

Biggest In History

# ICC Approves Penn And NY Central Rail Merger

WASHINGTON (AP) — The government approved the biggest merger in history today, uniting the Pennsylvania and New York Central railroads.

But it rejected another consolidation that would have resulted in the nation's longest rail system.

The 11-man Interstate Commerce Commission unanimously agreed the Pennsylvania and New York Central would merge into a single line, absorbing all freight and passenger service of the bankrupt New York, New Haven & Hartford Railroad.

But by the narrowest of votes — 6 to 5 — it refused to allow the Great Northern, Northern Pacific, and Chicago, Burlington & Quincy railroads to merge, taking over two smaller lines, into a 25,000-mile system linking the Midwest to the Pacific.

It was the most significant of the five merge vetoes the ICC has voted in a decade that has seen more than two dozen consolidations approved. And the Northern lines case — virtually certain to be disputed in a federal court — produced four vehement dissenting statements accusing the ICC majority of flouting the national transportation policy.

Approving the Penn-Central merger because of what it termed the financial benefits to railroads, shippers and public, the ICC disapproved the Northern lines merger on the ground that any financial advantages would be outweighed by "a drastic lessening of competition and adverse effect on employees."

Simultaneously, the commission rejected the New Haven's bid to discontinue all of its 273 passenger trains.

It urged Penn-Central to work with state and local authorities to shore up what the commission regards as a vital service in the New York-New England area. Only 40 New Haven trains may be dropped, the ICC said, and the rest must run through 1966.

By the end of 1966, the ICC indicated, Penn-Central will have had an opportunity to seek a cure for New Haven's passenger difficulties. When this period expires, the railroad will be free to seek discontinuance again. But the ICC said it will take a close look at Penn-Central's efforts to put the service back on its feet in deciding any future case where discontinuance is sought.

In New York, the heads of the two merged railroads told a news conference they were pleased with the decision and were confident they could work out the New Haven takeover. Stuart T. Saunders, chairman of the Pennsylvania's board, predicted "far better service freightwise, and some better passengerwise."

Alfred E. Perlman, president of New York Central, said railroading is "a growth industry," and declared his company had stopped the loss of freight business, and turned the curve upward.

In New Haven, the trustees of the New Haven Railroad said they had always recognized the need for passenger service, but had asked for its discontinuance because of the line's financial condition.

They noted the ICC had stressed the necessity of Penn-Central working out the New Haven passenger service terms with public officials. They said the commission appeared to have recognized that it should not have to continue beyond the end of 1966 "unless appropriate aid were forthcoming."

In Albany, N. Y., Gov. Nelson A. Rockefeller said the decision was "a great victory" for the state, adding that it cleared the track for negotiations on commuter service with a new metropolitan transportation agency.

The new Penn-Central system, nearly 20,000 miles long, will list assets exceeding \$4 billion, a spokesman said, and

will result in savings — according to ICC mathematics — of \$80 million by 1974.

"There is no question but that the transaction will permit more economical and efficient use of the applicants' transportation facilities," said the ICC report, written by Commissioner Kenneth H. Tuggle.

"The economies realized... will rebound in large part to the benefit of shippers, and thus to the general public, either through the improved service made possible or lower rates. For this reason the merger has met with the almost unanimous approval, in principle, of shippers throughout the nation."

But without taking in all New Haven operations, the ICC said, "the merger would not be consistent with the public interest" because the Penn-Central system would drain away New Haven traffic "and leave that moribund carrier in an irretrievable situation."

Endorsing an unprecedented agreement between the two railroads and their labor unions, the ICC imposed what it termed novel conditions to insure that nobody loses his job as a result of the merger.

Unneeded jobs may be eliminated only when employees retire or quit, and workers must be transferred within the system as the workload shifts and jobs open elsewhere.

The Penn-Central may not reduce its work force unless it can prove a 5 per cent business drop in any 30-day period.

