

**REPORT OF PROCEEDINGS BEFORE**

**GENERAL PURPOSE STANDING COMMITTEE NO. 4**

**Inquiry Into the Privatisation of FreightCorp**

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**At Sydney on Monday, 6 November 2000**

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**The Committee met at 10.00 a.m.**

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**PRESENT**

The Hon. I. Cohen (Acting-Chair)

The Hon. Amanda Fazio

The Hon. D. J. Gay

The Hon. C. J. S. Lynn

The Hon. A. B. Kelly

The Hon. D. E. Oldfield

The Hon. I. M. Macdonald

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**CHAIR:** Members of the media should be aware that Standing Order No. 252 of the Legislative Council states that any evidence given before this Committee and any documents presented to the Committee which have not yet been tabled in Parliament:

*. . . may not, except with the permission of the Committee, be disclosed or published by any member of such Committee or by any other person.*

Accordingly, General Purpose Standing Committee No. 4 has resolved in this regard to authorise the media to broadcast sound and video excerpts of its public proceedings held today.

The Committee's resolution conforms with the guidelines governing the broadcast of proceedings adopted by the Legislative Council on 11 October 1994. Copies of the guidelines have been circulated to you.

The Committee wishes to emphasise that, when the public hearing commences, only the members of the Committee hearing evidence and the witnesses appearing before them may be filmed or recorded. People in the public galleries are not considered to be part of the proceedings and, therefore, may not be included in sound and video broadcasts.

Furthermore, any person reporting the proceedings of this Committee is advised that, as with reporting the proceedings of both Houses of Parliament, you must take responsibility for what you publish or what interpretation is placed on anything that is said before the Committee.

**MARK ANTHONY RONISVALLE**, Executive Director, New South Wales Treasury, Governor Macquarie Tower, 1 Farrer Place, Sydney, and

**JAMES LAYCOCK GRAINGER**, Project Manager, New South Wales Treasury, Level 26, Governor Macquarie Tower, 1 Farrer Place, Sydney, sworn and examined:

**CHAIR:** Mr Ronsisvalle, in what capacity are you appearing before the Committee?

**Mr RONISVALLE:** As a representative of New South Wales Treasury.

**CHAIR:** Are you conversant with the terms of reference of this inquiry?

**Mr RONISVALLE:** Yes, I am.

**CHAIR:** Mr Grainger, in what capacity are you appearing before this Committee?

**Mr GRAINGER:** As a representative of New South Wales Treasury.

**CHAIR:** Are you conversant with the terms of reference of this inquiry?

**Mr GRAINGER:** Yes.

**CHAIR:** If you should consider at any stage during your evidence that in the public interest certain evidence or documents you may wish to present should be heard or seen only by the Committee, the Committee would be willing to accede to your request and resolve into confidential session, but I should warn you that the Parliament may override that decision at any time and may make your evidence public. The procedure generally that the Committee will follow is that one or both of you might wish to give a statement or communication to the Committee on the issue and then we will open the hearing to questions from Committee members.

**Mr RONISVALLE:** I might just say a couple of words. You have received our submission. Unfortunately John Pierce was unable to attend. We are hosting one of the rating agencies today, so he has sent his apologies.

Just on the issue of the Government's intention to sell FreightCorp, I think it is fairly well established now that the rail freight and, generally, freight industries have become increasingly competitive over time and the need for the Government to own a rail operator is less apparent these days. I think that given the Government's other priorities of where it could put its money, the Government has taken a decision that it would

be best to exit that industry, at least from the Government's perspective, and use that money for other priorities within the public sector. That is all we really wanted to say as an opening statement, Mr Chairman.

**CHAIR:** Thank you, Mr Ronsisvalle. Mr Grainger?

**Mr GRAINGER:** I have nothing to add except just to emphasise that it is the freight business we are talking about, not the rail industry generally.

**The Hon. D. J. GAY:** Mr Grainger, you identified yourself as a project manager. Are you managing this project per se?

**Mr GRAINGER:** Yes.

**The Hon. D. J. GAY:** Was this project an initiative by Treasury, was it an initiative of FreightCorp or is it an initiative of government?

**Mr RONISISVALLE:** This is an initiative of government. As I said in my opening statement, the industry is becoming increasingly competitive. One cannot suggest that one arm of government is a particular driver in this process. It is becoming increasingly apparent across all of government that there is a need for the Government to exit this industry.

**The Hon. D. J. GAY:** Well, it was a simple question.

**Mr RONISISVALLE:** Mr Chairman, I am not quite clear then.

**CHAIR:** Perhaps you would like to ask the essence of the question again.

**The Hon. D. J. GAY:** Did the original initiative in putting together the project come from Treasury? Treasury does develop some themselves. Was that a request from FreightCorp or was that one from government?

**Mr RONISISVALLE:** The Government has been, I think, interested in whether it is necessary for the Government to be involved in this industry for some time, but to suggest that Treasury has been working for some time to sell this industry—it has been something that has floated around in parts of Treasury for a while. I am not sure you could actually say that the decision to sell FreightCorp came from any particular part of the Government.

**The Hon. D. J. GAY:** Well, Mr Grainger has a project in front of him. Somebody has to initiate and say to Mr Grainger, "You have got to develop this project." Where did that come from?

**Mr RONISISVALLE:** The Government has made the decision. As part of that Mr Grainger has been appointed to manage the sale.

**The Hon. D. J. GAY:** When will the annual report be out?

**Mr RONISISVALLE:** Of FreightCorp?

**The Hon. D. J. GAY:** Yes. It is due by the end of November. Is that correct?

**Mr GRAINGER:** I think it has to be tabled by then.

**The Hon. D. J. GAY:** Do you have the figures available for the annual report for the Committee? Would that be possible?

**Mr RONISISVALLE:** We have not got them here.

**The Hon. D. J. GAY:** We will ask FreightCorp later on. I thought Treasury might have actually had them already. You indicated in your brief statement to us that it was probably an area that government should be out of. Is that to do with management? Are you saying that the management is better in private enterprise?

**Mr RONISVALLE:** Government ownership results in some restrictions on the flexibility of management to operate in an increasingly competitive environment. There are procedures which need to go on through government that make it harder for a government entity to compete in an industry that is highly dynamic.

**The Hon. C. J. S. LYNN:** Would you like to just amplify what sort of restrictions prevent management?

**Mr RONISVALLE:** I think the need to seek approvals for investment proposals may be something which results in potentially business opportunities being missed. There are restrictions on the investment of capital within businesses. You really need to go through a process to have that approved by Treasury. Those restrictions can at times produce less flexible responses to decisions which need to be made fairly quickly.

**The Hon. D. J. GAY:** Has Treasury detailed a paper in the project if there is a sale what will happen to the capital reinvestment?

**Mr RONISVALLE:** No paper has been developed on that proposal, but I think as part of the bidding process the bidders will detail what their plans for the corporation are, and that is something that is taken into account in the bidding process.

**The Hon. D. J. GAY:** What about a regional impact study?

**Mr RONISVALLE:** Again, the Government has made some commitments as to employment but, again, the proposal to come forward from the bidders will be assessed against those sorts of criteria.

**The Hon. D. J. GAY:** But has there been a regional impact study done?

**Mr RONISVALLE:** Not that I am aware of, no.

**The Hon. D. J. GAY:** I would have thought it was standard procedure for anything that goes before Cabinet that there has to be a regional impact statement made. It is certainly what the Government has indicated.

**Mr RONISVALLE:** The matter obviously went to Cabinet, but I do not recall there being a specific regional impact statement there. I could be wrong. I would have to go back and actually check that.

**The Hon. D. J. GAY:** Would you undertake to do that for us because if there is not, it is a breach of government policies on these matters.

**Mr RONISVALLE:** Sure.

**ACTING-CHAIR:** Following on, was there any model undertaken by Treasury to provide the economic rationale for privatisation? Can you give the Committee a copy of this modelling, who did the modelling and what alternatives were considered?

**Mr RONISVALLE:** Just to go back to your question, when you say an economic rationale for privatisation, again, as I said in my opening statement, this industry is becoming increasingly competitive and, as a result of that, there is a need for FreightRail to be flexible in response to that market.

**ACTING-CHAIR:** Are you saying it is not presently flexible or responsive to the market?

**Mr RONISVALLE:** I think FreightRail has been responsive to the market, but the market is becoming increasingly competitive and those constraints imposed by government ownership might inhibit its ability to be competitive in the future.

**ACTING-CHAIR:** When the Treasurer announced the privatisation of FreightCorp, he also announced he would guarantee the jobs of people employed by the corporation. What specific guarantees has the Treasurer put in place and, specifically, how does he intend to give effect to these?

**Mr RONSISVALLE:** The nature of those guarantees is something that is still being worked through. There are discussions with various players in the industry to define exactly what that means in practice. It is something that needs to be worked through and will be worked through prior to the sale.

**ACTING-CHAIR:** For example, will that mean there will be contractual conditions imposed to guarantee the long-term jobs and entitlements of workers currently employed by FreightCorp and jobs downstream, for example, other parts of the rail network?

**Mr RONSISVALLE:** That may well be the case but it has not been determined at this stage.

**ACTING-CHAIR:** Is it in the process of being determined?

**Mr RONSISVALLE:** Yes, it is.

**ACTING-CHAIR:** Has there then been a working party established to consider these details?

**Mr RONSISVALLE:** Yes, there has been.

**ACTING-CHAIR:** Who is represented on the working party?

**Mr RONSISVALLE:** James is on the working party and there are other members.

**Mr GRAINGER:** There are members from the Labor Council, Michael Costa; there is also Nick Lewocki; and also the Premier's Department is represented on that working party.

**The Hon. A. B. KELLY:** Would you expand, perhaps, on some of those guarantees? Could you tell us some of the guarantees that the chairman mentioned about continuation of staff. Is there also guarantees given about continuation of subsidies to rural freight lines and community service obligations [CSOs]—

**Mr RONSISVALLE:** I think the Government made clear as part of the announcement that it did not see the sale of FreightCorp as the Government withdrawing from the rail industry. It made very clear that the track would be maintained in public ownership and that it would continue to subsidise some of the rural tracks. The Government currently puts in about \$170 million a year into subsidising the rural track and it also subsidises certain classes of freight, around \$70 million a year. Those subsidies would continue in the new environment. There is no intention of the Government resiling from providing those subsidies. It is simply that we will change the ownership of the operator of the system.

**The Hon. A. B. KELLY:** So that the \$170 million that you talked about will continue to be a subsidy in itself because the Government is not selling off the tracks?

**Mr RONSISVALLE:** Effectively, what it does is lower the access price that the operators need to pay to run their trains and track. That will continue. So that assists in keeping the country rail lines in operation.

**ACTING-CHAIR:** In specific terms, what arrangements were introduced by the Premier and Treasurer to make community service obligation payments transferable to private companies? When did this happen and which Minister took responsibility for the changes?

**Mr RONSISVALLE:** The issue of community service obligations being transferable is something that is still being considered by government. It is quite a complex issue.

**ACTING-CHAIR:** So, it is not guaranteed at this present time?

**Mr RONSISVALLE:** Sorry, the continuation is guaranteed. The issue about payment to FreightCorp or another operator is still being worked through.

**ACTING-CHAIR:** Does this include formal community or other consultation taking place regarding these changes?

**Mr RONSISVALLE:** We have proceeded some way down the track to try to work out how you might make these payments within a privatised environment. We have not got to a stage where there has been any

necessity for community consultation because we have not actually got to any position on the issue but if there is a need for community consultation I am sure the Government will go through that process.

**ACTING-CHAIR:** You are saying you are sure they will go through the process. Do you have anything that you can forward to the Committee that guarantees that that will be maintained under privatisation?

**Mr RONISVALLE:** The payment of the community service obligations has been guaranteed as part of the Treasurer's announcement that those payments would continue to be made. I am not sure if there is anything else I can provide other than a copy of the Treasurer's press release where he makes that very clear.

**The Hon. D. J. GAY:** Has there been a decision made on the procedure of the CSOs? Can you give the Committee a guarantee that they will not be just a subsidy to the company that takes over?

**Mr RONISVALLE:** Certainly those CSOs in the long run would be likely to be made in some form contestable. Exactly how that will occur is yet to be determined. What the Government is seeking to do is produce a level playing field between operators in the long run but the mechanism by which we get there needs to be worked through. The nature of those CSO payments has currently been more tightly defined in the sense that they are being allocated to specific commodities and specific lines in a much more rigorous way at the moment.

**The Hon. D. J. GAY:** When will that be determined?

**Mr RONISVALLE:** We would certainly want to have those issues resolved prior to the sale of FreightCorp because it needs to be something which the new operator understands the environment it is coming into.

**The Hon. D. J. GAY:** Can you understand that members of Parliament would like to see those prior to making a decision pro or against the sale of FreightCorp?

**Mr RONISVALLE:** I can take that back to the Treasurer so he can come back to the Committee. From Treasury's perspective, what we are trying to do is make sure that the CSO arrangements are clear and ongoing for any operator that comes on the market.

**The Hon. D. J. GAY:** The job situation, is the same time span there?

**Mr RONISVALLE:** Again, someone purchasing FreightCorp needs to have a very clear understanding of what the Government's intentions are in respect of job guarantees because it is obviously a key characteristic that needs to be understood prior to a bidder putting forward a price for FreightCorp.

**The Hon. D. J. GAY:** So this project is in very early days so far as you are concerned?

**Mr RONISVALLE:** The Government only made the announcement in early September. There is still a considerable amount of work that needs to be done, but we are working as quickly as possible to implement the Government's decision.

**The Hon. D. J. GAY:** Do I understand from that answer that Treasury only started working on the project after the Government made the announcement?

**Mr RONISVALLE:** Treasury was obviously aware that it was a possibility that the Government might go down this path but very little work had been done on it prior to the Government's announcement.

**The Hon. D. J. GAY:** Which department would the CSOs come from?

**Mr RONISVALLE:** CSOs are currently paid from the Department of Transport and at this stage there is no intention to change that.

**The Hon. A. B. KELLY:** What do you mean by "at this stage"?

**Mr RONISVALLE:** I suppose what I am saying is that it is possible in the scheme of things that the CSO payments could be made from Treasury or some other government agency or the department of agriculture.

**The Hon. A. B. KELLY:** I was just making sure that you were not indicating there might be a change after the Treasurer has guaranteed it.

**Mr RONISVALLE:** No, just that the mechanism by which they are paid is something that is always open to government.

**ACTING-CHAIR:** The Treasurer advanced the argument that FreightCorp has to be sold at the same time as the National Rail Corporation in order to achieve the best price. How is it possible that the NRC sale is at the point of calling for bids, but no machinery for the sale of FreightCorp has been put into place?

**Mr RONISVALLE:** We have had discussions with the Commonwealth. The Commonwealth is also interested in selling their NRC to the same bidder as FreightCorp and they are prepared to be flexible about the timetable that they were originally going to the market place. They have got requirements that they want to sell National Rail by 30 June next year and when you work back from that timetable, selling FreightCorp and National Rail is possible within that time frame.

**ACTING-CHAIR:** So, the Government has known since 1997 that the NRC would be sold.

**Mr RONISVALLE:** It has known for some time.

**ACTING-CHAIR:** It had the right to buy the NRC once the Federal and Victorian governments decided to sell but gave up this right without any public or parliamentary debate. Why is that in your opinion?

**Mr RONISVALLE:** The Commonwealth Government was not prepared to sell National Rail to the State Government or to FreightCorp. They made that very clear in all correspondence and discussions between the Government so, I suppose, in a sense they had the capacity to sell their part of National Rail. They refused to sell it to FreightCorp. In those circumstances, National Rail was definitely going to be sold. The Government had to look, I suppose, for second best options. If you cannot buy National Rail, then the Government has taken the decision that the next best option is to sell FreightCorp in parallel with National Rail.

**The Hon. A. B. KELLY:** How can the Federal Government say that only so and so can be a bidder, in other words exclude the State Government? You might explain that a little more.

**Mr RONISVALLE:** Effectively, the Commonwealth owns 70 per cent.

**ACTING-CHAIR:** New South Wales 20 per cent and Victoria 10 per cent.

**Mr GRAINGER:** So that effectively they can sell the combined Commonwealth and Victoria majority interest in National Rail. That would then put the State Government in a position where it only owns 20 per cent and there would be a majority presumably—

**The Hon. A. B. KELLY:** The point of my question more was that normally if you go to sell your house you cannot say, Charlie Lynn can't buy it but anyone else can". How can they say New South Wales cannot bid?

**Mr GRAINGER:** Because it is a Corporations Law company. They have the legal title to the shares and they can transfer it to whom they choose.

**ACTING-CHAIR:** Is not the New South Wales Government still in a strong, legal position to insist that FreightCorp be allowed to bid for the NRC? Is that not still an argument that the New South Wales Government is in a strong, legal position?

**Mr GRAINGER:** There were some extensive discussions between the State Government and the Commonwealth Government in terms of that issue and at the end of the day it resulted in basically a stalemate, with the Commonwealth insisting it wished to sell its majority interests along with Victoria and it was not prepared to sell that interest to the New South Wales Government or to FreightCorp.

**The Hon. D. J. GAY:** Does the Australian Consumer and Competition Commission [ACCC] have a feeling on the reverse, with NRC and FreightCorp going together so far as a contestability situation is concerned?

**Mr RONISVALLE:** The ACCC could well have a view on the sale of National Rail and FreightCorp to the one purchaser.

**The Hon. D. J. GAY:** So that has not been explored yet.

**Mr RONISVALLE:** The Government has made representations to the ACCC to seek its view on this issue.

**The Hon. I. M. MACDONALD:** Surely if they are done in parallel it could run under the competition rules, could it not? From any perspective it would be a consolidation of rail companies into one, creating, potentially, a substantial company heading towards a monopoly situation.

**Mr RONISVALLE:** When two rail corporations effectively merge, that does raise the issue of competition, but I think if you analyse the industry you will see that, effectively, FreightRail and National Rail, for all effective intents and purposes, are in different marketplaces. The argument that I think has some merit is that the joining of these two companies will not result in a reduction of competition in the marketplace. Effectively, the rail sector is in competition with the road sector, and that is where the primary competition comes from for the carriage of freight.

**The Hon. C. J. S. LYNN:** We received a submission from Associate Professor Phillip Laird, who is the Chair of the National Government Relations Committee, Railway Technical Society of Australasia. In that submission he refers to three reports, the Neville report to the Federal Government, the Smorgon report and the report of the Productivity Commission, which all supported additional track investment and attention to competitive neutrality. He claims that the Federal Government's April 2000 response was delayed and was weak in these two areas, but he says that the New South Wales Government's response to the three rail reports is unknown and that this is despite the stated intention to produce a New South Wales freight strategy. Are you aware of any freight strategy that the Government has developed?

**Mr RONISVALLE:** I personally am not aware of one.

**The Hon. C. J. S. LYNN:** Are you aware of those three reports?

**Mr RONISVALLE:** I am aware of the Productivity Commission report, but I have not actually gone into it.

**The Hon. C. J. S. LYNN:** The other report was called "Tracking Australia", which is the Neville Committee, and the Smorgon Task Force. You are not aware of or you have not seen either of those reports?

**Mr RONISVALLE:** I have not seen those.

**The Hon. C. J. S. LYNN:** So it would appear that we are going into this without a strategy from the Government being released.

**Mr RONISVALLE:** Certainly FreightCorp has got a forward strategy, which I am sure the Committee will discuss with FreightCorp. The Government's overall strategy is that it wants the most efficient transport sector that it can actually obtain because that is a key driver for economic growth in the State. One of the reasons behind the sale of FreightCorp is to encourage that efficiency. The sale of National Rail and FreightCorp to the one bidder is seen as a key element in getting those economies of scale which will allow the rail sector to compete effectively against the road sector.

**The Hon. C. J. S. LYNN:** Other submissions we have got indicate that a private operator would sort of cherry pick the most profitable parts of the freight industry and leave the rest, then, to road operators. This would increase the usage of road transport operators on roads that they can ill-afford to take them. It would actually, in the greater scheme of things, increase costs overall.

**Mr RONISVALLE:** Again, I think it goes back to the Government's commitment to provide the funding from the budget to make sure that there is a continuing incentive to operate country rail lines and the carriage of freight on trains versus road.

**The Hon. C. J. S. LYNN:** In the terms of reference I think the second point is to improve the long-term job security of FreightCorp employees by enhancing the commercial viability. Is that all current FreightCorp employees?

**Mr RONISVALLE:** Again, I go back to my earlier statement. The issue of job guarantees and what that actually means in practice is something that is still being worked through. I cannot really comment as to the exact definition of that. I think it is something that is still in the melting pot. Certainly the merger of FreightRail and National Rail to the one purchaser, by encouraging the long-term viability of the rail sector, will result in greater job security than what might have been the case.

**The Hon. C. J. S. LYNN:** That will be for those who still have a job. With the efficiencies envisaged, I imagine there would be job losses.

**Mr RONISVALLE:** The number of employees at FreightCorp has declined quite substantially over recent years as FreightCorp has become efficient. The marketplace is already fairly competitive. We would not expect to see huge pressure for downsizing any further. I think FreightCorp is probably at about its most efficient size. If it can grow its business as part of the merger with National Rail, there is evidence that maybe the employment might increase. If you look at the history of some of the privatisations in some of the other States, employment has actually started to increase in the rail sector in those jurisdictions following privatisation.

**The Hon. D. J. GAY:** With the recent troubles with the Grains Board, and I am sure Treasury had a role in the renegotiation of Grains Board to Grainco, \$25 million was put in, a debt that is either \$50 million, \$70 or \$90 million—no-one knows, but I suspect you know. Were FreightCorp contracts involved in the renegotiation with Grainco?

