

FINANCE DOCKET No. 7359

FINANCE APPLICATION OF DELAWARE & HUDSON
COMPANY AND DELAWARE & HUDSON RAILROAD
CORPORATION

Submitted November 14, 1929. Decided January 16, 1930

1. Certificate issued authorizing the Delaware & Hudson Company to abandon the operation of the lines of railroad now operated by it in the States of New York, Pennsylvania, and Vermont. Condition prescribed.
2. Certificate issued authorizing the operation by the Delaware & Hudson Railroad Corporation of certain lines of railroad now operated by the Delaware & Hudson Company in the States mentioned.
3. Acquisition by the Delaware & Hudson Railroad Corporation of control (a) of the Greenwich & Johnsonville Railway Company, the Schoharie Valley Railway Company, the Cooperstown & Charlotte Valley Railroad Company, the Cooperstown & Susquehanna Valley Railroad, the Ticonderoga Railroad Company, the Wilkes-Barre Connecting Railroad Company, and the Champlain Transportation Company by purchase of stock, (b) of the Albany & Susquehanna Railroad Company, the Rensselaer & Saratoga Railroad Company, the Rutland & Whitehall Railroad Company, the Albany & Vermont Railroad Company, and the Saratoga & Schenectady Railroad Company by lease and assignment of lease, and (c) of the Northern Coal & Iron Company and the Chateaugay & Lake Placid Railway Company by purchase of capital stock and by lease and assignment of lease, approved and authorized. Condition prescribed.
4. Authority granted the Delaware & Hudson Railroad Corporation (a) to issue 515,740 shares of common capital stock of no par value, and (b) to assume obligation and liability in respect of the outstanding securities of the Delaware & Hudson Company, consisting of \$49,000,000 of first and refunding mortgage gold bonds, \$844,650 of 5 per cent 20-year convertible gold bonds, \$10,000,000 of 10-year 7 per cent secured gold bonds, \$1,857,800 of equipment 6 per cent gold notes, series A, \$7,500,000 of 15 year 5½ per cent gold bonds, and \$1,000,000 of first-mortgage gold bonds of the Adirondack Railway Company, and in respect of \$182,600 of common capital stock and \$2,186,000 of first and improvement mortgage gold bonds of the Wilkes-Barre Connecting Railroad Company, \$3,500,000 of capital stock and \$10,000,000 of first-mortgage 3½ per cent 40-year gold bonds of the Albany & Susquehanna Railroad Company, and \$10,000,000 of capital stock and \$2,000,000 of first-mortgage 6 per cent 20-year gold bonds of the Rensselaer & Saratoga Railroad Company.
5. Acquisition by Delaware & Hudson Company of control of the Delaware & Hudson Railroad Corporation by purchase of stock approved and authorized. Condition prescribed.

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6. Application, so far as it seeks authority for the Delaware & Hudson Railroad Corporation to acquire control of the Mechanicville & Fort Edward Railroad Company by purchase of capital stock, dismissed.

H. T. Newcomb and *Thomas L. Ennis* for Delaware & Hudson Company; and *Richard E. Dwight* and *J. F. Caskey* for Delaware & Hudson Railroad Corporation.

Robert E. Quirk for applicants.

REPORT OF THE COMMISSION

DIVISION 4, COMMISSIONERS MEYER, EASTMAN, AND WOODLOCK

BY DIVISION 4:

The Delaware & Hudson Company, a common carrier by railroad subject to the interstate commerce act, and the Delaware & Hudson Railroad Corporation, a corporation organized for the purpose of engaging in transportation by railroad subject to the act, herein-after designated, respectively, as the D. & H. and the new company, by joint application filed on January 11, 1929, as amended, seek (a) a certificate under paragraph (18) of section 1 of the act that the present and future public convenience and necessity permit the abandonment by the D. & H. of all lines of railroad now operated by it as owner, lessee, or otherwise, in the States of New York, Pennsylvania, and Vermont, or the abandonment by it of the operation of these lines, and require the acquisition and operation of these lines by the new company, (b) an order under paragraph (2) of section 5 approving and authorizing the acquisition by the new company of control of the Greenwich & Johnsonville Railway Company, the Schoharie Valley Railway Company, the Cooperstown & Charlotte Valley Railroad Company, the Cooperstown & Susquehanna Valley Railroad, the Ticonderoga Railroad Company, the Mechanicville & Fort Edward Railroad Company, and the Champlain Transportation Company by purchase of stock, of the Albany & Susquehanna Railroad Company, the Rensselaer & Saratoga Railroad Company, the Rutland & Whitehall Railroad Company, the Albany & Vermont Railroad Company, the Saratoga & Schenectady Railroad Company, and the Plattsburg & Dannemora Railroad by lease and assignment of lease, and of the Northern Coal & Iron Company and the Chateaugay & Lake Placid Railway Company by purchase of stock and by lease and assignment of lease, and approving and authorizing the acquisition of control by the D. & H. of the new company by purchase of capital stock, and (c) an order authorizing the new company to issue 773,610 shares of capital stock, consisting of 257,870 shares of preferred stock and 515,740 shares

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of common stock, all of no par value, and to assume obligation and liability in respect of the outstanding securities of the D. & H. aggregating \$70,202,450, and in respect of \$182,600 of common capital stock and \$2,186,000 of first and improvement mortgage gold bonds of the Wilkes-Barre Connecting Railroad Company, \$3,500,000 of capital stock and \$10,000,000 of first-mortgage 3½ per cent 40-year gold bonds of the Albany & Susquehanna Railroad Company, and \$10,000,000 of capital stock and \$2,000,000 of first-mortgage 6 per cent 20-year gold bonds of the Rensselaer & Saratoga Railroad Company.

Request is also made for such other and further orders under the various provisions of the act as may be required and lawful to enable the applicants to carry out, substantially in the manner and form set forth, all plans and purposes as set forth in the application. The record contains no further reference to these requests. Manifestly they lack sufficient particularity to present any definite matter for our consideration. Responsibility for obtaining all authority necessary in the premises must remain with the applicant.

On April 4, 1929, the Public Service Commission of New York entered an order authorizing the new company to operate the railroads now operated by the D. & H., approving the transfer by the D. & H. to the new company of all the railroads and franchises involved in the application, giving consent to the acquisition, maintenance, and operation of these railroads and franchises by the new company, and approving the exercise by the latter of these franchises, including construction thereunder. A hearing has been had and no formal objection to the granting of the application has been presented to us.

The D. & H. was organized as the President, Managers and Company of the Delaware & Hudson Canal Company under a charter granted by act of the New York Legislature approved April 23, 1823, for the purpose of building a canal, developing water navigation, owning anthracite lands, and mining and marketing anthracite. It developed that a railroad from the mines in Pennsylvania to the canal was desirable and necessary, and in 1826 the Commonwealth of Pennsylvania gave the D. & H. certain rights ordinarily exercised by railroad companies. The D. & H. was granted similar rights in New York in 1867, when it acquired all the rights it now possesses as a railroad. The name of the company was changed to the present name in 1899.

The balance sheet of the D. & H. as of December 31, 1928, given in Appendix A, shows the following totals: Investments \$126,162,182.24, current assets \$65,761,830.50, deferred assets \$1,245,692.39, unadjusted debits \$588,333.22, capital stock \$51,573,500, premium on capital stock \$4,535,450, long-term debt \$60,202,450, current liabilities \$7,730,116.61,

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deferred liabilities \$1,683,317.73, unadjusted credits \$14,350,290, corporate surplus \$53,682,914.01. Details of the investment of the D. & H. in affiliated companies are given in Appendix B.

Funded debt consists of \$39,000,000 of first and refunding mortgage gold bonds, \$844,650 of 5 per cent 20-year convertible gold bonds, \$10,000,000 of 10-year 7 per cent secured gold bonds, \$7,500,000 of 15-year 5½ per cent gold bonds, \$1,000,000 of first-mortgage gold bonds of the Adirondack Railway Company, and \$1,857,800 of equipment 6 per cent gold notes, series A.

The first and refunding mortgage gold bonds were issued under the first and refunding mortgage dated May 1, 1908, made by the D. & H. to the Farmers' Loan & Trust Company, New York, trustee, to secure a total authorized issue of \$50,000,000 of bonds. Coupon bonds are dated May 1, 1908, and registered bonds as of the date of issue. All bear interest at the rate of 4 per cent per annum, payable semiannually, may be redeemed in whole, but not in part, at the election of the mortgagor on any interest date at par and accrued interest plus a premium of 7½ per cent, and mature May 1, 1943.

The 5 per cent 20-year convertible gold bonds were issued under indenture dated October 1, 1915, made by the D. & H. to the Equitable Trust Company of New York, as trustee, to provide for a total issue of \$14,451,000 of bonds. They are dated October 1, 1915, bear interest from date at the rate of 5 per cent per annum, payable semiannually, are redeemable as a whole at the option of the D. & H. at 105 and accrued interest, and mature October 1, 1935.

The 10-year 7 per cent secured gold bonds were issued under an indenture dated June 1, 1920, made by the D. & H. to the United States Mortgage & Trust Company, trustee, to provide for a total authorized issue of \$10,000,000 of bonds. Coupon bonds are dated June 1, 1920, and registered bonds as of the date of issue. All bear interest at the rate of 7 per cent per annum, payable semiannually, and mature June 1, 1930. To secure the payment of these bonds the D. & H. deposited with the trustee \$10,000,000 of its first and refunding mortgage gold bonds, \$3,500,000 of first-mortgage 3½ per cent 40-year gold bonds and 4,000 shares of capital stock of the Albany & Susquehanna Railroad Company, \$1,000,000 of first and improvement mortgage gold bonds of the Wilkes-Barre Connecting Railroad Company, and 5,000 shares of the capital stock of the Rensselaer & Saratoga Railroad Company.

The 15-year 5½ per cent gold bonds were issued under an indenture dated May 1, 1922, made by the D. & H. to the United States Mortgage & Trust Company, trustee, to provide for a total issue of \$7,500,000 of bonds. Coupon bonds are dated May 1, 1922, and registered bonds as of the date of issue. All bear interest at the rate

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of 5½ per cent per annum, payable semiannually, are redeemable as a whole but not in part on May 1, 1932, or on any semiannual interest date thereafter prior to maturity, at par and accrued interest plus a premium of 5 per cent if redeemed on May 1, 1932, and a premium diminishing one-half of 1 per cent for each six months elapsing if redeemed thereafter, and mature May 1, 1937.

Bonds of the Adirondack Railway Company were issued under a first mortgage dated March 1, 1892, made by that company to the United States Trust Company of New York to secure a total authorized issue of not exceeding \$2,000,000 of bonds. They are dated March 1, 1892, bear interest at the rate of 4½ per cent per annum, payable semiannually, and mature March 1, 1942. Provision for refunding or paying the bonds now outstanding under the mortgage through the issue of a like amount of bonds is made in the first and refunding mortgage of the D. & H.

The equipment-trust notes of the D. & H. were issued pursuant to a trust agreement dated January 15, 1920, between Walker D. Hines, Director General of Railroads, the D. & H., and the Guaranty Trust Company of New York, as trustee. The agreement provides for the assignment by the director general to the trustee of his right, title, and interest in and to 1,000 fifty-five-ton steel-underframe hopper cars, and 500 fifty-ton steel-underframe single-sheathed box cars, to cost not less than \$3,912,500, and not more than \$4,365,545. It also provides for the sale of this equipment to the D. & H., for the payment by the D. & H. of the purchase price to the trustee in 15 equal annual installments payable January 15 in each year commencing January 15, 1921, and ending January 15, 1935, with interest on each installment at the rate of 6 per cent per annum from January 15, 1920, until paid, payable semiannually, and for delivery by the D. & H. for authentication and delivery to or upon the order of the director general of notes to an aggregate principal amount equal to the cost of the equipment, the notes to be divided into 15 series of equal amounts corresponding in amount and date of payment to the installments payable to the trustee, which is to use all sums received from the D. & H. in paying and discharging the notes. The D. & H. in lieu of paying installments to the trustee may pay the principal of and interest on the notes, surrendering the notes and coupons to the trustee for cancellation. Title to the equipment is to remain in the trustee until the D. & H. has paid the purchase price of the equipment and both principal and interest on the notes. The D. & H. during the life of the agreement is to pay all necessary and reasonable expenses of the trust and all taxes, assessments, and other governmental charges imposed upon the equipment or any interest of the D. & H., the trustee, or the noteholders therein, or

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against any person as owner thereof, or by reason thereof. Provision is made for the redemption of the notes on any semiannual interest date upon payment of the principal thereof and a premium of 3 per cent.

