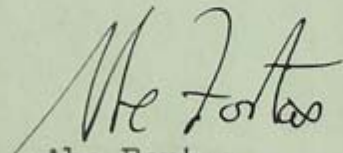


April 26, 1935.

Memorandum to: Chairman Kennedy

From: Protective Committee Study

After consultation with Professor Douglas, who is now in New Haven, I have drafted the appended comments with respect to the proposed Senate investigation of railroad financing. If we can be of any further assistance to you in connection with this matter, please call upon us.



Abe Fortas,  
Assistant Director,  
Protective Committee Study.

Attachment

April 26, 1935.

*From file*

M E M O R A N D U M

Re: Senate Resolution 711

1. General Desirability.

An investigation at the present time of railroad financing is highly desirable. Reorganizations of important roads are presently pending and a thoroughgoing investigation of the financing of railroads will be of great utility in indicating to the persons concerned the form which the reorganized capital structure of the roads should take. Furthermore, the recent charges with respect to the financing of the Missouri-Pacific and Frisco roads indicate the need for a complete investigation of this subject.

2. The Investigation and the Protective Committee Study.

The fact that this Commission is conducting an investigation of the activities of protective and reorganization committees, pursuant to Section 211 of the Securities Exchange Act, by no means makes the investigation of railroad financing unnecessary. The investigation under Section 211 covers all sorts of enterprises, industrials, real estate and utilities, as well as railroads. The Protective Committee Study will investigate only one railroad reorganization. Moreover, the scope of that investigation is probably more limited than will be the scope of the Senate investigation. It will concentrate on the period during which the road is in actual process of reorganization. It will include pre-reorganization activities only where they are traceable into the reorganization or are relevant to a consideration of reorganization problems, committee personnel and the like. The objective of the Study will not be a consideration of the financing of railroads except as that is involved in the reorganization process.

We shall, however, be glad to cooperate with the Senate Committee in every possible way and we trust that we will be advised of the activities of the Senate Committee in so far as they relate to the work of the Protective Committee Study.

3. Effect of the Investigation on the Market for Railroad Securities.

It is extremely difficult, if not impossible, to forecast the effect of this investigation on the market for railroad securities. In part, this will depend upon the character of the disclosures which are made by the Committee. If the Committee's investigations indicate that certain railroad securities at the present time have a distinctly false and unfounded market value, it is possible that such disclosure will cause a decline in the market quotations. On the other hand, a thoroughgoing investigation of railroad financing, properly conducted, will in our opinion eventually have a wholesome effect on the market for such securities.

4. The Appropriation of \$25,000.

Our own experience indicates that an appropriation of \$25,000 for the purpose of this investigation is quite conservative. Of course, the expenses of this Commission in connection with the Protective Committee Study and of the Senate Committee are not comparable. An important factor of differentiation is that the Commission is bound by Civil Service classifications.