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The St. Paul Railroad reorganization was effected in January, 1928, through the approval by a majority of the Interstate Commerce Commission of the issuance of the securities proposed in the plan. Commissioner Eastman wrote a dissenting opinion in which he called attention to the unsoundness of the reorganization plan and of the approval given to it by the Commission. (Exhibit A) This apparently did not carry very much weight with the majority of the Commission.

The Wheeler subcommittee's hearings show that as early as August, 1930, the Financial Vice-President of the St. Paul in Chicago was writing another Vice-President of the St. Paul in its financial office in New York, already discussing the contingencies of another receivership - approximately two and one-half years after the Commission had given its approval to the issuance of over half a billion dollars of reorganization securities under the 1928 reorganization plan. (Hearings - Dec. 10, 1937, Galley 74 FFV) The subcommittee's hearings show that from 1930 on, on occasion after occasion, various officers and directors of the St. Paul were recognizing that it was headed for a receivership again. (Hearings - Dec. 9, 1937, Galleys 41 FFV and 43,44 FFV; Dec. 13, 1937, Galley 16 LU) As early as 1930 the railroad was already unable to meet the interest charges on approximately $180,000,000 of cumulative income bonds issued under the 1928 reorganization plan by authority of the Interstate Commerce Commission. Bankruptcy was deferred in the succeeding years with the help of the R.F.C., which loaned the road more than $11,000,000 from 1932 through 1934. Despite these large borrowings, the company was compelled to go into bankruptcy for another and more drastic reorganization of its capital structure in the summer of 1935, only seven and one-half years after it had

emerged from receivership under a reorganization plan approved by the Commission.

The total cost of the 1925-1928 receivership and reorganization was in the neighborhood of $7,000,000. (Hearings - December 13, 1937, Galley 86 FFV) The Commission in its decision approving the issuance of securities reserved jurisdiction over the reorganization fees. Had the Commission been a competently run organization, it would not have been hoodwinked as it was by the St. Paul reorganizers. It was so inefficient in the way in which it imposed a condition on the issuance of securities, namely, the reservation of jurisdiction over the fees, that the condition was thrown out by the courts.

It was even more inefficient than already noted. A lawsuit was brought by the reorganized company against the Commission to prevent it from taking jurisdiction over the St. Paul reorganization fees. The bill of complaint in this proceeding was drafted by a group of lawyers including the bankers' lawyers. This bill of complaint was highly misleading. It was misleading principally because it left out a substantial portion of the most vital facts that the Court would have to consider. Most of those facts had already been disclosed in the record of the Commission's own investigation of the St. Paul receivership. There were other important facts known to the Commission, and omitted from the bill of complaint.

In such a litigation, brought against the United States, the Department of Justice represents the government. However, the Department must rely upon the Interstate Commerce Commission for information and assistance. The Commission was called into this

situation by the Department of Justice, but was so incompetent on the job, that it did not apprise the Department of Justice of the many vital facts omitted from the bill of complaint. Accordingly, the government proceeded with the litigation, admitting the correctness of the allegations of the bill of complaint and failing to point out in its answer that there were other facts of the greatest importance omitted from the bill.

By the time the case reached the United States Supreme Court, the Department of Justice had itself become aware of certain vital data in the Commission's own records which should have been called to the attention of the Court. Belatedly, the government referred to those facts in its brief to the Supreme Court, but was met by the argument of complainant's counsel that those facts were outside the Court record and not entitled to consideration in the Court proceeding. (See dissenting opinion of Mr. Justice Stone, 282 U.S. 311, at pp. 333 and 334.)

Furthermore, the Department of Justice did not know other facts of the greatest importance and significance, showing that the reorganizers of the new company had played fast and loose with the Commission, had tricked it, and was now on the way to escaping Commission's jurisdiction over the fees through the success of those tricks. Apparently, Justices Stone, Holmes and Brandeis had knowledge of these tricks. Justice Stone, in his dissenting opinion, concurred in by the other two judges, called attention to this trickiness by the

reorganizers and reorganized company. (282 U.S. 311, at pp. 340-342.) When the principal financial lawyer who was in that litigation - Robert T. Swaine, attorney for Kuhn, Loeb & Co. - testified before the Wheeler subcommittee in December of 1937, he argued that Justice Stone was basing his dissent on facts not in the Court record. (Hearing: December 13, 1937; Galley 96 FFV.) What an implied criticism this was of the failure of the Interstate Commerce Commission to have brought such vital facts to the attention of the Department of Justice for inclusion in the Court record at the outset of the proceeding.

The majority of the Supreme Court gave no heed to the facts not in the Court record argued by the Department of Justice, and to the additional facts not in the Court record referred to in Justice Stone's dissenting opinion. The majority accepted at face value the highly misleading allegations in the bill of complaint which were contrary to the actual facts as known to the Commission itself. They ruled, on the basis of the defective record on which the Commission permitted the issues to be framed, that the Commission had no power to reserve jurisdiction over the fees.

In June, 1935, some of the same group who had participated in the proceeding before the Commission which had resulted in its approval of the 1928 reorganization plan, were before the Commission again, this time with a new plan for the reorganization of the St. Paul (the road had gone into another Court insolvency proceeding just prior thereto). This plan was submitted to the Commission by the Board of Directors of the company, some of whom had been chairmen or members of various com-

mittees which had appeared before the Commission in support of the 1928 reorganization. Eight of the ten members of the Board were on the Board which had instituted the suit against the Commission in 1928, after getting its approval of the reorganization, to prevent supervision over the fixing of fees. The president of the company (who was also a director) had sworn to the misleading petition on which the case had gone to the Supreme Court. The counsel for the company appearing before the Commission in 1935, was the law firm of Cravath, deGersdorff, Swaine & Wood. This was the law firm which had planned the whole scheme to avoid Commission jurisdiction over fees in 1928. (Hearings - Dec. 13, 1937, Galley 89 FFV) It is the law firm which hoodwinked the Commission. It is the law firm which got $500,000 in unsupervised fees in the 1928 reorganization. (Committee Exhibit 2258, introduced at hearings, Dec. 13, 1937) It is the law firm which secretly presented its case to Judge Wilkerson in 1925 through its close business associate Ralph M. Shaw, the attorney for the receivers. (Hearings - Dec. 6, 1937, Galleys 83 and 84 ARP) It is the law firm that planned and really conducted all the stategy in the litigation to prevent the Commission from exercising jurisdiction over the fees.

The Interstate Commerce Commission raised not one peep against these men when they came back to it in 1935. In fact, in the intervening years between 1928 and 1935, these individuals had innumerable dealings with the Commission in connection with the affairs of the St. Paul and other railroads, and at all times the Commission had received them, not as men who should be met with suspicion and distrust, but instead, with open arms.

The record before the Wheeler subcommittee shows that these individuals, who constituted the St. Paul management, were eager to rush their plan through in short order. The reorganization plan was filed on June 30, 1935, and it was the management's design to complete the reorganization within a period of only six months, that is, by December 31, 1935. To this end the company enlisted the support of Chairman Jesse Jones of the R.F.C., who agreed to the plan before it was filed on condition that it be consummated by the end of December, 1935. (Hearings - Dec. 14, 1937, Galley 45 LW)

Apparently, the St. Paul management had also conferred privately with the Finance Division of the Commission - or at least with Commissioner E. H. Meyer, Chairman of the Finance Division - concerning its scheme for a speedy reorganization of the Company. This deduction is a fair one because of the letter which Commissioner Meyer, as Chairman of the Finance Division of the Commission and as Acting Chairman of the Commission itself, wrote to Judge Wilkerson on June 29, 1935, the date on which the Company filed its petition under Section 77 (Exhibit B). In his letter, Commissioner Meyer indicated his understanding that the bankruptcy proceeding would be of short duration, because the management was filing its reorganization plan with the petition under Section 77.