System lines of the D. & H., including those operated under leases, trackage-rights agreements, or otherwise, form a railroad extending from Wilkes-Barre, Pa., to a point on the international boundary between the United States and the Dominion of Canada north of Rouses Point, N. Y., the principal termini in addition to those given being Binghamton and Troy, N. Y., and Rutland, Vt. There are numerous branches, and the system includes three short lines of railroad and two water lines operated by subsidiaries of the D. & H. In addition the D. & H. at the time of the hearing owned or controlled certain lines of railroad located in the Province of Quebec, Canada, controlled certain street, suburban, or interurban electric railways not operated as a part of its system, and was interested as primary obligor under leases covering certain railroad property under sublease to the New York, Ontario & Western Railway Company. A detailed description of the lines involved in this proceeding, excluding those operated independently, is given in Appendix C. These lines have an aggregate length of 881.65 miles of first main track, 371.42 miles of second main track, 53.02 miles of third main track, 18.79 miles of fourth main track, 1.19 miles of other main track, 159.41 miles of industrial track, and 475.05 miles of yard track and sidings, making a total of 1,960.53 miles of track operated. Rolling stock of the D. & H. in service on December 31, 1927, consisted of 456 steam locomotives, 23 booster trucks, 2 tanks, 1 extra tender, 369 passenger-train cars, 16,001 freight-train cars, 734 units of equipment assigned to company service, and 4 units of miscellaneous equipment.

Copies of the various instruments under which the D. & H. operates the lines or segments of lines of other companies described in Appendix C were introduced as exhibits at the hearing. These instruments, which consist of agency contracts, trackage agreements, and leases, will be taken up in the order in which the properties covered are listed in the appendix. Only such provisions of the instruments as are pertinent to our investigation will be noted.

Properties of the Wilkes-Barre Connecting Railroad Company are operated under an agreement dated December 29, 1914, and supplemental agreement dated May 1, 1917, to which the Pennsylvania Railroad Company, the Northern Coal & Iron Company, the D. & H., and the Connecting Company are parties. The agreement provides for the construction by the Connecting Company of its line of railroad, including therein a part of the line of the Wilkes-Barre & Eastern Railroad Company and the Buttonwood branch of the

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Northern Coal & Iron Company, over which the Connecting Company is given trackage rights, and for the issue of securities to provide funds for the construction of the railroad and of such branches, extensions, additions, and betterments as are jointly requested by the Pennsylvania and the D. & H., which agree to subscribe in equal portions for all stock issued by the Connecting Company to provide for such construction, etc. The Pennsylvania and the D. & H. are granted equal trackage rights for the period of the Connecting Company's corporate existence and any and all renewals thereof for the movement of their trains, and the handling of their traffic over the Connecting Company's railroad. Each company is given the right to transact local freight and passenger business on the line and retain all revenues derived from its own traffic in the movement of its own trains. The Connecting Company reserves the right to operate its own trains, engines, and cars over its line. The D. & H. is to operate the line as agent for the Connecting Company, provision being made for alternate operation by the Pennsylvania under certain conditions.

As rental the D. & H. and Pennsylvania each agree to pay a sum equivalent to one-half of the interest payable semi-annually on the bonds and certain other outstanding obligations, or renewals thereof, of the the Connecting Company and one-half of such further sum as shall be required to pay dividends at the rate of 5 per cent per annum, payable semiannually on the outstanding capital stock of the Connecting Company. They also agree to pay such portion of the expenses of operation and maintenance of the railroad and facilities of the Connecting Company used jointly as the number of their respective cars and engines moved over the railroad in each year shall bear to the total number of cars and engines moved over the railroad during that year. The provisions of the agreement, except as otherwise specifically provided, may be modified at the end of any 5-year period after the opening of the Connecting Company's railroad for traffic. The supplemental agreement provides for the issue of not exceeding \$10,000,000 of bonds and for the joint and several guaranty by the D. & H. and Pennsylvania of the payment by the Connecting Company of both the principal of and interest on these bonds. The guarantors agree to cause their joint and several unconditional guaranty to be placed on the bonds substantially the form given in the supplemental agreement.

The balance sheet of the Connecting Company as of December 31, 1928, shows investment in road and equipment \$1,849,191.67, improvement on leased property \$460,568.62, other investments \$9,975.63, current assets \$132,018.48, unadjusted debits \$19,534.80, capital stock \$182,600, long-term debt \$2,186,000, current liabilities

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\$73,389.57, unadjusted credits \$20,169.63, profit and loss credit balance \$9,130. Long-term debt consists of first and improvement mortgage gold bonds issued under the Connecting Company's first and improvement mortgage dated May 1, 1917, to the United States Mortgage & Trust Company. The bonds are dated May 1, 1917, bear interest at the rate of 5 per cent per annum, payable semiannually, are redeemable on any interest date at 105 per cent of par and accrued interest, and mature May 1, 1947. Payment of both principal and interest is guaranteed by the D. & H. and the Pennsylvania pursuant to the supplemental agreement. The income account of the Connecting Company for the year 1928 shows railway tax accruals \$3,564, nonoperating income \$159,980.57, gross income \$156,416.57, deductions from gross income \$141,370.77, and net income \$15,045.80.

Properties of the Ticonderoga Railroad Company are operated by the D. & H. under agreement dated August 13, 1890, and supplemental agreement dated December 27, 1928. The original agreement provides for the construction of the railroad, for the procuring of such legislation by its owners as would permit charges for transportation upon the railroad at not exceeding 25 cents for each passenger, 12.5 cents for each gross ton of factory or mill supplies or products, and 75 cents for each ton of general merchandise, and for the management, maintenance, and operation of the railroad by the D. & H. Under the agreement as modified the D. & H. collects and retains all operating income from all traffic upon the railroad and all nonoperating income, pays all operating expenses and all taxes of the railroad, and all obligations of the owner constituting deductions from gross income, and retains all net income from the operation of the property. The D. & H. was authorized by our order of April 28, 1928, 138 I. C. C. 481, to acquire control of the owner by purchase of capital stock.

Under agreement dated January 1, 1898, between the Erie Railroad Company and the D. & H. the former granted the latter for a period of 100 years from the date of the agreement the right, subject to reasonable regulation and control by the Erie as to the movement and government of trains, to pass in either direction with freight and passenger trains over the Erie's line of railroad between Carbondale and Jefferson Junction, Pa., together with the right to use water tanks, sidings, and other facilities necessary and convenient for the trains of the D. & H. As rental for the use of the tracks and other facilities, the D. & H. agreed to pay on all freight traffic, except certain coal traffic, up to but not exceeding 1,000,000 tons a year, 5 cents for each gross ton, above 1,000,000 tons but not exceeding 1,500,000 tons 4 cents for each gross ton, and on tonnage in excess

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of 1,500,000 tons 3 cents on each gross ton, and for the running of passenger trains one-half of the gross revenue earned by such trains accruing on that part of the line over which the trains ran. Provision was made for determining the rights and liabilities of the parties in case of injuries or damage caused by reason of the negligence of the parties.

A supplemental agreement dated February 8, 1917, provides for the operation of the line by the D. & H. as agent for the Erie. Under it the D. & H. maintains the tracks and other facilities except the Erie's telegraph lines, furnishing all necessary material and labor, and the Erie pays the cost of such maintenance. The D. & H. has charge of the operation of the railroad and is responsible therefor. The Erie retains the right to run its own trains over the railroad, to grant others the right to run trains over it, and is otherwise to exercise the right of owner subject only to the rights of the D. & H. under the agreement.

Each party furnishes its own engines and cars for its own trains operated on the line. The agreement provides that all pusher and work trains shall be furnished by the D. & H., the Erie to pay the estimated actual cost of such service performed for it and to have the option of furnishing its own pusher service. The D. & H. furnishes terminal facilities for the Erie at Carbondale, and the Erie furnishes similar facilities for the engines of the D. & H. at Susquehanna, the agreement providing that charges shall be based as near as possible on the actual cost of furnishing the facilities. In case of accident the D. & H. is required to clear the tracks but may call upon the Erie for assistance if necessary. Such assistance need not be given if the Erie's equipment is needed elsewhere. Employees engaged in handling orders covering the movement of trains are employed by the D. & H. Agents and other station employees, with certain exceptions, are appointed and paid by the Erie, but are to report to and be under the jurisdiction of the D. & H. in matters relating to train movement only. The supplemental agreement may be terminated at any time by either party giving the other six months' notice in writing. Termination of the supplemental agreement is not to terminate the original agreement.

By indenture dated May 20, 1879, the railroad known as the Plattsburg & Dannemora Railroad, owned by the State of New York, was leased to the Chateaugay Railroad Company, now the Chateaugay & Lake Placid Railway Company, for a term of 100 years from July 1, 1879, with the right reserved to the State to reenter at the expiration of six months' notice following the failure of the lessee to keep any of its agreements. The railroad is operated by the D. & H. under assignment from the Chateaugay & Lake Placid. The indenture pro-

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vides that the lessee shall construct an extension of the railroad, run certain trains over the railroad so long as the State maintains a prison at Dannemora and shall desire the trains to be run, maintain the railroad in suitable working condition, charge not more than 5 cents a mile for the transportation of passengers to and from the prison, and, so long as the prison is maintained at Dannemora, as rental for the leased property transport over the railroad free of charge all supplies, with certain exceptions, for the maintenance of the prison and also the officers connected with the prison upon official business, and pay annually the sum of \$1 on demand of the superintendent of the prison. The indenture further provides that the lessee shall transport certain traffic over the railroad at fair and reasonable rates, gives the superintendent of the prison and the comptroller of the State the right to regulate and fix such rates in case they are unsatisfactory, and relieves the lessee of all taxation by the State on the railroad.

Trackage rights over the Boston & Maine Railroad between Eagle Bridge and Troy, and between Eagle Bridge and Mechanicville, N. Y., were granted the D. & H. by contract dated December 31, 1926. Under this contract the D. & H. is given permission to run with its own engines and train crews two freight trains a day each way between Eagle Bridge and Mechanicville, and one train a day each way between Eagle Bridge and Troy for the transportation of milk and freight, paying \$1 for each train-mile and paying at the same rate for such additional trains as may be run with the permission of the owner. Other provisions of the agreement are such as are ordinarily found in standard trackage contracts. The agreement was effective as of April 17, 1922, and is to continue in force except as otherwise provided for a term of one year from the date of execution and thereafter until terminated by 90 days' notice in writing by either party to the other.

Operation by the D. & H. over the railroad of the Boston & Maine between Mechanicville and Crescent is under contract with that company dated December 31, 1926. The contract recites that each party owns a line of single-track railroad parallel with that of the other between Coons and Crescent, a distance of 6.82 miles, that the D. & H. owns a double-track railroad from a point near its station at Mechanicville to the west end of its yard at that place, a distance of 0.98 mile, that the Boston & Maine owns a double-track railroad from the west end of the yard to Coons, a distance of 1.95 miles, that a system of interlocking switches and signals has been constructed at Mechanicville, the west end of the yard, and Crescent, that the parties are separate owners of yards and freight and passenger stations at Mechanicville, that for purposes of economical operation the

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two companies desire to use jointly the two main tracks between Mechanicville and Crescent, together with the system of interlocking signals and switches, and that the Boston & Maine desires to occupy jointly with the D. & H. the latter's passenger station at Mechanicville. It provides that the tracks between Mechanicville and the west end of the yard, including certain towers, shall be operated by the D. & H. and subject to its rules and regulations, and used jointly as a double track by both parties; that the main tracks between the west end of the yard and Crescent, including the Crescent tower, shall be operated by the Boston & Maine and subject to its rules and regulations, and used jointly as a double track by both parties, the trains of each party to have equal rights and privileges and to be subject to like conditions and restrictions, and that no payment shall be made by either party for using the tracks of the other.

