

Dangerous Deregulation:
The Human Cost of The Milwaukee Road's Bankruptcy Proceedings

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By all accounts, Thursday, February 20, 1985, had all the makings of a perfectly average late winter's day in Iowa. For much of the state, the biggest news story was Bill Elliott's victory at the Daytona 500 that past Sunday. But for the just over one thousand residents of the small town of Calmer, the new day brought a great sense of relief after over seven years of anxiety-ridden uncertainty.¹ For several weeks prior, in a courtroom on the twenty-seventh floor of an imposing skyscraper some 300 miles away in Chicago, a group of men engaged in a feverish battle for the town's fate. While it is doubtful that any of these men had visited Calmer, or let alone could point to it on a map, the decision that would emerge from that courtroom would spell either economic reprieve or devastation not only for Calmer but for dozens of other Iowa towns. Years of shady dealings, puzzling decisions, and ambiguity culminated in the decision of a single veteran judge, Thomas R. McMillen's approval of an acquisition that preserved rail trackage but offered less capital would circumvent contemporary trends and award the economic fate of Calmer and hundreds of other small towns across the Midwest to a company whose interest in corporate expansion was not detrimental to blue-collar workers.²

That morning the Soo Line Railroad (Soo Line) officially closed its acquisition of the Chicago, Milwaukee, St. Paul, & Pacific Railroad (Milwaukee Road), resulting in residents of Calmer and dozens of other rural towns in Iowa breathing a collective sigh of relief, after their rail lines had originally been slated for abandonment. The Soo Line's procurement of the Milwaukee Road meant that over one thousand miles of lines deemed "unprofitable" by the Chicago and North Western Transportation Company (C&NW) would now continue to operate into the twenty-first century.³ The story of the fight to acquire the Milwaukee Road goes far beyond the quaint town of Calmer or any other rural community. It is the long-ignored story of

the unlikely events that preserved the livelihoods of untold hundreds of blue-collar American families.

To grasp the contradictory denial of the C&NW's attempted acquisition of the Milwaukee Road in scholarly circles, it's essential to comprehend the consensus formed by the various components that constitute it. The historical interpretation of railroads' role in American society generally focuses on their perceived positive impact in bringing about the industrialization of the country. Historians for decades have stressed the revolution in transportation that railroads brought to the U.S. and the apparent social benefits that accompanied their construction, positing that railroads almost always had the public's best interest in mind.⁴ While this analysis may accurately reflect the rail industry in the context of the late 19th and early 20th centuries, it should not be universally applied to the industry in the 1970s and 80s. By the late 20th century a downturn in the industry led to the passage of the Staggers Act, which effectively removed all regulations surrounding railroad rates, mergers, and abandonments, neutering the Interstate Commerce Commission (ICC), the governing body of railroad regulation in the country for nearly 100 years.⁵

General historical work surrounding the Milwaukee Road is typically amateur in nature and lacks serious analysis of its operations. What historical analysis does exist revolves around the railroad's impact on those who lived along its lines. Historians have commonly accepted that the railroad served as an indispensable economic asset in the line's key market of Iowa and the north central United States, even asserting that communities that lost their rail service were devastatingly altered.⁶ Certain communities along the Milwaukee Road's western half even refused to accept the demolition of long SBNO trackage, waging legal battles out of the glimmer of hope that rail operation might return to their towns someday.⁷ Clearly, historians agree that the

abandonment of spur line trackage around the period of the Staggers Act had an immediate negative impact on adjacent communities. However, there is a noticeable lack of connection by scholars to the underlying cause of this economic devastation: the deregulation of the industry.

Most of the scholarly interest in the later history of the Milwaukee Road takes an economic perspective, examining how the Staggers Act affected the railroad purely from a financial angle. While early scholarship regarding the Staggers Act emphasized an unsure, wait-and-see approach, within the last twenty years, scholars have reached the consensus that the Staggers Act's deregulation allowed for an unprecedented period of economic growth for rail line operators. Economists hammer the point that the freedom the Staggers Act bestowed upon rail operators allowed them to evolve their companies to better fit industry demands and innovate for the future.⁸ While positive interpretation has been the contemporary, dominant consensus amongst scholars, it ignores variables including track abandonment and decreased competition, instead, choosing to examine its effects through the lens of corporate health, which the Staggers Act undeniably assisted in restoring to a level of sustained profitability.

Scholar Michael Conant builds on the existing positive view of the Staggers Act in his article, *Milwaukee Road Bankruptcy*. Conant's article further examines the railroad from an economic perspective and argues that overlapping line service among rail operators was a core cause of the railroad's failure. He postulates that the primary cause of the Milwaukee Roads bankruptcy was frivolous government regulation and even criticized the government's decision to block C&NW's offer, citing how it forced both companies to maintain "excess capacity in parallel rail lines."⁹ While Conant's interpretation of the wastefulness of regional rail competition is factual from a corporate capitalistic lens, he still falls into the same trap as other economic scholars, ignoring the population that had the most to lose through line shedding: those who lived and built their lives along rural spur lines. Conant's strengths lie in his exploration of the complex factors of the Milwaukee Road bankruptcy. His ability to chronologically describe

line abandonments and the Railroad's changing financial situation will serve as a model for this paper.

The wide variation in evidence used by scholars to support the Staggers Act indicates a lack of consensus on why it has been perceived as successful. Generations of historians and other scholars have emphasized the importance of the act on the rail industry instead of examining how it affected each company individually.¹⁰ While as a whole, the rail industry may have benefited from the Staggers Act there are many individual examples to the contrary. Historian Roger H. Grant posits that the reason the C&NW pursued the Milwaukee Road so heavily was spurred not by the necessity of survival but instead by the desire to create a regionally dominant railroad.¹¹ The difference in reasoning in pursuing a merger between the C&NW and the Milwaukee Road shows how the Staggers Act's current universally positive interpretation is inaccurate, as each company used the act independently for their own goals. The owner-operator aspect of the rail industry makes it difficult to compare struggles between companies, as their independent corporate structures often resulted in the development of unique weaknesses that have often been inaccurately lumped together under the umbrella of a general industry downturn.

The goal of this paper is to challenge the general consensus that the Staggers Act has been an unmitigated success by placing it in the context of the damaging effects that the mass abandonment of the Milwaukee Road's spur lines, which were permitted only through the adoption of the Staggers Act. By calling attention to the federal government's decision to subvert the freedom offered to the railroads through deregulation by its refusal to approve C&NW's acquisition of the Milwaukee Road, it is impossible to claim that the Staggers Act's effects were universally positive. Instead, the act and industry deregulation as a whole created an environment rife with conspiracy, corruption, and a blatant disregard for the human condition that required additional government intervention to correct.

Railroads in the 20th Century

Throughout the first half of the 20th century, North American railroads experienced a period of unparalleled success. However, following the Second World War, rival modes of transportation began to eclipse the convenience offered by rail operators. As historian John F. Stover put it, “The convenience of the truck, the speed of the airline, the economy of the bus, and the cheap reliability of the pipeline contrived to reduce the railroad’s share of the nation’s transportation pie.” By the late 1950s, the economic state of railroads was so poor that despite operating twice as much trackage, passenger traffic fell below that of 1905.¹² The situation was made all the worse in the late 1960s when the U.S. government began to void rail-by-mail contracts, cutting off one of the last consistently large revenue streams for rail operators.¹³ The loss of mail contracts would prove a fatal blow to many rail operators.

The following decade would witness perhaps the greatest shake-up of a single industry in the history of the United States. In an effort to stop the bleeding, railroads began to seek government permission to merge. The largest of these mergers resulted in the creation of the Penn Central Transportation Company, the largest rail operator in the nation. Two years later, on June 21, 1970, Penn-Central, the sixth-largest corporation in the country, declared bankruptcy. The Nixon administration would subsequently intervene by absorbing unprofitable passenger rail service through the creation of Amtrak, but it was too little too late for many operators.¹⁴ The rest of the 1970s would see the subsequent bankruptcy of nearly ten major rail operators, notably the Erie Lackawanna, Rock Island Line, and, of course, the Milwaukee Road in 1977. Despite their similar circumstances, the extraction of a singular reason for rail failure has proven an impossible task. In reality, it was a multitude of both national and local, governmental and private reasons that led to the collapse of the rail industry.¹⁵ If the rail industry was to survive, changes needed to be implemented.

Prompted by the quickly expanding crisis in the railroads, Congress sought to stabilize the industry through nationwide deregulation. Introduced by longtime West Virginia

Representative Harley Orrin Staggers, the Staggers Rail Act of 1980 did just that. Rail operators could now abandon lines with only a “minimum of paperwork and administrative hearings before the ICC.” according to a report in the *Chicago Tribune*.¹⁶ Immediately, the act received high praise from corporate analysts: The president of the C&NW believed that its passage signified a bright future for the railroad, which was already engaged in acquisition talks with the Milwaukee Road.¹⁷ Commentators celebrated the deregulation of “piggyback” traffic as allowing rail operators to compete with trucking for the first time in decades.¹⁸ An article in the *Quad-City Times* described deregulation as having the same effect on the rail industry as a “chronic invalid taking a B-12 shot,” later, praising the mass abandoning of rail lines as breaking a stubborn, over-blown system.¹⁹

However, while economists and railroad boosters have universally viewed the act as successful, those living along the rail lines potentially affected viewed the legislation with far less optimism. The *Woodstock Daily Sentinel*, the main publication of a midsized North-Central Illinois town serviced by the C&NW, understood the potential danger of the act. In November of 1982 it reported that while it understood some spur lines were little used and unprofitable, they were still “located in rural areas where agricultural communities had become dependent on them.”²⁰ As little as two and a half years after the Staggers Act’s passage, local communities began to seek government intervention to preserve rural rail line service. These attempts were often futile, only resulting in extended legal battles that annoyed rail carriers.²¹ However, it is important to note that rural criticisms of excess abandonment were known by the government outside and before the judicial ruling in the Milwaukee Road case. Still, how the act would affect the already government-controlled Milwaukee Road was less than certain. Despite the freedom for abandonments and rate setting, any potential merger still required approval by the court overseeing the bankruptcy proceedings.

On December 19th, 1977 the Milwaukee Road filed for Section 77 bankruptcy protection, citing that it did not anticipate having the required cash in the following ninety days to pay its bills. By then, railroad bankruptcies had become so normalized that the story barely made the

front page of the *Chicago Tribune*, appearing as the fifth of six stories in the edition.²² Still, at the time of its filing, the Milwaukee Road was the fifth-largest railroad in the nation, employing over 11,000 people and operating over 10,000 miles of trackage. Both government over-regulation of shipping rates and excess trackage immediately faced blame.²³ In 1977, 70% of the Milwaukee Road's trackage consisted of low-density spur lines, equalling 3,048 miles of mainline and 7,031 miles of spur line. In comparison, the similarly sized (and profitable) Burlington Northern allocated only 46% of its total trackage to spur lines. While the Milwaukee Road and Burlington Northern had comparable overall traffic, the scattered aspect of the Milwaukee Road's shipments on spur lines equated to far higher maintenance costs, resulting in its losses.²⁴ Coupled with rival railroads circumventing protective government rate-setting regulation, it is clear that there was no easy solution for returning the railroad to competitive profitability.²⁵ The task of salvaging any aspect of the Milwaukee Road would fall upon the shoulders of two men with differing views of the company's obligations: a nonconforming judge and the former Illinois Governor whom he appointed.

The Players

Thomas R. McMillen was a six-year veteran judge of the United States Court for the Northern District of Illinois when he was assigned to oversee the Milwaukee Road's bankruptcy in December of 1977. Appointed by Richard Nixon in 1971, McMillen would use his experience to rule on a diverse range of cases. McMillen's time on the federal bench would reveal his stubbornness. In 1977, he imposed harsh sentences against two City of Chicago contractors for various corruption charges despite one of them being a known "long-time personal friend of the late Mayor Daley."²⁶ McMillen would again display a lack of respect towards the Chicago machine when, in 1982, he ousted a replacement alderman appointed by the mayor of Chicago, declaring a portion of the Illinois election code unconstitutional in the process. Although McMillen's choice was controversial, a columnist for the *Chicago Tribune* praised it, reasoning

that while the law saw nothing wrong with circumventing the will of the people through appointments, “Judge McMillen did.”²⁷

McMillen’s controversial court decisions and precarious placement within the Chicago machine made him a polarizing figure while overseeing the Milwaukee Road proceedings. As a result, *American Lawyer Magazine* named him “the worst judge of the 7th Circuit Court” for 1983.²⁸ Two years before he ruled on the Milwaukee Road’s bankruptcy, the case that proved the most impactful of his career. McMillen is perhaps best described as a boat rocker, as he was ill-concerned with the status quo, instead, he believed it to be his obligation to disseminate a decision he thought to be just, regardless of the potential fallout.

Richard Ogilvie was a career politician, well familiar with backroom deals and controversy when McMillen appointed him as attorney trustee of the Milwaukee Road in early 1978. Railroading had always been a quintessential part of Ogilvie's life, as his great-grandfather was “a pioneer in building the Santa Fe Railroad,” helping to plan spur lines and facilitate migration west. Ogilvie earned a law degree before being elected Cook County sheriff in 1962, where he oversaw 1,800 police raids and the controversial response to Dr. Martin Luther King’s march on Cicero.²⁹ The rest of the 1960s continued Ogilvie’s meteoric rise with his election as president of the Cook County Board of Commissioners in 1966 and then governor of Illinois in 1968.

Although he campaigned against Mayor Daley’s democratic machine, Ogilvie was often guilty of the same back-scratching behavior. Despite his many triumphs as governor in education and social reform, Ogilvie still partook in controversial behavior, including the awarding of high-dollar state contracts to firms with which members of his administration were associates.³⁰ His actions proved too divisive for the people of Illinois, with him only serving one term as governor. After his failed reelection bid in 1972, Ogilvie became one of the most prominent private attorneys in Illinois, attaining partner at Isham, Lincoln, & Beale, the prestigious firm founded by Abraham Lincoln’s eldest son, where he would work for some of the largest corporations in the nation.³¹ There were clearly very few more high-profile and qualified

candidates that McMillen could have chosen for Milwaukee Road trustee besides Ogilvie. His experience and position in the Illinois G.O.P. made him a natural choice for the role, making their eventual disagreement on the bankruptcy's outcome all the more puzzling.

Early Bankruptcy

Immediately following its bankruptcy declaration, the Milwaukee Road began to seek government permission to abandon lines. In 1978, it started the process of permanently abandoning sections of its westernmost trackage. Initially, even local communities viewed these spur-line abandonments as necessary. In the April 23, 1978 edition of the *Bozeman Daily Chronicle*, an article by Larry Wills detailed the abandonment of a roughly forty-mile spur line that serviced Bozeman, Montana, and other surrounding rural communities. