A.C.&Y. H.S.

News

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SPERRY RAIL SERVICE

The Big Yellow Cars!

Plus, AC&Y's Riverlake Conveyor

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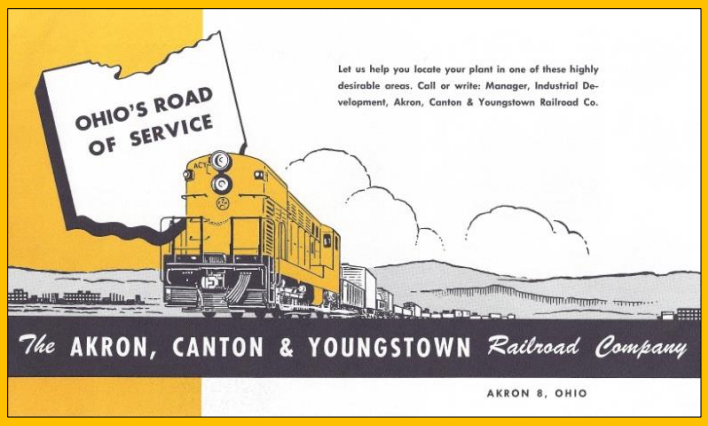

http://www.acyhs.org

Front cover: Sperry Rail Service car number 137 is staged at New London for a day's work on the AC&Y. As a railroad seemingly plagued with broken rails, Sperry detector cars were frequent guests on "Ohio's Road of Service. ***Vaughn Neel photo,* AC&YHS Archive.**

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*The **A.C.&Y. H.S. News** magazine is a noncommercial bi-annual publication intended to document and interpret the history of AC&Y and related railroads. Submissions, photographs and prototype information for use in future publications are most welcomed. The Society is a Section 501(c)(3) tax-qualified organization.* **ISSN #1076-6693**

Society Book

From the Publications Editor . . .
In April 2015 Morning Sun Books released of our AC&Y-A&BB book publication, the culmination of a two-year effort by a dedicated team of AC&Y-A&BB enthusiasts. The book is still available with a pre-arranged AC&YHS discount through **www.railroadbooks.biz.** All will be pleased with the 128-page publication outlining the fascinating history of the AC&Y and A&BB supported by numerous never-seen-before color images.

Editorial

From Bob Lucas . . .
Featured in this issue of our bi-annual News magazine is re-presentation of a story appearing in the October 30, 1941 issue of Trains magazine. As a railroad not immune to derailments attributable to rail failures, it's a story certainly relevant to the AC&Y. Sperry's technology within the "Big Yellow Cars" should also be of interest to readers.

My introduction to Sperry came firsthand while driving on I-76 past Brittain yard in the late 1970's. Adjacent the roundhouse was a distinctive yellow Sperry Rail car. It was late in the day and I vowed to return. When I arrived early the next morning for photos, it was gone – already testing.

Fortunately, there are supporting images – first of Sperry detector cars on the AC&Y at New London and Medina. We also have derailment scenes captured by Vaughn Neel. The accident causes were reportedly broken rails.

Though not about trains, the Riverlake conveyor story is an epic account of back room politics, transportation logistics and the Eastern Ohio-Western Pennsylvania steel industry in the pre-rust belt era! The AC&Y lacked routes or access to ports both along Lake Erie and Ohio River conducive to handling coal-iron ore traffic, a commercial short-coming of immense concern in the post WW-II era. The roads who did participate (B&LE, P&LE, PRR, NYC, NKP-W&LE, B&O and C&O) were aggrieved that novel technology and a newly formed entity might raid their lucrative coal-ore business. With the rail unions, they raised objections with the Ohio Public Utilities Commission (PUCO) who had the final say on operating licenses. The Riverlake proposal finally died in 1955 though not without a fight. Seeing potential freight cost savings, the steel, coal and iron ore producers supported the belt conveyor and filed protests with the ICC against the railroads (claiming anti-trust akin to the coal slurry pipelines of the 1980's). Given the huge implications, even the Canadian roads (CNR-GTW, CPR, Algoma Central, TH&B) were involved.

Society Archive

As previously reported, the bulk of our extensive AC&Y-A&BB archive collection was donated to the University of Akron under a "Deed of Gift" Agreement in October 2015. Subsequently, nearly $8,000, funds donated by the Society, were earmarked for specific preservation efforts including the cataloging and re-housing the records into archival approved (acid free) file folders and boxes.

Work will soon begin through application of Society funds; however, we are looking for additional grant opportunities and / or outright donations. If you can help, please contact Vic Fleischer, Head of Archival Services at 330-972-6253 or email Vic at svfleis@uakron.edu.

Guardian of the Rails

* The Sperry Rail Service fleet is constantly moving over America's iron

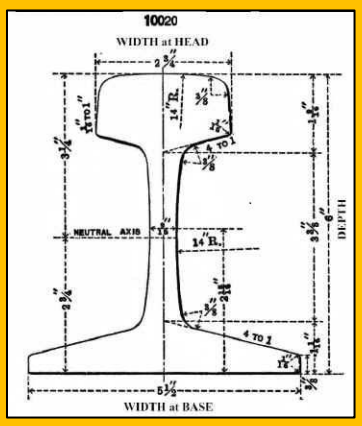
By Harold Bosch

The old track worker comes down the section, worn shoes crunching against the sharp crushed-rock ballast. For years he has gone over this road day after day, fine-tooth combing it for loose spikes, bad ties, cracked rails, to say nothing of landslides, rocks on the track and washouts. But now his bright eyes are supplemented by a marvelous technical development, a veritable Martian mechanism that sees right through the rail and not only locates defects the trackworker can't see but foretells other defects before they can ripen into broken rails and lost lives.

Courtesy Canadian National

The Sperry Rail Car it is that lifts from the trackworker the tremendous responsibility of safety in rail travel, that makes rail travel safer than even this safe model of transportation has even been before. Moving slowly along the track, spitting whitewash from time to time across one rail or another, the Sperry Rail Cars cross and re-cross the country preventing broken rails before they happen. At six to eight miles per hour they probe with electric fingers into the very heart of rails over which they travel. Every abnormal detail is registered on a tape in an electrical laboratory built into the car.

The primary causes of rail failure are doubtless due to failure in the steel, but of equal importance are failures that occur after the finished steel leaves the manufacturer. Rough handling, improper operation, poor track construction and maintenance, overloading, and defective equipment all contribute a share toward rail failure. In spite of such an imposing list, less than one-tenth of one percent of rails used have been found to fail in-service, but that is enough to make such failures very serious because of the consequences that may result when even a short section of track breaks.



Rail failures are classified according to the nature of the defect causing them. The most common are termed: flow of metal, crushed and split heads, split webs, broken bases and transverse fissures. The last is the most dreaded. It was first recognized as a direct cause of rail failure in 1911, and for seventeen years it became established as the greatest defect that is found in rails.

As cancer grows in the body, so does a transverse fissure grow in a steel section of railroad track. In fact, so alike are the two that transverse fissures are commonly referred to as "rail cancers." The A.R.E.A. (American Railway Engineering Association) describes a transverse fissure as a progressive transverse fracture starting from a center or nucleus inside the head of the rail from which the fracture spreads. Where it has caused a break in the rail a round or oval spot is observed, smoother than the surrounding structure and at right angles to the axis of the rail. When the transverse fissure is first exposed to air it is brighter than the adjacent unaffected metal.

Above: Sperry Rail Service detector car number 127 poses for photographer Doug Leffler at Jackson, Michigan in January 1974. Significantly rebuilt, this is the same unit on the previous page working the Canadian National in 1941. Number 127 was a "gas-electric doodlebug" originally built in 1926 for the Boston & Maine RR by Electro Motive Corporation. It was acquired by Sperry in 1939 and renamed the R.R. Revell.

In 1928, after five years of determined and intensive research, the late Elmer A. Sperry designed constructed electrical equipment that would detect transverse fissures. Basically, it operates by passing a current of 3000 amperes through a short section of rail at low voltage. This sets up a magnetic field about the head of the rail. When an internal flaw is encountered the axis of the field is changed and the flux distorted. By means of a coil placed on the head of the rail, the distortion is picked up and passed through a cable to an amplifying device, which in turn indicates upon a recording tape.

Dr. Sperry incorporated the entire apparatus in the first Sperry detector car in 1928. Such were the improvements made during the next few years on successive cars that for every 100 miles of track tested in 1938, 25 fissures were found, as compared with eight fissures for every 100 miles in 1930. In addition, a detector car registers on its series of complicated meters and graphs such flaws as horizontal and vertical fractures, surface defects, burned spots caused by slipping wheels and even loose spikes.

In 1931, through the joint sponsorship of the A.R.E.A. and the Rail Manufacturers' Technical Committee, a probe into the matter of the transverse fissure was instigated. The data compiled showed that minute shatter cracks were present in the rail after it went through the rolling mills and that when wheel loads were constantly applied to areas in which shatter cracks were prominent the growth of transverse fissures soon followed.

However, the shatter cracks and their spread by wheel loads on rails in service are only two of the causes of transverse fissure growth. It is known that a sudden rise or drop in temperature or a heavy blow on the rail head with a spike mallet or grinding by a locomotive driving wheel will sometimes cause a transverse fissure to begin its growth. At other times, it will appear suddenly without cause.

Therefore, with modern trains attaining high speeds and with ever increasing axle loads, it is necessary that detection technique be of the highest possible standard.

The crew of a detector car is carefully selected Each man must have a high scholastic rating and be painstakingly trained for the work. For 11 months out of the year the detector car is the home of the crew which is made up of the chief operator, assistant operator, driver and chef.

Sperry detector cars are painted bright yellow with black letters and figures adorning the side and ends. Usually the roof is painted with aluminum. The front of the car houses a Winton engine that sits crosswise between the driver's seat. A partition divides the engine room from the galley, the next compartment following. Here there is a stove, water heater, electric refrigerator, sink, cupboards filled with dishes and a food storage bin. From the galley to the dining-living room compartment is but a stop through doorway. This room is fitted out with comfortable chairs, a table, radio, and on one side a long leather covered window seat.

Following the living quarters is the four-man bedroom fitted with individual bunks and clothes closets. Next is the bathroom containing lavatory, bathtub and showers. Hot and cold running water is available at all times. The next to last compartment is the section which houses the main generating equipment of the testing system, run by a 150-horsepower gasoline engine. Tool cabinets, work bench, a Hercules gasoline-driven generator for the light system and water tanks are also crowded into this small room. The rear compartment is in reality a glass-enclosed rear platform. Here the actual tests are conducted.

As the electric apparatus registers a flow beneath the wheels of the car a daub of paint is automatically shot onto the rail at the exact spot. The operator is notified by an inked indication on a wide recording tape that moves 1/16" to every foot the car travels.

He then stops the car and with the assistance of other members of the crew, makes a thorough test to determine the exact nature of the flaw. If it is found to be serious, notification is given to a section crew that follows the test car. The defective rail is then replaced.

A record over the past ten years shows that railway passengers in North America have been carried over three billion miles for each fatality. Heavy trains whirl along at tremendous speed, yet the passenger has the confidence of knowing that every precaution known to modern science is used to protect him on his journey.

Many travelers doubtless wonder how the rails stand up under the terrific abuse given them by swift streamliners and heavy locomotives hauling long strings of loaded freight cars. Railroad track must stand in the open and take whatever nature chooses to hand it. Ice and snow, low temperature and high, all play an important part in the life of the rail. It is no wonder, then, that a fleet of Sperry Rail Service detector cars is in constant operation throughout the year. They are the guardian angels of the rails, carrying on their vigil without interruption, safeguarding railroad property and employees as well as the railway passenger.

The above story appeared in the October 30, 1941 issue of Trains magazine and is presented with express permission. Also, many thanks to Doug Leffler who photographed SRS #127 at his hometown in Jackson, Michigan.

A complete roster of Sperry Rail Service detector cars can be found at:

http://www.trainweb.org/elso/SRSROST1.HTM

Above: Sperry Rail detection car number 137 is staged on the AC&Y at New London. The opposite side appears on the front cover. While water and power were self-contained, it likely was necessary to have a source of clean water and electrical hook-up at the end of each work day. At the detection speed of six-to-eight miles-per-hour, evaluation of the AC&Y's 169-mile mainline (Delphos to Brittain) would take twenty-four hours. It likely took three days. ***Vaughn Neel,* AC&Y HS Archive**

Above: This undated view of Sperry Rail detector car number 131 is believed to be on the AC&Y at Medina. **AC&Y HS Archive, Courtesy Vaughn Neel**

Above: A wreck occurred on February 4, 1966 near Tymochtee attributable to a broken rail, newly laid in 1964. No mention was made if Sperry Services had inspected this track segment. ***Jim Roberts,*** **AC&Y HS Archive**

AC&Y's Controversial Riverlake Conveyor

Rails face belt line threat in Ohio

A new kind of long-distance mass transportation is planned by the Akron, Canton & Youngstown Railroad, which proposes to build a 130-mile conveyor to transport iron ore from Lake Erie to the Ohio River, and coal from the river to the lake. Such a line, the road's President H. B. Stewart figures, would be able to save 53 to 66 cents a ton on the movement of ore, and as much as $1.50 per ton on the movement of coal, as compared with present rail rates.

While such a transportation system would obviously be a threat to existing railroads at the outset, it would eventually provide the railroads with more business, Stewart figures. His belt line would help stabilize the steel industry in the region, he argues. New industries should be attracted to the territory, and the new industries would provide the railroads with enough new shipping to offset the loss of the ore and coal movements. It is interesting to note that the conveyor belt will not parallel Stewart's own AC&Y but will run at right angles to it—from Lorain southward to the Ohio, with branch belts to Cleveland and Youngstown.

The conveyor belt would actually be a series of 172 belts, each dumping its load onto the next. The belt would be enclosed in a tubular structure to protect the lading from both the weather and pilferage. Because it would cross an entire state from north to south, it would be necessary for the company to secure the right of eminent domain to enable it to condemn private property if owners won't sell. To secure this right, the belt line would be incorporated as a common carrier. The estimated cost of building the belt line is $210 million, which is a lot more than it would cost to build a 130-mile railroad, but a lot less than building the railroad and equipping it with sufficient rolling stock to equal the capacity of the conveyor, which is figured at 20 million tons of northbound coal and 32 million tons of southbound iron ore a year. The belt would operate at slightly less than 7 miles per hour, but once the operation was started it would deliver coal at a rate of 3400 tons (68 carloads) an hour, and ore at 5400 tons an hour.

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A Rubber Railroad in Ohio

[*By* PAUL J. GARFIELD* *and* GEORGE W. THATCHER*

EARLY in 1949, in Cleveland, Ohio, Mr. H. B. Stewart, Jr., President of the Akron, Canton and Youngstown Railroad Company, announced plans for a revolutionary mode of cross-country transportation for millions of tons of coal, iron ore, and limestone. Riverlake Conveyor Belt Lines, Inc., was organized to construct and operate a 130-mile conveyor belt system which would link Lake Erie at Lorain with the Ohio River at East Liverpool. Youngstown and Cleveland would be served by spurs as indicated on the accompanying map.

1. *The Conveyor Belt*

The Riverlake conveyor would be composed of a series of 172 separate belts, or flights, running across country to take advantage of the most level terrain. These individual belt flights would run from distances ranging from 2000 to 3800 feet, depending upon the contour and gradient of the right-of-way. At the terminus of each flight, or transfer point, the load would pour automatically onto the next belt in line. The Riverlake belts would carry loads in two directions, utilizing top and return runs of the conveyor by reversing the belts at each terminus in such a way that the return run of the belt rides on the same plane as the top run—instead of directly beneath it.

Enclosed for their entire distance in a steel gallery mounted on an elevated structure 22 feet above ground, supported at this minimum height by steel bents located 125 feet apart, the main and spur lines would be able to span all highways, railroads and rivers at sufficient elevation to clear all traffic and to permit normal farming operations under the line where it crosses fields. The steel gallery enclosing the belts would be 8 feet high and 18 feet wide and would provide ample space for workmen to move along a lighted walk to service belts or idlers. It would allow year-round operation in spite of possible adverse working conditions created by snow or rain.

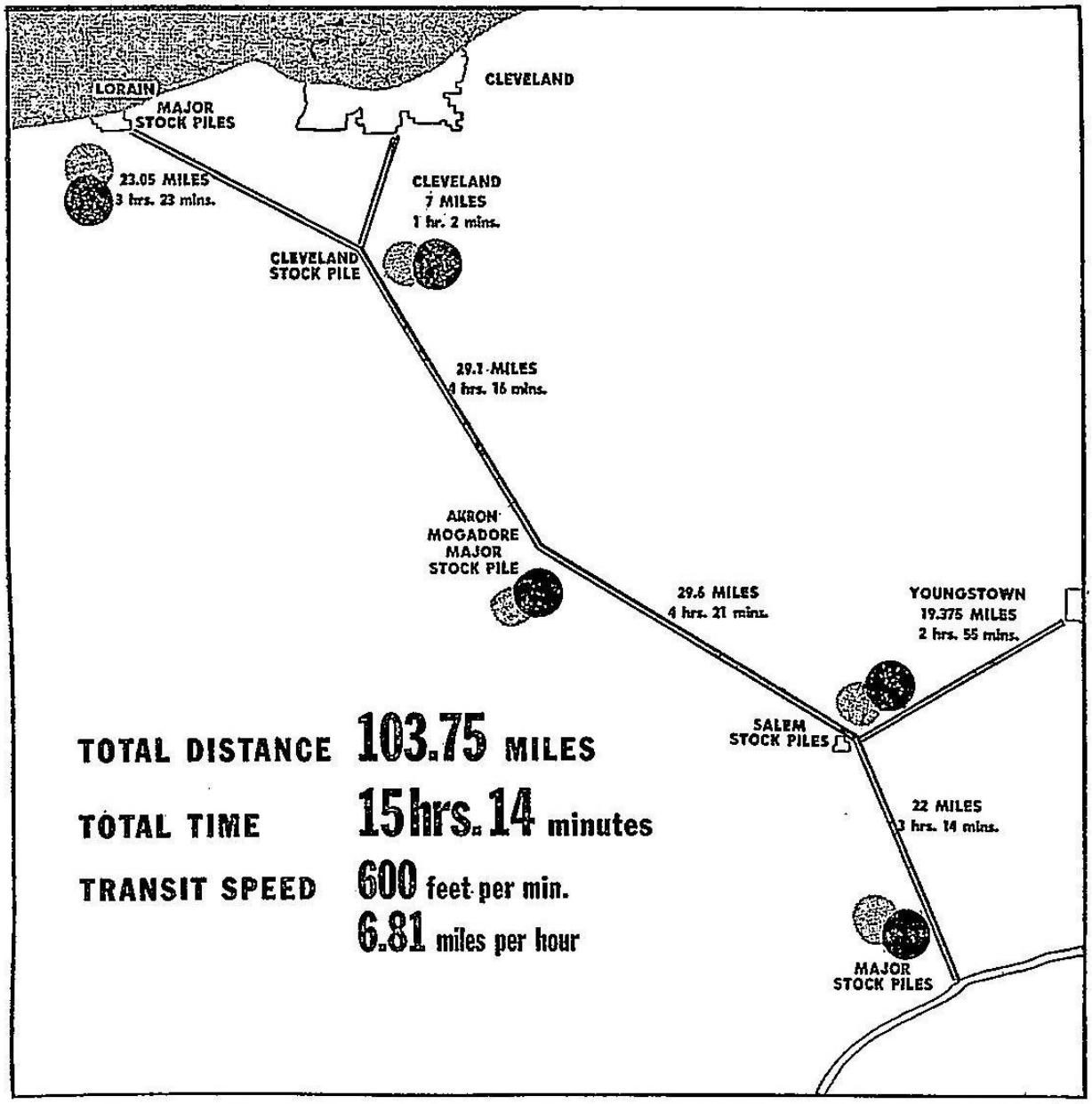
Ore vessels would be unloaded at new dock facilities in Lorain, designed to handle at high speed the huge tonnages anticipated. Ore would be unloaded directly onto the main belt line or diverted to a storage belt system, while at an adjoining dock, northbound coal would be loaded at a claimed rate of eight minutes per vessel. Stock piles supplied by the storage belt system would be located outside Lorain to avoid using high-cost waterfront property. Each storage unit would consist of 90 piles, each pile having the capacity of the largest freighter. Coal for reshipment by water would be storaged in a separate area for loading onto ore-ships when emptied.

