

NEW YORK, NEW HAVEN & HARTFORD RAILROAD CO.

CORRESPONDENCE BETWEEN THE PRESIDENT AND THE ATTORNEY GENERAL

AND CERTAIN CORRESPONDENCE WITH THE
PRESIDENT OF THE NEW YORK, NEW HAVEN
& HARTFORD RAILROAD CO. WITH REFER-
ENCE TO AN ADJUSTMENT OF THE DIFFICUL-
TIES OF SAID COMPANY, AND THE EXPRESSED
DETERMINATION ON THE PART OF THE
UNITED STATES TO INSTITUTE CIVIL AND
CRIMINAL PROCEEDINGS AGAINST
CERTAIN DIRECTORS



PRESENTED BY MR. REED

JULY 22, 1914.—Ordered to be printed as a public document

WASHINGTON

1914



NEW YORK, NEW HAVEN & HARTFORD RAILROAD CO.

THE WHITE HOUSE,
Washington, July 21, 1914.

MY DEAR MR. ATTORNEY GENERAL: I have your letter of to-day, inclosing a copy of your letter of July 9 to Mr. J. H. Hustis, president of the New York, New Haven & Hartford Railroad Co., which together disclose the failure of the directors of the New York, New Haven & Hartford Railroad Co. to comply with the terms of the settlement proposed by them and accepted by us in the matter of their railroad holdings. Their final decision in this matter causes me the deepest surprise and regret. Their failure, upon so slight a pretext, to carry out an agreement deliberately and solemnly entered into, and which was manifestly in the common interest, is to me inexplicable and entirely without justification.

You have been kind enough to keep me fully informed of every step the department took in this matter, and the action of the department has throughout met with my entire approval. It was just, reasonable, and efficient. It should have resulted in avoiding what must now be done.

In the circumstances the course you propose is the only one the Government can pursue. I therefore request and direct that a proceeding in equity be filed, seeking the dissolution of the unlawful monopoly of transportation facilities in New England now sought to be maintained by the New York, New Haven & Hartford Railroad Co., and that the criminal aspects of the case be laid before a grand jury.

With much regard, sincerely yours,
(Signed)

WOODROW WILSON.

Hon J. C. McREYNOLDS,
Attorney General.

DEPARTMENT OF JUSTICE,
Washington, D. C., July 21, 1914.

The PRESIDENT,
The White House.

DEAR MR. PRESIDENT: Some days since I reported to you that the board of directors of the New Haven Railroad had advised me that they would not carry into effect the approved proposals made by them last winter for bringing the affairs of that company into harmony with the Federal statutes.

Following your direction, I wrote to the president of the company on July 9 expressing your views and my own in opposition to the

position assumed by the board. A copy of that letter is attached hereto.

Saturday last I received a request to confer with a committee composed of members of the board on yesterday—Monday. They came here, and we discussed the situation. I emphasized the position of the Government, as outlined in my letter of July 9, and energetically called attention to the results which would necessarily follow adherence to the position taken by them. They refused, however, to admit any obligation to conform to the Massachusetts enactment, and firmly declined to carry into effect their own proposals for an adjustment.

During the past year you have been constantly in touch with my actions in respect of the New Haven road, and you have been good enough to express satisfaction therewith. It seems, however, not inappropriate again to remind you of some aspects of the general situation.

Prior to 1908 the attention of the Department of Justice was called to the unlawful combinations and monopolies in which the New Haven Railroad was the principal party; and in May of that year a proceeding under the Sherman law was instituted, wherein the Government sought to correct certain of the existing evils. This suit was dismissed June 26, 1909. Thereafter the monopoly proceeded to strengthen its hold upon the carriers of New England.

By the time your administration began the New Haven and the Boston & Maine Railroad had been reduced to the unfortunate condition now unhappily too well known; their securities, widely distributed among small investors, had shrunk enormously in value; and the commerce and industries of all New England were under severe strain.

