



NEW JERSEY SENATE
OFFICE OF THE SECRETARY
TRENTON

STATEMENT

The following reports, utilized by the Committee in preparing its report, are filed in my office and may be inspected by appointment:

Review of Financial Structure and Operations—The Port of New York Authority—January, 1962.

Jersey Jetport Site Association—White Paper—for Senator Frank S. Farley.

Engineering Investigation of Proposed New Jetport Site in Morris County, New Jersey—for Chatham Township—January, 1961.

A Study of the Proposed Morris County Location for a New Major Jetport—August, 1960.

Impacts of a Jet Airport in Morris County, New Jersey—April, 1961.

Summary and Observations on the Harding Township Report.

Continuing Mass Transportation in New Jersey—Statement by Dwight R. G. Palmer, Commissioner, New Jersey State Highway Department—January 26, 1961.

The Pinelands Area of New Jersey as a Site for an International Air Terminal—October, 1962.

Supplemental Report on the Status of the Port Authority Trans-Hudson Corporation Program—September 1, 1962-March 1, 1963.

1960 Annual Report—The Port of New York Authority.

1961 Annual Report—The Port of New York Authority.

1962 Annual Report—The Port of New York Authority.

A Report on Airport Requirements and Sites in the Metropolitan New Jersey-New York Region—May, 1961.

New Jersey State Highway Department Analysis of Newark Airport and Benefits to Accrue to the New Jersey-New York Metropolitan Area—January, 1962.

Report to Senate Commission on Operations of The Port of New York Authority—February, 1961.

The Hudson & Manhattan World Trade Center Project—January 29, 1962.

A Study of the Requirements for a New Major Airport for the New Jersey-New York Metropolitan Area—United Research, Incorporated.

A New Major Airport for the New Jersey-New York Metropolitan Area—December 14, 1959.

HENRY H. PATTERSON

New Jersey Legislature, Senate. Commission to
" Study the Financial Structure and Operation
of the Port of New York Authority.



REPORT OF
Special
Senate Investigating Committee
UNDER
SENATE RESOLUTION No. 7
OF THE YEAR 1961

COMMITTEE:

FRANK S. FARLEY, *Chairman*
WAYNE DUMONT, JR.
WILLIAM E. OZZARD
RICHARD R. STOUT
JOSEPH W. COWGILL
JOHN A. LYNCH
WILLIAM F. KELLY, JR.
DONAL C. FOX

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NEW JERSEY SENATE

THE COMMITTEE

Its Composition, Directives and Objectives

On September 20, 1960, the Senate of the State of New Jersey adopted Resolution No. 7 authorizing and directing the Senate Investigating Committee to undertake a full and plenary investigation into the activities and functions of the Port of New York Authority. The Committee was reconstituted under Senate Resolution No. 7 of 1961.

The membership of the Senate Investigating Committee was originally composed of seven members and that membership was later expanded to eight members so that the committee would be organized along bi-partisan lines. The Republican members of the committee are as follows:

FRANK S. FARLEY, *Chairman*
WAYNE DUMONT, JR.
WILLIAM E. OZZARD
RICHARD R. STOUT

The Democratic members of the committee are:

JOSEPH W. COWGILL
JOHN A. LYNCH
WILLIAM F. KELLY, JR.
DONAL C. FOX

By virtue of Senate Resolution No. 7, the Senate Investigating Committee was charged with the following specific directives:

1. To conduct a comprehensive study of the financial structure and operation, including receipts and disbursements of funds of the Authority and more particularly to ascertain and determine the amount and status of surplus revenues now standing to the credit of the Authority and the availability of such surplus revenues for use in connec-

tion with the construction of a proposed major global jetport air terminal and the authority therefor.

2. To make such further study and investigation as it may consider appropriate pertaining to the responsibility and the accountability of the Port of New York Authority to the Legislature of the State of New Jersey and its citizens and as to whether or not the said Port of New York Authority is fulfilling its statutory duties and obligations.

3. To study the necessity, feasibility, ownership, location and construction of a major global jet air terminal to be located in the State of New Jersey with particular consideration of a location in southern New Jersey.

In furtherance of the legislative directive of Senate Resolution No. 7, the work of the Committee consumed a period of more than two years prior to the preparation of this report and its findings and conclusions thereon. The activities of the Committee are discussed in considerable detail *infra*.

In addition to many executive meetings and conferences, a total of six public hearings were conducted by the Committee. On September 27th, 1960, September 28th, 1960, January 26th, 1961, January 27th, 1961, May 5th, 1961 and August 30th, 1962. These hearings dealt extensively with three major areas of concern, namely:

(a) The Port of New York Authority studies in connection with the new airport in New Jersey.

(b) The Port Authority's role in the commuter rapid transit problem of northern New Jersey and the requirements for the solution of this problem.

(c) The financial status and debt management philosophy and practice of the Port Authority including complete examination and financial status of each of the transportation and terminal facilities under its jurisdiction.

On December 15th and 16th, 1961, the entire Committee undertook an inspection of the various facilities of the

Port of Authority. This field inspection included observations and discussions on the operations of the Lincoln Tunnel, the George Washington Bridge, the Port Authority Bus Terminal, the West 30th Street Heliport, New York International Airport, Newark Airport and the Port of Newark.

The Committee required the Port of Authority to make a report which is attached hereto, outlining pertinent data in respect to all of the transportation and terminal facilities operated by the Authority. This report includes a resume of all aspects of the operations of the Port Authority's facilities including costs, capacities, physical dimension, traffic volumes, number of persons employed, payrolls, future plans, etc.

Numerous informal discussions and conferences were held throughout this period with various members of the Port Authority's staff, with some of the Commissioners of the Authority on additional aspects and phases of the Port Authority functions and responsibilities.

This Committee retained the firm of Peat, Marwick, Mitchell and Company which is the world's largest firm of Public Accountants. They designated William Gilbert Morrison as their representative. The staff of this company consists of over 100 accountants. The firm has done extensive work for various governmental bodies and it is especially noted for its practice in the transportation field.

Mr. Morrison is well qualified to perform the type of investigation to which he was assigned. He is a Certified Public Accountant, had done extensive work for such clients as the New York Transit Authority, The New Jersey Highway Department, The City of New Orleans and the New Orleans Aviation Board.