Among the features of the project would be the establishment of a modern coal-washing plant as an integral part of the system. More than one-third of the bituminous coal produced today is not properly cleaned and graded before leaving the mine. The Riverlake washing plant would enable mines which do not now have cleaning equipment to find better markets and pave the way for increased coal production. This plant would be located at some distance inland, between the Ohio River and Salem Junction, so that all coal traveling the system could be processed if necessary.

* Miami University, Oxford, Ohio.

Modern terminal facilities would be erected at the Ohio River to handle the loading and unloading of barges. In order to transfer the anticipated maximum load of 20,000,000 tons of coal per year, inbound by barge, the terminal would be equipped to unload 66,000 tons of coal per day. Multiple unloading stations would be employed to feed the coal from barges into the storage area or directly onto the main line. After unloading coal, barges would move through a clean-up station to the ore-loading dock. Here an anticipated 19,000,000 tons of ore would be loaded per year—15,000,000 for upstream mills, 4,000,000 for those downstream.

One of the most unique features of the installation is that the entire system would be electrically operated and controlled from a single master-switch panel. By merely pushing a button, an engineer



Map above prepared by the Riverlake Belt Conveyor, Lines and presented with the original announcement of the project as a tentative route. Shows possible route of the conveyor and its speed between key stock piles, junctions, and terminals along the two-way main line and one-way spurs to Cleveland and Youngstown.

could put all sections of the line into operation, divert cargoes onto spur lines, or in and out of storage piles. An electric-eye warning system would prevent any pile-ups along the line by automatically stopping belts when a jam occurs. Being electrically driven, the system would be noiseless and fumeless.

Physical Feasibility. Over $500,000 on research has been spent by the Engineering Council. Engineering staffs of more than 24 leading companies in the belt-conveyor transportation, electrical, steel, ore and coal-producing fields and in lake vessel operations have contributed to the work of the council. Under the direction of the Stone and Webster Engineering Corporation, every phase of design, construction, and operation of the conveyor has been analyzed by competent engineers.

The feasibility of the belt conveyor has been demonstrated on many of America's difficult engineering jobs, involving the transportation of millions of tons of rock, ore and coal by conveyor belt. Most of these big belt jobs were installed by the Goodyear Tire and Rubber Company whose engineers designed the two-way conveyor belt that is the heart of the Riverlake system. Goodyear built the world's longest single-conveyor belt, a mile-long flight used to haul rock aggregate for the construction of Grand Coulee Dam. Now more than ten years old, this belt is still in service in another high-tonnage operation.

The world's longest conveyor belt system, up to now, was the historic 10-mile belt line employed in the construction of Shasta Dam. This line consisted of 26 belt flights and carried more than 11,000,000 tons of rock. At Anderson Ranch Dam in Idaho, another 2½-mile belt system demonstrated the ability of conveyors to operate over steep mountainous terrain. In coal mine service a single installation of conveyor belts has carried 40,000,000 tons over a 13-year period with less than 27 hours lost time due to belt trouble. The Riverlake system is a larger-scale extension of a haulage method that has demonstrated its feasibility and efficiency.

Economic Feasibility. A single word describes the economic application of a belt conveyor system. That word is "volume." Like most forms of transportation involving large fixed costs, the more volume handled by the belt conveyor up to its capacity, the lower will be the cost per ton handled. Large volumes will be necessary to insure the economic feasibility of this rubber railroad.

Let us consider for a moment the area's potential tonnages. Within the area bounded by Lake Erie and the Ohio River, Pittsburgh in the east, and Lorain, Ohio, in the west, is one of the world's greatest concentrations of blast furnaces, steel mills and other heavy industries. Aptly called the American Ruhr, this region is one of the key bulwarks of our national economy. The steel mills to be served directly by the line in Youngstown, Cleveland, and Lorain, currently can consume 11,000,000 tons of coal annually. Steel plants in Canada, Detroit, and Duluth consume another 7,000,000 tons of coal each year. This all can move northbound on the belt conveyor from the Ohio River. There are additional coal delivery potentials of 1,000,000 tons in the Akron area; 5,000,000 tons of other industrial coal, and domestic coal, including that consumed by home owners, totalling 5,000,000 tons in Cleveland. The grand total of potential coal traffic is 29,000,000 tons a year.

To supply these coal requirements, it would be necessary to move the coal by barge from the main coal-producing fields which now serve this area—Pittsburgh, Connellsville, Fairmont upstream,

and Ohio Number Eight, downstream. More than 24,000,000 tons of coal are carried by barge each year from mines on the Monongahela River. Some 18,000,000 tons of coal move annually along the upper Ohio River between Pittsburgh and Powhatan Plant. These immediate fields, through increased production, could supply the conveyor belt with the minimum coal requirement needed to realize low rates. Also, it is anticipated that favorable rates might bring coal upstream from the more distant Kanawha, Pocahontas, and Kentucky fields.

The advocates of the conveyor belt have established minimum cargo requirements of 30,000,000 tons annually; initially 15,000,000 tons of coal northbound and 15,000,000 tons of ore and stone southbound. It is claimed that minimum tonnages actually could be materially lower with resulting rates still well under the railrates. Such a minimum would have to be assured before the project could be started. From the potentials described, it is concluded that the required minimum could be assured if the lower rates claimed by the conveyor line can be established.

II. Principal Legal aud Economic Issues

Is the Conveyor Belt a Common Carrier Entitled to the Power of Eminent Domain? The primary issue before the Ohio Legislature in 1951 was the validity of the belt conveyor's claims to common carrier status and the right of eminent domain. In many instances it is difficult to distinguish between a contract carrier and a common carrier. Although there is no express definition of a common carrier in Ohio statutes, court decisions have clarified the concept. "A common carrier is one that undertakes, for hire or reward, to carry or cause to be carried, goods for all persons who may choose to employ him, from one place to another."[1] Again, "To constitute a common carrier there must be a dedication of property to public use of such character that the product and service available to the public generally and indiscriminately, and . . . the carrier must hold himself ready to serve the public indifferently to the limit of his capacity . . . If a carrier is employed by one or a definite number of persons by a special contract, or for a special undertaking, he is only a private carrier."[2]

The Interstate Commerce Commission has done much to distinguish between types of carriers. In determining the status of a carrier the Commission has said: "The essential consideration is the general character of his business and of his holding out to shippers . . . . Does he confine his services to specially selected shippers, or does he, in substance and effect, offer his services, within the limits of his capacity, to shippers generally who desire such transportation as he undertakes to furnish? The number of shippers for whom a carrier performs transportation has a bearing on this matter, as has the character of the contracts under which the service is furnished. Neither is controlling, but both are to be considered, along with other evidentiary facts, in determining the general character of the business and nature of the undertaking."[3] A contract carrier, on the other hand, serves a single patron or a very limited number. The contracts do not cover single shipments but are contracts under which the carrier agrees to transport a series of shipments over a period of time. The service performed is usually of a specialized type adapted to the special needs of the particular shipper or shippers served.

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[1] *United States Express Co.* v. *Backman*, 38 Ohio State 144, (1872).

[2] *Hissam* v. *Guran*, 112 Ohio State 59, (1925).

[3] *Slagle Contract Carrier Application*, 2 M.C.C. 127, 134 (1937).