Costs of maintaining and operating the interlocking system and expenses of maintaining the main tracks and other facilities are to be divided between the two companies on a user basis. The D. & H. is to maintain the joint facilities, rendering its bills monthly. Each company is to maintain and operate its own yard at its own expense, accepting delivery therein of all cars destined to points on or over its railroad, and charging 50 cents a car for all other cars of the other company. Provision is made for the joint use by the Boston & Maine of the station building and grounds of the D. & H. at Mechanicville, and for the joint use by the D. & H. of the freight house and grounds of the Boston & Maine at Eagle Bridge. The agreement was effective as of April 17, 1922, and is to continue in force for a term of one year from date of execution and thereafter until the expiration of 90 days after written notice by either party to the other.

The D. & H. as lessee of the Rensselaer & Saratoga Railroad Company operates over the tracks of the Troy Union Railroad Company under reformed contract dated July 1, 1858, to which those companies, the city of Troy, the New York Central Railroad Company, the Hudson River Railroad Company, and the Troy & Boston Railroad Company are parties. This contract gives the three companies last mentioned and the Rensselaer & Saratoga equal rights and privileges in the tracks and other property of the Troy Union and that part of the bridge Rensselaer & Saratoga used for railroad purposes, subject only to such reasonable and uniform rules and rent charges for offices as the Troy Union may from time to time prescribe, and to reasonable and uniform rules and regulations of the Rensselaer & Saratoga as to its bridge, with the right to use the railroad of the Troy Union for the passage of their cars. The Troy Union is to

raise by monthly assessments, one fourth of which is to be paid by each of the four tenant companies, all sums necessary to pay its expenses, including annual rental of \$11,500, payable in monthly installments, for use of the bridge, which is to be maintained by the Rensselaer & Saratoga. The contract provides for the use of the bridge and the property of the Troy Union by any other railroad company running trains to and from Troy, and for equal ownership of the stock of the Troy Union by all companies using its property.

Under contract dated December 1, 1903, the D. & H. has trackage rights over the railroad of the Erie Railroad Company between Binghamton and Owego, N. Y., for the operation of freight trains only, with the privilege of using sidings, switches, water stations, and turnouts connected therewith, except the terminal and yard facilities at Binghamton and Owego. The contract provides that as compensation for the use of the facilities the D. & H. shall pay, until the rate is modified as provided in the agreement, 5 cents a ton on traffic up to 500,000 tons a year, 4.5 cents a ton on traffic in excess of 500,000 tons and not exceeding 1,000,000 tons, and 4 cents a ton on traffic in excess of 1,000,000 tons, with a minimum of \$12,000 a year in the event the tonnage is less than 250,000 tons. The D. & H. is required to pay for labor and material and supplies furnished by the Erie in connection with the movement of the trains of the D. & H. over the tracks covered by the agreement. It is also required to furnish its own terminal facilities at Binghamton and Owego, and is not permitted to do any business on the line either to or from Binghamton or Owego, or intermediate points. The agreement provides that the Erie shall maintain the tracks in reasonably good condition, and shall not be responsible for any injuries or damage due to defects. Trains of the D. & H. have equal rights and privileges and are subject to the same restrictions as Erie trains of the same class moving in the same direction.

It is stipulated that neither the agreement nor any of the rights and privileges therein granted shall be assigned, transferred, or subleased, and that the tracks shall be used solely by the D. & H. for the purpose of forming a through freight line with the Lehigh Valley Railroad Company. It is expected that the Erie will consent to the assignment of this agreement. The agreement is to continue in force for a period of 99 years from its date, subject to the right of either party to terminate it by giving the other two years' notice in writing. This last provision was modified by supplemental contract dated February 8, 1917, giving either party the right to terminate the agreement upon three years' notice in writing.

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The supplemental contract gives the D. & H. the right of additional trackage between Owego and a connection with the Lehigh Valley at a point east of the Lehigh Valley crossing at Waverly, N. Y., upon the same terms and conditions, except as specified, as apply to the trackage between Binghamton and Owego, and provides for the construction of a suitable connecting track or tracks by the D. & H., for the maintenance and operation of this connection at the expense of the latter, and for payment of compensation for use of the additional trackage at the same rate per ton-mile as is paid under the original agreement.

Under the provisions of an indenture dated January 24, 1882, between the Albany & Susquehanna Railroad Company and the New York, Lake Erie & Western Railroad Company, now the Erie Railroad Company, the D. & H., as lessee of the Albany & Susquehanna, has the right to use and occupy in perpetuity the extension of its lessor's main track over, upon, and along the lands and tracks of the Erie crossing Chenango Street, Binghamton, and to and in front of the passenger depot of the Erie at that place, and to use and occupy for its business and accommodation the passenger station with the conveniences appertaining thereto, paying for such privileges the sum of \$500 a year on the first day of February in each year.

The D. & H. operates over the first two segments of the Lehigh Valley's tracks described in Appendix C under an agreement dated January 26, 1887, with that company and the Pennsylvania & New York Canal & Railroad Company. This contract gives the D. & H. trackage rights over so much of the railroads of the other parties as lies between the junction of the tracks of the D. & H. with those of the Lehigh Valley at South Wilkes-Barre, and the junction of the tracks of the D. & H. with those of the Canal & Railroad Company near Market Street, Wilkes-Barre, for the transportation of coal, supplies, general merchandise, and passengers, the right to transport merchandise and passengers to apply only to business from Wilkes-Barre to Plymouth, and *vice versa*, the rent payable by the D. & H. being 3 cents a gross ton for coal and supplies and 3 cents a ton for general merchandise, and 2.5 cents for each passenger to and from Plymouth. The D. & H. has also the right to use for its passenger business that portion of the railroad of the Lehigh Valley and the Canal & Railroad Company between the Market Street junction and the passenger depot of the Canal & Railroad Company at Wilkes-Barre, with the right to use, for the accommodation of its passengers, the passenger depot with all station facilities, including services of ticket agents and baggage men, paying for the use of the track and depot privileges \$200 a month. It also

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has trackage rights for running its freight trains over so much of the railroad of the other parties as lies between the Market Street junction and the junction of the Lehigh Valley with the North & West Branch Railway at Northampton Street, Wilkes-Barre, for the purpose of exchanging cars and miscellaneous freight with the Branch Railway at the latter junction, paying for such rights 7.5 cents a ton on first, second, and third-class freight, and 3 cents a ton on all other freight in carloads, empties to be returned without charge.

Provision is made in the foregoing agreement for the establishment of a junction between the properties of the D. & H. and of the other parties at Pleasant Valley, and for the running of certain trains between Wilkes-Barre and Scranton by each party over the railroad of the other, and for the pooling of the earnings of these trains. It is stated that this provision has not been put in operation by the parties. The agreement is to continue in force for five years from July 1, 1886, and thereafter until the expiration of one year's notice by either party to the other of its desire to terminate it.

The D. & H. operates over the third segment of the Lehigh Valley's railroad known as its Mineral Springs branch under the provisions of a contract dated February 28, 1913, which gives the D. & H. the right, subject to reasonable police regulations and train requirements of the Lehigh Valley, to run its engines and cars over the tracks of the branch for the transportation of coal from the Baltimore mine and washery of the D. & H. and the return of cars to the coal mining and washing operation. The D. & H. is required at its own expense to maintain and keep in repair, to the satisfaction of the Lehigh Valley, the portions of the track to be used and the switches, frogs, etc., and to maintain and operate the signals at the crossings of the branch over the main tracks of the D. & H., and over the tracks of the Central Railroad Company of New Jersey. As rental the D. & H. pays \$450 a year, payable quarterly in advance. The agreement is to continue in force until terminated by either party giving the other six months' notice of its intention to terminate it.

Operation by the D. & H. over the tracks of the Rutland Railroad in Rutland, Vt., is provided for by contract dated March 16, 1883, with the receivers and managers of the Central Vermont Railroad Company. This contract gives the D. & H. the right to enjoy a joint and equal right with the grantors and the Bennington & Rutland Railroad Company in the tracks, yard, depots, sheds, cattle yards, and certain other facilities belonging to or leased by the grantors in Rutland. The agreement provides that the D. & H. shall

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pay a yearly rental of \$3,600 beginning January 1, 1882, payable in equal monthly installments, and shall continue to make monthly payments theretofore made for labor, shifting of engines, etc., namely three-eighths of the whole amount paid for such services at Rutland. It is further provided that the agreement shall be in force from and after January 1, 1882, until the termination of the lease of the Rutland Railroad to the grantors unless otherwise terminated as provided in the agreement, namely by either party giving the other one year's notice. This contract has expired, but it appears that the D. & H. continues to operate over the tracks substantially as provided in the agreement, the rental now being fixed at \$1,000 a year.

The D. & H. operates over the tracks of the New York Central between Albany and Troy under an agreement dated December 28, 1881, and supplemental agreement dated January 9, 1888, with the New York Central & Hudson River Railroad Company, predecessor of the New York Central. The agreement, after reciting that it is deemed to be to the interest of the parties to discontinue separate systems of trains and passenger traffic between Albany and Troy, and to concentrate that business upon one system of trains over the railroad of each party upon joint account, provides that for such passenger traffic each company shall furnish an equal number of trains to run north and south upon one road and return upon the other; that in case it is necessary to run an unequal or odd number of trains each party is to furnish the extra train in alternate months and before division of earnings \$1,000 is to be deducted and allowed the company running the extra train; that in case of special trains, arrangements shall be made for equalizing the service or determining the amount to be deducted from earnings and allowed the road performing the extra services before dividing earnings; that each party shall be responsible for the consequences of all accidents either to persons or property arising in the running of the trains of the two companies occurring on its own road; that earnings from all passengers going from Troy to Albany and *vice versa*, whether with tickets to or from points beyond, shall be included in the settlement under the agreement and all tickets sold to or from points beyond Troy and Albany shall be good by either road; that each party shall report to the other monthly in detail all statistics necessary for a full settlement under the agreement; and that gross earnings from the operation of the joint trains shall be made up at the end of each month and after making the deductions provided for, shall be divided equally between the parties. The agreement further provides that the D. & H. shall pay the New

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York Central \$1,000 a year for the use of the latter's depot at Albany and also pay half the expense of such switchmen at the connection in Albany as the agreement makes necessary. By the supplemental agreement it is provided that the original agreement shall continue in force from year to year subject to termination by either party upon three months' notice in writing to the other.

Properties of the Albany & Susquehanna Railroad Company are operated by the D. & H. under an indenture of lease dated February 24, 1870, and an agreement supplemental thereto dated March 7, 1876, for a term coextensive with the full term of the lessor's charter and any and every renewal thereof. Under the provisions of the indenture as modified by the agreement, the lessee agreed to pay as rent for the properties semiannual dividends of $3\frac{1}{2}$ per cent on \$3,500,000 of stock until \$1,000,000 of 6 per cent Albany City bonds were paid, and thereafter semiannual dividends of $4\frac{1}{2}$ per cent, and interest at the rate of not exceeding 7 per cent per annum upon \$10,000,000 of bonds to be issued pursuant to the agreement, it being stipulated that the total amount of the lessor's stock and bonds should never exceed \$13,500,000 and that the lessee might have a new mortgage made and new bonds issued upon the maturity of those provided for in the agreement. The lessee also agreed to indorse upon the bonds its guaranty of the payment of the principal thereof and interest thereon and upon certificates for the stock its guaranty of the payment of dividends thereon. It further agreed to keep at its own expense the leased properties in good working condition; to pay all taxes and assessments upon the leased properties and upon the business done with them, but not upon interest and dividends; and to pay the cost of maintaining and operating the property and all damages that might be recovered against the lessor in the operation of the railroad. The lessor is to maintain its legal organization at the expense of the lessee, such expense not to exceed \$1,000 a year.

