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HEARING

BEFORE THE

SUBCOMMITTEE ON TRANSPORTATION AND COMMERCE

OF THE

COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE HOUSE OF REPRESENTATIVES

NINETY-FIFTH CONGRESS

SECOND SESSION

ON

H.R. 10898

A BILL TO AMEND THE REGIONAL RAIL REORGANIZATION
ACT OF 1973 TO AUTHORIZE APPROPRIATIONS FOR THE
UNITED STATES RAILWAY ASSOCIATION FOR FISCAL 1979

FEBRUARY 22, 1978

Serial No. 95-92

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Committee on Interstate and Foreign Commerce



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USRA AUTHORIZATION

WEDNESDAY, FEBRUARY 22, 1978

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

The subcommittee met at 2 p.m., pursuant to notice, in room 2123, Rayburn House Office Building, Hon. Fred B. Rooney, chairman, presiding.

Mr. ROONEY. The purpose of this afternoon's hearing is to consider H.R. 10898, which amends the Regional Rail Reorganization Act of 1973 to authorize additional appropriations, not to exceed \$27.2 million, for the USRA for fiscal year 1979. This represents an increase of \$4.2 million over the amount authorized for appropriations for fiscal year 1978.

At the present time USRA has three principal functions. It is conducting a litigation on behalf of the Government which has arisen from the transfer of assets from the bankrupt railroads in the Northeast to ConRail. Both the Department of Transportation and the Department of Justice decided to rely on USRA as the Government's agent in defense of the final systems plan in the courts. There are a number of cases involved and billions of dollars at stake in this litigation.

A second major function of USRA is to monitor ConRail operations and to administer the funds provided by the Government for these operations.

Last, USRA monitors loans granted to railroads in accordance with the Railroad Revitalization and Regulatory Reform Act of 1976.

Without objection, the text of H.R. 10898 will be printed at this point in the record.

[The text of H.R. 10898 follows:]

(1)

95TH CONGRESS
2D SESSION

H. R. 10898

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 9, 1978

Mr. ROONEY introduced the following bill; which was referred to the Committee on Interstate and Foreign Commerce

A BILL

To amend the Regional Rail Reorganization Act of 1973 to authorize appropriations for the United States Railway Association for fiscal year 1979.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 That section 214(c) of the Regional Rail Reorganization
4 Act of 1973 (45 U.S.C. 724(c)) is amended to read as
5 follow:

6 “(c) ASSOCIATION.—For the fiscal year ending Sep-
7 tember 30, 1979, there are authorized to be appropriated to
8 the Association for purposes of carrying out its administrative
9 expenses under this Act such sums as are necessary, not to
10 exceed \$27,200,000. Sums appropriated under this subsec-

1 tion are authorized to remain available until September 30,

2 1980."

Mr. ROONEY. Our first witness this afternoon will be Mr. Donald C. Cole, president of USRA. Mr. Cole, I want to extend to you my congratulations. The last time you were here you were acting president of the Association and, as I recall, you made a comment that by being acting you had possession of the office, which gave you an inside track on the position.

I never did actually find out how you managed to get confirmed but, in any event, I think the appointment is a good one and I congratulate you on behalf of the committee.

STATEMENT OF DONALD C. COLE, PRESIDENT, UNITED STATES RAILWAY ASSOCIATION, ACCOMPANIED BY W. J. ANDERSON, VICE PRESIDENT, FINANCE; ALAN L. DEAN, VICE PRESIDENT, ADMINISTRATION; CARY W. DICKIESON, VICE PRESIDENT, GENERAL COUNSEL; FREDERIC W. YOCUM, VICE PRESIDENT, OPERATIONS; AND WILLIAM BOZMAN, COMPTROLLER

Mr. COLE. Mr. Chairman and members of the subcommittee, I am pleased to testify on behalf of a \$27.2 million authorization for the administrative expenses of the U.S. Railway Association for fiscal year 1979.

The purpose of our appearance this afternoon is to provide the committee with information concerning our administrative expense requirements. Although we received ConRail's 5-year business plan on February 15, we are not at this time in a position to discuss the details of ConRail's financial situation. It will take the Association some time to make a thorough, accurate and independent assessment of ConRail's finances and operations as required under the law.

The Association has taken cognizance of the observation by Secretary of Transportation Brock Adams, a member of USRA's Board of Directors, at a February 15 departmental press conference that, although ConRail's projections do not come as a surprise, we have not yet been able to perform any substantive analysis of the projections just received and, quote, "it should not be assumed * * * that we are in accord with those projections or that we agree with the amount of the additional Federal investment which has been identified by ConRail," unquote.

Since the Association now has ConRail's 5-year business plan on hand, I can summarize some of the highlights of the plan and outline several obvious problems that the Association and this committee are going to have to address over the next year or so.

ConRail projects a need for additional Federal funding of \$1.2 billion above the \$2.1 billion authorized by the Congress in 1976. The railroad also expects to utilize an additional \$1 billion in equipment

financing from private sources. Federal funding for ConRail is expected to be necessary until 1982, 2 years beyond the final system plan's projected 1980 goal for achieving financial self-sufficiency.

The additional funding is required because ConRail expects freight revenues to total \$1.8 billion less than originally forecast and estimates that its losses will be \$1.5 billion more than anticipated in the FSP.

The latest estimates indicate that current appropriated funds will be exhausted in January 1979 and that almost \$500 million in additional Federal assistance will be needed before the end of fiscal year 1979.

Chairman Rooney has received a letter from Secretary Adams suggesting various alternatives for meeting this shortfall. These include section 511 loan guarantees under the 4R Act and appropriation of the remaining \$74 million under section 216 of the 3R Act. An alternative may be a new authorization and appropriation under section 216.

With respect to the longer-range ConRail funding requirements, the Association will continue to analyze the railroad's situation and, in cooperation with the Departments of the Treasury and Transportation, attempt to devise a solution that can be incorporated in the 1980 budget.

The Association transmitted to the Speaker of the House, the President of the Senate and the Office of Management and Budget on December 23, 1977, its appropriation request of \$27.2 million for fiscal year 1979. The President's budget for fiscal year 1979 includes the entire amount of our request as well as a proposed supplemental appropriation of \$13 million for fiscal year 1978. This supplemental would bring our total appropriation for fiscal year 1978 to \$23 million, the amount approved in the authorizing legislation enacted last fall.

These funds are required to permit the Association, in cooperation with the Departments of Justice, Transportation, and the Treasury, to conduct the litigation on behalf of the Government which has arisen from the reorganization of the bankrupt railroads and which involves transferor claims amounting to billions of dollars.

The authorization will also enable USRA to administer its continuing function of providing ConRail with funds for working capital and rehabilitation; to monitor the railroad's performance and use of funds; to assess the need for any further Federal action that might be needed to move ConRail toward the goal of financial self-sufficiency and to administer section 211(a) loans to the Delaware and Hudson—D and H—and the Missouri-Kansas-Texas—Katy—railroads.

Approximately 80 percent of our authorization will be used in the litigation effort and 20 percent will be used in administering the financing of ConRail, monitoring its operations and monitoring the loans to the D and H and Katy.

Early in 1977 we had forecast a decline in Association activity for fiscal year 1978. Our appropriations request reflected this. But the events of the past 9 months have dramatically changed our plans for the current fiscal year and have substantially increased our requirements over the original estimates for fiscal year 1978 for both litigation support and ConRail monitoring. In the litigation support area, the need for concentrated field work in asset valuation has increased

sharply during the 1978 fiscal year. The special court, in addition, has indicated that it will consider alternative methods of valuation.

The Association's budget estimate of 1 year ago under-estimated the resources that would be required to effectively monitor ConRail and the Delaware and Hudson. Until January 1977 ConRail not only met the goals set forth in the final system plan but exceeded them.

The situation today is much different. ConRail is having considerable difficulty in achieving the results it forecast for itself less than 1 year ago. Similarly the D and H is having severe financial difficulties. The Association is analyzing both situations and will report to Congress on them, as required by law, at the end of May.

Litigation: The Association is involved in three major areas of litigation:

The main valuation case before the special court governed by sections 303 and 306 of the act. This three-judge special court was set up to determine the amount of compensation owed to railroads in reorganization for rail property conveyed under the act.

Questions relating to loans made to ConRail under section 211(h) of the act.

General litigation, including actions attempting to force the transfer of rail properties not conveyed or to return certain rail properties already conveyed.

On October 12, 1977, the court issued its most significant opinion on the main valuation case. It accepted the Association's argument that value to the transferors, not to the Government, is the appropriate measure of just compensation. Thus the market value of the conveyed properties, whether sold for scrap or for continued rail use—if the transferors can prove such a likelihood—is the central valuation theory adopted by the court.

However, the court expressed its intention to consider, in limited circumstances, other methods of determining constitutional minimum values and suggested an alternative: Original cost less depreciation and deterioration.

The court ruled that the transferors will be entitled to submit evidence of possible preconveyance sales to prospective purchasers, including governmental bodies, but it also ruled that the United States would not be considered a prospective purchaser.

Although the Association is performing a large portion of its legal work in-house, it will continue to employ two law firms with special expertise to augment its own staff. The firms have been used at a combined monthly rate of approximately \$150,000. This rate is expected to increase next year when major evidentiary proceedings occur in the valuation case.

The Association has developed and is installing an automatic storage and retrieval system for the enormous number of documents connected with the case. More than 1 million pages of documents have already been processed. Operating this system, including reimbursing the Justice Department, is expected to cost approximately \$500,000 during fiscal year 1979.

The Association has engaged a panel of senior real estate appraisal experts to direct a substantial field project of site appraisal. The work will extend into next fiscal year. Extensive work will also be done on valuation of equipment, facilities, and other assets.

The court has indicated that it will consider valuations asserted by the transferors based upon continued use of specific assets for rail transportation. This spring the transferors will put forward their assertions and the Association will respond to them. Until proffers are made, it will not be possible for the Association accurately to plan and staff for its response. This is a complex problem involving projections of traffic, revenues and costs for individual segments of railroad as well as assessment of the willingness and ability of potential purchasers to make offers. Association efforts in 1979 will involve analyzing the transferors' claims and preparing briefs and testimony in response.