The railroads assert that the belt conveyor would be neither a public utility nor, more specifically, a common carrier utility, and that thereby it is ineligible to receive a grant of the power of eminent domain. If willingness to serve all the shipping public indiscriminately is used as a criterion of a common carrier, the belt conveyor, say the railroads, seemingly fails to meet the test. The belt conveyor is not designed to carry all commodities, but instead, is intended to carry coal, ore, and limestone. In fact, belt proponents have cited expected annual traffic figures in terms of tons of coal northbound and tons of ore and stone southbound. The specialized nature of the belt conveyor is pointed up by the admission that there is no anticipation of package freight traffic. The President of the Riverlake Belt Conveyor Lines, Inc., stated in a debate before the City Club of Cleveland, "Package goods is one of those things that belong to the railroads and we don't want to get in it."[4] The few commodities which the belt conveyor desires to carry, when compared with those which it has no interest in carrying, seem to indicate that an indiscriminate offer to serve is not made. The opponents of the belt point out that if this is the case, common carrier status is thereby precluded, for, "the distinctive characteristic of a common carrier is that he undertakes to carry for all people indifferently."[5]

The proponents of the belt contend, however, that the Riverlake will be a common carrier just as are the pipe lines, the power lines and other public utilities. It is generally accepted that the business of a common carrier may be restricted within such limits as he may deem expedient and he is not bound to accept goods out of the line of his usual business. It is pointed out that the one thing which makes necessary the handling by the railroads of "everything" they are offered by the public is the fact that the railroads have set themselves forth, through tariffs and/or charters, to handle substantially all commodities. Only because the railroads asked for such business originally and because they formalized such requests are they required to handle all commodities today.

Riverlake, under the conveyor bills submitted to the Ohio Legislature, must accept indiscriminately all tonnages, large and small, offered to it of those materials which it sets forth to handle and hence would meet this requirement of a common carrier.

The railroads further point out that the offer to serve made by the belt conveyor is limited not only by the nature of the commodities it appears willing to handle, but also by the limited number of shippers it is intended to serve. A useful criterion here is *ability* to serve. The ability of the belt conveyor to serve all shippers in an area is seriously impaired by the absence of facilities able to provide wayside pickup and delivery. Customers must have access to terminal points. Those located between these points cannot buy service. It seems, then, that the belt conveyor will not be dependent upon a great number of customers shipping a diverse assortment of freight. Instead, traffic is expected to derive from a few large customers, primarily steel companies, whose specialized needs may well be served by the belt conveyor. That these conditions exist and that they militate against common carrier status for the belt conveyor is what the railroads contend. President Stewart of Riverlake suggested the nature of prospective customers when he stated:

[4] *The Rubber Railroad, A Summary of Legislative Hearings* The Special Transportation Committee, (a private organization) Columbus, Ohio, 1951, p. 8.

[5] *Columbus-Cincinnati Trucking Co.* v. *Public Utilities Commission of Ohio*, 141 Ohio State 228, (1943).

"We have been questioned as to whether or not we are a common carrier. Because of financing requirements, we must contract for roughly half of our tonnage."[6] Further information on the limited ability to serve of the belt conveyor is furnished by Mr. J. W. Huffman, counsel for the proponents, who testified: "as is well known, the nature of the commodities which will be hauled here—such as iron ore, coal, and limestone—and from the nature of the commodities to be transported, undoubtedly the most of the hauling will have to be done under contract between the belt conveyor line company and the shippers."[7] These indications of a limited ability to serve the public while depending heavily on contractually assured business do not contribute to the claim of the belt conveyor that it is a common carrier. The Supreme Court of Ohio has held that: "the authorities are equally uniform in holding that if a carrier is employed by one or a definite number of persons by a special contract, or for a special undertaking, he is only a private carrier."[8]

However, it has been held that the fact that a person agrees to carry goods for others only upon condition that they sign a contract for such employment, which is therein designated as a private contract, does not divest such business of its public character, so as to prevent such person from becoming a common carrier, if he holds himself out as being ready and willing to carry for all responsible persons who will sign such contract.[9] As the conveyor belt will not be employed by only a definite number of shippers and as the rubber railroad, under the proposed legislative statute, must accept indiscriminately all tonnages, large and small, offered to it, proponents contend that the contractual character of the conveyor belt does not preclude its classification as a common carrier.

The railroads maintain that the unlikelihood of the belt conveyor's proving common carrier status is increased when it is noted that the legislation it sponsors makes no provision for effective rate regulation. Practically all of the traffic included in the belt conveyor estimates is interstate because it originates in and/or is destined to other states. Even Ohio-mined coal shipped by belt to Ohio points, would be interstate because the Ohio River is not in Ohio. Since no federal law regulates belt rates, it is concluded by the opponents of the belt that there would be no effective rate regulation. This might be interpreted as an indication that little other than contract business is anticipated. Since the conveyor belt proponents have indicated the contractual nature of their proposed customer-carrier relationship and in view of the absence of rate regulation, the railroads again assert that the belt conveyor is not a common carrier because it performs the transportation service for specific customers at prices fixed in each case by definite contract.[10]

By showing that the proposed belt conveyor would not carry all commodities nor serve all customers, the railroads conclude that the proposed belt conveyor is not a common carrier public utility and hence not eligible to acquire the right of eminent domain, for, "to constitute a public utility, the devotion to the public must be of such character that the product and service is available to the public generally and indiscriminately."[11]

It is important and interesting to note that in 1951, in the same year that the

[6] *Facts about the Belt Conveyor*, The Special Transportation Committee, Columbus, Ohio, 1951, p. 10.

[7] *Ibid.*, p. 10.

[8] *Hissam* v. *Guran*, 112 Ohio State 59, (1925).

[9] *Breuer* v. *Public Utilities Commission of Ohio*, 118 Ohio State 95, (1928).

[10] *Columbus-Cincinnati Trucking Co.* v. *Public Utilities Commission of Ohio*, 141 Ohio State 228, (1943).

[11] *The Southern Ohio Power Co.* v. *Public Utilities Commission of Ohio*, 110 Ohio State 246, (1924).

Ohio Legislature failed to grant common carrier status to the belt conveyor lines, the same legislature did classify businesses transporting coal or its derivatives through pipes or tubing as common carriers.[12] The authors fail to see any distinction in determining common carrier status between transporting coal or its derivatives through pipes or tubing and transporting the same commodity through an enclosed conveyor belt. In view of the above, it appears that the weight of the argument rests with classifying the belt conveyor as a common carrier.

If the rubber railway is not a common carrier, it is doubtful if it could be granted the power of eminent domain. The Supreme Court of Ohio has stated: "It [the power of eminent domain] may be used to appropriate lands for a public highway of any kind; and this whether the road is built and owned by the public, or by a corporation as a public instrumentality: provided it is kept open for public use, as a matter of right; or, according to the nature of the work, the corporation is made a common carrier of goods or passengers."[13] Again, with reference to "public highways": "Such works may be constructed, in whole or in part, by the public, by means of taxation, or through the instrumentality and with the means of private individuals incorporated for the purpose; and, under suitable regulations—according to the nature of the work—obligated to keep them open for general use, or made common carriers of passengers or goods. In either mode, the great end is attained —a public highway, open to the use . . . of the public at large."[14] It is doubtful if the conveyor belt could meet the above requirements if it were not also classed as a common carrier.

Will the Belt Conveyor Aid National Defense? The proponents of the rubber railroad claim that the belt conveyor would mean much to national defense. It would aid in meeting the transportation demands, already one of our serious production bottlenecks, by serving as an added artery of transportation. Our industrial capacity now is a third again as great as it was at the time of Pearl Harbor and has expanded over 2½ times since 1918. What has happened to the railroads in the interim? In 1949 the railroads handled less tonnage than they did in the year 1918. Following the two World Wars the growth of trucking, coastal and inland waterway transportation, pipe lines and power lines has generally fulfilled the increased transportation requirements. While the railroads have progressed in efficiency and in comfort for their customers, they now handle only a little more than one-half of the nation's intercity freight tonnage, belt proponents contend. The railroads cannot be blamed for this situation which results generally from conditions beyond their control. But the fact remains that because of the increased transportation requirements and because of their critical car shortage, the railroads often are not in a position to guarantee that they will be able to move the greatly increased tonnages of finished products to come from the expanded production. Riverlake claims, therefore, that all forms of transportation should be utilized to the fullest and additional arteries developed to handle the growing volume of defense production.

The proponents claim that the belt conveyor is a defense necessity as an aid to the protection of steel, power, and other production. The conveyor system could be quickly repaired in case of

[12] *House Bill 617*; *Senate Bill 131*, Ninety-ninth Ohio General Assembly, 1951.
[13] *Giesy* v. *Railroad*, 4 Ohio State 308, (1854).
[14] *Ibid.*, p. 326.

attack in contrast to the much longer time needed to reestablish railroad bridge structures and other vulnerable railroad operating points.

The railroads claim that the belt conveyor would weaken national defense through reducing the flexibility of the present transportation system serving basic war industries. More specifically, the railroads contend that loss of traffic to the conveyor belt would be so great that the present dock set-up and its dispersion along the Lake Erie coast could not be maintained. Ore-laden lake vessels connect with 13 railroad ore docks at 8 Lake Erie ports from Toledo to Buffalo, and 11 private steel company docks at 5 ports, all of which are equipped to unload ore boats. Twelve coal docks are provided at 10 ports to transfer coal from cars to vessels. On the other hand, belt conveyors would establish one port (Lorain) which would handle all the traffic the railroads move via numerous facilities at distantly separated lake ports. Should an emergency arise at one port, or should weather delays cause lake vessels to arrive "bunched," quick shifts to other ports or rail lines can be arranged. This broad choice of alternatives encourages optimum use of existing facilities and provides a flexibility that dependence on a single port could not begin to assure.