The balance sheet of the Albany & Susquehanna as of December 31, 1928, shows investment in road and equipment \$14,200,766.55, other investments \$45,490.07, current assets \$217,224.71, capital stock \$3,500,000, funded debt \$10,000,000, current liabilities \$160,424.15, unadjusted credits \$52,207.75, and corporate surplus \$750,849.43. Funded debt consists of \$10,000,000 first-mortgage $3\frac{1}{2}$ per cent 40-year gold bonds dated April 1, 1906, bearing interest at the rate of $3\frac{1}{2}$ per cent per annum, payable semiannually, and due April 1, 1946. The bonds are secured by mortgage dated January 1, 1906, to the United States Mortgage & Trust Company, New York, and are guaranteed by the D. & H. as to payment of both principal and interest pursuant to the terms of the foregoing indenture and agreement.

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Properties of the Rensselaer & Saratoga Railroad Company are operated by the D. & H. under a lease dated May 1, 1871, and amendment thereto dated May 19, 1874. The lease is for a term coextensive with the term of the lessor's charter and any and every renewal thereof. By these instruments the Rensselaer & Saratoga as lessor transfers to the D. & H. as lessee its lines of railroad described in Appendix C, 1,909 shares of stock of the Champlain Transportation Company, one-fourth of the stock of the Troy Union Railroad Company, with the rights of the lessor under the reformed contract described above, and all interest of the lessor as lessee under the following leases: Lease dated June 13, 1860, from the Saratoga & Schenectady Railroad Company, lease dated June 12, 1860, from the Albany & Vermont Railroad Company, lease dated February 1, 1870, from the Rutland & Whitehall Railroad Company, lease dated June 24, 1869, from the Glen's Falls Railroad Company, lease or contract from the Troy & Boston Railroad Company for one-half interest in lease from Troy & Bennington Railroad Company, and lease of land on Green Island. The three leases first mentioned are described below. The other leases are no longer in effect.

As rent for the properties covered by the lease the D. & H. agreed to pay semiannually the interest upon \$1,625,000 of mortgage bonds guaranteed or assumed by the lessor, interest on, and \$5,000 annually on the principal of, not exceeding \$65,000 of bonds of the Troy Union Railroad Company, interest on \$375,000 of 7 per cent bonds to be issued by the lessor, and semiannual dividends of 3½ per cent in 1872 and of 4 per cent thereafter on the lessor's capital stock, not to exceed 60,000 shares of \$100 each. In addition the D. & H. agreed to pay rents aggregating \$80,533.50 a year reserved under the various leases assigned to it, and to indorse the scrip and certificates of stock and the bonds of the lessor with its guaranty of the payment of dividends and interest, respectively, thereon. The lease requires the D. & H. to keep the properties in good condition and repair, to pay all taxes and assessments except income or other taxes on the interest and dividends, and all expenses of operation and damages for negligence in operating the properties.

Provision is made for new bonds or stock to be issued in exchange for or to be sold and the proceeds used to retire outstanding bonds, and for the creation of a new mortgage and the issue of new bonds thereunder to consolidate the lessor's existing indebtedness and other indebtedness provided for under the lease, the amount of such bonds being limited to \$2,000,000 with interest at 7 per cent. The D. & H. is required to indorse its guaranty of the payment of the interest on any new bonds issued in renewal of outstanding bonds or to re-

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fund such bonds and to indorse its guaranty of the payment of semiannual dividends of $3\frac{1}{2}$ per cent on stock issued in lieu of bonds. The lease as amended requires the lessor at the request of the D. & H. to issue not exceeding \$4,000,000 of stock with dividends at the rate of 8 per cent per annum, payable semiannually, or a like amount of convertible bonds if the stock can not be issued, the proceeds to be used by the D. & H. in making additions and betterments as provided in the amendment. Dividends and interest on these certificates must also by appropriate indorsement be guaranteed by the D. & H. In order to make the lease perpetual so far as legal and practicable, the lessor is to have the charters of the several companies whose properties are covered by the lease renewed at the expense of the D. & H. It is also to maintain its organization at the expense of the D. & H., such expense not to exceed \$1,000 a year.

The balance sheet of the Rensselaer & Saratoga as of December 31, 1928, shows investment in road and equipment \$11,524,552.13, other investments \$475,447.87, current assets \$426,710.67, deferred assets \$96,025.74, capital stock \$10,000,000, funded debt \$2,000,000, current liabilities \$420,048.39, unadjusted credits \$96,025.74, and corporate surplus \$6,662.28. Funded debt consists of \$2,000,000 of first-mortgage 6 per cent 20-year gold bonds dated May 1, 1921, bearing interest at 6 per cent, payable semiannually, and maturing May 1, 1941. The bonds are secured by mortgage dated May 1, 1921, to the United States Mortgage & Trust Company, New York, trustee. Payment of interest on these bonds is guaranteed by the D. & H. pursuant to the terms of the foregoing lease.

The lease from the Rutland & Whitehall Railroad Company to the Rensselaer & Saratoga, which is dated February 1, 1870, and is to continue during the life of the lessor's charter and any renewals thereof, provides that the lessee shall keep the property in good repair during the term of the lease, shall pay as rental for the property the sum of \$15,342 per annum, payable quarterly, and shall pay the lessor annually on or before November 10, the sum of \$150 to assist in defraying the expenses incident to maintaining the lessor's corporate organization. The balance sheet of the lessor as of December 31, 1928, shows investment in road and equipment \$255,700, and capital stock \$255,700.

The lease from the Albany & Vermont Railroad Company to the Rensselaer & Saratoga is dated June 12, 1860, and is to continue during such period as the two companies shall continue to be railroad corporations or organizations under their respective charters or any renewals or extensions thereof. The rent reserved is \$20,000 a year, payable semiannually, over and above all taxes and assessments. The lessor's balance sheet as of December 31, 1928, shows investment in

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road and equipment \$600,000, other investment \$5,000, current assets \$9,987.28, capital stock \$600,000, current liabilities \$3,333.33, unadjusted credits \$1,953.56, and profit and loss credit balance \$9,700.39.

The lease from the Saratoga & Schenectady Railroad Company is dated June 13, 1860, and is for a term beginning July 1, 1860, and continuing so long as the two companies are railroad corporations or organizations under their respective charters or any renewals or extensions thereof. The rent now payable under the lease is \$31,750 a year, payable semiannually, over and above all rents, taxes, and assessments. The lease provides that the lessee shall pay all taxes and assessments imposed after January 1, 1866, on the demised premises and all such sums as the lessor is required to pay for the use of the tracks and facilities mentioned. The lessor is required to maintain its corporate organization at its own expense. Its balance sheet as of December 31, 1928, shows investment in road and equipment \$450,000, other investments \$5,000, current assets \$21,283.89, deferred assets \$1,519, capital stock \$450,000, current liabilities \$3,500, unadjusted credits \$3,769, profit and loss credit balance \$10,533.89.

Assignments by the Rensselaer & Saratoga to the D. & H. of the three leases last described are dated June 15, 1871. The lines of railroad operated by the D. & H. under the foregoing leases are described in Schedule IV of Appendix C.

Properties of the Northern Coal & Iron Company are operated by the D. & H. under lease dated December 1, 1873, for the full term of the lessor's charter or of any and every renewal thereof, as well as of charters of corporations merged into the lessor, subject to termination by either party upon 12 months' notice to the other. The lease covers all the property of the lessor, including the railroad described in Schedule IV of Appendix C, together with the right to mine coal without restriction from the lands demised. As rent the lessee agreed to pay when due the interest accruing and to become due and payable from and after the date of the lease upon \$1,000,000 of bonds of the Union Coal Company, the properties of which were acquired by the Baltimore Coal & Union Railroad Company, one of the merged companies, subject to the lien of the mortgage securing the bonds, and upon \$100,000 of bonds of the Plymouth & Wilkes-Barre Railroad & Bridge Company, another of the merged corporations.

The lease provides that the lessor shall issue new mortgage bonds to take up the outstanding bonds when due, the new bonds to bear the same rate of interest and to be of like amount or such additional amount as the lessee shall request, and shall be necessary to retire the outstanding bonds. It also provides that the lessee shall pay the

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interest on the new bonds, all taxes upon the leased properties, and also mine rents and royalties, and shall keep the leased properties and deliver them at the end of the lease in good order and repair. Coal lands of the lessor have been sold and the lessee released from all obligation to pay mine rents and royalties. The cost of any permanent improvements made by the lessee are to be paid by the lessor. No interest is to be charged by the lessee on the lessor's indebtedness to it, but the lessor is to issue stock in payment of such indebtedness or at the lessee's request execute its bonds or other obligations, such stock or obligations not to pay dividends or bear interest during the term of the lease.

Properties of the Chateaugay & Lake Placid Railway Company, also described in Schedule IV of Appendix C, are operated by the D. & H. under lease dated July 1, 1905, as modified by agreement dated May 17, 1907, for a term expiring December 31, 2403. The lease includes an assignment of the lease of the Plattsburg & Danemora Railroad, described above. It provides that earnings arising on and after January 1, 1903, from the leased properties are to be disposed of as follows: (1) To the payment of administrative and operating expenses, damage claims, and taxes; (2) to the payment of interest on the lessor's bonds secured by mortgage on the properties; (3) to the payment of interest at the rate of 4 per cent on advances made by the lessee to provide funds sufficient to meet the foregoing expenses and to defray costs of improvements, the principal of such advances to be paid as net earnings are available; (4) to making expenditures necessary to the maintenance and improvement of the properties; (5) to the payment of dividends at the rate of 4 per cent per annum, payable semiannually on \$3,000,000 of preferred stock issued or to be issued and delivered to the lessee in payment of indebtedness incurred or to be incurred in improving the lessor's properties or paying the lessor's bonds; and (6) to the payment of rent for the leased properties, it being provided that during the first five years from and after January 1, 1903, such rent shall consist of any balance of earnings from the operation of the properties after payment of the expenses, charges, advances, and dividends. After the expiration of the first 5-year period the portion of earnings to be paid as rent may from time to time and at any time be changed by agreement of the parties and by arbitration in case of failure of the parties to reach an agreement. The lessor's balance sheet as of December 31, 1928, shows investment in road and equipment \$3,299,061.96, current assets \$150,938.04, capital stock \$3,450,000, current liabilities \$652,152.60, and profit and loss debit balance \$652,152.60.

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Through stock ownership, as shown in Appendix B, the D. & H. controls the Northern Coal & Iron Company, the Chateaugay & Lake Placid Railway Company, the Ticonderoga Railroad Company, the Greenwich & Johnsonville Railway Company, the Schoharie Valley Railway Company, the Cooperstown & Charlotte Valley Railroad Company, the Cooperstown & Susquehanna Valley Railroad, and the Mechanicville & Fort Edward Railroad Company. It controls jointly with other carriers the Wilkes-Barre Connecting Railroad Company, and the Troy Union Railroad Company, owning 50 per cent of the capital stock of the former and holding 25 per cent of the capital stock of the latter under lease from the Rensselaer & Saratoga Railroad Company. It also controls the Champlain Transportation Company and indirectly the Lake George Steamboat Company, owning or holding under lease all the outstanding capital stock of the former, which owns all the outstanding capital stock of the latter, consisting of 2,000 shares of the par value of \$100 each. The Lake George Steamboat Company owns all the outstanding stock of the Fort William Henry Hotel Company, consisting of 2,500 shares of the par value of \$100 each. The hotel company owns all the outstanding common capital stock of the Bluff Point Land Improvement Company, consisting of 2,600 shares of the par value of \$100 each. The hotel company owns and operates a hotel and hotel properties located at Lake George, N. Y., and the improvement company owns and operates a hotel and hotel properties at Bluff Point, N. Y. The Greenwich & Johnsonville Railway Company, the Schoharie Valley Railway Company, the Cooperstown & Charlotte Valley Railroad Company, the Champlain Transportation Company, and the Lake George Steamboat Company are operating companies.