The bulk of the general litigation in which the Association has been involved consists of 40 lawsuits naming the Association as a defendant and challenging its actions in designating or failing to designate certain rail properties for conveyance under the act. The court placed a deadline of July 1, 1977, on all such conveyance-related lawsuits. Since then the Association, as a nominal defendant, has been instrumental in mediating compromises in several of the suits.

Financial requirements for litigation support can be summarized as follows:

[The material referred to follows:]

[In thousands of dollars]		
	Fiscal year 1978	Fiscal year 1979
General Counsel	\$4, 916	\$5, 368
Asset valuation	10, 853	13, 841
Operations	225	225
Other support	2, 069	2, 107
Total	18, 063	21, 541

Mr. COLE. Monitoring: The Association must be capable of independently and comprehensively assessing the finances and operations of ConRail because of the heavy public investment in the railroad and the urgent need for it to meet statutory goals with respect to service and financial self-sufficiency. USRA staff must have the resources to be able to collect and analyze information on the major factors which contribute to revenues, costs and capital requirements and be capable of preparing comprehensive projections. These projections should provide the Federal Government with timely information concerning present and future problems of the railroad.

As this committee is aware, the Association has already invested \$1.3 billion in ConRail with an additional \$0.7 billion appropriated. The railroad has continued to incur substantial operating losses, and our attention must be focused on issues that are critical to turning the railroad into an efficient, viable operation that is meeting the rail transportation needs of the region and the Nation. The major turn-around areas as we view them include: Attracting sufficient revenue; cost-effective capital programs; improved equipment utilization; improved management systems; integration and consolidation savings; improved productivity.

Monitoring efforts of the Association will include the review and analysis of the various reports required under the financing agreement between the Association and ConRail. This material consists of an extensive set of monthly and quarterly reports plus the data in the 5-year business plan, which is updated each year. The Association also needs to be able to conduct specific studies of critical problem areas so that we can be sure that the board of directors receives an independent assessment of the carrier's operating and financial problems.

The Association also will apply similar monitoring capacity to the Delaware and Hudson and the Katy Railroads, although this will be secondary to the main task of monitoring ConRail.

A. FINANCIAL MONITORING

Turning to financial monitoring, it is clear that the remaining portion of the \$2.026 billion previously appropriated for ConRail will be advanced in fiscal year 1979. The Association must monitor ConRail's use of these funds to assure compliance with the financing agreement, to identify deviations from the financial projections of the final system plan and to determine the extent to which additional funds will be needed if ConRail is to become financially self-sustaining.

Financial monitoring will focus on the current financial and cash positions of all three railroads, comparing performance with projections. Staff will prepare comprehensive projections and assess the adequacy of the financial management programs of the railroads. Since the Association depends upon the railroads to furnish much of the data used in the monitoring process, it is desirable to check the reliability of the accounting and management systems furnishing that data.

In the case of ConRail, the Association will monitor the progress being made in improving the reliability and accuracy of its accounting and inventory control systems.

In pre-ConRail days, I can remind the committee, the lack of accuracy and reliability was very evident. ConRail is working to improve the situation but its accounting and inventory systems are still not completely in place.

The D and H and the Katy will require continued financial monitoring to protect the Association's loans to these rail carriers. The Association has agreed to Advance an additional \$2 million to the D and H above the \$28 million approved earlier and foresees the need for \$6 to \$7 million more during fiscal year 1978. Just recently the Federal Railroad Administration approved loan guarantees of \$7.9 million to enable the D and H to refinance 20 locomotives purchased in 1976 and, in accord with action by our board of directors, the D and H will receive draw-downs on the amount now through the end of July. The D and H has a new president, who is aggressively taking hold and working to improve the carrier's financial and operational posture. But we also realize that the D and H suffers even more than ConRail does from the changed economics of the Northeast. We intend to analyze the entire economic situation closely in order to be able to deal better with the railroad's and the region's rail transportation problems.

B. OPERATIONS MONITORING

During the past year, the Association has strengthened its monitoring capabilities, particularly in the major turnaround areas of marketing, equipment utilization, rehabilitation cost-effectiveness, management systems and customer service.

The Association has reestablished the position of vice president of operations and it has set up certain organizational units in the operations area to strengthen monitoring capabilities.

A number of special studies are being started in fiscal year 1978 to appraise realistically ConRail's need for capital. During 1979 we expect to use the results of these studies to develop specific recommendations for action by the Association and the railroad. Staff and consultant assistance will be needed in fiscal year 1979 to follow up on the implementation of recommendations stemming from USRA's monitoring efforts.

Financial requirements for monitoring support can be summarized as follows:

[The material referred to follows:]

[In thousands of dollars]

	Fiscal year 1978	Fiscal year 1979
General Counsel.....	\$119	\$125
Finance.....	1,531	1,838
Operations.....	2,597	2,612
Other support.....	1,112	1,084
Total.....	5,359	5,659

Mr. COLE. Mr. Chairman, I would like to submit for the record a copy of our budget justification for fiscal year 1979. I would also like to suggest that the committee insert a provision in the proposed legislation which would permit our appropriations to be made available without fiscal year limitation. We have had great difficulty in estimating the timing and amount of our future need for administrative expense appropriations. Our major expenses are for litigation support and this activity is dependent upon actions by the special court. We believe the additional flexibility as to the timing of certain actions and, therefore, the timing of obligations would be very desirable.

We thank the committee for its consideration of our request at this time and also thank the committee for its extraordinary efforts last year in handling the amendments to our 1978 authorization as expanding work on the litigation and monitoring caused us to escalate our request. I appreciate the time of day and will stand ready to answer any questions, Mr. Chairman.

[The following material was received for the record:]

UNITED STATES RAILWAY ASSOCIATION, FISCAL YEAR 1979, BUDGET
SUBMISSION FOR ADMINISTRATIVE EXPENSES—GENERAL STATEMENT

I. INTRODUCTION

The Association is submitting a budget justification for \$27.2 million in fiscal year 1979. This proposed appropriation is dependent upon the enactment of authorizing legislation and a draft of such legislation is being transmitted to the appropriate committees of the Congress. An authorization for fiscal year 1978 administrative expenses in the amount of \$23 million was enacted in November 1977 and a supplemental appropriation of \$13 million has been proposed to bring our total appropriations for 1978 up to the \$23 million authorized.

The United States Railway Association was created by Congress to develop and implement a plan for restructuring the bankrupt railroads of the Midwest and Northeast regions of the country into an economically viable system that would meet the rail needs of the regions served. As a result of the Association's efforts, the Consolidated Rail Corporation (ConRail) came into being as the Nation's largest railroad on April 1, 1976. The USRA has responsibility for providing funds to ConRail so that it can rehabilitate and improve the facilities transferred to it by the estates of the bankrupt railroads and must monitor the need for and use of these funds. Appropriations of \$2.026 billion have been made for this purpose. The second major responsibility of the Association is to represent the Government in the litigation that has been initiated by the estates concerning the value of the assets transferred to ConRail. USRA's third continuing function is the monitoring of loans to other railroads which qualified for assistance under the original RRR Act.

Because of the unprecedented nature of its responsibilities, the Association has had great difficulty in forecasting its budget requirements since it was set up early in 1974. We were able to accomplish our work without a supplemental appropriation in 1977, but litigation requirements forced us to seek a supplemental appropriation of \$13 million in 1978. The work of the Association is dictated in large part by the nature and timing of actions by the special court which was set up to determine the value to be assigned to the conveyed properties and the fairness of the compensation proposed by the Association. USRA is also somewhat at the mercy of conditions beyond its control which can affect ConRail's profitability, and thus is unable to forecast accurately its need for resources with which to monitor ConRail.

Our requirements for both litigation support and financial monitoring have increased substantially over the original estimates for fiscal year 1978 made one year ago. In the litigation support area, we did not foresee the need for concentrated field work in asset valuation during fiscal year 1978. Nor did we foresee the attitude of the special court which requires consideration of alternative valuation methodologies. In addition, we had no knowledge at the time that an extensive title quality project would be required or that so many apparently relevant documents would be produced so quickly by the estates and other parties, and, therefore, require document processing.

Our budget estimate of one year ago also underestimated the resources needed to monitor not only ConRail but also the Delaware & Hudson Railway Company and the Missouri-Kansas-Texas Railroad Company. As of September 1976, the Association's staff had had very little experience with ConRail monitoring and that which we did have was gained during a period when ConRail was not only meeting the goals set forth in the Final System Plan but exceeding them. Likewise, the Delaware & Hudson Railway Company appeared to be enjoying reasonably good operating results. The situation today is vastly different; both ConRail and the Delaware & Hudson are experiencing considerable difficulty in achieving the results which they themselves had forecast less than a year ago. As we will describe in the following paragraphs, additional studies and data processing support will be needed if the Association is to do an effective job of monitoring the activities of the three railroads to which it has loaned substantial Federal funds.

The Association obligated \$14.3 million in fiscal year 1977, \$23.4 million is now estimated to be our fiscal year 1978 requirement, and \$27.2 million is requested for fiscal year 1979. The following table summarizes, by major activity, obligations for fiscal year 1977, fiscal year 1978 and fiscal year 1979.

REQUIREMENTS BY PROGRAM

(In thousands of dollars)

	Fiscal year—		
	1977	1978	1979
Litigation:			
General Counsel.....	\$4,986	\$4,916	\$5,368
Asset valuation.....	3,897	10,853	13,841
Operations.....	223	225	225
Other support.....	1,883	2,069	2,107
Total.....	10,989	18,063	21,541
Monitoring:			
General Counsel.....	\$62	\$119	\$125
Finance.....	1,054	1,531	1,838
Operations.....	1,415	2,597	2,612
Other support.....	792	1,112	1,084
Total.....	3,323	5,359	5,659
Total.....	14,312	23,422	27,200
Percentages:			
Litigation.....	77	77	79
Monitoring.....	23	23	21
Total.....	100	100	100

II. LITIGATION SUPPORT

A. Status of Litigation

Early in 1977 the special court held arguments concerning methodology to be used in valuing rail properties conveyed to ConRail on April 1, 1976. The special court opinion on the basic constitutional issues involved in valuation theory was issued in October. The special court's opinion was basically favorable to the Government and a number of valuation theories put forward by the estates, such as reproduction cost or "trended original cost," were rejected by the court. These methods of valuing the properties could have increased the Government's exposure to a figure as high as \$14 billion.