Mr. Morrison has also participated in surveys of and for the Illinois toll road, the El Paso Airport and several other similar facilities. In addition to his work on government operated facilities he has done extensive work for some of

the firm's major clients in the transportation field including the Baltimore and Ohio Railroad, the Reading Railroad, the Pennsylvania Railroad, the Nickel Plate Railroad and the New York Central Railroad. During the past five years Mr. Morrison has devoted 95% of his time to his clients in the field of transportation both private and governmentally operated. He is a member of the Transportation Facilities Committee whose practice covers those transportation facilities which are governmentally operated. Among the firm's clients in this field are the Ohio Turnpike Authority, Illinois Turnpike Authority, New Jersey Turnpike Authority and several other Turnpike Authorities, several major Airport Authorities and Highway Departments in several States including the current engagements for the States of Illinois, Alaska and New Jersey.

In September 1961, Peat, Marwick, Mitchell & Co., commenced at our request a thorough examination of the financial structure and operations of The Port of New York Authority. We requested that the audit include a review of certain financial and administrative aspects of the Port Authority's operations and a verification of the accuracy of certain financial data represented to us by the Authority. The examination was completed in January 1962, culminating in a report to this Committee dated January 26, 1962. The report includes a description of and comments on the Authority's bond resolutions and general reserve fund, published financial policies affecting purchases, contracts, real estate and concessions, and an examination of the Authority's insurance program.

In addition to the field trips and conferences referred to in the report, the Committee conducted six plenary hearing sessions at which some fifty witnesses testified. Furthermore, the Committee also received a substantial number of written reports which were reviewed and integrated into the Committee's final findings.

THE AUTHORITY

HISTORY—Financial Structure—Fiscal Policies—Potential

The Port of New York Authority was established by compact between the States of New York and New Jersey in 1921 following several years of an effort by the States to resolve a long standing port difference between them. The compact was an amendment to an earlier compact of 1834 in which the two States had settled a boundary dispute and ceded to each other certain extra territorial criminal jurisdiction over the waters of either State of the State boundary in the Hudson River and between Staten Island and New Jersey.

The Port compact of 1921 recited that "a better coordination of the terminal, transportation and other facilities of commerce in, about and through the Port of New York would result in great economies benefiting the Nation as well as the States of New York and New Jersey." It also recited "the future development of such terminal transportation and other facilities of commerce require the expenditure of large sums of money and the cordial cooperation of the States of New York and New Jersey and the encouragement of the investment of capital and in the formulation and execution of the necessary physical plans."

The compact set the boundaries of the Port of New York district, established the Port of Authority as the joint or common agency of the two States, provided for its management by a Board of Commissioners, half of whom were to be appointed and subject to removal as provided by law of each State and gave a general but unimplemented power to the Port Authority to establish terminal or transportation facilities within the Port district and charge for the use thereof and for such purpose to borrow money and to hold, lease or operate property and to exercise general Port protection and Port promotion powers.

The power to tax or pledge the credit of either the State or any municipality was withheld. As a result the new agency was required to establish its facilities solely with borrowed money and the borrowing could be accomplished only in convincing prospective bondholders that the projects would be self-supporting and would produce sufficient revenues from their tolls and other charges to meet all of the Port Authority's obligations to the bondholders within the reasonable margin of safety coverage. The compact reserved to each State a right to provide a veto power by its Governor and each State has so provided. Detailed additional powers and the delineation of specific projects were expressly reserved for subsequent bi-state legislative authorization.

There was an initial question whether such a compact which does not affect the political balance between the States or between the Federal government and the respective States required Congressional consent. However since millions of dollars of bonds were to be issued and bondholders might be reluctant to depend upon the legal opinion in this respect, it was determined to procure Congressional consent for compact and this was given on August 23rd, 1921,—some four months after the Port Authority was established.

It is sometimes overlooked that the creation of the Port of New York Authority was a landmark action by the States of New York and New Jersey. This was the first use of the interstate compact to establish a continuing agency of the State government to serve 2 States. This also was the first use of the new form of governmental instrumentality called the Authority. The innovation of the 2 States of New Jersey and New York in these two respects has been widely followed not only in our own States but in many others. At this time there isn't a State in the Union that has not entered into a compact establishing a bi-state or multi-state agency. The Authority technique has been applied widely in a variety of situations.

An Authority is a public corporation not for the general government, like a city, but to provide public service which can be paid for by charges against the users. The technique permits the adaptation of the sound business principles of management of the public enterprise by retaining a degree of responsiveness to the elected public officials which the State desires.

There is no doubt in the minds of the members of the Committee that the 2 States have realized their objectives in the creation of the Port of Authority. They have procured vast public improvements without charge to the general taxpayers and have created a vital organization capable of continuing to provide such projects as the 2 States desire and which are of common benefit to both of them. Most of the serious writers of government techniques have pointed to the Authority as one of the most successful agencies of State government.

States have a continuing interest in making an effective use of this public instrumentality to see that it remains responsive to the legislators and the governors, to see that it continues to run honestly and efficiently and to make sure it continues to exercise only those powers which have been delegated to it. The Commission conceived its duty to serve those constructive purposes.

This Senate Committee undertook its investigation of the Port of Authority to ascertain whether its present program of development of public transportation and terminal facilities still meet this general concept without at the same time exceeding its statutory duties and obligations. Our general conclusion is that by adopting the general concept some years ago the New Jersey Legislature has made a constructive contribution to the economic development of the State and to the welfare of its people since it has been this program which has facilitated the provision by the Port of Authority of the many marine and other terminal and transportation facilities so essential to the movement of people and goods in Northern New Jersey and New York.

All existing Port Authority programs and facilities have been developed in accordance with this concept projected by our legislative predecessors.

Among the facilities which the Port of New York Authority has initiated, or acquired, developed and administered are the following:

1. Port of Newark
2. Newark Airport
3. Elizabeth Port Authority piers
4. Teterboro Airport
5. New York International Airport
6. LaGuardia Airport
7. Newark Truck Terminal
8. New York Truck Terminal
9. Port of Authority Bus Terminal
10. Hoboken Port of Authority piers
11. Port of Authority Grain Terminal
12. Brooklyn Port of Authority piers
13. Erie Basin Port of Authority piers
14. Port of Authority West 30th St. Heliport
15. Port of Authority Downtown Manhattan Heliport
16. Holland Tunnel
17. Lincoln Tunnel
18. George Washington Bridge

An examination by the Committee shows that all of these projects have been acquired or established by the Port of Authority solely on its own credit based on its tolls and receipts in accordance with the concept announced in 1940 and without any tax burden to the general taxpayers.