**Mr RONISVALLE:** I am not the person who has responsibility for the Grainco transaction. I would think the answer is no but I would have to go back and actually look into that. It is not an area I actually deal with.

**CHAIR:** Perhaps you would take that on notice and refer that back to us at a later stage. I would just like to go back to the legal status of Minister Fahey's statement that he would not allow government agencies to bid for GrainCorp. Would you tell the Committee what the legal status would be of that of statement?

**Mr RONISVALLE:** I think, as James said, any seller can make a choice about who they sell their shares to. The Commonwealth made it very clear that it did not want another government operator purchasing National Rail.

**Mr GRAINGER:** The Westrail sale was completed last week. I think the Western Australian Government placed a similar embargo on bidders.

**CHAIR:** Are you aware of any legal opinions that suggest that this opinion might not be correct?

**Mr RONISVALLE:** I am not aware of any legal opinions.

**CHAIR:** Have you heard, for example, that the Rail, Tram and Bus Union [RTBU] paid in the vicinity of \$10,000 to Mr Douglas, QC, a constitutional expert, for an opinion that said that the Fahey statement would be in breach not only of the trade practices legislation but also the National Competition Policy?

**Mr RONISVALLE:** I am not aware of that legal advice.

**CHAIR:** You have not heard of that at all?

**Mr GRAINGER:** I am aware that they were seeking advice. I have not seen that advice.

**CHAIR:** But if the advice is to that point—

**Mr GRAINGER:** Well, they have not made it available, so far as I am aware.

**CHAIR:** And you are not aware of the decision.

**The Hon. D. J. GAY:** Is the Auditor-General involved in this process towards the privatisation?

**Mr RONISVALLE:** Not at this stage, but when we get further down the process, certainly there is a requirement for us before we sell FreightCorp to effectively show that the sale proceeds exceed the retention value of the business.

**The Hon. D. J. GAY:** So there would be no decision before the next annual report due at the end of this month because you need to have an idea of what it is worth and what you are getting. I can see FreightCorp nodding in the background.

**Mr RONISVALLE:** We have recently put on financial advisers to the sale. One of their tasks will be to assist in the determination of the retention value so a clear decision can be made when the bids come in whether this is worth selling.

**The Hon. D. J. GAY:** Retention versus sale? The value?

**Mr RONISVALLE:** Yes.

**The Hon. A. B. KELLY:** Following on from that, obviously FreightCorp is not bankrupt. You said that its staffing is at about the level it should be. There has been, I think, about a 45 per cent reduction, the Treasurer said, since July 1996.

**Mr RONISVALLE:** Yes.

**The Hon. A. B. KELLY:** So you are saying that it is operating pretty well. What sort of surplus is it making now? Is it line-ball or is it making a surplus?

**Mr RONISVALLE:** It is making a surplus; it is making an operating profit and making a profit at the moment. It has been returning dividends to the Government.

**The Hon. D. J. GAY:** \$21 million last year.

**The Hon. A. B. KELLY:** I am trying to get Treasury to say so. I do not think your evidence counts.

**CHAIR:** Is that an accurate statement?

**Mr RONISVALLE:** Yes, I think it certainly is a business which has been returning dividends to the Government. That augurs well for the fact that we will get a reasonable price when we sell FreightCorp.

**The Hon. A. B. KELLY:** What about National Rail?

**Mr RONISVALLE:** It has been making very, very substantial losses.

**The Hon. A. B. KELLY:** So it is in the opposite situation?

**Mr RONISVALLE:** Yes. It is getting close to a break-even situation at the moment, but it is still making losses, so far as I am aware.

**CHAIR:** Mr Ronsisvalle, the inquiry was commissioned and paid for by the Treasury, and I understand there was a display that was done by the unions to members last Friday as a result of that support. I am just wondering what the process was by which Treasury decided to fund the RTBU to undertake this report.

**Mr GRAINGER:** Well, the report was commissioned by the RTBU, not the Government, although it was an arrangement where the Treasury did pay for the report. My understanding was that that work was commissioned by the union after discussion with the Government in terms of given that the Commonwealth was

insisting that National Rail could not be sold to the State Government, this then left the union in a position of, "Well, what does that mean for the future of FreightCorp?" It was in that context that the union said to the Government that it would like to do some work in relation to the future options for FreightCorp and, given the commonality of interest, with the Government as owner and the unions as having a significant stake in the employees, the work was commissioned.

**CHAIR:** Were other unions or groups consulted or offered funding to undertake reports on the feasibility implications of the privatisation of FreightCorp from their perspective?

**Mr GRAINGER:** Well, I was not involved in any of the discussions with the unions in terms of the commissioning of the report, but my understanding is that it was done with the full knowledge of the other unions and, as part of that process, once the report had been completed, there was a series of seminars held all around the countryside, which also included National Rail people I think.

**CHAIR:** They were very structured seminars and, quite clearly, the person who presented the seminar to members last Friday on behalf of the Government and the union said that that was a specific structured delivery that was undertaken throughout the State, but I do not understand that that involved other unions, and I am wondering why the RTBU was the only group offered this funding to undertake this exercise.

**Mr GRAINGER:** As I said, I was not involved with the discussion between the unions. My understanding was that other unions were invited to send members along to those seminars.

**ACTING-CHAIR:** Do you have any information to the contrary that the Australian Manufacturing Workers Union [AMWU] asked for similar funding and access to information so it could undertake its independent research yet that was refused?

**Mr GRAINGER:** I am not aware of that.

**Mr RONSISVALLE:** I am not aware of that.

**ACTING-CHAIR:** Who would have authorised the expenditure associated with the RTBU report?

**Mr GRAINGER:** The Treasury.

**ACTING-CHAIR:** Who chose PricewaterhouseCoopers to do the report and why?

**Mr GRAINGER:** The Treasury and there was

**ACTING-CHAIR:** Treasurer or Treasury?

**Mr GRAINGER:** Treasury. That was done by a selective competitive tender and PricewaterhouseCoopers put in a proposal. The evaluation panel considered it to be the most competitive tender.

**ACTING-CHAIR:** What were the terms of reference given to PWC and who prepared the terms of reference?

**Mr GRAINGER:** I am going on memory here, of course.

**ACTING-CHAIR:** Perhaps you could tell the Committee what you now know and then furnish further detail.

**Mr GRAINGER:** There was a written project brief provided to the people who were invited to tender and in essence it asked the consultant to investigate the options for the future of FreightCorp in the context of the National Rail sale.

**ACTING-CHAIR:** Do you know the total expenditure for this report and associated workshop visits, printing of the report and any follow-up reports involved?

**Mr GRAINGER:** From memory, I think the economic advice was in the order of \$40,000. The other aspect of that, of course, was Professor Daryll Hull and he was also engaged to undertake the development of the proposals and the seminar work.

**ACTING-CHAIR:** In the display or the delivery shown by the representative on Friday, he was asked where the base line material, the actual economic data came from that allowed PricewaterhouseCoopers to base their findings. He did not know. He had no base line data. Can the Treasury provide that base line data that these findings were developed from?

**Mr GRAINGER:** Sorry, did Treasury provide it? No.

**ACTING-CHAIR:** Well, did Treasury provide it and can Treasury provide the base line data that this group actually used to bring forward their findings?

**Mr GRAINGER:** I imagine, as consultants do, they obtained information from a variety of sources, but my understanding was that the information about FreightCorp was provided by FreightCorp.

**ACTING-CHAIR:** I would like to go back to the point about who is going to buy FreightCorp. As I understand, the potential buyers from the rail industry are overseas-owned private rail operators who are much smaller than FreightCorp and there are a number of American operators that you are probably well aware of. Under those circumstances, if you have smaller overseas companies looking at buying FreightCorp, is not the best chance for rail freight services in New South Wales staying viable to keep FreightCorp in public ownership?

**Mr RONISVALLE:** The introduction of private owners from overseas, it is not necessarily from overseas. There are possibilities of local consortiums being put together.

**ACTING-CHAIR:** You agree this has been the trend in other instances within Australia up to this point?

**Mr RONISVALLE:** Yes, and certainly the sale of FreightCorp and National Rail to one bidder if that occurs, the Government certainly has a desire to try to bring to Australia one of the larger US freight rail operators, what they call class 1 operators. If we can do that, that will be bringing a very substantial US company to Australia to help run the freight industry and that is certainly the Government's intention. The introduction of private sector operators, they may be small companies but they are still substantial operators and they have a lot of overseas experience which would be of benefit to the New South Wales rail industry, so I am not sure we can necessarily draw the conclusion that because they are small means they are not going to be bringing expertise that is worth while to the industry in Australia.

**The Hon. D. J. GAY:** Has the Government been pro-active in getting the American companies involved?

**Mr RONISVALLE:** We have obviously had recently various merchant banks coming to visit us and telling us about the interest of the US class one operators in coming to Australia. It is not going to be that easy to get them into Australia but it is still a possibility. The size of what we are selling is certainly large enough that should incite some interest from them. Now that we are appointing our financial advisers, pre-marketing will start in earnest to try to encourage these operators to come to Australia to see if they are interested in buying FreightRail and National Rail.

**ACTING-CHAIR:** We are looking at operators like ASR-Genesee and Wyoming, book value \$57 million; ATN-Wisconsin Central, book value \$30 million; FreightAustralia-Rail America, book value \$163 million; and FreightCorp, book value \$318 million. Is this not a bit of a back to front situation that we are dealing with such a large corporation in Australia?

**Mr RONISVALLE:** Those US operators could go in conjunction with other businesses to buy FreightRail. Size is not necessarily the best indication of expertise. Some of the large US operators have got financial difficulties themselves.

**ACTING-CHAIR:** Would you not agree that FreightCorp management is modern and aggressive in pursuing its markets and servicing its customers and, as such, has been very successful in this area?

**Mr RONISVALLE:** The Government in selling FreightCorp will be acutely aware of the need to ensure that the industry is viable and ongoing and the status and expertise that the bidders can bring to the market place is something the Government will take into account as part of the sale process.

**The Hon. D. J. GAY:** If the Government is so keen to get this great American expertise, why has that expertise not been incorporated into FreightCorp already or is the answer, it already has?

**Mr RONISVALLE:** It is probably a better question to ask FreightCorp people but certainly the expertise that can be brought by those US operators is something that would be of benefit to the New South Wales industry.

**ACTING-CHAIR:** Would you not agree that FreightCorp in terms of cutting down numbers of employees, has been aggressively restructured during the 1990s and, in particular, since 1996 and that now it is an efficient, profitable operator? Do you not agree that it has scope for continued productivity improvements within its own organisation as it exists at the present time?

**Mr RONISVALLE:** Yes, I think FreightCorp has been a force in the market place and, like all organisations, there is always scope for further productivity improvement. The nature of the market place is now changing. We have seen the introduction of a lot more operators into the rail sector which is increasing the competitiveness of the industry. In the long run, it is in the best interests of the State to have a competitive rail sector which can deliver products, grain products from the country as efficiently as possible. I do not know precisely what FreightCorp has achieved since 1996 when it was established as a corporation. I think it has performed well but the market place is changing such that for it to compete going forward there needs to be a break in the ownership.

**The Hon. I. M. MACDONALD:** Just referring to your answers about the discussions with the Commonwealth, will you be in a position to table before the Committee the appropriate documentation, for instance, the correspondence between the Commonwealth and the State and also any briefing papers that Treasury officials may have prepared following those discussions or discussions that have been held?

**Mr RONISVALLE:** We would have to actually review those documents to see if there are some commercial issues that need to be looked at before we table the documents.

**The Hon. I. M. MACDONALD:** Did they indicate at any point in those discussions or in the correspondence why they were taking this view that FreightCorp would be prohibited from purchasing the remaining 70 per cent or 80 per cent of Australian National Rail?

**Mr RONISVALLE:** I think the Commonwealth has taken a policy view at the government level which excludes FreightCorp from the sale. I would only be speculating as to what might have been their motivation because I am not aware, nor is James aware, that they have given us a clear rationale for that other than the stated position that they were not prepared to sell National Rail to FreightCorp.

**The Hon. I. M. MACDONALD:** So they never put on the table the why they took that view?

**Mr GRAINGER:** I think their view, and again I suppose it is hearsay, basically is that they thought it should be privatised and to sell it to other State governments or a government instrumentality is not privatisation.

**The Hon. D. J. GAY:** Would Treasury want to buy National Rail if it could?

**Mr GRAINGER:** Well, I suppose with \$340 million losses five years ago and they have not made a profit yet—

**The Hon. D. J. GAY:** The losses are getting smaller, though.

**The Hon. I. M. MACDONALD:** The Government's position is that that was the preferred option, that FreightCorp would take over National Rail.

**Mr GRAINGER:** And FreightCorp was very keen to try to do that.

**The Hon. I. M. MACDONALD:** So there must have been some view that, despite the losses when they restructured the Australian rail industry in 1994-995, it would turn a profit eventually after all the systems were changed at that period of time.

**Mr RONSISVALLE:** Certainly, National Rail has improved its performance in recent years.

**The Hon. A. B. KELLY:** It would depend what you bought it for, too.

**Mr RONSISVALLE:** That is right.

**The Hon. I. M. MACDONALD:** What was your estimation of the value of National Rail?

**Mr RONSISVALLE:** I am not sure we have actually made an estimation. We can obviously look at the book value, but the actual valuation of National Rail really depends on assumptions about what you think the future profitability will be.

**The Hon. I. M. MACDONALD:** Would they be likely to get more than what is anticipated for FreightCorp?

**Mr RONSISVALLE:** FreightCorp should sell for a significantly higher sum than National Rail, yes.

**ACTING-CHAIR:** An issue has come up not in this forum but there have been some statements saying that FreightCorp is vulnerable because the vast majority of its successful contracts lie in three major coal hauling contracts in the Hunter and there would be a danger at a later stage that there could be cherry picking vis-a-vis the private coal companies and a private contractor in competition with FreightCorp and that could destabilise FreightCorp. That was one of the arguments put forward that it was not save to be maintained in public hands.

I am wondering what your opinion is on that, particularly in light of FreightCorp itself having successfully cherry picked a three million tonnes per year Leigh Creek to Port Augusta coal contract from ASR and has become the preferred tenderer for a six million tonnes per year coal haul in Central Queensland. Does that not indicate that FreightCorp is keeping up with the best of them?

**Mr RONSISVALLE:** Look, I think, as I said earlier, the industry is becoming more and more competitive, and certainly the possibility of another operator coming into the Hunter Valley cannot be excluded. FreightCorp has been responding to competitive pressure in the Hunter Valley, and the prices it charges for the carriage of freight have been coming down there.

**CHAIR:** When you say the charges for freight, is that not relating to the whole coal industry? It is at such a low price at the present time that it is relying on mass haulage at the present time to keep its viability.

**Mr RONSISVALLE:** But FreightCorp has responded to competitive pressure in the Hunter Valley. Certainly, I am sure that there have been other rail operators that have been approaching the companies up there with proposals to carry coal, and FreightCorp has needed to respond to those.

**CHAIR:** It has responded?

**Mr RONSISVALLE:** At this stage it has responded to those, yes.

**CHAIR:** And, also, is it not the case that the size of FreightCorp makes it hard for new entrants to easily beat it in the coal sector?

**Mr RONSISVALLE:** Certainly, there are some issues in the Hunter Valley that mean that a new operator there would have to gain a substantial slice of the coal business to make it viable for it to come in unless it was prepared to run the operations at a loss. That is the nature of the business there. FreightCorp has responded to the challenge. The FreightCorp people could tell you more about how vulnerable they feel there.

**The Hon. I. M. MACDONALD:** Could the question be put another way? There is concern about FreightCorp being cherry picked. Could it not be the case that FreightCorp, because of its size and scope, has

the ability to cherry pick elsewhere, as it has been doing in Blackwater, Leigh Creek and Melbourne? In other words, it has the scope to fight back beyond the argument of concern about what would happen to it in future with its coal contracts. It, in fact, has the ability to fight back right across the country, in effect.

**Mr RONISVALLE:** I think, as I said earlier, the industry is becoming competitive. Ten years ago State government rail operators were sort of confined to one State. The industry is going to move. FreightCorp, even in government ownership, will probably win contracts interstate. Having said that, there will be operators who will come into New South Wales and probably win contracts from FreightCorp, as has actually occurred in the past five years. From the Government's perspective, I think the issue is: given the limited use of capital that the Government has actually got, is that the sort of business that the Government should actually be in? That highly competitive environment is more suited to private owners risking their capital than the Government risking funds it has raised from taxation.

**CHAIR:** Thank you, gentlemen. I think those are all the questions we have. Time is up for your section. Thank you very much for coming along. We may need to call on you again.

**(The witnesses withdrew)**

**(Short Adjournment)**

**TERRANCE PATRICK KEARNEY**, Deputy Managing Director, FreightCorp, 32 Albert Road, Beecroft, affirmed and examined:

**LUCIO DI BARTOLOMEO**, Managing Director, FreightCorp, 2-12 Macquarie Street, Parramatta, and

**GARY CHARLES PEDERSEN**, General Manager, Strategy and Acquisitions, FreightCorp, 2-12 Macquarie Street, Parramatta, sworn and examined:

**CHAIR:** Mr Kearney, in what capacity are you appearing before this Committee?

**Mr KEARNEY:** As a member of the executive management team of FreightCorp.

**CHAIR:** Are you conversant with the terms of reference of this inquiry?

**Mr KEARNEY:** Yes, I am.

**CHAIR:** Mr Di Bartolomeo, in what capacity are you appearing before this Committee?

**Mr DI BARTOLOMEO:** As managing director of FreightCorp.

**CHAIR:** Are you conversant with the terms of reference of this inquiry?

**Mr DI BARTOLOMEO:** Yes, I am.

**CHAIR:** Mr Pedersen, in what capacity are you appearing before this Committee?

**Mr PEDERSEN:** As an employee of FreightCorp.

**CHAIR:** Are you conversant with the terms of reference of this inquiry?

**Mr PEDERSEN:** I am.

**CHAIR:** If you should consider at any stage during your evidence that in the public interest certain evidence or documents you may wish to present should be heard or seen only by the Committee, the Committee would be willing to accede to your request and resolve into confidential session, but I should warn you that the Parliament may override that decision at any time and may make your evidence public. Gentlemen, if you would like first, one or all of you, to address the Committee or give a presentation each, we will then proceed with questions.

**Mr DI BARTOLOMEO:** Chairman, I thought I would address the Committee. I appreciate that our submission, like all submissions, closed last Friday so I thought I might just highlight some of the aspects of our submission that might be most relevant and, hopefully, answer some of the questions that were being asked in the earlier session.

**CHAIR:** Thank you.

**Mr DI BARTOLOMEO:** In its four years of operation, FreightCorp has undergone an intensive program of reform and commercialisation. It has achieved this against a backdrop of significant and fundamental market changes, namely, implementation of open access and above-rail competition, development of a national marketplace, privatisation of existing rail freight operators and entry of new rail operators, the expansion of rail into logistics provisions and the beginning of a rationalisation of industry players.

Within this environment, FreightCorp has been successfully pursuing a strategy of national growth. At the core of this strategy was the targeted acquisition of National Rail Corporation, given the strategic fit of the two businesses. The exclusion of FreightCorp from the NRC bidding process presented an impediment to the national growth and the future viability of the FreightCorp business.

The New South Wales Government has now announced the privatisation of FreightCorp and its intention is that this sale be co-ordinated with that of NRC. The co-ordinated sale of these entities to a single

purchaser would produce a more viable merged business which could develop the scale and scope of operation and service delivery necessary for national success. This success would produce positive outcomes in all areas being addressed by this inquiry and would ensure long-term viability.

The National Competition Policy was ratified by the Council of Australian Governments in April 1995. A key component of this policy was the Competition Principles Agreement. Its aim was to encourage public sector service provision by exposing public business functions to competition. This agreement provides for third parties' access to services that are provided by means of significant infrastructure facilities.

Governments right across Australia have generally accepted that rail track and related infrastructure are significant infrastructure facilities and have implemented either legislative or structural changes to this effect. In 1996, the New South Wales Government separated the then State Rail Authority [SRA] into four separate agencies. One of these was FreightCorp, established as a commercial operator of above-rail freight operations and removed from the management and ownership of the below-rail infrastructure.

The New South Wales Government has recently announced some further changes to the rail industry structure in response to the McInerney report, which you no doubt may be aware of. It is important to note that these changes do not impact on the successful arrangements established in 1996 for FreightCorp, so the changes are outside of FreightCorp.

Since 1996, FreightCorp has substantially improved productivity, developed efficient work practices and enhanced service delivery. Improvements of 26, 52 and 128 per cent respectively in wagon, locomotive and employee productivity over the last four years have been achieved. The results of these achievements have been an improved level and expanded scope of service for customers at substantially reduced prices. Average price reduction across all our customers was 25 per cent during that four years.

At the same time as FreightCorp's prices have been going down, its task has grown by some 30 per cent from some 64 million tonnes to over 85 million tonnes last year. Import and export container traffic, as one example in particular, has grown from 80,000 containers in the year before FreightCorp was corporatised to 180,000 containers today. It has more than doubled. Our plans are, in fact, to double that again in the following four years.

In addition to commercial businesses, FreightCorp operates at the direction of the New South Wales Government particularly non-commercial services which support rural and regional New South Wales for which it receives a community service obligation [CSO] payment from the New South Wales Government. This includes service to low-volume branch lines, provisions of capacity to handle the high-peak variable task that is often demanded from our grain business and other specific general freight services which support key rural and regional communities and industries.