The Greenwich & Johnsonville Railway Company owns and operates a line of railroad extending from Northumberland to Johnsonville, N. Y., a distance of 21.46 miles. In addition to its main track the company owns and operates 1.15 miles of industrial tracks and 3.85 miles of yard track and sidings, and operates under a trackage-rights agreement 2 miles of yard track and sidings, making a total of 28.46 miles of operated track. Its equipment consists of three passenger-train cars and one tool car. Its general balance sheet as of December 31, 1928, shows investment in road and equipment of \$854,534.12, miscellaneous physical property \$2,852.92, current assets \$122,787.99, deferred assets \$5,131.25, unadjusted debits \$8,761.40, capital stock \$225,000, long-term debt \$500,000, current liabilities \$265,853.28, unadjusted credits \$9,149.81, and corporate surplus (deficit) \$5,935.41.

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The Schoharie Valley Railway Company owns and operates a line of railroad extending from Schoharie Junction to Schoharie, N. Y., a distance of 4.26 miles, together with 0.27 mile of industrial tracks and 0.62 mile of yard track and sidings, making a total of 5.15 miles of track operated. Its equipment consists of one locomotive and one passenger-train car. Its general balance sheet as of December 31, 1928, shows investment in road and equipment \$146,845.31, other investments \$24,725, current assets \$17,700.10, deferred assets \$5,197.36, unadjusted debits \$484.79, capital stock \$100,000, long-term debt \$30,000, current liabilities \$11,595.76, unadjusted credits \$2,719.46, and corporate surplus \$50,637.34.

The Cooperstown & Charlotte Valley Railroad Company has abandoned its own line of railroad. It operates under lease dated April 15, 1891, for a term of 99 years from the date thereof, with the provision for renewing the lease for a like term, the line of railroad owned by the Cooperstown & Susquehanna Valley Railroad extending from Cooperstown Junction to Cooperstown, N. Y., a distance of 16.09 miles, together with 0.70 mile of industrial tracks and 2.19 miles of yard track and sidings, making a total of 18.98 miles of track operated. By the terms of the lease the lessee agrees to maintain and operate the leased property in connection with its own railroad and to apply the proceeds from the operation of the two properties (1) to the payment of interest at 5 per cent on \$245,000 of bonds outstanding or proposed to be issued at the time the lease was executed; (2) to the payment of 6 per cent on the actual cost of constructing and equipping its own railroad; and (3) to the payment of rental for the leased property, the amount of such payments not to exceed 6 per cent per annum upon the lessor's capital stock, and any remaining net proceeds to be divided equally between the parties. The general balance sheet of the Cooperstown & Charlotte Valley as of December 31, 1928, shows improvements on leased property \$33,909.22, capital stock \$45,000, nonnegotiable debt to affiliated companies \$116,601.38, unadjusted credits \$4,574.04, and corporate surplus (deficit) \$132,266.20. The general balance sheet of the Cooperstown & Susquehanna Valley as of the same date shows investment in road and equipment \$447,638.15, investment in affiliated companies \$25,144.89, current assets \$1,666.67, deferred assets \$34,360, capital stock \$307,400, current liabilities \$201,666.67, and profit and loss debit balance \$256.96. Current liabilities include funded debt matured unpaid \$200,000.

Operations of the Champlain Transportation Company are confined to the waters of Lake Champlain, the company owning three steamboats which it uses in the transportation of passengers and property between points in the States of Vermont and New York.

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Operations of the Lake George Steamboat Company are confined to the waters of Lake George in the State of New York. The company owns three steamboats which it uses in the transportation of passengers and property, subject to the interstate commerce act. The general balance sheet of the transportation company as of December 31, 1928, shows investment in real property and equipment \$617,254.05, reserve for accrued depreciation, credit balance, \$262,276.17, securities of transportation system corporations \$200,000, working assets and accrued income \$80,241.38, deferred debit items \$14,115.89, profit and loss debit balance \$47,583.88, capital stock \$147,500, working liabilities \$373,591, accrued liabilities not due \$174,133.93, and deferred credit items \$1,694.10. The general balance sheet of the steamboat company as of the same date shows investment in real property and equipment \$501,218.39, reserve for accrued depreciation, credit balance \$183,303.68, miscellaneous investments \$250,000, working assets \$7,819.67, accrued income not due \$70.83, deferred debit items \$5,098.75, profit and loss debit balance \$8,442.64, capital stock \$200,000, working liabilities \$388,592.25, accrued liabilities not due \$526.74, and deferred credit items \$227.61.

The D. & H. has never had the general rights of a railroad corporation, it being stated that it is the only railroad of comparable size in New York that does not derive its charter powers from the general act for the incorporation of railroad companies, known as the railroad law, passed in 1847. Under its special powers, however, the D. & H. came to be a large and complicated corporation with many diverse activities. The first step in the simplification of its corporate structure was the transfer of its coal-mining activities to the Hudson Coal Company. Later all its coal lands were transferred to that company, the D. & H. divesting itself of all interest in the anthracite industry except as a stockholder in the coal company. The purpose of the proposals now under consideration is further to simplify the corporate structure of the D. & H. by transferring its railroad properties and operations to the new company.

It appears that until recently there was no provision in the railroad law of New York authorizing incorporation for the purpose of acquiring and operating a railroad already built, owned, or operated by a solvent corporation not organized under the railroad law. An act of the State legislature approved April 5, 1928, provides for such incorporation. The new company was organized pursuant to this act, and its certificate of incorporation lodged with the proper State authority on December 1, 1928.

Subject to the approval of appropriate public authorities, the D. & H. has agreed to convey or otherwise transfer to the new company its railroad, railroad properties, and other transportation prop-

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erty (except the street, suburban, and interurban electric railways not operated as a part of its general steam-railroad system, the railroads located in the Province of Quebec, Canada, and the railroads and railroad property under sublease to the New York, Ontario & Western Railway Company) now owned, leased, or otherwise held or possessed by or for the D. & H., including all stocks, bonds, and other evidences of indebtedness of corporations owning any of these railroads or properties (except stocks and bonds of the Albany & Susquehanna Railroad Company and the Rensselaer & Saratoga Railroad Company) owned or held by or for the D. & H. or any of its subsidiaries, including all claims and choses in action on behalf of or against any of such corporations to the extent of the interest of the D. & H. or any of its subsidiaries in such claims, and including all interest of the D. & H. in equipment used in connection with its railroad. Specifically, the D. & H. agrees to convey or otherwise transfer, with the exception noted, all the railroad and railroad property which it owns in fee simple, all its rights, title, and interest under the various leases and contracts under which it operates the property of other corporations, as noted above, the stocks and bonds and other securities and claims shown in Schedule I of Appendix B, its interest in other investments to the amount of \$5,132.87, and in \$10,000,000 of its first and refunding mortgage gold bonds now deposited as collateral for its 10-year 7 per cent secured gold bonds, the sum of \$1,500,000 now used by it as working capital, and all material and supplies held by it on the date of transfer hereafter to be fixed.

In addition to the investment in affiliated companies shown in Schedule II of Appendix B, including investment in the securities of the companies to be excluded from the proposed transfer as noted above, and common stock of the Fort William Henry Hotel Company to be reacquired from the new company, the D. & H. will retain practically all the assets shown in its balance sheet under account 707, Other Investments (including stock of the Albany & Susquehanna Railroad Company and of the Rensselaer & Saratoga Railroad Company) cash in excess of \$1,500,000, all items shown under account 709, Demand Loans and Deposits, and under account 710, Time Drafts and Deposits, and such other assets as do not pertain to the railroad properties to be transferred. A comparison of the items listed in the balance sheets of the D. & H. and of the new company given in Appendix A will show the character and amount of the assets to be retained by the D. & H.

As consideration for the properties to be transferred the new company proposes to deliver 167,870 shares of the proposed preferred stock, 515,740 shares of the proposed common stock, and 2,500 shares

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of the Fort William Henry Hotel Company to the D. & H. and is to pay that company \$9,000,000 in cash and assume the obligations of the D. & H. in respect of the securities constituting the funded debt of the latter, as set forth above, and in respect of the \$10,000,000 of first and refunding mortgage gold bonds pledged as collateral for the 15-year 5½ per cent gold bonds, and \$182,600 of the common capital stock of the Wilkes-Barre Connecting Railroad Company. The new company is also to assume all pensions heretofore authorized by the D. & H. so far as applicable to the properties to be acquired, and all obligations of the D. & H. under the various leases, trackage agreements, and other instruments above described.

The business and property of the D. & H. will be taken over by the new company as a going concern. The board of managers of the D. & H. have been authorized to make the transfer of the property when, at any time not later than May 8, 1931, in the judgment of the board, it shall be desirable and advantageous to make such transfer. The date of transfer is to be fixed by agreement between the presidents of the two companies, but is to be not later than six months after obtaining the approval of appropriate public authorities. As of the date to be fixed the new company will take over, except as noted above, all current and deferred assets and unadjusted credits of the D. & H. arising out of or accumulated in connection with the operation of the properties to be transferred and will assume all current and deferred liabilities and unadjusted credits of the D. & H. applicable to the properties. The nature and amount of these assets and liabilities as of December 31, 1928, are shown in the balance sheet of the new company given in Appendix A. The evidence indicates that there will be little change in the amount of these assets and liabilities between the date of the balance sheet and the date on which the properties are to be transferred. Unaudited income credit items accrued prior to the date of transfer will be payable to the new company and unaudited debit income items so accrued will be payable by that company.

It will be noted that the securities to be transferred to the new company include 1,500 shares of the par value of \$100 each of the capital stock of the Hudson River Estates, Incorporated, and 540 shares of the par value of \$100 each of the capital stock of the Mechanicville & Fort Edward Railroad Company. Hudson River Estates, Incorporated, is a corporation owning real estate in Albany, N. Y., acquired in the interest of the D. & H. The Mechanicville & Fort Edward Railroad Company is described as a *de facto* corporation organized or intended to be organized for the purpose of acquiring a railroad formerly owned by the Schuylerville & Upper Hudson Railroad Company, extending from Mechanicville northerly

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by way of Northumberland to Moreau, all within the State of New York. It appears that this property is claimed by the Mechanicville & Fort Edward Railroad Company, but is now held by the Boston & Maine Railroad, which claims title to some of it, and denies that the D. & H. or its subsidiary has any interest in it; that litigation to establish the rights of the parties terminated in favor of the Boston & Maine, the court holding that the Mechanicville & Fort Edward Railroad Company could not maintain the action because it had not perfected its corporate organization; and that the D. & H. has instituted further proceedings by which it hopes to get possession of the property.

Pursuant to the agreement the new company proposes to acquire and operate the properties described in Schedule I of Appendix C, to operate as agent the railroad of the Wilkes-Barre Connecting Railroad Company, the railroad of the Ticonderoga Railroad Company, and the line of railroad between Jefferson Junction and Carbondale, Pa., owned by the Erie Railroad Company, to operate under lease the Plattsburg & Dannemora Railroad, to operate under various agreements the lines or segments of lines described in Schedule III of Appendix C, to acquire control by lease, or by lease and by purchase of stock, of the carriers owning the lines of railroad described in Schedule IV of Appendix C, and to acquire control by purchase of stock of the Greenwich & Johnsonville Railway Company, the Schoharie Valley Railway Company, the Cooperstown & Charlotte Valley Railroad Company, the Cooperstown & Susquehanna Valley Railroad, the Ticonderoga Railroad Company, the Champlain Transportation Company, and the Mechanicville & Fort Edward Railroad Company. While specific authority to acquire control of the Wilkes-Barre Connecting Railroad Company is not requested, it appears that the new company will acquire 50 per cent of the capital stock of the former so that it will control that company jointly with the Pennsylvania. The new company further proposes to issue its stock and assume the obligations of the D. & H. in respect of its securities and those of other companies as provided in the agreement, and the D. & H. proposes to acquire control of the new company by accepting the stock of the latter in exchange for its properties.

