PUBLIC HEARING

ON

NEW JERSEY'S TAX PROBLEMS

Held:
March 6, 1964
Assembly Chamber
State House
Trenton, New Jersey

before

THE COMMISSION ON STATE TAX POLICY

Members present:

Senator Wayne Dumont, Jr., Chairman
Assemblyman Norman Tanzman
David Beck
C. Malcolm Davis
James E. Kerney, Jr.
Thomas G. Walker

also

William Miller, Staff Director
Aaron K. Neeld, Consultant

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I N D E X

We understandably require a much larger proportion of Class II property and thus trackage than a railroad of different characteristics.

As bad as our property tax bill was last year, it would have been $1.8 million greater had we not abandoned, over several years, some 862 acres of land, mostly in Jersey City and Bayonne, with an assessed value of $18,800,000.

Another interesting aspect of our property taxes is that, in the case of the Central Railroad Company of New Jersey, a very sizeable amount of Class II taxes relate to property used for passenger purposes. Not including the allocation of Class II taxes of property used both for freight and passenger services, but considering these taxes on exclusively passenger property, the Central Railroad Company's tax bill for the last year amounted to $673,000 of its total Class II payment.

Certainly there is no consistency to the State of New Jersey recognizing the seriousness of losses on passenger service which it is State policy to help, and in connection with which a State participating payment is made against such losses and, at the same time, taking a large part of this participation back in tax payments directly relating to the same operations. This was clearly recognized by the State Tax Policy Commission in its last report. And let me only say in this connection that this passenger property tax problem prevails on that public service aspect of our business which produced last year but $6.7 million of passenger revenues.

It hardly seems pertinent to the broad State policy issues encompassed in this investigation by the Tax Policy Commission to dwell upon details. I could emphasize that part of our Broad Street station property at Newark, serving a few hundred people a day, is assessed at the rate of $445,000 an acre. I could talk about certain underwater property in Jersey City being assessed at $35,000 an acre. I could illustrate the financial frustration of assessment practices by pointing out certain property, turned over to Jersey City because we could not afford the taxes involved, being re-assessed for industrial usage at approximately half of the assessed value upon which we had been required to pay taxes. I could enlarge, at length, upon the important problem of trying to hold property for industrial development -- a matter so important for the providing of jobs so needed for the entire economy of our State. But the questions being considered by the Commission are much broader. They go to the basic question of permitting our private enterprise railroads to be so treated that they can continue their public service responsibilities to the people and industry of New Jersey as they have been doing for more than 100 years.

I am sure that no one in our State Government has the intention of either encouraging or perpetuating a policy of penalizing the railroads. If this be so, should we not examine the equality of treatment accorded by the State to its various forms of public transportation? I would ask the State Tax Policy Commission to consider the equity for the great acreage of property appropriated for the New Jersey Turnpike being removed from the tax rolls. And this is but an illustration. It is likewise true of the Garden State Parkway and every highway in the State. Is it fair that the railroads are required to pay property taxes on their competing facilities?

I would ask the State Tax Policy Commission whether the relatively small sums paid by the Port of New York Authority in lieu of taxes, on the great acreage involved in Newark Airport, Port Newark and Port Elizabeth are fair as compared with the high taxes which the Central Railroad of New Jersey pays on its Brills Yard property and other adjacent facilities which are so important to the support of Port Newark and Port Elizabeth in particular.

I would ask the Commission if it is fair for the Central Railroad Company of New Jersey to build, pay taxes on and provide passenger station facilities, in the face of the great passenger terminal at Port Newark - I beg your pardon, Newark Airport - having been provided for the public by tax exempt financing, with but limited payment in lieu of taxes on the property and with no capital cost to the transportation enterprises participating in its use. I should point out to the Commission in this connection, however, that a number of municipalities along our railroads have recognized the inequity of this situation and have themselves taken over our passenger station and parking facilities; usually on the basis of our continuing to be responsible for ticket office and waiting room space.

And, finally, I would ask the Commission how the passenger portion of our Class II and III taxes, amounting to $60 per passenger last year, compares with the tax per passenger paid by the competing bus lines in our territory, operating daily trips into the thousands over publicly built facilities.

I would not wish to be interpreted as suggesting that the railroad industry should be free of tax obligations to the State of New Jersey, but clearly in the kind of public service in which we are engaged, a tax on net earnings would be far more equitable and I believe far more in the public interest than the present combination of taxes with which we are faced.

In conclusion, the railroads have recommended that Class I and III taxes be eliminated, that all taxes on passenger facilities be eliminated and that Class II taxes in general be reduced by approximately 50%. I endorse this position, knowing full well that the sharp reduction in Class II taxes creates a very difficult problem for the Commission and perhaps would require some replacement of the municipal income involved at least during a transition period. I am constrained to say that this may be less of a problem than previously supposed.

On February 12th the Jersey Journal reports the proposed downtown redevelopment in Jersey City, as presented to the Chamber of Commerce by Arthur H. Padula, Jersey City's designated developer, apparently indicating the concurrence of Mayor Whelan in a plan to take an undisclosed amount of property away from the Lehigh Valley and the Central Railroad Company of New Jersey for this purpose. The New York Times on March 1st carries a story of the Jersey City Council having approved this project during the preceding week. The Newark Evening News of January 11th states that Mayor Whelan of Jersey City is "enthusiastic" about the downtown urban renewal project, in connection with which Mr. Padula is quoted as having said, "The railroads have outlived their usefulness to the City and are hard pressed to meet their tax bill. I am sure the railroads would be glad to go."

I am specifically stating that the Central Railroad Company of New Jersey does not propose to get out of Jersey City or Hudson County, with its important freight operations.

The quotations above would seem to indicate, however, that Jersey City at least is less concerned about the receipt of railroad taxes than at any time in my personal railroad experience in New Jersey, going back to 1929. As a matter of fact, the recent 1964 report of Jersey City's Planning Division on waterfront development apparently anticipates a sharp reduction in railroad taxes as it is indicated on page 32 of that document the expectation that during the next decade railroad owned land will decrease one-third and that the present $63 million assessment figure will be stabilized at about $40 million.

These statements clearly lead to the conclusion that responsible public officials in Hudson County recognize that exorbitant taxation of the railroads can no longer be justified.

I thank the Commission for the privilege of appearing before it and my closing statement is to urge this Commission to recognize the critical importance of substantial affirmative action being taken this year.

Thank you.

SENATOR DUMONT: Are there any questions by members of the Commission of Mr. Shoemaker? (No response.)

Mr. Miller, do you want to ask any questions?

MR. MILLER: I don't have any questions.

SENATOR DUMONT: Mr. Beck has some questions for Mr. Shoemaker.

MR. BECK: Mr. Shoemaker, you mentioned that a tax on net earnings would be far more equitable and in the public interest than the present combination of taxes. Just to orient me further, if the Commission would give you the relief that you have asked for, would you then be in a position to operate the railroad on a profitable level?

MR. SHOEMAKER: Mr. Beck, if the recommendations of the Commission were to that effect and they were adopted by the State - and I assume you mean not a tax on net earnings, as I suggested, but the recommendations with respect to elimination of Classes I and III and the cutting in half of the Class II tax.

MR. BECK: That's the first part of my question.

MR. SHOEMAKER: Yes, sir. If that were done completely, as we recommended, that in itself would not permit the Central Railroad Company of New Jersey to be in the black.

MR. BECK: Well, then --

MR. SHOEMAKER: If I may just enlarge on that a moment, sir, --

MR. BECK: Sure.

MR. SHOEMAKER: We are losing about $6 million a year on our passenger service. The State is presently alleviating that to the extent of 25%. Our payment from the State's participation in those losses was a million and a half last year.

That is another part of our problem with the State of New Jersey that has got to be alleviated. And I think that is in progress. As you know, the Appropriations Committee is considering now an additional sum of money to be appropriated for State contract payments.

I told you that I have been to the Interstate Commerce Commission for a further loan guaranty. Now the only way I can morally go to the Interstate Commerce Commission for more money is with a belief on my part that we do see daylight ahead with respect to the condition of the Company. I can't go to them if I see a bankruptcy around the corner and it's going to be an inevitable event.

It is the combination of a tax relief on the one hand and greater participation in passenger losses on the other.

The successful completion of our national case, with respect to diesel firemen in particular in the railroad industry, where we propose to take them off of yard engines and freight trains, that has been to national arbitration and is presently in the national courts. We have had two favorable affirmations of the arbitration's award which was set up as a result of a special Congressional statute last year. That will mean $1,200,000 to the Central Railroad in payroll of people that we no longer need.

It's a combination of these things together that will let us get into the black. The tax situation by itself will not do that, sir.

I apologize for the length of my answer but I --

MR. BECK: Well it indicates at least a course. I was just interested in whether, if the Commission decided to give you the relief which you ask whether that in itself would be enough to put you in the black. Of course, even if we give you the relief, it seems to me that you still need a combination of all the other factors to get you where you want to go.

MR. SHOEMAKER: You're entirely correct, sir.

MR. BECK: And then, of course, the taxation on net earnings might be an element to consider.

MR. SHOEMAKER: Correct.

MR. BECK: After the combination of all these things going in your favor. Is that correct?

MR. SHOEMAKER: It is correct, sir.

SENATOR DUMONT: Mr. Miller?

MR. MILLER: I think Mr. Shoemaker might be able to elaborate a little on how this $6.7 million a year in passenger loss is arrived at. Is this an allocated loss or is it a loss which would be completely voided if you weren't rendering any passenger service?

MR. SHOEMAKER: Our loss under I.C.C. figures for last year for the entire railroad is just over $6.5 million, between $6.5 million and $6.6 million. This is before giving any credit for the State payment of a million and a half.

Now that includes a few small amounts of operation in Pennsylvania. We have four passenger trains that operate from Phillipsburg down into Allentown. The State's loss itself is very close to an even $6 million, not by I.C.C. as such but on the basis of State audited figures. And on the basis of that being a recoverable amount of money, not on the basis of allocations for expenditures that you would have to make anyway if you had no passenger service.

You may or may not realize, Mr. Miller, that the State has been very particular, and properly so, in auditing the railroad's accounts with respect to the passenger service in connection with the loss in which the State has participated.

SENATOR DUMONT: Anything further, Mr. Miller?

MR. MILLER: No, Senator.

SENATOR DUMONT: Now, Mr. Shoemaker, how much does the Central Railroad of New Jersey receive today from the State on a contract basis, about one and a half million dollars?

MR. SHOEMAKER: About one and a half million, right.

SENATOR DUMONT: And you indicated to the I.C.C. that you thought there was a possibility this might be doubled. Is that correct?

MR. SHOEMAKER: That is correct.

SENATOR DUMONT: So you are speaking this year of about $3 million, or in the next fiscal year from the State by way of contract for services money. Is that correct?

MR. SHOEMAKER: We are actually seeking $3 million in this calendar year, Mr. Chairman.

SENATOR DUMONT: When you mention that the State's analysis of railroad taxation would reduce your tax bill by 50%, is that covered in more detail by your recommendations later on here of what you would hope would be done or recommended by this Commission?

MR. SHOEMAKER: That is covered by the three points in the general recommendations of the railroads about which Mr. Nasmith will testify in more detail, Mr. Chairman, but encompassing the discontinuance of Class I and Class III taxes, which the State retains, and the reducing of Class II taxes by approximately 50%.

SENATOR DUMONT: I would be interested in a little more full explanation of how the Class I and III taxes work to the effect that when you say two large railroads and two small railroads pay no Class I or Class III taxes at all.

MR. SHOEMAKER: The New York Central is one of the railroads that pays no taxes on Class I or Class III property.

Now under the statute they would pay $172,000 in such taxes. I'm looking at the 1963 summary of this situation as prepared by the Division of Taxation of the Department of the Treasury of the State.

SENATOR DUMONT: But they did not pay it, is that right?

MR. SHOEMAKER: They did not pay it, no, and the reason being that the New York Central's tax bill in total was so much greater than its track miles multiplied by $4,500 per track mile that under the statute the Class I and Class III taxes were washed out.

SENATOR DUMONT: How much above $4,500 a track mile does this actually average out to on the railroad even though that's supposed to be the maximum? I don't think you have that in your statement

MR. SHOEMAKER: No, I do not have it in my statement but it is something that we could readily calculate. It's something less than that and it may be in Mr. Nasmith's testimony. I'm not sure of that, sir.

SENATOR DUMONT: I see.

Now, you have endeavored to effect some

economies in the operation of the Central Railroad. Is that correct and would you mind detailing a few of those for us?

MR. SHOEMAKER: I will be glad to, Mr. Chairman.

Obviously with the service losing as much money as our passenger service loses, we have made every attempt to economize in that service and pare the service down to that which is literally essential to the traveling public.

We had cooperation from the Board of Public Utility Commissioners;more recently,since the responsibility for passenger service has been turned over to the Rail Transportation Division of the Highway Department, we have had good cooperation from that group as well. That goes to unnecessary trains, as such; it goes to unnecessary ferry boat trips between Jersey City and New York.- our ferry service being also under the jurisdiction of the Rail Transportation Division.

With respect to freight and passenger service, we have made a complete analysis of the railroad with respect to any possible piece of track we could take up - not for tax reasons because we are way beyond the possibility of $4,500 a track mile helping the Central Railroad, but to save money on maintenance of unnecessary track and in the past three years, more important than that, to use the materials to maintain a track which we are keeping in service.

Now, as an example of that, we had four tracks between Dunellen and Bound Brook; we have found that we can

can handle our service with some rearrangement of switches on three main tracks instead of four, so we have taken up a little over five miles of track and literally used the rails, the ties and the ballast for replacement purposes on other parts of the railroad.

We have taken two miles of track out of service immediately outside of Jersey City, so that we have three tracks coming into the terminal, from a main track standpoint, instead of four. That track will be lifted this year and used to maintain other parts of the railroad.

We have four tracks across Newark Bay, involving a little over a mile of distance, and we are now operating on three tracks across Newark Bay. And this spring we will be taking up the fourth track and using the rail and the ties for maintenance purposes on the railroad, thus avoiding our buying new rail and new ties on the outside.

We have economized, necessarily so, on passenger car maintenance, putting all the money that we have for that purpose into the safety features of passenger cars. The condition of the cars is not anything that we are proud of today in our railroad but we have had to put the money into more important things, the seats, the painting and what-have-you.

The Aldene Plan, which has been proposed by the State in connection with which the Legislature appropriated $3 million in December of 1962, will include an allocation for the improved painting, lighting, and seat condition and floor condition of the coaches being used in the passenger service. The number will be substantially reduced as the result of our operating into Newark instead of into Jersey City.

Those are some of the things, Mr. Chairman, that we have been doing, and at the same time we have increased our freight traffic department by 10%, feeling that if there was ever a time we needed to invest in sales effort on freight business it was right now.

SENATOR DUMONT: What is the status of the Aldene Plan right now?

MR. SHOEMAKER: The status is that we still do not have clearance to start it for two reasons. The engineering work is done; the Legislature has appropriated $3 million, as I told you, to carry out the physical track connection, the improvements in signaling and the changes in rehabilitation of equipment; but there developed, first, a year's delay because of the Port Authority's litigation involving the World Trade Center. The State quite properly said that we must not go ahead with this if there is some question of the Port Authority being able to operate, rehabilitate and add equipment to the Hudson Tubes, now called the PATH system.

That was not clarified until December. It went to the Supreme Court.

Then there has come the question of grade crossing eliminations on that portion of the Lehigh Valley, some five miles of the Lehigh Valley, over which our passenger trains will operate between Cranford, technically Aldene, and Newark. That's where it gets the name of the Aldene Plan.

There has been no appropriation of funds, as yet, for the grade crossing elimination. As a practical matter, if it is going to be done it should be done before the Aldene Plan becomes a reality because the construction of grade crossing eliminations can be carried out at a cost of some million dollars less before our trains go on the Lehigh Valley than would be the case if it were done under heavy passenger traffic.

Once that is clarified, so far as the grade crossing elimination is concerned, we are prepared to sign a five-year contract with the State in connection with the Aldene Plan if by that time the matter of improved State participation in our passenger losses has been clarified. That also is before the Legislature and, of course, involved in the additional appropriation which the Appropriations Committee is presently considering.

SENATOR DUMONT: Suppose there were no improvement so far as the contract money for services goes, would it make it necessary and are you planning to remove some passenger trains in the next year?

MR. SHOEMAKER: Mr. Chairman, if that were to prevail, if no additional money is in prospect, then we are faced with this: The Central Railroad does not have funds enough to last out this year and meet its year-end obligations. Without improved help from the State, there will be no further consideration by the Interstate

Commerce Commission to help us.

And I might add in that connection that the law under which Federal guarantees are provided expired last June and this open question of $3 million of deferred money is the last loan which the Interstate Commerce Commission has open in any way whatsoever. They will not give consideration to any additional help to us unless there is additional State help that is an accomplished reality or at least agreed upon. Without the additional passenger money we cannot meet our taxes on December 1st and our year-end obligations.

Now, if that is the picture, and it is, we have no right to not do everything that we can do to hold the railroad together, and that means this, that on May 1st, when we can legally do it under our passenger contract if this additional help is not in prospect, - on May 1st we would have to move to take off our passenger service and our ferries.

SENATOR DUMONT: Are you talking about all of your passenger --

MR. SHOEMAKER: I mean, that's not a unilateral thing for us to do, which you realize. We must go to the Public Utility Commission with respect to train service before we can go to the Interstate Commerce Commission. We would go to the Interstate Commerce Commission on ferry service and on passenger train service after the Board of Publity Utilities has considered it.

SENATOR DUMONT: Does this mean all of your passenger train service?

MR. SHOEMAKER: Yes, sir.

SENATOR DUMONT: And ferry service?

MR. SHOEMAKER: Yes, sir.

SENATOR DUMONT: This, of course, is quite a supposition but suppose the State Government were to take over most or all of the various kinds of taxes that are now being paid by the railroad on property and at the same time eliminated the contract for service money, would this put you in a better or worse position?

In other words, if you no longer had to pay property taxes of any kind, Class I, II or III, and at the same time the money that is now being paid out of the State Treasury, amounting to about $6 million a year and which has been requested to go to $8 1/2 million for the next fiscal year, were eliminated entirely, would you be able to continue to operate and to operate better than you are doing today?

MR. SHOEMAKER: Our State taxes are $3 million. Our help from the State currently is a million and a half on our passenger contract. If State taxes were eliminated by a stroke of the hand and the passenger contract were eliminated at the same time, we would be just a million and a half dollars better off than we are today.

That million and a half dollars, Mr. Chairman, is not enough to permit us to carry on a $6 million passenger loss. I have to technically correct that just a little because if we had no State taxes - our taxes charged against passenger expenses are about $700,000. Am I correct in that Mr. Brannigan?

MR. MILLER: Six seventy-two, eight twenty-three, I think is what you said.

MR. SHOEMAKER: I think that's without the allocation of some part of Class I.

MR. MILLER: That's right.

MR. SHOEMAKER: That's why I made it $700,000.

SENATOR DUMONT: So actually if you received a double amount of money from the State over what you receive today, it would just barely cover your present property taxes.

MR. SHOEMAKER: That is correct, sir.

SENATOR DUMONT: Is the Central Railroad of New Jersey contemplating any mergers at this point with any other railroad or railroads?

MR. SHOEMAKER: Mr. Chairman, we have not been approached by any railroad with respect to our being merged. We think, from the standpoint of logic that the company belongs in the C&O - B&O - Reading System. The affinity of traffic over the years has developed that as a natural gateway from the west via those routes into New York City.

There is no interest whatsoever upon the part of the C&O and B&O in talking affiliation with us in the face of our having the debt we have and in the face of our having the passenger losses that we have and the high taxes and the book loss year after year.

SENATOR DUMONT: Suppose that there were this net earnings type of tax, do you have any net earnings at the moment to be taxed?

MR. SHOEMAKER: No, sir. But I would add, Mr. Chairman, that our purpose in being in business, number one, is to serve the public and, number two, to make money. And if we can alleviate the problems that we have with respect to taxation and passenger losses I would hope that our company could again make money. And when that time comes I would have no hesitation whatsoever in proper taxation of our company as such. We are corporate citizens of the State and should not be freeloaders.

SENATOR DUMONT: Mr. Miller.

MR. MILLER: Mr. Shoemaker, am I right that if you had no passenger service at all and the present local and state taxes on railroads were set solely on your freight properties and freight business, the freight business could still be profitable?

MR. SHOEMAKER: We are still operating our passenger service?

MR. MILLER: No. If you had no passenger service, you were relieved of any obligation for any passenger service and you had no tax on passenger facilities, the present tax system applied solely to your freight business, and in that sense to property used in freight business, would not cause the freight business to operate at a loss.

MR. SHOEMAKER: If that obtained, as of right now we would be very close to a break-even point with respect to our freight operation.

MR. MILLER: That's what appears in the figures.

MR. SHOEMAKER: More than that, in a position to have some credit hopes to obtain money to do some of the modernization of freight facilities which are badly needed.

MR. MILLER: Then the logical question next: Is continued passenger service necessary in the public interest?

MR. SHOEMAKER: Mr. Miller, let me answer that two ways. From the selfish standpoint of the Central Railroad, forgetting any question of public interest but from our own selfish standpoint there is only one answer to that, we would like to be out of the passenger service as long as it is impossible to operate it on a break-even basis. But you can't make that kind of a decision in a vacuum.

The second point is, as a citizen of the State personally and as a corporate citizen with respect to my company, we firmly believe that the best interests of the State are to maintain mass transportation; that the net cost to the State of highway substitution would be far greater than taking over mass transportation entirely upon the key railroad routes where it is now provided.

MR. MILLER: In a sense, passenger service is essential whether it operates at a loss or not so far as the public is concerned.

MR. SHOEMAKER: So far as the public is concerned, it is my belief that it is highly desirable for the citizens and the industries of New Jersey.

MR. MILLER: Are there any public facilities then which would be built to attract more passengers to the rail service?

MR. SHOEMAKER: Well, one of the reasons for the Aldene Plan having been worked out by the Rail Transportation Division and ourselves was that it provides a re-routing of the Central Railroad's mainline service from Phillipsburg, High Bridge, Somerville, Plainfield, Westfield, Cranford, into Newark, the State's largest city. Newark has 75,000 people a day that live within an area of 50 miles and work in Newark. It has some 50,000 people living in Newark that work in the area of 50 miles around. As we all know, a great part of the population of New Jersey is concentrated in the 25 mile area west of Newark. We parallel Route 22, one of the most congested highways in the State.

The thinking has been that part of the justification for the State investing capital money in this change is that it would provide a new mass transportation route into Newark and thus offer transportation which would relieve the situation on Route 22.

I think that's an example of how investment might wisely be made, Mr. Miller, to achieve the purpose which your question involved.

SENATOR DUMONT: Any further questions?

(No response.)

Mr. Neeld, any questions?

MR. NEELD: No questions.

SENATOR DUMONT: Thank you very much Mr. Shoemaker.

MR. SHOEMAKER: Mr. Chairman, thank you very much for the opportunity of testifying.

SENATOR DUMONT: Mr. Biunno, you requested an opportunity to be heard this morning as you have other commitments today so suppose we put you on now.

V I N C E N T P. B I U N N O: Mr. Chairman and members of the Commission, I appear here today on behalf of the New York, Susquehanna and Western Railroad Company.

It has been 16 years since the Commission undertook a detailed study of the pattern and policy of taxation of New Jersey's rail carriers. The Third Report, published in 1948, followed closely on the heels of the 1947 Convention and Constitution, the property tax clause in which required alteration of some aspects of the 1941 Railroad Tax Law, especially since the Constitutional Convention was conscious of the fact that the tax clause would result in a substantial increase in the burden of taxation on railroads if there were not changes in the statute, and it memorialized the Governor and the Legislature to reconsider the entire railroad tax law in the interest of financial stability and efficient service of these public utilities.

It must be recognized that between the adoption of the Constitution in November of 1947 and the submission of the report on February 16, 1948, there was far too little time to undertake the kind of full reconsideration that was really needed for the long range. Nonetheless, the Commission did succeed in proposing a mechanism by which it was possible, by a transitional approach, to prevent the substantial rise in burden that was anticipated. This was scheduled for a 5-year period ending with the year 1952. Under the circumstances, this was the most that could have been expected. But the study came shortly after the World War II period, during which military demands for freight transportation combined with gasoline rationing had boosted railroad revenues and earnings to the highest level that they had reached in decades.

The 1948 Report notes an awareness of this unusual circumstance, and it considered trying to gauge the expected economic position of the railroads in the foreseeable future. But it concluded that such a projection could not then be made beyond observing that a steady rise in the ratio of operating expense to operating revenue and a diversion of traffic to other forms of transportation, made a projection unreliable.

This one element, I think, was pointed out by Mr. Miller's question to the previous witness in connection with steps that might be taken to increase the number of passengers. This is not the question and the answer to it doesn't tell you what you need to know because when you are selling below cost volume doesn't help, it might simply increase the loss. What you need to know is not the number of passengers but can you meet this question of the ratio between operating expense and revenue, and the number of passengers is not necessarily related to it. This is quite important.