Historically, the Australian rail industry has been characterised by State-based, generally inefficient and poorly managed government-owned monopoly operators which were vertically integrated, and this is a trait, I suggest, that applies right across all the Australian States. With the advent of competition and open access, the concept of State borders has been eroded and a national marketplace has been developing.

As operators seek to achieve competitive advantage and to meet the ever-increasing expectations of customers, the scope of the rail product is necessarily expanding beyond light haul. Transport players keen to manage the entire customer service chain are progressively providing integrated logistic solutions. Increasingly, these require the breadth of resources only available from major businesses with a national focus.

These market trends have been intensified by a number of rail privatisations that have occurred across Australia over the last four years. The recent sale of Westrail freight to the Australian Railroad Group, to give it its American flavour—a joint venture between Westfarmers, a highly successful industrial Australian company, and Genesee and Wyoming, a small-to-medium operator in the US—will see the effective merger of the previous Westrail freight business and the previous Australian National South Australian business, which was bought by Genesee and Wyoming some three years ago in a privatisation. So, effectively, the two former freight businesses of Western Australia and South Australia are coming together in a merger. This larger and, importantly, nationally focused company will be "developing a strong National Rail freight enterprise", according to its new chief executive, Chuck Chabot, who has also said, "One area where the partnership will have real opportunity is to move into the coalfields in the east", specifically, I guess, focusing on the Hunter

Valley and also the Queensland coalfields. The Australian Railroad Group intends to establish market development offices in Sydney focusing on those specific targets.

In the context of developing its business and national growth strategy, FreightCorp identified as an absolute priority objective to be one of these national operators in the new national marketplace. Its vision is, in fact, to be the premier national rail freight services company, and for some two or three years FreightCorp has been implementing strategies to help it achieve that particular objective.

The FreightCorp national growth strategy has many streams. There has been expansion in existing business—for example, the Portlink container business that I spoke of earlier, which has grown by some 125 per cent since 1996-97—and we have also expanded outside the traditional State boundaries that we previously operated in. We now run interstate services to Melbourne, occasionally to Brisbane and, importantly, we have now run a full year of coal operations in South Australia, shifting some three million tonnes of coal from the Leigh Creek coalmine to the Flinders Power Station in South Australia, the major power generator in South Australia, on a profitable basis. Even more recently we were selected as the preferred operator for the haulage of coal in the Blackwater region of Queensland, some six million tonnes.

Further opportunities right around Australia are obviously being pursued. However, such expansion, while valuable, is not enough without developing the capability to add value to customer businesses in areas other than line haul. The focus solely on line haul is no longer a sustainable competitive position, and, therefore, FreightCorp has been pursuing opportunities to offer customers full logistic services, including warehousing, if need be, road transport terminal services, stockpiling and other like logistic requirements.

Against this industry background outlined above, the announcement of the sale of NRC in recent years presented a unique national growth opportunity for FreightCorp. Previous privatisations had been considered as they arose but were not pursued. I must also say that while we did not pursue them because we did not believe they had a particularly beneficial fit to FreightCorp it is also worth noting that in none of those instances—Victoria, South Australia and Western Australia—was FreightCorp allowed to bid, simply because of its status as a government-owned entity. However, NRC was certainly identified as different as FreightCorp believed an acquisition was particularly attractive and would provide a number of benefits: synergy value, national coverage for customers, enhanced ability to move beyond line haul into logistics provision, particularly given the good terminal facilities that NRC has across the country; significant economies of scale; and a viable national operator able to be more effective to compete with road. However, as had been the case in our previous acquisitions opportunities in Australian rail—that is, to be able to bid—government-owned businesses were again excluded from bidding.

Now, National Rail was announced for privatisation, as I think someone asked earlier in the presentation, some two or three years ago, and it did appear for a long time that FreightCorp was going to be able to bid. However, a decision made only some three or four months ago—three months ago probably—reversed that position.

**ACTING-CHAIR:** Is this a political decision or is it based on legal advice?

**Mr DI BARTOLOMEO:** The decision was a Federal Government decision. Understand that the three reports you quoted earlier, the Smorgon, the "Tracking Australia" and the Productivity Commission, all in fact recommended as part of what they saw as the ongoing improvement to Australian rail freight businesses that they should be moved into private hands. Now, without comment, that is the environment under which the Federal Government confirmed its position that it did not want to sell its asset to government bidders. By the way, that did not include just New South Wales; Queensland rail was very interested to bid for National Rail as well.

The exclusion of FreightCorp from bidding for NRC presented a significant impediment to its national growth strategy. It also meant that the successful acquirer could potentially price in national markets on the basis of assets acquired at below replacement value. If I might explain. Clearly, we saw National Rail Corporation as a major opportunity to engender our whole national growth policy and to grow our business and to be effective in competing in an ever more difficult environment. But we also saw that National Rail Corporation, not a profit-making business at this point of time, could well be sold at a value far less than its current book value of its assets and it has some very good assets.

As was pointed out earlier in one of the questions, National Rail could be made profitable if for no other reason simply by paying an appropriately low price. Not only could it be made profitable, but the corresponding dimension of that is it could be made competitive. It would come into the market place with assets at a notionally lower value, just as good an asset or better asset than some of ours. So a capital cost is a significant cost of all operators' cost. So someone who could buy National Rail at significantly below book value would, on day one with no other reforms in place, have a significant capital advantage over FreightCorp and, for that matter, other existing players in the market place.

The decision to privatise FreightCorp is a decision purely for the shareholder, the New South Wales Government. The co-ordination of the FreightCorp sale with the NRC sale will mean that opportunities that might be realised by a FreightCorp acquisition of NRC, which no longer can be realised by us bidding for and successfully buying, could be achieved by the realisation of a joint sale and merger of the two businesses, albeit by an independent buyer.

In conclusion, I guess the impacts of privatisation of FreightCorp cannot be considered in isolation from the dynamics of the market place and what has been happening in the market place over the last three or four years as competition has got underway. There are changes underway which require any successful freight business to strategically position itself as a national player with logistics capability.

A privatised FreightCorp-National Rail Corporation could well be placed to achieve this position and become a successful national business able to achieve a substantial shift of freight from road to rail, enhance the scope and viability of the business and hence produce what we believe are positive economic social and environmental outcomes for all stakeholders. We are happy to take questions and elaborate on any part of our submission.

**ACTING-CHAIR:** Has FreightCorp management suffered any lack of flexibility because it has been in public ownership and, if so, are there any examples? If not, is it then the case that public ownership has been a strength and a natural advantage? Could you give an opinion on that?

**Mr DI BARTOLOMEO:** The general answer to that question is I do not believe that we have been in any significant way hindered in pursuing a commercial successful outcome for FreightCorp. It is true, for instance, that one of the conditions of our employment is that we do not have forced redundancies of our employees, but we have been able to manage our downsizing, and let there be no mistake, we have had to downsize to maintain our business and not lose contracts and otherwise lose more jobs, notwithstanding the forced redundancies simply by a program of redeployment where it was possible and voluntary redundancy.

At this stage we have a relatively small number of surplus employees and we have reduced our employee numbers from four years ago by some 45 per cent. There is one area I do want to put on the record that has impeded our opportunity as a commercial operator and, I guess, it is really at the heart of the imposition that we face today and that is that we could not bid and acquire other government assets when they came on the market.

As it has turned out, neither the South Australian railway, Tasrail, Victoria or Western Australia were particularly attractive to us. I guess if they were, however, we would have foregone that opportunity because it was withdrawn from us. National Rail is a different case. We did see a genuine, natural fit and benefit to FreightCorp very much within our strategy and that strategy has not been able to be pursued because of our shareholding. I would have to say that that is the only significant impediment.

**The Hon. A. B. KELLY:** In response to the question basically you said there is effectively no valid reason why you are restricted from operating by being a government enterprise.

**Mr DI BARTOLOMEO:** Other than that one exception, no.

**The Hon. A. B. KELLY:** Then what would you see the reasoning behind those three reports that you mentioned all saying that the Government could not bid? What valid reason would they have?

**Mr DI BARTOLOMEO:** Good question. Clearly, they have been able to point to the fairly successful privatisations of the other States. I make no bones that they have been fairly successful in turning around in some cases what were fairly poor performance businesses, particularly in Victoria and South Australia, but I

think that is probably giving them some lead as to why they have recommended that and I think to other degrees it is a political issue.

I think there is a perception that government-owned businesses can be restrained and I think historically they have been. I think my answer, though, has to be read specifically in regard to FreightCorp. There is no doubt that businesses can be restrained by government ownership. It depends on how the Government imposes criteria or limits of operation. All I can say is that at this stage we certainly have not experienced that in the past four years.

We have been able to pursue other growths, for instance, the opportunity to expand into Queensland that the Government has given us subject, obviously, to a number of issues being resolved which the board wants to see resolved our capacity to invest and expand in Queensland which could require us to invest some significant sums to go into buying narrow gauge assets to go into the Queensland coal business.

**The Hon. D. J. GAY:** Given your answer that you have not been restrained through government ownership, why do you believe that Treasury has a feeling, as detailed to us earlier today, that FreightCorp really needs a good dose of American management? Why would they believe that your management is not as good as the American management?

**Mr DI BARTOLOMEO:** Well, I guess first of all I would have to say that I do not agree with that statement if they made that statement. Maybe there is self-interest in my answer, too, so maybe I have to claim a conflict of interest there. I believe that without impediments being put in our way to operating commercially and we are able to recruit and manage our business with the appropriate managers in place, and we have been given that free hand, then we can do that. I guess I have a slightly different opinion, if that was stated.

**The Hon. D. J. GAY:** Treasury was quite clear in the statements made to us earlier that one of the benefits of privatisation would be to allow American companies to bid and bring their management into FreightCorp. We are trying to get to the basics of what is good or not. My understanding is that FreightCorp has made huge inroads and I would have thought, and I certainly would have hoped, that the current management was scouring the world for management ideas and American management would have been part of that.

**Mr DI BARTOLOMEO:** Back in 1989 when I first became involved in reforming the freight operations in the SRA, as it was then, there is no doubt that we turned and looked to the Americans given that they were the most at least commercially and in freight—not passenger—successful rail operating businesses in the world at the time. We got consultants in and looked at rail operators. We had gone over there and visited them and we have had some over here to visit us. We have learned a lot and applied many of those lessons on to our business. I do not in any way belittle the fact that American railroads have been very successful in running their businesses and we have learned lessons from them, and I would like to think we have implemented many of those lessons and are the reasons for some of our success.

**ACTING-CHAIR:** There has been some discussion both within the Committee and without of the mass of FreightCorp's successful business being with three projects in the Hunter area and there could be a danger that if FreightCorp remains in public hands any one of those projects could be cherry picked by a private operator and it would leave FreightCorp very vulnerable. Would you care to comment on that?

**Mr DI BARTOLOMEO:** I think it goes back somewhat to the comments I was making earlier. FreightCorp since 1996 has been under some fairly intensive pressure in the Hunter Valley. We have been largely successful in maintaining at least all of our export business and we have only lost one domestic coal business in the Hunter Valley. We have done that by pursuing reform, cost efficiencies and we have become more efficient than certainly we were four years ago. That allowed us to reduce prices and ensured that we were giving competitive prices to our customers.

I believe there has been a mindset change in the way we deal with our customers. There is no doubt that we were the monopoly provider pre-1996 and despite best efforts, I think at the end of the day monopoly tends to behave as a monopoly and I think one of the first issues we took up when the competition environment was created and open access was that we had to change our position relative to the way we dealt with our customers. At the end of the day customers made the decisions and whether we retained them as customers would be on the basis of our price and our service. I think we have been largely successful in doing that.

However, that does not mean that that risk has been eliminated. It remains today and it will remain there, I guess, whether we are privatised or not. The only thing I can suggest, though, and I think the specific point you may be referring to goes back to the notion that a privatised National Rail Corporation that is sold at significantly below book value does have a one-off advantage at least for some period of time because of that lower capital value.

**The Hon. A. B. KELLY:** Was that domestic coal contract that you lost to that train that fell off the tracks recently?

**Mr DI BARTOLOMEO:** No, it was not. The one we lost was in fact to National Rail. They run a domestic—

**The Hon. A. B. KELLY:** I thought it was the train that ran off the track.

**Mr PEDERSEN:** It was a National Rail train but not a coal train.

**The Hon. D. J. GAY:** You raise an interesting point on a sale below replacement of asset value. We also have to look at whether FreightCorp would be sold at a below asset replacement value. What sort of percentage of the market Australia-wide would a combined National Rail and FreightCorp have and where would the nearest competitor be percentage wise?

**Mr DI BARTOLOMEO:** Queensland Rail will still have a larger freight task and combined revenue base than a combined National Rail and FreightCorp. We would remain second in that field; the now merged Westrail-ASR, South Australia, would be the third; and Freight Australia, which was Freight Victoria, would be the fourth. So we would still not be the largest rail operator in Australia. I think, more importantly—and it is a very important issue that always needs to be considered—if we focus only on rail-to-rail competition, then we only have part of the story. To someone who has been in the rail industry for the last 23 years, one of the sad indictments has been the poor performance of rail vis-a-vis road. I think one of the pluses that has come out of bringing about rail-to-rail competition is that we are going to have a stronger rail industry and, importantly, a stronger rail industry that will not just see freight swapping between one rail company to the next rail company but, in fact, a rail industry that can capture far more freight off road and bring it onto rail and get a far better balance than we have had over the last two or three decades.

**CHAIR:** In that respect, I understand there is a local Taree company that has been working on mechanisms to actually offload road containers on to rail. Has your company investigated that? Is there any sort of innovation there? It might even be called Tolhurst or something. I am not sure.

**Mr DI BARTOLOMEO:** I am not 100 per cent certain of the Taree one. I think the point you make, though, is the notion of transferring a number of containers in regional New South Wales from road to rail rather than seeing them come in all the way by rail. It is part of what we call our Portlink business, and our Portlink business has been attempting to do just that: try to get as many of the rural container export containers obviously going by road to a regional hub. We have been developing facilities on the North Coast, Taree and Grafton, Tamworth, Dubbo, Parkes, Griffith, Wagga Wagga, or Bowman, Albury, Blayney, a number of facilities where we can transfer containers off-road, so there is some road movement obviously to get to the rail head, and then put it on rail and have full container trains coming into Sydney and taking them to export. What is more, we have been attempting to grow our business, particularly in metropolitan Sydney in moving a lot more of the containers with not only the exports going out but the imports from road on to rail to metropolitan sites.

We are building two container terminals, for instance, at the moment at Minto and St Marys in west and south-west Sydney, where there is significant industrial growth occurring, and we are looking at running small shuttle trains between the port and those two centres. These are the sorts of opportunities that have really opened up to us as we have attempted to think of our business this a different way and the competitive pressures we have been facing. A lot of our employees did not like the competitive pressures because, obviously, it forced us to seek efficiencies that I think previously we let go, and I think let go at the expense of the industry overall and employment overall long term.

**The Hon. A. B. KELLY:** I think you have partially answered my question. How are you trying to get the logistics working about getting involved in the road side of it as well and also storage?

**Mr DI BARTOLOMEO:** I said earlier that rail operators today and certainly rail operators of the future have to be more than just rail operators. Rail will always be the core of FreightCorp business, whether it remains in government ownership or other ownership, but we have to ensure that there are other dimensions added to it, so building and running terminals, sometimes running them in our own right, sometimes running them in partnership with road operators. We have a number of strategic alliances with road operators at a number of these sites. They collect the freight and the containers and bring them to the terminals. Sometimes they run the terminals; sometimes we run the terminals. So it is that sort of service we are giving.

One of the two terminals we are developing in Sydney—the one at Minto—we have developed in partnership with Bowport Allroads, which is currently the single largest operator of containers in and out of Port Botany. It is now going to team up with FreightCorp to shift their loads onto rail at Minto and see them come in by rail. That is really just a partnership that we have come to, and we are jointly developing the facility.

**The Hon. A. B. KELLY:** That was the proposal. One of the proposals was that there be a joint fifty-fifty FreightCorp and some private enterprise group bid for National Rail. That was one of the union's proposals.

**Mr DI BARTOLOMEO:** We actually looked at that proposal ourselves independently and prior to the unions simply being that if we were going to be bidding for NRC would our bid be enhanced if we went on a fifty-fifty joint venture [J V] with another company? We explored a number of those options. In fact, we had a number of companies approach us seeking to be our partner in an NRC bid. I think it got to the point where they realised the benefits of a JV with FreightCorp. The answer we got when the decision was made not to sell to a government-owned entity was that that applied whether it was 100 per cent government owned or partly owned.

**The Hon. A. B. KELLY:** So even 10 per cent?

**Mr DI BARTOLOMEO:** Yes, even 10 per cent. Mind you, I would not support a 10 per cent arrangement, but, yes, even 10 per cent.

**The Hon. A. B. KELLY:** It probably is really a political decision.

**Mr DI BARTOLOMEO:** Yes.

**The Hon. C. J. S. LYNN:** A submission we have received from Associate Professor Phillip Laird, which I referred to before, indicated that the New South Wales Government has not yet produced a New South Wales freight strategy. When you were talking about, I suppose, an integrated logistics solution, which was what you talked about with intermodal transfers and so forth at Minto and, I imagine, co-locating with a future western Sydney orbital company, you were talking about the total mix. Now, am I right in saying that National Rail Corporation can currently do intermodal transfers but FreightCorp cannot?

**Mr DI BARTOLOMEO:** We can do intermodal transfers, and we have a number of terminals in New South Wales to be able to do that. Where we do not have terminals is in other States. We do not have any in Melbourne. We have managed to be able to go to Melbourne because a partner of ours, a customer, has a private siding, so we go into their siding to do those container transfers. We actually won a couple of customers to go to Brisbane and do intermodal business on the North Coast corridor into Brisbane but, to date, have been unsuccessful in gaining appropriate access to a terminal in the Brisbane area. So that has certainly been an impediment. If we were joint with National Rail that impediment would be overcome immediately.

**CHAIR:** If I could just continue on that point, is it fair to say that FreightCorp is mostly an intrastate bulk commodity carrier and that the NRC is mostly an interstate, intermodal carrier and, in fact, you are complementary rather than competitive there?

**Mr DI BARTOLOMEO:** That is right. We are largely complementary. There is something like 5 to 10 per cent overlap. So it is not to say that we have not been competing on some markets, but about 5 to 10 per cent of our total business and about 5 to 10 per cent of their total business is overlapping ours. But that is a fairly apt description. We are largely an intrastate bulk freight carrier. Obviously we are trying to be more than that but at the moment that is a fair description. Likewise, National Rail is an interstate, intermodal general freight carrier which would also like to do more of the bulk freight business, so we are largely complementary. There is some overlap and there is an obvious opportunity for synergy values to be obtained.

**The Hon. C. J. S. LYNN:** It would seem to me that the sale of FreightCorp has been a reactive measure to the Federal Government proposing the sale of NRC and not a proactive, planned initiative by the New South Wales Government, which does not have at this stage, according to the submission we have here, a freight strategy. Would you like to comment on that?

**Mr DI BARTOLOMEO:** Please. First of all, there is a broader New South Wales transport strategy, the "2010 Action for Transport", and there is a freight segment in there. You should understand that the strategy identified there is a broader rail transport strategy. It does not necessarily identify FreightCorp's commercial strategy. Once the above-rail and below-rail operation is split, the State takes a primary policy position in regard to the network it operates and how it will develop that network over time. In the above-rail operation we are one operator. As it happens, we are the largest, we are the historic rail operator and we are government owned but, effectively, we are one operator and more and more other operators are entering the market, so our strategies are our specific commercial strategies at FreightCorp.

There is a broader government strategy, where the focus is more on the infrastructure. I know there was a section in that strategy document, but I do not quite recall the title of it. I also know there is a more detailed freight strategy document being developed, but its focus is not on what FreightCorp will do; it is about what the network in New South Wales longer term will look like and how it is going to be maintained, and we will operate over that.

**The Hon. C. J. S. LYNN:** What would your reaction be to the recommendation in the submission that consideration of the privatisation of FreightCorp be deferred until the New South Wales Government has released its freight strategy?

**Mr DI BARTOLOMEO:** I will answer that in light of one of the questions you raised earlier that I have not answered—and I think that this is connected—that this appeared to be a reactionary position in regard to FreightCorp. I think this shows quite clearly that there was not a privatisation strategy afoot for some time. What there was was that FreightCorp for some time had identified the benefit of a national road strategy, which identified NRC acquisition as key to that strategy, and we had been pursuing that for some time, obviously in full concert with our shareholders to pursue that, and we were given in-principle support to an acquisition of National Rail.

**The Hon. A. B. KELLY:** In-principle support by the New South Wales Government?

**Mr DI BARTOLOMEO:** The New South Wales Government.

**The Hon. A. B. KELLY:** Not the Feds?

**Mr DI BARTOLOMEO:** Not the Feds, no. The New South Wales Government supported the acquisition. That was the strategy that had been afoot for some two to three years. It was identified in our statement of corporate intent, et cetera. The change came about, so it was somewhat reactionary because of the ban on any government entity. It was not so much a totally different strategy; it really was how do we achieve the same strategy that has always been identified for all of the benefits with this particular position in place. The privatisation of FreightCorp was really just that. It was: how do we overcome this particular imposition; how do we ensure that FreightCorp and its value today and its value as we see it going forward can continue to be enhanced and maintained given that we have now got this major hurdle? That is what led to the Government reviewing, first of all, all of the information we put forward and, through that study that it did, I guess, independently with the RTBU, coming to some judgment as to whether what we were saying was correct or not. We were saying it not in the context of a privatisation but in the context of what is good for FreightCorp going forward.

