

**REPORT OF PROCEEDINGS BEFORE**

**GENERAL PURPOSE STANDING COMMITTEE No. 4**

**INQUIRY INTO THE PRIVATISATION OF FREIGHTCORP**

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**At Sydney on Tuesday, 7 November 2000**

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**The Committee met at 9.30 a.m.**

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**PRESENT**

The Hon. I. Cohen (Acting-Chair)

The Hon. Amanda Fazio

The Hon D. J. Gay

The Hon. A. B. Kelly

The Hon. C. J. S. Lynn

The Hon. I. M. Macdonald

The Hon. D. E. Oldfield

**ACTING-CHAIR:** I declare this Committee open. If the media is present I remind them that under Standing Order 252 of the Legislative Council evidence given before the Committee and any documents presented to the Committee that have not 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 person. A copy of the guidelines governing broadcasting procedure is available from the Committee staff.

**MICHAEL COSTA**, Secretary of the Labor Council of New South Wales, 377 Sussex Street, Sydney, affirmed and examined:

**ACTING-CHAIR:** In what capacity do you appear before this Committee?

**Mr COSTA:** As secretary of the Labor Council.

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

**Mr COSTA:** 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 be willing to accede to that request.

**Mr COSTA:** My evidence will be verbal.

**ACTING-CHAIR:** If you would like to discuss the issue or make any presentation to the Committee it will be followed by questions from the Committee.

**Mr COSTA:** I suppose the easiest way to present what I intend to present today—and I am not aware whether the Committee has taken evidence from the Rail, Tram, and Bus Union [RTBU]?

**The Hon. AMANDA FAZIO:** Yes, we have.

**Mr COSTA:** The Labor Council and I put on record our support of the position of the RTBU. As you would be aware, the RTBU and other affiliated rail unions have had discussions about privatisation of FreightCorp. There was a report commissioned—and I take it the details of that report have been outlined to you—and I say to this Committee that the Labor Council supports the conclusions of that report as that has been discussed at the council. I do not want to go over the details of that report other than to say that the union was very concerned when it was brought to its attention through, firstly, press speculation and then formal confirmation by the New South Wales Government and subsequently by the Federal Government, that it was the intention of the Federal Government to sell the National Rail Corporation.

That necessitated some consideration of what the impact of that sale would be on FreightCorp, the prime concern, of course, being the issue of job security and the future of land-based transport in this country, particularly the road-rail share. That report was commissioned and produced a number of conclusions which the Labor Council has endorsed. The principal conclusion of that report was that the best option is an option that would allow FreightCorp to purchase National Rail. It was seen to be the best option in terms of employment but also in terms of getting a proper mix between road and rail by having an effective rail freight operator that operated particularly in this State but obviously with a national perspective as well.

I, and other members of the RTBU were involved in discussions with the Minister for Finance, Minister Fahey, in charge of asset sales, in relation to advancing the proposal to have FreightCorp purchase National Rail. Unfortunately, the Federal Government took the view that it would not allow National Rail to be sold to any State government entity. Its justification for that was a view that competition policy would be enhanced by having FreightCorp and National Rail and any other rail operation in private hands. Certainly the Labor Council has not agreed with that view. Its view is that it is quite conceivable and possible to run a publicly owned national rail system, that the

national rail operator would consist of a merged FreightCorp and National Rail and could be run effectively.

The evidence is fairly clear that FreightCorp has made a number of efficiencies over the past period both in terms of productivity but also in terms of its broader business strategy which would make it a viable partner for National Rail. We had a number of meetings with the Federal Government on that issue and as I said, were not able to move them from their policy position of not allowing public entities to bid for National Rail. As you would be aware from the evidence, the RTBU and the Price Waterhouse report commissioned by the union, took the view that failing a purchase of National Rail by FreightCorp the next best option, the next realistic option was a joint sale of National Rail and FreightCorp, a sale to one purchaser.

I have to say that in our discussions the Federal Government has not given any commitment on a joint sale. Its position has been very clear, that is, it intends to sell the National Rail Corporation by June next year and if New South Wales is able to put together a complementary sale process it would co-operate with that complementary sale process. That is not the position that we were seeking. We were seeking a firmer commitment from them to have a joint sale. However, given the likely impact of National Rail in private hands on a State-owned FreightCorp, it is imperative—and this is the view that the unions have taken—that we do whatever we can to ensure that we do end up with one purchaser of the combined entity.

In terms of the broader terms of reference, the area that has primarily concerned the trade union movement has been job security. The analysis has shown very clearly that if two separate purchasers were to have the entities, that is, FreightCorp and National Rail, there is potential for the loss of up to 600 jobs from the industry. That would be, and this is what is most important about that analysis, as a result of cut-throat competition amongst rail operators, and very much in the firing line would be the employment, security and conditions of the employees of both organisations. The point I make about cut-throat competition is an important one.

The union, in terms of the broader terms of reference of your inquiry—I see you talk about the effect on regional and rural New South Wales, and also questions of environmental concern as well as economic and social concern—I would summarise that as saying what is the best public policy outcome. The best public policy outcome is clear from the report, and that is that there ought to be a fairly aggressive, efficient rail competitor to compete with road. To date the problem has been that most of the competition in this sector, as a consequence of the way the rail reform process has emerged, has been amongst rail operators, rather than between rail operators and road operators. Clearly, public life, economic creativity, employment and environmental protection would be facilitated by ensuring that we ended up with a very effective rail freight operation to take some of the freight off road.

That is one of the social policy benefits we would see of a joint sale. In terms of where this process is going, we are still concerned, and I put this on the record—I do not know whether the RTBU did—about whether we have a joint sale at the moment or a parallel sale. It appears, as I have said, that we have a very loose parallel sale proposed, but with the Commonwealth Government taking the view that if this is not resolved by New South Wales Government's ownership of FreightCorp in a timely way it will proceed down its own sale path. That raises some significant concerns from the point of view of both employment and public policy outcomes.

I do not want to go into more detail with those comments, other than to reiterate the position. We support the position of the RTBU. That position has been discussed by the Labor Council. A resolution of the Labor Council has been taken to the effect of supporting its report and strategy. As I have indicated, there are some clear benefits in relation to maintaining employment in the sector and also ensuring a proper public policy outcome in relation to the fundamental question of the competition between road and rail.

The principle concern I raise today has to do with any frustration of an attempt by the unions to get a proper parallel, or joint, sale process in place being utilised as an excuse by the Federal Government to proceed with what, from our view, is essentially an ideological position of privatising National Rail because it suits the privatisation agenda, rather than a properly thought out land

transport policy framework. That is our prime concern. I might leave my introductory comments. I am happy to take questions.

**ACTING-CHAIR:** Given that you see the Federal Government's ideological position, and given that a Federal election is just one year or less away, and your preferred position, which was that FreightCorp purchase National Rail, is it not in the interests of those you represent in New South Wales to have a High Court challenge to challenge that exclusion in the policy of the Federal Government, and facilitate or at least look at the opportunity of FreightRail, which is such a big operator, and have that opportunity with the National Rail sale?

**Mr COSTA:** I do not know whether the RTBU referred to the fact that it has taken some advice. That advice, like all that type of advice, indicates there is an arguable case. The risk, of course, is that if that were not to succeed what would occur would be a privatised National Rail and the potential for the loss of 600 jobs. It is not a risk worth taking. It seems to me there are two principles operating here: a principle in relation to privatisation; whether one takes a view that privatisation is appropriate; and the second, which is more important, market structure and competition.

Market structure is what we ought to focus on. The involvement of the unions has been to get a proper market outcome, that is to ensure there is a viable railway industry in those areas where rail ought to have a national advantage, given technology and the economics of the rail industry. It is really the structural question that is important rather than the question of whether the entity is privatised. Although that is obviously a principle that we would adhere to, that is that privatisation ought not be undertaken for privatisation sake as appears to be the case with the Federal Government, the more fundamental question is to ensure that we get a proper outcome in terms of the structure of the transport market.

If you view this too narrowly, if you view it as an issue that is solely rail based, you lose sight of the key public policy issue and that is the issue of ensuring a viable competitor to road. Because of those issues the view that has been taken is to use as much political pressure as we can to force a parallel— preferably a joint but at least a parallel—sale with one purchaser, which would give the community the public policy outcome that would meet at least the terms of reference of this Committee and certainly the main objectives of the union movement, which is to have guaranteed or greater levels of job security.

**ACTING-CHAIR:** Your role, in terms of the New South Wales Labor Council, is to represent the unions. Can you tell the Committee whether you have had any discussions or consultations with the Newcastle Labor Council, since that is the area that will be most likely affected by any privatisation of FreightCorp. What is its position? I understand it is at odds with yours, is that not correct?

**Mr COSTA:** I do not know what its position is.

**ACTING-CHAIR:** Did it not carry a resolution that opposed privatisation?

**Mr COSTA:** It may well have, but you have to understand the structure of the trade union movement. The peak body in New South Wales is the New South Wales Labor Council. Certainly, the Newcastle Trades Hall is affiliated, as is the South Coast Labour Council and a number of other regional councils. But our primary decision-making body is our regular Thursday meeting, and our annual general meeting, and the principle unions that are dealing with this issue are the State unions and they put a position that was carried. That carriage would take precedence over any individual affiliate's view of a particular matter in terms of Labor Council's policy position. That is the first issue.

The second issue is that I would dispute that it is solely the Hunter Valley that would be affected by National Rail's privatisation. It is clear from the evidence, and I do not know whether the RTBU covered this, it is clear from the report that it is across a range of areas that you would see potential job impacts. You may well see job impacts in other areas. Concern has been raised about what is likely to occur in the grains area. That is also of concern.

It is certainly true that 10 contracts represent the bulk of FreightCorp's business, and a significant number of those 10 contracts is a coal-base arrangement. There would certainly be impacts

in that area, but if you look at it they are the most profitable areas in any event and people would be silly to withdraw services from coal producers. You are likely to have greater maintenance of jobs in those areas. The areas of more concern are the marginal freight operations. We have some intrastate general freight and some of the grain areas that are likely to go. It is the cherry-picking that would occur through a smaller low-cost entity strategically looking for profitability out of a number of contracts. So, I think it is a myth to say that people in the Hunter Valley would be the most affected. It seems more likely that they would be the most relatively secure. The people most likely to be affected are the more marginal businesses, and that would be of concern.

**ACTING-CHAIR:** Could you tell the Committee what unions you consulted in forming your opinions on the privatisation of FreightCorp?

**Mr COSTA:** All the affiliated rail unions. I gave you a rough list of those. Clearly, two of those unions have the overwhelming majority of the membership. They are the Rail, Tram and Bus Union and the ASU. As you go down the list of unions involved, we have the CEPU, the Australian Workers Union, and the Association of Professional Engineers, Scientists and Managers, Australia. That would be our list of affiliated unions.

**The Hon. D. J. GAY:** Mr Costa, you indicated that you supported the findings of the Pricewaterhouse report. Are you disappointed there is only one report into something as monumental as potential privatisation of New South Wales government-owned entity FreightCorp, one that was based on a \$40,000 grant to a union?

**Mr COSTA:** Certainly, if there had been more money, we could have had more reports, but in terms of what it was asked to do, that is undertake a viability analysis of a number of scenarios, I think that was an appropriate amount of money to cover the costs of doing that. The real question for us comes after the decision has been made. There are significant issues about employment conditions that need to be managed through, and I think that if a decision is made to go down this path, some additional resources would have to be put in to deal with structure. Some competition issues are involved, questions as to who owns terminals and what is the relationship of various units within the respective organisations to the new privatised organisation.

I would expect they would require further analysis before the final form of the sale is determined. But in terms of the principal question of whether FreightCorp is a viable entity as a State-owned organisation facing a privatised national rail, I think the resources that were put in were appropriate. There is a lot of history in this area. This is not the only report that has been done. There were a number of reports in the past. The union itself commissioned reports previously. There has been internal work that I have been familiar with, because I was a member of the State Rail board for a number of years, looking at the position of FreightCorp before the separation from the original State Rail, looking at likely scenarios, business scenarios.

The evidence has been around. It is not that difficult to make an assessment, given the contract structure of FreightCorp, what the impact would be of an aggressive, privately owned, low cost operator on FreightCorp. The short answer I think is enough resources have been put in to answer that one specific question. More resources would be required to deal with the ongoing issues of integration and particularly employment conditions and business line viability.

**The Hon. D. J. GAY:** In your answer you mentioned contestability. Would you agree with me that perhaps the wrong question has been asked first? The first question should have been to the Australian Competition and Consumer Commission, as to whether it would approve such an amalgam, given that the amalgamated NRC and FreightCorp would be carrying 95 per cent of New South Wales freight, both coal and non-coal, and most of that freight is unsubstitutable by road. Rather than being a real competition to road, it is probably creating a huge monopoly, instead of looking at the other end, to find out from the start whether it should go ahead.

**Mr COSTA:** I would have to disagree with that. It seems to me that you are narrowly conceiving the issue of competition. Competition in this area is between road and rail. The specific case of coal, I would argue, excludes itself from that sort of analysis because of the economies of scale. There is a lot of economic literature on the issue. What you have is the ability of somebody to compete in a technologically constrained task. It is clear that over a certain distance the only viable

way of moving large bulk products such as coal is by rail. There is no doubt about that, and there is a great deal of evidence in regard to that.

So, in any outcome you would have that task performed by rail. Be it owned by one person or two people, the economics of the technology would dictate the pricing. The real challenge here is to get some of the transport tasks currently being done by road off the road and onto rail where it is much more viable. Many reports, not only this one, have shown over the years that there is an imbalance. There are some cost distortions that make road competitive in areas where it ought not be competitive. Something needs to be done about that, and the only way one is able to do that is by ensuring there is a large integrated rail operator that has the capacity to meet those challenges in all areas, rather than focusing on one specific area.

So, the advantage I see of having a combined NRC-FreightCorp is that it brings that diversity of business lines and gives it an opportunity to pitch at some of that road freight that is currently inappropriately done by road. I say this for a couple of reasons. One is that we are also concerned, as a union movement, that much of what is being moved on the road is only competitive because of the erosion of working conditions and working requirements of truck drivers—and I refer to long hours and inappropriate working arrangements. Even though this area is regulated, there are constant breaches of regulations in regard to drivers' conditions.

Also, in regard to wage rates there is constant undermining of the appropriate industry rates, award and enterprise, because of competition in that area. Part of the reason that distortion is there is that Freight Rail, in a broad sense, not FreightCorp, has not been able to compete effectively because it has not been structured and resourced in a manner that would allow it to have appropriate competition. So, it seems to me that is the real question, not privatisation. It is getting that balance right between road and rail, and a diverse large operator that has the resource base and the capital base to do that is in the best position.

**ACTING-CHAIR:** If we could keep the answers as short as possible, many members of the Committee are dying to ask you more questions and we are running out of time.

