Page

INTERSTATE COMMERCE COMMISSION

SERVICE DATE
FEBRUARY 13, 1973

Served ____________________

Finance Docket No. 26115

BOSTON AND MAINE CORPORATION REORGANIZATION

Decided ____________________

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1. Trustees' plan of reorganization for the Boston and Maine Corporation pursuant to section 77 of the Bankruptcy Act, modified and approved. Plan of Amoskeag Company rejected as premature. Plan of Institutional Bondholders rejected.*

2. Proceeding set for further hearing.

Charles W. Mulcahy, Jr., and Robert G. Parks for the debtor's trustees.

Richard L. Levine for debtor.

Leon Leighton for Bomaine Corporation

Lucius H. Bracey, Jr., and William C. Battle for Amoskeag Company.

Brice M. Clagett, Cary W. Diskieson, Philip Burling, H. C. Westwood, and Lewis H. Weinstein for the Group of Institutional Bondholders.

Joseph B. Edwards, John C. Hutchins, and David Richardson for indenture trustees of certain series of securities.

Richard R. Bongartz, Archibald M. Knowles, John M. Harrington, Jr., Paul B. Galvani, Richard Jackson, Carl B. Sterzing, Jr., John H. English, William P. Quinn, Herbert M. Rafner, Andrew C. Armstrong, Neal Holland, Robert G. Schwemm, William M. Houston, G. Clark Cummings, George W. McLaughlin, Donald M. Tolmie, George B. Hefferan, Richard J. Flynn, Lee A. Monroe, and W. Scott Carlisle for railroad interveners.

James F. Dausch, Irwin Goldbloom, and Harlington Wood, Jr. for Department of Justice, United States of America.

Richard Underwood, Pierre O. Caron, Winslow E. Melvin, Hugh R. McDonough, Clifford Elkins, Donald W. Stever, and John T. Collins for State agencies in Massachusetts, New York, New Hampshire, and Maine.

H. E. Moore, Donald J. Staples, and Daniel J. Mahoney, for United Transportation Union.

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Geoffrey N. Zeh for Railway Labor Executives' Association.

*Exceptions, if any, must be filed with the Secretary, INTERSTATE COMMERCE COMMISSION, Washington, D. C., and served on all other parties in interest, within 30 days from the date of service shown above. Replies thereto may be filed within 20 days after the final date for filing exceptions.

Richard J. Bowen for New England Rail Passenger Office.
Herbert E. Bixler, R. G. Bleakney, Jr., Robert L. Calhoun, Charles T. Hill, Jr., Dallas C. Matthews, R. W. Moore, William V. Higgins, A. B. Baumshaw, Robert Ricker, Joseph F. Leahy, Kenneth E. Miller, H. Thomas Colo, William V. Higgins, E. C. O'Connell, Philip H. King, Francis J. Cincotta, and William W. Stewart for other interveners.

REPORT AND ORDER

RECOMMENDED BY VICTOR A. von RINTELN, ADMINISTRATIVE LAW JUDGE

Introduction

On March 12, 1970, The Group of Institutional Bondholders herein[1] instituted proceedings in the United States District Court for the District of Massachusetts for reorganization of the Boston and Maine Corporation in accordance with the provisions of section 77 of the Bankruptcy Act (11 U.S.C. 205). The B&M thus became the second of six major railroads in the Eastern District presently in bankruptcy. The Central Railroad of New Jersey preceded it in bankruptcy in March 1967. The Penn Central and the Lehigh Valley followed the B&M in June and July 1970; the Reading joined it in November 1971; and the Erie-Lackawanna in June 1972. These six bankrupt railroads, along with the former New York, New Haven and Hartford Railroad, the railroad assets of which were transferred to the Penn Central in December 1968, are generally regarded as suffering from problems which are greatly distinguishable from the nation's previous experience with railroad bankruptcies. Previously, railroads which found themselves in bankruptcy - for example, in the Depression years of the 1930's - were operationally sound and required merely a financial reorganization - a realignment of capital stock and debt - in order to continue as profitable business enterprises. However, the major eastern railroads presently in bankruptcy are in such bad shape, and their traffic and earnings have declined

[1]The Equitable Life Assurance Society of the United States, Metropolitan Life Insurance Company, Connecticut Mutual Life Insurance Company, and the Northwestern Mutual Life Insurance Company, holders of first mortgage bonds of debtor in the aggregate principal amount of $14,198,000, or about 30 percent of the total of such bonds outstanding. On December 27, 1972, Equitable and Northwestern Mutal sold their bonds (Aggregate principal amount $10.3 million), and they have withdrawn from the Group.

to such an extent that there is cause for apprehension that present competitive rail service in the East cannot any longer be maintained and that even a non-competitive system will be unable to survive in private ownership. Thus, in the instant proceeding the first mortgage bondholders call for liqudation of the B&M, while the trustees take the comparatively optimistic viewpoint that the railroad can be reorganized as a viable private business enterprise, but only by means of a comprehensive action program which includes abandonments, new capital investment in the railroad, tax abatements, and subsidies from at least two of the States within which the B&M operates. Trustees for the other five bankrupt eastern railroads have been considering somewhat similar programs. Section 77 requires that reorganization plans for bankrupt railroads be filed with the Interstate Commerce Commission and the reorganization courts; and, of the six Eastern bankrupts, the reorganization plan of the Boston & Maine is the first to come to hearing.

History of the proceeding. As seen, the reorganization proceeding was instituted in the United States District Court for the District of Massachusetts on March 12, 1970. Three trustees were appointed: Charles Barlett, a Boston lawyer who formerly was trustee for the Boston & Providence Railroad, Robert W. Meserve, also a Boston lawyer and currently president of the American Bar Association, and Paul Cherington, a transportation consultant with broad transportation experience in the federal government and in the academic community. On December 1, 1970, the Debtor (the board of directors of the bankrupt corporation, as distinguished from the Trustees who actually control its assets) filed its first plan of reorganization, and on January 29, 1971, the Institutional Bondholders filed their first plan of reorganization. Both plans sought inclusion by the B&M in the Norfolk & Western system and, failing that, abandonment and liquidation of the properties of the B&M. On December 10, the Boston & Maine Trustees petitioned the Commission for inclusion of the B & M in the Norfolk and Western system through a reopening of the proceeding in F. D. No. 21510, Norfolk & Western Merger. On July 12, 1971, the Institutional Bondholders filed an application in F. D. No. 26711 for abandonment of the entire line of the B & M. The petition for inclusion, the plans of the Debtor and the Institutional Bondholders, and the application for abandonment ultimately were denied by orders of the Commission of September 29, 1971.

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In early 1971 the Trustees applied to the United States Department of Transportation for the guarantee of trustees certificates to be used in the purchase of equipment. This request was rejected by the Department on April 13, 1971, for the reason that the funds requested were not considered essential for continued operation of the railroad by the Trustees. In the meantime substantial concern had arisen concerning the B&M's cash position. This had been meager at the time of bankruptcy in March 1970 and was further hampered by costly train wrecks. For a while it was feared that the railroad would be obliged to cease operations because of a lack of funds. Consequently, a conference was arranged between the Trustees and the Commission's Division 3 at Washington, D. C., on June 22, 1971, which all interested parties were permitted to attend. There the Trustees were able to demonstrate that, despite initial difficulties, they had improved the B&M's cash position to such an extent that there was no imminent danger that the B&M's rail services would be shut down for lack of operating funds. In its report on the conference, Boston & Maine Corp. Reorganization, 338 I.C.C. 755, (adopted October 29, 1971), the Commission requested that a reorganization plan be forthcoming by the end of 1971. In fact, the Trustees plan was being prepared at that time and was submitted on December 20, 1971. Trustee Cherington resigned as of December 20, 1971, but subsequently assumed duties as a consultant for the B&M and, eventually, as its chief executive officer. Subsequently, Trustee Bartlett also resigned, effective January 9, 1973, leaving Mr. Meserve as the sole Trustee.

Hearings were held on these plans at Boston, Mass., May 1 to May 9 and June 12 to 16, 1972, and at Washington, D. C. July 17 to 21, July 31 to August 2, and on August 21, 1972, a total of 21 days. In addition to the plan of the Trustees, a plan was tendered by Amoskeag Company at the hearing on May 1, and a second plan by the Institutional Bondholders on July 31. A pro forma second plan also was filed by the Debtor, but that subsequently was withdrawn in favor of the chief features of the Trustees' plan. Briefs have been submitted.

The parties. Participants at the hearing were the Trustees, the Debtor, Bomaine Corporation (formerly Boston and Maine Industries) which owns almost all of the Debtor's common and preferred stock, Amoskeag Company which controls the Bangor & Aroostook Railroad and which owns a non-voting stock interest in the Maine Central and seeks to acquire control of the B&M, the Institutional Bondholders, the indenture trustees of the B&M's first mortgage and contingent interest bonds, the State of New Hampshire, the New Hampshire Public Utilities Commission, the Maine Public Utilities at the time of bankruptcy in March 1970 and was further hampered by costly train wrecks. For a while it was feared that the railroad would be obliged to cease operations because of a lack of funds. Consequently, a conference was arranged between the Trustees and the Commission's Division 3 at Washington, D. C., on June 22, 1971, which all interested parties were permitted to attend. There the Trustees were able to demonstrate that, despite initial difficulties, they had improved the B&M's cash position to such an extent that there was no imminent danger that the B&M's rail services would be shut down for lack of operating funds. In its report on the conference, Boston & Maine Corp. Reorganization, 338 I.C.C. 755, (adopted October 29, 1971), the Commission requested that a reorganization plan be forthcoming by the end of 1971. In fact, the Trustees plan was being prepared at that time and was submitted on December 20, 1971. Trustee Cherington resigned as of December 20, 1971, but subsequently assumed duties as a consultant for the B&M and, eventually, as its chief executive officer. Subsequently, Trustee Bartlett also resigned, effective January 9, 1973, leaving Mr. Meserve as the sole Trustee.

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Office of Transportation and Construction, the New England Rail Passenger Office, the United States Department of Justice, interlining and connecting rail carriers consisting of the Penn Central (PC), Maine Central (MeC), Portland Terminal Company (PT), Bangor & Aroostook (BAR), Delaware and Hudson (D&H), Erie Lackawanna (E-L), Norfolk and Western (N&W), Lehigh Valley (LV), Reading Company, Chesapeake & Ohio - Baltimore & Ohio (C&O-B&O), the St. Johnsbury & Lamoille County Railroad, Central Vermont (CV), the Canadian National, and the Canadian Pacific (CP), and a number of shippers, shipper associations and others, including Kendall Company, Erving Paper Mills, New England Pulp and Paper Association, New England Council, Georgia Pacific Company, New England Furniture Forwarding Company, Norton Company, Fitchburg Paper Co. Division of Liton Industries, Scott Paper Company, Weyehaeuser Company, Davidson Rubber Co. Division of the McCord Corporation, Associated Industries of Massachusetts, and Brown Company, and United Transportation Union and the Railway Labor Executives' Association. In addition, a number of public officials and others submitted statements in opposition to certain contemplated abandonments.

<u>The proposed reorganization plans and related proposals in brief.</u> Reorganization plans have been submitted by the Trustees, by Amoskeag Company, by the Group of Institutional Bondholders, and by the Debtor, and additional related proposals, not formally identified as Section 77 plans have been advanced by the Penn Central and the Commonwealth of Massachusetts. The Trustees' Plan is an interim or contingency plan which gives extensive consideration to the various optional lines of operational reorganization open to the B&M and proposes a comprehensive line of action incorporating operating economies, tax abatements, subsidies, abandonments, and capital investment which they hope will enable the railroad to emerge from bankruptcy on December 31, 1974. They look to a reorganized B&M which would be capable of earning a minimum of $6 million a year before fixed charges for bond interest and which would be capable of supporting a capitalization consisting of $22 million 8 percent first mortgage bonds ($1.8 million interest plus sinking fund payments) and $21 million common stock. The Trustees Plan also is premised upon the sale of the B&M's commuter lines in the Boston area to the Massachusetts Bay Transportation Authority for upwards of $68 million with which to finance its $7 million capital improvement program and satisfy the claims of its secured creditors.'

and Hudson (D&H), Erie Lackawanna (E-L), Norfolk and Western (N&W), Lehigh Valley (LV), Reading Company, Chesapeake & Ohio - Baltimore & Ohio (C&O-B&O), the St. Johnsbury & Lamoille County Railroad, Central Vermont (CV), the Canadian National, and the Canadian Pacific (CP), and a number of shippers, shipper associations and others, including Kendall Company, Erving Paper Mills, New England Pulp and Paper Association, New England Council, Georgia Pacific Company, New England Furniture Forwarding Company, Norton Company, Fitchburg Paper Co. Division of Liton Industries, Scott Paper Company, Weyehaeuser Company, Davidson Rubber Co. Division of the McCord Corporation, Associated Industries of Massachusetts, and Brown Company, and United Transportation Union and the Railway Labor Executives' Association. In addition, a number of public officials and others submitted statements in opposition to certain contemplated abandonments.

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The Amoskeag Plan would accept most elements of the Trustees' Plan, but would modify it by adopting certain economies which Amoskeag considers would enable a New B&M Corporation controlled by it to acquire most of the B&M's assets and to operate them at a profit, hopefully, by December 31, 1972, or two years earlier than the date set by the Trustees. Capitalization of the new corporation also would be modified somewhat compared to that proposed by the Trustees. The Institutional Bondholders maintain that the B&M cannot be reorganized to operate at a profit, and their plan provides for liqudation of the railroad by setting a fixed date for abandonment with provisions for a 6-month interim period during which connecting carriers and others might seek to negotiate for purchase of the B&M or its viable segments. The Debtor formally submitted a second plan which also provided for liquidation of the railroad, but it provided no evidence in support of its proposals. On September 8, 1972, after the close of the hearing herein, the Debtor advised the Commission that it considers that the Trustees' Plan is preferable to its own with the single exception that it considers the time premature to determine what new capitalization should be proposed for the B&M by the Trustees.

In addition to the formal plans advocated by the parties the Penn Central has adduced testimony which proposes abandonment of rail service by the B & M on its main line west of Ayer, Mass. Although such an abandonment would be vital to the interests of shippers at certain intermediate points on that line particularly those between Ayer and the Connecticut River - and would have a major impact on the B&M's revenues, the chief result of such action would be abandonment of that part of the main line west of Greenfield on the Connecticut River and the consequent elimination of the present interchange between the B&M and the Delaware & Hudson at Mechanicville, N. Y. With the exception of services provided by or in conjunction with Canadian carriers, the Mechanicville interchange provides the only rail line-haul competitive alternative to the Penn Central for New England shippers. Its abandonment would virtually end competitive intramodial rail service in New England and would represent a fundamental change in the rail transportation situation in northern New England.

Finally, subsequent to the hearing, the Commonwealth of Massachusetts adopted the position that the Commonwealth modified somewhat compared to that proposed by the Trustees. The Institutional Bondholders maintain that the B&M cannot be reorganized to operate at a profit, and their plan provides for liqudation of the railroad by setting a fixed date for **abandonment** with provisions for a 6-month interim period during which connecting carriers and others might seek to negotiate for purchase of the B&M or its viable segments. The Debtor formally submitted a second plan which also provided for liquidation of the railroad, but it provided no evidence in support of its proposals. On **September** 8, 1972, after the close of the hearing herein, the Debtor advised the Commission that it considers that the Trustees' Plan is preferable to its own with the single exception that it considers the time premature to determine what new capitalization should be proposed for the B&M by the Trustees.

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Finally, subsequent to the hearing, the Commonwealth of Massachusetts adopted the position that the Commonwealth and certain of its public agencies should acquire the B&M's lines within Massachusetts. Although this proposal by the Commonwealth first was brought forth formally after the close of the hearing and therefore was not the subject of any presentations made in the course of the hearing, it is, nevertheless, highly pertinent to the outcome of this proceeding. Consequently, official notice is taken herein that such a proposal has been made and of the details thereof that have been communicated to the Commission. It shall be considered herein to the extent that it appears pertinent in view of the evidence already of record. If additional hearing is required in view of consideration here of the Massachusetts proposal, further hearing can be conducted in due course.

Preliminary remarks. Section 77 requires the Debtor to submit a reorganization Plan and leaves it to the discretion of other interested partes as to whether they should file plans of their own. However, the Debtor consists of little more than the shell of the bankrupt corporation and its board of directors. The Trustees have control of the assests of the corporation and, subject to the supervision of the Reorganization Court, control its operations. Thus, the Debtor has the obligation of providing a plan, but the Trustees control the money and the information necessary to the formation of a plan. Consequently, the Debtor here provided a pro forma plan, which it now has abandoned, and the Trustees have provided both a plan and the detailed underlying material necessary to support it. At the time of the formulation of the plan one of the Trustees was Dr. Paul Cherington, a transportation consultant, Professor of Transportation at Harvard Business School, and a former Assistant Secretary of the United States Department of Transportation. The Trustees' Plan was put together by Dr. Cherington in conjunction with the other trustees and the B&M's operating management including in particular its chief executive officer. The Trustees' Plan and its supporting material and testimony constitute a comprehensive entity which has given due consideration to each of the innumerable possible courses of action and factors which might assist the B&M in emerging from bankruptcy; which provides factual material pertinent to each contingency; and which chooses the path which the Trustees consider best. Consequently, the presentations of Amoskeag and of the Institutional Bondholders necessarily have adressed themselves to the forecasts and assumptions upon which the Trustee's Plan is built. Thus too, the organization that such a proposal has been made and of the details thereof that have been communicated to the Commission. It shall be considered herein to the extent that it appears pertinent in view of the evidence already of record. If additional hearing is required in view of consideration here of the Massachusetts proposal, further hearing can be conducted in due course.

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The Fundamental Operational Situation of the B&M

Routes and territory served. The Boston & Maine is a medium size railroad operating in the New England States of Massachusetts, Maine, New Hampshire, and Vermont, and for short distances in New York. The B&M's main lines radiate from the Boston area and extend to Mechanicville and Rotterdam Junction, N. Y., Portland, Maine, Worcester, Mass., and Concord, N. H. These lines join at Ayer, Mass., a point 37 miles northwest of Boston. The lines between Portland and Worcester constitute the "Maine" segment which goes through Lowell and Lawrence, Mass., and bypasses Boston. Worcester is a principal interchange point with the Penn Central, and it is Worcester, rather than Boston, that is the normal point through which passes traffic moving between Maine points and the former New Haven Railroad and the Boston and Albany component of the Penn Central. The line between Boston and Mechanicville and Rotterdam Junction is the "Massachusetts" segment. Mechanicville is a point west of the Hudson River near Albany, N. Y. It is a B&M interchange point with the Delaware and Hudson and is, in fact, the major interchange point on the Boston and Maine. Rotterdam Junction is a Penn Central point west of Mechanicville and also accounts for substantial interchange traffic.

Another main line, along the Connecticut River between Springfield, Mass., and Wells River, Vt., carries substantial interchange traffic to and from Canada. It is joined to a line extending to Berlin and Groveton, N. H. The Connecticut River Line[2] crosses the Massachusetts segment at Greenfield, Mass. In addition, the B&M operates extensive branch lines in New Hampshire and Massachusetts. As of the end of 1971 the B&M operated the following miles of road in each of its 5 States:

B&M Miles of Road by State

Massachusetts	603
New Hampshire	681
Maine	46
New York	63
Vermont	104
Total	1,497 miles

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[2]Sometimes also referred to as the "Canadian" segment.

from the Boston area and extend to Mechanicville and Rotterdam Junction, N. Y., Portland, Maine, Worcester, Mass., and Concord, N. H. These lines join at Ayer, Mass., a point 37 miles northwest of Boston. The lines between Portland and Worcester constitute the "Maine" segment which goes through Lowell and Lawrence, Mass., and **bypasses Boston.** Worcester is a principal interchange point with the Penn Central, and it is Worcester, rather than Boston, that is the normal point through which passes traffic moving between Maine points and the former New Haven Railroad and the Boston and Albany component of the Penn Central. The line between Boston and Mechanicville and Rotterdam Junction is the "Massachusetts" segment. Mechanicville is a point west of the Hudson River near Albany, N. Y. It is a B&M interchange point with the Delaware and Hudson and is, in fact, the major interchange point on the Boston and Maine. Rotterdam Junction is a Penn Central point west of Mechanicville and also accounts for substantial interchange traffic.

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The B & M's only passenger operations are 178 miles of commuter service lines in the Boston area performed for the account of the Massachusetts Bay Transportation Authority (MBTA). Most of these commuter lines also are used for freight service. In 1971 freight operations on the B&M accounted for 2.6 billion ton miles and $64.6 million revenue. Its average haul for revenue freight in 1971 was a meager 182.6 miles which, nevertheless, was the best showing it has ever made for this statistic. The B&M is primarily a terminating and bridge carrier. In 1971 52.8 percent of its revenue freight originated from connecting carriers and terminated on line; 28.8 percent was bridge traffic and was received from one connecting railroad and delivered to another; only 11.6 percent originated on line and was delivered to connections; and only 6.8 percent was 'local' traffic which both originated and terminated on the B&M. This fact makes it considerably dependent on its interline connections for traffic.

Segmentation Study. Using April 1971 as a representative month the Trustees and the B&M staff conducted a study of the various lines of the B&M to determine their viability and the contribution of the revenues generated by each to overhead, depreciation, and profit.[3] The results were as follows:

Summary of Results of Segmentation Study
Month of April 1971
(000 Omitted)

Line segment[4]	Mass.	Maine	Conn. R.	Berlin	N.H.	Total
Net Revenue	$3,269	$1,200	$695	$103	$247	$5,513
Direct Exps.	1,549	551	330	40	210	2,681
Other Exps.	1,092	289	198	34	169	1,782
Net Contribution	$ 627	$ 360	$167	$ 29	(132)	$1,051
Net Contribution as a percentage of Net Revenue	19.2	30.0	24.0	28.5	(53.6)	19.1
Main Line Miles	209	148	163	61	48	629
Branch Line Miles	338	27	64	24	389	842
Total Miles	547	175	227	85	437	1,471

[3]There was, of course, no profit during the study month. The B&M recorded a loss for April 1971 freight service of $19,000 before interest charges.

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Net Contribution as a percentage of Net Revenue	19.2	30.0	24.0	28.5	(53.6)	19.1
Main Line Miles	209	148	163	61	48	629
Branch Line Miles	338	27	64	24	389	842
Total Miles	547	175	227	85	437	1,471

[3]There was, of course, no profit during the study month. The B&M recorded a loss for April 1971 freight service of $19,300 before interest charges.

[4]The Massachusetts segment includes Roterdam Junction - Mechanicville - Boston and the lines around Boston; the Maine segment is Worcester (footnote 4 continued on following page)

The Trustees believe that in order for a segment to be considered viable it must make a contribution of at least 30 percent of the revenues generated by it to overhead, depreciation, and hopefully to profit. Thus, the above tabulation shows that only the Maine segment meets that goal, but, in the Trustees view, the Berlin segment and the Connecticut River line with respective contributions of 28.5 and 24 percent are within striking distance of it.[5] All three have comparatively little branch line mileage. The Maine and Connecticut River segments enjoyed comparatively high proportions of overhead traffic which is the most profitable for a railroad since it requires reduced terminal expense and limited individual car handling due to train blocking. Revenues from local traffic generated in the Berlin segment is higher proportionately than on any other segment of the B&M. However, yard expenses are low because switching operations at Berlin are handled by the Berlin Mills Railroad. On the other hand, train, maintenance of way, and maintenance of equipment expenses are all higher as a proportion of net revenue for the Berlin line than for any other part of the B&M except the New Hampshire segment, presumably due to providing main line service to a distant terminus.

After full allocation of revenues in the study, the Massachusetts segment accounted for almost 60% of the revenues of the B&M. With 33% of the main line miles and 40% of the branch line miles, this segment dominates the B&M physically,

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footnote 4 continued from preceding page.

Lowell - Lawrence - Portland; the Connecticut River segment is Springfield - Greenfiled - Wells River; the Berlin segment is Wells River/Woodsville - Berlin; and the New Hampshire segment includes New Hampshire main line between N. Chelmsford, Mass., and Concord, N. H. plus the various New Hampshire branches not allocated to the Connecticut River, Berlin, and Maine segments. It includes Manchester-Portsmouth, Manchester-Lawrence, Portsmouth-Salisbury, Intervale-Rochester-Rollinsford and Nashua-Hillsboro. Certain of the segments are somewhat differently defined in the valuation studies.

[5] The consultant for the Institutional Bondholders gives his expert opinion that the Massachusetts segment also would make a 30 percent contribution if the higher traffic volumes forecasted by the Trustees as a combination of their Steady State Forecast and Action Program are realized.

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as well as in terms of traffic. Despite the high revenues, the Massachusetts segment did not compare well in contribution margin to the other segments (except New Hampshire, of course). Various expense categories tend to be disproportionately high on this segment when compared to the other major lines. Maintenance of way is high due to the comparatively high traffic density on the main line. This expense absorbed 16 percent of net revenue in the study month, compared to 13 percent on the Connecticut River Line and only 11 percent on the Maine segment. The level of taxes in particular is very high on the Massachusetts segment, reflecting the concentration of facilities in the Boston metropolitan area. Taxes and rents totaled 5 percent of net revenue, as compared with 1 percent on the Maine and Canadian segment, respectively.

The most striking figures produced by the study are the negative net contributions for the New Hampshire segment. As of April 1971 that segment consisted of 89 percent branch line mileage and only 11 percent main line mileage. There is a correspondingly high number of local trains on the New Hampshire lines, and train expenses absorbed almost one-third of this segment's net revenue in April 1971. Furthermore, with facilities at Nashua, Manchester, and Concord this segment's yard expenses are also heavy; almost another third of net revenue was absorbed. The fact that 61 percent of net revenues for the New Hampshire segment were required for train and yard expenses compares very unfavorably with 29 percent on the Massachusetts and Maine segments and 20 percent or less on the Connecticut River and Berlin segments.

As will be seen, the Trustees have been contemplating a number of abandonments. At the time of the preparation of the segmentation study they contemplated reductions of 66 miles from the Massachusetts segment, 27 miles from the Maine segment, and 389 miles from the New Hampshire segment for a total of 482 miles. In order to analyze the effect of these abandonments upon the surviving parts of the railroad, another part of the segmentation study concerned itself with the expected effect on contribution levels of these contemplated abandonments. An important observation concerning the entire system is that abandoning branches <u>may</u> tend to decrease, rather than increase, the contribution of the railroad as a whole to overhead and depreciation ($1,035,000 after the abandonments vs. $1,051,000 before). This conclusion would only hold true, cent of net revenue in the study month, compared to 13 percent on the Connecticut River Line and only 11 percent on the Maine segment. The level of taxes in particular is very high on the Massachusetts segment, reflecting the concentration of facilities in the Boston metropolitan area. Taxes and rents totaled 5 percent of net revenue, as compared with 1 percent on the Maine and Canadian segment, respectively.

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Connecting rail carriers. The B&M's major gateway on traffic moving to and from New England is at Mechanicville where it interchanges with the D&H. The Mechanicville gateway is the only one of New England's traditional gateways which is not controlled by the Penn Central. Since PC also is a competitior of the B&M for traffic moving to and from points within New England, this D&H connection at Mechanicville provides the B&M with an essential means of competing for such traffic. As we have seen Mechanicville is on the "Massachusetts" segment which extends between Boston and Ayer on the east and Mechanicville and Rotterdam Junction on the west. Comparatively little traffic is originated or terminated at points on this segment west of Ayer and virtually none west of Greenfield on the Connecticut River. West of the Connecticut River this line passes under the Berkshire Mountains through the 5-mile long Hoosac Tunnel, a hundred-year-old tunnel which is one of the longest in the United States. The Hoosac Tunnel enables the B&M to operate betwen the Boston and Albany areas over shorter distances and at a far more favorable low-profile operating gradients than the more southerly PC line between Boston and Albany. In addition, the distance between Mechanicville and Boston is 187 miles, and the use of the Mechanicville interchange with the D&H (and of the Rotterdam Junction interchange with the PC 19 miles west of Mechanicville) provides the B&M with its longest hauls and its most favorable revenue divisions with other carriers. In the absence of this Hoosac Tunnel line the B&M would be obliged to use Worcester, about 40 miles west of Boston, as the interchange point for most of its traffic moving to and from points outside New England. However, the Hoosac Tunnel line has suffered severly from deferred maintenance

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Within New England the B&M interchanges traffic with the Canadian Pacific and the Central Vermont, at Woodsville and White River Junction, Vt., on the Connecticut River, and with the Maine Central and the Canadian National at Portland. In turn, the Main Central interlines traffic with the Bangor & Arostook at Northern Maine Junction. Although the BAR is not a direct connection of the B&M, a substantial part of the BAR's traffic necessarily is interlined with the Maine Central and the B&M. The B&M is the only railroad operating between the Boston-Worcester areas and Portland, and as shown by the segmentation study its "Maine segment" between Worcester and Portland makes the most favorable contribution of revenue to overhead and profit of any segment of the B&M. One of the paradoxes of railroading is that a railroad's chief competitior may also be an important connecting line. Thus, within New England the B&M interlines sizable traffic with the PC at Worcester and Springfield and to a lesser extent at Lowell and Boston.

The following tabulation gives the basic interchange statistics between the B&M and its connecting carriers for the years shown:

Loads Received from and Delivered to Connections 1969 - 1970

	Received		Delivered	
	1970	1969	1970	1969
Total	300,328	328,639	178,704	194,147
All Points -				
Canadian National	1,390	1,646	1,023	1,239
Canadian Pacific	26,821	28,062	7,731	7,214
Central Vermont	18,136	18,538	9,389	9,199
Delaware & Hudson	126,878	138,376	56,431	62,896
Maine Central	50,936	61,233	31,515	31,907
Penn Central	69,500	73,542	66,941	74,293
At Principal Gateways				
Mechanicville-D&H	126,620	138,083	56,431	62,896
Portland-MeC &CN	48,804	59,434	32,125	32,579
Rotterdam Junc.-PC	42,906	42,927	16,682	14,846
Worcester - PC	14,468	15,439	21,379	26,771
Woodsville - CPR	26,821	28,062	7,731	7,214
Springfield - PC	5,477	5,850	16,831	19,368
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The above figures clearly show that the B&M prime interchange is with the D&H at Mechanicville. Suprisingly, its second largest interchange is at Rotterdam Junction with the Penn Central. Virtually all traffic interchanged at these two points moves over the Hoosac Tunnel line. Thus, of 379,000 carloads reported by Moody's Transportation News as moving over the B&M in 1970, 237,366, or 66.7 percent moved to or from Mechanicville or Rotterdam Junction over the Hoosac Tunnel route. In 1969 of 419,000 total carloads 258,852, or 63 percent, moved to or from those gateways. Comparison of the Rotterdam Junction and Worcester figures indicates that the B&M, at least in the years shown, has not been obliged to short haul itself in favor of the Penn Central at Worcester. (The 35,000 to 40,000 cars a year presently interchanged at Worcester might be augmented by 10,000 or more if the Providence & Worcester Co., a former leased line of the New Haven, is successful in freeing itself from the PC in F. D. No. 26154.) The Canadian Pacific interchange at Woodsville and the Central Vermont interchange at White River Junction represents traffic moving up and down the Connecticut River, a total of 51,746 carloads in 1970. This does not include traffic moving to and from B & M shippers on the Connecticut River line and the Berlin branch.

A prime factor pertinent to the B&M's interchange with the D&H is that the D&H itself is a bridge carrier extending westward from Mechanicville only to the area of Binghamton, N. Y., where it interlines east-west traffic with the Erie-Lackawanna and the Lehigh Valley and southward to the Wilkes-Barre, Pa., area where it connects with the Lehigh Valley and others. As a consequence, the B&M must participate in 3-, 4-, and 5-line hauls to and from eastern and midwestern points where the Penn Central can provide single-line service. For example, points on the Erie-Lakawanna such as Buffalo, Cleveland, or Chicago would be 3-line hauls. St. Louis would be a 4-line haul in conjunction with the N&W at Huntington, Ind. Potomac Yards, near Washington, D. C., would be a 5-line haul involving the B&M, D&H, Lehigh Valley, Reading, and B&O. Traffic moving to and from Maine Central and BAR points would necessarily involve one or two additional lines. Thus the B&M participates in substantial traffic movements entirely within the Eastern District which require 5-, 6-, and 7-line hauls. In addition to having to compete with the Penn Central's single-line service with such multiple-line hauls, the routes of the D&H and E-L are such that the B&M's multiple-line routings have longer mileages than the Penn Central's.

The B & M's competitive situation. Rail service at points in Massachusetts is roughly divided between the B&M and the PC on a north-south basis. The PC's main line - the former Boston & Albany - extends through the southern half of the Commonwealth serving Boston, Worcester, and Springfield, and two of the PC's branch lines extend northward to Fitchburg and Lowell in the B&M's half of the State. The B&M's main line extends through the northern half with Boston, Worcester, and Springfield being served by ancilliary main lines. The B&M's trains need not pass through any of these three major cities in moving between Mechanicville and Portland. In Boston the north-south division between the two railroads is particularly apparent with the B&M serving all of the northern segment of the "Hub" metropolitan area and PC all of the southern segment. B&M operates the "North Station" commuter terminal and PC "South Station." North of Massachusetts the B&M has a railroad monoply at many points in Vermont and New Hampshire, and, indeed, it is the only rail carrier serving the growing industrial area in southeastern New Hampshire around Nashua, Manchester, and Concord. And, of course, it is the only direct rail link between the Boston-Worcester areas and points in Maine. But even at Boston the B&M does not normally share its on-line shippers with the Penn Central. New England railroads have historically been able to use their economic power as a successful means of enabling them to solicit the line haul from on-line shippers. Nevertheless, there is substantial rail traffic over which shippers are free to choose between the B&M and Penn Central. Piggyback and ex-water shipments are but two examples of such traffic. In addition, shippers at points in Maine and in northern New Hampshire and Vermont are able to choose between the B&M as an overhead carrier, and one or the other of the Canadian railroads particularly on shipments moving to and from points in the midwest.

The B&M's competitive situation has been altered markedly as a result of the Penn Central merger in February 1968 and that railroad's acquisition of the railroad assets of the New Haven at the end of the same year. Prior to 1969 the B&M competed with the Boston & Albany and with the New Haven. The Boston & Albany functioned as a unit of the New York Central and had a gateway at Selkirk in the Albany area. The New Haven interchanged with other carriers at its Harlem River yard, a float operation in the New York, N. Y., area; and at Maybrook, N. Y., a point west of the Hudson River where the New Haven interchanged with the E-L and others.

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Thus, there was a three-way competitive situation, and neither of the B&M's two competitiors commanded the dominent position presently enjoyed by the PC. Moreover, the Penn Central has made significant changes in the routing of traffic and its use of gateways. Former New Haven traffic has been largely rerouted since its acquisition by the Penn Central. The Harlem River float operation has been discontinued, and the Maybrook interchange no longer is favored by the PC. The PC has established a huge modern automated yard at Selkirk which is also a focal point for traffic moving to and from midwestern points. Consequently, virtually all PC New England traffic is now routed through Selkirk to the Boston & Albany line and from there to New England points. This has strengthened the PC from the standpoint of operating economies and the ability to route traffic efficiently.

The service of both the Penn Central and the B&M had deteroriated drastically at the time of their bankruptcies in 1970, a fact that forced many shippers to the use of competitive modes of transportation, particularly trucks, and to route rail shipments by Canadian rail carriers. However, contrary to an adverse reputation which has centered on the disasterous events which led up to its bankruptcy, the Penn Central's service to and from New England points has improved vastly since it has been in bankruptcy; and its improvement has been faster than that of the service of the B&M. Penn Central's management now demonstrates an intention to do what the separate Pennsylvania and New York Central managements never succeeded in fully accomplishing - using the vast coverage of the Penn Central's lines to its own full advantage both in soliciting traffic for single-line hauls and in routing that traffic in the most efficient manner possible. As a small railroad faced with so formidable a competitior, the B&M must rely upon its ability and that of its connections to solicit the line-haul from their on-line shippers and upon the fact that New England shippers, particularly those which cannot readily be diverted to truck or water transportation, actively favor the Boston & Maine in order to retain it as the only viable competitior to the PC. A closely related factor is that some shippers have a distinct preference for the routing flexibility available from bridge carriers such as the B&M and D&H.

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Of course, rail competition is not the only competitive factor to be considered. Truck and water competition also are vital factors, and, of the two, the truck has been the most versatile competitor and the one which has drawn the most traffic away from railroads. The railroads were slow to respond effectively to truck competition, and, when they did, other factors served to strengthen the position of the trucking industry to compete for traffic and to make incursions into areas where transportation economies previously were considered to favor the railroads. The Interstate Highway System is one such factor. In New England wherever the B&M operates its routes are paralleled by Interstate Highways or by modern superhighways operated as toll facilities. Such highways include the Massachusetts Turnpike which connects with the New York Throughway for through transportation between the Boston and Albany areas and beyond. These modern highways extend the effective competitive range of truckers and constitute a technological breakthrough greatly adding to the overall efficiency of trucklines. It is no coincidence that the 12 years of unbroken deficit operations by the B&M which preceded its bankruptcy began one year after the opening of the Massachusetts Turnpike in 1957.

Another factor favoring the truck lines is the increasing tendency of corporate traffic managers to route their traffic in the context of the total cost of distribution rather than merely resorting to whichever carrier or transportation mode has the lowest rate between two points. Under the total-cost-of-distribution concept, every cost of maintaining and transporting a product from the time of manufacture to the time of delivery to the customer is taken into account. This includes the cost of money tied up in the product while it is in inventory, the cost of warehousing, and, of course, the cost of accessorial services such as transportation between rail siding and the point of consignment and the cost of loading and unloading. This concept tends to place greater emphasis upon the flexibility of trucks in their ability to handle small loads, provide faster service, and to make job site deliveries to consignees lacking rail sidings. In the past trucks have sucessfully diverted a great variety of traffic to the highways which formerly was considered to belong to did, other factors served to strengthen the position of the trucking industry to compete for traffic and to make incursions into areas where transportation economies previously were considered to favor the railroads. The Interstate Highway System is one such factor. In New England wherever the B&M operates its routes are paralleled by Interstate Highways or by modern superhighways operated as toll facilities. Such highways include the Massachusetts Turnpike which connects with the New York Throughway for through transportation between the Boston and Albany areas and beyond. These modern highways extend the effective competitive range of truckers and constitute a technological breakthrough greatly adding to the overall efficiency of trucklines. It is no coincidence that the 12 years of unbroken deficit operations by the B&M which preceded its bankruptcy began one year after the opening of the Massachusetts Turnpike in 1957.

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In the past year or two the B&M has experienced more inroads by motor carriers. Additional refrigerated traffic, moving by piggyback from points in the midwest, has been diverted to trucks due to lower rates instituted by the truckers; potatoes from Maine, formerly moved primarily by rail because of the low rail rates on that commodity, but rail service failures and the opening of new super-highways has caused much of this traffic to be diverted to truckers specializing in the transportation of agricultural commodities exempt from the economic regulation of trucking; substantial sand and gravel traffic which formerly moved by the B&M has been diverted to truck, apparently because a combined rail-lighterage movement made it too costly for the B&M to provide a competitive rate; and some coal traffic has been lost due to ecological concerns which have found public utilities and others obliged to substitute other fuels being transported by other modes.

Traffic volume. As a railroad the B&M cannot be considered as being of more than moderate size, and during the past score or so years its operations have shrunk. Its once comprehensive passenger service, which in 1956 transported more than 25 million passengers in and out of Boston in line-haul and short-haul service, has shrunk to a few commuter lines which transported 4.7 million passengers in and out of Boston in 1971 and which has been maintained solely by virtue of an inadequate subsidy from the MBTA. The Boston & Maine's payroll, which numbered 14,532 in 1946 in the days of comprehensive passenger service and steam operation, numbered but 3,487 in 1971. The following tabulation shows the history of the B&M's traffic, revenues, and earnings since 1945. The equipment rents included with this tabulation is illustrative of only one of the myriad of

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B&M Traffic, Freight Revenues, Earnings, and Equipment Rents 1945 - 1971

	(Billions)					(Millions)
Year	Revenue Ton Miles	5 year av.	Freight Revenues	Equipment Rents	NROI[6]	ORD Income
1945	4.2		$55.6	3.3	3.6	$ (.6)
1946	3.7		53.8	3.3	4.5	.7
1947	3.7		61.3	3.2	5.9	1.2
1948	3.7		70.8	3.9	8.3	4.5
1949	3.0		61.7	3.4	5.0	1.3
1950	3.2	3.5	65.4	3.9	7.0	3.6
1951	3.2		67.8	3.6	5.0	1.2
1952	3.0		66.9	3.5	5.1	1.3
1953	2.9		67.4	4.2	5.4	1.9
1954	2.7		61.2	5.0	3.3	(.6)
1955	3.0	2.9	66.3	5.9	6.9	3.3
1956	3.1		67.9	6.1	4.8	.7
1957	2.9		66.5	5.5	5.5	.8
1958	2.6		59.6	5.6	1.9	(3.2)
1959	2.6		58.6	5.9	1.2	(3.8)
1960	2.6	2.8	56.6	6.2	1.7	(3.9)
1961	2.8		56.1	7.2	2.7	(3.3)
1962	2.8		54.9	5.9	2.9	(2.9)
1963	2.6		52.2	5.5	2.8	(2.9)
1964	2.7		52.1	5.0	.1	(5.2)
1965	2.8	2.7	52.0	5.1	5.0	(.6)
1966	2.8		52.1	5.2	2.8	(1.5)
1967	2.7		52.5	5.4	.7	(3.4)
1968	3.0		56.7	7.0	(1.2)	(5.4)
1969	2.9		58.2	7.7	(2.5)	(6.4)
1970	2.7	2.8	58.8	8.4	(6.5)	(10.7)
1971	2.6		64.6	7.7	(1.7)	(5.7)

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[6] NROI is net railway operating income - income before fixed charges for interest and before "other income" and "other expenses", but after depreciation.

Although the year-to-year volume of the B&M's traffic fluctuates and must be considered cyclical, its overall pattern, as shown by the 5-year averages, has been relatively stable over the past 20 years. The general trend, however, is slightly downward. The figures for 1968, and to a lesser extent 1967 and 1969, are somewhat inflated due to the heavy movement of sand and gravel in those years, which the B&M's present management considers to have been transported at a loss.

Commodities. In 1971 sixty-eight percent of the B&M's tons hauled and 64.6 percent of its revenues were accounted for by nine commodities. These were paper which accounted for 20.3 percent of its tonnage and 22.1 percent of its revenue; pulp and pulp mill products for 4.4 percent of its tons and 4 percent of revenue; lumber and wood products, 5.6 percent of tons and 4.9 percent of revenue; food products, 8.9 percent of tons and 10.8 percent of revenue; grain mill products, 6.8 percent of tons and 5.9 percent of revenue; chemicals, 7.4 percent of tons and 9.4 percent of revenue; coal, 7.3 percent of tons and 3 percent of revenue; crushed stone, gravel, and sand, 4 percent of tons and 1.5 percent of revenue; and cement 3.3 percent of tons and 3 percent of revenue. In the 8 years 1964 - 1971 paper and chemicals traffic have grown, pulp has held steady, and the others have held fairly steady or have declined. The most marked declines have been in coal which declined sharply in 1970 and 1971 due to the heavy emphasis now being given to low sulphur fuels, food products, and grain mill products. The three forest products commodities, paper, pulp, and lumber together accounted for 30.3 percent of tons and 31 percent of revenues. Potatoes were not included among these nine leading commodities. Potatoes accounted for 608,000 tons in 1965 and declined to 249,000 tons in 1970. They ranked 12th in 1965 and 17th in 1970. A heavy and disproportionate movement in sand and gravel peaked in 1968 when the B&M hauled 4.3 million tons of that commodity accounting for 22.2 percent of tons handled that year, but only 4.8 percent of revenue. The B&M's present management, perhaps not surprisingly, considers that movement of sand and gravel to have been unprofitable.

Adverse operational characteristics. Aside from its competitive situation, which in its present context is largely a product of the Penn Central merger, the B&M has long suffered from a number of adverse operating factors the heavy movement of sand and gravel in those years, which the B&M's present management considers to have been transported at a loss.

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Adverse operational characteristics. Aside from its competitive situation, which in its present context is largely a product of the Penn Central merger, the B&M has long suffered from a number of adverse operating factors which are inherent in its makeup. One of these, already mentioned, is the fact that it is primarily a terminating and bridge carrier; that it originates comparatively little of the traffic that it interchanges with its connections; and that it handles even less local traffic which originates and terminates on its lines. Moody's Transportation Manual, 1971,,in fact, ranks the B&M 50th out of 50 class I railroads in percentage of tonnage originated on line. This factor not merely makes the B&M dependent on its connections for much of its traffic, it also vitally affects its car supply situation and the per diem rental it must pay for off-line cars. Expenditures for equipment rent represent a major factor in the B&M's accounts. In 1970 the B&M's equipment rents for freight cars amounted to $8.4 million, or 14 percent of freight operating revenues of $58.8 million. In 1971 this declined to $7.7 million, or 12 percent of $64.6 million freight revenues. These equipment rents represent primarily per diem and mileage charges for foreign cars which were on line. The modest size of the owned and leased fleet of B&M cars also is a contributing factor.

Turning to other adverse factors, Moody's shows the B&M ranking 37th of 50 line-haul Class I railroads in average length of haul for revenue freight in 1960. The B&M's average length of haul in 1960 was 173.6 miles. Its 1971 showing of 182.6 is the longest length-of-haul demonstrated by the B&M since World War II and is consistent with the general lengthening of hauls by all Class I railroads. The 1971 average for all Class I railroads was 531 miles. The reasons for the short length-of-haul are easy to appreciate. Its longest operating run from Mechanicville to Portland is only 267 miles; its run from Mechanicville to Boston is 187 miles; and the run over its densest and most profitable line between Worcester and Portland is 144 miles. The B&M also rates low in traffic density. Moody's ranks it 40th of 50 in ton-miles of revenue freight per mile of road.

In this respect we might also take a look at the productivity on the B&M in terms of ton miles per hours paid for: In 1960 the B&M transported 200.8 ton miles of freight for each employee hour paid for. This rose to 290.4 in 1965 and reached a high in 1966 of 299.5 except for the years of the great sand and gravel movement which distorted so many of the B&M's operating statistics.

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The following comparisons seem pertinent:

Revenue Ton Miles Per Employee Service Hour Paid

	B&M	E. District	U.S.	B&M as a percentage of: E. District	U.S.
1966	299.5	413.7	478.5	72.4	62.6
1967	297.4	423.3	490.7	70.3	60.6
1968	324.1	429.5	516.0	75.5	62.6
1969	310.1	444.7	542.9	69.7	57.1
1970	293.6	445.6	554.7	65.9	52.9
1971	289.0	432.2	566.9	66.9	51.0

The fact that the B&M's productivity factors are substantially lower than those for the Eastern District generally is a reflection, at least in part, of the comparatively low density of traffic on the B&M. The meaningful fact revealed by these statistics is that productivity on the B&M has been declining while it has been growing on other railroads both in the nation as a whole and in the lackluster Eastern District.

Pre Bankruptcy History of the B & M

As with most railroads, particularly those in New England, the management of the B & M has changed from time to time in accordance with the fluctuations of its fortunes and the whims of its stockholders. During the 30's and 40's it was controlled by a conservative management which placed heavy emphasis on capital improvement and the simplification of its capital structure. More recently, officials of a less conservative management group were found guilty of missapplication of B & M assets by reason of the sale of certain equipment in 1958 and were fined and sentenced to imprisonment.

The B & M suffered uninterrupted deficits in net income beginning in 1958. Average yearly deficits of \$3.5 million were incurred during the 12 years from 1958 through 1969 while fixed charges for interest paid during that period consumed its depreciation and caused it to cannibalize its properties. Consequently, management made wholly inadequate capital expenditures. Its last heavy expenditures for equipment were made in the mid 50's. Tie-laying and track-replacement programs were neglected.

In July 1960 most of the B & M's first mortgage bonds fell due. It was unable to refinance them and was obliged to resort to a proceeding under section 20b of the Interstate Commerce Act in order to convert them, along with an issue due in 1961, to a new issue of 6 percent series SS bonds due August 1, 1965. See Boston & Maine R. Bonds Modification, 307 I.C.C. 743, decided February 25, 1960. By 1965 the B & M was considered as teetering on the verge of bankruptcy. The series SS 6 percent first mortgage bonds became due on August 1, 1965, and its series AC 5 percent first mortgage bonds would become due September 1, 1967. Together the two series constituted all of the B & M's outstanding first mortgage bonds. Consequently, in September 1964, the B & M filed a new application seeking authority under section 20b to modify these two series of bonds by substituting a new series TT 6 percent bonds. In Boston & Maine Corp. Bonds Modification, 328 I.C.C. 150, decided April 30, 1965, the Commission, Division 3, approved such a modification which subject to the approval of bondholders allowed the two old bond issues to be substituted for by the new series TT 6 percent interest first mortgage bonds, due August 1, 1967, with a supplemental indenture which provided that, with the consent of 75 percent of the affected bondholders, the new bonds could be extended from August 1, 1967, to a date not later than July 1, 1970. In its report in the 1965 Bonds Modification case, Division 3 noted that the B & M was facing a real threat of bankruptcy; that it was confronted with $7 million past due taxes; that it had virtually no cash revenues; that its working capital was insufficient for its requirements; and that its fixed charges had not been fully covered since 1957 and it had been living off depreciation and the cannibalization of its property. Consequently, it was evident that, unless the imminent maturity of first mortgage bonds could be deferred, the B & M would be unable to avoid reorganization proceedings under the Bankruptcy Act and that even with such a deferral such proceedings might occur. Moreover, the evidence in that case strongly suggested that the ultimate solution for the B & M was in a proper merger. The pendency of the Norfolk & Western - Nickel Plate merger was noted along with pending negotiations for inclusion of the B & M in that merger, and Division 3 concluded that the modification of securities authorized in the Bonds Modification case would meet the B & M's urgent basic needs and would make possible negotiations for such a merger.

Indeed, the Norfolk & Western - Nickel Plate merger was pending and the 1965 and 1967 due dates of the B & M's old and new first mortgage bonds were highly pertinent. In Norfolk & W. Ry. Co. and New York, C. & St. L. R. Co. Merger, 324 I.C.C. 1, decided June 24, 1964, the Commission had approved the Norfolk & Western - Nickel Plate merger and provided that jurisdiction would be retained for a period of 5 years following that date to permit the filing of petitions by the E-L, D&H, and B & M for inclusion in the new Norfolk & Western system. (The Commission spoke of "affiliation" rather than "merger" with the Norfolk & Western.) Subsequently, in Norfolk & W. Ry. Co. and New York, C. & St. L. R. Co. Merger, 330 I.C.C. 780, decided June 9, 1967, the Commission provided for inclusion by the E-L, D&H, and B & M in the Norfolk & Western system as subsidiaries to be owned by an intermediate holding company to be known as Derico. During 1967 the bondholders agreed to extend the series TT first mortgage bonds from August 1, 1967 to July 1, 1970.

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However, the B & M's directors considered the provision for its stockholders set forth in the Merger case inadequate. (These apparently would have provided the equivalent of \$6.67 a share for B & M common stock and \$11.73 for the preferred. The B & M thought that \$25 and \$43 a share respectively were indicated.) In 1968 the Commission-approved N & W terms were submitted to the B & M stockholders who voted to reject the proposed affiliation. The effective date for B & M inclusion in the N & W system was extended to July 1, 1969, but the B & M declined to join. Instead a holding company was formed known as Boston & Maine Industries, Inc. Stock of the holding company was offered in exchange for B & M common and preferred, and the exchange became effective on March 17, 1969. The holding company eventually acquired 95.8 percent of the common and preferred stock of the B & M. In November 1969 Boston & Maine Industries, Inc., diversified by acquiring a non-transportation subsidiary. The name of the holding company was changed to Bomaine Corporation in May 1971 and it further diversified by an additional acquisition in that same month. Bomaine now has its corporate home in Los Angeles, Calif.

The B & M deficits which had moderated in 1965 and 1966 regained their past magnitude and grew worse. The 1968 and 1969 deficits set post World War II records. Property taxes of \$5.1 million remained unpaid at the end of 1969. The February 1, 1970, interest payment on the series TT bonds was not paid when due, and the Institutional Bondholders instituted the reorganization proceedings on March 12, 1970.

The B&M Since Bankruptcy

The Trustees' new management group. The Trustees assumed control in May 1970. In their first year-and-a-half in office they reorganized the B&M's management team, built up its cash position, retained the services of consultants for assistance in preparing their reorganization plan, and with the assistance of the consultants and the B&M's officers and staff were able to submit their plan with its extensive supporting material on December 20, 1971. They and their court-appointed counsel have participated actively in extensive, detailed, and virtually endless negotiations with public bodies and others involved in the B&M's affairs. In this respect negotiations with the Massachusetts Bay Transportation Authority and other bodies and public officials in Massachusetts are particularly worthy of note inasmuch as the MBTA commuter contract is renewable from year-to-year in July and requires an annual determination by the Massachusetts legislature regarding the extent to which the commonwealth must subsidize the operations of the MBTA. Negotiations with New Hampshire officials regarding the State's desire to acquire lines proposed for abandonment along with other B&M lines and to establish short-line railroads in their place also have been extensive and complex. Coupled with these truly exhaustive negotiations has been the requirement for attendance at numerous proceedings before the Reorganization Court and at the Interstate Commerce Commission hearing. The demands of a reorganization proceeding upon the time and services of Trustees, their counsel, and the railroad's management are not always evident to the public, but in this proceeding, at any rate, they have been enormous, and in this proceeding their response has been commensurate to those demands.[7]

The Trustees made a comprehensive change in management personnel. A new management group was formed under the leadership of John W. Barriger, a distinguished and aggressive railroad man with extensive past experience with the Reconstruction Finance Corporation in helping reorganize the

7 Their chief adversaries in the proceeding and before the reorganization court grudge them neither praise nor adjectives. The Institutional Bondholders, in their brief at page 130 credit the B&M Trustees thus: "* * * Trustees of competence * * * were seasonably appointed and took office, with extraordinarily able legal counsel. They brought in new and vigorous management. And with great imagination they and management attacked the problem. Forbidding as it was, they were not daunted, not hesitating even to explore possibilities for salvation quite unconventional, which are reflected in their action program." The substitute trustee for the first mortgage bonds also acknowledges that the B&M Trustees have done an "admirable job." Both, of course, maintain that the B&M is a hopeless case.

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troubled railroads of the thirties and with subsequent successful operating experience at the head of a number of railroads comparable in size to the B&M. Mr. Barriger served as chief executive officer of the B&M for 2 years from January 1, 1972. On his retirement he was suceeded as chief executive officer by former Trustee Cherington. Other new officers included a chief operating officer, a chief traffic officer, a new comptroller promoted from within the B&M, a chief of engineering, and a new chief and a new assistant chief of Labor Relations.

The new management assisted the Trustees in planning for reorganization, and it has made changes in the B&M's operations which are consistent with the Trustees' Plan and which in some instances go beyond the specifics of the plan. The B&M had been in bad operating condition. It had experienced a number of train wrecks caused by the badly run down condition of the property and by inattention to proper maintenance procedures due in part to extremely poor employee morale. Management has been able to give effective attention to the worst problems. A series of regular safety inspections have been instituted, and train speeds have been reduced where necessary. Additional bad wrecks have been avoided.

A study of train speeds on the B&M resulted in the fixing of 40 miles per hour as a standard speed both now and in the future for trains on the main line. The curves and grades generally prevailing on the B&M do not suggest higher speeds even once its track is substantially rehabilitated. Where reduced speeds less than 40 miles an hour have been in effect on main lines because of safety considerations, such conditions have mostly been corrected. In the Summer of 1972 the only such reduced speeds still in effect were in the Hoosac Tunnel where the track and roadbed were in extremely bad condition, and rehabilitation there had started. Management reduced the size of trains to 125 cars and would keep them at that length in the future, reducing the length of trains further as the present trend in the railroad industry to larger and heavier cars continues.

Freight trains and classification procedures were changed. The number of yard handlings per car on the B&M was reduced by half. Classification at the Mechanicville yard was discontinued. Instead, the B&M chose to rely heavily on pre-blocking of cars by connecting lines. In an attempt to improve piggyback schedules and service, a special piggyback train was inaugurated with one train a day in each direction between Boston and Mechanicville. Although piggyback schedules between Boston and Chicago traverse longer routes and are slower than on the PC, the Boston &

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Employment on the B & M has reduced by 300 since bankruptcy, and further reductions are contemplated. Freight rates have been reviewed and below cost rates eliminated. The B & M is in the midst of a major effort to improve its freight mix by construction of an automobile rack unloading facility at Ayer. The employment situation on the B & M and managements efforts respecting freight solicitation and the level of rates are described in greater detail as part of the Action Program, below.

Operating results since bankruptcy. Eastern District carloadings have been down every year since 1968, and the Trustees and their new management have had to deal not only with the problems of a bankrupt and run-down railroad, but with declining traffic as well. Moody's Transportation shows the following percentage changes from previous years in numbers of carloads for the B & M, certain other railroads, and the Eastern District:

Yearly Percentage Changes in Carloadings 1968 - 1972

	9 months 1972	6 months 1972	1971	1970	1969	1968
B&M	-3.4	-4.9	-6.1	-9.8	-8.7	+5.5[12]
BAR	+5.1	+2.3	-13.3	-5.3	-5.9	-7.3
MeC	-3.8	-7.5	-7.6	-10.2	+2.5	-4.3
D&H	-19.0	-19.9	-14.4	-5.5	+4.7	-3.5
PC	-1.5	-3.6	-7.4	-6.4	-6.9	-5.1
N&W	-0.4	-4.8	-14.7	-5.8	+0.2	-1.0
E. Dist.	-4.3	-6.8	-8.6	-6.1	-2.9	-2.5

Comparison of Carloadings 1967-1971

	Total Carloadings in Thousands 1971	1967	Total Percentage Charge 1961-71
B&M	356	434	-18.0
BAR	78	110	-28
McC	171	210	-18
D&H	323	396	-18
PC	5,318	6,614	-20
N&W	2,481	3,073	-19
E. Dist.	16,743	21,246	-21

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[12] The 1968 showing is destorted on the B & M because of its large sand and gravel movement that year.

mix by construction of an automobile rack unloading facility at Ayer. The employment situation on the B & M and managements efforts respecting freight solicitation and the level of rates are described in greater detail as part of the Action Program, below.

<u>Operating results since bankruptcy.</u> Eastern District carloadings have been down every year since 1968, and the Trustees and their new management have had to deal not only with the problems of a bankrupt and run-down railroad, but with declining traffic as well. <u>Moody's Transportation</u> shows the following percentage changes from previous years in numbers of carloads for the B & M, certain other railroads, and the Eastern District:

<u>Yearly Percentage Changes in Carloadings 1968 - 1972</u>

	9 months 1972	6 months 1972	1971	1970	1969	1968
B&M	-3.4	-4.9	-6.1	-9.8	-0.7	+5.5[12]
BAR	+5.1	+2.3	-13.3	-5.3	-5.9	-7.3
MeC	-3.8	-7.5	-7.6	-10.2	+2.5	-4.3
D&H	-19.0	-19.9	-14.4	-5.5	+4.7	-3.5
PC	-1.5	-3.6	-7.4	-6.4	-6.9	-5.1
N&W	-0.4	-4.8	-14.7	-5.8	+0.2	-1.0
E. Dist.	-4.3	-6.8	-8.6	-6.1	-2.9	-2.5

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These year-to-year comparisons do not reflect the partial 1972 figures shown in the preceding tabulation which show additional decline for most of these carriers. The severe decline for the D&H during 1972 is particularly notable.

Operating results for the B&M during these years have been as follows:

B&M Operating Results 1968 - 1972

	(Billions)	(Millions)		
	Ton Miles	Freight Revenues	NROI	Ord. Income
1968	3.0	$56.7	($1.2)	($ 5.4)
1969	2.9	58.2	(2.5)	(6.4)
1970	2.7	58.8	(6.5)	(10.7)
1971	2.6	64.6	(1.7)	(5.7)
6 months:				
1971	1.37	32.2	(1.7)	(3.9)
1972	1.31	32.8	(1.9)	(3.8)

Thus, we see from the foregoing tabulation that the Trustees assumed control of the B&M in the midst of a severe decline in freight traffic in the Eastern District. During the first half of 1972 the B&M's tons of freight were up slightly, but ton miles and carloadings were down. The slight increase in revenues for the first half is probably accounted for by an increase in rates rather than by any traffic improvement.

One of the few advantages of bankruptcy is that, while it lasts, interest on long-term debt and real property taxes need not be paid - although they are charged on the books against income and are added to the debts of the bankrupt estate. Consequently, the Trustees have had $4.3 million a year in interest and $1.8 million a year in State and local taxes which they have not paid, but which are counted as expenses in recording the deficits shown in 1970, 1971, and 1972. Because of non-payment of interest and taxes and a positive cash flow from depreciation the B&M has been able to build up its cash account. Its cash flow, as demonstrated by the buildup of cash and temporary cash investments is shown in the following tabulations:

B&M Cash Flow 1968-1972

December 1968	$2,002,000
December 1969	1,489,000
December 1970	4,529,000
December 1971	5,655,000
January 1972	5,523,000
February	6,871,000
March	7,172,000
April	8,372,000
May	8,532,000
June	9,821,000
July	8,538,000
August	8,286,000
September	8,335,000
October	7,412,000
November	7,082,000
December	6,557,000

Actual operational requirements for cash are about $1.5 to $2 million. Whatever criteria are used to measure the railroad's otpimum operational requirement for cash, it is clear that the B&M Trustees' have had more on hand during 1972 than was required for running of the railroad.

Although the B&M's locomotive and car fleets are old and in need of replacement, the Trustees have been unable to borrow the amounts required for an adequate replacement program. In addition, large sums are needed for a track program. Consequently, during 1971 the Trustees undertook extensive locomotive maintenance and car repair programs. Additional factors favoring the car repair program were a high bad order ratio, the huge rental cost which the B&M incurs on freight cars, and the fact that the B&M can recover the cost of rehabilitating a freight car in per diem savings over a period of slightly more than a year. The locomotive program is scheduled to last over a period of several years.

The Trustees have been less successful in obtaining approval for their track program. Their plans for laying 30 miles of new rail a year along with 20 miles of relay rail have not been realized. They were able to lay about 5 miles of new rail in 1971. Due to the objections of bondholders, the Trustees have petitioned the Reorganization Court for only part of their 1972 program, and only part of that has so far been approved. In the Spring of 1972 the B & M management was authorized to replace 5.5 miles of main line track in the Hoosac Tunnel. The rail was purchased and the work started, but it was interrupted by a cave-in at one end of the tunnel. In addition to disrupting traffic for 5½ days, that cave-in caused the Institutional Bondholders to petition the Reorganization Court to stop work on the tunnel. Work stopped while a special master was appointed by the Court to hear evidence on the advisability of continuing such work. Opening of the new automobile unloading facility at Ayer also has been delayed due to objections of the bondholders.

At this point an increase in traffic volume would make a big difference to the B & M. As will be seen, the Trustees, in their steady state forecast, projected an improvement in the New England economy for 1972 and an accompaning increase in freight traffic. Unfortunately, while some improvement now seems apparent, it has been slow coming. During the first half of 1972 carloadings have been down for railroads throughout the Eastern District. In addition, at the end of June Hurricane Agnes, a severe tropical storm, blew inland and did considerable damage to the B & M's connections in New York and Eastern Pennsylvania. The Penn Central, the E-L, and the D & H suffered badly from the storm. The PC incurred storm damage of more than $20 million, and the E-L had over 140 miles of track closed by washouts and went into bankruptcy. The D & H also suffered badly as a result of the storm. Its carloadings, down by 18 percent in 1971 as compared to 1967, were cut by an additional 19 percent during 1972; and it has as a result of the storm fallen into a bitter dispute with the PC over traffic formerly routed to the D & H by the PC at Wilkes-Barre which, by reason of damage to a PC connecting branch at Wilkes-Barre, has been diverted to a routing which tends to favor the PC. The B & M did not suffer damage from the storm, but the effect of the storm has been disruptive. It had just closed down classification activities at Mechanicville when flood-delayed traffic was routed through to it by the D & H. Its arrangements with the D & H require that cars be preclassified for it by the D & H, but this was not done with the flood-delayed cars, and as a consequence the B & M had to call back its Mechanicville yard crews in order to get this traffic classified properly. About a month later the cave-in on the Hoosac Tunnel, forced the B & M to divert its trains by the PC's Boston & Albany Line for 5½ days. The Penn Central was cooperative, but the B & M suffered disrupted train schedules and a drop in traffic. The B & M has not been hurt nearly as badly by these events as the D & H. The B & M's carloadings for the first 9 months of 1972 have been off only 3.4 percent as compared to the D & H's 19 percent, and its "beyond" connections - the Maine Central and the BAR - along with the B & M show an improvement in the third quarter when compared with the first half of 1972.

F. D. No. 26115

B & M Debts and Valuations

Debts. The debts owed by and claims against the Boston & Maine as of March 12, 1970, the date of bankruptcy, are as follows in approximate order of priority:

Claims Against B & M Estate

Secured Claims:	
Real Estate and Other Tax Claims	$ 7,621,704.10
Bondholders and Creditors holding Securities	81,779,442.30
Unsecured Claims:	
Personal Injury and Property Damage (other than Freight Claims)	1,896,355.06
Interline Per Diem Claims	11,284,587.23
Interline Freight/Overcharge Claims	567,763.86
Shippers' and Consignees' Freight Claims	2,972,492.00
Shippers' and Consignees' Overcharge Claims	173,657.50
Private Car Hire	503,653.43
Materials Supplies and Services Rendered	8,600,327.98
Total	$115,399,983.46

In addition, interest and additional taxes have been accuring on the tax claims at about $2.2 million a year and interest has been accuring on securities at the rate of $2.8 million a year. About $15 million in additional taxes and interest will have accrued in these secured claims by December 31, 1972, and a total of $25 million additional will have accrued by December 31, 1974, the date set by the Trustees for reorganization. Thus a total of about $140 million will be owing by the end of 1974.

To set off against this $140 million there is a fund of $2 million arising from the sale of mortgaged property and held for the benefit of creditors, and there are securities held against a secured claim valued at about $700,000. On this basis, we can assume the B&M will owe $137.3 million by the end of 1974.

The B&M's debts in the light of how the Trustees propose to pay them. The Trustees' plan proposes to obtain $4 million from the sale of abandoned lines; to sell the B&M's Boston area commuter lines to the MBTA for $68 to 80 million; and to reorganize the B&M with new debt and common stock worth $30 to 43 million. Thus, they would have $102 to $127 million with which to satisfy claims of $137.3 million. The aggregate claims of secured creditors, if we count interest to December 31, 1974, would be $114.4 million. The MBTA considers the price set by the Trustees for the commuter lines as too high. The first mortgage bonds account for about $46 million of priority secured claims which will have accumulated an additional $13.5 million in interest by the end of 1974, for a total of $59.5 million. The first mortgage bond holders in the persons of the Institutional Bondholders and the successor Trustee for the Bonds maintain that the B&M cannot be reorganized so as to operate at a profit as projected by the Trustees, and they insist that the B&M must be liquidated. Consequently, the valuation of the B&M's properties in the event of liquidation becomes a matter of some importance.

Valuations. Appraisals of the B&M's land and properties have been performed in different parts by three different consultants and by the B&M staff. The firm of Coverdale & Colpitts is experienced in valuation of railroad properties. It valued all B&M properties and improvements except the real estate and buildings which have been valued separately by a real estate appraiser, and except about 285 miles of branch lines which had been abandoned or for which abandonment was sought. Three types of valuation figures were used: Reproduction Cost New Less Depreciation (RCNLD), Gross Salvage Value (salvage value of property in place), and Net Salvage Value (salvage value of the property after the cost of removing it). As the term "Reproduction Cost New Less Depreciation" suggests, this is essentially the cost of building the railroad at present day prices and subtracting depreciation. As it affects the Coverdale & Colpitts study RCNLD essentially is an accounting figure and has nothing to do with a current "going concern" value of

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B & M or with any price that might be obtained in the market place for the B & M as an operating business enterprise.

Coverdale & Colpitts Valuation of All
B&M Properties Except Land and Certain Buildings

	RCNLD	Gross Value	Net Salvage Value
Massachusetts	$101,000,000	$ 9,100,000	$ 800,000
Maine (includes Berlin segment)	39,000,000	9,900,000	100,000
Connecticut R.	31,000,000	2,900,000	400,000
New Hampshire	13,900,000	3,400,000	(200,000)
Sub-Total	$185,500,000	$20,300,000	$ 1,000,000
Unallocated & Misc.	600,000	100,000	100,000
Road Machinery Equipment	32,300,000	22,000,000	22,000,000
Others and Miscelleanous	22,000,000	2,700,000	2,700,000
Total	$242,800,000	$46,000,000	$26,700,000

It is observed that the foregoing Coverdale and Colpitts valuation included in the Massachusetts segment road property and improvements in eastern Massachusetts generally within Interstate Highway 495 and in the area served by the Boston area commuter lines.[9] A complementary real estate valuation by the firm of Meredith & Grew specifically excluded the lines of the B & M generally within Interstate Highway 495. Meredith & Grew estimated the fair market value and net liquidation value of the real estate of the B & M - except the eastern Massachusetts commuter-lines area-in a fashion complementary to the evaluation of Coverdale & Colpitts. The valuation includes the B & M's two land-owning subsidiaries and two integral leased lines, the Stoney Brook Railroad Co. and the Vermont and Massachusetts Railroad Co. Another leased line, The Northern Railroad Co., which extends between Concord, N.H., and White River Junction, Vt., was not appraised, nor were

9 Interstate 495 provides a rough boundary line for the Meredith & Grew study. However, the Meredith & Grew appraisal did not include Ayer which is outside Interstate 495, and it did not include a number of points northeast of Ayer such as Lowell and Lawrance in the area between Interstate 495 and the New Hampshire line. It did, however, include the Stoney Brook Railroad which is inside Interstate 495.

the branch lines which had been abandoned, or which it was contemplated probably would be abandoned.

In the following tabulation, of the real estate appraisal, "fair market value" is defined as the highest price estimated in terms of money which a property will bring if exposed for sale in the open market, allowing a reasonable time to find a purchaser who buys with knowledge of all the uses to which it is adapted and for which it is capable of being used. However, it was assumed that such use would not be for transportation purposes. "Net liquidation value" is defined as the net recovery value of the real estate which it is reasonable to expect over a projected period after deductions are made from the fair market value to reflect the cost of holding, managing, and selling the real estate during the marketing period. It also assumed that upon liquidation of the B & M there would be a 5 year program of real estate disposal. The costs of this program, including the costs of holding the real estate during this period, are deducted from the estimated gross proceeds:

Appraisal of Real Estate Outside Interstate Highway 495

Segment	Acres	Fair Market Value	Net Liquidation Value
Massachusetts	4,704	$ 2,133,700	$ 950,000
Maine (includes Berlin segment)	3,176	4,907,000	3,240,000
New Hampshire	3,562	8,547,900	6,100,000
Connecticut R.	2,220	3,413,400	2,200,000
Total	13,665	$19,002,000	$12,500,000

Part of this land is owned by the leased line affiliates, Stoney Brook Railroad and Vermont & Massachusetts Railroad.[10] The following breakdown between the three corporations of the foregoing appraisal by acarage and fair market value is provided:

10 The Stoney Brook Railroad owns the part of the B & M's main line between Willows (just east of Ayer) and N. Chelmsford, Mass. The Vermont & Massachusetts owns that part of the main line between Gardner and Greenfield, Mass.

Real Estate Apportioned Between B&M and Leased Lines

	Acres	Market Value
Boston & Maine	12,496	$18,291,300
Stoney Brook	96	96,800
Vermont & Massachusetts	1,074	703,900
Total	13,665	$19,002,000

Real estate in the Boston area situated generally inside Interstate Highway 495 contains all of the B & M's commuter lines which have been the subject of negotiations for purchase by the MBTA. One of these, the Reading line, has been the subject of an arbitration proceeding between the B & M and the MBTA in which an arbitrator awarded the B & M $18 million. This award was based on valuation of that line for its highest and best use, as a transportation corridor. The remaining lines lying generally within Interstate Highway 495 were jointly valued by Meredith & Grew and Wyer, Dick & Co. Basic assumptions used in the joint valuation was that land and other properties actually needed to provide mass transportation services would be valued as for that use and that other real properties would be valued on a RCNLD basis. From a geographic standpoint the Boston area appraisal ties in exactly with the previous appraisal of lines outside Interstate Highway 495. However, in order to have a Boston area appraisal which was done entirely on a transportation-corridor basis the Wyer-Dick part of the Boston area appraisal duplicated the previous appraisal by Coverdale & Colpitts of all B & M property other than real estate insofar as it pertains to properties inside Interstate Highway 495.

The jointly appraised land consists of 220 miles of railroad, 111 miles of other main track, and 254 miles of all other track. Included in the study are several segments of right-of-way having no trackage and for which the estimated value is for land only. The real estate consists of 10 buildings and 3,982 acres including railroad ownership or rights in 595 public crossings. Portions of railroad rights-of-way which extended beyond a width of 100 feet were counted as "surplus" land as was all land on which railroad operations have been abandoned. Some 2,846 acres were counted as right-of-way land and 1,135 acres as surplus.

Joint Valuation of Land and Properties in Eastern Massachusetts Inside Interstate 495

Land	Buildings	All Other		
Transportation Corridor Value			Gross Salv.	Net Salv.
$94,033,100	$855,000	$68,859,000	6,375,800	2,582,800

Combined Transp. Corridor Value	163,747,100		
Land Transp. Corr. - Gross Salv. Value 11		104,308,900	
Land Transp. Corr. - Net Salvage Value 11			97,515,900

The B & M staff provided the following valuation of 1,600 acres of branch line right-of-way outside Interstate 495 which were abandoned prior to bankruptcy:

$498,387

Recapitulation of Valuations

Because of the overlapping of the Coverdale & Colpitts valuations and the joint valuation of non-real estate property in the Boston area an accurate summary of the various valuations cannot be undertaken here. Nevertheless, a recapitulation will provide a rough outside measurement of the values involved:

Combination of Highest Values

$242,800,000	Coverdale & Colpitts RCNLD
19,002,000	Market value land outside 495
163,747,000	Joint Valuation property inside 495
18,000,000	Reading Line Award
498,387	Staff Valuation abandoned lines outside 495
$444,047,387	
-68,859,000	"All other property" inside 495. (Eliminate duplications of Coverdale & Colpitts inside 495.)
$375,188,387	

In view of the overlapping of the Coverdale & Colpitts and joint valuations on properties inside Interstate 495 the combined RCNLD and mass transit valuations for the entire railroad would be between $375 million and $444 million.

11 Some minor discrepancies may appear to those taking the trouble to add up the separate figures due to the appraiser's rounding off the $855,000 for buildings to $900,000 for gross and net salvage values but not for the transportation corridor value.

Intermediate Values

$ 46,000,000	Coverdale & Colpitts Gross Salvage
19,002,000	Fair Market Value Land Outside Interstate 495
498,387	Staff valuation abandoned lines outside Interstate 495
65,500,387	
18,000,000	Reading Line Award
$ 83,500,387	
94,033,100	Transportation Corridor Value land inside Interstate 495
$177,533,487	

Lowest Values

$ 26,700,000	Coverdale & Colpitts Net Salvage Value
12,500,000	Liquidation Value Land Outside Interstate 495
498,387	Staff Valuation abandoned lines outside Interstate 495
39,698,387	
18,000,000	Reading Award
57,698,387	
94,033,100	Transportation Corridor Value Land inside Interstate 495
$151,731,487	

The total land area covered by the foregoing valuation is 19,247 acres not including the land covered by the Reading Award the area of which is not specified on the record and not including the 285 miles of branch lines scheduled for abandonment after bankruptcy.[12]

12 Doubtless The Trustees will provide comprehensive liquidation values for all properties should it prove necessary prior to conclusion of the reorganization proceeding.

Forecasts

Trustees' Steady State Forecast of future traffic, operating revenues, and earnings. As a first step in formulating their reorganization plan the Trustees undertook to forecast traffic, operating revenues, costs, and income through 1976. Their forecast starts with the assumption that traffic over the 5 years 1972-1976 will essentially follow the national economy and particularly the New England economy. The Trustees settled upon the Gross National Product forecast of the Wharton Econometric Model as an available economic projection upon which to base their own forecasts. Because the New England economy, particularly as respects rail traffic, lags the nation as a whole, they constrained the Wharton projection to 75 percent of the national figure.[13] This provided an increase of 3.6 percent for 1972 and an average annual increase thereafter of about 2.7 percent. To the result they added 300,000 tons in 1972 and 1973 and 400,000 in 1974 through 1976 as an adjustment to reflect an anticipated net increase in new plants and accounts on the B & M and increased TOFC traffic. This adjustment gave them a total increase of 5.5 percent in 1972 and successive annual increases from the higher base in 1972 through 1976 of 2.6, 3.2, 3.1, and 2.4 percent. The resulting tonnage and revenue forecasts were as follows:

Trustees' Freight and Revenue Forecast
(Millions)

	1971	1972	1973	1974	1975	1976
Tons	14.5	15.3	15.7	16.2	16.7	17.1
Freight revenues	$64.2	$69.6	$73.3	$77.7	$81.7	$85.7
Other revenues	2.6	2.6	2.6	2.6	2.6	2.6
Passenger and MBTA payments	9.6	10.2	10.9	11.6	12.4	13.3
Total	$76.4	$82.4	$86.8	$91.9	$96.7	$101.6

[13] These projections were made in the Fall of 1971 and, thus, before figures were complete for that year and prior to the actual experience of 1972.

In proceeding from this basis to estimate operating expenses the Trustees assumed that wage costs will increase ~~at~~ the average rate of 9 percent per employee per year; that the level of employment on the B & M will decline by 300 to 3,186 by early 1975, but MBTA chargeable employees will remain at 470; that the B & M will be authorized to undertake a $7 million capital improvement program largely associated with track and track equipment of which $3.2 million would be completed by the end of 1972 and a total of $6.1 million by the end of 1975; that expanded main-tenance-of-way operating costs averaging $1.5 million a year will be incurred in conjunction with the Trustees' proposed capital improvement program; and that the level of manning and money provided in the operating budgets are adequate to permit a 4 percent annual increase in gross ton miles, or enough to take care of the forecast increase in traffic. They deducted from gross operating budget figures the estimated cumulative savings from the capital improvement program lagged by 1 year. The results were as follows:

Trustees' Forecast of Operating Costs
(Millions)

	1971	1972	1973	1974	1975	1976
Departmental costs [14]	$58.5	$61.9	$65.3	$68.2	$71.8	$76.4
Less savings from capital improvements	-	-	1.9	2.3	2.4	2.6
Net departmental	$58.5	$61.9	$63.4	$65.9	$69.4	$73.8
Other operating expenses	6.6	5.9	7.3	7.7	8.2	8.7
Total operating expenses	65.1	68.8	70.7	73.6	77.6	82.5
Less passenger operating expenses	9.6	10.2	10.9	11.6	12.4	13.3
Total freight and other	$55.5	$58.6	$59.8	$62.0	$65.2	$69.2

undertake a $7 million capital improvement program largely associated with track and track equipment of which $3.2 million would be completed by the end of 1972 and a total of $6.1 million by the end of 1975; that expanded maintenance-of-way operating costs averaging $1.5 million a year will be incurred in conjunction with the Trustees' proposed capital improvement program; and that the level of manning and money provided in the operating budgets are adequate to permit a 4 percent annual increase in gross ton miles, or enough to take care of the forecast increase in traffic. They deducted from gross operating budget figures the estimated cumulative savings from the capital improvement program lagged by 1 year. The results were as follows:

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Less savings from capital improvements	-	-	1.9	2.3	2.4	2.6
Net departmental	$58.5	$61.9	$63.4	$65.9	$69.4	$73.8
Other operating expenses	6.6	6.9	7.3	7.7	8.2	8.7
Total operating expenses	65.1	68.8	70.7	73.6	77.6	82.5
Less passenger operating expenses	9.6	10.2	10.9	11.6	12.4	13.3
Total freight and other	$55.5	$58.6	$59.8	$62.0	$65.2	$69.[illegible]

[14] Mechanical, maintenance of way, transportation.

Putting together the forecasted revenues and expenses - exclusive of the passenger and MBTA revenues and expenses which are counted as a wash - the Trustees arrived at the following predictions of net operating income and net income:

Trustees' Forecast of Freight and Other Operating Expenses, Net Railway Operating Income, and Net Income

	1971	1972	1973	1974	1975	1976
Operating revenues	$66.8	$72.2	$75.9	$80.3	$84.3	$88.3
Operating expenses	55.5	58.6	59.6	62.0	65.2	69.2
Net Op. revenue	11.3	13.6	16.1	18.3	19.1	19.1
Less taxes & rents	13.8	14.6	15.4	16.3	17.3	18.3
NROI	$(2.5)	$(1.0)	$ 0.7	$ 2.0	$ 1.8	$ 0.8
Less fixed charges and interest	4.3	4.3	4.3	4.3	4.3	4.3
Net Income	$(6.8)	$(5.3)	$(3.6)	$(2.3)	$(2.5)	$(3.5)

The Trustees recognize that, even with the capital improvement program, their projected earnings for the B & M will be inadequate to support the reorganization of the B & M as a profitable railroad business enterprise. Consequently, they call for a comprehensive Action Plan consisting of a review of rates, cost reductions and service improvements, tax abatements and public subsidy, which they hope will yield as much as $13.5 million a year. The Action Plan will be reviewed in detail below. In the meantime, 1972 has been a disappointing year. During the first half of 1972 the B & M experienced a modest increase in freight tonnage of 22,000 tons. However, ton miles decreased in that period, and, as we have seen, carloadings also decreased. Hurricane Agnes and the collapse of a part of the Hoosac Tunnel caused a decline in B & M traffic in the third quarter. Although the extent of these disruptions is not known at this time, it seems likely that the Trustees' prediction of 15.3 million tons of freight for 1972 will fall short by a million tons. Secondly, although the Trustees have gone ahead with some elements of the captial improvement program, they have been unable to obtain authority from the reorganization court to proceed with the greater part of that program. Even so, results for the first 9 months of 1972 suggest that management has been able to do somewhat better that might be expected in an adverse situation.

The Institutional Bondholders throughout the hearing and on brief have maintained that the Trustees' Steady State Forecast is completely in error. They maintain, on the basis of the unsubstantiated opinion of their own consultant, that B & M tonnage will average the same as the 1971 levels through 1976, and they predict an annual deficit of $17.5 million by the end of 1976 as opposed to the Trustees' projection of a $3.5 million deficit in that year. The Institutional Bondholders particularly criticize the fact that the Trustees' forecast is based on projection of Gross National Product, which they argue incorporates many factors which are completely unrelated to rail tonnage, and they suggest that the Federal Reserve Board Index for New England would be more appropriate. (The Trustees agree that the FRB New England Index would be a better fit for rail traffic, but state that no forecast of that index was available to them.) The bondholders also claim that while the Trustees' estimate of a $2\frac{1}{2}$ percent yearly increase in freight rates is reasonable, it is not reasonable to assume that such increases will result in a $2\frac{1}{2}$ percent increase in net freight revenue. They argue that the Trustees' Steady State Forecast fails to allow for the cost of handling increased traffic; that the Trustees' proposed reductions in force are not supported by any study and cannot be achieved (an argument discussed below with the Action Program's recommendations on labor); that savings under the Trustees' captial improvement program were not properly computed and some are hypothetical; and that in many other respects the Steady State Forecast is in error.

<u>Modified Steady State Forecast</u>. Certainly, the Steady State Forecast is on the optimistic side, at least as far as its traffic projections are concerned. In addition, its biggest year-to-year gain was projected for 1972 and obviously cannot be realized. However, the railroad industry is a particularly cyclical one, and the failure of a predicted industrial upturn to occur on schedule may well be nothing more than reflection of that cyclicality. Certainly, during 1972 the Federal Reserve Board Index has shown improvement topping 110

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nationally early in the year and rising to 113 in July up from a 1971 monthly average of 105. The New England FRB Index averaged 96 during the first 9 months of 1972 and reached 97 in July, up from a monthly average of 92 in the previous year. The FRB indices for durable goods also have been up in 1972, both nationally and for New England. The effects of Hurricane Agnes on the B & M's connections have been severe and undoubtedly have been a factor in its failure to achieve the optimistic projections for 1972.

The Wharton Econometric Model need not be the only basis for formulating a projection for B & M traffic. In U.S. Industrial Outlook 1972 With Projections to 1980, U. S. Department of Commerce, Bureau of Domestic Commerce (April 1972), traffic for all Class I railroads is estimated to increase 3.9 percent annually. Although the eastern carriers have accounted for a declining share of total railroad traffic in recent years, the buoyant effect of a recovery from the 1971-1972 nadir and of government assistance to certain of the B & M's connections as a result of Hurricane Agnes, encourage the assumption that eastern railroads, including the B & M, will be able to do as well as railroads in the rest of the country through 1976. In addition, the 3.9 percent annual increase in rail traffic of the Industrial Outlook projection enable us to use year-to-year percentage increases comparable to the average of those forecast by the Trustees, but to apply them over a span of only 4 years (1973 - 1976) instead of the five years (1972 - 1976) projected by the Trustees. This "Industrial Outlook" analysis estimates that tons of traffic on the B & M will increase by approximately 3 percent during 1973 and about 4 percent annually in the years 1974 - 1976. The increase of only 3 percent in 1973 is in part dictated by the relatively poor condition of the B & M right-of-way and equipment plus the lingering effects of Hurricane Agnes. The modified traffic computations, as compared to the Trustees' forecast, are as follows:

Modified Forecast[15] of B&M
Freight Traffic and Revenue As Compared to Trustees' Forecast
(Millions)

	1971	1972	1973	1974	1975	1976
Tons of traffic:						
Trustees' forecast	14.5	15.3	15.7	16.2	16.7	17.1
Modified forecast	14.4	14.3	14.7	15.3	15.9	16.5
Difference	-0.1	-1.0	-1.0	-0.9	-0.8	-0.6
Annual increase -						
Trustees' forecast	-	0.8	0.4	0.5	0.4	0.4
Modified forecast	-	0.1	0.4	0.6	0.6	0.5
Freight revenue:						
Trustees' forecast	$64.2	$69.6	$73.3	$77.7	$81.7	$85.7
Modified forecast	64.6	65.6	69.1	73.7	78.5	83.5

The Trustees' estimates of revenue per ton for 1971 corrected to reflect the actual revenue per ton for 1971 and increased by 2½ percent per year through 1976 provide the basis for the following computation of freight revenues. Estimates of "other revenue" and passenger revenues and MBTA payments, obviously, are those used by the Trustees:

Modified Forecast of B&M Total Revenues as Compared to Trustees' Forecast
(Millions)

	1971	1972	1973	1974	1975	1976
Trustees' Forecast:						
Freight revenues	$64.2	$69.6	$73.3	$77.7	$81.7	$85.7
Other revenues	2.6	2.6	2.6	2.6	2.6	2.6
Passenger and MBTA payments	9.6	10.2	10.9	11.6	12.4	13.3
Total	$76.4	$82.4	$86.8	$91.9	$96.7	$101.6
Modified Forecast:						
Freight revenues	$64.6	$65.6	$69.1	$73.7	$78.5	$83.5
Other revenues	2.6	2.6	2.6	2.6	2.6	2.6
Passenger and MBTA payments	9.4	10.2	10.9	11.6	12.4	13.3
Total	$76.6	$78.4	$82.6	$87.9	$93.5	$99.4

Because of the difference in estimated tons of traffic the modified forecast recomputes operating costs for freight and "other" service for the years 1972-1976.

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15 Throughout these four comparative tabulations the 1971 Trustees' figures show their estimates, and the modified forecast figures show the actual 1971 experience. The Trustees' forecast was made before the end of 1971, just as the modified forecast was prepared just before the

Trustees' forecast	14.5	15.3	15.7	[illegible]	[illegible]	[illegible]
Modified forecast	14.4	14.3	14.7	15.3	15.9	16.5
Difference	-0.1	-1.0	-1.0	-0.9	-0.8	-0.6
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(Millions)

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Instead of the Trustees' projected savings from capital improvements, the modified forecast estimates a productivity gain of 3 percent in 1973 and 4 percent a year thereafter. This is in line with industry experience (about 6 percent nationally) as applied to Eastern District railroads and with the increasing traffic volume projected here. It assumes some progress under the capital improvement program. (Although the bondholders argue that the Trustees' Steady State Forecast fails to allow for the cost of handling increased traffic, that forecast seems a little heavy on costs towards the end of the 5-year period.)

Modified Forecast of B&M Operating Costs As Compared to Trustees' Forecast
(Millions)

	1971	1972	1973	1974	1975	1976
Trustees' Forecast:						
Departmental[16]	$58.5	$61.9	$65.3	$68.2	$71.8	$76.4
Less savings from capital improvements	-	-	1.9	2.3	2.4	2.6
Net departmental	$58.5	$61.9	$63.4	$65.9	$69.4	$73.8
Other operating expenses	6.6	6.9	7.3	7.7	8.2	8.7
Total operating expenses	65.1	68.8	70.7	73.6	77.6	82.5
Less passenger operating expenses	9.6	10.2	10.9	11.6	12.4	13.3
Total freight and other	$55.5	$58.6	$59.8	$62.0	$65.2	$69.2
Modified Forecast:						
Departmental[16]	$58.5	$61.6	$63.4	$65.9	$68.5	$71.1
Less productivity gains	-	-	.3	1.2	2.2	3.3
Net departmental	$58.5	$61.6	$63.1	$64.7	$66.3	$67.8
Other operating expenses	6.5	6.8	7.0	7.3	7.6	7.9
Total operating expenses	65.0	68.4	70.1	72.0	73.9	75.7
Less passenger operating expenses	9.6	10.2	10.9	11.6	12.4	13.3
Total freight and other	$55.4	$58.2	$59.2	$60.4	$61.5	$62.4

The changes in estimated freight traffic and non-passenger operating costs make necessary a recomputation of net railway operating income and net income:

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[16] Mechanical, maintenance of way, transportation.

Modified Forecast B&M Freight and Other Operating Expenses, Net Railway Operating Income, and Net Income as Compared to Trustees' Forecast
(Millions)

	1971	1972	1973	1974	1975	1976
Trustees' Forecast						
Operating revenues	$66.8	$72.2	$75.9	$80.3	$84.3	$88.3
Operating expenses	55.5	58.6	59.8	62.0	65.2	69.2
Net operating revenue	$11.3	$13.6	$16.1	$18.3	$19.1	$19.1
Less taxes and rents	13.8	14.6	15.4	16.3	17.3	18.3
NROI	$(2.5)	$(1.0)	$ 0.7	$ 2.0	$ 1.8	$ 0.8
Less fixed charges and interest	4.3	4.3	4.3	4.3	4.3	4.3
Net income	$(6.8)	$(5.3)	$(3.6)	$(2.3)	$(2.5)	$(3.5)
Modified Forecast:						
Operating revenues	$67.2	$68.2	$71.7	$76.5	$81.1	$86.1
Operating expenses	55.4	58.2	59.2	60.4	61.5	62.4
Net operating revenue	$11.8	$10.0	$12.5	$15.9	$19.6	$23.7
Less taxes and rents	13.8	14.6	15.4	16.3	17.3	18.3
NROI	$(2.0)	$(4.6)	$(2.9)	$(0.4)	$ 2.3	$ 5.4
Less fixed charges	4.3	4.3	4.3	4.3	4.3	4.3
Net income	$(6.3)	$(8.9)	$(7.3)	$(4.7)	$(2.0)	$ 1.1

Both forecasts show substantial cumulative deficits for the years 1972-1976, and confirm the Trustees' view that significant additional measures will be required if the B & M is to be reorganized as a viable business enterprise. The modified forecast's NROI of $5.4 million, for example, must be weighed in the context of the Trustees' projection that a bad year might return the B & M to a loss of $5.6 million while a good year might add $2 million to earnings. (Chapter VII page 1) However, the modified forecast does show a profit for 1976. It is important also to note that the B & M's fixed charges of $4.3 million a year probably would be lessened upon reorganization. The Trustees plan, for example, suggests annual fixed charges of $1.8 million. In addition, it is pertinent to note that the B & M's effective property taxes are about $1.8 million a year. Although these fixed charges and taxes are charged against income, they are not being paid. The total of fixed charges and property -- about $6.1 million a year -- is sufficient on a cash basis to cover anticipated deficits under the Trustees' forecast from 1972 onward, and enough to cover such deficits under the modified forecast from 1974 onward.

Trustees' Action Plan

The Trustees concluded that it is not feasible to effect a reorganization of the B & M on the basis of the projections of their Steady State Forecast and that something beyond the branch line abandonments and the capital improvement program included by them in the assumptions of the Steady State Forecast must be done in order for there to be a viable reorganization of the B & M. Their target is a minimum Net Railway Operating Income of $6 million a year. The reason for the $6 million target apparently is that they consider this the minimum necessary to support their proposed new financial structure of $22 million in new 8 percent first mortgage bonds (with fixed charges for interest of $1.8 million a year) and $21 million common stock; and that this $43 million total of stocks and bonds in the Trustees view, is essential to pay off the claims against the bankrupt estate in order to allow reorganization.

Because a Steady State program would not yield enough to meet their goals, the Trustees have turned their sights to further avenues of relief from which they have selected an Action Plan. The Action Plan consists of a group of programs and projects from which the Trustees hope to gain $13.5 million in annual NROI for the B & M plus a substantial capital realization most of which would be used towards paying off the claims against the bankrupt estate. In addition, a number of other lines of action were explored, but not adopted. The Action Plan programs, and the potential annual earnings which the Trustees hope might be realized from them, are as follows:

Trustees' Action Plan

Program	Potential Annual Earnings Improvement (Millions)
Capital Improvement	$2.1
Abandonments	$1.
Additional Relief from New Hampshire and Massachusetts	$4.
Sale of Commuter Lines to MBTA	
Sale of Other Real Estate	
Tax Abatement	$1.5
Labor Cost Savings	$2.
Review of Rates	$2.5
Canadian Differentials	$ .5
Freight Sales Blitz	$2.0
Tax Carry Forward Negotiations with Bomaine	
Cost Reductions at Portland Terminal	$1.

The Action Plan is the basis upon which the Trustees propose to reorganize the B & M by the end of 1974. The first two programs, the capital improvement program and the proposed abandonments, were incorporated by the Trustees in their Steady State Forecast. The problems associated with obtaining additional relief from Massachusetts and sale of the commuter lines to the MBTA can more effectively be discussed in the context of the commonwealth's proposal to acquire all of the B & M's lines in Massachusetts and is treated in that context in a subsequent minimum necessary to support their proposed new financial structure of $22 million in new 8 percent first mortgage bonds (with fixed charges for interest of $1.8 million a year) and $21 million common stock; and that this $43 million total of stocks and bonds in the Trustees view, is essential to pay off the claims against the bankrupt estate in order to allow reorganization.

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Capital Improvement Program. As we have seen, the B&M is badly run down. There has been considerable deferred maintenance. It requires substantial input both of maintenance expenditures and new capital if it is to be a reasonably effective railroad in the future. Virtually every part of the railroad requires or could use improvement. Over the past 10 or 12 years very little new rail has been laid and comparatively few ties; the locomotive fleet is over age and should be replaced, and the same is true of a considerable part of its freight cars. The impact of physical deterioration of the B&M's plant and equipment is reflected in costs in the extraordianry amounts which must be spent each year on patching up deteriorated facilities and equipment, in the number of accidents and wrecks, in the high rental costs which must be paid for off-line cars, and in the declining productivity of its work force. The effect on revenues comes when business is lost due to the B&M's inability to provide competitive services when trains must be slowed because of dangerous track conditions; when schedules are disrupted over periods as long as a week as when part of the Hoosac Tunnel caved in; and when the B&M is unable to provide sufficient cars to meet the needs of its shippers.

The Trustees are fully aware of this problem, and they have called upon the B&M staff to assist them in formulating a "realistic, but spare" capital improvement program for the railroad. The staff prepared estimates of what it considered were needed improvements which would yield a minimum of 20 percent of their costs in annual savings. From this list the Trustees selected a $7 million 5-year capital improvement program consisting mostly of items that would yield at least 30 percent of their costs in yearly savings. A few items which would yield less were included because they were conmillion. However, the Trustees proposed capital improvement program, through 1974, would absorb part of the capital realization to the extent of $5.4 million. The net capital realization from the Action Plan would be $72 to 80 million.

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The resulting program places heavy emphasis on track and track equipment. Over $3 million was proposed to be spent in 1972; about $1 million in each year 1973-1975; and about $600,000 in 1976. Additional operating expenditures associated with this program would average about $1.5 million a year during the 5 years 1972-1976. The program is estimated to realize sizable savings beginning after its first year. The Trustees estimate that 30 percent of the capital investment, or $2.1 million a year can be realized upon completion of the program. The Trustees' estimate of interim savings is worked into their Steady State Forecast, supra, beginning in 1973 and reflects annual savings of $1.9 to $2.6 million in the years 1973-1976. Those figures apparently include additional savings to be realized from the increased operating expenses associated with the capital improvement program. The modified forecast based on the Industrial Outlook projection of rail traffic avoids making specific predictions of savings from a capital improvement program, but substitutes annual percentage gains in productivity. Such gains would range from $300,000 in 1973 to $3.3 million in 1976. The cumulative 4-year effect of the Trustees' capital improvement savings would be $9.2 million, and the cumulative effect of the modified forecast's productivity gains for the same period would be $7 million.