What was in 1948 a prediction has since become history -- 16 years of it -- showing not only that the economic capacity of the railroads could not absorb an increase in the aggregate tax burden, but that it could not maintain the level at which the Commission then aimed.

For the year 1963, the total taxes assessed on railroads for State and local uses came to $17.2 million, and nearly $14.7 million of this was the tax on Class II property distributed for local use.

At the Tenth Report noted last year, in Table 51, the distribution of this tax revenue is extremely spotty, due to the inevitable concentration of rail yards and facilities along the west shore of the Hudson River. Consequently, it is plain that any policy recommended by this Commission must take into account the impact which a reduction in or the loss of those revenues would have on the municipalities involved as well as in the distribution of the county tax burden.

Yet, what is involved is, in most cases, manageable. The table of equalized valuations for 1963, published under chapter 86 of the Laws of 1954, shows that in most cases the Class II property assessments are a rather small fraction of the equalized valuations. In a few cases they are a considerable factor.

At the same time, it must be recognized that a change of formula or, for that matter, a complete exemption, would work unevenly in respect to the railroads affected, and without regard to either the importance of a particular line or its economic condition.

As a consequence, the deliberations of the Commission ought to be in the context of the wide variety of elements which affect the economic conditions of the rail carriers, even though it will in the end deal primarily with matters of tax policy only.

You must get all the relevant facts before undertaking to develop a tax policy in respect to the rail carriers. This was the technique developed in the natural sciences by Galileo, whose 400th anniversary was celebrated only last month. The facts must be gathered objectively and accurately. When they have been, the choice of answers will stand out sharp and clear.

What kind of facts should the Commission gather for this context? First, it ought to have a brief evolutionary review of the railroad, from the development of the steam carriage and its practical banishment from the public highways by the English Red Flag Acts so widely copied in this country, through the development of the private road and iron rails as the means to gain acceptability, and then to the practical development of the internal combustion engine and the return to the highway.

The Commission should have a summary analysis of the design, purpose and operation of federal policies, mainly executed through the Interstate Commerce Commission, including the establishment of federal loan guaranty provisions in 1958 and their abrupt demise last year.

It should have a suitable study of the peculiarities of the financial structure of railroads which have led to the practical disappearance of new equity capital, as well as of the major kinds of expense, both for operations and fixed charges, to which the revenues are applied.

It should have a careful analysis of the economic working of the passenger service contract law which uses a standardized passenger capacity car mile as the measure of compensation for service without any factor for the relative cost of the operation. This means that two identical trains will receive exactly the same compensation for a run of the same length even though one operates at a profit and the other at a loss.

It should have a study of the question whether the reduction or abolition of taxes, and the payment of service contract support are effective policies for dealing with the problem or whether they amount to no more than putting money down the drain unless accompanied by other policies that have a reasonable chance of getting the operating results back in the black.

It should examine the very perceptive report of the Assembly Committee in late 1958 or early 1959, that was prepared after the coming in of the last study by the Metropolitan Rapid Transit Commission.

It should ascertain the directions taken under the New York-New Jersey Transportation Agency Compact, as established by chapter 24 of the Laws of 1959, enacted as a consequence of the Assembly Committee report.

It should analyze the effectiveness of the use to which the revenues of the Commuter Benefits Tax Law have been applied.

It should have reviewed the provisions of the 1948 Railroad Tax Law to ascertain whether the object of bringing it into line with the letter and spirit of the new constitutional tax clause was in fact achieved in all respects.

It should analyze the relation between the assessments on Class II rail property and other real property taxed locally at local rates, before and since the establishment, in 1954, of means for estimating the extent to which aggregate local assessments reflect approximate "true value".

It should examine, especially for those municipalities deriving the major parts of the Class II tax, the analysis of business personalty assessments developed under the first study of that subject, made last year and just reported in February.

With these, and other facts that will doubtless occur to the Commission and its staff, it will be possible to turn to a meaningful consideration of tax policy.

In the public interest, a sound tax policy for the kind of problem here faced is one that will encourage the taking of steps and action by all concerned aimed at making it possible to provide needed service, to meet expenses, pay taxes and earn a fair return on invested capital. The Commission cannot hope to solve the entire problem. But what it does in the area of taxation must be compatible with what must be done, sooner or later, in the other areas. This will take keen perception, imagination and courage.

Insofar as Susquehanna is concerned, it would, like any other enterprise gladly pay a larger tax than is now levied upon it, if it were only possible to operate under conditions that would result in earnings sufficient to justify the taxes. Instead, it has been compelled by the State to pay taxes which are in dispute as to amount before the review of the tax has been completed -- a requirement not imposed upon any other person subject to real property taxation -- and to engage in wasteful litigation to establish the correctness of its position.

In the area of tax equity alone, progress has been too slow. It was on March 11, 1957 -- nearly 7 years ago and on the same day as the first Switz case was decided, that our Supreme Court, in D. L. & W. v. Neeld, denied to a railroad the same relief it granted to a real property taxpayer in the Kents case, nearly 4 years later, but which has not yet been fully applied to Class II property.

Tax cases based on discrimination are difficult and expensive in the absence of a rule like that laid down in Kents, but at the administrative level, where the bulk of the tax appeals still repose, the railroads are still denied the constitutional right commanded by the United States Supreme Court in the Hillborough Township case, decided 18 years ago in respect to New Jersey tax law. That case laid down the rule that the 14th Amendment, in establishing equality of treatment, requires that where discrimination appears the State itself must undertake to remove it, and that it may not impose upon the person discriminated against the burden of correcting it.

The point has sometimes been made that the valuations on which Class II assessments are based are obsolete, and hence that the rule of Kents cannot be applied unless the railroad first establishes, by proof, the current full true value.

The point is unsound for two reasons: first, it is the assessor's burden and duty to establish true value; in the Neeld case, the assessor said he was assessing at true value because the statute so directed; in later cases he claimed that he did not know what the true value was -- despite his certification of an amount as constituting true value -- and so, he said, he could not determine whether discrimination existed.

These statements cannot both be correct.

Second, there have been numerous wholesale revaluations of real property in many municipalities, but it is believed that in no case -- or if any, then but a few -- has the revaluation work included the Class II rail property in the same municipality, thus contaminating the whole effort with the same defect that was struck down in Baldwin v. East Orange.

Whatever else this Commission may do, it must at least direct attention to the compelling need to erase promptly this continuing inequity of treatment as between Class II real property and other real property taxed locally.

And if, in any area of its work, the Commission should find a need for information, analysis, study or other material, the Susquehanna stands ready to contribute all it can to the development of a sound solution to this important problem.

We have available, and can supply, condensed tabulations showing the extent to which Susquehanna's fixed debt was reduced at the end of 16 years of bankruptcy reorganization in 1953.

We have available, and can easily update, summaries of the annual out-of-pocket loss on passenger service, the freight earnings, and the total earnings before fixed charges.

We have tabulations of the working capital position at the end of each year.

We have analyses of the loss from passenger operations, showing that total passenger revenue comes to less than half the cost for crew wages alone.

We have condensed analyses of passenger counts from various areas, both intrastate and interstate.

These, and other like material, are available to the Commission for the asking. It need only indicate the material desired and it will be provided as promptly as possible.

SENATOR DUMONT: Any questions of Mr. Biunno?

ASSEMBLYMAN TANZMAN: Well, what is the position of the Susquehanna? Mr. Shoemaker gave us the figures on what the Central Railroad paid and what their losses were and how they came about. I thought we might have some figures from you as to what your operations might be.

MR. BIUNNO: I will give you what we have here. We don't have final 1963 figures yet. We will have them very shortly.

So far as taxes are concerned, the 1963 figures are two hundred eighty-nine plus thousands for Class I and Class III taxes. I'm sorry. Is that right? No, $56,288 for Class I and Class III combined. Franchise tax $4,000. Making a total for State use of sixty thousand, and we'll round off, three hundred dollars.

Class II taxes were $65,553. And the total of both categories $125,841.

Now, the most recent figures I have on operations and earnings are as of the end of '62. I don't believe they are much different or likely to be much different for the end of '63.

The passenger out-of-pocket loss for the year 1962 was $177,604. Freight earnings were a deficit of $56,250.

The combined earnings, before fixed charges, were a deficit of $233,854.

Working capital at the end of 1962 was a deficit of $1,173,029 after making allowance for long-term debt due within one year.

ASSEMBLYMAN TANZMAN: One other question, what are your suggestions as to the solution of this problem?

MR. BIUNNO: Well, I don't think that anybody can suggest a solution today. It's not that easy. If you will let me give you an example --

ASSEMBLYMAN TANZMAN: My point is, Mr. Shoemaker pointed out what would solve his problem.

MR. BIUNNO: Yes. I don't think taxes will solve Susquehanna's problem. That's the point I have tried to make.

A great many answers have to be developed, of which the tax policy is one, and this Commission can't do anything about the other policies, yet what it does do in the tax field should tie in, integrate, be harmonious with what is done in the other fields.

Take the Class II tax, for example. The largest single item there is the tax on waterfront property in Edgewater. Now, Edgewater is not served by the passenger run. That runs on the line through Paterson and into Lincoln Tunnel. Edgewater has no interest at all in whether Susquehanna carries passengers or not. They have an interest in the tax revenue. There is no connection between the two except the Susquehanna owns the land and pays taxes on it and runs passenger service somewhere else to sustain the loss. These are very difficult things to relate to each other. All I can say is that when you are in the red all around you've got to cut everything you can and anything you cut will help.

ASSEMBLYMAN TANZMAN: Is your assessment on the land in Edgewater higher than on similar land owned by other people in Edgewater?

MR. BIUNNO: We think it is. It's in court. Part is in court and part is in the administrative review stage.

I don't know if you know the stretch, it's a piece of land just north of the old Ford Assembly Plant. The docks are all run down and the piling is no longer useable. It suffered from dry-rot, I think they call it. It's silted in. If somebody really needed waterfront facilities, you would have to spend a lot of money to make it useable. And if you want solid land, I suppose you could find it much cheaper somewhere else and you wouldn't have to fill it in.

So, in the shape it's in, this isn't worth much. It has been put on the market for sale. The best offer that was received was at a level that would produce a value - oh, maybe 80%, no, about 70% of the assessed valuation, and that buyer didn't have any funds do the price didn't mean much. There have been some bids received quite recently which apparently do have some funds, at least their checks were tendered with the offer, and these run, roughly, one-quarter of the assessment.

Now, what this means, I don't know anymore than you do except that it doesn't look good. We could argue about what the value is, I suppose, forever, or whether it's in line with everybody else's.

ASSEMBLYMAN TANZMAN: My question was, is your assessment in line with the adjacent owners.

MR. BIUNNO: This is what's hard to say. The adjacent land is developed, in good shape, is filled in.

ASSEMBLYMAN TANZMAN: I don't know your property so I can't debate the point with you.

SENATOR DUMONT: Mr. Davis.

MR. DAVIS: You operate only a few passenger trains, don't you?

MR. BIUNNO: That's right.

MR. DAVIS: What is the gross of that passenger revenue?

MR. BIUNNO: Do you know what that is, Mr. Gilman, currently? It has been changed, you see, with the service contract made last July, the last six months of the year.

MR. DAVIS: Didn't you attempt to abandon all of your passenger business?

MR. BIUNNO: There had been proceedings, we went up to the U. S. Supreme Court on it, and then there had been new proceedings initiated before the Public Utility Commission in 1963. And then, of course, when the service contract was negotiated one of the clauses required by the statute is a covenant not only to discontinue any such proceedings but to actively resist any. So, of course, that proceeding had to be dropped at that time in order to enter into the service contract.

Are you talking of total revenue, Mr. Davis or --

MR. DAVIS: Total gross passenger.

MR. BIUNNO: Total gross passenger - well, before the service contract which altered the picture some, and we don't have figures on it --

MR. DAVIS: How much do you receive from the State on the service contract?

MR. BIUNNO: The rate is, I think, something like $22,000 a year - is it?

MR. GILMAN: No, it is now on a basis of $49,000 a year, but that is subject to the provisions of the contract which is in process. Our revenue last year was in the nature of $44,000 and our loss, as indicated, was $177,000.

SENATOR DUMONT: Excuse me, but would you identify yourself for the purpose of the record, please?

MR. GILMAN: E. H. B. Gilman, Vice President of the Susquehanna Railroad.

MR. BIUNNO: In 1962 our gross revenue from passenger service was roughly $48,000.

MR. DAVIS: You lost $178,000 after you received $49,000 from the State?

MR. BIUNNO: No, I don't have the '63 figures, Mr. Davis, which would include that. The '62 figure, which was the last full year we have figures on, - $48,000 revenue, $59,000 for maintenance of equipment, $122,000 for -- well, $106,000 for crew wages, and other miscellaneous items bringing it up to $123,000 for actual operation; general expense $25,000; total out-of-pocket $215,000 as against the $48,000. It has provided an out-of-pocket loss of $167,000 to which there is then added related taxes, payroll taxes, vacation allowance, health and welfare, of $10,600, bringing the whole operating deficit to $177,000. Now, it's from that figure that you would make the adjustment for the State compensation. It would bring down the $177,000, roughly, by whatever amount you receive.

MR. DAVIS: This $234,000 loss, is that after fixed charged?

MR. BIUNNO: No, before.

SENATOR DUMONT: Are there any further questions?

MR. MILLER: On the passenger losses again, is this due to the fact - you said that passengers only pay about half the crew wages - is this due to the fact that the cars are running much under capacity?

MR. BIUNNO: No, I don't think so. I remember being told by the former President of the Company that they had run a study which indicated rather clearly that if they had a car filled up and got more passengers they would simply run up the loss. The trouble is that the run is too short, you see, it's a very short run. And the amount of revenue you get in the light of some of the fixed expenses simply won't cover.

MR. MILLER: I can't believe that.

MR. BIUNNO: Come out and look at the books any time.

MR. MILLER: If you had more passengers in the same cars with the same fixed expense, including the crew, you would lose more money?

MR. BIUNNO: There's a limit as to how many you can put in a car and then you've got to put another car on.

MR. MILLER: Well, I grant you that and then you run up your expenses. The question is whether the cars as now operating and sustaining this loss are operating under capacity, since you get a State payment based upon a passenger capacity per car mile - you are being paid for capacity even though you carry no passengers. Now, the question is whether you do carry as many passengers as you are being paid for.

MR. BIUNNO: The State formula is one I do not understand. It doesn't pay for passengers it pays for space.

MR. MILLER: Right. Now, is this space being used?

MR. BIUNNO: If you put an extra car on, you get paid for it whether anybody rides it or not.

MR. MILLER: That's true.

MR. BIUNNO: So you put on more cars than you would run if you weren't getting paid by the State. That's perfectly obvious.

MR. MILLER: Then my question is, is the space being used.

MR. BIUNNO: No, it's not being used.

MR. MILLER: Then the losses are due to the lack of utilization of the facilities provided.

MR. BIUNNO: No, it's not because when we didn't have the car on we didn't have any demand to put a car on. There was no demand for that extra car.

MR. MILLER: And they were still underused.

MR. BIUNNO: They were used to full capacity of what was on there.

MR. MILLER: Well, are you not being paid to continue the service you had before rather than to increase it?

MR. BIUNNO: That's right.

MR. MILLER: So you are not putting anymore cars on, you are being paid not to take them off.

MR. BIUNNO: There were cars put on that were not there before.

MR. MILLER: There were?

MR. BIUNNO: And that's the run in the middle of the day which I understand got essentially no passengers at all. This makes no sense to me but that's the way the law is written.

ASSEMBLYMAN TANZMAN: At whose request were these cars put on?

MR. BIUNNO: I think the local commuter groups for some years have been insisting that if there were more runs available there would be more passengers and this was the point of experiment to find out which it is.

MR. MILLER: The chicken or the egg.

MR. BIUNNO: The total number of people is roughly something like 200, 200 people that are served by this line.

ASSEMBLYMAN TANZMAN: Is that all?

MR. BIUNNO: That's right. About 90% travel in to New York City, and the larger portion of the 200 are from Paterson and East, which area is very heavily served by other means of transportation.

I understand that in this experimental period there was some increase in passenger service but not to the extent that it would make economic sense.

MR. MILLER: In your statement you said that there are other policies - other than taxation, I take it - that would have a reasonable chance of getting operating results back in the black. I wondered whether on the basis of the Susquehanna's experience there was any public action that might be looked into to that end.

MR. BIUNNO: Well, I'm sure there is.

MR. MILLER: Do you have any suggestions?

MR. BIUNNO: I am not prepared to go into it right this minute but I would be glad to send down a memo on it if you find that of interest.

MR. MILLER: Well, the people running the business would probably have the best idea of what might be done.

SENATOR DUMONT: Mr. Biunno, you mentioned here the compelling need to erase the inequity of Class II real property tax. Now, the Susquehanna paid $65,553 in this type of tax in 1963 and you got, according to Mr. Gilman, about $49,000 in contract for services. Are you asking for more contract for service money next year?

MR. BIUNNO: I don't think there is any connection between the two, Senator.

SENATOR DUMONT: Well, are you going to ask for anymore in the next year? Are you already asking for more?

MR. BIUNNO: I have no idea. There has been a hearing held just recently and a ruling by Commissioner Palmer is expected in a matter of days, I would say. And then, depending on what his findings are, negotiations would follow. At this point we are not prepared to say what it will look like. But I don't see any connection, Senator.

If a man owns some real estate in a factory and makes some product or other, the fact that the State may buy his product and pay him for it is nothing to take into account as to whether his real property tax is fair or not. The State is buying service here.

SENATOR DUMONT: Well, I'm not saying that it is fair. What I am trying to say is that most of this money that we are paying the railroads is actually enabling them to pay their property taxes to some degree.

MR. BIUNNO: That may be true in one sense --

SENATOR DUMONT: It's not dedicated money but it's --

MR. BIUNNO: I don't know whether it is possible to generalize on it. In our case it means that we are continuing to suffer a loss that we might be better off without and be still better able to pay property taxes.

In other words, if we didn't have a State contract to continue our passenger service, even though we would still be in the red, we would be far better able to pay our property taxes than we are under this method. And I say, they have no connection. It may have been somebody's motive but I don't think they are really related.

SENATOR DUMONT: Were you Counsel to Governor Meyner at the time that this formula was devised?

MR. BIUNNO: No, I was not.

SENATOR DUMONT: The contract for service?

MR. BIUNNO: No, it was after I left.

SENATOR DUMONT: Your railroad, I take it, would like to get out of the passenger business entirely. Is that right?

MR. BIUNNO: Not in and of itself. I think they want to operate and make money. As Mr. Shoemaker said, there is no particular distaste for the passenger business if we could find the answers as to how to run it and let's say break even.

SENATOR DUMONT: Are you making any effort to pick up your passenger trade?

MR. BIUNNO: I understand there has been considerable effort in the last half year, since the service contract was made.

SENATOR DUMONT: What attempts about an economy has the Susquehanna endeavored to make, economy in operation.

MR. BIUNNO: We've cut about everything possible. Salaries have been heavily cut. They are cutting their office expenses. They have managed to get some very inexpensive office space offered to them. They simply have to, you see, because the continuing deficit creates quite a cash problem.

SENATOR DUMONT: How large is your operation? Mr. Shoemaker mentioned the number of miles of track they operate and the number of employees on their payroll, etc., how large is yours?

MR. BIUNNO: I think I will have to check that with Mr. Gilman.

MR. GILMAN: About 70 miles of track and 300 employees.

SENATOR DUMONT: Is all that track in New Jersey?

MR. GILMAN: Yes, sir.

SENATOR DUMONT: You don't happen to know off-hand what your payroll amounts to annually, do you?

MR. GILMAN: No, I don't have that. And as far as economies, we've reduced some 705 employees to 300 since 1955.

SENATOR DUMONT: Is your railroad contemplating any merger with any other railroad or railroads?

MR. GILMAN: We have applied to be merged in to the Penn - Central merger.

SENATOR DUMONT: Suppose you did not get any increase in your State money on contracts for services, beginning whenever your contract year starts, do you plan to continue your present passenger train service or were you contemplating abandoning it?

MR. GILMAN: Our present application to the Highway Department contemplates reducing from 5 passenger trains in each direction to 3 passenger trains in each direction. Naturally the compensation will adjust as between 5 and 3.

SENATOR DUMONT: And they all run between Paterson and Edgewater, is that it? Are they the two terminal points or what are the terminal points?

MR. GILMAN: No, the passenger service is between Butler and Susquehanna Transfer which is in North Bergen where the passengers are transferred into buses which take them through the Lincoln Tunnel to the Port Authority Bus Terminal.

SENATOR DUMONT: And presently there are five trains a day in each direction.

MR. GILMAN: Yes, sir.

SENATOR DUMONT: From one terminal to the other, is that right?

MR. GILMAN: Three from Butler to the Susquehanna Transfer and two from North Hawthorne to the Susquehanna Transfer, in each direction.

SENATOR DUMONT: Carrying approximately 200 passengers a day.

MR. GILMAN: From the last count we had, in the eastbound direction we carried 311 and in the westbound direction 211, this indicating a 100 increase in the six months of having had, up until February 10th, three additional trains in each direction. We doubled the service from three trains to six trains and got a 50% increase in our business, from 200 to 300.

SENATOR DUMONT: How long ago did you do that doubling? Six months ago?

MR. GILMAN: July 1st.

SENATOR DUMONT: Any other questions?

MR. BECK: Do you have any federal guarantee loans outstanding at the moment?

MR. BIUNNO: There was a loan - what was it, 1960?

MR. GILMAN: $300,000, which is being paid off, and a $550,000 loan to purchase three new locomotives.

MR. BECK: May I ask, Mr. Biunno, in your statement you have given us a number of suggestions here as to what the facts are that we should bear in mind, what we should look to in our considerations of your problem, and so on, and you have indicated that tax relief will not solve your particular problem.

MR. BIUNNO: No, I don't think it will solve the railroad problem as such.

MR. BECK: All right, the railroad problem.

Now, I would like to know, based on your experience, exactly what is your specific recommendation that this Commission can consider to assist you in your particular problem.

MR. BIUNNO: You mean as to what the policy should be?

MR. BECK: No. I'm asking you, what do you want this Commission to do. I have read your statement so I don't want you to repeat it.

MR. BIUNNO: I think you should first of all, as a minimum, direct attention to what I have pointed out as the inequity in treatment of Class II properties and other real properties taxed locally. There is a distinct difference.

I think if you check the statute you will find that there are differences in the statutory provisions in how they are handled. If you don't pay your real estate taxes on Black Acres, you are charged 7 or 8% interest. If you don't pay your Class II property tax, you are charged 12% interest. There is a difference. There is no reason for it and I don't think the Constitution permits it. It shouldn't be there. And if you don't pay your tax on Black Acres you, as owner, are not personally liable for it and can't be sued for it; the most that can be done is take Black Acres and put it up for sale and see what you can get for it. But if the railroad doesn't pay its Class II property tax on one parcel, all of its property in the State, real and personal, and all its revenues are subject to being reached for the payment of that tax. And this is a difference which should be erased.

There are many others, if you look through the statutes. So, I say, you must look at these things.

MR. BECK: Are you prepared to submit a memorandum along those lines?

MR. BIUNNO: I would be glad to.

MR. BECK: It would be a great help to us, and particularly to me. I would like to see what you consider to be the injustices and the inequities of what you have just indicated to be the policy with respect to Class II property and the policy with respect to other real property.

MR. BIUNNO: It's a very large subject and my thought was to kind of outline how big it was --

MR. BECK: I appreciate that.

MR. BIUNNO: -- and if the Commission has interest in this area or another area we would be happy to prepare material in some depth in those selected areas rather than attempt a comprehensive review.

MR. BECK: Well, what I am driving at, in addition to that, is that before Mr. Shoemaker mentioned that his specific recommendation is for the elimination of taxes on Class I and Class III properties and also Franchise Taxes and perhaps a 50% reduction in connection with taxes involving Class II property. Do you have any specific recommendations?

MR. BIUNNO: Nothing of that sort, no, not at this point.

MR. BECK: Do you have any other specific recommendations?

MR. BIUNNO: I would like to say this, that when the transcript of today's hearing is complete and I have read it I may very well have some comments along those lines. I would like to hear what the others say, too.

MR. BECK: All right. I'd be pleased, wouldn't you, Mr. Chairman, to receive that.

SENATOR DUMONT: Very much so.

Are there any other questions now of Mr. Biunno? Mr. Miller.

MR. MILLER: Vince, in your statement you refer to Kents Case and use the phrase, "but which has not yet been fully applied to Class II property." As I recall the Kents Case, it provided for the common level reference and wouldn't you predict, based upon the decision of that court there, that if there is any discrimination in the valuation of Class II property and other real property the railroads have a remedy that they did not have before?

MR. BIUNNO: Well, it hasn't been my experience yet.

MR. MILLER: Well, what would be your prediction?

MR. BIUNNO: Well, I don't know. How long? How many years? Will it still be operating when it happens?

MR. MILLER: Where does the railroad industry now stand so far as approaching equality of burden through that route, namely, an appeal?

