REMARKS BY CLAUDE S. BRINEGAR, SECRETARY OF TRANSPORTATION, AT TRANSPORTATION ASSOCIATION OF AMERICA LUNCHEON MEETING, APRIL 5, 1973.

The Nation is fortunate to have such a fine organization as the Transportation Association of America. Your willingness and ability to provide a forum where the Northeast rail problem can be considered thoroughly and openly by those who have so much at stake is most commendable.

Though perhaps it may not have been publicly obvious, for about the last eight weeks I've been working very hard on your collective behalf. Other than an occasional free lunch, which I appreciate, what I now ask in return can be expressed in four phrases: an open mind, a willingness to set aside special interests and seek out the National interest, a respect for the abilities of the free-enterprise system, and the courage to move ahead.

I've been working hard on your behalf, as well as that of all others who are affected by the Penn Central problem, because I feel quite strongly that some very large issues are on the table. I fear that if we're not careful historians of a decade or so hence may be pointing to the rail crisis of 1973 and saying, "From this crisis-borne beginning the Federal involvement inevitably reached further and further into the operations, financing, and policy making of the Northeast rail system until there was finally no alternative to nationalization of the full system. And, of course, this step soon drove other previously healthy competitors to a similar fate...." I need not pursue this avenue, for I'm sure all of you are aware of the dangers of trying to be a "limited partner" with such a powerful and ponderous entity as the Federal government. It's an unfair match. No one can emerge a long-term winner.

Viewing the future more optimistically, let's hope that the historians will really say that 1973 marked a turning point for rail--that in 1973 rail started the long road back toward good economic health--and that 1973 signaled victory for private enterprise. I believe that it can be done and, in fact, that the Nation can ill afford anything else. Our objective--and your objective--must be to find the way to make it happen.

The rail report that the Department of Transportation issued on March 26 was, we believe, a proper beginning. Admittedly much was missing in the way of necessary detail, for we felt it essential to concentrate on procedural concepts--the road map, so to speak--and on getting off on the right first step. Once we've started these early right steps we will then be able to bear down on the operational details. But while we expect give and take on the details, at least we'll know we're on the right road and have a dependable map to guide us.

Before discussing some of the details of our proposal, perhaps it's worth a brief pause to clarify what we did not say. We did not say, contrary to one newspaper, "that all the problems can--and indeed must--be solved within the broad framework of the private sector," or, contrary to a news magazine, we did not say that "this problem can--and indeed must--be solved by the private sector." The differences between what we said and what those quotes imply make us sound a bit like our economics are coming out of the 19th Century textbooks. Such an implication is dead wrong.

What we said requires a quote of a full paragraph (from page 5 of the report):

"Without question we face a short-term rail crisis in the Northeast. Six of the rail carriers in this area are in bankruptcy, and the dominant one--the Penn Central--is on the verge of Court ordered liquidation in order to prevent further erosion of the creditors' estates. Correcting this short-term problem will require cooperative and public-spirited action by all parties involved--Congress, the Administration, regulators, labor, creditors, shippers, and the courts. We believe that the problem can--and indeed must--be solved within the broad framework of the private sector."

I read these words to say (1) that the short-term problem is clearly serious, (2) that <u>all</u> affected parties--including the Federal government--must work together to find the way out, and (3) that the solution must be found within the broad framework of the private sector. We believe this approach properly protects both the essential public interest and our private-sector rail transportation system.

Turning to another key point, I doubt that it's necessary to restate here our reasons for concluding that the Nation's rail system is neither dead nor dying, though I find this to be a common public misconception. Over-generalizations come easy, I guess, and the tendency to conclude that the problems of the rail companies in the Northeast are irreversibly the problems of the rail companies of the Nation is understandable. But such pessimism tends to unnecessarily cloud thinking about possible solutions, and I urge you to seek ways to turn it to thoughts of optimism. To use Clement Stone's phrase, let's seek the proper "positive mental attitude."

And why not be optimistic? Our analyses indicate that the Northeast area now has adequate freight business, plus long-term prospects for growth, that will clearly support one or more new private-sector rail systems designed out of the assets of the six bankrupts. It also indicates that, if properly structured, these new systems can move the vast majority of this freight business more efficiently and at lower costs than the present over-burdened systems. And, most importantly, it suggests that the capital for this new entity (or entities) could, in time, come from the private capital market, just as does the capital that is now raised by the Nation's healthy railroads.

What is needed, of course, is to figure out how to get from where we are to where we want to be. Our proposed procedure is an effort to outline one workable plan of action--to create some machinery and to oil the gears.

Touching on only the highlights, the plan involves these steps.

Using freight and passenger traffic forecasts for each area in the Northeast, the Department of Transportation would identify Core Rail Service for the region. The service would be based on the concept of long-term economic efficiency in the use of transportation resources. During the 90 or so days following enactment of legislation, the Secretary would prepare a preliminary report identifying the Core Rail Service. Following a period of public comment, final selections, free from judicial review, would be made.

The enabling legislation would authorize the establishment of a new for-profit private corporation, whose Board of Incorporators, appointed by the President, would select assets from the bankrupt carriers needed to provide the Core Rail Service and such other services as they deemed desirable. Bankrupt railroads would be permitted to terminate (but not abandon) rail service not included in the Core System within a specific time period and without ICC approval. The new corporation would also afford viable railroads, shippers, communities and others the opportunity to provide for the continuation of service not included in the Core by compensating either the bankrupt roads or the new corporation.