In the Trustees' view the B&M cannot be reorganized without the capital improvement program. This is certainly apparent should we subtract the projected capital improvement program savings from the earnings projected in their Steady State Forecast. The same is true with the modified forecast. Even with the predicted increases in freight volume the B&M is unlikely to turn around its present retrogressive productivity and realize the projected gains in efficiency unless something is done to improve its rundown plant and equipment.

The Trustees anticipate that with the capital improvement program and the projections of the Steady State Forecast there should be a gradual build-up of cash prior to the effective date of reorganization at the end of 1974. However, they did not rely on that cash buildup in order to fund the capital improvement program. Their plan specifically provides that the $7 million cost of the program should come from the proceeds of the sale of its properties. At the time of preparation of the plan the Reading Line arbitration award of $18 million had just been made, and the Trustees expected those funds to be available during 1972. In fact, however, payment of that award has not

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The present availability of funds from the B&M's cash flow - that is, from its depreciation account - provides the opportunity to fund the capital improvement program. The need for capital expenditures in view of the generally rundown condition of the railroad due to the failure over many years to replace wornout plant and equipment is imperative. Indeed, the Trustees' selection of only those capital improvements which would yield savings of 30 percent strongly suggests that the capital improvement program should be augmented.

Capital improvements - locomotives and cars. On brief, the bondholders point to the fact that the Trustees' Plan makes no provision for replacement of locomotives or for replacement and augmentation of the B&M's car fleet. This too is a problem with which the Trustees have been much concerned. They have decided that there will not be money enough for both capital investment in a track program and an extensive equipment program prior to reorganization and have decided to postpone the equipment program. The Trustees do not provide a cost breakdown for an equipment program, but they consider that, if locomotives and cars can be purchased on conventional terms with a moderate interest rate and a 20 percent downpayment, the financing of equipment can be paid for by elimination of maintenance expenses and equipment rents presently being paid. In the meantime, they have opted for a car rebuilding program and a locomotive repair program. Although their equipment is old, it is their view, and the view of the B&M staff, that this equipment can adequately be maintained in this fashion for several years after reorganization.

The bondholders estimate that the B&M eventually will have to lease locomotives and freight cars at an effective interest rate of at least 9½ percent. They also estimate that if conventional financing could be found it would require an interest rate of 8½ percent. Assuming these interest rates to be correct, conventional financing at 8½ percent with a 20-percent downpayment would save the B&M 28 percent of the effective interest which would be payable under a leasing arrangement. Other factors such as the effect of depreciation and cash flow - that is, from its depreciation account - provides the opportunity to fund the capital improvement program. The need for capital expenditures in view of the generally rundown condition of the railroad due to the failure over many years to replace wornout plant and equipment is imperative. Indeed, the Trustees' selection of only those capital improvements which would yield savings of 30 percent strongly suggests that the capital improvement program should be augmented.

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The bondholders estimate that the B&M eventually will have to lease locomotives and freight cars at an effective interest rate of at least 9½ percent. They also estimate that if conventional financing could be found it would require an interest rate of 8½ percent. Assuming these interest rates to be correct, conventional financing at 8½ percent with a 20-percent downpayment would save the B&M 28 percent of the effective interest which would be payable under a leasing arrangement. Other factors such as the effect of depreciation and tax credits on the B&M's cash flow, the cost of amortizing the money borrowed, and the availability of cash for a downpayment would depend largely on the B&M's financial and tax status at the time of purchase and would appear to favor the making of such a purchase after reorganization. However, the Trustees are alert to the conditions of the marketplace and are ready to purchase additional equipment whenever it can be done within the limits imposed by the present maintenance and rental costs for locomotives and cars. Among the possibilities would be a federal loan guarantee program for railroad equipment and lower leasing costs which might become available due to fluctuations in the money rate affecting the leased equipment market or fluctuations in equipment prices.

Abandonments.[17] The B&M is a comparatively low-density railroad, and it operates a number of branch lines which have extremely low traffic density and which, therefore, are unprofitable. Most of these light-density branches have been receiving little or no maintenance and so far have not been a heavy drain on the B&M estate. However, some of these lines are operated at an out-of-pocket loss, many lines must be operated at low speeds, and a number of bridges are out or have low weight limits. If the B&M is to continue to operate them it would have to restore them to normal maintenance condition at considerable expense. Consequently, the trustees have made an abandonment study and have identified a number of lines as unprofitable. In identifying low-density and unprofitable lines the Trustees have used the *prima facie* rule adopted by the Commission - but presently being tested in the courts - that a rail line might normally be considered as eligible for abandonment if it produces less than 34 carloads of freight per mile annually. In so doing, the B&M did not automatically decide to seek abandonment for every mile of the low-density lines. Some segments of the low-density lines adjacent to other lines or larger communities might have enough industry on them to make them worth keeping and others still in good maintenance condition might be operated at little cost for a number of years at no out-of-pocket cost to the B&M.

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[17] The Penn Central proposal that the B&M's main line west of Ayer be abandoned is not treated under this topic inasmuch as that line has not been studied or proposed for abandonment by the Trustees. The Penn Central proposal is treated separately, *infra*.

B & M Branch Lines Producing Less Than 34 Carloads a Mile in 1971

New Hampshire	Miles
Winchendon - Joslin	21.3
Keene-Bellows Falls	22.3
Jaffrey - Peterboro	5.5
Mass. State Line - Greenville	9.6
East Manchester - Rockingham	27.4
Epping - Fremont	4.4
Merrimac Branch	2.5
Ossipee - Intervale	29.3
Concord - Lincoln	72.0
Wolfeboro	11.9
Franklin and Tilton Branch	3.9
Bennington - Hillsboro	8.8
Blackmount Branch	4.6
Lakeport Branch	1.0
East Route - Mass. State Line - Hampton	5.0
Concord - White River Junction (Northern Railroad)	70.0

New York	Miles
Bennington Branch	5.1
Troy Branch	15.9

Massachusetts	Miles
Barber - Gardner	21.3
Amesbury Branch	3.7
Salem Branch	4.8
Marlboro Branch	5.2
Wheelright Branch	16.4
Danvers - Topsfield	6.0
South Sudbury - Berlin	12.1
Medford Junction - Wakefield Junction	6.0
Beverly - Rockport	15.4
Beverly - N.H. State Line	21.5
East Lexington - Bedford	8.9
Wilmington Junction - Wilmington	2.4
Newburyport City	1.5
Merrimac Branch	1.9

Summary by States

New Hampshire	299.5

Mass. State Line - Greenville	9.6
East Manchester - Rockingham	27.4
Epping - Fremont	4.4
Merrimac Branch	2.5
Ossipee - Intervale	29.3
Concord - Lincoln	72.0
Wolfeboro	11.9
Franklin and Tilton Branch	3.9
Bennington - Hillsboro	8.8
Blackmount Branch	4.6
Lakeport Branch	1.0
East Route - Mass. State Line - Hampton	5.0
Concord - White River Junction (Northern Railroad)	70.0

New York	Miles
Bennington Branch	5.1
Troy Branch	15.9

Massachusetts	Miles
Barber - Gardner	21.3
Amesbury Branch	3.7
Salem Branch	4.8
Marlboro Branch	5.2
Wheelright Branch	16.4
Danvers - Topsfield	6.0
South Sudbury - Berlin	12.1
Medford Junction - Wakefield Junction	6.0
Beverly - Rockport	15.4
Beverly - N.H. State Line	21.5
East Lexington - Bedford	8.9
Wilmington Junction - Wilmington	2.4
Newburyport City	1.5
Merrimac Branch	1.9

Summary by States

New Hampshire	299.5
New York	21.0
Massachusetts	127.1
	447.6 miles

The Trustees have obtained the approval of the Reorganization Court to seek authority to abandon 123 miles of the above-listed branches, and the Commission so far has authorized abandonment of 84 miles. These are the segments of the Merrimac Branch in New Hampshire and Massachusetts, Barber-Gardner, Troy Branch, Jaffrey - Peterboro, Mt. Whittier - Intervale (comprising 18 miles of Ossipee - Intervale), Newburyport City, Wolfeboro, and 2.2 miles between Medford and Melrose, Mass. The Wolfeboro branch has been sold to a short-line operator, and the Providence and Worcester Railroad is seeking to purchase the Barber-Gardner line at net salvage value. Abandonment applications pending before the Interstate Commerce Commission in June 1972 included an application to abandon 20.6 miles of the Winchendon - Joslin Branch and another to abandon 20.7 miles of the Keene-Bellows Falls Branch. The net salvage value of the lines would be $1,236,704, part of which would be in the form of reusable rail which would be used on the B&M. A petition by the Trustees to abandon more than 70 miles between Concord and Lincoln, N. H. was approved by the Reorganization Court, but was stayed and remanded on appeal. Prospective salvage value of that line would be $894,057. The net annual operating savings on all lines for which abandonment has so far been sought by the Trustees would be $436,429, but presumably part of this would be in the form of payment for maintenance which so far has been deferred but which would have to be undertaken if the lines were retained.

Additional relief - New Hampshire short-line negotiations. The B&M has been operating about 681 miles of railroad in New Hampshire - the most of any of the five States which it serves. About 244 miles are accounted for by the New Hampshire portions of the Connecticut River and Berlin lines and the Worcester-Portland "Maine" segment, which carry a steady volume of traffic and provide revenues adequate to make contributions to B&M overhead and depreciation at or close to the Trustees' goal of 30 percent. Most of the remaining 437 miles of railroad in New Hampshire consists of low-density branch lines, and almost all of it is operated at a loss to the B&M. The segmentation study, which is based on April 1971 as a representative month, indicates a yearly loss for the 437 miles of $1.6 million. On that basis, the Trustees have found that it would take $2.5 million a year of additional revenue to bring the New Hampshire lines up to a level where they would make the 30 percent contribution to overhead and depreciation considered necessary

Peterboro, Mt. Whittier - Intervale (depending on [illegible] of Ossipee - Intervale), Newburyport City, Wolfeboro, and 2.2 miles between Medford and Melrose, Mass. The Wolfeboro branch has been sold to a short-line operator, and the Providence and Worcester Railroad is seeking to purchase the Barber-Gardner line at net salvage value. Abandonment applications pending before the Interstate Commerce Commission in June 1972 included an application to abandon 20.6 miles of the Winchendon - Joslin Branch and another to abandon 20.7 miles of the Keene-Bellows Falls Branch. The net salvage value of the lines would be $1,236,704, part of which would be in the form of reusable rail which would be used on the B&M. A petition by the Trustees to abandon more than 70 miles between Concord and Lincoln, N. H. was approved by the Reorganization Court, but was stayed and remanded on appeal. Prospective salvage value of that line would be $894,057. The net annual operating savings on all lines for which abandonment has so far been sought by the Trustees would be $436,429, but presumably part of this would be in the form of payment for maintenance which so far has been deferred but which would have to be undertaken if the lines were retained.

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In general, the State's attitude has been realistic and openminded. It has ruled out the idea of a subsidy, but it considers that the B&M probably would be successful in abandoning most of the rail lines in question. Acting through the New England Rail Passenger Office and with the assistance of the New England Regional Commission, it has caused a study to be made of these lines. As a result, the State of New Hampshire now proposes to purchase the greater part of these lines and establish three short-line railroads in their place. These short lines would be operated by private contractors under lease from the State. They would be operated in much the same way as the Vermont Railway and the Green Mountain Railroad which took over part of the operations of the Rutland Railway after its abandonment. It is considered that substantial operating savings can be realized by this mode of operation and the proposed short lines would be self-sustaining.

One line would be established in the Monadnock region of southwestern New Hampshire, another in central New Hampshire, and a third, the Intervale line, along New Hampshire's eastern boundary with Maine. The State's plan calls for, not only acquiring these low-density unprofitable lines which the B&M wants to abandon, but also certain closely related lines which have higher traffic densities and which, although unprofitable, the B&M would not want to abandon because they make sufficient contribution to the rest of the railroad that

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the B&M is better off with them than without them. The State's reasons for wanting to acquire the lines in this fashion are that it does not want to be put in the position of having to acquire short-line railroad segments in bits and pieces as additional branches or line segments become increasingly unprofitable and are put up for abandonment by the B&M; that each short line should include both the relatively profitable and the unprofitable segments pertinent to its operations so that it would have the maximum opportunity for viable operation; and that the B&M, having taken the position that it would require a $2.5 million subsidy if it is to continue to operate these lines, is in no position to take the more profitable segments and leave the rest to the State.

Each proposed line seems to have a center of viable operations. On the Manodnock line in southwestern New Hampshire the B&M appears disposed to hang on to Keene. On the Intervale line substantial traffic is generated in the Rochester - Farmington area. The Central New Hampshire lines, however, involve the most traffic and appear to generate the most opportunity for disagreement between the State and the Trustees. The Central New Hampshire lines consist of the B&M's New Hampshire main line which extends 48 miles between North Chelmsford, Mass., and Concord; the Northern Railroad, a B&M majority-owned leased line, which extends between Concord and White River Junction; and a host of branch lines which radiate from Concord, Nashua, and Manchester. The B&M's New Hampshire main line loses about $636,000 a year, but it carries a substantial volume of traffic - 35,000 cars in 1970 including 8,700 cars of coal in unit trains to a power plant at Bow, a point south of Concord. Moreover, industrial activity is growing in the area between Manchester and the Massachusetts line. Consequently, the B&M considers that revenues from this line make a major contribution to the rest of its operations, and it would like to keep it. This situation, perhaps is made more attractive to the B&M by the fact that losses on the New Hampshire main line are attributed in part to the cost of maintaining small yards at Nashua, Manchester, and Concord. Presumably, the B&M may have some hope of reducing these yard costs by such means as modernization, changes in yard procedures, or changes in the work rules.

The Northern Railroad between Concord and White River Junction was once a part of a rail route between Boston and Montreal. However, its through traffic has diminished in recent years, and it has virtually no intermediate point traffic. Consequently, the B&M

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Trustees have diverted the Northern Railroad's overhead traffic along the Connecticut River line to Greenfield and east from Greenfield to Boston and southern New Hampshire points, acting on the assumption that the greater density of traffic and more frequent trains, although on a circuitous route, would enable it to provide an equally effective service at lower cost. The B&M now operates one or two trains a week on the Northern Railroad to provide such service as may be required at intermediate points and to protect its tariffs. The State wants to acquire the Northern Railroad; to operate it along with the branch lines and the B&M's New Hampshire main line; and to keep open present joint rates with the Central Vermont at White River Junction. The B&M looks to State-sponsored operation of the Northern in such circumstances as a siphon which would draw off substantial New Hampshire main-line traffic to the Canadian carriers.

As a consequence, the State and the Trustees are at odds in their negotiations. The Trustees want the State to accept a restriction which would prevent the short lines from diverting traffic to the Canadian carriers. The State maintains that not much traffic would be diverted but that it must keep the Central Vermont routings open in order to insure the viability of these lines. In addition, the Trustees are unwilling to sell those lines which they do not plan to abandon for a price as low as the net salvage values offered by the State. New Hampshire officials, for their part, claim that, if they are obliged to pay prices higher than net salvage values, they would be unable to lease these lines to a short-line operator for rents which would enable the State to pay the interest and retire the debt on bonds used to purchase these lines. The Trustees have suggested that these differences be submitted to an arbitrator, and the State has replied that it would prefer to continue negotiations but to confine them at first to one segment, the Monadnock lines. The Trustees seem willing to negotiate on this basis.

Sale of other real estate. At the end of 1971 when they prepared their plan the Trustees proposed to prepare an inventory of disposable property over and above any land which might come on the market as a result of prospective abandonments. They proposed to engage in an active program of property disposal during 1972, and they stated their opinion that about \$1.5 to \$3.0 million might be realized from the sale of such land within the next 2 years. In fact, about \$2 million already has been realized from the sale of real property, and this has

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of creditors. (It has <u>not</u> been included amongst the funds credited to the B&M's cash account.) However, that $2 million appears to have been realized in large part from sales arranged prior to preparation of the Trustees' Plan, and no active program for the sale of disposable property was pursued during 1972. Moreover, although it is difficult to estimate in advance just when real estate can be sold and how much obtained for it - particularly when the vendor is in bankruptcy - the amount that might be realized from the sale of real property surplus to the needs of the railroad would appear greater than the estimate of $1.5 to 3 million.

Subsidiaries of the B&M own a large tract of land at Montague, Mass. (near East Deerfield), and a 152-acre tract at Scarboro, Maine. The Trustees had hoped to sell the Montague tract to the Commonwealth as the site for a sanitary land fill for waste material which would be moved to the site by rail from Boston. However, the compacting and loading machinery at the B&M's Somerville yard which was to have been used in conjunction with this project has been destroyed by fire, and prospects for prompt sale of this land appear dim. The Scarboro tract is near the Portland Terminal yard at Rigby, and the Trustees have been holding it in reserve as the possible site for a receiving yard should the dispute with the Portland Terminal make it advisable for the B&M to establish its own facility.

Additional land is held by the B&M. Some of this is right-of-way land pertinent to rail lines which previously have been abandoned, and there is other railroad property which is not needed for railroad purposes. One example of such land is a tract at Keene which has been valued at $500,000. Another example is the 1,600 acres of branch line right-of-way outside Interstate Highway 495 which has been valued by the B&M staff at about $500,000. An additional 1,135 acres in the Boston area <u>inside</u> Interstate 495 is characterized by the appraisers as "surplus" and is valued at $13 million. However, such "surplus" land includes all non-right-of-way land, and a substantial part of it actually may be in use for railroad purposes. Consequently, it is not known how much of this "surplus" land can be released for sale. In this connection too, the Trustees have been giving consideration to removal to Ayer of all or a part of the Boston area yard operations presently being conducted at Somerville; and the city of Somerville would like the railroad to sell some of its real property in that community to private industry so that it can be put on the tax rolls at the full rate and so that the city will be the amount that might be realized from the sale of real property surplus to the needs of the railroad would appear greater than the estimate of $1.5 to 3 million.

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Tax abatement. The B&M property tax bill for 1971 was approximately as follows:

B & M PROPERTY TAXES 1971

	Gross Property Taxes
Maine	$ 5,000
New Hampshire	146,000
Vermont	54,000
Massachusetts	1,861,000
New York	180,000
	$2,246,000
Recollectable from others	136,000
Billable to MBTA	378,000
Net Property Taxes	$1,732,000

Of the $1.7 million total net property taxes, about $1.4 million were levied in Massachusetts. Inasmuch as the B&M is in bankruptcy, its taxes are not being paid but are added to the claims against the B&M estate where they enjoy priority over the claims of the secured creditors including particularly those of the first mortage bondholders.[19]

[19] Reference here and elsewhere in this report to the relative priority of claims is intended only as a general statement to aid in discussion of the issues. It is not a definitive attempt to establish the hierarchy in which each and every claim against the B&M estate must be

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[19] Reference here and elsewhere in this report to the relative priority of claims is intended only as a general statement to aid in discussion of the issues. It is not a definitive attempt to establish the hierarchy in which each and every claim against the B&M estate must be ranked upon distribution. That is a much more complex problem for which no record has been made in this proceeding.

The property taxes impede the B&M's prospects for reorganization in a number of ways. First of all, they are an impediment to the earnings recovery, which is necessary if the railroad is to be reorganized as a profitable enterprise. As fixed, annual charges which--once out of bankruptcy--must be paid regardless of the railroad's profitability, they not only lessen the B&M's earnings prospects, but they can be expected to add to the adverse cyclicality of the railroad's bad years, making it necessary to dip into depreciation if they are to be paid. Secondly,--prior to reorganization--by adding to the priority claims against the B&M estate, they thereby make it more difficult to satisfy the claims of the subordinate secured creditors who are in a position to claim entitlement to at least liquidation value upon reorganization. The secured creditors, in turn, see the security for their claims further impaired by each annual tax bill that remains unsatisfied; and they are spurred thereby to press for liquidation in order to preserve the priority of their claims, thus adding to the complexity and to the amount of litigation involved in the reorganization proceeding.

In chapter VIII of their plan, the Trustees make the following pertinent statements:

> The five states treat taxation of the right-of-way differently. Maine levies no taxes on the right-of-way up to five rods [82.5 feet] in width. With one exception (relocated line) Massachusetts follows the same practice. New York, Vermont and New Hampshire levy a state tax on over-all property in the state, including the value of the right-of-way. All five states levy taxes on all non-right-of-way land, buildings and improvements regardless of whether it is, or is not, ancillary to the operation of the railroad.
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> The elimination of all property taxes on the right-of-way can be easily justified on the basis that this would put the railroad on an equal footing with its main competition--trucks. There are, of course, no taxes on highways or streets. Quite the other way, their construction and maintenance represents a drain in many instances on local and state treasuries. User taxes from trucks and automobiles rarely pay more than the direct costs of

highways and streets and in instances pay rather less, so that there is no positive tax-take from them. It may be asked why the railroad right-of-way should be treated differently, except on grounds of historical precedent.

* * *

The trustees are proposing to the Governors of the five states that the full amount of the taxes on the right-of-way and those on railroad operating property or reasonably allocable thereto, be abated . . . The states would, of course, have the option of making up to the cities and towns all or a portion of this loss in revenue. No change would be made in the taxes on non-railroad property or on recollectible taxes except for case-by-case application for abatement where justified.

The Trustees propose the following abatements of its \$1.7 million property taxes, assuming levies at the 1970 rates. In future years they estimate that the amount of the abatements would total \$1.5 million.

Maine	\$ 885
New Hampshire	100,000
Vermont	49,850
Massachusetts	996,773
New York	173,533
	\$1,221,046

In addition, the Trustees propose to settle back taxes for 50 percent of the \$10.8 million owing in 1971.

The Trustees have shown little prospect of meeting these goals. For one thing, they overlooked the fact that the B&M already receives substantial tax relief in New York where, in addition to its track mileage, it has yards at Mechanicville. New York has a statutory railroad tax relief program. This program provides greater benefits for railroads with lower earnings. Thus, the B&M's estimated New York property taxes for 1972 were \$151,605 instead of an estimated \$650,297 which they would have been without the tax relief program.

Massachusetts, of course, imposes the largest tax bill on the B&M. It has no railroad tax relief law or program, and property taxes are payable to the local communities. The city of Somerville, where the B&M has its Boston area yards, is the B&M's largest tax creditor in Massachusetts. Negotiations have proceeded with Somerville officials, but the Trustees have found themselves constrained to negotiate on the basis of a one-third remission and abatement of taxes, because that was the basis on which the Boston & Providence Railroad settled its tax claims and city officials would not negotiate for less. However, this basis does contemplate remission of interest and penalties. Somerville city officials also want the B&M to sell certain of its Somerville yard properties so that they can be put on the tax rolls at the full rate. The Trustees are confident that a settlement can be achieved along these lines and that it will lead to similar settlements with other Massachusetts cities and towns.

However, unless the Trustees are able to remove substantial taxable property from the tax rolls throughout Massachusetts, they will achieve an abatement of only about one-third of its $1.4 million annual tax bill in the Commonwealth. There is little likelihood for substantial tax relief from any of the other States served by the B&M, with the possible exception of New Hampshire. Instead of their goal of $1.2 to $1.5 million tax abatement a year, the Trustees appear to have placed themselves in a position of having to settle for abatement of about $500,000 or $600,000 a year.

This suggests an annual tax bill of about $12 million a year, or more as taxes and assessments increase, in place of a present tax bill of $1.73 million.

Labor. In general, the B&M operates under national labor agreements negotiated by virtually all railroads through the National Railway Labor Conference. For most crafts on the B&M there are local or supplementary agreements which specify manning assignments and limitations on work to be performed. Some of the local agreements date back a long way and are considered by the B&M no longer pertinent to the operations of the railroad as it presently is constituted. The Trustees take the position that a complete reworking of the local rules and practices could result in annual savings of between $4 and $5 million a year, or about 15 percent of its wage package. They believe that about $2 million savings beyond the level of the Steady State Forecast can be achieved one-third remission and abatement of taxes, because that was the basis on which the Boston & Providence Railroad settled its tax claims and city officials would not negotiate for less. However, this basis does contemplate remission of interest and penalties. Somerville city officials also want the B&M to sell certain of its Somerville yard properties so that they can be put on the tax rolls at the full rate. The Trustees are confident that a settlement can be achieved along these lines and that it will lead to similar settlements with other Massachusetts cities and towns.

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The labor force of the B&M reached a high in 1944 at 15,142. That, of course, was with a peak wartime traffic load, with steam operation, and with a much more extensive passenger operation than at present. The B&M labor force has steadily declined since then. By the end of 1967 the average monthly count of B&M employees had declined to 3,794. It remained at about that level for 4 years. In the Spring of 1970, at the time of bankruptcy, the B&M had 3,787 employees. By the Fall of 1971 The Trustees had reduced this by about 300 to 3,486. The Trustees Steady State Forecast predicts a further reduction of 300 to 3,186 by early 1975. This is to be made possible by eliminating shifts or rescheduling trains, improving work practices, and concentrating headquarters operating personnel as much as possible, at Billerica, the point north of Boston where its repair shops are situated. Most of this reduction would be absorbed through attrition. An additional 51 employees whose work is related to passenger operations would be transferred to the MBTA account to be added to the 470 presently paid for by that operation. Some 105 additional employees are expected to be laid off as a result of abandonments and the purchase of new and more efficient equipment as a part of the capital improvement program.[20]

[20] Testimony was somewhat contradictory respecting just where the Steady State Forecast reduction in force would be effected, there being a tendency on the part of certain of the B&M's witnesses to count the 51 employees proposed to be transferred to the MBTA account as part of the 300 reduction in force. The Institutional Bondholders, on brief, point to this generally confused situation, and they maintain that the Trustees' proposed reductions are not supported by any study and cannot be achieved. Dispite these objections, these contemplated reductions-in-force and transfers are considered here as the result of reasonable projections by experienced managers who are familiar with the overall productivity of B&M labor and are in a position to judge what can be achieved. No detailed study would appear necessary. Nothing here is inconsistent with a reasonable tendency of operating managers in a situation such as this, involving forecasts over a period of several years, to start with rough forecasts and fill in the details later on. Criticism that these projections do not take into consideration the fact that labor cuts would take place during a period of extensive maintenance of way and equipment repair work, are not considered

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The average age of the B&M labor force is 52 years. Only 296, or 9 percent of its 1971 total work force of 3,486, was under 35 years of age. One third of the 3,486 total, or 1,162, will reach mandatory retirement age by December 1976. Its annual attrition from retirement alone will average 100 a year prior to the Trustees' reorganization deadline and about 430 a year in the two years immediately thereafter. Actual attrition from all causes in 1971 was 278 for an annual rate of 7.7 percent. In the first half of 1972, its attrition from all causes was 112 indicating an annual rate in excess of 6 percent. Of the 300 jobs projected to be eliminated by the Steady State Forecast, 50 were scheduled for 1972, 100 for 1973, 100 for 1974, and 50 for 1975. In fact, a reduction of 66 had been effected by August 21, 1972.

The B&M hired its new chief labor relations officer in the Fall of 1971. At that time there was pending a backlog of about 900 unresolved work disputes and grievances. The new managers have been successful in settling or resolving a large number of these disputes. In a number of instances the settlement of an inssue in dispute has constituted a precedent or agreement governing future work practices by the railroad's employees. These negotiations have proceeded in a cooperative manner, and the B&M Personnel Department estimates that the precedent value to the railroad of these settlements will be about a million dollars a year in increased productivity. The B&M is now proceeding to formulate a number of package offers to be placed before the unions for changes in work rules which would net the railroad about $2 million a year in increased productivity. One accomplishment so far has been inauguration of a practice whereby maintenance of way employees are paid mileage for using their own automobiles to job sites at the beginning of a day's work instead of reporting to a central point and being transported to the job site on working time.

Labor relations, of course, is a sensitve field, and it would be difficult to predict the outcome of these negotiations. B&M employees have borne the burden of successive reductions in force over a protracted period, and it is difficult to ask them to take further cuts. However, the productivity of B&M labor has been low when compared with other Eastern District railroads, and it has been declining while productivity on the other roads has been improving. Moreover, B&M management has experienced a generally cooperative attitude from the unions. Doubtless, the present and forseen attrition rates will operate to substantially cushion the impact of the planned cuts in employment.

Review of rates. Although the average yield of revenue per car handled by the B&M has increased markedly in the last few years (from $140 per car in 1969 to $156 in 1970 and to $184 per car in 1971) the Trustees consider that in common with railroads generally, the B&M may be handling a considerable volume of traffic which either fails to cover the out-of-pocket costs or which contributes very little to overhead and profit. One rationale of this situation is that, for many reasons, rates on numerous occasions have been forced down. As costs rose and the railroads took the route of seeking general rate increases, the percentage increases granted were not sufficient to make these low-rated commodities remunerative, but the increases were sufficiently large as to open up a number of high-rated commodities to successful truck competition. Thus, the railroads saw their profitable traffic gradually drawn off to the highways while they were left with the low-rated traffic or that traffic which is impractical to ship by truck.

The Trustees make the following statement at Chapter XII page 5 of their plan following a discussion of this problem:

> ***/The B&M/ has accordingly, directed its Chief Traffic Officer to undertake, or have undertaken, a prompt review of the major rates on the B&M, that is those which account for the bulk of the traffic, to determine which, if any of them, fail to cover out-of-pocket or variable costs, which return more than variable costs but less than full allocated costs and which cover 130% or more of fully allocated costs, making the commodity possibly vulnerable to truck diversion. The results of this study will be used as the basis for discussions with connecting carriers and with shippers and consignees. The Trustees believe that on a net basis there may be as much as $5 - $6 million being lost due to unduly low or excessively high rates. Only $2½ million of this total has been used as possible increased revenue for purposes of the reorganization plan.

The B&M's Traffic Department is primarily sales oriented and apparently lacks the technical skills required for in depth review of costs and pricing. However, the B&M's other departments and managers on the B&M possess such skills, and a review of the B&M's rates already had been conducted prior to start of the hearing in May 1972. Steps had been taken to insure that at that time no rates were below out-of-pocket costs. The B&M had, for example, discovered that the heavy sand and gravel movement which peaked in 1968 had been below cost. When the opportunity arose in 1972 for it to participate in further movement of sand and gravel, apparently a continuation of the same construction project involved in the 1968 traffic, the B&M declined to institute below cost rates. Although it lost the traffic, the B&M is no longer losing money on it. When the B&M's meat traffic was diverted to trucks, the B&M's Traffic Department moved to institute lower rates. This was a frustrating experience. Its connections were reluctant to cut these rates. When lower rates finally were put into effect at the B&M's insistance, it found that shipper commitments to motor carriers because of equipment purchases would keep the traffic tied to trucks for about 5 years.

The Trustees have not provided a statistical breakdown to show where their projected $2 to 6 million in added revenue would be expected to develop. The rate review program has to a large extent been directed to transportation inadvertantly provided below cost, and any additional revenue collected as a result of upward adjustment of rates or reduction of unprofitable traffic probably can be counted as going directly to net. However, because of the periodic need for general rate increases due to inflation in recent years, the B&M will have to continue to review the profitability of its rates if it is to avoid a reoccurence of the sand and gravel situation. The need for downward adjustments of rates on more profitable commodities in order to meet truck competition in a recurring problem not always recognized by railroad managements. It is gratifying to see that the B&M is fully aware of these competitive pressures and is making an effort to respond to them. However, any downward adjustments aimed at keeping higher rated traffic away from trucks or at attracting other traffic can be expected to reduce probitability at least until the volume of such traffic is built up to more profitable levels. Viewed as a continuging program already in being and as presently constituted, the Trustees estimate is much too high. The projected net of $5 to 6 million a year, would amount to almost 10 percent of freight revenues. Their projection of $2½ million a year by the end of 1974 also seems high. Moreover, some of the fruits of the rate review program appear already to have been worked into the Steady State Forecast. Pricing of railroad services is a continuing problem and one that appears much neglected. Over a longer period, with continuing efforts, and with close coordination with the B&M's sales program might well be achieved. Measures should be taken by the Trustees and by B&M's management to insure that the program for the review of the profitability of rates in fact continues.

Canadian differentials. For many years there have been lower differential rates westbound from most New England points over Canadian lines to various destinations in the midwest. The original reasons for these differentials were the need of Canadian carriers for a backhaul for empty box-cars and the slower service which at one time prevailed in routing shipments through Canada. The effect of these rates is to favor the Canadian Railroads and divert a certain amount of traffic from United States railroads. The Trustees propose as a part of the Action Plan that the B&M seek to have these westbound differentials abolished. They estimate that such action should yield between $500,000 and $1 million a year in added revenue for the B&M, and they include the $500,000 figure as net revenue which would accrue to the B&M from such a program by the projected reorganization date, December 31, 1974.