**Mr PEDERSEN:** Just coming back to your question about Professor Laird's recommendation of delaying, the problem with that is that if that happens and the Commonwealth Government progresses with the National Rail sale, you are really placing at risk the business strategy of FreightCorp and New South Wales services because we have identified the benefits of bringing the two together. If that does not occur by delaying the sale then you are really raising the possibility that New South Wales will suffer as a result.

**Mr DI BARTOLOMEO:** The Federal Government has made it quite clear it will not delay the 30 June 2001.

**The Hon. A. B. KELLY:** It would be better if there was an early Federal election and the Government changed: the policy might change.

**The Hon. C. J. S. LYNN:** But that is a remote hypothetical.

**The Hon. D. J. GAY:** Can I just follow that strategy? I also want to get back to your annual returns as well. Does the strategy that Mr Pedersen just spoke about as well that you had in place, which I can understand, change dramatically when it is not a government authority taking over another government authority that is up for sale but when, in fact, it is the possible or the probable joining of two major corporations which, whilst they are not the biggest, strategically the joining of those two entities would make them a very important entity and they would then be in private hands and maybe US hands? Treasury indicated earlier—not the part where they said the Americans run things better or may run things better—that the only way FreightCorp could probably lose the coal was through someone coming in as a loss leader. Now, I can understand not having a problem when it is a government organisation with a loss leader taking trade and that going to the New South Wales taxpayers, but it is a different situation if it is a US shareholder in that situation. Had your forward plan covered those areas?

**Mr DI BARTOLOMEO:** I believe our forward plan certainly spent a lot of time considering the competitive environment and what actions we needed to take to ensure that we remained competitive against any new competitor that entered the marketplace. In fact, a number of operators have attempted to enter the marketplace since 1996—Brambles, Boral, Western Australia, Austrack, NRC, ATN—so there have certainly been a number of operators out there. Our plans have always been to ensure that we could protect our business but not on a loss-leading basis.

**The Hon. D. J. GAY:** You have beaten most of them.

**Mr DI BARTOLOMEO:** To date, yes, and I guess we are very grateful that we have. What we want to ensure is that whatever action we put in place to succeed to date, we want to ensure that we have plans in the future to give us the best chance possible to maintain our market share.

**The Hon. D. J. GAY:** You really have not address my concerns; you have heightened my concerns. An enhanced, foreign owned company out there as a potential lost leader to take over the freight and then jack up prices.

**Mr DI BARTOLOMEO:** I do not think they will take on a lost leader position. I think there will be a competitive market place in the Hunter Valley, Queensland and every where else in Australia. It will not be the province of the former government rail operator to maintain. FreightCorp, whether it be FreightCorp under current shareholding or FreightCorp privatised, will only retain its position in the Hunter Valley if it does so on a fully commercial basis and continue to provide competitive services.

We are going to have ARG, Australian Railroad Group bidding now as a new player, private hands, in the Hunter Valley. The beneficiaries, let me say, will be the coal customers in the Hunter Valley as they have been for the past four years with prices going down and services going up. I think it is going to continue. Whether we are in government or private hands, I do not think it will be substantially different except that the National Rail Corporation being sold on its own, whether buyers in National Rail Corporation could well have assets at its disposal at relatively low value.

**The Hon. A. B. KELLY:** What is their book value now?

**Mr DI BARTOLOMEO:** National Rail Corporation has a book value now of about \$700 million or \$800 million asset value and I would suggest they will get nothing like that value.

**The Hon. A. B. KELLY:** About a third of that?

**Mr DI BARTOLOMEO:** Yes.

**The Hon. D. J. GAY:** Given that you have had plans underway for some time to purchase NRC, you must have been to the ACCC?

**Mr DI BARTOLOMEO:** We had prepared a case to go to the ACCC. We had some preliminary discussions to let them know that we were going to be putting a submission but we held off making the submission until there was a formal sale process started. We did have some informal discussions but that submission never quite went in.

**The Hon. D. J. GAY:** Your annual report is due 30 November. It will be coming then?

**Mr DI BARTOLOMEO:** End of November, yes.

**The Hon. D. J. GAY:** The figures in that report will be, I assume, different to previous years because of the part impact of the goods and services tax?

**Mr DI BARTOLOMEO:** First of all, it is for the reporting year to 30 June so the GST would not have impacted at all on the prior year. GST to a commercial enterprise like FreightCorp is zero. Any GST we collect we get full reimbursement on. We are not the recipient of any tax. It is revenue and cost neutral to us.

**The Hon. D. J. GAY:** Fuel excise must have had some effect?

**Mr DI BARTOLOMEO:** Sorry, I was thinking of the GST as opposed to the new tax package. You are quite right. On 1 July our 36.7 cents a litre fuel excise was removed and, as you are aware, we were compelled to totally pass that back on to our customers and in fact our customers received significant reductions on 1 July.

**The Hon. D. J. GAY:** Given that you will have long-term contracts and your customers are already in long-term contracts, no-one would really know how competitive you could be as far as the sale price with the removal of the fuel excise?

**Mr DI BARTOLOMEO:** The removal of the fuel excise, first of all, changed our position vis-a-vis another rail operator not at all, but it has relative to road.

**The Hon. A. B. KELLY:** Except they have got diesel rebates as well.

**Mr DI BARTOLOMEO:** Yes. It was a fantastic result to get the diesel fuel excise removed entirely. The diesel fuel excise removed for road, which went from 43 cents down to 20 cents, if you take into consideration the far higher overall cost component of fuel for a road operator versus a rail operator, actually road gained about a 7 per cent to 8 per cent overall improvement on rail.

**The Hon. A. B. KELLY:** At the expense of the farmers because they knocked it off the farmers' subsidy to pay for it.

**Mr DI BARTOLOMEO:** I am not sure of that, but what I can say is that our costs actually came down but it did not come down as much as it did for road.

**The Hon. D. J. GAY:** So you do not know the ramification?

**Mr DI BARTOLOMEO:** The ramification is relatively small.

**The Hon. I. M. MACDONALD:** I would like to explore your contention that the National Rail Corporation has assets of around \$800 million and the speculated figure for the sale is in the order of \$250 million to \$400 million, something in that order. Do you not feel that this is a terrible waste of taxpayers' funds if you are going to sell off assets worth so much for such a low figure that in any other industry, in any other area, you would almost send the directors to gaol for that sort of action?

**The Hon. A. B. KELLY:** Before you answer that, could I add, in addition to that, you have just explained to us how valuable it would be for FreightCorp to actually be the new owner because you would be able to protect your business better so, therefore, potentially you could have been a higher bidder than anybody else because you had a little more to gain. On top of what the Hon. I. M. Macdonald has suggested, they are limiting perhaps their best bidder from the market as well. It is a sort of a scandalous suggestion, is it not, really?

**The Hon. I. M. MACDONALD:** Is it not like what Bond did with Bell to his own corporation?

**Mr DI BARTOLOMEO:** Understand that National Rail Corporation is a business that was put together from the various interstate components of the old State systems between 1991 and 1995. All the interstate businesses of the various State operators were bundled in together into a company called National Rail Corporation. That business, when it was put together, was losing something like \$320 million or \$350 million a year. It was a real basket case and losing market share.

The attempt to deal with that business was, first of all, none of the governments of the day wanted to withdraw from that business and leave it all to road. That was point one. Second, none of them wanted to continue subsidising at something like \$350 million a year. So the intent was to see if they could turn that business around. National Rail has largely done that. From some \$350 million, they are now losing maybe \$25 million to \$30 million.

Their plans going forward is to turn that slowly into a small profit. Is that profit substantial enough to justify the asset values that they have and the answer is no, at this stage. That is why a new owner, even though it will be positive, profitable, will make cash, the cash will not sustain the asset values that currently exist in that business, but it will sustain and now I will just take the market speculation, not mine, somewhere between \$250 million and \$400 million. There are people who believe it will sustain that.

Our own view was that there is no doubt that in us bidding for it, we could arguably have been able to bid a little higher than somebody else because of the synergy benefits that we could bring about, but I guess we are never going to be given that opportunity.

**ACTING-CHAIR:** Would you explain where FreightCorp has its wagons built and where it obtains spare parts and maintenance and also could you explain where privatised rail freight business obtains its wagons from and parts and maintenance?

**Mr DI BARTOLOMEO:** Okay. Certainly, in my recent past all of our wagons have been built in Australia, largely New South Wales. Our last wagons that we bought were some coal wagons in the Hunter Valley. They are our newest fleet, largely manufactured in Newcastle and/or Wollongong. Our last batch of locomotives, we bought 89 of them, 55 were manufactured here in Australia, 33 were brought in from Canada, a GM product.

At the moment we do some maintenance ourselves in our own workshops and much we contract in. We have contractors located in Newcastle and Sydney and RSA, which is the Rail Services Australia business, does some of our maintenance in some of its country facilities like Goulburn and Bathurst to a lesser degree. Some of those contracts are long-term contracts for maintenance and will largely continue by the very nature of the contract terms.

In terms of where private sector gets it from, I guess we do not have a lot of history because it is only in the last two or three years that the private sector has come into this business and to date you would have to say there has been a mixture; some built in Australia and more recently we had the example of ATN buying some Chinese grain wagons. So I think that is the exception that I am aware of where they have bought wagons from outside of Australia but FreightRail, our predecessor to FreightCorp, acquired some locomotives that were brought in from the US, driven largely by the price. They were specialist heavy haul coal locomotives in the Hunter Valley.

**ACTING-CHAIR:** Just back on the original legal position in terms of FreightCorp bidding for National Rail Corporation, could you comment on the position that the New South Wales Government is still in a strong legal position to insist that FreightCorp be allowed to bid for the National Rail Corporation? That seems to have been thrown out at rather reckless haste. Could you comment on that and let the Committee know as to why in your opinion?

**Mr DI BARTOLOMEO:** I am aware of the briefing that the RTBU did about getting some legal advice and that advice was that they could not stop FreightCorp from bidding and, in fact, I have had this question asked at many of our employee communication forums. We could bid, but the criteria that they established for the selection process, amongst others, was not only price and, no doubt, as New South Wales tries to proceed with the sale of FreightCorp it will put more than one criteria on the selection process other than price, but also that it had to be privately owned.

So we would have failed in that criteria. We would have spent \$2 million, \$3 million or \$4 million of taxpayer money trying to put in a proper bid with no chance of success. The RTBU accepted that it was pointless trying to put in a bid for the sake of saying, You cannot stop us, if at the end of the day you have no compulsion to choose FreightCorp's bid as the success bid.

**The Hon. AMANDA FAZIO:** We have had a submission from the Labor Council that it was seeking further assurances regarding the protection of employee entitlements of existing employees. Could you advise the Committee on what impact the sale might have on employee entitlements and what you are doing to safeguard those?

**Mr DI BARTOLOMEO:** It is important to understand that the sale objectives and the criteria that the Government imposes is just that; an imposition on the Government. I am clearly aware of the commitment given by the Government at the time of the announcement of the privatisation, one being, and I forget the exact words, effectively protecting the current arrangements for at least some years of employment.

I understand there is going to be some detailed discussions and negotiations take place about defining that in more detail than certainly I am aware of, but it has been an issue that our employees are very interested in and I have been asked. I think it is fairly clear that the imposition that the New South Wales Government will be going to is that it will guarantee jobs and current conditions for some years. Now, I do not know the exact details of them.

I have used for our employees' sake an example in Western Australia. The Western Australian Government basically said, "We will guarantee all conditions and jobs for two years." That is an example. We may provide advice in terms of the details of our employees and length of service and all of those things, but we will not be directly involved in any of those negotiations. It is strictly a shareholder issue.

**The Hon. D. E. OLDFIELD:** With regard to what you were saying a few minutes ago, I gather you said that of some 89 of your rolling stock and locomotives recently purchased about 30 were bought overseas. I noted you said there was something to do with a price disparity relating to grain wagons, I think, from China. I think you bought them from China. Is that correct?

**Mr DI BARTOLOMEO:** No. First of all, when I say recent, 33 of some 89 of our most recent loco acquisitions, which go back to 1991-92, were bought overseas, and it was price driven. Quite separate to that, and not by FreightCorp but by a private company, ATN—Australian Transport Network—bought, I think, 40 grain wagons from China.

**The Hon. D. E. OLDFIELD:** Where did the 33 bought overseas where you were concerned come from?

**Mr DI BARTOLOMEO:** It was actually Canada—Boise, Canada. It is a GM product.

**CHAIR:** You might want to take these questions on notice. I will just read them out. What is the current economic status of FreightCorp? Can you give evidence to the Committee to demonstrate the health or otherwise of FreightCorp?

**Mr DI BARTOLOMEO:** Well, first of all, FreightCorp has been profitable from day one of corporatisation. For the first three years of operations, albeit our profits declined as we faced that strong competitive position and freight rates were falling, albeit costs were falling but not quite as fast, our budget for this year was for an improvement to occur. Obviously, preliminary results are in and will be available in the annual report. I do not believe I am in a position to be making an announcement given they are not even finalised, but suffice it to say that our forward projections, NRC aside, if I can put NRC aside, were for our profits to improve after the initial fall. However, it must be said that at this point in time we were looking at rates of return after tax as things improved somewhere between 4 and 7 per cent, which is certainly not as high as I think they should be for an industry in a business like ours, but it is a reasonably good position.

It is a question of what are our strategies going forward to ensure that position remains, and we believe FreightCorp had the appropriate strategies going forward that would ensure that our currently viable business remained viable and, in fact, became more healthy. I think what we are facing now is a changed set of circumstances that has put a threat to that position.

**CHAIR:** And perhaps, again, you might wish to take this on notice, but what have been the financial returns to the Government in terms of profits, dividends and other payments over the last five years?

**Mr DI BARTOLOMEO:** Obviously, I cannot give direct numbers, but clearly we have been paying during that time dividends and we have been paying tax equivalent payments, the equivalent of full income tax, but instead of going to the Federal Government in Canberra it goes to the New South Wales Treasury, and do you agree that for the last four years we have also been repaying some debts, so I guess they are all some of the positives that have been spinning off from the business.

**CHAIR:** Do you anticipate that if FreightCorp is not privatised this will continue over, say, the next five years?

**Mr DI BARTOLOMEO:** If FreightCorp was not privatised but was free to pursue its business strategies as were identified, then, yes, we would see that position improve. As I say, the thing that has changed is that one of the key planks of our strategy going forward is that we are no longer allowed to pursue a particular investment position in National Rail, and that certainly changes the position. I think we could still remain profitable—that would be my view if we did not go ahead—but the profit margins would be far reduced.

**The Hon. D. J. GAY:** Do you have a strategy that involves someone else having National Rail? You certainly have a forward strategy with you having National Rail or National Rail and FreightCorp together.

**Mr DI BARTOLOMEO:** We certainly have. We have done work, obviously, on how our business would look if we were successful with an acquisition of NRC, how our business would look if NRC was not privatised and it remained the same as kind of a status quo, and we have a model that says if we did not win NRC or were not allowed to bid for NRC how our business would look. We have modelled all that.

**The Hon. D. J. GAY:** What would be the difference with FreightCorp being privatised and NRC being privatised and then going to different private owners? Has that scenario been looked at?

**Mr DI BARTOLOMEO:** Yes. There is clearly a value dilution to the New South Wales shareholders.

**The Hon. D. J. GAY:** So a privatisation without a link to NRC.

**Mr DI BARTOLOMEO:** No, the answer was in respect of whoever owns FreightCorp, independent of ownership. So the question is: how will the business—and I am putting aside who the owner is—fare relative to the other scenario of a merged joint if NRC was privatised and we were not party to that acquisition.

**The Hon. D. J. GAY:** Is there a variance between government ownership and private ownership?

**Mr DI BARTOLOMEO:** Our modelling did not have any significant variance.

**The Hon. A. B. KELLY:** And is there a difference in employee numbers, do you think, between—regardless of your aims—the merged new group or two private groups separate?

**Mr DI BARTOLOMEO:** First of all, if we were to merge with National Rail, we would have, no doubt, a stronger, more viable business long term, but by the very definition, as I said to the Committee earlier, there are some synergy values but there would be some further job losses as opposed to not merging. For instance, there will only be one chief executive officer (CEO), so there is one position that goes, and the corporate head office, obviously—you are not going to have two finance demonstrates, two of everything—so the merger value is in eliminating some of those positions. So at one level there are some job reductions but what you get out of it is a more competitive and stronger freight business that is based in New South Wales.

If you do not bring the two together, I get to save my job or NRC's CEO gets to save his job, but the reality is we will be put under more pressure in ensuring we can maintain our position in the competitive marketplace, like the Hunter Valley, where you could get an NRC or anyone else, particularly an NRC, I guess, with its peculiar one-off benefit, cherry picking some of our business. The outcome of that, of course, would be that we would be seeing our business eroded. Our response to it, and we would have to respond, is that we would be seeing further job losses. The net position of us not acquiring NRC is that we would see more job losses than us acquiring NRC and putting it together. The RTBU, which is our major union, and probably

something like 70 per cent of our employees are members of that union, has accepted, reluctantly, that a FreightCorp that is not merged with NRC could well be seeing more downside than a merged NRC-FreightCorp.

**The Hon. D. E. OLDFIELD:** Just back on the locomotives generally, what sort of life do you get out of a locomotive and also out of the wagons and in what time period would you see any large replacement requirements?

**Mr DI BARTOLOMEO:** Okay. Notional asset life for a locomotive is 25 years. The reality is that we are seeing a lot of old locomotives sort of being dragged out long beyond 25 years at the moment in the Australian rail industry, so 35 years is not necessarily uncommon. They are not necessarily the most efficient locomotives of that type. Wagons—it depends a lot on wagons and how they have been used. Coal wagons after 15 to 20 years, if they have been used intensively like we use them in the Hunter Valley, are pretty well life-expired, while we have got some wagons that were sort of from the 1950s in grain and they are sort of still running around. They are not necessarily the most efficient wagons but they are doing the job nevertheless.

When would we be seeing any significant asset renewals? I suggest not for a little while yet. At the moment, with our older locomotives we are looking at doing what we call a component change out [CCO] and effectively extending life. That is another way to extend the life of locomotives other than actually buying new ones. If you have a reasonably good base you can upgrade the locomotive, and we have plans right now in our forward capital program to upgrade two of our classes—our 48 locomotives and 81 class. So I do not think we are going to be in the marketplace for new locos for some time yet. If we were to merge with NRC, it has actually got a lot of good new locos that it bought only four or five years ago. I think some of those locos are actually spare, so we would actually have the opportunity to maybe save on some of the upgrades, use those and just put in storage for a later date some of the older locos.

**The Hon. A. B. KELLY:** You mentioned earlier when you made your presentation at the start you saw a whole host of advantages. One of them was some environmental advantages in a combined NRC and FreightCorp.

**Mr DI BARTOLOMEO:** The environmental advantages here are fairly clear-cut. We need rail to be more viable in this transport industry. We need to get the balance, the pendulum of freight swinging more to rail. I think it had started actually swinging more to rail only in the last few years. We need to keep up that momentum. I believe the sort of plans that we have—and I am not talking about privatisation; I am talking about the sorts of plans of growing this FreightCorp business into a national operator, being a significant player, based here in New South Wales, merging through an acquisition, in our strategy, merging with NRC—gave us optimal opportunity to create a rail industry that could succeed against our true competitors—road. That swing of freight from road to rail has clear environmental advantages as well as social advantages.

I think one of the things that the nation needs to look at is that in evaluating investments between rail and road the full economic benefits of rail need to be evaluated, including the social benefits as well as the environmental benefits. If we have that, we will see in Australia a swing to far more rail investment than we have seen for a long time, and I am glad to say that there are a number of rail projects being mooted at the moment. We have preferences on some of those as opposed to others but, nevertheless, there does seem to be a bit of a swing towards reinvestment in rail, and we would like to see that continue.

**CHAIR:** Gentlemen. Thank you very much for attending and for your evidence today

**(The witnesses withdrew)**

**(Luncheon adjournment)**

**DARYLL RAYMOND HULL**, Consultant, 113 Woodland Street, Balgowlah Heights, affirmed and examined, and

**NICK LEWOCKI**, New South Wales Branch Secretary, Rail, Tram and Bus Union, 51 Shelleys Lane, Thirlmere, sworn and examined:

**ACTING-CHAIR:** Professor Hull, in what capacity are you appearing before the Committee?

**Professor HULL:** As a contractor on the project for the Rail, Tram and Bus Union.

**ACTING-CHAIR:** Are you conversant with the terms of reference of this inquiry?

**Professor HULL:** I am.

**ACTING-CHAIR:** Mr Lewocki, in what capacity are you appearing before the Committee?

**Mr LEWOCKI:** As branch secretary at the request of the Committee.

**ACTING-CHAIR:** Are you conversant with the terms of reference of this inquiry?

**Mr LEWOCKI:** I am.

**ACTING-CHAIR:** If you should consider at any stage during your evidence that in the public interest certain evidence or documents you may wish to present should be heard or seen only by the Committee, the Committee will usually accede to your request and resolve into private session. I should warn you, however, that Parliament has the power to override that decision at any time and may make your evidence public.

Gentlemen, the general format is that if you have presentation or anything you would like to deliver to the Committee first up, the floor is yours. Following that, we would like to have time for questions and comments and some discussion from the Committee. However you might like to approach this next hour, feel free to inform the Committee of that.

**Mr LEWOCKI:** Thank you. What I thought I would do is outline the strategy of our union and why we embarked on this path of developing a report and going to our membership. We became aware for some time that the Commonwealth Government has been keen to privatise the National Rail Corporation. Round about June of this year we became aware that the Commonwealth Government was getting to the stage where expressions of interest were to be called for the privatisation of the National Rail Corporation.