**The Hon. D. J. GAY:** The point you make on road is valid, but you have not answered my question, that most of FreightCorp is unsubstitutable by road. First of all you said that coal is out, and 50 per cent of FreightCorp's work is in coal. Of the other 50 per cent, 53 per cent of that is bulk grain, wheat, barley et cetera, and 24 per cent is bulk freight, minerals, fuel and quarry products, and the other 23 per cent is containerised freight. So, the reality is that an amalgamated FreightCorp and NRC will not redress the road freight situation at all. Most of those products are almost exclusively rail-type products. That goes back to my original question, which is about the fact why we have not asked the first question—are we creating a monopoly, albeit a foreign-owned monopoly, which will take 95 per cent of the freight—and answered that question before we move onto the others? Surely that is the important question.

**Mr COSTA:** I thought I had answered that. Maybe it was not the answer you wanted. I will repeat my answer—succinctly, given the time constraints. There are certain commodities that, no matter what you do, are natural monopolies as a consequence of technology. It is simple, basic economics. The movement of bulk commodities over a certain distance is one of those categories of monopoly. So, I do not see any issue in relation to there being a monopoly. What I see as an issue in relation to privatisation of FreightCorp in a way that does not allow for a substantial player, is that there will not be sufficient capital base for that new entity to take on road in those other areas. Just on your own figures, you talked about 24 per cent and 23 per cent in containers and bulk. That is 47 per cent that is likely to be contested. It seems to me that competition in that area—

**ACTING-CHAIR:** No, it is 47 per cent of half; so it is about 25 per cent.

**Mr COSTA:** You are talking about FreightCorp?

**ACTING-CHAIR:** Yes.

**Mr COSTA:** You told me 24 per cent of its task was in bulk.

**ACTING-CHAIR:** No. About 24 per cent of the non-coal haul was in bulk.

**Mr COSTA:** That is right, 24 per cent of non-coal haulage and 23 per cent in containers. My argument is that those are the likely areas in which expansion from road to rail will occur, not in coal. You made the point about coal not being substitutable by road, and therefore there was not an issue to do with competition. I agree with that. Nor should there be any competition in relation to road/rail bulk movements of commodities like coal. The economics are quite clear: they ought to be done by rail. So I do not think that is a real issue. The real issue is to go back to the category in which they are carrying 24 per cent and 23 per cent of their overall task and seek to expand that. The only way to expand that is by having a combined FreightCorp and NRC that has a capital base and a diverse management structure and business line that can sustain competition in those areas.

**ACTING-CHAIR:** Were you disappointed that there was not a regional impact study on the effects of the privatisation of FreightCorp, which was a clear breach of the Government's election promise?

**Mr COSTA:** I am not aware of why a regional impact statement has not been made. You need to understand this process has seen the unions lobbying the Government for their preferred outcome. The Government took a view early in the piece that it was neutral about this. In fact, at one point it sought to pursue—because I have seen the correspondence—a proposal put forward by the union that FreightCorp purchase NRC. That was rebuffed by the Federal Government. So that the way that this process has evolved, the Federal Government has been pursuing a particular strategy and a timetable, and we have been seeking to respond to that.

It is unfortunate that that has not allowed things to occur in a manner that allowed more time for the niceties. However, the reality, from our perspective, is that we want a political decision made that ensures that one purchaser has the two organisations. I would expect, if that decision is made, questions of regional impacts statements could be developed fairly quickly to accommodate any requirements that government has.

**The Hon. I. M. MACDONALD:** It seems to me that you would probably agree that, with an election next year, there is the possibility of a change of government at the Federal level. That would be a reasonable thing to say, would it not?

**Mr COSTA:** I do not know. It depends on what poll you read.

**The Hon. I. M. MACDONALD:** In relation to the High Court challenge, evidence presented to the Committee so far indicates, admittedly anecdotally, that there would be grounds for a challenge to an exclusion of FreightCorp from bidding. That seems to be the position that has been put to the Committee by several witnesses so far. In the light of that, would you not think that a challenge to this exclusion, which would be to the possible detriment of FreightCorp, would be something that could have been explored further by either the interested unions or other authorities that might have some standing?

**Mr COSTA:** I did make some comments on that before. My understanding was that, as with most legal advice, there was an arguable case. The risk involved in that was that if the argument was lost—and that is a possibility, you would have to concede, on the same basis that I would have to concede there could be a change of government, which is a 50-50 proposition—the Federal Government would be in a position to sell National Rail immediately, because there is no reason for it to have halted its processes, which are being undertaken as we speak and have been on foot for a long time, to position a sale of National Rail. And, given the commitment that the Federal Government was willing to give the New South Wales Government in relation to a parallel sale—and when I say given the commitment, it was a very weak commitment that provided New South Wales was able to get its act together in relation to all the bureaucratic processes, legislative processes and financial and other such processes required to ensure that both organisations were on the sale block at the same time—they would not be averse to it, that that was the level of commitment—there were some huge risks in going down that path, given that private operation is now more a more a feature of rail in this country.

Given the ideological question of whether this thing is privately owned or not, versus the more fundamental question of market structure and job security, the view was that it was not worth

taking the risk. I, as a pragmatist, take that as a sensible position. The unions have operated in New South Wales under private operators. They do currently have membership in a number of privately run rail operators. They have taken the view that industry is more important than ownership structure, and given the risk that was involved they have taken the position that job security ought to be their prime concern.

**The Hon. I. M. MACDONALD:** Did the Labor Council obtain a legal advice?

**Mr COSTA:** No, we did not obtain a legal advice. The RTBU obtained a legal advice.

**The Hon. I. M. MACDONALD:** Have you seen that advice?

**Mr COSTA:** I have seen the conclusions of that advice.

**The Hon. I. M. MACDONALD:** Is it possible for you to use some process to have that tabled for the benefit of the Committee?

**Mr COSTA:** It is not my advice. You would have to ask the RTBU.

**ACTING-CHAIR:** Mr Costa, yesterday the Committee heard evidence that the question of workers' entitlements was referred to a working party of which you were a member. Can you tell the Committee who were the other members of that working party?

**Mr COSTA:** In fact, we met yesterday for the first time. The other members of that working party are the Labor Council representing those non-represented affiliates. So we have the RTBU, the ASU and the Labor Council representing those other unions that I listed before as being rail unions affiliated to the Labor Council. As well as that there are representatives from government. Yesterday's meeting was chaired by Chris Raper. I do not know what his formal position is.

**The Hon. AMANDA FAZIO:** He is from the Public Employment Office.

**Mr COSTA:** I think it is the Public Employment Office.

**ACTING-CHAIR:** Could you provide the inquiry with a copy of those minutes?

**Mr COSTA:** The minutes?

**ACTING-CHAIR:** Yes. Do you have minutes of that meeting?

**Mr COSTA:** I do not have any minutes of that meeting.

**ACTING-CHAIR:** Were minutes made of that meeting?

**Mr COSTA:** Yesterday's meeting was a preliminary meeting to canvass issues. I am happy to put on the table verbally the sorts of things we discussed. We discussed issues in relation to employee entitlements, starting with questions to do with superannuation; potential redundancy packages, if they were likely to arise; questions to do with integration of enterprise bargaining agreements, because there are different enterprise agreements that operate in National Rail and FreightCorp; and a need to put in place a process to deal with that if there was a merging or coming together of the organisations.

There were questions to do with job guarantees. The unions were seeking something between three and five years as a guarantee in relation to jobs for current employees, bearing in mind that their view is that there would be a number who would be interested in taking redundancy packages, if those were available. There were questions raised in relation to competition policy, and structure of the industry. As I have already pointed out, there was the question of who controls the terminals. That is a fairly critical issue because we would not like to see a restriction of competition because of terminal constraints. So those issue were raised. The purpose of yesterday's meeting was to set down those headline issues and get some details about likely consequences or alternatives to dealing with those particular issues. That is what we canvassed yesterday. We will be meeting again in a fortnight's time.

**ACTING-CHAIR:** Evidence the Committee heard yesterday suggests the risk to FreightCorp would be particularly severe if a privatised national rail operator is sold below book value. What is your response?

**Mr COSTA:** I absolutely agree with that. FreightCorp, whilst it has made tremendous progress in recent times in its financial viability, productivity and culture—I am sure the unions would argue its culture has started to alter, which is a positive thing—it is facing a competitor in National Rail Corporation [NRC] that has newer technology in a range of areas, surplus locomotives and an ability to bid at prices that we would argue from FreightCorp's point of view are unrealistic. That is of great concern, particularly the surplus locomotives.

**ACTING-CHAIR:** However, the Committee heard evidence also that there is a complementary nature between National Rail and FreightCorp that it is not so much competition. Would you agree with that?

**Mr COSTA:** Within one organisation the newer locomotive fleet of National Rail would enable a rationalisation of the locomotive fleet that currently exists within FreightCorp, and certainly that would be complementary. You would be able to lower the age profile or thereby have a newer fleet of locomotives and better technology. So, that component is complementary, but that is only complementary if there is one organisation. If they are competing against one another, that is a very clear threat because if National Rail were to be sold, there is a view that the real cost of the capital that has been invested would not be recouped from the seller. That would mean the new competitor would have a much more effective capital base than FreightCorp and would be able to price lower, which would clearly undermine the capacity of FreightCorp.

**The Hon. D. J. GAY:** In a joint sale, given the concern of NRC going in a fire sale situation and the capital value not being properly realised, how would we isolate New South Wales from subsidising the potential sale to the Federal Government? How would you guarantee that if they are not getting their fair value we would not get ours?

**Mr COSTA:** What you would need to do is fairly simple. You need to sit down well before any sale, estimate the respective values of both organisations and any potential premium that may arise through a complementary sale because there are some synergies and potential buyers would find them attractive, establish a pre-sale formula on distribution of that premium and go ahead on the sale based on those pre-arranged financial arrangements.

**The Hon. D. J. GAY:** And if you do not get that premium you do not sell?

**Mr COSTA:** From the union's point of view, if the Federal Government has made a decision to sell National Rail, the most desirable outcome is to have a joint purchaser of both organisations. The reason I say that is that our prime interest is employment security and to be a viable competitor to the road industry. Whether there is a premium is really an issue for the owners. There is a view, and I tend to think it makes sense, having looked at that industry, that there is potentially a premium, but the premium itself would not justify the sale unless there were some other public policy benefits, and really, the key one is the ability to minimise road's inappropriate transport share.

**The Hon. D. J. GAY:** So there is no guarantee that we would not be subsidising the Federal sale?

**Mr COSTA:** As I explained, if I was handling the process you would establish an indicative value of both organisations.

**The Hon. D. J. GAY:** But that only works if you refuse to sell at some stage.

**Mr COSTA:** No, you can do it in advance. It is easy to make an estimate of what it is worth. There are a number of financial methodologies for doing that. One could be revenue, another profitability and the replacement value of capital. There are a number of ways you can do that. You do that for both organisations. You then work a formula. The formula would be quite simple, that at various sale prices what both parties bring is determined and on that basis any distribution is made.

**The Hon. D. J. GAY:** But that only works if you say at some stage it is not for sale. It is like me selling a house or business to you, it only works when ultimately you say, "Unless you reach that, there is no sale"?

**Mr COSTA:** Well, the position we are in is not the same as selling a house. We have one Government saying it will sell. Its position is to get out of that industry. It has taken a view that National Rail is not worth much today. It is prepared to exit. Whatever price they come up with for National Rail really will be their exit price. On the other hand, you have got—

**The Hon. D. J. GAY:** There is no reserve on New South Wales. You are not talking about a reserve, so it is just for sale.

**Mr COSTA:** No. In all circumstances when you go through these processes it is certainly implicit the seller reserves the right not to sell. There is no compulsion to sell. So, clearly, if they did not realise the price that they expected for one entity or both entities, or both entities in combination, they could withdraw from the sale. Having said that, what I am alluding to is that the Federal Government has taken a policy position that it wants to exit the area. In fact, I have heard it said given the capital requirements and the capital injections that will be required for operating purposes, it is prepared to close National Rail down at some point in the future. That is an horrific scenario for FreightCorp because that means those locomotives and rolling stock will be dumped onto the Australian market at next to nothing and that will accelerate the process of eroding FreightCorp's commercial base. So, it is a very serious situation, one that I would hate to see eventuate.

**The Hon. I. M. MACDONALD:** You have expressed your concern about the nature of the arrangements that have been made between the Commonwealth and the State. Have you seen any documentation in relation to any agreement or understanding, and is there anything written that has been put before the unions to allay their fears about this point?

**Mr COSTA:** The answer is no. We are very concerned. In fact, from discussions we have had with Minister Fahey we are even more concerned that there is not a sense from the Federal Government that a joint structure to facilitate not the sale, the purchase by a single buyer—that is the way I like to describe it—is required. Their view—it has been made very clear and this is why I am concerned about any inquiries or process through this Legislature is one that does not delay that process—is that it will occur by virtue of the fact that both governments have decided to sell hopefully to a common buyer. So, in other words, what they are saying is, "You go ahead with your process. We'll go ahead with our process. We'll make it clear in terms of the expression of interests that we are interested in a common purchaser and if it eventuates, it eventuates. If it doesn't eventuate, we're going to go ahead." Now, we have put a lot of effort into trying to get the Federal Government, and I think this is where the effort of New South Wales ought to be focused, on firming up the arrangements in relation to a single purchaser of both entities. If not, we are going to end up in a very difficult situation as the owner of an entity that is threatened by a very aggressive competitor.

**ACTING-CHAIR:** Unfortunately, time does not permit further questioning. We may request that you return to the inquiry as honourable members have further questions to ask.

**(The witness withdrew)**

**BEVERLEY ANNE JORDAN**, Economist, New South Wales Farmers Association, 1 Bligh Street, Sydney

**MICHAEL JOHN KEOGH**, Policy Director, New South Wales Farmers Association, 1 Bligh Street, Sydney, and

**GLENN JOHN DUDLEY DALTON**, Director of Grains, New South Wales Farmers Association, 1 Bligh Street, Sydney, sworn and examined:

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

**Ms JORDAN:** Yes.

**Mr KEOGH:** Yes.

**Mr DALTON:** Yes.

**ACTING-CHAIR:** If you consider at any time during your evidence that certain evidence or documents you may wish to present should be seen or heard only by the Committee, the Committee will be willing to accede to your request. However, the Legislature has the right to override that decision. Would any of you like to give a presentation to the Committee? That will be followed by questions from members of the Committee.

**Mr KEOGH:** Thank you for the opportunity. I would like to restate, which is probably reasonably obvious, that grain and coal represent about 90 per cent of the haulage tonnage that FreightCorp deals with each year and, therefore, from our perspective grain is obviously a pretty important issue and grain freight rates. That is not to say that cotton, horticulture, milk and other rural commodities are not involved, but the key one from our perspective is grain.

We have a submission in a reasonable state of preparation that we have been given until Friday to finalise. I am not sure how we wrangled that but we apologise for not having that ready. However, it is well on the way. I want to briefly talk about a couple of issues and then I will ask Glenn to address some issues from the point of view of the grain sector and Beverley to briefly talk about the structure of community service obligations and how that might or might not be brought into the sale of FreightCorp. I will go through some key principles that have come forward from resolutions from our members. The first one is that ownership is not the issue. Basically, from the perspective of most of our members, the competitiveness of rail freight particularly versus road is a critical issue that they obviously want to see improved and that is their main interest. Whether that occurs under privatised ownership or statutory ownership is not high on the agenda.