In answer to this claim of the railroads, the proponents of the belt conveyor point out that Riverlake will be a supplemental artery and not one of replacement of an existing artery. It is claimed that the value of Riverlake tonnage would amount to merely 2.48% of the 1948 gross revenues of the principal Ohio roads. Of the Riverlake capacity a maximum of only 7,000,000 tons of coal annually could be consigned to the ports for lake shipment. The remainder, approximately 15,000,000 tons, would be consumed at inland points served by Riverlake. Of the 1951 tonnage of approximately 60,000,000 tons of coal handled by rail delivery to the Lake Erie ports, Riverlake, at best, could have moved only 10% to 12% of this tonnage. This indicates that the rubber railroad would only supplement present critical shortages of transportation facilities.

Would the Economy Benefit or Suffer?[15] Currently the areas to be served by the Riverlake Belt Conveyor Lines consume 62,000,000 tons of coal and ore per year. Operating at its maximum capacity of 52,000,000 tons per annum, the Riverlake proponents claim to be able to cut transportation costs $45,380,000 yearly under existing rates. With a minimum of 30,000,000 tons the saving would be $20,000,000 per year.

The advocates of the conveyor belt offer to undercut railroad coal rates from river terminals to Cleveland-Akron-Lorain by $1.06 a ton, on 15 million tons annually, and boost that to $1.50 on the maximum capacity of 20 million tons. Youngstown would be served over a nineteen-mile spur belt. There the promised savings are 50 cents and 81 cents a ton. For carrying iron ore, Riverlake offers to better the railroad rate from Lorain to Youngstown by 47 cents a ton on a base of 15 million tons, 60 cents on the maximum tonnage of 32 million. Steel mills upstream would benefit proportionately since the belt would load into barges, an inexpensive carrier. For Midland and Monessen mills, upstream, Riverlake promises to reduce costs 53 to 66 cents a ton on Lake Erie ore, for downstream Weirton and Wheeling, 43 to 56 cents and 55 to 68 cents.

[15] The statistical data set forth by the proponents of the belt line and used in this section were drawn from a published address titled: *An Address by H. B. Stewart, Jr.*, (Akron, Ohio: The Riverlake Belt Conveyor Lines, Inc., 1949). The data set forth by the opponents were drawn from the publications indicated in footnotes 4 and 6, *supra*.

No very sharp pencil is needed to figure the dollars saved if Riverlake could make good on its promises. Potential savings to Youngstown on coal total over $3 million a year, on iron ore almost twice as much. The upstream mills would stand to save $9,900,000, the downstream ones, $2,249,000. Cleveland mills might pay $6 million less for their coal, the mills around Lorain, $4,500,000 less. Such figures seem to promise the rejuvenation of Ohio's entire steel industry. Although the state stands second in steel production with 20 percent of the national output, Ohio mills, especially those in the landlocked Youngstown area, have been hard pressed to compete with river-front and lake-front plants elsewhere. If these savings were realized, it would improve Ohio's economy by keeping existing industry there and attracting new plants because of cheaper transportation. It is further claimed by the proponents of the rubber railway that it would cut the fuel bills of coal consumers in the area served. It would save dollars for every buyer of steel products, from roller skates and automobiles to farm equipment, tanks and battleships.

Further, proponents claim that the belt would be a boon to Ohio's coal industry because lower coal transporting costs would expand coal's market. It is true that transportation rates may determine the extent to which the resources of a particular area are utilized, since freight rates may determine the extent to which profitable markets can be reached. However, it does not necessarily follow that the Riverlake belt would be a boon to Ohio's coal industry.

The railroads contend that the Ohio coal industry and its workers would be seriously damaged by the establishment of the belt. In 1938 more than 38 million tons of coal were mined; this was valued at the market at about $125 million. In that year employment averaged 20,000 while payrolls totaled $65,590,000. Although most of the coal mined in neighboring states is of a higher quality, Ohio mines have developed markets because of geographical advantages which are reflected in freight rates lower than those paid by producers of better coal which are not so advantageously located. The proposed belt would receive Pennsylvania and West Virginia coal at East Liverpool for shipment to what is now the primary market area for Ohio coal. It is feared that the only advantage Ohio producers now enjoy, favorable rates, would be eliminated where, currently, their advantage often amounts to a dollar a ton or more. It is likely that no Ohio coal would use the belt, for only one mine in the state, the Powhaton Mine (North American Coal Corporation), loads coal on the Ohio River. Even this producer opposes the belt because of the threat to existing rate structures by the belt whose rates would be regulated by no public authority. Thus, it is claimed that the economic stability of another important segment of Ohio's economy is threatened by the belt.

What the correct conclusion is can be determined only by a thorough study of the coal industries of Ohio, West Virginia, Pennsylvania, and possibly Kentucky. There is no doubt, however, that the belt conveyor, if it can make good on its promises, would be a boon to the coal industry in some of these states.

It is important to note further that transportation charges have important effects upon the location of industry. It must also be recognized that the importance of transportation charges will vary in different industries. If transportation costs are a large factor in the cost of production, and large relative to the value of the commodities produced, they may be the controlling factor in the location of

the industry. If transport costs are but a small part of the cost of production, and small relative to the value of the commodities produced, they may exercise practically no influence in the selection of locations. Apart from the effect of the reduced transportation charges on the steel and coal industries, there may be a large effect on the location of manufacturing industries with the concomitant problems of population shifts. Such changes in the location of industry may have beneficial or deleterious effects on the economy as a whole dependent upon the shifts that would occur. It is difficult if not impossible to conclude just what that effect would be.

The railroads further claim that while few economic groups would benefit, many would suffer from the conveyor belt. These opponents of the rubber railway claim that there has been no evidence shown that would indicate a public demand for additional transportation service. Those who testified at the legislative hearings have not represented broad shipper interests or the consuming public but only those parties which stand to gain directly. The rubber company which would supply the belt itself has the prospect of a $38,000,000 order initially, plus replacement every four years. The rubber workers, who also have an interest in the project, are of like mind. The building trades unions have given willing support to the plan. Power companies feel that they would gain through reduced coal costs and from new sales of power to the belt conveyor. Steel companies, especially in the Youngstown area, have an interest, too, because they would be served directly by the belt. Notably absent in the testimony for the project are those groups which do not have the promise of direct gain and those complaining of inadequate service.

While belt spokesmen have predicted savings ranging from twenty to sixty-five millions per year, the railroads claim that their estimated losses to the belt would be $118,764,000, or 18% of gross revenues and 71% of their bituminous coal and iron ore earnings in Ohio.[16] This potential loss would weaken the railroads and endanger common carrier service for, with decreased tonnage, rates would be forced upward on the remaining traffic while putting marginal lines out of business. The prospect is one of less service to the shipping public at higher rates.

The Riverlake people answer this claim by stating that the effect of the Riverlake tonnage would amount to merely 2.48% of the 1948 gross revenues of the principal Ohio roads. Further, they contend that railroad coal and ore traffic is a losing proposition. Consequently, the inference drawn is that the railroads have no logical basis for resenting increased competition in the transportation of these commodities. The premise and the conclusion bear further analysis.

The source material, cited by Riverlake in substantiation of this claim, is an information statement published by the Cost Section of the Bureau of Accounts and Cost Finding of the Interstate Commerce Commission.[17] In attempting to prove that the railroads lose money on coal and ore, Riverlake cites I.C.C. statistics which relate carload freight revenues to fully distributed cost by commodity in Official Territory. Accurately enough, Riverlake shows that each carload of bituminous coal (in 1948) provided only 83 cents in revenue for every one dollar of fully distributed cost in-

[16] *Op. cit.*, *The Rubber Railroad* (Testimony of Roy S. Kern, Chairman, Coal, Coke and Iron Ore Committee of the Central Territory Railroads) p. 10.

[17] *Information Statement No. 4-50*, Interstate Commerce Commission, Bureau of Accounts and Cost Finding, Cost Finding Section, Washington, D C., September 1950.

curred. Riverlake concluded that the railroads handled coal at a loss of 17 cents on each dollar of cost. For iron ore, Riverlake found that the railroads lost 23 cents on the dollar. Their conclusion, on the basis of the above, was inevitable.

The theory of railroad rates, currently prevailing, holds that some commodities need not bear all the costs allocable to their transportation, since bulky, low-value goods could not afford to move if apportioned their fully distributed costs. However, if such commodities are able to pay their out-of-pocket costs and make some contribution to constant overhead costs, there is economic reason to accept this business, for railroad costs are largely constant and any traffic which utilizes otherwise idle equipment, while returning something toward overhead, is desirable traffic. Professor Locklin writes that "this practice is called differential charging, or discrimination. The terms refer to differences in rates not justified by differences in cost of service. The practice of differential charging results in a situation which is very confusing to persons unacquainted with railway economics, for the railroad is found to be carrying some kinds of traffic at less than the full cost of service, yet is making a profit out of it."[18]

In light of the above it is evident that Riverlake should have consulted the relationship between carload freight revenue and out-of-pocket cost—not fully-distributed cost. If Riverlake's source, Statement No. 4-50 of September 1950, is consulted with regard to out-of-pocket cost, it is found that bituminous coal contributed $1.48 for each dollar of out-of-pocket cost. Obviously, this coal traffic is profitable; for it meets out-of-pocket costs and makes a contribution toward overhead, too. The situation with regard to iron ore is much the same. For every dollar of out-of-pocket cost, $1.56 was paid in by ore traffic. On the basis of the above, it would seem that the Riverlake claim that railroad ore and coal traffic is profitless is baseless.