MR. BIUNNO: Well, I don't know about any other railroad because I haven't been involved in any of the other tax cases, the only one I've handled - Kents does not apply unless you put in proof of value and in those cases where we did the proofs of value we put on was not the value that was set. So, I can't answer your question in any meaningful way.

MR. MILLER: Well, would the railroads not be prepared to put in proof of value?

MR. BIUNNO: Ours would not. It's terribly expensive, Mr. Miller. It's terribly expensive to get reliable proof of value and my position is that it's the assessor's job to get proof of value. So when he sends me a sheet which says that true value is $500,000, he ought to be held to that, prima facie, and if the local ratio is only 50% that ought to be good enough prima facie. Now I think somebody else ought to come in if he wants to say the true value is more and show that it's more.

MR. MILLER: Well, this is the problem every property owner has who wishes to show discrimination. He has the ratio which the Kents case lets him use and he has to show his own proof of value. Is the railroad any different in that respect?

MR. BIUNNO: It is, considerably different. You have pieces of land which might be 5 by 20 feet which is the tail end of an abutment holding up a bridge and they tax it as though it were something you could sell, and it isn't. It might be under water in a river running along the right-of-way. It doesn't get any attention, it is treated as though it were Black Acres, as though it were a farm or land usable for a gasoline station or what-have-you. You see, part of the problem is due to the fact that your main line is defined as being only 100 feet, physically it might be 120 feet somewhere for geographic reasons, for topographical reasons. Everything outside - you might have a cut, you might have an embankment - everything outside that 100 feet is considered Class II proberty, taxed locally. But this is a regulated utility.

MR. MILLER: These appear to be practical problems. I don't minimize that but I am asking you whether under the Kents case the railroads don't have the same standing any other property owner would have in the courts.

MR. BIUNNO: Theoretically they should but I haven't seen it administratively.

MR. MILLER: That's all. Thank you.

SENATOR DUMONT: Mr. Neeld, any questions?

MR. NEELD: No questions.

SENATOR DUMONT: My recollection is that the last time there was a revaluation of railroad property was somewhere around 1911. When Mr. Neeld was State Treasurer he recommended two or three times that the State appropriate about a half million dollars to help with such a revaluation. I don't think he got the kind of support he might have been entitled to receive from the Legislature and the Governor in those days. That's purely a recollection. Is that right, Mr. Biunno? Has there been a revaluation of railroad property in the last 50 years?

MR. BIUNNO: I have heard that. I don't know how accurate that is. I understand there are adjustments to the entries. The records begin with whatever set of books was set up along with the Public Utility Commission and there are additions to it, subtractions from it. What you have is really a mixture. I don't think you can even generalize on that.

SENATOR DUMONT: Any further questions? Thank you very much, Mr. Biunno.

MR. BIUNNO: Thank you.

A R T H U R E. S M I T H: I must explain to you gentlemen that I am not a tax expert or anything of that kind. I am merely speaking for a commuter group who wants you to know how the public feels about this in the hope that that may help.

It seems to us that it is a little beside the point to go deeply into this question of railroad taxes when the whole business is altering so much and so rapidly. Before you go too deeply into taxes, you want to know what there is to tax and then afterwards you can get to work to decide how you are going to tax it and all the rest of it.

Now I would like to read you the statement and answer your questions afterwards. I have come here chiefly to answer your questions now or later by mail if you have any later.

The problem of how to tax the railroads is of how to milk a dead cow. It were better to restore life and lactation before we try to be good ghouls. The problem is thus twofold.

Stage 1. Railroads lead a double life. They are carriers and they are also operators of private highways. They are two distinct and separate functions although they work together. They don't loss money over all on the carrying. The loss is in operating private highways in competition with public highways which are built, maintained, policed and signalled out of public funds. Our officials do not accept this fact, but they cannot disprove it. So they ignore it and pretend that it doesn't exist. But it does persist. Outside of this country every railroad in the world except one - that's the Canadian Pacific - is government owned and government operated.

Since the trouble is not political but economic, it does not respond to political cures. Government operation always brings little improvement but great loss. Without going deeply into economics, we will say that the government can rightly and properly build and maintain highways in competition with nobody; but it cannot properly engage in the business of carrying, or any other business, in competition with private enterprise. Now that remark has nothing to do with politics; it's purely academic economics.

Therefore we reject nationalization or any other form of socialization. The government should take over what are now private highways and convert them into public highways and still develop them as rail highways. This would leave the railroads with the rolling stock, depots, power houses, warehouses and all stationary assets except the permanent way. All carrying would be done by private enterprise. There would be no "foreign" lines. That's a railroad term. It means lines other than the one you are working on. This would nullify some bothersome work rules.

All this cannot be done overnight. As a start, the government should assume the costs of the permanent way, leaving any conveyancing until later. In effect, this would be a very large subsidy, but it would be only what is provided as a matter of course for all other land carriers. It would do no more than put an end to partiality and it needs only mere bookkeeping to put it into effect. But it would take money to work it and by the same principle of equal justice, this money should come from exactly the same sources as now provide the state highways, turnpikes and urban and country roads. If it doesn't, you will have to provide those roads. So you have to spend the money anyway. Management engineers can suggest what to do, but the method of doing it is for tax experts and for them only, and tax relief alone is not enough. On that I am sure you are all agreed.

Railroads are already run with the utmost economy, in fact, with too much of it. They should be run with the utmost efficiency, not by officials or semi-officials, but by railroad men, directors, executives, technicians and management engineers, etc. They must eliminate the wastes which arise from obsolete equipment, union racketeering, outmoded working methods, duplications of service, infrequent service, which causes a great deal of waste when you come to look into it, mossback management and then some. In the West the railroads just about break even as things are. With modern mentality and modern methods they can make profits. But modern methods go a lot farther than anyone has yet gone. They involve a great deal of automation, a great deal of electronic control, and we now seem to be coming into a new era. So far nuclear energy has not been usable on railroads because of the risks of escape of radio-active substances and partly because of the weight. But as I talk to you now, those problems are being overcome and some day - it may be soon; it may be late - we shall undoubtedly have nuclear power on the railroads. So when we are subsidizing and modernizing and remitting taxes and all that sort of things, that is one of the things that needs to be remembered. The whole thing is changing all the time.

Now apart from the permanent way, any subsidies that you give should be for the methods that would be used by any other moribund industry in like case. Adopt, adapt and improve on what has succeeded elsewhere. Some of you gentlemen occasionally get memoranda from us in which we report to you things which we have noted elsewhere and have succeeded and which we recommend you adopt, as and when you can. We and many others have been offering ideas along these lines. Our ideas are revolutionary. Some people think they are anarchial. But they are business. They are in the public interest and they do work. That is why they are anathema to various vested interests and their puppets. That is why officials who cannot measure the effects of what they do dare not sponsor revolutionary ideas, even when those ideas are somewhere tried and proven and you can't blame them for that. At least the ideas we offer are less revolutionary than nationalization, which is the only thing in the world that has worked after a fashion up to now.

Well, gentlemen, that is as much of your time as I would like to take in urging you to get the thing in order first and then think about taxing it afterwards.

But our thought in emphasizing this point is this: All of this tax talk has been directed to helping the railroads. But there are other people who need to be helped. Our legislators are very hard put to make ends meet and, if we can restore or revitalize any one industry so that it will earn profits which alone can yield taxes, then we are helping the government as well as the industry and both things need to be done and that is one thing that should never be forgotten.

Now we come to the second stage. Assuming that the industry is making some money and that it can pay some taxes, it doesn't greatly matter what methods are used for restoring the profits so long as the profits are restored. At the present time, I don't think anyone is really doing anything to solve the railroad problem except the railroads themselves and they are doing what they can to pull themselves up by their own bootstraps. But I am very much afraid that the various governments and official agencies and intergovernmental agencies and all the rest of them are talking a lot, studying a lot and getting nowhere. Any fool can confiscate, but unless we can tax without confiscation, there will be nothing left to tax. At the best the profits can come only from small beginnings when the earnings will be low. By that I mean, when you make changes, you can't expect much return for a little while. There is a wide gap between this yield and the vital needs of some towns whose present level of revenue is the only alternative to bankruptcy.

Some, like Jersey City, have large areas of railroad property. They depend on their property taxes to pay for police, schools, roads and all else. Their over-all taxes are already relatively high. You may not agree as to why they are high. Some of us think the government might have been better in the past. But the taxes are high now as compared with other towns and when they are already high, you can't say to a town, "Look here, you must excuse such and such a railroad of its taxes," withing doing something. So our idea is that these taxes should be replaced by a levy on transportation as a whole.

This levy need not be by the present methods which are taxes on gasoline, licenses, property and so on, although it might be. But these losses of taxes which are inevitable, if you are going to excuse the railroads their taxes, have got to come from somewhere and our idea is that the state has a responsibility to pool those losses, spread them over the whole industry and not charge them against one. It is all very well to say, "Here, you are robbing Peter to pay Paul," but Peter has been doing so well out of the state and Paul has been doing so badly that you haven't much choice in the matter. In fact, I'll say you have no choice in the matter because unless you do something of the sort, you are going to have to spend money hand over fist for roads to take road traffic which has nowhere to park when it gets to the end of the road and which is going to be unsatisfactory for travelling anyway - for some travelling, that is.

As I say, poor areas like Jersey City cannot grant huge remissions while the luckier ones grant very little. To make the adjustments, you would need a special board or council or working body or something of that kind. The cost of equating the present rail taxes fairly and justly among all forms of transportation could then be allocated by this board. But what is fair and just? We have studied this problem for a good many years - in fact, in my own case for 40 years - and we think, although we may be wrong, that taxes should be on a basis of passenger mile or ton mile. Now that is going to be hard to work out. But that is the basis of the carrier's collections. That is the basis of your earnings. And we feel that the taxes should be on that basis or on the basis of net income. It could do no more than approximate absolute justice, but it would come nearer to justice than anything we have had.

Now the mode of collection is immaterial. The one thing that matters is that in the final reckoning and working the collection must be as fair as is humanly possible to all parties. This again is not a matter for passengers, it is for experts, for tax experts, and as mentioned before, it would probably need a permanent bureau of men who know the stuff and who are working on the job all the time.

Another source of taxation in our opinion ought to be a tax on the use of interstate toll bridges and toll tunnels. "Oh," you would say, "this is all very fine, but nearly all that tax would have to be paid by one party, the Port Authority." But that is already actually the case in many towns all over the land. Over and over again you see in a small town one factory pays the biggest wallop of the tax and it is a just tax because if it is worth money to use these bridge and tunnel facilities, it is also worth money to get to them and to have access to them.

There is another angle to this and that is that a large part of the use of these facilities is by out-of-state traffic; they merely make a convenience of our state, except for paying highway tolls and they give no service within the state; that is, some of them. Some, of course, are serving people in the state. Now these facilities are owned by monopolies. They yield enormous revenues to vested interests like the Port Authority and some of these interests block rail development, regardless of cost and in every way they dare. Now that is a very serious charge to raise against the Port Authority. But if any of you gentlemen would like me to substantiate it, I can talk about it later at some other time.

Now if these parties lose revenues, it is not unfair that they should lose them because by doing so, they are repairing some of the damage which they have already done to the cause of transportation as a whole. We don't have to have their cooperation for this. If need be, we can place a toll barrier at the entrance to every one of their facilities. Our tolls added to the existing tolls would encourage the removal of some of the excess traffic from the overcrowded streets, which is a very serious problem in itself, and the tolls that we collect would help to finance alternative constructions to what is already there.

Of course, the best way to collect those tolls would be to get the Port Authority or whoever has the facility to collect it for us while they are collecting theirs.

Now let me sum up. Levy taxation without confiscation. Levy only on earnings. Subsidize only the development of earning power. Subsidize lavishly. Levy on all types of transportation on the fairest basis that can be reached which as far as we yet know is on profits per passenger mile or per ton mile.

SENATOR DUMONT: Any questions of Mr. Smith? (No response.) Thank you very much.

MR. SMITH: Thank you, sir. I didn't think I'd knocked you all as flat as all that. But anyway, thank you very much.

SENATOR DUMONT: Is there anybody else who has to get on before Noon? Mr. Taber - Tom Taber. You are Chairman of the Board of Public Transportation of Morris County.

T H O M A S T. T A B E R: Gentlemen, if I may, I will open my remarks by just saying that in my opinion the basic trouble with our New Jersey railroads today is similar to that of many other industries - insufficient volume of sales and resultant revenues to meet expenses, one of which is excessive taxation.

On behalf of the Board of Public Transportation, Morris County, I wish to express our wholehearted approval and appreciation of the Tax Policy Commission's active and sincere interest in seeking more equitable taxation of the financially hard-pressed railroads of New Jersey. We also wish to thank the Commission for permitting us to express our views on this most important matter. Public transportation is a public necessity and consequently it has become a public responsibility to insure its preservation and improvement.

Our reason for submitting a statement on railroad taxation is that we represent the oft-overlooked, and sometimes ignored, public interest in the matter - that of the residents of New Jersey who are dependent upon public transportation by rail.

You will be interested to know that this Board has no selfish or self-serving interest in the matter, and that its members serve as a civic service, without remuneration.

Taxation is recognized as being indispensible in maintaining our way of life, and consequently none should be exempt from it. Every individual and corporation should expect to pay his fair share of the tax burden in proportion to his capacity to pay. The true objective of any form of taxation should be to insure that all who are subject to it shall be taxed equally and fairly. Taxation must never be so unjustly burdensome as to be confiscatory or to impoverish the taxpayer.

Because economic and other conditions are constantly changing, methods of taxation and tax policy also must constantly undergo study and revision to correct inequities and to eliminate loopholes in the laws which have permitted those benefiting from them to avoid payment of their fair share of the tax burden.

Unquestionably, railroad taxation is one of the most important requiring review at this time and one which indicates a need for substantial revision. Since our New Jersey railroads are performing a much needed public service by hauling passengers - and they are doing so at a loss - it is contrary to simple justice, as well as to the public interest, to continue to tax them far beyond their capacity to pay, and much more heavily than is done in any other state. The mere fact that New Jersey far exceeds any other state in the burden of its railroad taxation is in itself sufficient justification for prompt remedial action in order to bring our railroad taxes down to a fair basis comparable with other states.

New Jersey is not unique in having a large amount of its railroad track mileage in yards and terminals, for a similar condition exists in the other nearby Eastern Seaboard

States, including Massachusetts, New York, Pennsylvania, Maryland, and Virginia. Consequently, there is no justice in New Jersey exacting a higher tax on such property than do the other comparable states.

The railroads in New Jersey are properly public utilities since they provide a service for the public, as do the gas, electricity, water, telephone and bus companies. However, there is one overwhelming difference - the railroads are not "protected" utilities - they have no monopoly rights in the areas where they serve as do the gas, water, electricity and telephone companies, which in addition are granted the right of using public streets for their right-of-way. Not only are the railroads denied monopoly status, but their competitors, the busses and trucks, are privileged to use rights-of-way (streets and highways) provided and maintained at public expense. Also, they may use the tax-free facilities of the Port of New York Authority, which gives them an advantage not available to the railroads.

If, in the State of New Jersey, the railroads and all of their competitors were required to operate under exactly the same set of regulations, restrictions, controls, benefits, and taxation, thus insuring equal treatment to all forms of public transportation, the State Tax Policy Commission would not have to be considering railroad taxation today.

This Board will not present financial and statistical data to be added to the mountain of such material, which, without doubt, will be presented by those having a financial interest in the matter. The figures presented by others should stand on their own feet, and will provide financial confirmation of the gross tax inequities against our New Jersey railroads which all knowledgeable people know to exist and which are morally and economically wrong.

As representatives of the taxpayers of New Jersey who use rail passenger service, we wish to state for the record that it is our considered belief that the public interest requires that excessive and unjust taxation of our railroads be ended.

Common sense, as well as simple economics, tell us that we cannot permit the New Jersey railroads to cease providing the vitally-important passenger service on which so many of our taxpayers depend, even if that is what is required to enable them to maintain their financial solvency. Conversely, we cannot expect or permit these corporations to be forced into bankruptcy because they continue to perform a deficit-producing passenger service which is required by the public. While we do not believe that excessive taxation alone will force them into bankruptcy, since many other factors are involved, including acts of omission or commission by the railroads themselves, nevertheless we are certain that excessive taxation could well provide the final push that would force them over the edge.

The fact that the State of New Jersey recognizes the necessity for the existing, and often inadequate, suburban passenger train service, by paying the railroads under contracts to maintain operation of specified trains, in no way offsets or justifies the continuance of excessive taxation of our railroads.

It is probable that if railroad taxes were lowered to the point that they were fair to all concerned, there would no longer be the same urgent need for large rail-passenger service subsidies.

When one thinks about it, it really is ridiculous to tax the railroads nearly to death, and then to turn around and pay back to them in another form just enough money to try and keep them alive until the next taxes are due.

New Jersey railroads are now taxed four ways. The corporate "Franchise Tax" does not presently amount to enough to be a serious matter, and thereby warrant action, other than a review to ascertain if it is consistent with rates levied in other states.

The "Class One" tax, which is the tax on the main line, is justified inasmuch as almost all of the other states levy a similar tax. However, it appears that the rate of tax in New Jersey is far higher than that exacted in any other state. Therefore, we urge the State Tax Policy Commission to advocate a suitable lowering of this tax to the point of the national average, or that of any group of states comparable with New Jersey.

The "Class Three" tax is assessed against personal property, such as cars, locomotives, etc., most of which are supposed to be used in the production of profits for the railroad. Since all of the intrastate passenger service in New Jersey is being operated at a loss, the railroads are being taxed on deficit-producing equipment, which is obviously unfair. This is one reason why railroads get rid of this equipment as fast as possible. It is the strong recommendation of this Board that all "Class Three" taxes on equipment, etc., used for passenger-carrying purposes, be eliminated.

The controversial "Class Two" tax applies to real estate, structures, etc., not included in the "Class One" category for taxation, with the proceeds from this tax going to the municipalities in which the property is assessed. Due to the area covered by extensive yards and terminals in Hudson County, several municipalities in that county obtain a large percentage of their tax dollars from this source. Even though these properties may be over-assessed and over-taxed at the present time, it would be economically unwise and unfair to sharply reduce or eliminate all "Class Two" taxes until some provision is made for payments to the municipalities in lieu of the tax revenues they would lose. However, this Board recommends that as a start toward more realistic, equitable, and practical taxation, "Class Two" taxes be eliminated on property and structures used in connection with passenger-carrying purposes. If there are facilities which are used jointly in passenger and freight service, the Board of Public Utility Commissioners should determine what should be allocated to passenger-carrying purposes.

The state must make up to the municipalities affected any substantial loss in tax revenue resulting from reductions in "Class Two" tax ratables. Since the object of preserving and improving rail passenger train service is to help reduce highway congestion and lessen or defer the need for new highways in urban areas, thus saving highway construction costs, perhaps the necessary funds should be supplied by the State Highway Department.

The cost of providing adequate alternative mass transport by busses on highways, if rail suburban passenger service should be sharply reduced or eliminated, would be astronomical. Existing highways could not handle the increased traffic, so many new superhighways would have to be carved through thousands of homes in built-up areas in Union, Essex, Bergen, and particularly in Hudson County since due to its geographical location along the west bank of the Hudson River, all highways must funnel into that county. In addition to the fabulous construction cost of these highways plus the cost of their subsequent maintenance, the loss in taxable ratables to the communities through which they would be constructed would be staggering.

Obviously both common sense and the public interest require us to get the maximum potential benefit that can be realized from our existing tax-paying (not tax-dollar eating) rail passenger lines. One important way to help achieve this desirable goal is to promptly put railroad taxation on a fair, equitable basis so that tax discrimination against those who are losing money in providing a vitally-important public service will be ended.

Now if I may add an item which of itself is not railroad taxation and properly should not be presented today, but it is related to it - if the States of New Jersey and New York could legally do so, a painless way of raising new revenue for use to improve public transportation facilities and services would be to levy some sort of an income tax on the tolls collected by the Port of New York Authority for use of its interstate bridges and tunnels. If the Port Authority could be charged a tax, fee, impost, etc., of only five cents for each toll per vehicle collected, it would hardly make a dent in the swelling revenues of that affluent body, but would make a very worthwhile annual contribution to the two states. The state in which the vehicle started its journey or paid its toll when collections are made at both ends should receive the tax for the toll paid.

One method of reducing congestion at the interstate tunnels and bridges during the peak rush-hour periods, eastbound from 7:30 to 9:30 A.M. and westbound from 4:30 to 6:30 P.M., and at the same time providing additional funds for the two states, which could be used for improvement of public transportation facilities and services, would be for the state to place a 50 per cent surcharge on tolls paid during those periods. This would to some extent discourage unnecessary travel during peak hours, but there would still be enough vehicles paying the surcharge to bring in a tidy sum of money to the two states. Thank you very much.

SENATOR DUMONT: Any questions of Mr. Taber?

MR. BECK: Mr. Taber, you mentioned advocating a suitable lowering of the Class-One tax more consistent with the national average. Do you happen to know what the national average is at the moment?

MR. TABER: No, sir, I do not because I didn't bring my statistics because I would imagine that perhaps the speaker for the Associated Railroads of New Jersey may have that imformation with him. I thought you gentlemen were going to have enough figures today without adding to them. But I can assure you that the New Jersey tax is a great deal higher not only than the national average, - but what I wanted to point out is that I feel that the national average is not fair. The average that you might want to consider would be that of the states which have similar and operating problems that we have in New Jersey. A state like Nebraska or Kansas where a railroad enters the state and the main stem goes right through it and out the other side is very different from your seaboard terminals. Therefore, I think it would be improper to try to compare the New Jersey situation with a state or a group of states which were dissimilar.

MR. BECK: In connection with your statement that you feel that the Class Two taxes be sharply reduced or eliminated on property and so on - you recognize the problem, of course, so far as the municipalities are concerned - do you have any specific recommendation as to how to make a municipality whole?

MR. TABER: You have the situation in New York, Mr. Beck, where the state has made up the difference or a substantial part. Now, being a realist and having been a mayor and knowing what the impact is on tax revenues, I would not advocate that we try to reach this ultimate goal all in one step. I feel quite strongly that if the Class One tax which goes to the state was comparable with comparable states, we are on firm ground; nobody can fault us much on that. The same way, I think that the Class Three taxes on passenger-carrying equipment and so on should be eliminated because they are deficit-producing actually. And my first suggestion is that on the Class Two you just consider it initially on the passenger terminals. Now that means that you have obviously a smaller amount to deal with and an amount which it would be much easier for the state from some other source to compensate these municipalities. I would be the last person to recommend that where the municipalities, the ones in Hudson county being the ones that are going to be hurt, have had this tax revenue for years --

MR. BECK: So that your suggestion is that we confine ourselves -- with specific relationship to the Class Two recommendation that you are making -- to properties and structures used in connection with passenger-carrying service.

MR. TABER: Yes, sir. I think that is the most important thing at this time.

SENATOR DUMONT: Any other questions of Mayor Taber?

MR. MILLER: I was interested in the observation that the problem of the railroads as taypayers is comparable to other taxpayers in that they don't have enough volume to meet their fixed charges. Of course, other taxpayers have a price-cost squeeze to contend with and I wonder whether in the case of the railroads, if you limit yourself to the passenger facilities and deal with the tax on them, whether you in any way approach the price-cost squeeze the railroads have been describing and in that way solve the problem at all.

MR. TABER: Merely I would say to that, Mr. Miller, we realize as a practical matter Rome wasn't built in a day though they say it was burned down in a night and that we are not going to get these tax inequities, all of them, straightened out at once. My feeling is that if we can make a start - any start that you gentlemen are able to recommend is certainly a step in the right direction and indicates that justice warrants such action.

Then as you get further into it, I know you will find what would be the fair and proper thing to do.

MR. MILLER: I was thinking of the Central Railroad figures this morning, $700,000 tax on property used for passenger service, Second Class and First Class, and Third, I guess - a $6,000,000 annual deficit. Would that be much in the way of public action to keep the Central running if you limited yourself to passenger service?

MR. TABER: Well, that is again a matter which I would defer to the railroads themselves because our concern, the point that I want to present, was that of the suburban homeowner who uses the service. It was not my thought today to take the time of you gentlemen with anything except this one subject. I didn't want to go into the matter of operations or any of the collateral subjects. Next week, I will be down to make a statement to the Appropriations Committee on the matter of the service contracts. I feel that that has nothing to do directly with what we are talking about today. I think the railroads like any other industry or like every one of us in this room - we only have one basic problem - to try to keep income ahead of outgo. If we do that, we are all very happy.

MR. MILLER: In that case would fare increases be just as logical to examine as tax decreases?

MR. TABER: I would say this, the experience with fare increases in passenger service has proven that the law of diminishing returns applies and also you are defeating the thing that you are trying to do in maintaining and the improvement of suburban and urban rail or public transport service because we certainly are not overlooking the busses in this. They perform a very useful purpose. The problem is obviously one of using the form of public transportation which best meets a particular need. Now that can be a bus just the same as it can be rail.