Upon approval of the application the D. & H. will convey the properties which it owns in fee simple, so far as those properties are covered by the agreement, to the new company and will execute transfers and assignments of the various contracts and leases under which the lines described in Schedules II, III, and IV of Appendix C are operated. The new company will, by written undertaking, assume the various obligations and liabilities of the D. & H. as indi-

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cated above, including obligation and liability in respect of the securities of the D. & H. and other companies. The interest of the D. & H. under some of the instruments can not be transferred or assigned without the consent of the grantor or lessor. The testimony is that the D. & H. has been assured of such consent, but has not formally obtained it.

It appears that the properties will be operated by the new company substantially in the same way as now operated by the D. & H. and that no economies of any moment will result from the operation of the properties by the new company. It is claimed, however, that the simplification of the organization and of the financial structure of the system will be of advantage to the public; that transfer of the properties to the new company will make it possible to further simplify the organization of the properties; and that steps here proposed are the initial steps toward such further simplification of the organization of the properties. Upon transfer of the railroad properties to the new company the D. & H. will become merely a holding company, that being its status to-day with reference to all its activities except the operation of railroads.

The authorized capital stock of the new company is to be divided into 773,610 shares, all without par value, of which 257,870 shares are to be preferred stock and 515,740 shares are to be common stock. The certificate of incorporation provides that the capital stock of the new company shall not be less than \$9,000,000 nor less than \$10,000 for each mile of railroad built or proposed to be built and included in the new company's railroad. The new company proposes to issue the entire amount of its authorized capital stock in the acquisition of the properties of the D. & H. The testimony is that while it makes no difference what number of shares the new company issued, a convenient number was selected with relation to the number of shares of the stock of the D. & H. now outstanding. The number of shares of common stock is actually five more than the number of outstanding shares of stock of the D. & H. and the number of preferred shares is one-half the number of shares of the common stock.

Holders of the preferred stock will be entitled to noncumulative dividends at the rate of not exceeding \$5 a share a year in each and every calendar year in preference and priority to any payment in and for such calendar year or any dividends on common stock but only from net income or unappropriated surplus of the corporation when and as determined by the board of directors and only if and when the board of directors shall declare dividends thereon, and no part of such dividends shall be cumulative whether or not in any calendar year there shall be net income or unappropriated surplus available for the payment of such dividends. If after providing for payment

of full dividends for any calendar year on the preferred stock there shall remain any additional net income or unappropriated surplus, the board of directors out of such net income or unappropriated surplus may declare and pay dividends on the common stock.

In the event of dissolution, winding up, or liquidation of the corporation, holders of the preferred stock will be entitled to receive out of the assets of the corporation the sum of \$100 for each share of preferred stock held before any distribution shall be made to holders of common stock but shall not be entitled to share in any assets of the corporation thereafter remaining. The corporation may, upon giving the required notice, retire the preferred stock as a whole but not in part on the first day of January, April, July, or October of any year at a price per share of \$105 plus any dividends that may have been declared prior to retirement. It is provided that without the consent of the holders of at least two-thirds of each class of stock, the corporation shall not increase the authorized preferred stock or create additional stock ranking as to dividends or assets or both on a parity with or in priority over the preferred stock. Holders of neither class of stock are entitled, as of right, to subscribe for any stock issued by the corporation.

As to the necessity for issuing preferred stock, the testimony is that such issue is believed to be in line with modern methods of financing railroad properties; that such issue would give the new company a better capital structure; that the method of financing proposed is generally in the interest of both the D. & H. and the new company; and that it is the preference of the management of the two companies to have the capital structure proposed rather than some other capital structure.

To provide the \$9,000,000 of cash to be paid the D. & H. as part of the consideration for the properties, subscriptions have been taken for 90,000 shares of the preferred stock at \$100 a share. The D. & H. has taken assignments of the subscribers' rights to this stock and in paying the amount due on the subscriptions would furnish the new company the money with which to make the cash payment. The result of this transaction would be that the D. & H. would receive only the authorized stock of the new company in exchange for the properties to be transferred. The circuitous method adopted was deemed necessary because of the requirements of the new company's charter noted above as to the minimum amount of capital stock to be issued.

Net railway operating income of the D. & H. for the 5-year period ended December 31, 1928, averaged \$7,711,081.04 a year. For the year 1928 net railway operating income was \$7,662,966.39. For

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the same year interest charges on funded debt of the D. & H. to be assumed by the new company amounted to \$2,931,614, and rent for leased roads under the leases to be assigned the new company aggregated \$1,789,992.11, a total of \$4,721,606.11. Deductions from gross income, other than those stated and those reflected in net railway operating income, are comparatively negligible, so that, if the new company had been operating the railroad properties of the D. & H. during the last five years, as now proposed, it would have had for that period an average net income of approximately \$3,000,000 a year.

Net income account of the Greenwich & Johnsonville Railway Company, the Cooperstown Railroad Company, and the Champlain Transportation Company show for the 5-year period ended December 31, 1928, average annual deficits of \$20,388.90, \$69,952.18, and \$56,763.11, respectively, and for the year 1928 deficits of \$14,819.85, \$63,455.45, and \$85,556.65, respectively. Net income of the Schoharie Valley Railway Company was \$10,604.52 for the year 1928, and averaged \$10,268.55 a year for the 5-year period ended December 31, 1928. Income accounts of the Lake George Steamboat Company show no net income for the years 1924, 1925, and 1926, deductions from gross income equaling gross income for each of those years. Net income accounts of this company for the years 1927 and 1928 show, respectively, deficits of \$8,616.73 and \$10,156.50.

As noted above, the agreement and supplemental agreement under which the D. & H. operates the properties of the Ticonderoga Railroad Company and the lease under which it operates the Plattsburgh & Dannemora Railroad contain provisions with reference to the fixing of certain rates for the transportation of passengers and property, and the agreement dated January 26, 1887 with the Lehigh Valley and the agreement dated December 28, 1881, with the New York Central, contain provisions with reference to the pooling of earnings from certain traffic. Nothing herein is to be construed as a determination by us that such rates are just and reasonable or as authorizing the new company to pool its earnings or any part thereof with the earnings of any other company.

While it appears that under the New York stock-corporation law holders of preferred stock have the same voting rights as holders of common stock, the proposal of the new company to issued preferred shares in number equal to only 50 per cent of the number of shares of common stock will vest control of the new company in holders of the common stock. The equity in the property of the new company to be represented by the proposed common and preferred stock as shown by the tentative balance sheet, Exhibit A,
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is \$26,303,128.46. The equity represented by the preferred stock with an assigned value of \$100 in the event of liquidation would be \$25,787,000, leaving an equity of only \$516,128 represented by the common stock. The applicants have failed to show any good and sufficient reason for issuing preferred stock. Our views as to the concentration of control in the hands of a stockholder or stockholders having but a small financial interest in the enterprise are set forth in *Unification of Southwestern Lines*, 124 I. C. C. 401, 438. The necessary findings to authorize the applicants to proceed with their proposals can be made only upon condition that all provisions for the issue of preferred stock or the use of the proceeds thereof by the new company in part payment for the properties of the D. & H. be excluded from the agreement under which the properties are to be transferred to the new company.

Upon the facts presented we find:

1. That the present and future public convenience and necessity will permit the abandonment by the D. & H. of the operation of the lines of railroad now operated by it in the States of New York, Pennsylvania, and Vermont, as described in Appendix C hereof: *Provided, however*, That the operation of said lines be immediately assumed by the new company.

2. That the present and future public convenience and necessity require and will require the operation by the new company of the lines of railroad described in Schedules I, II, and III of Appendix C.

3. That, subject to the condition above stated, the acquisition by the new company of control (a) of the Greenwich & Johnsonville Railway Company, the Schoharie Valley Railway Company, the Cooperstown & Charlotte Valley Railroad Company, the Cooperstown & Susquehanna Valley Railroad, the Ticonderoga Railroad Company, the Wilkes-Barre Connecting Railroad Company, and the Champlain Transportation Company, by purchase of capital stock, (b) of the Albany & Susquehanna Railroad Company, the Rensselaer & Saratoga Railroad Company, the Rutland & Whitehall Railroad Company, the Albany & Vermont Railroad Company, and the Saratoga & Schenectady Railroad Company by lease and assignment of lease, and (c) of the Northern Coal & Iron Company and the Chateaugay & Lake Placid Railway Company by purchase of stock and by lease and assignment of lease, will be in the public interest, and that the terms and conditions under which it is proposed to acquire the stock of said carriers and the rights of the D. & H. under the various leases to be assigned the new company, the consideration to be paid for said stock and rights, the terms and

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conditions of said leases, and the consideration to be paid thereunder, will be just and reasonable.

4. That the issue of 515,740 shares of common capital stock without par value and the assumption of obligation and liability in respect of the securities of the D. & H. and the other companies as proposed by the new company (a) are for lawful objects within its corporate purposes, and compatible with the public interest, which are necessary and appropriate for and consistent with the proper performance by it of service to the public as a common carrier, and which will not impair its ability to perform that service, and (b) are reasonably necessary and appropriate for such purposes.

5. That, subject to the condition above stated, acquisition by the D. & H. of control of the new company by purchase of capital stock will be in the public interest, and that the terms and conditions under which it is proposed to acquire said stock and the consideration to be paid therefor will be just and reasonable.

As the Mechanicville & Fort Edward Railroad Company is not a carrier within the meaning of that term as used in paragraph (2) of section 5 of the interstate commerce act, the application so far as it seeks authority for the new company to acquire control of that company by purchase of capital stock will be dismissed.

An appropriate certificate and order will be issued.

EASTMAN, *Commissioner*, dissenting.

We are asked to find that public convenience and necessity permit the abandonment by the Delaware & Hudson Company of certain railroad property and *require* its acquisition by the Delaware & Hudson Railroad Corporation. It does not seem to me that upon the evidence before us we can make an affirmative finding upon either one of these points. The Delaware & Hudson Company is partly a railroad company, owning and operating various lines of railway, and partly a holding company, owning the securities of various other companies. In this respect it does not differ from many other corporations in this country. There are many companies owning and operating extensive railroad properties which also have extensive holdings in the securities of other companies, including nonrailroad companies.

The Delaware & Hudson Company has an excellent financial structure, as is shown by its balance sheet of December 31, 1928. The total of capital stock and premiums thereon was then \$56,108,950, very nearly equalling the funded debt amounting to \$60,202,450. Current and deferred assets vastly exceeded current and deferred liabilities, and there was a total profit and loss surplus of \$46,676,137,

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besides \$7,006,776 representing additions to property through income and surplus. It is now proposed to turn the railroad property and securities over to the Delaware & Hudson Railroad Corporation, which is to have a very different financial structure. It is to have capital stock carried on the books at \$26,303,128, or materially less than half of its funded debt amounting to \$60,202,450. It is also to begin business with no corporate surplus whatsoever, and its current and deferred assets will only slightly exceed its current and deferred liabilities. In place of quick assets represented by cash, demand loans and deposits, and time drafts and deposits amounting to \$55,291,758, it will have only \$1,500,000. And this change will be brought about at a time when considerable doubt attaches to the future prosperity of the business upon which it is chiefly dependent, the anthracite-coal industry.

The reasons urged in support of this change are stated in the majority report as follows:

It appears that the properties will be operated by the new company substantially in the same way as now operated by the Delaware & Hudson and that no economies of any moment will result from the operation of the properties by the new company. It is claimed, however, that the simplification of the organization and of the financial structure of the system will be of advantage to the public; that transfer of the properties to the new company will make it possible to further simplify the organization of the properties; and that steps here proposed are the initial steps toward such further simplification of the organization of the properties. Upon transfer of the railroad properties to the new company the Delaware & Hudson will become merely a holding company, that being its status today with reference to all its activities except the operation of railroads.