The proceeding before the special court has been described by the court as "probably the most gigantic task ever confided to a court." Many billions of dollars are involved and there are scores of parties to the proceedings. The size of the case and the complexity of the issues are staggering.

The Penn Central Trustees by themselves have the resources to mount a litigation effort appropriate to the enormous stakes involved and are represented by two large and prestigious law firms. In addition to devoting their own substantial internal resources to the case, they have retained the services of numerous consultants on a wide range of subjects. Similarly, the Erie Lackawanna Trustees are represented by one of Wall Street's largest law firms and have had the assistance of numerous expert consultants. Other transferors and creditors are also active litigants in the proceedings.

The Association is primarily responsible for representing the Government's interests in the case. It is represented by its internal legal staff and by two Washington law firms, Wilmer, Cutler & Pickering and Hogan & Hartson. Because of the economies involved, the Association has sought increasingly to carry the burdens of the litigation internally. Nonetheless, the two law firms retained by the Association unquestionably contribute to the Government's litigation effort. They provide talent and experience that are essential for proper representation of the Government's interests and which the Association itself does not possess. Active participation in the litigation by the Association's two law firms will, therefore, presumably continue for the duration of the case.

The 1978 fiscal year will be devoted primarily to preparation for evidentiary proceedings on property valuation which are presently expected to begin either late in calendar year 1978 or early in calendar year 1979. This preparation will include a substantial amount of pretrial discovery and numerous depositions. During calendar year 1978 we expect the court to consider the basic valuation issues raised by the various factors involved in a massive liquidation of assets. The schedule outlined by the court indicates that another major effort which will

begin during the current fiscal year and extend into fiscal year 1979 will involve the preparation of Association responses to proffers from the estates involving the sale of assets for rail use. During fiscal year 1979, the major litigation effort will revolve around the hearings on specific properties which are expected to be conducted by special masters—perhaps as many as ten such masters will hold hearings in a number of cities.

The October opinion from the special court included a strong statement urging the parties to settle the case through negotiation instead of litigation. This course could potentially benefit the Government by shortening the period during which very substantial costs are incurred for preparation and trial of the case. However, the information now being collected on asset valuation is as essential for negotiating a fair settlement as it is for litigation.

If serious negotiation ensues, it will probably begin within a few months, it will take at least a year to settle the complex issues that are involved. It is the unanimous view of the concerned Government interests (and apparently of the court and the estates as well) that trial preparation must proceed simultaneously with negotiations. To do otherwise would weaken the Government's negotiating posture and would leave it unprepared for trial if negotiations failed to produce agreement.

The special court also suggested in the October opinion an additional valuation approach that it wished to have considered. Specifically, the court suggested testimony regarding the use of original cost less depreciation and deterioration as a valuation method. Preparation for such testimony on this major new issue will require a substantial investment in staff time and contract support.

B. Legal Support

At the end of the 1977 fiscal year, the Association's in-house, full-time legal staff consisted of 22 attorneys and 16 paralegals. There was also a support staff of 17. This in-house group has conducted a substantial amount of the legal research required to prepare for litigation, and it has permitted us to reduce our reliance on outside counsel. In fiscal year 1978, we will continue to expand our in-house staffing by adding four attorneys, five paralegals and three secretaries. In fiscal year 1979 we are proposing to add two additional attorneys, five paralegals and four secretaries. As we reach the trial stage, we believe that the need for secretarial support will be proportionately greater than it has been in the pretrial period.

USRA's use of outside counsel is expected to cost \$2.5 million in fiscal year 1979. During fiscal year 1977, the use of outside firms averaged approximately \$150,000 per month. During the period when we were preparing a brief for the April special court proceeding, the monthly level was approximately \$200,000. During most of fiscal year 1978, this level will average \$160,000 per month as the Association prepares for the hearings which are expected in the course of fiscal year 1979. A level of just over \$200,000 per month is expected in fiscal year 1979 because of the many hearings that will be held by the special masters.

We are estimating that document processing will continue at a substantial volume during fiscal year 1979. However, most of this work is being brought in-house in the current fiscal year thereby reducing costs. The basic system of processing was set up and operated for us by an outside firm in fiscal year 1977 at an approximate cost of \$1 million. During that period we identified, catalogued, and microfilmed about 100,000 documents comprising about 500,000 pages. In the final stage of the process, this information is entered into an automated retrieval system. Document processing costs for fiscal year 1979 are expected to continue at the fiscal year 1978 level of \$490,000. This level of effort will be required to process the documents generated during discovery, deposition, and trial proceedings. These funds will also support a sophisticated and comprehensive data system which utilizes the Justice Department's JURIS system for computer storage and retrieval.

During fiscal year 1978, a special project is being mounted by the General Counsel's office to check the title quality on real estate parcels transferred in the conveyance process. A preliminary review has indicated that much of the property conveyed did not have clear title and some parts of it can be used only for rail purposes. Such title limitations obviously affect significantly the value of these properties if considered for nonrail use. This project will be completed during the first half of fiscal year 1979.

Expenses for the General Counsel's office in fiscal year 1978 and fiscal year 1979 (excluding the Office of Asset Valuation and costs related to ConRail monitoring) are as follows:

[In thousands of dollars]

	Fiscal year 1978	Fiscal year 1979
Personnel related costs.....	2,001	2,157
Contracts:		
Outside counsel.....	2,000	2,500
Document processing.....	365	365
Title quality.....	300	100
Other.....	210	195
Subtotal, contracts.....	2,875	3,160
Computer support.....	40	51
Total.....	4,916	5,368

C. Asset Valuation

USRA has assigned values to the conveyed assets on the assumption that, in the absence of a restructuring, the rail properties of the estates would have been liquidated and sold for nonrail use. The special court has indicated that it will also consider an alternative valuation model based on the sale of the rail properties to profitable railroads for rail use. Although it is presently impossible to be certain of the manner in which the special court will decide to proceed with respect to these valuation models, it has instructed the estates to submit proffers describing the possible sale of assets for rail use early in calendar year 1978. The Association, on the other hand, believes it is essential to be prepared for hearings on asset values for nonrail use before the end of 1978.

The Association expects the special court to consider during fiscal year 1978 the value of properties disposed of for nonrail use as part of a liquidation procedure. The first set of questions to be considered involve "cut-across" issues which are common to most properties: discount rates, appreciation rates, liquidation costs, absorption rates, and holding costs. Later hearings will be held on specific properties, probably during calendar 1979 and into 1980. These hearings will review such matters as the sale of individual parcels of real estate for its highest and best use as well as the net return that might be obtained by selling assets such as cars, locomotives, track and work equipment from the inventory of facilities and equipment of the bankrupts.

The Office of Asset Valuation has responsibility for research and valuation studies of real estate, facilities, equipment and other assets, assuming that assets will be sold for rail as well as for nonrail use. A summary table of expenses for fiscal year 1978 and fiscal year 1979 for the Office of Asset Valuation follows:

[In thousands of dollars]

	Fiscal year 1978	Fiscal year 1979
Personnel related costs.....	1,547	1,760
Contracts:		
Real estate.....	5,292	6,305
Equipment, facilities, and other assets.....	1,740	2,495
Rail use.....	800	1,400
Litigation and assistance.....	110	120
Documentation and control.....	100	100
Subtotal, contracts.....	8,042	10,420
Computer support.....	1,264	1,661
Total.....	10,853	13,841

1. *Real Estate*.—During the past fiscal year, the Association has developed a detailed program for establishing values for the huge amount of real estate conveyed to ConRail, which are sufficiently documented to be presented and defended in court. There are some 18,000 miles of right-of-way, involving thousands upon thousands of land parcels of varying width, a significant portion of which is located in urban areas. We have selected some 300 properties which are considered to be of high value and which because of their location and characteristics, are likely to

be controversial in the valuation proceedings. Detailed narrative reports will be prepared on each of these major properties. The remainder of the right-of-way will be reviewed in a less detailed fashion but a report form will be completed by an appraiser on each parcel.

This program involves site visitation by an appraiser and the preparation of a standard appraisal report citing the characteristics of the property, its highest and best use, and the prices of similar property sold in the vicinity over the past few years. These initial reports must be reviewed and adjusted in terms of certain general considerations which are peculiar to our theory of net liquidation value. These include absorption factors, appreciation rates, discount rates, liquidation costs and the probable liquidation schedule. Fiscal year 1978 will see this work substantially completed along with the special studies that are required to define the impact of the general liquidation factors cited above. In fiscal year 1979 final reports will be prepared and testimony presented to the special masters concerning individual property values.

For most of fiscal year 1977 our real estate valuation staff consisted of less than 5 people. As we have more clearly defined this program, it has become apparent that the staff had to be expanded to determine policy, to prepare manuals, to monitor appraisal contracts, to review appraisal reports for consistency, and to organize and file for ready retrieval the thousands and thousands of reports that will be produced. This staff is expected to expand to 26 during fiscal year 1978, and remain at that level through fiscal year 1979.

Expenses for real estate valuation are summarized as follows:

(In thousands of dollars)

	Fiscal year 1978	Fiscal year 1979
Personnel related costs.....	842	890
Contracts:		
Site appraisal work.....	3,025	2,000
General liquidation factors.....	565	400
Engineering studies.....	350	650
Title quality check.....	600	300
Review of transferor findings.....		1,200
Discovery, deposition, testimony.....		1,475
Other.....	330	280
Subtotal, contracts.....	4,870	6,305
Total.....	5,712	7,195

2. *Equipment, Facilities and Other Assets.*—Valuation of these assets is the responsibility of the Special Studies division. A detailed program has been developed in these areas over the past year. Involved are all of the conveyed assets other than real estate and buildings. This includes equipment, materials and supplies, facilities, intangible assets, and other benefits. This division also conducts or contracts studies for the development of the economic and methodological framework within which all valuations are made.