Now the experience has been in other states, in other areas, such as Philadelphia, that a lowering of the basic fare plus improvements in service has resulted in a much greater volume. I think again you get back to the question of volume. The family car has become such a part of the American way of life that I have neighbors who don't even walk two blocks. They take the car to go two blocks. The only way you are ever going to coax the average person who is wedded to his car to leave the car home is to provide him with an attractive, fast, reliable, public transportation service, which is going to convince him that it is to his advantage to leave the car home. Now that's an awful long-winded way of answering your question. But I think the answer does not lie in increasing fares. I think much of the answer today in the matter of improved public transport service lies in two areas: speed and convenience of service.

MR. MILLER: Under that second head wouldn't you add that convenience means that the established transportation facilities have to take the passenger where he wants to go, not where they were located fifty years ago?

MR. TABER: Now, Mr. Miller, this is one that we could talk about for a long time. Your traffic patterns change and I'll even go so far as to make a forecast that within ten years you are going to see such a face-lifting in lower Manhattan south of the Brooklyn Bridge that there will be a reversal of the trend that has been going uptown and it will come back downtown again. So who knows? In Chicago they have a very happy situation, as I think you know. The so-called loop area where the business district is has railroad terminals coming in on the perimeter and probably 75 to 80 per cent of the people who commute to Chicago walk from the railroad station to their destination, which is a most happy situation. But when you look at Manhattan Island, which is stretched out about ten miles, it wouldn't make any difference where you put your terminal in Manhattan; you could only accommodate a relatively small percentage of the people. I will say this: I feel that the transfer from relatively comfortable suburban-type railroad equipment to the crowded subway-type cars of the Hudson Tubes or anything else should be made as close to the riverfront as possible in order to shorten the passenger's inconvenience or discomfort to the minimum.

MR. MILLER: Thank you.

SENATOR DUMONT: Mayor, being practical, because you have spent a number of years as the Mayor of Madison and you have been chairman, I think, of this Board of Public Transportation ever since its creation, haven't you, in Morris County?

MR. TABER: Yes, sir.

SENATOR DUMONT: -- what do you have in mind by way of replacement, dollar for dollar, to the local municipalities for their loss of revenue in the event we recommend a change in the Class Two tax?

MR. TABER: I am thinking particularly now of Hudson County, which is where the bite would be. I would say, yes, sir, for this reason. Hudson County does not derive any business income and very little practical use from the passenger who gets off an Erie-Lackawanna train, walks through the station and gets on the ferry or the tube and goes to New York. They are not benefiting very much by that. In fact, of course, if there wasn't the river barrier and furthermore if it wasn't the barrier between two states, I think that problem would have been straightened out long ago. In fact, I think you will be amused to know that I have a beautiful woodcut from Leslie's Weekly of 1875 which shows the New York City Transit Commission in session studying new equipment and ways and means of improving public transportation in New York City in 1875. So this is nothing new.

SENATOR DUMONT: Do you think that this dollar-for-dollar replacement would have to be continued indefinitely or could be diminished from year to year, giving them time for transition to some other sources of local revenue?

MR. TABER: I would say, Senator, that that would be a stopgap or initial step because everything is changing and it may well be that as time marches on we will find a new approach to the taxation problem which would straighten that out. I think one thing, that if you could take a photograph from a helicopter up over - well, let's say, Jersey City - and when you consider the amount of area which is taken up by the approaches to the Lincoln Tunnel and you realize that that represents property which is off the tax rolls and then you imagine what that would amount to if we had two or more new tunnels under the Hudson River, vehicular tunnels, not railroad tunnels, each of which would take up at least the same amount of acreage, what that would do to Jersey City's taxable ratables, not to mention driving that highway right through a populated city. In addition to the loss of ratables, think of your problem of relocating people, human beings. You have a beautiful example, or are going to have it, when the state clears that swath for the East-West Freeway right out through Newark and out through the Oranges.

SENATOR DUMONT: Do you have any idea how much money could be raised from this suggestion you make of an income tax on the Port Authority tolls?

MR. TABER: No, sir, but it would be a very simple matter. I think you could figure that without too much trouble by taking the number of vehicles which paid tolls on the New Jersey side, that representing income to New Jersey, and then those which pay tolls on the New York side would represent income that would accrue to New York State because something as simple as five cents per toll paid - I call it an income tax, if you will --

SENATOR DUMONT: We all pay tolls on the New Jersey side, don't we, in getting in and out?

MR. TABER: I guess that is so. Well, in that case, it depends on the direction you are going who gets the toll.

SENATOR DUMONT: Any further questions? (No response.) Thank you very much, Mayor.

MR. TABER: Thank you, sir.

SENATOR DUMONT: Now is there anyone else who has to get out of here prior to our taking a recess for lunch? (No response.)

Is there anybody else who would be relatively brief, depending, of course, on our questions? Mr. Rosenblum.

L E O   R O S E N B L U M: Mr. Chairman and members of the Commission: I appear as Special Tax Counsel for the City of Jersey City and I am here to express the views of Mayor Thomas J. Whelan who is leaving the country today and is therefore unable to be present in person.

We are deeply concerned with any plan, legislative or otherwise, which would cause a dislocation in Class II railroad tax revenues in Jersey City. The reasons for such concern have been adequately expressed by this Commission in its Tenth Report, where, on page 116, the following appears; and I quote from that Report:

> It is quite evident that many municipalities rely heavily upon the receipt each year of Class II railroad taxes for the support of their budgets. The dependence in a few of the districts is so great that

> withdrawal of Class II taxes as a source of municipal revenue would clearly be disastrous. Actually, there does not appear to be any sound reason why those municipalities with large concentrations of Class II property should be called upon to subsidize the railroads, the other districts of the State, or for that matter the rest of the country, which must depend upon the terminal facilities of these major railroad systems, located in these districts. For this reason, any thought of eliminating or reducing this Class II tax definitely requires some form of replacement revenue for the districts affected.

And that's the end of the quote.

Jersey City in particular is dependent in large measure upon this source of revenue. In 1962, the total amount of Class II railroad taxes levied upon behalf of Jersey City was in excess of 7½ million dollars, which in turn represented almost 52 per cent of all Class II taxes levied for that year in the entire state. Within Jersey City itself, Class II railroad taxes accounted for 16 per cent of all of its real estate ratables. These figures dramatically demonstrate the nature and extent of our reliance upon this portion of our tax base.

In its Tenth Report this Commission recommended that Class II railroad taxes be collected for state use rather than local use, as at present. The suggestion is specifically conditioned upon provision by the state for replacement revenue in order to hold harmless those Class II taxing districts which would be affected by this drastic change in policy. The ultimate result of such a program would be to permit the legislature to determine the amount of taxes to be imposed upon the railroads and local taxing districts would no longer have a financial interest in the result.

Jersey City has at all times recognized, as has this

Commission, that railroad fiscal problems are of statewide rather than local concern, and that our local taxpayers, to whom we have a deep and continuing obligation, should not be called upon to subsidize the railroads for the exclusive benefit of suburban and rural communities whose residents require commuting facilities. While sympathizing with the problems of these commuters, the interests of simple justice dictate that necessary relief should not be had at the expense of those taxing districts in which the major railroad terminals are located.

This being so, Jersey City would not oppose legislation designed to eliminate Class II railroad taxes from the local tax base through the levy and collection of same by and for the exclusive benefit of the state, with the important qualification that Class II railroad communities be guaranteed future payments in lieu of Class II railroad taxes to hold them harmless from any possible loss of revenue. Such legislation should, of course, contain adequate safeguards to insure the affected municipalities against future invasion of this form of revenue either by legislative change or otherwise. In short, Class II railroad municipalities should receive adequate assurance for the receipt of all future income contemplated by this plan. In this connection, it is important that the legislative policy as to the future be clearly set forth,for the impairment of this source of income in later years could very well create financial chaos in many of these Class II taxing districts and in particular in Hudson County.

Now, before concluding, I would like to take the liberty to respond very briefly to some of the remarks made by Mr. Biunno in his testimony earlier, only to clear up any misunderstanding that the members of the Commission may have. You will recall that one of the basic complaints made by Mr. Biunno was due to what he termed the difference in treatment by the legislature from railroad taxation on the one hand and local taxation on the other, and he pointed out that while local taxing districts might charge a delinquent taxpayer with interest, say, running from 6 to 8 per cent, that the penalty under the statute for railroads was 1 per cent a month and that there were very stringent methods of enforcement applicable by the legislation to railroads, not applicable to local taxpayers. I merely want to observe that the legislature had a very good reason for this because it was not an entirely one-sided deal. The Railroad Tax Act further provides - and this was not mentioned by Mr. Biunno - that with respect to the Class I taxes paid by railroads, which are taxes paid upon lands located in local taxing districts and in most instances running parallel to local property which is subject to local taxation, that the statute provides for the taxation of that real estate at the fixed rate of $1.20 a hundred whereas in a taxing district such as Jersey City the rate is something like $11 and thirty-some odd cents a hundred. Now I just point that out in case there might be some misapprehension that the legislation as it is presently written grants to the municipalities, the local taxpayers, some favored treatment as distinguished from that granted to the railroads.

Now should your Commission think it advisable to solicit further suggestions with respect to some of the details which would be involved in such a transition - and I am now referring to my earlier testimony - I am sure that all of us in Hudson County who have been familiar with this problem over the years would be more than pleased to confer with you at your convenience.

SENATOR DUMONT: Questions of Mr. Rosenblum -- Mr. Davis.

MR. DAVIS: Where you state in this statement here that Jersey City would expect to be held harmless from any possible loss of revenue, will you define just what this phrase means?

MR. ROSENBLUM: Well, I would not like to get to the point today of trying to delineate my views in the form of what would ultimately be legislation. But I simply mean that if we enact legislation in the year 1964, I would expect that the "hold harmless" clause for the future would guarantee the payment to Jersey City of such revenues as it obtained in the year 1963, subject to minor adjustments for changes which, of course, the legislation itself --

MR. DAVIS: In other words, an actual dollar amount.

MR. ROSENBLUM: Dollars - I am speaking of dollars, not assessments.

ASSEMBLYMAN TANZMAN: Well, in line with Mr. Davis's question, supposing this were done ten years ago and inflation had taken place, are you suggesting an escalator clause or some other method of compensation?

MR. ROSENBLUM: I haven't come to that, but we think that in order that the revenue which would be a substitute, in effect, for taxation - that the revenue to be derived from this source should keep pace with the economic trends and the times.

ASSEMBLYMAN TANZMAN: Then you would want an escalator clause of some sort.

MR. ROSENBLUM: We would like to have some formula devised by the legislature which would adjust from time to time the in lieu payments so as to accommodate the situation as it affects local taxpayers. I am not speaking specifically. I am not making reference to the increase in the local tax rate, but some formula comparable to the cost-of-living index or something of that nature which would accommodate the changing economic times.

MR. DAVIS: Well, if it had been done two years ago, you would have been getting less this year then.

MR. ROSENBLUM: If it had been done two years ago?

MR. DAVIS: Isn't this what actually happened in the collection of taxes on railroads?

MR. ROSENBLUM: No.

MR. DAVIS: They have gone down in the last two years. Mr. Miller do you have those figures?

MR. MILLER: We have a whole tabulation over a number of years. I can give you some. In Class II railroad property in 19-- - I know it's about $17,000 now.

MR. ROSENBLUM: Well, our levy is less today than it was two years ago, our Class II levy, if that's what you mean.

MR. DAVIS: That's what I mean.

MR. ROSENBLUM: Yes, sir, it is.

MR. MILLER: The levy over a period of years has been fairly stable, between $11 and $12 million in Hudson County, if my recollection is correct.

MR. ROSENBLUM: Yes, but I would like to point out that part of the decrease in our levy in the past few years is represented by the removal from the Class II tax base and the location in the local tax base of the same property. This does not represent a loss in revenue entirely to Jersey City because there has been at least to some extent a substitute in the local tax base as a result of the property coming out of Class II.

MR. MILLER: Well, this from the viewpoint of railroad testimony seems to be a continuing trend so that if railroads continue to sell off excess properties as far as railroad use is concerned, this would be reflected in the railroad tax over the years.

MR. ROSENBLUM: That could be taken care of rather simply, I think, in the legislation.

MR. MILLER: It could?

MR. ROSENBLUM: Yes, I should think that any deletions, physical deletions, from the railroad tax base - and this is just a personal viewpoint I am giving you off the cuff more or less - but I should think that any physical delections from the tax base as it was constituted in the year of transition could be accommodated in the tax payment of the future by deducting from that in-lieu tax payment the amount of taxes derived locally as the result of the transfer, so that the sum total received by the municipality which is interested in Class II taxes would not vary. I hope you understand what I am driving at.

MR. MILLER: I understand what you are driving at.

MR. ROSENBLUM: I merely mean that if you take ten acres of railroad land out of the base in some subsequent year and that ten acres produces $5,000 a year in local taxes which it was not producing at the time that the property was in the railroad tax base, we would merely deduct that $5,000 item from the entire in-lieu payment so that we would be kept whole at all times and we would obtain no unfair advantage by reason of double taxation.

MR. MILLER: Suppose the railroads were able to pursue the remedy you offered by in re Kents and were able to get substantial evaluation reductions which would in turn have cut the property tax locally if the system remained the same. Would you make adjustments for that also?

MR. ROSENBLUM: First of all, in re Kents doesn't exactly say that. One of the cardinal principles outlined in in re Kents by the Supreme Court in my recollection is that the application of a ratio never is brought into play unless or until the full true value of the property is first determined. This is a very essential qualification. You can't apply any ratio to any value that has not been determined by either the administrative tribunal having jurisdiction or the courts and we don't know what that would be. If you have read the records on any of the railroad cases that have been tried over the past years, you will see that there is a considerable disparity betwen the testimony submitted upon behalf of the Hudson County communities and the assessments made by the Director. If the Kents Case is applicable in Hudson County or Jersey City - and we have never conceded that it is - if it were to be applied, it could only be applied against a valuation ultimately determined to be the true value of all of the property involved.

MR. MILLER: Well, let's say it was and the railroads contended that there is acreage which was assessed at $35,000 an acre when it was in railroad ownership and half that when it moved into industrial ownership - I don't know what the facts are - but if this were so and if you could establish true value based upon sales and this meant a reduction in railroad taxes, would your formula propose to reflect the same reduction in the annual payments?

MR. ROSENBLUM: Well, I would assume that if the Hudson County municipalities - and I speak only for Jersey City - were to go along with an in-lieu plan, I would assume that once the in-lieu plan became legislatively effective, that would be the end of all valuation discussion. There would be no point to it. It would be completely pointless to say we are going to have substitute payments for the present tax base and then to continue the quarrel which has gone on now to my knowledge, I suppose, for thirty or forty years, and continue it indefinitely. I should think that one of the major objectives behind such legislation in addition to giving relief to the railroads - and as I said in my statement, that is a statewide problem -- We don't quarrel with that. We think that the state should consider the problems of the railroad. But at the same time, we don't want to continue in futuro the factual issues which have caused us so much concern in the past. I should think the litigation would be over so that the valuation of the property in the future would mean nothing. We would gain nothing, on the other hand, should the evolution of circumstances as they progress in the future develop much higher values for the land. There would be no provision, as I see it, giving us any increased payment in the in-lieu. In other words, the legislature I would not think would want the municipalities and the railroads and the state as a party as well to continue this traditional problem of determining valuations of railroad lines. If you are going to give us an in-lieu payment, that's the end of it and that is the way I think it should be because it resolves many things that have troubled the public in the past.

SENATOR DUMONT: Mr. Rosenblum, you mentioned here in your statement about legislation that would contain adequate safeguards to insure the municipalities affected against any future invasion. Now, no one legislature can bind a subsequent legislature unless you have in mind a constitutional amendment. Is that what you are talking about?

MR. ROSENBLUM: No. I am fully aware of what you have in mind and I would very much like to have a constitutional amendment, but having become relatively practical over the last decade or two, I would say that such a thing is not in the offing. But strictly within the province of the legislature, I would like this legislation clearly and positively to delineate a legislative policy that it is their intention not in the future to deprive the municipalities of these funds, these in-lieu funds. I appreciate that such policy would not bind a future legislature, but I think a declaration of such policy in the bill would be quite important. I think that future legislatures might feel a moral responsibility toward these Hudson County municipalities if it were so stated.

SENATOR DUMONT: I take it you would not look with favor on any idea of starting out with 100 per cent replacement and then gradually cutting it, year after year.

MR. ROSENBLUM: I am certain, and I think at this particular point I might speak for some of the other Hudson County communities - I am certain we would vigorously object to any such procedure.

SENATOR DUMONT: You will recall in Mr. Shoemaker's statement earlier this morning, he made some quotations or referred to some quotations that were in Jersey City newspapers about your proposed downtown redevelopment and what that, I presume, is supposed to produce in the way of income for Jersey City.

MR. ROSENBLUM: I heard his testimony, yes.

SENATOR DUMONT: Is this a means of your shifting any of the revenue which you now get from the railroads to some other source of local revenue?

MR. ROSENBLUM: Senator, I would be less than frank if I told you that I knew anything about that. I have not followed that very carefully. Personally I have always been a great believer in the steam shovel rather than the newspaper headlines.

SENATOR DUMONT: This Arthur Padula who was referred to here as the developer for Jersey City, does he speak with any authority for the city when he says, "The railroads have outlived their usefulness to the city and are hard-pressed to meet their tax bill. I am sure the railroads would be glad to go"?

MR. ROSENBLUM: I know that Mr. Padula has had relationship with the city in connection with some housing plans. I feel fairly certain that he did not speak for the city with respect to railroad tax problems.

SENATOR DUMONT: Any further questions of Mr. Rosenblum? Mr. Neeld.

MR. NEELD: Mr. Rosenblum, you mentioned the probable need for an escalator clause on the "save harmless" provision for the municipalities as opposed to railroad property taxes. Then, as the discussion went on, it became obvious there were many other factors involved, not only escalator as to the present value of the dollar, but also consideration of the revaluation and the Kents Case and what not. The question is: Should it become too complicated, too involved, to attempt adjustment from year to year, would Jersey City - would it be acceptable to Jersey City that the Class II tax payment for the year of conversion be the payment for the years in the future without any adjustment?

MR. ROSENBLUM: Well, this is a rather difficult position to put me in at this moment.

MR. NEELD: I appreciate that and raise it only because of the mention of these other alternatives.

MR. ROSENBLUM: But your question is all-inclusive and I think you would agree that if the property which is the subject matter of the tax base in the year of transition ultimately is taken out of railroad use and is locally taxed - I think you would agree that while this would weigh against us, simple equity dictates that we make some adjustment for that.

MR. NEELD: I think adjustment of any kind would be very difficult for the future because there are entirely too many factors that would have to be taken into account if you were trying to boil this thing down to the precise minimum. The fact is that the Class II tax payment to Jersey City has been sliding as the valuation of Class II property has been sliding off and, if we took the actual Class II tax payment for the year of transition, it might represent probably the most equitable adjustment for the years ahead.

MR. ROSENBLUM: I don't think this is a serious obstacle on this thing. I think this is a detail that I referred to in my statement. Of course, I notice that you mentioned the tax levy and I certainly hope that, if and when the legislation takes form, the term will be "tax levy" rather than "tax collection." I think you mentioned "tax collection."

SENATOR DUMONT: Any further questions? (No response.) Then we will recess for approximately an hour until 1:45.

(Recess for Lunch.)

[AFTERNOON SESSION]

SENATOR DUMONT: I would like to note here some appearances of gentlemen that don't wish to testify, but they would like to have their appearances noted on the record: Saul A. Wolfe, Assistant Corporation Counsel, and he is appearing for the City of Newark; and on behalf of West New York, Commissioner Lawrence Havey and Counsellor Max Boxer.

Now this afternoon we will proceed to complete the Hudson County testimony, not because we are in any hurry to get them on their way, but because of the fact that they are all travelling together as I understand it.

So Mayor Charles F. Krause of Weehawken, we will be glad to hear from you at this time.

LEON S. MILMED: At the conclusion of the Mayor's statement, he and I will be available for whatever questions the Committee may have.

SENATOR DUMONT: Fine.

C H A R L E S F. K R A U S E, J R.: If it please the Committee, in its Tenth Report (1963), the Commission on page 116, pointed out that: "Actually, there does not appear to be any sound reason why those municipalities with large concentrations of Class II property should be called upon to subsidize the railroads, the other districts of the State, or for that matter the rest of the country, which must depend upon the terminal facilities of these major railroad systems, located in these districts." I am in complete accord with this very cogent analysis.

In Weehawken, as the members of this Commission are aware, I am sure, the percentage of total real estate ratables of the district comprised by state assessments of Class II railroad property is approximately 45 per cent - the largest percentage of its kind to be found in any of the municipalities of the state. The very substantial importance to any municipality with almost half of its real estate ratables in Class II property assessments of any change in legislation affecting Class II railroad property taxation is, accordingly, immediately apparent.

In light of the Commission's observation which I quoted at the outset of this statement, and with which I fully agree, I feel that any legislation which may be proposed to implement the Commission's recommendations set forth in bold type on page 117 of its Tenth Report, should contain such adequate safeguards as will fully guarantee the affected municipalities that the replacement revenue to be provided by the state will be in such amount as will, in all respects, save them harmless in the future from any possible loss of revenue as a result of the change in tax policy.

We in Weehawken want to assure the members of the Commission of our full cooperation and assistance in the development of any such legislation and thank you for this opportunity for this brief report.

SENATOR DUMONT: Any questions of Mayor Krause?

MR. DAVIS: What is your interpretation of "save harmless," Mayor?

MAYOR KRAUSE: I would say, sir, to assure the townships of the same revenue as they receive at present on the present values with not exactly, although I don't mean to directly oppose Leon Rosenblum - would be to affix the local rate to the valuations, which I understand would be frozen as well as the tax dollars.

MR. DAVIS: What has been happening in the dollars collected from railroads in Weehawken? Have they been going up or down?

MR. MILMED: Is that the dollar valuation?

MR. DAVIS: No, the taxes collected.

MR. MILMED: Taxes collected?

MR. DAVIS: From railroads.

MR. MILMED: We don't have the actual dollar amounts. They could easily be determinable from this table. For example, for the last five years - in 1960, Class II railroad valuations in Weehawken were $16,504,839; in 1961, $16,534,243; in '62, $16,349,392; in '63, $16,333,107; and in '64, $16,363,001. Our total real estate ratables ran from in 1960, $35,924,221, to this year, $37,001,483. The tax rates from 1960 to the current year - in 1960, it was $73.96 per thousand; in 1962, it was $81.47 per thousand; and in '63 - correct me, Mayor, if I am wrong on this - I think it was $88.14 or thereabouts. Our local purpose budget for 1964, as published, would reflect a decrease in the local purpose rate by about $1.20, I think it is, a thousand. So that if the county rate remains the same,- of course, the school budget will go up, I believe, by about 20 cents per thousand -- so if the county rate remains stabilized, we should have a decrease in our tax rate for the 1964 year.

SENATOR DUMONT: Excuse me for a moment. Mr. Milmed, do you want to identify yourself for the record. Everybody here knows you, I think, but --

MR. MILMED: Leon Milmed, Township Attorney for Weehawken.

MAYOR KRAUSE: -- upon whom, I lean very heavily, gentlemen, for all these figures.

MR. MILMED: I believe in tax dollars, probably we have --

MR. DAVIS: Tax dollars must have gone up, but the percentage of total tax collection has gone down.

MR. MILMED: I'm sorry. I didn't hear that.

MR. DAVIS: The tax dollars have gone up, but the percentage of the total tax collections of the town that come from the railroads must have gone down.

MR. MILLER: It was about $950,000 ten years ago; it's about $1,300,000 currently.

MR. DAVIS: Thank you.

SENATOR DUMONT: Any further questions?

MR. MILMED: The tax collection in 1957, according to the chart that Bill Miller just gave me, was $1,022,076.11. That was for 1957. In 1958, it was $1,069,138.99. I guess we don't have any subsequent figures.

SENATOR DUMONT: Are there any further questions of Mayor Krause?

[Discussion off the Record.]

MR. DAVIS: What would your attitude be if an additional toll,such as was suggested here this morning, were put on the tolls at the Lincoln Tunnel - in other words, that the tolls at the Lincoln Tunnel became 55 cents? What would the attitude of Weehawhen be?

MAYOR KRAUSE: If Weehawken were to receive a benefit from it?

MR. DAVIS: Well, that at least, as a substitute - in other words, you wouldn't suffer in taxes received. But you have a lot of people who are commuting through the tunnel probably.

MR. MILMED: I didn't get the suggestion this morning that we have an additional five-cent toll. I thought the suggestion was that we have fifty cents collected, but only forty-five cents going to the Port Authority and the other five cents going to the state.

MR. DAVIS: Well, that I am sure you would be in favor of. But let's assume that the five cents were added to the toll.

MR. MILMED: I don't think we in Weehawken should at this point anyway - we haven't thought it out - take a position on increasing the tolls for the Lincoln and Holland Tunnels. I think probably over the years if we look back, we would probably find some statements by the Township of Weekawken, along with some of the other communities, opposing any increase in tolls, in fact, asking for a decrease in tolls.