As a union, we had to consider what our position would be because, as a policy, we are opposed to privatisation and we have been in every campaign in every State of Australia where privatisation has occurred. We came to the conclusion that our ability as a union to influence the Commonwealth Government would be very limited, based on the privatisation of National Rail in South Australia and Tasrail and also the policies of coalition State governments where we saw the privatisation in Western Australia and also in Victoria.

We as a union felt what we should do is try to identify what impact, if any, the privatisation of National Rail Corporation would have on our membership. Just under two and a half thousand employees are engaged in FreightCorp and the majority of those employees are members of our union. We spoke to the New South Wales Government and asked what it believed the impact would be. We identified that there was really no analysis by either the State or Commonwealth governments of the Australian freight industry and what impact privatisation is having on that.

We decided that what we should do as a union is at least be given an opportunity to see if we are going to come to an informed decision and try to get some research material put together. We engaged Daryll Hull who had worked as a project manager for our union particularly in our three-year campaign of opposition against contracting out in the railway maintenance area where we produced a report called, "Back on Track". Daryll, as the project manager, and Newcastle university had input in that. Before issuing that report we went around New South Wales talking to shire mayors, councillors, the community and our members about the impact of contracting out. The three-year campaign was successful in having the New South Wales Government put competitive tendering aside for a number of years in the rail industry.

When it came to the freight side, we really had little or no knowledge, so we spoke to Daryll who understands our union and the sorts of issues that cause our members concern. Daryll's advice was that we would really need to get a consultant company in to have a look at some of those issues we had raised, particularly the future direction of the rail freight business in Australia but, more importantly, what impact the privatisation of National Rail may have on FreightCorp and our membership.

We were able to do that by engaging PricewaterhouseCoopers. We asked them to have a look at the general trends in rail freight, what might happen over the next few years, have a look at what has happened with privatisation and then look at a number of scenarios in regard to where FreightCorp might go in the future. They range from standing the way they are and just seeing how the competition might unfold and what impact that might have, right through to what we call option five—there were five options—where you merge the two organisations and have a parallel sale.

We were on a very tight time frame because the Commonwealth Government had indicated to us that we really had four weeks before it was about to call for expressions of interest. So our time frame was fairly tight. We were able in that four weeks to prepare a report or PricewaterhouseCoopers was able to prepare a report which gave us some idea on a number of issues, particularly the future direction of rail freight Australia, analysis of the privatisation taken place to date and also a review of a number of scenarios that we had put forward for PricewaterhouseCoopers to look at.

We, in turn, had a look at that and were quite concerned. We went through a consultative process with our members. We brought delegates from every National Rail and FreightCorp yard to Sydney. We had a one-day workshop where the findings of that report were presented to those delegates. It was agreed that we should share that information with our membership generally and ask for their views on what position the union should take to protect their jobs and the job of their families.

Twenty-eight meetings were held throughout the State and the presentation that Daryll is about to give you is the same presentation we gave to our members. You will see through the presentation that this was not a position that we put to our members saying, "Here is a recommendation from the union executive." We basically asked our members what they believed should be the union position that they wanted us to pursue in the best interests of their future.

To move on, we had those meetings and, not surprisingly, the membership felt that the strongest position would be to allow FreightCorp to purchase National Rail. The Commonwealth Government had previously indicated that State entities would not be allowed to bid. We actually sought independent legal advice from a constitutional Queen's Counsel, and it came back in a form that was a little bit difficult to understand but gave us the impression that should the New South Wales Government want to launch a High Court challenge, it may be successful in forcing the Federal Government to allow New South Wales to bid. The problem of that is that you can bid but whether they will accept the bid or not is another issue.

Our members believe we should pursue that strongest position. The next option was what we call option four, that the New South Wales Government sell half of FreightCorp and that joint entity then purchase National Rail and that would bring together some of the synergies that the PricewaterhouseCoopers report identified. The final option is option five which was not the preferred option but it merges the two organisations for a sale purpose and is jointly sold to the one owner, therefore, avoiding the two entities going head to head in competition.

The report identifies the strengths and weaknesses of each of those proposals and I do not propose to go into a lot of detail there. Suffice to say that from the union's point of view, when we came to a conclusion, we put to the New South Wales Government that option five is certainly not our preferred option but it is a stronger option than FreightCorp standing alone and competing against a privatised National Rail Corporation which we believe will be sold significantly below its replacement cost, and also based on the fact that the consultants identified for us that 70 per cent of FreightCorp's revenue is derived from 10 contracts and there is a real threat of cherry picking and FreightCorp losing a significant amount of business.

We put to the New South Wales Government that we were seeking assurances about government ownership in other public sector areas, such as ferries, buses, CityRail, Countrylink workshops, carriage cleaning and track maintenance, to indicate that the union's position in agreeing to negotiate the joint sale should

not be seen in any way as moving from its belief of public ownership of key infrastructure areas in New South Wales.

Our branch council, the governing body, also spent a three-and-a-half-hour debating period considering what the formal position of our union should be and, again, our branch council, which is our governing body, supported the outcomes of the meetings—in other words, option 3, FreightCorp purchasing National Rail is the one we should pursue. If we fail on that, we should move to the joint venture option. If we fail in that, we are in the forced position of merging the two organisations and selling them to the one buyer.

We took that back to the New South Wales Government, and the Government agreed that to try to convince the Commonwealth Government to allow FreightCorp to purchase National Rail would not be a position we could win. However, the New South Wales Government did support the concept of looking at selling half of FreightCorp and that joint venture then purchasing National Rail.

We received a copy of correspondence from the Treasurer to Minister Fahey indicating that the New South Wales Government was prepared to discuss that issue with him. My President, Mr Bob Plain, and Michael Costa, the Secretary of the Labor Council, and I, along with a representative of Mr Egan's office, flew to Canberra. We had a two-hour conversation with Minister Fahey explaining the benefits of, first of all, FreightCorp purchasing National Rail. When it became clear that the Commonwealth Government was not to move on that position, we spoke about the alternative of a joint venture proposal purchasing National Rail, indicating what some of the strengths would be in it still partially government owned, the injection of private capital and introducing some of the issues that the Federal Minister indicated were necessary, and that is private management structures. We thought that was a fair compromise.

Notwithstanding what I thought was very persuasive debate, the Minister indicated that he was going to move ahead with the privatisation of National Rail, which basically forced us into the position of then looking at the joint sale, the merging of the two organisations for sale purposes and selling them to the one bidder, and we have been negotiating with the New South Wales Government ever since, including such things as what we call a transmission of business—that is, that the employees in the organisation retain all their rights, not like what has happened in, say, South Australia or Tasmania when they privatised. The employees were sacked on Friday. They commenced work on Monday under individual workplace agreements and on lower rates of pay.

We also had commitments that there would be a period of job security for the employees as part of this privatisation, including review of compensation packages and redundancy. We also discussed the ability of people for a five-year period to move back into the public sector, either to the State Rail Authority, Rail Access Corporation or Rail Services Australia, if they did not feel that their future career warranted a long-term commitment to a privatised company. So, in a nutshell, that is an overview of what our position was as a union, and those industrial negotiations are still continuing. They were continuing as late as this morning, where we are about to develop a position paper in regard to those industrial agreements.

One thing in conclusion I would say is that we at this stage do not have a commitment or I am not aware that we have a commitment that the Commonwealth Government will, in fact, support the joint venture sale. The Minister's position was, I think to put it bluntly, that he does not trust the New South Wales Labor Government to deliver and at this stage he is reserving his right to continue with the independent sale. I understand that there are discussions between the New South Wales Government and the Commonwealth Government to ensure that there is support between the State and the Commonwealth to the joint sale. Whilst, again, I understand from information I received, there is in-principle support, I think there is this underlying concern at the eleventh hour that the New South Wales Government will pull the plug on it leaving the Commonwealth Government in a situation where it will have to start the process all over.

That is the analysis I have made from conversations I have had. I certainly cannot speak on behalf of the New South Wales Minister or the Federal Minister. So I think if you look at the presentation that Daryll has put together—this is the same presentation—that it will articulate much more clearly some of the issues that we as a union have to consider and, more importantly, what our members had to consider in regard to their own futures.

**CHAIR:** Thank you, Mr Lewocki. Professor Hull?

**Professor HULL:** Thank you, Chair. I am aware that some members of the Committee have seen this presentation. I will move through it as quickly as I can because I am also conscious of the restriction on time.

Just to remind you, the issue here is that PricewaterhouseCoopers was engaged to undertake an analysis, which I project managed. The analysis was essentially to examine the economics of the rail freight and freight industry in Australia because the union felt that the information it had was not sufficient to make recommendations to its members and, in particular, to look at the commercial and business possibilities for FreightCorp within that industry strategy.

The report that was developed, therefore, did not look at any industrial relations issues. The reason for the report, as Nick has described, is that there was a sense of the union perhaps being able to have some influence in New South Wales. The context is that National Rail is being put up for sale. Westrail in Perth—the sale actually was announced about a week ago—has been sold for \$585 million to a consortium of Westfarmers Limited and Genesee and Wyoming, which also operates AN in South Australia. V/Line was sold by the Victorian Government in March 1999 to Rail America. The freight component of Tasmanian Rail was sold to Wisconsin Central, now ATN, in 1997. AN South Australia was sold to Genesee and Wyoming, now ASR, in 1997. This essentially means that if the Federal Government proceeds the only two State-owned rail freight corporations left in Australia will be FreightCorp in New South Wales and Queensland Rail in Queensland.

PricewaterhouseCoopers suggested to the union that the future of freight in Australia would be driven by the following factors: the replacement of traditional monopolies of rail and road through the emergence of logistics companies which offer a seamless service, for example, not moving cotton from Narrabri to Sydney on rail but moving cotton from Narrabri to Tokyo using whatever mode of transport is appropriate at the time and that this technology would be driven largely by e-commerce and consignment tracking developments, resulting in, along with the accumulation of capital, the development of what PricewaterhouseCoopers was calling supertransport powers in Australia in which State boundaries become meaningless, traditional monopolies are gone and there is a tendency towards global operations. Indeed, there is already a national freight market in Australia, which is a movement from the old State markets.

PricewaterhouseCoopers expected that in the long run—and it was estimating perhaps 10 years—there would be two to four big national players in freight; most of the others would be merged, taken over, go broke or become niche operators. Changes in technology would change what is natural in rail freight. For example, we are now seeing containerisation of general cargo and product diversification.

One of the issues that the consultants came back with was that much of the rail reform in Australia, particularly the privatisation of rail, has been, in their view, the wrong question by government and has resulted in what is, in effect, a mutual suicide pact amongst rail operators in a shrinking rail freight market when in fact the market is now an intermodal rail-road-sea-air market and that the real competition in Australia is between rail and road, not between rail and rail.

As a result, it was felt that a strategy to create a broader number of rail operators in Australia without considering the relationship between market share with road would not see profitable rail companies emerge. We are also seeing, even with the recent fuel price rises, that the introduction of diesel rebates on 1 July has given road a significant advantage over rail. This also has implications for access charges, where road access charges are significantly less than rail access charges.

The introduction of B-doubles and B-triples on the road is now making road approximately 40 per cent more efficient over the same haulage than it was prior to the introduction of this technology. The Federal Government's introduction of single-ticket, port-to-port shipping for foreign shipping lines now means that foreign shipping companies can do one-way journeys with freight between capital cities in Australia, from which they were excluded. While rail has an advantage over road in cost up above about 500 kilometres, sea has an advantage over rail above about 1,000 kilometres. Consequently, rail is being squeezed at both ends.

The consultants suggested that the survival strategies for the rail operators will be to seek volume growth driven largely by price. They will attempt to take freight from wherever they can get it, from anywhere they can get it. There will be a trend towards fewer, larger rail operators. We will see the emergence of these logistics companies. There will be growing mergers, alliances and takeovers in all modes of transport—for example, the Toll-Finemore takeover is still hot—and the pressure from road will increase on rail freight.

Part of the problem for rail freight in New South Wales is that a lot of the growth in rail freight and margins has been driven by weak coal prices in the 1990s and, thus, in the Hunter Valley, for example, there has been increased tonnage out of the coalmines as the mine operators endeavour to ramp up volume in order to

compensate for lower prices. There is no sense that in the longer term this will alter. Commodity prices are still low, but it also means that it will be unlikely that new mines will open.

From the point of view of National Rail, we were told during the project that National Rail is losing money. We were not given access to any of the books of National Rail, so we had to take the Federal Government's word for this. It is facing severe competition but it has some great advantages. National Rail in 1997 spent \$360 million to purchase 120 new loco sets, which are heavy haulage sets; 68 per cent of the National Rail fleet is, therefore, relatively new, giving reliability and fuel advantages; it has superior information technology systems to FreightCorp information technology and has begun to pick up FreightCorp contracts across New South Wales.

With the sale of the organisation now on the cards, as Nick has said, it is not the sale of National Rail that would be necessarily a disaster for FreightCorp, but if the Federal Government sold National Rail at the lower end of the price band and debt free, which is the usual way that these sales have been conducted, it would mean that the purchaser would be able to get in at a much lower gearing than one would expect. The analysis that PricewaterhouseCoopers did was that if it was sold at the lower end of the band, it could come into the marketplace against FreightCorp with a 9 per cent across-the-board price discount from day one.

FreightCorp has had, according to the consultants, reasonable performance in the last 10 years. I must say, as a consultant myself, that if some of my clients had the same positive performance that FreightCorp has had over the last 10 years, I would not be calling it reasonable; I would be calling it amazing. It has, for example, dropped prices for customers by 37 per cent since 1996; the productivity of employees is up by 55 per cent; costs per tonne are down 32 per cent in the same period; and the work force reduction in FreightCorp since 1990 has been from 10,000 to 2,200 employees, yet it has still achieved that level of productivity. I think that is, in fact, quite a remarkable performance. Yet operating margins in the same period have dropped from 16 per cent to 14 per cent because of the price competition of the other rail operators, who are being squeezed themselves.

FreightCorp has a problem, as Nick has mentioned, that 70 per cent of revenue comes from 10 customers who are in the Hunter Valley. When we did these sessions up in the Hunter Valley we were actually told by a FreightCorp manager that, in fact, 25 per cent of FreightCorp's revenue comes from one customer and one contract in the Hunter Valley, so the majority of margins and revenue for FreightCorp come from coal. The significance of this is that those coal contracts are up for renegotiation next year.

FreightCorp, however, has significant strengths. One of its strength is government ownership. It provides a large percentage of customers with comfort that they are dealing with a sound, long-term player. It has had fewer industrial or demarcation disputes than new, private entrants and it has shared large efficiency gains with customers. Most coal road haulage is excluded by the EPA and, similarly, local governments are reluctant to grant approval, which means rail has something of a monopoly on coal haulage.

Road haulage of export grain is difficult, mainly because of poor road receivable facilities at ports. There are very high capital costs for new entrants to come in against FreightCorp. It already has a critical mass in terms of tonnage and business. It has a sound, track record. It also has the Government's community service obligation contract which provided \$72 million this year which is paid exclusively to FreightCorp to subsidise rail haulage of grain, petrol, rice, et cetera. It has an efficient and committed work force. I think any work force that can operate down to 2,200 from 10,000 over 10 years without dispute with productivity going up 55 per cent has to be committed. It has a strong rolling stock fleet, about 300 locos, five and a half thousand wagons. The key assets are 31 90-class and 55 82-class engines which are only about six years old.

It, however, has weaknesses and the weaknesses are significant. Because of relatively few contracts providing the bulk of the revenue and all of the margin for FreightCorp, it is inevitably open to cherry picking by new entrants and there is no doubt that the 120 new loco sets purchased by National Rail were not designed to haul grain. They were heavy haulage, suitable only for coal. It would be necessary for a new privatised National Rail only to take one or two contracts next year and the position of FreightCorp's profitability would dramatically alter.

It has an ageing locomotive fleet. Apart from those 90-class and 82-class locos, the bulk of the fleet was built between 1967 and 1985, which is now already creating maintenance costs and fuel problems for FreightCorp and there is not been significant capital injected into FreightCorp by the State Government for some time. Government ownership paradoxically is also a weakness. The weakness comes from three parts. The

State Government in a national freight market will now find itself leading a state-owned freight company into national competition with other State governments and in other operations.

While boards of directors of private companies have similar issues in terms of communication, FreightCorp has its own board of directors. It then reports through to a Cabinet which reports to a government which reports to a Parliament which can make decision making very difficult. There is a need to joint venture because of this logistics focus and while FreightCorp is endeavouring to get into joint ventures, it is constrained somewhat by a Treasury policy which suggests that putting public agencies into private joint ventures is increasing the level of public risk and are, therefore, reluctant to proceed in that direction.

In terms of responsiveness, there are some case examples, apparently, where FreightCorp has tried to bid for large interstate contracts and has been advised too late by government whether it can or cannot do that.

FreightCorp has had some wins and losses. Unfortunately, while it has picked up Flinders Power, Stanwell, Portlink containers and coal from some of the private operators and is moving interstate and has gone into partnering with customers and set up terminal arrangements with customers, all of which is very progressive, its losses have been significant. BHP steel was a \$1.5 billion contract over eight years. FreightCorp lost that last year to National Rail Corporation which has knocked \$100 million off their bottom line per year for the next eight years. National Rail, we understand, went on a fixed-price contract for eight years, which is unusual in any industry but certainly FreightCorp could not match that.

Coal; we now see the first example, the 30-kilometre Macquarie Generation domestic haul to Ravensworth is now managed by National Rail Corporation. It is the first time National Rail loco sets have appeared in the Hunter Valley. It is not a big contract but it is a strategic one. From the year 2000 onwards the Australian Wheat Board has started using alternative operators for grain haulage who are now running grain and, in fact, ATN has come up from Victoria and is starting to haul grain in southern New South Wales on contract and it is likely that this will put pressure on the community service obligation numbers to be reconsidered as not being exclusive to FreightCorp. It has also lost the minerals and limestone contracts to National Rail, again, not significant but certainly important. The major contracts, as I suggested, are in fact up for renewal next year.

We asked the consultants to consider what scenarios were possible for FreightCorp. We identified 10 initial scenarios, reduced that to five and the five scenarios that we discussed with members of the union and, indeed, in those 28 meetings we had I should add that those meetings were open to all members of FreightCorp and they were attended by different unions and by senior managers, so the discussion we had involved a lot of different people.

The scenarios are three-to-five-year time frames. They have been developed around a fairly sophisticated transactions model developed by PricewaterhouseCoopers. The numbers that come out, I suspect, are reasonably solid but if we had had more time we could have obviously done better work. We did all of this in about four weeks. Stand and fight; National Rail Corporation is sold to a larger operator at the lower end of the market, goes in for cherry picking and price discounting. It was the view of consultants and some people in the industry that FreightCorp would lose contracts next year. If that were to happen, it is likely to have a domino effect on their contracts in the Hunter Valley and the view of the consultants was that you would probably see 12 per cent of jobs go in the first 12 months, mostly in the Hunter Valley, with possibly up to a total of about 500 to 600 jobs within the next 24 months as that domino effect takes hold.

Scenario 2 was "hold on and see what happens and sell off in 12 months". If scenario one is valid, and we believe that it has some validity, in 12 months time if you were a competitor you would not want to pay anything for FreightCorp; you would want to sell it for a fire sale, perhaps even break it up. We are aware already that at least one agency has approached the New South Wales Government to break up FreightCorp and to let it run the less profitable parts of the business itself.

Employment security is definitely not secure for members of the union in that situation. As Nick said, three, four and five were the other scenarios. I would like to point out at this stage that all of these scenarios, one of which was essentially National Rail being purchased by FreightCorp and remaining publicly owned, a scenario that said there would be a joint venture of FreightCorp and a private possible road operator to purchase National Rail and a conjunctive private sale of both National Rail and FreightCorp. The model suggested that the commercial outcome for all three scenarios was about the same.

So the issue for the union here is that it did not clearly say that privatisation was the best outcome for the members. It did not clearly say that remaining publicly owned was the best on outcome for the members. The business case suggested that you could run a viable freight business with a publicly owned merged entity, a joint venture entity or a private entity. The key, of course, was to create size, in other words to become one of the super transport powers, and the obvious thing to do was to bring both together and to diversify into intermodal logistics transport.

Having said that, it was clear that the takeover option would provide for those who had a sense of public ownership economies of scale; you could replace old FreightCorp capital rolling stock with new National Rail Corporation capital rolling stock and thus get increased productivity and there would be a continuing revenue stream to the New South Wales Government. It was suggested employment would still drop as the rationalisation of these two agencies occurred, but that the numbers were significantly lower and over a longer period, possibly 300 positions over a three-year period which could be covered by natural attrition in both agencies.

The joint venture was similar, bringing in a new private partner and diversified management—in fact, many of the members, particularly in National Rail, urged the union to consider this seriously; their view was that the sooner they had private management in the better—some equity sold for cash and a continuing sense of public ownership.

As has been pointed out, the difficulty here is that the Federal Government has indicated very strongly that no government-owned businesses may bid for National Rail either by themselves or in consortium with others. The New South Wales and Victorian governments as minority shareholders in FreightCorp in May this year gave up their pre-emptive rights to bid as shareholders for National Rail if it were to be put on the market.

As Nick said, even with constitutional view, it is problematic that three and four would be acceptable to the Federal Government and, indeed, we have been told no. It might be possible to run a High Court challenge to this if the New South Wales Government were so inclined. However, as was pointed out to us, beating the Commonwealth Government on a constitutional challenge to this sale is rather like trying to convince your neighbour to share the cost of building a fence by setting fire to his dog. You would probably then discover that the sale would be allowed to proceed, you would be allowed to bid but you would not actually win the bid.