In the equipment area, fiscal year 1978 activity will involve an update of the valuations contained in the FSP, response to discovery requests and participation in deposition activity. Fiscal year 1979 activity will relate primarily to incorporating the impact of court decisions on valuation to preparing depositions and to preparing and giving testimony for the special masters. In the facilities area, a review and update of the FSP valuations will be undertaken in fiscal year 1978. In both the equipment and intangible asset areas the fiscal year 1979 activity will be concerned with revising values to reflect court decisions on valuation methodology and to preparing and giving testimony in hearings held by the Special Masters.

A staff of 10 is projected to provide guidance and direction to contractors, to review and revise valuations based upon contractor inputs and to provide support to attorneys preparing for litigation in the facilities, equipment and intangible assets valuation proceedings. Fiscal year 1978 and 1979 expenses for equipment, facilities and other assets valuation are summarized as follows:

[In thousands of dollars]

	Fiscal year 1978	Fiscal year 1979
Personnel related costs.....	285	340
Contracts:		
Facilities.....	650	720
Equipment.....	270	355
Economic issues.....	570	625
Intangible assets.....	200	530
Other benefits.....	50	265
Subtotal, contracts.....	1,740	2,495
Total.....	2,025	2,835

3. *Rail Use.*—The special court has given indications that it will consider valuations asserted by the transferors based upon continued use of specific assets for rail transportation. Up to this point, the Association has done little to prepare to respond to transferors' assertions concerning rail use values which they will put forward this spring in response to the special court's instruction. It can readily be seen that this is a complex problem involving projections of traffic, revenues, and costs for individual segments of railroad, as well as assessments of the willingness and ability of potential purchasers to make offers. Our efforts in 1979 will be directed toward the preparation of briefs and testimony in response to transferor proffers and arguments.

The Association must assemble an expert team to prepare the analysis and testimony that will be required. We must also amass a vast body of factual data and review all existing studies which are relevant to rail use values. We expect to assemble an in-house staff of 10 people who will cover three general areas of expertise: rail acquisition planning, acquisition financing, and ICC practices and policies. In addition, we expect that contractual services of \$800,000 in 1978 and \$1,400,000 in 1979 will be required. Studies will probably involve, in addition to the analysis of specific proffers, many of the more difficult economic factors of the sort that were considered in preparation of the final system plan such as the condition of assets and the economic viability of light density lines.

Fiscal year 1978 and 1979 expenses for rail use valuation are summarized as follows:

[In thousands of dollars]

	Fiscal year 1978	Fiscal year 1979
Personnel related costs.....	290	380
Contracts:		
Preparatory projects.....	650	300
Discovery.....	50	100
Proffer analysis.....		500
Defense strategy.....	100	100
Testimony.....		400
Subtotal, contracts.....	800	1,400
Total.....	1,090	1,780

4. *Data Processing Support.*—The Asset Valuation area will be placing heavy demands on USRA's data processing services. The major use will be for real estate where it is expected that data processing costs will be \$368,000 in fiscal year 1978 and \$566,000 in fiscal year 1979. This is in addition to placing demands for almost four man years of in-house analysts' time. These funds will be required for management and control of the real estate operation for data entry, edit and reporting on the vast volume of appraisal reports and for documentation of the computer effort. The next largest use of data processing effort will be in the rail use area which is expected to require \$240,000 of computer time in 1978 and \$339,000 in 1979. The development of basic information on traffic flows and financial results for various rail segments will require substantial computer support. A summary of the computer support requirement for asset valuation follows:

[In thousands of dollars]

	Fiscal year 1978			Fiscal year 1979		
	Personnel related Costs	Computer	Equipment and supplies	Personnel related costs	Computer	Equipment and supplies
Facilities.....	40	52	5	25	66	5
Equipment.....	16	6				
Real estate.....	145	368	35	172	566	41
Summary system.....	48	160	16	42	110	8
General support.....	20	44	3	47	44	3
Rail use.....	43	240	23	168	339	25
Total.....	312	870	82	454	1,125	82

5. *Direction and Supervision.*—The Director of the Office of Asset Valuation has a staff of five and utilizes contractual services to assist him in establishing basic strategy and policy for valuation and to provide resources for quality control and documentation.

[In thousands of dollars]

	Fiscal year 1978	Fiscal year 1979
Personnel related costs.....	130	150
Contracts:		
Litigation assistance.....	110	120
Documentation and control.....	100	100
Subtotal contracts.....	210	220
Total.....	340	370

III. MONITORING

The Association must be capable of independently assessing the financial viability of ConRail, the Delaware & Hudson Railway and the Missouri-Kansas-Texas Railroad. USRA staff must have the resources to collect and analyze information on the major factors which contribute to revenues, costs and capital requirements and be capable of preparing independent projections. These projections should provide the Federal Government with early information concerning future problems and assist in the development of alternative courses of action should it appear that any of the railroads are unlikely to achieve financial stability.

The major railroad, of course, is ConRail in which the Government has already invested \$1 billion with an additional \$1 billion appropriated. Attention must be focused on the "turn around" efforts of the railroad through special reports and meetings with ConRail officials to assess progress. The major "turn around" areas as we view them include: attracting sufficient revenue; implementation of the rehabilitation program; cost effective capital programs; improved equipment utilization; profit margin analysis; effective marketing programs; improved management systems; adequate subsidy levels for passenger and low density lines; integration and consolidation savings; and improved productivity.

The monitoring efforts of the Office of Finance will relate primarily to the review and analysis of the various reports required by the Financing Agreement between the Association and ConRail. These include: monthly, quarterly, and annual financial statements; a Business Plan concerning the use of financing proceeds as well as anticipated revenues and expenses; interim projections indicating the extent to which ConRail is tracking its Business Plan; quarterly maintenance reports which will cover maintenance-of-way expenditures and indicate progress on the facilities rehabilitation program; comparison and variance analyses which will assist the Association in understanding the reasons for differences, between actual results and the ConRail Business Plan; copies of reports to SEC, security exchanges, lenders, ICC, and shareholders; and daily cash receipts and disbursement and two-week forecasts of the same.

All of this information will provide the data on which the staff will base its recommendations concerning the financial viability of ConRail.

A. Finance

Financial monitoring will focus on the current financial and cash positions of the three railroads, comparing performance with projections, preparing independent projections, and assessing the adequacy of the financial management programs of the railroads. Since the Association depends upon the railroads to furnish most of the data used in the monitoring process, it is desirable to check the reliability of the accounting systems furnishing that data. In the case of ConRail, the Association will monitor the progress being made in improving the reliability and accuracy of its accounting and inventory control systems.

In order to maintain the integrity of the forecasts contained in the final system plan, it will be necessary to restate FSP financial forecasts periodically. The staff must continue to assess the financial impact on ConRail and the other railroads receiving financial aid of changes in general inflation rates, real economic growth, and rate increases particularly when these factors differ from those assumed in the FSP and other more recent projections.

During fiscal year 1978, the \$350 million current limit authorized by section 211(h) of the RRR Act will be reached. This section authorizes USRA to make loans to ConRail for use in paying off obligations of the bankrupt railroads which were received after conveyance. ConRail acts as agent for the estates. When the lending limit is reached, it will be necessary to implement the revolving feature of the Penn Central settlement which the U.S. Government reached with the Trustees and under which additional 211(h) obligations can be met. In fiscal year 1979, the third and final audit of section 211(h) transactions will be completed under contract with a public accounting firm.

A major new effort to be initiated in fiscal year 1978 involves the review of ConRail's capital structure. Various alternatives will have to be considered concerning the types of securities ConRail will issue as experience is gained and new information becomes available concerning the total capital requirements of the Corporation. A staff of two will be employed and \$200,000 in contractual services will be utilized to obtain the services of an investment banking firm during both fiscal year 1978 and fiscal year 1979.

The final portion of the \$2.026 billion appropriated for ConRail will be advanced in fiscal year 1979. Continued close monitoring will be required since ConRail is expected to need additional funding. It is reasonably certain that additional appropriations will not be made until the existing funding is nearly exhausted and only after extensive studies have been completed.

The Delaware & Hudson Railway Company and the Missouri-Kansas-Texas Railroad Company will require continued financial monitoring to protect the Association's loans to these railroads. The Association has agreed to advance an additional \$2 million to the D&H above the amount originally approved and foresees the need for \$6 to \$7 million more during fiscal year 1978. The D&H will also face a very tight cash situation in 1979, since it was originally scheduled to receive a \$1 million advance from the Association in that year but that loan amount was advanced to 1977.

The staff required for proper monitoring of the financial aspects of the three railroads is 18 people for both fiscal year 1978 and 1979. Contractual needs include funds for employing consultants to assist in analysis of ConRail's five-year projections, a final audit of the section 211(h) program beginning in 1978 and extending into 1979 and investment consulting services in both fiscal year 1978 and 1979. The fiscal year 1978 expenses for financial monitoring are summarized as follows:

[In thousands of dollars]

	Fiscal year 1978	Fiscal year 1979
Personnel related costs.....	703	759
Contracts:		
Analyze 5-yr projections.....	250	180
Review ConRail accounting system.....	75	100
211(h) audit.....	30	250
Investment consulting services.....	200	200
Subtotal, contracts.....	555	730
Computer support.....	273	349
Total.....	1,531	1,838

B. Operations

The Association now believes that it reduced resources in the Operations area far below the level needed for effective monitoring, particularly of ConRail. During the past fiscal year, the Association has not been able to monitor activities adequately in most of the major "turn around" areas. This is particularly true in marketing and equipment utilization.

Separate organizational units have been set up for operations review, local rail service and manpower, operations and cost analysis, marketing analysis, and facilities and equipment. Staff is being added in each area to provide the resources independently to assess the results of ConRail activity and its plan for the short term as well as the five-year period covered in the business plan. These assessments will permit the Association to keep the Board of Directors informed on a monthly basis with respect to each of the major "turn around" areas. The current staff of 19 will be increased to 32 during fiscal year 1978 and will continue at that level in fiscal year 1979.

A number of special studies are being initiated in fiscal year 1978 to assist the Association in its appraisal of ConRail's need for capital. During 1979, we expect to use the results of these studies to develop specific recommendations for action by ConRail. Staff and consultant assistance will be needed in fiscal year 1979 to follow up on the implementation of recommendations arising out of USRA's monitoring efforts.