Arising from that, the structure of any contractual arrangements will be critical in ensuring that such an outcome is achieved. We will be highlighting what we believe is a key issue, that is, that infrastructure investment, that is investment in the rail track network, will be the key to increasing the competitiveness of rail as a means of hauling freight within New South Wales. We will be looking for commitment from government in relation to the level of infrastructure investment we believe is necessary in the future as part of this sale. The other issues that arise are those of the social and environmental impacts of enhancing the rail service. Certainly, we would agree that enhancement of the rail system, particularly for long haulage of bulk freight, appears to be highly desirable. With those points of introduction, I would like to quickly ask Glenn to talk about the issue of competitiveness of rail freight as a key in terms of the grain industry.

**Mr DALTON:** I know it is probably not very adequate to display things at this juncture, but this is the grain rail set-up in New South Wales. There are a number of country sites, the vast majority going to export through Newcastle, Port Kembla, Brisbane, Melbourne and Geelong. If any of these services are withdrawn, then the cost and distance for farmers to go somewhere else is prohibitive at a time of fairly narrow margins in grain production. I will come back later to some of the critical lines because the maintenance of track is a key issue for us. On some high volume lines the speed at which

trains can travel because of the quality of the track is down to 10 or 15 kilometres and obviously that has a huge impact on the turnaround times of trains and the speed with which the silos can be emptied and the tasks can be performed.

We are looking at something like production between eight million and 10 million tonnes of winter cereals harvested between November and December, most of which goes off-farm either immediately, or very close to that, to the central storage points. The speed of harvest has increased dramatically as bigger headers and bigger trucks are involved in taking it off the farm and getting it to the local silo. We are now looking at a position where five or 10 years ago harvesting might have lasted four to six weeks in a district. It can now be over in as little as 10 days. Speed is of the essence and for that speed to work the grain has to be capable of being received off-farm rapidly and efficiently and some of those silos need to be emptied and refilled again during the harvest time for that process to work.

From the farm cost point of view, we are hauling in New South Wales probably over bigger distances than any other grain growing State in Australia—something like 480 kilometres to 500 kilometres would be the average grain haul. The range of cost to farmers for rail haulage is a minimum of \$22 and a maximum of \$33 to \$34 per tonne, with an average of around about \$27 or \$28 per tonne. That is a very appreciable cost when you look at the farm gate price of grain, which is round about the \$100 to \$120 mark, and the port price of grain, which is round about the \$150 to \$200 mark. When you consider the cost of handling as well—that is, the cost of putting through these country systems and the cost of going out to port—you are looking at deductions from farmers of round about \$45 to \$55 a tonne for that process for export grain.

We have exported four million to 4.5 million tonnes of grain in recent years, and another probably 1.5 tonnes to two tonnes have moved by rail to millers, stock feeders, et cetera in the metropolitan fringe. By international standards our rail system is inefficient, and various studies that have been done—and we will be substantiating some of them in our submission—indicate a gap between Australian rail systems and world systems of something like at least 25 per cent. In other words, we are that far short of world's best practice.

Clearly, two or three things are critical for the farmer at farm level. One is the maintenance of a reasonable service that he can deliver grain to without increasing or raising the cost level and without raising the time levels involved in it. Grain is a little more difficult than coal. We have five or six types of wheat that have to be separately stored and separately transported. We have barley and canola in the export task and other grains in the domestic task. There is scope for increased use of rail in grain. I suspect that there is not much scope for the opening of closed lines within New South Wales. The lack of standardised links between the States has been a big drawback for the grains industry in terms of efficiency of transport, as it has been for most other industries.

We now have a position where there is some competition in the grains industry. The port of Melbourne recently opened as a grain port, and grain is moving from southern New South Wales. That grain can be contracted for by other parties other than FreightCorp to move from southern New South Wales into the port of Melbourne on the standardised line. The main grain port in Victoria that grain moves by road through almost to the Victorian system is Geelong. Similarly, in Queensland a fair bit of grain from northern New South Wales moves every year through the port of Brisbane. That is about where we are at with the international competitiveness and the domestic competitiveness of road versus rail.

We have a clear preference for bulk cargoes such as grain to move on rail. However, with the fragmented nature of the domestic market there is a lot of road movement of grain, and some of that is probably not catchable by rail because of the location of country farmers and the location of cattle feedlots. And the location of other major users of grain in the country does not allow it. Container traffic for grain has increased reasonably significantly. Most of that container traffic comes through Sydney, not through Newcastle and Kembla. It is still a fairly small proportion and very dependent on the relativities of container shipping rates for grain versus bulk weights.

**Ms JORDAN:** Glenn has given you a picture of the importance of the rail network to New South Wales farmers, particularly grain farmers. I should like to make a few brief comments about how the sale is structured and the importance within that of structuring the community service

obligation in a meaningful way. It will come as no surprise that one thing we are particularly interested in is maintaining the effective commitment to funding services on rural branch lines in a way that both maintains the service and also does not limit the ability for other providers to compete and to provide those services if they are in a position to do so efficiently and effectively. Obviously that presents some challenges.

We know that the Government currently provides \$80 million in an above-rail contribution towards maintaining those services on rural branch lines. We are concerned that that be structured in a way that relates to the freight task and in a way that effectively guarantees the provision of the service into the affected areas. We would also be looking for that to be coming with some flexibility both in terms of providing the service and in terms of providing the funding where the major freight task occurs. There is also a below-rail contribution and we have already alluded to our belief that that is inadequate in terms of maintaining the infrastructure. It is also an area where we would like to see significant guarantees built into the sale.

In the past few years we have seen from numerous sources ample evidence that funding in infrastructure in Australia has been inadequate and that is in both rural road and rural rail. We have also seen that the scales are tilted significantly towards road and away from rail, and we believe that that should be corrected. Specifically, we would like to see a commitment to maintaining real investment in rail infrastructure and to see that going hand in hand with a commitment not to recoup that through immediate increases in rail access charges.

Glenn has already given you some examples of the specific lines where we see the effect of that inadequate investment, that is, in reduced rail speeds. Currently the New South Wales Government is spending \$170 million to maintain the infrastructure at that inadequate level. We would like to see that significantly increased as a condition of the sale so that we get effective improvements in the quality of the rail track.

**Mr KEOGH:** If I could just sum up, the association discussed this at its recent general council meeting. We will be providing a copy of the resolution that was carried there by the 70-odd members of that council. Basically, it said that the association seeks that in the sale of FreightCorp the State Government not insist on selling FreightCorp as a single business, that the State Government ensure that any rail community service obligation be based on line activity and not on ownership—and Beverly has already alluded to that—and that the successful purchaser of FreightCorp not have exclusivity of access to rail infrastructure.

The association also resolved that any proposal for the privatisation of FreightCorp should be the subject of an independent rural and regional impact study before final decisions are contemplated. Those resolutions were debated and resolved at a recent meeting of the association's general council which expressed fairly clearly the views of members in relation to the proposals. To reiterate, the main thing we would be seeking is that the State Government commit to a significant increase in rail infrastructure funding. We had foreshadowed a figure of about \$350 million a year for the next five years, which is effectively double the level it is investing at the moment.

The basis for that is that all the current investment—the budget papers themselves include this—does is maintain infrastructure in its current state, and when that infrastructure is capable of only being travelled over at 10 kilometres an hour we do not believe that is getting very far. So certainly we would be seeing that commitment. We would also have concerns to make sure that the sale structure ensures that competition can still exist—in other words, that it does not swap a statutory monopoly for a private monopoly and we end up no better off in terms of productivity and efficiency of hauling grain from the farm to whatever the destination is.

**ACTING-CHAIR:** From your point of view, has FreightCorp management suffered any lack of flexibility because it has been in public ownership? Do you have any examples to give? Is it not the case that public ownership has been a strength and a natural advantage?

**Mr KEOGH:** Two significant government inquiries have looked at that whole issue over the last three years. One is the House of Representatives Standing Committee on Transport; the other is the Productivity Commission draft inquiry into rail reform that was released last year. Both of those reached the same conclusion. There is no magic bullet associated with private or public ownership.

There is some indication that private ownership will move towards a more focused approach to commercial outcomes and productivity gains, and have less interference from government from some of the social objectives that they might have. However, both of those bodies concluded that private ownership was not a magic bullet, and I think that is the conclusion of our members, that they are somewhat indifferent about who owns it; what they want is the performance.

**The Hon. A. B. KELLY:** The map you have is fairly old, is it not; it has some closed lines on it?

**Mr DALTON:** It has. This map is several years old, so it does not reflect the current situation. There are lines where the service has been withdrawn. Over the last decade the southern lines have changed dramatically. The sort of lines we were talking about before where the maintenance is badly needed are places like Walgett, Gwabegar, Coonamble, and some of the southern ones have been the subject of some of the smaller ones.

**The Hon. A. B. KELLY:** Do you have a view on any that should be opened, from a grain point of view? A number are open just for grain.

**Mr DALTON:** We have not had strong pressures from our members in recent times, although we did several years ago when some of the services were first withdrawn. We have not had strong pressures to reopen lines, and I believe that our thrust and the thrust of growers is to get better track and better investment in the lines that we have operating now. Some of the lines I have just spoken about were under threat of closure, and if they were closed that would be a huge blow to the industry. We are pretty conscious of that and fairly anxious to maintain where we are at.

**The Hon. A. B. KELLY:** You suggested that the Government should not rule off the opportunity of splitting FreightCorp. Could you expand on that?

**Mr KEOGH:** We are aware that there are proposals floating around—for example, to separate off the grain business and have that as a separate business. We certainly do not have strong views either way on that. However the sale is structured, that potential exists, and basically it is the potential for competition to exist between operators. It is probably not feasible on some of the smaller lines, but certainly on some of the main trunk routes the potential for competition between operators should be kept open. The main way to ensure that that happens is that the CSO is not structured in a way that it all goes to one operator. The association's resolution last week was saying that it be based on line activity—in other words, per tonne that you haul is your share of the CSO. That is probably one way to do it. Certainly, whatever way it is done, we would not want to see particularly above-line CSOs simply go to one operator without allowing anyone else to come in.

**The Hon. A. B. KELLY:** The main concern is that they have about \$300 million worth of assets out there in silos, and they do not want to see them isolated and no tracks going to them. The alternative to that is a guarantee that the Government will maintain those lines to a reasonable standard.

**Mr KEOGH:** "Maintain to a reasonable standard" might be the operative words. Both the reports I spoke of earlier, the House of Representatives inquiry and the Productivity Commission inquiry, concluded the same thing: that this whole issue is immaterial if the rail infrastructure is not significantly upgraded. There has been under-investment for several decades in that infrastructure, and unless it is upgraded you will not be able to get a rail service that is more competitive, particularly for these bulk freight tasks, which I think Glenn might argue are being eroded at the moment. Some people might argue that there is a natural monopoly there, but I think some people would say no, that the advent of B-doubles and road trains is starting to erode into some of that business that could have been secured for the rail services in the past.

**The Hon. A. B. KELLY:** There are about 20 different types of coal from the big power stations, so it is a little like wheat.

**Mr DALTON:** You do not have to cover coal, so as a product it is not as difficult to handle.

**ACTING-CHAIR:** With regard to funding and maintenance, are there any sections of track or instruments along those lines that are dangerous at the present time?

**Mr DALTON:** I think there have been fairly infrequent derailments, but I think it is controlled by speed limits. If you were to have a look at the Gwabegar line, you would be horrified to see the state of the sleepers under that line. We have not had a serious incident or an accident up until now, I think because of fairly rigidly applied speed limits. But certainly you could not in a month of Sundays argue that it was a well-maintained and proper track.

**The Hon. I. M. MACDONALD:** How long would the Gwabegar track be?

**Mr DALTON:** It is 114 kilometres from Gwabegar to Neilrex on the main line.

**The Hon. I. M. MACDONALD:** So the cost to maintain that line would be fairly considerable, would it not?

**Mr DALTON:** Yes.

**The Hon. I. M. MACDONALD:** Grain activity would be the only activity on it per annum, would it not?

**Mr DALTON:** Yes. Most of the grain is produced there.

**The Hon. I. M. MACDONALD:** I notice that in 1999 throughout the State the grain was \$120.8 million split between all these lines that remain open. So the maintenance cost would be considerable, would it not? It would have to be almost a CSO to keep that going?

**Mr DALTON:** Yes. I think historically what we have to remember is that this is a rail system that was built for a variety of traffic, and we have now got to the point where grain is the sole traffic on many lines and the majority of traffic on others. We have lost wool, we have lost livestock, and we have lost people. Lots of things that used to go by rail do not go by rail, so the grain industry finishes up bearing the cost of it, the cost of the track, and you cannot do that altogether without some community support.

**The Hon. D. E. OLDFIELD:** I want to reiterate the question with regard to the safety of the lines. You are telling us that the safety of the line is based purely on the speed of the train and that the lines are so unsafe with regard to speed that trains travelling over 10 or 15 kilometres an hour are in danger?

**Mr DALTON:** I believe so. I am not an expert on railways or trains or what constitutes problems. There are also hours of the day when the temperature is a big factor, such as the temperature of the steel and that sort of thing. The time of travel is also a question. If you travel through the night, it may be safer than travelling through the day.

**The Hon. D. E. OLDFIELD:** Are these speed limits simply known by the drivers by experience? Are they notified in some way that certain areas of track are not to be travelled on at certain speeds?

**Mr DALTON:** I believe so. But, again, you would need to reinforce that with others.

**The Hon. D. E. OLDFIELD:** So you believe there may be some notification to drivers as to where they are not to drive at certain speeds?

**Mr DALTON:** I believe the speed limit signs are there.

**The Hon. D. J. GAY:** Mr Keogh, the recent amalgamation with the Grains Board and GrainCo, does that have any effect on that? Is there any ramification?

**Mr KEOGH:** Potentially there is. The GrainCo structure, per se, already has an involvement in the storage and handling of grain in Queensland. Obviously it is a commercial decision for that

organisation but it would seem a natural extension of that organisation to establish some degree of competition in grain storage and handling in New South Wales. Glenn may want to say more on that.

**Mr DALTON:** They are presently canvassing the feasibility study for the building of port facilities in Newcastle, that is GrainCo. The infrastructure behind that, if it goes ahead, would be interesting and would impact on the rail handling system behind it.

**The Hon. D. J. GAY:** Is that competition or conflict with the potential part-sale to GrainCorp that you mentioned?

**Mr KEOGH:** It would be competition to GrainCo. We have not said that we are strongly in favour of splitting it up. We have simply said that the Government should leave that option open, it may occur before or after it is sold, but that would be a commercial decision for the new owner. But it would be competition in that respect for the grain business.

**Ms JORDAN:** I reinforce that. Our concern is that neither the structure of the sale nor the access to the infrastructure after the sale should inhibit other organisations, whoever they might be, from competing in both providing the service and in accessing the CSOs.

**The Hon. D. J. GAY:** Were you approached by the Government for your comments before this potential sale, given the fact that you represent farmers and grain represents more than 25 per cent of FreightCorp's business?

**The Hon. A. B. Kelly:** It is 20 per cent.

**The Hon. D. J. GAY:** No, 25 per cent. They have 53 per cent of that half.

**Mr KEOGH:** We were not approached prior to the initial discussions in the media about the sale. Although, obviously, straight away we sought a briefing from the Treasurer's department and have had some discussions with them since that time.