Directly after assuming this office, being convinced that the situation demanded a thorough investigation by capable counsel, I retained Mr. T. W. Gregory, well known to you, and whose ability, industry, and integrity are unimpeachable. In due time he reported the result of his researches, and I instructed him to prepare for filing, at the earliest possible moment, a proceeding in equity to prevent further violations of the law. Before this could be accomplished the railroad company selected a new chief officer, and he earnestly asked to enter upon negotiations with me looking toward an adjustment without the necessity of suit. You have been familiar with the outcome; and, as the terms of the plan agreed on were published, they became generally known.

Because of the important consequences involved directly to New England and mediately to the rest of the Union it seemed most important, first, to accomplish, if possible, a restoration of lawful conditions in the transportation facilities of that section with the least possible further distress to impoverished investors and unsettled industries, and I have acted accordingly.

The criminal aspects of the case have been kept constantly in mind, much data bearing thereon was collected months ago, and care has been exercised to permit nothing which might interfere with proper prosecutions at the appropriate time. We have not held out the slightest hope that parties guilty of criminal violations of the law would escape.

In April and May last there being indication that the Interstate Commerce Commission, by examining them, might immunize certain central figures in the unlawful arrangement, it was asked carefully to consider the effect of such action. Nevertheless, Mellen and perhaps others flagrantly culpable were put upon the stand, and any criminal prosecution hereafter instituted probably will be embarrassed by a claim of immunity interposed in their behalf.

With the utmost patience and an intense desire to enforce the law in such way as to bring no unnecessary hardship upon New England or the unfortunate holders of the railroad securities, we have sought to compel a restoration of lawful conditions; but, as I believe, without proper justification the board of directors resolutely decline to proceed under an approved arrangement adequate to that end and altogether fair.

I am of the opinion, therefore, that the time is at hand when we should file a proceeding in equity, seeking the dissolution of the unlawful monopoly of transportation facilities in New England and that the criminal aspects of the case should be laid before a grand jury.

If these suggestions meet with your approval, I will immediately give the necessary directions.

Faithfully, yours,

(Signed)

J. C. McREYNOLDS,
Attorney General.

Inclosure.

OFFICE OF THE ATTORNEY GENERAL,
Washington, D. C., July 9, 1914.

Mr. J. H. HUSTIS,
*President the New York, New Haven & Hartford Railroad Co.,
New Haven, Conn.*

MY DEAR SIR: Permit me to reply to your letter of July 8, inclosing copies of resolutions adopted by the directors of the New Haven Railroad Co. on June 25 and July 8, respectively. I also have a letter of July 6 from your counsel, Mr. Moorfield Storey, of Boston.

In effect these communications announce that because the statute, recently passed by the Massachusetts Legislature, granting power to the New Haven Railroad Co. to dispose of its interest in the majority stock of the Boston & Maine Railroad reserves to that Commonwealth the right at any time hereafter to purchase such stock at a fair valuation, to be ascertained by legal processes, your directors feel at liberty to abandon any further effort to comply with the solemn proposals which they heretofore made to me, and which were approved as adequate to bring the affairs of that company into compliance with the law.

I emphatically object to the course proposed, and submit that it is without justification.

Their action raises a question of very large public importance, demanding serious consideration, and if persisted in your company, its officers and directors, must accept the sole responsibility for the inevitable consequences.

Shortly after the present administration entered upon its duties I employed special counsel and set on foot an investigation of the

affairs of the New Haven Railroad for the purpose of ascertaining the exact conditions. In due time, it developed that the antitrust laws were being violated, and I accordingly directed the preparation of a bill to restrain and prevent further infractions. Before this could be written and filed, and about the 1st of September last, there was a change in the management of your road. Shortly thereafter its accredited representatives came here, sought an interview with me, expressed a sincere desire to comply with the law, and pointed out the evil consequences which they thought would fall upon all New England if suit were instituted. They were especially anxious to obtain time, and led me to believe that they were acting in the utmost good faith. I withheld the suit, and much time and labor were expended in negotiating the details of an adjustment. In working these out, information and suggestions were received from many sources, and the utmost liberality was exercised in a sincere effort to solve a great problem, so that the law might be fairly complied with and substantial competition in transportation in New England be reestablished—all with the smallest possible immediate damage to the industrial and financial situation.