Expenses for the Office of Operations (excluding \$225,000 in fiscal year 1978 and 1979 of personnel related costs estimated for litigation support) are as follows:

[In thousands of dollars]

	Fiscal year 1978	Fiscal year 1979
Personnel related costs.....	891	991
Contracts:		
Local rail service and manpower.....	50	50
Operations review.....	347	352
Operations and cost analysis.....	250	100
Marketing analysis.....	175	125
Facilities and equipment.....	325	325
Subtotal Contracts.....	1,147	952
Computer support.....	559	669
Total.....	2,597	2,612

C. Data Processing Support

USRA's data processing support activities are organizationally located with the Office of Finance and Operations; however, system development, supervision and facility management costs have been allocated to the section of the justification where the basic program is discussed. For instance, costs associated with Asset Valuation have been included under II Litigation Support. Our estimate of computer support for monitoring costs (Finance and Operations) are as follows.

[In thousands of dollars]

	Fiscal year 1978			Fiscal year 1979		
	Personnel related costs	Computer	Equipment and supplies	Personnel related costs	Computer	Equipment and supplies
Financial analysis.....	149	110	14	168	167	14
Marketing.....	28	23	2	37	20	2
Operations and cost analysis.....	119	194	16	167	235	16
Manpower and local rail services.....	18	10	1	3	1	
Equipment and facilities.....	85	58	5	92	90	6
Total.....	399	395	38	467	512	38

IV. EXECUTIVE DIRECTION AND ADMINISTRATIVE SUPPORT

Expenses for executive direction and administrative support provide for staff and administrative services obtained by contract. Executive direction includes the Office of the Chairman, the Office of the President and Chief Executive Officer, and expenses relating to the functions of the Secretary of the Corporation and Public and Governmental Affairs. Administrative support includes management systems, budget and accounting, personnel, administrative services, audit and procurement. The following table summarizes staff and contractual services in this area:

[In thousands of dollars]

	Fiscal year 1978	Fiscal year 1979
Full-time employees:		
Executive direction.....	(12)	(12)
Administration.....	(35)	(35)
Personnel related costs:		
Executive direction.....	\$461	\$486
Administration.....	1,140	1,214
Rents and communications.....	788	788
Printing and photographic.....	235	250
Supplies.....	175	175
Equipment.....	100	50
Contractual services.....	265	210
Subtotal other services.....	1,563	1,473
Computer support.....	17	18
Total.....	13,181	13,191

¹ \$2,069,000 is prorated to litigation support and \$1,112,000 to monitoring.

² \$2,107,000 is prorated to litigation support and \$1,084,000 to monitoring.

A. PROPOSED FULL-TIME PERMANENT STAFFING LEVELS

	Dec. 31, 1977	Mar. 31, 1978	June 30, 1978	Sept. 30, 1978	Sept. 30, 1979
Chairman.....	2	2	2	2	2
President/chief executive officer.....	10	10	10	10	10
General Counsel:					
Litigation assistance.....	60	65	67	67	78
Asset valuation.....	40	51	51	51	51
Subtotal.....	100	116	118	118	129
Administration:					
Vice president.....	2	2	2	2	2
Management systems.....	4	4	4	4	4
Comptroller.....	10	11	11	11	11
Support services.....	9	9	9	9	9
Personnel.....	5	5	5	5	5
Audit.....	4	4	4	4	4
Subtotal.....	34	35	35	35	35
Finance:					
Vice president.....	7	7	7	7	7
Financial analysis.....	8	9	9	9	9
Computer services.....	16	21	24	24	26
Capital structures.....	2	2	2	2	2
Subtotal.....	33	39	42	42	44
Operations:					
Assistant vice president.....	2	2	2	2	2
Local rail services and manpower.....	4	4	4	4	4
Operations review.....	2	2	2	2	2
Operations and cost analysis.....	9	9	9	9	9
Marketing analysis.....	2	6	6	7	7
Facilities and equipment.....	5	8	8	8	8
Subtotal.....	24	31	31	32	32
Total.....	203	233	238	239	252

B. REQUIREMENTS BY OBJECT CLASS

(In thousands of dollars)

	Fiscal year 1977 actual	Fiscal year 1978	Fiscal year 1979
Personnel costs.....	4,373	7,193	8,132
Travel.....	193	360	360
Transportation of things.....	74	188	20
Rents, communications, and utilities.....	547	788	788
Printing and reproduction.....	189	235	250
Supplies.....	148	175	175
Equipment.....	40	100	50
Contracts.....	8,446	14,118	17,215
Administrative services.....	302	265	210
Total.....	14,312	23,422	27,200

C. PROGRAM BY FISCAL YEAR

[In thousands of dollars]

	1977				1978				1979			
	Personnel related costs	Contracts	other	Total	Personnel related costs	Contracts	Other	Total	Personnel related costs	Contracts	Other	Total
Litigation support:												
General counsel	\$1,239	\$3,594	-----	\$4,886	\$2,021	\$2,895	-----	\$4,916	\$2,184	\$3,184	-----	\$5,368
Asset valuation	547	3,350	-----	3,897	1,824	9,029	-----	10,853	2,102	11,739	-----	13,841
Operations	200	23	-----	223	225	-----	-----	225	225	-----	-----	2,225
Other support	1,025	24	\$834	1,883	1,045	8	\$1,016	2,069	1,127	8	\$972	2,107
Total	3,164	6,991	834	10,989	5,115	11,932	1,016	18,063	5,638	14,931	972	21,541
Monitoring:												
General counsel	\$52	-----	-----	\$52	\$119	-----	-----	\$119	\$125	-----	-----	\$125
Finance	533	\$521	-----	1,054	803	\$728	-----	1,531	878	\$960	-----	1,838
Operations	500	915	-----	1,415	1,141	1,456	-----	2,597	1,290	1,322	-----	2,612
Other support	381	19	\$392	792	563	2	\$547	1,112	581	2	\$501	1,084
Total	1,476	1,455	392	3,323	2,626	2,186	547	5,359	2,874	2,234	501	5,659
Total	4,640	8,446	1,226	14,312	7,741	14,118	1,563	23,422	8,512	17,215	1,473	27,200
Percentages:												
Litigation support	-----	-----	-----	77	-----	-----	-----	77	-----	-----	-----	79
Monitoring	-----	-----	-----	23	-----	-----	-----	23	-----	-----	-----	21
Total	-----	-----	-----	100	-----	-----	-----	100	-----	-----	-----	100

D. SUMMARY OF COMPUTER SERVICES REQUIREMENTS BY ORGANIZATION
[in thousands of dollars]

	FY 1978					FY 1979				
	Positions	Personnel related costs	Computer	Equipment and supplies	Total	Positions	Personnel related costs	Computer	Equipment and supplies	Total
General counsel	1	\$20	\$20	-----	\$40	1	\$27	\$24	-----	\$51
Asset valuation	10	312	870	-----	1,264	11	454	1,125	-----	1,661
Subtotal										
Finance	11	332	890	82	1,304	12	481	1,149	82	1,712
Operations	4	149	110	14	1,273	4	168	167	14	349
Administration	9	250	285	24	559	10	299	346	24	669
			10	-----	17		8	10	-----	18
Total	24	1,738	1,295	120	2,153	26	1,956	1,672	120	2,748

1 Includes contract consultants.

Mr. ROONEY. Do you think you will be back here again looking for another supplemental like you were last year or are you totally frank and sure that this is a correct budgetary need?

Mr. COLE. Mr. Chairman, since this authorization is two and a half times larger than our first of a year and a half ago, I am quite confident that we have hit the nail on the head and there will be no need for coming back monthly, as we seemed to do last year.

Mr. ROONEY. Mr. Cole, during the past year there has been a change in membership of the Finance Committee. In your judgment, do you believe there has been an effective change in the USRA role vis-a-vis the other members of the committee?

Mr. COLE. Mr. Chairman, I find no change in the role of the Association. We have been hampered by the fact that our Board is shrinking and the names of the new nominees have not yet gone to the Senate. The Finance Committee, as required, is made up of the Secretary of the Treasury, the Secretary of Transportation and the Chairman of the USRA Board.

There is presently no chairman of the USRA Board. We have an acting chairman, Mr. William Smith. The acting chairman, under the bylaws of the Association, is not permitted to serve on the Finance Committee. I expect Mr. Smith's name will be submitted to the Senate for confirmation as our permanent chairman. Until then we operate with a Finance Committee made up of only two of the three statutory members.

I don't see any other evidence at this time that our role has diminished. I am concerned that we will end up without a quorum of our board if we don't have the additional nominations made and have new members on the Board to fill the three vacancies.

Mr. ROONEY. Last year your predecessor testified that USRA would employ 21 attorneys and 11 paralegals. As a matter of fact, I believe it was Mr. Skubitz who developed that questioning, as you recall, last year. The attorneys would be paid between \$18,000 and \$47,000 a year, depending upon their experience; paralegals would be paid, I believe, \$11,000 a year.

I wonder if you could indicate for the record what changes have been made or are anticipated in the number of personnel and the average salaries being paid between last year and this year.

Mr. COLE. Mr. Chairman, there has been some increase in personnel, and we have had some merit increases in salaries.

Mr. Dickieson, do you want to start with this and then, if necessary, Mr. Bozman can comment.

Mr. DICKIESON. We basically have the same structure as we had last year; we still have approximately 21 attorneys; I think at the present time our complement may be one less, although we are planning to hire one or two additional. There has been some small amount of turnover.

As far as the attorneys are concerned, their distribution is about the same as I described to the committee last year and their salaries are in the same general range, of course, except that they have increased by a year's worth of merit increases. As to the paralegals, we have increased that staff from 15 to 20 and their starting salary is about 5 percent higher than previously.

Now, we explained last year that we had hoped that increasing the size of the in-house staff would reduce our dependence upon and the amount of money we are paying to outside law firms. And I am pleased to report that has, in fact, occurred.