**The Hon. D. J. GAY:** Hence your earlier comment that you would be looking forward to a regional impact study, given that someone that represents the people who supply a quarter of the freight were not consulted before the announcement.

**Mr KEOGH:** One of the biggest challenges in this is the conflict between the commercial in-confidence nature of some of the negotiations, but linked to that is what we see as a reasonable degree of transparency in some arrangements. Fox Studios is a case in point. Not enough transparency creates problems in terms of understanding what is going on and how it might work in the future. Given the linkage with the CSO it is very difficult to see how that could not be reasonably transparent as part of the sale process.

**The Hon. D. J. GAY:** Given that part of your submission deals with reinvestment in infrastructure, would you see a situation in which the sale absolutely has to go ahead no matter what the price? Or do you believe that there should be a reserve price below which the Government would not sell?

**Ms JORDAN:** We would not be that hung up on ownership. We have made the point a couple of times that who owns the entity is not the real issue. We would be looking for a reasonable return for taxpayers' previous investment in the entity.

**The Hon. D. J. GAY:** People present today are involved at not only a State level but also the Federal level. You may not know the answer to this question, but would an amalgamation of FreightCorp and National Rail, given that it would be effectively controlling 95 per cent of New South Wales freight, be okayed by the ACCC? Do you believe that the first question that should be resolved is whether it would be approved by the ACCC?

**Mr KEOGH:** The ACCC is in a difficult position, because in a sense a structure of that size has fairly significant natural monopolies. The national competition council would be looking at the nature of the access arrangements. My understanding is that to date they are not completely satisfied

with the access arrangements that are in place and would continue to focus on that. The difficulty with rail, and everyone accepts this, is that the extremely high dead weight capital costs involved creates a situation with natural monopolies. It is difficult to see how that could be avoided other than doing as much as possible to make sure the access arrangements, for example, leave the potential for competition open. We are already seeing that in some areas. For example, in Western Australia the minerals companies are taking over and starting to become operators. In a number of other cases, for example the AWB, they are taking that same approach. There is the potential, at least at the margin, for some competitors to come in. That makes the access arrangement absolutely critical.

We understand the problem of having a big organisation with huge start-up costs effectively exercising a monopoly on these issues. That would be a very difficult issue for the ACCC to deal with in its normal sense, because short of doing a Microsoft-style breakup I am not exactly sure how it would go about introducing competition. Not only that, but the Productivity Commission has noted that on the lower volume freight lines it is simply not viable to have two operators running on the one line. You would have a lot of branch networks with monopolies anyway. Getting that access right and getting the CSO and contractual arrangements right is the key to keeping the productivity pressure on whoever the operator is.

**The Hon. I. M. MACDONALD:** Mr Keogh, just about every major piece of evidence before the Committee so far suggests that the best options for New South Wales would have been for FreightCorp to bid and take over National Rail in terms of the preservation of assets and the taxpayers' assets and also for the future of a company being able to compete in these mainly bulk items. Are you surprised and, further, are you concerned with the Federal Government's taking the approach of refusing to allow FreightCorp to bid for National Rail, either as a stand-alone entity or in a joint venture situation?

**Mr KEOGH:** The approach that the Federal Government has taken is that it would prefer to see the National Rail operation in private hands. One of the dilemmas we have with FreightCorp bidding for that is if the ownership of FreightCorp remains statutory. The dilemma that has been pointed out in a number of situations is that it tends to happen in that situation that the budget pressures on government seem to mean that the level of investment in the infrastructure and in upgrading, et cetera, is constrained by budget cycles and electorate cycles. Maybe you have not solved the problem simply by retaining ownership. Whether you can get away from that whilst still retaining government ownership is the key question.

**The Hon. I. M. MACDONALD:** In recent years a number of rail networks in Australia have been privatised. Are you suggesting that that infrastructure investment is available under privatised entities? Can you show where that is occurring in Victoria, Tasmania or South Australia?

**Mr KEOGH:** No. Certainly the sale of Westrail in Western Australia, which was announced on 30 October is a pointer. The Western Australian Government committed, as part of that sale, to a significant upgrading of investment in rail infrastructure. I think \$400 million over five years was the figure that the Western Australian Government locked in as part of the sale.

**The Hon. I. M. MACDONALD:** So, one way or another, the only investments into rail infrastructure across this country are environmental?

**Mr KEOGH:** Unless you discount the Perisher ski tube and a few of those fairly minor issues. But we would be happy to take that question on notice and have another look at it.

**(The witnesses withdrew)**

**DENIS NOEL PORTER**, Economist, New South Wales Minerals Council, 8, 6th Avenue, Eastwood,

**KENN MOODY CLACHER**, Engineer, Hunter Rail Access Task Force, 3 Whatmore Street, Waverton, sworn and examined, and

**DAVID JOHN COOK**, General Manager, Blue Circle Southern Cement, PO Box 42, Wentworthville, affirmed and examined:

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

**Mr CLACHER:** I am appearing in my capacity as Co-ordinator of the Hunter Rail Access Task Force, a body that operates under the auspices of the New South Wales Minerals Council.

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

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

**ACTING-CHAIR:** If you should consider at any stage during your evidence that, in the public interest, certain evidence or documents that you may wish to present should be heard or seen only by the Committee, the Committee would be willing to accede to your request. The Parliament could override that situation relating to privacy. However, historically, it has not happened as yet.

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

**Mr PORTER:** As Executive Director of the New South Wales Minerals Council.

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

**Mr PORTER:** I am.

**ACTING-CHAIR:** If you should consider at any stage during your evidence that, in the public interest, certain evidence or documents that you may wish to present should be heard or seen only by the Committee, the Committee would be willing to accede to your request.

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

**Dr COOK:** I am representing Blue Circle Southern Cement.

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

**Dr COOK:** Yes, I am.

**ACTING-CHAIR:** If you consider at any stage during your evidence that, in the public interest, certain evidence or documents that you may wish to present should be heard or seen only by the Committee, the Committee would be willing to accede to your request. You might like to make a verbal presentation to the Committee so that it is recorded in *Hansard*. Following that the Committee will ask questions.

**Mr PORTER:** I have a brief opening statement on behalf of the council. Thank you for the opportunity to appear before the Committee today. The New South Wales Minerals Council supports the privatisation of FreightCorp, subject to steps being taken to improve transparency in the rail access regime and to eliminate potential obstacles to other competition. Our written submission addresses the importance of the coal industry to New South Wales and to FreightCorp. Both the industry and FreightCorp rely heavily on each other for their continued viability and both contribute significantly to the economic base of the rural and regional areas in which coal mining is carried out.

The coal mining industry wants to have a strong and efficient rail industry. It believes that the proposed privatisation of FreightCorp can help to achieve this. Since the Council finalised its

submission it has had a chance to consider the Second Interim Report Of The Special Commission Of Inquiry into the Glenbrook Rail Accident, which has just been completed. I would like to mention a few aspects of our submission which are relevant to that report. The Council supported the separation of the old State Rail Authority [SRA] into four separate entities. It believed that the minimisation of the monopoly element in rail services would lead to greater transparency, greater efficiencies and a healthier rail industry more able to compete with alternative modes of transport. It is now clear that factors, including a lack of adequate communication between the Rail Access Corporation [RAC] Rail Services Australia [RSA] and the SRA, have led to many of the potential benefits of separation not being realised.

Notwithstanding this, the commissioner inquiring into the Glenbrook accident recommended that only RAC and RSA be amalgamated. While freight was not addressed in the second Glenbrook report it is likely that the same problems of lack of communication hamper rail freight as well as passenger traffic. The focus of the New South Wales Mineral Council in relation to rail issues is largely Newcastle and the Hunter Valley. Newcastle is the world's largest coal export port. Coal operations on the rail network in the Hunter are complex. However, we believe there is still room for competition in rail haulage of coal in New South Wales. For this competition to be realised, however, improvements must be made to the New South Wales rail access regime. In this regard we note that the Glenbrook commissioner recommended that a regulator be appointed.

The New South Wales Minerals Council has consistently sought the appointment of a regulator for the regime since it was first established. In addition to the tasks identified in the commission's report, however, the regulator will need to be concerned with questions of access regulation and pricing. The co-ordination role proposed for the regulator by the Glenbrook report would also be important. Our submission proposed a number of steps that would be desirable to better monitor and co-ordinate the capacity and performance of the Hunter rail network. We also mentioned in our submission the question of penalties being imposed if the infrastructure owner does not meet its obligations under access agreements. The Glenbrook report makes the same recommendation. Those are our brief opening comments. We welcome any questions.

**The Hon. A. B. KELLY:** Will you expand on your view concerning the advantages or disadvantages if both FreightCorp and the National Rail Corporation were sold together? I do not believe that the ownership issue is important—whether or not FreightCorp bought the National Rail Corporation. What would be your view if they were both sold together to one body?

**Mr PORTER:** We do not have a violent preference one way or the other. We would not have great concerns if the National Rail Corporation and FreightCorp were purchased by the same company. Our concern is to ensure that certain obstacles and difficulties within the current access regime are fixed. If they are fixed we think that, in a sense, it is not that relevant for us anyway whether you have a combined body or whether the National Rail Corporation and the new FreightCorp become separate. To us those other issues are more important.

**The Hon. D. J. GAY:** As these three gentleman are from different groups do they come before the Committee with the same point of view? Is that my understanding?

**Mr PORTER:** Kenn and I work together. Kenn mentioned that his task force is part of the Minerals Council. But Blue Circle Southern Cement is here in a separate capacity.

**Dr COOK:** I have no prior knowledge of anything that has been said.

**The Hon. D. J. GAY:** Dr Cook, do you wish to make a statement to express your point of view?

**Dr COOK:** No, I am happy to answer questions.

**The Hon. D. J. GAY:** Mr Porter, given that the coal and the mineral industry account for about 50 per cent of FreightCorp's business, were you consulted before the privatisation announcement was made?

**Mr PORTER:** No, we were not consulted. We had been aware for some time that this issue had been under consideration. It has been a surprise that it has taken so long, but we understand, I think broadly, that the Government has gone through a particular process with unions and so on. But, in a formal sense, we were not consulted about that decision.

**The Hon. D. J. GAY:** Were you disappointed that you were not?

**Mr PORTER:** Yes. But I think we also accept the political realities in this sort of thing. The important thing is that we have an opportunity, through meetings like this and through meetings with Treasury and so on, to make our point of view. We always take those opportunities when they arise.

**The Hon. D. J. GAY:** Is this the first time your point of view has been sought on this matter?

**Mr PORTER:** Yes, in that sense. Although we have spoken to the Government about it and relayed our views. Recently we had a meeting with the Premier about a number of issues and this issue was raised. We also met recently with Treasury and conveyed our views as well.

**The Hon. D. J. GAY:** You indicated that your greatest concern was transparency of rail access and the appointment of a regulator. Is that in your submission in more detail, or would you like to give more detail now?

**Mr PORTER:** We cover it to a certain extent. It does become a complex issue. I might ask Kenn to comment on this issue.

**Mr CLACHER:** The Council has made its views on access widely known over the past four or five years ever since the Hilmer reviews were implemented and we have appeared at many different forums—the Productivity Commission inquiries, the House of Representatives Standing Committee on Transport and Communications, et cetera, inquiries, Independent Pricing and Regulatory Tribunal [IPART] inquiries—and at all of those we have consistently made our views known on the rail access regime. Probably a major theme of that has been that we seek transparency in access arrangements to make sure that the only remaining monopoly element of access to the infrastructure is handled in such a way that coal traffic pays its fair share of costs—no more, and no less.

**The Hon. D. J. GAY:** By saying that, you believe that it is not being handled properly at the moment?

**Mr CLACHER:** Improvements have been made and are still being made. For the first time for access pricing for the year 2000-2001, the coal industry has been directly involved in negotiations with the Rail Access Corporation for access pricing. Those negotiations on prices, which were to start at 1 July this year, are still incomplete. I might add that our experience of those negotiations reflects what was said by Justice McInerney in the Glenbrook inquiry. He mentioned \$300 million had been paid by the State Rail Authority [SRA] to Rail Access Corporation without clear knowledge on the part of SRA of what it was paying for and whether it was getting value for money.

**The Hon. D. J. GAY:** Blue Circle operates on the southern line, I know. You could probably tell us where else it operates. Also, from my observation, Blue Circle also uses a lot of road transport as well as rail transport. What would be the feeling of Blue Circle about a single entity resulting from a combination of National Rail Corporation [NRC] and FreightCorp, which would probably control 95 per cent of the freight? Do you have any particular concerns or views on that?

**Dr COOK:** Yes, I do. In fact, this was the main thrust of our submission. In terms of the movements down the corridors where the majority of our material is transported—this is limestone from Marulan to Berrima and limestone from Marulan down to Port Kembla which would be nearly two million tonnes a year all up—in the past we have seen significant competition between National Rail and FreightCorp in terms of both those corridors. We would be much concerned in terms of a single entity whether that competition would still be in the system. Quite clearly, in terms of how a single entity would be established, we would have to identify how that would be appropriately managed. I suppose that IPART could have some part to play there.

With respect to our other movements which would basically be movements of cement throughout New South Wales, over the last five years with the trending of FreightCorp or its predecessors to corporatisation, we have been moving quite an amount of material away from road transport onto rail. We have found that the commercial focus and the customer focus of FreightCorp enabled us to do that. In terms of our movement of cement, it is imperative that it reaches particular destinations at particular times. A lot of the locations where we send cement have very poor or quite low storage. It is imperative that FreightCorp provide a customer focus in terms of meeting its on-time deliveries.

We have seen a trend towards that and, as a consequence, we are moving more material by rail than we ever have. Certainly from a Blue Circle perspective, it is our intention to continue down that path. We would be quite concerned about how the rationalisation or the amalgamation of National Rail and FreightCorp would continue that process. We have seen certain instances where we have been uncomfortable with National Rail in terms of things that they have done. I guess the general move is, we believe, a cultural change and we are concerned about whether over a period of cultural change that customer focus will continue.

I suppose the other concern we have is that we are reasonably aware that the return on assets provided by both rail operators is really quite below what would be regarded as satisfactory from a commercial viewpoint. Again, how that dichotomy between return on assets and customer service plus maintaining of assets would be maintained is something that is of concern to us.

**The Hon. D. J. GAY:** At Berrima and Marulan, how many employees do you have there? With regard to carting limestone from the southern highlands to the coast, it is my understanding that really there is no ability to substitute trucks because it would be a seriously silly thing to put the required number of trucks down the Macquarie pass.

**Dr COOK:** The total employment at Marulan and Berrima is probably just under 300. You are correct: probably in 1999-2000, the movement would have probably been close to two million tonnes down both those corridors. If you are looking at tippers or any form of road transport, it would have just been completely impracticable. The other point to note is that the roads, by and large, could not have handled that volume of traffic. Whether trucks are available is another matter.

**ACTING-CHAIR:** I just wonder whether I can get an opinion from any one of you. Each of you comes from a different area. Has FreightCorp management suffered any lack of flexibility because it has been in public ownership? Do you recognise that at all so far?

