73d Congress, 2d Session - - - - - House Document No. 137

47TH ANNUAL REPORT

OF THE

INTERSTATE COMMERCE COMMISSION

DECEMBER 1, 1933

UNITED STATES
GOVERNMENT PRINTING OFFICE
WASHINGTON : 1933

AUTHENTICATED
U.S. GOVERNMENT
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BUREAUS

REPORT OF THE
INTERSTATE COMMERCE COMMISSION

WASHINGTON, D.C., *December 1, 1933.*

To the Senate and House of Representatives:

The Interstate Commerce Commission has the honor to submit herewith its forty-seventh annual report to the Congress. The period covered by this report extends from November 1, 1932, to October 31, 1933, except as otherwise noted.

A statement of appropriations and aggregate expenditures for the fiscal year ended June 30, 1933, is contained in appendix G to this report.

RAILWAY EARNINGS AND TRAFFIC

We have had occasion in previous reports to point out that the financial difficulties of the railways are the result of more than one cause. In large part they are the reflection of the reduction in traffic that came with the economic depression but also in considerable part they result from the competition of other transport agencies. In facing the conditions created by both of these causes, the railway managements have to consider how they can reduce operating costs, lower their charges, improve the speed, convenience, and safety of the services they render to the public, and eliminate unnecessary waste.

In various ways the railway situation has been improved since our last report. With the progress of the national industrial recovery, railway earnings have increased, railway bonds sell at better prices, and in place of the most drastic curtailment of maintenance, attention is again being given to replacing worn-out rails and equipment.

A survey of the freight revenue by months since the beginning of the year 1930 shows, except for seasonal variations, a downward trend almost uninterruptedly to August 1932. A temporary upturn then took place and continued until December 1932 followed by a relapse to another low point in March 1933. Thereafter the improvement has been marked with, however, a slackening in August of this year. These developments are conveniently followed in a table showing the freight revenue of each month as a percentage of that of the corresponding month in a base period taken as 100 percent. It will be observed that the index fell from 95.4 in January 1930, to

45.6 in August 1932, rose to 54.1 in December 1932, fell again to 44.1 in March 1933, running to a high of 61.6 in July 1933, and in September stood at 54.9.

Freight revenue of class I steam railways by months, 1930–33, compared with the average revenue of corresponding months in the years 1927, 1928, and 1929 taken as 100 percent (percent of base period):

Month	1930	1931	1932	1933
January	95.4	78.2	58.8	50.6
February	92.3	72.6	57.7	47.6
March	87.2	73.5	56.6	44.1
April	92.5	75.9	55.6	48.2
May	88.9	71.0	48.7	52.1
June	87.0	73.8	48.7	58.5
July	89.1	74.5	46.1	61.6
August	82.9	65.4	45.6	56.4
September	84.7	63.0	50.0	54.9
October	80.9	60.7	51.2	
November	78.6	60.3	51.4	
December	80.7	61.6	54.1	

These changes in freight revenue are mainly the result of fluctuation in tonnage, and only to a small extent of changes in the rates charged during this period.

The passenger-miles of 1932 were 36.7 percent less than those of 1930. The revenue per passenger-mile was 2 percent less for the commutation business of 1932 than for that of 1930, and 17.1 percent less for other passenger business, 1932 under 1930. The combined effect was to reduce the passenger revenue of 1932, 48.3 percent below that of 1930. In the first 6 months of 1933, there has been a further fall of 25.5 percent under that of the same period in 1932. However, in August and September 1933, the passenger revenue slightly exceeded that of the same month of the preceding year. If the other than commutation passenger-miles be studied by months with corresponding months of 1927, 1928, and 1929 taken as 100, the index for the first quarter of 1933 was 35.9, for the second quarter 42.7; and for the month of August 1933, it was 51.2.

The drastic curtailment of operating expenses made in 1931 and 1932, almost in proportion to revenues, was continued in 1933, with the result that a relatively large recovery in net earnings has appeared in recent months. For the first quarter of 1933, the net deficiency after deducting fixed charges from total income, was for class I railways $94,900,862, compared with a deficit of $54,638,462 in 1932, and a deficit of $1,492,215 in the same quarter of 1931; in the second quarter the net loss was $6,809,385 for 1933, a net loss of $70,675,771 for 1932; and a net income of $32,649,320 for 1931; for the months of July and August, the latest for which the fixed charges are available the 1933 net income exceeded that of the corresponding months of 1931 as well as of 1932.

Net income remaining after deducting fixed charges

Year	July	August
1931	$21,381,942	$15,812,841
1932	[1] 30,808,001	[1] 14,798,693
1933	29,527,919	17,081,362

[1] Deficit.

The employment of labor by the class I railways has been increasing in recent months, although it is still far below the predepression level. If the average employment of the respective months of 1927, 1928, and 1929 be taken as 100 percent, the following index numbers show that the low month in the number of employees, not considering seasonal fluctuations, was May 1933, when the index was 54.7, compared with 58.5 for August, and 59.7 for September 1933.

Average number of employees of class I steam railways, by months, 1932 and 1933, compared with the average number in the corresponding months of the years 1927, 1928, and 1929 taken as 100 percent (percent of base period)

1932:		1933:	
January	67.4	January	58.4
February	66.5	February	58.1
March	66.0	March	56.2
April	64.1	April	55.4
May	62.2	May	54.7
June	59.4	June	55.1
July	57.9	July	56.9
August	56.5	August	58.5
September	57.6	September	59.7
October	59.0		
November	59.7		
December	61.0		

From these figures it appears that railway employment is still greatly curtailed. The fact that other industries depend to a considerable extent upon the purchases by railway companies or their employees makes it highly desirable that so far as possible railway expenditure should at least fully supply current needs and begin catching up on deferred maintenance instead of waiting until recovery is in full swing. If the average maintenance expenditure per car-mile for the months of May, June, and July of the year 1930, amounting to 6.175 cents, in which there was probably no deferred maintenance, be reduced by 10 percent to allow approximately for changes in wages and prices, and the result compared with the actual per car-mile maintenance expenditures for the same months in 1933, it appears that the maintenance work in those months could justifiably have been stepped up over 25 percent without considering the accrued deferred maintenance, amounting to possibly half a billion dollars for a volume of traffic reasonably in prospect.

More recently total maintenance expenditure has been increasing. In May and June 1933 less was spent than in the same months of 1932, but in July, August, and September 1933, the expenditure exceeded that of the same months of 1932, respectively, by 6, 15.9, and 13.5 percent.

An important feature of railway recovery is a well balanced adjustment of railway charges, railway wages, and the general price level. We had occasion to consider the relation of the prices of commodities and railway freight rates in the General Rate Level Investigation of 1933. The evidence showed that while the rate level was high compared with the price level, it was impossible to require them to be brought together by a general rate reduction. Nevertheless, by the force of competition, carriers are voluntarily making reductions in rates and fares. It is obviously not desirable to restrict this competition insofar as it is conducted on a fair basis. However, before such a condition of fair competition can be said to exist, it will be necessary that the various transport agencies pay the same rates of wages for comparable skill, render reliable service on a nondiscriminatory basis, and bear an equal tax burden. The Federal Coordinator of Transportation has these subjects under investigation and his recommendations, when received, will be transmitted by us to the President and to the Congress with our comments.

GENERAL RATE LEVEL INVESTIGATION, 1933

On January 25, 1933, five national associations of producers of farm products, coal, and lumber filed with us a "memorial petition" in which we were asked to institute a prompt investigation respecting the reasonableness of the interstate freight rates on all "basic commodities." At the oral argument had thereon, however, the impracticability of identifying all commodities that may be considered "basic" was generally recognized.

By order entered March 31 we instituted, upon our own motion, a general investigation, docket no. 26000, for the purpose of determining whether the existing interstate freight rates and charges, in the aggregate, in the country as a whole or in the several territorial rate groups, or upon specified commodities or descriptions of traffic, were or would be unreasonable under the provisions of the Interstate Commerce Act. After extensive hearings and oral argument, the proceeding was submitted, June 28, for decision. Witnesses for various interests testified with respect to many kinds of traffic. Some urged substantial general reductions in rates, others asked for reductions in rates on their own commodities only, and still others submitted that if rates on articles with which their products compete were reduced the same treatment should be accorded their products. A few shipper interests were opposed to any reductions.

The grounds upon which general reductions were sought, and those upon which the petition was based, were that the value of rail transportation service had, by reason of the decline in prices of commodities and the cheaper transportation services afforded by truck and water carriers, declined materially since 1929, and that in the case of commodities in the transportation of which truck and water carriers are not important and the railroads must necessarily be employed the existing level of freight rates had reduced the radii of distribution and in some cases prevented any substantial movement, thus tending to injure or destroy industries dependent upon distant markets.

The presentation in behalf of agriculture was most comprehensive, dealing with the economic condition of the industry as a whole and with the particular situation of producers in certain States or of certain commodities. It was shown that the gross income of agriculture as a whole in 1932 was 57 percent below that for 1929 and was lower than that for any year since 1909 for which comparable estimates were available. Prices of some farm products at local farm markets in the latter part of 1932 and the forepart of 1933 were the lowest of record, and prices of many other products were lower than any which had prevailed in many decades. Wage rates of hired labor were cut in half between 1929 and 1932 and more of the labor was done by the farmer and his family. The decline in prices of commodities purchased by the farmer for use in current living and production, although substantial, was materially less than that in the prices of farm products and thus greatly reduced the purchasing power of those products. In 1929 taxes payable reached a peak 167 percent above the 1910–14 average, declining to about 150 percent above in 1931 and to 115 percent above in 1932. The mortgage indebtedness resting on farm properties was about $8,500,000,000 at the beginning of 1932. In addition, there were over $3,000,000,000 of merchant and short-term bank credits outstanding. It was estimated that in the years 1930, 1931, and 1932 there were losses of 1.6, 3.9, and 6 percent, respectively, on the current value of the farmers' equity. The market value of land, buildings, equipment, and livestock declined about 29 percent between the spring of 1930 and the forepart of 1933. Representatives of agriculture urged that the explanation of these conditions lay outside the field of agriculture itself. The reduction in export demand for wheat, flour, pork products, and certain other commodities and the changing dietary habits of our population were referred to as factors which make necessary drastic readjustments in the agricultural industry. The decline of industrial activity in this country and also in foreign countries which have furnished markets for our manufactured as well as agricultural products was, it was testified, the more immediate cause of the low level of farm prices. The witnesses urged, however, that the relative inflexibility of rail

transportation and other distribution costs threw on the farmer the full brunt of the effects of reduced consumer purchasing power. The abnormal spread between prices received by the farmer for his products and the retail prices of such products was referred to in support of the foregoing contention. The extensive shift to truck and water transportation and the relocation of production within the past decade, particularly in the case of fresh fruits and vegetables, fresh meats, dairy products, and live poultry, were emphasized.

The lumber interests agreed that the primary need of their industry was a general restoration of industrial and commercial activity and purchasing power. But they urged that such restoration could not be accomplished without a general reduction in freight rates on so-called basic commodities. Depression in the lumber industry was said to go back about a decade, or at least until 1925. The extent to which lumber has been displaced by short-haul substitutes and the increased use of waterways and trucks in the movement of lumber were described, and it was urged that substantial general reductions in rates were necessary before any pronounced improvement in the condition of the industry could be expected.

In the case of bituminous coal it was shown that there has been a heavy decrease in production and a steady decline in prices since 1926, with attendant wage reductions, part-time employment, much unemployment, and consequent economic distress. Improved equipment, better training of locomotive firemen, and falling off of traffic greatly reduced the amount of coal consumed by the railroads. Improved methods in the manufacture of such commodities as by-product coke and pig iron and in the production of steam-generated electricity, improved heating facilities, more attention to the selection of suitable coal, and greater economy in its use have also greatly reduced the volume of consumption. The closing or partial operation, during the general depression, of many industrial plants, the greater reduction in the demand for bunker coal, and smaller purchases by domestic users were also important factors. Coal exports to European countries have practically ceased. Large inroads have been made by such competitive fuels as oil, natural gas, and by-product and petroleum coke, and by hydroelectric power. It was estimated by one witness that coal displaced by substitutes and by fuel economies exceeds 300,000,000 tons annually. It was urged that the existing general level of rates on bituminous coal necessitates prices at destination which, compared with those of competitive fuels, prevent the movement of coal. The increasingly large movement of coal by trucks from mines not served by railroads was emphasized in detail.

Presentations in behalf of numerous other shipper interests and their commodities followed the same general lines as those outlined above but were generally much less comprehensive.

As disclosed by the record, the railroads have suffered from the depression as much as, if not more than, industry in general, the year 1932 and the first quarter of 1933 having been their worst periods in many decades. At the time of our decision about one sixth of the total railroad mileage of the country was in the hands of receivers or in process of reorganization, and this would have been greater but for loans secured from the Reconstruction Finance Corporation. When 1932 ended, 14 class I carriers and 35 classes II and III carriers were in receivership, the trackage of the 49 companies aggregating 22,833 miles.

The net railway operating income of class I carriers in 1932 was $326,000,000, in contrast with $603,000,000 in the depression year of 1921 and with $1,252,000,000 in 1929. In 1932 railroads of that class operating nearly 74 percent of the total mileage failed by $250,000,000 to earn enough to pay their fixed charges. The volume of freight and passenger business in 1932 approximated only 50 percent of that in 1926. Even the low earnings of the 15-month period preceding the submission of the case were made possible only by drastic retrenchments in expenditures, including reductions since 1929 of nearly 38 percent in the number of employees, nearly 12 percent in hours of service per employee, and 10 percent or more in the basis of pay of employees, coupled with deferred maintenance to the probable extent of approximately $300,000,000 on the basis of 1932 traffic and approximately $600,000,000 on the average yearly basis for 1929–31. Carrier credit so declined that it has been impossible in most cases to obtain funds for any purpose from any source other than the Government. At the same time the public interest demands that the railroads continue to render adequate transportation service. In this respect the carriers differ from industries in general, which are at liberty to curtail operations in times of depression by closing down particular plants or even by temporarily discontinuing production altogether. With the present physical condition of their properties, even without any increase in traffic, the carriers will soon be forced to increase expenditures for maintenance and, if there is any sustained and material upturn in the volume of traffic, large sums will have to be expended to bring the properties into condition to handle it.

In the last week of March of this year the carloadings of revenue freight were 15.2 percent below those of the corresponding week of 1932. But, commencing with April, a marked and increasing upturn took place and continued through the week ended June 4, the last week for which data were submitted and in which the carloadings

were 13.6 percent higher than in the corresponding week of 1932. The increase in traffic has caused a marked improvement in net railway operating income. The net in April, the last month for which figures are of record, was in round numbers, $19,000,000, or only 7 percent less than the net in April 1932, whereas for the first quarter of 1933 the net, $34,000,000, was about 48 percent below that for the corresponding period in 1932, $65,000,000. As the carloadings in May and the first week in June, compared with the same period in 1932, make a still more favorable showing than those in April it is reasonable to assume that the consequent net railway operating income was materially greater in amount, and in relation to the prior year, than was the case in April. If traffic does no more than continue throughout this year at the same May–June level, and assuming no material changes in rates or expenses, the carriers will earn considerably more net railway operating income than in 1932.

Individually, and collectively through their associations, the carriers have been and are devoting their attention to efforts to bring about more efficient and economical operation. Substantial progress has been made in standardizing various parts of railway equipment, thus increasing their interchangeability and promoting economy in equipment repairs. Beside heavy curtailments of maintenance expenditures and reductions in employees' compensation, large reductions in train mileage have been made. Freight ton-miles per train-hour have increased from about 7,600 in 1922–23 to more than 10,000 in 1928–32. Locomotive fuel consumed per thousand gross-ton-miles has declined from approximately 160 pounds in 1921–23 to 121 in 1930, 119 in 1931, and 123 in 1932.

An outstanding feature of the evidence is with respect to the already great and constantly increasing diversions of traffic from the railroads to motor trucks and to boats and barges, particularly to the trucks. These diversions have now attained such proportions and threaten such further expansions as to constitute a serious menace to the future integrity of the railroads. With improved highways movement by truck has greatly increased almost everywhere. The railroads have suffered more severe losses of less-than-carload than of carload traffic, those of the former class having been so serious that, while recent loadings of all classes of carload freight exceeded those for corresponding weeks in 1932, up to the close of the record in the investigation the contrary was true with respect to less-than-carload traffic. But the loss to trucks is by no means confined to the latter traffic. It includes heavy diversions of important carload traffic. Much of the traffic handled by trucks is high grade, subject to comparatively high rail rates and which heretofore has produced material profit for the railroads.

Not only have the railroads lost tonnage to trucks and water lines, but they have been forced to reduce thousands of rates in an effort to retain their existing tonnage or to regain some of that already lost. Carriers in the different rate territories presented exhibits showing reductions made by them to meet this competition. The southern carriers especially exhibited a great number of reductions made by them for the purpose, some on individual commodities between a few points and others on one or more commodities throughout the entire southern region.

The record contains no definite showing as to the extent to which the general rate level has been reduced by reason of the thousands of reductions made in all parts of the country to meet the competition of other forms of transportation, but the fact that the average ton-mile earning throughout the country in the first 3 months of 1933, excluding the emergency charges, was 13 percent lower than in 1923 indicates that such reductions have had a material effect upon the rate level. Thus, the competition of other forms of transportation has resulted both in a material loss of tonnage and in a loss of revenue due to lowered rates. The railroads find it very difficult, almost impossible in many cases, effectively to meet the competition of trucks, particularly contract trucks, because with certain exceptions the truck rates are not filed with any governmental agency and the trucks are free to quote any rate that will obtain the business.

Our report in the case, adopted July 31, 1933, 195 I.C.C. 5, contains a summary here more briefly stated as follows:

Contrary to the general impression, the freight-rate level of the country as a whole, measured by average ton-mile earnings, in the first quarter of this year was about 22 percent below the 1920 peak and 11 percent below the level resulting from the reductions pursuant to *Reduced Rates, 1922*, 68 I.C.C. 676. Because of the loss of much short-haul traffic to trucks and the consequent increase in the average haul and decline in average rate per ton-mile, the general average rate level probably has not declined as much as the ton-mile earnings. However, it is clear that the general freight-rate level is substantially below that immediately following the general reduction of 1922. The elimination of the emergency charges authorized in the *Fifteen Per Cent Case, 1931*, 178 I.C.C. 539, 179 I.C.C. 215, 191 I.C.C. 361, which expired September 30, resulted in a further reduction of the general freight rate level.

The record does not support a conclusion that general reductions in rates would materially increase the commerce of the country, or that they would increase rail freight traffic except to the extent that they would result in recovery of tonnage from motor and water carriers.

Substantial general reductions would recover some traffic from motor and water carriers and tend to minimize further losses to such competitors, but the loss in revenue on traffic as a whole would more than offset the gain from the recovered traffic.

In 1932 tax accruals amounted to over 10 percent and compensation of employees to nearly 57 percent of the total operating expenses and taxes of the rail carriers. Fuel and supplies constituted the major portion of the remaining expenses. There is no immediate prospect of a material reduction in railway expenses.

The recent upturn in business and traffic, if continued, will at present rates result in materially greater gross revenue in the ensuing year than in the one just past, but the favorable effect upon that revenue will be in some measure offset by further losses of traffic to competing carriers and by further rate reductions to meet such competition and by the necessity for greater maintenance expenditures.

Based on the best estimate we are able to make of traffic, expenses, and taxes likely to exist in the coming 12-month period, with freight rates 10 percent below those of 1931 the carriers as a whole would fail to earn their fixed charges by over $20,000,000. With rates 25 percent below those of 1931 the probable net income would fall short of meeting fixed charges by nearly $500,000,000.

Considerable amounts of money will be needed by the carriers to meet maturing obligations, necessary expenditures for deferred maintenance, and for other purposes. Unless such funds are furnished by the government, they must be obtained from private sources. A reduction of 10 percent would so impair the carriers' credit as to make it difficult, if not impossible, to obtain the necessary money.

The value of the service to the shipper, when measured solely by the decline in commodity prices and by the depressed condition of industry, has been lowered. The recent upturn in commodity prices, coupled with the Federal Government's recovery program, indicates that further general improvement in price level and the condition of industry may be expected, thus lessening the disparity between commodity prices and the condition of industry, on the one hand, and freight rates on the other. But shippers, as well as the public generally, are vitally interested in stability of rates and in the maintenance of adequate and efficient railway transportation service. The maintenance of such service is one of the elements to be considered in measuring the value of the service to the shipper. A general reduction in rates at this time would threaten the possibility of furnishing adequate transportation service to the public.

There is little evidence of record by which to judge the reasonableness of rates on particular commodities or descriptions of traffic. The revenue effect of a percentage reduction confined to certain commodities would be less in the aggregate than the same horizontal

percentage reduction applied to all traffic, but its effect upon particular carriers would in many cases be practically as severe.

The views expressed in our first report in the *Fifteen Per Cent Case, 1931, supra*, to the effect that motor and water competition was comparatively unimportant in the handling of freight and did not loom large in the general railroad situation, and that with recovery in business no general alarm need be felt for the future of the railroads, no longer portrays the situation. A large part of the burden of maintaining an adequate transportation system was formerly borne by the high-grade commodities, but today much of this traffic either is lost to motor or water carriers or is handled at rail rates which produce little or no profit.

We found that general reductions were not warranted, and that the evidence was not sufficient upon which to determine what reductions, if any, should be made in rates on particular descriptions of traffic or on particular commodities. We stated that nothing in our report should be construed as an expression of opinion that all rates throughout the country are reasonable or that no rate changes of importance are needed. We suggested that the carriers give serious consideration to the adjustment of such rates as may be necessary on account of changed economic conditions, and pointed out that any industry may bring the rate level on its commodities to our attention with a view to bringing about such readjustments as may be warranted by changed conditions which appear to have sufficient permanency to be used as a basis for readjusting rates.

THE FIFTEEN PER CENT CASE, 1931

A description of this proceeding is contained in our last annual report. It is sufficient here to say that we authorized certain increases in rates, commonly referred to as surcharges, upon designated commodities. These surcharges became effective January 4, 1932, and were limited to expire March 31, 1933. The carriers suggested a plan under which the revenues accruing from the surcharges would be pooled in the hands of an agency to be created by the carriers, and loaned by that agency to individual carriers in need of funds to meet fixed charges. We did not approve or disapprove this plan but stated that we would rely upon the carriers to apply the funds to be derived from the surcharges in aid of financially weak railroads. The plan suggested by the carriers was put into effect, the name of the agency created to administer the fund being the Railroad Credit Corporation. During the calendar year 1932 the receipts of this corporation from the surcharges amounted to $63,730,799.

In due season the carriers petitioned for permission to continue the surcharges in effect beyond March 31, 1933, without requirement that the revenues accruing therefrom should be paid over by the

carrier receiving them for the use or benefit of any other carrier. Pursuant to this petition the proceeding was reopened and further evidence was taken in the form of affidavits and oral testimony.

In the second supplemental report on further hearing, 191 I.C.C. 361, we found that the surcharges, as such, should be brought to an end, but that a reasonable period should be allowed during which the carriers would have an opportunity to file tariffs in the usual way proposing readjustments in rates in the light of the impending discontinuance of the surcharges. Pursuant to this finding we permitted the existing surcharges, with a few exceptions, to remain in effect until and including September 30, 1933, and, under appropriate tariff provisions, they expired on that date. We also expressed the opinion that it would be advantageous for the carriers to continue the loaning plan for the additional period during which the surcharges were authorized, but the carriers did not follow this suggestion and surcharges collected since March 31, 1933, have been retained by the carriers performing the transportation service.

RATE STRUCTURE INVESTIGATION

The progress made in advancing the general investigation, no. 17,000, entitled "Rate Structure Investigation", and the several parts into which it has been divided, has been outlined in previous annual reports since the institution of the investigation in 1925. At page 31 of our last annual report we set forth the history of the various parts of the investigation. During the past year arguments have been concluded in the parts covering salt and nonferrous metals, and reports will be forthcoming in the near future; the testimony has been closed in the reopened part relative to grain and its products. It is apparent, therefore, that the investigation, insofar as it relates to the separate important commodity groups, has been largely completed.

In our last annual report we discussed the unwieldy proportions into which the docket no. 17,000 cases have developed. Experience has shown that necessary changes in the rate structure can be effected by us with the least delay (which is the mandate of the Hoch-Smith resolution) through the usual course of hearing complaints, or by investigations on our own motion, rather than under a general nation-wide investigation which is likely to assume unduly ponderous proportions. In view of all the circumstances we therefore entered an order on October 2, 1933, that except for the orders already made in this proceeding or which may be entered in respect of such orders as supplementary or ancillary thereto, and except for those parts of the proceeding which have been heard, or upon which testimony is being heard, and not yet submitted, the general investigation be discontinued.

CLASS-RATE READJUSTMENTS

Upon petitions filed by railroads and certain shippers, *Western Trunk-Line Class Rates*, 164 I.C.C. 1 and supplemental reports, was reopened for further hearing. Readjustments in class rates and related rates by rail are in issue between all points within western trunk-line territory, and between that territory and official territory. They became effective December 3, 1931, in purported compliance with our findings and order in that proceeding. Further hearings have been held and briefs filed by the parties. The reopening is pending a report to be proposed by the examiners.

The lawfulness under section 13 of the act respecting the intrastate class and related rates within Minnesota, under investigation in another reopening for further hearing in *Western Trunk-Line Class Rates, supra*, upon petitions filed on behalf of interstate shippers at Superior, Wis., and Watertown, S.Dak., is pending our final decision.

All class rates beyond the scope of *Western Trunk-Line Class Rates, supra*, between points in Wyoming and western trunk-line and official territories, were found unreasonable and required to be readjusted and maintained in accordance with specified relation to the rate structure previously or hereafter to be prescribed in the proceeding above cited. *Public Service Comm. of Wyo.*, v. *Atchison, T. & S. F. Ry. Co.*, 196 I.C.C. 413.

An investigation is in progress into the lawfulness of the rates on class and related traffic, moving partly by boats on the Great Lakes and partly by rail, between that portion of official territory lying southeast and east of Lake Erie and Illinois-western trunk-line territories via Lake Superior and Lake Michigan ports. (Investigation and Suspension Docket No. 3662, Lake and Rail Class and Commodity Rates.) The rates, originally suspended, were permitted to become effective. Hearings have been held, and a report proposed by the examiners has been issued. We are now awaiting the filing by the parties of any exception to that report before hearing oral argument and rendering our decision.

Consolidated Southwestern Cases.—In 1927, under this generic title and upon seven complaints, the two principal ones filed by the Corporation Commission of Oklahoma and several northeast Texas cities, this Commission revised the class rates and rates applicable to various commodities between all points in the Southwest, including so-called differential territory in the western portions of Texas and Oklahoma, and between those points and points in the States north, northeast, and east of the southwestern territory. (123 I.C.C. 203.) Since then various relatively small angles have from time to time been reconsidered upon petitions by parties in interest and the general revision modified in particular respects. Recently the cases have been reopened and further heard in respect of the adjustment as a whole,

this action having become necessary in order to harmonize that adjustment with the adjustment lately prescribed for application within, from and to the adjacent so-called western trunk-line territory and more recently the subject of further hearing as outlined in the portion of this chapter relating to the *Western Trunk-Line Class Rates, supra,* proceeding. It is the purpose to dispose of the pending two general proceedings at the same time.

SURCHARGES ON INTRASTATE TRAFFIC

As stated in our last report, following our first two reports in the *Fifteen Per Cent Case, 1931,* 178 I.C.C. 539, 179 I.C.C. 215, the State commissions quite generally permitted similar increases to become effective intrastate. In a few instances in which the State commissions denied all or some of the increases, we instituted proceedings under section 13 of the act upon petitions of the carriers. Our findings in *Increases in Intrastate Freight Rates,* 186 I.C.C. 615, 191 I.C.C. 351, that these refusals to permit the increases intrastate had resulted in unjust discrimination against interstate commerce caused some of the State commissions to reverse their previous action. Others did not and orders requiring the increases to be made were issued. The proceedings with respect to three States were discontinued, the carriers having withdrawn their petitions.

Following our second supplemental report in the *Fifteen Per Cent Case, 1931,* 191 I.C.C. 361, extending the surcharge period until September 30, 1933, the authorities of most of the States did likewise. Among those that refused were five State authorities that had originally refused to allow the increases. Those refusals were before us in *Increases in Intrastate Freight Rates, supra.* Upon petition of carriers those previous proceedings, except one as to which the carriers withdrew their petition, were reopened for further hearing. In addition, 12 other State authorities refused to extend the period although they had previously permitted the increases. Upon petition of carriers we instituted new proceedings under section 13 of the act as to these refusals.

To save expense to all concerned the Commission suggested that consideration be given to a determination of these proceedings under a plan similar to shortened procedure practice whereby the parties submit their memoranda of facts and argument in writing. The carriers and the State authorities in five instances agreed to that procedure. In *Surcharges on Intrastate Traffic within North Carolina,* 194 I.C.C. 329, we found, with certain exceptions, that these refusals to permit application of surcharges intrastate corresponding to those maintained on interstate traffic resulted in unjust discrimination against interstate commerce and orders requiring the increases to be made were issued. In *Surcharges on Intrastate Traffic within Kansas,*

195 I.C.C. 499, we found that the refusal to permit application of surcharges intrastate corresponding to those maintained on interstate traffic had not been shown to result in undue or unreasonable advantage, preference or prejudice as between persons and localities in intrastate commerce, on the one hand, and interstate commerce, on the other, or in unjust discrimination against interstate or foreign commerce. The proceeding was discontinued. Upon petition of the Public Service Commission of Pennsylvania, a separate proceeding was instituted under section 13 of the act through refusal of the Public Utilities Commission of Ohio to permit the increases on and after April 1, 1933, on bituminous coal intrastate. *Surcharges on Bituminous Coal within Ohio*, 192 I.C.C. 734. Three of the reopened proceedings and four of the new proceedings were discontinued after it became apparent that the time intervening prior to the expiration of the surcharges involved was too short to make it possible for any orders which we might enter in those proceedings to become effective and rates in compliance therewith published and thereafter maintained for any substantial period of time. In one instance the State commission, after further consideration, permitted the increases and that proceeding was discontinued. Upon applications of the carriers, a number of supplemental reports and orders have been entered in these proceedings and outstanding orders have been modified to except from the provisions thereof the intrastate transportation of various commodities.

ADDITIONAL LEGISLATION AFFECTING THE WORK OF THE COMMISSION

Since our last report, Congress has passed several laws materially affecting our work. An act approved February 28, 1933 (47 Stat. 1368), amends section 17 of the Interstate Commerce Act so as to authorize us to assign certain of our duties to an individual commissioner or to a board composed of our employees. An act approved May 3, 1933 (47 Stat. 1474), amends the Bankruptcy Act by providing for proceedings for the reorganization of railroads. The proceedings may be instituted in two ways: (1) by petition of a railroad, filed in the appropriate United States District Court, stating that it is "insolvent or unable to meet its debts as they mature and that it desires to effect a reorganization"; (2) by similar petition filed in such court, after obtaining our approval, by the creditors of a railroad whose claims aggregate not less than 5 percent of its indebtedness. Upon the approval by a court of either a railroad's petition or a creditor's petition as in compliance with the act's provisions pertaining thereto, it may appoint from a "panel of standing trustees * * * to be selected and designated in advance by the Commission" a trustee, who is empowered to operate the business of the

railroad; and, thereafter, following hearing upon notice to creditors and stockholders, it may make permanent the appointment, or appoint substitute trustees. The compensation of such trustees and their counsel, and the compensation for services rendered and reimbursement of expenses incurred in connection with the proceeding by officers, parties in interest, reorganization managers and others named, are to be allowed by the court within maximum limits approved by us. The act specifies matters that must be dealt with and other matters that may be dealt with by a plan of reorganization. Before creditors and stockholders are asked finally to accept any reorganization plan, we are to conduct a hearing at which the railroad "shall present its plan of reorganization and at which, also, such a plan may be presented by the trustee" or by creditors. Following such hearing we are to render a report, recommending a plan of reorganization, which is then to be submitted to the creditors and stockholders of the railroad. We "may at the same time afford an opportunity to accept or reject any other plan of reorganization" submitted as aforesaid. Written acceptance filed with us by "creditors holding two thirds in amount of the claims of each class" and by stockholders "holding two thirds of the stock of each class" is made a prerequisite to final approval by us of a plan of reorganization; except that the acceptance by any class of creditors or stockholders, whose claims or interests are adequately provided for as specified in the act, is not such prerequisite; and except that, upon certain specified determinations by the court, the acceptance by stockholders is not such prerequisite. If a plan recommended by us is so accepted we may thereupon certify it to the court. If a plan other than the one recommended by us is accepted, we are to conduct further hearings, following which we may approve and certify such plan to the court in the event we determine that it is compatible with the public interest and otherwise in compliance with the act. The court, upon approval by us of a plan of reorganization and after hearing such objections as may be made, confirms the plan only if satisfied that it complies with the provisions of the act and makes adequate provision in respect of matters therein set forth at length.

The Emergency Railroad Transportation Act, 1933, approved June 16, 1933 (48 Stat. 211), amends the provisions of section 5 of the Interstate Commerce Act relating to consolidation of the railroads of the country into a limited number of systems. With our approval and in conformity with our plan of consolidation, the carriers may now merge, as well as consolidate, their properties or any part thereof; they may now purchase, lease, or contract to operate the properties, or any part thereof, of other carriers, or acquire stock control of other carriers; and a noncarrier corporation may acquire stock control of one or more carriers. Former paragraph (2) of

section 5, which empowered us to authorize acquisitions of control by one carrier of other carriers under a lease or by purchase of stock or in any other manner not involving consolidation for ownership and operation, is stricken; and as above shown, such acquisitions of control are included among the methods of effecting unifications which we may approve as in furtherance of our plan of consolidation. Non-carrier corporations, when authorized by us to acquire stock control of a carrier or carriers, are to be considered and treated as carriers subject to the act for the purposes of its provisions relating to reports, accounts, and issuance of securities. The effectuating, except in the manner provided for by the amendment, of the "control or management in a common interest of any two or more carriers, however such result is attained, * * *" is made unlawful, and also the continuing to maintain control or management so unlawfully effectuated after enactment of the amendment. And we are authorized, after notice and hearing, to investigate and determine whether any person is violating said provisions and, if we find such to be the case, to order such action as will prevent continuance of the violation. We are also authorized, after notice and hearing, to investigate and determine whether the holding of the stock of any carrier, unless acquired with our approval, has the effect of subjecting such carrier to the control of, or to common control with, another carrier, and of hindering the carrying out of our plan of consolidation or of impairing the independence of the systems therein provided for, and if we determine such to be the case, to provide by order for restricting the voting power of the holder of such stock. The amendment further provides for court proceedings to enjoin violations of its provisions and to enforce compliance with our orders.

The Emergency Railroad Transportation Act, 1933, also makes important changes in section 15*a* of the Interstate Commerce Act. It provides (sec. 15*b* of the Interstate Commerce Act) for the termination of proceedings for recapture of excess income and for repayments from the liquidation of the general railroad contingent fund; and the paragraphs of section 15*a* which provided for recapture of excess income and for the general railroad contingent fund are omitted from the section, as amended. In substitution for the provisions of section 15*a* relating to the adjustment of rates so that the carriers as a whole, or as a whole in rate groups, shall earn an aggregate net income equal to a fair return on aggregate property value, the section, as amended, provides that, in the exercise of our power to prescribe just and reasonable rates, we shall give due consideration, among other factors, to the effect of rates on the movement of traffic; to the need, in the public interest, of adequate and efficient railway transportation service at the lowest cost consistent with the furnishing of such service; and to the need of revenues sufficient to enable

the carriers, under honest, economical, and efficient management, to provide such service.

EMERGENCY RELIEF AND CONSTRUCTION ACT OF 1932

Only one application for a loan under this act (sec. 605*b* (*j*), Reconstruction Finance Corporation Act) has been filed. This application, for $6,000,000, was filed by the city of New Orleans, which sought funds with which to erect a bridge for the accommodation of railroad and highway traffic across the Mississippi River, and has been approved. The loan is being expended by the New Orleans Public Belt Railroad, which is owned by the city of New Orleans and is operated by it through the Public Belt Railway Commission. When completed the bridge is expected to accommodate a large volume of rail and highway traffic, and it is anticipated will be paid for out of revenues received through the use of the structure for railroad transportation. The loan was effected through the purchase from the city by the Reconstruction Finance Corporation, at par and accrued interest, of city of New Orleans Public Belt railroad bridge 5 percent bonds. *New Orleans Public Belt R. Reconstruction Loan*, 189 I.C.C. 162.

NATIONAL INDUSTRIAL RECOVERY ACT

Section 203 (*a*), title II, of the National Industrial Recovery Act, approved June 16, 1933, authorizes loans by the President "to aid in the financing of such railroad maintenance and equipment as may be approved by the Interstate Commerce Commission as desirable for the improvement of transportation facilities." No applications for the approval contemplated under this provision have yet been filed with us.

FEDERAL COORDINATOR OF TRANSPORTATION

Title I of the Emergency Railroad Transportation Act, 1933, was enacted for purposes which are stated in section 4 as follows:

(1) To encourage and promote or regulate action on the part of carriers and of subsidiaries subject to the Interstate Commerce Act, which will—

(*a*) Avoid unnecessary duplication of services and facilities of whatsoever nature and permit the joint use of terminals and trackage incident thereto or requisite to such joint use.

(*b*) Control allowances, accessorial services and the charges therefor, and other practices affecting service or operation, to the end that undue impairment of net earnings may be prevented, and

(*c*) Avoid other wastes and preventable expense.

(2) To promote financial reorganization of the carriers, with due regard to legal rights, so as to reduce fixed charges to the extent required by the public interest and improve carrier credit; and

(3) To provide for the immediate study of other means of improving conditions surrounding transportation in all its forms and the preparation of plans therefor.