Looking into the prior Legislative investigations of the Port of New York Authority, this Committee reports that throughout the 41 years history of the Port of New York Authority the states of New York and New Jersey have

from time to time appointed legislative committees and commissions to make various investigations and studies of the Authority, including general administration, toll charges for the use of the bridges and tunnels of the Authority, suburban rail rapid transit and various aspects of the Port Authority's general tax exempt status.

One of the most extensive investigations of the Authority was undertaken in 1940 under the provisions of New Jersey concurrent resolutions of March 18th and June 30th, 1940. The commission established under such resolutions was charged with the responsibility of making all proper and necessary investigations, determine whether a reduction of the toll charges made upon all the vehicular crossings between the states of New Jersey and New York operated by the Port of New York Authority was economically justified and feasible. Following 4 public hearings by that commission it concluded that the tolls on those facilities should not be reduced and that it was evident that the best interests of the public would be served by retiring present Port Authority indebtedness at as rapid a rate as the revenues would permit, thus assuring that the Port of New York Authority would be in such financial condition that it could undertake the establishment of new facilities.

The Joint Legislative Committee concluded that:

"It does not and cannot subscribe to the concept that no further developments in the Port district will be desirable or necessary in the future. The Committee therefore has adopted the dynamic concept of the New York Port of Authority, a concept which contemplates further development of the facilities in the Port District as the need for such facilities is indicated from time to time. The adoption of this concept is more truly in line with the fundamental purpose for which the Port of Authority was created, namely, for the continuous development of the Port facilities." (Report of the New Jersey Joint Legislative Committee appointed pur-

suant to Senate Resolution No. 5, 1940—pages 32 and 33.)

Peat, Marwick, Mitchell & Co., the accounting firm which made the audit of the records of the Port of New York Authority for the Committee, has submitted to the Committee its written report together with supplemental oral information. Aside from minor inaccuracies, it was found that the information given to the Committee by the Port Authority staff was substantially accurate and fully explanatory in all essential aspects.

The general impression conveyed to this Committee is that the Authority has incorporated in its accounting, financial and other administrative procedures, modern and sound techniques and controls and has complied fully with the requirements of the statutes governing the Authority and with the bond indentures and other contracts entered into thereunder.

The basic framework and philosophy of the Port Authority with respect to its financing policies and its adherence to the principle of administering self-supporting facilities are soundly conceived. For example, the auditors reminded us that the General Reserve Fund and the pooling of revenues are the means selected by the States' Legislatures to enable the Authority:

“To finance its operations as a single enterprise rather than having to finance each of its facilities separately relying solely on the merits of that facility alone. The general reserve makes it possible for the Authority to finance new facilities which otherwise could not be financed without resorting to either state or other outside assistance in the form of advances, subsidies, guarantees or the like.”

And after reviewing the Authority's financial structure the auditors concluded “that few of its facilities would have been financially feasible without the ability to pool revenues of all facilities.”

The auditors also stress that the single enterprise financial structure of the Authority has an important bearing on the Authority's accounting procedures. The auditors report that:

“The Authority's financial structure is based on a single enterprise, pooling of revenues concept. Individual facilities are not financed independent of the rest of the Authority. The facilities contribute their revenues for debt service according to their earning power without regard to the amount of bonds which were issued for their construction. For these reasons any presentation of net revenues after debt service for individual facilities is not based on actual fact. As pointed out by the Authority in submitting its report, such a presentation can only be based on arbitrary assumptions.”

The report of Peat, Marwick, Mitchell & Co. goes on to state that since 1950 the Authority has made sound use of the mechanism of short-term debt repayments to invest \$183,000,000 in capital improvements in its facilities. In this way the Authority borrowed at very low interest rates, maintained a strong market for its long-term bonds, avoided excess reserves and retained maximum flexibility in financial management. The only other means available to the Authority to make such large investment would have been to issue additional long-term Bonds. If this had been done, excessive reserves could only have been avoided by retiring bonds carrying low interest rates (as low as 1¼%), while at the same time the Authority would have had to incur long-term debts at higher interest rates (currently about 3¾%)—a course which would have been imprudent.

The accountants agreed that the 1.3 earnings to debt service ratio provision set forth in the Authority's Consolidated Bond resolution is not only a matter of contract but is justified by the nature of the Authority's activities and the requirements of the investors who lend the money with which the Authority finances its projects.

The auditors conclude that:

“The published reports of the Authority are a fair presentation of the results of operation of the various funds and reserves, x x x “... such reports are not, and are not intended to be, a reflection of the profitability of the Authority. There are strong arguments that the concept of profitability is not even applicable to a governmental body such as the Port Authority.”

The certified public accountants state that:

“The contributors of the Authority’s capital neither own nor operate the entity financed with their money. Since the bondholders do not exercise direct control over the Authority they have protected their investment by requiring certain covenants and guarantees as a prerequisite to lending their money. These covenants and guarantees, discussed in the first section of this report, spell out the manner in which the revenues from the Authority’s facilities are distributed. To reflect the flow of revenues and the segregation of assets in accordance with the various covenants and guarantees, the Authority has resorted to the usual accounting procedure for handling such situations, fund accounting.”

The auditors confirm the accuracy of the statement accompanying the Port Authority’s Statement of Net Operating Revenues as presented to this Committee wherein it states that it is unable to make a computation of net revenues after depreciation because it is not permitted under the General Reserve Fund statutes to make any deduction for depreciation from the payments it is required to make into the General Reserve Fund. In this connection they point out that such a prohibition does not prevent the Authority from calculating an assumed depreciation on its facilities, however, they stress the difficulty of making such

calculations because of the practical problems of determining for depreciation purposes the economic life expectancy of such projects as the George Washington Bridge and the Lincoln Tunnel, not to mention the difficulties of taking into account rapid technological obsolescence problems involving the Authority’s airports and piers.

In their review of the Authority’s financial structure, the auditors determined that the Authority’s relative financial strength has remained fairly constant over the last ten years. In this connection the auditors point out that:

“The combined amount of debt retired through income and reserves represents the States’ ‘equity’ (excluding depreciation) in the Authority’s facilities. This equity . . . has remained at a relatively constant percentage of the Authority’s total investment in facilities. As has been repeatedly pointed out, this equity represents the amount of the investment in facilities which has been paid for out of net revenues. It does not represent cash or the equivalent.”