SENATOR DUMONT: Apparently, it is a bit of a constitutional problem if you were to try to tax those tolls. So the point is whether the tolls could be increased and, I imagine, the reaction of the public would be swift and hard regarding any such thing. While the suggestion this morning was an interesting one, it runs right into constitutional difficulties that are not easy to overcome.

MR. MILMED: Some of these additional safeguards Commissioner Davis asked the Mayor about might be tying in the duration of the legislation to the payment of the replacement revenues to the municipality, such as was suggested several years ago. I think Dr. Miller is familiar with the suggestions that were made - I think it was in 1957 with respect to the Turnpike legislation or the legislation to tap some of the excess funds of the Turnpike for some state uses.

SENATOR DUMONT: Mayor, I can't blame you at all for being in favor of dollar-for-dollar replacement. But then, I take it, you would be opposed to any decrease in that replacement over a period of years. Or do you think there are other kinds of revenue that you could extract from things that may not have been fully developed in Weehawken, if there is any that hasn't been fully developed - additional parking areas or anything of that kind - from which you might get additional local revenue that could possibly take up the slack in the event that the dollar-for-dollar replacement were to be diminished on a transitional basis?

MAYOR KRAUSE: No, I don't think there could possibly be, Senator.

SENATOR DUMONT: It would have to be continuous in your opinion?

MAYOR KRAUSE: It would have to be continuous. There is no land in Weekawken to take up. There are two lots in

Weekawhen, I know, at the present time, very safely guarded by their owners.

SENATOR DUMONT: Then you don't know of any untapped sources of revenue that you haven't already tapped locally?

MAYOR KRAUSE: That is true.

SENATOR DUMONT: All right. Any other questions of Mayor Krause? [No response.]

Thank you very much, Mayor.

MAYOR KRAUSE: Thank you.

SENATOR DUMONT: Thank you, Mr. Milmed.

Herbert Fine, Tax Counsel for Hoboken.

H E R B E R T   F I N E: I am sorry, gentlemen, but I do not have a prepared copy of my statements. Perhaps it is safer that way, but I don't have one anyway.

I have been requested to appear here on behalf of the City of Hoboken by Mayor John J. Grogan, who is not able to be here.

I think it is common knowledge that for many years the cities of Jersey City, Hoboken and Weehawken have been engaged in a common effort to protect the ratables, commonly known as Class II ratables, from the onslaught of endless - what appears to be endless - litigation by the railroads. So I don't think there should be any secret about the fact that tax counsel for these three municipalities have consulted with each other prior to our testimony here today and we are in basic agreement.

But for the record, I agree with the position that has been expressed on behalf of the cities of Weehawken and Jersey City, but also for the record, in the light of some of the remarks that have been made in regard to the issue of discrimination, with which we have had some connection, I think that our position should be evaluated in the light of the background of the railroad taxpayer and placed in its proper perspective. I think we should all realize that under the present applicable law the railroads are already in a favored position in comparison to other taxpayers. The present tax was designed and constructed to arrive at a specific figure, a specific tax-dollar figure, which would be produced by the taxation of railroad property. I don't have the exact figure here, but it is somewhere in the neighborhood of $18,000,000. What I am getting at is that the present tax act was designed and constructed and shaped and formed with that objective in view and I don't think that any other class taxpayer in the state can make that statement. This is why under applicable law, under present law, the railroad property is assessed in three classes, only one of which, the Class II tax, in which we are all interested, the railroads are required to pay at the same rate as other taxpayers. In the other classes, Classes I and III, they are in a highly-favored position already by reason of the fact that the law prescribes $1.20 a hundred as the fixed rate by which these assessments are to be translated into tax dollars. And I think it should be stated, although I don't make any particular point and I don't wish to be considered as being in an adversary position here today, although I have been in the past on a number of occasions together with other tax counsel - but I think it should be stated that as a result of the construction of the act in its present posture, as a result of a study that was made, I believe, by the Railroad Tax Bureau itself and, I think, is on file with that Bureau, approximately some sixty odd per cent of all of the railroad assessments it has been calculated is at the favorable rate and only forty per cent is at the rate at which other taxpayers are required to pay taxes in the state.

In addition to this, the railroads under applicable law are guaranteed a fixed maximum tax for major railroads of $4500 a mile. Then by virtue of this, they get credits. If it exceeds its maximum, they get credits first against Class III, then against Class I and then against their franchise tax picture, which is why some of the railroads don't pay any franchise tax.

Now what has happened over the years is that the railroads have been content, of course, with their Classes I and III posture because they get a clear preference there in comparison with other taxpayers. But they have been concentrating on their Class II taxes, which is the only class of tax upon which they are treated on the same basis with other taxpayers. The point is that the Class II communities as a result of this have had to bear the burden of this particular onslaught of railroad litigation.

Now our position is not that we oppose what the Commission has recommended - we do not oppose it; basically we are in favor of it. But I think we should all realize now that the railroads have been and are now in already a preferred position in comparison with other taxpayers.

But our position is that if in recognition of their fiscal position and of the service that must continue and which they furnish, it is the position of this Committee that further preferences be accorded to the railroads, then the Class II communities, that is to say, the communities in which the bulk of the Class II property is located, should not bear the burden simply because we happen to be where the terminals are. As Mr. Rosenblum stated, this is not a Hudson County problem - this is a statewide problem.

Therefore, if by reason of these considerations some further preference is to be granted, then we are in accord with the expressions in the Tenth Report which have already been quoted at length, one of them on page 116 of the Report, that "there does not appear to be any sound reason why those municipalities," referring to the Hudson County municipalities, "with large concentrations of Class II property should be called upon to subsidize the railroads, the other districts of the State, or for that matter the rest of the country, which must depend upon the terminal facilities of these major railroad systems, located in these districts."

We are also in accord with the statement made on page 117 that in the event of a change in the tax policy - that is to say, in the event that any further consideration be given to the railroads beyond that which has already been given them -

the state provide replacement revenue for the municipalities to save them harmless as the result of this change in tax policy. I would hope that such legislation would have the added effect of eliminating this burdensome and endless litigation in which we have been engaged over the past number of years.

To sum up our situation as far as I am concerned in relation to the City of Hoboken, we will be content, if whatever new legislation is proposed provides what we consider to be effective guaranties to save us harmless from any loss in our tax-revenue position. We have a substantial stake. The matter is of extreme importance to all of the Class II municipalities. The positions of the City of Jersey City and Weehawken have already been expressed. So far as Hoboken is concerned, it relies upon these ratables to the tune of in excess of $1,100,000 a year in cash, which represents a substantial part of our total tax dollars. The matter is of such importance that I am certain that all tax counsel, including myself, of all the Class II municipalities would be glad to assist in the construction of the legislation. I think that we have such a great stake in it that I - and I am sure the other tax counsel - would like to have some part in it at the initial level before the matter gets, shall we say, out of hand or in hand or whatever. I think that just about concludes what I have to say in this regard and I thank you very much for the opportunity of being heard here today.

SENATOR DUMONT: Any questions of Mr. Fine?

MR. MILLER: Mr. Chairman, I don't know since tax counsel have been so cooperative whether they could help us on this point: If you take the Class II railroad property out of the tax ratables of these three municipalities - you have gotten most of the Class II railroad property in Hudson County - I wonder whether in the apportionment of county taxes they want to give some weight to the in-lieu payments they are going to receive, if they do, or whether they want to forget the whole thing and apportion --

MR. FINE: No, I would agree that some weight would have to be given to that.

MR. MILLER: Well, I don't know whether Mayor Krause would agree.

MR. MILMED: No comment.

MAYOR KRAUSE: No comment, on advice of counsel.

MR. MILLER: They are divided on this issue, I take it.

MR. FINE: I think that can be covered at some later point. I don't think from the standpoint of our present posture, since we are all in basic agreement, that any great service is provided by demonstrating the matters upon which we may be in disagreement. I think all our interests would best be served by leaving the matter as it stands now.

SENATOR DUMONT: Any other questions? [No response.] I take it, Mr. Fine, that you would, of course, be in accord with your colleagues here who want to maintain on a permanent basis any dollar-for-dollar replacement that would be made for loss of these revenues?

MR. FINE: Well, I would say basically I am in agreement with my colleagues on this point. And in line with what

I just now said, I don't think I need to reveal some of the small crevices that may have appeared in our previous discussions.

SENATOR DUMONT: Anything else?

Thank you very much, Mr. Fine.

Augustus Nasmith, Vice Chairman and General Counsel, Associated Railroads of New Jersey.

A U G U S T U S   N A S M I T H: Mr. Chairman and members of the Commission: At the outset, I should state that in 1962 when we appeared before the Commission, the Association consisted of ten railroads and we at the present time do not represent the Susquehanna Railroad for internal reasons and I make this preface note because unfortunately at a later time, I must disagree with Mr. Biunno on certain contentions that he made here.

Our main objective today is to meet the test of SJR 12 and establish that a substantial reduction in taxes is indeed warranted by the economic status of the railroads operating within New Jersey. In addition, we would like to offer some other suggestions for your consideration.

In this statement we shall briefly discuss:

1. Our endorsement of the Tenth Report of this Commission.

2. Our economic status.

3. Our self-help efforts to reduce taxes.

4. Comparison with other states.

5. A program for relief.

As to the Tenth Report, we support the recommended change in tax policy to provide that all railroad taxes be for State use and that the State provide some form of replacement revenue for municipalities.

This solution recognizes that the railroad tax problem is a statewide problem; that our tax-paying capacity cannot be measured by real property holdings in local municipalities because, like farmers, we derive low earnings per acre from their use; and that we should not be subject to local pressures for increases in tax rates nor to annual litigation seeking to raise our valuations.

This solution also recognizes, on the other hand, that our large terminal areas are necessary to maintain the entire railroad system which is to the economic benefit of the State as a whole. Accordingly, replacement revenue to these municipalities is warranted just as restoration of the Jersey Shore to preserve our valuable resort industry was obviously in the public interest of all citizens.

Finally, this change in tax policy will permit us to cooperate as partners with municipalities in seeking industrial development and mutual growth, rather than as adversaries where in the fight to retain existing railroad revenues they have set high valuation barriers which are an obstacle to new ratables for them and increased freight revenues for us.

If I may at this point, I would like to interpolate from the written statement and suggest that the recommended change in tax policy suggested by the Commission in its Tenth

Report does attempt to solve the railroad tax problem. This problem can be solved within itself. I don't think that further studies are required as to the history of changes in the transportation industry nor in other factors, but that if we can consider the tax problem on its on, realizing that it will not solve all railroad problems, but also realizing that this is one of our major problems, and if we can proceed ahead to solve this one major problem, the other problems can be tackled either concurrently or progressively after we have solved this problem. And this is the point at which I must disagree with Mr. Biunno for whom I have the utmost respect. This problem, the tax problem, is broader than changing in assessment practices or changing in the penalty interest rate from 12 per cent down, let's say, to 8 per cent.

The problem simply resolves itself as to whether we can afford as an industry to continue paying the present load. As one specific example - and as I will mention later - because of lack of cash the Erie-Lackawanna Railroad on December 2nd, 1963, did not pay and was forced to withhold $2,000,000 of taxes due. They are now paying interest at the rate of 1 per cent per month or 12 per cent per year. Well, on an annual basis that amounts to $24,000. If the statute were amended to reduce it to 8 per cent, they would now be paying at the rate of $16,000. They would have a net gain of $8,000.

We are not here talking about questions of $8,000 or questions of that lesser magnitude; we are talking about major problems that require, we believe, major and substantial long-range reductions in our taxes and also require immediate substantial relief.

Obviously we, I am sure, would advocate a change in that statute. But what I am trying to say is that at this present time the question is not of minor changes in either statutory procedures, penalty interests, assessing practices or anything else. We believe the time is here for a major reconsideration of the problem based upon the change in policy recommended by the Commission in its Tenth Report, namely, a substantial change in tax policy and we hope to demonstrate with substantial tax relief to the railroads.

If I may digress further, Mr. Fine and I have been adversaries - Mr. Rosenblum and I have been adversaries - in tax litigation in which the railroads attempted to achieve tax relief through judicial process and through an effort to establish on our part as plaintiffs discrimination. I think Mr. Rosenblum has overcome this past history of being an adversary. Perhaps Mr. Fine and I have some difficulties in changing so rapidly. So I am going to, if I may, interject just one thing on the question of railroad valuations.

As the Chairman stated, and correctly in one context, there has not been a general, specific, mile-by-mile revaluation of railroad property since the initial one in 1911. On the other hand, it is our contention, and properly so, I believe, that railroad properties are examined annually by the Division of Taxation and, more specifically, that in the last three or four years, the appropriate bureau has actually revalued on its own railroad properties in most of the major districts, taxing districts, in the state - I would say at least 25 - and I am sure that this has occurred in Newark, - pardon me - Camden, Atlantic City, Perth Amboy and other areas. And if the Commission would care to have us submit a list, we would be glad to do it.

Now if I can forget my own past history as an adversary, the question is not one of revaluation. The net effect of revaluation can either be (1) an increase in our valuations, which we cannot stand, or (2) a decrease, which if it extends too far will have serious impacts on the municipalities, particularly those in Hudson County from whom you have heard this afternoon. So we believe in the Tenth Report, the Commission has indicated the solution to the over-all problem, has correctly established the basis for solving it, and we think that the other questions are of not sufficient magnitude to be of any help at the present critical condition in our existence.

Now I get back to what I call the meat, which are the economic facts, which will certainly be of more importance to this Commission than any arguments or any presentations.

We presented a study of our Post World War II economic condition to the Commission in 1962. It appears at pages 9 through 37 of Volume IV of the transcript of the hearings. That statement covered the 15-year period from 1946 through 1960, including some data for 1961. We have not revised the study, but we would like to supplement it, and we have brought the major appendices up to date.

We said that New Jersey railroads were in worse financial condition then than they were in the great depression of 1932 and the severe recession of 1937. Unfortunately, that is still the case.

Although composite system net deficits have improved from the $64 million depths of 1961, they were $45 million in 1962 and $22 million in 1963, as compared to a $12 million deficit in 1932 and a composite net income of $33 million in 1937. We refer you, please, to Appendix "A".

Earnings for the two largest roads did improve sharply in the final quarter of 1963 so that Pennsylvania went into the black by $9 million and the New York Central by $7 million. What of the smaller roads?

Jersey Central and Erie-Lackawanna, major commuter lines, had staggering deficits of about $7½ and $6 million and $16½ and $17 million, respectively, in each of the past two years. The large losses for Lehigh Valley, Susquehanna and Pennsylvania-Reading Seashore Line have continued, and Reading Railroad, which used to be a profitable railroad, now has a three-year trend of substantial red-ink figures.

Losses from suburban and commuter passenger service affect our tax-paying ability as you have heard earlier today. The total deficit from providing this service from 1960 through 1963 was $82.16 million, while the State paid the participating railroads under contract a total of $21 million, leaving a net deficit of $61.16 million. Parenthetically, if Commissioner Palmer appears before you this afternoon, I presume that he may discuss this very same problem, and he will certainly rely on his figures.

Meanwhile these same railroads were assessed a total of $55.2 million in New Jersey taxes during those four years.

Financial condition of the smaller roads remains critical, and more so than in 1962 because their "cash" position has further deteriorated.

Working capital of $25 million at the end of 1960 reversed to a $21 million deficit in 1961, a $54 million deficit in 1962 and a $64 million deficit at 1963 year end. This is set forth in Appendix "B".

As previously mentioned, because the cupboard was bare, on December 2, 1963 Erie-Lackawanna was forced to withhold payment of $2 million of the amount of taxes due, and as of today after making four, I believe, partial payments, two of which came out of land sale, they still owe $1,249,000.

As you now know, Federal legislation authorizing the Interstate Commerce Commission to guarantee loans to railroads expired on June 30, 1963.

In our previous statement to the Commission, we referred to guarantees to New Jersey railroads that had been approved, totalling $48,723,000. Subsequently, Lehigh Valley obtained another $3,500,000 guaranty in 1963 and Susquehanna one for $550,000 in 1962. And you heard earlier today reference to the initial Susquehanna loan guaranty of $300,000, I believe. You have also heard from Mr. Shoemaker as to the Jersey Central's application for loan guaranty.

Erie-Lackawanna strenuously fought for a further

$15 million guaranty, later scaled down to $5 million, in an application filed before the expiration of the act, but was refused. And as a consequence it could not pay its taxes last December.

So some of our railroads have thus come to the end of the line for capital and for funds to replenish working capital. Their "cash" position is truly critical.

In our earlier report we indicated the number of employees and our payrolls. Our work force has continued to decline, down to 17,784 employees in 1962 and a $118 million payroll.

We pointed out in our 1962 statement that New Jersey tax payments over the 15-year period then discussed have exceeded New Jersey earnings by almost $300,000,000. The imbalance continues.

Then we emphasized the fact that for the period 1946-1960 aggregate taxes paid New Jersey exceeded aggregate system net income for four of our railroads. Now, if we update this information to include the last three years, since World War II aggregate taxes paid New Jersey have exceeded aggregate system net income for the following six railroads: Jersey Central, Erie-Lackawanna, Lehigh Valley, New Jersey and New York, Pennsylvania-Reading Seashore Line, and the Susquehanna.

We have continued our self-help efforts to reduce taxes. We have continued to contract our trackage and property holdings, as recommended in the Third Report.

Since 1961 we have taken another 205 track miles out of operation and we have disposed of an additional 588 acres of Class II land. These specific figures are set forth in appendices "F" and "G".

Thus, since 1946 we have disposed of 2,225 acres of Class II land, more than a 20 per cent reduction.

Comparison with tax burden in other states - We believe the basic question really before the Commission is "How much in taxes can the railroads pay?" Nevertheless, the Commission in 1948 also thought it important to compare the tax burden in New Jersey with that in other states.

Accordingly, we have prepared an exhibit (Appendix "J") which shows that on a track-mile basis - and this fully reflects the greater density of track in terminal yards - our New Jersey tax load is over three times the national average. The national rate in 1962 was $1,007 per track mile. In New Jersey we paid at the rate of $3,415 per track mile.

I might interpolate that in the past there have been comparisons made on a road-mile basis which would compare a mile of railroad in the Kansas wheat fields and a mile of railroad in New Jersey terminal area, without any consideration of the number of tracks within that road mile. There has been criticism of that comparison in the past and, therefore, we have used the track-mile basis, which would reflect the density of a terminal road-mile in Hudson County which might include 20 tracks within it and thus we think this is a fair comparison.

Interjecting again, Mr. Taber indicated that I might have some statistics as to comparison of Class I taxes per mile or per track mile with certain states on the eastern seaboard. These states have a different taxing system. I cannot give you any such comparison at the moment. On the other hand, if the Commission should desire a comparison based on the total state taxes paid within those states to their track miles within those states, I would be happy to produce it. But we cannot do it on a Class I tax basis because some of these states do not tax in that fashion.

The Commission might also consider what other states with similar railroad problems have done to provide tax relief. New York in 1959 enacted legislation to provide its railroads with an annual $15 million tax reduction, with grants-in-aid to local municipalities of half the amount by which their revenues decreased. I believe Mr. Taber referred to this provision earlier. That same year Connecticut completely eliminated all state retained taxes upon railroad property and earnings, which was its counterpart to our Class I and III taxes.

A program for relief - We suggested an 8-point program to the Commission in 1962 (reported at page 112 in the Tenth Report) but as the result of the recommended change in tax policy of the Commission in that report, only two of them need be urged today:

(1) Reduction of Class II taxes from the current level (1963) of $14.7 million down to $7.5 million.

(2) Elimination of Class I and III taxes totalling, again in 1963, $2.4 million.

We certainly continue to support the proposition that all passenger facilities should be exempt from tax because they do not provide a profit, but are maintained only as a public service. However, this program will be achieved by the proposed reduction in Class II and elimination of Class I and III taxes. Moreover, the estimated maximum reduction of $3.5 million from exemption of all passenger facilities would not provide us with the relief that we feel is necessary.

Parenthetically, we might state after listening to some of the earlier discussion that we believe the Commission may well consider the fact that railroads are vital to the economy of this state for their freight services as well as their passenger services and that this whole subject should not be considered merely in the context of the immediate relationship to passenger service and passenger deficits.

Accordingly, we fully endorse the Commission's apparent determination to solve the entire Class II tax problem in one package - a problem that has plagued this state for almost 100 years.

We believe our economic status fully warrants a 50 per cent reduction in present Class II burden down to $7.5 million, approximately what we paid for the use of municipalities in 1946, which was a high-earning, post World War II year. This would bring us much closer to the national average tax load per track mile.

We have a committee working on a formula to achieve this result, using a property base combined with an earnings factor. Again interpolating, this would result in a variable tax rate to be applied uniformly throughout the state. This study should be completed shortly and we request your permission to submit it directly to the Staff Director.

We ask for elimination of the Class I tax on our privately-built and privately-maintained "main stem" which supports both freight and passenger service, and of the Class III tax on personal property, which includes passenger equipment.

The state retains these revenues and therefore you have no replacement problem, which in 1963 amounted to approximately $1,650,000 from Class I and $700,000 for Class III, for a total of $2.36 million.

In conclusion, the solution of the Class II railroad tax problem will be a milestone in this state. The change in tax policy recommended by the Commission will require replacement revenue of $7.3 million if municipalities are to be saved harmless. The adoption of a new tax source is, of course, a matter for the Legislature. However, we are confident that the Legislature will give the Commission's final recommendations careful consideration because of the specific request that the final blueprint be drafted.

In the meantime, we earnestly request the Commission to give attention to our request that Class I and III taxes be eliminated - a subject not covered in the Tenth Report and also a problem of lesser magnitude not requiring replacement revenues - so that legislation might be immediately drafted.

The condition of some of our railroads is so critical - and you have heard that today specifically concerning one of them - that substantial tax relief in 1964, we feel, is a necessity. Thank you, Mr. Chairman.

SENATOR DUMONT: Any questions now of Mr. Nasmith?

MR. MILLER: I notice Mr. Nasmith refers to relief in 1964. If my memory doesn't fail me, the railroad tax has already become a lien for 1964 and I wonder whether it would be legally possible to do anything before 1965.

MR. NASMITH: It is my understanding that the assessment of Class I and Class III taxes takes place on or before April 10th of each year and, therefore, with respect to this particular emergency-type relief that we are seeking, I believe there is time for legislation to accomplish whatever might be recommended by this Commission before April 10th.

MR. MILLER: I don't remember the act as well as you do, but I think the April 10th is the striking of the amount due, but the act is retroactive with liens to January 1st, just as it is in ordinary property taxation. I may be wrong. In any event, there isn't very much time.

SENATOR DUMONT: We have the head of the Division of Taxation here. Mr. Kingsley, what is your recollection of that?

MR. KINGSLEY: I am just talking off the top of my head, but I rather think that what we have here is a determination of valuation by March 10th and then that in turn is certified to the County Tax Board and the County Tax Board then determines the tax by applying the local rate.

MR. MILLER: Not on Class I.

MR. KINGSLEY: On the Class I - well, the same thing - we determine the valuations by March 10th.

SENATOR DUMONT: That is in Class I and III.

MR. KINGSLEY: I don't recognize the April 10, do you, Earle?

MR. BARNES: By April 10th is the date which the County Board certifies the local tax rates to the Bureau, technically on April 1st, and by April 10 we are supposed to apply those rates to the Class II property and certify the taxes. So the taxes really are determined when those rates are applied. We don't always get them at that time, but that is the statutory date.

MR. MILLER: That's not the lien date. The lien date, I think, is January 1st or thereabouts.

MR. KINGSLEY: Excuse me. That April 10 would still not apply to the Class I and III taxes, would it?

MR. BARNES: Yes, we determine them on those dates too.

MR. KINGSLEY: Then that doesn't enter into the local tax rate is what I meant to say.

MR. BARNES: No.

MR. KINGSLEY: I don't know if there is any answer to that.

MR. MILLER: There is an answer, but we don't know it.

MR. NASMITH: If I might, Mr. Chairman, I would be glad to submit a memorandum. But I did look up the statute, particularly with respect to Class I and III.

SENATOR DUMONT: And you think the date is April 10th.

MR. NASMITH: I believe the final assessing date is April 10th. And as to those taxes, the revenue of which is retained by the state, I do not believe that they affect local municipal rates in any way nor are the amounts of those assessments reported to local municipalities. We do have a different situation with respect to Class II property, the revenue of which is allocated back to the municipalities and those reports or final assessments must be certified on March 15th under my recollection. I am emphasizing this because I believe as to Class I and III the final assessments are not made until April 10th and that if emergency legislation could be enacted before that date, it would be in accordance with any constitutional problems and in accordance with the statutory law.

SENATOR DUMONT: Well, if they don't affect the local tax rate even after those taxes were collected, there probably would be no prohibition against legislation that would require the state to return them for a particular year, or would there be?

MR. MILLER: There would.

SENATOR DUMONT: There would.

MR. NASMITH: I would have to concede there would be problems if the relief was achieved after April 10.