Parallel sale, which is the New South Wales Treasury option is as it stands, good sale price, viable organisation, most importantly, no further risk to the New South Wales Government because the asset is moved off the books completely. From the union's perspective, the possibility of trying to gain transmission of business has an industrial consequence. The scenarios, and you have copies of these, were deliberately put together not with stars and arrows to indicate that people could not read numbers but we were requested by FreightCorp not to publish specific numbers as it is about to go through a sale process. As you can, see in a public forum such as this, competitors would gain those numbers very easily.

**ACTING-CHAIR:** You could, however, give this Committee those numbers with confidentiality.

**Professor HULL:** That is something you would have to take up with the union, Chair. I am contracted to the union and under confidentiality to the union. I am providing what I am able to provide at this moment.

**Mr LEWOCKI:** We do not have those figures. PricewaterhouseCoopers would have those. For us to be able to come up with a report that could be analysed by anyone meant that PricewaterhouseCoopers had to have access to the contracts. We said that for our purposes that was not important, so we understand that Treasury authorised the consultants to get those figures. Even the final report the union has is a sanitised version because any document I get, I make available through my Committee management to my membership. I said that if the Government does not want dollar amounts in there, I did not want a final report. In other words, sanitise that and we hand that report over to Treasury. So we do not have that report. I think that is something to take up with Treasury.

**Professor HULL:** I guess from a consultant's view, because the terms of reference is that this is a union report about employment, it was also not such a big issue to us as long as we had the credibility of PricewaterhouseCoopers behind it. I find it unusual that we now find ourselves with what appears to be one of the more substantial analyses of the situation when it was merely designed to help the union to work out what its position should be in terms of privatisation.

**The Hon. D. J. GAY:** It is the only one from what we can gather.

**Professor HULL:** I cannot explain that, I am afraid. The union had many discussions. The general feel from the membership, and this is about almost 2,000 people across New South Wales, was that having seen this presentation, having debated it, discussed it, reflected on it, from their own experience FreightCorp standing and fighting on its own in this environment was not viable, and that selling off in 12 months was not viable. As Nick said, three, four and five in that order were seen to be the preference. The real risk that everybody could see is that if we were unable to persuade the Federal Government to give us three and four and we had not prepared for five, we would be back at options one and two straight away.

The advice from the workshops back to the executive of the union was, "Whatever you do, don't let us fall back into one and two." I understand that a copy of this report has been made available. It translated into a very long discussion at the branch executive meeting in August, and at that stage my involvement with the report concluded, as has my presentation.

**CHAIR:** Thank you. Just to start—we will have a short period of time for questioning—Professor Hull, I am a little confused about the union's position. Perhaps Mr Lewocki would like to comment on this in terms of the suggested option of selling 50 per cent of FreightCorp and then the new company being NRC. Did your study examine this option in detail?

**Professor HULL:** The union position I will obviously leave to Nick, but the study indicated through PricewaterhouseCoopers that if it were possible for FreightCorp to find a private partner who would pay for 50 per cent, and the candidates for this might be Toll, might be Linfox, because the idea was that a road operator would probably be best, then the synergies gained from bringing together that diversification and the sheer bulk of the rail freight business because of the takeover of National Rail would create a viable business. The extent of that analysis was simply to look at the net worth of that business after five years using some fairly simple business analysis, assuming contracts are maintained and some new contracts are won, as I understand it.

**CHAIR:** You were quite clear in saying that you felt FreightCorp's performance was amazing, in your own words, in recent years.

**Professor HULL:** Over the last 10 years, yes.

**CHAIR:** What makes you so confident that the cherry picking would be against FreightCorp and not to FreightCorp's advantage, given its size?

**Professor HULL:** I think, as the analysis tried to demonstrate, there are some weaknesses in FreightCorp's structure, not the least of which is the age of its rolling stock and not the least of which is the concentration of its profitable business in the Hunter Valley on the back of what appears to be a not sustainable growth in coal future in terms of commodity trade but, most importantly, I think, Chair, the problem from the consultant's view was looking at what is happening in the rest of the rail freight industry and the railroad competition, the feeling that we are just now entering a period in the next three to five years of considerable price discounting and that all the numbers from FreightCorp published over the last four or five years indicate that it is holding its own only just and that it requires either diversification, a major injection of capital or a capacity to enter into that price discounting along with the other rail operators, none of which appeared to be options from the point of view of the New South Wales Government.

**The Hon. C. J. S. LYNN:** Professor, in the feedback section of your report it says:

In most cases the members spoke damningly of the current FreightCorp management and were sceptical of their ability to work in a deregulated environment. Much of the blame for FreightCorp's poor position in the transport industry was seen as the management's inability to properly market the company.

We have had FreightCorp here this morning. It gave us a different view, if you like, of its performance. Would you like to comment on that?

**Professor HULL:** I can talk about the feedback from the membership. However, Nick, you might like to offer a comment on that.

**Mr LEWOCKI:** You need to understand that we are working in an industry that is continually downsizing, is continually rationalising, is continually having the economic ruler passed over it. We have seen

continued restructure of management; we have seen outside management come in, a break with old railway cultures, going down paths which the membership does not understand. Morale is fairly low. The question of job security is a concern. The National Rail sale has been hanging over their heads for some time. We have seen GrainCorp out there trying to indicate that it can run the grain business. In fact, we have tried to accommodate part of that. So it is not surprising that the membership's view is that these guys could not sell hot pies to Eskimos. They just feel the industry is on a treadmill of continued rationalisation, continued change, and new management faces they just do not have confidence in.

**CHAIR:** They also said this morning that they had continued in recent years to be able to find dividends and that FreightCorp had actually been extremely profitable.

**Mr LEWOCKI:** It may be right. They have got very good economic skills but very poor people skills. That is all that that indicates.

**The Hon. C. J. S. LYNN:** If I can just pursue that, there was a further comment in regard to the State Government actually hamstringing FreightCorp with intrusive policies on the everyday running of the organisation. Would you like to expand on that feedback?

**Mr LEWOCKI:** Well, I am not sure exactly what our members said. I did not attend all the meetings. But the general trend of what we knew is this: through our own intelligence we knew that the FreightCorp board had commissioned its own study over 12 months ago, or at least some sort of study. We were aware that they were having discussions with Tolls about a joint venture; they were well advanced in their thinking about logistics management; that information and intelligence had been leaked to us; and the Government, as we understand it, did not authorise those discussions to proceed any further. This was some time ago.

There are stories about FreightCorp, for example, wanting to bid for a major contract in Western Australia and, again, the problem for the New South Wales Government—it may be not a problem—was why should a State-owned freight corporation start to bid for interstate work? If you look at what came out of the Glenbrook inquiry in regard to Rail Services Australia, one of the very criticisms of Rail Services Australia was that it went out and pursued interstate work not looking after the State of New South Wales. So some of those views, I think, our members would have and feel that these sorts of government strategies would hamper the way the business might grow. As I say, this is a summary from officers who have been out there. We tried to reflect what the issues were in an honest way so that when people looked at this summary they would say, "Well, yes, I can see that. That was the meeting I was at and that is the concern I expressed."

**The Hon. D. J. GAY:** I know there has been a time constraint and you have spoken only about the report, but I have a series of questions for both the gentleman on employee entitlements. I understand your frustration that probably the only definitive document here at the moment is your report. I would like to address those and your response at some other time, but today I want to address what you have spoken about today, because I know that you, coming from railway areas, would share my concern about the employees, and we have not covered that. To deal with what you have said today, the report indicated that the NRC is losing money "(so we are told)". Is there doubt?

**Professor HULL:** Only from the point of view of a report in which one of the players is proposed to be put up for sale because the Federal Government has suggested that it is losing money. A simple cross-check on that would have been, as we requested the consultants, "Why do you not just go and have a look at the books of National Rail just to comfort us that this is the case?" We were advised that we would not be given access to the books, or that PricewaterhouseCoopers would not be given access to the National Rail figures, so the "(so we are told)" indicates exactly that. We were told that but we were not able to check it in any way.

**Mr LEWOCKI:** Minister Fahey in a meeting we had with him indicated that National Rail Corporation was losing money, it was drawing on cash reserves and one of the driving forces for the sale by the Commonwealth was that he was not prepared to use taxpayers' money to prop it up. That was mentioned at a meeting we had.

**The Hon. D. J. GAY:** Is there any talk of Queensland Rail going up for privatisation?

**Mr LEWOCKI:** I do not know.

**The Hon. D. J. GAY:** It is the only other one.

**Professor HULL:** In the very brief conversation that we had there was no indication at this stage that the Queensland Government was considering that.

**The Hon. D. J. GAY:** You mentioned Linfox as an example of private enterprise, the joint venture. How did PricewaterhouseCoopers and/or the union believe that the joint venture would come together? How was that going to be put together?

**Professor HULL:** I do not think the analysis went into detail. We did not actually pursue an analysis in detail on that rather than simply take FreightCorp management advice that such a joint venture was possible and in fact a desirable thing.

**The Hon. D. J. GAY:** How was it possible?

**Professor HULL:** You mean through the sale of half?

**The Hon. D. J. GAY:** Yes. How was that process going to take place?

**Professor HULL:** I do not think that actually reached that stage of the discussion other than to suggest that perhaps half of—now I am speculating—FreightCorp could be offered for sale in a joint venture arrangement to a road operator.

**The Hon. D. J. GAY:** You also mentioned that the National Rail Corporation could come in for coal. Is it the major competitor for the New South Wales coal or are there other players that could come in?

**Professor HULL:** In terms of rolling stock, National Rail is the competitor at this stage. It is the only one with sufficient numbers of loco sets and of sufficient size that would probably be able to come in. But that situation could change very quickly if one of the US operators decided to lease equipment.

**CHAIR:** Mr Lewocki, perhaps you could answer this for me. Apart from the NRC, is it not the case that FreightCorp's locomotive and wagon fleet has been more extensively modified and is of a higher quality than any likely competitor's and would this not mean that private buyers would be raiding higher quality equipment paid for by the people of New South Wales?

**Mr LEWOCKI:** I do not know. I am not an expert on those sorts of issues. But what we are seeing is that I think FreightAustralia, ATN, which has been able to win work in New South Wales with wheat, bought wagons in China and brought them over here. They were not even built in Australia. In regard to quality of wagons, I cannot comment. I just do not know.

**CHAIR:** But the vast majority of FreightCorp's locomotives, or a significant amount of the locomotive and wagon fleet, have actually been built and serviced in Australia.

**Mr LEWOCKI:** They were built and serviced very well in Australia. We have very skilled tradespeople in our workshops and, yes, we have used Goulburn to modify wagons and our Bathurst workshops. I do not think that anyone could go and look at our rolling stock or our wagons and suggest that they have been allowed to run down. They have been maintained in the best possible condition for their age.

**CHAIR:** Just back on the issue of cherry picking and concern that there is a concentration with FreightCorp at the present time in the Hunter and that the loss of one contract could actually devastate FreightCorp despite its size right now, I am just wondering if you could comment whether it is not the case that the size of FreightCorp makes it hard for new entrants to easily beat it in the coal sector and whether is it not the case that the cost for a competitor of a 100-wagon train unit in the coal sector is around \$25 million.

**Professor HULL:** That is correct.

**Mr LEWOCKI:** I understand that that was identified as part of our report, that is right. But recently, in the last 12 months, one of the coal companies went and bought its own coal wagons and all it tendered out was what is called hook and pull. All the company wanted was someone to provide the engine power to pull those wagons. I do not know which company it was, but one of the companies in the Hunter Valley. It was not that successful. I understand what has happened is that FreightCorp has leased those wagons back off that company

on a maintenance contract and renewed their contract but what it does show is that I think the coal barons up there would welcome a bit of competition, even if it meant buying their own wagons, which this company at that stage did.

**CHAIR:** But given that FreightCorp successfully cherry picked the 300 tonnes per year Leigh Creek to Port Augusta coal contract from ASR and has become the preferred tenderer for a 600-million-tonnes-per-year coal haul in central Queensland, does that not allow us to have some confidence that FreightCorp would be successful through this period if it were allowed to continue?

**Professor HULL:** May I suggest that that is also a question of scale? The preferred tendering for the Queensland job was that Q rail did not bid so that it was simply a walk-up start for FreightCorp.

**CHAIR:** Why did it not bid?

**Professor HULL:** I do not know. It did not bid.

**CHAIR:** Because the size and economic buying power of FreightCorp was overwhelming.

**Professor HULL:** Simply because the contract was not very big, I think, and the other one was also that while Leigh Creek looks large, it is not significant. The real problem is that when you look at FreightCorp's numbers, last year it turned over about \$550 million and returned a revenue stream of about \$59 million or \$56 million. The numbers are in here somewhere. If 25 per cent of FreightCorp's revenue of \$550 million comes from one contract in the Hunter Valley and that is lost, I think that it just overwhelms any other smaller contracts that might be picked up anywhere else. I think that is the real risk.

**The Hon. D. J. GAY:** Professor, during your presentation, in the bidding part, you indicated that there were some occasions where too-late advice from the Government had not allowed FreightCorp to bid. What are the examples of that?

**Professor HULL:** It was anecdotal from FreightCorp suggesting that there was a major contract in another State and I honestly do not remember all the details, but they were suggesting that they had to get a response in very quickly but the process of getting their board, the Minister, the Cabinet to actually prioritise and sign off on all this stuff had actually slowed them down to the point where they just gave up and did not bid at the end of the day.

**The Hon. D. J. GAY:** Who is their shareholding Minister? Is that the Minister for Transport?

**Professor HULL:** No, I think the shareholder is the Treasurer and the Premier. I think it is the Treasurer who owns the shares.

**The Hon. D. J. GAY:** There are two shareholding Ministers?

**Professor HULL:** You would have to ask someone in government but I understand the Treasurer is likely to be the shareholder.

**The Hon. D. J. GAY:** It is normally the Treasurer and the Minister for that industry unless it has changed. For instance, for electricity it is the Treasurer and the Deputy Treasurer. It was the Minister for Energy but he was found wanting, I suspect.

**Professor HULL:** I am sorry, I cannot answer that question.

**The Hon. A. B. KELLY:** We heard this morning from FreightCorp that its preferred position, and it is obviously the union's as well, that you go into a joint venture with a private group and bid for National Rail Corporation. The Federal Government has ruled that out of order, that it will not entertain that in any way. Have you any logical reason why it would do that? Can you understand its decision?

**Mr LEWOCKI:** Absolutely not, other than a lot of rhetoric we heard about the inability of government to run these sorts of businesses, the inability of government to inject sufficient capital to grow the business and it is not something that governments should be involved in. They seemed to be the issues put to us. We argued very strongly that on the basis that there was no overall strategy by the Federal or State governments

about the future of land transport and how freight sits into that, if these companies in South Australia and Western Australia go bankrupt, governments will not bail them out.

The economies of scale, if we can believe what the experts tell us and I am not the expert, is that there will be three, perhaps four players in this industry in the future because that is the size that the rail business can contain, you sort of ask the question, why should not one of those be a government operator. We raised that question. Minister Fahey indicated very clearly that his Government had made the decision that governments were not to have, he believed, a role in that and that was the reason he was going to privatise.

**The Hon. A. B. KELLY:** Just to go one step further, if you were Kerry Packer and owned National Rail and it was a basket case and you wanted to cut your losses and get rid of it, you would call for expressions of interest. We heard this morning from FreightCorp's point of view that it would be beneficial for its business to get National Rail and, therefore, they would possibly likely to be the highest bidder for that reason. If you were Kerry Packer, why would you then rule out the highest bidder?

**Mr LEWOCKI:** I will tell you. The information was that the sale of Australian National in South Australia did not go to the highest bidder. It went, this is what the Minister explained to us, to a bid lower because they believed the long-term business strategies were superior than the highest bidder, which gave us the clear impression that the final decision will not be made merely on the dollars and cents but what the Commonwealth Government will interpret as being a good business plan that might grow some time in the future.

**The Hon. A. B. KELLY:** So they do not really want to get the best return for the taxpayer.

**Mr LEWOCKI:** That was the impression I had. I was aware from talking to senior people in FreightCorp that they believed they could put a bid together which would be the best bid for National Rail and they believed that they had analysed the value of the business and that they would pay probably more than what the private sector would pay because it would add value by bringing the two businesses together whereas if you sold it separately it would not do that.

**The Hon. I. M. MACDONALD:** From the information this morning we became aware that there is something like \$800 million of assets in National Rail and the likely sale price is around \$200 million to \$400 million, which would give them a rough price advantage of around 9 per cent. Would you care to comment on whether you believe that is a sale in the interests of Australian taxpayers who, in reality, are the shareholders, that they would lose so much value from the sale and, secondly, what sort of level playing field is being created by a sale that gives an advantage to a purchaser, probably an American purchaser, of 9 per cent over other rail operators?

**Mr LEWOCKI:** Our union is one of the few unions that does any sort of research into rail. At every Senate inquiry we have made submissions and they are the very issues we have raised. Why would you sell an asset paid by the taxpayers at such a low price? Why would you create an unlevel playing field? If you look at the national competition policies, they talk about competitive neutrality but they will not apply that to government agencies. If you look at the subsidisation by taxpayers of running our rail systems and compare that to the level playing field and what we spend on roads, pollution and accidents, we can bring you barrel loads of documentation where we have argued that issue, but at times we feel like the lone voice in the wilderness, that we identify these issues and have identified them over a number of years but it is a matter of getting the will of people in Parliament, the community, the business people, the farmers who all gain from these sorts of issues getting behind us. We have been arguing these cases for the last 30 years that I have been an union official. We have spent considerable amounts of money preparing these issues. You are quite right, a valuable asset going to be sold cheaply has put pressure on a state-owned corporation which is profitable, competitive at the moment and has achieved some terrific gains. When it comes to productivity, you are passing those costs on to the employer and it has only just started in my view to create some job stability particularly out in rural New South Wales.

**ACTING-CHAIR:** We are running out of time, gentlemen. We may request that you come before us again or we may give you questions on notice. Thank you very much for your attendance today.

**(The witnesses withdrew)**

**GARY JOHN SARGENT**, Industrial Officer, Suite 2, Level 2, 619 Elizabeth Street, Redfern, sworn and examined:

**ACTING-CHAIR:** In what capacity are you appearing before the Committee?

**Mr SARGENT:** As industrial officer.

**ACTING-CHAIR:** Are you conversant with the terms of reference of this inquiry?

**Mr SARGENT:** Yes, I am.

**ACTING-CHAIR:** If you should consider at any stage during your evidence that in the public interest certain evidence or documents you may wish to present should be heard or seen only by the Committee, the Committee will usually accede to your request and resolve into private session. I should warn you, however, that Parliament has the power to override that decision at any time and may make your evidence public. Would you like to give a verbal report to the Committee, which will be followed by questions from members?

**Mr SARGENT:** Mr Chairman, members of the Committee, I think it is true to say that it is a general position of the trade union movement that we oppose the sale of public assets and, as most of you would be aware, that is a position that has been held for many decades by the trade union movement and the labour movement generally. However, in relation to FreightCorp, we feel that the arguments that have been put up by our brothers in the RTBU in relation to what has happened in the scene with National Rail very much hold validity in that we have an interest in relation to our members at FreightCorp to ensure that they have job security and ensure that any changes in that workplace are attended to by the union.

We believe that the argument about the sale of National Rail, in that the Federal Government made a policy decision and, we believe, probably an ideological decision to exclude state-owned entities from tendering for the purchase of that has probably negated any chance that FreightCorp had of surviving as a government-owned freight operator in New South Wales and throughout Australia.

Our concerns now in relation to the sale of FreightCorp obviously from a trade union point of view is to ensure employment security for our members and the continuity and protection of the existing terms and conditions of employment. There are some superannuation issues and other entitlements that we believe on behalf of our members we should be and are pursuing with the Government and other issues relating to retraining, redundancy and those types of issues. So we hope very much to be able to pursue and resolve those issues with the Government during the next period. That is all I wish to say. On behalf of the ASU, I am quite happy to take questions.

**The Hon. D. J. GAY:** You indicated job security as your prime concern, and rightfully so. Can you indicate to the Committee what guarantees you have had from the Government or that you have actually sought on job security?

**Mr SARGENT:** We have no guarantees from the Government in relation to that at this point in time but we would hope to be able to sit down as things progress. Obviously, the Government has to put together documents for the tender of sale and we hope we will be able to discuss with the Government some sort of provisions within the document to ensure continued employment for at least a period of time in relation to, if you like, red circling the employment of employees, those who chose not to take redundancy if that were to be offered or those that could not be redeployed.

**The Hon. D. J. GAY:** Have you not had a chance to meet with the Government at all?

**Mr SARGENT:** We had a brief meeting this morning with the PSMO to discuss some issues that we would like to put on the table, but no formal negotiations, if you like.

**The Hon. D. J. GAY:** From the information given to the Committee this morning, the only report that appears to be in existence is the report that was detailed by the previous witnesses. Given the concerns of particularly people who live in country towns, their long-term employment is crucial because if there is a further downturn and they have invested their savings in a house—it is the same as people in the coal industry if a mine closes—they will lose that house where their families are and their investments. The questions they are asking

me and, I would imagine they are asking you and the other union members, is what assurances do we have on this. That is why I am asking you whether the Government has been able to talk to you and give you those assurances.

**Mr SARGENT:** As I said, there have been no formal negotiations but I think the time frame we are looking at will be determined by how quickly the Federal Government will pursue the sale of National Rail. I agree wholeheartedly with the argument that FreightCorp withering on the vine. On behalf of the taxpayers of New South Wales, if you like, the longer it stays out there and tries to survive against a private operator who may take over National Rail, the arguments about the very narrow band, if you like, of contracts and revenue that FreightCorp has, hold validity in that it will be quickly eroded.