At the same time the auditors concluded:

That the rate of growth of earnings has not quite kept pace with the increase in the investment in facilities.” x x x

“That while the Authority’s return on its investment in facilities has been steadily decreasing, the average rate paid on new issues of bonds has been increasing. If this trend continues indefinitely, the Authority’s ability to expand its facilities will cease.”

The auditing firm pointed out that one of the most important factors affecting the rate of return on the Authority’s investment is inflation. Toll rates paid by bridge and tunnel users have either remained constant or have been

decreased since the start of the ten-year period under review. They state that although in the past the vehicular crossings have been the backbone of the Authority's earning power, unless inflation is stopped, it would appear that without increases in the tolls, they will slowly lose that position.

Peat, Marwick, Mitchell & Co., the auditors, closely scrutinized Port Authority policies with respect to purchase orders and maintenance and construction contracts and concluded that the Port Authority's policies and instructions in this "are reasonable, prudent and in accord with good business practice." In addition, the auditors' review disclosed that employees were following the Authority's policies and procedures with respect to bidding and awarding of purchase orders and maintenance contracts.

The procedures followed by the Authority with respect to acquisition of real estate appear to the auditors to be designed to adequately protect the public interest. In addition, it was found that:

"a possible added protection might be to have the names of all owners of property acquired by the Authority by negotiation rather than condemnation made a matter of public record other than just through the registering of the deeds. This could be accomplished by having the information placed in the minutes at the conclusion of the acquisition program."

They found that the general policy of the Authority on contracting the concessions at its various facilities is to choose one or more qualified operators and then negotiate a contract with them. Formal competitive bidding is usually avoided as it is not considered a suitable method of selecting quality concessionaires who will be dealing with the public and whose behavior will reflect on the Authority itself.

The Committee made a special point of inquiry as to the reason one person handled all the insurance for the Authority. The insurance program of the Port Authority came under the scrutiny of the auditing firm which concluded:

"Based upon our observations the over-all administration of the Authority's insurance program is, we believe, being handled competently and in compliance with the policies and principles of the Authority."

Consistent with good management practices, the Authority has retained from time to time insurance consultants to make objective surveys of their insurance program. After a review of these surveys the accountants concluded that the Port Authority Insurance Division:

"... has studied and analyzed these reports and has prepared, from time to time, its recommendations for action in respect of the adviser's proposals. The actions taken during the past few years include complete acceptance and implementation of some of the proposals, partial acceptance or modification, and implementation of others, and rejection of still others.

"Although we are not insurance experts it appears to us that the Insurance Division has acted prudently and in the interest of all concerned. We believe it is stimulating and healthy to have independent, periodic review such as those made by the insurance adviser. To this extent they serve a worthwhile purpose."

The utilizing of a single broker, except where direct line writing has been accomplished, was thoroughly canvassed by the accountants. They found that:

"Many private businesses follow the practice of using one insurance broker. As discussed in the next section, the costs of the Authority's insurance

coverages are favorable and tend to support the practice of using a single broker.

“Due to the specialized nature of many of its insurance problems, it is reasonable that the Authority use the services of a broker who is knowledgeable in this area. There are several brokers in this field who should be able to handle this insurance. This includes the present broker who specializes in handling insurance for public facilities, particularly bridge and tunnel insurance. Also, the present broker performs the services required by the Port Authority.

“In our opinion, the Port Authority has followed an accepted business practice by using one broker. During the past fifteen years considerable progress has been made in the development of the Authority’s insurance program. It appears doubtful that better results could have been obtained if multiple brokers had been employed.”

The accountants further found that:

“The Port Authority has used in the past and is presently using the services of direct line writing companies which do not do business through brokers and therefore do not pay them commissions. Bids are received from these companies in competition with each other as well as with insurance companies represented by the Authority’s insurance broker.

“In the opinion of the Port Authority, the presence of these direct line writing companies provides more than adequate cost competition for insurance companies represented by the Authority’s broker.”

After reviewing Authority insurance coverages and costs, including its self-insurance program, the accountants concluded:

“... we feel that the Authority has made considerable progress in negotiating better premiums and in keeping costs favorable.”

“Considerable savings in premiums have been made since the Authority embarked on its self-insurance program in 1952. The Insurance Division has followed the applicable basic principles . . . in administering and progressing with the self-insurance program, and on an over-all basis we feel that the program is a good one.”

Testimony on behalf of the Port Authority concerning investment practices tending to show avoidance of favoritism in using security dealers in connection with purchases and sales of government securities was verified.

With regard to in lieu of tax payments made to municipalities by the Authority the accountants stated:

“Much testimony was devoted to the payments made by the Authority in lieu of taxes. We looked at the canceled checks of each payment and cross-checked the amounts with the amounts mentioned in the testimony. Our examination uncovered no discrepancies.”

With respect to a statement entitled “Comparative Statement of Revenues; Expenses and Equal Annual Debt Service of Port Authority Facilities from Inception to December 31, 1960” submitted by the Authority to this Committee on May 1, 1961, the auditors informed us that the difference between actual figures and total shown on this report are not the result of inaccuracy on the part of the Authority. The differences were inherent in the assumptions upon which the Authority was directed to prepare the statement. Any set of assumptions, dealing as they must with past events, would, of course, produce over-all results contrary to the over-all results which actually occurred.

The Committee, throughout its deliberations on the affairs of the Port of New York Authority, received complete cooperation from the officials of that agency. Governors Robert Meyner and Richard J. Hughes were advised of the scope and method of the investigation and made no claim of executive privilege. The Committee requested and received promptly from the Port Authority numerous financial, operating and other data relative to all aspects of its activities including any records and file material requested. Its top-level officials were readily available and voluntarily appeared at all public hearings held by this Committee. It arranged for an extensive inspection of its transportation and terminal facilities and made its financial, law and administrative department representatives available at all times to the auditors engaged by this Committee. The Committee was, of course, entitled to such cooperation from the Port Authority as an agency of this State as well as of the State of New York. But the Committee nevertheless acknowledges the Port Authority's complete acceptance of its amenability to the Committee's investigative procedures. The Committee feels that it has been able to make a complete and thorough investigation of the Port Authority pursuant to its directive embodied in Senate Resolution No. 7.