In other words, there was an attempt to railroad this plan through in short order, and Commissioner Meyer, in his letter, apparently assumed the effort would be successful. However, at the time when he wrote his letter to Judge Wilkerson, based on this assumption, the Commission had not had any public hearing on the plan; the plan had merely been filed with the Commission. Under the statute, the

Commission had no authority to urge approval or rejection of any reorganization plan until after a full public hearing on adequate notice to all interested persons. As a matter of fact, after Commissioner Meyer wrote his letter to Judge Wilkerson, an independent bondholders' committee was organized which vigorously attacked the reorganization plan, both as unsound in its financial structure and as dangerous in throwing control of the company back into the hands of the same group under whose auspices the company had twice been wrecked in the space of ten years.

Unfortunately for the proponents of the management's plan, Senator Wheeler, as Chairman of the Senate Committee on Interstate Commerce and of the subcommittee conducting the railroad investigation, put a damper on the scheme to railroad through the plan. Upon discovering that the Commission was apparently agreeable to a speedy reorganization, Senator Wheeler wrote to Commissioner Meyer urging upon him the undesirability of undue haste. He urged that the Commission wait until the subcommittee had ascertained and made public the facts relating to the successive St. Paul insolvencies. (Exhibit C) Commissioner Meyer's response indicated that he was not in sympathy with the view expressed by Senator Wheeler. (Exhibit D)

However, the reorganization plan itself was so unsound that the Commission could make no progress with it. As the record of the Wheeler subcommittee shows, the men who backed the plan themselves recognized before the end of 1935 that the plan was unworkable (Hearings - Dec. 14, 1937, Galley 51 LU), and in September of 1937 the institutional bondholders committee which had joined hands with and had been associated with the board of directors in this affair, publicly admitted in the

Commission hearing that the plan was not practicable. (Hearings - Dec. 14, 1937 Galley 52 LU) More recently, as indicated in the New York Times of January 11, 1938, the institutional group has filed a new plan, radically differing from the plan referred to.

Commissioner Meyer, speaking for the Commission, went even further in his letter of June 29, 1935, recommending to Judge Wilkerson for the post of trustee of the St. Paul in the Section 77 proceeding Henry A. Scandrett, president of the road. Subsequently, Scandrett was appointed a trustee by the Court.

When Meyer and the Commission took this action, they had already had some seven years' knowledge of the part Scandrett had in the trick played on the Commission with respect to the reorganization fees of 1928 - a trick to which, if the Commission had been theretofore ignorant of it, Justice Stone called its attention in his dissenting opinion in January of 1931.

The matter deserves a brief explanation. If the Commission had been permitted to pass upon the fairness of the reorganization fees, it would have undoubtedly reduced them. Had it cut the fees, the money thereby saved would have been paid either to the reorganized company for the benefit of all its security holders, or to its stockholders directly for their own benefit. As a matter of fact, certain other sums (the residue of the assessments imposed on the stockholders which was not used for fees and other reorganization expenses) which were left over, were actually paid by the reorganization managers to the new company. Therefore any litigation to enjoin the Commission from passing upon the fairness of the fees was litigation

which was adverse to the financial interests of the reorganized company or its stockholders. The highest fiduciary in the situation was the president of the reorganized company; he was a fiduciary for its stockholders; he was a fiduciary not only as president but also as a member of the board of directors. Nevertheless he, as one of the directors of the company, voted to institute the proceeding to prevent the Commission from passing upon the reorganization fees. He, as president of the company, swore to the accuracy of the bill of complaint upon which the proceeding was based, a document which was actually false in important allegations, and in its entirety was only a half truth, or a quarter truth, or even an eighth truth, by reason of the omission of some of the most important facts in the entire case. Yet it was a St. Paul director and officer with such a record in dealing with the Commission, whom the Commission in 1935 recommended to Judge Wilkerson for appointment as a trustee of the company under Section 77.

At the time Commissioner Meyer wrote his letter to Judge Wilkerson, Section 77 of the Bankruptcy Act provided that the Commission should make up a panel of its nominees for railroad bankruptcy trusteeships, from which the judge in charge of any railroad bankruptcy could select the trustees. In June 1935 , the Finance Division of the Commission placed Scandrett on the panel of trustees for the St. Paul. Commissioner Meyer so notified Judge Wilkerson in his letter.