However, traffic routed through Canada is in substantial measure tied to the greater number of rail cars available to shippers from Canadian carriers. To the extent that car supply considerations are of major importance, elimination of the differentials, which by themselves are a comparatively minor cost factor, would not affect the flow of traffic. Moreover, the Canadian differentials do not apply to all tariffs. The B&M's former chief executive officer, Mr. Barriger does not see any advantage to be gained by making such an effort, and Amoskeag agrees. The Maine Central considers that it would stir up shipper retaliation against the B&M.

A look at the map discloses that transportation through Canada to United States destinations is less circuitous from Maine origins, particularly those in northern Maine, than is the case further south, for example in New Hampshire and Massachusetts. It is not surprising, then, that the usefulness of Canadian routings and of the differentials depends in some degree on georgraphy. Thus, the BAR, at the request of a northern Maine shipper which was concerned about car supply, has divereted substantial traffic to the CP. The Maine Central has an efficient connection from the standpoint of transit time by interlining shipments with Canadian railroads from its Mountain Division which also provides it with its most favorable rate divisions. Even so, although it does much to favor the Mountain Division, the greatest part of Maine Central's traffic is interlined with the B&M. Scott Paper which has paper mills in Maine, considers the Canadian differentials a minor factor in determining routings. Brown Company in northern New Hampshire (although on the Grand Trunk, a Canadian line) considers that the differentials are never a determining factor, and its corporate traffic manager for rates and regulations expresses the personal view, founded on long experience, that it is time to bury the Canadian differentials.

The Trustees supply no underlying data respecting just how much traffic moves under the differentials. Any effort aimed at eliminating the differentials would require a considerable effort on the part of the B&M in which it would not have the cooperation of the chiefly affected connecting carriers, and the result of such an effort would be unmesurable and uncertain.

Freight sales blitz. The Trustees, as a part of the Action Program, propose to insitute a "sales blitz" which, coupled with improved service, they hope would bring in \$3 million to \$5 million a year in increased freight revenues. Service had deteriorated at the onset of bankruptcy, but had gradually improved under present management. Their initial projection was that service would have improved sufficiently by mid 1972 to warrant institution of an intensive sales program during the second half of 1972. This sales program is patterned on Mr. Barriger's extensive past experience in planning and operating sales programs for railroads similar in size and marketing situation to the B&M. The general approach is to stage sales presentations by top management at large cities where large numbers of shipper traffic managers can be attracted to breakfast and luncheon meetings. This enables the B&M management to emphasize and promote the railroad and its ability to provide service to the shippers. Periodic follow-ups are made by sales representatives, and additional sales meetings are conducted on a regular basis.

B&M's management has worked to improve the railroad's freight mix by establishing an automobile rack unloading facility at Ayer. This facility is predicated upon a commitment by Ford Motor Company to use such a facility to an extent which the B&M believes would yield it up to \$900,000 gross revenues a year. When the Trustees decided they were unwilling to invest B&M funds in the project, manangement pursued other avenues of financing and finally pursuaded the N&W to lease it the necessary rack cars and unloading facilities. The need to improve the track through the Hoosac Tunnel gave the B&M the opportunity to improve clearances in the tunnel to an adequate height for automobile rack cars by relaying the track down the center as a single-track line replacing double track which was no longer needed.

Completion of the Ayer project was delayed due in part to objections of the Institutional Bondholders which questioned its profitability and which opposed certain incidental expenditures by the B&M related to the Ayer facility.

Here again, the B&M Trustees do not provide any breakdowns as to where this traffic might come from, just what increased gross revenues might result, or what part of an increased gross could be brought down to net. Over a period of several years a strong sales effort should do much to strengten the B&M's competitive situation. The breakdown of services at the time of bankruptcy, the traffic dislocations that have resulted since, and the fundamental change in the B&M's competitive situation as a result of inclusion of the New Haven in the Penn Central just a little more than a year before bankruptcy, all indicate the need for an intensified sales effort. By such means the B&M will be able to alert shippers to its improved services and to its present and potential impact on the competitive situation in New England transportation. It is hoped that Mr. Barriger's retirement will not curtail the Trustees' efforts in this direction. Even without a curtailment, however, the projected earnings improvement from this source is too speculative to be counted upon.

<u>Tax carry forward negotiations with Bomaine.</u> As the holding company which owns 95.8 percent of B&M's common and preferred stock, Bomaine Corporation has been consolidating its corporate tax returns to set off B&M's losses against the profits realized by the holding company's other activities. The Trustees have taken the position that the B&M's operating loss carryforward is a valuable asset of the B&M estate and that, if Bomaine wishes to have the benefit of the carryforward, it can only do so pursuant to an agreement whereby it would agree to compensate the B&M estate for its use. The Trustees have retained special counsel to pursue this matter.

<u>Cost reductions at Portland Terminal</u>. Although it has trackage rights in and around Portland, actual B&M operations in Maine terminate at Rigby, just south of Portland. Service in the Portland area is provided for the account of the B&M by the Portland Terminal Company which is a Class I railroad providing joint facility services for both the B&M and the Maine Central. At one time Portland Terminal was owned jointly by the two railroads, but for many years it has been owned entirely by Maine Central. The total annual cost of operating

Portland Terminal has recently been about $5.5 million of which the B&M pays about 41 percent or 62.2 million, pursuant to a long-standing contractual formula for apportionment of expenses. In their Action Plan the Trustees propose to save $1 million by bringing pressure to bear on Main Central for reduction of expenses at Portland Terminal. B&M's operating officials have in fact worked on this problem in conjunction with PT operating people who have been cooperative. Moderate savings have been achieved, and some additional moderate savings are forseen. However, nothing on the order of the projected $1 million can be achieved at present on the operational level. Savings on that scale can only be achieved by a change in the formula for apportionment of expenses, or by a merger between the B&M, PT, and Maine Central which would change the nature of the yard work at Rigby.

In the meantime, there is substantial surplus land at Portland belonging to PT which the Main Central would like to sell in order to obtain funds for moderization of a piggyback yard. This would cost about $1.7 million and would produce savings to the B&M upwards of $100,000 a year. Sale of the land and the use of the funds for this purpose cannot be accomplished without the agreement of the B&M. The B&M Trustees have so far refused to agree to the project, because they hope for greater savings. In addition, the Trustees have given consideration to withdrawing the B&M from service at Portland so that Portland Terminal Company would be obliged to provide service as an interlining carrier. A B&M subsidiary owns a tract of land at Scarboro, Maine, adjacent to the Rigby yard where the B&M could establish a receiving yard if it ceases to use the Portland Terminal facilities. However, the legal situation pertinent to the B&M's ability to withdraw from the Portland Terminal arrangements in this manner is at best ambiguous.

Summing up the Action Plan. Trustees' proposed capital structure. As we have seen, in addition to the $2.1 million a year which they hope to realize from the capital improvement program and the $1 million which they would save from abandonments, the Trustees have projected a $13.5 million annual improvement from various components of the Action Plan. However, the foregoing analysis of those programs makes it clear that the savings projected from the proposed elimination of the Canadian differentials are unlikely to be realized. Moreover, while some additional costs savings might be achieved at Portland Terminal, the $1 million annual savings projected there cannot be realized short of a merger between the B&M and Maine Central - something which would appear some years in the future. As we have seen, other Action Plan programs, while they can be expected to greatly reinforce the earnings projections made herein, are difficult to attach specific dollar savings to in the manner projected by the Action Plan. Among these are the rate review, the freight sales blitz, and the projected labor costs savings. Tax abatement promises an improvement of half a million dollars a year if the City of Somerville and the other communities in Massachusetts agree to reduce the present tax bill by a third. Efforts to obtain additional relief from Massachusetts and New Hampshire so far have been limited to negotiations to sell B&M lines to these States or to public agencies. While such actions may benefit the B&M substantially, they are still in the negotiating stage where it would be difficult to predict the outcome much less anticipate a measurable annual benefit to the B&M.

The Trustees, nevertheless, have concluded that the impact of the Action Plan will be great enough to assure the B&M of a yearly net railway operating income of at least $6 million a year. On the basis of such a NROI they propose a capital structure of $43 million consisting of $22 million 8 percent first mortgage bonds and 2.1 million shares of $10 par common stock. On this basis the bonds would require fixed charges for interest of $1.76 million a year, plus an unspecified annual amount for sinking fund payments. The $6 million NROI would provide coverage for the fixed charges of 3.3 times the annual interest. The Trustees apparently have assumed that the remaining $4.24 million would be taxed at 50 percent and would provide earnings of $1 a share, or a price-earnings ratio of 10, for the 2.1 million shares of $10 par common stock. The Trustees' formal reorganization plan specifically adopts these figures and further provides that $7 million arising from the proposed sale of the commuter lines should be retained by the B&M as a fund to pay for the capital improvement program. Consequently, the net benefit to the B&M estate should be reduced by $7 million to $36 million. Although this capital structure is adopted as a part of their formal reorganization plan, the Trustees propose to adjust the interest rate and prospective price earnings ratio to market conditions existing at the time of reorganization. It is their intention that the securities making up the B&M's new capital structure be marketable as close as possible to par at the time they are distributed.

The Institutional Bondholders maintain that such securities must invariably sell at a discount and could not be used to satisfy pre-bankruptcy debt on a dollar-for-dollar basis. One basis, advanced in connection with Amoskeag's proposed capital structure for a New B&M Corporation, was that the debt would be marketable at 90 percent of par and common

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$19.8 million for the Trustees' proposed first mortgage bonds and, counting the common stock at 5 times earnings, $10.5 million for the stock. Subtracting the $7 million capital improvement fund would net the B&M estate $23.3 million. As a practical matter, the common stock proposed by the Trustees probably would do better than 5 times earnings if the $6 million NROI was in fact considered to be assured, and the Trustees have probably underestimated the after tax earnings that a $6 million NROI would produce. In any event the Institutional Bondholders' agruement that market values as of the date of reorganization should be a prevailing factor is by no means convincing. Further comment regarding such a discount is made in connection with the Amoskeag Plan.

Shippers

A substantial number of shippers provided testimony at the hearing. Most of these were concerned primarily with the Penn Central's proposal that the B & M abandon its main line west of Ayer and route that traffic over the PC's Boston and Albany line. Such testimony is treated at a subsequent point in this report along with the Penn Central proposal. Certain shippers and shipper groups, however, presented testimony more generally pertinent to the B & M's operations as a whole, and that will be treated here.

The New England Council, a chamber of commerce type organization, favors reorganization of the Boston & Maine so as to keep the competitive trunk line systems serving New England. Consequently, at the time evidence was adduced on its behalf - which was before the Erie-Lackawanna's bankruptcy - it favored merger of the B & M with the Norfolk & Western system.

Associated Industries of Massachusetts is an association of 2,400 industrial companies representing about 75 percent of the industrial employers in Massachusetts. It takes the position that New England industry requires competitive rail service. Consequently, it is opposed to any abandonment by the Boston & Maine of the Hoosac Tunnel line or any takeover of the B & M by the PC.

Davidson Rubber Company, a subsidiary of McCord Corporation, is a manufacturer of interior and exterior automotive trim products including bumper assemblies and related items. It has three plants in southeastern New Hampshire. Two are in the Dover area on the B & M's Portland-Worcester main line, and one is at Farmington on a stub branch of the Intervale-Conway Branch about 20 miles northwest of Dover. These plants currently generate about 4,000 carloads a year, a volume of shipments which is expected to rise to 5,000 in 1973 and 6,000 in 1974. About one-third of its traffic is inbound and the remainder outbound. Dispite its substantial traffic, the branch line at Farmington is receiving service only three days a week from the Boston & Maine, and, as far as this proceeding is concerned, Davidson is primarily concerned with the future of that line.

Paper shippers generally. The B & M's chief revenue producing commodity by far is paper. In 1971 paper, pulp, and related products accounted for 24.7 percent of the tons handled by the B & M and 26.1 percent of its revenue. By comparison, its second commodity was food products which accounted for 8.9 percent of its tonnage and 10.8 percent of its revenue. Moreover, its paper traffic has been growing; the paper industry generates substantial additional traffic because it consumes a considerable volume of inbound freight consisting of clay, the Penn Central proposal. Certain shippers and shipper groups, however, presented testimony more generally pertinent to the B & M's operations as a whole, and that will be treated here.

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Despite the heavy tendency of the paper industry to concentrate in the South, paper is one of the brighter spots in the New England economy. In June 1972 when the Federal Reserve Board's Industrial Production Index for all manufactures for the United States was at 113 percent of 1967 production, the corresponding index for New England[21] was 97. Nationally, paper production was at 127 while the New England index for paper was 107, one of the few manufacturing industries in New England with a showing better than the 1967 index of 100.

A number of paper manufacturers and an industry traffic conference participated actively at the hearing. Several of the paper manufacturers have plants on the B & M's main line between Ayer, Mass., and the Connecticut River and were chiefly concerned that they might lose all rail service as a result of the Penn Central's abandonment proposal. Their situation is treated separately along with the plight of other shippers and communities west of Ayer which might be affected by the Penn Central proposal. Three shippers, Brown Company, Scott Paper Company, and Georgia-Pacific Corporation, have large paper manufacturing plants in New England on lines which are not faced at present with abandonment proposals. However, they are vitally affected by the New England rail transportation situation generally, and they participated at the hearing in order to show the extent to which their operations are related to and dependent on rail service and how they might be affected by the various plans and proposals for reorganization of the B & M. All three of these shippers are anxious to preserve competitive line-haul rail service in New England. They want to keep the Hoosac Tunnel route open and preserve the D & H - B & M interchange at Mechanicville as a competitive alternative to the PC. Consequently, they oppose the Penn Central proposal; they oppose any plan that would segment the B & M so as to add additional interchanges on through routings or which would break the present through route over Mechanicville. They tend to favor the Trustees' Plan and the Amoskeag Plan because those plans would tend to preserve the present services of the B & M as an operating entity, and they would favor merger with the Norfolk and Western if that could be brought about.

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They oppose any rate surcharge for continuance of service by the B & M as an element which would have serious adverse effects on the operations of their plants.

Brown Company is a leading manufacturer of paper and related products. Its Berlin-Gorham Division has major facilities at the adjacent communities of Berlin and Gorham, in the White Mountains of northern New Hampshire. These communities are served by the Berlin branch of the B & M's Connecticut River line and by the Grand Trunk Western Railroad, which like the Central Vermont is a subsidiary of the Canadian National. The Berlin-Gorham facilities are a huge integrated manufacturing complex which starts with trees in the form of pulpwood and performs all of the processes necessary for converting trees into the end product which is paper. Brown is the second largest employer in New Hampshire. It is one of the largest shippers on the B & M and is heavily dependent on the continued operation of the B & M Railroad.

Brown shipped 270,341 tons by rail from Berlin-Gorham in 1971. Seventy-three percent of its outbound traffic moved by rail that year. Of the outbound rail traffic from this plant in 1971, 5,845 carloads, or 70 percent moved by B & M and the remainder by the Grand Trunk. The B & M also moved 64 percent of Berlin-Gorham's inbound rail traffic. It shipped 8,450 truckloads outbound in 1971. If its outbound rail shipments had been obliged to move by truck, total shipments from Berlin-Gorham would have equalled 31,050 truckloads, a volume of highway traffic which shipper considers far beyond the capacity of highways serving that remote area. Shipper's plant has been growing. It spent $20 million on expansion at Berlin-Gorham about 5 years prior to the hearing, and it was completing a $5 million expansion project in 1972 which eventually should add 10 or 15 percent to its volume of shipments.

A fundamental part of Brown's routing policy, as with most shippers, is to avoid putting all of its eggs in one basket. Thus, where competitive carriers and routings are available, traffic is divided among them so that the shipper does not become unnecessarily dependent on a single carrier. Brown adheres to this policy where routings to midwestern points "over the top" through Canada by the Grand Trunk and CP are competitive with the B & M. Even so, to the extent consistent with this policy and with sound routing policies generally, Brown has deliberately maximized its use of the B & M in recent years in order to assist the B & M and help assure its survival as a carrier serving Berlin-Gorham. In 1971 Brown received 3,190 carloads by the B & M and shipped out 5,845 for a total of 9,035 or half again what it had shipped in 1966. Part of this increase, of course, was accounted for by plant expansion. Brown experienced service deficiencies throughout the East in 1969 and 1970

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Although Berlin-Gorham is served by a subsidiary of the Canadian National as well as by the B & M and Brown considers that it has effective working relationships with the Canadian railroads, it does not consider that a Canadian railroad either directly or through a subsidiary such as the Grand Trunk or Central Vermont, is capable of providing a comprehensive solution to its shipping problems should the B & M be liquidated and the Berlin line sold. Most of Brown's shipments cannot be routed economically to United States destinations through Canada. Points in the Southeast, in particular, are subject to highly circuitous operations when routed through Canada. Moreover, customs regulations limit the use of Canadian built boxcars to those moving from, to, or through Canada. Consequently, Brown must depend on the B & M to meet its requirements for an adequate supply of United States built boxcars. An adequate supply of such boxcars is absolutely necessary to operations of the Berlin-Gorham Division, and, in Brown's view segmentation of the B & M, as proposed by the Institutional Bondholders, and transfer of the Connecticut River and Berlin lines to a Canadian carrier would fail to meet its needs in this respect. Brown has also been unable to obtain piggyback service from Canadian carriers. The Canadian railroads are still trying to persuade it that their merchandise car less-carload services are the equivalent of piggyback. In general it considers that the Canadian railroads do not understand fully American marketing methods or American transportation regulations. Brown has had considerable past difficulty in obtaining adequate numbers of United States built boxcars. However, during the past two years, it has been able to obtain an adequate supply of boxcars from the B & M.

At present Brown has also encountered considerable difficulty in the use of the B & M for piggyback service because of tunnel restrictions on the B & M's Connecticut River Line at Bellows Falls, Vt. The B & M Trustees have been unwilling to authorize expenditures of funds for improving clearances in that tunnel. As a consequence, piggyback shipments must be moved in a limited twice-a-week service by the B & M over the Northern Railroad and Concord, N. H., a line which the B & M contemplates abandoning. The delays inherent in the use of this service have severely retarded the use of piggyback from the Berlin-Gorham plants. Penn Central's Flexi-Van piggyback containers can clear the Bellows Falls tunnel, and Brown tried to get a PC-B&M concurrence on a joint movement for this traffic so that it could use the Flexi-Vans. However, the two carriers were unable to agree on divisions, and nothing was done.

In addition to Brown's concern over boxcar supply, it is apprehensive that Canadian ownership of the Connecticut River Line would tend to divert substantial traffic away from the Hudson River gateways at

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In addition to Brown's concern over boxcar supply, it is apprehensive that Canadian ownership of the Connecticut River Line would tend to divert substantial traffic away from the Hudson River gateways at Mechanicville and Rotterdam Junction. This would have a serious adverse effect upon the D&H, a bridge carrier which Brown desires to see continue in operation because of the flexibility which it presently enjoys in routing shipments by the D&H. The status of D & H as a bridge carrier is of considerable importance to Brown because it is axiomatic that a bridge carrier such as D & H will provide the greatest possible routing flexibility for shippers, and the tariffs of bridge carriers are constructed accordingly. Moreover, there is an unusual abundance of warehouse space available in the Albany area which it can use for **in**-transit storage. At present, Brown uses a warehouse at Vooreesville, N.Y., which is served by both the PC and D & H, a factor of economic importance to it. Brown's operations would be severely hampered by the demise of the D & H.

Freight rates on paper from New England have risen at a faster rate than those from paper mills in the South. This has served to place New England paper mills at a price disadvantage in competing with southern mills and, in effect, has curtailed the geographic area which can economically be served from New England States. One effect of the continuous rate increases in recent years has been to force Brown to make optimum use of the rate structures by changing its marketing practices to favor larger shipments which move at a lower cost per hundredweight. As a consequence, a 30 percent rate increase would not yield a 30 percent increase in revenue to the railroad. In Brown's view B & M and the other New England rails must seek to cover the increased costs caused by inflation by increasing their participation in comparatively high-rated finished manufactured products, in addition to paper, so that their costs are spread more evenly amongst <u>all</u> the shippers which they serve. Despite its preoccupation with rates, Brown does not consider the westbound Canadian differential a factor which has any actual influence on its routing practices. Brown supports any plan that will maintain the principal freight services and gateways of the B & M within a single railroad system.

<u>Scott Paper Company</u> has four plants and a warehouse in northern New England. These include a large paper mill of its S. O. Warren Division at Westbrook, Maine (also known and shown on the map as Cumberland Mills) and another at Winslow, Maine. The Westbrook plant is on the Portland Terminal and, as such, is served by both the B & M and the Maine Central. The Winslow plant is on the Maine Central. Scott's warehouse is at Lawrence, Mass. In 1971 it moved 11,184 carloads outbound from its plant and 1,693 from the warehouse. It received 2,757 inbound carloads. The Westbrook plant had 1,990 carloads outbound and 1,175 inbound. Winslow had 6,339 carloads outbound and 199 inbound. Another plant at Fort Edward, N.Y., on the D & H, had 1,793 outbound carloads and 992 inbound. Scott's shipments are mostly overhead to the B & M and are routed through the gateways at Portland, Worcester, Mechanicville and Rotterdam

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Scott would prefer to see a healthy rail trunk line system such as the N & W absorb the B & M substantially as it is presently constituted less any appropriate abandonments. Failing that, it would support a B & M reorganization which would preserve it as an independent railroad system. Its prime interest is in preservation of the Portland-Worcester and Boston-Mechanicville/Rotterdam Junction lines along with the Connecticut River line. The abandonments suggested by the Trustees at the hearing would be acceptable to this shipper. Any segmentation of the B & M which would transfer the Portland-Worcester segment to the Maine Central or another carrier must also provide for operation of the Ayer-Mechanicville/Rotterdam Junction segment. Otherwise, the continuance of the gateways at Rotterdam Junction and Mechanicville would be threatened, particularly that at Mechanicville which is the only truly competitive gateway to those offered by the PC. Shipper is also apprehensive that closing the Hoosac Tunnel Line would magnify the effect on the shipping community of any shutdown on the PC's Boston & Albany line. Scott is also anxious to retain the services of the D & H, not only as a valuable bridge carrier, but also because its plant at Fort Edward, N.Y., is on the D & H and almost totally dependent on that railroad. The Canadian differential is a relatively minor factor to Scott in influencing the routing of shipments to United States points by the Maine Central's Mountain Division and the Canadian carriers, but a factor nevertheless.

Georgia-Pacific Corporation operates a pulp and paper mill at Woodland, Maine, a paper mill at Gilman, Vt., a building materials distribution center on the B & M at Manchester, N.H., and a tissue plant at Plattsburgh, N.Y., on the D & H. The Woodland and Gilman plants are on the Maine Central, but both are dependent on the B & M for the through movement of their traffic. The Woodland plant has a total production of 1,000 tons opposes the imposition of surcharges as self-defeating to any effort to improve the status of the B & M. However, it considers that the present paper rates in New England are in a reasonable range, particularly in view of a 6 percent rollback on July 10, 1972, on the part of all Eastern railroads. That rollback did much to strengthen the competitive situation respecting New England and Eastern paper producers generally.

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Official Territory Paper Traffic Conference has 57 member companies of which 30 operate some 39 plant locations in New England or in the Albany area. Twelve of those plants are on the B & M at Berlin and Groveton, N. H.; Holyoke, Gardner, Lawrence, Chicoppe, Wakefield, Bondsville, Medford and West Medford, Mass.; and Scotia, N. Y. In 1971 its 30 New England and New York members originated 12,842 carloads on the B & M and received 18,140 carloads. The conference has not yet taken an official position with respect to the various plans proposed by parties to this proceeding, but it is anxious that the B & M be preserved as an operating entity.

Norfolk & Western and Central Vermont

Prospects for sale to the Norfolk & Western. The Norfolk & Western - Nickel Plate merger in the late 1960's united the old N & W, Nickel Plate, and Wabash railroads, along with some smaller railroads, into the unified Norfolk & Western system extending from Buffalo, Pittsburgh, and Norfolk on the east to Chicago, St. Louis, Des Moines, Omaha, and Kansas City on the west. At the time the Commission sought to include in the merger Erie-Lackawanna, the Delaware & Hudson, and Boston & Maine. However, the E-L had long-term debt of more than $300 million and the B & M had about $70 million debt, and both were financially weak. In addition, the D & H without the E-L lacked a direct connection with the N & W system. The N & W was unwilling to assume the obligations of the E-L and B & M in the absence of a merger with the C&O-B&O system. As a result, the Commission allowed the N & W to set up a holding company known as Derico which is owned by N & W and which undertook to acquire control of the E-L, D & H, and B & M by purchase of their capital stock and convertible securities. As we have seen, the B & M stockholders refused to accept the N & W offer and did not join the Derico group. The E-L and D & H did join. A unified management was provided for the two, but aside from a joint yard at Buffalo the largest interchange point on the N & W system, the N & W provided no financial assistance for the E-L and D & H. In fact, the joint Buffalo yard was provided as a result of a transaction between the N & W and E-L which preceded the merger.

The D & H, of course, provides the B & M with its only competitive connections to and from points outside New England aside from connections along the Connecticut River with the circuitous operations of the Canadian roads. The E-L in conjunction with the D & H provides further connections to and from the midwest including points on the N & W system. Consequently, union of the B & M with the N & W and the Derico railroads is logical since these carriers must interline with and generate traffic for one another if they are to compete successfully for traffic against the Penn Central. However, the refusal of the B & M shareholders to accept the Commission-sanctioned terms for affiliation with Derico kept the B & M out of the N & W-Derico system, and the N & W has been unwilling to take the B & M on since then.

With the coming of the B & M's bankruptcy a number of parties to this proceeding came to look upon inclusion in the N & W system as a panacea for the problem of getting the B & M reorganized and out of bankruptcy. This remedy doubtless was made to seem particularly appealing in view of the shotgun wedding between the

Louis, Des Moines, Omaha, and Kansas City on the west. At the time the Commission sought to include in the merger Erie-Lackawanna, the Delaware & Hudson, and Boston & Maine. However, the E-L had long-term debt of more than $300 million and the B & M had about $70 million debt, and both were financially weak. In addition, the D & H without the E-L lacked a direct connection with the N & W system. The N & W was unwilling to assume the obligations of the E-L and B & M in the absence of a merger with the C&O-B&O system. As a result, the Commission allowed the N & W to set up a holding company known as Derico which is owned by N & W and which undertook to acquire control of the E-L, D & H, and B & M by purchase of their capital stock and convertible securities. As we have seen, the B & M stockholders refused to accept the N & W offer and did not join the Derico group. The E-L and D & H did join. A unified management was provided for the two, but aside from a joint yard at Buffalo the largest interchange point on the N & W system, the N & W provided no financial assistance for the E-L and D & H. In fact, the joint Buffalo yard was provided as a result of a transaction between the N & W and E-L which preceded the merger.

The D & H, of course, provides the B & M with its only competitive connections to and from points outside New England aside from connections along the Connecticut River with the circuitous operations of the Canadian roads. The E-L in conjunction with the D & H provides further connections to and from the midwest including points on the N & W system. Consequently, union of the B & M with the N & W and the Derico railroads is logical since these carriers must interline with and generate traffic for one another if they are to compete successfully for traffic against the Penn Central. However, the refusal of the B & M shareholders to accept the Commission-sanctioned terms for affiliation with Derico kept the B & M out of the N & W-Derico system, and the N & W has been unwilling to take the B & M on since then.

With the coming of the B & M's bankruptcy a number of parties to this proceeding came to look upon inclusion in the N & W system as a panacea for the problem of getting the B & M reorganized and out of bankruptcy. This remedy doubtless was made to seem particularly appealing in view of the shotgun wedding between the Penn Central and the New Haven in 1968 when the Commission made the Penn Central merger contingent upon the PC's purchase of the New Haven's railroad assets, and the New Haven Reorganization Court set the price. Consequently, in late 1970, the B & M Trustees petitioned the Commission for inclusion of the B & M in the N & W-Nickel Plate merger, and the Institutional Bondholders and the Debtor filed reorganization plans directed toward the same end. These requests ultimately were denied by the Commission in October, 1971. The Trustees have instituted proceedings in the United States District Court for the District of New York appealing that denial.

It was evident at the outset of the hearing that a number of the parties, including a number of public officials, had persisted in the belief that the Norfolk & Western might come forth to bail out the B & M. The initial response of the N & W to this attitude was to avoid participation at the hearing, but its subsidiaries E-L and D & H did participate. Eventually, testimony was obtained from N & W management respecting its views. This was merely that the N & W had not changed its opinion that the large Erie-Lackawanna and Boston & Maine debts constituted an albatross which it still sought to avoid; that the E-L and D & H at that time in May 1972, were faced with sizable deficits and the E-L with a section 20(b) proceeding in which it was trying to roll over part of its debt; and that N & W management hoped that the Derico lines would be able to overcome those obstacles. Nevertheless, the N & W was prepared to write off as a loss its investment in the equity securities of the Derico companies if they could not keep out of bankruptcy without N & W's financial assistance. The following month Hurricane Agnes inflicted heavy damage upon railroads in the East. The E-L had severe washouts which closed 140 miles of its track and caused it to divert traffic over the Lehigh Valley Railroad. As a consequence of this extremely heavy storm damage and of its other adversities, the E-L instituted bankruptcy proceedings. The D & H also suffered badly as a result of storm-induced problems, and it had to postpone payment of taxes. D & H carloadings, which had declined 20 percent in 1971, declined another 17 percent during 1972. However, the D & H has comparatively little long-term debt and has so far avoided bankruptcy.

The Erie-Lackawanna bankruptcy had one interesting side effect. Derico had obtained control of the E-L by acquiring the E-L common and preferred stock in exchange for Derico securities convertible into N & W common stock, but Derico did not acquire the E-L's first mortgage bonds. Consequently, the E-L's first mortgage bondholders who, by definition, are its most highly secured group of senior security holders, must face the uncertainties of bankruptcy while the least secured group, the equity holders, face a future as common stock owners of one of the nation's more profitable railroads.

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The Boston & Maine obviously has a common economic interest with the D & H and E-L as well as with the other non-Penn Central bankrupt railroads in the East - the Lehigh Valley, Jersey Central, and Reading. Although they compete with one another to varying extents, these six railroads also are connecting carriers providing through routes between New England, New York, and northeastern Pennsylvania points and the N & W and C&O-B&O systems. Together they offer the only competitive alternative to the Penn Central. The Lehigh Valley, the former affiliation of which with the PC was severed by its own bankruptcy, recognizes this fact. Its Trustees now look to a merger with the Reading and the CNJ as a means of emerging from bankruptcy and to an eventual merger with the E-L as a future source of further economies. The N & W management acknowledges that these six railroads - the D & H and the five bankrupts - have a common economic interest and must make it together, if they are to make it at all. Although it cannot compete fully with the PC for Eastern and New England traffic without interlining with those railroads, the N & W is unwilling to undertake any responsibility for their debts or their unprofitable operations. It adheres to the position that it will not voluntarily merge with or acquire the B & M as a subsidiary.

The B & M and D & H, in particular, are two railroads which must make it together or not at all. The D & H is almost exclusively a bridge carrier, and its Mechanicville interchange with the B & M accounts for most of its traffic. At the same time, the B & M is dependent upon the D & H as a connecting carrier which enables it to compete with the Penn Central for line-haul traffic. Now that the Erie-Lackawanna is in bankruptcy, the N & W's major objection to giving direct financial support to the D & H also is gone. The D & H has very little long-term debt, and probably few operating advantages would be derived by it, or by the N & W, from bankruptcy proceedings for the D & H. But bankruptcy might well disrupt the D & H's services and even threaten its continuance as a bridge carrier. Since the D & H is necessary if the N & W is to compete for and participate in New England traffic, N & W must now consider whether its strategy toward the Derico carriers is any longer valid as respects the D & H. Possibly, the N & W will do as little as it must to keep the D & H going pending reorganization of the B & M and developments in the E-L proceeding, but whether it will do so is anybody's guess. In the meantime the D & H is beset by strong efforts on the part of the PC to eliminate it as a competitor.

<u>Negotiations with Central Vermont</u>. The Central Vermont Railway extends from points at and near the Canadian border through Vermont, Massachusetts, and

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Negotiations with Central Vermont. The Central Vermont Railway extends from points at and near the Canadian border through Vermont, Massachusetts, and Connecticut to New London, Conn. Between Bellows Falls and Windsor, Vt., a distance of about 50 miles, it has trackage rights over the B & M's Connecticut River line.

At the opening of the hearing on May 1, 1972, the Central Vermont was interested in acquiring the Connecticut River line along with the Berlin line and the branch of the B & M between Brattleboro, Vt., and Keene, N. H. It had a study group working in Boston to determine operating costs and revenues from the records of the B & M. It expected this study to be completed in September 1972 at which time it planned to advise the Trustees of the extent to which it was still interested in negotiations for the acquisition of these lines. However, there have been no further efforts by the Central Vermont toward institution of active negotiations.