During calendar year 1976 our monthly payments to our two outside law firms averaged approximately \$198,000 per month. In the first 6 months of 1977 that average dropped to \$156,000 and, during the last 6 months of 1977, the average was further reduced to \$82,000.

So I think that the goal that we had hoped to achieve by increasing in-house staff has, in fact, occurred; and that is, during a period of normal workload, a substantial part of the legal burden is handled in-house at significantly lower cost.

Mr. ROONEY. Last year, you may recall, I asked your predecessor, Chairman Lewis, whether or not a phase-out plan had been developed for USRA. He responded that the litigation in his judgment would take a number of years and therefore plans had not been developed. I wonder whether or not you agree with his position and when you would anticipate that such a plan would be developed to phase out USRA.

Mr. COLE. Mr. Chairman, it is very difficult to draw up a phase-out plan during this time when there is demand for stricter monitoring of ConRail because of its increased funding needs. A year ago, we had not foreseen clearly our enhanced monitoring role. We were focusing on the litigation, which has always looked like a 4- or 5-year project at the least.

Now, as we focus on ConRail monitoring, the railroad projects Federal funding involvement 5 years beyond the original estimate. Frankly, it is difficult to foresee the Association's folding its tent and walking away from the problem before the 5 years are up.

I don't think that funding requests need to continue on a year-by-year basis. What I tell people at USRA, as we recruit and hire, is that the outside limit is 4 or 5 years. But, we shall understand ConRail's needs and put whatever new plan we have into effect within the next 2 years. We have not yet focused beyond that.

Mr. ROONEY. With regard to your monitoring of ConRail, it is my understanding that ConRail is monitored, audited or reviewed by (1) FRA, who in turn has hired a private consulting firm to perform the function, (2) ICC, (3) the General Accounting Office, (4) USRA, and (5) a private accounting firm hired by ConRail to certify its financial statement. It would seem to me that there must be a considerable amount of overlapping in these reviews.

I wonder if you can explain for the committee what, if any, actions have been taken to prevent such overlappings and why it is necessary for all of these reviews to be conducted.

Mr. COLE. Mr. Chairman, this has been a considerable concern to us, especially in the period that ConRail was preparing its 5-year plan, because ConRail was trying to make that date of February 15. If USRA and all the other organizations you named had spent a lot of time with ConRail personnel during that period, it would have been very difficult, obviously, to meet the deadline.

We still are concerned with everyone's monitoring and duplicating each other's activities. Consequently, in conjunction with the Comptroller General, we have called a meeting of all the groups you have named, except for the private auditors, to try to avoid duplication in our monitoring roles.

By statute the General Accounting Office has a role to play but it ought to be focused on specific issues, including, their evaluation of our monitoring of ConRail.

The ICC has a certain ongoing responsibility in its normal auditing of any railroad. We have not seen a lot of duplication there.

The FRA, it is not doing its own monitoring of ConRail, but rather is using the mechanism of the Finance Committee, and the committee feels that it ought to have an independent assessment of ConRail.

Therefore, up to this point, FRA's efforts have been coordinated through USRA, and we have agreed they should come to us, not go directly to ConRail with their consultant information requests.

We are concerned that the needs of this FRA consultant may be so great that it will be a burden placed on all of us. This matter has not been resolved.

In summary, Mr. Chairman, we have not reached a point of great duplication among the parties and, as long as we all coordinate with each other, we will continue to avoid duplication. We have been very concerned, though.

Mr. ROONEY. I wonder if there have been any differences of opinion with respect to conclusions reached as a result of these reviews.

Mr. COLE. So far no definitive conclusions have been reached. We didn't have great objection to the ICC's early warning report. I think that ConRail felt it gave them some problems but it is too early to know whether there will be a disagreement.

Mr. ROONEY. I wonder if you would explain briefly how you perform the monitoring of ConRail.

Mr. COLE. Mr. Chairman, it has been an evolutionary process. Under terms of the financing agreement, we began by receiving and analyzing a variety of reports from ConRail. In addition, different members of our staff in the field met with ConRail personnel and evaluated what they thought about the situation from their field surveys. We depended primarily upon the flow of information from ConRail.

When it became evident last summer that ConRail would need additional funding, we began having USRA experts meet regularly with ConRail personnel as they put their 5-year plan together in order to understand some of the plan's underlying assumptions and the methodology being employed.

We still have to do a more specific analysis of the plan, and that work is ahead of us.

I would like Mr. Yocum to comment on operations monitoring and then perhaps let Mr. Anderson comment a little bit on the financial monitoring. These are two different areas—operations and finance—which we split apart from each other this fall.

Mr. YOCUM. The major emphasis of the operations monitoring has been to evaluate the differences in ConRail's projections from the projections set forth in the final system plan. And by doing that, we

have been able to highlight the areas of disparity and then go back and identify the circumstances which have changed from the assumptions made in the final system plan in those areas where the performance of ConRail has not been up to that of expectation from the final system plan.

We are continuing to proceed in this fashion and to work with the appropriate ConRail personnel in operations and other departments, to explain the deviations and to look at remedial programs that they are instituting in the various areas where they are not meeting the expectations of the plan.

Mr. ROONEY. I might say your projections haven't been very thorough, because I believe that we originally projected \$2.1 billion and now you are asking for \$1.3 billion additionally.

Mr. COLE. Mr. Chairman, we haven't asked for that yet; ConRail is asking. No doubt, in the past, some areas of our crystal ball were a little cloudy.

Mr. ROONEY. Your crystal ball was blacked out.

Mr. SKUBITZ. Would the chairman yield?

Mr. ROONEY. I yield to the gentleman.

Mr. SKUBITZ. I am inclined to agree with the chairman. I just wonder how many companies would keep that sort of a board of directors or a director who made that kind of error in his estimates, 50 percent low.

Mr. COLE. Mr. Skubitz, we are not——

Mr. SKUBITZ. Didn't seem like a little error to me; it just seemed like you made a gross blunder.

Mr. COLE. Well, let me state that ConRail asserts, in their summary of their 5-year plan, that there are two fundamental reasons why they need additional funding. When we finish our evaluation, we may find other reasons why. First of all, ConRail says its base is projected to be lower than that projected by the FSP.

This morning, I reviewed a Princeton University study of our final system plan done for this subcommittee and the full committee. The Princeton study was delivered to Chairman Staggers and Chairman Rooney on September 15, 1975. The study found no fundamental errors, but pointed out there was considerable optimism built into the financial plan on both the revenue side and expense side. There was considerably more downside risk than upside potential.

I think that review was prophetic. The first revenue issue in the ConRail statement summarizes the Princeton study's belief that the tonnage and revenue forecast by USRA in the final system plan were reasonable. Given the state of economic forecasting as well as the inability for anyone to predict important events such as political developments, energy shortages, corp failures and strikes, the final system plan forecasts are certainly no worse than others that might have been made. Consequently, on revenue issues they clearly depend on a variety of outside factors, including the state of the economy in the Northeast. We are currently studying all the relevant revenue issues.

Second, ConRail says its fiscal capability to provide needed service is not as strong as expected despite the rehabilitation accomplished during 1976 and 1977. We still wish to find out whether it is entirely due to fiscal inability or to other factors as well.

As for the efficiency improvements questioned by the Princeton study, our projections and our assumptions, I can tell you we are trying to evaluate why ConRail is so far off the projected mark.

Also, I might mention the swing factor. When you are talking about swing from 1.4 to 2 something, this is double. But if you look at the percentage of total ConRail dollars, the revenues they bring in, it is nothing near that. All you need is a 2½ percent swing either way and you start doubling the total. So you can see, it swings very quickly if you drop the revenues and increase the expenses. This was the point of the Princeton review of our final system plan.

Mr. ROONEY. The gentleman from Kansas is recognized for 5 minutes.

Mr. SKUBITZ. Mr. Cole, am I correct when I say that shortly after the implementation of the final system plan, USRA was in fact disassembled or dismembered?

Mr. COLE. Mr. Skubitz, I think that is an overstatement of what occurred. I think that most of the people at USRA who went through the planning process—

Mr. SKUBITZ. Well, if we get to the point then, how many did you have at your high point and how many your low?

Mr. COLE. We had about 315, 310 at our high point, and I think we dropped to 140 at our low point. This is deceptive because many of those 140 were people who were not there for the planning process. If you take the legal side out, it would probably drop close to a 100 or less.

Mr. SKUBITZ. Drop from 315 to 140?

Mr. COLE. Yes.

Mr. SKUBITZ. And take the legal side out and drop to what?

Mr. COLE. Close to a 100, probably. It was not a conscious dismembering. It was a conscious effort to shift from a planning agency to a monitoring agency.

Mr. SKUBITZ. Well, do you think now that you sort of dismembered your organization prematurely, or what?

Mr. COLE. I think we cut too deeply; yes. I don't think we could have kept a lot of the people who were involved because they were looking for other challenges. But I think we may have been a little too ambitious in looking to decrease the size of the staff.

Mr. SKUBITZ. I get the impression that most of the information that we get involving the prospects of ConRail comes from ConRail itself.

Mr. COLE. That is what has been provided at this point.

Mr. SKUBITZ. Well, do you have a planning staff or an analytical staff which considers options for ConRail?

Mr. COLE. We have a staff right now that is undertaking a thorough evaluation of the ConRail plan. It is a very good analytical staff. In addition, we are looking—

Mr. SKUBITZ. Who is on the staff?

Mr. COLE. Who is basically on the staff?

Mr. SKUBITZ. How many people do you have on this staff?

Mr. ANDERSON. Nine.

Mr. COLE. We have about 42 people in financial and operations monitoring. We are still recruiting and filling some vital areas that we need additional help in.

Mr. SKUBITZ. Did you ever make suggestions to ConRail on options that they might take?

Mr. COLE. As part of our monitoring process we considered one of the functions we could fulfill would be that of serving as sort of an unpaid consultant to them in certain areas, as long as they were willing to listen. We do make suggestions and there have been some dramatic changes because of our continued probing and suggesting.

Mr. SKUBITZ. Well, if they would provide that, would you give me a couple of instances?

Mr. COLE. Well, the major one was last September, as they began to look at their equipment needs. They came to us and said that it was clear, from an equipment survey, that they had 14,000 70-ton open-top hopper cars that would need to be retired because they could not be used economically.