**The Hon. D. J. GAY:** But people who are looking to buy will not be able to look to buy FreightCorp without understanding what the superannuation ramifications, job ramifications and CSO ramifications are.

**Mr SARGENT:** That is correct, and I suppose some of those issues will be for the Government to determine and, hopefully, with advice and through negotiations with the trade union movement, some of those issues will be ironed out too over the next period before the documents for tender are prepared.

**The Hon. D. J. GAY:** Driver safety, I assume, would be one of those issues?

**Mr SARGENT:** Well, that is something you would have to ask my brothers in the RTBU about. We do not look after drivers.

**The Hon. D. J. GAY:** Just before we go on, can you explain to someone who is not au fait with union demarcation which area you cover?

**Mr SARGENT:** Yes, we cover salaried and administration officers. Is that good enough?

**The Hon. D. J. GAY:** That is fine.

**The Hon. A. B. KELLY:** So that is about 8 per cent of the staff.

**Mr SARGENT:** The coverage?

**The Hon. A. B. KELLY:** Roughly.

**Mr SARGENT:** I am not sure. I can tell you that we have about probably 380-odd members within FreightCorp.

**The Hon. A. B. KELLY:** I thought it would be more.

**The Hon. C. J. S. LYNN:** Mr Sargent, you said before in regard to job security that you would look at a reasonable period of time for all employees. I assume you mean those employees who may be under threat, if you like. What is a reasonable period of time, do you see, in this regard?

**Mr SARGENT:** I do not know. I suppose that is probably a difficult thing to determine. When people feel insecure in their jobs, you know, life employment is sort of the yardstick, I suppose, for those people. They obviously would like to have tenure for life, and something like this has a great impact on people personally and on their families. I would imagine that is probably something that we would have to have some consultation with our membership about, but maybe 18 months to two years. That is just off the top of the head.

**The Hon. C. J. S. LYNN:** And you would be also negotiating in that, I imagine, for suitable retraining, relocation and all that sort of stuff through that period?

**Mr SARGENT:** Yes, I would imagine that there are some people who may see it as an opportunity to transfer themselves into other areas of the public service. There may be employees out there who take the view that they might prefer to get out of the industry altogether. We just have to make sure, I suppose, that we put the provisions in place to cater for all the situations.

**CHAIR:** Mr Sargent, would you agree that the FreightCorp management is modern and aggressive in pursuing its markets and servicing its customers, and your role with your Australian Services Union [ASU] in salaries and administration would probably fall into that category? So would it not appear that you have given up the ghost on FreightCorp perhaps a little early, considering that it is an entity that has been extremely profitable and has downsized effectively and worked well over the past five years?

**Mr SARGENT:** No, I would not say we have given up the ghost. Like our brothers in the RTBU and other unions, we have every intention of following our membership, if we can, and looking after their industrial interests, which is what they pay us for, and that is what unions are all about. I think there are some times when you have to look at the set of facts in a given situation and decide what is in the best long-term interest of your members or whether you take a steadfast ideological position. I think that the facts and the details and the arguments that are in the report that were proposed by Professor Hull, which I have read, are overwhelming. I think in the long-term interests we would be better off ensuring that we can look after our members' interests by supporting the sale.

**The Hon. D. J. GAY:** But only if you have got guarantees.

**Mr SARGENT:** Well, I suppose there is always qualified support for anything and, I suppose, going back to your question, Mr Chairman, sometimes I think, and too often in politics, if you want to take a steadfast position sometimes you cut your nose off to spite your face. I think when the facts change maybe people should change.

**CHAIR:** In respect of that, Mr Sargent, would you expect your negotiations for conditions of your respective workers in your union to be undertaken before or after the sale?

**Mr SARGENT:** I beg your pardon?

**CHAIR:** Would you expect your negotiation for conditions for your union, for the workers in your union, to be undertaken before or after the proposed sale of FreightCorp?

**Mr SARGENT:** Well, the negotiations with the Government would be before, and that would be done in conjunction with continuing consultation between the union office and the members out on the ground.

**The Hon. AMANDA FAZIO:** Will those negotiations be going on direct between your union and FreightCorp and the Government or through the Labor Council?

**Mr SARGENT:** Through the Labor Council.

**The Hon. D. E. OLDFIELD:** Mr Sargent, in your position as the Industrial Officer with the Australian Services Union, how much actual involvement do you have personally from the point of view of advising the members with regard to whether it is beneficial for the sale to go through?

**Mr SARGENT:** Well, the process when a major issue comes up like this is that meetings are normally called around the State and industrial staff attend those meetings, and the assistant secretary of the union, who is in charge of the transport division, George Panagiris, will attend those meetings and obviously take questions and give advice to the membership.

**The Hon. D. E. OLDFIELD:** But who is advising Mr Panagiris?

**Mr SARGENT:** In relation to FreightCorp?

**The Hon. D. E. OLDFIELD:** In relation to the sale, you started out by saying that normally your standard would be that you are opposed to the privatisation of public assets, such as FreightCorp, which I would agree with. You then went on to say that in this case you believe it is in the members' interests. I am presuming that the members are advised what those interests are and are advised why it is in their interests. I am presuming that the members do not just come up with this themselves. You say you hold meetings to tell them why it is in their interests. How heavily are you, for example, involved in that advice?

**Mr SARGENT:** In participating in the actual meetings?

**The Hon. D. E. OLDFIELD:** Yes.

**Mr SARGENT:** Well, I have not been, because I am an industrial officer in Sydney, and I do not actually look after FreightCorp per se. We have other industrial officers and organisers within the union that actually do that.

**The Hon. D. E. OLDFIELD:** So you are not involved in any of the material or advice relating to why members should be considering that the sale is in their interest?

**Mr SARGENT:** Only in that infrequently I am asked for advice by senior officers of the union.

**The Hon. D. J. GAY:** Why are you here and not the person who is directly involved?

**Mr SARGENT:** Because I have been asked to take carriage of the issue on behalf of the ASU.

**The Hon. D. E. OLDFIELD:** So you must be reasonably involved. You just said a moment ago that you are asked for your advice by senior members. They are obviously then passing that advice on to their members as to whether the sale is beneficial to the individuals. What sort of concerns are the actual individual members giving you at these meetings?

**Mr SARGENT:** Well, the overwhelming issue that came back was obviously job security. As soon as the word was out there that FreightCorp was to be privatised, the issue that had most concern voiced was the issue of job security.

**CHAIR:** You say, Mr Sargent, that you are based in the city. Do you have any knowledge or has there been any investigation as to the impact on country areas for your membership in terms of people losing jobs and being impacted in country areas and country communities?

**Mr SARGENT:** No, not to my knowledge.

**CHAIR:** Can you tell the Committee in terms of membership roughly is it primarily city based or do you have a constituency in the country?

**Mr SARGENT:** We have a constituency in the country, and that would be predominantly in Newcastle but the majority of our membership is based in Sydney.

**The Hon. D. E. OLDFIELD:** Given that there does appear to be some involvement from your point of view advice-wise where this is concerned and you are called upon for advice in this matter to be then conveyed to members, has it ever been raised with you, or do you ever consider yourself, as it is Labor Party policy and this Government's policy to sell FreightCorp, that you as a very closely related member of the Labor Party and a former Labor candidate are in any way impacted from a conflict point of view?

**Mr SARGENT:** No. I do not see the relevance of that question, Mr Chairman.

**The Hon. D. E. OLDFIELD:** You do not see the relevance in the question of Labor Party policy being to sell and you being in a position very close to the Labor Party and being a former candidate for the Labor Party? Are you saying that you do not respond to or are involved with the following of Labor Party policy?

**Mr SARGENT:** Yes, I am, but that does not necessarily mean that it has to conflict with my position as a trade union official.

**The Hon. D. J. GAY:** But you do not appear to have spoken to your members who are going to be affected.

**Mr SARGENT:** Yes, we have. We held public meetings in Newcastle.

**The Hon. D. J. GAY:** It is not what the evidence that you have given here today indicated.

**Mr SARGENT:** As I said, we held a public meeting in Newcastle. The members in Newcastle in particular were concerned about the announcement, and a public meeting was held in Newcastle in relation to that.

**The Hon. I. M. MACDONALD:** He said he was not directly involved.

**The Hon. A. B. KELLY:** You were part of that report?

**Mr SARGENT:** Yes.

**The Hon. A. B. KELLY:** Involved with that report that the RTBU did?

**Mr SARGENT:** No, the ASU was not. That was completely commissioned by the RTBU.

**CHAIR:** Thanks very much, Mr Sargent, for appearing.

**(The witness withdrew)**

**PAUL ANTHONY BASTION**, Union Official, Unit 8, 137-141 Regatta Road, Canada Bay, and

**TIMOTHY DAVID WALLACE**, Co-ordinator, National Research Centre, Australian Manufacturing Workers Union, Flat 4, 95 St Thomas Street, Clovelly, affirmed and examined:

**CHAIR:** Mr Bastion, in what capacity are you appearing before this Committee?

**Mr BASTION:** As the State Secretary of the Australian Manufacturing Workers Union.

**CHAIR:** Are you conversant with the terms of reference of this inquiry?

**Mr BASTION:** Yes, I am.

**CHAIR:** Mr Wallace, in what capacity are you appearing before this Committee?

**Mr WALLACE:** As a research officer.

**CHAIR:** Are you conversant with the terms of reference of this inquiry?

**Mr WALLACE:** I am.

**ACTING-CHAIR:** Would one or both of you like to make an opening statement to the Committee?

**Mr BASTION:** I welcome the opportunity to put a submission to the Committee. We have prepared a written interim submission. Unfortunately we only had 48-hours notice to put that submission together so I guess we would like to reserve our rights to put in a more detailed submission at a later date and perhaps take up the option that was offered earlier for more detailed questions. I see the time we have got before the Committee today, subject to questions from Committee members, is to really just give an outline of where we are coming from in the submission and some of the major issues that concern us.

First off, let me say that we naturally see this as a very important inquiry. It is not just about the jobs for FreightCorp. For us it also represents the jobs downstream in those enterprises that feed off directly from FreightCorp and, of course, downstream further when one looks at the rolling stock industry per se. The AMWU has 130 members in FreightCorp, primarily in maintenance and construction. You might say that is not many, and I think the comment I have heard before from the Treasurer was the tail wagging the dog. That may be the case, but we have another 400 members directly employed in the rolling stock industry in the RSA which feed directly from FreightCorp work and another 350 downstream that work in the component sector, supplying components to the rolling stock industry. So we have some very deep concern about the proposals to privatise FreightCorp.

We are concerned at the haste with which the privatisation seems to be going ahead. We were only made aware of it once the decision was made. We think there needs to be more consideration of the options that are out and about and, perhaps, other options that are yet to be explored. We think there needs to be more time to consider the social and economic impact of the decision of privatisation. We are concerned that the wrong decision will lead to the wrong result, as was the case with the disaggregation of rail which we are now seeing as being found to be the wrong decision.

We are also concerned that the decision is based on one report and one report only. There has been no consultation with the AMWU, despite us having membership within FreightCorp. We were only invited to speak to the Treasurer after the decision was made. We sought and were refused funding to put together an alternative report or another independent report from other sources. We sought and were refused access to the PricewaterhouseCoopers report and the material it was based on on the basis that that information was commercially in confidence and we were sought and denied information on the same grounds on FreightCorp.

In our view, the decision to privatise is bad for a number of reasons. Firstly, we say it is bad for the environment. The result of privatisation would see increased road freight. That will lead to more accidents, increase in greenhouse emissions and an increase in road damage. We say it is bad for rural New South Wales. Some 70 per cent of our membership is in rural New South Wales. The best research we can get from our own

people is that that figure is slightly higher for all FreightCorp employees, that is, they reside mainly in rural New South Wales.

We say that rural communities, as a result of any privatisation, will be hardest hit. An example of that is Werris Creek where 120 jobs are sustained by FreightCorp. Any sale will see the rationalisation of services and that, in our view, has always led to closure of some services. Clearly, if that were the go, that would have a devastating effect on the economy of Werris Creek.

We say, ultimately, the same as other unions, that it is bad for jobs. It is bad for jobs and the evidence that we have seen and sighted from previous privatisation of freight has been in Victoria, and these figures I have confirmed as late as last week with the State secretaries or the State president of our union in each of the States. They are the only research we can get hold of. In Victoria it saw 50 per cent of job losses as a result of privatisation, where the State Government funded all the redundancies. Tasmania saw 35 per cent in job losses as a result of privatisation. South Australia saw 30 per cent rehired on a casual basis.

What we have said to the Treasurer when he indicated there were guarantees for jobs or that he would ensure guarantees for jobs that we want to see the substance of those guarantees on their jobs and their entitlements. We do not want to see the same guarantees we got when the Maritime Services Board was downsized or degraded or when State Rail was desegregated. The sorts of guarantees we got there were people sitting in rooms vegetating, losing their skills, morale and their ability to go out into the job market. We want guarantees on real, long-term jobs for our members in the industry sector.

We see a problem with the job losses downstream. We see job losses through rationalisation of privatisation of services. But we also see a bigger problem in the commitment to local content. Already in the eastern seaboard over the last six or seven months we have seen 1,000 jobs go from the rolling stock industry largely because of decisions of State governments like Victoria and VicRail to source its new projects overseas without any commitment to tying that to local content.

We already know that two of the major players or one of the major players at least that may be a potential bidder in FreightRail, Chicago Freight Car Leasing Company and ATN recently bought 94 wheat and flat top wagons in Shanghai and Outer Mongolia. We are also seeing an increased rate of importation of used parts for FreightRail. They have demonstrated that the likely buyers, foreign, have no commitment to jobs, local industry, particularly in the rolling stock or to the skills base in the industry. We see and have seen no comment from the Treasurer about if privatisation were to go ahead whether or not there would be conditions on any sale to ensure that there were any jobs and skills base in the industry will be maintained.

That is the major thrust of our submission. It is one that goes directly to jobs. It is one about, in our view, lack of consultation and, in particular, we do not think there has been time enough for interested parties to consider the options, to perhaps look at getting further independent reports to really analyse what is in the best interests of FreightCorp employees. We have certainly consulted our membership, as have other unions. We have conducted several meetings to date of our shop stewards from all our plants as well as representatives from those plants that feed off FreightCorp. For example, we invited our stewards from the Bathurst and Goulburn workshops. They unanimously opposed the privatisation, and that is what we are about. We are about supporting our members on that issue and about getting in and seeing what can be done in the alternative. But as I said, we have not been privy to much information nor consultation.

**Mr WALLACE:** I have nothing further to add.

**ACTING-CHAIR:** Mr Bastion, would you comment on the concept that the New South Wales Government has no electoral mandate to sell FreightCorp in your opinion?

**Mr BASTION:** We do not believe it has an electoral mandate. Clearly, as I understand it, the party platform clearly says FreightCorp is not to be sold. It is one of the assets that should be left in public ownership. To my knowledge a decision was made as far back as March on FreightCorp, but for some reason we were not told about that decision until after the decision was made for whatever reason. The issue has not been debated in the public forum at all.

**ACTING-CHAIR:** Is there proof that rolling stock is actually being purchased, has been purchased from overseas at this point? Can you place on the record information that does give support to those concerns?

**Mr BASTION:** It is actually detailed in our report.

**The Hon. C. J. S. LYNN:** This is a report that we will be getting later?

**Mr WALLACE:** Three copies were handed up earlier.

**Mr BASTION:** There were 53 grain wagons purchased in Outer Mongolia and that was by the company I mentioned before, Chicago Freight Car Leasing, and 44 cement flat tops imported from Shanghai. They were all done earlier this year. From memory, they were landed in March this year.

**ACTING-CHAIR:** Can you express your union's position on the scenario of FreightCorp buying National Rail Corporation and have you been in any way involved in that process and could you perhaps detail to the Committee your perspective on why that process has broken down?

**Mr BASTION:** No, I cannot. We are not privy to all the information, but we were given a copy of the report from one of the unions. The information that went into that report for it to make its conclusions we have been denied access to on the basis it is in confidence. So, we are left with the five conclusions put together by PricewaterhouseCoopers. We cannot refute those, deny those or add anything to them. They stand on their own. We would like an opportunity to go a little further into them.

Our preferred position is we do not see the need to sell an ongoing concern, a public asset that is making money. In the event that it had to, our position would be one that we would want to explore the option of a joint venture to buy National Rail. I can remember raising that very issue and the Treasurer's response was that one of the issues of concern that he had was the decision by Minister Fahey that State governments were excluded from tendering in the process.

Our legal advice is that that would be against not only national competition policy but probably the Trade Practices Act. We think that is something that needs to be taken up. We are unable to comment much. We are concerned that there is only the one report and that most of the information that was derived is in confidence. We do not think there has been enough discussion, public debate or consultation over its economic impact.

**ACTING-CHAIR:** Given that the Government funded the report that has now materialised, do you think it is fair that you, as a smaller union, should have gotten some access to funding or is that too big an ask? You are not the main players.

**Mr BASTION:** I am sure the Treasurer's view would be that we are not the main players and we are not entitled to that funding. It went to the principal union, the RBTU, and I say good luck to them. They are looking after their membership as they see it. Clearly, if we are not going to be given the funding to produce our own report, we should be given the opportunity as a union with membership not insubstantial, either in FreightCorp or downstream, to look at the whole of the report in its totality, including the material that goes to making it up.

**The Hon. D. J. GAY:** Given that you did not get the funding and you indicated that 70 per cent of your people are employed in regional New South Wales, were you consulted for a regional impact on your employees before this decision was made by Cabinet?

**Mr BASTION:** No.

**The Hon. D. J. GAY:** No contact at all?

**Mr BASTION:** No.

**The Hon. D. J. GAY:** Is it your understanding that it is government policy that before any major decision is made affecting regional New South Wales that there should be a regional impact study undertaken?

**Mr BASTION:** Yes.

**The Hon. A. B. KELLY:** From the comments you made a moment ago, you seemed to be saying the same as everybody else, that given your druthers, if you had the opportunity of FreightCorp staying as it is, your

preference would be the ability to try to have a joint venture or for FreightCorp to try to buy out National Rail Corporation and continue to operate in that situation. Am I correct in that assumption?

**Mr BASTION:** Yes, if privatisation goes ahead without proper discussion, yes.

**The Hon. A. B. KELLY:** Have you been given any reason why the Federal Government has ruled that out?

**Mr BASTION:** No. The only reason I have been given is that State instrumentalities have been ruled out from bidding against National Rail.

**The Hon. A. B. KELLY:** No one has said because?

**Mr BASTION:** No, other than what appears in the report.

**The Hon. C. J. S. LYNN:** We have received a submission from Associate Professor Philip Laird, who is the chairman of the Government Relations Committee, Railway Technical Society of Australasia. He refers to the fact that no New South Wales freight strategy has been put in place at this stage. He has recommended that consideration to privatisation of FreightCorp be deferred until the New South Wales Government has released its freight strategy. Would you see your union being part of the development of any particular freight strategy that this Government would develop?

**Mr BASTION:** Certainly, we would see ourselves as playing a role in a consultative process and putting a view to that, yes.

**The Hon. C. J. S. LYNN:** Have you been consulted in any way in regard to a freight strategy?

**Mr BASTION:** No.

**The Hon. C. J. S. LYNN:** So you would support the professor's recommendation that the consideration be deferred until the Government has actually developed a freight strategy?

**Mr BASTION:** Without having a look at it in total context, but, yes.

**The Hon. D. J. GAY:** Where do the members of your union actually work? I know they are at the railway workshop at Goulburn, and you indicated Bathurst. Where else in regional New South Wales?

**Mr BASTION:** I would have to go back in the report in detail. We have got them up around the Hunter. They are spread thin on the ground all over the place.

**The Hon. D. J. GAY:** It is mostly in wagon repair and structure?

**Mr BASTION:** And maintenance. At page 15 of our submission we list some of the intermodal terminals where we would have members outside of FreightCorp: Moree, Wee Waa, Narrabri, Tamworth, Kempsey, Casino, Dubbo, Parkes, Young, and Griffith.

**The Hon. D. J. GAY:** What are your concerns that your members have expressed to you in relation to superannuation and continuing to work, possible local loss of jobs and the flow-ons locally?

**Mr BASTION:** Our members have expressed similar concerns that we expressed more recently in one of the other—I cannot think of its name, where there was a transfer of jobs to a joint venture and there was a concern about the full superannuation entitlements being paid over. That is clearly an issue for our members. The issue in terms of jobs is that, as we said earlier, the evidence for us, the proof of the pudding is that there are job losses as a result of rationalisation.

Our members are concerned that jobs are not lost. It has already been fairly well cut to the bone. That much was admitted by the Treasurer, but he did not see those same sorts of figures being lost because there had already been some downsizing. We do not support that view at all, so we have concerns about long-term real jobs as opposed to sitting in the room reading the *Sydney Morning Herald* for our members that work for

FreightCorp and who may be displaced as a result of the privatisation of FreightCorp and, of course, the guarantee only will go to FreightCorp.

**CHAIR:** Mr Bastion, in terms of the record of your union members' workplace conditions and the safety record, I am wondering if you could comment on any concerns about safety if we see that FreightCorp is privatised.

**Mr BASTION:** We have alluded to the fact that we have got concerns about safety, but I am going to have to defer that question because to go into detail and do it justice I need to go through it, but I have appended to our submission—

**CHAIR:** Perhaps you could just make a brief comment now and take that on notice and identify the details to the Committee later.