The Central Vermont is a subsidiary of the Canadian National, and in addition to providing service to and from points in New England, it serves to feed traffic to the Canadian National. The D & H, and a number of shippers which have plants on the D & H, are concerned that the substantial volume of traffic which presently moves over the Connecticut River line to and from the Massachusetts gateway will be diverted to the Canadian National if the Central Vermont should acquire the Connecticut River and Berlin lines. Diversion of any traffic from the D & H in view of the adversities which have hit it in recent years would threaten discontinuance of other D & H services.

The Penn Central and Massachusetts Proposals

The Penn Central proposal. The B & M's main line between Boston and Rotterdam Junction is a competitive and substantially duplicating route to the PC's Boston & Albany line between the same termini. The PC has proposed here that the B & M abandon its main line west of Ayer so that the duplicating services presently provided by the two lines could be concentrated on the Boston & Albany. Such an arrangement might be undertaken by diversion of B & M traffic to the Penn Central in exchange for more favorable rate divisions than the B & M presently gets on traffic interlined with the PC at Worcester, or by means of traffic rights which would enable the B & M to move its own trains over the Penn Central lines. The PC does not specify whether it prefers either type of arrangement to the other, but it gives the impression that it would prefer to compensate the B & M with better rates divisions than to enter into a traffic rights arrangement. This proposal has aroused substantial concern (1) by shippers situated on the line west of Ayer who fear that the line will be abandoned and that they would lose all rail service, and (2) by the D & H and its connections and by a number of shippers who fear that traffic presently moving over the D & H would be diverted to the Penn Central, thereby fatally crippling the D & H and putting an end to present intramodal rail competition in New England.

Abandonment between Ayer and the Connecticut River. A substantial number of consignors and consignees at points on the B & M main line west of Ayer provided testimony at the hearing. Most are at points between Ayer and the Connecticut River. Except at Fitchburg which is served by a branch of the PC, the B & M is the only railroad providing service at these points, and shippers with plants at such points would be deprived of all rail service if the B & M line west of Ayer were to be abandoned. Without attempting to tabulate the number of carloads and tons of freight which consignors and consignees between Ayer and the Connecticut River have been shipping and receiving, it is clear from the record that this part of the B & M's main line does not produce considerable traffic; but it produces enough to keep it alive at least as a branch line operation. The B & M Trustees have not proposed the line between Ayer and the Connecticut River for abandonment; it obviously produces more than 34 cars a mile per year; and the volume of traffic between Ayer and the Connecticut River is large enough to insure that rail service will remain so long as that volume continues at, or higher than, present levels.

The Hoosac Tunnel line. West of the Connecticut River, however, on the B & M's Hoosac Tunnel route through the Berkshires there is very little industry, and very little traffic moves to or from points on

Albany. Such an arrangement might be undertaken by diversion of B & M traffic to the Penn Central in exchange for more favorable rate divisions than the B & M presently gets on traffic interlined with the PC at Worcester, or by means of traffic rights which would enable the B & M to move its own trains over the Penn Central lines. The PC does not specify whether it prefers either type of arrangement to the other, but it gives the impression that it would prefer to compensate the B & M with better rates divisions than to enter into a traffic rights arrangement. This proposal has aroused substantial concern (1) by shippers situated on the line west of Ayer who fear that the line will be abandoned and that they would lose all rail service, and (2) by the D & H and its connections and by a number of shippers who fear that traffic presently moving over the D & H would be diverted to the Penn Central, thereby fatally crippling the D & H and putting an end to present intramodal rail competition in New England.

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The Hoosac Tunnel line. West of the Connecticut River, however, on the B & M's Hoosac Tunnel route through the Berkshires there is very little industry, and very little traffic moves to or from points on this line. Abandonment of this part of the B & M would be felt in the reduction of the B & M's average length of haul and in the lessening of the B & M's line-haul revenues. Its effect also would be felt in the revenues of its connecting carriers, chief of which is the D & H, and in its competitive impact on shippers. The B & M and D & H are complimentary lines. Both are bridge carriers and each is dependent on the other as its only outlet for traffic competitive with the PC. Thus, its Mechanicville interchange with the D & H provided the B & M with about 48 percent of its carloads in 1969 and 1970. In the same years the B & M traffic provided the D & H with 51 percent of its total carloads and with 80 percent of its total overhead carloads. Abandonment of the B & M's Hoosac Tunnel line would make it necessary for all of this D & H New England traffic to move over the Penn Central. If such traffic is simply diverted to the PC as a result of a new divisions arrangement on rates between the PC and B & M, the Penn Central as the D&H's new interline carrier will be placed in the position of being able to back solicit traffic from the D & H's shippers in order to divert the D & H's part of the haul to the Penn Central. This is a common practice in the transportation industry, and undoubtedly the PC would be successful in diverting at least part of the D & H's traffic. Moreover, any traffic rights arrangement which allowed B & M cars to be classified in Penn Central yards would have a similar result, since the PC yard forces would obtain copies of the B & M freight bills which in turn could be made available to PC salesmen for solicitation purposes. B & M traffic also would be vulnerable to such back solicitation practices.[22]

Shippers would be affected by any action that would tend to diminish present line-haul competition between the B & M and Penn Central in New England. They firmly desire open competition between rail carriers because rail services tend to be better and because rate competition is more acute in an openly competitive situation.

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In addition, shippers very much favor the present situation in which they are free to choose interline carriers at the Hudson River gateway and the great flexibility in choosing routings that this provides. In this connection too, shippers greatly fear the economic power of the railroads which are fully capable of providing poorer service to these shippers who do not favor a carrier's on-line routings.

Such prospective diversion of traffic could be avoided by a traffic rights arrangement which allowed the B & M and D & H to classify their own cars in their own yards so that the B & M would run solid trains through on the PC tracks. While there exists the possibility that the owning railroad would favor its own trains over those of a competitor, such arrangements have been successful between railroads operating in other parts of the United States, and there would appear no good reason why a practical operating arrangement cannot be worked out here. However, both the B & M management and the D & H advance certain objections of a technical nature. Aside from the fact that it simply fears any such involvement with the PC, the D & H objections go to the fact that its main yard at Mechanicville and the PC yard at Selkirk are about 40 rail miles apart and, from an operating standpoint, it is difficult to go from the D & H eastbound onto the PC.

The B & M objections go to the fact that the PC operating grades over the Berkshires are steeper and more winding than the B&M's route through the Hoosac Tunnel, and the operating distance between Rotterdam Junction and Boston over the PC is longer than over the B & M. (The distance between Rotterdam Junction and the B & M's Boston area yards would be 235 miles as opposed to 207 miles at present.) Moreover, although the distances over the PC are shorter between Rotterdam Junction and Springfield and Worcester than by the B & M, the more difficult operating grades on the PC would tend to slow the trains and make them much more costly for the B & M to operate. Extra locomotives and substantial additional fuel consumption are required to haul a given size train over the PC's Boston & Albany line as compared to the B & M's line through the Hoosac Tunnel, and PC trains normally would be shorter than the B & M's. It takes up to half again as much locomotive power and fuel consumption to haul a heavily laden train over the PC's Boston & Albany line as over the B & M's Hoosac Tunnel line. When the Hoosac Tunnel was closed briefly by a cavein and the B&M was obliged to route trains over the PC line, the B & M unit coal trains had to double the number of locomotives used because of the increased grades and curves on the PC line. The B & M appears entirely willing to make available trackage rights over its Hoosac Tunnel line to Penn Central in substitution for the present PC route. It considers, however, that the PC should be willing not only to compensate the B & M avoided by a traffic rights arrangement which allowed the B & M and D & H to classify their own cars in their own yards so that the B & M would run solid trains through on the PC tracks. While there exists the possibility that the owning railroad would favor its own trains over those of a competitor, such arrangements have been successful between railroads operating in other parts of the United States, and there would appear no good reason why a practical operating arrangement cannot be worked out here. However, both the B & M management and the D & H advance certain objections of a technical nature. Aside from the fact that it simply fears any such involvement with the PC, the D & H objections go to the fact that its main yard at Mechanicville and the PC yard at Selkirk are about 40 rail miles apart and, from an operating standpoint, it is difficult to go from the D & H eastbound onto the PC.

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The Penn Central, for its part, objects to using the B & M route because of a number of factors which it considers favors the use of its Boston & Albany route. Among these factors are that the PC route is all double track with automatic block signals and with speed limits generally of 50 miles an hour where grades and curves permit; that five chief cities in Massachusetts, Boston, Framingham, Worcester, Springfield, and Pittsfield, are served by the Boston & Albany's single main line; that the Penn Central's large modern automated yard at Selkirk, where most of its New Engalnd traffic is classified, is close to the Boston & Albany line and is most efficiently used in conjunction with that line; that part of the traffic which moves over this line moves over Springfield to and from points such as Providence, Hartford, and New Haven; that the Boston & Albany does not have the clearance limitations which the Hoosac Tunnel will have even after the present improvements in clearances on that tunnel are completed; that roadbed and tracks of the Boston & Albany are in much better shape than the Hoosac Tunnel line; and that it is operationally difficult for PC trains to go from the Selkirk yard onto the B & M. Even so, the PC interlines substantial traffic at present with the B & M at Rotterdam Junction which moves over the B & M through the Hoosac Tunnel, and use of the Hoosac Tunnel line in conjunction with the PC line between Fitchburg and Framingham would provide shorter operating distances between Rotterdam Junction and Framingham and Boston. If the B & M should reactivate the line being abandoned between Barber and Gardner a shorter route between Rotterdam Junction and Worcester also could be made available to the PC.

<u>The high costs of rail operations in the Boston area.</u> One reason given by the Trustees for the unfavorable operating results shown for the "Massachusetts" segment in the Segmentation Study is the high costs of operations in the Boston area. The main cause of these high costs is the concentration of B & M facilities in the Boston area including particularly the large number of branch lines radiating from Boston. These extensive facilities give rise in turn to higher property taxes and to low productivity of labor. Although the record does not give the specifics of the B & M tax bill in the Boston area, the problem can in part be gauged from the extent of the Boston area properties. Not including the Reading line, B & M properties inside Interstate 495 include 270 miles of railroad plus considerable additional trackage; and they encompass almost 4,000 acres. The value of B & M properties in the Boston area accounts

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The impact on labor productivity and on other costs arises in large part from the fact that the substantial number of branch lines necessitate the operations of a considerable number of short-haul light trains. Since most of the pickups and deliveries are beyond the Boston yard limits, these trains operate with full crews and must conform to regular work rules. This, of course, suggests changes in work rules as a partial answer to the problem. Another answer is to abandon the lower density lines. The B & M has identified about 80 miles, or about 30 percent of the 270 miles, as low density lines which produced less than the rule-of-thumb 34 cars per mile per year. However, there is considerable overlapping of freight and commuter lines. Of the 270 miles, 170 miles are used for both freight and commuter service and 8 miles for commuter service only. Thus, some of the low density freight lines are also commuter lines subject to the MBTA contract, and the B & M has put off the prospect of abandoning such lines pending the outcome of its negotiations for sale of these properties to the MBTA.

The Trustees also suggest that the B & M might eventually abandon its Somerville yard and relocate classification farther to the west at Ayer or elsewhere. The city officials of Somerville as part of their tax abatement negotiations have expressed the desire that the B&M sell part of its Somerville property to private industry in order to insure the property becoming fully subject to local real estate taxes. In addition, the B & M's new automobile unloading facility is being established at Ayer; and Ayer, as a crossing point for the B & M's "Massachusetts" and "Maine" segments and because of its proximity to both the Boston area and the points served by the B & M's New Hampshire main line, suggests itself as a natural point for a yard for the Boston area, if in fact such an outlying facility is practicable. The B & M's existing yard at Ayer is small, and additional land had to be acquired for the automobile unloading facility. Additional land is said to be available at Ayer including land at an adjacent military installation. The consultant for the Institutional Bondholders favors the general idea of removing Boston area yards to a suburban facility, but he considers that switching in the Boston area is so costly that it should be given over to a public agency such as the Massachusetts Port Authority.

Another factor pertinent to the B & M's cost of operation in the Boston area is that payments under the contract with the MBTA do not fully compensate the B & M for all costs incurred for passenger transportation. As we have seen, the Trustees have been proposing to transfer 51 employees whose work is related to passenger service to the MBTA account. They also want the MBTA to make certain contributions for capital expenditures.

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Sale of the commuter lines to the MBTA. The B & M's contract with the MBTA gave that agency an option to purchase the commuter lines. The MBTA has exercised the option with respect to the Reading line which it would convert to use for mass transporation purposes. However, the Trustees and the MBTA could not agree on the purchase price, and, pursuant to the contract, the question of price was referred to an arbitrator. The arbitrator determined that the purpose for which the line was to be acquired was for the optimum use for which it was suited and arrived at a price of $18 million. This price is not acceptable to the MBTA, or to the Commonwealth which must subsidize its operations. However, the legal situation is such that the MBTA must pay the price set by the arbitrator or do without the Reading line. Massachusetts officials have tried to circumvent the problem by attempting to include the Reading in lump sum negotiations for the other commuter line properties, but so far the Trustees have resisted these efforts. By the same token, Massachusetts officials have declined to exercise their option to purchase the other commuter lines.

In the meantime, the Commonwealth has purchased about 130 miles of Penn Central lines for $19 million. While the record provides no basis for supporting the allegation that the PC properties are in fact comparable in value to the B & M properties, the Massachusetts authorities point to the fact that the Penn Central properties include the stations whereas the B & M has long since sold its stations. In any event the Commonwealth is unwilling to pay for the commuter lines alone anything near the $68 to $80 million desired by the Trustees. This impasse does not affect only the future of the commuter lines. Until the B & M knows whether it or the MBTA will own and operate the commuter lines, it will be unwilling to commit funds for maintenance of these lines above the bare minimum necessary to keep them going. Moreover, since the commuter trains operate over the same tracks as are used for freight service, the B & M will be circumscribed in effecting any changes in its freight services until it knows what the operational situation will be on the commuter lines. This means that it will not be able to plan any comprehensive changes in its yards and facilities, or in the routings of its freight trains, and that it probably will not be able to proceed with an abandonment program.

The Massachusetts proposal. In September 1972, after the close of hearing, the Governor of Massachusetts proposed that the Commonwealth's Executive Office of Transportation and Construction, the Massachusetts Port Authority, and the MBTA jointly file a reorganization convert to use for mass transporation purposes. However, the Trustees and the MBTA could not agree on the purchase price, and, pursuant to the contract, the question of price was referred to an arbitrator. The arbitrator determined that the purpose for which the line was to be acquired was for the optimum use for which it was suited and arrived at a price of $18 million. This price is not acceptable to the MBTA, or to the Commonwealth which must subsidize its operations. However, the legal situation is such that the MBTA must pay the price set by the arbitrator or do without the Reading line. Massachusetts officials have tried to circumvent the problem by attempting to include the Reading in lump sum negotiations for the other commuter line properties, but so far the Trustees have resisted these efforts. By the same token, Massachusetts officials have declined to exercise their option to purchase the other commuter lines.

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<u>The Massachusetts proposal</u>. In September 1972, after the close of hearing, the Governor of Massachusetts proposed that the Commonwealth's Executive Office of Transportation and Construction, the Massachusetts Port Authority, and the MBTA jointly file a reorganization plan for the B & M. This proposal was prompted by the conclusion that the plans and proposals made at the hearing would be insufficient to assure the long-term continuance of the services being provided by the B & M.

No reorganization plan, as such, has yet been filed by the Commonwealth. However, the general outline so far proposed provides for public acquisition of all B & M rights-of-way in Massachusetts. The MBTA would purchase the passenger transportation portions of the B & M, and the Massachusetts Port Authority would purchase these parts of the B & M predominately used for freight services. Other New England States will be invited to participate by acquiring those parts of the B & M outside Massachusetts. The proposal contemplates operation of the B & M freight properties by a private operator under lease from the Port Authority with revenues to cover costs and debt service.

Presumably, the private operator might be a reorganized B & M. The proposal seeks to assure the B & M 's employees and users that, with the future of the B & M system defined and the interests of labor and industry more readily identified, the present adverse consequences of any uncertainty as to the B & M's future can be overcome. It points to the geographic proximity of the port of Boston as giving it the advantage of trans-Atlantic schedules as much as a full day shorter than many competing ports and indicates that a stronger B & M would tend to obviate the costly, slow, and uncoordinated rail terminal operations and interlines that in the past have served to disrupt the port's natural advantages. The price contemplated by the Massachusetts proposal for all of the B & M's properties in the Commonwealth would be that which would put it in a par on a per-mile basis with the Commonwealth's Penn Central purchase. That purchase acquired about 130 miles of PC rail lines for $19 million, or about $146,000 a mile. If the approximately 600 miles of B & M line in Massachusetts were to be purchased at that rate, the total purchase price would be $87.6 million. Such a price would be only slightly more than the Trustees' goal of $68 to $80 million to be realized from sale of the Boston area commuter lines, and would involve the purchase of properties throughout Massachusetts which have valuations far in excess of that amount.

The MBTA part of the purchase is proposed to be funded either by a 100 percent Federal Advance Acquisition loan or by a two-thirds Federal grant, and no showing has been made of any commitment of Federal funds to the proposal. No funding proposal is made for the Port Authority's purchase of the freight lines which would require approval of the Massachusetts legislature. It is also observed that the proposal speaks of acquisition of the B & M's rights-of-way but does not speak of the substantial amount of "surplus" land owned by the B & M in Massachusetts at least part of which is being used for railroad purposes.

Maine Central and BAR

The Maine Central and Bangor & Aroostook are two comparatively small railroads which are in a position either to feed traffic to the B & M or to interchange it with the Canadian railroads. The Maine Central operates between Portland and Bangor and a number of other points in Maine, and its Mountain Division extends westward from Portland to St. Johnsbury, Vt. It operates a total of 908 miles of railroad. The BAR operates between Bangor and points in northeastern Maine and has 543 miles of road. They are essentially end-to-end railroads. The BAR is an originating and terminating carrier which interchanges with the Canadian Pacific at Brownsville Junction, Maine, and with the Maine Central at Bangor. The Maine Central also originates and terminates a substantial part of its freight, but in addition acts as a bridge carrier for the BAR. It interchanges with the B & M at the Rigby yard near Portland and with the St. Johnsbury & Lamoille County Railroad at St. Johnsbury, and through that small line with the Canadian carriers. It also interchanges with the Grand Trunk at points near Portland.

Although the B & M is its prime connecting line, the Maine Central derives its most favorable tariff divisions through use of the Mountain Division and the interchange at St. Johnsbury. Consequently, it favors routings over the Mountain Division as much as possible despite the expense incurred in the unfavorable operating grades and curves of the Mountain Division. That Division is said to account for about 10 percent of the revenues and 20 percent of the locomotive power of the Maine Central.[23] Similarly, although the Brownsville Junction gateway provides it with a shorter haul than Bangor, the BAR negotiated a contract with the Canadian Pacific in 1970 pursuant to which it has undertaken to solicit traffic for the CP in return for a CP agreement to compensate the BAR for short-hauling itself. Pursuant to this arrangement BAR apparently has been diverting to the CP about 2,000 or 3,000 cars a year which otherwise might have been routed to the Maine Central and the B & M. (The agreement, however, calls for a substantially greater diversion of traffic.) This particular arrangement has generated substantial antagonism toward the

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BAR on the part of the Maine Central.

The Trustees favor the general idea of a merger with the Maine Central and BAR. They estimate that merger between the B & M and MeC alone would realize savings of $4 to $5 million a year by reason of through train operation, pooled motive power and shop facilities, reduced overhead, the realization of savings at Portland Terminal, and the routing of present Mountain Division traffic over the B & M. Other estimates advanced by the rail consultant for the institutional bondholders are that savings from a merger of the B & M and Maine Central would cover about the same range.

Maine Central. Although Amoskeag Company owns 26.2 percent of the common stock of the Maine Central, that stock is held in an independent trust by a New York bank, and Amoskeag cannot vote it. Maine Central, in fact, is controlled by its management which is independent and conservative and which evidences every intention of wanting to continue to run its own shop free of the control of others. Maine Central's balance sheet as of December 31, 1971, shows total assets of $79 million and current assets of $8.6 million including cash and temporary cash investments of $1.9 million. Current liabilities exclusive of long term debt due within 1 year were $7.8 million. It had a profit in 1971 of $1.3 million on freight revenues of $27.5 million. However, it incurred deficits in 1969 and 1970 and appears headed for another in 1972. (It had a deficit of $138,506 for the first 9 months of 1972 and a profit of $1.4 million for the same period of 1971. In the 5 3/4 years from January 1967 through September 1972 profits have exceeded losses by about $300,000). Its long term debt outstanding at the end of 1971 was $18.6 million of which about $12.8 million, less interim sinking fund payments, will fall due in February 1978. In addition, Maine Central guarantees $9 million debt of Portland Terminal Co. which is due in 1986. While the Maine Central cannot be regarded as in easy circumstances, it has so far managed to survive without outside assistance despite the adverse economic factors which have driven so many larger eastern railroads into bankruptcy.

For about 20 years until the early 1950's the Maine Central and Boston & Maine were operated under common management with common officers and joint sales and accounting departments. At present the Maine Central looks with favor upon eventual merger with the B & M, provided the B & M is able to be reorganized with a greatly reduced capital structure and without the substantial unproductive rail mileage presently carried by it. It considers the abandonments so far requested by the B & M Trustees as in-the B & M. Other estimates advanced by the rail consultant for the institutional bondholders are that savings from a merger of the B & M and Maine Central would cover about the same range.

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Maine Central's relationship with Amoskeag and the BAR has been abrasive in recent years, in part because Amoskeag has expressed dissatisfaction with Maine Central's earnings progress and attempted to gain permission of the Interstate Commerce Commission to vote its 26.2 percent interest in the Maine Central with a view to exercising control over it, an attempt which Amoskeag abandoned. Another fact has been the agreement of BAR with CP whereby BAR has undertaken to divert traffic to CP at Brownsville Junction. More recently, these relationships have become more cordial, one evidence of which is the fact that Maine Central has obtained permission to use the BAR yard at Northern Maine Junction, about 2 miles from Bangor, in lieu of the Maine Central's antiquated yards in Bangor.

St. Johnsbury & Lamoille County Railroad. The St. J & LC extends about 96 miles between St. Johnsbury, Vt., on the east and Swanton, Vt., on the west. It is controlled by Samuel M. Pinsly of Boston who purchased control in 1967 with the assistance of loans from the Maine Central and certain shippers. Mr. Pinsly has about $1.8 million invested in the St. J & LC. It has been losing money in recent years. The St. J & LC depends on the Maine Central for overhead traffic that accounts for 20 to 29 percent of its revenues. It takes the position that any reorganization of the B & M that provides for merger with the Maine Central will tend to divert traffic from the St. J & LC and that Mr. Pinsly's investment in the railroad should be protected by requiring inclusion of the St. J & LC in the merger.

Although it did not participate actively at the hearing, the Vermont Public Service Board by letter of August 3, 1972, took the position that it is opposed to any plan herein which would result in discontinuance of the service being provided by the St. J & LC. The Burlington, Vt., Free Press on October 13, 1972 published savings at Portland Terminal except in clerical and inspection expenses, but it acknowledges that a part of the classification work presently performed by Portland Terminal would be performed farther to the east or farther to the west at other yards.

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Bangor & Aroostock. Amoskeag acquired control of the Bangor and Aroostook in October 1969 by purchase of the controlling stock interest from a corporate conglomerate which had lost interest in the railroad business. It has hired a young management team to operate the BAR consisting chiefly of two men, previously with the D & H. These men came on the Amoskeag payroll in mid 1970 specifically for the purpose of assisting the then management of the BAR which had been taken over intact. In January 1971 the BAR faced a cash crisis and had difficulty budgeting a profit. As a consequence, these Amoskeag managers were made officers of the BAR where they serve as executive vice-president and assistant to the executive vice-president and as such are in active management of the railroad.[24]

BAR is a small railroad serving a largely undeveloped territory. Its freight operating revenues in 1971 were $14.2 million. Its balance sheet as of December 31, 1971, shows total assets of $64 million, current assets of $4.2 million including cash and temporary cash investments of $1.5 million. Current liabilities exclusive of long-term debt due within 1 year were $3.4 million. It is currently operating at a profit due largely to the fact that it is a car credit railroad with a large fleet of its own cars.

When Amoskeag installed its men in management control in 1971 they undertook a program of rigid control of expenses. The BAR payroll of 1969 was reduced by 186 jobs, or 27 percent, by June 1972. A profit was budgeted for

24 There is no president. The salaries of these two officers are paid by Amoskeag which is reimbursed by BAR. The apparent reason for this salary arrangement is that these executives were first hired by Amoskeag which has a more favorable retirement plan. This situation is not made clear in the BAR Annual Report to the Commission for 1971, a situation which is somewhat embarrassing to Amoskeag since about two percent of their time is given to management of the Pittsburg and Shawmut Railroad Company, a western Pennsylvania short line owned by Dumaines, an affiliate of Amoskeag. The details of this situation should be clearly stated in BAR's annual reports to the Commission, and BAR should not compensate Amoskeag for time spent on behalf of the Pittsburg & Shawmut.

1971. Trains were rescheduled; maintenance crews were reorganized and reduced in size. The rescheduling of trains enabled more efficient runs and enabled the BAR to turn a far greater percentage of cars over to its connecting lines prior to midnight, thus saving it substantial per diem. Several score men making up inspection crews were reduced to four trained inspectors and three 3-man work gangs working separately from the inspectors. New equipment was purchased enabling the lesser number of men to work with far greater efficiency. An accelerated maintenance and track improvement program was undertaken, even through BAR's maintenance had been kept in reasonably good shape by prior management. Despite the substantial reduction in number of jobs, BAR claims that employee morale is high. Wrecks and runoffs (which are closely related to employee morale) have been almost completely eliminated. Because of a high attrition rate, job protection liability was experienced for only 19 men who since have come back on the payroll due to the attrition of others. The effect on the BAR's earnings, exclusive of extraordinary and prior period items, was a profit of $1.7 million in 1971, as compared to a loss of $767,000 in 1970 and a profit of only $175,000 in 1969. Its operations during the first three quarters of 1972 were on a par with the 1971 results.

In 1971 Amoskeag also deomonstrated how a financially oriented holding company - when it wants - can assist a railroad subsidiary to the material advantage of both companies. BAR had about $6.4 million of 4½ percent first mortgage debt due in 1976. Amoskeag guaranteed a 3 year bank loan to BAR which enabled the railroad to make a tender of this debt at 80 percent of its face value. As a result, $4.84 million of the first mortgage debt was bought in for $3.87 million, giving the railroad an extraordinary profit of $968,000. This was borrowed at ½ percent above a prime rate of 4 3/4 percent, plus a one percent guarantee fee which BAR pays to Amoskeag, for a total of about 6¼ percent. The holding company believes that BAR would have had to pay 9¼ percent without its assistance. Additional bonds were bought in during 1972. As a result, only $206,000 of the bonds remains in the hands of the public plus $427,000 which have been purchased by Amoskeag. This financing required no collateral, and any unpaid portion may be refinanced at the end of the 3 years. The only other BAR first mortgage debt consists of about $125,000 series B bonds due in 1973. In addition, there are about $2 million in unsecured debentures due in 1966. Thus, BAR has avoided the problem of having to roll over about $6 million first mortgage debt in 1976; it has been able to buy in most of that debt at a discount; it is free to refinance the bank loan at its leisure; and it is in a position to avoid placing its properties under first mortgage indentures in the future.

Amoskeag has been consolidating its tax returns with BAR so that it could take advantage of the railroad's losses for tax purposes. In order to protect the interests of BAR's minority stockholders, Amoskeag has had a verbal agreement with the BAR management that if BAR became profitable to the extent that it would have been to the railroad's advantage to have saved the tax loss carry forward for itself, BAR would be made whole. As a result of its profit from the repurchase of its bonds, BAR unexpectedly is incurring Federal corporation tax liability in 1972, and Amoskeag will make payment to BAR because of that situation.

Amoskeag Plan

Amoskeag Company, a Delaware corporation, presently is a non-diversified investment company under the Investment Company Act of 1940. It is seeking to become an active holding company. Prior to 1934 it was engaged at various times in the manufacture of textile milling machinery and in the textile milling business. It has also invested in New England railroads - and engaged in proxy fights for their control - over many years. Amoskeag's stock is actively traded, but a controlling interest is held by Dumaines which is a voluntary association organized by a declaration of trust under the Laws of New Hampshire, ownership of which rests in the hands of certain members of the Dumaine family. Amoskeag's president is Frederic C. Dumaine, Jr. As of December 31, 1971, Amoskeag owned securities with a market value of about $75 million. About 65 percent of that market value was accounted for by a 40 percent stock interest (1.4 million shares) in Fieldcrest Mills, a textile manufacturer the stock of which is traded on the New York Stock Exchange. Amoskeag is conservatively operated and has only $2 million debt. It follows the policy of passing income from its investments to its stockholders, but retains capital gains.

As seen, Amoskeag controls the Bangor and Aroostook and is the largest stockholder of, but does not control the Maine Central. It here proposes to set up a "New B&M Corporation" which would acquire all of the B&M's assets except the commuter lines, but which would obtain trackage rights from the Trustees to perform freight service over the commuter lines pending sale of those lines to the MBTA. It adopts the essentials of the Trustees Plan, but proposes to implement its plan by the end of 1972, two years earlier than the date proposed by the Trustees. In order to make the B&M a profitable operation at the time of the takeover, Amoskeag would achieve additional economies by reducing the B&M payroll by 300 immediately upon assuming control. This action would save $4 million a year and would be in addition to the reduction of 300 jobs planned by the Trustees to be phased through the end of 1974. It considers its proposed reduction in force as essential to bringing the B&M's railroad operations out of reorganization quickly and to profitable operations in 1973. Amoskeag's conclusion that this extra reduction in the B&M's work force is required is based on its review of the Trustees' Plan and its supporting materials and on careful analysis by Amoskeag's management - which basically is financially oriented - of the B&M's financial statements which make it clear that the B&M suffers heavily from low productivity. In part, the proposed job cuts reflect Amoskeag's impatience with business managers who are content to budget deficit operations. However, Amoskeag has made no study of the railroad to determine just what positions would be eliminated or just how overall operation of the railroad would be affected by such an abrupt job cut. If its plan is approved, studies would be made prior to Amoskeag's actual takeover of the railroad in order to aid its managers in implementing the reduction in force. Amoskeag looks to eventual merger of the B&M, the Maine Central, and BAR into a northern New England System and hopes to add the D&H as a part of that system. It also would like some day to maximize the possible economies by addition of the bankrupt Erie-Lackawanna and, perhaps, the Lehigh Valley.

Capitalization of the New B&M Corporation would be as follows:

A.	$ 3,216,000	B&M Collateral Trust 5% Bonds due 1974, 1976, and 1977 owned by U. S. Government, assumed by New B&M Corporation and secured by first mortgage bonds.
B.	$20,000,000	First Mortgage 8% Bonds - 25 years' callable in whole or part on 30 days notice at 100, with a 2 percent per year sinking fund.
C.	$10,000,000	100,000 shares 6% Preferred stock, $100 par value, non voting, payable when earned, 18% cummulative, redeemable by the New B&M at par plus

D.	$10,000,000	1,000,000 shares Common Stock no par, stated value $10.00 per share; the common stock shall elect not less than 80 percent nor more than 85 percent of the directors. To be acquired by Amoskeag.
E.	$10,000,000	1,000,000 shares Class A Common Stock, no par, stated value $10.00 per share, shall elect all directors not elected by common stock; callable by common stock holders at $12 per share for first 10 years and at $15 a share for 11th through 15th years.
	$53,216,000	

Dividends would be shared equally on a per share basis by both the Common stock and the Class A Common Stock. All of the Common Stock ($10 million stated value) would be issued to Amoskeag in return for $2 million cash. Thus, Amoskeag would gain stock equivalent in value to the $10 million par value of the Class A common stock plus voting control of the corporation in return for its $2 million investment. By obtaining all of the 80 percent voting control which would accompany ownership of all of the common stock, Amoskeag hopes to be in a position to consolidate income tax returns with the New B&M in order to take advantage for tax purposes of any losses by the New B&M and also in order to avoid having the New B&M's management distracted by proxy fights for control of the railroad such as has been the case in the past with Amoskeag's control of other railroads. It is Amoskeag's understanding that the federal tax laws would not allow it to take advantage for tax purposes of any tax losses which accrue to the B&M prior to Amoskeag's obtaining control.

Amoskeag proposes to acquire all of B&M's assets except for the Boston area commuter lines. In order to enable the B&M's Trustees to be in a position whereby any proceeds from the eventual sale of the commuter lines would remain an asset of the bankrupt estate, the Trustees would retain title to the commuter lines, but would transfer trackage rights for freight service to the New B&M. Amoskeag appears agreeable to having the new corporation operate passenger service for the Trustees pursuant to the MBTA contract, and it would not object to abandonment of such lines if necessary for sale to the MBTA for construction of new rapid transit facilities. Amoskeag proposes that the assets and liabilities transferred to the New to implement its plan by the end of 1972, two years earlier than the date proposed by the Trustees. In order to make the B&M a profitable operation at the time of the takeover, Amoskeag would achieve additional economies by reducing the B&M payroll by 300 immediately upon assuming control. This action would save $4 million a year and would be in addition to the reduction of 300 jobs planned by the Trustees to be phased through the end of 1974. It considers its proposed reduction in force as essential to bringing the B&M's railroad operations out of reorganization quickly and to profitable operations in 1973. Amoskeag's conclusion that this extra reduction in the B&M's work force is required is based on its review of the Trustees' Plan and its supporting materials and on careful analysis by Amoskeag's management - which basically is financially oriented - of the B&M's financial statements which make it clear that the B&M suffers heavily from low productivity. In part, the proposed job cuts reflect Amoskeag's impatience with business managers who are content to budget deficit operations. However, Amoskeag has made no study of the railroad to determine just what positions would be eliminated or just how overall operation of the railroad would be affected by such an abrupt job cut. If its plan is approved, studies would be made prior to Amoskeag's actual takeover of the railroad in order to aid its managers in implementing the reduction in force. Amoskeag looks to eventual merger of the B&M, the Maine Central, and BAR into a northern New England System and hopes to add the D&H as a part of that system. It also would like some day to maximize the possible economies by addition of the bankrupt Erie-Lackawanna and, perhaps, the Lehigh Valley.

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D.	$10,000,000	1,000,000 shares Common Stock no par, stated value $10.00 per share; the common stock shall elect not less than 80 percent nor more than 85 percent of the directors. To be acquired by Amoskeag.
E.	$10,000,000	1,000,000 shares Class A Common Stock, no par, stated value $10.00 per share, shall elect all directors not elected by common stock; callable by common stock holders at $12 per share for first 10 years and at $15 a share for 11th through 15th years.
	$53,216,000	

Dividends would be shared equally on a per share basis by both the Common stock and the Class A Common Stock. All of the Common Stock ($10 million stated value) would be issued to Amoskeag in return for $2 million cash. Thus, Amoskeag would gain stock equivalent in value to the $10 million par value of the Class A common stock plus voting control of the corporation in return for its $2 million investment. By obtaining all of the 80 percent voting control which would accompany ownership of all of the common stock, Amoskeag hopes to be in a position to consolidate income tax returns with the New B&M in order to take advantage for tax purposes of any losses by the New B&M and also in order to avoid having the New B&M's management distracted by proxy fights for control of the railroad such as has been the case in the past with Amoskeag's control of other railroads. It is Amoskeag's understanding that the federal tax laws would not allow it to take advantage for tax purposes of any tax losses which accrue to the B&M prior to Amoskeag's obtaining control.

Amoskeag proposes to acquire all of B&M's assets except for the Boston area commuter lines. In order to enable the B&M's Trustees to be in a position whereby any proceeds from the eventual sale of the commuter lines would remain an asset of the bankrupt estate, the Trustees would retain title to the commuter lines, but would transfer trackage rights for freight service to the New B&M. Amoskeag appears agreeable to having the new corporation operate passenger service for the Trustees pursuant to the MBTA contract, and it would not object to abandonment of such lines if necessary for sale to the MBTA for construction of new rapid transit facilities. Amoskeag proposes that the assets and liabilities transferred to the New

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In support of the assertion that operations by the New B&M will be viable and that, therefore, the securities issued by the New B&M will have value, Amoskeag maintains that the new corporation will realize (1) a majority of the savings proposed by the Trustees in their plan; (2) additional savings by use of the same management approach used by Amoskeag in restoring the Bangor & Aroostook to profitability including, where opportunities arise, financial assistance similar to that provided the BAR; and (3) savings through the eventual merger of the B&M, Bangor & Aroostook, and Maine Central into a Northern New England System. A Amoskeag looks to putting its ownership in the stocks of the three railroads in a new holding company which it would control. It would seek authority from the Interstate Commerce Commission to make tenders for control of the Maine Central prior to any effort to merge the three.

Amoskeag favors most elements of the Trustees' Plan and adopts the assumptions and economic predictions made in the Trustees' Steady State Forecast. It considers that the advantage which would flow from a merger of the three railroads would be much greater than the $4 to $5 million predicted by the Trustees. This view, in part is based upon the belief that a merger would place the combined railroad in a position to provide more effective service and to institute rate changes and tariff proposals more readily than can be done with several railroads negotiating over rate divisions.

Even after a period of seasoning the value of the stocks and bonds of the New B&M Corporation would not likely equal the proposed par values. The expert testimony of one witness experienced in marketing railroad stocks and bonds is that the New B&M bonds might eventually sell for about 90 percent of this face value; the Preferred stock would sell for about $60 a share; and the Common Stock and Class A Common for somewhere between $5 and $10 a share. On this basis, assuming $5 a share for the Common stock and valuing at par the collateral trust bonds to be assumed from the B&M estate, the estate would receive securities or be relieved of obligations, valued at $32.2 million less the $5 million capital improvement fund for a net to the B&M estate of $27.2 million. Using the same values as a basis for comparison, the Trustees' proposed issue of $22 million in 8 percent first mortgage bonds would be worth $19.8

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Of course, such projections, while helpful, are nothing more than speculation. The real test of the value of these securities will be the actual earnings behind them at the time of distribution. The Institutional Bondholders maintain that either the value of the new securities must be discounted at the time of distribution or they should be sold to the public with the proceeds used to discharge creditors claims. To this line of argument Amoskeag's response has been that the Institutional Bondholders never bought their bonds at par and don't deserve a discount. A more correct response would be that it is unlikely that a railroad just emerging from bankruptcy could float any securities on the market and that setting an equitable and accurate discount for unseasoned securities at such a juncture, as already indicated, would be nothing more than speculation.

F. D. No. 26115

Institutional Bondholders' Plan

The Institutional Bondholders' Plan essentially is a liquidation plan which would give first preference to purchasers who want to acquire segments of the B&M for use in transportation purposes. It would provide for subsequent sale of any left-over properties not acquired for transportation purposes, or in the alternative, for formation of a real estate investment trust and a holding company to take title to such properties so that distributions of stock in the holding company might be made to claimants against the B&M estate.

The plan is detailed. It provides that a date should be set 6 months after approval by the Reorganization Court of an Interstate Commerce Commission report adapting the plan as a Cessation Date when the B&M Trustees will be authorized to abandon all lines and operations of the B&M. On or before the Cessation Date the Trustees shall file a Transfer Report with the Court and the Commission listing the offers made for any or all of the B&M's lines or properties, and which offers should be accepted or conditionally accepted. Fourteen days after filing of the Transfer Report the B&M would be required to cease all rail transportation, but during those 14 days the Commission would be expected to issue such service orders as are necessary to permit and to require the would-be purchasers of segments of the B&M to operate those segments pending hearing by the Court and Commission on acceptance of the offers which they have made. The Bondholders maintain that by authorizing abandonment of all lines and operations of the B&M as of the cessation date, the B&M estate and any railroad purchaser would be guarded from the potentially enormous cost of labor protective conditions. No offer should be approved which is less than a fair upset price. After approval of the sale of such operating segments of the B&M the trustees should inventory the remaining properties and submit a Disposition Report which would give consideration to whether properties should promptly be sold or retained in an investment company.

The Institutional Bondholders do not attempt to establish just what the fair upset price of the various segments of the B&M would be, nor do they specify the means to be used by bankrupt or cash poor connecting lines in paying for them for them. Nevertheless, they maintain that their plan will permit to be done what will have to be done in any event in an atmosphere of orderly procedure rather than of crisis.

Environmental Problems

No draft environmental impact statement consistent with the National Environmental Policy Act was served on the parties prior to the hearing, The problem of whether the instant proceeding might constitute a major federal action having an impact on the human environment was informally brought to the attention of the parties in the course of an off-the-record conference during the hearing. Subsequently, evidence was adduced on environmental problems.

In general, a fully loaded freight train will use less fuel per ton of freight than a fully loaded truck, and rail locomotives discharge fewer polutants than trucks. The railroads considered here are already in place, and their full and efficient use presumably would tend to lessen the need for expansion of the highway system and the consequent destruction of portions of the environment and the release of additional polutants that would be involved. Since the Boston & Maine's line through the Hoosac tunnel has a lower gradient and fewer curves then the PC's corresponding line between Boston and Albany, the B&M line can be operated with less fuel and the release of fewer polutants. However, railroads are not much used at present, and they have substantial excess capacity. Consequently, it seems likely that almost any consolidation of traffic over a single rail line which would promise the expansion, or even the continuance, of the present use of rail services must be counted as an action having a favorable impact upon both the human environment and the conservation of fuel. Thus, it may well be that if economic considerations dictate the use of an environmentally less efficient rail line such as the Penn Central's Boston & Albany Line appears to be, the use of that line neverless might be considered beneficial to the environment.

The Institutional Bondholders maintain that their plan would have no adverse impact on the environment; that under their segmentation approach, duplicate facilities would be closed and their environmental impact eliminated; and that the resulting more efficient railroad operation also would be an environmental plus. Nevertheless, they argue that environmental considerations are beside the point when, as here, the constitutional rights of the bondholders are at stake.

Briefs

Briefs have been filed by the Trustees, Amoskeag, the Institutional Bondholders, The First National Bank of Boston as successor trustee for the B&M's first mortgage bonds, Bomaine, Brown Company, Associated Industries of Massachusetts, Railway Labor Executives Association, the D & H, the Canadian Pacific, The St. Johnsbury & Lamoille County Railroad, and by the United States Department of Justice. The Trustees argue that continuation of the reorganization proceedings so that the Trustees can pursue their plan of reorganization for a reasonable period of time is in the best interest of the Debtor's estate and of the public; that the emergence of a single system for nothern New England under the control of Amoskeag may represent a feasible means for reorganizing the B&M, but the Trustees maintain reservations concerning the fairness of the proposed issuance of securities under the Amoskeag Plan; that, approval of the Amoskeag Plan at this time would be premature because necessary steps to effectuate the merger of the properties of the B&M, BAR, and Maine Central cannot yet be accomplished; and that the Institutional Bondholders Plan would benefit no one but the first mortgage bondholders and provides no certainty of doing even that.

Amoskeag argues that its plan is fair to the Debtors estate when the $9.4 million it already has invested in the BAR and Maine Central are taken into consideration along with the contribution which Amoskeag can offer to the future property of the B&M and its security holders both by providing a means for coordinated management of the B&M with the BAR and Maine Central and as an experiened and benevolent corporate parent; that it is willing to participate in proposal such as that which has been voiced by the Commonwealth of Massachusetts by having its own proposed New B&M Corporation operate as a lessee of B&M properties; and that a plan embracing substantially the ingredients of the Amoskeag proposal would be fair and equitable and consistent with the public interest.

The Institutional Bondholders argue that the hard fact in this proceeding is that reorganization of the B&M as a going enterprise is hopeless. They urge the position that they have agressively and persistently maintained throughout the proceeding that the B&M's is so worn out, and run down, and lacking in profitable traffic that it cannot possibly be reorganized to operate at a profit. They further argue that the B&M is a wasting asset being kept in business solely by appropriation of bondholders capital; that the Trustees' Plan is a plea for a 2 year delay while the Debtor's estate will continue to erode at an

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The Institutional Bondholders argue that the hard fact in this proceeding is that reorganization of the B&M as a going enterprise is hopeless. They urge the position that they have agressively and persistently maintained throughout the proceeding that the B&M's is so worn out, and run down, and lacking in profitable traffic that it cannot possibly be reorganized to operate at a profit. They further argue that the B&M is a wasting asset being kept in business solely by appropriation of bondholders capital; that the Trustees' Plan is a plea for a 2 year delay while the Debtor's estate will continue to erode at an alarming rate; that the issuance of an interim report allowing continuance of operation by the Trustees would be an unmitigated disaster for the bondholders; that the continued forced operation of the B&M at a loss constitutes a taking of the bondholders property without compensation and therefore is violative of the constitutional prohibition against the taking of private property for public use without payment of just compensation of due process of law; and that the Institutional Bondholders Plan is a reasonable plan which provides for liquidation of the B&M in a fashion which is consistent with the public interest in the continuance of needed service. They regard the Amoskeag Plan as not providing a feasible alternative. They consider the Penn Central proposal as entirely consistent with their plan. The successor trustee for the first mortgage bonds, in its brief, agrees with the position of the Institutional Bondholders.

Bomaine Corporation, the controlling stockholder of the Debtor corporation, takes the same position as that heretofore taken by the Debtor, that it supports the Trustees' Plan <u>except</u> that the proposed capitalization of the reorganized B&M be deferred until further action by the Commission. It opposes both the Amoskeag Plan and the Institutional Bondholders Plan. The latter it considers particularly unlikely to meet its goals because - in agreement with the views expressed by Dr. Cherington at the hearing - they consider that a liquidation plan would have a severely adverse effect on B&M traffic long before it could be put into effect and connecting carriers would do their utmost to avoid acquiring the B&M lines except at fire sale prices.

The D&H supports the Trustees' Plan. It opposes any abandonment of the Hoosac Tunnel line as proposed by the PC and it opposes the liquidation plan of the Institutional Bondholders. D&H looks upon the Hoosac Tunnel line as the life blood not only of the B&M and the D&H, but of competitive rail service in New England as well. The E-L, LV, and Reading would lose annual revenues in excess of $35 million if that line were abandoned. D&H doubts the feasibility of rerouting present B&M Hoosac Tunnel traffic by the PC, and it maintains that <u>if</u> the B&M and PC lines between the Connecticut and Hudson Rivers are duplicative and that one of the two must be considered a luxury to be discontinued, there are persuasive reasons for abandoning the PC line and rerouting its traffic onto the B&M. The D&H states that it is willing to grant PC trackage rights for the movement of Penn Central traffic between the B&M and the PC's Selkirk yard. Furthermore, it the Commonwealth of Massachusetts should proceed with its plan to acquire that part of the B&M within Massachusetts, the D&H states payment of just compensation of due process of law; and that the Institutional Bondholders Plan is a reasonable plan which provides for liquidation of the B&M in a fashion which is consistent with the public interest in the continuance of needed service. They regard the Amoskeag Plan as not providing a feasible alternative. They consider the Penn Central proposal as entirely consistent with their plan. The successor trustee for the first mortgage bonds, in its brief, agrees with the position of the Institutional Bondholders.

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Associated Industries of Massachusetts takes a position which essentially is in agreement with that of the D & H that there is a demonstrated need for continuation of the basic freight services provided by the B&M and for the continuance of rail competition in New England; that Mechanicville is the only one of the four historic New England rail gateways not now in Penn Central's hands, the others being Harlem River, Maybrook, and Selkirk; that the PC position that the Mechanicville gateway should be closed in part is based on the incredible postulate that a line of railroad should be chosen to serve a classification yard (Selkirk) rather than the other way around. Brown Company states that speaking, as a shipper, it is anxious that the present area of uncertainty as to the future of the B&M's operations be resolved. It considers that the basic freight services of the B&M should be continued; that the Amoskeag Plan and the Trustees Plan offer effective ways of assuring these goals, but it would give preference to inclusion of the B&M in the N & W system if that were feasible. Canadian Pacific supports the Trustees Plan and opposes the plans of Amoskeag and the Institutional Bondholders along with the Penn Central proposal.

St. Johnsbury & Lamoille County Railroad reiterates its position that it is highly dependent of overhead traffic interchanged to it by the Maine Central's Mountain Division to and from Canadian carriers; that the St. J & LC's controlling stockholder acquired control of it on the inducement of the Maine Central in 1966 and has since invested substantial sums in capital improvements; that any plan of reorganization which might provide for a merger of the B&M with the Maine Central or BAR, or for acquisition by another railroad of the line from Portland to Worcester, would tend to divert overhead traffic from the St. J & LC; and that any such plan of reorganization should be conditioned to require the acquisition of the St. J & LC for a consideration equal to the amount invested in it by its controlling stockholder. The Railway Labor Executives Association requests that the filing of briefs be postponed pending submission of the Massachusetts Plan and, if this cannot be done, it further requests that any plan adopted herein include adequate employee protective conditions.

The United States Department of Justice opposes the Trustees' Plan and the Amoskeag Plan because it considers that neither affords due recognition of the non-tax creditor rights of the United States. Neither the Department of Justice nor the United States Department of Transportation (which did not file briefs) take any position respecting the public interest in the continuance of the rail service in part is based on the incredible postulate that a line of railroad should be chosen to serve a classification yard (Selkirk) rather than the other way around. Brown Company states that speaking, as a shipper, it is anxious that the present area of uncertainty as to the future of the B&M's operations be resolved. It considers that the basic freight services of the B&M should be continued; that the Amoskeag Plan and the Trustees Plan offer effective ways of assuring these goals, but it would give preference to inclusion of the B&M in the N & W system if that were feasible. Canadian Pacific supports the Trustees Plan and opposes the plans of Amoskeag and the Institutional Bondholders along with the Penn Central proposal.

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F. D. No. 26115

Discussion and Conclusions

The Trustees and their managers have been able to restore the level of service on the B&M, improve its cash position, and make progress toward reorganization even though the railroad's freight traffic has been declining and they have not been able to proceed fully with the capital improvement program. The many changes and service improvements made by the Trustees and the series of programs already instituted by them which are embraced within the scope of their Action Plan are generally sound and go to the heart of the problems of the B&M as an operating railroad. The progress so far made, together with the capital improvement program and the other programs which made up the Action Plan, puts the B&M on the threshold of being able to reorganize with profitable operations in time for the Trustees' target date at the end of 1974. However, while the Trustees Plan is basically sound, the predicted increase in revenues has not yet been forthcoming, and the Action Plan programs cannot be expected to yield as much as predicted. Consequently, the Trustees' Plan must be augmented by additional elements which can be counted upon to make a specific positive contribution towards reestablishing the B&M as a profitable railroad and at the same time raise as much money as possible for paying its debts. Such additional elements can in large part be found among the various proposals so far advanced by Amoskeag, the Commonwealth of Massachusetts, the Penn Central, the Institutional Bondholders, and other parties to this proceeding.

A comprehensive plan for reorganizing the B&M as a profitable railroad, and at the same time raising as much as possible for paying its debts, must be based upon the general approach adopted by the Trustees with the capital improvement program and the other Action Plan programs and would include: (1) a modified capital structure for the reorganized railroad which would consist entirely of common stock, thereby eliminating the proposed \$1.8 million annual fixed charges for interest; (2) saving at least an additional \$1.5 million by finding ways to eliminate that amount of taxes on the railroad's operating property; (3) acquisition of control of the B&M railroad by Amoskeag in order to provide a continuity of railroad - orientated management, the prospect of realistic and businesslike financial assistance for the B&M, and the realization of substantial savings by an eventual merger with the Maine Central and BAR; (4) a prompt sale of the commuter lines and the other properties of the B&M in Massachusetts to the MBTA and Massasuchetts Port Authority or other instrumentalities of the Commonwealth for a reasonable price, and lease back of the rail freight facilities to the railroad on terms which would encourage the profitable and economic operation of the railroad; (5) an additional shrinking of the costs involved in the maintenance and improvement of the B&M's large fixed investment in plant by prompt sale of lines in New Hampshire to the State for use in short-line operations, and by a traffic rights arrangement for the lines west of the Connecticut which would work to the mutual advantage of the B&M, PC, and D&H; and (6) an augmentation of the Trustees' efforts to identify and sell property of the B&M which is surplus to the minimum necessary for rail operations, with a view to the possible formation of a real estate investment trust in order to achieve the maximum benefit for the railroad and the Debtor's estate from the B&M's extensive real property holdings in Massachusetts and the other States served by the B&M.

The Trustees' proposals. The accomplishments of the Trustees have been considerable; their plan is a very good one; and their proposals generally are valid. However, their traffic forecasts completely missed as far as 1972 is concerned, and the various programs that make up the Action Plan fall far short of being sufficient to give a firm assurance of generating the savings forecast for each of those programs. Even so, only the proposal for eliminating the Canadian differentials and that for effecting large savings at Portland Terminal appear misdirected. The Canadian differentials appear to have only limited applicability at present, and traffic diverted to Canadian carriers is in large measure tied to car supply and service considerations as well as the routing preferences of the Maine Central and BAR and their shippers. Affirmative efforts by the B&M to get rid of the differentials may well become counterproductive and put new life in them when they appear to be approaching a belated demise.

As far as Portland Terminal is concerned, the Trustees have failed to make a record which would support their claim that $1 million a year can be saved at Portland Terminal. While some lesser economies might be acheived on the operating level, the overall problem of the respective rights and responsibilities of Portland Terminal Company, the B&M, and the Maine Central is complex, and it will be difficult to obtain fundamental changes in the operating formula for dividing costs. The general assumption by the Trustees that the B&M can abruptly terminate operations at Portland and set up a receiving track on its land at Scarboro is not likely to provide a solution. The Trustees should consider whether legal proceedings before the Commission or the Courts might lie if they believe that, despite their failure to make a better record at the hearing, efforts to identify and sell property of the B&M which is surplus to the minimum necessary for rail operations, with a view to the possible formation of a real estate investment trust in order to achieve the maximum benefit for the railroad and the Debtor's estate from the B&M's extensive real property holdings in Massachusetts and the other States served by the B&M.

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Among the other programs of the Action Plan, the freight sales blitz and the rate review recommend themselves as programs that must be pursued actively if the B&M is to be a competitive factor in New England transportation and if it is to expand its freight volume. The $4.5 million of annual profit predicted from these sources, however, simply is not there. The sales blitz and rate review are highly desirable programs and over the long pull should contribute greatly toward furthering the goal of increased freight volume for the B&M. However, in the comparatively short period of 2 years that remain before the reorganization date set by the Trustees, hopes for increased traffic must lie primarily in the prospects for improvement of the New England economy and those parts of that economy which presently are making use of rail services.

. Increased traffic volume, of course, will serve to improve the B&M's productivity by spreading costs more broadly. Labor savings through reductions in the B&M's total work force, also are necessary. However, the B&M cannot rely solely upon labor cuts and increased traffic to save it. For one thing, rail traffic is highly cyclical and difficult to predict. In addition, the B&M is badly run down. Its property has been canabilized for more than a decade, and funds generated by depreciation have been used to pay interest on its bonds or simply to defer its losses rather than to pay for capital improvements. It needs substantial capital investment and improvements in order to make the changes that are required if it is to avoid the waste involved in costly and repetitious repairs and in order to obtain the modern equipment and tools needed to improve the efficiency and productivity of its work force. The Trustees are entirely correct in taking the position that the B&M cannot be reorganized without the capital improvement program. That program is absolutely necessary. It should fully and promptly be implemented, and it should be augmented if possible. To the extent that funds become available from the B&M's cash flow they should be used in the capital improvement program, and if such funds are not available the Trustees should request that the funds realized from B&M property sales be used for that purpose.

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The bondholders' argument that the B&M cannot successfully be reorganized and should be liquidated and that all funds coming into the Trustees' hands should be reserved to satisfy claims against the estate has been given full expression in this proceeding. Nevertheless, the B&M has good prospects for a viable reorganization within a reasonable period of time. Even through a healthy and reorganized B&M does not promise to be worth enough as a going business to satisfy the bondholders' claims, the securities to be made available from the capital structure of a reorganized B&M will be a prime asset of the estate; and even as a small asset it has one further value: A reorganized B&M will carry with it some $20 million in current liabilities which might otherwise be converted into administration claims. Failure to restore the railroad to healthy condition will sooner or later drive shippers away; can eat up current assets in a short period of time; and can add heavily to the current liabilities and, in such circumstances, to the administration claims against the B&M estate. Thus, even if, as the bondholders claim , money spent on the B&M now will only buy capital investment that can never be fully recovered on liquidation, the real losses resulting from failure to spend money on capital improvements may be much worse.

The Trustees have made good progress in cutting costs by reducing the size of the B&M work force by 300 prior to formulation of their plan. Additional reductions as a part of the 300 projected in the Action Plan appeared about on schedule when the hearing closed at the end of August 1972. Additional reductions in force going beyond the 300 projected in the Action Plan probably will have to be made prior to reorganization if productivity is to be brought up to acceptable levels, particularly in the face of sharply rising wages. The Trustees have acted wisely in trying to make such reductions gradually so that they will fall within and be cushioned by the attrition of employees who are expected to leave the B&M for retirement or for other reasons. Ordinarily, even with a high attrition rate, the jobs being vacated by departing employees will not match up perfectly with the job categories which management finds it necessary to eliminate. Nevertheless, a high attrition rate should go far to ease the blow for employees adversely affected. Moreover, the gradual approach of matching reductions in force to attrition has added attractiveness for a railroad such as the B&M which must make substantial capital improvements while reducing the work force. Modification of work rules also will go far to enable the B&M to realize its goals.

A related factor affecting the B&M work force is the high overall age of its employees and the fact that about a third are expected to retire in the next few years. This suggests that the B&M will at some point find it necessary to give as much emphasis on recruiting and training new employees at it must now give to eliminating jobs. Obviously, the gradual approach favors a healthier transition, sooner or later drive shippers away; can eat up current assets in a short period of time; and can add heavily to the current liabilities and, in such circumstances, to the administration claims against the B&M estate. Thus, even if, as the bondholders claim, money spent on the B&M now will only buy capital investment that can never be fully recovered on liquidation, the real losses resulting from failure to spend money on capital improvements may be much worse.

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Healthy cooperation between the railroad and its employees and their labor unions will be essential for revival of the railroad. The employees have so far done their part by demonstrating a cooperative attitude in the face of reductions in force; the railroad must do its part by finding the means to make the capital investment which also is necessary for increased productivity.

Proposed capital structure. Both the Trustees' Plan and the Amoskeag Plan provide for first mortgage bonds with annual fixed charges for interest of about $1.8 million a year, and additional payments would be necessary for a sinking fund. The apparent reason for including first mortgage bonds in the B&M's proposed capital structure are that they are expected to sell at a lower discount from their face value than common stock; that interest is tax deductible, and, thus, the fixed charges of a profitable railroad would be subsidized in part by the tax system; and that the leverage provided by the debt would add to the market value of the reorganized corporation's securities. Moreover, heavy debt and fixed charges for interest are so commonplace among railroads that it is considered a major achievement merely to lessen their burden and difficult to imagine a railroad without them. However, even with forecasts for strong earnings improvement, it is not sound financial practice to provide for debt on the scale projected by the Trustees without an established history or earnings capable of supporting it. The fixed charges which are a part of leveraged capital structure do much to magnify the impact on railroads of the cyclical economic environment in which they operate and to drain them of the cash flow from depreciation which should be reinvested in the business. This has heretofore been the case with the Boston & Maine.

The fixed charges and impairment of the railroad's credit which go with first mortgage bonds will also inhibit the ability of the reorganized railroad to seek new financing, a matter which may become of considerable importance to the B&M since it must look to the replacement of its locomotive and car fleets after reorganization. Moreover, the nature of bankrupt railroads has changed so that they are now in a situation which is new to the genre. In the past, railroad earnings, or at least net railway operating income, were fairly stable and reorganization could be accomplished by making changes in their capital structures - i.e. down grading lesser priority bonds to capital stock, etc., - in a manner which allowed reduction of fixed charges but which admitted to keeping an ample amount of first mortgage bonds in that structure. The present crop of bankrupt railroads is in much worse shape. They have

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Even with the earnings improvement forecast here, we cannot expect the cyclical character of the railroad industry to change. The B&M is a comparatively small railroad. It transported only 14 million tons of freight in 1971 for revenues of $65 million. (The Penn Central had revenues of $1.5 billion in 1971, or 23 times those of the B&M). In addition to its small size the B&M's operations are confined to New England, a part of the country the economic health of which has been below the national standard in recent years. All of the foregoing considerations dictate the conclusion that a reorganized B&M will be very much stronger without the burden of fixed charges for debt service.

Although by declining to include senior securities in the capital structure recommended here, the total market value of the proposed securities may be affected, attempts to measure market value in advance of reorganization are tenuous at best. Hopefully, the market would value the shares of a reorganized B&M without debt somewhat higher than the Trustees' proposed issue of 2.1 million shares which would have $22 million debt ahead of it; and, over a sustained period of time, a healthier and more stable B&M without a fixed burden of debt should provide more positive values for all of its securities.

Even if the B&M's earnings could be expected to be so much larger and more stable that it could confidently be counted upon to support a large debt structure, consideration should be given to debt securities other than the traditional first mortgage bonds. These bonds are in effect a mortgage on all of the land and other property of the Debtor including after-acquired property, and ownership of the bonds carries with it title to the Debtor's properties as security for its debt. While the bondholders get a higher priority on distribution of the Debtor's assets, they appear unable to influence management decisions, short of filing in bankruptcy once interest is in default or the security of the mortgaged properties is impaired. Dispite the fact that first mortgage bonds are so common in railroad financing, other large corporations have moved away from that type of security. In the unlikely event that a large debt structure might at some future date be considered to be of advantage to the reorganized railroad, consideration should be given to it taking some other form which might provide more practical

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<u>Elimination of property taxes</u>. The B&M's net property tax bill is about $1.7 million a year. As we have seen the Trustees proposed that this should be reduced by $1.5 million, but have wound up negotiating for reductions of about half a million dollars a year. This is not enough. The original goal of $1.5 million a year in tax savings will be necessary to cut the B&M's expenses to a reasonable level if it is to achieve profitable operations within the scope of the forecasts made in this report. A $1.5 million property tax reduction would enable the railroad to show an affirmative net railway operating income in 1974 even under the conservative projections for that year of the modified Industrial Outlook forecast. Combined with the absence of debt recommended for the reorganized railroad tax abatements of $1.5 million annually would permit reorganization to be accomplished by end of 1975 if the projection of the modified forecast holds up through that year. That forecast, of course, assumes that the Trustees will be able to make substantial progress under the capital improvement program during 1973.

If the B&M is able to sell its Massachusetts properties to the MBTA and the Massachusetts Port Authority, hopefully, its freight lines will become tax exempt in the hands of the B&M as the probable lessee and operator. Massachusetts accounted for $1.4 million of the property taxes levied against the Boston & Maine in 1971. Insuring such a tax exemption should be a prime objective of the B&M in negotiations for future operation of those lines. Sale of the New Hampshire lines to that State for use in short line operations by others also should serve to decrease the B&M's tax bill in New Hampshire. Failing such automatic tax abatement which might result from the sale of its lines to the Commonwealth, the Trustees should seek enactment of legislation such as that in New York which restricts the local communities in levying property taxes against railroads in accordance with a formula which is related to their profitability. Railroads bear the burden of an enormous fixed investment, and in the B&M's case there is a very low level of utilization of the railroad which has tremendous excess capacity. Yet, the highways are financed by the public and are used by the railroads' competitors which at best pay for that investment in a manner which is proportionate to their use of it. The railway is capable of relieving the highways of a part of their traffic; and,

$1.5 million, but have wound up negotiating for reductions of about half a million dollars a year. This is not enough. The original goal of $1.5 million a year in tax savings will be necessary to cut the B&M's expenses to a reasonable level if it is to achieve profitable operations within the scope of the forecasts made in this report. A $1.5 million property tax reduction would enable the railroad to show an affirmative net railway operating income in 1974 even under the conservative projections for that year of the modified Industrial Outlook forecast. Combined with the absence of debt recommended for the reorganized railroad tax abatements of $1.5 million annually would permit reorganization to be accomplished by end of 1975 if the projection of the modified forecast holds up through that year. That forecast, of course, assumes that the Trustees will be able to make substantial progress under the capital improvement program during 1973.

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Another alternative open to the B&M is to analyze its real estate to determine what parcels of land are responsible for its greatest tax burden, with a view to disposing of surplus land and relocating yards and other facilities in areas where the property tax would have the least impact. The desire of the city of Somerville that the B&M sell a part of its yards in order to get them back on the tax rolls at the full rate is a case in point. In this connection also it is observed that the Meredith & Grew real estate appraisal of lands outside Interstate 495 (in exhibit 34 at page 11) states that the B&M property includes numerous small buildings such as section houses, passenger shelters, etc., which make economic contribution to the land value. Under a liquidation program, the appraisers expect that such buildings would be demolished in order to save real estate taxes. It may well be that many such buildings are not presently used and make no economic contribution to operation of the railroad and might be demolished as a part of a tax savings program. Some use might also be made of the 1,600 acres of low value abandoned right-of-way outside the Boston area by offering to swap parts of it with local communities in exchange for tax concessions. In any event, additional progress in obtaining tax abatements beyond the Trustees' present efforts must be made if the B&M is to be reorganized for viable operations and if the rights of the bondholders and the subordinate creditors of the B&M are to be protected against erosion while the railroad remains in bankruptcy.