The August 1935 amendment to Section 77 changed the procedure so that the judge in charge of a railroad bankruptcy would select the trustees and then his selections would have to come before the Commission for approval or disapproval. Judge Wilkerson appointed Scandrett as one of three trustees for the St. Paul pursuant to the provisions of the August amendment. The Commission, thereafter, acted favorably on Scandrett's name, ratifying the Judge's appointment. Thus, despite Scandrett's record of dealings with the Commission, it twice supported him for the post of trustee.

Judge Wilkerson appointed two other trustees. One of them was George I. Haight, a Chicago patent lawyer. He was a member of a lawyers' committee which appeared before a subcommittee of the Senate Judiciary Committee in 1932 and supported vigorously President Hoover's nomination of Judge Wilkerson for elevation to the United States Circuit Court of Appeals. (Hearings - Dec. 14, 1937, Galley 34 LU) Mr. Haight was one of those who signed a report to Senator Borah, which appears in the hearings on the nomination of Judge Wilkerson. This report omits any reference to the scandals in the St. Paul receivership of 1925 to 1928 - despite the fact that Mr. Haight and his colleagues purported to give the Borah subcommittee a full and fair statement bearing on the qualifications of Judge Wilkerson. Mr. Haight also appeared before a subcommittee of the Committee on Judiciary of the House of Representatives investigating receivership scandals in 1934, and there defended Judge Wilkerson's conduct in the St. Paul

receivership of 1925 to 1928. Mr. Haight particularly defended the enormous fees granted by Judge Wilkerson in that case. (Hearings - Dec. 14, 1937, Galley 34 LU) Following his defense of Judge Wilkerson before two Congressional subcommittees, on matters directly affecting the St. Paul, Mr. Haight was appointed by the judge as one of the trustees in bankruptcy of the St. Paul. This appointment was ratified by the Finance Division of the Commission, under the power conferred on it by the August amendment to Section 77.

Judge Wilkerson appointed a third trustee, Walter J. Cummings, a Chicago banker, who had previously had affiliations with railroad car manufacturing companies and who was still connected with such interests. The Finance Division of the I.C.C. also ratified this selection.

The August 1935 amendment to Section 77 of the Bankruptcy Act made it mandatory on judges in charge of railroad bankruptcies to order trustees in bankruptcy to investigate possible past fraud, mismanagement and misconduct on the part of directors, officers, and others connected with the bankrupt railroad. Such an investigation is valuable in two ways: It may enable the bankrupt estate to recover large sums of money for the benefit of distressed security holders - in fact, law suits for many millions of dollars have already been begun by trustees in bankruptcy of other railroads. Secondly, such an investigation is important to prevent the re-acquisition of control of the road, when reorganized, by the persons who mismanaged or looted it in the past.

The Congressional mandate, as expressed in the amendment to Section 77, merely reenforced what any competent judge would have done of his own volition. Unfortunately, few judges have ever been alive to the need of such an investigation. This is particularly so in the case of past railroad receiverships, which have been replete with charges of fraud or other misconduct on the part of those whose stewardship of the property failed to avert financial disaster.

One of the worst scandals in all railroad financial history is that with respect to the St. Paul receivership of 1925 to 1928. That receivership was the subject of adverse criticism in the halls of Congress for years after the reorganization. It raised its ugly head in the hearings before the Borah Subcommittee of the Senate Judiciary Committee on the nomination of Judge Wilkerson to the Circuit Court of Appeals. It was considered by a Subcommittee of the House Judiciary Committee in 1934 in connection with receivership fee scandals in Chicago. It was the one case picked by members of the House and Senate for discussion when what is now Section 77 of the Bankruptcy Act was under consideration in 1933. It was, in fact, one of the major scandals which precipitated the Wheeler Committee investigation ordered by the Senate in May 1935.

If any railroad bankruptcy proceeding ever required a prompt and thorough investigation of past misdeeds, it was the St. Paul. Here was a case of which the Commission had special knowledge. It knew that Judge Wilkerson had been mixed up in transactions of the past. It knew that Scandrett was mixed up in the scandal of the litigation on the fees. It was public knowledge that Haight had been Judge Wilkerson's advance agent in defending the judge before two

Congressional committees and that he was the special appointee of the judge, having been appointed by him without the support of any security holders. Reference had been made to the fact that Cummings had had connections with railroad car manufacturing companies (and everyone knows of the dangers of unsound deals in the purchase by railroads of cars and other equipment).

The Commission also knew of the recently enacted amendment to Section 77 - the amendment that became law in August of 1935. The Commission knew of the expressed requirement introduced into the Act by Congress calling for a thorough investigation of past wrong-doings - even of past irregularities. Knowing all these facts, knowing that the judge mixed up in past questionable transactions with respect to the St. Paul was now in charge of the second of the St. Paul insolvency proceedings, knowing all the facts just mentioned with respect to the three trustees, the Commission, with eyes wide open (or else tight shut) ratified their nomination by Judge Wilkerson!

What results could the Commission hope for with such an unwholesome set-up! Obviously, nothing more than what has since actually occurred. Judge Wilkerson did nothing about the amendment to Section 77 for many months. Finally, ten months after the Act was passed, he entered the order directing the trustees to investigate past misdeeds. Subsequently, five months later, two of the three trustees (Scandrett not participating) submitted an "interim" report, whitewashing the management on everything with which the report deals. A further period of fourteen months has now elapsed since the interim report was filed without any sign of either a final report or a second interim report. Nor has there been any

action by Judge Wilkerson to compel his representatives, the trustees, to comply with the legislative requirements.

Obviously the purpose of Congress as expressed in the statute is completely thwarted if the required report is not promptly made. Difficult questions concerning the running of the Statute of Limitations often arise in actions against directors, officers and others, arising out of fraud, mismanagement and misconduct. The possibility that such problems may later confront the trustees if litigation is deemed desirable, necessitates a prompt investigation and report.

Moreover, it will play directly in the hands of those most likely to be the perpetrators of the wrongs, namely, directors, officers, etc. The experience of the Senate subcommittee has been that these very individuals are normally in control of the railroad when it reaches the Bankruptcy Court. Such persons have a very vital interest in the reorganization proceeding, namely, the perpetuation of their control, and will naturally benefit by delay, which in the fullness of time may ripen into complete forgetfulness. Security holders are anxious to reorganize. That is their prime desire. They will not be likely to favor the institution of litigation after several years of bankruptcy if the time has become ripe for the consummation of a reorganization plan. Since a delay in the investigation and report of malpractices necessarily means a delay in the institution of possible damage suits, the practice may well result ultimately in a complete whitewashing of possible misdeeds of the management.

The long delay before any investigation was ordered,

the whitewashing "interim" report, the further delay without any sign or indication of an attempt to comply with the requirements of Section 77 - these were all predictable under the unwholesome set-up upon which the Commission gave its blessing.

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Moreover, delay will play directly into the hands of those most likely to be the perpetrators of the wrongs, namely, directors, officers, etc. The experience of the Senate subcommittee has been that these very individuals are normally in control of the railroad when it reaches the Bankruptcy Court. Such persons have a very vital interest in the reorganization proceeding, namely, the perpetuation of their control, and will naturally benefit by delay, which in the fullness of time may ripen into complete forgetfulness. Security holders are anxious to reorganize and get the property out of the bankruptcy court. That is their prime desire. They will not be likely to favor the institution of litigation after several years of bankruptcy if the time has become ripe for the consummation of a reorganization plan. Since a delay in the investigation and report of malpractices necessarily means a delay in the institution of possible damage suits, the practice may well result ultimately in a complete whitewashing of possible misdeeds of the management.

The long delay before any investigation was ordered, the white-washing "interim" report, the further delay without any sign or indication of an attempt to comply with the requirements of Section 77 - these were all predictable under the unwholesome set-up upon which the Commission bestowed its blessing.

The second bankruptcy of the St. Paul was deferred until the summer of 1935 largely through the pouring in of government funds in an abortive effort to avert inevitable disaster. The St. Paul obtained loans of over 8 million dollars from the Reconstruction Finance Corporation in 1932, and additional loans of approximately 3½ million dollars from the Public Works Administration in the early spring of 1934 (Hearings - December 10, 1937, Galley 64 FFV). In December 1934 the Interstate Commerce Commission approved an additional R. F. C. loan of 3½ million dollars (Hearings - December 10, 1937, Galley 80 FFV). Under the Emergency Railroad Transportation Act of 1933 the Commission was required to pass on all loans to railroads by the R. F. C. and was forbidden to approve such loans where the carrier was "in need of financial reorganization" (Hearings - December 10, 1937, Galley 83 FFV).

When the Commission approved the loan of 3½ million dollars in December of 1934, everyone who knew anything at all about the St. Paul situation realized that the company's financial structure needed a drastic reorganization. The Financial Vice President of the road, who was also a director, so informed the St. Paul board at a meeting held December 18, 1934 to determine whether the loan, already approved by the Commission the previous day, should be accepted by the company (Hearings - December 10, 1937, Galleys 81 - 83 FFV). Indeed, the Commission's own Bureau of

Finance originally refused to recommend approval of the loan, recognizing the obvious fact that the road needed reorganization. The Commission solved this problem by certifying that the road was "not in need of reorganization at the present time"(Hearings, December 14, 1937, Galley 43LU). Thus, by the use of the weasel words "at the present time" the Commission entirely circumvented the intention of Congress as expressed in the Emergency Railroad Transportation Act. Congress had expressly forbade loans to roads in need of reorganization. The Commission unjustifiably interpreted this to refer to forthwith need of reorganization, in effect saying that if a road could possibly defer reorganization for six months or one month or a week or perhaps even a day it was not in need of reorganization within the meaning of the Act. The absurdity of such an interpretation of the statute is apparent.

Its application to the St. Paul situation is striking. Within two months after the loan was approved the St. Paul management decided to reorganize. Within six months it had filed a petition under Section 77 of the Bankruptcy Act together with a reorganization plan materially changing the financial structure of the company.

EXHIBIT A

Excerpt from dissenting opinion of Commissioner Eastman in Chicago, Milwaukee & St. Paul reorganization, 131 I.C.C. 673, 711 (decided January 4, 1928).

As I understand their position, the majority of the commission are not here authorizing the desired securities because they regard all of the provisions of the reorganization plan with favor. On the contrary it is made quite clear in the final paragraphs of the report on the general investigation of St. Paul affairs that they recognize the "obvious shortcomings" of the plan. They find themselves faced with the alternatives of either approving a poor plan or compelling the negotiation of new agreements with the likelihood of further considerable delay and expense in taking the railroad out of receivership. In this dilemma they choose approval of the plan as the lesser evil in the public interest. Such a conclusion, it seems to me, is ill-considered. This is not the first time that the commission has approved reorganization plans upon such a theory, and in at least two instances there have been successive reorganizations of the same property. The need for a more positive policy is clearly indicated. The effect upon the country of a rejection of this plan would be tonic. Moreover I believe that reasonable changes in the plan could and would be made without undue difficulty. But even if delay ensued, it would be no dire misfortune for the property to remain a little longer in receivership. It has so far been much improved during the receivership, and doubtless this improvement would continue.

EXHIBIT B

Excerpt from Committee's Exhibit No. 2338 introduced at hearing on December 14, 1937 - being letter dated June 29, 1935 from B. H. Meyer, Acting Chairman of the Interstate Commerce Commission to the judges of the U. S. District Court, Northern District of Illinois, Eastern Division.

This Commission is advised that a petition is being presented to your court by the Chicago, Milwaukee, St. Paul & Pacific Railroad Co. for reorganization under section 77 of the Bankruptcy Act. The Commission on June 29, 1935, issued its twentieth supplemental order in the matter of a panel of standing trustees, adding to its panel the name of H. A. Scandrett, of Chicago, Ill.