COMMUTER RAPID TRANSIT

On September 27, 1960, at the first public hearing of this Committee, pursuant to Resolution No. 7, The Port of New York Authority announced that it would undertake an immediate study of the feasibility of that agency acquiring, modernizing and operating the Hudson and Manhattan Railroad. This was the first public expression by the Port Authority of its willingness to share in the responsibility of meeting the commuter rapid transit requirements in the area of northern New Jersey.

At the September 27 hearing, the Port Authority suggested that:

“The Port Authority might be able to sell bonds for the acquisition and modernization of the Hudson & Manhattan Railroad and continue the financing of the States' vital port development program,

- (a) “if investors could be given contractual assurance, with statutory protection, that the Port Authority's responsibilities in the field of commuter rail transit would be confined to the present and existing interstate Hudson & Manhattan Railroad system;
- (b) “if all of the Hudson & Manhattan Railroad system, including the Hudson Terminal properties could be acquired on the basis of their present realistic market values;
- (c) “if the operating agreements between the Hudson & Manhattan and the Pennsylvania Railroad could be transferred to the Port Authority on reasonable financial terms, permitting the continued use by Hudson & Manhattan trains of the Pennsylvania Railroad's tracts, stations and other facilities between Jersey City and Newark;

(d) "if Commissioner Palmer's recommendation of linking the Jersey Central Railroad via the Lehigh Valley tracks with the mainline of the Pennsylvania Railroad would be carried out, thus making it possible for Jersey Central commuters to transfer at Newark, either to the Hudson & Manhattan service to downtown Manhattan or the Pennsylvania's uptown service to Penn Station in New York; Commissioner Palmer's plan also envisaged the eventual handling by the Hudson & Manhattan of all interstate commuters from the Erie and Lackawanna Railroads now coming into the rail terminal at Hoboken, many of whom presently use the railroad ferry to Manhattan."

In concluding his statement on the prospects of acquiring the Hudson and Manhattan Railroad and the Executive Director of the Port Authority, Mr. Austin J. Tobin stated that:

"The Commissioners have asked me to assure you, Mr. Chairman and the members of this Committee, that the Port Authority will continue to pursue this matter to the end that we may make a report and recommendations to the Governors and to the Legislatures of New Jersey and New York. It is our hope that this may be possible before the end of this year."

The Port Authority's study of the Hudson and Manhattan Railroad was concluded in January, 1961. The results of that study and the Port Authority's announcement that it would be able to go forward with the Hudson and Manhattan project with appropriate authorizations were made public at this Committee's public hearing in Newark on January 27, 1961. At that hearing, James C. Kellogg, III, Vice-Chairman of the Port Authority testified as to the

Authority's ability to go forward with the acquisition and rehabilitation of the Hudson and Manhattan.

Vice-Chairman Kellogg and Mr. Tobin were questioned at length by members of this Committee on all aspects of its proposed program to acquire the bankrupt railroad. In addition the Committee heard testimony on this date and the preceding day from commuter groups, railroad representatives, individuals and civic associations on various aspects of the prospective transit responsibility of the Port Authority. These hearings, which were devoted exclusively to the subject of commuter rapid transit, resulted in a conviction on the part of this Committee that the Port Authority's proposed program to acquire and improve the Hudson and Manhattan equipment and facilities was sound and in the best interests of the people of this State.

During 1961, the New York State Legislature enacted legislation which empowered the Port Authority to proceed with the acquisition, modernization and operation of the Hudson and Manhattan Railroad and coupled in the same bill an authorization for the Authority to undertake the development of a World Trade Center on the east side of lower Manhattan. The bill contained no statutory covenant to protect Port Authority credit against future transit responsibilities which would divert its railroad deficits to revenues and reserves pledged to its bondholders. This legislation proved unacceptable to New Jersey because of the manner in which these two projects were "packaged" in one statute and because the absence of such a statutory covenant, in our judgment, endangered the future utility of the Port Authority to the 2 States. Accordingly, an impasse developed in 1961 between the States of New York and New Jersey on the appropriate form of legislation for these two projects.

This Committee was convinced that the credit problem which had been pointed out by the Port of New York Authority was a valid and real one and that the Port Authority could not assume responsibility for the complete

burden of the deficit-ridden commuter railroad problem in the area of northern New Jersey and New York. If the Port Authority were to receive such unrestricted responsibility, there is no question but that its sound credit position would be seriously impaired, if not destroyed, and it would become impossible for the Authority to continue to move forward either with such a rail program or with other vital transportation and terminal facilities and other facilities of commerce desired by the 2 States in continuing the Port Authority's tradition as a public agency.

As a result of lengthy discussions and firm insistence by the New Jersey Division of Railroad Transportation that Port Authority operation of the Hudson & Manhattan Railroad must extend beyond the main stem, which was concurred in by New York State conferees, the following program was adopted as acceptable to the States of New York and New Jersey:

1. Extending the Port Authority's authorization beyond the present Hudson & Manhattan Railroad system;
2. Limiting the authorization at this time to extensions of that system within a delineated area to permit over-the-platform transfer of passengers between the Hudson & Manhattan Railroad and the major passenger railroads operating in New Jersey;
3. Limiting by a constitutionally-protected statutory covenant with Port Authority bondholders the extent to which the Port Authority revenues and reserves pledged to such bondholders can in the future be applied to the deficits of possible future Port Authority passenger railroad facilities beyond the original Hudson & Manhattan Railroad system;
4. Measuring that limit by 10% of the amounts of the Port Authority's General Reserve Fund at

the time (or 1% of its equity, if larger, in that Fund and in its bridges and tunnels and other facilities owned and operated by it) so that a new deficit ridden passenger railroad facility can be added to the Port Authority's General Reserve Fund family of facilities (and thus be able to syphon off the pledged revenues of the self-supporting facilities and the pledged reserves accumulated therefrom) only if the estimated annual deficit of all Port Authority passenger railroad facilities, including the proposed new one, do not exceed the limiting figure at the time; and

5. Permitting enlargement beyond the limiting figure only to the extent of state guarantees of Port Authority deficits from passenger railroad facilities.