I submit that this paragraph, which is merely a very brief statement of "claims," furnishes no foundation whatsoever for the findings which are subsequently made. How will this alleged simplification of organization and financial structure operate to the public advantage? This question is not answered. As a matter of fact, there will be no important simplification of financial structure.

Apparently it is urged that the transfer will facilitate separation of the coal-mining business from the railroad business, if that is later desired. This I fail to see. All that is needed for such separation is the sale by the Delaware & Hudson Company of the stock of the Hudson Coal Company and any other mining companies that it may own. After the transfer which has been approved, the only difference will be that to effect the separation the Delaware & Hudson Company will sell the stock of the new railroad company instead.

It may also be urged, although nothing is said about such a contention in the report of the majority, that the transfer will facilitate subsequent consolidation of the Delaware & Hudson railroad proper-

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ties with those of other companies. Possibly this is so, although there seems to be little basis of record for a finding with respect to this matter. But if it be so, how about all of the other railroad companies in the country which are joint railroad and holding companies? Must they be partitioned prior to consolidations? So far as I am aware, it has not been suggested that this is necessary. On the other hand, the transfer will make the Delaware & Hudson Company a holding company pure and simple, unembarrassed by direct railroad activities and having very large cash resources which may be used, for all we know, to complicate the consolidation situation further. Is this in the public interest?

And there is this further point to be considered. The large cash and similar resources of the Delaware & Hudson have been created, I assume, in part by its railroad operations, and on the other hand its funded debt has been created in part on account of other operations. Yet the new company is to assume every dollar of the funded debt and is to have practically none of the cash and similar resources. If this is to the public advantage, so far as the transportation service is concerned, it has yet to be demonstrated by anything that I have heard or read.

Summing it up, I am wholly unconvinced by any information before us that the transfer is required by public convenience and necessity. Certainly the report of the majority furnishes no support for such a conclusion. I agree, to be sure, that it is undesirable that railroad operations should be mixed with other activities. But any objection on that score to the present arrangement assumes very small proportions when compared with the objections to what is here proposed.

APPENDIX A

General balance sheets of Delaware & Hudson Company and Delaware & Hudson Railroad Corporation as of December 31, 1928

	The Delaware & Hudson Company	The Delaware & Hudson Railroad Corporation ¹
<i>Assets</i>		
Investments:		
701. Investment in road and equipment.....	\$90,512,383.98	\$90,512,383.98
705. Miscellaneous physical property.....	6,472.28	6,472.28
706. Investments in affiliated companies—		
Stocks.....	20,822,413.30	5,175,684.63
Bonds.....	1,860,354.78	1,793,000.00
Notes.....	3,821,244.22	587,719.60
Advances.....	4,376,509.25	185,456.49
707. Other investments—		
Stocks.....	1,276,578.35	5,132.87
Bonds.....	3,485,509.00	
Advances.....	1.00	
Miscellaneous.....	716.08	
Total investments.....	126,162,182.24	98,265,849.85

¹ Tentative, giving effect to transactions proposed.

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General balance sheets of Delaware & Hudson Company and Delaware & Hudson Railroad Corporation as of December 31, 1928—Continued

	The Delaware & Hudson Company	The Delaware & Hudson Railroad Corporation ¹
<i>Assets—Continued</i>		
Current assets:		
708. Cash.....	\$2,250,012.18	\$1,500,000.00
709. Demand loans and deposits.....	8,041,745.45	
710. Time drafts and deposits.....	45,000,000.00	
711. Special deposits.....	361,768.51	345,732.36
712. Loans and bills receivable.....	870,000.00	
713. Traffic and car-service balances receivable.....	1,034,793.31	1,034,793.31
714. Net balance receivable from agents and conductors.....	156,967.74	156,967.74
715. Miscellaneous accounts receivable.....	3,743,996.47	2,754,092.06
716. Material and supplies.....	4,180,384.17	4,180,384.17
717. Interest and dividends receivable.....	115,173.09	16,493.78
718. Rents receivable.....	6,989.58	
Total current assets.....	65,761,830.50	9,983,463.42
Deferred assets:		
720. Working-fund advances.....	11,665.00	11,640.00
721. Insurance and other funds.....	1,227,817.92	729,092.66
722. Other deferred assets.....	6,209.47	6,208.47
Total deferred assets.....	1,245,692.39	746,941.13
Unadjusted debits:		
723. Rents and insurance premiums paid in advance.....	96,423.97	74,056.70
727. Other unadjusted debits.....	491,909.25	491,909.25
Total unadjusted debits.....	588,333.22	565,965.95
Grand total.....	193,758,038.35	109,567,220.35
<i>Liabilities</i>		
Stock:		
751. Capital stock.....	51,573,500.00	26,303,128.46
753. Premium on capital stock.....	4,535,450.00	
Total stock.....	56,108,950.00	26,303,128.46
Long-term debt:		
755. Funded debt unmatured.....	60,202,450.00	60,202,450.00
Current liabilities:		
759. Traffic and car-service balances payable.....	528,275.28	528,275.28
760. Audited accounts and wages payable.....	5,647,842.87	5,647,842.87
761. Miscellaneous accounts payable.....	225,126.85	179,977.52
762. Interest matured unpaid.....	47,500.50	47,500.50
763. Dividends matured unpaid.....	111,505.50	
764. Funded debt matured unpaid.....	7,100.00	7,100.00
766. Unmatured interest accrued.....	463,873.64	463,873.64
767. Unmatured rents accrued.....	115,832.01	115,582.01
768. Other current liabilities.....	583,059.96	583,059.96
Total current liabilities.....	7,730,116.61	7,573,211.78
Deferred liabilities:		
770. Other deferred liabilities.....	1,683,317.73	1,636,865.37
Unadjusted credits:		
771. Tax liability.....	493,147.24	493,147.24
773. Insurance and casualty reserves.....	1,141,887.67	643,162.41
776. Accrued depreciation.....	11,214,679.91	11,214,679.91
778. Other unadjusted credits.....	1,500,575.18	1,500,575.18
Total unadjusted credits.....	14,350,290.00	13,851,564.74
Corporate surplus:		
779. Additions to property through income and surplus.....	7,006,776.55	
784. Profit and loss balance.....	46,676,137.46	
Grand total.....	193,758,038.35	109,567,220.35

¹ Tentative, giving effect to transactions proposed.

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APPENDIX B

Analysis of I. O. C. Account 706, "Investment in Affiliated Companies" shown on General Balance Sheet of Delaware & Hudson Company as of December 31, 1928

TABLE I.—Items to be transferred to Delaware & Hudson Railroad Corporation, as set forth in application and report

Name of issuing company	Description of security	Number of shares or bonds	Par value	Book value	Per cent of ownership
Champlain Transportation Company.	Common stock....	1,041	\$52,050.00	\$83,911.11	¹ 35.29
Chateaugay & Lake Placid Railway Company.	Preferred stock....	30,000	3,000,000.00	3,000,000.00	100.00
Do.....	Common stock....	4,500	450,000.00	10,001.00	100.00
Cooperstown & Charlotte Valley Railroad Company.	do.....	450	45,000.00	1.00	100.00
Cooperstown & Susquehanna Valley Railroad.	do.....	2,699	269,900.00	10,006.50	² 87.80
Greenwich & Johnsonville Railway Company.	do.....	2,250	225,000.00	225,000.00	100.00
Mechanicville & Fort Edward Railroad Company.	do.....	540	54,000.00	1.00	100.00
Northern Coal & Iron Company.	do.....	15,000	1,500,000.00	1,500,000.00	100.00
Schoharie Valley Railway Company.	do.....	1,000	100,000.00	75,000.00	100.00
Wilkes-Barre Connecting Railroad.	do.....	1,828	91,300.00	91,300.00	³ 50.00
Ticonderoga Railroad Company.	Preferred stock....	115	11,500.00	11,500.00	100.00
Do.....	Common stock....	185	18,500.00	18,964.02	100.00
Hudson River Estates, Incorporated.	do.....	1,500	150,000.00	150,000.00	100.00
Total stock.....			5,967,250.00	5,175,684.63	
Cooperstown & Susquehanna Valley Railroad Company.	5 per cent first-mortgage bonds of 1918.	1,300	200,000.00	200,000.00	100.00
Greenwich & Johnsonville Railway Company.	6 per cent first-mortgage bonds of 1943.	550	500,000.00	500,000.00	100.00
Wilkes-Barre Connecting Railroad Company.	Temporary first improvement mortgage. 5 per cent gold bonds of 1947.	3	1,093,000.00	1,093,000.00	³ 50.00
Total bonds.....			1,793,000.00	1,793,000.00	
Champlain Transportation Company.	Demand notes....		211,977.31	211,977.31	100.00
Lake George Steamboat Company.	do.....		375,742.29	375,742.29	100.00
Total notes.....			587,719.60	587,719.60	
Cooperstown & Charlotte Valley Railroad Company.	Advances for railroad construction.		91,456.49	91,456.49	100.00
Champlain Transportation Company.	Advances.....		94,000.00	94,000.00	100.00
Total advances.....			185,456.49	185,456.49	
Total to be transferred.....			8,533,426.09	7,741,860.72	

¹ Remainder of this stock (1,909 shares) owned by Rensselaer & Saratoga Railroad Company and controlled by this company through lease of the Rensselaer & Saratoga Railroad.

² Remainder of this issue in the hands of the public.

³ Owned equally with Pennsylvania Railroad Company.

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TABLE II.—Items to be retained by the Delaware & Hudson Company

Name of issuing company	Description of security	Number of shares or bonds	Par value	Book value	Per cent of ownership
Hudson Valley Railway Company.	Common stock....	29,462	\$2,946,200.00	\$1.00	100.00
Naperville Junction Railway Company.	do.....	12,000	600,000.00	600,000.00	100.00
Quebec, Montreal & Southern Railway Company.	do.....	10,000	1,000,000.00	1.00	100.00
Hudson Coal Company.	do.....	354,965	17,748,250.00	14,981,260.00	100.00
Bluff Point Land Improvement Company.	Preferred stock....	2,223	222,300.00	55,466.67	100.00
Northern New York Development Company.	Common stock....	100	10,000.00	10,000.00	100.00
Total stock.....			22,526,750.00	15,646,728.67	
Glens Falls, Sandy Hill & Fort Edward Railroad Company.	6 per cent first-mortgage bonds of 1911.	150	100,000.00	1.00	100.00
Do.....	6 per cent second-mortgage bonds of 1913.	100	50,000.00	1.00	100.00
Do.....	6 per cent third-mortgage bonds of 1921.	87	82,000.00	1.00	100.00
Stillwater & Mechanicville Railway Company.	6 per cent consolidated mortgage bonds of 1913.	215	202,500.00	1.00	100.00
Do.....	6 per cent first-mortgage bonds of 1913.	95	47,500.00	1.00	100.00
Hudson Valley Railway Company.	6 per cent consolidated mortgage bonds of 1951.	2,203	2,203,000.00	1.00	100.00
Do.....	5 per cent non-cumulative, including debenture bonds A of 1951.	571	465,400.00	1.00	100.00
Do.....	2 per cent non-cumulative, including debenture bonds B of 1951.	2,500	2,500,000.00	1.00	100.00
Bluff Point Land Improvement Company.	First-mortgage 4 per cent bonds of 1940.	28	28,000.00	27,346.78	100.00
Fort William Henry Hotel Company.	First-mortgage 4 per cent bonds of 1951.	45	45,000.00	40,000.00	100.00
Total bonds.....			5,723,400.00	67,354.78	
Hudson Valley Railway Company.	Demand notes....		3,299,381.58	65,002.00	100.00
Bluff Point Land Improvement Company.	Demand note, 4 per cent.		254,088.07	254,088.07	100.00
Fort William Henry Hotel Company.	do.....		514,434.55	514,434.55	100.00
Hudson Coal Company.	Demand note, 4½ per cent.		700,000.00	700,000.00	100.00
Do.....	Demand note, 5 per cent.		1,700,000.00	1,700,000.00	100.00
Total notes.....			6,467,904.20	3,233,524.62	
Bluff Point Land Improvement Company.	Advances.....		57,500.00	57,500.00	100.00
Northern New York Development Company.	do.....		372,705.59	372,705.59	100.00
Fort William Henry Hotel Company.	do.....		15,000.00	15,000.00	100.00
Quebec, Montreal & Southern Railway Company.	Advances for railroad construction.		3,745,847.17	3,745,847.17	100.00
Total advances.....			4,191,052.76	4,191,052.76	
Total to be retained.....			38,909,106.96	23,138,660.83	
Grand total, account 706.....			47,442,533.05	30,880,521.55	

¹ Remainder of these issues in the hands of the public.