The plan finally evolved was accepted with practical unanimity both by the directors and stockholders of your road. The disposition by the New Haven road of its interest in the stock of the Boston & Maine was an essential.

In the year 1909, in order to enable the New Haven Railroad to control the Boston & Maine, the Massachusetts Legislature created the Boston Railroad Holding Co., giving it authority to hold stock in the latter road and at the same time authorized the former road to own the stock of the holding company. The act expressly provided that the holding company should not sell its Boston & Maine stock, nor should the New Haven road sell the stock of the holding company without the consent of the legislature; and, further, that the State should have the right to purchase the stock of the holding company at a price to be fixed in a prescribed way.

The agreement which your company has with me provides that it will ask the governor of Massachusetts to propose to the legislature "to amend the charter of the Boston Railroad Holding Co., removing the prohibition against the sale of the Boston & Maine stock now owned by the holding company."

In due time the governor did make this request, and, responding thereto, the legislature passed an act removing the prohibition and authorizing the disposition of the stock.

A further provision declares "this stock may at any time be taken or purchased by the Commonwealth of Massachusetts at the fair value thereof in accordance with law," and requires this to be stamped upon the certificates themselves.

It must be remembered that ever since 1909 the Commonwealth has had the right to purchase the New Haven Holding Co. stock at a valuation to be determined in substantially the same way as is now provided in respect of the Boston & Maine stock; and therefore the New Haven's interest in the Boston & Maine Railroad is not subjected by the recent statute to any restrictions more burdensome than those imposed upon it when the New Haven was authorized to acquire it.

Obviously, it is now within the power of the New Haven Railroad to carry out the agreement and understanding which its representatives made with me, and thereby to remove all question of good faith and prevent all of the calamitous results to the public interest which they so earnestly represented would follow the institution of a suit by the Government.

Your counsel, referring to the Boston & Maine stock, now in effect owned by the New Haven, says that the recent enactment "retains the control by Massachusetts over the stock to such an extent as to make it unmarketable," and upon this ground it is sought to justify the action which your directors propose to take.

Manifestly the only possible deleterious effect of the control retained by the Commonwealth over the Boston & Maine stock would be upon its selling price. The New Haven, in effect, now owns \$22,000,000 of this stock, worth in the market about 35 cents on the dollar, a total value of less than \$8,000,000.

How seriously the retained control would affect the fair value can only be a matter of speculation; it certainly would not destroy it, if, indeed, the result would be deleterious at all. All the real property, for example, within the State of Massachusetts is subject to be taken by the Commonwealth, and yet its value is not impaired.

If your directors adhere to the position which they have taken, the plain result will be that, because they think it may be impossible to procure for the \$22,000,000 of Boston & Maine stock as much as might be obtained under different circumstances, they are willing to throw aside the agreement solemnly made with me and to subject the whole of New England to the consequences of the litigation which must necessarily follow. If they bring this result about, then the public must know where the responsibility lies and draw its own conclusions concerning the motives which have impelled.

The President directs me to say that he is not yet ready to believe that those who control the New Haven Railroad, in order to secure some possible increase in the selling price of \$22,000,000 of stock, now offered at about one-third of its face value, are willing to turn away from a solemn agreement with the Government, made after long and careful consideration, and thereby subject the interests of both New England and the Nation at large to the consequences of prolonged and unnecessary litigation. And he thinks, accordingly, that your board of directors should give this matter serious reconsideration.

Faithfully, yours,

(Signed)

J. C. McREYNOLDS,
Attorney General.

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