SENATOR DUMONT: Just a practical problem of getting something back, right?

MR. MILLER: Well, a constitutional prohibition against grants to or for any private corporation.

SENATOR DUMONT: O.K. Any other questions of Mr. Nasmith? Mr. Beck.

MR. BECK: In your statement I don't recall hearing anything about the franchise tax. What is your recommendation as to that?

MR. NASMITH: Our recommendation at the present time is that we should pay some franchise tax for the privilege of operating within the State of New Jersey. We perhaps, looking forward hopefully into the future of twenty years from now, might like to suggest to the staff the possibility of some amendment. But our basic position is that we should pay some franchise tax for the privilege of operating within the state and also from a practical standpoint, bearing in mind that the State Assessing Bureau requires some financial support to maintain itself.

MR. BECK: I just wanted to ascertain your position on that because I didn't recall at all that it was in your statement.

Mr. Chairman, may I ask another question at this point?

SENATOR DUMONT: Go right ahead.

MR. BECK: In your statement you mentioned that earnings for the two largest railroads did improve sharply in the final quarter of 1963, that the Pennsylvania went into the black by $9,000,000 and the New York Central by $7,000,000. Would you indicate to us what the reasons for that sharp increase in profits were in view of the fact that the other railroads seem to be going further and further in the reverse direction?

MR. NASMITH: In my opinion the basic reasons for their improvement were two - improvement in freight revenue, and, secondarily, the achievement of results from some of their efforts to curtail expenses. And if I might add, both of those railroads operate in a large number of states. For example, I do know that the Pennsylvania operates in 13 states. They have a greater percentage of long-haul freight volume than the other railroads that represent this Association and that, I believe, helps to account for the difference in their financial results. Of course, as to the New York Central, they do not have the New Jersey passenger loss problem that some of the other railroads have also.

SENATOR DUMONT: You mentioned that other states use different systems of taxation. Would you mind outlining one or two of those?

MR. NASMITH: I wouldn't mind, but I am not competent today. For example, we referred to Connecticut. Instead of a Class I tax as such based on main stem, they had a property tax base on roadway, but the definition of "main stem" was differentand they had it combined with an earnings factor. Beyond that, I am unfortunately not prepared to give you an accurate description of the taxes in these other states. We could develop it and submit it.

SENATOR DUMONT: Suppose the base were changed to something like net earnings. Are any of the railroads operating in New Jersey deriving any net earnings at the moment?

MR. NASMITH: The Pennsylvania and the New York Central.

SENATOR DUMONT: Just those two.

MR. DAVIS: In New Jersey or are you talking systemwise?

MR. NASMITH: Systemwise.

MR. DAVIS: How about in New Jersey?

MR. NASMITH: Within New Jersey I am not sure if those two are. I'd have to check it out.

MR. MILLER: According to your figures, there is an income - Appendix "A".

MR. NASMITH: Appendix "A" is system. I would have to translate that down to track miles.

MR. MILLER: You could just allocate it by track miles, couldn't you?

MR. NASMITH: I should say that the formula we are trying to work up to submit, if we may, is not related solely to earnings or net earnings, but includes within the context of the Tenth Report a property base and an earnings factor on the theory that if we reduced property in a taxing district or increased property in a taxing district, that should be reflected in the revenue computed for that district or the credit given to it either plus or minus in the proposed replacement revenues through state aid.

SENATOR DUMONT: You mentioned here that what you are looking for in relief in Class II tax is a cut to about 50 per cent of where it is today, which would require $7.3

million of replacement money to municipalities. Suppose that this were done on Class II tax and suppose at the same time that the state decided to eliminate the contract-for-services money in order to have funds to make up the replacement to the municipalities. What would the reaction of the railroads be to that type of action and could you continue to maintain passenger service if you just got a tax reduction at the same time that the contract-services money was eliminated?

MR. NASMITH: I think the ultimate answer would be that we could not continue to maintain passenger service.

SENATOR DUMONT: So that the tax reduction is only part of it. You still feel that the railroads would require money from the state on a contract basis if passenger service is to be maintained.

MR. NASMITH: Yes, sir.

SENATOR DUMONT: Do you know whether or not New York State had any municipalities that are quite in the same situation as municipalities in Hudson County when they granted grants-in-aid of half the amount by which their revenues were decreased or don't they have the same type of tax that we do - Class II?

MR. NASMITH: I would assume that it was roughly comparable to Class II. To answer your question specifically, I believe that Buffalo - I can't remember the county in which Buffalo is located --

SENATOR DUMONT: Erie, isn't it? Erie County.

MR. NASMITH: I believe they have terminal properties comparable roughly to those on the Hudson River, theirs being both inland and on the Great Lakes, and that they absorbed some tax reduction. As a matter of fact, I believe at the present time they are making some complaint about the amount that they had to absorb.

SENATOR DUMONT: Did this legislation in New York State, do you know, provide for fifty cents, I take it, on the dollar replacement on a permanent basis or did it decrease it each year?

MR. NASMITH: No, sir, it was on a permanent basis but with the intention, which has been achieved, of providing a $15 million reduction in the total tax bill, which at the time of the act was roughly $45,000,000. But this reduction was to be achieved over a three-year period and the three-year period has now run out and the act is now effective on a permanent basis.

SENATOR DUMONT: Then it was to cut them from forty-five to thirty million dollars in increments of five million dollars a year. Is that approximately right? Five million the first year; then ten, and then fifteen.

MR. NASMITH: Yes. There was a gentleman from the New York Central Railroad here who is familiar with this and he will correct me if I am wrong, I am sure.

SENATOR DUMONT: Is he here?

MR. BASSINGER: This is substantially correct, that the relief was designed to be $15 million when the law became fully effective and in order to lessen the immediate effect of it, it became effective in three steps of roughly $5 million the first year, $10 million the second and $15 million the third.

SENATOR DUMONT: Would you identify yourself, sir?

MR. BASSINGER: D. P. Bassinger, General Property Tax Manager, New York Central Railroad.

SENATOR DUMONT: Do you know whether some of these municipalities in New York State were in the same situation as those in Hudson County that you heard testify today?

MR. BASSINGER: As Mr. Nasmith said, I think that Buffalo probably is the most nearly comparable. I think, however, that there were noocommunities in New York State that had such a heavy concentration of railroad property as the Hudson County communities that have been mentioned here today.

SENATOR DUMONT: And they received one-half of their replacement and then had to look for other local sources of revenue to make up the difference?

MR. BASSINGER: That is correct.

SENATOR DUMONT: Are they back at the Legislature now trying to get the other half?

MR. BASSINGER: Well, they are very unhappy with the additional tax burden that they feel they have had to bear.

SENATOR DUMONT: But they are living with it; is that correct?

MR. BASSINGER: Most communities are living with it without the unhappiness that you might expect there to be, but I have to admit that Buffalo has made a little more noise recently than other communities, probably because they are more heavily affected than most communities.

SENATOR DUMONT: The Senate Majority Leader is from there too, isn't he?

MR. BASSINGER: That's right, but I don't think that any significance can be attributed to that since he seems to be fairly satisfied with the equity of the railroad tax relief legislation that was enacted.

SENATOR DUMONT: Thank you very much, sir.

Are there any further questions of Mr. Nasmith? Mr. Kerney.

MR. KERNEY: Do I understand, Mr. Nasmith, that you suggested this Commission should recommend to the Legislature for enactment by April 10 of this year the elimination of the Class I and Class III taxes?

MR. NASMITH: Yes, sir, if possible.

MR. KERNEY: Well, I can't speak for the Legislature, but they have never enacted any of our recommendations quite that speedily.

MR. MILLER: On the same point, Mr. Chairman, the statute does say the lien takes effect as of the first day of the year on which the tax is payable, which would be January 1, 1964.

SENATOR DUMONT: There is no doubt but that this bill would involve a fiscal note.

MR. MILLER: No doubt.

SENATOR DUMONT: Any further questions of Mr. Nasmith? [No response.] Thank you very much.

[The Appendices referred to by Mr. Nasmith can be found beginning on page 183 of this transcript.]

SENATOR DUMONT: I will call Commissioner Palmer, please.

Commissioner, do you have copies of a written statement or anything there?

D W I G H T R. G. P A L M E R: I have copies of a presentation which I will be delighted to leave with you but I'm afraid it's not very much of a contribution to your problem. Nevertheless, factually there's a lot of material here but I'm not going to burden you with reading it. But I do have copies.

I wanted to comment on some of the approaches that have been made by the public carriers recently in connection with their needs, but I appreciate that you gentlemen are engaged primarily in the tax situation. Along with the request of the carriers plurally comes a suggestion that the subsidies be tripled over what they are at the present time. At the present time they are approximately six million dollars.

Neither a cancellation of all taxes nor a tripling of the subsidy would solve the railroad problem. The broad horizon is the benefit accruing to the State by a continuity of service, the development of its industry, taking care of its people, and the subsidy program we have had operating for two or three years has just been a mere palliative. It has been formalized on a per mile basis so that the carrier that supplies the greatest amount of service receives the greatest return.

In the case of the Lackawanna Railroad, the return represents about 65 per cent of their passenger losses in the State. In the case of the Central Railroad of New Jersey, it only represents some place between 25 and 28 per cent. In the case of the Pennsylvania Railroad it represents more of a percentage than the Central Railroad but we have that carrier with other opportunities so that its condition of distress is not comparable by any means to that of either the Lackawanna or the Central Railroad.

The railroads over the years, and long before I was in the picture, have complained about the taxes, and New Jersey is the highest taxer in the country. We must realize that we have a greater concentration , as the gentleman from the New York Central cited, of railroad services in our counties here in New Jersey than probably any other place in the country, and the occupancy of the proportion of the land is pretty dominant in the community. And those communities - for instance, the Town of Weehawkin depends upon its railroad taxes up to something like 42 per cent, I believe, of its total budget, and each year, in recent years, with the Lackawanna not being able to pay its taxes, and the Susquehanna, and the risk of the Central not paying theirs, we have been brought into the picture with a meeting of the Mayors of the several communities concerned about not having money for their budgets, and we have met with the Treasurer and other members of the administration, and it has ended up by very frequently the Rail Division's swapping checks along about December 1st, of their subsidy check with a check from the railroads of the equivalent amount to pay against their taxes, which isn't a very constructive or satisfactory long-range policy to be pursued.

This last year the Lackawanna Railroad's taxes were four and a half million dollars. They only had two and a half million to pay; they didn't have the cash in the till. The net result was that in my several conversations with Mr. White, who was the Chief Executive Officer, I had what I felt was his assurance that this money would be fully forthcoming by the first week in April in pieces of probably half a million dollars each month.

I was called before the Mayor's Committee and the Treasurer's Office and they were all concerned - I think Hoboken itself was to be the recipient of about nine hundred and eighty thousand dollars and they didn't know what they were going to do. I committed myself. Although I had no commitment from the railroads, I committed myself because of my feeling of assurance that I had that we would deliver this money by the first week of April, in total. They all went back happy. We had the tax people there and the Treasurer, and so forth and so on.

Now, the whole approach to the railroad situation which comes into the picture with these mergers that are under discussion, and so forth, must be for the State to have concern with the inclusion of all of these carriers that we are dependent upon in this over-all merger picture, not just for the Pennsylvania or the New York Central alone, but to insure that the Erie-Lackawanna become engaged in the Norfolk and Western, the Nickel Plate and the Wabash combination, that the Central Railroad of New Jersey be considered in connection with the B & O setup, and that the State be able to maintain its services to industry and to employment, and to insure that there be no differentials in crossing the rivers, and so forth, that would bar traffic and passengers from clearing about as they are clearing at the present time.

We have this Aldene Plan for the Central Railroad of New Jersey that we expect to be successful that would represent to the Central Railroad a saving of about a million and a half a year. The Central Railroad, however, wants their taxes cut, they want their subsidy raised, and in my opinion for you gentlemen, if I may presume to say so, I feel that this tax situation with the railroads is only one bite of the cherry. I think it's only part of the program. The Governor has appointed a Transportation Committee consisting of Mr. Metzger and Mr. Troast and Mr. Wood which is supposed to embrace all classes of transportation and if they take time to do it the immediate situation is that the Central Railroad is about to go down the drain and the Erie-Lackawanna is just in a tough spot, and although Mr. White is optimistic that they may be able to work themselves out of their difficulty by 1965, if this merger situation is not given consideration to them, they could fold up as well. When I hear, therefore, of forgiveness of taxes, whether it's 50 per cent or 100 per cent - for example, the tax situation for 1963, for the Pennsy is five million three thirty-seven; for the Jersey Central it's three million and ninety-eight; for the Erie-Lackawanna it's four and a half million; for the Susquehanna it's a hundred and twenty-five thousand. Now, if you give back the taxes it still doesn't solve the question, and I do not believe that this thing ought to be handled piecemeal - at least that's the experience we have had.

I have here a report of the condition of each one of the carriers - what they are up against, what their proposals are, and there are a number of charts attached to this which I wish to leave with you. But in the over-all, just to handle taxes alone isn't the answer and will not solve the carrier situation. And if I have a bleeding finger and one Band-Aid on it, to put three Band-Aids is not the answer. I have got to find out what the cause is, and I say, therefore, that although we appreciate very much the consolidated railroads' effort to triple their subsidy I don't think it's the answer.

I have here a report of 1962 recommending how much money ought to be spent and made available for new equipment and for refurbishing the stations, and so forth, and it's all spelled out in detail, but that, gentlemen, is about my point of view.

I'll be glad to answer any questions if I can.

SENATOR DUMONT: Are there any questions of Commissioner Palmer?

ASSEMBLYMAN TANZMAN: What do you think is the solution, Commissioner? You say that a piecemeal solution is not the solution.

COMMISSIONER PALMER: I think that the solution is this: We in this report that I am leaving here cited that there would be eighty-five million required for new equipment and, in addition to that, there would be another, oh, say, forty million dollars required, broken down between the Pennsy, the Jersey Central, and the Erie-Lackawanna for various conversions of main line installations, new equipment, stations, etc. The missing ingredient is money, and it's money to the tune of a hundred and twenty-five million dollars.

Now, we hear a great deal about the benefits that are going to accrue to the various states from this transit situation in Washington but it has not materialized and, judging from some of the reports, it is not headed very much in a constructive direction. We were visited some months ago by Mr. Richard Dilworth who spoke to the Governor, and I had the privilege of being with him at the time, about the complex all the way from Boston to Washington, and that they were going to have ready by October of this year for the late President Kennedy a complete report on how to handle the transit complex. In the middle of that situation, Mr. Perry Shoemaker, who was beginning to get close to biting the dust financially, appealed to the Interstate Commerce Commission for a loan of five million dollars. He already had one of fifteen. He was turned down. He talked to the Governor and talked to me about it, and I agreed to go down to Washington with him. I sat with the Commissioners of the Interstate Commerce Commission and as a result of our visit, Mr. Shoemaker's and mine, we were able to get two million dollars with more or less assurances - and you can put quotation marks around that - that if New Jersey came along with its Aldine Plan and some assistance for the Central Railroad they might come up with guaranteeing the balance of the five million, or three million. At the time I was there, I directed my remarks particularly to the then President Kennedy's own appointee from Massachusetts, pointing out that since Mr. Dilworth was planning this great program, and it was expected to be a great accomplishment by October of this year, in the event that the administration or the ICC allowed the Lackawanna and the Central Railroad to go down the drain in the interim it would throw so much ashes on the slide of accomplishment that it would be a dud when the plan came, and he was very much impressed with that. He had only been on the board a short time, so he was not oriented to the prohibitions. Mr. Bush, one of the Commissioners, spoke up and said, "Well, Mr. Palmer, we agree with your point of view, and so forth and so on, but you know we have certain restrictions on us by Congress," and I said, "Well, I've lived an existence always where I had restrictions on me and I still have, but when I become convinced of something that I'm satisfied is worth while I then go to my chief and tell him what the conditions are," and I said, "I think it's you gentlemen's obligation to go to the President if necessary." And so we left and subsequently we got the two million dollars and Mr. Shoemaker hasn't given up hope of getting the balance.

So this whole situation gets into a national picture and a composition in our state of a consolidation of the movement of people and of goods by rail - everything but shank's mare, if you will, everything but the shoe industry, and it's vitally important that it be looked at in the over-all and that we not just do a carpenter's job but a real architect's job.

That's whatever experience I might have had; that's my point of view.

MR. KERNEY: We have been given a specific chore with reference to the tax problems of the railroads and the way they depend upon the state's and municipality's financing. Of course, we don't operate in a vacuum and we are conscious of the rest of these problems. What would your suggestions be as to what the State Tax Policy Commission might recommend in this context in which we have to operate.

COMMISSIONER PALMER: Well, the Commission had recommended, as I recall it, that the State assume the obligations not only of the collection of taxes but of conveyance of the taxes or the equivalent of what the taxes are to the municipalities. That, of course, would immediately spell a responsibility for the State of making up whatever deficiencies the railroads fell down on. That obviously gets out of our sphere of responsibility.

In so far as what the Tax Commission - what might be advisable as a suggestion, I again go back to my premise that I think regardless of what the Tax Commission does with the railroad taxes as such, it isn't the answer to the railroads' prayer or to the state's responsibility. It's a broader question and if you forgave them all the taxes or half of the taxes, it's still just a palliative.

Now, as to what to do about taxes in the over-all, I have been out of the sphere of financial responsibility for some years and I wouldn't presume to suggest to you gentlemen who are conversant with those situations as to what should be the steps, but I just do point out that don't think dealing with the railroad tax alone you are going to get to first base.

ASSEMBLYMAN TANZMAN: Commissioner, this $125,000,000 in new equipment, conversion, etc. - how is this going to help solve the problem?

COMMISSIONER PALMER: Well, I would say this, that in the first place all of the equipment is thirty years older; for instance, the ferries are falling down at the present time and I forget - I have the names of the individual ferries but there were 83 plates out of 126 on one ferry that have gone sour, so that if the railroads were to continue as is, the Central Railroad and the Lackawanna would have to invest in new ferries, and ferries are out of vogue, to begin with, at least in the metropolitan areas. In addition to that, people don't want to ride in cars that are late and are out of condition and are bumpy and dirty, and so forth. The Pennsylvania Railroad have been buying a number of new cars, air conditioned cars, and have been boosting things immeasurably and have set aside six million dollars for cleaning up their stations and painting the benches, etc., but they have other sources of income.

These other railroads have none at all and they have allowed their stations to decay so there is no appeal to the customers to get back on the carriers except in times of strain, so that all this capital construction would put them in condition where they would be modernized, if you will, and then the question is, will the public patronize them.

ASSEMBLYMAN TANZMAN: I was trying to lead up to that point, because in some of the testimony this morning the point was made that no matter what you do you wouldn't boost or if you did boost the number of passengers you wouldn't solve the problem of the revenues. Now, this is in contradiction of what your point is.

COMMISSIONER PALMER: I beg your pardon. I'm not saying that sufficient customers will come back to compensate for all of this, but I am saying that you can't get the customers to come back at all if you can't maintain safe service with the present equipment and facilities that we have, and these roads, if they do not have this kind of assistance, are going to go into bankruptcy - one of them immediately and the other one the day after tomorrow.

Now, we have no assurance that the public will come back to the public carriers; for instance, there have been discussions as to whether it wouldn't be desirable to have a monorail. Well, we all are pretty familiar with that - that the monorail would probably cost five or six hundred million to install; it would immediately wash down the drain the securities of the insurance companies, the banks and the institutions, and so forth, that have those securities now, and furthermore they only go about 40 miles an hour and if they go any faster they turn milk into cream or butter, so that it wouldn't get any place, and they have no provision for turn-arounds. So that isn't the answer. And the question is, do we still want to keep the railroads? Are the railroads necessary? In the State Highway Department six million dollars represents one mile of an interstate highway in our State, so we look upon the railroads as great allies. There are 256 passenger trips a day in our State and if those passenger trips were to be dumped on the highways, it would mean we neither have the money nor the time nor the area to take care of them. So even though we are not saying that this is the answer to prayer, it is the nearest answer to maintaining the arteries which the State has to decide whether it wants them or not.

I am not talking about employment alone; I am talking about industries on the Central Railroad. There are something like 120,000 employees in plants that are along the Central Railroad. They all have Central Railroad service, not just passenger service but freight service. If we close down, it goes back. We talk about the commuters; it's quite true that the commuters might move into New York with their jobs. If they do, we will have mortgages foreclosed; we will have little businesses fold up, and property values go down. So this is not an element of speculation all the way through. It's an element of necessity. Now, whether in the end the State or some other agency is going to have to maintain the carriers in their state or in the country is a question for some other over-all decision to be made, but my point again is that it can't be with these individual agencies. Therefore, with all the sincerity that you gentlemen have in the tax situation, the tax situation is not the sole answer to the railroad situation. It won't get to first base. It will be only one bite of the cherry.

SENATOR DUMONT: Mr. Davis?

MR. DAVIS: Commissioner, how soon is the Troast Commission supposed to come up with an answer?

COMMISSIONER PALMER: They are meeting with us, Mr. Davis, on the 25th of this month, and they are employing or have employed an Executive Secretary, or whatever they see fit to term him, to discuss the matter. Their approach to the situation - I expect to spend, having already deluged you with some of my words trying to get down to the facts - I expect to spend a couple of days with them at least and supply them with a great deal of material, and they've got to bring into the picture where the competition may be with highways. Some people say that every time you build a highway, you're taking business away from the railroad. Well, our contribution of the six million dollars came out of the Highway budget originally, and we were delighted to do it. We couldn't get it any other way because we couldn't catch up with the parade, so we did relieve the congestion materially by doing that, but how effective the commuting will be will depend upon how rapidly they can move and what their horizon will be, but I think it's got to be a very broad horizon, and I would suggest, if you see fit to recommend to them, instead of talking about highways first or talking about airplanes, that they focus upon the rail situation because that is the thing that is nearest going down the drain.

As far as highways are concerned, we are getting 90 per cent of the interstate money from the federal government, 50 per cent from the other roads, so that we are not devoid of money. But these railroads haven't enough to buy a sandwich, some of them.

SENATOR DUMONT: Mr. Walker?

MR. WALKER: Commissioner, I have had trouble with the approach you take. I recognize that it is a problem that is difficult, but if we follow your suggestion and do nothing about taxes, it amounts to saying, "Why give the individual oxygen? He's going to die anyway." Now, doesn't oxygen help sometimes to hold the fellow together until the doctor can find what's to be done about him?

Mayor Taber tells us that he saw a woodcut, or he has a woodcut, of the nineteenth century where they were working on the railroad problem, and I know that they've been working on it for years and the attitude seems to be - and I'm sure you're not a member of this group - that we'll take care of it soon if the railroads are around to have it taken care of.

COMMISSIONER PALMER: Well, sir, since you brought Mayor Taber and his woodcut into the picture, I might say that as far as the oxygen tent is concerned, it's all right if you don't light a cigarette while you're in it. That's been done recently, to the detriment of the occupant. I am not saying and there is no point at all in saying that you shouldn't do anything or you should do anything, but I am saying to you that there is no point in kidding ourselves - using the language of the Highway Department, if you will - that the relief of taxes is the answer to prayer at all, and also the recipients as I have listed here would be that the Pennsylvania Railroad would get $5,300,000, the Jersey Central would get $3,000,000, the Erie-Lackawanna would get four and a half, and the Susquehanna would get a hundred and twenty-five. When you forgive things you usually have some sense of proportion as to what it's going to accomplish, and that's the question. With those differentials of what the recipients will get, it's conceivable from what I have read here that the recipient of the greatest amount, although it needs it very much, is the one least likely to go down the drain. And so why do you forgive taxes, for what purpose?

MR. WALKER: Commissioner, as I understood your figures, the help which is given to the railroads in New Jersey under the program in your department amounted to 65 per cent of the passenger loss of the D L & W Railroad. Now, if we were to forgive the taxes for the D L & W Railroad, might it not improve the 65 per cent to 70 or 80 per cent of its passenger loss?

COMMISSIONER PALMER: I would say this: Their loss averaged about, I think it was - I can't tell you exactly; I have it in here, but the Erie-Lackawanna would be one railroad, but with the Central Railroad it wouldn't bring them back to life.

MR. WALKER: I know, but the Lackawanna Railroad says apparently the D L & W does more for its passengers or commuters in the State of New Jersey than any other railroad.

COMMISSIONER PALMER: That is correct.

MR. WALKER: So if there is a public need for passenger or commuter - shall I say "service" - then the D L & W is furnishing the most service of any of the railroads in the State and even if we only saved that, wouldn't it be a contribution in the public interest?

COMMISSIONER PALMER: I would say this, sir, that you can't pick out one carrier and consider it a public service to the community. In any procedure that is followed here, the need has got to be considered and when you take money out of your pocket and lay it on the table for some one particular company, you can't ignore the situation of the others.

We are interested in total in the railroad fabric state and while we realize that our main objective first is to keep people from going into bankruptcy, the first step, if you will, in picking out the railroads would be the Central Railroad of New Jersey which is the worst off.