On this same topic of revenue from various types of traffic, Riverlake holds that, in the long run, the railroads will benefit by the establishment of the conveyor. This view is based on the assumption that the conveyor would provide lower cost transportation for the bulk materials used in the industries served. Were this the case, the lower costs would attract new business and tend to keep production levels higher in the established firms than might be the case in the absence of the conveyor. The result of this, reason the belt proponents, would be an increased quantity of finished and partly-finished goods traffic. The conveyor statistics show, for example, that pig iron pays $1.26 for each dollar in fully distributed cost incurred. Steel billets and ingots bring $1.37, while manufactured iron and steel bring in revenues of $1.67 per dollar of expense. Proponents claim that a long-run increase in such traffic is definitely in prospect.

Further, the railroads claim that railway labor would stand to lose heavily since 48.7 cents of every dollar of rail gross revenue goes to employees. On the basis of the estimated revenue loss, the wage loss would exceed $57 million or about 15,000 unemployed. By contrast the belt has an estimated payroll of 1500 employees. The losses of the railroads and their employees would affect the communities involved through tax and purchasing power reductions. The Riverlake people contend that this is exaggerated because the railroads should not experience a drop in gross revenue

[18] D. Philip Locklin, *Economics of Transportation* (Chicago: Richard D. Irwin, Inc., 1947), p. 139.

due to the increase in the carriage of higher rated commodities.

Will the Belt Increase or Decrease Tax Revenue? The proponents of the rubber railroad claim that there would be no tax dollars lost to the state or any of its counties because of Riverlake. In fact, the existence and operation of the Riverlake conveyor system would pay into the counties through which it would pass and to the State a total of over $3,000,000. These would be added tax dollars.

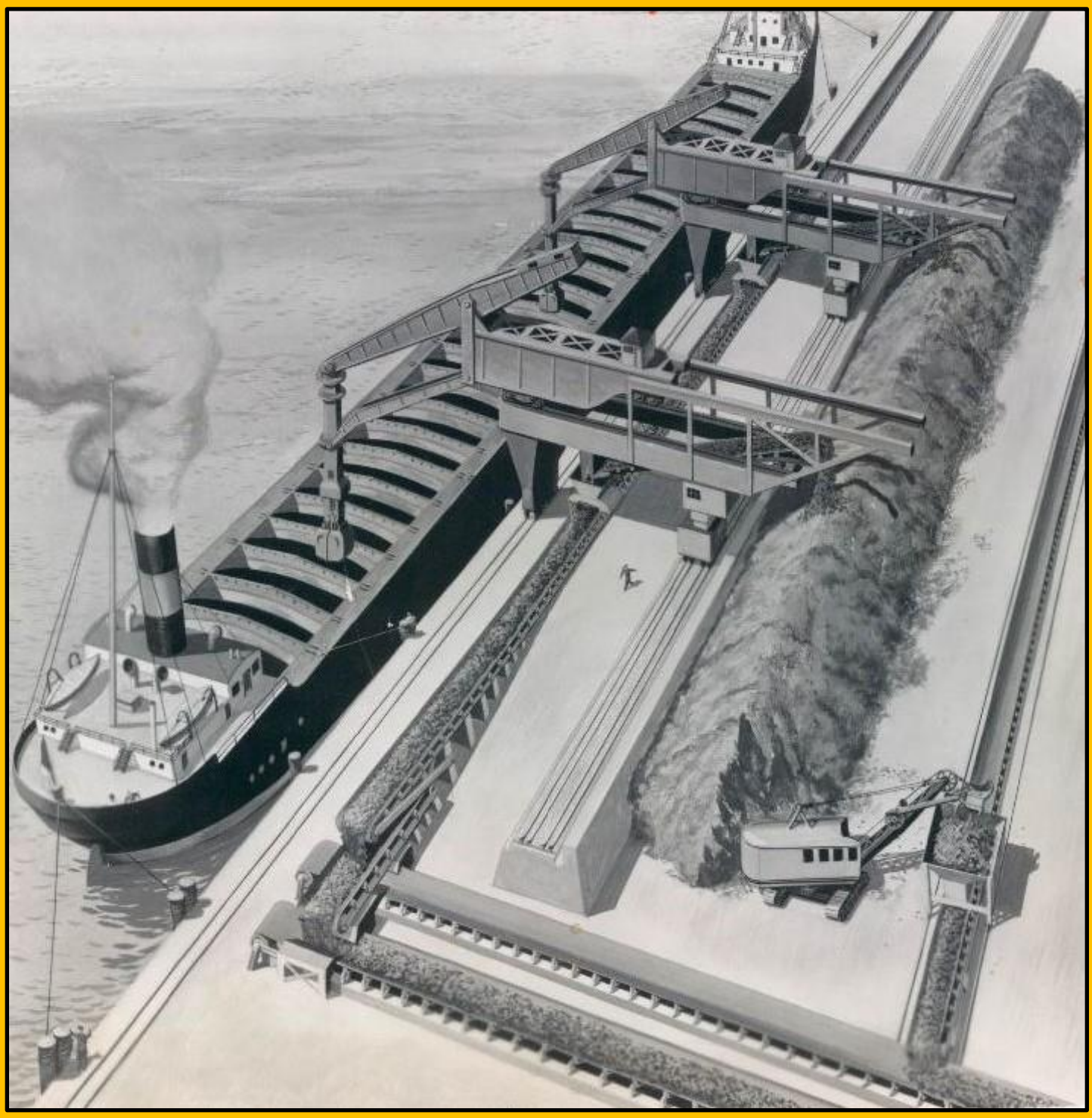
The railroads claim that the belt conveyor would cause a tax loss of serious proportions. The taxes involved here are a state gross receipts tax of 4 percent on intrastate business and the local ad valorem levy on railroad property. While the belt conveyor would be located wholly within Ohio, the traffic it handles would be almost entirely interstate and hence not subject to the Ohio 4 percent excise. The belt would receive no intrastate tonnage so long as its coal is received from barges at East Liverpool and its ore and stone from boats at Lorain.

The railroads claim that the establishment of the belt would cause an 18 percent loss in gross revenues earned in Ohio. In 1950 the railroads paid a total excise tax of $2,899,778. A loss of 18 percent would reduce state revenues by $521,960.

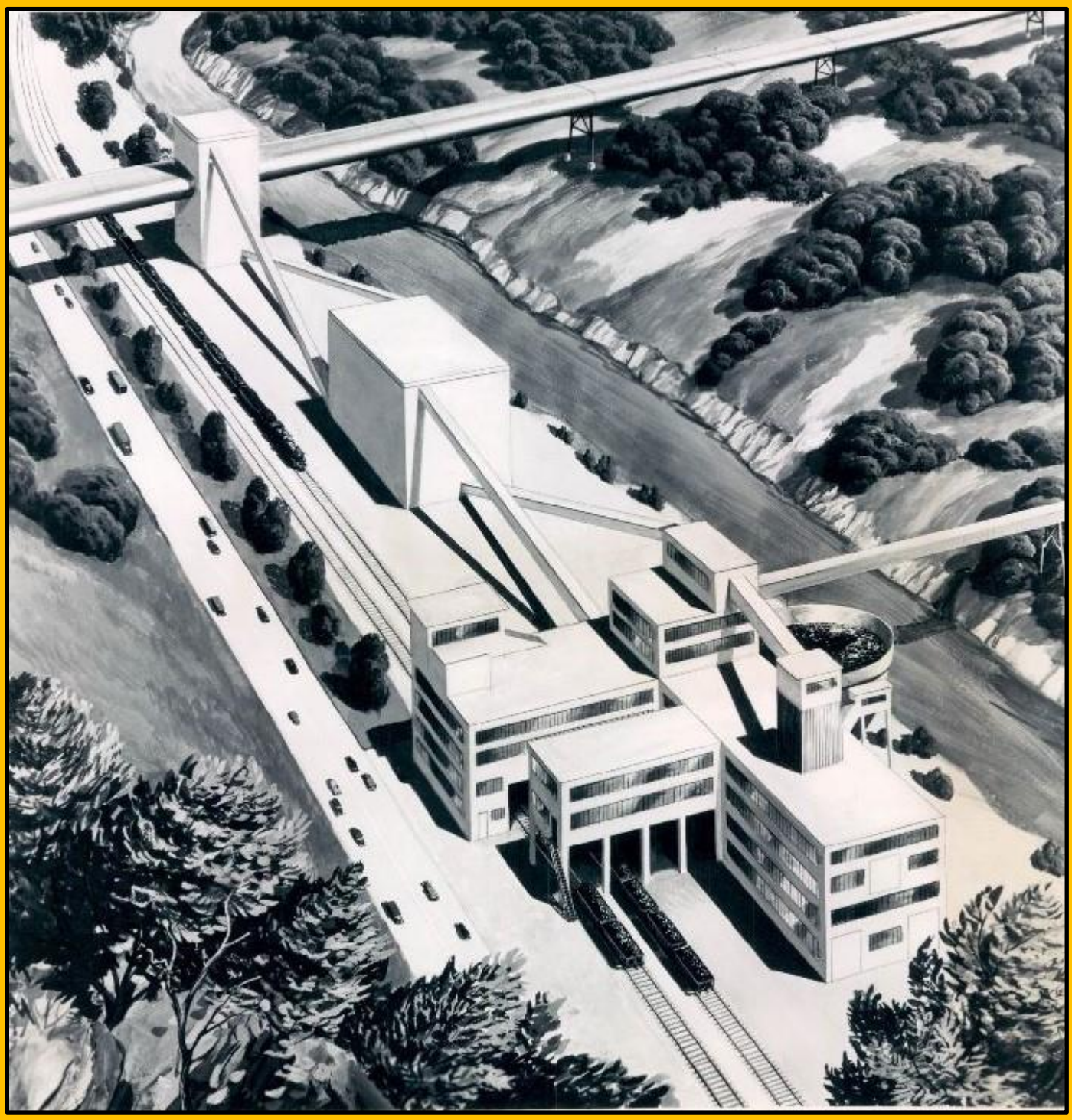
In 1948 the railroads paid a total ad valorem tax to Ohio political subdivisions amounting to $14,093,092. Of this amount, $10,222,650 was paid to those subdivisions in 42 counties providing the taxable situs of property serving prospective belt traffic. Reduced railroad assessments caused by loss of coal, ore, and stone tonnage have been estimated at $1,794,012, a decrease of 17.8 percent. The railroads contend that this tax loss could not be made up fully by the belt. The nature of this threat to public revenue is so serious that 117 city and village councils have passed resolutions condemning the belt, along with the commissioners of nine counties and the the members of 54 civic organizations in the area affected. This argument presupposes a drop in railroad traffic, and ignores the increase in traffic of the higher-rated commodities which proponents claim the belt should produce.