The system must also protect the interest of three smaller Eastern railroads — the Erie-Lackawanna, Delaware & Hudson, and Boston & Maine — by freezing present traffic patterns and practices wherever they compete with those three roads.

If the three fail in their pending bid to be included in the Norfolk & Western system, the ICC said, they will have a year in which to seek inclusion in Penn-Central.

The new system must repay the three, smaller roads when ever their annual revenues fall below a standard based on their 1964 income, the ICC said, with no requirement that Penn-Central be proven the cause of the decline. This condition produced the only negative vote in the entire Penn-Central decision, commissioner Howard W. Freas objecting.

In turning down the Northern lines merger plan, the ICC majority acknowledged that "The probable savings and benefits that would result from merger are more tangible than those derived from competition between the Northern lines." But it said, "We are convinced that they are not as great."

Commissioner Charles A. Webb, who prepared the majority report, said: "We conclude that the disadvantages of an appropriately conditioned merger — a drastic lessening of competition and adverse effect on carrier employees — outweigh the benefits that might be derived by applicants and the shipping public."

"Applicants have failed to show that their proposed merger would result in transportation service to the public that is superior to that which can be provided without merger, or that the benefits... outweigh the adverse effects of the merger on carrier employees and the benefits that shippers derive from the competition to be eliminated."

The majority said the individual lines are prospering and have withstood competition from other forms of transportation.

Approval of the merger, it said, would end all competition between the railroads involved at various points that account for 43 per cent of their gross revenues and 34 per cent of their total tonnage.

# High Court Denies NAACP Appeal

WASHINGTON (AP) — The Supreme Court threw out today an appeal from a Georgia ruling that the National Association for the Advancement of Colored People can be held liable for picketing ordered by its Savannah branch.

The 5-4 decision, announced in a nine-word order, was vigorously attacked by Justice William O. Douglas who said it is the kind of judgment that ultimately could destroy the NAACP and other "unpopular groups."

The direct effect is that Haldred Overstreet, a white grocer, may collect \$85,793.05 in damages from the national organization, its Savannah branch and two branch officers.

The five Justices who compromised the majority, Hugo L. Black, Tom C. Clark, John M. Harlan, Potter Stewart and Byron R. White, did not state their reasons. They simply joined in this nine-word order rejecting the NAACP appeal.

"The writ of certiorari is dismissed as improvidently granted," Chief Justice Earl Warren and Justices William J. Brennan Jr. and Abe Fortas joined Douglas in voting to reverse the damage judgment.

Announcing their dissent from the bench, Douglas said the NAACP's views are "anathema" in some parts of the country and under "vague" Georgia laws it could be held accountable for almost anything its branch does.

"Unpopular groups" like the NAACP, he said, "will receive crushing verdicts from emotional juries."

Continuing on this theme in his written opinion, Douglas said "the rights of political association are fragile enough without adding the additional threat of destruction by lawsuit."

To equate the liability of the national organization with that of the branch without proof that the national body "authorized or ratified the misconduct in question could ultimately destroy it," Douglas said, and is forbidden by the first amendment to the U. S. Constitution.

In New York, Robert L. Carter, general counsel of the NAACP said: "We are of course very much disappointed with the court's decision... we will of course apply for a rehearing."

"We cannot take the view that the majority of the Court by its action today intended in any way to limit the right of

peaceful protest accorded under the first amendment. In any event this is not a decision on the merits and we will continue to engage in peaceful picketing forms of peaceful furtherance of the cause." Pickets were stationed at Overstreet's store in Savannah in 1962 after a 14-year-old Negro employe complained to his mother that the grocer had accused him of stealing and had beaten him.

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Variable cloudiness and little change in temperatures Thursday with chance of widely scattered afternoon showers and thundershowers mainly in mountains. Highs 65 to 72 in northeast portion, mostly in 70s elsewhere ranging to lower 80s south portion. Friday partly cloudy and warm with scattered afternoon and evening showers and thundershowers.

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