They said they would have to be replaced with, I believe, 7,000 100-ton hopper cars.

We said, "Wait a minute. You mean they are in that bad a shape?" This was way over what we expected for retirement in the FSP. Therefore, we went out and looked at those cars and we talked to the railroad. They said they couldn't rebuild the cars as economically as they could buy new ones.

We said, "Well, how about just repairing them instead of spending \$20,000 each to replace these cars? Can't a lot of them be patched up for a few thousand each to get 5 or 6 more years of life?"

After considerable back and forth and looking at the survey, ConRail has told us that at least 3,000 of the total number could be repaired instead of retired as they planned. We are still questioning whether or not there are additional cars in the fleet that need to be retired.

However, their immediate need for about 3,500 new cars this year we don't question.

Mr. SKUBITZ. Then there is a disagreement between ConRail and you on what can and can't be repaired. You say it can, they say it can't.

Mr. COLE. We try to avoid this.

Mr. SKUBITZ. Now, who prevails in that?

Mr. COLE. We have not had one of these confrontations. Under the financing agreement they basically can ignore our management suggestions. But as long as they feel they need to come to the Government for additional funds they don't.

I don't expect ConRail to feel that they can just say "No; you were right, we were wrong," and walk away. They recognize that our evaluation is very important in determining whether or not the Government of the United States is going to continue funding ConRail.

Mr. SKUBITZ. Well, that is a very important thought in this whole thing, trying not to have confrontations.

Have you ever had a confrontation with them?

Mr. COLE. Up to now we have dealt with the issues and have seen changes made as both of us have examined the problems and the needs.

Mr. SKUBITZ. What I am getting at is whose side are you on; on ConRail's or the taxpayers' on this problem?

Mr. COLE. Excuse me, I didn't—

Mr. SKUBITZ. Whose side are you on?

Mr. COLE. We are on the taxpayers' side.

Mr. SKUBITZ. ConRail or the taxpayer?

Mr. COLE. Taxpayers' side. We feel we have a fiduciary obligation to the taxpayer. I would like to continue on my answer to your question on what else we are examining.

We are undertaking several studies which look at ConRail not as a single operating mechanism but rather at segments. One in particular is New England. It is our feeling that it may be necessary to realine the New England railroads in such a way as to cut down ConRail's losses in New England. The New England Regional Commission, the FRA and USRA, are undertaking a coordinated study on this matter. By realining the rail system in New England, it may be possible to significantly improve rail transportation services and, in the process, reduce ConRail's losses there.

Mr. SKUBITZ. Are you making the study, or have you hired somebody to make it for you?

Mr. COLE. This study will involve several consultants and will be coordinated between the three groups I just mentioned.

It is an enormous effort, one that we don't have the capacity to do in-house. In addition to this one, we will look at several other segments of ConRail to see if there isn't a better way to operate the railroad and thereby cut down the need for Federal funding.

This will be done by evaluating certain segments of the system rather than looking at the system as a whole. We will find out what is profitable, segment by segment, and what is unprofitable. Then we will deal with the unprofitable segments individually.

Mr. SKUBITZ. Shouldn't ConRail be looking at that themselves?

Mr. COLE. We intend to push them that way as soon as we determine exactly what it is they should look at.

Mr. SKUBITZ. When do you think the study will begin?

Mr. COLE. These various studies will continue the entire year.

Mr. SKUBITZ. Do you think you will complete it by the end of the year?

Mr. COLE. We will have completed enough of them to have some idea of where the studies will lead. The FRA views their portion of the New England study as a way for possible mergers under section 401. They originally set 2 years for the study but we said we couldn't wait that long to evaluate ConRail's role in New England or to evaluate what the Delaware & Hudson's role ought to be there. We said we needed a study that will give us some answers this August and additional answers a year from now.

Mr. SKUBITZ. I have one more question; I have some others.

Mr. ROONEY. We have a rollcall.

Ms. MIKULSKI. I would like to have a few minutes of questioning.

Mr. SKUBITZ. One question. I think you said in your statement that Delaware & Hudson probably would go down the drain.

Mr. COLE. I didn't mean to say it was going to go down the drain, Mr. Skubitz. What I said was we are very, very concerned about its financial situation. We may not have enough money ourselves, nor do FRA's programs, have the type of money necessary to keep it going indefinitely.

Mr. SKUBITZ. Are you thinking in terms of a little ConRail up in that area, something of that sort?

Mr. COLE. The New England study will examine a possible consolidation of the Delaware & Hudson with the Boston & Maine and possibly other railroads.

The D. & H. is important, no matter what you do in New England, because it is the region's non-ConRail outlet for New England. That is why August is so important. In August the D. & H. will again require additional funding. We have got to know by August what promise restructuring holds for the D. & H.

Mr. SKUBITZ. I have some other questions, but don't want to take your time.

Ms. MIKULSKI. Thank you.

Mr. ROONEY. Ms. Mikulski.

Ms. MIKULSKI. Thank you, Mr. Chairman, thank you, Mr. Skubitz.

Mr. Cole, I am very interested in jobs and employment situation in the United States. I feel that railroads offer unique Operations: one, for actual railroading and second, that railroads are a tool to solve economic problems for the areas they serve. I know that you monitor ConRail, and one of my questions is that when you monitor ConRail, are you asking them where they buy their equipment and where they buy the rails?

Have you had as a basic framework for your monitoring, a "Buy American" philosophy?

Mr. COLE. ConRail has stated a "Buy American" philosophy, and the company announced recently that it was buying all of its steel rail this year domestically.

We are looking at what "Buy American" means for ConRail. If it is additional cost then we feel that as long as Congress is comfortable with the "Buy American" philosophy, then ConRail funding must recognize this fact. Yes, ConRail itself has said that it will "Buy American".

Ms. MIKULSKI. Well, how is ConRail doing this? I mean, do you monitor it?

Mr. COLE. We are monitoring it because it was a specific request by the Senate Appropriations Committee that we do so.

Ms. MIKULSKI. Well, I would like to go on record in supporting that evaluation in monitoring as requested by the Senate. I am certain my colleagues here do. I know the taxpayers in the United States would want to feel that the steel going to rails would be made in the United States at one of the Bethlehem plants and not in Korea.

It is very disturbing to taxpayers to know that their money is being used to provide jobs in Korea and not being used to provide jobs in Pennsylvania or Tennessee. I for one would ask you to do that monitoring effort and to include that as part of your report to us when you come back for money.

I am not willing to give money to such programs that do not support this type of philosophy.

Second, you say ConRail issued its report for 5 years. I have not seen it. It is a grapevine rumor in Washington that it is 700 pages. Do you know whether or not ConRail is going to make this report public, or is it just going to be a little secret message between you two?

Mr. COLE. ConRail's 5 year business plan includes data which goes to the heart of its marketing strategy, and making the data public now would have adverse consequences for the railroad if competitors such as the Chessie or the N. & W. were aware of it. So the report cannot be made public because it have adverse consequences for ConRail. ConRail however did put out a summary of the report and made it public.

We have the complete report, as do other members of our Finance Committee. The Departments of Transportation and Treasury have it and all of us are evaluating it at this time. There is no plan, as I said, to make it public because of the propriety corporate information it contains.

Ms. MIKULSKI. Is it going to make any part of the report public, Mr. Cole?

Mr. COLE. Pardon me, they issued a summary.

Ms. MIKULSKI. I can understand that no business, whether it is a quasi-public corporation or whatever, wants to reveal its marketing strategy, but does it intend to make any part of its report public?

Mr. COLE. The public aspects of the report were included in the summary which was provided to the press and delivered to many offices, and to committees on the Hill here.

We think that it is incumbent upon the committees in Congress to understand more than what may be in this summary. Therefore we intend to conduct briefings and provide additional information on the plan to the Members of Congress.

Ms. MIKULSKI. Well, I have not seen that plan. I was not one of the ones who got a summary of it. What activities do you know of in the plan which coordinate ConRail's activities as a tool of economic development to both rural and urban undeveloped areas?

Mr. COLE. I do not believe they have been that specific. They have an industrial development department, which I think is important.

We intend to do a thorough monitoring and evaluation of more than just their industrial development activities. I agree with you that it is very important for them to encourage industrial development, especially in urban areas at this time.

ConRail's industrial department should keep track of projects they have, where they generate new business, and where plant closures take place. We intend to have ConRail break this development effort down not only by States, but by localities as well.

Ms. MIKULSKI. I think that is an important thing for this committee to know, it is funding ConRail. I think one of the main reasons this Congress got behind ConRail and Northeast Corridor was because of the economic aspects. You evaluate ConRail not only in terms of cost for railroad cars, but in terms of what do we get out of the investment. Has it generated jobs in Pennsylvania, New Jersey, Baltimore? Has it helped save jobs? Those are the kinds of questions I am going to be asking when you come back for really super big bucks.

Mr. COLE. I would agree with you. I intend to open a special dialogue with their industrial development department to insure that that type of data is obtained.

Right now they can tell us they have had, in 1977 for example, new permanent industry on 168 projects, and expansion in 90 existing industries. They are looking at 615 projects for new permanent industry. They can tell us what kind of revenue these would generate, and also tell us whether they have lost some industry.

What they are not able to tell us, I believe, is the statistical breakdown by activity in those urban areas so important to the Northeast.

Ms. MIKULSKI. Well, I do not want to take the committee's time up now with listing of projects. What I am interested in is that is it part of ConRail's attitude to see that it is working on behalf of the American people to create and generate jobs for other American people?

If they do not have that attitude, then I think they might be in trouble with some people. If they do have that attitude, I would like to know how that is put into operation.

I just have another question. GAO just came out with a report related to the U.S. Rail Association itself.

Mr. COLE. Yes.

Ms. MIKULSKI. And on page 5, you recommended that the Congress reconsider USRA's current role to determine whether administrative responsibility originally granted is still required and whether expenditures for certain kinds of administrative activity should be funded.

Now, I know this report has really just come out in the past couple of days.

Mr. COLE. Yes.

Ms. MIKULSKI. Could you tell me what you think of that particular recommendation and what are some of the duties that you have that are different from other Government agencies?