The corporation would then proceed to design in specific details one or more rail system in the Northeast based on the Secretary's Core selections. In designing the system the Board would apply two criteria: economic viability of each element of the system (or systems), and preservation of rail service competition in high density markets. After the Secretary approves the Board's proposals as to meeting overall criteria, the Board would acquire the facilities and equipment of the bankrupt roads through negotiation with the estates and others. We believe the value of the Core assets as a going-concern would exceed their uncertain value under protracted and piecemeal liquidation--that its present value as a profitable railroad cannot help but surpass its stretched-out liquidation value. Consequently, we believe that the trustees would find it in their best interests to work out equitable agreements with the Board in the specified time periods, and that the Courts would agree with the settlements. If the Board designates more than one new system, the Board would establish as many additional corporations as are required to run the systems. Alternatively--and subject to guidelines on competitive balance and negotiations with other carriers--the systems might all become part of on-going rail companies.

The stock of the new corporation or corporations would be placed in escrow until it could be allocated equitably and distributed to the bankrupt estates. Following this step the new corporation or corporations would hire managements, employees, raise capital, and take over the operations. At this point, track not included in any continuing rail system could be abandoned without ICC approval.

Without doubt the transition to a streamlined rail system in the Northeast will cause strains and dislocations to three major groups--the bankrupt carriers themselves, their employees, and the affected shippers. In our plan we have outlined a few of the ways to handle these problems. They include such possibilities as special tax treatment for settlements of claims of displaced employees, a carryover of the tax losses of Penn Central into the new corporation or corporations, and time for shippers to arrange for alternate service where previous rail service is no longer available. Additional plans to deal with problems caused by displaced labor and the problems of communities and shippers can best be developed following better understanding of the numbers involved and the extent of the dislocations. We are working on these plans. We have not prescribed a formula for wholesale abandonments, but rather a gradual, carefully planned process of moving from an over-burdened system to one that is more appropriate to the realities of today.

Viewing our overall proposal broadly, I would summarize it by saying that we are offering a one-time procedure for moving ahead--a procedure that protects the broad public interest and calls for maximum private sector involvement. By offering sufficient incentives for cooperation we believe the affected parties can reach reasonable and fair agreements. All will have to give a bit, but in the long run all will gain.

While we think that this approach can lead to an eventual solution to the problem of the bankrupt roads in the Northeast, we must also address the regulatory problems which face all railroads and which must bear some of the blame for this crisis. We believe that the modernization of long out-dated regulatory procedures is a necessary step in improving rail's long-term health and competitive strength. Clearly the rates of return for even the healthy railroads are too low by almost any standards. I recognize that some of the proposed regulatory changes may appear to be unwarranted intrusions into the status quo. But, in response, I must ask: Who, in the rail business, is really happy with the status quo?

I will list our regulatory proposals only briefly, as they are outlined in more detail in the report. We recommend:

-- liberalized procedures for rail abandonment of uneconomic routes;

-- procedures to make rate-making more flexible;

-- the elimination of special rates for Federal, state and local governments;

-- modifying the antitrust immunity of rail rate bureaus;

-- providing new procedures to simplify mergers and encourage the acquisition and joint use of common facilities and to promote intermodal ownership;

-- permitting liberalized entry of motor and water carriers to fill gaps created by rail abandonments;

-- eliminating discriminatory state and local taxation of rail assets;

-- eliminating delays in state approval of intrastate rates that coordinate with changes in interstate rates; and

-- amending Section 77 of the Bankruptcy Act to give courts adequate authority to act promptly and rationally to solve the problems caused by railroad bankruptcies.

So much for details. As a concluding comment let me touch on three broader issues.

First, I recognize that other Northeast rail proposals have been made and more will certainly continue to be made. The merits of each should be looked at carefully, much as you are doing today. But as you make this review you must also look carefully at these questions: Who's being called upon to bear the costs? Are these burdens equitable? Are the long-term problems really being solved or are they only being swept aside?

Second, as you review plans that call for big new Federal outlays you must also ask: Is it really fair to call upon the Nation to shoulder a new massive financial burden just at a time when we're all straining to hold the line on spending--straining to find ways for the country to live within its means? President Nixon was not re-elected by voters who wanted higher taxes and stepped-up inflation. The majority said: "Control inflation and hold down taxes." And that is precisely what the President is trying very hard to do. But with Congress responding to the pressures of the minorities whose pet programs are in danger--responding by trying to add billions of dollars to Federal spending--it's a most difficult job. Though it's often lost sight of in the heat of the rhetoric, next year's proposed Federal budget is actually up--from $250 billion to $269 billion. The President believes that that's as much as the country can possibly afford. This is certainly not the time to come up with more programs that add to the fires of inflation and perhaps trigger an unwanted increase in taxes.

Finally, let me note that, because of this rail crisis, there may never be another time in your organization's history that you have the opportunity to play such a leadership role in shaping the kind of transportation system you want and the Nation needs. I strongly urge you to accept this challenge. Let me close as I began: Let's work together, let's put special interests aside, and let's get moving.