**Mr PORTER:** We are somewhat removed from FreightCorp so we rely on what our member companies tell us. We are certainly aware of FreightCorp lifting its game since the restructuring a few years ago: It has become much more customer focused. I think the threat of competition, rather than actual competition, in the Hunter Valley, has caused that or has largely driven that. I am sure that there is still room for improvement but whether that would be the case under private ownership or government ownership, I do not know; but it certainly has lifted its game. It has benefits that may help to drive down the rail freight rates, which is very important.

**ACTING-CHAIR:** Dr Cook, you mentioned National Rail and that there were some problems from your company's point of view. Could you focus on those problems and outline why that has occurred—whether you think it is because of public ownership. Can you see any improvement or detriment because of privatisation?

**Dr COOK:** To answer the first question you raised with respect to FreightCorp and its ownership, as I have already indicated, since the move to corporatisation we have certainly seen a significant change. Historically, we have always moved limestone and in terms of FreightCorp meeting schedules that are more convenient to us, that is certainly something that we have seen a definite improvement in. As I have indicated, that improvement has been such that we are committed to move much more cement rather than the raw materials by rail. We see the commitment by employees of FreightCorp to meet what are regarded as commercial service issues. I would have to say that I believe there is still recognition within FreightCorp that they have got some way to go, but I think the important factor is that there is that recognition.

Certainly over the period of my employment in Blue Circle, we have seen attitudes change quite dramatically—from people who were, essentially, running a rail network to ones who are now providing customer service in the delivery of a product. The points I was alluding to with respect to National Rail I suppose are very much related to that issue. We were expected to work to their schedule rather than the reverse which, in a sense, is part of customer service.

**The Hon. D. J. GAY:** I ask this question of each of you. Dr Cook mentioned that an amalgamation of National Rail and FreightCorp would remove the only competitor for Blue Circle's business. Given your experience in the area, I ask each of you: What do you believe are the chances of the Australian Competition and Consumer Commission [ACCC] allowing an amalgamation of these two groups, which effectively would account for 95 per cent of the freight haulage in New South Wales? Do you believe that is the most important question that needs to be answered before we address issues in any direction?

**Dr COOK:** I am at a bit of a loss to comment as to really what the ACCC might identify. In the corridors that we operate on, the traffic, by and large, is only our traffic. So that in terms of the infrastructure maintenance, I suppose that is not an issue. I do not really have any particular view. In terms of monopolies, how those monopolies operate and access conditions, we would certainly like to see some access arrangements and some identification as to how we were going to negotiate rates. I think it is a very rocky path ahead in that context.

**Mr PORTER:** It is hard to anticipate what the ACCC will do. Certainly for the coal industry I would not expect any problems. The southern and western coalfields are serviced exclusively by FreightCorp now. In the Hunter Valley there is one contract, I think for a couple of million tonnes, which National Rail hauls. That is domestic coal. The export coal haulage is all by FreightCorp. If we have the right improvements in the regime, we should see potential competition from bodies such as Queensland Rail in the future. FreightCorp is putting its toe into Queensland, and I expect Queensland Rail to look here. The ability of new operations to come in will always be the critical factor. I cannot speak for the ACCC, but I would be surprised that there would be any great objections in the coal industry.

**The Hon. D. J. GAY:** Effectively your only two current hauliers would become one.

**Mr PORTER:** Yes, but, as I say, apart from a two million tonne contract in the Hunter Valley for domestic coal, FreightCorp has the monopoly. It has responded over the last few years. It has continued to win the business, but to do that it has had to remain very competitive and lift its game.

**Mr CLACHER:** National Rail only hauls a couple of per cent of the coal haulage in New South Wales at the moment. Other operators have been showing an interest. We think there are enough of those with heavy bulk haulage experience, apart from National Rail, to maintain competitive pressures.

**The Hon. C. J. S. LYNN:** I ask this question to the panel. A number of speakers, including yourselves, have referred to a change in attitude recently in the way that FreightCorp, as to its management practices and culture, has improved efficiency and effectiveness of the system. We have had a presentation this morning from the Labor Council and a number of relevant unions. Do you see any need for a change in culture and work practices across the system?

**Dr COOK:** In terms of the changes that have occurred in FreightCorp and what needs to continue to change is the recognition by all parts of the system for customer service. They have to be focusing on customer in terms of how a product is going to be delivered. In our case it is cement, but in other examples it may be getting materials, whatever they are, to a shipping port at an appropriate time. We still see elements of FreightCorp that believe they are running a rail system and that if they need to do something they will do it when they want to rather than inquire about the likely impact on customers.

Within the rail system we certainly see some discontinuity in FreightCorp recognising customer service. Some sections, certainly track maintenance, undertake to do things without any understanding that, in our case, equipment might lie idle because they come along and do something

without telling anybody. I believe that is simply part of the process of change, which I think the management of FreightCorp is actively pursuing. Of course, it requires change in all parts of the rail system. I guess you can understand from my comments that we are comfortable that the direction is there. It will just take some more time to get to where we think they are an appropriately customer-focused organisation.

**The Hon. D. J. GAY:** Once again I ask this question to all three gentlemen. The previous group from New South Farmers said that they believed if there was privatisation an amount of money would be hypothecated to infrastructure refurbishment on top of what is currently there. Given that you operate on different lines and have different problems—we know of some of the problems around Dumbarton and the Liverpool Ranges, speed limits, et cetera—do you have any suggestion about infrastructure that should be part of any package, if it does happen?

**Mr CLACHER:** Since July 1996, when infrastructure was separated from haulage, they have been seen as separate tasks. To make some requirement on infrastructure investment part of the sale would be mixing those up again. It would only make sense if you are talking about a vertically integrated railway. That is not to say that things do not need to be done with infrastructure; they certainly do.

**The Hon. D. J. GAY:** Are you saying that you would be happy for any proceeds to go straight into Consolidated Revenue?

**Mr CLACHER:** No, I am not saying that. I was about to say that things need to be done on the infrastructure. We are seeing now in the Hunter—which again was parallel to what was mentioned in the McInerney report—that with the greatly increased usage of the track with growing coal exports, maintenance has not kept up with the increased use of the infrastructure. We need to establish a mechanism which, when it comes to being part of the access regime, the regulator may take an interest in to work out a way to address those sorts of problems. Money needs to be spent.

**The Hon. D. J. GAY:** Do you see upgrading the existing line, rather than a second line through the area where there is a bottleneck and a second tunnel, as a priority?

**Mr CLACHER:** It needs a close engineering review of exactly where the bottlenecks are. By "second tunnel", are you talking about the Liverpool Ranges?

**The Hon. D. J. GAY:** Yes.

**Mr CLACHER:** That is not part of the main debate. Nearly all the coal is from Ulan and Muswellbrook down to Newcastle. The amount of coal that comes through the Liverpool Ranges is only about 1 per cent of the total.

**Mr PORTER:** We do not have a particular view on where the proceeds of the sale should go. That is up to the government of the day. In terms of facilities such as the tunnel, you would have to question the viability of that sort of investment. We are probably talking about a couple of hundred million dollars. Past studies that I am aware of indicate that we are never going to get the money back on that. If there is to be investment, we would not want to see our Hunter Valley members suffer because of an investment in a facility such as a second tunnel through the ranges to the Gunnedah area.

**Dr COOK:** From a Blue Circle point of view, some of the trends that we see overseas in rail movements identify that bigger wagons and bigger tankers will be used. As to the availability of the current rail network to handle that, that is something we are aware of. It would probably require some additional investments. For example, some of the wagons that we are currently using could probably be increased by about another 30 tonnes. We could use longer rakes. These are issues that will require, in our view, investment over a period. Whether in the private sector these are likely to be viable in terms of adequate returns is something that we think would be quite questionable.

**ACTING-CHAIR:** Do you see any impact from each of your areas of interests in terms of movement across to road and impact on the community, other than potential job losses directly with FreightCorp employees, other impacts on the local community in your respective areas?

**Mr PORTER:** Certainly from the coal industry I do not think we would expect an impact. A lot of the coal industry is effectively dedicated to rail because that is the most economical way to transport or because conditions are written into development consents that require rail. Very few of our member companies' mines would have the option of road versus rail. Some that did, for example in the upper Hunter Valley, have switched to rail anyway. I do not see it as an issue for us really.

**The Hon. A. B. KELLY:** That is an interesting issue you raise about the development consents. That would be fairly common, would it not?

**Mr PORTER:** Yes, it would be. The Government has had a policy, understandably, for many years, where practical, to require companies to move coal by rail. We know of the problems with heavy vehicles in and around Wollongong, for example. It would be nice to see some of those conditions freed up. But the reality is that the Government has a policy of moving coal by rail wherever it is practicable.

**The Hon. A. B. KELLY:** So it is not a question of a monopoly; it is a question that by law you cannot do anything else?

**Mr PORTER:** In many cases that is correct.

**Dr COOK:** Could I just add that we have given a moral commitment that we will continue to move material off road onto rail. So certainly in terms of the way in which FreightCorp has assisted us to do that, that has been very successful. For example, we supply the Boral concrete plant at St Peters almost entirely by rail. We are looking at that as a trend. Where possible in metropolitan Sydney and in rural areas of New South Wales we can supply cement directly by rail. Of course, this means that we are pulling those tankers off the road.

**ACTING-CHAIR:** Does that mean, Dr Cook, that you are supplying by rail right from the extraction site to the market? If it is relevant to your industry, I am wondering about the concept of the lateral intermodal transfer of freight containers and such like where there is that relationship between use of a short distance road carrier to the railhead and effective transfer. I am wondering whether there has been any communication with FreightCorp as it exists in terms of facilitating that type of technological development and further accessing rail.

**Dr COOK:** Yes, very much so. I should point out that all of our cement works have rail access. So the cement that we supply to the St Peters plant comes directly from Berrima. When it is made it is put into silos and loaded from those silos into the rail tankers and then pumped out into the silos at St Peters next to the airport. In terms of the issue that you have raised, one of the things that is particularly important for us is the supply to large projects, for example, the large road projects that are built around New South Wales where they are essentially concrete roads. Our ability to supply them by rail and to identify with FreightCorp appropriate points to unload the wagons if there is a spur available and then perhaps the issues that you have raised in terms of moving it to where the actual road is being constructed—we have been particularly successful with that in some stabilisation work near Bathurst and Orange and in terms of the depots in the north of the State we certainly have explored all the opportunities to ensure that our distribution costs are managed. I think it is relevant to point out that, in terms of distributing cement, probably north of Newcastle as much as 50 per cent of the cost of the cement at those points is transport.

**ACTING-CHAIR:** Is that primarily road transport at that point?

**Dr COOK:** It is normally a combination of both rail and road.

**ACTING-CHAIR:** Have you found FreightCorp as a public entity has been amenable to this type of technological innovation?

**Dr COOK:** Yes, very much so.

**ACTING-CHAIR:** Do you see any jeopardy for this in terms of sell-off and privatisation? I guess I am coming from an interest in seeing innovation in this area being successful.

**Dr COOK:** It is an interesting point. It relates to the focus of the new organisation in terms of what it believes its mandate or charter is. It will also depend very much on the individuals who are going to carry it out. Certainly in terms of the relationship that we have to FreightCorp we have over a period of a number of years employed experts in logistics and in terms of their interaction with FreightCorp it has been—they have been receptive, understood where the industry is coming from, where the world is going, I suppose, in terms of the sorts of things you have raised.

**ACTING-CHAIR:** So it is fair to say that FreightCorp management has been modern, aggressive and servicing its customers and the market?

**Dr COOK:** That has been the trend. It is not something that started too well. The 4.15 from Berrima was leaving and if you were not on it, bad luck. But now they work much more closely with us.

**ACTING-CHAIR:** Is this in part due to the restructuring around the 1990s?

**Dr COOK:** Very much so.

**The Hon. C. J. S. LYNN:** You mentioned before, Dr Cook, that Blue Circle has a moral commitment, if you like, to moving freight from road to rail. Are you aware of any New South Wales long-term strategy for the movement of freight by rail transport? If you are, have you had any input into that strategy?

**Dr COOK:** No, we have had no direct input into any policy process that the New South Wales Government might have had. The initiatives that we have undertaken have been very self-motivated. I have to say that over a period of years we have had discussions with the Government with respect to what our proposals were. They have always been warmly supported by the Government—of both persuasions, I would say. It is logical. It is commonsense. It is a good idea to use the rail system if it can be appropriately used.

The changes in FreightCorp have aided and facilitated that movement. I can go back to 1994-95 and discussions that I had with Mr Fahey at the time. As a resident of the area he could see the cement works at Berrima. I understand that he quite likes trains. He was always very supportive of what we were doing. In the informal interaction we had with him, with respect to what was happening at Marulan, Berrima and Maldon, he was very supportive of what the company was proposing. I have to say that in terms of the changes that have occurred to FreightCorp and the board and senior management of FreightCorp we have had cohesion in terms of the direction we have wanted to take.

**The Hon. C. J. S. LYNN:** Do you see a need for a strategy to be developed?

**Dr COOK:** I think it would be very useful.

**The Hon. D. J. GAY:** You can see your factory from his back verandah.

**Dr COOK:** That is correct.

**The Hon. D. J. GAY:** You may or may not be able to answer this question. Some of the comments we have heard have been that part of FreightCorp's problem is that a number of its contracts are short term or the majority of them are about to come up next year. I am not asking about individual contracts but just generally. Is that a reasonable statement?

**Mr PORTER:** Perhaps I could comment and then Kenn might add to it. My understanding is that for coal companies the maximum contract is three years. Some of them may well come up next year—some two years out, some three years out. I do not think there would be any particular pattern there. I guess that is behind one of the points we made in the submission that we should not get overly excited about the sale price for FreightCorp. It is a good business and it should get a good price but let us not get carried away because competition can come in within a year, two years or three years if a new owner tries to extract too much in terms of rail freight rates.

**Mr CLACHER:** I have not got anything to add.

**(The witnesses withdrew)**

**MARGARET ANN MACDONALD-HILL**, Association of Mining Related Councils Inc., of 4 Koala Close, Norah Head, and

**NOEL ROBERT O'BRIEN**, Manager, Association of Mining Related Councils Inc., of 99 Links Road, Gunnedah, sworn and examined:

**ACTING-CHAIR:** In what capacity do you appear before the Committee?

**Ms MACDONALD-HILL:** As the executive officer.

**Mr O'BRIEN:** Chairperson of the Association of Mining Related Councils Inc. for New South Wales.

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

**Ms MACDONALD-HILL:** Yes, I am.

**Mr O'BRIEN:** Yes.

**ACTING-CHAIR:** Should you 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 be willing to accede to your request. Of course, there is the potential for the Parliament to overrule that, but that has not happened up to this point. If either or both of you give an oral presentation to the Committee that will be followed by questions.