Late in 1961, a proposal was made to shift the location of the proposed World Trade Center to the west side of Manhattan and to integrate it physically with and directly above the lower Manhattan terminal of the Hudson and Manhattan Railroad. This program had appeal for the State of New Jersey and, in effect, meant that the Port Authority's improvement of the Hudson and Manhattan system, including its extensions, and the World Trade Center were, in fact, one integrated project. By this time, general agreement among the officials of both the States of New York and New Jersey had also been reached on the extent of the use of the Port Authority's revenues and reserves in meeting transit deficits. Thus, the way had generally been cleared for prompt legislative action by both States authorizing the Port Authority to proceed as rapidly as practicable with the single project—the World Trade Center and the Hudson Tubes and its extensions.

It was with a great deal of satisfaction that the full membership of this Committee sponsored the legislation authorizing the Port Authority to proceed with this project,

one of the most important statutes ever to be enacted by the New Jersey State Legislature. On February 13, 1962, both Houses of the Legislature passed this bill by unanimous votes (with one abstention in each House) and Governor Hughes signed the Bill on the same day. Soon thereafter New York enacted the same Legislation.

By virtue of its thorough investigation of all aspects of the Port Authority's operations, and its work with the Port Authority and with the public officials of both States this Committee was enabled to evaluate and to participate in bringing about a Port Development project which, in our opinion, will be of inestimable value to the citizens of the State of New Jersey and the Metropolitan area.

Our Committee has been impressed with the performance and untiring efforts of the Port Authority Commissioners both of New Jersey and New York toward insuring the maintenance and growth of our great Port. The efficiency of the Executive Director, Austin J. Tobin, and members of his staff has made possible our thorough, frank and productive research of an Agency which in its record of performance is excellent.

A NEW MAJOR AIR TERMINAL

The Need Therefor and the Location Thereof

At the outset, it is observed that before this report was finalized for submission, the Federal Aviation Agency announced the rejection of the site in Burlington County for a global jetport. This site was recommended by the Committee. The Federal decision may ultimately serve to modify the report with respect to the specific site in Burlington County. However, the basic position of the Committee that the jetport be established in Southern New Jersey and particularly in one of the following counties, to wit: Monmouth, Ocean, Cumberland, Atlantic, or Burlington (now tentatively ruled out) remains unchanged. Additionally, the other considerations projected in this section of the report are and still remain valid, tenable and pertinent, and are submitted herewith.

A major area of concern and Committee activity related to a full investigation into the studies and conclusions of the Port of New York Authority on the question of a major new Air Terminal for the State of New Jersey. The initial public hearings were largely devoted to this issue.

The Committee took the testimony of Austin J. Tobin, the Executive Director of the Port of Authority, John R. Wiley, Director of Aviation of the Bi-State Agency, William T. Smith, Executive Director of the New Jersey Jet Port Site Association, and Frederick F. Richardson. Mr. Tobin and Mr. Wiley testified at length and in detail on the scope of the studies undertaken by the Port Authority including the question of the need for a new major airport facility, as well as touching on numerous technical and other factors to be considered in arriving at a determination as to a proper location for such a facility. These witnesses were subjected to detailed questions and examination all aspects of these studies by members of the Committee.

Mr. Smith and Mr. Richardson testified as to the serious concern of the Jet Port Site Association with the original Port of New York Authority recommendation that such new airport facility be located in Morris County. Mr. Smith reported on the background and functions of the Jet Port Site Association and expressed the very strong opposition of that Association to the Port Authorities' preliminary report of December 1959 recommending the Morris County airport location.

At a subsequent hearing of the Committee held on May 5, 1961, in Trenton, New Jersey, additional testimony was taken on the issue of the airport. At that hearing, the Honorable Thomas L. Hillery, the Senator from Morris County, New Jersey, and Mr. Frank Bowren, of Hunterdon County, presented seventeen witnesses who testified with complete unanimity in opposition to the construction of an airport in either Morris or Hunterdon Counties.

At this hearing, representatives of the Jet Port Site Association filed with this Committee research reports prepared for them by consulting firms on various aspects of the location of an airport in Morris County. These reports are by

(a) United Research, Inc. of Cambridge, Massachusetts entitled "Engineering Investigation of Proposed Jet Port Site in Morris County, New Jersey."

(b) A report by "Planning and Renewal Association of Cambridge, Massachusetts, entitled "The Social and Economic Impacts of the Proposed Air Port in Morris County." These reports are attached hereto and made a part hereof.

The transcript of the testimony on the issue of the airport was given painstaking and careful consideration by the Committee. After long and serious deliberation, the Committee has come to the following conclusions:

1. The establishment of a major air facility in the State of New Jersey is of paramount importance to the economy,

development and welfare of the State and this project should receive prompt and expeditious consideration.

2. The Committee has considered the challenge to the powers of the Port of New York Authority to conduct studies of possible sites for a major new airport at locations outside of the physical boundaries of the Port district. The Committee is satisfied that this challenge to the powers of the Port of New York Authority to conduct such studies is without merit and that the Authority has both the power and the responsibility of making studies of this nature by virtue of existing statute law.

3. The Committee finds that the Port of New York Authority does not have the power to establish a new airport outside of the existing physical boundaries of the Port district. Furthermore, the Port Authority does not have power to condemn property for a new airport even within the boundaries of the Port district without additional enabling legislation of the State.

4. After giving careful consideration to the serious and deep-seated opposition expressed to this Committee by officials and individuals to the location of a Jet Airport in Morris or Hunterdon Counties, the Committee feels that it should here record its opposition to any legislation authorizing such major airport facility for any site in any of the northern New Jersey counties. It should be noted that the public hearings conducted by this Committee led to the passage of Senate Bill No. 218 in May and June of 1961, which Bill expressly prohibits the construction of a new airport in the nine counties situate in northern New Jersey. While this Bill was vetoed by Governor Robert Meyner on August 28, 1961, this Committee desires to reaffirm its position that a new major airport facility should not be constructed in northern New Jersey.

5. During the hearings, the Honorable Frank S. Farley, the Senator from Atlantic County and Chairman of this Committee, made it abundantly clear that the counties of Monmouth, Ocean, Burlington, Cape May, Cumberland, and

Atlantic (All located in southern New Jersey) would welcome the location of a new jet airport facility in any of the south Jersey areas encompassed by these counties. Senator Farley emphasized that there was an over-all concensus of opinion both among Legislators and civic and business groups from said counties that was favorable to the location of the site for a major new airport facility in Burlington County. The officials of Burlington County and Ocean County have submitted a report to this Committee which is attached hereto and made a part hereof.