The title undertakes to carry out the first of these purposes by creating a Federal Coordinator of Transportation, to be appointed by the President or designated by him from the membership of the Commission. Commissioner Eastman was so designated by the President, and thereupon, in accordance with the provisions of the title, was largely relieved from his duties as Commissioner during his term of service as Coordinator, which expires on June 16, 1934, unless it is extended for not more than 1 year by the President. The title directs us to provide the Coordinator with such office space, facilities, and assistance as he may request and we are able to furnish, and we have complied fully with all such requests which he has made.

The title also provides for the creation by the carriers of three Regional Coordinating Committees representing, respectively, eastern, southern, and western groups of lines designated by the Coordinator. It is the duty of these committees to carry out the first purpose listed above, so far as such action can be voluntarily accomplished by the carriers. In the event that such voluntary action proves impossible for any reason, legal or otherwise, the Coordinator is empowered, upon recommendations of the committees, to give appropriate directions to the carriers concerned by order, to such extent as he finds to be consistent with the public interest and in furtherance of the purposes of the title. The Coordinator may also refer matters to the committees for action, and in the event that they do not act, issue appropriate orders on his own initiative.

The title further provides that any interested party, dissatisfied with an order of the Coordinator, may file a petition with us asking that such order be reviewed and suspended pending such review. If we, upon considering such petition and any answers thereto, find reason to believe that the order may be unjust to the petitioner or inconsistent with the public interest, we are empowered to grant such review and, in our discretion, to suspend the order if we find that immediate enforcement would result in irreparable damage to the petitioner or work grave injury to the public interest. Thereupon, after public hearing, we shall review the order and take such action in accord with the purposes of the title as we find to be just and consistent with the public interest.

No occasion for review by us has yet arisen.

To carry out the second purpose listed above, the title provides that we shall not approve a loan to a carrier under the Reconstruction Finance Corporation Act, if we are of the opinion that such carrier is in need of financial reorganization in the public interest, with the proviso that the term "carrier", as so used, shall not include a receiver or trustee. The intent is that financial support from the Government shall not be used to save a carrier from bankruptcy or receivership, when it is in need of financial reorganization. This injunction we are

observing in connection with our action on all loans sought by carriers from the Reconstruction Finance Corporation.

To carry out the third purpose, the title makes it the duty of the Coordinator "forthwith to investigate and consider means, not provided for in this title, of improving transportation conditions throughout the country, including cost finding in rail transportation and the ability, financial or otherwise, of the carriers to improve their properties and furnish service and charge rates which will promote the commerce and industry of the country and including, also, the stability of railroad labor employment and other improvement of railroad labor conditions and relations." In pursuance of this duty, he is directed from time to time to submit to us such recommendations calling for further legislation to these ends as he shall deem necessary or desirable in the public interest, and the Commission is to transmit such recommendations, together with its comments thereon, to the President and to the Congress.

It will be noted that the investigations of the Coordinator in this respect are to cover all transportation conditions throughout the country, thus embracing not only the railroads but all other transportation agencies. Because of this duty which has been imposed upon the Coordinator, and the subsequent duty imposed upon us, other than already expressed, we shall not in this annual report make any recommendations with respect to further legislation. These will await the reports to be submitted to us by the Coordinator.

THE RAILROAD CREDIT CORPORATION

In our last report we referred to the Railroad Credit Corporation created by the rail carriers to administer their "Marshaling and Distributing Plan, 1931." This plan provided for marshaling the proceeds from rate increases authorized by us in the *Fifteen Per Cent Case, 1931*, 178 I.C.C. 539, 179 I.C.C. 215, and using such proceeds to make loans to carriers for payment of fixed interest charges which otherwise would have been defaulted. It was a temporary measure, designed to stabilize and improve the credit position of the railroads, and restricted participation to solvent carriers deriving more than 50 percent of their gross revenues from freight transportation, limited the period of revenue marshaling to traffic handled to and including March 31, 1933, and set May 31, 1933, as the latest date for making loans. We were apprised of the manner in which the railroads proposed to use the emergency revenues and granted the increases in reliance, since justified, upon their willingness and ability to carry out the plan. Continuance of the emergency surcharges, with certain modifications, from March 31, to and including September 30, 1933, and retention by the carriers of the revenues therefrom is discussed elsewhere in this report.

The lending period included the lowest levels of the current depression. It was fortunate, therefore, that the cooperative measures, consummated in the flexible loaning provisions of the plan, permitted extension of aid when no other source was available to the needy carriers. The low interest rates, being equivalent to the rediscount rate of the Federal reserve bank in the New York district, were also a great benefit to carriers forced to call upon the Corporation for assistance.

The Corporation is not subject to our supervision or regulation, but we have enjoyed its full cooperation. It has voluntarily filed with us monthly financial statements and reports which show that the emergency rate increases to March 31, 1933, yielded $75,425,428, out of which loans aggregating $73,691,368 were made. As loans are repaid, the Corporation makes pro rata returns to the contributing carriers, liquidating disbursements amounting to $5,205,449 being reported to September 30, 1933.

RECONSTRUCTION FINANCE CORPORATION ACT

Since our last report we have approved loans under the Reconstruction Finance Corporation Act aggregating $89,576,344 upon applications filed by 24 carriers. The principal purposes for which the loans have been approved and the total for each purpose are as follows:

Bond interest	$34, 399, 942
Bond maturities	15, 073, 000
Equipment-trust maturities	16, 212, 305
Judgments	6, 959, 943
Taxes	5, 937, 811
Debenture maturities	3, 177, 500
Additions and betterments	2, 674, 000
Equipment repairs	2, 500, 000
Preferential claims	1, 500, 000
Audited vouchers	560, 689
Equipment-trust interest	545, 316
Miscellaneous	35, 838

The aggregate amount of loans approved by us under this act is $436,405,523. A more detailed statement will be found in appendix F accompanying this report. Since work under this act was initiated in February 1932, applications for loans have been filed by 145 carriers or their receivers or trustees. Loans to 81 of these applicants have been approved. For various reasons we were unable to approve loans on the applications of 41 others, and in 23 cases the applications were dismissed, usually with the consent of the applicants. Some of the carriers have received more than one loan. In a few instances the diminishing resources of the carriers and their inability to furnish acceptable security for additional loans, have required denials where earlier applications have been approved. Due apparently to an

improvement in business conditions affecting the carriers, the need for financing them under this act has diminished, as indicated by the declining number of applications and the withdrawal of others.

REORGANIZATION OF RAILROAD COMPANIES

Section 77 of the amendment to the Bankruptcy Act, approved March 3, 1933, contains important provisions intended to aid in the reorganization of railroads engaged in interstate commerce. The legislation was responsive to the necessity of reducing the capital obligations and fixed charges of a growing number of railroads, and this was proposed to be effected through means which would avoid, in part, at least, the delays and difficulties ordinarily attending equity receiverships under existing statutes.

Reorganization proceedings under this section may be initiated by petitions filed with the proper district court either by railroad corporations or by the creditors of such corporations. Where the petition is proposed to be filed by creditors, the propriety and necessity thereof must first be passed upon by us. Other important powers and duties assigned to us by the statute are the conduct of hearings for the investigation of plans of reorganization submitted by corporations or by creditors; the formulation of plans of reorganization, where none submitted is found satisfactory; the preparation of reports upon plans, to be certified to the courts of jurisdiction; the establishment of a panel from which trustees to have charge of the properties of carriers during the pendency of reorganization proceedings might be designated by the court; the determination of the upset price of property and the appraisal of securities in settlement with objecting stockholders or creditors; and the fixing of maximum limits of compensation and authorization of reimbursement of expenses of reorganization managers, trustees, counsel, etc. The statute further provides that upon acceptance of a plan of reorganization by the interested parties "the Commission may, without further proceedings, grant authority for the issue of any securities, assumption of obligations, transfer of any property, or consolidation or merger of properties, to the extent contemplated by the plan, consistent with the purposes of the Interstate Commerce Act, as amended."

To date, petitions for reorganiztion have been filed by railroad corporations as follows: Missouri Pacific Railroad Co.; Minarets & Western Railway Co.; Akron, Canton & Youngstown Railway Co.; Chicago & Eastern Illinois Railway Co.; Fonda, Johnstown & Gloversville Railroad Co.; Meridian & Bigbee River Railway Co.; Chicago, Rock Island & Pacific Railway Co.; St. Louis-San Francisco Railway Co.; Arkansas Valley Interurban Railway Co.; Spokane International Railway Co.; and Chicago, Lake Shore & South Bend Railroad. In several of these cases, additional petitions have also been filed in

behalf of subsidiary corporations, proceedings upon which are expected to be consolidated with those upon the petitions of the controlling corporations. No petitions have been offered by creditors. In nine cases trustees have been appointed, from the panel designated by us, but in only one instance has a plan of reorganization been presented upon which a preliminary hearing has been held.

Although the organization to perform the duties given to us by section 77 has not been finally determined, the applications filed have been given finance docket numbers and such investigation as is practicable at the present stage of the proceedings is being conducted by the forces of our Bureau of Finance. Under date of May 9, 1933, we adopted special rules of procedure to govern proceedings before us under the section.

AMENDMENT OF PROVISIONS OF THE ACT RELATING TO CONTROL AND CONSOLIDATION

The Emergency Railroad Transportation Act, approved June 16, 1933, made certain changes in the provisions of section 5 relating to acquisition of control of carriers and their consolidation. Prior to the amendment the control provisions were contained in paragraph (2) and covered acquisition of control "under a lease or by the purchase of stock or in any other manner" not involving consolidation. The amended provisions specify the principal forms of control dealt with, which are combined with the consolidation provisions in new paragraph (4) (*a*), the transactions being classified in three groups: (1) Consolidation or merger of the properties of carriers, or any part thereof, into one corporation for ownership, management, and operation; (2) purchase, lease, or contract to operate the properties, or any part thereof, of a carrier by one or more other carriers; (3) acquisition of control, by purchase of stock, of one carrier by one or more other carriers, or of two or more carriers by a noncarrier corporation.

CONSTRUCTION OF THE AMENDMENT

As in the original provisions, hearings before authorization are required upon all of these transactions. Heretofore we have, in numerous cases, taken jurisdiction under the provisions of section 1 (18) of the acquisition or operation of lines not falling within the exception of switching or industrial tracks. We have construed the law as permitting us to dispense with hearings in unimportant cases in which no opposition developed and in which no request for hearing was made. This procedure has been satisfactory and has resulted in considerable savings for both the Government and the applicants. Literally construed, the words, "or any part thereof" in the amended section would permit the application of the amendment to the acquisition or operation of minor and unimportant sections of track, and

would, in many instances, require formal hearings involving delay and expense incommensurate with any public benefits. However, section 1 (18) has not been expressly repealed or amended, although the amendment is explicit in making other changes. It is further to be considered that the requirements of paragraph (18) of section 1 are subject to important exceptions in paragraph (22) of the same section, while the new section 5 (4) affords no similar relief. In view of the apparent overlapping of provisions, if literally construed, it is recommended that the statute be so clarified as to indicate clearly the scope of each.

CONTROL BY HOLDING COMPANIES AND OTHER NONCARRIER CORPORATIONS

In our report for 1932, we repeated and amplified previous recommendations that acquisitions of carrier control by holding companies be brought under our jurisdiction. The amendment of June 16 responded to this recommendation by giving us even broader authority. It makes our approval and authorization necessary for a corporation which is not a carrier to acquire control of two or more carriers through ownership of their stock; or for a corporation which is not a carrier and which has control of one or more carriers to acquire stock control of additional carriers. The statute thus applies not only to acquisitions by holding companies, as commonly defined, but to acquisitions by noncarrier corporations generally, including industrial as well as financial corporations. Our authorization under these provisions brings the corporation receiving it within the provisions, including penalties, of sections 20 and 20*a* of the act, relating to the keeping of accounts, the rendition of reports, and the issuance of securities and assumption of obligations. The statute applies to all forms of control, both direct and indirect; and "control" is defined to include the power to exercise control.

Regulations are in preparation governing the filing of applications by noncarrier corporations and the procedure thereon.

CONSOLIDATION

In our last report we referred to applications filed under the consolidation provisions of section 5 by the Chicago, Rock Island & Pacific Railway Co. and 11 subsidiary corporations, and by the Texas & New Orleans Railroad Co. and 13 subsidiaries, the latter group forming a part of the Southern Pacific System. No further applications have been filed. Since the filing of the Rock Island application, the parent corporation has petitioned for reorganization under section 77 of the Bankruptcy Act, as amended March 3, 1933, and section 5 (6), under which the application was filed, has been amended by the

Emergency Railroad Transportation Act, 1933. We construed the latter amendment, so far as it deals with consolidations or mergers, as merely a reenactment, in substance, of the provisions of section 5 under which the application was filed; and the court having jurisdiction of the reorganization proceeding consented to the prosecution of the consolidation application. On August 9, 1933, we conditionally approved the Rock Island consolidation. Hearing has not yet been held on the application of the Texas & New Orleans System lines.

For the protection and furtherance of our consolidation plan we are authorized by the Emergency Railroad Transportation Act to investigate and determine the effect of stock holdings upon the carrying out of the plan of consolidation, or upon the independence of systems provided for therein; and power is given to provide by order for restricting the use of stock to the extent necessary to prevent such effects.

RETIRING DEBT

It has been the policy of railway companies to provide for their financial requirements largely through the issue of long-term bonds which at maturity are refunded. While the bonds are refunded the indebtedness evidenced by them is ordinarily regarded as perpetual and no provision is made for its ultimate liquidation. The result is that the funded debt of the railway companies is constantly increasing as their investment in railway properties is increased.

From December 31, 1919, to December 31, 1932, the funded debt of railway companies of classes I, II, and III (and subsidiaries), outstanding in the hands of the public increased approximately 22 percent or from $9,773,239,469 to $11,835,523,146. On the latter date the annual interest payable to the public on funded debt was approximately $550,000,000. The average annual net railway operating income for the years 1920–32, inclusive, was $842,955,000, or about 1.5 times the present interest requirements. The average rate of interest on the funded debt outstanding in the hands of the public is 4.65 percent. It is not practicable, at present, to set up sinking funds applicable to the entire funded debt; perhaps not to a great portion of it. The possibilities are indicated, however, when it is realized that an accumulating sinking fund of one half of 1 percent per annum, providing for calling bonds at par would retire the present debt if in effect for approximately 52 years.

The expense of refunding in the manner heretofore usually followed is considerable. More important is the danger that the maturity, if it occurs at a time when new or junior bonds are difficult or impossible to market, will cause trouble. Recent experience sufficiently illustrates this. The strain caused by heavy fixed

charges in such a time as this is detrimental to service furnished the public. Naturally carrier executives try to prevent default on fixed obligations even if doing so may result in allowing the property to deteriorate and service to suffer.

We are giving consideration to methods of bringing about a reversal of the present trend in railway financing. We believe that the desired results can be obtained, in part at least, through the provision of sinking funds to be set up by the railway companies out of net income for the purpose of retiring a part of their funded debt before maturity. If such funds are not voluntarily established by the railway companies, their establishment may be required as a condition to our authorization of further bond issues under the provisions of section 20*a* of the Interstate Commerce Act.

INVESTIGATIONS

Reports have been made and published in the following investigations, instituted on our own motion:

Application of steam railroad carriers of the United States for proposed increases in freight rates and charges. Ex Parte No. 103. 191 I.C.C. 361.

Interstate rates between points in Missouri. 185 I.C.C. 68.

Sand, gravel, and crushed stone from Indiana and Illinois points to destinations in Illinois. 188 I.C.C. 393.

Accounting for rebuilding freight cars by Chesapeake & Ohio Railway Co. 190 I.C.C. 382.

Lawfulness of the carload, less-than-carload, and any-quantity rates and ratings, and the carload minimum weights, maintained by common carriers subject to the Interstate Commerce Act, and parties to the official, southern, and western classifications, applicable to the interstate transportation of metal containers. 191 I.C.C. 761.

Propriety and lawfulness of the methods and practices employed by the common carriers by railroad subject to the Interstate Commerce Act in purchasing equipment, materials, supplies, or other commodities or articles, with particular reference to the extent, if any, to which such purchases from any manufacturer, producer, or dealer are dependent upon or influenced by the routing of traffic controlled directly or indirectly by such concern via the line or lines of the purchasing carrier. 188 I.C.C. 417.

In the matter of divisions of joint inter-territorial rates between official and southern territories, 194 I.C.C. 729.

Switching rates in the Chicago switching district. 195 I.C.C. 89.

Acquisition of property by the Saratoga & Encampment Valley Railroad Co., accounting for donations. 192 I.C.C. 719.

Lawfulness of the operation of vessels and of the transportation of property in interstate commerce, of the acquisition of control of

the Hoboken Manufacturers' Railroad Co., and of the issuance of securities by Seatrain Lines, Inc., 195 I.C.C. 215.

In the matter of rates and charges of carriers by railroad subject to the Interstate Commerce Act, 1933. 195 I.C.C. 5.

The effect upon operation, service, and expenses of applying the principle of the 6-hour day in the employment of railway employees. Ex Parte No. 106. Report to Senate and House December 13, 1932.

Other investigations are pending, some of the more important of which are:

In re general revision of accounting rules of steam railroads.

Practices of carriers by railroad subject to the Interstate Commerce Act affecting operating revenues or expenses. Ex Parte No. 104.

Application of Railway Express Agency, Inc., and Southeastern Express Co. for authority to make a 10 percent increase in the carload rates on berries between certain points. Ex Parte No. 105.

Classes of depreciable property and the related percentages of depreciation which, under section 20 of the Interstate Commerce Act, we are required to prescribe for carriers subject to the act, (1) of carriers by water; (2) of electric railway companies; (3) of carriers by pipe line; (4) of sleeping-car companies; and (5) of express companies.

Rules for car-hire settlement.

Refrigeration charges on fruits, vegetables, berries, and melons from the West.

Rates on salt from Chicago, Ill., and producing points in the States of Louisiana, Ohio, Michigan, Kansas, West Virginia, and New York to points in southern territory and between points in southern territory.

Rates on newsprint paper, import and domestic, to points in official and southern classification territories.

Transit on vegetable oils in southern territory.

Rates, ratings, and minimum weights on envelops not otherwise indexed by name, printed or not printed, in boxes or bundles, carloads, in official, southern, and western classification territories.

Accounting for capital items by Atlantic Coast Line Railroad Co. and Atlanta, Birmingham & Coast Railroad Co.

Absorption of drayage and trucking charges by St. Louis Southwestern Railway Co., Missouri Pacific Railroad Co., and Chicago, Rock Island & Pacific Railway Co.

In the matter of divisions of joint class rates in official territory.

In re tariffs of Missouri Pacific Railroad Co., Missouri-Kansas-Texas Railroad Co., and The Alton Railroad Co., which provide that rates on carload and less-carload shipments from or to Jefferson City, Mo., North Jefferson, Mo., or South Cedar City, Mo., will include delivery from or to consignees' dock, platform, doorway,

or other place directly accessible to trucks or other drayage vehicles at Jefferson City, Mo., or will include unloading at Jefferson City, Mo., when shipments are handled in road-haul movement.

Accounting rules of telephone companies.

Gasoline from San Francisco Bay points to Ogden, Utah.

INTRASTATE RATE CASES

Reports have been made and published in the following proceedings instituted by us under section 13 of the act:

Rates on bituminous coal between points in the State of Illinois. 188 I.C.C. 342, 188 I.C.C. 683.

Rates on fertilizers and fertilizer materials within the State of Mississippi, and on fertilizer materials within the State of Louisiana east of the Mississippi River. 191 I.C.C. 413.

Surcharges on intrastate traffic within the States of North Carolina, South Carolina, Georgia, Alabama, Florida, Kentucky, and Ohio. 194 I.C.C. 329.

Increases in intrastate freight rates in Texas. 186 I.C.C. 615, 190 I.C.C. 41.

Increases in intrastate freight rates in Montana. 186 I.C.C. 615, 191 I.C.C. 432, 194 I.C.C. 301, 195 I.C.C. 209, 195 I.C.C. 567, 196 I.C.C. 95.

Increases in intrastate freight rates in West Virginia. 191 I.C.C. 351, 194 I.C.C. 499, 194 I.C.C. 501, 195 I.C.C. 211, 195 I.C.C. 459.

Rates on petroleum and petroleum products within the State of Montana. 192 I.C.C. 599.

Rates on raw dolomite and fluxing stone within the State of Ohio. 188 I.C.C. 495.

Rates on crushed stone, gravel, sand, and slag within the State of Ohio. 191 I.C.C. 206.

Intrastate class rates in the State of Pennsylvania. 190 I.C.C. 367.

Rates on bituminous coal between points in the State of Ohio. 192 I.C.C. 413.

Surcharge on bituminous coal within the State of Ohio. 192 I.C.C. 734.

Surcharges on intrastate traffic within the State of Kansas. 195 I.C.C. 499.

The following investigations under section 13 of the act are pending:

Rates on chert, clay, sand, and gravel within the State of Georgia.

Rates on sand, gravel, crushed stone, and chert within the State of South Carolina.

Rates on gravel and crushed stone within the State of Illinois.

Intrastate class rates in New Jersey.

PRACTICES OF CARRIERS BY RAILROAD

In our last report we referred to the investigation in Ex Parte No. 104, Practices of Carriers Affecting Operating Revenues or Expenses, and stated that for convenience in handling it had been divided into six parts, each identified by number. In Part I, Railroad Fuel, we sent out elaborate questionnaires to class I Railroads. The returns were analyzed, and later extensive hearings were held, a report prepared, and findings proposed. Because the matters therein covered seemed to come peculiarly within the function of the Federal Coordinator of Transportation, the report was referred to him. On October 6 the Coordinator referred this report, together with other matters having to do with carrier purchases, to each of the carriers' regional coordinating committees, and with respect to this particular subject matter stated: "Inasmuch as the Commission has power of review over the Coordinator but has itself no power to require changes in purchasing methods, it is believed that time will be saved by taking the matter up with your committee in this way." Part II, Terminal Services of class I Carriers, has been fully heard, briefs have been filed, and a proposed report is in course of preparation. An analysis of the returns to questionnaire filed by class I Railroads in Part III, Construction, and/or Maintenance of Private Side Tracks for Shippers, was likewise prepared and for the reasons above indicated referred to the Coordinator. An elaborate questionnaire was similarly submitted to all common carriers in Part IV, Traffic Expenses. While no report has been issued covering this subject, the returns to the questionnaire have been analyzed and tendered to the Coordinator for his consideration. Part V, Private Freight Cars, has been heard and we are awaiting the filing of briefs when a proposed report will be promptly issued. Part VI, Warehousing and Storage of Property by Carriers at the Port of New York, N.Y., has been fully heard and submitted and awaits our decision.

Other parts have been under consideration and certain investigations were under way, but in view of the Emergency Railroad Transportation Act, 1933, these matters are being referred direct to the Coordinator for his information.

JURISDICTION OVER FOREIGN TRANSPORTATION

Section 1 of the act should be amended so as to bring squarely within the provisions of the statute the transportation of passengers and property, and the transmission of intelligence, from a place in a foreign country through the United States to a place in a foreign country, insofar as such transportation and transmission occurs within the United States.

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Under the terms of that section the provisions of the act apply to the transportation of passengers and property, and the transmission of intelligence, "from or to any place in the United States to or from a foreign country", and "from any place in the United States through a foreign country to any other place in the United States", (sec. 1 (1)) but they do not definitely apply to such transportation and transmission when *from a place in a foreign country through the United States to a place in a foreign country.*

This hiatus in the statute, which was recognized in *United States* v. *Philadelphia & R. Ry. Co.*, 188 Fed. 484, has proved embarrassing to us in the enforcement of the act. Our attention has been called to cases which indicate that because of such hiatus carriers have seized upon the opportunity to grant concessions to shippers, in respect of transportation not subject to our jurisdiction, for the purpose of obtaining the routing over their lines of traffic which is subject to the act, and thereby have seriously curtailed their earnings.

Practices of this character constitute an unfair method of competition as between carriers. They also have a damaging effect on the net revenue of carriers from business which is subject to the act, and for which we have to maintain a rate structure which will support an adequate system of transportation.

We recommend that section 1 of the act be amended by inserting, after the words "or from any place in the United States through a foreign country to any other place in the United States", the words "or from a place in a foreign country through the United States to a place in a foreign country." Under the section as thus amended no doubt can possibly arise as to our jurisdiction over such portion of transportation and transmission from a foreign country through the United States to a foreign country as takes place within the United States.

PASSENGER FARES

In our last report we referred to the fact that we had addressed a communication to the presidents of all class I carriers seeking their views as to whether by a general reduction in basic fares a betterment could be brought about in the volume of passenger traffic, and what suggestions they might care to offer for relieving the users of freight service from the burden due to unprofitable passenger service. In response to that inquiry we received answers from substantially all of the presidents of the class I carriers. A large proportion of them favored a reduction in the basic passenger fare. There was, however, a wide difference of opinion among those favoring a reduction in the basic fare as to the exact amount of the reduction. Those carriers opposing any reduction were practically all confined to the principal carriers operating in official territory.

We have taken no action thus far in the matter, largely because there seemed to be a determination on the part of a great many carriers to do something in the premises at an early date. Perhaps the most notable action taken by any of the carriers in this matter has been that taken by the Louisville & Nashville Railroad, the Mobile & Ohio Railroad, and the Nashville, Chattanooga & St. Louis Railway, which carriers on the 1st of April of this year established a 2-cent fare in coaches and a 3-cent fare in sleeping and parlor cars without any surcharge. These tariffs were to expire on September 30 of this year but upon application of these railroads were recently continued for 6 months in order that they might have the benefit of the experiment for a full calendar year. In the application to the Commission for a 6 months' extension of this experiment it was definitely stated that the reduction had apparently accomplished one purpose—the stoppage of the continuous decline in passenger revenue that had been going on, though they could not as yet determine definitely the ultimate financial result. The Southern Railway Co. has also been experimenting with a fare of 1.5 cents good in coaches only, but has made no reduction in its Pullman or parlor-car fares. These experiments have been continued in a limited territory and usually within the confines of a single State. The results that have come to our attention apparently indicate a substantial increase in both the number of passengers carried and in the gross revenue therefrom. Many other carriers have been conducting experiments of various kinds but we have no definite information as to the results. Other experiments, we are advised, are contemplated by individual lines in the South.

The carriers operating west of Chicago have decided to make a reduction in the basic passenger fares to 3 cents per mile, good in any class of equipment; on return-trip tickets, good in any class of equipment, with a 10-day limit of 2 cents per mile; also a round-trip ticket, good in any class of equipment with a 6 months' limit of 2.5 cents per mile; and one-way coach fare of 2 cents per mile. They have recently asked for permission, which has been granted, to make these fares effective the 1st of December of the present year on less than statutory notice. We are advised, although not officially, that the carriers in official territory have decided to make no change in their present basic passenger fares.

It would seem that with the constant decline for the past 10 years, both in the number of passengers carried and the gross revenue from the passenger business, together with the constant increase by other competitive forms of transportation, the time is near at hand when some aggressive action should be taken by the carriers to determine whether it is possible to regain passenger business, or whether they shall be compelled to give up what at one time was a lucrative part of their business.

COOPERATION OF FEDERAL AND STATE COMMISSIONS

Since our last report we have cooperated with State commissions in 14 proceedings involving interstate-intrastate rate relations. Of these, 11 were complaints filed with us in respect of rates in effect and 3 were investigation and suspension proceedings arising out of orders issued by us and by State commissions suspending the effective dates of rates proposed by carriers. In these cases we had the cooperation of 8 different State commissions, 2 of which cooperated in more than one case. Active cooperation has continued in various inquiries conducted under no. 17000, *Rate Structure Investigation.* We have also received cooperation from State commissions in 57 cases involving the construction of new or the abandonment of old railroad lines.

DELEGATION OF AUTHORITY

In our thirty-fourth annual report to the Congress we described the changes made in our administrative machinery pursuant to an act of Congress approved August 9, 1917, authorizing us to divide our membership into necessary divisions and to assign or refer any of our work, business, or functions to a division for action. In that report we said "Necessarily, more than ever before, individual Commissioners must assume the initial responsibility for certain lines of work." Our experience under the division plan of administration made apparent to us the necessity for a wider delegation of authority looking to a more complete decentralization of administrative effort and the placing of the initial responsibility for the administration of matters more or less routine in character with individual Commissioners or groups of employees. Beginning with the 1928 annual report we recommended that we be given express statutory authority to delegate certain powers to individual Commissioners or to boards of employees.

Acting upon our recommendation the Congress, by an act approved February 28, 1933, added paragraph (6) to section 17 of the Interstate Commerce Act, and thereby gave us authority, by our order, to assign or refer any portion of our work, business, or functions arising under any act of Congress, or referred to us by Congress, or either branch thereof, to an individual Commissioner, or to a board composed of an employee or employees of the Commission, provided, however, "that this authority shall not extend to investigations instituted upon the Commission's own motion or, without the consent of the parties thereto, to contested proceedings involving the taking of testimony at public hearings." The act further provides that any order, decision, or report made, or other action taken by any such individual Commissioner or board in respect of any matter so assigned or referred, shall have the same force and effect and may be made,

evidenced, and enforced in the same manner as if made or taken by the Commission. It is also provided that any party affected by any order, decision, or report of any such individual Commissioner or board may file a petition for reconsideration or for rehearing to be passed upon by the Commission or a division thereof, and that any action by a division upon such a petition shall itself be subject to reconsideration by the Commission.

Under this authority, effective November 1, 1933, we further reorganized our administrative machinery by assigning to individual Commissioners the work of handling, without reference to the Commission, matters which come under the following headings:

(*a*) Special permissions or other permissible waiver of rules regarding schedules of rates under section 6 (3); applications under section 20 (11), as to released rates; and matters arising under Ex Parte No. 13, with respect to tariff files.

(*b*) Distribution of carrier accounts and the spreading of items over periods of time, under section 20.

(*c*) Uncontested matters relating to the transportation of explosives and other dangerous articles.

(*d*) Applications for authority to hold the position of director or officer of more than one corporation, when the corporations are all part of the same system, under section 20*a* (12).

(*e*) Applications and complaints on the special docket.

(*f*) Applications for admission to practice before the Commission.

(*g*) The reference of cases involving supposed violations of law to Department of Justice for investigation and possible prosecution.

(*h*) Consideration and disposition of merely procedural matters in any formal case or matter including extensions of time for compliance with orders, except investigations on Commission's own motion and except in a contested proceeding involving the taking of testimony at a formal hearing.

It is expected that the removal of these duties from the attention of the Commission in the first instance will leave us free as a body, and in our several divisions, to give greater individual attention to the more important matters of regulation which from time to time come before us. Pending further experience, we have not as yet assigned any duties to boards of employees, as permitted by section 17 (6), but the several boards which have long functioned as administrative aids to the Commission will continue as in the past.

APPLICATIONS UNDER THE DENISON ACT

No new applications were filed during the current year. In a supplemental report in Ex Parte No. 96, *Inland Waterways Corp. Through Routes and Joint Rates*, 192 I.C.C. 663, we issued a certificate of public convenience and necessity authorizing operation by the Federal barge lines on the Missouri River and prescribed a basis of through routes and joint rates in connection with rail carriers. The effective date of the order has been postponed on the applicant's request.

A supplemental report in Ex Parte No. 102, *Application of the American B.L. Co.*, 190 I.C.C. 177, required establishment of certain differential rates on cotton based on differentials prescribed in prior reports in this proceeding applied to recently reduced all-rail rates. An injunction against enforcement of these findings was issued by the United States District Court for Delaware on petition of the railroads.

Another supplemental report covering the two proceedings above referred to and also Ex Parte No. 99, Application of the Mississippi Valley Barge Line Company, *Inland Waterways Corp. Through Routes and Joint Rates*, 192 I.C.C. 173, was issued for the purpose of clarifying previous findings and orders in all these proceedings and requiring that previously prescribed differentials be maintained regardless of changes in the all-rail rates. These clarifying orders have been held under indefinite postponement, however, because the principle involved is identical with that presented in the injunction suit referred to in the next preceding paragraph.

STANDARD TIME ZONE INVESTIGATION

Since our last annual report the only change made in our outstanding orders in this proceeding was the partial cancellation of an operating exception under which the Los Angeles and Salt Lake Railroad Co. was permitted to operate its line in Nevada between the Utah-Nevada State Line and Las Vegas, Nev., on United States standard mountain time. In our twentieth supplemental report, 190 I.C.C. 223, effective December 25, 1932, this exception was canceled insofar as it applied west of Caliente, Nev. This restored the situation which obtained prior to our eighteenth supplemental report, 169 I.C.C. 95.

Two years ago we directed attention to the serious and irreconcilable conflict existing between the Standard Time Act of Congress and legislation of some of the States, and we recommended that the field be either more completely occupied by act of Congress or left entirely to the States. We renew that recommendation.

PRACTITIONERS BEFORE THE COMMISSION

During the period from October 16, 1932, to October 15, 1933, 405 applicants were admitted to practice before the Commission. Of these, 242 were admitted upon presentation of certificates showing admission to practice in the courts, and 163 upon showings as to qualifications and required vouchers, and upon the motions of three registered practitioners. One registered practitioner resigned.

BUREAU OF ACCOUNTS

Upon the enactment of the Emergency Railroad Transportation Act, 1933 (sec. 15*b* of the Interstate Commerce Act), retroactively repealing the recapture clauses of section 15*a* of the Interstate Commerce Act, we ceased our so-called "recapture" examinations, thus enabling our bureau of accounts to resume the performance of its normal functions, the nature and importance of which, as related to our duties under the act, were explained at length in our last report and need not again be stated here.

While the bureau has returned to its regular duties, its effectiveness has been much impaired through the necessity of greatly reducing its personnel because of a severe cut in the appropriations for its work. For the fiscal year ended June 30, 1932, the appropriation for the bureau was $1,504,420. For the year ended June 30, 1933, the appropriation was reduced to $683,560. This we enlarged by adding to it 15 percent, the maximum amount transferable by law, from other appropriations for the Commission. The $102,000 thus added resulted in an aggregate of $785,560 for the fiscal year ended June 30, 1933. With the means at our disposal for the work of the bureau thus reduced, we were obliged during that year to furlough without pay 108 of our accountants and impose a heavy administrative furlough on the remainder of the force.

The appropriation for the bureau for the current fiscal year beginning July 1, 1933, is $750,000. While this amount is in excess of that appropriated for the year ended June 30, 1933, as a matter of fact the funds available for the bureau's work in the current year are less, because the addition of the $102,000 previously mentioned increased the amount available for the year ending June 30, 1933, to $785,560. With an appropriation of $750,000 for the current year we have been obliged to continue the retrenchment measures of the preceding year. The personnel of the bureau during the year ended June 30, 1933, was reduced to 211 by furloughing 108 employees as stated. At the beginning of the current fiscal year we reduced the number on furlough to 84 by imposing a temporary administrative furlough of 1 day per week on the remainder of the bureau's force, which enables us to continue on duty status 27 of the bureau's employees until December 31, 1933, when they too must be furloughed, making the total number released 111, and leaving the bureau with a force of 204, in our judgment a number altogether insufficient to carry on adequately the work required to be done in the public interest as contemplated by the Interstate Commerce Act.

The period covered by this report extends from November 1, 1932, to October 31, 1933. During the first 7 months of that period, preceding the repeal of the recapture provisions of section 15*a*, the bureau completed 143 recapture examinations involving the investiga-

tion of the accounts of 70 carriers, bringing the total number of examinations of accounts of steam roads for recapture purposes up to 4,211.

The bureau also made 11 general investigations (the medium we consider best for the necessary policing of the accounts of carriers) and special investigations requiring 88 field examinations of the accounts of the companies affected. The special investigations included two made for the Treasury Department in connection with loans made to carriers under section 210, Transportation Act, 1920. Eight special investigations are being made for the House Committee on Interstate and Foreign Commerce under House Resolution No. 59, as extended by Public Resolution No. 65, Seventy-second Congress. Work has also been done for the Federal Coordinator of Transportation.

Continuation of the extraordinary economic conditions which, as stated in our last annual report brought about postponement of the effective dates of our orders pertaining to depreciation accounting of telephone and steam railroad companies, from January 1, 1933, to January 1, 1934, has resulted in further petitions from the interested carriers, and in response to these, postponement for an additional year has been granted.

Revision of our accounting classifications prescribing a uniform system of accounts for telephone companies has been completed. The revised issue has been made effective January 1, 1933, for class A companies (those having average annual operating revenues exceeding $100,000) and January 1, 1934, for class B companies (those having average annual operating revenues exceeding $50,000 but not more than $100,000), with permission to class B companies to adopt the prescribed system of accounts on January 1, 1933. The revised system of accounts is not prescribed for class C companies (those having average annual operating revenues not exceeding $50,000). Revised rules for this class of telephone companies will subsequently be given consideration.

Little remains to be done with respect to the revised issue of our accounting classifications for steam roads. The determination of their effective date has yet to be considered.

Tentative drafts of revised accounting classifications for sleeping-car companies, carriers by water, and pipe-line companies have been prepared and are under discussion with representatives of these classes of carriers, preliminary to their submission to State commissions and others interested.

BUREAU OF FINANCE

CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY

The following is a summary of applications filed during the year for certificates of public convenience and necessity under section 1 (18) to (22) of the act, and of the disposition made of applications:

Item	Number	Mileage
Applications filed:		
For authority to construct new lines or extend existing lines	12	491.290
For permission to abandon mileage	153	3,263.216
For authority to operate or to acquire and operate	40	1,536.114
Total	205	5,290.620
Certificates issued:		
Authorizing new construction	8	32.300
Permitting abandonment	129	2,404.264
Authorizing operation or acquisition	37	1,132.134
Total	174	3,568.698
Applications denied:		
For authority for new construction	5	23.770
For permission to abandon	2	33.970
For authority to operate or to acquire and operate	5	37.364
Total	12	95.104
Applications dismissed:		
For authority for new construction	3	10.940
For permission to abandon	4	65.442
For authority to operate or to acquire and operate	8	401.769
Total	15	478.151

Among the applications disposed of during the year were several pending on October 31, 1932.