**Mr O'BRIEN:** For the exercise would it be acceptable that I give the position of the association and if I need a little bit of prompting—

**ACTING-CHAIR:** As you wish.

**Mr O'BRIEN:** The rail industry in Australia underwent extensive reform through the 1990s. That has involved both corporatisation and privatisation of passenger and freight operations and rail networks. The Government-owned railway operators that remain are: State Rail for passenger and FreightCorp for intrastate freight in New South Wales; Queensland Rail; WestRail in Western Australia; TransAdelaide in South Australia; and the National Rail Corporation Limited. In July 1996 the New South Wales Government passed the Transport Administration Amendment (Rail Corporatisation and Restructuring) Act 1996 and created the Rail Access Corporation [RAC]. RAC is required to provide third parties access to the Rail Access Corporation network. RAC network consists of more than 12,000 kilometres of track and covers a route length of 8,500 kilometres. An average of 2,345 train services—paths—per day use the RAC network. FreightCorp was corporatised at the same time and rail maintenance services were transferred to a new entity, Rail Services Australia, which was corporatised in July 1998. As a result of these reforms, SRA focused on train operations divided into business units, CityRail and CountryLink.

The proposed sale of FreightCorp is the largest ever potential privatisation of a publicly owned asset in New South Wales, and the first since the Labor Government abandoned its plans to sell the New South Wales power industry in 1998. The transport Minister who had previously condemned the Opposition in the 1999 elections for a similar proposal, has now guaranteed not to privatise trains, buses, ferries and track networks. The Carr Government has guaranteed to: keep New South Wales rail lines and passenger services in public ownership; maintain about \$170 million in yearly subsidies to keep unprofitable country rail lines open; and give job guarantees to the 2,200 FreightCorp staff for a number of years.

The Treasurer, Michael Egan, has promised a \$70 million a year subsidy to the potential buyer of FreightCorp to provide job security for the present workforce, but conceded that the guarantee on jobs would not be indefinite. The Association of Mining Related Councils Inc. readily recognises the need for higher levels of capital investment for the benefit of New South Wales and the whole of Australia. With a large land mass and an unevenly distributed population, our principal economic activities require a reliable, integrated national transport network to sustain a high rate of

investment and growth. However, decisions that are made on economic reasoning, should only be made after careful assessment of the impact such decisions will have on regional communities. Has the Government fully considered all the social, economic and environmental issues? Has there been a separate analysis undertaken of the costs of such a decision? A short-term gain to the Government could place regional New South Wales at risk.

Rail services have been provided traditionally by government because provision by a single enterprise was seen as the most cost effective and in order to meet social objectives for the services, uniform provision and subsidised pricing. The Government has an obligation to the public to improve the transport infrastructure and services, whilst encouraging sustainable development. Its involvement is critical to the process. There is already an acknowledged, growing economic disparity between regions. This inequity undermines social cohesion and limits opportunities. It is the Government's responsibility to act as the catalyst and partner to meet the challenges confronting regional areas, to ensure equitable, economic and social outcomes. The development and benefit of common resources should be shared equitably by all Australians.

FreightCorp transports most of the State's coal. In 1997-98 FreightCorp hauled 82.1 million tonnes of freight over the RAC network with coal accounting for 84.2 per cent of this tonnage. Coal accounts for one-third of RAC's network gross tonnes kilometres and RAC recognises that coal is the key ingredient to its commercial success. Only 13 per cent of RAC's track kilometres are used for the hauling of coal. Coal and railways have a strong common mutual dependence. Coal is the single largest commodity transported by rail and export coal is heavily reliant on rail to provide transport to ports.

Mr Souris noted that towns such as Werris Creek, Gunnedah and Dubbo, already hit by job losses in rail and mining would be devastated if FreightCorp's future owner started cherry picking profitable areas. Similar warnings have come from the Australian Manufacturing Union State Secretary, Paul Bastian, that such a move would cost hundreds of jobs, particularly in rural and regional New South Wales. Nick Lewocki, Branch Secretary of the Rail, Tram and Bus Union, has previously said, "Neither the State or Federal Government had undertaken any real analysis of the rail freight industry, nationally or the likely impact this may have on FreightCorp employees." The report by PriceWaterhouseCoopers, commissioned by the union found, "If National Rail is sold below its replacement value \$1 billion, then there would indeed be a significant impact on FreightCorp's business and 600 FreightCorp jobs were to be lost in the first 12 months after the sale."

The Association of Mining Related Councils has noted that in very recent times Mr Lewocki now has a differing view that the retention of FreightCorp in public ownership is ideologically driven. Of major concern if FreightCorp is privatised is that the new owners will be compelled by the dictates of the market to cut less profitable freight services, particularly in more remote rural areas. The Government provides considerable subsidy annually to fund rail services, community service obligations, including recurrent payments to cover operating expenses and provision of infrastructure. Payment includes subsidies to train operators and payment for the retention of non-commercial lines. Some branch lines in the regional network are non-commercial and require Government support to remain open. Government-owned services means that the Government has a higher capacity to pay than any other private operator. Government funding for such projects provides potential to create, both directly and indirectly, sustainable employment opportunities to those regions.

There is a very real threat of withdrawal of rail freight and passenger operations from these non-viable routes that service the regional and rural areas once an assessment of their financial performance has been carried out. Without Government involvement market forces cannot be guaranteed to supply adequate levels to all regions. This will leave business and communities with fewer transport options. What will happen to those reliant on the industry for employment directly and through related industries? How will the sale impact on those isolated small rural communities, and promote the social objectives of the State and Federal governments? Competitive tendering and the threat of competition do not automatically guarantee efficient cost levels—direct costs, all costs will be passed onto the users.

The Government should create a positive climate and ensure the provision of essential services in meeting the needs of the community, where these needs cannot be provided equitably and accessibly by the private sector. It should provide assistance to privately funded extensions to the rail

network where there is demonstrable public benefit. The New South Wales Government has paid many millions of dollars to FreightCorp for haulage of grain, minerals and general freight in regional New South Wales and the Rail Access Corporation [RAC] for track infrastructure in regional New South Wales. Subsidies to railways are justified in promoting social objectives, including income redistribution, access for disadvantaged groups and regional development.

The Hunter coal network uses 784 route kilometres of track—1,000 track kilometres—over 58 line sectors by the main north line from north of Gunnedah, to be exact it is Boggabri, to the Newcastle port; the Ulan line between Ulan mine Muswellbrook; the north coast line between Stratford mine and Maitland; and the main north line between Newstan mine and Newcastle port. To accommodate growth in tonnage and to improve profitability, heavier and longer trains are used. The weight of loaded coal trains up to 11,000 net tonnes places track components under great stress. Hence, RAC tracks heading to port have been upgraded with concrete sleepers and heavier grade steel, requiring more frequent maintenance and replacement.

The southern and western coal network has a lower traffic intensity, carrying around 10 per cent of coal. This network is 400 kilometres long and links Port Kembla to nine coal loading terminals. The majority of the coal is from mines around the Lithgow region, hauled using a combination of diesel and, to a lesser extent, electric locomotive power. RAC states that access prices for southern and western coal mines are presently set as close as possible to direct costs and that line—community service obligation—payments enable this coal to meet the second limb of the floor test. Because the southern and western coal network do not earn a return on assets, RAC financial accounts value them at zero.

It has been noted by the Productivity Commission, in its report on the progress of rail reform, that several complaints were received by it in relation to rail reform; and that the quality and choice of transport services to regional areas had suffered as a result of such reform. A consequence has been withdrawal of rail freight and passenger operations from many thin routes servicing rural and regional areas following assessment of their financial performance. Critical links are important to maintaining and developing the regions and to supporting local economies and their communities.

There is a fear that regional passenger services in New South Wales will suffer as a direct result of the sale. Countrylink was established in July 1989 to operate regional passenger services in New South Wales. In 1997-98 the Government subsidised Countrylink by \$71.2 million to provide concessions for the elderly, students and disadvantaged people to achieve equity goals; provide services to particular regions to achieve access and mobility goals; offset negative congestion and environmental, health and safety of private road transport; offset cost disadvantages associated with Government provision of services; and sustain the Government's role in meeting employment objectives. There is considerable concern regarding negative effects on workers in relation to privatisation, and difficulties faced by redundant workers in finding new employment, particularly in regional communities.

There is also concern regarding changes of wages, employment conditions, and bargaining rights of rail workers under privatisation. This has the potential to cause lower wages and conditions, and erosion of job security, which will result in a lower standard of living for families, reduction of employment opportunities for regional New South Wales and place pressure on other community services such as schools, hospitals, banks, etcetera. The Association of Mining Related Councils knows what happens when jobs are lost to a town: the town's growth slows, it stagnates and then there is pressure on the town to maintain infrastructure services where they may be in demand to go to perimeter areas of capital cities, for example, hospital beds. There is often a casualisation of the work force and disastrous employment conditions for women and other disadvantaged groups. Then factor into the equation job security, professional development, and worker morale, all of which have a much broader social impact, particularly on family life.

In an address on the modernising of the Australian rail network in November 1999, Jack Smorgon, reflected on how governments can better assess and facilitate viable rail investment proposals developed by the private sector, and suggested what needed to be done to remove the barriers impeding private sector investment in the rail industry. He was of the view that the State-based approach that has dominated rail to date must not continue with its artificial boundaries. The Commonwealth must take the lead to ensure a national approach. Increased involvement of the private

sector is critical. The viability of any major rail infrastructure project is ultimately determined by the viability of those who use it.

Traditionally, rail has been a loss-making Government business, with revenues lucky to cover operating costs. New private sector rail operators have demonstrated their willingness to take up commercial opportunities in those areas reserved for Government and profit from the experience. The private sector has shown its interest in investing to expand the rail network. However, it has no particular commitment to rail compared with other investment options, and will not remain in rail if expected returns are not adequate.

The private sector has shown its willingness to take up the rail baton from Government and to invest in major rail infrastructure projects. The speculation is whether it will drop the baton to pursue more lucrative investments elsewhere, and this will depend very much on the environment provided by the Government. There appear to be cases overseas where privatisation of railways has not delivered the improvements and performance promised, for example, the Brazilian North-eastern Railway and railways in Britain. The association believes that there has not been sufficient time to allow adequate debate. One only has to look at other privatised Government monopolies, such as Telstra and the banks. There has been no real commitment to the community.

Ian Dunlop, Chief Executive of the Hunter Valley Rail Project, stated in 1994 that typically little thought has been given to the real community interest, which should be to provide genuine competitive transport services to industry, and a lack of any real customer service ethos. The problem was defined as a total lack of competition. The solution given was compromise and realism by the three parties involved, the New South Wales and Commonwealth governments and the coal industry. It requires a preparedness to adopt a long-term view to put in place the competitive settings for sustainable development and wealth generation.

The alternative, to attempt to continue the reliance on short-term monopoly rent generation, is unsustainable and a recipe for disaster. It is high time that in the rail freight area the objectives of our governments aligned themselves with the industry's objectives, that is to focus clearly on maximising community benefits by encouraging secure and sustainable development opportunities. What happened to community interest? Who will benefit by such a proposal? The benefits go to the company and shareholders, not the communities, who were the original owners.

The objective was, and still is, the coal consortium's attempt to maximise its profit, not the community's profit. Why were they interested only in the Hunter Valley and not the southern or western coalfields? They have the most lucrative market with their 500 kilometres of rail. Who was the consortium and who did it really represent? Certainly not the community. It has been a longstanding policy of this association that bulk transport of minerals, coal and mining-related goods be transported by rail in preference to road transport, wherever possible, while maintaining the availability of passenger services. Private motorists and ratepayers are effectively subsidising the truck industry through petrol taxes and rates used to build and maintain roads. The trucking industry is not paying its true capital costs.

The Association of Mining Related Councils is not against improving the efficiency of rail services or eroding their competitive position. It fully realises the implications of such improvements to industries and to the regions. It represents communities across New South Wales, that is communities totalling just under one million people. This sale will impact on employment levels and regional development. We ask the Government to consider the social cost of such a decision. In addressing this major social issue, has it recognised the interest of industries, employees, consumers and communities likely to be affected by the sale? Can it guarantee job levels, continuing maintenance and operating efficiency? Can it guarantee track and related infrastructure improvements? Can it categorically guarantee no closure of branch lines and service cuts to those communities? This is a major concern to the Association and to regional New South Wales.

**ACTING-CHAIR:** Thank you, Mr O' Brien. Before there are questions from other members of the Committee, I wonder whether you are familiar with the report prepared by Dr Darryl Hull?

**Mr O'BRIEN:** On behalf of the RBTU?

**ACTING-CHAIR:** Yes.

**Mr O'BRIEN:** Yes.

**ACTING-CHAIR:** I wonder whether you can comment on the accuracy of that report and areas of relevance. It is something the Committee has had presented to it as the main, if not the only, investigation into the process of the direction of FreightCorp. I wonder whether you can make some comment on the accuracy of it?

**Mr O'BRIEN:** My concern is the study undertaken was looking at the position of 2,200 people in the State of New South Wales who are members of the RBTU, associated with Freight Rail. That study never took into account the interests of all the rural communities in New South Wales. From where we sit, the result of that study was a quick move to support the Government in its proposal to privatise Freight Rail. At no time was there any consultation on the union's part by Mr Hull or by the Government to consult with the communities that were going to be impacted on mostly by this issue. We refute the claims made in Mr Darryl Hull's report, to the end that the end result of that report appears to sacrifice the jobs of 2,200 rail freight workers in rural New South Wales and, if I could say so, there appears to be some prize at the end of the road for that particular union. I do not know whether it is in Sydney. There was no guarantee that the income generated by that privatisation or sale would be returned to regional and rural New South Wales. The actual proceeds of the sale, from where we are sitting, seem to be earmarked for CityRail or the metropolitan rail services and the coastal rail services.

**The Hon. D. J. GAY:** Mr O'Brien, the report that the Chairman just asked you about, a particular union received \$40,000 to help prepare that. Was any offer made to the Mining Related Councils?

**Mr O'BRIEN:** No, no offer was made to the Mining Related Councils. In fact, no notice was given to the Mining Related Councils that the Government or Cabinet had taken the position that it was going to privatise Freight Rail. I think it is common knowledge in this State that the association has always been recognised as one of the associations that represented the interests of communities serviced by those freight facilities. As a result, we feel a little bit aggrieved that no notification was given to us, taking into account that our membership represents one million people as opposed to 2,200.

**The Hon. D. J. GAY:** I was going to move on to that. The Association of Mining Related Councils, as an apolitical group, were not asked to provide a submission, is that correct, and this is the first submission you have provided?

**Mr O'BRIEN:** Yes, it is.

**The Hon. D. J. GAY:** Sometimes you can understand that governments may not wish to consult because they may see the principals as members of political parties opposing their points of view, but correct me, that is not the case in your situation?

**Mr O'BRIEN:** I think in my situation the Government would consider me a friendly.

**ACTING-CHAIR:** On that point, could you describe your organisation's affiliations?

**Mr O'BRIEN:** The Association of Mining Related Councils is an organisation of local government councils throughout the State that have mining activities within their boundaries or mining-related activities. So, it can be impacts from mining, from cross-boundary mining, from upstream mining ventures and also takes into account metalliferous, coal and extractive industries. So, it covers the whole range of mining activities.

**The Hon. D. J. GAY:** Perhaps you could detail that. It goes out to Parkes?

**Mr O'BRIEN:** It stretches from Broken Hill to Bourke in the north and it takes in Orange, Lachlan, Parkes, Forbes. It takes in the Newcastle area. I said Broken Hill. It covers Gunnedah, the

coalfields, Muswellbrook, Singleton, Wollongong and Lithgow. Generally anywhere there is mining activity. Those organisations are members of the association.