One of the major problems which has given this Committee pause in the selection or recommendation of Burlington County as a site for this major new Jet Port facility is the distance from the Metropolitan areas of New York and Philadelphia and the time required and problem of transportation of passengers.

The Committee called upon Commissioner Dwight Palmer to check the feasibility and practicability of the use of the levacar to solve the transportation problem. The levacar is manufactured and produced by the Ford Motor Company and has the capability of attaining speeds of between 200 and 500 miles per hour on the ground. This car is engineered to traverse the ground on a cushion of air.

Despite the efforts of Commissioner Palmer and the personal intervention of Senator Farley with the Ford Motor Company Engineers, there has not been submitted to this Committee, as of this writing, any definite disposition as to a feasibility report.

The Committee also looked into the use of a monorail as a medium of solving the transportation problem. Senators Farley and Cowgill, while attending a legislative leaders conference in Seattle, Washington, made an examination of both the levacar and the monorail. Senators Farley and Cowgill viewed moving pictures taken in Germany demonstrating the erection and operation of a monorail system. They both utilized the monorail for transportation on at

least six occasions. The Senators reported that although the monorail represents a step forward in the progress of transportation and is clean and modern, it is not capable of the speeds required to solve the instant transportation problem. For instance, it was found that when the monorail traveled at speeds in excess of 65 miles per hour the monorail vibrated excessively and was not practicable.

Commissioner Dwight Palmer reported that in his opinion a period of from five to ten years would be required to develop either or both the levacar and monorail to a point where either form of transportation would provide a suitable and practical medium for the solution of the problem as outlined supra. It should be noted that Commissioner Palmer cooperated with this Committee without stint and made a very valuable contribution to the work of the Committee in his investigation of the various media of transportation. For the record, the Committee would like to take this occasion to compliment and congratulate Commissioner Dwight Palmer for his valuable assistance.

The Committee feels it would be remiss in concluding this phase of the report without commenting on the splendid role played by the Honorable Thomas J. Hillery, the Senator from Morris County, in the presentation of the sentiments and views of his constituents. His written report is made a part hereof and this occasion is taken to commend Senator Hillery for his contribution to the work of the Committee.

CONCLUSIONS

The Committee has discharged its assignment under Senate Resolution No. 7. In connection with the first branch of that resolution, we have studied the entire financial structure and operations of the Port Authority, including the receipts and disbursements of its funds. We find the structure appropriate to the assignments which the State Legislatures have made to the Port Authority and soundly devised to achieve the lowest possible cost for borrowed money. We are conscious that the Port Authority, having no taxing power, can operate only by continuing the cycle of borrowing money to provide facilities which yield revenues which repay the borrowings and establish the reserves to permit additional borrowings. We are mindful that in the original Compact of 1921 the 2 States recited that the cooperation of the States was required "in the encouragement of the investment of capital." The Authority has in our judgment balanced the public necessities against the needs to attract private capital which can only be attracted by a sound credit and confidence in efficient management.

In studying the receipts and disbursements of funds we were led to consider the entire internal organization of the Port Authority and its controls to achieve efficiency and economy. We retained outside professional auditors to make a complete and disinterested audit of the Port Authority. On the basis of their report we have concluded that the Port Authority employs good business techniques and follows sound and prudent management policies and practices to the end that the public is best served, and that the policies employed by the Port Authority operate to minimize its construction and operating costs, to develop fully its revenues other than bridge and tunnel tolls and to avoid favoritism in any of its business transactions. The internal policies of the Authority are soundly conceived, clearly contained in written instructions and complied with by the

Port Authority staff. The auditors studied the particular sensitive areas of purchasing contracts and concession letting, the rental of space, the procurement of insurance, the acquisition of real property and related fields. On the basis of their report we are satisfied that the Port Authority's techniques are soundly conceived and efficiently followed.

Initially we assumed that it was possible to achieve detailed reporting of net operating results facility by facility not only after operating expenses but after debt service as well. The auditors' report has explained why this is not possible without arbitrary assumptions. We therefore conclude that the Port Authority has performed its duty to report properly on the financial results of its operations when it combines the debt service of facilities which have been soundly combined for financing purposes. We have considered the question of the size of the Port Authority from the point of view of its assets and revenues. We find that the size of the Port Authority is commensurate with its responsibilities vested by the Legislatures and with the growth and progress of the Northern New Jersey-New York metropolitan area which it serves.

Also with regard to the first branch of the Senate Resolution No. 7, the Commission has studied the use and distribution of the surplus revenues of the Port Authority to determine how they may best "inure to the benefit of the citizens of this State." We conclude that the best use of such surplus revenues is to provide the credit base which will permit the financing and effectuation of such additional facilities as the two State Legislatures wish from time to time to achieve without taxation and through the instrumentality of the Port Authority. The General Reserve Fund Statutes of 1931 established that policy and unquestionably the policies should be continued. The concept of the Port Authority articulated by the Investigating Committee of 1940 reflected that approach and that legislative judgment was vindicated by the record of growth and achievement of the Port Authority over the past two decades. We are in accord with these findings.

With regard to the final part of the first branch of our authorizing resolution, we have studied the use by the Port Authority of funds for the study and construction of the proposed major air terminal and the authority therefor. We are satisfied that the Port Authority had the power to use its funds for the study of possible airport sites both within and outside of the Port District. It has the express power and duty to make recommendations to the Legislatures of the two States within its assigned field of responsibility and it has the commensurate power to spend its funds to collect and report the facts which will make those recommendations significant and useful for legislative evaluation. Since the two State Legislatures have the power to enlarge the boundaries of the Port District, there was no lack of power in the Port Authority to study a site outside the present Port District boundaries since the result of such study could be an authorized recommendation to the Legislature to extend the boundaries and authorize the site.

However, we find that the Port Authority never had the power to construct an air terminal base outside the Port District and does not have that power to this day. This Committee therefor recommends that legislation be passed to augment the size of the Districts so that it may be permitted to include a site in southern New Jersey for a major jetport. The Committee also recommends that the size of the district for the New Jersey Delaware River Port Authority be extended to encompass Atlantic and Cape May Counties to facilitate the solution of commuter problems.