We have continued the practice of enlisting the cooperation of the State commissions in these cases. In 57 of them hearings have been held for us by State commissions, and in most of such cases in which a decision has been reached their recommendations and our conclusions have coincided.

Since the effective date of the act we have authorized the construction of approximately 9,692 miles of new railroad. Our certificates of authorization have, since April 4, 1923, generally included the requirement that carriers shall complete the proposed construction within a specified period, and shall report to us such completion within 15 days thereafter. We have, upon good cause shown by the carriers, granted a number of applications for extension of time for completion. Based on reports by carriers and on other available information, it appears that of the construction authorized, approximately 6,740 miles of road have been completed, and that projects aggregating about 1,442 miles have been abandoned or deferred. The remainder, about 1,510 miles, represents cases in which the specified completion periods have not expired. A list of certificates issued appears in appendix F.

ACQUISITION OF CONTROL OF ONE CARRIER BY ANOTHER

Under the provisions of section 5 (2) of the act, as they existed prior to June 16, 1933, we were authorized to approve, by order, the acquisition by one carrier of control of one or more other carriers, whether by lease, purchase of stock, or in any other manner not involving the consolidation of such carriers into a single system for ownership and operation, whenever we were of opinion, after hearing, that such control would be in the public interest, the acquisition to be under such rules and regulations, for such consideration, and on such terms and conditions as should be found by us to be just and reasonable. Under this paragraph 6 applications have been filed, 6 authorizations have been issued, and 11 applications were dismissed.

Section 5 of the act was amended by the Emergency Railroad Transportation Act, 1933. Applications for authority previously filed under section 5 (2) must now be filed under section 5 (4) of the act, as amended. While the amendment preserved the substance of the previous provisions, certain changes in procedure were prescribed which necessitated the refiling of a number of applications. Under the amended provisions 9 applications have been filed, and 3 have been granted. A list of authorizations issued appears in appendix F.

CONSOLIDATION OF TELEPHONE COMPANIES

Under section 5 (9) of the act, renumbered as 5 (18) by the Emergency Railroad Transportation Act, 1933, we have received 6 applications and granted 6, authorizing telephone companies to merge their properties, or portions thereof, or permitting one telephone company to acquire control of another by purchase of capital stock. A list of authorizations appears in appendix F.

ISSUANCE OF SECURITIES AND ASSUMPTION OF OBLIGATIONS

We have received 105 applications and 21 supplements thereto under section 20*a* of the act and have authorized the issuance of securities and the assumption of obligations and liabilities in respect of the securities of others in the aggregate amounts and for the purposes shown in appendix F.

Under section 20*a* (9) certificates of notification of the issue of notes maturing within 2 years in the aggregate sum of $166,419,449.14 were filed.

The tabulation given in appendix F includes all securities authorized, whether for nominal issue, conditional issue, or actual issue.[1] It does not include notes and other obligations given the Reconstruction Finance Corporation to evidence or secure loans by that corporation

[1] These terms are defined at p. 7 in the annual report for 1931.

to them, as neither our authorization of such issues nor the reporting thereof under the provisions of section 20*a* of the act is required.

The following tabulation shows by classes the respective amounts of securities authorized:

Class of security	Nominal issue	Conditional issue	Actual issue
Common stock	[1] $4,049,300.00		$2,031,500
Mortgage bonds	74,837,000.00	$338,053,800.00	[2] 93,401,500
Income debentures			4,124,000
Secured notes	7,855,653.99		7,874,000
Unsecured notes	867,060.35	2,106,546.27	27,590,563
Equipment-trust obligations		988,000.00	
Receivers' certificates			1,570,000
Trustees' certificates			15,000
Total	[1] 87,609,014.34	341,148,346.27	[2] 136,606,563

[1] Also 200 shares without par value.
[2] Includes $7,039,500 of interim certificates.

The amounts shown as authorized for actual issue do not include securities delivered by a subsidiary to a controlling company subject to our jurisdiction, unless the controlling company has been authorized to dispose of the securities. Such securities are included under either "Nominal issue" or "Conditional issue" as may be appropriate.

Of mortgage bonds for nominal issue $19,741,000 were authorized to be issued in exchange for, or in lieu of, or to pay, extend, or refund other securities nominally, conditionally, or actually outstanding, and $1,605,000 had been previously authorized for nominal or conditional issue. Of the securities for conditional issue $62,143,000 of mortgage bonds were authorized to be issued in exchange for, or in lieu of, or to pay, extend, or refund other securities nominally, conditionally, or actually outstanding, $179,315,300 of mortgage bonds and $988,000 of equipment-trust obligations had been previously authorized for nominal or conditional issue, and $31,527,000 of mortgage bonds had been previously issued and reacquired. Of the securities for actual issue $1,824,800 of common stock, $71,428,500 of mortgage bonds, $4,124,000 of income debentures, $1,360,000 of secured notes, $18,594,000 of unsecured notes, and $1,320,000 of receivers' certificates, or a total of $98,651,900, was authorized to be issued in exchange for or to pay, extend, or refund other outstanding securities. From the foregoing it appears that additional capitalization to result from the various authorizations is as follows: Nominal issue $66,263,014.34, conditional issue $67,175,046.27, and actual issue $37,954,663.

During the period covered by this report many carriers have resorted to temporary financing to meet their current requirements. The amount of short-term notes issued without our authorization under the provisions of section 20*a* (9) of the act is shown above.

Of this amount $104,765,929.45 was for renewal of notes previously issued and the remainder $61,653,519.69 was to meet current corporate requirements. In addition there are included in the foregoing tabulation secured and unsecured notes of a maturity ranging from a few months to 3 years and aggregating $35,434,563 authorized by us for actual issue. Of the short-term notes so authorized $22,954,600 was to pay, renew, extend, or refund outstanding securities and $12,479,963 was for other corporate purposes.

Upon petition of certain carriers and upon our own motion we have entered supplemental orders either reducing the amount of securities originally authorized to be issued or vacating entirely the authority granted. These orders effected reductions of $682,700 in the amount of common capital stock, $400,000 in the amount of preferred stock, $1,904,000 in the amount of bonds, and $780,000 in the amount of equipment-trust obligations, and $3,000,000 in the amount of secured notes, previously authorized to be issued.

Upon petition of various carriers several previous orders were modified so as to authorize the carriers to substitute as bases for the issue of stock and bonds expenditures other than those originally submitted and accepted as such bases.

INTERLOCKING DIRECTORATES

Under the provisions of section 20*a* (12) of the act it is unlawful for any person to hold the positions of officer or director of more than one carrier unless such holding shall have been authorized by our order. During the period covered by this report we received 228 applications from individuals and 7 from carriers under this paragraph. These applications related to 667 different individuals. There were 8 individual applications pending on November 1, 1932. Disposition was made of 238 applications, of which 218 individual applications and 6 carrier applications were granted; 12 individual and 1 carrier applications were withdrawn; and 1 individual application denied, the applicant desiring to hold positions with 2 major carriers each of which is an important member of a different system in our consolidation plan.

REIMBURSEMENT OF DEFICITS DURING FEDERAL CONTROL

Since our last report we have dismissed the claims of three companies, thus reducing the pending claims to two. Early disposition of both of the latter is expected. In our 1931 annual report we referred to litigation involving the dismissal of the claim of the Butte, Anaconda & Pacific Railway Co., 117 I.C.C. 780. This litigation is still in progress. The United States Circuit Court of Appeals, Ninth Circuit, in *Butte, Anaconda & Pacific Ry. Co.* v. *U.S.* 61 F. (2d) 587,

affirmed the judgment of the District Court, sustaining the Government's contention, and after denial of petition for rehearing the case was carried to the Supreme Court of the United States by petition for writ of certiorari, which was granted and the case was argued before that court on October 16, 1933.

SIX MONTHS' GUARANTY AFTER TERMINATION OF FEDERAL CONTROL

There has been no change in the situation stated in considerable detail in our 1931 annual report with respect to the 6 months' guaranty under section 209 of the Transportation Act, 1920, except that it is now estimated that approximately $55,000 will be required to settle two of the four remaining cases. In the other two cases, the accounts indicate income earned in excess of the amounts guaranteed, and proceedings are in progress looking to collection of the excess.

As a result of the decision by the United States Supreme Court in *United States* v. *Great Northern Ry. Co.*, 287 U.S. 144, affirming the judgment of the lower courts against the Government's suit to recover the amount of an alleged overpayment to that company under the section, the Northern Pacific has instituted proceedings in the Court of Claims seeking to recover approximately $1,500,000 which it repaid following our final decision as to its guaranty claim, 111 I.C.C. 340.

LOANS TO CARRIERS AFTER FEDERAL CONTROL

Our duties during the year in connection with the revolving fund created by section 210 of the Transportation Act, 1920, have been only such as are usually incidental to supervision by the Secretary of the Treasury of loans outstanding under this section.

During the year a total of $443,633.33 was repaid on the principal of such loans outstanding.

Since the effective date of the act we have certified loans to carriers aggregating $350,600,667, of which $317,438,709.39 has been repaid. Interest paid on loans amounts to $89,663,047.10.

Lists of outstanding unmatured loans, and of principal and interest due and in default appear in appendix F.

Our work in connection with loans to carriers under the Reconstruction Finance Corporation Act and other statutes recently enacted is discussed elsewhere in this report under the title "Approval of Loans to Railroads."

BUREAU OF FORMAL CASES

The formal complaints filed numbered 741, of which 621 were original complaints and 120 subnumbers, a decrease of 230 as compared with the previous period. We decided 1,234 cases and 208 have been dismissed by stipulation or on complainants' request, making a total of

1,442 cases disposed of, as compared with 1,428 during the previous period.

Approximately 213 formal and I. & S. cases have been reopened for further hearing and reconsideration.

We conducted 1,028 hearings and took approximately 184,476 pages of testimony, as compared with 1,192 hearings and 239,812 pages of testimony during the preceding period.

The following statement shows certain facts with respect to the condition of this docket as of October 31 of the years indicated:

	1930	1931	1932	1933
Formal complaints filed	1,153	828	825	621
Subnumbers	259	193	146	120
Investigation and suspension cases instituted	153	120	175	98
Cases under submission at end of period:				
Regular docket	687	419	363	369
Shortened procedure	88	82	81	46
Cases disposed of including subnumbers and reopened cases	1,825	2,030	1,719	1,773
Number of pending cases	2,352	1,904	1,783	1,460

SHORTENED PROCEDURE

Approximately 36 percent of the total number of formal complaints were handled by the shortened-procedure method as compared with 37, 31, 34, and 36 percent during the 4 preceding years. In cases so handled and decided during this year the average elapsed time to reach a decision was 342 days from the receipt of complaint and 190 days from receipt of the final memorandum. The corresponding periods during the 4 preceding years were 452 and 285, 399 and 218, 358 and 200, and 355 and 207 days, respectively. The following statement gives details concerning the docket as of October 31 of the years indicated:

Explanation	1930	1931	1932	1933
Suggested for handling under the shortened procedure, either by us or by the parties	672	549	510	423
In which method not accepted by one or more of the parties	326	262	237	173
In which agreement was subsequently reached by the parties, making further formal proceedings unnecessary:				
Before service of complainant's memorandum	22	19	19	14
After service of complainant's memorandum	20	16	8	6
In which complaints withdrawn	39	23	16	19
Dismissed for want of prosecution	6	1	0	3
Decided	402	294	240	232
Pending in various stages short of submission	238	179	157	162
Pending under submission at end of period	88	82	81	46
Pending on suspense calendar	1	0	0	0
Total pending cases	327	261	238	208

BUREAU OF INFORMAL CASES

The number of informal complaints received was 3,164, a decrease of 995. The carriers filed 7,801 special docket applications for au-

thority to refund amounts collected under the published tariffs and admitted by them to have been unreasonable, a decrease of 562. Orders authorizing refund were entered in 7,163 cases, a decrease of 527, and reparation thereon was awarded in the sum of $1,198,530.18. In addition, 1,607 cases were dismissed or disposed of without orders. The bureau also handled approximately 19,000 letters, many of which had the characteristics of informal complaints, although not so classified. Others sought general information and informal rulings upon the rights and obligations of the public and common carriers under existing statutes.

BUREAU OF INQUIRY

Our staff of attorneys and special agents directed and conducted investigations of over 175 cases during the year. Such investigations were made for the purposes of enabling us to perform our statutory duty of enforcing the criminal and penal provisions of the act and related statutes, and of otherwise keeping us informed of the manner and method in which the carriers' business is being conducted.

Many of these investigations disclosed practices which resulted in the granting by carriers, and the receiving by shippers, of concessions whereby tariff rates were defeated and other discriminations were accorded.

Among the devices resorted to by carriers in order to favor large shippers were the failure to collect published charges for the storage of property at freight stations, and the granting to shippers for their business needs of the use of valuable property for long periods without the collection of any rental therefor.

A practice of shippers, which our investigations disclosed to be extensive, was the furnishing to carriers of false reports of the weights of shipments. Based on this practice six indictments were returned during the year in two districts against consignors and consignees of hay. It was revealed also that shippers of fruits and vegetables, with knowledge in their possession of the actual weights of shipments, billed those shipments at estimated weights which were lower than the actual weights. For this offense three indictments were returned.

Another practice which has become more or less widespread is the filing with carriers, by shippers of perishables, of excessive claims for loss and damage. In numerous instances such shippers attempted to saddle upon the carriers their trade losses, due to declining markets or other reasons, by filing with the carriers claims in substantial amounts when in fact slight damage, or no damage at all, for which the carriers were responsible, actually occurred. Claims of this nature were filed on the slightest pretext, such as that the contents of a car encountered a minor shift during the course of transportation. Based on such shift the shippers attempted to hold the carrier responsible for loss, represented by them to have resulted from the sales

price realized on each and every package in the car, although the shift en route resulted in actual damage to the contents of only a few, if any, of the packages. Claims of this or a similar type were paid by the carriers either in full, or in amounts substantially in excess of the carriers' actual liability, in numerous instances without any real investigation by the carriers as to the merits of the claims. Such payments naturally resulted in a serious drain upon the carriers' revenues, and in certain instances the entire revenue accruing to a carrier for its transportation service was wiped away by the amounts paid on claims. During the year 14 indictments against receivers of perishables, one indictment against the proprietor of a traffic bureau, and one indictment against a railroad company, based on claim practices, were obtained in several districts.

For violations of the act and related acts, 42 indictments were returned and 9 informations were filed. The specific offenses alleged therein were the granting and accepting of concessions and rebates by carriers and shippers, respectively; false description of freight and furnishing false weights thereof by shippers; filing of false claims for loss and damage by shippers with carriers; falsification of carriers' records; the receiving by an officer of a carrier for his own benefit of the proceeds of the sales of bonds; embezzlement and misapplication of railroad funds; and unlawful use of interstate passes.

Twenty-nine cases were concluded in the district courts and fines aggregating $27,750 were imposed.

Prosecutions instituted and concluded were distributed over the following States: California, Florida, Illinois, Indiana, Kansas, Louisiana, Michigan, Missouri, New Jersey, New York, Ohio, and Wyoming.

In *Pennsylvania R. Co. and Pennsylvania Co.* v. *Interstate Commerce Commission*, which was mentioned on page 51 of our last report as pending in the Circuit Court of Appeals, Third Circuit, a decision reversing our order was rendered, 66 F. (2d) 37, and we recently filed with the Supreme Court a petition for a writ of certiorari which was granted on October 16, 1933, —U. S.—. This case is more fully discussed in appendix B.

United States v. *Elgin, J. & E. Ry. Co.*, wherein we are seeking to restrain the carrier from violating the provisions of the commodity clause of the act by transporting the products of an industry controlled by the carrier, is another important case which also was referred to on page 51 of our last report. It is still pending in the District Court for the Northern District of Illinois, but has been set for hearing January 8, 1934. A similar proceeding against the Montour Railroad Co., which was instituted on October 31, 1933, is pending in the District Court for the Western District of Pennsylvania.

In *Freedman* v. *United States*, 64 F. (2d) 661, the Circuit Court of Appeals, First Circuit, upheld the verdict of conviction rendered

in the lower court, upon which a sentence to serve 18 months in the penitentiary and pay a fine of $5,000 was imposed against appellant, a so-called claim adjuster, for conspiring with several shippers and the local agent of a carrier to violate section 10 of the act. In this decision the court sustained the Government's contention that one overt act committed within the court's jurisdiction, namely, a conference with railroad officials relative to the claims, was sufficient to support a conviction upon an indictment charging conspiracy to obtain transportation at less than the lawful rates by means of false claims, notwithstanding the fact that such overt act was committed by defendant after the transportation had been completed and the freight charges paid. In disposing of this point the court said:

> It is earnestly contended for the defendant that the single overt act above referred to, proof of which was essential to the conviction, could not be considered, because it took place after the transportation had been fully completed and the charges for it paid, and after the conspiracy was terminated. This is an erroneous view of the matter. The purpose of the conspiracy was by no means complete when the grapes were delivered and the freight was paid. The vital part of it, the presentation and collection of false damage claims, was still to come. It was in furtherance of that very object that Freedman came to Boston.

A petition for a writ of certiorari was denied by the Supreme Court on October 9, 1933.

In *United States* v. *Olds Motor Works*, 4 F. Supp. 65, the District Court for the Eastern District of Michigan, on June 19, 1933, set aside a verdict of guilty previously rendered in this case, as mentioned in appendix A of our last report, and granted a motion for a new trial which it is expected will be set for an early date. The principal ground on which the court took this action was that its instructions to the jury following the trial were based upon a misinterpretation of a tariff rule governing the use of minimum carload weights for cars of different lengths in the computation of freight charges. The defendant was indicted for accepting concessions growing out of alleged violation of this rule in respect of its shipments of automobiles.

A summary (*a*) of indictments returned and informations filed in the United States district courts, and (*b*) of cases concluded in those courts, is set forth in appendix A.

BUREAU OF LAW

On October 31, 1932, there were 31 cases involving our orders or requirements pending in the courts. During the year, 20 cases have been instituted and 24 have been concluded, leaving 27 cases now pending in different courts. Of these, 7 are in the Supreme Court of the United States, 16 are in the District Courts, 1 is in the Court of Appeals, and 3 are in the Supreme Court, of the District of Columbia.

Fifteen cases were submitted for decision to the Supreme Court of the United States and decided, 7 were concluded in the District Courts of the United States, and 2 in the Supreme Court of the District of Columbia. Summaries of all the foregoing cases are shown in appendix B.

The cases decided by the Supreme Court were:

New York Cent. Sec. Corp. v. *United States*, 287 U.S. 12.

In this case the Supreme Court sustained our orders of July 2, 1929, in F.D. 5690, *New York Cent. Unif.*, 150 I.C.C. 278, 154 I.C.C. 489, authorizing acquisition by lease of Cincinnati N. R. Co. and Evansville, I. & T. H. Ry. Co. by the Cleveland, C. C. & St. L. Ry. Co., and acquisition by lease of the latter and certain of its controlled lines by New York Cent. R. Co., and of December 2, 1929, wherein we permitted the assumption by the lessee of obligation and liability in respect of certain securities of the lessors. Appellant, a minority stockholder, sought to set aside our orders on the ground that we had exceeded our authority. The Supreme Court sustained the decision of the lower court which denied the injunction and dismissed the petition upon the merits.

Appellant contended that as the New York Central had already acquired control of the Big Four and the Michigan Central by stock ownership, we could not authorize acquisition of control by lease. In overruling this claim, the court said:

> * * * The public interest is served by economy and efficiency in operation. If the expected advantages are inadequately secured by stock ownership and would be better secured by lease, the statute affords no basis for the contention that the latter may not be authorized although the former exists. The fact that one precedes the other cannot be regarded as determinative if the desired coordination is not otherwise obtainable. The disjunctive phrasing of the statute "either under a lease or by the purchase of stock" must be read in the light of its obvious purpose and cannot be taken to mean that one method must be exclusive of the other.

The next contention was that the proposed acquisition involved a "consolidation" which could not be authorized under section 5 (2). After pointing out the distinction between control and consolidation, the court sustained our view that the proposed acquisition was not a "consolidation", saying:

> * * * The view that the proposed acquisition does not involve a "consolidation" contrary to the limitation in subdivision (2) is in accord with the long-continued construction of the statute by the Interstate Commerce Commission. * * * And this administrative construction would be persuasive if the statute could be regarded as ambiguous. * * * Whether the particular authorization, in the light of the situation of these carriers, would interfere with plans of the Commission for consolidation was an administrative question with which the Commission was competent to deal.

Appellant's insistence that the delegation of authority to us is invalid because the criterion—that is, that the acquisition shall be in

the "public interest"—is uncertain, was held to be without merit, the court saying:

> * * * So far as constitutional delegation of authority is concerned, the question is not essentially different from that which is raised by provisions with respect to reasonableness of rates, to discrimination, and to the issue of certificates of public convenience and necessity. * * *.

The court further held that the question whether the acquisition of control in the case of competing carriers will aid in preventing waste and in securing more efficient transportation service is committed to our administrative judgment, and also overruled a contention that the leases were *ultra vires*, because not authorized by the laws of the State of incorporation.

It was also held that we had authority to make the acquisition of certain short lines a condition of our approval of the leases, section 5 (2) expressly authorizing us to impose conditions, and our action in so doing is not limited to conditions proposed or favored by the carriers.

Norfolk & W. Ry. Co. v. *United States*, 287 U.S. 134.

The Supreme Court herein sustained our order of January 5, 1931, in Ex Parte 100, *Uniform System of Accounts*, 171 I.C.C. 557, whereby we directed appellant to carry its investment in three coal mines, adjacent to its right-of-way and acquired to insure it an adequate supply of coal of satisfactory quality for use in its locomotives, in account 705, "Miscellaneous Physical Property", which includes investments in physical property not used in transportation, and not in account 701, "Investment in Road and Equipment." Our order further provided that charges to account 716, "Material and Supplies", for coal purchased by the carrier for use in its operations, be upon the basis of average monthly cost per ton of producing coal. The investment in the coal mines was, as of September 30, 1928, after debits for depreciation and depletion, $2,650,467.28. The order was sustained by the District Court, and the Supreme Court affirmed.

Conceding that section 20 grants to us a discretion to prescribe a uniform system of accounts and the manner in which they shall be kept, the carrier contended, however, that the order is in excess of the statutory grant because we exceeded that discretion by classifying as nontransportation that which was acquired to serve transportation activities. After examining the origin, the purpose, the reenactment of the statutory provision, and the practice of the Commission thereunder, the court overruled the carrier's contention, saying:

> Plainly, the Commission, under the authority conferred upon it by Congress, must draw a line between the two sorts of property owned by the railroads. Within broad limits that body's determination is necessarily beyond revision and correction by the courts. The record shows that it is unusual for a railroad to

own mines for the production of locomotive fuel; in fact we are referred to no other similar instance. Whether the Commission should make special classifications to fit exceptional cases lies within the discretion conferred, and courts ought not to be called upon to interfere with or correct alleged errors with respect to accounting practice. If we were in disagreement with the Commission as to the wisdom and propriety of the order, we are without power to usurp its discretion and substitute our own. * * *.

In overruling the claim that by virtue of our order an unfair and improper rate base is fixed, and a capital asset properly to be taken into account for purposes of recapture is eliminated, the court said:

* * * this is to ignore the fact that the order is one touching accounting merely; that before any rate base can be ascertained or any basis of recapture determined the carrier will be entitled to a full hearing as to what property shall be included; and not until the Commission excludes the assets in question from the calculation may the carrier assert the infliction of injury to its rights of property. * * *

Claims that the order denied due process of law because no effect was given by us to the uncontradicted testimony and that the order was an unwarranted interference with managerial discretion, were rejected. The final contention of appellant was stated and overruled as follows:

Finally, complaint is made of that portion of the Commission's order which requires the charges to Account 716, "Material and Supplies", for coal produced from the collieries for consumption in the appellant's transportation operations, to be upon the basis of the average monthly cost for producing the coal. The objection seems to be grounded on the premise that actual cost of production is not the proper item to go into that account. The Commission, however, expressed a willingness to reopen the case and to give further consideration, if necessary, to the method of charging coal from these mines as a cost of transportation. The record therefore fails to show that in this aspect the appellant has suffered harm from the order.

Interstate Com. Comm. v. *New York, N. H. & H. R. Co.*, 287 U.S. 178.

Upon our application, the Supreme Court granted certiorari to review a decision of the Court of Appeals of the District of Columbia directing issuance of a writ of mandamus commanding us to include the value of the carrier's interests in tracks of the New York & Harlem R. Co. from Woodlawn to Forty-third Street in New York City, in the Grand Central Terminal in that city, and in the land and buildings of the Boston Terminal Co., as part of the valuation required by section 19*a*. (30 Val. Rep. 1.) In reversing the Court of Appeals of the District and in vacating the writ, the court said the question was whether we were under a clear duty enforceable by mandamus, to include those interests with a specific valuation in the inventory. The court pointed out that, at an early stage in our labors, we had determined what we considered a proper method of valuing where there was a division of interest between ownership and use, saying:

* * * Like "going concern value" and that of many other intangibles, the value of these qualified privileges of user, falling short of ownership or full possession of the physical thing, was not excluded altogether as an element to be reflected in the ultimate appraisal. * * * What was held was no more than this, that the contribution of such factors was not a separate thing of value to be segregated from all the other values inhering in a unified system of railroad operation, and ticketed by itself.

This method of classification was sustained, the court holding there was no departure from any duty so peremptory and unmistakable as to be enforceable by mandamus. The court held, too, that it is never mandatory on us to value the interests of any lessee on the basis of cost, although such a method may in certain instances be appropriate as an exercise of discretion.

The argument that a specific valuation is made necessary by the provision of the statute requiring us to ascertain and report separately "other values, and elements of value", was overruled because the carrier did not build its case on that command in making proof before us, but took the position that it was an owner of the roadbed and the terminals in proportion to its use and made proof accordingly.

For mandamus to be appropriate, the court said, the duty imposed upon us must be clear and certain. In holding that this was not such a case, it said:

* * * For the purpose of this case, it is enough to hold, as we do, that the duty of specific valuation, if it exists, has been imposed upon the Commission too vaguely and obscurely to be enforced by a mandamus. * * * One cannot rise from a study of the statute in the setting of its history and of the administrative practice under it and hold at the end an assured belief that the Commission has been commanded by the Congress to do the act omitted. Where a duty is not plainly prescribed, but is to be gathered by doubtful inference from statutes of uncertain meaning, "it is regarded as involving the character of judgment or discretion," * * *, and mandamus is thereby excluded * * *.

In conclusion the court pointed out that the great task imposed on us of valuing the railroads should not be hampered by granting writs of mandamus at every turn, saying:

Public policy forbids that the work of the Commission in the fulfilment of the stupendous task of valuation shall be hampered by writs of mandamus except where the departure from the statute is clear beyond debate. * * *. The valuation of the railroads of the country has been ordered by the Congress in the belief that this new "Domesday Book" will promote an important public purpose. Nearly twenty years have passed since that belief found expression in the enactment of the statute, and the work is still unfinished. * * * If every doubt as to the extent and form of valuation is to be dispelled by mandamus, the achievement of the ends of Congress, already long deferred, will be put off till the Greek Kalends.

Alton R. Co. v. *United States*, 287 U.S. 229.

This case involved the validity of our order of December 7, 1931, in *Wheelock et al., Receivers*, v. *Akron, C. & Y. Ry. Co.*, 169 I.C.C. 594, 179 I.C.C. 517, wherein we found, upon complaint of the re-

ceivers of the Alton, that the divisions of so-called "local" rates on grain and its products from Peoria, Ill., to points east of Buffalo were too low, and ordered them increased. By the same order we found that the divisions of the so-called "reshipping" rates from Peoria to the same destinations were not unlawful, and refused relief as to them. The Alton in this suit sought to have the latter part of the order set aside. The lower court held that the portion of the order attacked was negative in character, over which it had no jurisdiction. The Supreme Court reversed the action of the lower court and remanded the case for further proceedings. The relation of the situation of the Alton in the handling of this traffic is described in the opinion, the history of the divisions given, following which the court held the order was not negative and was not beyond the scope of judicial review, saying:

> The order while negative in form was, in effect, an affirmative one. The joint "reshipping" rates and the divisions thereof were established by agreement of the carriers participating in the transportation. The divisions were a term of that agreement. * * * The connecting carriers were legally without power to reduce the divisions of the Alton over its objection. If they deemed its divisions unreasonably large, they could have invoked the power of the Commission to make a reduction. Instead of applying to the Commission to adjust the existing divisions they resorted to force. Availing themselves of their strategic position as collectors of the freight, they withheld from the Alton a part of what was due it.

The court pointed out that while the Alton might have sued at law for the part of the divisions wrongfully withheld, it was entitled also to invoke our jurisdiction. It further said that we were not at liberty to decline to exercise jurisdiction and that section 15 (6) imposed upon us the obligation to act upon the complaint. It also held that the jurisdiction of courts to review our orders is not dependent upon the form in which the order is couched, and in this connection, said:

> * * * If the eastern carriers had applied to the Commission for a change in the divisions fixed by agreement, and the Commission had authorized divisions precisely like those which they are now imposing upon the Alton by their unauthorized action, the order would have been affirmative in form and would obviously have been subject to attack by the Alton in a suit in the federal court. By their unauthorized action the connecting carriers forced the Alton to become the moving party before the Commission, with the result that the Commission's approval of the divisions effected by them was expressed in the form of a refusal to interfere. This result of the alignment of parties does not endow the Commission's order with immunity from judicial review.

Finally the court held that the contention that what is sought to be enjoined is not an "order" is unsound, and that the suit was not premature. In this connection, in speaking of the order, it said:

> * * * It subjects the Alton to damage which is substantial, immediate and irreparable. If the order is allowed to stand, and the eastern carriers con-

tinue to retain their present share of the joint rates, the Alton's only redress will be a subsequent complaint before the Commission. Even if the Commission should then decide that the existing divisions are unreasonable, it might be powerless to award reparation for the period from the entry of the present order.

United States v. *Chicago, N. S. & M. R. Co.*, 288 U.S. 1.

The suit, under section 12 (1) of the act, was brought by the Government at our instance to enjoin the carrier from issuing any securities or assuming any obligation or liability in respect of the securities of others without first having obtained our authorization, as required by section 20*a*. The only question was whether the railroad is an independently operated electric interurban railway, expressly excepted from the requirements of the section.

The facts as to the properties operated by the North Shore are detailed in the opinion, after which the court said:

We thus have a typical example of an interurban electric line for passenger service, which has developed, in addition, such freight traffic as could advantageously be undertaken without interfering with performance of the main purpose of the carrier.

After differentiating the case from that of *Piedmont & N. Ry. Co.* v. *Int. Com. Comm.*, 286 U.S. 299, the court said:

* * * If the status of the appellee were a matter of first impression, we should, though the decision is not free from difficulty, be inclined to hold section 20*a* inapplicable. But for the reasons about to be stated, we consider the question settled.

The court then quoted from a number of our annual reports to Congress, recommending that section 20*a* be so amended as to indicate definitely the classes of electric railway companies subject to that section, and held the position heretofore taken by us with respect to the North Shore was of great significance, saying:

* * * In 1923 a brief was filed with the Commission supporting the view that section 15 (*a*) had no application to the company because it was an interurban electric railway not operated as part of a general steam railroad system of transportation and not engaged in the general transportation of freight. The Director of the Bureau of Finance replied that unless later advised to the contrary the carrier would not be required to file returns under the section. No such advice has ever been communicated to the appellee.

The opinion shows that annual reports filed by the carrier with us have shown all securities issued since March 1, 1920, and in compliance with the rules have stated that these issues were each approved by a State commission. With these facts in mind, the court concluded:

* * * Conceding that the proper classification of the railway is not free from difficulty, all doubt is removed by the application of the rule that settled administrative construction is entitled to great weight and should not be overturned except for cogent reasons.

Interstate Com. Comm. v. *Oregon-W. R. & Nav. Co.*, 288 U.S. 14.

In this case the court held invalid our order of December 3, 1929, in *Public Service Comm. of Oregon* v. *Central Pac. Ry. Co.*, 159 I.C.C. 630, requiring appellee to construct an extension from a point on the Ontario-Burns branch near Crane, Oreg., across the central portion of Oregon to Crescent Lake, on the Cascade Line of the Southern Pacific.

Suit against the United States to enjoin our order was brought by the O.-W. R.& N. in the District Court for Oregon. This Commission and the Oregon and Idaho commissions intervened as defendants. The lower court held the order invalid as in excess of our power. From the decree the three commissions appealed and in this appeal the United States declined to join. The right to maintain the appeal in the absence of the United States was challenged. In sustaining such right, the court said:

> The statute clearly provides that in the trial of the case the intervening parties shall not be foreclosed by the action or non-action of the Attorney General. Even though he concludes not to defend, they are permitted to do so. If notwithstanding their defense a decree goes against them and the United States, can it have been the purpose of Congress that the failure of the Attorney General to prosecute an appeal concludes such interveners? We think not. So to hold would render meaningless and superfluous Section 2 of the act, which permits a review of the action of the court below 'if appeal to the Supreme Court be taken by an aggrieved party' * * * Congress evidently intended the Attorney General should represent and protect the interests of the United States as such, but should not at any stage control the litigation against the objection of the other parties and to their disadvantage; * * *.

Passing to the merits, the court held that paragraph (21) of section 1 is to be interpreted as authorizing us to require extensions only within the territory which the carrier has bound itself to serve. After pointing out that the phrase in paragraph (21) "and to extend its line or lines" is part of a single sentence committing to us the power to require carriers to provide safe and adequate facilities for car service as defined in the act, the court said:

> * * * We should expect, if Congress were intending to grant to the Commission a new and drastic power to compel the investment of enormous sums for the development or service of a region which the carrier had never theretofore entered or intended to serve, the intention would be expressed in more than a clause in a sentence dealing with car service.

The court found a significant difference in the language of paragraph (21) and in paragraph (18); paragraph (18) "presupposes voluntary action by a carrier, and provides that no company shall undertake 'the extension of its line of railroad, *or the construction of a new line of railroad*, * * * unless and until there shall first have been obtained from the Commission a certificate that the *present or future* public convenience and necessity require'" it. Paragraph (21), on

the other hand, "contains no provision whatever for new lines", and the omission to make the *future public convenience* a factor to be considered emphasizes that it refers to the service the carrier has bound itself to render.

In rejecting the argument that paragraph (22) of section 1 shows that Congress intended by paragraph (21) to cover more than merely short extensions like spur, industrial, team, switching, or sidetracks, the court said:

> The Act, reasonably construed, distinguishes between three sorts of facilities,—new lines, or extensions, voluntarily undertaken (par. 18); compulsory extensions within the area which the carrier has bound itself to serve (par. 21); and spur, industrial, team, switching or side tracks located wholly within one State, which are left within state control (par. 22). The second class is distinct from the others and embraces, as the decisions show, a substantial field. But this field is not, as the Commission holds, coterminous with that created by paragraph (18). If it were, power would exist to compel a carrier having lines reaching Chicago and St. Louis, but none connecting those cities, to build a railroad between them. Though in truth a new line, the appellants would call this an extension of the existing lines. If the grant of authority is broad enough to support the order in the present case it would also justify such a hypothetical requirement as we have supposed. We cannot so read the statute, but think the power granted by paragraph (21) is confined to extensions within the undertaking of the carrier to serve, and cannot be extended to embrace the building of what is essentially a new line to reach new territory.

United States v. *Northern Pac. Ry. Co.*, 288 U.S. 490.

The Supreme Court by this decision sustained our order of December 1, 1931, in Docket 17304, *International Oil Co.* v. *Abilene & S. Ry. Co., et al.*, 179 I.C.C. 435, establishing rates on petroleum from the midcontinent field to destinations in western Minnesota and North Dakota.

The District Court held that we erred as a matter of law in denying the carriers' petition for rehearing dated February 3, 1932, relying upon the decision of the Supreme Court in the *Grain case, Atchison, T. & S. F. Ry. Co.* v. *United States*, 284 U.S. 248. The Supreme Court pointed out that the *Grain case* exhibits "a substantially different state of facts", and said:

> Though the order substantially reduced the carriers' revenues, we do not consider the merits of the application for rehearing, as we think the carriers' lack of diligence in bringing this matter to the Commission's attention deprived them of any equity to complain of the refusal of their petition. They sat silent and took the chance of a favorable decision on the record as made. They should not be permitted to reopen the case for the introduction of evidence long available and susceptible of production months before the Commission acted. The denial of a rehearing, in view of this delay, was not such an abuse of discretion as would warrant setting aside the order.

Other contentions made that the order was invalid, which had been overruled by the District Court, were renewed in the Supreme Court, including a contention that our order was void because it made a section 3 finding under a section 1 complaint. Such claims were held to be without merit.

In conclusion, it was held that our refusal to consolidate the present proceeding with complaints involving rates from Wyoming to North Dakota points was not the denial to the carriers of a fair hearing.

Moffat Tunnel League v. *United States*, 289 U.S. 113.

In this proceeding the Supreme Court upheld our order of September 15, 1931, in *Denver & S.L. Ry. Control*, 175 I.C.C. 542, made pursuant to section 5 (2), whereby we authorized the *D. & R.G.W. R.R. Co.* by stock purchase to acquire control of the Moffat Road—the Denver & S. L. Ry. Co. The only point insisted upon in the Supreme Court was that, because our examiner had excluded what plaintiffs assert to be material evidence, we failed to hold a hearing as required by the act.

The court found it unnecessary to pass upon this contention, holding that the plaintiffs, Moffat Tunnel League and Uintah Basin Railroad League, unincorporated voluntary associations organized for the purpose of developing commercial and railroad facilities, failed to show they had a legal right to maintain the suit, saying:

> * * * Their interest is not a legal one. It is no more than a sentiment, such as may be entertained by members of the public in the territory west of Craig, that the improvement of transportation facilities authorized by the Commission will lessen the possibility of construction by a rival of the Rio Grande of an extension of the Moffat to Utah common points. * * *

Transit Commission v. *United States*, and *State of New York* v. *United States*, 289 U.S. 121.

In this case the Supreme Court sustained our order of February 8, 1932, in Finance Docket 7308, *Long Island Rental*, 180 I.C.C. 439, wherein we certified, under section 1 (18) of the act, that the present and future public convenience and necessity required, upon terms specified, the continued operation by the Long Island over the tracks, and to share in the use of other facilities, of the Pennsylvania Tunnel & Term. R. Co. After summarizing the provisions of section 1 (18) and (20) of the act, the court said:

> These provisions do not specifically mention trackage agreements providing for joint use of railroad lines, tracks or other facilities by two or more carriers. The question is whether the general language of paragraph (18) includes the arrangement under consideration. * * *
>
> So far as concerns the purpose to be attained by this legislation, there is no room for a distinction between unjustifiable expenditures for the construction or operation of new mileage on the one hand and inadequate rentals or extortionate exactions under trackage agreements on the other. The reasons for the exertion of federal authority, to the exclusion of state regulation, apply with like force to

both. The Act, including paragraph (18) and related provisions, is construed to make federal authority effective to the full extent that it has been exerted and with a view of eliminating the evils that Congress intended to abate * * *

Appellants' contention that, because the joint use commenced prior to the Transportation Act and has since been continuous, the provisions of paragraph (18) do not apply, was held without merit.

Texas & Pac. Ry. Co. v. *United States*, 289 U.S. 627; and *Louisiana & Ark Ry. Co.* v. *United States*, 289 U.S. 627.

In this case the Supreme Court held invalid our order in Docket 12798, *Galveston Commercial Assn.* v. *G. H. & S. A. Ry. Co.*, 160 I.C.C. 345, requiring carriers to cease and desist from charging on export, import, and coastwise traffic moving through the Gulf ports from and to interior territory, much nearer Galveston and other Texas ports than the port of New Orleans, rates to and from New Orleans which were generally the same as, and in many instances even lower than, the rates to and from the Texas ports. The order permitted equalized rates where the distance to New Orleans did not exceed that to Galveston by more than 25 percent, but it prescribed differentials in the New Orleans rates over the Texas ports' rates from and to interior points involving differences in distance exceeding that percentage.

The lower court sustained our order, and, after two arguments in the Supreme Court, that court, in a 5 to 4 opinion, invalidated the order.

In its opinion the Supreme Court showed that for many years prior to the passage of the act, the railroads desiring to hold traffic to their own lines, equalized rates through the ports reached by their own lines with those maintained by their rivals to other ports, or established differentials in favor of their own ports so as to retain a portion of the competitive export business. It then made the important holding that ports, in respect of export, import and coastwise traffic, were not localities susceptible of undue preference or prejudice within the meaning of section 3, saying:

> * * * The word "localities", therefore, has its proper office as denoting the origin or destination of traffic and the shipping, producing, and consuming areas affected by rates and practices of carriers. The phrase was, however, not intended to cover a junction, a way station, a gateway, or a port, as respects traffic passing through it. * * * It seems too plain for argument that the Commission has no authority, upon a showing by a gateway that under an existing tariff too much traffic passes through another, or too little through it, to readjust the rates and prescribe differentials so as to divert traffic through the complaining gateway. The interests and industries of a gateway are not entitled thus to obtain a benefit reflected from additional traffic which would be diverted by such action of the Commission. We perceive no difference in principle as to export or import traffic routed through ports.

The second important holding was that a carrier could not be held responsible for undue prejudice or preference unless both of the localities affected are upon its lines, or it effectively participates in the rates to both.

After reviewing Supreme Court decisions relied upon by us in support of our conclusion, the Court said:

> * * * Where, however, a carrier whose lines reach or which controls the rate to, one of the destinations, is a party to a joint rate to the other but cannot make or control the latter rate, or though it were to withdraw as a party thereto, or to cancel the rate, the discrimination would still continue—it cannot be held responsible, nor can any order to remove the prejudice run against it. * * *

Interstate Com. Comm. v. *United States ex rel. Campbell*, 289 U.S. 385.

The Supreme Court in this case sustained our action declining to award damages for a violation of section 3 of the act in docket 19191, *Birch Valley Lumber Co.* v. *S. C. & M. R.R. Co., et al.*, 144 I.C.C. 419. The Court of Appeals of the District of Columbia had directed us, through the issuance of the writ of mandamus, to make an award. (63 Fed. (2d) 358.) This action of the Court of Appeals was held to be error. Pertinent facts are:

The lumber company, located in Tioga, W.Va., on the S. C. & M., filed a complaint alleging the refusal of the defendants to accord it the blanket rate accorded its competitors, unduly preferred its competitors, and unduly prejudiced it, to its damage. Apart from the preference, no claim was made that either the blanket rate, or the separate charge of the S. C. & M., amounting to $15 per car, was unreasonable. After hearing, we made an order directing the carriers to "cease and desist" from the unlawful practice. Damages were denied, because "the record will not support an award of reparation based on the undue prejudice found to exist."

We found, also, that complainants were "forced to base their prices on the group rates and absorb the charges of the S. C. & M.", and in holding the denial of reparation was not inconsistent with this finding, the court said:

> * * * The Commission does not find, and the complainant does not assert, that the rate was unreasonable in the sense that it would be subject to condemnation if a like rate had been charged to others similarly situated. What is unlawful in the action of the carriers inheres in its discriminatory quality, and not in anything else. When discrimination and that alone is the gist of the offense, the difference between one rate and another is not the measure of the damages suffered by the shipper. * * * It is an evidentiary circumstance to be viewed along with others in the setting of the occasion. It is not the measure without more.

The difference between the proof necessary in a section 3 case as distinguished from a section 1 case was emphasized by the court; further, it held that mandamus was not an appropriate remedy, saying:

* * * If the mandamus were to stand, the result would not be to compel the Commission to adjudicate the cause, for that it has already done; the result would be to compel an adjudication in a particular way. The rule is elementary that this is not the function of the writ. Mandamus is an appropriate remedy to compel a judicial officer to act. It may not be used as a substitute for an appeal or writ of error to dictate the manner of his action. * * *

The policy of the law has been to give finality to orders of the Commission negative in form and substance, and to keep them out of the courts. * * * A dissatisfied complainant is not permitted to escape these limitations indirectly by broadening the functions of mandamus when he is barred from more direct review. * * *

Southern Transportation Co. v. *Interstate Com. Comm.*, 289 U.S. 755.

In this case the Supreme Court denied an application for a writ of certiorari, made under the following circumstances:

Appellant sought, by the common-law writ of certiorari, to require us to certify to the Supreme Court of the District of Columbia our record in docket no. 14877, *Southern Transp. Co.* v. *N. & W. Ry. Co. et al.*, 101 I.C.C. 211, 147 I.C.C. 29, to the end that the court may review the record and determine whether we exceeded our statutory authority in refusing to award reparation despite our finding that the wharfage charges involved had been collected without tariff authority. The lower court dismissed the petition, and its action was affirmed by the Court of Appeals of the District of Columbia, 61 Fed. (2d) 925. In its decision the Court of Appeals said:

* * * the power to make an order of reparation, such as the appellants seek in the present proceeding, is a statutory power not known to the common law. In creating and reposing this power in the commission Congress clearly intended that only that body exercise the same. For a court to undertake to exercise this power through the commission by compulsory order, whether injunction, mandamus, prohibition, or certiorari would amount to an assumption by the court of a statutory power conferred solely upon the commission and not upon the courts.

United States ex rel. Arcata & Mad River R. Co. v. *Interstate Commerce Commission*, — U.S. —.

In this case petitioner sought, through issuance of a writ of mandamus, to compel us to ascertain under section 204 and to certify to the Secretary of the Treasury the amount alleged to be due petitioner as deficit during the Federal control period, while it operated its own railroad. The Court of Appeals of the District of Columbia held that our rejection of the application on the ground that the railroad was not engaged in general transportation and that its self-imposed losses accruing to the benefit of an owning lumber company were not reimbursable under the act, was impregnable to mandamus. (65 F. (2d) 180.) This decision the Supreme Court declined to review.

Other decisions of interest in connection with our work were:

Baltimore & Ohio R. Co. v. *Brady*, 288 U.S. 448.

In this case the Supreme Court sustained our reparation award in *Brady* v. *Western Md. Ry. Co.*, 152 I.C.C. 327, whereby we directed the carriers to pay to Brady $12,838.31 as damages found to have been sustained by him by reason of undue prejudice to which he had been subjected in the furnishing of coal cars. The carriers failed to pay the award, and Brady sued in the district court and recovered more than awarded by us. The amount of his recovery there was $63,048.60, and the verdict was sustained by the Circuit Court of Appeals for the Fourth Circuit. 61 F. (2d) 242.

The important holding of the court was that Brady, having elected to seek relief from us, was not entitled to recover more than the amount of the award. The opinion reads:

> * * * Section 16 (2) does not permit suit in the absence of an award, and if the Commission denies him relief, a claimant is remediless. * * * No suit is permitted if the carrier pays the award. * * * Plaintiff may not adopt the award as the basis of his suit and then attack it. * * *
>
> The fact that the Act merely makes the findings and report of the Commission *prima facie* evidence and so preserves the defendant's right to contest the award gives no support to plaintiff's contention that it does not bind him. It is to be remembered that, by electing to call on the Commission for the determination of his damages, plaintiff waived his right to maintain an action of law upon his claim. But the carriers made no such election. * * * If by such a suit plaintiff may obtain a trial *de novo* or a revision of the award, the provisions of Section 9 requiring election and prohibiting pursuit of both remedies would be set at naught in cases in which carriers refuse to pay and would be given effect in all other cases. There is no support for such a distinction. * * *

United States v. *Great Northern Ry. Co.*, 287 U.S. 144.

This was a suit by the Government to recover an overpayment made by the Secretary of the Treasury to the railway company, by force of a certificate we issued under section 212 of the Transportation Act, 1920, providing that during the 6 months following the termination of the Federal control period the carrier's income would be not less than one half of the annual compensation to which the carrier was entitled during that period. The Government asserted that the excessive payment was made as a result of a mistake on our part. The judgment of the District Court in favor of the railroad was affirmed by the Circuit Court of Appeals for the Eighth Circuit, and the Supreme Court, in turn, affirmed that decision.

In holding that neither fraud nor mistake was shown, the court said:

> In these circumstances we find no basis for a holding that the payment made to the respondent under the partial certificate of March 1, 1921, was due to any mistake of fact, either unilateral or mutual, * * *. The officials of the government knew precisely what they were doing, and kept well within the statute defining their authority. They did not act illegally like the officials whose acts were challenged in the cases cited by the petitioner. * * * Charged with a difficult task exacting judgment and discretion, they came to a decision in good faith with knowledge of the relevant facts and without departure from the law.

If the payment under their certificate is to be reclaimed, some other ground than mistake or illegality must be found to sustain the reclamation.

The contention that the certificate was void because our work was so hasty and imperfect as to involve an abdication of our statutory duty was definitely overruled, the court saying:

* * * The record may permit an inference that the whole amount owing in order to discharge the guaranty had not been so definitely determined as to make the Commission willing to recommend a settlement in full, though even this may be uncertain. It does not command a holding that the margin of error was so inscrutable as to preclude the definitive approval of a payment on account.

Bartlesville Zinc Co. v. *Mills, Director General*, 287 U.S. 602.

In this case, the Supreme Court denied an application for a writ of certiorari, made under the following circumstances:

In *Bartlesville Zinc Co.* v. *Director General*, 74 I.C.C. 26, 136 I.C.C. 57, we dismissed petitioner's complaint asking for reparation on account of demurrage charges claimed to have been illegally exacted. The Circuit Court of Appeals (56 Fed. (2d) 154) held that as the Zinc Company had exercised the option conferred on it by section 9 of the act of seeking relief from us, it could not thereafter sue for relief in the District Court; that court also held the order involved was negative in character, over which the District Court had no jurisdiction. This decision the Supreme Court declined to review.

Richmond, F. & P. R. Co. v. *McCarl, Comptroller General*, 288 U.S. 615.

Certiorari denied by the Supreme Court to review a decision of the Court of Appeals of the District of Columbia (62 Fed. (2d) 203), wherein that court had declined to restrain the Comptroller General from withholding from petitioner $696,705.68 due it for carrying mails for the United States. The payment of this sum was withheld by the Comptroller General for the purpose of setting off our claim against the railroad for recapture of excess earnings under section 15a. (170 I.C.C. 451.)

BUREAU OF LOCOMOTIVE INSPECTION

The work of this bureau is shown in detail in the report of the Chief Inspector, published separately.

The following tables covering the years ended June 30 as indicated are self-explanatory:

TABLE I.—*Reports and inspections—steam locomotives*

	1933	1932	1931	1930	1929	1928
Number of locomotives for which reports were filed	56,971	59,110	60,841	61,947	63,562	65,940
Number inspected	87,658	96,924	101,224	100,794	96,465	100,415
Number found defective	8,388	7,724	10,277	16,300	20,185	24,051
Percentage inspected found defective	10	8	10	16	21	24
Number ordered out of service	544	527	688	1,200	1,490	1,725
Total number of defects found	32,733	27,832	36,968	60,292	77,268	85,530

TABLE II.—*Accidents and casualties caused by failure of some part of the steam locomotive, incloding boiler, or tender*

	1933	1932	1931	1930	1929	1928
Number of accidents	157	145	230	295	356	419
Percent increase or decrease from previous year	[1] 8.3	36.9	22	17.1	15	14.1
Number of persons killed	8	9	16	13	19	30
Percent increase or decrease from previous year	11.1	43.7	[1] 23	31.6	36.6	[1] 7.1
Number of persons injured	256	156	269	320	390	463
Percent increase or decrease from previous year	[1] 64.1	42	15.9	17.9	15.8	10.4

[1]Increase.

All accidents reported to the bureau as required by the law were carefully investigated and appropriate action taken.

During the year 10 percent of the steam locomotives inspected by our inspectors were found with defects or errors in inspection that should have been corrected before being put into use as compared with 8 percent for the previous year.

There was a decrease of 16.6 percent in the number of crown sheet failures, a decrease of 71.4 percent in the number of persons killed, and a decrease of 33.3 percent in the number of persons injured from this cause as compared with the previous year. Fatalities occurred in two of the five crown sheet failures caused by low water, both of the locomotives involved were oil fired, and in each instance the locomotive was in charge of an engine watchman who was killed. The assigned hours of each of these watchmen were such as to preclude the possibility of obtaining sufficient rest without sleeping on duty. One of the watchmen was working on a tour of duty of 40 consecutive hours and the accident occurred at about the fourteenth hour of duty; the other watchman was assigned to shifts of 18 hours each, with 6-hour rest periods intervening, but had been required to perform other service during his rest period and had been working about 36 hours when the accident occurred.

One thousand four hundred applications were filed for extensions of time for removal of flues, as provided in rule 10. Our investigations disclosed that in 78 of these cases the condition of the locomotives was such that extensions could not properly be granted. Sixty-seven were in such condition that the full extensions requested could not be authorized, but extensions for shorter periods of time were allowed. One hundred and ninety-seven extensions were granted after defects disclosed by our investigations had been repaired. Thirty-nine applications were canceled for various reasons. One thousand and nineteen applications were granted for the full periods requested.

Under rule 54 of the Rules and Instructions for Inspection and Testing of Steam Locomotives, 151 specification cards and 3,601 alteration reports were filed, checked, and analyzed.

Under rules 328 and 329 of the Rules and Instructions for Inspection and Testing of Locomotives Other Than Steam, 98 specifications

and 16 alteration reports were filed for locomotive units and 72 specifications and 71 alteration reports were filed for boilers mounted on locomotives other than steam. These were checked and analyzed and corrective measures taken with respect to discrepancies found.

No formal appeal by any carrier was taken from the decision of any inspector during the year.

BUREAU OF SAFETY

A more detailed report of the work of this bureau is published as a separate document.

Except as otherwise specified, the report here made is for the year ended June 30, 1933.

ACCIDENT STATISTICS

The casualties on steam railroads in connection with the operation of trains during the calendar year 1932 are summarized as follows:

Class of persons	Number of persons killed	Number of persons injured
Trespassers	2,435	3,354
Employees	446	7,283
Passengers	23	1,911
Persons carried under contract, such as mail clerks, Pullman conductors, etc	5	318
Other nontrespassers	1,615	4,291
Total	4,524	17,157

The corresponding totals for the calendar year 1931 were 4,853 persons killed and 20,057 injured.

In addition, there were 223 persons killed and 12,062 injured in nontrain accidents in comparison with 246 killed and 15,599 injured in such accidents during the preceding calendar year.

The increased safety to the traveling public deserves special mention. Steam railroads carried 480,717,777 passengers 16,997,426,362 miles with but 23 fatalities or 1 for each 739,018,537 miles traveled.

There were 20 employees killed and 307 injured in coupling or uncoupling locomotives and cars as compared with 12 killed and 394 injured during 1931. Casualties to employees due to coming in contact with fixed structures resulted in 17 killed and 165 injured. There were 35 employees killed and 1,570 injured in getting on or off cars and locomotives.

SAFETY APPLIANCES

One hundred and three cases of violations of the safety-appliance laws, comprising 174 counts, were transmitted to United States attorneys for prosecution; cases comprising 169 counts were confessed, 14 dismissed, and 6 tried. Of the 6 counts tried, 4 were decided

in favor of the Government, 1 count was decided in favor of the Government on demurrer and later tried on its merits and is pending decision, and 1 count was decided in favor of the defendant. The 1 count decided in favor of the defendant is pending on appeal. Of the 5 counts pending decision last year, 4 were decided in favor of the Government and 1 is still pending. On June 30, 1933, there were pending in the various district courts 97 cases containing 176 counts.

In *United States* v. *The State of California*, not reported, the State owned and operated the State Belt Railroad in connection with its control of the harbor of San Francisco. Suit was instituted in the District Court against the State for an alleged violation of the Safety Appliance Acts growing out of the movement of a car with defective safety appliances by the State Belt Railroad. Under the Safety Appliance Acts it is provided that suits for violations thereof shall be brought in the District Court of the United States. The State demurred to the jurisdiction of the District Court on the ground that this being a controversy between the United States and a State exclusive jurisdiction was in the Supreme Court of the United States. The District Court for the Northern District of California overruled the defendant's demurrer. The case is now before the Court for determination on its merits on an agreed statement of facts and briefs.

Approximately 1,300,000 cars and locomotives were inspected; the number of safety-appliance defects per 1,000 cars and locomotives inspected was 23.91. The corresponding figures for the preceding year were approximately 1,375,000 inspected and 20.93 defects per 1,000 inspected.

HOURS OF SERVICE

Hours-of-service reports were filed by 905 railroads, of which 713 reported no instances of service of their employees in excess of the limits prescribed by the law. The remaining 192 railroads reported a total of 3,202 instances of excess service as compared with 4,546 instances of excess service reported by 199 railroads for the preceding year, a decrease of 7 railroads reporting excess service and a decrease of 1,344 in the total number of instances of excess service reported.

Two cases of violation of the hours-of-service law, comprising 5 counts, were transmitted to the United States attorneys for prosecution; cases comprising 53 counts were confessed, 10 dismissed, and 5 tried resulting in judgment for defendant. On June 30, 1933, there were pending in the district courts 2 cases containing 2 counts.

SIGNALS AND TRAIN CONTROL

On June 30, 1933, installations of automatic train stop and train-control devices in service comprised 8,951.7 miles of road, 16,501.8

miles of track, 6,520 locomotives, and 337 motor cars. Of the foregoing, 2,400.4 miles of road, 4,359.2 miles of track, 1,711 locomotives and 304 motor cars were equipped for operation with automatic cab signals in conjunction with automatic train-stop and train-control devices. In addition to the above, there were 1,460.1 miles of road, 3,481.7 miles of track, 2,171 locomotives, and 379 motor cars equipped with automatic cab signals without automatic train-control devices.

As a result of petitions certain carriers have been authorized until our further orders to discontinue maintenance and operation of automatic train-stop devices as follows:

Railroad	Miles of—		Number of—	
	Road	Track	Locomotives	Motor cars
Chicago, Burlington & Quincy	161.0	242.0	89	3
Chicago, Indianapolis & Louisville	161.0	161.0	50	----
Chicago, Rock Island & Pacific (Iowa Division only)	177.5	243.4	76	4
Delaware & Hudson	198.2	279.3	150	----
Great Northern	229.5	255.9	79	3
Missouri Pacific	50.0	53.0	42	----
Northern Pacific	215.6	215.6	52	----
St. Louis-San Francisco	106.1	115.4	102	----
Texas & New Orleans	170.1	170.1	65	----
Total	1,469.0	1,735.7	705	10

The following carriers have been authorized to substitute for automatic train-stop or train-control devices automatic cab-signal devices conforming to specifications which we have prescribed:

Railroad	Miles of—		Number of—	
	Road	Track	Locomotives	Motor cars
Central Railroad of New Jersey	126.3	180.4	123	----
Delaware, Lackawanna & Western	256.5	546.5	211	----
Long Island	43.7	83.3	48	295
Norfolk & Western	238.7	241.2	56	----
Pennsylvania Lines	996.4	2,790.5	1,956	222
Reading	101.1	204.5	122	82
Union Pacific	225.0	450.0	140	----
Total	1,987.7	4,496.4	2,656	599

Petitions of the Baltimore & Ohio, the Boston & Maine, and the Chicago, Milwaukee, St. Paul & Pacific for authority to discontinue maintenance and operation of automatic train-stop devices were denied. Petitions of the following carriers were pending: Alton, Boston & Maine, and the Southern Pacific.

BLOCK-SIGNAL STATISTICS

On January 1, 1933, there were 113,580.6 miles of road and 147,400 miles of track operated under the block system, comprising 63,295.7 miles of road and 94,212.3 miles of track equipped with automatic

block signals and 50,284.9 miles of road and 53,187.7 miles of track operated under the nonautomatic block system. During the calendar year 1932 there was a decrease of 234.9 miles of road and 625.9 miles of track equipped with automatic block signals and a decrease of 2,507.8 miles of road and 2,779.3 miles of track in nonautomatic block-signal mileage, the total decrease in block-signal mileage during the year being 2,742.7 miles of road and 3,405.2 miles of track.

INVESTIGATION OF ACCIDENTS

We investigated 59 train accidents, of which 28 were collisions and 31 were derailments. The collisions resulted in the death of 29 persons and the injury of 218 persons; the derailments resulted in the death of 39 persons and the injury of 171 persons, a total of 68 killed and 389 injured. A detailed report concerning each accident is made public when completed, and summaries of these reports are published quarterly.

Of the accidents investigated there were three at highway grade crossings in which motor vehicles carrying oil or gasoline were involved, and in two cases passenger trains were sprayed with blazing gasoline. In none of the three cases mentioned did it appear that the driver of the motor vehicle involved took even the ordinary precautions required of any person about to drive a vehicle over a railroad crossing at grade. The driver of a vehicle carrying inflammables or explosives should be required to use even more than the ordinary amount of precaution; the nature of the cargo being transported is such that considerable loss of life and extreme suffering might occur should such an accident result in the derailment of a passenger train and blazing gasoline be scattered over the wreckage. Eighteen accidents of this nature were reported by the carriers and in 4 cases fire broke out following the accidents. In view of the extensive use being made of the public highways for the transportation of gasoline and other explosive or highly inflammable materials, provision should be made for strict regulation to enable such transportation to be carried on with a greater degree of safety to the traveling public than is now afforded.

The number of derailments investigated by the Commission is ordinarily about one third of the total number of accidents investigated. During the past few years, however, derailments have accounted for an increasing percentage of the total number investigated and during the instant year more than half of the accidents investigated were derailments. Five of these derailments were due to the failure of arch-bar trucks. Under a rule of the American Railway

Association, cars equipped with arch-bar trucks will not be accepted in interchange after January 1, 1936; prior to that date their use should be curtailed to the fullest possible extent.

Among the accidents investigated were 4 involving motor vehicles at grade crossings; 3 involving cocked or damaged switches; and 2 were due to broken rails. These 9 accidents, which resulted in the death of 10 persons and the injury of 52 persons, have not been classified in the table below. The remainder of the accidents investigated are divided into four groups; the following table shows the groups and the number of accidents in each group:

Accidents investigated

Group	Number of accidents	Number of persons killed	Number of persons injured	Probably preventable by train stop or train control			Possibly preventable by block signals; preventable by train stop or train control			Not preventable by block signals, train stop, or train control		
				Number of accidents	Number of persons killed	Number of persons injured	Number of accidents	Number of persons killed	Number of persons injured	Number of accidents	Number of persons killed	Number of persons injured
1 [1]	25	33	127	1	------	4	4	6	26	20	27	97
2 [2]	12	7	128	4	5	35	------	------	------	8	2	93
3 [3]	4	10	43	------	------	------	4	10	43	------	------	------
4 [4]	9	8	39	------	------	------	8	8	35	1	------	4
Total for year ended June 30, 1933	50	58	337	5	5	39	16	24	104	29	29	194
Totals for years ended June 30:												
1932	52	74	517	7	7	35	13	23	172	32	44	310
1931	58	83	682	4	1	170	19	29	159	35	53	353
1930	101	128	1,406	8	8	64	38	50	522	55	69	820
1929	90	132	1,171	12	15	116	37	54	572	41	63	483
1928	72	126	896	11	18	74	21	42	472	40	66	350
1927	70	174	1,151	10	13	321	19	45	318	41	116	512
1926	104	192	1,611	15	40	246	29	45	594	60	107	771

[1] Derailments.
[2] Collisions in automatic-signal territory.
[3] Collisions in nonautomatic-signal territory.
[4] Collisions in time-table and train-order territory and yards.

The number of preventable accidents, as above indicated, the number of persons killed, and the number injured in such preventable accidents, represent 35.6, 42.6, and 36.8 percent, respectively, of the total number of accidents investigated, persons killed, and persons injured.

During the calendar year 1932 there were 3,499 accidents at highway grade crossings, which resulted in the death of 1,525 persons and the injury of 3,989. Automobiles were involved in 3,103 of these accidents, 1,310 persons being killed and 3,778 injured. For pur-

poses of comparison, corresponding records for the past 3 years are summarized as follows:

	1930			1931			1932		
	Number	Number of persons killed	Number of persons injured	Number	Number of persons killed	Number of persons injured	Number	Number of persons killed	Number of persons injured
Accidents at highway grade crossings	4,853	2,020	5,517	4,100	1,811	4,657	3,499	1,525	3,989
Accidents at highway grade crossings involving automobiles	4,262	1,695	5,206	3,625	1,580	4,336	3,103	1,310	3,778
Derailments of trains as a result of collisions between trains and automobiles	42	52	51	47	28	59	25	18	20
Miscellaneous train accidents as a result of collisions between trains and automobiles	112	59	65	107	63	65	100	62	58
Automobiles registered	26,523,779			25,814,103			24,136,879		

During the year there were 25 derailments of trains as a result of collisions between trains and automobiles, these derailments causing the death of 18 persons and the injury of 20.

The following is a statement showing the total number of passengers, employees, and persons carried under contract killed and injured in accidents at highway grade crossings:

Class of persons	1930		1931		1932	
	Killed	Injured	Killed	Injured	Killed	Injured
Passengers		9		31	1	11
Employees	18	69	16	41	11	42
Persons carried under contract		1		3		
Total	18	79	16	75	12	53

EXAMINATION OF PLANS

Plans of 23 devices designed to promote the safety of railway operation were examined by our engineers and reports thereon transmitted to the proprietors.

MEDALS OF HONOR

The act of February 23, 1905, United States Code, title 45, sections 44–45, authorizes the President to bestow bronze medals of honor upon persons who by extreme daring endanger their own lives in saving, or endeavoring to save, lives from any wreck, disaster, or grave accident, upon any railroad within the United States engaged in interstate commerce. One application for award of a medal as

provided in this act was filed. In this case an award was made as follows:

William G. Lang, motorman, employed by the Lake Shore Electric Railway Co., saved the life of a small child who had been sitting between the rails of the track, near Lorain, Ohio, on August 24, 1932.

Since the passage of this act 62 applications have been filed, 39 have been approved, and 23 denied.

BUREAU OF SERVICE

The regular work of the bureau under section 1, paragraphs (10) to (17) of the act and the formulation of regulations governing the transportation of explosives and other dangerous articles under the Transportation of Explosives Act has been detailed in previous reports.

Since our last report it has been found necessary to exercise our emergency powers in the following instances: The Southern Railway Co. was directed by Service Order No. 53, issued March 8, 1933, due to the destruction of a bridge across the Tombigbee River at McDowell, Ala., to forward traffic via open routes at rates applicable via the normal route. A controversy developed between the receivers of the Wabash Railway Co. and the Kansas City Terminal Railway Co. regarding the continued use by the former of the Union Passenger Station at Kansas City, Mo. By Service Order No. 54 we directed the Terminal Co. to permit the receivers of the Wabash Railway to continue to use the station pending further negotiations.

The bureau has participated in the following informal investigations requested by other departments of the Government:

At the request of the Treasury Department, which advised that it was not equipped to procure the information, an investigation was made into the financial affairs of the Seaboard Air Line Co., in receivership in the District Court of the United States for the Eastern District of Virginia. This investigation was requested so that the Government could protect its interest in the Seaboard which is indebted to the Secretary of the Treasury for loans and interest on loans made under section 210 of the Transportation Act of 1920. A similar investigation was made of the Norfolk Southern Railroad Co. for the court having jurisdiction in the receivership of that road.

At the request of the Department of the Interior, Bureau of Investigation, we cooperated with investigators of that Department in making investigations concerning not only the transportation, but more particularly the holding in transit of petroleum products awaiting sale or reconsignment on tracks leased from certain carriers.

At the request of the Reconstruction Finance Corporation the bureau participated in a traffic survey of the St. Joseph Belt Railway of St. Joseph, Mo.

At the request of the Coordinator the bureau is participating in the investigation of matters pertaining to labor relations, maintenance of equipment, consolidation of shops, economy of operation, and accessorial services which carriers perform.

During the year the bureau assisted in the development of the record in certain important formal cases and has conducted hearings in others. The principal cases of this character are no. 20769, In Re Charges for Protective Service to Perishable Freight, and Ex Parte No. 104. The bureau participated also in the proceedings and assisted in the preparation of the report in Ex Parte No. 106, *Six-Hour Day Investigation*, 190 I.C.C. 750. The *Car Hire Case*, 165 I.C.C. 495, was reopened and action is being held in abeyance pending the outcome of negotiations looking to a possible proper settlement of the controversy without the necessity of further formal hearing.

The bank holidays proclaimed by Federal, State, and municipal authorities have caused a number of demurrage disputes and complaints, notwithstanding the fact that on March 7 we promulgated an interpretation of the term "legal holidays", as including "bank holidays and bank moratoriums", within the intendment of the rules employing that term. Another question growing out of the present emergency is that of the possible necessity for an extension of the free time allowance in the demurrage rules to compensate for the loss of an additional half day on Saturdays due to the adoption of a 5-day week in some lines of industry under codes prescribed in connection with the National Industrial Recovery Act.

Procedure for considering proposed regulations for the transportation by rail of dangerous articles had further revision in that the number of periodical conferences between carriers and shippers, and the number of our amendatory orders resulting from information obtained at these conferences were reduced. Proposed regulations for common carrier truck and bus transportation of explosives are receiving attention and it is expected that a draft thereof may soon be completed. Proposed regulations for water-borne traffic were the subject of two hearings; a further hearing may be set and it is proposed to formulate and promulgate necessary rules and regulations at an early date. Interest recently shown in the matter of increasing the unit volume of shipments is creating new problems in tank-car construction. Tanks used in the movement of dangerously inflammable, corrosive, or poisonous liquids are now required to be lapwelded, hammered, or rolled. It is urged that electric welding be permitted as a substitute for the hammered or rolled lapwelding now required; and while there has been progress in the art of electric welding, the ability to produce uniformly sound joints comparable

in strength and dependability with plate metal, for the highly dangerous service referred to, has not been shown.

Reports made to us for the first 10 months of 1933, covering contracts and agreements made by carriers with outside shops for repairs to equipment, indicate that with the exception of 20 freight cars, no rolling equipment was repaired at outside or contract shops. During the same period 644 units of floating equipment were repaired at outside shops.

No country-wide embargoes have been issued. Numerous local embargoes for the control of seasonal commodities were placed; some local embargoes were due to interruptions to traffic but a large portion of these were due to abandonments of line.

The percentage of freight cars unserviceable on class I railroads has increased from 12.7 percent on November 1, 1932, to 14.6 percent as of October 1, 1933. Car surplusages have decreased from 545,157 to 380,088 between the same dates. The percentages of locomotives out of service for classified repairs has increased from 17.8 percent to 21.5 percent during the same period of time.

BUREAU OF STATISTICS

The various annual, quarterly, and monthly publications relating to the finances, operations, traffic, and employees of common carriers prepared in this Bureau were continued during the year without extensive changes. The annual accident bulletin was revised and reduced in size by about 20 percent. A preliminary monthly report of the number of railway employees was instituted by order of April 10, 1933, to be filed by class I steam railways on or before the last day of the month to which the count of employees relates. This makes available information as to fluctuations in railway employment about 1 month earlier than was formerly the case. Beginning with January 1933 the published monthly summaries of employees and of revenues and expenses, were revised to exclude from the totals figures relating to switching and terminal companies. This puts all of the statistical compilations for class I companies on a consistent basis. The annual and monthly report forms for the larger telephone companies have been modified to conform with the new system of accounts which became effective for such companies on January 1, 1933. The order relating to this system of accounts modifies the classification of telephone companies. Class A companies are now those with annual operating revenues above $100,000 instead of $250,000. Monthly reports of revenues and expenses have in the past been required of all class A companies, but this requirement was not extended to all of the companies in the new class A, being specifically restricted by order of December 9, 1932, to companies with revenues above $250,000.

The following table shows the number of annual reports received for the calendar year 1932 from various corporations or receivers in comparison with the number for the preceding year.

Class of carrier	Number of annual reports	
	1932	1931
Steam railway companies:		
Class I	156	161
Class II	235	240
Class III	305	326
Switching and terminal	217	218
Lessor	381	380
Total	1,294	1,325
Other companies:		
Electric railways	157	177
Sleeping-car company (Pullman)	1	1
Express companies	2	2
Telephone companies	296	312
Telegraph and cable companies	13	13
Water lines	126	126
Pipe lines	49	51
Total	644	682
Grand total	1,938	2,007

In appendix C will be found statistical summaries of railway development and abstracts from periodical reports. The figures in that appendix are the basis of the following summary of recent changes: The length of steam railways (first track) in the United States continues to decline, having been 247,595 miles at the close of 1932, compared with 250,413 10 years earlier. The mileage operated by class I railways was 1,247 miles less in August 1933 than in August 1932. The miles of second or additional main tracks also began a downward trend in 1932. The number of locomotives in service declined by 1,920, the number of freight cars (excluding caboose) by 61,214, and the number of passenger-train cars by 1,498 during 1932. The average tractive effort of the locomotives was 23.66 percent greater and the average capacity of the cars 9.05 percent greater than 10 years earlier.

The total railway capital increased slightly during the year 1932, and the ratio of debt to capital remained at 56 percent, the same as in 1931, and approximately the same as 10 years ago. Dividends averaging 1½ percent on all stock outstanding were declared, although not earned in the aggregate. The book investment in the road and equipment operated by the line-haul companies was 26 billion dollars, without working capital, or $106,337 a mile, at the end of 1932. Retirements exceeded new investment during 1932. The trend of revenues, income, expenditure, and employment has been reviewed in a previous section of this report (pp. 1–4).

There was a reduction in the number of persons killed in steam railway accidents from 4,853 in 1931 to 4,524 in 1932, the net result of an increase of 101 in deaths to trespassers, which constitute over half the total, and a decline of 430 in the deaths to nontrespassers, that is employees, passengers, and other persons, chiefly those struck at grade crossings. Fatalities to employees and passengers represented only 10.37 percent of the total accidental deaths on steam railways in 1932.

BUREAU OF TRAFFIC

The functions of the Bureau of Traffic have been described in our previous reports. (See Forty-fifth Annual Report, pp. 63–64.)

Data covering particular activities of subdivisions of the bureau are shown below.

SECTION OF TARIFFS

There were filed 114,287 tariff publications containing changes in freight, express, and pipe-line rates, passenger fares, and freight classification ratings. In addition thereto, 1,006 publications were received for filing but were rejected for failure to give the notice required by the statute. Powers of attorney and certificates of concurrence filed aggregated 38,757. Applications received seeking special permission to establish rates or fares on less than statutory notice or waiver of certain of our tariff-publishing rules numbered 12,569. Specific orders were entered granting 11,190 and denying 770 of these applications. The remainder were disposed of otherwise. Correspondence relating to tariff construction in accordance with our rules and regulations promulgated under section 6 of the act consisted of 30,242 letters received and 21,163 letters written. For our own use, as well as for the use of other branches of the Government and of shippers, 6,426 rate memoranda were prepared. Our duplicate tariff file has been maintained for the use of the public.

SUSPENSIONS

Rate adjustments were protested and suspension asked in 461 instances, a decrease of 165 under last year. Of these protested adjustments, 245 represented reductions, 172 represented increases, 25 represented both increases and reductions and 19 neither increases nor reductions. They covered not only a large number of rate schedules but many thousands of rates.

The following action was taken on the requests for suspension:

Suspended (including supplemental orders)	105
Refused to suspend	232
Schedules rejected, requests for suspension withdrawn, or protested schedules withdrawn	124
	461
Proceedings pending from previous year	196
New proceedings on suspension docket	98
Total	294

Of this number, 168 were disposed of, a decrease of 6 under last year, 121 after formal hearing and report, and 47 through informal proceedings without report.

THE FOURTH SECTION

The number of applications was 422. The number of orders entered in response to applications was 336 of which 41 were denial orders, 97 were orders granting permanent relief, and 198 were orders authorizing temporary relief. One hundred and eighteen formal reports were issued.

Applications withdrawn, wholly or in part, after correspondence with carriers, numbered 31; and 158 applications or portions thereof were heard in fourth-section proceedings.

The number of petitions for modifications of orders was 363, of which 285 were granted, 13 were denied, 15 were withdrawn, and 50 are still pending.

Of the 107 applications filed under the 1910 amendment to the fourth section remaining in our files on October 31, 1932, 66 have been disposed of in their entirety, leaving a balance of 41, some of which have been disposed of in part. Proceedings now in progress will result in completely disposing of the latter applications.

EXPRESS

Of the tariff publications filed 2,038 represent changes in express rates and classification ratings. Of the applications received seeking special permission to establish rates on less than statutory notice or waiver of certain of our tariff-publishing rules, 140 related to express rates. These applications are generally acted upon the same day as received, but in a few instances 2 days' time is required. These tariff publications, and applications which, in most instances indicated rate reductions, exceeded those filed during the previous year by 28 percent and 65 percent, respectively. The increased number of such publications and applications may be attributed largely to the express companies' efforts to meet the unregulated motor-truck competition.

BUREAU OF VALUATION

AMENDMENT OF STATUTE RELATING TO VALUATIONS

On June 16, 1933, amendment of paragraphs (*a*), (*f*), and (*g*) of section 19*a* of the act was approved. Paragraph (*a*), among other things, formerly authorized and directed us to value any street, suburban, or interurban electric railway subject to the provisions of the act whether such railway was or was not operated as a part of a general steam railroad system of transportation. Paragraph (*a*), as now amended, leaves to our discretion the valuation of any such railway not operated as a part of a general steam railroad system of transportation. The amended paragraphs (*f*) and (*g*) relieve us of the necessity of revising and correcting the original valuations in "like manner" as employed in making the original valuations and affords us the power and opportunity of proceeding along more practical lines.

The amended act directs us to keep ourselves informed of all new construction, extensions, improvements, retirements, or other changes in the condition, quantity, use, and classification of the properties subsequent to their original valuation, made under the provisions of the act of 1913 and amendments of 1920 and 1922. We are to keep ourselves informed of the cost of all additions and betterments, of all changes in the investment, of current changes in cost and values of all properties, and to have available at all times the information deemed necessary to revise and correct the previous inventories, classification, and values of properties and, when deemed necessary, revise, correct, and supplement any and all the inventories and valuations.

With original, or primary, valuations completed, our present valuation activities fall under the direction of the above referred to amendments. To meet such requirements the bureau is perfecting a perpetual current inventory of the property of each carrier. This has been accomplished to such an extent that the bureau is now in a position to furnish the valuation elements specified by the act within a period of 60 days which, it is expected, will, during the next year, be reduced to 30 days or less. The bureau also is perfecting original cost records and estimates and bringing to currency the investment records. As the result of recording all reconstruction and replacements in the perpetual inventory, the record of original cost, which a few years ago was largely unknown, now is a known factor to the extent of approximately 70 percent. Continuation of the valuation processes will ultimately result in complete original cost and investment records.

REDUCTION OF FORCE

The amendment above referred to, together with repeal of provisions of section 15a relating to excess net railway operating income, greatly simplify the valuation work. Together with the completion of the primary valuations it has enabled us to reduce materially the personnel and expenditures in the bureau. The reduction was possible, also, because of the progress made in correcting and revising the original inventories and underlying records and data. For the last fiscal year (1932–33) the appropriation for the bureau was $2,750,000. Its personnel on June 1, 1933, consisted of 910 employees. The appropriation for the current fiscal year (1933–34) is $1,000,000, and its active personnel on July 1, 1933, consisted of 381 employees.

FUNDAMENTAL ACTIVITIES CONTINUED

The changes in the statute will not affect the fundamental activities of the bureau. These activities will continue to be directed toward examining the property and cost records of the carriers coupled with the necessary field inspections. By means of the carriers' reports checked and policed in this way, covering all additions, betterments, and retirements, and their cost, the basic inventories and classification of property are kept current. Through the inspections, together with a study of maintenance expenditures and other pertinent data, we are kept informed as to the condition of the property and the amount of existing depreciation. Through the studies of cost engineers and land appraisers we are kept informed of current railroad construction costs and changes in land values. In this way the elements that are essential in ascertaining the present value of the property of carriers as a whole, by recognized rate groups, and individually are readily developed. From information gathered in this manner, the bureau prepared an exhibit for use in the *General Rate Level Investigation, 1933*, previously mentioned. In summary form, it set forth, as of December 31, 1932, estimates of the cost of reproduction new and reproduction less depreciation, original cost, present value of lands, and the amount necessary for working capital, including material and supplies, for all class I, II, and III carriers, including switching and terminal companies.

VALUATIONS IN CONNECTION WITH REORGANIZATION OF CARRIERS

Among the various purposes for which carefully prepared information regarding the value of the carriers' properties is desirable are to be included reorganizations under the recent amendment of the Bankruptcy Act. In these proceedings new capital structures are to be set up and new issues of securities authorized; and questions arise as to the separate and relative values and earning power of parts

of systems covered by different mortgages and other liens. Several of our largest railroad systems are in the process of reorganization under this statute. The bureau is giving priority to these properties in its current investigations. Progress so far achieved leads us to believe that full and complete data concerning these properties will be available for use in these reorganization proceedings. We have issued a valuation report as of December 31, 1932, covering the Chicago, Rock Island & Pacific R. Co., and affiliated companies.

RAILROAD LOANS

The bureau prepared and furnished either a special report or study in 23 instances, making a total of 140 reports, for use in connection with applications for loans by railroads from the Reconstruction Finance Corporation.

VALUATION DATA FURNISHED OTHER GOVERNMENTAL AGENCIES

In accordance with our policy of cooperating with other governmental agencies, the bureau has made available to congressional committees, the various executive departments and independent agencies, and State regulatory and taxing bodies, the records, data, and studies collected and compiled in the course of its investigations.

SUMMARIES OF FINAL VALUES AND ELEMENTS OF VALUE

We have reported heretofore the completion of the original valuations of all steam railroads. The dates of these valuations range from June 30, 1914 to June 30, 1921, the average date being June 30, 1916. These valutations in the detail required by the statute have been published in individual reports from time to time. For the convenience of the public and other interested parties we are separately publishing in tabular form the final value and the separate elements of value of each carrier as determined in the original valuations.

As of original valuation dates (average date, June 30, 1916), we found the value for rate-making purposes of the total owned property to be $16,234,983,540, excluding working capital, and the value of the total used property to be $16,475,469,658, excluding working capital, and the total working capital to be $431,041,847. Cost of reproduction new of the total owned property and total used property was found to be $16,104,270,137, and $16,281,545,213, respectively. Cost of reproduction less depreciation of the total owned property and the total used property was found to be $13,351,414,883, and $13,487,343,559, respectively. Present value of the total owned lands and rights and total used lands and rights was found to be $2,734,935,586, and $2,840,445,771, respectively. A present value of

$536,810,276 was found for the lands, rights, and structures owned by the carriers but not devoted to carrier use.

In *Ex Parte 74, Increased Rates, 1920*, 58 I.C.C. 220, we found the value of the steam-railway property of the carriers subject to the act held for and used in the service of transportation, for the purposes of that case, to be approximately $18,900,000,000 as of the date of that report and order, July 29, 1920. Since that time large additions to the property have been made. In Docket No. 26000, *General Rate Level Investigation, 1933*, 195 I.C.C. 5, above referred to, the bureau computed the cost of reproduction new of the steam-railway property other than land of the carriers in existence on December 31, 1932, as $23,953,546,235 at period prices as of June 1, 1933, and $23,742,958,869 at spot prices as of that date. Cost of reproduction less depreciation was computed as $17,754,467,309 at period prices and $17,599,113,778 at spot prices. Original cost, except land, was placed at $22,860,365,394. The present value of lands and rights as of June 1, 1933, totaled $3,032,799,826. Necessary working capital, including material and supplies, was computed as $338,854,000. These various elements were presented for the country as a whole and broken down by the recognized rate districts.

VALUATION OF CARRIERS OTHER THAN RAILROADS

Section 19a is applicable to all carriers subject to the provisions of the act. Insufficient appropriations have prevented us from proceeding with the valuations of carriers other than railroads with the exception of the Pullman and telegraph companies. The valuation of these latter companies is being prosecuted as far as appropriations permit. Requests for additional appropriations to value other carriers such as pipe line and telephone companies have been made from time to time.

RECOVERY AND RELEASE OF EXCESS NET RAILWAY OPERATING INCOME

The Emergency Railroad Transportation Act, 1933 (sec. 15b), of the Interstate Commerce Act repealed the so-called recapture provisions of section 15a of the Interstate Commerce Act retroactively, and provided that all moneys recoverable by and payable to this Commission under those provisions should cease to be so recoverable and payable. The amendment further provided that all pending proceedings for recovery should be terminated and that the general railroad contingent fund established under the section should be liquidated and distributed by the Secretary of the Treasury among the carriers which had made payments into the fund. Pursuant to these requirements, we entered an order, under date of July 5, 1933,

vacating all final orders for the recovery of excess net railway operating income, and dismissing all other pending proceedings under the recapture provisions. Among the orders vacated was that issued in the case of the Richmond, Fredericksburg & Potomac Railroad Co., which had been in litigation, as mentioned in our report for 1932. The repeal of the recapture provisions followed our recommendation in previous reports to the Congress.

Although the money paid by carriers into the fund never was available for the purposes intended, it was invested in Government securities, and in the liquidation of the fund it developed that approximately 5 percent per annum had been earned on the deposits therein.

PATRICK J. FARRELL, *Chairman*
BALTHASAR H. MEYER
CLYDE B. AITCHISON
JOSEPH B. EASTMAN
FRANK MCMANAMY
EZRA BRAINERD, JR.
CLAUDE R. PORTER
WILLIAM E. LEE
HUGH M. TATE
CHARLES D. MAHAFFIE
CARROLL MILLER

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APPENDIX A

SUMMARY OF INDICTMENTS RETURNED AND INFORMATIONS FILED IN THE UNITED STATES DISTRICT COURTS BETWEEN NOVEMBER 1, 1932, AND OCTOBER 31, 1933, INCLUSIVE, FOR VIOLATIONS OF THE INTERSTATE COMMERCE, ELKINS, AND CLAYTON ACTS

United States *v.* Walter Ancle Beauchamp, District of Kansas. March 22, 1933, information charging unlawful use of pass; 1 count.

United States *v.* Harold J. Bloomfield, Northern District of California. May 16, 1933, indictment charging the furnishing of false reports of weights; 15 counts.

United States *v.* Lillard Boles, Northern District of Indiana. September 20, 1933, indictment charging falsification of carrier's records; 3 counts.

United States *v.* Forest Brooks, Philip Harris, and Wm. McNamara, Northern District of Ohio. April 28, 1933, indictment charging conspiracy to use pass unlawfully; 1 count.

United States *v.* Edward C. Butler, Northern District of Ohio. May 5, 1933, information charging unlawful use of pass; 1 count.

United States *v.* Lester Byrne, Northern District of Ohio. May 5, 1933, information charging unlawful use of pass; 1 count.

United States *v.* Chicago, Burlington & Quincy Railroad Company, Northern District of Illinois. August 7, 1933, indictment charging the granting of rebates; 13 counts.

United States *v.* Max B. Cohen, Southern District of Florida. April 14, 1933, indictment charging acceptance of concessions; 5 counts.

United States *v.* Max B. Cohen, Southern District of Florida. April 14, 1933, indictment charging false billing; 13 counts.

United States *v.* Daniel M. Courtney, Southern District of Florida. April 14, 1933, indictment charging false billing; 15 counts.

United States *v.* Daniel M. Courtney, Southern District of Florida. April 14, 1933, indictment charging acceptance of concessions; 5 counts.

United States *v.* H. A. DeVaux, Northern District of California. August 8, 1933, indictment charging the receiving for his own benefit of proceeds from the sale of railroad bonds; 7 counts.

United States *v.* H. A. DeVaux, Northern District of California. August 8, 1933, indictment charging embezzlement and misapplication of railroad funds; 6 counts.

United States *v.* H. A. DeVaux, Northern District of California. October 2, 1933, indictment charging misapplication of proceeds from sale of railroad bonds; 8 counts.

United States *v.* Tonie Emerson, Northern District of Ohio. July 13, 1933, information charging unlawful use of pass; 1 count.

United States *v.* Erenberg, Kramer & Company, Inc., and A. Erenberg, Northern District of Illinois. August 7, 1933, indictment charging acceptance of rebates; 3 counts.

United States *v.* Louis Feinstein, Northern District of Illinois. February 10, 1933, indictment charging acceptance of rebates; 2 counts.

United States *v.* H. P. Garin Company, Northern District of California. May 16, 1933, indictment charging the furnishing of false reports of weights; 15 counts.

United States *v.* Gebler & Troen Company, Harry Troen, and Hyman B. Frost, Northern District of Illinois. August 7, 1933, indictment charging acceptance of rebates; 13 counts.

United States *v.* Clarence E. Goerki and Forest R. Brooks, Northern District of Ohio. April 28, 1933, indictment charging conspiracy to use pass unlawfully; 1 count.

United States *v.* Hewitt Brothers Soap Company, Southern District of Ohio. November 15, 1932, indictment charging false billing; 2 counts.

United States *v.* Hewitt Brothers Soap Company, Southern District of Ohio. November 15, 1932, indictment charging acceptance of concessions; 3 counts.

United States *v.* Martin P. Kriebs, District of Wyoming. June 29, 1933, information charging unlawful use of pass; 1 count.

United States *v.* Arthur C. Kugelman, Southern District of Florida. April 14, 1933, indictment charging false billing; 20 counts.

United States *v.* Arthur C. Kugelman, Southern District of Florida. April 14, 1933, indictment charging acceptance of concessions; 5 counts.

United States *v.* Nathan Lapidus, Northern District of Illinois. August 7, 1933, indictment charging acceptance of rebates; 10 counts.

United States *v.* C. A. Miller, Eastern District of Michigan. May 3, 1933, indictment charging the furnishing of false reports of weights; 25 counts.

United States *v.* Harry Miner, Northern District of Ohio. May 5, 1933, information charging unlawful use of pass; 1 count.

United States *v.* Dave Myers, Northern District of Ohio. May 5, 1933, information charging unlawful use of pass; 1 count.

United States *v.* Northern Fruit & Produce Company, Northern District of Illinois. February 10, 1933, indictment charging acceptance of rebates; 5 counts.

United States *v.* O. W. Plotner, Eastern District of Michigan. May 3, 1933, indictment charging the furnishing of false reports of weights; 3 counts.

United States *v.* Alger Quinn, Eastern District of Michigan. May 3, 1933, indictment charging the furnishing of false reports of weights; 15 counts.

United States *v.* Abe Rafelson, Northern District of Illinois. March 3, 1933, indictment charging acceptance of rebates; 4 counts.

United States *v.* Abe Rafelson Company, Inc., Northern District of Illinois. February 10, 1933, indictment charging acceptance of rebates; 3 counts.

United States *v.* Abe Rafelson Company, Inc., and L. W. Christenson, Northern District of Illinois. February 10, 1933, indictment charging acceptance of a rebate; 1 count.

United States *v.* Alex Relias, Northern District of Illinois. February 10, 1933, indictment charging acceptance of rebates; 15 counts.

United States *v.* Gust Relias, Northern District of Illinois. February 10, 1933, indictment charging acceptance of rebates; 15 counts.

United States *v.* Jerome Rose, Northern District of Ohio. May 5, 1933, information charging unlawful use of pass; 1 count.

United States *v.* Manuel Rothman and Isidore Soloman, District of New Jersey. March 21, 1933, indictment charging the filing of false claims; 10 counts.

United States *v.* The Scholl Company, Fred H. Scholl, Wm. C. Bloomingdale, and Albert O. Hagenbush, District of New Jersey. March 21, 1933, indictment charging the acceptance of concessions; 15 counts.

United States *v.* The Scholl Company, Fred H. Scholl, Wm. C. Bloomingdale, and Albert O. Hagenbush, District of New Jersey. March 21, 1933, indictment charging false billing; 20 counts.

United States *v.* The Scholl Company, Fred H. Scholl, Wm. C. Bloomingdale, and Albert O. Hagenbush, District of New Jersey. March 21, 1933, indictment charging the furnishing of false reports of weights; 15 counts.

United States *v.* Shapiro Brothers Distributing Company, Northern District of Illinois. February 10, 1933, indictment charging acceptance of rebates; 10 counts.

United States *v.* William M. Shapiro, Northern District of Illinois. February 10, 1933, indictment charging acceptance of rebates; 3 counts.

United States *v.* John Taylor Sheldon, Northern District of Illinois. November 23, 1932, information charging unlawful use of pass; 3 counts.

United States *v.* Southern Cotton Oil Company, Eastern District of Louisiana. April 12, 1933, indictment charging acceptance of concessions; 10 counts.

United States *v.* O. A. Steffe, Eastern District of Michigan. May 3, 1933, indictment charging the furnishing of false reports of weights; 7 counts.

United States *v.* Tracy-Waldron Fruit Company, Southern District, of California, October 9, 1933, indictment charging the furnishing of false reports of weights; 10 counts.

United States *v.* F. E. Tyler, Eastern District of Michigan. May 3, 1933, indictment charging the furnishing of false reports of weights; 10 counts.

United States *v.* Harris Wishnatzki, Daniel Nathel, and Albert Sroge, Southern District of New York. March 31, 1933, indictment charging the filing of false claims and conspiracy to violate Section 10 of the Interstate Commerce Act; 13 counts.

United States *v.* Lee W. Wolfe, Northern District of Illinois. February 10, 1933, indictment charging acceptance of rebates; 3 counts.

SUMMARY OF CASES CONCLUDED IN UNITED STATES DISTRICT COURTS BETWEEN NOVEMBER 1, 1932, AND OCTOBER 31, 1933, INCLUSIVE, FOR VIOLATIONS OF THE INTERSTATE COMMERCE, ELKINS, AND CLAYTON ACTS

United States *v.* Walter Ancle Beauchamp, District of Kansas. March 22, 1933, information charging unlawful use of pass. March 22, 1933, plea of guilty entered and fine of $100 imposed.

United States *v.* Forest R. Brooks, Philip Harris, and Wm. McNamara, Northern District of Ohio. April 28, 1933, indictment charging conspiracy to use pass unlawfully. May 8, 1933, pleas of guilty entered, and sentences upon defendant Brooks to serve 4 months in prison, upon defendant Harris to pay fine of $150, and upon defendant McNamara to serve 30 days in jail and pay fine of $250 imposed.

United States *v.* Forest R. Brooks and Clarence E. Goerki, Northern District of Ohio. April 28, 1933, indictment charging conspiracy to use pass unlawfully. May 8, 1933, plea of guilty entered on behalf of defendant Brooks and sentence to serve 4 months in prison imposed. May 23, 1933, plea of guilty entered on behalf of defendant Goerki and sentence to serve 61 days in prison and pay fine of $250 imposed.

United States *v.* Edward C. Butler, Northern District of Ohio. May 5, 1933, information charging unlawful use of pass. May 8, 1933, plea of guilty entered and fine of $100 imposed.

United States *v.* Lester Byrne, Northern District of Ohio. May 5, 1933, information charging unlawful use of pass. May 8, 1933, plea of guilty entered and fine of $100 imposed.

United States *v.* H. A. DeVaux, Northern District of California. June 21, 1932, indictment charging embezzlement of railroad funds. September 13, 1933, verdict of acquittal rendered.

United States *v.* H. A. DeVaux, Northern District of California. August 8, 1933, indictment charging the receiving for his own benefit of proceeds from the sale of railroad bonds. September 13, 1933, verdict of acquittal rendered.

United States *v.* H. A. DeVaux, Northern District of California. August 8, 1933, indictment charging embezzlement and misapplication of railroad funds. September 13, 1933, verdict of acquittal rendered.

United States *v.* H. A. DeVaux, Southern District of California. June 30, 1932, indictment charging the receiving for his own benefit of proceeds from the sale of railroad bonds. June 16, 1933, verdict of acquittal rendered by Court.

United States *v.* Tonie Emerson, Northern District of Ohio. July 13, 1933, information charging unlawful use of pass. July 13, 1933, plea of guilty entered and fine of $100 imposed.

United States *v.* The Federated Metals Corporation, Eastern District of Missouri. February 3, 1932, indictment charging false billing. June 27, 1933, verdict of guilty rendered and fine of $1,100 imposed.

United States *v.* Hewitt Brothers Soap Company, Southern District of Ohio. November 15, 1932, indictment charging false billing. March 18, 1933, nolle prosequi entered.

United States *v.* Hewitt Brothers Soap Company, Southern District of Ohio. November 15, 1932, indictment charging acceptance of concessions. March 18, 1933, plea of guilty entered and fine of $1,000 imposed.

United States *v.* The Hickory Clay Products Company, Northern District of Ohio. September 17, 1932, indictment charging false billing. November 18, 1932, plea of guilty entered and fine of $600 imposed.

United States *v.* Hoyland Flour Mills Company, Western District of Missouri. April 27, 1932, indictment charging false billing. May 10, 1933, case dismissed by order of court, defendant's charter having been forfeited by State of Missouri.

United States *v.* Hupp Motor Car Corporation, Northern District of Ohio. March 11, 1932, indictment charging acceptance of concessions. November 18, 1932, plea of guilty entered and fine of $8,000 imposed.

United States *v.* Hupp Motor Car Corporation, Northern District of Ohio. March 11, 1932, indictment charging false billing. November 18, 1932, nolle prosequi entered.

United States *v.* R. W. Joyce, Northern District of Ohio. March 11, 1932, indictment charging false billing. November 22, 1932, verdict of guilty rendered and fine of $1,500 imposed.

United States *v.* Martin P. Kriebs, District of Wyoming. June 29, 1933, information charging unlawful use of pass. July 3, 1933, plea of guilty entered and fine of $100 imposed.

United States *v.* Arthur C. Kugelman, Southern District of Florida. April 14, 1933, indictment charging false billing. September 19, 1933, plea of guilty entered and fine of $500 imposed.

United States *v.* Harry Miner, Northern District of Ohio. May 5, 1933, information charging unlawful use of pass. May 8, 1933, plea of guilty entered and fine of $300 imposed.

United States *v.* Dave Myers, Northern District of Ohio. May 5, 1933, information charging unlawful use of pass. May 8, 1933, plea of guilty entered and fine of $200 imposed.

United States *v.* The New York Central Railroad Company, Northern District of Ohio. March 11, 1932, indictment charging failure to observe tariffs and the granting of concessions. November 18, 1932, plea of guilty entered and fine of $8,000 imposed.

United States *v.* The New York, Chicago & St. Louis Railroad Company, Northern District of Ohio. March 11, 1932, indictment charging the granting of concessions. November 18, 1932, plea of guilty entered and fine of $1,000 imposed.

United States *v.* Abe Rafelson, Northern District of Illinois. March 3, 1933, indictment charging acceptance of rebates. March 31, 1933, nolle prosequi entered.

United States *v.* Abe Rafelson Company, Inc., and L. W. Christenson, Northern District of Illinois. February 10, 1933, indictment charging acceptance of a rebate. March 31, 1933, plea of guilty entered by corporation and fine of $1,000 imposed.

United States *v.* Abe Rafelson Company, Inc., Northern District of Illinois. February 10, 1933, indictment charging acceptance of rebates. March 31, 1933, plea of guilty entered and fine of $3,000 imposed.

United States *v.* Jerome Rose, Northern District of Ohio. May 5, 1933, information charging unlawful use of pass. May 8, 1933, plea of guilty entered and fine of $100 imposed.

United States *v.* John Taylor Sheldon, Northern District of Illinois. November 23, 1932, information charging unlawful use of pass. December 7, 1932, plea of guilty entered and fine of $300 imposed.

APPENDIX B

SUMMARIES SHOWING ACTION TAKEN SINCE THE PERIOD COVERED BY THE LAST ANNUAL REPORT WITH RESPECT TO CASES INVOLVING ORDERS AND REQUIREMENTS OF THE COMMISSION AND STATUS ON OCTOBER 31, 1933, OF CASES PENDING IN THE COURTS

CASES DECIDED BY THE COURTS SINCE OCTOBER 31, 1932

SUPREME COURT OF THE UNITED STATES

New York Cent. Sec. Corp. v. *United States.*

For prior case history, see 1932 Annual Report, pp. 121–122. On November 7, 1932, the decision of the lower court was affirmed, and the commission's order sustained. 287 U.S. 12.

Norfolk & W. Ry. Co. v. *United States.*

For prior case history, see 1932 Annual Report, p. 122. On November 7, 1932, the decision of the lower court was affirmed, and the commission's order sustained. 287 U.S. 134.

Alton R. Co. v. *United States.*

For prior case history, see 1932 Annual Report, p. 122. On December 5, 1932, the decision of the lower court was reversed, and the commission's order annulled. 287 U.S. 229.

Interstate Commerce Commission v. *United States ex rel. New York, N. H. & H. R. Co.*

For prior case history, see 1932 Annual Report, p. 122. On November 21, 1932, the decision of the Court of Appeals of the District was reversed, and the order directing the issuance of the writ of mandamus vacated. 287 U.S. 178.

United States v. *Chicago, N. S. & M. R. Co.*

For prior case history, see 1932 Annual Report, p. 123. On December 16, 1932, the case was argued and submitted for decision, and on January 9, 1933, the decision of the lower court was affirmed. 288 U.S. 1.

Interstate Commerce Commission v. *Oregon-W. R. & Nav. Co.*

For prior case history, see 1932 Annual Report, p. 122. On November 8–9, 1932, the case was argued and submitted for decision, and on January 9, 1933, the decision of the lower court was affirmed, and the commission's order held invalid. 288 U.S. 14.

United States v. *Northern Pac. Ry. Co.*

For prior case history, see 1932 Annual Report, pp. 122–123. On February 9–10, 1933, the case was argued and submitted for decision, and on March 13, 1933, the decision of the lower court was reversed, and the commission's order sustained. 288 U.S. 490.

Moffat Tunnel League v. *United States.*

For prior case history, see 1932 Annual Report, p. 124. On November 5, 1932, the appeal was docketed in the Supreme Court, and on February 15, 1933, the case was argued and submitted for decision. On April 10, 1933, the decision of the lower court was affirmed, and the commission's order sustained. 289 U.S. 113.

Transit Commission v. *United States.*

State of New York v. *United States.*

For prior history of these cases, see 1932 Annual Report, p. 125. On December 2, 1932, the appeals were docketed in the Supreme Court, and on March 13–14, 1932, the cases were argued and submitted for decision. On April 10, 1933, the decision of the lower court was affirmed, and the commission's order sustained. 289 U.S. 121.

Texas & Pac. Ry. Co. v. *United States.*
Louisiana & Ark. Ry. Co. v. *United States.*
For prior history of these cases, see 1932 Annual Report, p. 121. On May 29, 1933, the decision of the lower court was reversed, and the commission's order annulled. 289 U.S. 627.

Interstate Commerce Commission v. *United States ex rel. Birch Valley Lumber Co.*
For prior case history, see 1932 Annual Report, p. 126. On January 6, 1933, the case was argued and submitted for decision, and on January 30, 1933, the Court of Appeals reversed the decision of the Supreme Court of the District, with directions to issue the writ as prayed. 63 Fed. (2d) 358. Upon application by the commission the Supreme Court, on March 20, 1933, granted certiorari. On April 21, 1933, the case was argued and submitted for decision, and on May 8, 1933, the decision of the Court of Appeals of the District was reversed, with directions to vacate its order granting the petition for a writ of mandamus. 289 U.S. 385.

Southern Transp. Co. v. *Interstate Commerce Commission.*
For prior case history, see 1932 Annual Report, p. 126. On October 5–6, 1932, the case was argued, and on November 7, 1932, the decision of the lower court was affirmed and the petition for writ of certiorari ordered dismissed. 61 Fed. (2d) 925. On May 22, 1933, petition for writ of certiorari to review the decision of the Court of Appeals was denied. 289 U.S. 755.

United States ex rel. Arcata & Mad River R. Co. v. *Interstate Commerce Commission.*
Petition for writ of mandamus to compel the commission to ascertain under section 204 and to certify to the Secretary of the Treasury the amount alleged to be due as deficit during the Federal control period, while it operated its own railroad. The relator's application to the commission was dismissed by commission's order of May 15, 1930. 162 I.C.C. 641.
On May 23, 1932, the petition was filed, and on November 19, 1932, the court directed the issuance of the writ as prayed. On December 15, 1932, our appeal was docketed in the Court of Appeals of the District, and on April 10, 1933, that court reversed the decision of the lower court with directions to dismiss the petition for a writ of mandamus. (65 F. (2d) 180.) On October 9, 1933, a petition for a writ of certiorari to review the decision of the Court of Appeals was denied by the Supreme Court.

DISTRICT COURTS OF THE UNITED STATES

Louisiana et al. v. *United States.* Eastern District of Louisiana, New Orleans Division.
For case history, see p. 86, this volume.

Montana et al. v. *United States.* District of Montana, Helena Division.
For case history, see p. 86, this volume.

Kentucky et al. v. *United States.* Western District of Kentucky.
Suit in equity to enjoin the commission's order of November 7, 1932, in Docket No. 25135, *Increases in Intrastate Freight Rates—Part 4—Kentucky*, requiring railroads operating in Kentucky to put into effect intrastate within that State rates upon specified commodities which shall not be lower than the rates in force within Kentucky, plus the surcharges authorized by the findings in *Fifteen Per Cent Case, 1931*, 178 I.C.C. 539, and 179 I.C.C. 215, on corresponding interstate traffic. 186 I.C.C. 615.
On December 2, 1932, the bill of complaint was filed, and on December 10, 1932, the case was argued and submitted for decision. On March 10, 1933, the court filed an opinion sustaining the order of the commission and dismissing the bill of complaint. 3 Fed. Supp. 778.
Pending further action.

Wilson Cypress Co. v. *United States.*
Florida et al. v. *United States.*
F. S. Buffum Co. v. *United States.* Northern District of Georgia, Atlanta Division.
For history of these cases, see Annual Report, 1932, pp. 125–126. On February 24, 1933, following oral argument, the court filed an opinion sustaining the commission's order and dismissing the bills of complaint. 4 Fed. Supp. 477. On August 14, 1933, the appeals were docketed in the Supreme Court, where the cases are now awaiting oral argument.

Missouri Pac. R. Co. v. *United States.* Eastern District of Kentucky.

For prior case history, see 1932 Annual Report, pp. 124–125. On July 26, 1933, the court filed an opinion sustaining the commission's order and dismissing the bill of complaint. 4 Fed. Supp. 449.

Pending appeal.

Mississippi Valley Barge Line v. *United States.* Eastern District of Missouri, Eastern Division.

Suit in equity to set aside the commission's orders of July 3, 1933, and July 18, 1933, in I. & S. Docket No. 3814, which found justified proposed reduced all-rail rates on sugar, minimum 60,000 pounds, from southern refining points to Chicago, St. Louis, and other destinations in the Illinois District, and in intermediate territory, and authorized reduced all-rail rates on like traffic, minimum 80,000 pounds, at a rate 4 cents higher than those previously proposed by the carriers involved. 195 I.C.C. 383.

On July 27, 1933, the petition was filed, and on August 15, 1933, the case was argued and submitted for decision. On October 13, 1933, the commission's order was sustained and the bill dismissed.

Pending further action.

Ohio et al. v. *United States.*

Wheeling & L. E. Ry. Co. v. *United States.* Southern District of Ohio, Eastern Division.

Two suits in equity to enjoin the commission's orders of May 2 and May 9, 1933, prescribing increased intrastate rates on bituminous coal within the State of Ohio, in order to remove undue preference of Ohio intrastate shippers and undue prejudice against interstate shippers of bituminous coal from various mining districts in Pennsylvania, West Virginia, and Kentucky, and unjust discrimination against interstate commerce. 192 I.C.C. 413.

On May 22, 1933, the petitions were filed, and on June 3, 1933, the cases were argued and submitted for decision. On July 7, 1933, temporary injunctions pending determination by the court of the cases upon the merits, were issued.

Illinois Cent. R. Co. v. *United States.* District of Delaware.

For case history, see p. 86, this volume.

Missouri Gravel Co. v. *United States.* Eastern District of Missouri, Northern Division.

Suit in equity to set aside the commission's order of May 9, 1933, in Docket No. 17789, permitting carriers to increase their rates on sand and gravel from La Grange, Mo., to Jacksonville, Ill., and intermediate stations on the Wabash east of Clayton and Hadley, Ill., from 88 to 101 cents per net ton. 192 I.C.C. 763.

On August 4, 1933, the petition was filed, and on August 15, 1933, the case was argued and submitted on application for a temporary restraining order. On August 17, 1933, an order was entered dismissing the petition for a temporary restraining order.

Pending final hearing.

Pennsylvania R. Co. v. *Interstate Commerce Commission.* Circuit Court of Appeals for the Third Circuit.

For case history, see p. 86, this volume.

County Commissioners of Doniphan, Kansas, v. *United States.* Northern District of Illinois, Eastern Division.

Suit in equity to set aside the commission's certificate in F.D. No. 9601, authorizing the C. B. & Q. R. Co. to abandon its Rulo Branch, extending from a point near Atchison, Kans. to Rulo, Nebr., 44.72 miles. 193 I.C.C. 233.

On August 11, 1933, the petition was filed, and on September 20, 1933, after oral argument, the court sustained the validity of the commission's order and dismissed the bill.

CASES DECIDED BY THE COURT OF APPEALS OF THE DISTRICT OF COLUMBIA

Interstate Commerce Commission v. *United States ex rel. Arcata & Mad River R. Co.*

For case history, see p. 83, this volume.

Interstate Commerce Commission v. *United States ex rel. Birch Valley Lumber Co.*

For case history, see p. 83, this volume.

Southern Transp. Co. v. *Interstate Commerce Commission.*

For case history, see p. 83, this volume.

CASES DECIDED BY THE SUPREME COURT OF THE DISTRICT OF COLUMBIA

United States ex rel. Chicago Gt. W. R. Co. v. *Interstate Commerce Commission.*

Petition for writ of mandamus to compel the commission to set aside its order of November 10, 1925, in Docket 15682, dismissing intervening petitions of relators, and to compel the commission to consider on their merits said petitions whereby relators invoked the commission's power under section 3 (4) of the act to authorize their use of the Kansas City Union Station in lieu of the user thereof under existing contract arrangements. 104 I.C.C. 203.

On May 31, 1933, the petition was filed and the rule to show cause issued. On June 22, 1933, following oral argument, the petition was dismissed. On September 13, 1933, the cause was appealed to the Court of Appeals of the District.

United States ex rel. Arcata & Mad River R. Co. v. *Interstate Commerce Commission.*

For case history see p. 83, this volume.

CASES DISCONTINUED

DISTRICT COURTS OF THE UNITED STATES

Pressed Steel Car Co. v. *United States.* District of New Jersey.

For prior case history, see 1932 Annual Report, p. 123. In March 1928 the commission's motion to dismiss and answer were filed. On May 10, 1930, the case was dismissed pursuant to stipulation of the parties. Such advice not received until March 7, 1933.

Atlantic Coast Line R. Co. v. *United States.* Eastern District of Virginia.

For prior case history, see 1932 Annual Report, pp. 123–124. On March 17, 1933, information was received that the case had been dismissed for lack of prosecution in October 1929.

Dept. of Public Works, Washington v. *United States.* Western District of Washington, Southern Division.

For prior case history, see 1932 Annual Report, p. 124. On February 29, 1932, a final decree was entered dismissing the cause as moot. Such advice was not received until March 7, 1933.

Mississippi et al. v. *United States.* Southern District of Mississippi, Jackson Division.

For prior case history, see 1932 Annual Report, p. 124.

Peoria and P. U. Ry. Co. v. *United States.* Southern District of Illinois, Northern Division.

For prior case history, see 1932 Annual Report, p. 124. On November 12, 1932, the cause was dismissed pursuant to stipulation of the parties.

Prescott & Northwestern R. Co. v. *United States.* Western District of Arkansas, Texarkana Division.

For prior case history, see 1932 Annual Report, p. 125. On July 24, 1933, the cause was dismissed by agreement of all parties and due to changes in the law.

Illinois Terminal Co. v. *United States.* Eastern District of Illinois.

Suit in equity to set aside the commission's report and order of July 25, 1932, in F.D. No. 3765, which determined that the carrier had excess net railway operating income of $675,449.98 for the period, March 1, 1920, to December 31, 1924. 184 I.C.C. 289.

On November 25, 1932, the petition was filed and on December 24, 1932, an answer on behalf of the commission was filed. On August 9, 1933, the cause was dismissed by agreement of all parties and due to changes in the law.

SUPREME COURT OF THE DISTRICT OF COLUMBIA

United States v. *Richmond, F. & P. R. Co.*

For prior case history, see 1932 Annual Report, p. 127. The case was orally argued on April 3, 1933, but before any decision was rendered, an order of dismissal was entered on June 27, 1933, pursuant to stipulation of the parties, and on account of changes in the law.

Parker v. *Genesee and Wyo. R. Co.*

Suit in equity seeking an injunction to prevent the payment of excess earnings in the sum of $486,107.56 to the defendant railroad unless and until such sum is impressed with a trust to the extent of $25,000 in favor of plaintiff for legal services.

On July 10, 1933, the bill of complaint was filed, and on July 13, 1933, a motion to dismiss the Interstate Commerce Commission as a party defendant was filed, the motion being granted on September 7, 1933.

Cases Pending in the Courts, October 31, 1933

SUPREME COURT OF THE UNITED STATES

Interstate Commerce Commission v. *Pennsylvania R. Co.*

Petition of the Pennsylvania R. Co. and Pennsylvania Co., filed under Section 11 of Clayton Act, to set aside an order of the Commission dated May 6, 1929, requiring petitioners to cease and desist from violations of Section 7 of the Clayton Act, and to divest themselves of the capital stocks of the Lehigh Valley R. Co. and of the Wabash Ry. Co. 169 I.C.C. 618.

On May 28, 1931, the petition was filed and on December 28, 1931, it was removed by the court from the calendar pending the commission's decision on rehearing in *Consolidation of Railroads.* Following the report in that proceeding (185 I.C.C. 403) the cause was restored to the calendar for oral argument, which took place on December 13, 1932. On June 16, 1933, the court granted the relief sought by petitioners and set aside the commission's order. 66 Fed. (2d) 37. On August 18, 1933, the Commission filed a petition for writ of certiorari in the Supreme Court, which was granted on October 16, 1933.

United States v. *Illinois Cent. R. Co. et al.*

Suit in equity to enjoin the second supplemental order of the commission dated December 10, 1932, requiring rail carriers to join with the American Barge Line Co. in through rates on cotton from points in Arkansas, and from Memphis, Tenn., to all points in Pennsylvania, New York, New Jersey, Massachusetts, Rhode Island, and Kentucky. 190 I.C.C. 177.

On February 2, 1933, the bill of complaint was filed, and on February 27, 1933, the case was argued and submitted for decision. On June 14, 1933, the court filed an opinion holding the order of the commission invalid. 3 Fed. Supp. 1005. On September 1, 1933, the appeal was docketed in the Supreme Court.

United States v. *Louisiana et al.*

Suit in equity to enjoin the commission's order of November 7, 1932, in Docket No. 25135, *Increases in Intrastate Freight Rates—Part 5—Louisiana*, requiring the railroads operating in Louisiana to put into effect intrastate within that State rates upon specified commodities which shall not be lower than the rates in force within Louisiana, plus the surcharges authorized by the findings in *Fifteen Per Cent Case, 1931*, 178 I.C.C. 539, and 179 I.C.C. 215, on corresponding interstate traffic. 186 I.C.C. 615.

On November 16, 1932, the bill of complaint was filed, and on December 14, 1932, an interlocutory injunction was granted. 2 Fed. Supp. 545. On December 27, 1932, the injunction was made permanent, the commission's order held invalid, and on March 31, 1933, the appeal was docketed in the Supreme Court, and submitted for decision on October 13, 1933.

Montana et al. v. *United States.*

Suit in equity to enjoin the commission's order of November 7, 1932, in Docket No. 25135, *Increases in Intrastate Freight Rates—Part 7—Montana*, requiring the railroads operating in Montana to put into effect intrastate within that State rates upon specified commodities which shall not be lower than the rates in force within Montana, plus the surcharges authorized by the findings in *Fifteen Per Cent Case, 1931*, 178 I.C.C. 539, and 179 I.C.C. 215, on corresponding interstate traffic. 186 I.C.C. 615.

On November 26, 1932, the bill of complaint was filed, and on December 30, 1932, the case was argued and submitted for decision. On January 31, 1933, the court filed an opinion sustaining the order of the commission and dismissing the bill of complaint. 2 Fed. Supp. 448. On July 1, 1933, the appeal was docketed in the Supreme Court, where the case is now awaiting oral argument.

Wilson Cypress Co. v. *United States.*
Florida et al. v. *United States.*
F. S. Buffum Co. v. *United States.*

For history of these three cases, see 1932 Annual Report, pp. 125–126. Following the filing of supplemental petitions, the cases were again argued on February 24, 1932, and on that day the court filed an opinion sustaining the orders of the commission and dismissing the petitions. 4 Fed. Supp. 477. On August 14, 1933, appeals were docketed in the Supreme Court, where the cases are now awaiting oral argument.

DISTRICT COURTS OF THE UNITED STATES

United States Feldspar Corp. v. *United States.*
For case history, see 1932 Annual Report, p. 123.

American Sand & Gravel Co. v. *United States.*
For prior case history, see 1932 Annual Report, p. 126. On November 16, 1932, the commission's answer was filed. On December 29, 1932, the hearing set for January 6, 1933, was indefinitely postponed.

Indian Valley R. Co. v. *United States.*
For prior case history, see 1932 Annual Report, p. 123. On November 7, 1931, the final decree was entered. On July 18, 1933, defendants' motion to strike narrative of testimony as inadequate for appeal purposes, granted.
Pending further action.

Missouri Pac. R. Co. v. *United States.*
For case history, see p. 84, this volume.

Kentucky et al. v. *United States.*
For case history, see p. 83, this volume.

Ohio et al. v. *United States.*
Wheeling & L. E. Ry. Co. v. *United States.*
For history of these cases, see p. 84, this volume.

Baltimore & Ohio R. Co. v. *United States.* Northern District of Ohio, Eastern Division.
Suit in equity to set aside the commission's order in Docket No. 24050, requiring that all steam locomotives above certain specified weights be equipped with power reverse gear the first time the locomotives were shopped for Class 3 repairs, or heavier, and in any event, prior to January 1, 1937; also requiring air-operated power gear be equipped with a suitable steam connection to enable use of steam as an auxiliary in case of air failure. 190 I.C.C. 351.
On June 2, 1933, the petition was filed, and on June 19, 1933, the case was argued and submitted for decision.

Delphos Quarries Co. v. *United States.* Southern District of Ohio, Western Division.
Suit in equity to set aside the commission's order in Docket No. 25020, requiring an increase of intrastate rates within the State of Ohio on road-building materials to the level established for interstate shipments into the State from Pennsylvania and West Virginia. 191 I.C.C. 206.
On June 16, 1933, the bill of complaint was filed and on July 10, 1933, the commission's answer was filed.

Chesapeake & Ohio Ry. Co. v. *United States.* Eastern District of Virginia.
Suit in equity to set aside the commission's report in Docket No. 21917, wherein the commission ruled that the carrier should charge the net cost of rebuilding 2,390 hopper gondolas to Investment in Equipment Account instead of Repairs to Freight Train Cars. 190 I.C.C. 382.
On July 10, 1933, the petition was filed, and on August 9, 1933, the commission's answer was filed. On September 28, 1933, the case was argued and submitted for decision.

Florida et al. v. *United States.* Southern District of Florida.
Suit in equity to set aside the commission's order in Docket No. 25937, requiring increases in intrastate rates in Florida in the amount of the surcharges authorized in *Fifteen Per Cent Case, 1931*, 178 I.C.C. 539, 179 I.C.C. 215, during the six months' period from April 1 to September 30, 1933. 191 I.C.C. 361.
On July 12, 1933, the petition was filed, and on July 20, 1933, following argument and submission for decision, the court entered an order denying the interlocutory injunction and sustaining the order of the commission.
Pending further action.

Missouri Gravel Co. v. *United States.*
For case history, see p. 84, this volume.

County Commissioners of Doniphan, Kansas, v. *United States.* Northern District of Illinois, Eastern Division.
For case history, see p. 84, this volume.

Mississippi Valley Barge Line v. *United States.* Eastern District of Missouri, Eastern Division.
For case history, see p. 84, this volume.

Illinois Commerce Commission et al. v. *United States.*

So. Chicago Coal & Dock Co. v. *United States.* Northern District of Illinois, Eastern Division.

Two suits in equity to set aside the commission's order of July 3, 1933, requiring the removal of unjust discrimination against interstate commerce found to exist by the maintenance of intrastate switching rates and carload minimum weights in the Chicago switching district lower than the corresponding interstate rates. 195 I.C.C. 89.

On October 5 and 9, 1933, the petitions were filed, and on October 13 the causes were argued and submitted.

COURT OF APPEALS OF THE DISTRICT OF COLUMBIA

United States ex rel. Chicago G. W. R. Co. v. *Interstate Commerce Commission.*

For case history, see p. 85, this volume.

SUPREME COURT OF THE DISTRICT OF COLUMBIA

United States ex rel. Chemical Lime Co. v. *Interstate Commerce Commission.*

For case history, see 1932 Annual Report, p. 126.

United States ex rel. Oklahoma-Arkansas Tel. Co. v. *Interstate Commerce Commission.*

Petition for writ of mandamus to compel the commission to take jurisdiction of a complaint under section 3 (1) of the Act, wherein it is alleged that the failure and refusal of the Southwestern Bell Tel. Co. to connect with and permit the use of the toll lines of complainant between Poteau, Okla., and Fort Smith, Ark., are unduly preferential and prejudicial. 183 I.C.C. 771.

On July 28, 1933, the petition was filed, and on August 18, 1933, the commission's answer was filed.

United States ex rel. Kroger Grocery & Baking Co. v. *Interstate Commerce Commission.*

Petition for writ of mandamus seeking a reversal of the commission's holding that it had no jurisdiction over yardage charges collected on ordinary livestock at Cincinnati, Ohio, by the Cincinnati Union Stock Yards Co. 192 I.C.C. 705.

On October 31, 1933, the petition was filed.

APPENDIX C

STATISTICAL SUMMARIES

A. Statistics of Railway Development since 1921.
B. Statistics from Monthly and other Periodical Reports of Carriers.

A. STATISTICS OF RAILWAY DEVELOPMENT

Data for years preceding 1921 for most of the tables appear in prior reports.

TABLE I.—*Mileage operated and mileage owned by steam railways in the United States, not including switching and terminal companies, 1921–32*

Year ended Dec. 31	Road owned in the United States [1]	Mileage operated by railways of classes I, II, and III (including trackage rights)			
		First main track	Second or additional main tracks	Yard track and sidings	All tracks
1921	251,176	258,362	37,614	111,555	407,530
1922	250,413	257,425	37,888	114,046	409,359
1923	250,222	258,084	38,697	116,212	412,993
1924	250,156	258,238	39,916	116,874	415,028
1925	249,398	258,631	40,962	118,361	417,954
1926	249,138	258,815	41,686	120,840	421,341
1927	249,131	259,639	42,071	123,027	424,737
1928	249,309	260,546	42,432	124,772	427,750
1929	249,433	260,570	42,711	125,773	429,054
1930	249,052	260,440	42,742	126,701	429,883
1931	248,829	259,999	42,780	127,044	429,823
1932	247,595	258,869	42,556	126,977	428,402

[1] Includes mileage of some small companies that do not make annual reports to the commission.

TABLE II.—*Equipment of steam railways in service at the close of each year, 1921–32* [1]

Year ended Dec. 31	Number of locomotives	Average tractive effort	Number of freight cars (excluding caboose)	Average capacity	Number of passenger-train cars
		Pounds		*Tons*	
1921	69,122	36,935	2,378,510	42.5	56,950
1922	68,518	37,441	2,352,483	43.1	56,827
1923	69,414	39,177	2,379,131	43.8	57,159
1924	69,486	39,891	2,411,627	44.3	57,451
1925	68,092	40,666	2,414,083	44.8	56,814
1926	66,847	41,886	2,403,967	45.1	56,855
1927	65,348	42,798	2,378,800	45.5	55,729
1928	63,311	43,838	2,346,751	45.8	54,800
1929	61,257	44,801	2,323,683	46.3	53,838
1930	60,189	45,225	2,322,267	46.6	53,584
1931	58,652	45,764	2,245,904	47.0	52,096
1932	56,732	46,299	2,184,690	47.0	50,598

[1] The figures relating to the number of locomotives and cars as published have been adjusted to cover all operating roads each year, but the figures showing average tractive effort of locomotives and average capacity of freight cars are as published in the Statistics of Railways. The fact that the same classes of railways have not been covered each year affects these averages only slightly. Privately owned cars are not included.

TABLE III.—*Railway capital actually outstanding and net income, 1921–32: Steam railways, excluding switching and terminal companies*

Year ended Dec. 31	Total railway capital	Funded debt	Stock	Ratio of debt to capital	Net income [1]	Ratio of net income to stock
	Thousands	*Thousands*	*Thousands*	*Percent*	*Thousands*	*Percent*
1921	$20,247,686	$11,357,766	$8,889,920	56.1	$350,540	3.94
1922	20,463,595	11,501,958	8,961,636	56.2	434,459	4.85
1923	21,057,513	11,964,580	9,092,933	56.8	632,118	6.95
1924	21,680,783	12,380,730	9,300,053	57.1	623,399	6.70
1925	21,734,095	12,320,995	9,413,100	56.7	771,053	8.19
1926	21,748,806	12,383,534	9,365,271	56.9	883,422	9.43
1927	21,848,928	12,309,438	9,539,490	56.3	741,924	7.78
1928	22,025,588	12,303,510	9,722,078	55.9	855,018	8.79
1929	22,306,752	12,459,441	9,847,311	55.9	977,230	9.92
1930	22,782,889	12,771,351	10,011,538	56.1	577,923	5.77
1931	22,747,229	12,738,815	10,008,414	56.0	169,287	1.69
1932	22,831,547	12,788,785	10,042,762	56.0	*121,630*	----------

[1] Intercorporate duplications not eliminated, but amounts shown correspond with the stock in the second preceding column.

TABLE IV.—*Dividends, 1921–32: Steam railways, including lessor companies, but excluding switching and terminal companies*

Year ended Dec. 31	Proportion of stock paying dividends [1]	Amount of dividends [1]	Average rate on	
			Dividend-paying stock [1]	All stock
	Percent	*Thousands*	*Percent*	*Percent*
1921	56.92	$456,482	9.02	5.13
1922	59.38	338,806	6.37	3.78
1923	62.09	411,882	7.30	4.53
1924	64.97	385,130	6.37	4.14
1925	66.70	409,645	6.52	4.35
1926	69.12	473,683	7.32	5.06
1927	70.25	[2] 507,281	8.47	5.95
1928	73.65	510,018	7.12	5.25
1929	76.23	560,902	7.47	5.70
1930	76.93	603,150	7.83	6.02
1931	73.20	401,463	5.48	4.01
1932	32.85	150,774	4.57	1.50

[1] Includes figures for lessors and operating railways without excluding duplications on account of intercorporate payments.

[2] Includes unusual items amounting to $76,300 (thousands), not representing cash.

TABLE V.—*Reported property investment and certain income items, 1921–32: Operating steam railways, excluding switching and terminal companies*

Year ended Dec. 31	Investment [1]	Investment per mile of road	Depreciation reserve	Net railway operating income [2]	Other income [3]	Interest, rents, and other deductions [4]	Dividends declared [5]
	Thousands		*Thousands*	*Thousands*	*Thousands*	*Thousands*	*Thousands*
1921	$20,329,224	$84,530	$1,237,030	$601,139	[6] $375,001	[6] $662,375	$403,991
1922	20,580,168	86,003	1,335,453	769,411	[6] 265,033	[6] 655,647	275,722
1923	21,372,858	89,619	1,408,461	974,918	[6] 260,655	[6] 667,616	353,127
1924	22,182,267	93,232	1,549,969	984,463	[6] 269,188	[6] 684,559	325,983
1925	[7] 23,217,209	94,917	1,680,473	1,136,728	272,102	706,272	349,089
1926	[7] 23,880,740	97,433	1,811,002	1,229,020	301,541	718,984	411,208
1927	[7] 24,453,871	99,546	1,946,798	1,077,842	314,396	722,485	[8] 503,146
1928	[7] 24,875,984	100,974	2,043,976	1,182,467	323,310	720,776	436,217
1929	[7] 25,465,036	103,197	2,169,736	1,262,636	362,363	728,428	495,245
1930	[7] 26,051,000	105,661	2,360,767	874,154	361,196	716,730	511,259
1931	[7] 26,094,899	105,953	2,520,738	528,204	307,785	708,622	333,986
1932	[7] 26,086,991	106,337	2,632,922	325,332	226,092	701,500	97,245

[1] The figures shown for the years 1921 to 1924, inclusive, exclude investment of proprietary companies which do not render annual reports; notably the proprietary roads in the Baltimore & Ohio System. They include some duplications in the Atchison, Topeka & Santa Fe System.

[2] This term as defined in the Interstate Commerce Act means "railway operating income, including in the computation thereof debits and credits arising from equipment rents and joint facility rents."

[3] Includes amounts received as interest or dividends on railroad securities owned by reporting carriers. See Statistics of Railways Statement No. 34.

[4] These correspond approximately to what are commonly called "fixed charges."

[5] Does not exclude duplication on account of intercorporate payments. Excludes dividends declared by lessor companies.

[6] Does not include returns for class II and class III railways.

[7] Includes investment of proprietary companies (in thousands of dollars) as follows: 1925, 480,216; 1926, 831,574; 1927, 919,095; 1928, 1,013,752; 1929, 1,051,469; 1930, 1,095,631; 1931, 1,114,637; and 1932, 1,121,945.

[8] Includes unusual items amounting to $76,300 (thousands), not representing cash.

TABLE VI.—*Operating revenues, operating expenses, and taxes, Class I steam railways, 1921–32*

Year ended Dec. 31	Operating revenues	Operating expenses	Railway tax accruals [1]	Ratio to revenues		
				Maintenance of way and structures	Maintenance of equipment	Total operating expenses
	Thousands	*Thousands*	*Thousands*	*Percent*	*Percent*	*Percent*
1921	$5,516,598	$4,562,668	$277,899	13.71	22.69	82.71
1922	5,559,093	4,414,522	302,195	13.11	22.53	79.41
1923	6,289,580	4,895,167	333,034	12.94	23.29	77.83
1924	5,921,496	4,507,885	342,449	13.39	21.28	76.13
1925	6,122,510	4,536,880	360,251	13.34	20.58	74.10
1926	6,382,940	4,669,337	391,160	13.58	20.10	73.15
1927	6,136,300	4,574,178	378,025	14.15	19.87	74.54
1928	6,111,736	4,427,995	391,166	13.71	19.09	72.45
1929	6,279,521	4,506,056	398,385	13.62	19.16	71.76
1930	5,281,197	3,930,929	350,042	13.36	19.30	74.43
1931	4,188,343	3,223,575	304,149	12.67	19.51	76.97
1932	3,126,760	2,403,445	276,061	11.23	19.80	76.87

[1] Includes lessor companies.

TABLE VII.—*Number and compensation of employees, Class I steam railways, 1921–32*

Year ended Dec. 31	Average number of employees during year	Compensation of railway employees [1]		
		Total	Ratio to revenues	Ratio to expenses
		Thousands	*Percent*	*Percent*
1921	1,659,513	$2,765,218	50.13	60.61
1922	1,626,834	2,640,817	47.50	59.82
1923	1,857,674	3,004,071	47.76	61.37
1924	1,751,362	2,825,775	47.72	62.69
1925	1,744,311	2,860,599	46.72	63.05
1926	1,779,275	2,946,114	46.16	63.09
1927	1,735,105	2,910,182	47.43	63.62
1928	1,656,411	2,826,590	46.25	63.83
1929	1,660,850	2,896,566	46.13	64.28
1930	1,487,839	2,550,789	48.30	64.89
1931	1,258,719	2,094,994	50.02	64.99
1932	1,031,703	1,512,816	48.38	62.94

[1] In 1932, 94.98 percent of the reported compensation was chargeable to operating expenses.

TABLE VIII.—*Transportation service performed by steam railways, 1921–32, excluding switching and terminal companies*

Year ended Dec. 31	Freight service					Passenger service		
	Revenue tons originated	Revenue tons carried 1 mile	Loaded car-miles	Average haul		Passengers carried	Passenger-miles	Average journey per passenger
				United States as a system	For the individual road			
	Thousands	*Millions*	*Millions*	*Miles*	*Miles*	*Millions*	*Millions*	*Miles*
1921	1,017,818	309,533	12,591	304.11	171.12	1,061	37,706	35.53
1922	1,111,822	342,188	14,077	307.77	173.29	990	35,811	36.19
1923	1,387,755	416,256	16,532	299.94	166.29	1,009	38,294	37.97
1924	1,287,413	391,945	16,020	304.44	168.12	950	36,368	38.26
1925	1,351,155	417,418	17,001	308.93	169.43	902	36,167	40.10
1926	1,439,612	447,444	17,925	310.81	170.29	875	35,673	40.79
1927	1,372,547	432,014	17,561	314.75	172.11	840	33,798	40.23
1928	1,371,359	436,087	17,938	318.00	174.14	798	31,718	39.72
1929	1,419,383	450,189	18,358	317.17	174.20	786	31,165	39.63
1930	1,220,134	385,815	15,893	316.21	177.06	708	26,876	37.96
1931	944,846	311,073	13,271	329.23	183.62	599	21,933	36.60
1932	678,854	235,309	10,430	346.63	191.45	481	16,997	35.36

TABLE IX.—*Carload, trainload, and density of traffic, Class I steam railways, 1921–32*

Year ended Dec. 31	Ton-miles per loaded freight car-mile [1]	Revenue ton-miles per train-mile	Passenger-miles per car-mile	Passenger-miles per train-mile	Revenue ton-miles per mile of road	Passenger-miles per mile of road
1921	27.32	579	16	67	1,308,938	159,551
1922	26.65	611	16	65	1,444,840	151,410
1923	27.83	644	16	67	1,754,901	161,777
1924	26.88	647	15	63	1,649,318	153,618
1925	26.86	675	15	63	1,749,147	152,319
1926	27.35	701	14	61	1,875,304	150,280
1927	27.06	702	14	59	1,801,414	141,800
1928	26.59	718	13	56	1,802,703	131,971
1929	26.85	730	13	55	1,851,620	129,011
1930	26.58	711	11	49	1,583,465	111,063
1931	25.63	664	10	45	1,276,861	90,662
1932	24.80	598	10	40	968,772	70,467

[1] Includes nonrevenue tonnage.

TABLE X.—*Average receipts per ton, per ton-mile, per passenger, and per passenger-mile, 1921–32*

Year ended Dec. 31	Average amount received for each ton originated	Revenue per ton-mile	Average receipts per passenger	Revenue per passenger-mile
		Cents		*Cents*
1921	$3.934	1.294	$1.099	3.093
1922	3.675	1.194	1.099	3.037
1923	3.396	1.132	1.149	3.026
1924	3.447	1.132	1.142	2.985
1925	3.440	1.114	1.181	2.944
1926	3.408	1.096	1.200	2.941
1927	3.445	1.095	1.167	2.901
1928	3.479	1.094	1.134	2.854
1929	3.452	1.088	1.114	2.811
1930	3.397	1.074	1.032	2.719
1931	3.495	1.062	.921	2.515
1932	3.661	1.056	.785	2.221

TABLE XI.—*Fuel consumed by locomotives, and rails and ties laid, Class I steam railways, not including switching and terminal companies*

Year ended Dec. 31	Bituminous coal	Anthracite coal	Fuel oil	Total fuel [1]	Rails applied in replacement and betterment	Ties laid in previously constructed tracks	
						Crossties	Switch and bridge ties
	Net tons	*Net tons*	*Gallons*	*Net tons*	*Long tons*	*Number*	*Feet (b.m.)*
1921	107,910,146	2,643,724	1,661,443,618	121,006,242	2,588,313	86,521,566	256,287,730
1922	113,163,083	2,472,652	1,828,125,050	127,213,343	2,618,556	86,641,834	258,186,478
1923	131,491,561	2,614,576	2,334,365,782	148,921,714	3,138,972	84,434,985	277,615,107
1924	117,247,005	2,678,601	2,475,896,579	135,617,320	3,184,536	83,073,059	291,288,388
1925	117,714,426	2,174,143	2,457,826,755	135,419,983	3,484,641	82,716,674	282,629,608
1926	122,822,853	2,005,403	2,459,677,722	140,425,844	3,818,127	80,745,509	275,971,880
1927	115,882,570	1,603,109	2,429,935,486	132,945,460	3,819,115	78,340,182	259,996,468
1928	112,381,588	1,490,261	2,498,144,389	129,742,475	3,805,651	77,370,941	269,149,270
1929	113,893,839	1,578,795	2,628,413,851	132,137,030	3,610,455	74,679,375	250,062,751
1930	98,399,643	1,139,508	2,366,568,919	114,458,305	2,673,674	63,353,828	235,314,604
1931	81,724,711	542,719	2,015,694,554	94,924,409	1,714,905	51,501,659	188,594,522
1932	66,497,832	327,484	1,759,123,835	77,858,747	797,320	39,190,473	140,565,691

[1] In the statement of consumption of fuel by locomotives, 1 cord of hardwood is considered as equivalent to two-thirds of a ton of fuel; and 1 cord of softwood as equivalent to one-half of a ton of fuel. The ratio used in reducing fuel oil to tons of fuel is left to the experience of each road. Figures include data for cord wood; also a small amount of miscellaneous fuel.

TABLE XII.—*Selected data from annual reports of Class I steam railways, 1932 and 1931, by districts*

Item	All districts		Eastern district	
	Year ended Dec. 31			
	1932	1931	1932	1931
Railway operating revenues (thousands)	$3,126,760	$4,188,343	$1,416,801	$1,868,461
Railway operating expenses:				
Total (thousands)	$2,403,445	$3,223,575	$1,076,555	$1,466,842
Maintenance of way and structures (thousands)	$351,179	$530,613	$139,710	$222,224
Maintenance of equipment (thousands)	$618,941	$816,953	$280,875	$375,614
Transportation—rail line (thousands)	$1,154,318	$1,538,469	$539,537	$725,410
Net railway operating income (thousands)	$326,298	$525,628	$159,696	$205,992
Freight-service statistics:				
Freight revenue (thousands)	$2,446,864	$3,248,754	$1,046,141	$1,368,023
Revenue tons originated (thousands)	646,223	894,186	286,549	386,210
Total revenue tons carried (thousands)	1,168,289	1,605,034	604,930	815,595
Revenue tons carried one mile (thousands)	233,977,009	309,224,879	98,577,703	128,655,544
Revenue per ton-mile (cents)	1.046	1.051	1.061	1.063
Revenue ton-miles per mile of road	968,772	1,276,861	1,653,887	2,153,994
Freight train-miles (thousands)	362,798	439,381	134,091	162,734
Revenue ton-miles per train-mile	598.32	664.23	710.53	771.06
Loaded car-miles (thousands)	10,373,428	13,196,228	4,132,411	5,240,806
Empty car-miles (thousands)	6,737,638	8,538,991	2,691,290	3,373,854
Ton-miles per loaded car-mile [1]	24.80	25.63	25.81	26.44
Average haul per road (miles)	200.27	192.66	162.96	157.74
Passenger-service statistics:				
Passenger revenue (thousands)	$376,539	$550,250	$224,842	$316,875
Passengers carried (thousands)	478,800	596,391	362,424	448,834
Passenger-miles (thousands)	16,971,044	21,894,421	10,170,670	12,912,261
Revenue per passenger-mile (cents)	2.22	2.51	2.21	2.45
Passenger-miles per mile of road	70,467	90,662	172,288	218,268
Average journey per passenger (miles)	35.44	36.71	28.06	28.77
Passenger-miles per train-mile	40	45	56	62

Item	Southern district		Western district	
	Year ended Dec. 31			
	1932	1931	1932	1931
Railway operating revenues (thousands)	$558,408	$739,244	$1,151,551	$1,580,638
Railway operating expenses:				
Total (thousands)	$417,791	$564,660	$909,099	$1,192,073
Maintenance of way and structures (thousands)	$68,939	$103,173	$142,530	$205,216
Maintenance of equipment (thousands)	$112,775	$149,768	$225,291	$291,571
Transportation—rail line (thousands)	$188,734	$254,306	$426,047	$558,753
Net railway operating income (thousands)	$83,226	$109,941	$83,376	$209,695
Freight-service statistics:				
Freight revenue (thousands)	$473,963	$619,351	$926,760	$1,261,380
Revenue tons originated (thousands)	160,646	211,007	199,028	296,969
Total revenue tons carried (thousands)	231,583	308,709	331,776	480,730
Revenue tons carried 1 mile (thousands)	54,476,716	69,525,378	80,922,590	111,043,957
Revenue per ton-mile (cents)	0.870	0.891	1.145	1.136
Revenue ton-miles per mile of road	1,181,906	1,507,609	595,793	814,519
Freight train-miles (thousands)	75,523	94,529	153,184	182,118
Revenue ton-miles per train-mile	672.22	696.33	472.46	558.46
Loaded car-miles (thousands)	2,000,011	2,549,752	4,241,006	5,405,670
Empty car-miles (thousands)	1,356,864	1,744,807	2,689,484	3,420,330
Ton-miles per loaded car-mile [1]	29.57	29.69	21.57	22.93
Average haul per road (miles)	235.24	225.21	243.91	230.99
Passenger-service statistics:				
Passenger revenue (thousands)	$42,841	$66,331	$108,856	$167,044
Passengers carried (thousands)	36,957	48,702	79,419	98,855
Passenger-miles (thousands)	1,830,174	2,292,377	4,970,200	6,689,783
Revenue per passenger-mile (cents)	2.34	2.89	2.19	2.50
Passenger-miles per mile of road	39,707	49,709	36,623	49,110
Average journey per passenger (miles)	49.52	47.07	62.58	67.67
Passenger-miles per train-mile	25	28	29	34

[1] Includes nonrevenue tonnage.

B. STATISTICS FROM MONTHLY AND OTHER PERIODICAL REPORTS OF CARRIERS

TABLE A-1.—*Railway operating revenues, railway operating expenses, and net railway operating income, 1929–33, Class I steam railways, excluding switching and terminal companies*

Item	1933	1932	1931	1930	1929
Miles of road operated	240,507.60	241,345.92	241,613.56	242,190.98	242,243.14
RAILWAY OPERATING REVENUES					
January	$226,555,138	$272,115,638	$361,842,863	$446,261,498	$481,648,098
February	212,154,011	264,223,643	332,838,840	423,193,677	470,419,301
March	218,102,574	286,678,762	371,911,427	447,669,724	[1] 511,296,035
April	224,877,399	264,885,724	365,419,032	445,850,214	[1] 508,587,035
May	255,255,752	251,921,716	364,802,767	457,570,284	[1] 531,822,508
June	278,311,083	243,545,252	365,762,166	439,671,087	[1] 526,022,016
July	293,708,299	235,331,184	372,808,463	451,786,925	[1] 551,654,371
August	297,017.776	249,388,763	360,282,525	460,973,774	[1] 580,206,002
September	292,147.177	269,532,670	346,340,161	462,209,448	[1] 560,701,192
October		295,167,145	359,036,563	478,030,999	[1] 602,394,656
November		250,741,529	301,890,290	394,319,552	[1] 494,067,501
December		243,337,468	285,370,577	373,849,787	[1] 464,243,058
12 months		[2] 3,126,754,103	[2] 4,188,339,269	[2] 5,281,283,680	[2] 6,284,648,267
RAILWAY OPERATING EXPENSES					
January	$181,679,760	$227,032,393	$290,825,401	$352,610,968	$365,494,201
February	171,334,066	208,748,915	268,996,641	326,959,567	346,387,040
March	175,724,394	219,202,317	288,110,193	347,392,673	373,360,589
April	173,296,168	209,383,103	287,295,891	344,450,948	372,801,866
May	181,584,036	205,222,149	284,975,311	347,865,745	387,159,012
June	185,324,570	197,295,766	277,231,959	330,995,480	378,141,728
July	194,908,498	189,814,008	277,152,768	327,955,974	384,937,652
August	202,452,505	187,646,632	266,529,714	323,571,474	391,812,808
September	199,416,150	187,404,992	255,418,077	316,494,334	379,659,101
October		198,050,774	258,363,572	322,443,081	400,373,582
November		187,689,625	235,840,136	295,812,115	368,964,772
December		186,037,226	232,641,202	294,575,875	359,461,679
12 months		[2] 2,403,447,896	[2] 3,223,412,422	[2] 3,931,043,991	[2] 4,509,723,755
MAINTENANCE OF WAY AND STRUCTURES					
January	$22,654,703	$29,979,256	$43,260,714	$54,389,085	$57,851,436
February	21,641,459	28,529,693	40,899,697	52,688,063	54,969,489
March	22,629,337	30,832,823	46,150,006	61,003,256	65,481,082
April	24,439,873	32,505,378	50,849,303	67,543,964	73,285,585
May	27,322,616	33,950,751	52,106,487	70,035,563	79,529,018
June	28,804,827	32,712,584	51,497,507	66,197,385	78,974,634
July	30,401,012	29,449,033	49,625,693	63,470,135	81,036,272
August	32,768,757	28,990,487	46,677,746	62,332,647	82,143,910
September	31,596,651	28,059,110	42,834,680	58,561,250	76,943,272
October		28,968,655	41,539,341	57,276,663	78,663,678
November		26,010,448	34,831,693	48,568,935	67,706,580
December		21,201,895	29,946,701	43,432,549	59,593,537
12 months		[2] 351,155,695	[2] 530,197,180	[2] 705,486,656	[2] 856,529,577

[1] Figures for 1929 include back railway mail pay as follows: For March, $1,000,000; April, $1,000,000; May, $2,000,000; June, $10,000,000; July, $10,000,000; August, $2,000,000; September, $2,000,000; October, $3,000,000; November, $3,000,000; December, $4,000,000.

[2] Includes certain corrections not appearing in monthly figures.

TABLE A-1.—*Railway operating revenues, railway operating expenses, and net railway operating income, 1929–33, Class I steam railways, excluding switching and terminal companies*—Continued

MAINTENANCE OF EQUIPMENT

Month	1933	1932	1931	1930	1929
January	$47,591,908	$57,623,583	$76,658,868	$95,129,856	$99,519,390
February	44,989,856	54,624,880	71,388,958	88,645,252	93,660,451
March	45,865,736	57,438,716	75,218,601	93,285,272	101,628,555
April	45,243,604	54,211,080	74,282,393	90,505,612	100,846,907
May	46,935,522	52,293,139	71,844,143	89,796,032	103,281,344
June	48,133,880	49,727,745	68,846,709	84,703,298	100,051,159
July	51,670,754	47,983,351	68,575,718	82,192,351	100,334,227
August	55,530,817	47,162,915	65,577,781	80,193,377	102,394,508
September	54,194,508	47,508,833	63,700,963	80,225,577	99,284,279
October		50,543,761	63,272,385	79,254,788	105,765,356
November		49,371,969	57,752,241	74,794,367	98,835,844
December		50,470,883	60,078,706	80,532,157	97,726,742
12 months		[1] 618,958,013	[1] 817,191,474	[1] 1,019,232,586	[1] 1,203,480,588

TRANSPORTATION EXPENSES

January	$89,763,733	$113,562,985	$141,441,484	$171,033,570	$177,351,480
February	84,296,229	101,363,672	128,594,187	155,403,263	168,358,091
March	86,821,588	106,434,652	138,202,289	162,499,844	176,118,502
April	83,309,008	98,559,140	133,375,285	155,888,020	168,676,856
May	86,845,661	95,384,914	132,638,663	157,236,018	173,114,462
June	87,632,083	91,431,759	128,284,664	149,235,408	167,120,690
July	91,883,965	90,044,813	130,780,109	152,301,969	172,335,622
August	93,121,123	89,710,648	127,202,247	151,948,132	176,505,642
September	92,704,743	90,378,101	122,474,892	149,025,748	173,051,030
October		97,140,939	126,684,056	156,917,239	185,110,510
November		91,402,375	117,120,288	144,422,585	172,163,240
December		92,406,084	116,448,570	142,399,975	171,062,127
12 months		[1] 1,157,792,097	[1] 1,543,249,221	[1] 1,848,285,322	[1] 2,081,526,671

NET RAILWAY OPERATING INCOME [2]

January	$13,265,722	$11,182,051	$33,579,600	$54,676,294	$75,682,442
February	9,802,272	21,614,192	27,021,837	58,4 0,643	83,287,425
March	10,501,755	32,584,468	45,635,968	60,079,959	[3] 95,623,234
April	19,041,489	20,273,159	38,820,312	60,901,325	[3] 92,526,082
May	40,693,073	11,665,704	40,741,622	67,793,478	[3] 101,331,586
June	59,483,185	12,299,666	49,605,285	67,663,111	[3] 103,543,176
July	64,307,068	11,287,422	55,864,605	81,470,731	[3] 121,630,893
August	60,978,216	27,985,137	55,376,239	94,327,471	[3] 139,352,471
September	60,936,370	48,947,045	54,495,109	102,852,390	[3] 132,291,350
October		62,768,435	63,099,591	110,923,349	[3] 151,087,497
November		33,406,369	35,650,480	61,175,416	[3] 84,982,183
December		32,371,696	26,843,779	48,505,431	[3] 70,958,687
12 months		[1] 326,306,841	[1] 526,743,888	[1] 868,719,483	[1] 1,252,361,174

[1] Includes certain corrections not appearing in monthly figures.
[2] For meaning of this term see table V, footnote 2.
[3] Figures for 1929 include back railway mail pay as follows: For March, $1,000,000; April, $1,000,000; May, $2,000,000; June, $10,000,000; July, $10,000,000; August, $2,000,000; September, $2,000,000; October, $3,000,000; November, $3,000,000; December, $4,000,000.

TABLE A-2.—*Other income and deductions, by months, 1931–33, Class I steam railways, excluding switching and terminal companies*

OTHER INCOME

Month	1933	1932	1931
January	$13,924,325	$15,306,580	$19,025,362
February	13,476,170	15,532,774	18,697,744
March	14,696,407	17,857,336	20,909,706
April	13,408,602	16,480,305	20,247,483
May	13,411,389	15,366,510	24,199,969
June	19,354,373	24,052,610	28,295,098
July	16,513,111	15,086,820	21,947,704
August	13,257,864	14,442,235	16,383,583
September		14,338,574	17,547,210
October		14,477,436	17,082,666
November		14,130,054	17,309,473
December		31,735,000	45,426,295
12 months		[1] 207,792,642	[1] 267,341,177

INTEREST, RENTS, AND OTHER DEDUCTIONS

January	$56,887,350	$56,046,746	$55,817,255
February	56,719,810	56,148,725	55,658,336
March	56,923,925	56,489,164	55,895,540
April	57,267,031	56,861,072	56,469,767
May	57,193,056	56,823,516	56,256,367
June	57,557,180	56,984,981	56,922,731
July	51,292,266	57,182,223	56,683,791
August	57,154,721	57,226,065	56,095,871
September		56,849,543	55,483,017
October		57,275,692	56,143,580
November		57,538,169	58,291,873
December		62,378,720	61,075,719
12 months		[1] 686,686,007	[1] 680,638,047

NET INCOME [2]

January	*$29,602,406*	*$29,438,487*	*$3,092,534*
February	*33,377,422*	*18,882,369*	*9,945,557*
March	*31,726,132*	*6,047,494*	10,761,951
April	*24,838,801*	*20,107,743*	2,730,624
May	*3,101,140*	*29,791,305*	8,926,423
June	21,276,730	*20,632,703*	21,234,265
July	29,527,919	*30,808,001*	21,381,942
August	17,081,362	*14,798,693*	15,812,841
September		6,440,239	16,695,210
October		20,063,201	24,266,479
November		*9,833,727*	*5,183,963*
December		1,876,693	11,414,171
12 months		[1] *150,799,014*	[1] 115,577,966

[1] Includes certain corrections not appearing in monthly figures.
[2] Deficit in italics.

TABLE B.—*Analysis of operating revenues and expenses, Class I steam railways, excluding switching and terminal companies, 1931–33*

Item	9 months, January to September, inclusive		Calendar year—	
	1933	1932	1932	1931
Operating revenues:				
Freight	$1,851,553,169	$1,815,810,626	$2,450,824,086	$3,254,813,340
Passenger	245,222,664	295,854,105	377,094,348	550,996,525
Mail	67,199,263	71,953,206	97,161,709	105,360,001
Express	32,852,797	41,179,934	53,983,054	82,753,159
All other	101,271,477	112,825,483	147,690,906	194,416,244
Total	2,298,099,370	2,337,623,354	3,126,754,103	4,188,339,269
Percent of total:				
Freight	80.57	77.68	78.38	77.71
Passenger	10.67	12.66	12.06	13.15
Mail	2.92	3.08	3.11	2.52
Express	1.43	1.76	1.73	1.98
All other	4.41	4.82	4.72	4.64
Operating expenses:				
Maintenance of way and structures	$242,262,885	$275,009,117	$351,155,695	$530,197,180
Maintenance of equipment	440,159,065	468,574,244	618,958,013	817,191,474
Traffic	64,098,700	74,136,750	96,222,833	117,213,416
Transportation	796,367,782	876,870,683	1,157,792,097	1,543,249,221
General	107,584,820	118,833,950	155,573,384	182,035,565
All other	15,245,212	18,325,536	23,745,874	33,525,566
Total	1,665,718,464	1,831,750,280	2,403,447,896	3,223,412,422
Percent of total:				
Maintenance of way and structures	14.54	15.01	14.61	16.45
Maintenance of equipment	26.43	25.58	25.75	25.35
Traffic	3.85	4.05	4.01	3.64
Transportation	47.81	47.87	48.17	47.87
General	6.46	6.49	6.47	5.65
All other	.91	1.00	.99	1.04
Railway tax accruals	$200,153,616	$216,944,448	$275,189,976	$303,568,612
Uncollectible railway revenues	782,214	704,135	1,027,413	890,864
Equipment rents—debit	63,203,926	63,756,509	85,117,707	98,265,976
Joint facility rent—debit	27,267,273	26,635,538	35,664,270	35,457,507
Net railway operating income	340,973,877	197,832,444	326,306,841	526,743,888

TABLE C.—*Ton-miles of freight (revenue and nonrevenue), by months, 1929–33, Class I steam railways*

Month	1933	1932	1931	1930	1929
	Millions	*Millions*	*Millions*	*Millions*	*Millions*
January	19,986	22,855	30,308	36,718	39,210
February	19,117	21,718	27,097	34,347	38,140
March	19,356	23,580	29,961	35,301	40,228
April	19,831	21,259	28,711	34,900	38,346
May	21,732	19,872	30,016	36,573	41,846
June	23,712	18,673	28,254	34,417	40,740
July	26,460	19,065	30,276	35,595	42,009
August	26,468	20,071	29,361	37,423	44,950
September		22,706	27,842	36,232	44,222
October		26,344	30,579	39,294	47,836
November		21,754	25,084	32,310	38,741
December		21,102	22,662	29,034	36,046
12 months		[1] 259,004	[1] 340,149	[1] 422,133	[1] 492,313

[1] Includes certain corrections not appearing in monthly figures.

TABLE D.—*Selected operating averages in freight and passenger service of Class I steam railways in the United States, 1931–33*

Item	8 months, January to August, inclusive		Calendar year—	
	1933	1932	1932	1931
Average miles of road included	239,397	240,270	239,694	239,723
Net ton-miles per mile of road per day	3,036	2,850	2,952	3,887
Percent of freight locomotives unserviceable	32.2	25.6	26.7	20.7
Percent of freight cars unservicable	14.0	9.9	10.6	7.8
Percent loaded of total car-miles	61.2	61.0	60.7	60.8
Percent eastbound or northbound of loaded car-miles	59.6	60.5	60.5	60.3
Car-miles per car-day	20.5	19.4	19.8	24.5
Net ton-miles per car-day	317	288	300	383
Net ton-miles per loaded car-mile	25.3	24.4	24.9	25.7
Car-miles per train-mile	45.6	44.5	44.8	47.9
Gross ton-miles per train-mile (excluding locomotives and tenders)	1,729	1,662	1,683	1,810
Net ton-miles per train-mile (including nonrevenue tons)	690	649	663	733
Average miles per hour, trains in freight service	15.8	15.6	15.5	14.8
Pounds of coal per 1,000 gross ton-miles (including locomotives and tenders)	120	122	123	119
Average cost of coal per ton (including freight)	$1.91	$2.10	$2.05	$2.21
Revenue per ton-mile	$0.01009	$0.01067	$0.01045	$0.01052
Average haul per revenue ton:				
Per railroad	202.64	204.03	202.17	194.11
United States as a system	[1]	[1]	346.63	329.23
Number of freight train-miles	255,815,781	257,497,653	390,591,342	463,874,574
Number of passenger-train miles	256,703,882	288,786,452	422,139,486	486,202,779
Number of passenger-train car-miles	1,690,740,360	1,921,313,735	2,799,240,032	3,314,863,167
Passenger-train cars per train	7.28	7.30	7.29	7.40
Revenue per passenger per mile:				
Including commutation passengers	$0.02066	$0.02269	$0.02219	$0.02513
Excluding commutation passengers	$0.02451	$0.02767	$0.02697	$0.03062

[1] Data not available.

TABLE E.—*Average number of employees and total compensation, by groups of employees, calendar year 1932, Class I steam railways including switching and terminal companies*

Groups of employees	Basis	Average number of employees middle of month	Total compensation
I. Executives, officials, and staff assistants	Daily	13,616	$71,269,011
II. Professional, clerical, and general	Daily	40,689	87,961,348
	Hourly	144,476	208,987,120
III. Maintenance of way and structures	Daily	3,926	10,399,332
	Hourly	211,961	185,554,066
IV. Maintenance of equipment and stores	Daily	10,374	27,292,802
	Hourly	272,597	322,650,518
V. Transportation (other than train, engine and yard)	Daily	21,414	23,701,775
	Hourly	112,851	158,259,484
VI (a). Transportation (yardmasters, switch tenders, and hostlers)	Daily	4,077	11,513,848
	Hourly	10,035	16,939,296
VI (b). Transportation (train and engine service)	Hourly	202,552	411,398,692
All employees	Daily	94,096	232,138,616
	Hourly	954,472	1,303,789,176

TABLE F.—*Carloads and tons of commodities originated and freight revenue, by commodity groups, calendar year 1932, Class I steam railways*

Commodity groups	Number of carloads	Number of tons (2,000 pounds)	Freight revenue
Products of agriculture	3,198,502	80,916,911	$480,042,412
Animals and products	1,468,617	18,054,801	190,181,499
Products of mines	7,036,598	362,225,695	734,072,035
Products of forests	930,302	26,109,128	107,524,009
Manufactures and miscellaneous	5,433,477	143,682,492	769,077,266
Grand total, carload traffic	18,067,496	630,989,027	2,280,897,221
All l.c.l. freight		15,233,791	252,829,204
Grand total, carload and l.c.l. traffic		646,222,818	2,533,726,425

TABLE G.—*Summary of casualties to persons on steam railways in the United States for the years ended Dec. 31, 1932, 1931, 1930, 1929, and 1928* [1]

Class of persons	Number of persons									
	1932		1931		1930		1929		1928	
	Killed	Injured	Killed	Injured	Killed	Injured	Killed	Injured	Killed	Injured
1. Trespassers	2,435	3,354	2,334	2,965	2,246	2,663	2,266	2,334	2,336	2,362
2. Employees:										
Trainmen on duty	278	6,534	303	8,579	443	12,214	614	19,789	538	21,603
Other employees	168	749	211	997	298	1,501	523	2,392	500	2,427
Total employees	446	7,283	514	9,576	741	13,715	1,137	22,181	1,038	24,030
3. Passengers	23	1,911	40	2,102	50	2,665	97	3,843	83	3,464
4. Persons carried under contract	5	318	9	350	4	448	17	759	23	484
5. Other nontrespassers	1,615	4,291	1,956	5,064	2,130	6,071	2,615	7,582	2,665	7,306
Total, classes 1 to 5	4,524	17,157	4,853	20,057	5,171	25,562	6,132	36,699	6,145	37,646
6. Casualties in nontrain accidents	223	12,062	246	15,599	310	23,868	364	40,296	366	48,550

[1] Figures relating to suicide are excluded.

APPENDIX D

LIST OF REPORTED RATE AND VALUATION CASES

Volumes included: 186 (balance), 188, 190, 191, 192, 194 (approximately complete), 195 (approximately complete), 40 Val. Rep. (part), 41, 43 (approximately complete).

Abingdon Sanitary Mfg. Co. *v.* Artemus-Jellico R. Co., 191 I.C.C. 695.
Accounting for Rebuilding Freight Cars by Chesapeake & O. Ry. Co., 190 I.C.C. 382.
Accounting of the New York Teleph. Co., 188 I.C.C. 83.
Acquisition of Property by Saratoga & E. V. R. Co., Accounting for Donations, 192 I.C.C. 719.
A. Fink & Sons *v.* Cleveland, C., C. & St. L. Ry. Co., 188 I.C.C. 356.
Aggregating Express Shipments, 192 I.C.C. 301.
A. G. Reeves Steel Construction Co. *v.* Louisville & N. R. Co., 186 I.C.C. 730.
Agricultural Limestone via Missouri-I. R., 188 I.C.C. 241.
Ahern & Carpenter, Inc., *v.* Baltimore & O. R. Co., 192 I.C.C. 142.
Ainsworth Filling Station *v.* Atchison, T. & S. F. Ry. Co., 192 I.C.C. 232.
Alabama Asphaltic Limestone Co. *v.* Akron & B. B. R. Co., 194 I.C.C. 273.
Alabama Grocery Co. of Huntsville, Ala., *v.* Atchison, T. & S. F. Ry. Co., 192 I.C.C. 159.
Alameda Fuel & Grain Co. *v.* Atchison, T. & S. F. Ry. Co., 188 I.C.C. 564.
Alan Wood Steel Co. *v.* Alabama G. S. R. Co., 190 I.C.C. 3.
Albion Molasses Feed Co. *v.* Chicago & N. W. Ry. Co., 190 I.C.C. 291.
Alemite Corp. *v.* Baltimore & O. R. Co., 195 I.C.C. 248.
Alexandria Paper Co. *v.* Atchison, T. & S. F. Ry. Co., 194 I.C.C. 614.
Allegheny-Seaboard Oil Corp. *v.* Texas & P. Ry. Co., 192 I.C.C. 361.
Allen Mfg. Co. *v.* Louisville & N. R. Co., 192 I.C.C. 170, 194 I.C.C. 209.
Allied Asphalt & Mineral Corp. *v.* Hoboken Mfrs. R. Co., 194 I.C.C. 265.
Allied Barrel Corp. *v.* Pennsylvania R. Co., 191 I.C.C. 423.
Allison & Co. *v.* Norfolk S. R. Co.—See Geo. Allison & Co.
Allowance for Drayage in St. Louis District, 188 I.C.C. 153.
Alphons Custodis Chimney Construction Co. *v.* Pennsylvania R. Co., 190 I.C.C. 679.
Alternation of Class and Commodity Rates, 186 I.C.C. 733.
Alton Brick Co. *v.* Southern Ry. Co., 188 I.C.C. 760.
American Box Board Co. *v.* Maine Central R. Co., 191 I.C.C. 35.
American Glue Co. *v.* Boston & M. R., 191 I.C.C. 37.
American Hoist & Derrick Co. *v.* Chicago, M., St. P. & P. R. Co., 195 I.C.C. 263.
American Packing & Provision Co. *v.* Baltimore & O. R. Co., 188 I.C.C. 218.
American Packing & Provision Co. *v.* Chicago & N. W. Ry. Co., 191 I.C.C. 75.
American Radiator Co. *v.* Atlantic Coast Line R. Co., 195 I.C.C. 728.
American Radiator Co. *v.* Baltimore & O. R. Co., 190 I.C.C. 564.
American Scrap Material Co. *v.* Atlantic & Y. Ry. Co., 191 I.C.C. 45.
American Seed Trade Assn. *v.* Aberdeen & R.R. Co., 192 I.C.C. 487.
American Tank & Equipment Corp. *v.* St. Louis-S. F. Ry. Co., 192 I.C.C. 483.
American Tar Products Co. *v.* Alabama G. S. R. Co., 192 I.C.C. 703.
American Vitrified Products Co. *v.* Arcade & A. R. Corp., 191 I.C.C. 709, 194 I.C.C. 199.
American Warehousemen's Assn. *v.* Inland Waterways Corp., 188 I.C.C. 13.
Amherst Elevator Co. *v.* Atchison, T. & S. F. Ry. Co., 191 I.C.C. 569.
Amiesite Corp. *v.* Akron, C. & Y. Ry. Co., 192 I.C.C. 691.
Ammonia Compounds from Belle, W.Va., 188 I.C.C. 61.
Andersen, Smith & Hamilton, Inc., *v.* Chicago & N. W. Ry. Co., 195 I.C.C. 82.
Anderson & Co. *v.* Southern Ry. Co.—See W. I. Anderson & Co.
Anderson & Son *v.* Chicago, B. & Q. R. Co.—See G. E. Anderson & Son.
Andrews Bros. *v.* Railway Exp. Agency, Inc., 186 I.C.C. 693.

Cement from Rapid City, S.Dak., 188 I.C.C. 729.
Cement in Trunk Line Territory, 194 I.C.C. 429.
Cement to Chicago, Ill., and St. Louis, Mo., 191 I.C.C. 699.
Cement to Los Angeles Ports for Transshipment, 188 I.C.C. 389.
Central Indiana Gas Co. *v.* Cleveland, C., C. & St. L. Ry. Co., 190 I.C.C. 495.
C. F. Smith Co. *v.* Atlantic Coast Line R. Co., 191 I.C.C. 171.
Challenge Co. *v.* New York Central R. Co., 195 I.C.C. 297.
Chamber of Commerce of Grand Junction, Colo., Inc., *v.* Aberdeen & R. R. Co., 190 I.C.C. 233, 192 I.C.C. 63.
Chamber of Commerce of Greenville, O., *v.* Akron, C. & Y. Ry. Co., 188 I.C.C. 223.
Chandler Davis Co. *v.* Atlantic Coast Line R. Co., 190 I.C.C. 161.
Chemical Construction Corp. *v.* Central R. Co. of New Jersey, 188 I. C.C. 561.
Chicago Macaroni Co. *v.* Chicago & N. W. Ry. Co., 190 I.C.C. 439.
C. I. & M. Dingfelder *v.* Seaboard Air Line Ry. Co., 194 I.C.C. 263.
Cities Service Gas Co. *v.* Chicago, M., St. P. & P. R. Co., 194 I.C.C. 221.
Cities Service Oil Co. *v.* Atchison, T. & S. F. Ry. Co., 188 I.C.C. 80.
Citrus Fruit from Florida via St. Louis-S. F. Ry., 194 I.C.C. 445.
City of Beaver City *v.* Atchison, T. & S. F. Ry. Co., 194 I.C.C. 459.
City of Prineville Ry., 43 Val. Rep. 398.
City of St. Paul *v.* Chicago, B. & Q. R. Co., 192 I.C.C. 79.
City of St. Petersburg, Fla., *v.* Atlantic Coast Line R. Co., 190 I.C.C. 58.
Class and Commodity Rates in Texas, 190 I.C.C. 669.
Class and Commodity Rates in the South, 191 I.C.C. 613.
Classification Ratings on Food Products, 195 I.C.C. 683.
Clay from Southwestern Points, 194 I.C.C. 413.
Clay or Kaolin from Southern Points to Canada, 188 I.C.C. 777.
Clear Creek Cattle Co. *v.* Atchison, T. & S. F. Ry. Co., 188 I.C.C. 531.
Cleveland Growers Marketing Co. *v.* New York, C. & St. L. R. Co., 191 I.C.C. 669.
Climax Roller Mills *v.* Louisville & N. R. Co., 186 I.C.C. 793.
Clinton *v.* Baltimore & O. R. Co., 194 I.C.C. 693.
Clover Splint Coal Co., Inc., *v.* Louisville & N. R. Co., 192 I.C.C. 4.
Coal and Coke to Mississippi Valley, 191 I.C.C. 589.
Coal from Alabama, 190 I.C.C. 348, 194 I.C.C. 697.
Coal from Alabama to Florida, 194 I.C.C. 377.
Coal from Baltimore & O. R. Mines to Eastern Points, 188 I.C.C. 787.
Coal from Bowen, Mo., 188 I.C.C. 724.
Coal from Illinois, Indiana, and Kentucky, 186 I.C.C. 697, 191 I.C.C. 177, 192 I.C.C. 586.
Coal from Kentucky, Virginia, and West Virginia, 194 I.C.C. 727.
Coal from Louisville & N. R. Mines, 192 I.C.C. 521.
Coal from Mines on Nicholas, F. & G. R. Co., 191 I.C.C. 566.
Coal from Pennsylvania and West Virginia, 191 I.C.C. 123.
Coal from Pennsylvania to Niagara Frontier, 191 I.C.C. 108.
Coal, Interstate R. Mines to Lambert Point, Va., 192 I.C.C. 674.
Coal to Chicago Switching District, 195 I.C.C. 385.
Coal to Wisconsin, 195 I.C.C. 393.
Coal Trade Assn. of Indiana *v.* Baltimore & O. R. Co., 190 I.C.C 743.
Cole Bros. *v.* Denver & R. G. W. R. Co., 190 I.C.C. 737.
Collins-Dietz-Morris Co. *v.* Atchison, T. & S. F. Ry. Co., 195 I.C.C. 295.
Colorado Culvert & Flume Co. *v.* Nevada Central R. Co., 191 I.C.C. 505.
Colorado Milling & Elevator Co. *v.* Southern Pac. Co., 191 I.C.C. 113.
Colorado Portland Cement Co. *v.* Atchison, T. & S. F. Ry. Co., 188 I.C.C. 529.
Columbia & Cowlitz Ry. Co., 43 Val. Rep. 583.
Columbian Gasoline Corp. *v.* Missouri Pac. R. Co., 186 I.C.C. 761.
Combination Rule, Horses and Mules, 190 I.C.C. 134.
Commodity Rates to South Atlantic and Florida Ports, 186 I.C.C. 675.
Concentration of Cotton at New Orleans, La., 192 I.C.C. 249.
Concrete Engineering Co. *v.* Atchison, T. & S. F. Ry. Co., 194 I.C.C. 108.
Concho Livestock Co. *v.* Atchison, T. & S. F. Ry. Co., 194 I.C.C. 408.
Consolidated Fruit Co. *v.* New York Central R. Co., 192 I.C.C. 497.
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Western Pac. R. Co. *v.* Northwestern Pac. R. Co., 191 I.C.C. 127.
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Western Trading Co. *v.* Cincinnati, N. O. & T. P. Ry. Co., 188 I.C.C. 779.
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White Eagle Oil Corp. *v.* Atchison, T. & S. F. Ry. Co., 195 I.C.C. 485.
White Eagle Oil Corp. *v.* Big Fork & I. F. Ry. Co., 192 I.C.C. 552.
W. I. Anderson & Co. *v.* Southern Ry. Co., 190 I.C.C. 551.
Wickes Boiler Co. *v.* Chicago, M., St. P. & P. R. Co., 188 I.C.C. 781.
Wilding Paper Co. v. Chicago & N. W. Ry. Co.—See John Wilding Paper Co.

APPENDIX E

DIGEST OF FEDERAL COURT DECISIONS

A discussion of court decisions involving injunctions to restrain enforcement of orders of this commission and of decisions relative to criminal violations of the law can be found in the text of this annual report. The decisions abstracted herein involve questions of regulation which are concerned with, or closely related to, matters arising before this commission.

ATTORNEY'S FEES

Atlantic Coast Line R. Co. v. *Smith Bros., Inc.*, 63 Fed. (2d) 747, Fifth Circuit: Objection to allowance *in solidio* of attorney's fees, in view of the fact the suit and orders involved different shipments and different carriers, is well taken. The judgment should have fixed the attorney's fees separately as to carriers involved in each of the reparation awards.

COMMERCE CLAUSE—PUERTO RICO

Lugo v. *Suazo*, 59 Fed. (2d) 386, First Circuit: The commerce clause does not extend to Puerto Rico.

CERTIFICATES OF CONVENIENCE AND NECESSITY

Missouri Pac. R. Co. v. *Union Pac. Ry. Co.*, 60 Fed. (2d) 126, District of Kansas, First Div.: A 350-foot connecting track, entirely within a State, is an exception to the requirement that authorization must be had by certificate of public convenience and necessity issued by the commission.

R. E. Duvall Co., Inc., v. *Washington, B. & A. Elec. R. Co.*, 60 Fed. (2d) 315, District of Maryland: An interurban electric railway, not part of a steam railroad system, is not subject to sec. 1 (22) of the act, nor does the paragraph apply to abandonment required under ordinance.

DELAYING ACTION ON REPARATION AWARD

Corray v. *Baltimore & O. R. Co.*, 2 Fed. Supp. 829, District of Illinois: Whether the court shall delay decision in suit to recover unreasonable freight charges from carriers until after the commission shall have ruled on the petition for reconsideration is in the discretion of the court.

DIVISIONS ON RAILROAD FUEL COAL

Murray v. *Chicago, St. P. M. & O. Ry. Co.*, 65 Fed. (2d) 312, Seventh Circuit: Primarily the carrier, and not the commission, is concerned with the divisions of established through rates, and in a controversy between a carrier and its contractor claiming credit for division accruing to it upon railway fuel sold by him to the carrier, the court will adopt that construction of the contract which will render the seller's contract legal under the Interstate Commerce Act.

DUE PROCESS CLAUSE

Great Northern Ry. Co. v. *Sunburst Oil & Refining Co.*, 287 U. S. 358: Annulment by retrocation of intrastate rates, made by a State board, valid when exacted, is not an unlawful taking of property without due process, within the Fourteenth Amendment.

FEDERAL CONTROL CLAIMS—TAXES

Commissioner of Internal Revenue v. *Norfolk S. R. Co.*. 63 Fed. (2d) 304, Fourth Circuit: Allowance to a carrier for undermaintenance in Federal control period is reserve for deferred maintenance due to waste or impairment of capital; it is not taxable "gains, profits, and income derived from dealings in property."

Tunnel R. of St. Louis v. *Comm'r of Internal Revenue*, 61 Fed. (2d) 166, Eighth Circuit: Deduction from taxes may not be made for undermaintenance during Federal control.

Chicago & N. W. Ry. Co. v. *Comm'r of Internal Revenue*, 66 Fed. (2d) 61, Seventh Circuit: Allowance received for undermaintenance during the Federal control period is not "income", and not taxable.

FEDERAL COORDINATOR'S JURISDICTION

Quanah, A. & P. Ry. Co. v. *Panhandle & S. F. Ry. Co.*, Northern District of Texas, August 9, 1933, unreported: The Emergency Railroad Transportation Act, 1933, provides two additional ways of eliminating through routes, thereby making the system more elastic. It provides that the railroads themselves by agreement can eliminate such routes. In addition to the supreme power of the commission it provides that the coordinator can eliminate such routes, but the power was not absolute and appeals may be taken. The proviso in sec. 4 is a limitation upon the regional committees. All the power the commission ever had with respect to routes, it still has; it has been given additional power with respect to such matters, in that it has the ultimate word over the coordinator as to whether such routes will be eliminated. The commission is left not only a primary, but an appellate authority over such routes.

FINANCIAL CONDITION OF INDUSTRY

Northern Pac. Ry. Co. v. *Baker*, 3 Fed. Supp. 1, Western District, Washington, Southern Div.: State public works department's order as to the extent of discrimination in proposed saw-log rates favoring the short haul at the expense of the long haul is invalid when controlling consideration is given the plight of the logging industry, the department failing to determine the rate base, revenue received from, and expense chargeable to log carriage.

INLAND WATERWAYS CORPORATION ACT

Illinois Central R. Co. v. *United States*, 3 Fed. Supp. 1005, District of Delaware: Provision of the Inland Waterways Corporation Act vesting in the commission power to require all connecting common carriers and their connections to join with such water carrier in through routes and joint rates without opportunity for hearing before entry of its order or the effective date thereof is invalid in that it deprives railroads of property without due process of law.

LENGTH OF TRAINS

Atchison, T. & S. F. Ry. Co. v. *LaPrade*, 2 Fed. Supp. 855, District of Arizona: The subject of the length of trains engaged in interstate traffic is national in character, requiring uniformity of regulation, and the power to so regulate is exclusively conferred upon Congress. A State law limiting the number of cars contained in a freight or passenger train in effect prescribes the number of trains to be operated by the interstate carrier, by increasing the number of trains after interstate commerce enters within the State; therefore, in conflict with and attempts to occupy the same field of regulation delegated to the commission by the car service act.

MISROUTING

Borst v. *Chicago & N. W. Ry. Co.*, 3 Fed. Supp. 139, District of Minnesota, Fourth Div.: The duty to route unrouted shipments by the cheapest available route is not absolute; the carrier is justified in selecting its customary but more expensive route when the cheaper route would involve additional expense of handling, as switching, clerical work, mileage, interchange with another carrier. The commission's determination of alleged misrouting is a rebuttable presumption.

MOOT QUESTIONS

New York Dock Ry. v. *Pennsylvania R. Co.*, 62 Fed. (2d) 1010, Third Circuit: That the railroad filed tariffs with the commission covering charges for trucking service does not render moot an appeal on the question whether such service requires authorization by a certificate from the commission.

MOTOR-VEHICLE CARRIERS

Stephenson v. *Binford*, 287 U.S. 251: The State may require that the private contract carrier shall obtain a permit, issuance of which is dependent upon the condition that the efficiency of common carrier service then adequately serving

the same territory shall not be impaired. Since the unregulated use of the State's highways by a vast and growing number of private contract carriers has greatly decreased the freight which would be carried by railroads within the State, and in consequence added to the burden upon the highways, removal or amelioration of that burden is a legitimate subject for the exercise of the State legislative power.

Bradley v. *Public Utilities Comm.*, 289 U.S. 92: Denial of certificate to operate over a given route was not a void order on the grounds of exclusion from interstate commerce. Since Congress has not dealt with motor-vehicle regulation, even when motor cars are used exclusively in interstate commerce, a State may freely exact registration, and other (listed) requirements. Guaranty of equal protection does not prevent the State from prohibiting operation by additional carriers.

Broadway Express, Inc., v. *Murray*, 60 Fed. (2d) 293, Western District, Oklahoma: The State may impose reasonable regulations upon trucks engaged in interstate commerce using its highways, but such regulations must be related to the manner in which the highways are used for the protection of the public; anyone engaged in interstate commerce must enter the State subject to all its reasonable police regulations; classification and other regulations sustained.

Grolbert v. *Board of R. Commrs. of Iowa*, 60 Fed. (2d) 321, Southern District, Iowa, Central Div.: A State may tax interstate motor carriers for fair contribution to construction and maintenance of highways; liability bond may be required; tax may be imposed on maximum capacity of the vehicle, its weight, the number of miles it is operated, predicated on the use made of the highways.

City Grocery Co. v. *State Road Dept. of Florida*, 60 Fed. (2d) 331, Northern District of Florida: States have the right by legislation to prescribe reasonable weight limits for motor trucks and other vehicles using their highways, and one class of carrier is not entitled to claim the benefit of a privilege granted to some other denied to it.

Southern Coach Corp. v. *Frazier*, 60 Fed. (2d) 594, Eastern District of Virginia: Motor vehicle director may refuse license fees proffered by operator in interstate commerce who has not procured certificate authorizing operation within the State.

Cobb v. *Dept. of Public Works of Washington*, 60 Fed. (2d) 631, Western District, Washington, Southern Div.: Commerce is interstate or intrastate by virtue of the relation of the carriage to the States and not because of the status of the carrier as common or private. Statute providing for liability insurance on account of passengers or property carried in interstate commerce is valid.

Galveston Truck Line Corp. v. *Allen*, 2 Fed. Supp. 488, Southern District, Texas, Galveston Div.: It is the duty of the State commission to issue permit when it is shown applicant would engage in interstate commerce, it had complied with all provisions of the State statute applicable to the doing of such business, as a contract motor carrier, though common carriers were already adequately serving the field.

Baker v. *Glenn*, 2 Fed. Supp. 880, Eastern District, Kentucky: Exemptions of motor vehicles owned or leased by nonprofit cooperative associations from statute in regard to contract carrier permits is within the discretionary power or permissible classification. The State has the right to foster a fair distribution of traffic as between the highways and the railroads to the end that all necessary facilities shall be maintained and the public not inconvenienced by inordinate use of the highways for gain.

Finn v. *Railroad Comm. of California*, 2 Fed. Supp. 891, Northern District, California, Southern Div.: The State may regulate the carriage of passengers by common carriers upon the State's highways and grant or withhold permission therefor, which permission is in effect a franchise. Other regulation sustained.

Aero-Mayflower Transit Co. v. *Grosjean*, 3 Fed. Supp. 527, Eastern District, Louisiana, Baton Rouge Div.: A State may impose a tax upon a motor vehicle moving in interstate commerce over her highways if it is not unreasonable and the tax is used exclusively for the purpose of building and maintenance of those highways.

Wald Storage & Transfer Co. v. *Smith*, 4 Fed. Supp. 61, District Court, S. D., Texas: A statute providing for denial to a contract carrier of permits when the territory is already adequately served does not exclude denial of permits where bridges or pavements are inadequate or traffic congestion is too heavy for the public safety or convenience. The State may restrict the use of roads to purposes for which they were primarily intended and preserve the State's property in roads from injury.

PLEADING

Borst v. *Chicago & N. W. Ry. Co.*, 3 Fed. Supp. 139, District of Minnesota, Fourth Div.: Since the commission has for a long time exercised jurisdiction in claims for refund on account of misrouting under the allegation of unreasonable-

ness, the court is reluctant to find it exceeded its jurisdiction. And considerable liberty should be indulged in by the court in giving the commission reasonable latitude to determine the sufficiency and scope of the pleadings before it.

RAILWAY LABOR ACT

Malone v. *Gardner*, 62 Fed. (2d) 15, Fourth Circuit: *Parrish* v. *Chesapeake & O. Ry. Co.*, 62 Fed. (2d) 20, Fourth Circuit: The provisions of the Railway Labor Act were not intended to be a positive, obligatory law creating enforceable duties. Congress has not given the power to the federal courts to try all actions for breach of contract between railroad employees.

RATES PRESCRIBED, CONFISCATORY

Texas & N. O. R. Co. v. *Louisiana Public Service Comm.*, 2 Fed. Supp. 622, Eastern District, Louisiana, Baton Rouge Div.: Rates prescribed by the State commission were confiscatory when not including items for maintenance, depreciation, taxes, interest on investment, or other allowance on freight cars used in the traffic, but in lieu thereof an inadequate per diem charge including these items. In any proper accounting system allowance must be made for overhead, taxes, and return on investment.

REPARATION

Atlantic Coast Line R. Co. v. *Smith Bros., Inc.*, 63 Fed. (2d) 747, Fifth Circuit: Award of reparation on through rates found unreasonable should run against the carriers collectively that participated in the transportation. The commission's findings in such case are prima facie only.

South Carolina Asparagus Growers Assn. v. *Southern Ry. Co.*, 64 Fed. (2d) 419, Fourth Circuit: The commission's statement at the end of its report in a reparation proceeding, listed as findings, must be construed with statements made in the body of the report; its order should not include damages on shipments made prior to the date when the rates were adjudged unreasonable. Defendant has the right to review action of the commission under a finding of unreasonableness. In a suit to enforce the commission's order, certificates under rule V constitute admissions adequate to prove facts to which the certificates relate, but do not estop the defendants as to what had been determined by the commission in its administrative capacity.

Corray v. *Baltimore & O. R. Co.*, 2 Fed. Supp. 829, Eastern District, Illinois: The commission's findings and order awarding reparation create a prima facie case, and isolated rates in other districts of themselves have not sufficient evidentiary force to overcome the commission's specific findings in a proceeding where evidence was submitted and findings entered as to specific rates.

Lafond Motor Co. v. *Northern Pac. Ry. Co.*, 2 Fed. Supp. 658, District Minnesota, Fourth Div.: Defendant by becoming a party to the tariff did not thereby hold itself out or engage to handle shipments over unreasonable, unnatural, abnormal route, but merely agreed to handle shipments over its usual and customary route, points concerned not being directly intermediate within the meaning of the intermediate clause. Reparation award not enforced.

SAFETY APPLIANCE ACTS

United States v. *Southern Pac. Co.*, 60 Fed. (2d) 864, Ninth Circuit: A railroad's designation of yard limits is not determinative in finding whether movements in terminal yards are train or switching movements. A transfer operation unaccompanied by switching operations between transfer points is a "train movement." Switch engine movements of cars from section to section of terminal yards, over track crossing eight streets, are "train movements", not switching operations, requiring carrier to have power brakes in use.

Chesapeake & O. Ry. Co. v. *Wood*, 59 Fed. (2d) 1017, Sixth Circuit: The commission's rules as to locomotive regulation have the force and effect of a statutory provision. "Terminal movement" within the meaning of those rules as to rear headlights means a movement at terminals to and from service without other immediate duties to be performed. The doing of switching in a yard is not such a terminal movement and an engine while so engaged is in "yard service." Rule 129 (b) as to rear headlights on road service locomotives regularly required to run backward, applies to a locomotive making regular trips with a train from one point to another over the road and which is from necessity required to run backward for some portion of such trips.

Chesapeake & O. Ry. Co. v. *Moore*, 64 Fed. (2d) 472, Seventh Circuit: The Safety Appliance Acts and State statutes regarding liability of carriers cannot be considered in pari materia as the State statutes have to do with intrastate commerce.

Geraghty v. *Lehigh Valley R. Co.*, 3 Fed. Supp. 376, Eastern District, New York: Whether switching operation was so closely related to interstate transportation as to constitute part thereof is a question for the jury when the object was to withdraw two cars, unloaded, from industry's house and place three others of five cars arriving from interstate points, within the house. Whether couplers were so defective as to require a man to go between the cars to perform the service which would enable the cars to couple on impact, also for the jury.

Chesapeake & O. Ry. Co. v. *Gowen*, 65 Fed. (2d) 260, Sixth Circuit: Testimony of injured brakeman showing handbrake failed to function properly was sufficient for submission to the jury. His evidence being sufficient to warrant a verdict in his favor, the court might not direct a verdict against him upon the strength of contradictory evidence.

Hampton v. *Des Moines & C. I. R. Co.*, 65 Fed. (2d) 899, Eighth Circuit: The Safety Appliance Acts require coupling automatically by impact. If the drawbar was four or five inches out of line, so that injured employee was required to move it four or five inches from its original position in order to make the coupling, it was not such a coupler as the law required.

SCHEDULES OF RATES

Wheeling & L.E. Ry. Co. v. *Standard Envelope Mfg. Co.*, 2 Fed. Supp. 637, Court of Claims: If the initial carrier's agent made a mistake or carelessly permitted the wrong rate to be stated in the bills of lading for the route designated, the carrier is not bound thereby but it is required to collect the established and lawful rate. It is not a matter about which the parties can make a binding mistake.

Northern Pac. Ry. Co. v. *Van Dusen Harrington Co.*, 60 Fed. (2d) 394, Eighth Circuit: Neither by waiver nor by estoppel can the duly published tariff rules and charges of a common carrier be modified or abrogated.

Wheelock v. *Walsh Fire Clay Products Co.*, 60 Fed. (2d) 415, Eighth Circuit: A formula for constructing combination rates is inapplicable to participating carriers not concurring. The initial carrier has not the power to modify or amend applicable tariffs of connecting carriers, nor to force upon them rates named in tariffs to which they are not parties.

New York Dock Ry. Co. v. *Pennsylvania R. Co.*, 62 Fed. (2d) 1010, Third Circuit: Though tariffs covering proposed trucking service at a terminal have been filed by a railroad company, until approved by the commission they are not effective.

Texas & N. O. R. Co. v. *Baldwin*, 63 Fed. (2d) 328, Fifth Circuit: Rule 242 of special rules governing standard refrigeration service, and rule 32, sec. 2, western classification 60, construed and compared.

Chesapeake & O. R. Co. v. *United States*, 1 Fed. Supp. 350, Eastern District, Virginia: In determining the rating classification applicable to rail shipments of army officers and to the United States government, the same rule should be applied as that applied to private individuals.

Atchison, T. & S. F. Ry. Co. v. *Union Wire Rope Corp.*, 1 Fed. Supp. 399, Western District, Missouri, Western Div.: Especial weight is to be given to the opinions of the commission in interpreting tariffs.

Sullivan v. *Missouri Pac. Lines*, 1 Fed. Supp. 803, Western District, Texas, San Antonio Div.: The shipper seeking reparation predicated on the unreasonableness of the established rate must primarily invoke redress through the commission. Since the jurisdiction of the inquiry, if administrative, is in the commission, and if judicial, in a District Court of the United States, the State court is without jurisdiction to entertain action for damages and injunction. If the court of first instance has no jurisdiction, none could be conferred on the District Court by removal.

STATUTE OF LIMITATIONS

Baltimore & O. R. Co. v. *Domestic Hardwoods, Inc.*, 65 Fed. (2d) 488, Court of Appeals, District of Columbia: The commission has jurisdiction over Canadian railway and its operations within the United States. Filing of claim for overcharges with Canadian railway, the delivering carrier, within three years brought into operation the six months' extension for proceedings after claim for overcharges was rejected, when shipment was delivered to Canadian line within the United States.

SUFFICIENCY OF FINDINGS: GENERAL REVENUE CASES

Commonwealth of Kentucky v. *United States*, 3 Fed. Supp. 778, District Court, W. D. Kentucky: The commission is not required to make formal findings of fact in proceedings for general increase of intrastate rates to remove unjust discrimination against interstate commerce.

TERMINAL FACILITIES

New York Central R. Co. v. *The Talisman, Long Island R. Co.*, 288 U.S. 239: Terminal facilities within the meaning of sec. 3 (4) of the act do not include facilities at a water terminal for interchange of traffic between rail tracks and car-floats.

Missouri Pac. R. Corp. v. *Nebraska State Ry. Comm.*, 65 Fed. (2d) 557, Eighth Circuit: Sections 3 (4) and 1 (22) of the act read together show that Congress intended that jurisdiction over the field of railroad service to the public should be in part under the control of the commission and in part under the control of the States, each in its own sphere and by cooperative action.

New York Dock Ry. v. *Pennsylvania R. Co.*, 62 Fed. (2d) 1010, Third Circuit: Operation by railroad carrier of trucks to receive and deliver freight to railroad terminals is not a "railroad" or extension of a railroad, but is a "service" connected with the receipt and delivery of property transported within the definition of "transportation", sec. 1 (3) of the act; no certificate of authorization by the commission is required, under sec. 1 (18).

TRACK CROSSINGS: INJUNCTION

St. Louis S. W. Ry. Co. v. *Missouri Pac. R. Co.*, 289 U.S. 76: When a decision rendered by a State court merely fixed the place and manner by which a track might cross the track of another carrier, the question whether such crossing was an extension was irrelevant; the remedy of an objecting carrier is by injunction under sec. 1 (20) of the act; the decision did not conflict with the federal law; confining the remedy to injunction thus did not abridge the protection of the objecting carrier's rights. And, the State court's decision, and that of the Supreme Court affirming it in respects other than as to whether the construction was a spur or extension, does not operate as res judicata.

TRAIN SERVICE

Bodine & Clark Livestock Comm. Co. v. *Great Northern Ry. Co.*, 63 Fed. (2d) 472, Ninth Circuit: An operating rule providing for one train a week, except as a special movement upon a showing of necessity, did not depend upon publication as a tariff for its validity.

TRANSIT

Atchison T. & S. F. Ry. Co. v. *Union Wire Rope Corp.*, 1 Fed. Supp. 399, Western District, Missouri, Western Div.: The theory which underlies transit privileges is inconsistent with the idea that they may be extended to articles undergoing in transit not merely a "reworking", a "fabricating", but "manufacture", into something else.

APPENDIX F

AUTHORIZATIONS UNDER SECTIONS OF THE INTERSTATE COMMERCE AND TRANSPORTATION ACTS AND LOANS UNDER THE RECONSTRUCTION FINANCE CORPORATION ACT

CERTIFICATES OF CONVENIENCE AND NECESSITY FOR CONSTRUCTION OF LINES OF RAILROAD ISSUED UNDER SECTION 1 (18) OF THE INTERSTATE COMMERCE ACT, AS AMENDED

Name of applicant	Location of line	Mileage
Atchison, Topeka & Santa Fe Ry. Co	Eddy County, N.Mex	0.000
Atlantic City R.R. Co., Wildwood & Delaware Bay Short Line R.R. Co., and West Jersey & Seashore R.R. Co.	Camden, Atlantic, Cape May, and Gloucester Counties, N.J.	1.500
Carlton & Coast R.R. Co	Yamhill County Oreg	9.500
Chicago, Burlington & Quincy R.R. Co	Lincoln County, Mo	.280
Chicago, Milwaukee, St. Paul & Pacific R.R. Co.	Oconto County, Wis	.110
Do	Vernon County, Wis	.360
Chicago, Milwaukee, St. Paul & Pacific R.R. Co. and Northern Pacific Ry. Co.	King County, Wash	.450
Western Pacific R.R. Co	Alameda County, Calif	.100
Total number of miles		32.300

CERTIFICATES OF CONVENIENCE AND NECESSITY FOR ABANDONMENT OF LINES OF RAILROAD, OR THE OPERATION THEREOF, ISSUED UNDER SECTION 1 (18) OF THE INTERSTATE COMMERCE ACT, AS AMENDED

Name of applicant	Location of line	Mileage
Arizona Eastern R.R. Co., El Paso & Southwestern R.R. Co., and Southern Pacific Co.	Cochise County, Ariz	71.300
Arizona & New Mexico Ry. Co	Hidalgo and Grant Counties, N.Mex	37.600
Arizona Southern R.R. Co	Pima and Pinal Counties, Ariz	21.000
Arkansas Valley Ry. Co	Reno County, Kans	2.070
Atchison, Topeka & Santa Fe Ry. Co	Contra Costa, Alameda, and San Francisco Counties, Calif.	9.800
Do	Osage County, Kans	19.450
Do	Ray County, Mo	3.110
Do	Anderson, Allen, and Woodson Counties, Kans.	24.740
Atlanta, Birmingham & Coast R.R. Co	Fulton County, Ga	1.700
Atlantic City R.R. Co	Camden, Atlantic, and Gloucester Counties, N.J.	32.700
Bangor & Aroostook R.R. Co	Penobscot County, Maine	15.000
Boston & Maine R.R	Hampden, Hampshire, and Worcester Counties, Mass.	17.010
California, Arizona & Santa Fe Ry. Co. and Atchison, Topeka & Santa Fe Ry. Co.	Yavapai County, Ariz	10.350
Caney Valley Ry. Co	Morgan County, Ky	12.810
Central of Georgia Ry. and its receiver	Chatham County, Ga	15.220
Central Railroad Company of New Jersey	Monmouth County, N.J	4.300
Do	Luzerne County, Pa	2.400
Chesapeake & Ohio Ry. Co	Hocking County, Ohio	8.560
Do	Alleghany County, Va	16.840
Do	Buckingham County, Va	4.400
Do	Pocahontas County, W.Va	2.800
Chesapeake Western Ry. Co	Rockingham and Augusta Counties, Va	8.840
Chicago, Burlington & Quincy R.R. Co	Clarke and Decatur Counties, Iowa	17.660
Do	Atchison and Doniphan Counties, Kans	44.720
Chicago, Milwaukee, St. Paul & Pacific R.R. Co.	Jackson and Dubuque Counties, Iowa	35.700
Do	King County, Wash	9.030
Do	Oconto County, Wis	10.000
Do	Wood County, Wis	15.730
Chicago, St. Paul, Minneapolis & Omaha Ry. Co.	Rock County, Minn., and Lyon County, Iowa	27.630
Do	Dakota, Dixon, and Cedar Counties, Nebr	45.390

Certificates of convenience and necessity for abandonment of lines of railroad, or the operation thereof, issued under section 1 (18) of the Interstate Commerce Act, as amended—Continued

Name of applicant	Location of line	Mileage
Colorado & Southern Ry. Co	Arapahoe and Jefferson Counties, Colo	9.750
Colorado & Southern Ry. Co. and Denver & Rio Grande Western R.R. Co.	Gunnison County, Colo	18.549
Colorado & Wyoming Ry. Co	Las Animas County, Colo	2.640
Denver & Rio Grande Western R.R. Co	Gunnison and Hinsdale Counties, Colo	35.810
Do	Carbon County, Utah	1.744
Do	Salt Lake County, Utah	6.780
East Carolina Ry. and Henry Clarke Bridgers, Lessee.	Pitt and Greene Counties, N.C	11.000
East Kentucky Southern Ry. Co	Carter and Lawrence Counties, Ky	13.000
Franklin & Pittsylvania Ry. Co. by its receivers.	Franklin County, Va	21.000
Grand Trunk Western R.R. Co	Shiawassee and Gratiot Counties, Mich	20.500
Gulf, Colorado & Santa Fe Ry. Co	Shelby County, Tex	.060
Gulf, Mobile & Northern R.R. Co	Madison, Henderson, Carroll, and Henry Counties, Tenn., and Calloway, Marshall, Graves, and McCracken Counties, Ky.	145.330
Hartford Eastern Ry. Co	Snohomish County, Wash	42.000
Houston & Texas Central R.R. Co. and Texas & New Orleans R.R. Co.	Brazos, Grimes, Madison, Leon, Freestone, and Limestone Counties, Tex.	94.107
Illinois Central R.R. Co	Williamson County, Ill	3.950
Illinois Traction, Inc., and Illinois Terminal Co.	Montgomery and Vermilion Counties, Ill	12.811
Jefferson & Northwestern Ry. Co	Cass and Morris Counties, Tex	29.000
Kankakee & Seneca R.R. Co., Cleveland, Cincinnati, Chicago, & St. Louis Ry. Co., and New York Central R.R. Co.	Kankakee, Grundy, and LaSalle Counties, Ill	42.190
Kansas City, Excelsior Springs & Northern Ry. Co., Wabash Ry. Co., and its receivers.	Clay County, Mo	8.720
Kansas City Southern Ry. Co	Wyandotte County, Kans	.650
Kosciusko & Southeastern R.R. Co	Attala County, Miss	16.300
La Crosse & Southeastern Ry. Co	La Crosse and Vernon Counties, Wis	65.430
Little Kanawha R.R. Co. and Baltimore & Ohio R.R. Co.	Wood and Wirt Counties, W.Va	20.980
Louisville & Nashville R.R. Co	Covington County, Ala., and Walton County, Fla.	3.000
Do	Jefferson County, Ala	9.400
Do	Jefferson County, Ala	5.000
Do	Montgomery County, Tenn., and Christian County, Ky.	32.000
Maine Central R.R. Co	Washington, Franklin, Oxford, and Somerset Counties, Maine.	72.710
Michigan Central R.R. Co. and New York Central R.R. Co.	Bay County, Mich	4.689
Do	Berrien and Cass Counties, Mich	5.428
Minneapolis, St. Paul & Sault Ste. Marie Ry. Co.	Mackinac and Luce Counties, Mich	11.910
Minnesota, Dakota & Western Ry. Co	Koochiching County, Minn	2.550
Minter City Southern & Western R.R. Co. and Yazoo & Mississippi Valley R.R. Co.	Leflore County, Miss	3.750
Missouri Pacific R.R. Co	Ashley and Chicot Counties, Ark	12.300
Do	Crawford and Sebastian Counties, Ark	1.470
Do	Desha and Chicot Counties, Ark	5.700
Morehead & North Fork R.R. Co	Rowan and Morgan Counties, Ky	20.219
Morgan's Louisiana & Texas R.R. & Steamship Co. and Texas & New Orleans R.R. Co.	Jefferson and Orleans Parishes, La	18.100
Do	Lafourche Parish, La	1.230
Natchez, Columbia & Mobile R.R. Co	Lincoln and Lawrence Counties, Miss	33.200
New York Central R.R. Co	Potter and Tioga Counties, Pa	14.600
Do	Putnam County, N.Y	2.050
Do	Venango County, Pa	4.140
New York, New Haven & Hartford R.R. Co	Norfolk County, Mass	1.400
Norfolk & Western Ry. Co	Ashe County, N.C	19.430
Do	Wayne and Mingo Counties, W.Va	53.800
Northeast Oklahoma R.R. Co	Cherokee County, Kans	2.407
Northern Pacific Ry. Co	King County, Wash	3.440
Northwestern Pacific R.R. Co	Humboldt and Mendocino Counties, Calif	32.175
Do	Marin and Sonoma Counties, Calif	24.800
Do	Sonoma County, Calif	14.490
Ohio & Kentucky Ry. Co	Breathitt, Wolfe, and Morgan Counties, Ky	25.780
Oregon Electric Ry. Co	Linn County, Oreg	5.200
Peninsular Ry. Co	Santa Clara County, Calif	32.470
Pennsylvania, Ohio & Detroit R.R. Co. and Pennsylvania R.R. Co.	Hamilton County, Ohio	1.350
Do	Muskingum County, Ohio	6.000
Pennsylvania R.R. Co	Fayette County, Pa	1.080
Pere Marquette Ry. Co	Genesee and Lapeer Counties, Mich	3.360
Do	Ionia and Montcalm Counties, Mich	19.460
Pittsburgh, Cincinnati, Chicago & St. Louis Ry. Co. and Pennsylvania R.R. Co.	Miami and Grant Counties, Ind	26.000

Certificates of convenience and necessity for abandonment of lines of railroad, or the operation thereof, issued under section 1 (18) of the Interstate Commerce Act, as amended—Continued

Name of applicant	Location of line	Mileage
Pittsburg & Shawmut R.R. Co	Jefferson County, Pa	1.320
Pittsburg, Shawmut & Northern R.R. Co. and its receiver.	McKean County, Pa	2.470
H. W. Purvis, Receiver Savannah & Statesboro Ry. Co.	Bryan and Bulloch Counties, Ga	35.000
Raleigh & Charleston R.R. Co. and its receivers.	Robeson County, N.C., and Dillon County, S.C.	22.670
Red River & Gulf R.R	Rapides and Evangeline Parishes, La	6.950
St. Louis, Brownsville & Mexico Ry. Co	Calhoun County, Tex	18.470
Do	Matagorda County, Tex	16.900
St. Louis Electric Terminal Ry. Co	St. Louis, Mo	.503
St. Louis-San Francisco Ry. Co. and its receivers.	Pawnee County, Okla	1.800
J. M. Kurn and John G. Lonsdale, Receivers St. Louis-San Francisco Ry. Co.	Clay County, Ark	8.900
Do	Pemiscot and New Madrid Counties, Mo	8.500
St. Louis Southwestern Ry. Co. of Texas	Angelina, Nacogdoches, and San Augustine Counties, Tex.	30.000
San Antonio & Aransas Pass Ry. Co. and Texas & New Orleans R.R. Co.	Lavaca and Gonzales Counties, Tex	21.000
San Antonio Southern Ry. Co	Atascosa County, Tex	9.570
San Joaquin & Eastern R.R. Co	Fresno County, Calif	56.000
Seaboard Air Line Ry. Co. and its receivers	Gilchrist County, Fla	5.010
Do	Leon and Jefferson Counties, Fla	20.800
Do	Polk County, Fla	3.420
Seaboard Air Line Ry. Co., East & West Coast Ry., and their receivers.	De Soto, Manatee, and Sarasota Counties, Fla	45.650
Southern New York Ry., Incorporated	Herkimer County, N.Y	9.090
Southern Pacific Co	Orange County, Calif	3.285
Southern Pacific R.R. Co., South Pacific Coast Ry. Co., and Southern Pacific Co.	Alameda County, Calif	8.715
Southern Pacific R.R. Co. and Southern Pacific Co.	Orange County, Calif	11.584
Do	Sonoma County, Calif	18.168
Southern Ry. Co	Greensville, Surry, and Sussex Counties, Va	50.420
Southern Ry. Co. and Receiver of Mobile & Ohio R.R. Co.	Chickasaw and Calhoun Counties, Miss	37.340
Stanley, Merrill & Phillips Ry. Co	Taylor and Rusk Counties, Wis	22.000
Texas & Gulf Ry. Co. and Gulf, Colorado & Santa Fe Ry. Co.	Panola, Shelby, and San Augustine Counties, Tex.	27.160
Texas & New Orleans R.R. Co	Lafourche Parish, La	1.080
Texas Midland R.R. and Texas & New Orleans R.R. Co.	Hunt County, Tex	14.200
Toledo & Western Ry. Co	Lucas, Fulton, and Williams Counties, Ohio, and Lenawee County, Mich.	43.300
Tonopah & Tidewater R.R. Co., Ltd	San Bernardino County, Calif	25.680
Trinity Valley & Northern Ry. Co	Liberty County, Tex	5.170
Wabash Ry. Co. and its receivers	Adams County, Ill	5.720
Do	Fountain County, Ind	14.820
Western Arizona Ry. Co. and Atchison, Topeka & Santa Fe Ry. Co.	Mohave County, Ariz	23.410
Western Pacific R.R. Co	Alameda and San Francisco Counties, Calif	5.890
West Jersey & Seashore R.R. Co., Pennsylvania R.R. Co., and Atlantic City R.R. Co.	Cape May County, N.J	45.500
Wisconsin Central Ry. Co. and its receiver, and Minneapolis, St. Paul & Sault Ste. Marie Ry. Co.	Marathon and Taylor Counties, Wis	10.550
Total number of miles		2,404.264

CERTIFICATES OF CONVENIENCE AND NECESSITY FOR ACQUISITION AND/OR OPERATION OF LINES OF RAILROAD ISSUED UNDER SECTION 1 (18) OF THE INTERSTATE COMMERCE ACT, AS AMENDED

Name of applicant	Location of line	Mileage
Arkansas Valley Interurban Ry. Co	Reno County, Kans	0.500
Atchison, Topeka & Santa Fe Ry. Co	Alameda and San Francisco Counties, Calif	5.800
Atchison, Topeka & Santa Fe Ry. Co. and Denver & Rio Grande Western R. Co.	Fremont County, Colo	1.380
Atlanta, Birmingham & Coast R.R. Co	Fulton County, Ga	1.720
Atlantic City R.R. Co	Camden County, N.J	2.700
Bellevue & Cascade R.R. Co	Jackson and Dubuque Counties, Iowa	35.500
Boston & Maine R.R	Hampden, Hampshire, and Worcester Counties, Mass.	17.810
Chesapeake & Ohio Ry. Co	Boyd, Carter, Johnson, Magoffin, Floyd, Pike, and Letcher Counties, Ky., and Logan and Boone Counties, W.Va.	145.290
Chicago & North Western Ry. Co	Peoria and Fulton Counties, Ill	27.500
Chicago, Burlington & Quincy R.R. Co	Clinton and St. Clair Counties, Ill	54.200
Chicago, Milwaukee, St. Paul & Pacific R.R. Co.	King County, Wash	10.530
Do	Oconto County, Wis	7.970
Do	Vernon County, Wis	18.230
Chicago, Rock Island & Pacific Ry. Co	La Salle and Grundy Counties, Ill	7.320
Covington & Cincinnati Elevated R.R. & Transfer & Bridge Co., Chesapeake & Ohio Ry. Co., and Louisville & Nashville R.R. Co.	Kenton County, Ky., and Hamilton County, Ohio.	2.249
Denver & Rio Grande Western R.R. Co	Eagle, Grand, Gilpin, Boulder, Jefferson, and Adams Counties, Colo.	167.750
Grand Trunk Western R.R. Co	Muskegon County, Mich	7.110
Gulf, Mobile & Northern R.R. Co	Madison, Gibson, Weakley, and Obion Counties, Tenn., and Hickman, Graves, and McCracken Counties, Ky.	113.000
International-Great Northern R.R. Co	Galveston and Harris Counties, Tex	49.500
Minnesota Western Ry. Co	Hennepin, Carver, McLeod, Meeker, Kandiyohi, and Chippewa Counties, Minn.	114.700
Missouri-Kansas-Texas R.R. Co. of Texas	Galveston and Harris Counties, Tex	49.500
Monongahela Ry. Co	Monongalia County, W.Va., and Greene County, Pa.	25.820
Murfreesboro-Nashville Ry. Co	Howard, Hempstead, and Pike Counties, Ark	14.467
New York, New Haven & Hartford R.R. Co	Hartford County, Conn	1.940
Norfolk & Western Ry. Co	Hamilton County, Ohio	5.280
E. E. Norris, Receiver Mobile & Ohio R.R. Co.	Alcorn County, Miss., and McNairy, Hardeman, Fayette, and Shelby Counties, Tenn.	87.340
Northern Pacific Ry. Co	Carbon County, Mont	12.000
Do	King County, Wash	5.250
Northwestern Pacific R.R. Co	Sonoma and Napa Counties, Calif	20.748
Okalona, Houston & Calhoun City Ry. Co	Chickasaw and Calhoun Counties, Miss	37.340
St. Louis & Troy R.R. Co	Lincoln County, Mo	5.200
St. Louis, Brownsville & Mexico Ry. Co	Galveston, Brazoria, and Harris Counties, Tex	24.320
St. Louis Southwestern Ry. Co. of Texas	Dallas County, Tex	14.500
Texas & New Orleans R.R. Co	Caddo Parish, La	1.320
Texas & New Orleans R.R. Co. and Morgan's Louisiana & Texas R.R. & Steamship Co.	Jefferson and Orleans Parishes, La	16.160
Texas Midland R.R., and Texas & New Orleans R.R. Co.	Hunt County, Tex	14.200
Western Pacific R.R. Co	Alameda and San Francisco Counties, Calif	5.990
Total number of miles		1,132.134

AUTHORIZATION OF CONTROL OF ONE CARRIER BY ANOTHER CARRIER UNDER SECTIONS 5 (2) AND 5 (4) OF THE INTERSTATE COMMERCE ACT, AS AMENDED

Carrier acquiring control	Control acquired		
	Owning company	Miles of road	How acquired
Atlantic City R.R. Co	West Jersey & Seashore R.R. Co	330.20	Assignment of lease.
Gulf, Mobile & Northern R.R. Co.	Gulf, Mobile & Northern R.R. Co. of La.	8.63	Purchase of stock.
Do	New Orleans Great Northern Ry. Co. and Gulf, Mobile & Northern R.R. Co. of Louisiana.	237.17	Lease.[1]
Kansas City Southern Ry. Co	Texarkana & Fort Smith Ry. Co	99.00	Do.
New Orleans Great Northern Ry. Co.	New Orleans Great Northern R.R. Co. and Gulf, Mobile & Northern R.R. Co. of Louisiana.	237.17	Purchase of property.[1]
New Orleans Great Northern R.R. Co.	New Orleans & Northeastern R.R. Co. and New Orleans Terminal Co.	37.47	Operating contract.[1]
New York, New Haven & Hartford R.R. Co.	South Manchester R.R. Co	1.94	Purchase of stock.
Pennsylvania R.R. Co	Atlantic City R.R. Co	172.30	Do.
Reading Co	Central R.R. Co. of New Jersey	691.99	Acquisition of stock.
Total		1,815.87	

[1] Authorized under sec. 5 (4), approved June 16, 1933.

AUTHORIZATION OF CONSOLIDATION OF TELEPHONE PROPERTIES UNDER SECTIONS 5 (9) AND 5 (18) OF THE INTERSTATE COMMERCE ACT, AS AMENDED[1]

Bell Telephone Co. of Pennsylvania to acquire the properties of the Forest Telephone & Telegraph Co., serving 587 subscriber stations, with 40.3 pole miles of toll lines, in Pennsylvania.

Chesapeake & Potomac Telephone Company of West Virginia to acquire the telephone properties of J. Roy Watson and A. G. Hudkins, doing business as the Clay District Telephone, Harrison-Doddridge Telephone Lines, and Lewis-Upshur Telephone Lines, which serve 1,220 subscriber stations, with 7 pole miles of toll lines, in West Virginia.

Mountain States Telephone & Telegraph Co. to acquire the telephone properties of George B. Holden, doing business as the Ward Telephone Company, which serve 19 subscriber stations, in Colorado.

New York Telephone Co. to acquire the properties of the Salisbury Center Telephone Company, Incorporated, serving 80 subscriber stations, with 1.5 miles of pole toll lines, in New York.

Northwestern Bell Telephone Company to acquire control of the Tri-State Telephone & Telegraph Co., by purchase of capital stock.

Pacific Telephone & Telegraph Company to acquire the telephone properties of Irene F. Penhallick, doing business as the Neppel Telephone System, which serve 82 subscriber stations, with 25.55 pole miles of toll lines, in Washington.

[1] Sec. 5 (9) was renumbered 5 (18) by act approved June 16, 1933.

AUTHORIZATION OF THE ISSUANCE OF SECURITIES AND THE ASSUMPTION OF OBLIGATIONS AND LIABILITIES IN RESPECT OF THE SECURITIES OF OTHERS UNDER SECTION 20a OF THE INTERSTATE COMMERCE ACT, AS AMENDED

Common stock:	
For acquisition of property including equipment	$1,196,000.00 [1] 100
For acquisition of property other than equipment	[1] 100
For construction of new lines, extensions, facilities, etc	$3,850,000.00
For general corporate purposes (not segregated)	10,700.00
For payment of advances	199,300.00
For reorganization	824,800.00
Assumption of obligation and liability in respect of $11,690,450 of common stock and $192,500 of dividends on common stock.	
Total	6,080,800.00 [1] 200
Bonds, mortgage:	
For acquisition of property including equipment	$30,000.00
For acquisition of property other than equipment	2,543,000.00
For construction of new lines, extensions, facilities, etc	19,000,000.00
For exchange for bonds previously authorized and for pledge	1,659,000.00
For exchange for bonds previously issued	495,000.00
For exchange for matured funded debt	[2] 8,785,000.00
For extension of matured funded debt	51,469,500.00
For payment of advances	53,209,000.00
For payment of advances and for pledge	[3] 8,630,000.00
For pledge	274,720,300.00
For pledge and for reimbursement of treasury for capital expenditures not capitalized	5,000,000.00
For pledge and for reimbursement of treasury for moneys used to retire, refund, or pay existing bonds	1,074,000.00
For refunding purposes	3,177.500.00
For reimbursement of treasury for moneys used to retire, refund, or pay existing bonds	3,377,500.00
For reorganization	4,524,000.00
For retention in treasury, subject to further order	61,398,500.00
For sale to meet funded debt	7,200,000.00
Assumption of obligation and liability in respect of $73,525,000.	
Total	[4] 506,292,300.00
Debentures, income: For reorganization	4,124,000.00
Notes, secured:	
For acquisition of property other than equipment	$30,000.00
For exchange for matured funded debt	3,000,000.00
For extension of matured unfunded debt	270,000.00
For general corporate purposes (not segregated)	4,966,927.21
For payment of advances	7,456,726.78
For refunding purposes	6,000.00
Assumption of obligation and liability in respect of $7,842,000 of notes and $300,000 interest on notes.	
Total	15,729,653.99
Notes, unsecured:	
For general corporate purposes (not segregated)	14,959,313.00
For payment of advances	2,970,856.62
For payment of maturing interest	395,000.00
For refunding purposes	12,239,000.00
Total	30,564,169.62
Total notes	46,293,823.61
Equipment obligations:	
Pledged	988,000.00
Assumption of obligation and liability in respect of $291,500.	
Certificates, receivers':	
For general purposes (not segregated)	250,000.00
For refunding purposes	1,320,000.00
Total	1,570,000.00
Certificates, trustees':	
For general purposes (not segregated)	15,000.00
Total certificates	1,585,000.00
Grand total securities	[4] 565,363,923.61 [1] 200

[1] Shares of stock without nominal or par value.
[2] Includes $3,862,000 of interim interest-bearing certificates.
[3] Includes $3,177,500 of interim interest-bearing certificates.
[4] Includes $7,039,500 of interim interest-bearing certificates.

STATUS OF OUTSTANDING LOANS UNDER SECTION 210 OF THE TRANSPORTATION ACT, 1920, AS AMENDED

A. PRINCIPAL AMOUNT UNMATURED

Carrier	Amount
Alabama, Tennessee & Northern R.R. Corpn	$151,500.00
Charles City Western Ry. Co	140,000.00
Chicago & Western Indiana R.R. Co	6,169,000.00
Fernwood, Columbia & Gulf R.R. Co	14,000.00
Georgia & Florida Ry., Receivers of	792,000.00
Minneapolis & St. Louis R.R. Co	[1] 153,412.70
Missouri & North Arkansas R.R. Co	3,500,000.00
Salt Lake & Utah R.R. Co	731,300.00
Seaboard Air Line Ry. Co	[2] 15,071,887.84
Shearwood Ry. Co	7,500.00
Toledo, St. Louis & Western R.R. Co	140,000.00
Waterloo, Cedar Falls & Northern Ry. Co	660,000.00
Wheeling & Lake Erie Ry. Co	[3] 1,311,502.40
Total	28,842,102.94

[1] Represents balance of loan of $386,190 made through the National Railway Service Corporation.
[2] Includes $628,000, unmatured balance of loan of $4,400,000 made through the Seaboard-Bay Line Company.
[3] Represents balance of loan of $3,304,000 made through the National Railway Service Corporation.

B. PRINCIPAL AND INTEREST IN DEFAULT BY CARRIERS ON OCTOBER 1, 1933

Carrier	Principal	Interest
Aransas Harbor Terminal Ry	$44,304.67	$3,747.41
Des Moines & Central Iowa R.R	633,500.00	249,094.44
Ft. Dodge, Des Moines & Southern R.R. Co	200,000.00	47,168.02
Gainesville & Northwestern R.R. Co	75,000.00	47,102.53
Georgia & Florida Ry., Receiver of	[1]	190,080.00
Minneapolis & St. Louis R.R. Co	1,382,000.00	833,309.73
Missouri & North Arkansas Ry. Co	[1]	1,928,255.19
Salt Lake & Utah R.R. Co	141,300.00	418,792.80
Seaboard Air Line Ry. Co	[2] 628,000.00	2,781,037.92
Virginia Blue Ridge Ry. Co	106,000.00	47,700.00
Virginia Southern R.R. Co	38,000.00	17,487.84
Waterloo, Cedar Falls & Northern Ry. Co	600,000.00	854,015.88
Wichita Northwestern Ry. Co	381,750.00	217,597.50
Wilmington, Brunswick & Southern R.R. Co	90,000.00	18,900.00
Total	4,319,854.67	7,654,289.26

[1] Principal not yet due.
[2] Represents amount of matured notes issued in connection with loan of $4,400,000 made through the Seaboard-Bay Line Company.

CERTIFICATES OF APPROVAL OF LOANS UNDER SECTION 5 OF THE RECONSTRUCTION FINANCE CORPORATION ACT, AS AMENDED

Carrier	Loans approved
Baltimore & Ohio R.R. Co	$5,000,000
Carlton & Coast R.R. Co	549,000
Chesapeake Beach Ry. Co	425,000
Chicago & North Western Ry. Co	14,989,700
Chicago, Rock Island & Pacific Ry. Co	3,718,700
Denver & Rio Grande Western R.R. Co	2,000,000
Galveston, Houston & Henderson R.R. Co	1,061,000
Great Northern Ry. Co	6,000,000
Lehigh Valley R.R. Co	2,000,000
Maine Central R.R. Co	900,000
Meridian & Bigbee River Ry. Co	744,252
Minneapolis & St. Louis R.R. Co., Receiver of	1,076,594
Missouri Pacific R.R. Co	6,034,800
Murfreesboro-Nashville Ry. Co	25,000
New York Central R.R. Co	9,500,000
St. Louis-San Francisco Ry. Co., Receivers of	3,000,000
St. Louis, Southwestern Ry. Co	1,105,550
Seaboard Air Line Ry. Co., Receivers of	1,500,000
Southern Pacific Co	23,200,000
Sumpter Valley Ry. Co	31,500
Texas & Pacific Ry. Co	700,000
Toledo, Angola & Western Ry. Co	21,000
Tonopah & Goldfield R.R. Co., Receivers of	20,000
Wabash Ry. Co., Receivers of	4,500,000
Total	88,102,096

APPENDIX G

STATEMENT OF APPROPRIATIONS AND EXPENDITURES FOR THE FISCAL YEAR ENDED JUNE 30, 1933

An act making appropriations for the executive, etc., approved June 30, 1932:		
For 11 commissioners at $12,000 each; secretary, $9,000, and for all other authorized expenditures necessary in the execution of laws to regulate commerce, including 1 chief counsel, 1 director of finance, and 1 director of traffic at $10,000 each per annum:		
General	$2, 600, 000	
Received by transfer from appropriation "Printing and binding"	21, 000	
		$2, 621, 000. 00
To enable the Interstate Commerce Commission to enforce compliance with sec. 20 and other sections of the act to regulate commerce as amended by the act approved June 29, 1906, and as amended by the Transportation Act, 1920, including the employment of necessary special accounting agents or examiners:		
Accounts	683, 560	
Received by transfer from appropriation "Valuation"	102, 000	
		785, 560. 00
To enable the Interstate Commerce Commission to keep informed regarding and to enforce compliance with acts to promote the safety of employees and travelers upon railroads; the act requiring common carriers to make reports of accidents and authorizing investigations thereof; and to enable the Interstate Commerce Commission to investigate and test appliances intended to promote the safety of railway operation, as authorized by the joint resolution approved June 30, 1906, and the provision of the Sundry Civil Act, approved May 27, 1908, to investigate test experimentally, and report on the use and need of any appliances or systems intended to promote the safety of railway operation, inspectors, etc.:		
Safety of employees	500, 000	
Transferred to appropriation "Locomotive inspection"	24, 000	
		476, 000. 00
For all authorized expenditures under sec. 26 of the act to regulate commerce as amended by the Transportation Act, 1920, with respect to the provision thereof, under which carriers by railroad, subject to the act may be required to install automatic train-stop or train-control devices, which comply with specifications and requirements prescribed by the Commission; including investigations and tests pertaining to block-signal and train-control systems, as authorized by the joint resolution approved June 30, 1906, and including the employment of the necessary engineers:		
Signal and train control devices		40, 000. 00

An act making appropriations for the executive, etc., approved June 30, 1932—Continued.		
For all authorized expenditures under the provisions of the act of Feb. 17, 1911, "To promote the safety of employees and travelers upon railroads by compelling common carriers engaged in interstate commerce to equip their locomotives with safe and suitable boilers and appurtenances thereto," as amended by the act of Mar. 4, 1915, extending "the same powers and duties with respect to all parts and appurtenances of the locomotive and tender" and amendment of June 7, 1924, providing for the appointment from time to time by the Interstate Commerce Commission of not more than 15 inspectors in addition to the number authorized in the first paragraph of sec. 4 of the act of 1911, and the amendment of June 27, 1930, including such legal, technical, stenographic, and clerical help as the business of the offices of the chief inspector and his 2 assistants may require:		
Locomotive inspection	$400, 000	
Received by transfer from appropriation "Safety of employees"	24, 000	
		$424, 000. 00
Valuation of property of carriers: To enable the Interstate Commerce Commission to complete carrying out the objects of the act entitled "An act to amend an act entitled 'An act to regulate commerce' approved Feb. 4, 1887, and all acts amendatory thereof" by providing for a valuation of the several classes of property of carriers subject thereto and securing information concerning their stocks, bonds, and other securities, approved Mar. 1, 1913, including 1 director of valuation at $10,000 per annum, 1 supervisor of land appraisals, 1 supervising engineer, 1 supervisor of accounts, and 1 principal valuation examiner at $9,000 each per annum:		
Valuation	2, 750, 000	
Transferred to appropriation "Accounts"	102, 000	
		2, 648, 000. 00
For all printing and binding for the Interstate Commerce Commission, including reports in all cases proposing general changes in transportation rates and not to exceed $10,000 to print and furnish to the States at cost report form blanks, and the receipts from such reports and blanks shall be credited to this appropriation: *Provided*, That no part of this sum shall be expended for printing the Schedule of Sailings required by sec. 25 of the Interstate Commerce Act:		
Printing and binding	175, 000	
Transferred to appropriation "General" $21, 000		
Deduction on account of sec. 302 of Public, No. 212, 72d Cong 4, 000		
	25, 000	
		150, 000. 00
Total		7, 144, 560. 00

Amount expended under appropriations for the fiscal year ended June 30, 1933:

	Net charges against appropriations	Impounded under sec. 110 [1]	Impounded under sec. 203 [2]	Gross charges against appropriations
General	$2,324,571.03	$283,942.39	$11,607.61	$2,620,121.03
Accounts	703,798.67	79,058.00	2,000.00	784,856.67
Safety	427,500.60	36,720.00	9,933.00	474,153.60
Signals and train-control devices	35,491.53	3,261.00		38,752.53
Locomotive inspection	389,997.16	32,459.00		422,456.16
Valuation	2,363,163.18	276,231.84	6,258.16	2,645,653.18
Printing and binding				144,498.00

[1] Legislative furlough, Public, No. 212, 72d Cong.
[2] Vacancies, Public, No. 212, 72d Cong.

Total		$7,130,491.17
Unexpended balances of appropriations:		
General	$878.97	
Accounts	703.33	
Safety	1,846.40	
Signals and train-control devices	1,247.47	
Locomotive inspection	1,543.84	
Valuation	2,346.82	
Printing and binding	5,502.00	
		14,068.83
Total		7,144,560.00
Statement of receipts from fees paid during the fiscal year ended June 30, 1933, as required by sec. 313 of Public, No. 212, 72d Cong.: Certifying tariffs and records		5,264.63

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