The Lackawanna would be No. 2, and the Susquehanna would be No. 3, and then we would step into the other carriers but I do not believe, Mr. Walker, that to forgive the taxes of the Lackawanna Railroad - although I am very fond of Mr. White and the work that they've done - would be the answer from the stature of your Tax Committee.

MR. WALKER: I was directing myself to the public interest as distinguished from the railroad. You are talking about the needs of the Central Railroad. I'm not talking about the needs of the Central Railroad; I'm talking about the public service to those who us e the commuter service.

COMMISSIONER PALMER: Let me say this, Mr. Walker, that I have no interest in the railroads as private industry. I have only an interest in my view, sir, which is entirely to the service to the State, and I think I have made that plain over a period of time and even currently today, but to pick out one particular carrier and do something for him and ignore the others, in my opinion is not the answer. And I also say that to just forgive the taxes in the over-all is not the answer to the railroad problem and this State faces up not alone to the Lackawanna, which I do some commuting on occasionally or did for years, but it is to the entire state's economy and the state's point of view as to how its tax situation should be handled in respect to the maintenance of service to the entire State and not to just a particular part which is served by the Lackawanna.

No one has greater admiration for Mr. White, who has succeeded to a very onerous responsibility, than I have. I keep in intimate touch with him and talk to him a couple of times a week, and I have great sympathy for their needs but in my personal opinion the tax situation, if it is going to be tackled from the railroad end, we have got to have the rain fall alike on the just and the unjust. I am delighted to have you ask those questions though, because as a rule I just have to sit and talk to myself -

SENATOR DUMONT: Well, Commissioner, suppose - now, you say, and Mr. Shoemaker indicated the same thing today, that if the Jersey Central doesn't get some help soon they are facing bankruptcy. The Erie-Lackawanna might go along the same lines before too long. Even though tax relief is not the sole answer to it, isn't it possible it might be of some help to them in order to keep them going for the people of the State until such time as a more complete answer is found?

COMMISSIONER PALMER: Yes, sir, if you could at the same time look ahead and have some interest on the part of the other channels of assistance then it could be part of a package but to have this be the end result, the answer is no.

SENATOR DUMONT: Mr. Miller, go ahead.

MR. MILLER: Isn't this true of subsidies as well? I think you made the point at the start.

COMMISSIONER PALMER: No question about it - the subsidy is just a palliative, that's all, in order to maintain the service.

MR. MILLER: But the State nevertheless has a subsidy program and looks to increasing it for the same general purpose apparently that tax relief might have.

COMMISSIONER PALMER: It looks to increasing it, sir, to what extent? Are you speaking now of what the consolidated railroads wish to have, or what we are considering?

MR. MILLER: I would assume what thus far is state policy and without regard to the proposal to increase it.

COMMISSIONER PALMER: Thus far, the State policy has been using a yardstick on a per-car-mile basis on all of them, which as pointed out to Mr. Walker has resulted in about 65 per cent of their passenger losses, and the Central Railroad about 25 or 28 per cent. The request of the Division now for more money is not for the purpose of giving more money to the Lackawanna or the Pennsylvania or some of the other carriers; it's to obtain a sufficient sum to keep the Central Railroad from going down the drain, and we are submitting legislation which will give some flexibility to the Rail Division in its distribution of funds that will permit that. At the present time the present legislation gives us no leeway whatsoever. We've got to do it all on a per-car-mile basis. The main line at the moment is to save the Central Railroad of New Jersey and, as Senator Dumont has pointed out, the Lackawanna might be allowed a corner, although there is some optimism there which doesn't exist with the Central Railroad.

The tax forgiveness for the Central Railroad I do not believe would be any more proper than Mr. Walker's question in respect to the Lackawanna Railroad, and again I say basically that although it would be helpful and a palliative, and for any of us to have an extra piece of change in our pocket is a nice thing, but unless this approach has long-range consideration as to what is to be done and is part of a program, I don't think it's the answer.

MR. MILLER: Taking the present program which pays on a per-car-mile basis, and it has been doing so for I guess four years, has it not?

COMMISSIONER PALMER: About three.

MR. MILLER: Do you have any way of matching the passenger miles over the past three years?

COMMISSIONER PALMER: Three? Yes.

MR. MILLER: Do you have the figures so that we could-

COMMISSIONER PALMER: Well, I could supply them to you readily. We have them on tap, of course. All the compensation is predicated on those.

MR. MILLER: Well, this would be car miles without regard to usage, but what I am thinking about - has the passenger miles declined or increased over the past four or five years?

COMMISSIONER PALMER: They have not increased.

MR. MILLER: Isn't there some suggestion that they have declined?

COMMISSIONER PALMER: It isn't a suggestion, unless there may have been a suggestion, but I'll say this by way of illustration: We have a train that went from Phillipsburg to Trenton, which the Senator is familiar with, - excuse me for bringing that up - but it had seven people on it and four of them were freeloaders, and so we cancelled that one out.

SENATOR DUMONT: Well, they weren't on my pass list.

COMMISSIONER PALMER: And they weren't on the Highway pass list. We give out no passes. There were some trains from Camden to Trenton that got down to 23 passengers. The big problems the railroads have today is this: They are regulated. In New York State - and by the way, on the tail end of this I have a formula which New York approached their tax relief on which answers some of your questions with respect to that. In so far as the carriers are concerned, they are regulated; they were a monopoly; every other industry, the airplane industry, the highway industry, and everything else receive benefits from the Government and the railroads do not receive any. The railroads also have responsibilities in connection with their commitments with their respective Unions and with the development of some automation and certain improvements. They are not a public utility in the sense-- the public utilities get six or seven or eight per cent they can move on, and the railroads are just strictly up against it and they are out of the category as I see it of being a private industry in any sense. If they were a private industry they would go out of business entirely. No one who is in industry continues to produce a product that is not demanded by the customer.

MR. MILLER: Well, what I was trying to do was follow up Judge Walker's line of questioning and trying to see if you couldn't elaborate on why it's more desirable to use a subsidy than tax relief. And if the subsidy has not produced more passengers, then of course you are in about the same shape as tax relief, which isn't related to passenger carrying either.

COMMISSIONER PALMER: Well, sir, I feel this, that the subsidy has kept the railroads alive -

MR. MILLER: So would tax relief.

COMMISSIONER PALMER: Now, wait a minute. With a common denominator applied to all the carriers - and the tax relief in itself would not keep the railroads alive. And although the total of ours is six million dollars, I don't know what you have in mind about tax relief, whether you are thinking of the whole seventeen and a half million, but minus the two and a half to the State, but the subsidy situation is approached from the standpoint of maintaining service and keeping the railroads from folding up, and they have a commitment and a contract. Now, if we could cut out the subsidy, it will be very beneficial to the State Highway Department, the Rail Division, and if you gentlemen were to forgive the taxes and then you were to contract with the railroads that they would maintain service for a given period of time and that you would establish the schedules and the rates of fares, why then you would have the same proposition, so you would just be substituting one thing for the other.

MR. MILLER: Of course, if you have any idea of subsidy being better and that it is more selective and can at the same time be tied to some continuity of service - is that your point?

COMMISSIONER PALMER: That's my opinion. I am not stating that that's a fact for everybody to accept but-

MR. MILLER: That was the difference.

COMMISSIONER PALMER: That is the difference.

SENATOR DUMONT: Of course, aren't they in the final analysis in a position where they have to use a lot of this subsidy money just to pay their taxes?

COMMISSIONER PALMER: Well, they did it, sir, in the last two or three years. We just traded - it had no uniformity attached to it at all. As I said before, the Lackawanna paid two and a half million and left two million hanging loose and they have this tax of one per cent a month, so there is plenty of incentive to hurry up and pay. This fellow who took over the Susquehanna Railroad, Mr. Maidman, was in the same position, and they were both going to be sued, so we injected ourselves in the situation to stop that off, so we saved that. But this whole situation is heading up into a collapse some place along the line. Gradually they have sold off all their property; the Central Railroad has sold off about twelve and a half million dollars worth of property and pieces of equipment that were salable, and their commitments are such to Lehigh

Navigation - they have a rental there and they have interest on these loans, and they have their accumulated responsibilities, and this water strike of the tugs knocked them down for about $65,000 in a short period of time, and they are just on the ragged line all the time. And then they can't go to any bank, even the Fidelity Union Trust, with all their generosity, and get any relief because there is nothing to justify it.

SENATOR DUMONT: Commissioner, if we believe, and I think most of us do, that we have got to have railroad passenger service in New Jersey because, as you pointed out so well, we just can't afford to build the highways that would be required otherwise, wouldn't it really be a disaster if the Jersey Central, for example, which is the one that seems to be in the poorest shape at the moment, were to go down the drain before any over-all answer were found?

COMMISSIONER PALMER: Yes, sir. In connection with the Central Railroad, we have three million dollars set aside of Highway money for the Aldene Plan. That's Number 1. The final requirement will be three million one additional for four grade crossings, three in Roselle and one in Hillside. In order to accomplish that, we have arranged - I think we are arranging - for a transfer of two million dollars from another location for grade crossings and then when I go before the Budget Commission to endeavor to obtain the other million one, the Budget Committee, plus another million and a half, not two million and a half, as has been stated here some place.

If my legislation that we are presenting goes through, then I would be permitted to give that million and a half to the Central Railroad of New Jersey to up their 28 per cent of their losses. At the present time they get a million four-forty-seven a year. This would double it up.

The control of the Central Railroad - 49 per cent is owned by the Philadelphia and Reading. The Philadelphia and Reading officials and Mr. Shoemaker feel that in the event the Aldene Plan goes through, which works out with the Hudson & Manhattan, the Hudson & Manhattan will be of no service to this State and we will be of no service to them. Unless we synchronize our efforts, they will pick up a million and a half benefit by cutting out their ferry business on the river front, and if they get the other million and a half from us, then they will stay alive and think they can find their way through. And that is part of this whole picture.

With all of this business of the World Trade Center, the H & M, the Central Railroad will bring in some twelve or fifteen thousand customers to Newark, by-passing their old location, which will tie up with the Tubes, and the cars that PATH, the Hudson & Manhattan, have purchased - and they are being delivered shortly - will take care of those customers. There is no use for the cars unless we get the Central Railroad situation solved, and that can be solved by these two moves and still not confuse the situation in the over-all with the tax situation which might be a separate determination.

SENATOR DUMONT: Well, it can be solved for how long do you think?

COMMISSIONER PALMER: Well, according to the management, they feel that with these other steps they could stay alive, possibly going down gradually again because of the distressing condition of their equipment,- that they could stay alive for one or two years, but that in order to go on they have to have new engines. You would be amazed at the pieces of equipment that are in the shops that haven't been repaired and maintenance, and while I'M not pointing out that there is any risk or lack of safety involved, from the standpoint of appearance and usefulness the equipment is in very poor shape.

SENATOR DUMONT: But you think, I gather finally, that if we could help to provide some kind of reasonable tax program here it wouldn't necessarily do any harm - it would be part of the over-all answer; is that correct?

COMMISSIONER PALMER: It certainly would not do any harm. And if you could try it in your judgment and how to discriminate or maybe not to discriminate but to do something with the tax situation, it certainly is an alleviation of the situation and to that extent it's constructive. But what the alleviation will accomplish is something that ought to be evaluated prior to the dispensing of the funds and some commitment from the carriers as to what we are going to be the recipients of in return, just in the same category as we have a contractual relation with them that they will maintain their service and they will not be too late in arrivals,- we check up on those - and also that their fares will be maintained. As a matter of fact, outside of a few of these extreme situations, the service has not gone down and, while a very substantial mileage and unemployment existed prior to the taking over, there has been I could almost say practically none lost since we have had this system in vogue. But it's only a palliative and it's not the answer.

SENATOR DUMONT: Did you say you were asking for one and a half million increase rather than two and a half from the Appropriations Committee?

COMMISSIONER PALMER: Yes.

SENATOR DUMONT: In the contract for service money?

COMMISSIONER PALMER: Yes. If I get a million one for the grade crossings and a million and a half for the other, we can live through it at this period of time.

SENATOR DUMONT: You mentioned that you have some information about how the New York statute works.

COMMISSIONER PALMER: I have it attached here. It is written out, and I will leave these copies with you.

SENATOR DUMONT: What's your opinion about the possibilities and effects of these mergers that we hear about?

COMMISSIONER PALMER: Well, I did touch on that but I'd be delighted - I was in on a discussion on that this morning. I have talked with Mr. Saunders of the Pennsylvania Railroad and the other officials and personally I believe that mergers are the only answer to this over-all situation. But to mergefor one or two carriers without giving consideration to the other carriers of the State, I think would be a detriment for the State to approve of. I think, as I mentioned before, that the Erie-Lackawanna should be brought into the picture with the Wabash, and the Norfolk and Western and the Nickel Plate. The Pennsylvania owns 99 per cent of the stock of the Wabash Railroad; they own 46 per cent of the Norfolk and Western; they own the Lehigh Valley, of course, and the Philadelphia and Reading, as I said before, have 49 per cent of the Central Railroad, so that with all this, what we've got to look out for in the merger situation is that the so-called strong, bigger people do not go ahead and get approval of their mergers and then pick up ten cents on the dollar the struggling railroads and leave our economy in a position where we would be wholly dependent upon some one or two carriers.

What we hope to see or do is to maintain the fabric that we have at the present time to the extent that it is serviceable and also to get the same amount of freight and the same amount of passengers coming through and not have the freight cut off and go through Philadelphia or Baltimore or Boston, and also that the State maintain its employment.

So, as far as mergers are concerned, my personal view is that it would be a helpful thing, but in doing so, before we approve them, we should have a commitment.

Now, the Erie-Lackawanna Railroad have what I might call a gentlemen's agreement. They have an agreement from Norfolk and Western when Mr. Saunders was chairman of it that they would have an affiliation or some kind of an understanding which persuaded the Erie-Lackawanna to feel that they were going to be invited to the big party when the time came. But it is not a commitment; I have seen a copy of it, and when you get down to so-called big business and these merger situations, and so forth, documents of that kind don't hold much water. The question is, therefore, or the problem is to get a commitment that these people will be included in these respective things rather than living on a promise which, like the pie crust, is easily broken.

MR. KERNEY: Your prime purpose, of course, is the maintenance of transportation within the State, whereas we are under a specific directive having to do with the relief of inequities in the railroads in the tax situation, and we are, I think, limited, although as citizens we may be interested in the maintenance of the railroads and the improvement of their service. We are specifically limited by the directive we have from the Legislature dealing with the tax problems of the railroads. We have to stay within that, within that context. I would hope that what we do might be of help in maintaining service, but the maintenance of service is not our problem. It's their problem. The tax problem is our problem, and that's as much as I think we are concerned with, and some of us are perhaps sorry that we even have that much of a problem.

COMMISSIONER PALMER: Well, you've got nothing on me, Jim. So far as I'm concerned, I think the whole purpose, whether it's taxes or whether it's the Highway Department Rail Division, is to maintain the economy, so I think we are all in swimming together. I think it's a very distressing situation and it's quite a responsibility, and I am just hopeful that we, in the limited activities that we have in this situation, may be able to obtain, as you have sought from us, some observations that will be of assistance to us in having a broader prospective and being more constructive.

We have checked the books with certified public accountants, the statements of losses; we are intimate with the ICC method of bookkeeping; we have had engineers on every job; we have studied everything with great care; we visit with these people three or four times a week, practically all of them, and we know what their problems are and we are very sympathetic to them, not because they are a private company. The word "subsidy" which everybody refers to is public money for a public service, and that's the limit of our interest in this situation. Aside from that, however, is the fact that the Highway Department is on the spot continuously because of congestion on its highways. As I said before, if these 256,000 passenger trips were dumped on us, we really would be down the trap.

MR. KERNEY: I think one of the places where we have to be different from you is that we are not giving subsidies, if that's the word, and we can't devise - at least I see no way by which we can devise a tax policy which will particularly favor the railroad that's broke over the one that has money. It has to be an equitable tax that is straight across the board; otherwise, it just simply won't be constitutional in New Jersey, I'm sure. And we don't have the kind of leeway that you are now seeking for the Legislature and which I hope you get. We can't do this with the tax legislation; at least, I don't believe we can.

COMMISSIONER PALMER: Well, sir, there are two questions there; No. 1 is to find out what we accomplish and where the need is by the forgiving of taxes, and No. 2 is if the seventeen and a half million dollars is forgiven, what does the State do in the way of providing the seventeen and a half million from other sources of revenue. We have such a difficult time, each department does, in their proposals to the budget directors, and so forth, to get money for the realities and where will the State go to get the seventeen and a half million dollars. When one forgives something, now under the arrangement as I understand, every bill that is introduced today you have to provide the fiscal knowledge along with it as to what it's going to cost, and in the forgiveness of taxes you would have to figure out where you are going to get the dough to make up that amount.

MR. KERNEY: From the gas tax.

COMMISSIONER PALMER: I'm for that. I think we could stand more of it.

SENATOR DUMONT: Any further questions of Commissioner Palmer?

Thank you very much, Commissioner.

COMMISSIONER PALMER: You've been very generaous to me and I hope I haven't bored you, but at least it's a very interesting subject and it's one that I hope we can contribute something to.

SENATOR DUMONT: Are there any further witnesses now to be heard at today's hearing?

Well, we thank you for coming, those who testified and those who did not but were here as observers. Today's hearing will be concluded.

H E A R I N G   C O N C L U D E D

STATEMENT SUBMITTED BY DWIGHT R. G. PALMER

NEW JERSEY STATE HIGHWAY DEPARTMENT
DIVISION OF RAILROAD TRANSPORTATION

THE STATE RAILROAD PROGRAM AND RAILROAD TAXES

TESTIMONY BEFORE THE STATE TAX POLICY COMMITTEE AT HEARING IN THE ASSEMBLY CHAMBERS, STATE HOUSE, TRENTON, N. J. ON MARCH 6, 1964 HELD PURSUANT TO SENATE JOINT RESOLUTION 12 APPROVED JUNE 6, 1963

THE RAILROAD CONTRACT PROGRAM

The Railroad Passenger Service Act, Chapter 66, Laws of 1960, became law on June 22, 1960. This measure authorized the Highway Commissioner to enter into contracts with railroad passenger carriers providing for the continuation and improvement of essential commuter and suburban services. The law set forth procedures to be followed to determine the essentiality of a particular train or service and provided for payment to the carriers for the satisfactory operation of this service at a car mile rate. The maximum car mile rate is determined by the statute and is dependent upon the funds available and the total number of car miles of passenger service found to be essential.

In January of 1961 the Act was amended to authorize the Highway Commissioner to subsidize interstate ferry operations to a maximum of $100,000 for each ferry carrier per year.

Exhibit 1 attached shows, by year, the expenditure of funds under the Railroad Passenger Service Act since 1960 accruing to passenger carrying railroads operating in New Jersey. Exhibit 2 lists the deficits that have been incurred by these carriers in operation of the passenger service, records the total payments by the State under the contract program and indicates the percentage of the fully allocated deficits that these payments have covered.

To carry out the program for the current year a budget in the amount of $6,355,700 was requested. The appropriations bill as enacted provided a total of $6,000,000. This amount together with an amount of $228,000 carried forward from the previous year has been expended or committed.

The budget for the 1965 fiscal year was submitted in the amount of $8,502,961, an increase of $2,502,961 over the amount appropriated for the current year. Basically, this larger budget was requested because (1) the deficits being incurred by the New Jersey carriers from operating the passenger service have increased, (2) the financial position of some of the carriers has become more critical as freight revenues have declined, and (3) funds are needed to initiate capital improvements that will reduce the size of the operating deficits.

Reference to Exhibit 2 shows the extent to which deficits have increased from operating commuter and suburban passenger service in New Jersey. This Division does not advocate that a carrier should be required to subsidize passenger losses with profits from other railroad operations, however, in our opinion the overall results from all railroad activities must be considered in preparing programs for the continuance and improvement of passenger service. A review follows on the combined operations of the major carriers.

The Central Railroad Company of New Jersey

This carrier has nearly 70% of its trackage in New Jersey, serves more communities with either freight or passenger service or both than any other carrier and is third in the volume of passengers carried, handling a total of 15,000 passengers in one direction on an average weekday. 78% of its passengers travel in the commuter rush period. Its cash position has become critical. As of January 1, 1963 its working cash was $3,635,000; by the end of 1963 this reduced to $1,924,000 and by the end of 1964 projections made by the Railroad show a cash deficit of $555,000. During 1964 the Jersey Central has about $11,500,000 in obligations to meet in addition to regular operating expenses exclusive of all taxes. These obligations for the month of February included equipment rentals LC&N rent for leased roadway and payroll taxes together amounting to $1,202,000. In July the first principal repayment on its $15,000,000 loan acquired under the Transportation Act of 1958 falls due making total obligations for that month of $2,961,000. In October LC&N rent is again due bringing obligations for that month to $1,057,000. On December 1st the real estate taxes will bring the total to $3,336,000. In other months the obligations vary from $207,000 to $650,000.

In spite of all this the management of the Jersey Central is optimistic about the future of this Company. This Railroad anticipates that the combined deficit for 1963 - in excess of $6,000,000 - will gradually improve so that by 1966 a small profit may result under the following assumptions:

1. That the "Aldene Plan" will become effective early in 1965;
2. Firemen on freight and yard diesels can be eliminated;
3. That freight handling with the Lehigh Valley Railroad will be coordinated;
4. A new trackage agreement with the D&H Railroad will be effected;
5. That the passenger contract earnings will be increased by $1,500,000 in 1965; and
6. That the real estate tax liability will be reduced 50% with payments due December 1, 1965.

To have available more working capital and to finance freight consolidation and coordination projects the Jersey Central submitted late in June of 1963 an application to the I.C.C. for Federal guarantee of an additional loan in the amount of $5,000,000. After much work with the I.C.C. by the railroad and testimony before the I.C.C. presented by the Highway Commissioner in company with President Shoemaker, a loan in the amount of $2,000,000 was approved. The I.C.C. indicated that actions being contemplated by the State of New Jersey, including plans to reroute passenger trains to Newark and a review of the tax situation, were persuasive in authorizing the loan in the amount of $2,000,000, and that any further loans made as a result of the application will be dependent upon such actions being realized.

During the past ten years the Jersey Central's passenger deficits have totaled some $67,000,000 and in the same period it has paid nearly $34,000,000 in property taxes.

The Pennsylvania Railroad Company

This carrier provides both an intercity or long distance operation serving Trenton, Princeton, New Brunswick, Newark and New York and a suburban service with trains operating from Bay Head, South Amboy, Rahway, New Brunswick and Trenton. The through trains carry 4,300 New Jersey passengers in one direction per day and the commuter trains handle about 18,900, 68.3% of whom travel in the rush period.

In the four year period from 1959 through 1963 this Railroad will have incurred deficits from operating suburban and commuter passenger services of about $32,000,000. In this same period, it has paid $21,600,000 in State property taxes. Combined operations of passenger and freight services including related business of the Pennsylvania Railroad Company have produced a profit of $1,445,500 over the past four years. The assets of the Pennsylvania Railroad Company total more than $2.3 billion.

The most significant actions that have been taken recently by the Pennsylvania to improve its financial position have been its efforts to merge the corporate structure of the New York Central Railroad into the Pennsylvania. Hearings before the I.C.C. have been completed and testimony on the record indicates that with a merged operation savings in operating costs of about $80 million per year could be effected for the merged carrier. In addition, the Pennsylvania is increasing its earnings from carrying coal by use of integral trains and is continually expanding its trailer-on-flat car business. These "piggyback" operations reduce transportation costs and are a source of continually increasing revenues. With regard to passenger service, this Railroad recently undertook to make its facilities more attractive to its patrons through a clean-up program and has approved expenditures totaling over $6,000,000 for passenger car improvements. Fifty stainless steel coaches (reconstructed roomette cars) have recently been put into service in the New York-Washington territory and 58 coaches are being rehabilitated including completely new interiors, air-conditioning and improved trucks for better riding qualities and will be used in New Jersey. Eight of these cars are now in service and the remaining units will be added piecemeal as their reconstruction is finished.

The Erie-Lackawanna Railroad Company

This carrier is the State's busiest suburban and commuter carrier transporting 36,000 passengers in one direction daily, 83.6% of whom travel in the rush period. It also operates limited inter-city service connecting Hoboken and other New Jersey cities with Port Jervis, Scranton, Binghamton, Buffalo and Chicago. Since October of 1960 when the present company was created by corporate merger of the former Delaware, Lackawanna & Western Railroad into the Erie there has been considerable consolidation of passenger and freight routes. The latest was the combining of the Boonton Line with the Greenwood Lake Branch in New Jersey.

This Railroad has incurred passenger service deficits in the State of New Jersey that have totaled over $15 million in the four years from 1959 through 1963. In this same period State taxes of $18,800,000 will have been paid upon payment of the balance due on its December 1963 obligations.

Because of litigation on matters pertaining to disposition of personnel following the merger, the financial benefits that had been anticipated have been somewhat slower in being realized.