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APPENDIX C

Statement showing system lines of the Delaware & Hudson Company involved in this proceeding, including those operated under lease, trackage rights, or otherwise

SCHEDULE I.—Lines owned in fee simple and operated by Delaware & Hudson Company

	Miles
1. Segments of lines forming part of the system main lines and extending from—	
(a) A point on the international boundary between the United States and the Dominion of Canada north of Rouses Point southerly by way of Chazy, Plattsburg, Bluff Point, South Junction, Port Kent, Port Henry, and Montcalm Landing, to Lake Station, in the town of Whitehall, all within the State of New York.....	112.87
(b) Coons, near Mechanicville, westerly to East Glenville, all within the State of New York.....	9.80
(c) Schenectady southwesterly to Delanson, all within the State of New York.....	13.69
(d) Nineveh, N. Y., southerly to Jefferson Junction, Pa., located entirely within those States.....	22.50
(e) Carbondale southerly to Green Ridge, in Scranton, all within the State of Pennsylvania.....	15.76
Total.....	174.62
2. Branch lines located entirely within the State of New York, and extending from—	
(a) South Junction southwesterly to Ausable Forks.....	20.58
(b) Montcalm Landing westerly by way of Ticonderoga Junction to Baldwin.....	4.47
(c) Moreau Junction northwesterly to South Glens Falls.....	4.90
(d) Saratoga Springs northerly by way of Thurman to North Creek.....	56.98
(e) Thurman easterly to Warrensburg.....	3.39
(f) Greenwich Junction southwesterly to Greenwich.....	10.21
(g) Cherry Valley Junction, near Cobleskill, northwesterly to Cherry Valley.....	21.04
3. Branch lines of railroad located entirely within the State of Pennsylvania, and extending from—	
(a) Lookout Junction, in Carbondale, easterly to Honesdale.....	27.72
(b) Green Ridge to Vine Street, Scranton.....	1.39
(c) Vine Street branch connection to Scranton.....	.39
(d) Archibald to Bushwick.....	4.38
Total.....	155.45
Total owned and operated.....	330.07

SCHEDULE II.—Lines operated by Delaware & Hudson Company as agent or under lease not involving control of the lessor

	Miles
1. A line of railroad owned in part by the Wilkes-Barre Connecting Railroad Company extending from Buttonwood to Hudson, all within the State of Pennsylvania.....	6.66
2. A line of railroad owned by the Ticonderoga Railroad Company extending from Ticonderoga Junction westerly to Ticonderoga, all within the State of New York.....	1.39
3. A line of railroad owned by the Erie Railroad Company extending from Jefferson Junction southerly to Carbondale, all within the State of Pennsylvania.....	34.51
4. A line of railroad known as the Plattsburg & Dannemora Railroad, owned by the State of New York, extending westerly from Bluff Point to Dannemora, all within the State of New York.....	16.03
Total.....	58.59

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SCHEDULE III.—Lines of railroad operated under trackage rights agreements

Owner	Description	Miles
Boston & Maine Railroad.....	Troy to Eagle Bridge, N. Y., Mechanicville to Eagle Bridge, N. Y.	34.97
Do.....	Mechanicville to Coons, N. Y.	1.72
Troy Union Railroad Co.....	Within the city of Troy, N. Y.	2.03
Erie Railroad Co.....	Binghamton to Owego, N. Y.	22.19
Do.....	D. & H. Junction to Binghamton, N. Y.	.11
Lehigh Valley Railroad Co.....	Market Street, Wilkes-Barre to South Wilkes-Barre, Pa.	1.62
Do.....	Junction at Wilkes-Barre to station at Wilkes-Barre, Pa.	.16
Do.....	Connection near Conyington Avenue, Wilkes-Barre, to Baltimore No. 5 Breaker of the Hudson Coal Co., Pa.	.59
Rutland Railroad Co.....	West Street, Rutland, to station at Rutland, Vt.	.42
New York Central Railroad.....	Livingston Avenue, Albany, to Madison Street, Troy, N. Y.	6.66
Total.....		70.47

SCHEDULE IV.—Lines of railroad operated under lease or sublease from other companies

	Miles
1. A line of railroad owned by the Albany & Susquehanna Railroad Company extending from Albany southwesterly by way of Delanson, Cobleskill, Cooperstown Junction, and Nineveh, to Binghamton.....	142.33
2. Lines of railroad owned by the Rensselaer & Saratoga Railroad Company:	
(a) Extending from Lake Station in Whitehall by way of Fort Edward, Moreau Junction, Saratoga Springs, Ballston Spa, Mechanicville, Waterford Junction, and Green Island to Troy, all within the State of New York.....	65.85
(b) A line of railroad extending from Whitehall easterly to the boundary line between the States of New York and Vermont.....	6.63
(c) A line of railroad extending from Rutland, Vt., by way of Castleton, Vt., and Greenwich Junction, N. Y., to Eagle Bridge, N. Y.....	62.36
(d) A line of railroad extending from Fort Edward northerly by way of Glens Falls to Lake George, all within the State of New York.....	14.55
(e) A line of railroad extending from Green Island westerly to a connection with the Albany & Vermont Railroad at a point north of the station in Watervliet, all within the State of New York.....	1.07
Total.....	150.46
3. A line of railroad owned by the Rutland & Whitehall Railroad Company extending from a connection with the Rensselaer & Saratoga Railroad at the boundary line between the States of New York and Vermont, easterly to Castleton, Vt.....	6.83
4. A line of railroad owned by the Albany & Vermont Railroad Company extending from Waterford Junction southerly by way of Watervliet to Albany, all within the State of New York.....	12.18
5. A line of railroad owned by the Saratoga & Schenectady Railroad Company extending from Saratoga Springs southwesterly by way of Glenville to Schenectady, all within the State of New York.....	20.56
6. A line of railroad owned by the Northern Coal & Iron Company extending from Scranton southwesterly by way of Hudson to Wilkes-Barre, with a detached branch between South Wilkes-Barre and Plymouth, all within the State of Pennsylvania.....	26.72
7. A line of railroad owned by the Chateaugay & Lake Placid Railway Company extending from Dannemora by way of Lion Mountain to Lake Placid, all within the State of New York.....	63.44
Total.....	422.52

CERTIFICATE AND ORDER

Issued January 16, 1930

A hearing and investigation of the matters and things involved in this proceeding having been had, and said division, having, on the date hereof, made and filed a report containing its findings of fact and conclusions thereon, which report is hereby referred to and made a part hereof:

It is hereby certified, That the present and future public convenience and necessity permit the abandonment by the Delaware & Hudson Company of the operation of the lines of railroad now operated

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by it in the States of New York, Pennsylvania, and Vermont described in the application and report aforesaid: *Provided, however,* That the operation of said lines shall be immediately assumed by the Delaware & Hudson Railroad Corporation pursuant to the authority herein granted.

It is further certified, That the present and future public convenience and necessity require the operation by the Delaware & Hudson Railroad Corporation of the lines of railroad described in Schedules I, II, and III of Appendix C hereof, and more particularly described in said application.

It is ordered, That, subject to the condition stated in the aforesaid report, the acquisition by the Delaware & Hudson Railroad Corporation of control (a) of the Greenwich & Johnsonville Railway Company, the Schoharie Valley Railway Company, the Cooperstown & Charlotte Valley Railroad Company, the Cooperstown & Susquehanna Valley Railroad, the Ticonderoga Railroad Company, the Wilkes-Barre Connecting Railroad Company, and the Champlain Transportation Company, by purchase of stock, (b) of the Albany & Susquehanna Railroad Company, the Rensselaer & Saratoga Railroad Company, the Rutland & Whitehall Railroad Company, the Albany & Vermont Railroad Company, and the Saratoga & Schenectady Railroad Company by lease and assignment of lease, and (c) of the Northern Coal & Iron Company and the Chateaugay & Lake Placid Railway Company by purchase of stock and by lease and assignment of lease, as set forth in the application and report aforesaid, be, and it is hereby, approved and authorized.

It is further ordered, That the Delaware & Hudson Company, when filing schedules canceling tariffs applicable on its lines of railroad, shall in such schedules refer to this certificate by title, date, and docket number.

It is further ordered, That the Delaware & Hudson Railroad Corporation when filing or adopting schedules establishing rates and fares on any of said lines of railroad shall in such schedules refer to this certificate by title, date, and docket number.

It is further ordered, That the Delaware & Hudson Railroad Corporation shall report to this commission as required by valuation Order No. 24, effective May 15, 1928.

It is further ordered, That, for the purpose of acquiring the properties of the Delaware & Hudson Company, as set forth in the application and report aforesaid, the Delaware & Hudson Railroad Corporation be, and it is hereby, authorized (a) to issue 515,740 shares of common capital stock of no par value, and (b) to assume obligation and liability in respect of the outstanding securities of the Delaware & Hudson Company, consisting of \$49,000,000 of first

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and refunding mortgage bonds, \$844,650 of 5 per cent 20-year convertible gold bonds, \$10,000,000 of 10-year 7 per cent secured gold bonds, \$1,857,800 of equipment 6 per cent gold notes, series A, \$7,500,000 of 15-year 5½ per cent gold bonds, and \$1,000,000 of first-mortgage gold bonds of the Adirondack Railway Company, and in respect of \$182,600 of common stock and \$2,186,000 of first and improvement mortgage bonds of the Wilkes-Barre Connecting Railroad Company, \$3,500,000 of capital stock and \$10,000,000 of first-mortgage 3½ per cent 40-year gold bonds of the Albany & Susquehanna Rail Road Company, and \$10,000,000 of capital stock and \$2,000,000 of first-mortgage 6 per cent 20-year gold bonds of the Rensselaer & Saratoga Railroad company.

It is further ordered, That, except as herein authorized said stock shall not be sold, pledged, repledged, or otherwise disposed of by the Delaware & Hudson Railroad Corporation, unless and until so ordered by this commission.

It is further ordered, That, unless and until so ordered by this commission, the Delaware & Hudson Railroad Corporation shall not sell, pledge, repledge, or otherwise dispose of the \$10,000,000 of first and refunding mortgage bonds of the Delaware & Hudson Company now pledged as collateral security for the 10-year 7 per cent secured gold bonds of that company in respect of which the Delaware & Hudson Railroad Corporation is herein authorized to assume obligation and liability.

It is further ordered, That the Delaware & Hudson Railroad Corporation shall report concerning the matters herein involved in conformity with the commission's order dated February 19, 1927, respecting applications filed under section 20a of the interstate commerce act.

It is further ordered, That nothing herein shall be construed to imply any guaranty or obligation as to said stock or other securities, or dividends or interest thereon, on the part of the United States.

It is further ordered, That the acquisition by the Delaware & Hudson Company of control of the Delaware & Hudson Railroad Corporation by purchase of capital stock as set forth in the report aforesaid, be, and it is hereby, approved and authorized.

And it is further ordered, That the application, so far as it seeks authority for the new company to acquire control of the Mechanicville & Fort Edward Railroad Company by purchase of capital stock be, and it is hereby, dismissed.

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