Mr. COLE. Well, we have just discussed this at length with GAO and I think our attitude differs from the one we had last year when we had decreased our staff. On page 46 of the GAO report we stated USRA's need for flexibility. We also commented however, that the discussion appearing in the draft report needed to explain more fully and accurately the current demands of the USRA mission.

As I stated earlier, we take a different view of the USRA mission now than we did a year ago. Because of ConRail's needs we have to staff up, have to have flexibility in hiring people on a short-term basis in order to meet the responsibilities of our new mission.

In our judgment, the flexibility associated with independent government corporations is essential if we are to do our job in the years ahead.

This means both the job of monitoring ConRail and the job of dealing with the litigation demands. The type of attorneys we are hiring come to us because we have flexibility to hire them for short-term exposure in the litigation, for instance. Page 47 explains our needs, particularly the legal mission which is before us.

Of course, you have to keep in mind that the USRA reply to the GAO draft report was made last summer. Consequently we concentrated on the legal mission, on page 47, in the first two paragraphs.

As we move to the bottom of page 47, we addressed ConRail monitoring. I think we have even enlarged that mission since this report was prepared last summer.

And so, as stated on the top of page 48, we find no sentiment to change the independent status or the corporate authority of the U.S. Railway Association.

Ms. MIKULSKI. Well, I have not had a chance to look at this report in detail, as I intend to do, but I would just like to terminate my questioning.

Just briefly, two things I want to know. One is, how is the approach to buy American philosophy approach implemented in ConRail; and No. 2, what specifically is ConRail doing to generate and preserve jobs in the corridors that it serves. I would like detailed reports for that which I would like submitted for the record, Mr. Chairman.

Mr. ROONEY. Without objection.

Mr. COLE. Thank you.

Ms. MIKULSKI. I am through, sir.

Mr. ROONEY. Mr. Skubitz?

Mr. SKUBITZ. Mr. Cole, one alternative at the time you filed the systems plan considered this control liquidation, have you studied whether or not the possibility of petroleum still exists?

Mr. COLE. Mr. Skubitz, there was no real study of controlled liquidation done at that time.

Mr. SKUBITZ. We put a lot of time in on that big argument in our committee over that.

Mr. COLE. Well, the previous administration's Office of Management and Budget and Department of Transportation exchanged a lot of papers dealing with controlled liquidation, detailing their theories, their assumptions, and their projections. We were not provided with any of these, until later on in the discovery as part of the litigation. So we were never sure what controlled transfers and who was advocating it outside of USRA.

Within USRA our evaluation came up against a stonewall. We could not find anybody that would purchase portions of the bankrupt railroads and provide the service that was necessary.

Now, of course, a lot of that plant has been rehabilitated. There is still much more rehabilitation necessary. We still have not found, though, a purchaser for any of the major portions of the system.

Mr. SKUBITZ. Mr. Cole, if you really looked for one, really made any effort at all, if you try to work out some sort of deal where you could make some line profitable, you think they would take something else and take a few losers with it, or that sort of thing.

Mr. COLE. Mr. Skubitz, we have been interviewing other railroads as part of our evaluation of ConRail. Basically, the answer is that we tried that in the three systems east approach, the original preferred ConRail structure rather than the so-called unified ConRail, or big ConRail we have now. The Chessie system was to acquire the Erie Lackawanna and the Reading.

Under that approach we thought we had what was the first big segment of any kind of controlled liquidation. It fell through. The Chessie to this day says they are not interested in redoing that system, that approach, and under the constraints of the law as it was then and as it is now, and the resulting problems.

So the biggest experiment we had fell through. We don't find any great interest out there in doing that now. I might ask Mr. Yocum to make a few comments. He was not with us during that process, but he was in the rail industry, in the Midwest with the Chicago Northwestern. Before that he had been with the Chessie system. Therefore, he can provide an outside-the-Association view.

Mr. YOCUM. It may be that under some circumstances that it would be possible. We are looking at the possibility of various kinds of segmentation analysis which would give the value of each individual line to the best of our ability to determine.

Obviously, the owner's value would depend upon a lot of things and some of those involve litigation. But to the best of our ability we are looking at the value of the lines and what they would mean to other railroads. There were two relatively smaller subdivisions of the predecessor properties which were conveyed and purchased on a control basis by other railroads.

Both the Norfolk and Western and the Southern did acquire property that had been part of the Penn Central system. They are

relatively small pieces, but we do have those examples of control transfer, but they were certainly smaller than a major dismembering of the present ConRail system.

But we do have that as a precedent now and we can look at those as a historical way of looking at the possibilities of successful and future liquidation.

Mr. SKUBITZ. Well, as I recall Southern was interested in the Del-Marva-Peninsula, is that right?

Mr. YOCUM. Yes, sir, that is right.

Mr. SKUBITZ. And Chessie was interested in Erie Lackawanna.

Mr. YOCUM. The Eastern part of Erie-Lackawanna and the entire Reading.

Mr. SKUBITZ. Now, we get down to one thing, what blew the whole thing out of the water was they couldn't get together with labor, is that right?

Mr. YOCUM. That's basically right, yes, sir.

Mr. SKUBITZ. All right, what have you done since then, see if we don't work something out with labor, or did you just drop it.

Mr. COLE. Mr. Skubitz, USRA was out of the loop dealing with negotiations. We made the designations, that was our legal authority. We had no legal authority to deal beyond that and in the negotiations.

The Secretary of Transportation made a valiant effort to pull the negotiations back into place and bring about the three systems east plan. He couldn't do it.

Under the law, once ConRail went into place, we had no authority to do anything more. I think it would have been questionable if we had continued on such a course then.

Now you have raised the question of whether we have to look at other issues. We intend to do some segmentation studies to try to determine whether there are portions of ConRail that might be considered usable elsewhere.

Mr. SKUBITZ. Every group we have down here, they are all intending to do something, or they have gotten it under study, but in 16 years I have never seen a study completed or intention carried out. I hope you do so.

Mr. COLE. Thank you, Mr. Skubitz. We did get out a final system plan on time.

Mr. SKUBITZ. I have before me Report to Congress by the Controller General, dated February 22, 1978. Turning to 3-I, page 3-I, conclusions and recommendations.

The second paragraph, while the Association has strengthened its internal controls over certain administrative expenses the broader problem for control of the overall administrative flexibility remains an open question.

The issue as GAO sees it is whether the Association's operational requirements at this time still warrants the broad flexibility which was granted initially. What's GAO talking about right there? Does that sort of shake you a little bit?

Mr. COLE. Well, we have been aware since last summer that the GAO was raising this issue. We responded to it at that time.

Mr. SKUBITZ. What do they mean by flexibility?

Mr. COLE. What they are asking is, is it not time for USRA to be treated as a Federal bureaucracy, subject to the same restraints and

constraints that the rest of the Civil Service System is. We don't go through the Civil Service Commission when we hire people, and we are not subject to the Federal salary structure. I would like Mr. Dean, vice president of administration, to comment further. I would like him to emphasize the difference between USRA and Federal agencies as it relates to this idea of flexibility. We feel this flexibility is necessary.

Mr. DEAN. Mr. Skubitz, when this committee and its Senate counterpart in 1973 were considering how best to address the Northeast rail problem, they decided and the Congress accepted making USRA a Government corporation.

Not only that, they made it a so-called section 201 corporation, which gives it a great deal of inherent administrative flexibility under the Government Corporation Control Act.

Furthermore, the law itself provided that USRA employees should not be considered as Federal employees, that budgetary matters were to be handled in a flexible manner, and that we would be exempted from the provisions of the statutes governing traditional Government procurement.

As a result, we were able very swiftly to assemble a staff, to set up systems of administration, to enter into contracts, in a manner which a regular Government agency—and I served for many years in such agencies—simply could not have done.

Mr. SKUBITZ. Well, I understand that. But now you have been in business for 4 years, you are supposed to be out of business; you are getting to be an old group down there now, and maybe you are having a little bit too much flexibility, because you have the right to go out and hire someone to make this study and hire somebody else to do something else.

You are freer on your salary schedules over there. You are hiring two law firms now. You are paying, I think according to your law firm here \$150,000 a month to each one of them.

Mr. DEAN. Mr. Skubitz, I believe that a reading of the GAO report, which is a very interesting review, will show that the present exercise of flexibility by USRA is very cautious and prudent, but we continue to make good use of it when we need to do things like assemble a strong legal staff, which neither DOT nor Justice under present law could easily do, and to continue to carry out our financial responsibilities.

I think this is related to the question as to when will USRA develop a plan for its dissolution, which the President earlier raised. When we get to that point, we may suggest some other alternative to our current status as a corporation. Maybe within a regular Government agency.

But limiting our flexibility now would be disruptive of the management systems we have in place that are working very smoothly in administering the statutory functions which USRA now has.

Mr. COLE. Mr. Skubitz, I would like to cite an example. In the New England study, we wanted to look at certain issues. The Federal Railroad Administration wanted to look at other issues, theirs being under section 401. They came to us and said:

Look, we couldn't get a study contract out before next summer because of our procurement regulations. If you enter into a coordinated study with us and handle the procurement side, we can get a study underway very quickly.

That's one of the differences. We can move much more quickly with studies than can regular line departments because of our flexibility. In addition, we are more concerned about the study.

Mr. SKUBITZ. May I inquire what the study was all about, rush job?

Mr. COLE. Well, as I indicated earlier, if by August we don't have the results of some studies on consolidation involving the Delaware & Hudson, the railroad may possibly be without money then.

Mr. SKUBITZ. It goes down the drain, doesn't it? That's what I said before.

Mr. COLE. And do you want us to come up sometime this year and tell you whether or not ConRail's needs are correct at \$1.3 billion? We would like by the end of this year to be able to tell you that by reorganizing New England you might be able to cut some money, maybe even from ConRail. That's why it's necessary.

Mr. ROONEY. The gentleman's time is expired.

Mr. SKUBITZ. Yes; that will be all, Mr. Chairman.

Mr. ROONEY. That concludes our hearing.

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

Mr. ROONEY. You were saved by the bells.

[Whereupon, at 3:15 p.m. the subcommittee adjourned.]