**The Hon. C. J. S. LYNN:** Are you aware whether the Government has initiated a regional impact statement over this issue and, if not, do you see a need for that to be undertaken?

**Mr O'BRIEN:** There has been no indication to us that there is to be a regional impact study undertaken. I think in fairness to the local member for my particular area, that is the Tamworth seat, Mr Tony Windsor, he has through the Country Summit attempted to ensure that social impact studies are undertaken before these major sort of activities or sales are undertaken. I think that particular plea has fallen on deaf ears in this instance. There has been no consultation with any regional or rural community with respect to the privatisation of Freight Rail. This has been a knee-jerk reaction by the State Government. I do not know for what reason, but it has been a knee-jerk reaction that will come home to haunt the Government, but not only that, will actually be critical to the investment potential that is needed in regional and rural New South Wales.

**The Hon. C. J. S. LYNN:** The Deputy Leader of the Opposition referred before to the Government giving \$40,000 to a union to do a study, but it made no similar offer to you, and you have a great interest in this area. Why would that be? Would it be because the Government knew it would get the result it wanted from that union and maybe from you it would not get that result?

**Mr O'BRIEN:** I would not like to accuse the Government of that. Although it was late when the association found out about this sale or the fact that this hearing was going to be undertaken, we could have sought, I suppose, that funding and probably have got a positive response from the Government. I am not trying to accuse the Government of favouritism for any particular organisation on this.

**The Hon. C. J. S. LYNN:** Will you be seeking through this process or separately the need for a social impact study?

**Mr O'BRIEN:** I think what we want or what the association is recommending is that there be a halt put on the privatisation of Freight Rail until such time as a comprehensive study of the social impacts throughout regional and rural New South Wales has been undertaken, and a true, comprehensive report provided.

**The Hon. D. J. GAY:** Was that government policy at the last election, to have a regional impact statement before any matter went to Cabinet?

**Mr O'BRIEN:** I do not know that I am that heavily enough involved in politics to remember that one. I think it was. It was a commitment to the Country Summit that that sort of process would be undertaken, as a result of the adverse impacts of the withdrawal of banking services in particular to regional and rural areas. We have seen the devastation caused by that withdrawal and also by the restructure and sale of Telstra. We are saying this is no different. This privatisation is no different. It has the potential to again put the boot into rural communities and to deny us any opportunity to advance into the future.

**The Hon. D. E. OLDFIELD:** Mr O'Brien, given that it has been put to the Committee that in some cases tracks are in such a condition that trains travel at only 10 to 15 kilometres an hour, do you have any comment to make with regard to both the safety and productivity arrangements or concerns associated with that?

**Mr O'BRIEN:** I think that goes back to the Greiner Government. There has been a general opinion of governments generally that this will make cost savings for CityRail projects at the expense of rural lines. That is exactly what has happened. We are willing to accept that our trains will run slower, but while we still have the tracks that we have in those areas we still have the potential to rebuild or maintain them at a standard to carry the new services.

**The Hon. D. E. OLDFIELD:** But is it correct that some of those tracks are in such poor condition that those speeds are necessary from a safety point of view?

**Mr O'BRIEN:** Yes, it is.

**ACTING-CHAIR:** Mr Costa gave evidence to the Committee this morning that there was little choice but that the organisations that he represented were faced with a fait accompli by Minister Fahey at the Federal level, and that the New South Wales Government had little choice but to play the game. The unions had a number of meetings and failed to convince the Minister about their argument. Can you comment on the seriousness of that situation, and also on any other alternatives that might be pursued?

**Mr O'BRIEN:** I think Mr Costa represents the union movement. The impact of unionisation of the workforce generally in rural New South Wales is low. I think Mr Costa would be viewing this through a city-based union official's eyes. We are saying that, irrespective of where the union stands on this matter—and, remember, that is the smallest constituency at this stage—we speak on behalf of the broader community, that is, the one million people that we represent.

**ACTING-CHAIR:** Could you comment regarding the impact of the viability of FreightCorp, industrial rail movements and passenger rail and facilities on communities in country areas?

**Mr O'BRIEN:** You mean to date? Do you mean what is the health of it now?

**ACTING-CHAIR:** And possible future potential, both negative and positive.

**Mr O'BRIEN:** If the privatisation is to go ahead, if the sale goes ahead, firstly, as we have seen from the Hunter task force findings, there would be organisations that would want only sections of the rail. The Hunter task force would want 500 kilometres of the productive coal areas. The drive of that report, if I recall correctly—back in 1994 when I was on the executive of the association—was that ultimately passenger services would be pushed off rail and would go to a road service, because the individual passenger service frequency would only interfere with freight movements. So, ultimately, the push was to get passenger services off rail altogether. I know that the Hunter task force would dispute that.

Generally, the rail service nowadays is in relatively good nick. Without patting too many people on the back, it was a credit to the previous Deputy Premier, Mr Murray, who was then the Leader of the National Party, that he was able to maintain what is an uneconomic rail service between Sydney and Moree. It was recognised that it would never be an economic decision to run that rail line; it was basically pursuant to an obligation that respective governments had to deliver services to rural communities. So it will never be economical, but the rail services being conducted at the moment, both CountryLink and others, are quite good and quite safe, and they definitely deliver a service that is needed to rural communities.

**The Hon. D. J. GAY:** Mr O'Brien, I have only just started to read your report, but on page 1 you refer to job guarantees for FreightCorp staff for a number of years. My understanding is that the Treasurer is talking about a couple of years. Could I have your feeling, as chairman of the mine-related councils and/or a citizen of Gunnedah, a country town, on the ramifications of that on people who live in those regional areas and on the regional areas in which they live?

**Mr O'BRIEN:** If we were to look at the privatisation issue again, we maintain, as the Hunter task force did then, that the section of line they want is from Boggabri, which is about 40 kilometres north-west of Gunnedah, to the port of Newcastle. So, effectively, we would see the jobs of rail workers anywhere north of that point actually abandoned. So the Government effectively offered a subsidy to maintain those jobs, I think, basically forever. But you cannot give that sort of guarantee. Once you hand that system over to private enterprise you cannot dictate any more what the levels of employment will be and what the hours of operation will be. Those matters will be totally in the hands of the private sector.

The Government can give a guarantee until the subsidy runs out, but the subsidy would have held for only three years at best. I think that was admitted later by the Treasurer, Mr Egan. Again, the rail itself offers jobs and job opportunities for people in those regions, and it offers incentives to industry. One of the hardest tasks we have is to attract industry other than the resources and mining industry into those regions. The only hope we have of attracting other than those industries is to offer

transport incentives so that they can get their produce transported by rail. It is likewise for farmers in the region. Right throughout the region the cotton industry is a big user of rail now. Privatisation of those areas would put that industry at risk. The cotton industry, even now as a burgeoning industry, would not essentially be able to pay its way for the use of freight rail services in New South Wales as a stand-alone issue.

**The Hon. A. B. KELLY:** Mr O'Brien, you have had the benefit over the past two days of the evidence that has been given to the Committee. Essentially, in a nutshell, both FreightCorp and the unions have said that this proposal was precipitated by the Federal Government's wish to sell off National Rail. What FreightCorp and the unions have told the Committee in the past few days is that they have been planning for this sale for, I think they said, three to four years, knowing that the Federal Government would sell off National Rail. However, FreightCorp and the unions were always under the impression that FreightCorp would be able to buy this service; in other words, this would stay a government-owned enterprise or, at the very worst, a 50-50 enterprise. Right up until the very last moment, that is what FreightCorp and the unions wanted to do. They made representations to the Federal Minister.

FreightCorp, in its planning for the past four or five years, has said it needed to expand its business to continue to be competitive. If National Rail is sold off at what is expected to be a cheap price, whoever gets it will have a 9 per cent advantage. So FreightCorp was hoping it would be able to buy the service and make it more competitive. But that has been ruled out at the last minute. I suppose that all that you have said is basically predicated on the assumption that was made by FreightCorp: that is, that had it been able to buy National Rail, it would still be a government-owned enterprise, and much more efficient. Can you see any reason why the Federal Government would not let the State government buy National Rail?

**Mr O'BRIEN:** No, but I have not looked at the reasons why the Federal Government would not allow the State government to buy National Rail. But I do not take the fact that the Federal government, in its decision to privatise National Rail, has any bearing on the decision by the New South Wales Government to respond by privatising freight rail. Government is capable of running efficient services. For the past decade we have gone through a microeconomic reform process in the rail industry and in many other industries in this State. We have seen substantial savings made in the reform process. In Gunnedah coal specifically we have seen a reduction in freight rail charges from the Gunnedah coalfields that makes it competitive to draw coal from that particular area, recognising the geographic disadvantages.

**The Hon. A. B. KELLY:** What they are suggesting is that if they have a billion dollars worth of assets, they could get sold for \$200 million. In other words, they have no capital cost. Therefore, a competitor who ends up with that is 9 per cent better off before they start. It is pretty hard to compete against.

**Mr O'BRIEN:** Yes.

**The Hon. A. B. KELLY:** That is the reason the economists have told us. So, there is actually a reason.

**Mr O'BRIEN:** Of course there is a reason, I knew somebody would have a reason before I got here. What I am trying to say is that this has been a knee-jerk reaction and our biggest concern is the fact that we were never consulted. Somebody turned out the lights in New South Wales regional areas. They have thought we are in the dark and they are not going to give us any information on the rail privatisation issue. Remember that freight is carried out from regional and rural areas of New South Wales to the main transport terminals at Sydney and Newcastle, and to a lesser degree at Wollongong. I think we should have had some sort of say in whether the privatisation issue goes ahead. This organisation is not opposed to privatisation. We are opposed to the fact that privatisation of freight rail because we recognise, and we have been there long enough to recognise, the adverse impacts it has on regional and rural communities.

That is the position we are taking until such time as somebody proves us wrong or proves otherwise. At this stage, we are not taking on board the information that has been put forward by the union because on this particular issue the union has a different agenda to this association. We are here

to represent the interests of those regional and rural communities. The union is there to represent the issues of its membership and, I might add again, that the constituents the union represents in this particular case is minute compared to the constituency we are trying to represent. Remember, the constituency we represent is still not the full constituency of rural and regional New South Wales.

**The Hon. C. J. S. LYNN:** You mentioned that somebody turned the lights out in regional and rural New South Wales. The champions of private enterprise have been the Premier and the Treasurer. Are they the "somebody" you are referring to?

**Mr O'BRIEN:** No.

**The Hon. C. J. S. LYNN:** Is it somebody else?

**Mr O'BRIEN:** No. I would say somebody turned the lights out. We have gone through the reform process with power and other things in New South Wales. We have had the withdrawal of banks. Basically what I am saying is that these services are withdrawn continually. So, somebody has to turn the lights out at the end of the day. I am not accusing the Premier. I might add, to the Premier's credit, he has focussed on rural and regional New South Wales. But I am saying that maybe it was not the Premier's decision. Maybe it is a decision that is coming out of Treasury, and the decisions are coming out hard and fast without taking into account the impacts they are going to have on us. Rural and regional New South Wales has been there for a million years, maybe more, I do not know, I was not around then, but after this I would hope that we would have another million in store for us at least. But if everybody keeps taking the vital services and links that are out there away from us, we have not got any opportunity to grow. We have not got any opportunity just to sustain the position we are in now.

**The Hon. D. J. GAY:** A moment ago you said you thought this decision came out of Treasury. Would you be surprised to learn that in evidence yesterday Treasury indicated it had not produced a paper recommending this or addressing any ramifications at all? In fact, the only formal paper available was the one from the union.

**Mr O'BRIEN:** Nothing surprises me.

**ACTING-CHAIR:** In relation to continuing community service obligation payments, which are over \$240 million annually, could you give any assessment to the Committee of the continuum under change of ownership, under privatisation? Do you have any assessment?

**Mr O'BRIEN:** I think we can use the privatisation of Telstra and also the banks. There were numerous community service obligations guaranteed there. I think numerous Ministers actually guaranteed communities around Australia that there would be community service obligations put in place to ensure that there was a level of banking, or a level of whatever maintained in rural areas. But we have continually seen the further withdrawal of these particular services in New South Wales without consideration given to the communities. Yet at the end of the day, bank profits actually spiral upwards. No concession has been given back to rural communities. Once upon a time those particular services actually probably generated significant income for those organisations. That has not been taken into account either.

**ACTING-CHAIR:** A number of people who have appeared before this Committee have expressed that the concern is not so much whether it is in public or private hands, rather that the conditions set down clearly allow continuity of such services.

**Mr O'BRIEN:** I am sure that has been expressed, but I think everybody knows by now that you cannot impose community service obligations on the private organisation. With private organisations the board is answerable to its shareholders. It does not have an interest with the community. Just in recent weeks at different forums we have attended on behalf of the association we have received a clear indication from those private boards exactly where their obligations lie. We have seen plenty of token gestures handed around like \$100 community donations and all that to take the place of those community service obligations the Government once had and the responsibility governments had. We have now the big corporate issues of the corporate citizenship, which are high on the priorities of a lot of these particular companies, companies we talk about that will show an

interest later down the track in the privatisation of this rail. Those companies are handing out token gestures to communities so they can increase the bottom line of the profit margin for their particular organisation and their shareholders.

**The Hon. D. J. GAY:** Is it possible for the Committee to readdress some of the issues as Mr O'Brien has put in a fairly substantial contribution?

**Mr O'BRIEN:** From our organisation side?

**ACTING-CHAIR:** Given the discussions we have had today, you may have additional information as a result of the points you have put forward. Please feel free to furnish the Committee with all material, if you see that need. Similarly, we could forward questions to facilitate that communication.

**(The witnesses withdrew)**

**PHILIP GLENCOE LAIRD**, Associate Professor, Faculty of Informatics, University of Wollongong, Braeside Avenue, Keiraville, and

**JOHN LANGLEY WATSFORD**, Chairman, Sydney Division, Railway Technical Society, Institute of Engineers, 91 Monteith Street, Warrawee, sworn and examined.:

**ACTING-CHAIR:** In what capacity do you appear before the Committee?

**Mr LAIRD:** I appear as a private citizen who has drawn upon the resources of the University, with support from industry partners, to produce the underlying research for the submission. However, the views I express are my own, except where it touches upon the Railway Technical Society of Australasia, which will be drawing on a submission that was approved by our national council when meeting in Melbourne on 28 October.

**Mr WATSFORD:** As the chair of the Sydney division of the Railway Technical Society of the Institute of Engineers.

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

**Mr LAIRD:** I am.

**Mr WATSFORD:** I am indeed.

**ACTING-CHAIR:** If you consider at any stage during your evidence that certain evidence or documents you may wish to present should be heard or seen only by the Committee, the Committee is willing to accede to your request. That can be overridden by the Legislature but it has not occurred so far. Do either of you wish to make an oral presentation to the Committee, following which questions will be put by members of the Committee?