Control by Amoskeag. The enthusiasm demonstrated at the hearing by Amoskeag's management for obtaining control of the B&M railroad and for operating it profitably is a strong recommendation for the Amoskeag Plan. Coupled with this is Amoskeag's experience with the railroad business and the capability with which it has used its own financial standing and credit in assisting the BAR to the advantage and profit both of the railroad and of itself as a holding company. Moreover, Amoskeag's control of the BAR and its financial interest in the Maine Central carry with them the hope of a merger with the B&M railroad. Amoskeag firmly desires such a merger which it considers would carry with it savings substantially in excess of the $4 to $5 million estimated by the experts. However, Maine Central's independent management is likely to resist being brought ble for its greatest tax burden, with a view to disposing of surplus land and relocating yards and other facilities in areas where the property tax would have the least impact. The desire of the city of Somerville that the B&M sell a part of its yards in order to get them back on the tax rolls at the full rate is a case in point. In this connection also it is observed that the Meredith & Grew real estate appraisal of lands outside Interstate 495 (in exhibit 34 at page 11) states that the B&M property includes numerous small buildings such as section houses, passenger shelters, etc., which make economic contribution to the land value. Under a liquidation program, the appraisers expect that such buildings would be demolished in order to save real estate taxes. It may well be that many such buildings are not presently used and make no economic contribution to operation of the railroad and might be demolished as a part of a tax savings program. Some use might also be made of the 1,600 acres of low value abandoned right-of-way outside the Boston area by offering to swap parts of it with local communities in exchange for tax concessions. In any event, additional progress in obtaining tax abatements beyond the Trustees' present efforts must be made if the B&M is to be reorganized for viable operations and if the rights of the bondholders and the subordinate creditors of the B&M are to be protected against erosion while the railroad remains in bankruptcy.

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A major problem presented by its plan is Amoskeag's insistance on reducing the B&M's payroll by 300 immediately upon its assuming control of the B&M's railroad operations. These would be over and above the job cuts proposed by the Trustees. Low productivity is a serious problem on the B&M, and something must be done about it if the railroad is to be successfully reorganized. Amoskeag's impatience with those who would budget deficits is refreshing in any review of the operations of an Eastern railroad. However, Amoskeag has not made an on site survey of the B&M to determine if its proposed cuts are practicable. The Trustees and their management team have given considerable attention to this problem. They have already cut 300 jobs and have started on a phased reduction of 300 more. In addition, they are in the midst of negotiations with labor for changes in work rules which are aimed at significant improvements in productivity. The general attitude of the B&M's workers has been cooperative, and it would be inappropriate to make such an abrupt layoff at this point. Amoskeag cannot be considered adequately to have substantiated this part of its proposal.

Amoskeag's proposed capitalization plan for its New B&M Corporation also is a cause for some concern. The remarks previously made concerning the Trustees' proposal for a capitalization which would include $22 million first mortgage bonds and fixed charges of $1.8 million a year are pertinent also to the only slightly different debt and fixed charges proposed by Amoskeag. Debt and fixed charges on this scale are not warranted by the B&M financial and

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25 There is a tendency since the disasterous aftermath of the Penn Central merger for public comment to regard all railroad mergers as promissing nothing more than additional disaster. However, the Penn Central merger involved the bringing together of parallel and competing railroad giants. A merger of the B&M, Maine Central, and BAR would be an end-to-end combination of small roads, an undertaking completely different in scale, in economic objectives, and in the operational means necessary to accomplish them. It would not involve the massive problems that plagued the Penn Central.

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operating circumstances and should not be approved. Its proposal for $10 million of 6 percent preferred stock is less objectionable. Still it would tend to clutter the capital structure somewhat and might inhibit the New B&M in its ability to make full use of its cash in the years immediately following its creation. The fact that Amoskeag wants two classes of common stock, so that by exclusive ownership of one class it could elect 85 percent of the directors is entirely reasonable. New England's railroads in the past have provided a natural arena for proxy fights and financial raiding. Amoskeag has had its full share of proxy fights in the past and wants to avoid them in the future. This would be an efficient means of avoiding such disputes and should be encouraged. Nor is it improper for Amoskeag to try to structure stock classes and voting rights so that it might reap the advantages of a consolidated tax return. To do so is a sound business practice and should be a matter of concern only to Amoskeag and to the taxing authorities.

However, Amoskeag does seem to be taking too big a bite when it proposes to acquire one million shares of common stock valued at $10 a share for its investment of $2 million. Even if we assume that the Common Stock and the Class A Common Stock would have a market value of only $5 a share and, in addition, give Amoskeag a premium for providing new capital at a moment when the B&M's credit is poor, the proportionate economic share which it would acquire in the B&M is too high for the amount of its investment. In addition, the redemption privileges which it would attach to the preferred stock and the Class A Common Stock would impair their marketability and should be avoided. (The preferred stock would be redeemable at par plus accumulated dividends after 5 years. The Class A Common Stock would be callable at $12 a share for the first 10 years and at $15 a share for the 11th through 15th years.)

Aside from the problems noted, control by Amoskeag of the B&M railroad is entirely consistent with the Trustees' Plan and with the other proposals such as the Massachusetts Plan which look to reorganization of the B&M as a viable operating railroad. Such control in the context of the Amoskeag proposal, as modified by this discussion, would add greatly to the viability of a reorganized B&M.[26] Amoskeag is encouraged to amend its plan in order to avoid the objections advanced here. In the circumstances, negotiations with the Trustee covering the elements of an amended plan would be appropriate.[27]

Sale of B&M lines in Massachusetts to the Commonwealth. The Massachusetts proposal is tenuous, but it offers considerable promise. Sale of the Massachusetts properties to the Commonwealth would provide the means of satisfying a substantial part of the claims against the Debtor's estate. A lease back to the B&M as operator of the railroad subject to proper terms and conditions could provide effectively for profitable and economic operation of the railroad in the future and insure that this be done by means fully in the public interest. In addition, the Commonwealth would gain control of considerable B&M real property for other uses to the advantage of the public.

The terms and conditions of a lease or other operating contract between the Commonwealth and the B&M or its successor have not been discussed in the vague proposal so far made by Massachusetts officials. However, such terms and conditions should admit of considerable flexibility in the arrangements undertaken between the parties. Those decided upon between the Commonwealth and the B&M would be vital in determining whether a viable railroad would survive a take-over by the state. First of all, there is a question of whether a purchase and lease back would remove the B&M from the burden of paying property taxes in Massachusetts. Closely related to this is whether rental payments made by

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[26] It is recognized that control by a holding company can serve to impair railroad operations rather than help them. The difference here is in Amoskeag's attitude which is not that of a corporate raider. It wants to operate the B&M profitably as a railroad. Presumably, the Commission, should it eventually approve control of the B&M by Amoskeag in an appropriate proceeding, will want to impose conditions to inhibit Amoskeag, or any successor, from changing that attitude to the railroad's disadvantage.

[27] On December 27, 1972, Amoskeag, through a subsidiary acquired \$10.3 million face value of the B&M's first mortgage bonds held by two of the life insurance companies comprising the Group of Institutional Bondholders. This also will be a factor to be considered in forming an amended plan.

the B&M to the state would be in the form of a fixed annual sum, or made to depend on the profitability of B&M railroad operations in Massachusetts; whether, if yards and other facilities are moved to new locations, the new facilities would become the property of the Commonwealth or of the railroad; and what degree of control might be exercised by the Commonwealth over capital investment and maintenance expenditures if rental payments are made to depend on the profitability of railroad operations in Massachusetts. The impact of a possible merger of the B&M into a larger railroad system must also be considered.

In view of the cyclical and heretofore retrogressive nature of the B&M's business, the recommendation is made here that the arrangements between the Commonwealth and the railroad should avoid fixed annual payments either for taxes or rentals, but that any payments by the railroad should be made to depend on its profitability and on the extent to which it provides for adequate maintenance and capital investment. This may be a big order. However, as indicated elsewhere in this report, the B&M is a small railroad. By avoiding fixed payments in unprofitable years, the B&M would be relieved of the pressures which are a part of the cyclical economic environment of railroads and would better be able to support that part of its considerable property investment which must be used in railroad operations. Any requirement for fixed annual payments regardless of profitability would void the positive effects of the debtless capital structure and tax abatement efforts recommended here. In the long run, sound measures aimed at making the railroad profitable should help it to provide effective transportation services to the public advantage and in addition enable it to make fair and reasonable payments to the Commonwealth. The operating arrangements arrived at should be mutually advantageous to the Commonwealth of Massachusetts and to the B&M railroad. The Commonwealth may well obtain benefits from such a take-over beyond its objectives of providing an adequate environment for passenger and freight transportation in the Boston area. From the railroad's standpoint a take-over and lease back by the state would enable it to reorganize its freight operations in the Boston area, something which it has not been able to accomplish so far due to the uncertain status of the commuter lines. In addition, it would be able to rid itself of much of the property held by it which is surplus to its rail freight operations.

<u>Other ways to shrink the B&M's plant</u>. The appraisals so far made indicate rather high values for the B&M plant, and particularly to the high costs of reproducing it at

present day prices. Compared to these values, the B&M's freight volume and revenues are modest. Yet, the modest revenues must be used to maintain the disproprotionately large plant. Ways to reduce costs include vigorous cost cutting measures and obtaining tax reductions. Another way is to avoid costs by getting rid of unproductive plant. Abandonments, of course, are a classical way of avoiding costs by such means.

The New Hampshire short line negotiations are a varation on the abandonment theme. By selling the lines to the State, the B&M hopes to avoid the costs of ownership, but to keep the traffic and part of the revenues presently generated by these lines. By taking advantage of the lower costs of short-line operation the State hopes to be able to get enough from the revenues of a short-line operator to pay the carrying charges on the purchase price. However, the difference in costs is marginal, and the negotiations largely are hung up over the prices that the State must pay for those portions of the New Hampshire lines which the B&M does not yet want to abandon. Presumably, a compromise will be reached between the B&M and the State, and they eventually will agree on terms. So far, the delay in ridding itself of lines which it might otherwise abandon has not been a great inconvenience to the bankrupt estate because the B&M is deferring maintenance on them, but sooner or later the need for maintenance will require that operations cease. This is a frustrating situation because it counts as one more problem which should be disposed of before reorganization can be accomplished.

The Penn Central proposal that the B&M abandon its Hoosac Tunnel line is much less clear cut. First of all, the Massachusetts segment - while it generates very little local traffic - produces a lot of revenue for the B&M because it provides it with its longest hauls and best rate divisions. Although the line is in a poor state of maintenance and has high costs of operation, a substantial part of these costs are in the Boston area and can probably be brought under control, either as a result of the Commonwealth's proposed take-over of B&M lines in Massachusetts, or by other means discussed here such as tax abatement or a program to dispose of excess real estate and relocate the B&M's yards. It is likely, therefore, that the Massachusetts main line can be made to operate at a profit. Moreover, the division of traffic that would occur if the B&M undertook to abandon the Hoosac Tunnel line solely in return for a more favorable diversion of rates from the PC at points east of the Berkshires would be serious and disruptive to the B&M and to the D&H and its connections, and it would bring to an end the existing line-haul competitive rail services to and from New England except for movements involving the Canadian railroads.

Except for the Connecticut River line where the B&M already has trackage rights arrangements with the Central Vermont, the line between Boston and Rotterdam Junction is the only line which the B&M operates which parallels and competes with a line of another railroad, and Mechanicville is the only major gateway which it serves which is fully competitive with the gateway of another carrier. The competitive impact of the Penn Central proposal is fundamental to the problems faced in reorganizing the bankrupt Eastern railroads. These railroads seem likely to emerge from bankruptcy with that part of the East, north of Philadelphia being served either by two competitive railroad systems, or by a single railroad monoply. In the long run this question will be resolved by whether there will be enough traffic to support the operations of more than a single rail carrier.

However, no answer to that question is provided by the record in this proceeding. While the facts here show that traffic is light everywhere on the B&M, they suggest that the Massachusetts segment can be made profitable and that the revenues of the traffic moving over that line are essential to profitable operation of the B&M as a whole. Moreover, there is reason to believe that in the absence of competitive services between the Hudson River gateways and the Boston-Worcester area the traffic presently moving over these lines would diminish due to shipper efforts to find other competitive services. Shippers very much prefer intramodal rail competition because competitive railroads tend to provide better service and because they tend to be less arbitrary in rate making, particularly where they are hauling traffic which does not lend itself to truck transportation. Shippers instinctively react to avoid making themselves entirely dependent on a single carrier. In northern New England their probable response to a Penn Central line-haul monoply of the Hudson River gateways would be to divert additional traffic to the Canadian railroads - and, of course, to look for still more new ways of economically diverting rail traffic to trucks. (The history of rail-truck competition is replete with instances of the truckers making off with traffic that the railroads thought could not economically be diverted.) Consequently, it is to the advantage of the B&M, and, probably in the long run also to the PC, to do everything possible to preserve the present competitive situation.

Even so, both the B&M and the PC have long stretches of track in western Massachusetts which produce little or no local revenue freight. Such track might economically be abandoned or downgraded if the means can be found to consolidate overhead traffic presently moving over their duplicating lines to the rail line of one of them. This is not necessarily an easy task. The B&M must continue to provide service at points between Greenfield and Ayer and the Penn Central most likely would have to provide for the continuance of service at Pittsfield and possibly at other points concerning which no record has been made in this proceeding. It would be more costly for the B&M's trains to operate over the PC's line west of the Connecticut River than over its present lines through the Hoosac Tunnel. However, the tangible rewards in the form of the savings which might flow from a consolidation of these lines might well be worth the effort for both. The conclusion is warranted that the B&M and the Penn Central should explore the possibility of a trackage rights arrangement between the B&M and PC whereby one railroad would route its traffic over the present lines of the other. Such an arrangement must be fair to both parties. If, for example, it is determined that all traffic should be routed over the PC lines, the financial arrangement should compensate the B&M for the extra costs of operation involved. Moreover, in order to be effective such an arrangement must provide practical measures which will prevent either carrier from back soliciting the traffic of the other, and it must provide similar protection to the D&H. Similar arrangements which allow full competition between the cooperating carriers have worked efficiently in other parts of the country; and, in fact, the B&M trackage rights in conjunction with the Central Vermont in north-south operations along the Connecticut River seem to work effectively without diminution of competition. They might well be made to work effectively in the operations disucssed here.

The Commonwealth of Massachusetts apparently favors retention of the present parallel rail operations west of the Connecticut River. It is likely that, should it take over the B&M lines in Massachusetts, it will act to prevent any consolidation of traffic. Nevertheless, if the means can be found to consolidate the duplicating lines without impairing effective competition, the Commonwealth is encouraged not to interfere. The cost of maintaining unnecessary duplicative plant will eventually be felt, even if the Commonwealth is the owner. If it should act to prevent such a consolidation, the Commonwealth's contract with the B&M should compensate - or at least not penalize - the railroad for the extra costs of duplicating operations. Similarly, the Commonwealth should act with restraint where continuance of service at Pittsfield and possibly at other points concerning which no record has been made in this proceeding. It would be more costly for the B&M's trains to operate over the PC's line west of the Connecticut River than over its present lines through the Hoosac Tunnel. However, the tangible rewards in the form of the savings which might flow from a consolidation of these lines might well be worth the effort for both. The conclusion is warranted that the B&M and the Penn Central should explore the possibility of a trackage rights arrangement between the B&M and PC whereby one railroad would route its traffic over the present lines of the other. Such an arrangement must be fair to both parties. If, for example, it is determined that all traffic should be routed over the PC lines, the financial arrangement should compensate the B&M for the extra costs of operation involved. Moreover, in order to be effective such an arrangement must provide practical measures which will prevent either carrier from back soliciting the traffic of the other, and it must provide similar protection to the D&H. Similar arrangements which allow full competition between the cooperating carriers have worked efficiently in other parts of the country; and, in fact, the B&M trackage rights in conjunction with the Central Vermont in north-south operations along the Connecticut River seem to work effectively without diminution of competition. They might well be made to work effectively in the operations disucssed here.

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Sale of B&M real property. Still another way of shrinking the B&M plant would be for it to conduct a through survey of its property with a view to getting rid of everything that is not needed for actual rail operations. Such an approach has already been mentioned as one means of cutting the railroad's tax bill. However, aside from being a means to shrink its plant and the consequent cost of keeping it on the books and maintaining it, the B&M's ownership of real property, particularly that in the urban and suburban areas in and around Boston should be a source of funds for satisfying claims against the B&M's estate. Railroads are built on real property, and they have a tendency to hang on to it even after changes in operations and the like render particular pieces of land surplus to actual needs. In part, this may reflect the desires of managements to keep their options open so that, if they find a need for one parcel or another at a later date, they will not be obliged to buy it back at inflated prices. Previous managements of the B&M have picked over and sold off a considerable part of the railroad's more attractive real estate. However, changing patterns of urban real estate use, the development of new real estate practices such as the increasing use made of "air rights" for real estate development, and the constant expansion of the surburbs with consequent increasing values for suburban real property, may well have acted to enhance the marketability of property not previously offered for sale. Moreover, the appraisals and valuations in this record suggest that there is a substantial amount of land still owned by the railroad consisting of abandoned right-of-way and "surplus" land not being used for railroad operations. The methods of appraisal used and the appraisers practice of categorizing all property other than right-of-way as "surplus", whether it is used in railroad operations or not, make it impossible on this record to estimate the amount of land actually surplus to the railroad's requirements. In addition, there is the possibility, previously mentioned, of reorganizing the railroad's operations with a specific view to releasing real property for sale.

The Trustees and the B&M management have had their time largely taken over by the requirements of operating the railroad and their efforts to improve it; by the necessity for preparing a reorganization plan; and by the extreme demands made on their time by negotiations and by appearances in the contested proceedings before the Reorganization Court and at the Interstate Commerce Commission hearings on their plan. Moreover, the marketing and sale of real property, particularly on the large scale proposed here, takes time. The orderly sale of a large number of parcels of real estate to the maximum benefit of the Debtor's estate can be expected to take a number of years and to require the skills of individuals specialized in the development and sale of real property. Moreover, much, if not all, of the most valuable land owned by the B&M is in Massachusetts and might be preempted by the Commonwealth's proposal to acquire that part of the railroad situated within Massachusetts. In this respect too, the Commonwealth's intentions are not clear as respects land surplus to the needs of railroad operations. Its proposal so far speaks of acquiring the B&M's right-of-way without reference to other lands. Doubtless, it also would require those "surplus" lands actually used in railroad operations, but its intentions in other respects are not known.

In the circumstances, the Trustee can be excused for waiting a few months to see if the Commonwealth is able to come up with a definite proposal for purchase of the B&M's properties in Massachusetts. However, in view of the delays so far experienced in other negotiations, the Trustees should not delay too long before proceeding to organize for a comprehensive sell-off of the B&M's unneeded properties. In order to insure fair treatment for the claimants against the B&M estate, such a program should not be delayed more than 6 months after service of this report and recommended order. Then the Trustee should proceed to sell off the most readily marketable parcels with a view to using the proceeds for setting up a real estate investment trust to which the B&M should convey all property which the Trustees should determine to be surplus to the needs and future operational requirements of the railroad along the lines suggested here. The Trustee should make affirmative efforts to release lands from railroad operations wherever possible including relocating facilities where this can be done (through the use of funds generated by real estate sales where necessary). Such efforts should extend to the transfer of "air rights" over land actively being used for railroad purposes should the Trustees be able to determine that there exists potential for development of "air rights" over specific lands or right-of-way.

<u>The bondholders</u>. Bankruptcy proceedings, particularly railroad bankruptcies, necessarily place bondholders and other creditors at a disadvantage. Should they fail to seek

liquidation or to actively oppose actions of the Trustees, they run the risk of being considered at some later point in the proceedings as having waived their rights. For example, the New Haven Inclusion Cases, 399 U. S. 392, at page 493: "/F/ailure of the bondholders to press for early liquidation of the New Haven meant that their initial application for a dismissal of the reorganization proceedings came just as the objective of salvaging the New Haven appeared possible to achieve . . . " In the circumstances here, with the B&M's freight traffic continuing to decline, and with so much that has seemed necessary for reorganization of the B&M being outside the full control of the Trustees (i.e. tax abatement, sale of the commuter lines, sale of the New Hampshire lines), one can understand that the approach so far adopted by the bondholders is well suited to the situation in which they have found themselves. While the foregoing analysis looks favorably to the prospect of a successful reorganization of the B&M, the bondholders, in principle, are entitled at least to liquidation value. Consequently, their plan must be examined at this point to determine whether it offers the bondholders a potentially more rewarding alternative.

The Institutional Bondholders maintain that their plan essentially provides a segmentation approach which would allow the orderly liquidation of the B&M and the continuation of its essential services. Nevertheless, it is a liquidation plan, and it would create a minimum period of uncertainty of at least 6 months during which connecting carriers and others are expected to come forth with offers for the various segments of the B&M. To the 6 month period which is part of the plan must be added any interval between the time the Commission should propose such a plan and the earliest moment when the Reorganization Court could act on it, plus an additional period when appeals would be taken by those opposed to liquidation of the railroad. Even a period of uncertainty so short as 6 months would add immensely to the difficulties of the railroad. Such uncertainty would focus the attention of the B&M's shippers on the problem of whether there will be a continuation of the B&M's rail service and on the tariffs, the routings, equipment supply, and other conditions affecting the level of services which would be provided on those lines of the B&M which might survive in the hands of others. Shippers react quickly to protect their economic interests where transportation services are concerned. Just as they will split their traffic between carriers wherever possible in order to avoid making themselves too dependent on one, they will turn to other routes and [illegible] when an existing routing is threatened. They would not wait to see if a particular line of the B&M is shut down before making new arrangements. They would turn to other carriers as soon as they consider that the possibility of discontinuance is serious. - And the bondholders' plan is entirely dependent on there being a serious threat of discontinuance. - The fact that the B&M's shippers have stayed with it to the extent they have in spite of deterioration of service prior to bankruptcy and the bondholders frequent requests for liquidation, is probably a reflection of the fact that the B&M's services deteriorated at the same time as the PC's and that the B&M Trustees have since improved services. Even so, the B&M's traffic has suffered a number of dislocations before and since bankruptcy, and its traffic is vulnerable to any news affecting the continuance of its services. The Penn Central, the Canadian railroads, and the truckers would benefit from any further dislocations of the B&M's freight traffic.

It is impossible to estimate the extent of the adverse effect of the bondholders' proposal even in a comparatively short period of 6 months. Certainly, the B&M's deficits would deepen, and its cash would drain away. Current assets would diminish with its cash, leaving a substantial excess of current liabilities which would wind up as administration claims. The B&M's present current liabilities of $20 million might well be the measure of the extent of administration claims which would accumulate from such a proposal for "orderly" liquidation. Nor is their any promise that the B&M could realize even so much as net liquidation value of its property by auctioning off the railroad in segments. The Maine Central certainly would want to purchase the line between Portland and Worcester, but, while it is solvent and capably run, it does not have a great deal of cash, and its bonds are not favorably rated. (They are rated 'Ba' by Moody, 'B' by Standard & Poor). The D&H is foundering, and, if it should try to purchase the segment between Mechanicville and Ayer, it is in no position to pay for it either with cash or with marketable securities. The Penn Central is brankrupt and cash poor. It already is faced with the problem of how to account for the purchase of the New Haven. Its creditors would be sure to oppose the terms of any purchase which would put the B&M's creditors in a favorable position as respects claims against the PC bankrupt estate. The Central Vermont alone as a solvent carrier and a subsidiary of the Canadian National might be expected to pay cash for the liquidation value of the Connecticut River and Berlin lines. No railroad seems anxious to purchase the lines in and around Boston. While liquidation would put pressure on the Commonwealth to acquire those lines through the MBTA and the Port Authority, such a acquisition would be dependent upon the uncertainties of legislative action and might not have the favorable effect predicted by the bondholders. Thus, the Institutional Bondholders have failed to demonstrate convincingly that their plan would produce a greater measure of the wherewithal with which to satisfy claims against the B&M estate than the Trustees' Plan or the Amoskeag Plan. In such circumstances, the Institutional Bondholders' Plan is not the comming to grips with reality which they maintain it will be. It cannot help but have an adverse effect upon efforts to reorganize the railroad.

<u>A 2 year postponement</u>. This report, then, adopts the plan of the Trustees with the modifications made in this discussion. The Trustees' plan is an interim plan and indicates (at Chapter XX page 6) that a definitive plan should be forthcoming during 1974 in order to allow approval by December 31, 1974. Although the prospect at a 2 year delay is not pleasing, much remains to be done. The progress so far made by the Trustees in less than 3 years provides hope that enough more can be accomplished to enable the B&M to be reorganized by the date set by them. In fact, that date might be accelerated or delayed depending in large part on whether the Commonwealth of Massachusetts comes forth with a practicable plan of its own. We are, therefore, in a procedurely unique situation. A determination must be made whether to conduct further hearing should the Commonwealth file a definitive plan (or should Amoskeag file an additional plan), and secondly, whether a date should be set for a hearing on a definitive plan by the Trustee. The best thing that can be done at this time is to set a date for further hearing which will accommodate the reorganization date established by the Trustees and to provide for an earlier hearing should the Trustee request it. In addition, the Commission might decide separately to set an earlier hearing on the Commonwealth's Plan should a feasible plan be forthcoming. Consequently, June 30, 1974, is set as the date for filing of a definitive plan by the Trustee , and September 9 , 1974, is set as the date for further hearing at Boston for the purpose of receiving evidence in support of or in opposition to the Trustee's definitive plan and any other pertinent plan which may be before the Commission at that time. If the Trustee is unable to propose a definitive plan by June 30, 1974, he should at that time so advise the Commission and the parties in writing. However, the further hearing will remain set for September 9, 1974, so that the Trustee may report on progress up to that time and to allow other parties to request the opportunity to present evidence pertinent to the reorganization. If an earlier hearing is considered necessary a petition should

be filed seeking an earlier date. The purpose of these procedures is to provide for the greatest degree of flexibility consistent with the exercise of the Commission's reponsibilities under section 77 of the Bankruptcy Act. Much of the factual material which is basic to the B&M's situation is already in evidence, and there is reason to hope that future hearings will be brief and will admit of a shorter interval between the close of the hearing and submission of the report thereon.

The Trustees have been submitting monthly cash flow reports and reports on progress made under their Action Plan. Since the hearing such reports have been addressed to the Administrative Law Judge and received into evidence in the same manner as late-filed exhibits. By their nature these reports are subject to motions to strike, but they do not contain what can be regarded as controversial or disputable factual material. Much of the information contained in them is known to the parties actively engaged in litigation before the Reorganization Judge, or can be verified from the B&M's financial statements. Although a part of this material is reflected in the Court papers which are forward for the Commission's official docket, part is of the sort which while known to the parties is not fully set forth in the pleadings and orders forwarded to the Commission. Moreover, they provide a convenient means for the Commission and the parties to keep abreast of changing developments affecting the B&M. The monthly cash flow statements should be continued. The progress reports also should be continued, but need only be submitted quarterly along with the B&M's quarterly financial statement. The scope of the progress reports should be amplified somewhat to show in addition to progress under the Action Plan such other information pertinent to the general well-being of the B&M which would assist in keeping the Commission and the parties adequately informed. Unless the Commission should by order establish another procedure the monthly cash flow statement and the quarterly report shall be directed to the Administrative Law Judge who will identify them as exhibits and receive them into evidence, subject of course, to subsequent motions to strike.

On brief the Railway Labor Executives Association requests that employee protective conditions be imposed as a part of the Commission's approval of any plan of reorganization adopted herein. Specifically, they advocate that any new railroad corporations be obliged to assume all existing labor contracts, schedules, and agreements; that the reorganized railroad shall take into its employement all of the Debtor's employees also are willing to accept such employment; and that thereafter they receive the job protection afforded in New Orleans Union Passenger Terminal Case, 282 I.C.C. 271. The union has provided no witness in support of these proposed labor conditions and has done nothing to show whether these traditional conditions are pertinent to the present situation of the B&M and its employees. Discussion on brief by the other parties was mainly concerned with other matters. Inasmuch as further proceedings are contemplated herein, action on the unions' request will be deferred.

This proceeding may be considered as a major Federal action which will significantly affect the quality of the human environment within the provisions of section 102(2)(c) of the National Environmental Policy Act of 1969. Section 1100.250(e)(2) of the Commission's regulations issued January 14, 1972, (49 CFR 110.250(d); Implementation - Natl. Environmental Policy Act, 1969, 340 I.C.C. 431) requires certain draft environmental statements by the parties to such proceedings. While some evidence has been adduced on environmental aspects of this proceeding no draft statements have been submitted, and a comprehensive record has not been developed on this subject. In view of the fact that the plan adopted here is a preliminary one which will require further proceedings, in order to bring it to completion, the most effective way to cure the lack of environmental statements will be for the parties to include them with their pertinent subsequent filings with the Commission. The statements of any parties submitting plans should be filed when their definitive plans are submitted.

ULTIMATE FINDINGS AND ORDER

Upon consideration of all evidence of record, the Administrative Law Judge finds that the Trustees' proposed Plan of Reorganization, as modified by the Discussion and Conclusions herein, meets the requirements of subsections (b) of section 77 of the Bankruptcy Act, is fair and equitable, affords due recognition to the rights of each class of creditors and stockholders, does not discriminate unfairly in favor of any class of creditors or stockholders, will conform to the requirements of the law of the land regarding participation afforded in New Orleans Union Passenger Terminal Case, 282 I.C.C. 271. The union has provided no witness in support of these proposed labor conditions and has done nothing to show whether these traditional conditions are pertinent to the present situation of the B&M and its employees. Discussion on brief by the other parties was mainly concerned with other matters. Inasmuch as further proceedings are contemplated herein, action on the unions' request will be deferred.

This proceeding may be considered as a major Federal action which will significantly affect the quality of the human environment within the provisions of section 102(2)(c) of the National Environmental Policy Act of 1969. Section 1100.250(e)(2) of the Commission's regulations issued January 14, 1972, (49 CFR 110.250(d); Implementation - Natl. Environmental Policy Act, 1969, 340 I.C.C. 431) requires certain draft environmental statements by the parties to such proceedings. While some evidence has been adduced on environmental aspects of this proceeding no draft statements have been submitted, and a comprehensive record has not been developed on this subject. In view of the fact that the plan adopted here is a preliminary one which will require further proceedings, in order to bring it to completion, the most effective way to cure the lack of environmental statements will be for the parties to include them with their pertinent subsequent filings with the Commission. The statements of any parties submitting plans should be filed when their definitive plans are submitted.

ULTIMATE FINDINGS AND ORDER

Upon consideration of all evidence of record, the Administrative Law Judge finds that the Trustees' proposed Plan of Reorganization, as modified by the Discussion and Conclusions herein, meets the requirements of subsections (b) of section 77 of the Bankruptcy Act, is fair and equitable, affords due recognition to the rights of each class of creditors and stockholders, does not discriminate unfairly in favor of any class of creditors or stockholders, will conform to the requirements of the law of the land regarding participation of the various classes of creditors and stockholders, and will otherwise meet the requirements of subsections (b) and (e) of section 77 of the Bankruptcy Act, and will be compatible with the public interest.

Premises considered, it is the ORDER of the Administrative Law Judge that the Trustees' preliminary Plan of Reorganization of the Boston and Maine Corporation, as modified by the Discussion and Conclusions herein be, and it is hereby approved;

It is further ordered, That the Plan of Réorganization of Amoskeag Company for reorganization of the Boston and Maine Corporation be, and it is hereby rejected as premature;

It is further ordered, That the Second Plan of the Group of Institutional Bondholders herein for Reorganization of the Boston and Maine Corporation be and it is hereby rejected.

It is further ordered, That the Trustee of the Boston and Maine Corporation submit a definitive plan for reorganization on or before June 30, 1974, or in the alternative that he advise the Commission or or before that date that he is unable to submit a definitive plan.

And it is further ordered, That further hearing in this proceeding be, and it hereby is, set for September 9, 1974, at Boston, Mass., at which time evidence will be received pertinent to any plans for reorganization of the Boston and Maine Corporation then pending before the Commission including evidence pertinent to progress made towards reorganization pursuant to the Trustees' preliminary Plan of Reorganization.

By the Commission, Victor A. von Rinteln, Administrative Law Judge.

Dated at Washington, D. C. this 2nd day of February 1973.

ROBERT L. OSWALD,

(SEAL) Secretary.