**Mr WALLACE:** The attachment to our submission is the submission we put into the State Government inquiry into rail safety. Within our submission to this inquiry at page 17 we have put in a summary of some of our concerns about the safety implications. I think a good example, which is drawn from the submission into the inquiry into rail safety, was about Maintrain, where the State Rail Authority contracts to Maintrain, which then subcontracts and skims 10 per cent off the contract but, in doing so, the SRA had a concern about a particular part, an electrical part, and the best the State Rail Authority could do was make inquiries about how this could be rectified. It completely lost control. It could not just go into the maintenance depot, for example, and direct that an inquiry occur or that it be remedied. We see that as just being symptomatic of what happens through privatisation: the Government loses full control over it. That is simply one example. The attachment details, I think, four or five specifically relating to FreightCorp, and then I think about 15 or 20 more relating to New South Wales rail services in general.

**The Hon. I. M. MACDONALD:** In relation to the position of the union, others have seemed to suggest that with the Commonwealth making the decision to sell we in New South Wales would be leaving ourselves to be cherry picked and effectively challenged very heavily by a privatised overseas-owned National Rail. Clearly I think what you are suggesting in your report is that that is not as dramatic as it seems at first blush. Can you give us an idea of how, if we decide not to sell FreightCorp in this particularly sale, we would meet the challenges of a privatised overseas-owned National Rail and retain jobs and operate reasonably profitably?

**Mr BASTION:** Again, it is very hard to go into detail in the short time we have, but I guess the first thing we say is that we already see that there is a complete difference between the two. They have different markets. FreightCorp is in bulk commodities, in the main. Of the others, NRC, is mainly in containers. FreightCorp has already got fixed contracts for a number of years, so it is not as if someone can come in and bid and undercut those straight away. FreightCorp is the biggest entity out in the field of play—that is the reality—and FreightCorp is already an aggressive management body out there getting the market and doing the job and doing the work, so we do not see that as the big problem that people have put out, that if you do not join in the sale of NRC you end up with a fire sale. We do not necessarily agree with that view. The greater concern to us is the ruling out of the option of a State Government being able to set up a joint venture and buy into National Rail. That is what concerns us: the Federal Government preventing the State Government from doing what it sees best in the interests of this State. That is the real issue for us.

**The Hon. I. M. MACDONALD:** There has been also a thought that excluding FreightCorp from the bidding process would potentially fly in the face of a lot of legal opinion. Do you think that in terms of testing this legal opinion, that is, the thought that it is a wrong process to prevent instrumentalities from bidding for whatever goes on the market, excluding FreightCorp from bidding, is a serious enough issue to perhaps be considered by the State Government, or FreightCorp or whatever affected entity to take that High Court challenge to see what the law in relation to this is?

**Mr BASTION:** From my perspective, yes. It cannot be left unchecked. It means that the Federal Government can exclude you at any time, and I think it needs to be challenged. It either is or it is not. There is no in between. Our view, on the advice that we have got, is that it is not.

**The Hon. AMANDA FAZIO:** It has been suggested by some of the earlier speakers that even if a challenge was mounted to enable a State government-owned body like FreightCorp to put in a bid for National Rail that because of the way they do the bidding process, even though you may be able to bid, they may not

necessarily accept your bid, even if it is the highest because in the past they have left out issues of long-term business plans of the companies that bid. Do you have any ideas on that?

**Mr BASTION:** I guess anyone can structure it to exclude whoever they want, but at the end of the day there is also input that we would have or the State would have. One of the issues that concerns us is that the bidding process is not just about the lowest cost; it is about the quality of work; it is about the quality of material; it is about the safety standards; and it is about jobs in industry. All those issues and the social consequences of those have to be weighed up, and woe betide a government that disregards them simply on price.

**The Hon. D. J. GAY:** Mr Bastion, you said it was a short time span and you indicated that you wanted to come back but you did mention the use of used parts. It is something that I have not heard referred to before. Would you elaborate a little bit on that, please?

**Mr BASTION:** Bear with us. We are trying to see if we can pick it up in our copy. It was part of the material we dug up on the 94 freight wagons. Our members were also telling us that there was increased use of used parts coming in from China also and, from memory, it was brake shoes.

**Mr WALLACE:** Imported from the US.

**The Hon. A. B. KELLY:** Second-hand brake shoes?

**Mr BASTION:** Second-hand parts for the brake shoes. On page 17 of our copy we refer to at least one, ATN, sourcing parts from overseas, from the US, second-hand parts.

**Mr WALLACE:** ATN being a US company, so the trend is clearly US companies buying into rail services here but sourcing completely from overseas. If they could shift the rolling stock back overseas to get it maintained and repaired, they would do that, but it is just impractical.

**The Hon. D. E. OLDFIELD:** What is behind them taking that decision? Is it that much cheaper for them to purchase? What's the story?

**Mr WALLACE:** Well, looking at the construction of the rolling stock, when the decision was made by I think it was ATN to purchase from Shanghai and Outer Mongolia, the EDI site in Brisbane at that time was shutting down, losing 300 jobs. It was not invited to tender, and neither were the plants at Bathurst and Clyde and Goninans, which were cutting back at the same time. None of them was invited to tender. All of them said they could have been competitive or would have been competitive had they been given the opportunity because the tendering process is a fairly fluid process. They were simply shut out. So there was obviously a philosophical position from the operator not to put it out to tender to Australian manufacturers.

**Mr BASTION:** In fact, I think one of the comments that is in the report from one of the overseas companies that would be bidding was that there were enormous opportunities to be offered from an open market in China, and clearly it was based on price and price alone.

**The Hon. I. M. MACDONALD:** I was interested in a quote in your report on page 18 talking about the PricewaterhouseCoopers report, and it is at page 4 of the PricewaterhouseCoopers report. It says:

Coal

All large customers have signed long-term contracts since corporatisation without formally competitively testing FreightCorp due to its track record of reliability and passing on cost savings.

I think in previous evidence we have been told that there are contracts coming up next year for coal. If large customers have signed long-term contracts I am just wondering what contracts are actually going to come up next year. That would be a problem. If the PricewaterhouseCoopers report is right that all large customers have signed long-term contracts, I am starting to get confused about what is actually coming up next year that is making it very necessary to get the position sold. Do you have any information on that? You have quoted it in your document.

**Mr BASTION:** We would have to take that on notice. Our information is qualified by what we have had access to, which is very little.

**The Hon. I. M. MACDONALD:** Could I suggest that we get this information about when these contracts are coming up?

**CHAIR:** Perhaps we could, through the secretary, make a request for information to the Committee.

**The Hon. D. J. GAY:** We do have the Mining Council coming in as well, which can give us some information.

**Mr WALLACE:** Just in general, there seem to be a few inaccuracies in the PricewaterhouseCoopers report—some of them are factual—in some of the reasoning. You seem to have 33 pages of factual analysis and then two pages of financial assessment of why it is good to privatise it, so you have two pages of very, very brief conclusions, so it is not a great basis on which to be going ahead privatising a major public asset.

**The Hon. D. J. GAY:** It is the only document there is.

**The Hon. I. M. MACDONALD:** Also in your report, again quoting the PWC report which I have not seen—it may have been distributed—page 35 lists some losses for FreightCorp. What you are tending to suggest is that these losses that have been raised in relation to FreightCorp in recent times are not significant losses. They appear to be somewhat marginal by the way you presented it here on page 19.

**Mr WALLACE:** The report suggested their losses were where work has been poached from FreightCorp. They were opportunities that were not realistically opportunities because of long-term contracts with other operators, et cetera. It is a very glib analysis of what amounts to a loss for FreightCorp.

**The Hon. I. M. MACDONALD:** Would you say that, despite the three million tonne per annum coal haulage contract and the six million tonne coal haulage for Central Queensland becoming the preferred tender for that would far outweigh those losses, for want of a better word?

**Mr WALLACE:** I am not in the freight business but I imagine FreightCorp made the strategic decision to bid for those and not for the others, so they made a decision on where the priorities were and where the cost benefit was to themselves.

**(The witnesses withdrew)**

**(Short adjournment)**

**MAXWELL JOHN DUFFEY**, Retired, Treasurer, Lachlan Regional Transport Committee, 116 Redfern Street, Cowra,

**WILLIAM SPENCER BARWOOD**, Retired, Lot 1, Icely Street, Canowindra, President, Lachlan Regional Transport Committee, and

**GREGORY JAMES STANDEN**, Unemployed, Secretary, Lachlan Regional Transport Committee, 4 Owen Way, Bathurst, sworn and examined:

**ACTING-CHAIR:** Mr Duffey, are you conversant with the terms of reference of this inquiry?

**Mr DUFFEY:** I am.

**ACTING-CHAIR:** Mr Barwood, are you conversant with the terms of reference of this inquiry?

**Mr BARWOOD:** I am.

**ACTING-CHAIR:** Mr Standen, are you conversant with the terms of reference of this inquiry?

**Mr STANDEN:** I am.

**ACTING-CHAIR:** If someone would like to lead off with a presentation to the Committee.

**Mr BARWOOD:** Yes, I would likely to briefly explain the nature of the Lachlan Regional Transport Committee. We are virtually a community-based group supported by 11 local government councils ranging from the Blue Mountains City Council, Lithgow City Council, Orange City Council, Mudgee Shire Council, Cabonne Shire Council, Young, Blayney, Lachlan, Parkes, Cowra and Woden—there are 11 of them—and also GrainCorp. So we represent rather a large section of the community of the Central West, west of the mountains.

The information that we have supplied, apart from specific detail given in our submission under the four terms of reference, we feel we have presented to members of the Parliament consistently since the end of last year. We met with Country Labor late last year and we met with some of the crossbench members and also we met a week later with the Leader of the National Party's staff and chair of this committee and also the Deputy Leader of the Liberal Party and talked about many of these matters.

Our submission that we did forward and which we hope you received had 15 attachments to it by way of supporting evidence, most of which had already been given to many members of the Parliament. We approached the submission with reference to terms of reference (a) (c) and (d) exactly as we have written it and we do not really think we can add much to the arguments.

However, we do see that there is a major problem in the vertical separation in New South Wales where there is no control over the actual track infrastructure by operators and that, of course, is referred to in our submission at (d). We feel that this is reflecting now in the problems of re-establishing regional and closed branch lines in New South Wales of which there are 30, with two that have recently been reopened and are still not being used.

Part (c) we believe would be argued on a question of equity on the basis of competition between road and rail, such that those items which would be transported by road best would be transported by road and, of course, the other commodities would be moved by rail. At the moment there is an inequity between the cost of using rail as opposed to the cost of using road. In part (a) we believe that there are already established effects where the FreightCorp operator has been removed from small country towns, particularly on the branch lines, and that was evidenced, of course is, as the system was closed down starting some time in the early 1980s.

We believe that this would be set to continue with the privatisation of FreightCorp through further reduction of staff and services occurring because there is no guarantee that other private operators would step in. We also believe that FreightCorp being removed from the category of a common carrier when the transport amendment legislation was brought in, which restructured the whole of the administration of rail in 1996, has also adversely affected the ability of FreightCorp to give service to rural and regional New South Wales. In

discussing part (b), because we have an extremely sensitive document here, we would prefer that further evidence to do with part (b) of the submission be heard in camera.

**ACTING-CHAIR:** So you require to go in camera now?

**Mr BARWOOD:** I think so because everything else we now need to discuss is to do with part (b).

**ACTING-CHAIR:** Is there any other evidence or statements other members would like to make before we go into private session?

**Mr BARWOOD:** Yes, there is comment that could be made on coal.

**ACTING-CHAIR:** If you would perhaps like to make your comments before the public gallery and when necessary we are quite happy to accede to your wishes on that matter.

**Mr STANDEN:** In relation to coal, I have a document that I will give the Committee but also in part (b) where it says "(iii), the potential for more freight to be transported by rail and less heavy vehicle use of roads; and" Lithgow, as you all know, is a very well known area for coal. For some considerable time there has been a fight for coal to be taken by rail or from the coal mines to Mt Piper Power Station. There have been submissions from Mudgee Shire Council, Lachlan Regional Transport Committee, Lithgow City Council and many other people interested in the environment.

We strongly believe that the decision by the Department of Urban Affairs and Planning has not really taken into account the aspects of those people who are living in the areas bounded by Cullen Bullen, Lidsdale, Blackmans Flat and Wallerawang. In the letter dated 10 February 2000 from the Minister for Transport and Roads, rail transport was considered but the Rail Access Corporation advised that the existing tonnage levels on the rail infrastructure did not support the required upgrade of direct rail service to the power stations.

The Minister and the department agreed to take the tonnage by road to Mount Piper because there was no unloading facility. It has been a dogfight for many, many years to try to get one there but can I say that the department has just approved the road haulage of a maximum of 7,000 tonnes a day from the colliery to the power station along the Castlereagh Highway, which is not acceptable to anyone. I refer to an article in the *Lithgow Mercury* of Thursday, 3 August 2000, by the editor himself, who travelled that road, which used to be called the Mudgee Road, but overnight it was then Main Road 55 and then became the Castlereagh Highway. He said:

Locally then you will be aware of just how much worse the semitrailer problem has become. More and more coal trucks are being approved for this length of road that is surely clad with the grand title of highway. This is no highway. It's a narrow, winding, country road where the present and ever-increasing level of fast-moving traffic is a certain recipe for impending disaster.

I ask the Committee to seriously consider the problems currently within the Lithgow area and that may lead to the coal unloading facility being placed at Mount Piper Power Station. There are many coal unloading facilities in the Hunter and Newcastle areas and I cannot see why there cannot be one at Mount Piper.

**The Hon. A. B. KELLY:** If I can just double check the figure, did you say 7,000 tonnes a day?

**Mr STANDEN:** Six.

**The Hon. A. B. KELLY:** A day?

**Mr STANDEN:** A day.

**The Hon. I. M. MACDONALD:** A truck carries —30 tonnes, roughly?

**Mr STANDEN:** Round about that. It is going through, on the highway, Cullen Bullen. I think it worked out to be one a minute every 12 hours going through the towns of Cullen Bullen, Lidsdale and Blackmans Flat going down to Mount Piper. My figures might be out.

**The Hon. I. M. MACDONALD:** Every six minutes.

**Mr STANDEN:** All right six minutes, but it is still the same. It is a concern to the residents and everyone. Every time local councils have a development application the Department of Urban Affairs and Planning [DUAP] seems to butt in and take over the development. Rail is a second cousin to road transport, and it looks to me that every time something big like this happens DUAP says, "Oh, no, we cannot have rail. We will go to road," and then the operator says, "Oh, well, you know, we want an extension." Then they give the extension with no consideration whatsoever to the people in regional and rural New South Wales.

**Mr DUFFEY:** There are a couple of items I would like to bring up too, please. I noticed CityRail was mentioned earlier with regard to Maintrain. One train came out of that works that had a bogie on it but they did not know how to fix it. They cut the pin off and just sat it on there and hoped it would work. These are the things going on under privatisation. Now, apart from that, as our President has stated, we are a group out in the west and we are very perturbed at losing all our infrastructure. We are losing all our work force. The towns are declining and the only way we can get back is to put the infrastructure back in.

Now, Nick Greiner, who was then Premier of New South Wales, said that it costs four times as much to keep a person in the city as it costs in the country. Bob Carr said we do not want any more in the city because they cannot hack it. Now, with the railways, when they pull the railways out, it has just devastated a lot of these towns. With this privatisation, you can take it both ways. How far can we go with the private ownership? We know darn well it will not be an Australian company that has the money to buy National Rail and FreightCorp if they are combined. It will have to be an American company. Now, the American companies owe their allegiance to their own shareholders. Australians will not be able to buy into it like the Commonwealth Bank, buy back their own assets, and as I think people have stated, they are going to manufacture their rolling stock overseas and the parts come from overseas as well. That affects our own industry as well. So it has a long-term effect on the economy of Australia as well, not only on the country towns.

Before I go into that I want to just say how influential these overseas companies are. Austrack is owned by Chicago Freight Car Leasing Company. FreightAustralia—Rail America. The Australian Transport Network is Wisconsin Central. Silverton is Australian. Lachlan Valley Freight is Australian at Cowra. The Indian Pacific and *The Ghan* are owned by Genesee and Wyoming. New Zealand, Tasmania and Victoria are owned by Rail America. So where do we stand?

**Mr BARWOOD:** We are suffering now in western New South Wales with the removal of what used to be an excellent rail system. I had 20 years living in the Cobar-Brewarrina district and the frustration of seeing the lines there that used to serve Nyngan, Bourke and Brewarrina, and these fellows will tell you about other lines, and particularly the lines around the west, but with the close-down of that regional rail system, and we now have 30 lines that are still not used, we do have the problem that communities do want that infrastructure put back and those lines to be reinstated, but what we are concerned about are the decisions that were taken which allowed these things to happen. It started off, of course, with option 3 so far as wheat was concerned and very profitable lines such as the Cowra-Eugowra line.

We have letters here dated round about 1987 in which there was a direction to staff that they were not to do any more maintenance because it was going to close down, and then another one in 1986 saying that that was the finish of it. Then we have a press release from Ian Armstrong saying that some of these lines, including the one I have just mentioned, will be reopened. Yet that line—the Cowra-Eugowra—is still is not working, and neither are others. There were quite a few.

We are now getting into the section where we are interested in naming some of the people who have made these sorts of decisions, where crossing loops have been removed, sidings have been removed. We have a document here—I think it was also forwarded to members of the Committee—listing all the sidings, virtually over the whole State, that were up for removal because they were considered to be obsolete.

We have photographs here which show where track has been removed so that a passenger train cannot possibly be allowed to pull up at a railway station. We have photographs here also showing how the track in certain parts of the State is falling to pieces to such an extent that we have extremely severe derailments occurring. Of course, the most recent one that caused a problem was at Bendick Murrell. Triangles have been removed so that the convenient operation of trains on and off the main line on to branch lines just cannot occur. The communities have consistently argued for this situation to be redressed. As a result, the \$300,000 feasibility study announced by the Government during 1998 allowed communities to do up submissions justifying the reopening of some of these closed lines.

**The Hon. D. J. GAY:** Mr Barwood, which study was that, the \$300,000 feasibility study?

**Mr BARWOOD:** That was the feasibility study that it was announced that RAC would run to provide for the evaluation of these lines to see if they were to be considered.

**The Hon. A. B. KELLY:** When Carl Scully announced he would reopen two of the lines he also announced this. I think there are nine.

**Mr BARWOOD:** There are six that have been given the blessing.

**The Hon. A. B. KELLY:** So you have those listed.

**Mr BARWOOD:** These are the submissions that were done by the community, which then had to go to Rail Access Corporation, and then Rail Access Corporation virtually said, "Well that is not good enough, so we will appoint the consultants," so the consultant PPK Environment came in and decided in its—that is, RAC—that that evaluation would then be received by RAC, and we do not know yet what the outcome of that evaluation is. We understand it is in Carl Scully's office and has been there since 1 April. But what I am saying is that the community has concerns and the community expectation is that they should have a railway system that can cart wheat. Ninety thousand-odd tonnes is a reasonable amount of wheat to expect off the Cowra-Eugowra line. There are other figures here of wheat expected to come off these other lines in the Central West, and this is being ignored. Now, the reason it is being ignored is because of this separation of the administration of rail into Rail Access Corporation, FreightCorp, Rail Services Australia and, of course, the State Rail Authority.

**The Hon. D. J. GAY:** Mr Chairman, if I may interrupt, is it possible for the Committee to request Mr Scully's response on this to see where that issue is up to?

**The Hon. A. B. KELLY:** Who named the six? Was it Minister Scully?

**Mr BARWOOD:** Yes, it was announced by Carl Scully that the six would be Cowra-Eugowra, Greenethorpe-Grenfell, Yass to Yass Junction, the Tumut line—

**Mr STANDEN:** The Mudgee line.

**Mr BARWOOD:** No, Mudgee and Cowra were political decisions.

**The Hon. A. B. KELLY:** They had already happened.

**Mr BARWOOD:** Boggabilla, and Tocumwal to Narrandera.

**CHAIR:** I think we can ask. That is quite reasonable.

**The Hon. D. J. GAY:** I think we need to because it certainly has ramifications for the sale. Sorry to interrupt.

**Mr BARWOOD:** That is all right. So we are really seeing from the community's point of view what an effect of privatisation can be. Even though it is a corporatisation and they are government-owned corporations it is still quasi-privatisation, because in the case of FreightCorp we know that FreightCorp does not have to—and we have already contested this—use the Cowra-Blayney line. It can choose where it goes. It is obvious that because it is a corporation and its charter is to make profit it will go where it gets the business. But one of the problems we had was trying to find out why it is that FreightCorp is not out looking for business. We had a seminar in Cowra only last Thursday trying to do just that thing. We had people from industry in Cowra who were coming along, and they are there. FreightCorp was not there, but represented in fact, but all the small operators were there—Lachlan Valley Rail, Austrack, Silverton.

**Mr DUFFEY:** FreightAustralia.

**Mr BARWOOD:** FreightAustralia. They are not very small, are they?

**Mr DUFFEY:** No.

**Mr BARWOOD:** But, nevertheless, they are still running on the Harden-Cowra length of the line. But there is that impasse because you have Rail Access Corporation stuck in the middle and it is the one that says, "Well, we have got this line. If you want to use it, you have got to pay," and as a result we know that access charging on the State's rail network is the deterrent for operators to use it because unless there is a heavy volume or likelihood of good freight, then it is not profitable for them to even consider maintaining or keeping the line open, and we glean that under the legislation there is no obligation for Rail Access Corporation to open a line and in the legislation also there is no obligation to stop it from closing a line if it thinks it is unprofitable. So those are the problems as we see them there. That is talking about the lines that we think should be up and running, which are not. And now I think we will have to talk about the parlous state of the existing track, what we might call the active lines. We have this evidence. If we could now perhaps go into camera.

**(Evidence continued in camera)**

**(The witnesses withdrew)**

**(The Committee adjourned at 4.35 p.m.)**