There is no detriment to the public interest in a public agency having the power to make reports and recommendations to the proper legislative bodies. This Legislature is free to reject, or to accept, any such recommendation after appropriate investigation, and therein lies the protection of the public. In this case, the New Jersey Legislature rejected the recommendation of a proposed North Jersey site. It would, however, be a disservice to the public interest to stifle the ability of the Port Authority to report freely to

the Legislature on matters of public concern affecting the commerce of the Port District. This Committee recommends that the copies of the Minutes should be sent to the President of the New Jersey Senate and the Speaker of the House of Assembly, and likewise to the respective officers of the New York and New Jersey Legislatures and the copies of such Minutes should be made available thereafter to the public and to the Press.

With respect to the second branch of Resolution No. 7, we have studied the necessity, feasibility, ownership, location and construction of an air terminal in New Jersey. We have concluded that there is a necessity for such an air terminal and that the time when it will be needed is so imminent as to require early decision as to its site and other general features. We are, however, opposed definitely to the location in Morris and Hunterdon Counties, as a matter of fact, to any northern New Jersey site. The citizens of Morris and Hunterdon Counties have continued their strong opposition to this location. The choice of remaining locations requires additional investigation and the coordination of the judgments not only of State and municipal officials and the people of the affected areas but of the affected airline and the Federal aviation authorities who are presently making an all year round survey as to the practicability and feasibility of the Burlington County site. Questions as to the feasibility, ownership and construction of a new major air terminal in New Jersey can only be answered after the location has been determined.

With regard to the third branch of our authorizing resolution, we have studied the responsibility and accountability of the Port Authority in the Legislature of this State and to its citizens. We have established that the Port Authority is accountable to this Legislature and that accountability was evidenced by the complete responsiveness of the Port Authority to all of the requirements of this Committee in

pursuing its investigation. It is recommended, however, that the Port Authority furnish to the Legislatures the Minutes reflecting their activities at the same time they are furnished to the Governors of the respective States.

As required in the Compact, the Port Authority annually submits a report to the Legislatures setting forth in detail the operations and transactions conducted by it. Upon receipt of this report we urge that the Legislature, through its regularly established committees, annually invite officials of the Authority to appear before them to answer questions and to provide any further information on the operations and activities of the Authority. We believe such a regular and personal report and examination would expedite the work of the Legislature, and also would provide the public with useful information regarding the Authority and would emphasize the continuous responsibility and accountability of the Port Authority to the respective Legislatures.

With regard to the responsibility and accountability of the Port Authority to the citizens of New Jersey, it is clear that this responsibility and accountability must continue to be through the Governors and Legislatures of the two States.

The Port Authority has attempted to keep the Governors advised as to such of its proposals as it deems controversial before they are adopted so as to obtain the benefit of the thinking of the respective Governors' viewpoints and avoid the necessity of veto and modification to meet the Governors' objections. The veto of the Governor continues as a most effective instrument for assuring that the policy of the Port Authority cannot depart from the policy of either State. We observe that the Governors have not hesitated to use the veto power when they deemed it appropriate.

With regard to the final item of the third branch of our authorizing resolution, we have investigated whether or not

the Port Authority is fulfilling its statutory duties and obligations. We have concluded that the Port Authority has not exceeded the powers vested in it by the two States and that it has met all of its obligations and fulfilled its statutory duties. The sole exception was the commencement of the Third Tube of the Lincoln Tunnel under existing authorization to construct the facility. The Legislature subsequently amended the statutes to bring this project within the Authority's statutory duties. It will be remembered that the initial compact and even the comprehensive plan of 1922 were mere charters of ultimate goals. The Legislatures have directed the Port Authority's course by specific statutes from year to year. By granting and withholding particular authorizations they have set the limits within which the Port has operated.

In conclusion, this Committee would like to commend Austin Tobin for his thorough and most intimate knowledge of every project of the New York Port of Authority. He had at his fingertips all of the data of the Port Authority's activities when he was testifying and in addition thereto, on our personal inspection of the facilities, when he had his experts advise us as to the usage, the convenience to the public and its operation. Mr. Tobin always had supplemental remarks that even went into greater detail, showing his constant attention to every facet of the New York Port of Authority.

Over the years the Port of Authority has developed and grown into a full-fledged economic entity of proportion and maturity in the fulfillment of programs designed for the progress and development of the States which authored its existence. While the Authority is a great contributor to progress, at the same time it serves as a barometer portending trends and marking goals for the future. We feel that the Port of Authority has been a constructive influence in the economic life of the State and so long as it maintains

its traditions and standards of public service, and at the same time continues to manifest a sensitivity and responsiveness to public need and progress, it should be given official encouragement and support in its endeavors.

Respectively submitted,

By:

FRANK S. FARLEY, *Chairman*
WAYNE DUMONT, JR.
WILLIAM E. OZZARD
RICHARD R. STOUT
JOSEPH W. COWGILL
JOHN A. LYNCH
WILLIAM F. KELLY, JR.
DONAL C. FOX

MINORITY REPORT OF
SPECIAL INVESTIGATING COMMITTEE

UNDER
SENATE RESOLUTION NO. 7
OF THE YEAR 1961

JOHN A. LYNCH

While I am in agreement with the substance of the Committee Report, I cannot be recorded in favor of the conclusion of the Committee in opposing a major jetport site in any of the northern New Jersey counties.

After hearing all of the testimony and having been made aware of the F.A.A. report, it is now my judgment that a major airport site in any of the northern counties of the State should be judged and weighed solely upon the facts presented for such a site and not by a blanket over-all objection regardless of the worthiness or merit of the proposed site.

Again referring to a jet port site I also disagree with a proposal that the Legislature pass a law to augment the size of the District of the Port of New York Authority in New Jersey. This would be in order when, and only when, and if, the F.A.A. Port of New York Authority and the respective States of New York and New Jersey are in agreement on the feasibility of such an extension. Any enlargement at this time is unwarranted.

Lastly, I would suggest that before this Committee terminate its activity, that it conduct a hearing on the controversy presently existing between the City of Newark and Port Authority.

It appears that the rent received by Newark from the Port Authority is insufficient to amortize the obligations of New-

ark on its indebtedness, created when Newark Airport was first established and prior to its take-over by the Port Authority. In addition thereto, it is my information that substantial sums of money are spent by Newark to maintain municipal services at the Airport. I am mindful of the many economic benefits derived by the City of Newark from the very existence of the Airport but good conscience dictates that the City of Newark should receive a fair deal and a fair re-negotiated rental agreement with the Port Authority.

Respectfully submitted,

JOHN A. LYNCH