**Mr LAIRD:** I will open with a brief overview and make three basic points. First, we do see a role for efficient public enterprise in rail services as shown by Queensland Rail, National Rail to date and FreightCorp to date and feel that whilst FreightCorp privatisation may have some merits, a case has not been made by the Government. Second, the Railway Technical Society would submit that before any sale can be fully considered we need—and respectfully suggest the New South Wales Parliament would need—the release of the New South Wales freight strategy that was foreshadowed in the New South Wales Government's December 1998 Action for Transport 2010. Third, if the sale does proceed, we would like some of the asset sales returned to long overdue track upgrades of both rural and regional New South Wales export lines and the main line interstate. To this end we would like leave to table a brochure called "Fix the Rails New South Wales".

**Motion by the Hon. A. B. Kelly agreed to:**

That the document be tabled.

**Mr LAIRD:** Our brief submission, which was approved by the national council meeting in Melbourne last month, looks at, amongst other things, some of the condition of the main line interstate track in New South Wales. Between Sydney and Junee it is characterised by steep grades and excessive curvature, and the map on the brochure before you shows the steam age alignment between Goulburn and Yass was laid down in the 1910s to replace straighter but steeper track built by John Whitten in the 1970s. Research at the University of Wollongong with computer simulation has shown that freight trains moving over the nineteenth century track, which was a little shorter than what is there today, would move 12 per cent quicker time and use 12 per cent less fuel than what is there today.

If something were to be taken to the original nineteenth century route called a bulldozer and it was built to modern engineering standards, we would have 25 per cent cut in transit time and a 25 per cent fuel savings. That track between Sydney and Junee on the way to Melbourne, Australia's two largest cities, is substandard. It also has two steam-age signalling installations called Block Telegraph,

which is a descendant of the Morse code and this is in place between Exeter and Medway Junction—Marulan—and Harden and Wallendbeen.

When we go north, Action for Transport 2010 foreshadows work on the Short North line, but two years after the announcement where is the public scope of the engineering rebuild for this project? North of Newcastle to Queensland the track is long and winding. It is totally substandard and freight trains have an average speed of only 60 kilometres an hour. In part, this is due to antiquated signalling between Casino and Border Loop. These are some of the areas which the Railway Technical Society suggests should be addressed.

The submission on page 3 raises as important the question of access. If the track was to be sold as a vertically integrated parcel, then as was the case of the West Rail sale last month one could ask of the new owner, "Will you put in a few hundred million dollars over the next five years to upgrade this track?" But how do you require a FreightCorp operator to make such a commitment when another entity owns the track and still another one maintains the track? We would also draw attention to the fact when you do separate above and below rail operations, some inefficiencies do creep in. We really need to know how it would work before we can address the sale with any degree of enthusiasm.

The point is also made that track straightening in New South Wales, whether it be Wittingham bank where 50 million tonne of coal is moved every year, which is a one in 80 bank—that is not very steep for general freight trains but is steep for the heavier coal trains—or the main south deviation or the north coast ones. We are at least a decade behind Queensland. Yesterday was the second anniversary of the successful operation of their tilt train. Two years ago this Parliament received a report from the Standing Committee on Public Works of the other House on the tilt train. Where is the Government's response to this tilt train report of that committee that addresses track straightening? To my knowledge it is simply not here and this is another indication why this sale could be judged as premature. I would now like to hand over to Mr Watsford to elaborate

**Mr WATSFORD:** I represent the Sydney division of the Railway Technical Society in New South Wales. We have more than 200 members in the Sydney division, which encompasses largely New South Wales but also covers Canberra and Newcastle. We hold monthly meetings in Sydney to discuss all manner of items relating to rail infrastructure: mechanical, electrical, signalling and all aspects of railway operations. We also hold two-yearly conferences where we all get together and discuss various matters relating to all these particular aspects of rail operation. In fact, our next conference is in November 2002 in Wollongong, and we are expecting more than 500 delegates from all around the countryside.

The society represents the technical aspect of railways, engineers, together with some operators and signalling people. The views expressed by Professor Laird are in fact very much put at our meetings, that the track in New South Wales is substandard and the signalling systems in some of the areas mentioned by Professor Laird are definitely substandard, from the morse code era. If the sale happens to go through, we believe that some of the funds should find their way to improving the infrastructure of the railway in New South Wales to make it more efficient—faster trains, less fuel consumed, great environmental benefits.

From a technical point of view, you could argue one way or the other. It does not matter whether it is sold or not. However, one aspect that is important, which Professor Laird has again mentioned, is this wheel-rail interface, the operation of the trains, the shape of the wheel. The shape of the rail is particularly important in gaining the efficiencies of rail and that has to be addressed one way or another by co-operation, vertical integration or whatever the case may be. It is important that this wheel-rail interface be maintained, otherwise tracks wear out or wheels wear out. If the wheels wear out the operator must pay a lot of money. Obviously, if the tracks wear out, somebody must pay for the tracks. So that issue must be addressed in any of these findings.

A good return on any commercial operation is obviously an important part of any owner of the operation. As I said earlier, sufficient funds should be made available, we believe, from whatever source to maintain the infrastructure and uptake any new technology that might be available for the rail industry and make it more competitive, because our big competitor is the road industry. We believe that the road industry is getting an unfair advantage and an unfair supply of funds at this stage.

I have just been to the United States of America and the situation is not too dissimilar. Federal funding is way behind on rail compared to road.

**ACTING-CHAIR:** It was interesting to hear you say that the signalling boxes and so on on the Junee to Melbourne track may have some tourist potential. Otherwise, you are certainly critical of the level of maintenance of the system at present. What do you believe would be the consequence of the privatisation of FreightCorp in terms of the standard of safety and maintenance of the railways? Can you comment further on the history of maintenance and safety standards in privately operated freight rail companies to date? Perhaps you could give some examples?

**Mr LAIRD:** Firstly on those signal boxes, one could argue that some of them should be in a living museum. From the United States and Canada we have seen good private operation of railways for years. They give attention to safety standards. One gets the impression that there has been more confidence to invest in rail in America by the private sector than here, the exception being the iron ore railways in the Pilbara region, which are the world's most efficient rail freight operations. For example, this is a litre jug, and it takes one litre of diesel to move one tonne of iron ore over 400 kilometres from the mine over a range down to the port and bring the empties back. They are efficient and they are safe.

In New South Wales attention has been given to safety but as we have downsized through the reform process, and the combined staff of the four rail authorities is less than half of what it was 15 years ago, those efficiency gains—like less than a million tonne kilometres of freight moved per freight employee in the late 1980s to, say, well over three now—we have not had the funds to uptake the technology and to make the track improvements. So we still have these anomalies like those signal boxes that you referred to. They are very safe because you have a bloke there 24 hours a day. We have four people, one at each end of the two sections. I hope that helps.

**Mr WATSFORD:** As regards the level of maintenance, some of the stuff is 100 years old. It is simply a question of how much more money you want to pour into this old technology before you finally throw it away and put some new stuff in. You can maintain up to a point, but it becomes uneconomical after a period of time. The modern systems are so much more efficient and safer than the old system, but that is not to say the current system is unsafe. Far from it—I believe it is quite safe. It has stood the test of time for 100 years or more but there are far more efficient methods now, modern communications, satellite tracking and all sorts of things, whereas the old block telegraph arrangement was a click-click on the key. It is a thing of the past. We have reversed. I think it is more a case of updating the equipment to more modern equipment, rather than pouring good money after bad into the old equipment, which invariably only looks at a particular area, whereas with more modern equipment you can handle a lot longer track with signalling systems, compared with the old ones.

**The Hon. D. J. GAY:** Mr Laird indicated that the case had not been made for the privatisation of FreightCorp. Can you elaborate on that? I guess the corollary of that is why should we not privatise FreightCorp.

**Mr LAIRD:** I believe in New South Wales the case has not been made or, if it has been made, I do not think it is well communicated to the interested public. Firstly, how do you get around this access question in such a way that you will encourage a future operator of FreightCorp to invest in track upgrades? I just do not see it. Secondly, how do you address competitive neutrality when in one university paper it is argued that track operations are in receipt of large hidden subsidies through the underrecovery of road system costs? Thirdly, the tilt train report looked at the disparity between road and rail investment at a State and Federal level over 10 years.

Secondary roads get more money spent for straightening them out, for example, the southern land highway between Grafton and Casino, than main line railways get in this State. In Queensland it is different. In the past 16 years they have had 160 kilometres of main line track straightened. We have had in the order of 10 kilometres, and that was because of the One Nation-Keating capital works program of 1992 to 1995. Suffice it to say, it was the Keating Government's 1992-95 capital works program that led to long-deferred maintenance being undertaken on the North Coast and the main south line, as well as Adelaide-Melbourne gauge standardisation.

Until we get the freight strategy, which will address issues of competitive neutrality referring to the term of reference, how can we be sure that if we do sell FreightCorp we will get more freight on rail and not less? In part, with regard to privatisation, if you get a good operator, you will get more freight on rail, as seen by Freight Australia operating out of Victoria; it is already bringing in logs to Port Kembla. It is a good go-getter attitude. However, on the other hand, how do you avoid a scenario where someone says, "Great, we will buy FreightCorp, the whole lot." You concentrate on the real crown jewels of the Hunter Valley coal lines, and you let the rest go, even if there is a nominal subsidy for it. Maybe it is better split into two: the profitable part, which is considered most at risk in the Hunter Valley, and the rest stays in public ownership until these questions are sorted out. Within the sale, there is nothing at all to give confidence that we are not avoiding a worst case scenario.

**The Hon. D. J. GAY:** In your pamphlet you have listed the deviation where the new freeway goes through, albeit through some pretty heavy swampland. Just before you get to there is the Breadalbane Plains. When the XPT was first introduced, the stories around the Goulburn area were that they were able to get over 160 kilometres out of the XPT along there. I am informed that the XPT is now flat out getting to 100 kilometres because of the condition of the track, and it is a dead straight track.

**Mr LAIRD:** I would like to follow that up. If I get anything more to add to it, perhaps we could add a written submission.

**The Hon. D. J. GAY:** It relates to the condition of the track rather than how straight it is, is that right?

**Mr LAIRD:** It is well-aligned; it is straight. Generally, it is laid to a good weight of rail in this country, 53 kilograms per metre as opposed to, say, 47 kilograms per metre across the Nullabor. But I could not comment on that one.

**Mr WATSFORD:** There is some truth in that, in that the Melbourne Express and the old steam trains with the 38s on them used to come along there at 100 miles an hour. If the track is straight and it is in good condition, you can go at those speeds.

**The Hon. C. J. S. LYNN:** There is a private enterprise proposal for a Melbourne-Sydney-Darwin freight line, I understand. If you are talking about long-term strategy, have you looked at that, do you think it is viable, and will it impact on the proposed privatisation and future strategy of New South Wales?

**The Hon. A. B. KELLY:** That was not Melbourne-Sydney-Darwin; I think it was Melbourne-Darwin, through Parkes.

**The Hon. C. J. S. LYNN:** Yes, I am sorry. It goes inland, to pick up the freight to take it to market.

**Mr LAIRD:** There are two proposals. One is Melbourne-Darwin, which has been around for a long time. The *Daily Telegraph* had a map almost 100 years ago of the two routes through Alice Springs or near Mt Isa going up there. The Alice Springs-Darwin one is on the verge of going ahead. More interest has been focused by the Federal Government, the New South Wales Government and the Queensland Government on a Melbourne-Brisbane inland freight route, and there are three versions. One of the proponents of the grandest scheme wanted completely new track with freight trains going at 300 kilometres an hour with gas-fired locomotives. However, there is a more modest proposal, which I have written about for the university, where you simply use the existing lines in Victoria, which come through Albury, Cootamundra, Parkes, Dubbo, Binnaway, where you need a triangle, Werris Creek, where you need another triangle, Gunnedah and Moree. All of those secondary lines, from Cootamundra to Moree, are good weight of rail and do not need much upgrading.

North of Moree it is lightweight rail, which you might rebuild to east of Boggabilla, cross over the McIntyre River, and then a new route through Queensland. Between Gowrie and Grandchester, that is between near Toowoomba and the Little Liverpool Range, Queensland Rail and the Department of Transport in Queensland have advanced to very fine engineering detail, to the point

where perhaps even next month they might reserve the land for a new rail corridor to be built to modern engineering standards—the sort that we in New South Wales dream about.

**Mr WATSFORD:** But, of course, that is up through Parkes; that does not attack Sydney and the Sydney to Parkes line. It is very scenic, particularly around Rydal, as you go round the big curves. This is the old infrastructure—it is wonderful for steam engines, but not good for modern freight trains.

**Mr LAIRD:** \$300,000 of taxpayers money has gone into the pre-feasibility study of the Melbourne-Parkes-Brisbane route, and that pre-feasibility study was finished in July. It would be nice to have it on the table—just like the freight strategy in New South Wales and just like the response to the tilt train. If those three reports were on the table, along with a discussion paper on how access regimes would be handled under the sale of FreightCorp, I think we would all be in a much better position to make an informed decision.

**The Hon. C. J. S. LYNN:** You are saying that the current situation is that the Government is being reactive to circumstances, rather than proactive in planning and working to a long-term strategy?

**Mr LAIRD:** A bit of both. Action for Transport 2010, which is looking ahead in the next decade, is good as far as it goes, but more is needed. Whereas, the FreightCorp sale is being dropped in our lap. It is said that the rail, tram and bus union supports it, but I think that support is mainly confined to the State division. Whereas, if you asked the national office to give evidence, you might get a completely different view.

**ACTING-CHAIR:** Are you referring to the entire report itself?

**Mr LAIRD:** No, I am simply referring to the rail, tram and bus union. Although the State division is on the record as supporting the proposed sale, if you were to ask the national office for its view you may get a different view.

**ACTING-CHAIR:** Are you familiar with the entire report, which was commissioned by the RTBU recently to investigate the privatisation process?

**Mr LAIRD:** No. It has come up relatively quickly.

**The Hon. D. J. GAY:** If the Committee were able to provide you with a copy of the report, would you be able to provide comments on the report for the Committee?

**Mr LAIRD:** Yes. We would have a quick look at it and run it past our Sydney committee. But please do not ask for it yesterday.

**ACTING-CHAIR:** You do not know the content of the report, but could you give an opinion as to what would have been a proper process given the size and nature of the potential privatisation of FreightCorp? What would have been an adequate process of investigation, looking at the pros and cons of such a direction?

**Mr LAIRD:** Given the importance to the industrial health of rural and regional New South Wales as well as all of Australia of what has been sold, we would have liked to have seen the freight strategy, discussion paper on the access arrangement and the means in place for investment to bring the system up to speed. We just do not see that before us at the moment. It is fair to say that the Railway Society has watched with interest the progress of the other privatisations. We are favourably impressed with what has happened with Freight Australia, it has been able to grow traffic in Victoria. But we are dealing with something much different here. Part of the reason for that is the Hunter Valley. In Victoria there is nothing equivalent to the Hunter Valley. Here there are basically two separate systems. There is very intense bulk haulage in the Hunter Valley with high coal exports through the port of Newcastle, and then there is the rest.

**The Hon. D. J. GAY:** Your concerns are almost exactly the same as those contained in the New South Wales Farmers submission.

**ACTING-CHAIR:** The Committee would appreciate receiving comments on the whole report at your convenience.

**(The witnesses withdrew)**

**(The Committee adjourned at 1.33 p.m.)**

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