III. Conclusions

The weight of the argument seems to rest in favor of granting common carrier status to the belt conveyor. The point on which the issue turns is the fact that common carriers may designate the type of traffic to which the general offer to serve is made. Further, the fact that the Ohio Legislature classified as common carriers those businesses transporting coal or its derivatives through pipes or tubing, supports this conclusion. By serving as a supplemental artery the conveyor belt could contribute to defense efforts although the possibility exists that the installation of the conveyor belt, if successful, would cause the railroads to allow facilities to deteriorate. In the long run, then, there might be little net increase in facilities. Should Riverlake make a favorable showing in fulfilling its promises of lower transportation rates, the economy could benefit by lower costs and possible increased production. It seems doubtful that Ohio would lose tax revenue from the construction of the belt, although the likelihood exists that local hardships in some cases would occur while additional revenues were collected by others. Finally, the opportunity would be presented to acid-test long distance conveyor belts which might represent an important addition to our national transportation system.



Above: An ore carrier unloads her cargo at Lorain, Ohio, the Lake Erie terminal of the Riverlake Belt Conveyor Line's 130-mile main two-way system extending south to the Ohio River. Modern in every detail, conveyor belts will speed unloading and loading of lake vessels and substantially lessen turnaround times. Each lake terminal stock pile will have a storage capacity for 750,000 tons of ore and 680,000 tons of coal. Proposed docking facilities will enable three ore carriers to unload their cargos at the same time.



Above: A modern coal washing plant at the Riverlake Lines Ohio River terminal will process untreated coal in transit north via the conveyor carrier. Only one-half to two-thirds of the bituminous coal brought to the surface today is treated and graded at the mine site because high installation costs of cleaning equipment. Grading and cleaning of coal will be an integral part of the Riverlake Belt conveyor service and will pave the way for increased coal production and development of new mines where individual installations of such facilities are prohibitive.

Above: A typical transfer point on the Riverlake Belt Conveyor Lines is shown as loads of coal and iron ore are relayed from one belt to another. On the systems main line, 172 separate flights of belt will link Lorain on Lake Erie with the southern terminal near East Liverpool on the Ohio River. In each flight, the doubling back of separate units of belt result in a “twin track”, one for north-bound coal and the other for south-bound ore both moving at the rate of 650-feet a minute.

Above: A maintenance man on a service walk within the gallery of the Riverlake Belt Conveyor Lines checks the continuous movement of a single belt, simultaneously carrying north-bound coal and south-bound ore at an average speed if seven miles an hour. With a capacity load, the 130-mile cross-country conveyor will carry 3400 tons of coal and 5400 tons of ore per hour between Lake Erie and the Ohio River. Electrically-operated, the belts are self-policing and automatically halt their own movement by engaging a limit switch if, for any reason, they tend to wander from their bed of trough rollers.

Case Material for the Harvard Graduate School of Business - May 1955

Excerpts – complete document at U of A Archives

In March, 1955, the House Committee on Commerce and Transportation of the Ohio legislature voted to table a bill which would have given the right of eminent domain to belt conveyor lines in Ohio. This was the third time that the legislature had failed to favorable action of this legislation. It was a serious setback for those associated with Riverlake Belt Conveyor Lines, Inc., chief proponent of the legislation. The company proposed to build a coal and ore conveyor of belt line between Cleveland on Lake Erie and East Liverpool, Ohio, a port on the Ohio River, a distance of approximately 100-miles depending on the particular route selected. In the spring of 1955, Mr. H.B. Stewart, Jr., president of Riverlake, and also president of the Akron, Canton & Youngstown (AC&Y) Railroad, was considering what action, if any, he should take prior to the next biannual session of the Ohio legislature in 1957 in connection with a fourth attempt to secure the legislation which his company needed.

The idea for a belt conveyor line for coal and ore running between Lake Erie and East Liverpool on the Ohio River had its origin in some studies which the Akron, Canton & Youngstown Railroad had undertaken after World War II to determine the feasibility of expansion eastward. The railroad was a small carrier extending westward from Akron approximately 171 miles to Delphos, Ohio. No expansion of the railroad seemed feasible as a result of these studies, but Mr. Stewart's attention was drawn to the heavy north - south two-way haul of ore and coal and to the possibility that this traffic might be handled by a conveyor belt. His interest in such a project was stimulated by talks he had with friends in the Goodyear Tire & Rubber Company, a large manufacturer of belting and in various steel companies. Further conversations with Goodyear, with other manufacturers of conveyor belt equipment and with potential shippers for the belt line, namely coal companies, steel manufacturers and electrical utilities which would provide power to the belt line along its proposed route, served to convince him of the probable practicability and economic soundness of the project.

Exploratory engineering analysis of the conveyor line was financed by the AC&Y in the form of advances during 1948 and early 1949. A preliminary six months' study indicated that the project was feasible. Another six months was devoted to checking this conclusion and refining engineering data and cost estimates.

By February 1949, the general feasibility of the undertaking had been sufficiently tested so that it was publicly announced. With the aid of a New York public relations firm, a presentation on the project was made to the press on February 9th. The following day, an equally elaborate presentation was made to a group of about 150 potential shippers. News releases and feature stories appeared in the press the same day. The public announcement of the project aroused a substantial amount of public discussion and interest. In part, this appears to have been the result adroit public relations and in part because of the intriguing nature of the project.

Simultaneously with the public announcement of the project, Riverlake Belt Conveyor Lines, Inc., was incorporated with the capitalization of $500 in stock, all of which was issued to Mr. Stewart. This company was charged with the promotion and construction of the line. In exchange for the advances which the AC&Y Railroad had made to the project amounting to roughly $100,000, there was an understanding whereby if and when the line was built, the railroad would receive a contract for the management and operation of at a management fee of five cents a ton of coal and ore handled.

Legislative Efforts in 1949

One of the problems confronting the backers of Riverlake was the necessity of securing the right of eminent domain for the belt line so that it could condemn land over which it would have to pass. Without this right the building of the conveyor line would be impossible since any individual or company owing land on the proposed right of way could either refuse to see or at least charge extortionate prices for his land. Since the proposal would have diverted considerable traffic from the railroads, opposition to the line was early expected from them And, since in many cases it would be necessary to cross over the railroads, there was every reason to think that one or more railroads would block the building of the line unless it had the right of eminent domain are a specific list of common carriers. Belt conveyor lines are not included in the list. In order to launch the project successfully, it was then necessary to get a bill passed by the Ohio legislature adding belt conveyor lines to the list of common carriers with the right of eminent domain. Such legislation was introduced into the biannual session of the Ohio legislature on February 12, 1949 two days after public announcement of the project.

In an effort to get this legislation passed, Mr. Stewart and various backers of Riverlake made a series of speeches around the state talking before businessmen's lunches and other groups in the hope of arousing public support and understanding for the legislation. By the time the bill was acted upon the spring of 1949, Mr. Stewart estimated that he and his friends hand talked face to face to a total of 12,000 people. In addition, there had been a considerable public relations campaign through newspapers and other channels in support of the legislation. Nevertheless, the Ohio House Commerce and Transportation Committee voted totable the kill by a vote of 12 to 4. In the Senate, the bill was tabled by the committee by a vote of 5 to 3. Since the Ohio legislature meets only every second year, the next opportunity for securing favorable legislation was 1951.

The Ohio legislature is made up of 133 house representatives and 33 senators. All members are elected every two years. As in many other states, the Ohio legislature appears to be rural-dominated with a high proportion of the members representing rural districts despite the substation number and size of industrial and urban communities in the state. Membership on legislative committees tends to go by seniority. There is a considerable amount of informal give and take among the legislative leaders and the senior members of positions on the "better," i.e. more powerful, committees such as the Rules Committee. Because there is a heavy turnover of membership from session to session, the membership in the individual legislative committees tends to change rapidly.

In the 1949 session of the legislature, opposition to the bill granting Riverlake Lines common carrier status and the right of imminent domain came largely from the railroad industry, organized in the Ohio Railroad Association who secretary was Mr. Earl Shively. He had represented the railroads successfully for many years at Columbus and was widely known in legislative circles. Direct railroad opposition to the legislation was organized in a Special Transportation Committee under leadership of Mr. Uible.

The principal arguments used by the railroads against the legislation may be briefly summarized as follows. The belt line was not in fact a "common carrier" but rather a contract carrier because it would not be open and available to all shippers and it was limited to two commodities, coal and ore. A second argument was that Riverlake would deprive the railroads of a sufficiently large volume of tonnage so that the railroads, already hard pressed financially, might be unable to continue to provide needed services unrelated to coal and ore. The railroads also argued that such curtailment of service would result in a heavy loss of jobs among railroad workers and a drastic curtailment of railroad taxes.

