

INTERSTATE COMMERCE COMMISSION
WASHINGTON

December 12, 1945

Offices of
WALTER M. W. SPLAWN
Commissioner

Honoral Josiah W. Bailey
Chairman, Committee on Commerce
United States Senate
Washington, D. C.

My dear Chairman Bailey:

Your letter of December 5, 1945, addressed to the Chairman of the Commission and requesting suggestions concerning an amendment to S. 326 in the nature of a substitute intended to be proposed by Senator McCarran, "To create the All-American Flag Line, Incorporated, and to assure the United States world leadership in the field of air transportation," has been referred to our Legislative Committee. After careful consideration by that Committee I am authorized to submit the following comments in its behalf:

This bill involves the regulation of foreign commerce by air, with respect to which the Interstate Commerce Commission has no powers. For that reason we are not in a position to express a helpful opinion concerning the merits of the bill as a whole. Only two provisions of the bill are of interest to this Commission. Section 4(b) (5) would require that any proposed plan for consolidation of international air carriers into a community company should include "provisions for the offer for subscription, in such proportions within each class as may be fair and equitable, * * * to all class I carriers by railroad subject to the Interstate Commerce Act (other than terminal and switching companies and carriers which are not citizens of the United States as defined in this Act)." Under section 8(g) it would be provided that securities or stock of the community company "shall not be acquired or held by any common carrier by air, rail, or water or by any person controlling or controlled by any such carriers, without the approval of the Civil Aeronautics Board."

We see no close connection between domestic transportation by land or water within the United States and international air transportation. We doubt whether common carriers by railroad would have any object in acquiring a minority stock interest in the proposed community company and are unable to see that such acquisition would be beneficial to railroad companies. Insofar as the bill would give qualified approval to such acquisitions on principle we question whether the public interest would be served.

On numerous occasions in the past this Commission has pointed out the harmful results of investments by railroads in enterprises not directly related to the business of transportation in which they are engaged. Notable examples of such abuses were discussed at length in our report in New York, N. H. & H. R. Co. Investigation, 220 I. C. C. 505, in which we said:

The resources of a railroad ordinarily should be devoted to the proper development of its own transportation system. If they are to be invested in an outside activity it should be after a finding that such investment constitutes a proper use of railroad funds or credit, that the terms of the transaction are reasonable, and that the investment is in the public interest.

In accordance with that view we have recommended to the Congress in our annual reports for the past several years legislation by which restrictions would be imposed on the expenditure of carrier funds, incurring obligations, or acquiring property by a carrier or its subsidiaries, except for the operation or legitimate improvement or development of its property. The provisions of the proposed amendment to S. 326 involving railroad companies, we believe, are inconsistent with this view. If they are retained in the bill we urge that Section 8(g) be amended so as to require that acquisitions of stock or securities of the community company by rail carriers shall be subject to the approval of this Commission as well as that of the Civil Aeronautics Board.

Respectfully submitted,

(Signed) WALTER M. W. SPLAWN

Chairman, Legislative Committee

Walter M. W. Splawn

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