Deficits for the combined operation for the current year are about $16.8 million, about the same as for 1962 and down considerably from the $26 million deficit of 1961. The Chairman of the Erie-Lackawanna Railroad, Mr. William White, is also optimistic concerning the future expecting the road to continue in the red during 1964, he believes that with "a little bit of luck" the road will operate without a loss in 1965. This Railroad also has a critical cash problem and applied for a Federal guarantee of a second $15 million loan under the provisions of the Transportation Act of 1958. The loan guarantee was denied by the Federal agency as was a revised submission in the amount of $5 million.

The Erie-Lackawanna has completed a $12 million electronically operated freight yard in cooperation with the Nickel Plate Railroad at the Buffalo gateway and improved the efficiency at other yards. It is currently modernizing 3,000 freight cars un a sale and repurchase arrangement and rehabilitating its long haul passenger cars in anticipation of increased travel to the World's Fair opening in New York next month.

Other Railroads

The New Jersey & New York Railroad, although a separate corporation, has nearly all its securities owned by the Erie-Lackawanna. It continues to be operated in bankruptcy by a trustee under rather favorable trackage, car rent and terminal use agreements with the Erie-Lackawanna. The paper work on reorganizing this carrier is continuing slowly.

The New York, Susquehanna and Western Railroad Company entered the Contract Program for the first time in 1963 after new management took control. The contract required that for an experimental period of six months that it operate six additional trains to determine if patronage could be attracted; and, that the carrier would pursue diligently negotiations with other carriers for the purpose of terminating its trains at a location where passengers could transfer to trans-Hudson ferries or to PATH services, or both, to reach downtown Manhattan.

The additional trains plus advertising and car improvements increased travel from an average of 212 eastbound passengers to 311; westbound commuters increased from 169 to 211. The combined passenger and freight deficits increased in 1963 to $440,000 as compared to $349,000 for the previous year (including $178,000 out-of-pocket passenger train losses) and the carrier exercised its option contained in the contract and is currently in the process of terminating the experimental trains.

Negotiations to extend the passenger trains to Journal Square are progressing and the carrier emphasized that if it is to be able to continue passenger service until such an extension is realized it must conserve its cash. Accordingly, it petitioned to further decrease its passenger service and hearings to discontinue another round trip were completed on February 25, 1964. It is evident that if this carrier is to serve adequately the passengers in its territory substantially larger State subsidies will be required.

The Reading Railroad continues to operate two feature commuter trains between Philadelphia and Jersey City serving West Trenton, Hopewell and Belle Mead. One other round trip serving additional stations is also operated. Its fully allocated deficits have been substantial but will be considerably reduced this year as a result of authority by Pennsylvania and New Jersey to eliminate several lightly patronized trains that were operated mainly for the "head end" business. The Reading reports that the combined deficit for its system operations were about $5,000,000 for the 1963 year.

The Pennsylvania-Reading Seashore Lines entered into the Passenger Service Program in 1962 on a special two-year contract. Prior thereto its attempts to end all its passenger service had failed although regulatory agencies had permitted considerable curtailment resulting in a reduction in fully allocated deficits. A recent decision by the Highway Commissioner has further reduced train service and, correspondingly, the amount of the deficit. Losses for 1963 were about $2.2 million from passenger operations giving a combined deficit of $4.5 million for both passenger and freight services. The P-RSL operates entirely in New Jersey. Hearings on a petition filed by the P-RSL to further reduce its passenger services were concluded on February 28, 1964 and a decision is now pending.

Action on Budget Request

The Budget Message dated February 3, 1964 for the Fiscal Year ending June 30, 1965 as transmitted to the legislature contained the following statement pertaining to the request made by the Division of Railroad Transportation for an increase in funds from $6,000,000 to $8,502,961:

> "There is recommended the sum of $6 million to cover the cost of our existing agreements for the continuation of commuter services. The Highway Commissioner requested that the amount of $6 million currently provided for these services be increased by about $2.5 million. Our revenue structure at the present time does not permit this increase. I am, therefore, recommending a continuation of the $6 million program; but should the Legislature increase our revenues by a sufficient sum, I would be in favor of increasing the amount for this purpose to that requested by the Highway Commissioner. The deep public interest in the maintenance of commuter passenger services is well known, and as a matter of fact is a part of existing State policy."

RAILROAD TAXES

Much publicity has been given the railroads' contention that in New Jersey they are subjected to "inequitable, confiscatory taxation policies". This claim has been illustrated by a comparison of taxes paid in New Jersey per mile of track, to the national average. The comparatively small number of miles of track in New Jersey embraces some of the most valuable and densely occupied land in the country, while a great many miles in the national average include long stretches of extremely low valued land in the western plains. New Jersey is also a terminal State. Many of the rails have extensive passenger facilities and freight yards and structures along and adjacent to valuable water fronts. Anyone who has flown over Hudson County at low altitude would be impressed with the large portion of the County that is covered by railroad development. This land so used should help support municipal government as other industrial property does.

Another contention is that railroads are forced to pay more than their share of local taxes because their Class II property is assessed at 100% while other lands are assessed at lower percentages. Laws that have been in effect have required that all properties in the State be assessed at 100%. In practice, it is known that some districts assess as low as 15 or 20% of true value. There is controversy over the assessment level of railroad property and, literally, there has been a century of litigation in New Jersey on assessment levels. Changes in the tax laws are now working their way through the Legislature and recent decisions by the courts have opened up opportunities for the railroads to bring about lower property tax liabilities. Test cases are now before the State for disposition. In time, this type of action may eliminate the inequities that may exist in the assessment practices.

There will remain, however, this basic policy question to answer: Should the railroads be taxed on the same basis as a manufacturing industry? or should they be taxed as other public utilities?; or should the tax be in the form of a gross receipts tax or only a franchise tax on net revenues?

The first alternative, taxing the same as industry, would require that railroads be given many of the same freedoms as enjoyed by industry. This course would probably spell the demise of much of our suburban passenger service. Establishing railroad tax on the same basis as a public utility would first require that a rate base be established and a 6, 7 or 8% return permitted on investment. Such a procedure would be expected to result in freight and passenger rates at such a high level that railroads would be eliminated as competitors in some areas. Converting to a gross receipts tax or having only a franchise tax on net earnings would not bring the revenues to the municipalities that have so much of their area taken up by railroad development. In this connection it should be pointed out that freight yards located in the river-front counties benefit many shippers and receivers of freight with plants located in municipalities in the other counties; that a passenger terminal on the Hudson River serves commuters most of whom originate in municipalities remote from the facility.

Specific Proposals

Reference to exhibits 1 and 2 previously described shows that under the contract program the passenger carrying railroads have earned under the Contract Program varying percentages of the deficits resulting from operating the passenger service. It has also been shown that the overall financial condition of the rail carriers has worsened with the result that all carriers operating passenger service in New Jersey except the Pennsylvania Railroad are incurring deficits from the transport of goods.

Exhibit 3 attached lists the passenger carriers, the passenger deficits, the amount of taxes retained by both the State and the municipalities and the earnings under the contract program all for the year 1962. There is also included an estimate of the total tax of a carrier allocable solely to passenger operations. Examination of this exhibit shows that there is no more relation between the contract earnings of the carriers and their tax liabilities than there is between the passenger deficits and the contract payments. In the case of the New Jersey and New York Railroad, as one extreme, its total tax liability for 1963 was $15,513.64 and its contract payments were $101,102 - nearly seven times the amount of its taxes. At the other extreme, the Reading Company taxes were $318,772 and its State subsidy was $17,262 - about 5.5%. This is because the taxes accrue on all property - both passenger and freight - whereas the State subsidy is determined by the extent of passenger service operated. It does, however, answer the question often raised as why not substitute tax relief for the contract program. It also indicates clearly that relieving of all taxes solely related or allocable to passenger facilities would fall far short of providing the assistance necessary to sustain and improve the passenger services in the overall.

Exhibit 4 has been prepared to illustrate the amount of tax liability by class incurred by the passenger carrying railroads as compared to that of all other rail carriers. It will be noted that the railroads operating passenger service provide tax revenues in the amount of $2,116,000 that remains with the State and is used for general State purposes. All other carriers provide a little over $400,000 of this tax bringing the total to $2,524,563.32 for the 1963 tax year. Because of the maximum limitation provisions of the tax law, as the Class II tax liability increases the taxes retained by the State decrease in order that the total tax liability for railroads grossing less than $1,000,000 annually shall not exceed $3,000 per mile; for those grossing more than $1,000,000 the tax is limited to $4,500 per mile. The results of applying these limitation provisions have produced the following pattern in the taxes retained by the State as compared to those returned to the municipalities:

Year	State Taxes - Class I, III & Franchise	Taxes to Munic. Class II	Total Tax Payments
1948	$3,974,114	$12,037,116	$16,011,230
1953	4,821,236	13,194,477	18,015,713
1958	3,551,589	14,961,286	18,512,875
1963	2,524,563	14,675,535*	17,200,098

* Lower tax results partially from agreement worked out between Jersey City and the carriers on tax appeals pending since 1956. Rather than requiring the City to make refunds to the carriers, the amount of future obligations was reduced through arrangements with the Railroad Tax Division.

The Division of Railroad Transportation has emphasized that the maintenance and protection of passenger stations and parking areas is a local responsibility. Certain railroads have been actively promoting the sale of stations to local governments or to concessionnaires if no interest in a municipal sale could be promoted. The Division has worked with a number of municipalities which has resulted in a station or parking area being acquired or maintained locally.

The Passenger Service Improvement Program

In its Second Annual Report the Division of Railroad Transportation outlined a program of capital improvements for all passenger carriers involving costs of $41,000,000. A passenger car replacement program over a ten year period was also set forth at a cost of $85,000,000. Some of the projects set forth in this report have been completed (eliminating the tracks through Passaic; the consolidation of the Greenwood Lake Division and Boonton Line Services) and the so-called "Aldene Plan" is progressing.

The Division has been handicapped by a lack of funds and by the rigid clauses in the Railroad Passenger Service Act which provides no flexibility in allocating funds under contracts and limiting use of funds only for car-miles of passenger service operated under contracts. A package of legislation will be submitted for consideration, the enactment of which would enable the Division to carry out more effectively its rail program for the next few years as it moves from subsidy payments into a combination subsidy and capital improvement program.

In the Spring of 1963, the Legislature enacted a measure that would exclude from taxation improvements made to facilities under terms of contracts entered into with the State or its municipalities. This will prevent an increase in the tax liability of a carrier as a result of accomplishing the Aldene Plan, as an example.

Exhibit 1

NEW JERSEY STATE HIGHWAY DEPARTMENT
DIVISION OF RAILROAD TRANSPORTATION

EXPENDITURES TO CARRIERS UNDER THE

RAILROAD PASSENGER SERVICE CONTRACT PROGRAM

Carrier	Fiscal Year 1960-1961	1961-1962	1962-1963	1963-1964 (est.)	Total
Erie-Lackawanna	$1,993,513	$2,738,076	$2,408,728	$2,343,800	$ 9,484,117
Pennsylvania	1,401,852	2,085,005	1,816,727	1,771,000	7,074,584
Jersey Central	1,104,006	1,546,488	1,404,324	1,443,200	5,498,018
New Jersey & New York	75,904	93,560	101,102	100,800	371,366
Reading	12,096	18,319	17,262	15,650	63,327
Penna.-Rdg. Seashore Lines	-	-	200,980	182,000	382,980
N.Y., Susquehanna & Western	-	-	-	49,300	49,300
Delaware River Ferry	-	85,000	65,000	100,000	250,000
Perth Amboy-Staten Island Ferry Co.	-	-	-	10,000	10,000
	$4,587,371	$6,566,448	$6,014,123	$6,015,750	$23,183,692
Reserved for Aldene Plan					3,000,000
Reserved for Grade Crossing Elimination (Camden)					2,000,000
Total					$28,183,692

Exhibit 2

NEW JERSEY STATE HIGHWAY DEPARTMENT
DIVISION OF RAILROAD TRANSPORTATION

RAILROAD SUBURBAN SERVICE DEFICITS IN COMPARISON
WITH EARNINGS UNDER THE CONTRACT PROGRAM (a)

Carrier	Deficits 1960 (b)	1961 (b)	1962	1963 (est.)	Total Deficits While Under Contract	Total Payments (Ex. 1)	% of Deficit Reimb.
Erie-Lackawanna	$4,051,270	$3,260,310	$3,808,459	$4,000,000	$15,120,039	$9,484,117	63%
Pennsylvania (c)	7,483,000	8,223,000	8,768,000	8,000,000	32,474,000	7,074,584	22%
Jersey Central	5,029,345	4,846,918	6,027,893	6,300,000	22,204,156	5,498,018	25%
New Jersey & NY	96,248	116,010	152,417	150,000	514,675	371,366	72%
Reading	173,818	234,384	354,509	275,000	1,007,711	63,327	6%
P-RSL	(d)	(d)	2,509,802	2,200,000	4,709,802	382,980	8%
NYS&W	(d)	(d)	(d)	201,000	201,000	49,300	25%
Delaware River Ferry	(d)	(d)	230,000	120,000	350,000	250,000	71%
Perth Amboy-SI Ferry	(d)	(d)	(d)	15,000	15,000	10,000	67%

(a) Deficits computed on a fully allocated basis in accordance with accounting practices prescribed by the I.C.C., as modified by formulas developed by Railroad Division to reflect only operations within New Jersey.

(b) Excludes revenues and expenses attributable to mail, express and baggage.

(c) Excludes revenues and expenses from long distance services.

(d) No contract negotiated for this year.

Exhibit 3

NEW JERSEY STATE HIGHWAY DEPARTMENT
DIVISION OF RAILROAD TRANSPORTATION

NEW JERSEY RAILROADS WITH PASSENGER SERVICES

PASSENGER DEFICITS, 1963 TAX LIABILITY AND CONTRACT EARNINGS FOR THE YEAR 1962

Carriers	Passenger Deficits	Taxes Retained by State(a)	Taxes Returned to Municipalities	Total Taxes for Local and State Uses	Contract Earnings	Estimated Passenger Facility Taxes Class I, II, III & Franchise
PRR	$8,768,000	$1,175,792.50	$4,162,042.06	$5,337,834.56	$1,816,727	$ 750,000
P-RSL	2,509,802	135,478.31	110,314.27	245,792.58	200,980	120,000
CRR	6,027,893	590,660.55	2,507,682.01	3,098,342.56	1,404,324	800,000
Reading Co.	354,509	141,808.51	176,963.50	318,772.01	17,262	5,000
E-LRR	3,808,459	4,000.00	4,548,026.25	4,552,026.25	2,408,728	1,200,000
NJ&NYRR	152,417	8,021.20	7,492.44	15,513.64	101,102	5,000
NYS&WRR		60,288.83	65,553.11	125,841.94	(b)	60,000
Total - Passenger Railroads	$21,621,080	$2,116,049.90	$11,578,073.64	$13,694,123.54	$5,949,123	$2,940,000

(a) Class I, III and the Franchise Tax

(b) Not under contract in 1962

Exhibit 4

NEW JERSEY STATE HIGHWAY DEPARTMENT
DIVISION OF RAILROAD TRANSPORTATION

TAX LIABILITY BY CLASS OF PASSENGER CARRYING RAILROADS

IN COMPARISON WITH ALL OTHER CARRIERS - 1963

Passenger Carrying Railroads	Property Taxes on Classes I & III	Franchise Tax	Total Taxes for State Uses	Taxes for Local Uses, Class II Property at Local Rates	Total Taxes for Local and State Uses
Total, Penn. R.R.Co. Group	$1,074,771.60	$101,020.90	$1,175,792.50	$4,162,042.06	$5,337,834.56
Penn-Reading Seashore Lines	131,478.31	4,000.00	135,478.31	110,314.27	245,792.58
The C.R.R.Co.of N.J. System	586,660.55	4,000.00	590,660.55	2,507,682.01	3,098,342.56
Reading Co. System	137,808.51	4,000.00	141,808.51	176,963.50	318,772.01
Erie-Lackawanna R. R. Co. System	0.00	4,000.00	4,000.00	4,548,026.25	4,552,026.25
N.J.&N.Y.R.R.Co.	4,021.20	4,000.00	8,021.20	7,492.44	15,513.64
N.Y.S.&W.R.R.Co. System	56,288.83	4,000.00	60,288.83	65,553.11	125,841.94
Total - Passenger Railroads	$1,991,029.00	$125,020.90	$2,116,049.90	$11,578,073.64	$13,694,123.54
Tax Liability for Non-passenger carrying railroads	367,715.54	40,797.88	408,513.42	3,097,461.31	3,505,974.73
Total Taxes - all Railroads	$2,358,744.54	$165,818.78	$2,524,563.32	$14,097,461.31	$17,200,098.27

Summary of New York State
Tax Relief Program

In 1959 legislation was enacted in New York State providing real property tax relief for railroads having poor earnings from their transportation services, and electing to apply for relief. The procedure followed annually by The State Board of Equalization and Assessment is:

(a) Ascertain the system reproduction cost for each railroad, composed of the cost of reproducing new (less depreciation) road and equipment, the present value of land and rights and working capital including material and supplies.

(b) Determine an average of the net revenue from railway operations for the latest five years.

(c) Secure ratio of earnings to system reproduction cost.

(d) Determine the tax exemption factor by applying the earnings ratio to the scale contained in the law which provides a percentage exemption factor in inverse proportion to the earnings ratio.

(e) Determine the local reproduction cost in each tax assessing unit (city, town or village).

(f) Multiply the local reproduction cost by the exemption factor and subtract the result from the local reproduction cost.

(g) Multiply that result by the state equalization rate (as fixed by the Board) to produce the railroad ceiling.

(h) Hold a public hearing on the tentative determination of the railroad ceiling.

(i) File a certificate with each assessing unit stating the final determination of the railroad ceiling.

The local assessor then computes the total assessed railroad property valuations. If the aggregate exceeds the ceiling stated in the certificate, the excess shall be tax exempt. To make up its loss in revenue as a result of this tax exemption, the local tax district may apply to the state for help, provided its previous railroad taxes exceeded $100,000 a year or amounted to more than 2% of all real property taxes. The law provides that the state shall assist to the extent of 50% of the tax reduction.

The 1959 law also placed a limit on rail real property assessment values and exempted certain future capital improvements. Franchise taxes and license fees were also eliminated by this legislation.

The 1961 new legislation gave additional tax relief to commuter railroads. To be eligible, a railroad must be leasing passenger cars from the Port of New York Authority and complying with standards of service (maintenance of equipment and facilities, on-time operation, capital improvements, etc.) established by the New York State Office of Transportation.

This law provides for complete tax exemption for all commuter passenger property when a railroad's earnings ratio is 2½% or less. It also extended the 1959 exemption factor scale to permit a 100% factor for a commuter railroad if its earnings ratio is zero.

APPENDICES SUBMITTED BY MR. NASMITH

SYSTEM NET INCOME OR (DEFICIT)

APPENDIX "A"

	1932	1946	1959	1960	1961	1962	1963
Jersey Central System	($ 1,840,187)	($ 740,186)	($2,855,987)	($ 4,292,037)	($ 7,093,879)	($ 7,458,889)	($ 6,036,959)
Erie	(3,142,997)	4,393,014	(5,684,887)				
Lackawanna	(2,542,447)	36,216	(4,334,883)				
Erie Lackawanna	(5,685,444)	4,429,230	(10,119,770)	(19,995,614)	(26,488,759)	(16,608,069)	(17,115,272)
Lehigh and Hudson	181,593	260,404	102,974	95,147	127,068	188,468	251,934
Lehigh Valley	(3,933,043)	108,103	(2,402,114)	(3,240,185)	(8,320,287)	(2,840,154)	(3,232,024)
N. J. & N. Y.	(309,128)	(258,476)	(82,806)	(9,203)	35,718	24,509	47,390
New York Central	(18,256,400)	(10,449,268)	8,402,968	1,038,253	(12,549,048)	(3,835,538)	7,039,843
Susquehanna	N.A.	(642,559)	(588,354)	(402,514)	(394,280)	(342,472)	(440,237)
Pennsylvania	13,573,536	(8,530,317)	7,267,135	(7,819,112)	3,515,586	(3,209,885)	9,158,870
Penn-Reading	25,587	(2,605,485)	(6,275,327)	(6,454,146)	(6,357,770)	(5,622,088)	(4,880,775)
Reading	4,228,789	4,594,491	1,847,575	1,154,904	(6,257,113)	(4,916,558)	(6,485,663)
Totals	($12,014,697)	($13,834,063)	($4,603,706)	($39,924,507)	($63,782,764)	($44,620,676)	($21,692,893)

N. A. - Not available; operated by Erie

APPENDIX "B"

WORKING CAPITAL *

	12/31/45	12/31/59	12/31/60	12/31/61	12/31/62	12/31/63
Jersey Central System	$ 8,375,119	$ 6,251,515	$ 4,682,654	$ 4,640,458	$ 669,068	($ 2,054,854)
Erie	22,033,286	3,645,695				
Lackawanna	9,958,818	10,908,659 (1)				
Erie-Lackawanna	31,992,104	14,554,354	3,772,799	(5,809,153)	(3,401,139)	(17,287,453)
Lehigh and Hudson	846,820	406,609	511,949	615,065	448,267	166,846
Lehigh Valley	11,520,453	3,586,292	1,348,141 (2)	(137,489)	(2,065,028)	3,314,526
N. J. & N. Y.	(1,898,098)	(215,565)	(161,798)	(737,189)	(771,116)	(547,510)
New York Central	140,162,550	14,748,840	12,198,535	(3,776,113)	(19,617,046)	(28,406,682)
Susquehanna	1,845,047	(689,575)	(278,168)	(508,986)	(1,173,031)	(1,614,250)
Pennsylvania	156,239,920	5,431,503	2,428,615	(7,471,597)	(9,119,843)	(4,420,704)
Penn-Reading	(2,633,406)	(5,983,211)	(3,030,683)	(3,504,959)	(6,598,127)	(2,515,545)
Reading	14,634,957	3,451,402	4,068,851	(4,173,743)	(12,272,944)	(10,909,913)
TOTALS	$361,085,466	$41,542,164	$25,540,895	($20,863,706)	($53,900,939)	($64,275,539)

* Includes material and supplies and debt due within one year.

( ) Denotes Deficit

(1) Includes sale of Nickel Plate Stock in 1959 for $20,000,000.

(2) Includes sale of Black Tom Explosion claims for $1,000,000.

APPENDIX "F"

ALL TRACK MILES IN NEW JERSEY

	12/31/45	12/31/59	12/31/60	12/31/61	12/31/62	12/31/63
Jersey Central	1223.56	1077.12	1073.78	1069.77	1047.77	1033.10
Erie	504.04	492.68				
Lackawanna	691.32	540.92				
Erie-Lackawanna	1193.36	1033.60	1014.06	1001.84	1000.32	990.42
Lehigh and Hudson	96.49	87.36	88.59	88.71	88.71	88.71
Lehigh Valley	509.77	408.81	408.68	385.34	382.60	345.70
New Jersey & New York	42.30	51.07	44.79	44.29	46.14	46.17
New York Central	180.28	144.36	132.36	127.43	124.15	120.90
Susquehanna	234.78	194.74	186.64	182.07	153.60	155.29
Pennsylvania	1471.28	1475.55	1458.59	1453.86	1441.71	1364.13
Penn-Reading	677.28	552.12	552.16	557.07	556.19	552.00
Reading	202.04	182.02	180.98	168.30	178.91	177.46
TOTALS	5831.80	5206.75	5140.63	5078.68	5020.10	4873.88

APPENDIX "G"

AREA OF CLASS II LAND

	Acres 1946	Acres 1961	Acres 1962	Acres 1963
Jersey Central System	1779.287	1298.910	1264.287	1217.199
Erie	727.174			
Lackawanna	1350.343			
Erie-Lackawanna	2077.517	1790.759	1786.421	1746.022
Lehigh and Hudson	109.322	65.804	65.684	64.145
Lehigh Valley	1151.407	962.379	822.511	760.830
New Jersey and New York	15.476	19.719	19.554	19.151
New York Central	545.769	460.106	447.992	445.835
Susquehanna	292.750	194.230	193.450	176.523
Pennsylvania	3086.780	2977.119	2802.546	2775.923
Penn-Reading	737.130	490.660	468.482	453.782
Reading	451.680	361.129	360.608	363.052
Totals	10247.118	8620.815	8231.535	8032.462

APPENDIX "J"

COMPARISON OF STATE AND LOCAL TAXES PAID BY CLASS I RAILROADS IN OTHER STATES WITH THOSE PAID IN NEW JERSEY - 1962

Total mileage (all tracks) operated by Class I railroads in the United States 12/31/62	361,468. *
Total mileage (all tracks) operated in New Jersey (Appendix "F")	5,020.
Total State and local taxes of Class I railroads and lessors in the United States	$363,863,901. *
Total State and local taxes assessed in 1962 against railroads listed in Appendix "F"	$ 17,143.418.
National average State and local taxes per track mile operated	$ 1,007.
New Jersey taxes per track mile operated.	$ 3,415.

* Source: Interstate Commerce Commission, Transport Statistics in the United States, 1962: Mileage, Table 2; Taxes, Table 107.