A short proceeding is anticipated since a plan of reorganization is being filed with the petition; and for this reason the name of the president of the Chicago, Milwaukee, St. Paul & Pacific Railroad Co. is the only one added to the panel at this time. Should a larger list be desired from which to select trustees, the Commission will add other names.

EXHIBIT C

Excerpt from Committee's Exhibit No. 2339 introduced at hearing on December 14, 1937 - being letter dated August 1, 1935 from Senator Burton K. Wheeler, chairman of the Committee on Interstate Commerce of the United States Senate, to Hon. Balthasar H. Meyer, Acting Chairman of the Interstate Commerce Commission.

> Word has also come to me, from important sources, that efforts will be made to push reorganizations through with a view to retaining for corporate insiders control of the roads before there is full public disclosure of the consequences of their past control of those roads.
>
> In view of this, I am duty bound, as Chairman of the Senate Committee on Interstate Commerce, to call your attention to several considerations. The first is the adoption by the Senate on May 20, of Senate Resolution 71, directing the investigation of railroads, and specifically railroad reorganizations. The second is the selection, on July 5, 1935, by the Federal Coordinator of Transportation of railroads to be investigated.
>
> • • • • •
>
> The third fact to which I am constrained to refer is the need for making the Senate committee's inquiry useful to investors during their current difficulties, and not merely useful for remote future purposes after the present situation has been, as reports of present attempts have recently described it, "sewed up in a bag" by insiders.
>
> The fourth fact pertinent for consideration is that whenever the Commission has heretofore proceeded under pressure in reorganization matters, the result has been to take up its time and the time and efforts of independent security holders on plans which had to be abandoned as in the Frisco Railroad in 1933, or on plans which the Commission approved to the ultimate loss of the investing public, as in the St. Paul Railway in 1928.
>
> Recognizing that it is the duty of the Commission to proceed with dispatch, I can not fail to note that dispatch must be directed to the primary end of protecting the public interest and masses of investors, that their interests are not furthered by dispatch which cannot protect them; that the most thorough inquiry and preparation should first be had before the reorganization of a half-billion dollar railroad property is undertaken which proposes to leave the same financial interests in control that have admittedly been unable to manage the road successfully whatever the reasons may be - else insiders will take care of themselves, and the ordinary public is left holding the sack.

These remarks are made with full recognition of the independent status of the Commission and with the conviction that the Commission is acting in entire good faith, but, in view of what has gone on in the reorganization of some railroads in the past, I believe that a thorough examination into the past financial transactions of these roads should behad before the Commission acts on the plans submitted by those controlling the roads at the present time.

EXHIBIT D

Excerpt from Committee's Exhibit No. 2340 introduced at hearing on December 14, 1937 - being letter dated August 2, 1935 from B. H. Meyer, Acting Chairman of the Interstate Commerce Commission, to Senator Burton K. Wheeler, Chairman of the Committee on Interstate Commerce of the United States Senate.

We recognize the importance of the considerations you so clearly state. Obviously the public interest, including the interest of both the investors and the users, must be contantly before us in the performance of our administrative duties under the act of Congress, which makes us as well an aid to the Federal courts in the enforcement of one class of cases arising under the bankruptcy laws. We have been and are mindful of our duty to dispatch business, and to hear those who, by law, have been accorded a right to be heard fully, as well as promptly: that duty we will endeavor to perform so as to accomplish the ends of justice, to conserve the public interest, and to cooperate with all other agencies of the government. Whatever time is reasonably necessary under our practice is as of right accorded parties appearing before us, for the full development of pertinent matters, so that our final determination may represent an informed judgment. At the same time, we must avoid just criticism at undue delay in according parties an opportunity to present their contentions, and, in respect of this particular statute, must cooperate with the courts as well, under rules prescribed for our governance by the Supreme Court of the United States, as required by law. That balance of interests we shall endeavor to keep equal.

We are glad to have this opportunity to restate our general policy to you. In the important investigation you have under way we wish to accord your committee every possible aid.