The Goodyear Tire & Rubber Company undertook the job of locating a line topographically from a series of aerial stereopticon photographs. It was proposed to use a belt 48" wide to carry ore and a 72" belt to carry coal. These would run parallel to each other inside a covered tube. Actually, the line would consist of a series of belts feeding one into the other at transfer points. The distance between transfer points depended on the terrain, grade and similar matters. Although originally proposed to have a straight line from East Liverpool, Ohio to Lorain, a coal port slightly west of Cleveland, later modification of the route called for a dogleg between East Liverpool and Youngstown, Ohio and thence northwest in a straight line to the Cleveland loading docks. Extensive coal and ore handling facilities would be available at Cleveland and East Liverpool so that coal and ore could be transferred from and to lake boats, while at East Liverpool transfers could be made to and from Ohio River barges. At Youngstown, coal and ore would be dropped off to the various steel companies there; and, in Cleveland and elsewhere along the line, it would be possible to drop off coal at the plants of various large utility companies.

Situation in 1951 and 1953 and 1955 Campaign

Because of the possible legal issue as to whether a belt conveyor line could or could not be properly classified as a common carrier entitled to the right of eminent domain, the bill which would have given such status to Riverlake was introduced initially in 1951 into the Senate Judiciary Committee. However, after a series of favorable hearings, the bill was tabled and for a second time, the bill was defeated.

Another attempt to introduce legislation was made in 1953, though the Riverlake proposal was overshadowed by a controversial axle-mile tax on trucks. It was determined through a detailed appraisal of the chances of receiving favorable action would not receive adequate attention. Accordingly, no Riverlake bill was introduced in 1953 despite considerable preparatory work.

A serious effort was made during the 1955 campaign to secure the support……

Disposition of the Riverlake Conveyor proposal is available in this document and others donated by Bob Lucas to the University of Akron Archive.

FACTS

ABOUT THE

BELT CONVEYOR

The Special Transportation Committee

16 East Broad Street

Columbus 15, Ohio

With great fanfare of promotional publicity, the Riverlake Belt Conveyor Lines on February 10, 1949, announced plans for a belt conveyor across north-eastern Ohio, linking Lake Erie at Lorain with the Ohio River at East Liverpool and having spur lines to Cleveland and Youngstown, all for the purpose of transporting iron ore, coal and limestone which are the raw materials for making steel.

Bills were promptly introduced in both houses of the Ohio Legislature seeking the right of eminent domain for belt conveyor companies, that is, the right to condemn or appropriate private property for their construction. The railroads of Ohio promptly challenged this proposal and set up a Special Transportation Committee to oppose it before the Legislature.

The Right of Eminent Domain

Only those who serve the public indiscriminately are entitled to receive the right to condemn private property, the protection of which is a sacred duty of the state. Public utilities or common carriers such as the railroads are given the right of eminent domain because the use which they make of the property taken is a public use. The belt conveyor does not qualify as a public utility or common carrier because it is intended for the transportation of only three commodities to and from a very limited number of shippers and receivers with large tonnages, such as steel mills. It will not serve the public indiscriminately because it is not intended for it to accept or deliver small quantity shipments from one wayside point to another.

It was admitted by proponents in hearings before the legislative committee that half of the tonnage for the belt would be contract commitments for particular shippers or receivers. The railroads asserted the belt would be a contract or private carrier, that it was conceived as such, and therefore, was not entitled to the right of eminent domain.

During the course of the hearings, amendments to the bills were offered on four different occasions by the authors, in an attempt to qualify the belt conveyor companies as common carriers and place them under the same regulations as public utilities, but their efforts did not change the

essential nature of the scheme. It was still a contract carrier and not a common carrier. The small shipper and the public generally would have no service from the belt conveyor, nor could they get any. It is pertinent here to point out that the final bill offered would have resulted, if enacted, in complete confusion and made it impossible for the Public Utilities Commission of Ohio or the Courts to determine the intent, aside from serious omissions of provisions of the General Code regulation railroads and protecting the public.

Claims of Savings in Transportation Costs

Mr. H. B. Stewart, President of the AC&Y Railroad, as President and chief spokesman for the Riverlake Belt Conveyor Lines, Inc., claimed large savings to shippers though lower transportation costs on coal, iron ore and limestone. Forecasting a potential annual tonnage for the belt of 52,000,000 he would take traffic from the Ohio railroads which produces $116,435,000 annual revenue at the current rates. The support he received from certain steel companies and electric power companies shows they expect to benefit from lower rates on these commodities, but there was no showing that the small user could benefit or even get service. For example, on coal moving to a retail coal dealer or small industrial plant in Cleveland from the Fairmont district in West Virginia, the combined cost by belt conveyor would be greater than the actual rail rate from the Fairmont district to any delivery in the city of Cleveland.

A few large shippers and users of coal and iron ore would benefit by the proposed lower transportation costs, but these savings would not be reflected in lower costs to consumers of steel if past history and experience is worth anything. Coal, iron ore and fluxing stone constitute over 52% of the revenue carload traffic and produce over 34% of the gross freight revenues of eleven railroads which would be directly affected by the proposed belt conveyor line. This traffic moves in large concentrated volume for the most part and the railroads could provide lower rates on it too if they could disregard and dispense with their common carrier obligations to the public and move only coal and iron ore on a single line of road. The proposed lower rate on the belt conveyor would not be made possible by reason of any inherent advantage that the belt has as a transportation medium, but rather because they have selected a type of traffic that moves in large concentrated volume, utterly disregarding the tremendously important common carrier services rendered the public by the railroads on this and all other types of traffic.

Who Benefits?

We have referred to the benefits expected by steel mills and certain public utilities. The rubber company supplying the belt itself is also supporting this proposal – they will sell #38,000,000 worth of belt for "rubber railroad" and replace it every 3 or 4 years. Other suppliers of the material for construction in large quantities also favor the proposal.

Mr. Stewart has secured large support in the Youngstown area, because the steel mills saw a chance to get the equivalent of the canal they have been advocating for many years. He says "we discovered that it would be necessary to preserve Youngstown's steel industry". This Youngstown myth has long been foisted on the public to secure sympathy for the canal, the statement being repeated over and over that they cannot compete with other steel centers which have more favorable location on waterways and that their industrial growth is stifled. However, a publication of the Greater Youngstown Area Foundation does not indicate they are in trouble. Let us quote: "Because of superior rail facilities, industry in Youngstown is able to serve more customers within a given distance over a single railroad than any other city of comparable size. The City's efficient railway facilities with its exceptional location with refence to raw materials and markets, effect a minimum length of haul on freight shipments

In 1948, the Youngstown Sheet & Tube Company which ranks fifth nationally in ingot capacity produced at 99.1% of capacity and had net income of 9.4% of sales, higher than all but one of the major steel companies. The 1947 showing was relatively as good. Since defeat of the belt conveyor proposal in the 98th General Assembly of Ohio, they have announced a $4.5 million expansion at the Youngstown mills and other steel firms in the area are also spending large sums for improvements and expansion. Again, we quote from the Greater Youngstown Area Foundation: "During the nine years between 1936 and 1945, the ingot capacity of the steel mills in the Youngstown district, according to Iron Age, increased 22.4%. This increase during the period indicated compares with 22.2% for the United States and the increase in the Pittsburgh district was 10.3%. Youngtown got along better than Pittsburgh during the depression period of the 1930's. They did not suffer from unfavorable location or lack of adequate transportation facilities.

When, therefore, the belt people make statements adopting Lake Erie and Ohio River Canal propaganda, they should be taken with more than the usual "grain of salt". It is, of course, common knowledge in railroad circles that some years ago Mr. Stewart, as President of the AC&Y Railroad, had the idea for extending the rails of his company to Youngstown. That plan, it is true, was abandoned; but, we think, not for the reasons Mr. Stewart and others repeatedly asserted. More probably, he found that Youngstown has enough, perhaps too much, railroad service and that it, therefore, would be impossible to secure the necessary "Certificate of Public Convenience and Necessity" from the Interstate Commerce Commission (ICC).

Why the Railroads Oppose the Belt Conveyor

Coal and ore traffic in this area, because of its large volume, is one of the most remunerative kinds of railroad business and requires a large capital investment in coal and ore docks, handling machinery, tracks and yard facilities at the lake ports together with locomotives and cars devoted to this work. The potential revenue loss to the railroads is $116,435,000 annually or approximately 18% of the total revenues earned in the state of Ohio. This business is a vital factor in maintaining the entire railroad transportation plant and such a loss would tend to increase the unit cost of performing the remaining service with consequent higher rates for it.

There is no lack of adequate transportation in northeastern Ohio and at most times facilities are more than adequate. In no other area is there a similar moss movement where cars can move loaded with coal in one direction and return loaded with ore, and that is why the belt conveyor wants to build here and rob the railroads of this desirable traffic, leaving the business they do not want or cannot handle, namely the common carrier business to the railroads. The railroad is the only transportation agency which can and does hold itself out to handle and kind of proper or goods for any person in any quantity and it is therefore the only one which performs a true common carrier service for the public by law and by practice. The railroads do not want that ability vitiated by a contract carrier seeking only to grab selected traffic and not replace the railroad obligation to give common carrier service.

Final disposition of the Riverlake Belt Conveyor proposal is available for perusal in this document and others recently donated by Bob Lucas to the University of Akron Archives.