to call your attention to one element of all previous testimony. Thinking has been in terms of large trunk-line operations representing the majority of American railroading . . . and this, of course, is proper. I do call your attention to the numerous feeder and short line railroads literally polkadotting the entire country. In addition to our membership, there are several hundred additional short line roads. The small common carriers serve a most vital function in the railroad network. Unfortunately, they are not blessed with sufficient resources and depth to absorb increased or additional liabilities. To put it bluntly, many are operating on a shoestring. Mergers, abandonments, and curtailed activities due to economic reversals and pressures are becoming all too frequent. The economic squeeze of the past decade is mashing a disturbing number of carriers into oblivion. Cessation of such feeder and transfer operations do, of course, deprive the public of transporation and shrinks the overall network.

I do not intend to infer by my presentation that I favor the working of an employee or any person 16 hours as a routine or regular happening. We all at time have to function longer hours than we care to. I do not, however, support the proposition that in emergency situations or when extenuating circumstances exist—the present law should prevail. In the case of short line railroading, there are often only one or two crews employed. The hiring of extra personnel is, in many cases, an economic impossibility—if the personnel were available.

Most of the shorter roads do not have designated terminals other than the home terminal. Deadheading is not as common with us as with our trunk-line big brothers, however, the inclusion of this time into duty time would cause increased costs and additional time away from home.

Should H.R. 8449 become law in its present form, I believe some short line roads would be forced to drastically curtail service and in some cases cease operation. This might sound a little exaggerated or drastic, but there does exist that proverbial straw that broke the camel's back. This is not to say short lines continually require 16 hours on duty but do from time to time put in this amount of time to satisfy operations, just as we have to in our private or business life.

The provisions of H.R. 8449 restrict the turn-around concept and would create "designated terminals" as explained in previous testimony. Again, I reiterate, I do not support the proposition that employees should be forced to work 16 hours as a continual condition of employment. I do support the concept that an employee be permitted by law to work 16 hours when emergency conditions prevail.

I am confident the committee will give every consideration to the full impact of this bill, particularly on the "small businessmen" of our industry. We are necessary! We are vital! We are struggling to exist! We need all the help and assistance we can muster.

Mr. Chairman and members of the committee, I thank you for the privilege of appearance.

The CHAIRMAN. The committee will stand adjourned and the hearings are closed.

(The following letters were received for the record:)

AMERICAN FEDERATION OF LABOR
AND CONGRESS OF INDUSTRIAL ORGANIZATIONS,
*Washington, D.C., June 26, 1969.*

Hon. HARLEY O. STAGGERS,
*Chairman, Interstate and Foreign Commerce Committee,*
*Washington, D.C.*

DEAR MR. CHAIRMAN: The AFL–CIO urges support of H.R. 8449 to amend the 1907 statute regulating the hours of service of railway employees.

Under the provisions of the existing law, railroad operating employees may be required to work—in locomotive and train service occupations—as long as 16 hours per day, without relief or intervening rest periods. This antediluvian

standard is unfair and unsafe. We understand that, within the restrictions of this statute, thousands of railway employees today, in 1969, work regularly more than 12 hours per day. Studies made by the Presidential Railroad Commission in 1961 revealed that over 30 percent of local freight engineers had such assignments.

The AFL–CIO knows no language strong enough to adequately criticize such industrial conditions or the law which makes such conditions possible, today. The records of our other constituent labor organizations show no other instances where extended work hours of this character have been allowed to persist, in the world of 1969, as regular standards. Such conditions have been eliminated for all other workers, not just here in the United States, but in all nations where democracy and free collective bargaining exist.

To those of us acquainted with labor-management relations, it is incomprehensible that railroad employees can be required to work over 12 hours per day. In this connection, we understand that premium compensation for such service, under the pay system peculiar to railway operating employees, may not be compensated at premium rates, even when time exceeds 10, 11 and 12 hours per day. Therefore, the only sure way of reducing these excessive work hours is through a maximum work limitation, policed and enforced by governmental authority, as proposed in this bill (H.R. 8449).

I would appreciate having this letter inserted in the hearing record.

Sincerely yours,

ANDREW J. BIEMILLER,
*Director, Department of Legislation.*

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SIERRA RAILROAD COMPANY,
*Sonora, Calif., July 15, 1969.*

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

SIR: Sierra Railroad Company is a short line railroad, less than a hundred miles in length, operating in Stanislaus/Tuolumne County, California.

It is our desire to go on record in opposition to Bill H.R. 8449, which bill will modify the present hours of service law affecting service hours of train crews and other related employees in train operations.

Justification for opposition to proposed Bill H.R. 8449 per the following premise:

1. In the case of Sierra Railroad, operating with one crew, one round trip per day, five days per week, this proposal would require the employment of one additional train crew, comprising four additional trainmen to perform the same service.

2. The addition of one more train crew would increase our operating cost per annum in excess of $12,000.00 in wages and fringe benefits.

3. As we have a marginal operation, Sierra cannot absorb an increase of $12,000.00 per annum, predicated on wages and fringe benefits now in effect, and maintain the present service now made available to the industries and public we serve.

4. Our present round trip daily operation exceeds 12 hours per day five days per week, however, trainmen enjoy two days per week rest at home. It is not our desire to work our trainmen 16 hours per day and such is not the case—only under extreme emergency.

We ask your assistance in this premise, and if Bill H.R. 8449 is approved, we respectfully request that short line railroads of less than a hundred miles in length be excluded from the proposed bill.

Respectfully,

F. R. EGAN,
*Vice President and General Manager.*

STOCKTON TERMINAL AND EASTERN RAILROAD,
*Stockton, Calif., July 15, 1969.*

HOUSE INTERSTATE AND FOREIGN COMMERCE COMMITTEE,
*Rayburn House Office Building,*
*Washington, D.C.*

(Attention Mr. Harley O. Staggers, Chairman, and members of the committee).

GENTLEMEN: Reference H.R. 8449 regarding proposed changes in Hours of Service laws as they relate to the Railroad industry in general.

Stockton Terminal and Eastern Railroad (Short Line) operates 18.89 miles of track (includes main line, spurs and sidings), 98% of operations being performed in an area less than two miles distance to transfer tracks (interchanges) with AT&SF, SP and WP trunk line carriers. We operate one home terminal where crews perform only switching type service, return to the same terminal for lunch periods and terminating of work day. Generally most holidays are observed without crews assigned to work on those days, and except in emergency crewmen rarely double-over or perform 15 hours and 59 minutes service.

Application of the proposed changes in the Hours of Service Law would create additional economic pressure on this and other small common carriers. For example, we are already absorbing, on same basis as major common carriers, increased hire of cars (per-diem), proportionate share of loss and damage claims on inflated lading values, exhorbitant court awards due to accidents or injuries, penalty insurance rates, costs of standard wage and rule agreements, to name a few.

Although deriving limited revenue from a short-haul movement and further limited as to volume of traffic, except that which they produce, generally without any assistance from large common carriers, costs continue to rise and are borne on a parity with the entire industry.

We are sincere in our belief that due to the peculiarity of "short line" operations as compared in the industry, the limited resources and financial impact that H.R. 8449 presents to small common carriers, special consideration toward these common carriers being excluded from this legislaation, and permission to remain under the present law is worthy of special attention.

In this connection, we submit for ready reference, copy of recent statement presented to your committee by Mr. P. H. Croft, President of our American Short Line Railroad Association. (See p. 275.) This company endorses the remarks contained therein as indeed typical of Stockton Terminal and Eastern Railroad.

Your assistance in behalf of the short-line carriers will be very much appreciated.

Yours very truly,

LEONARD HARDAWAY, Jr.,
*Vice President and General Manager.*

(Whereupon, at 5:38 p.m. the committee adjourned.)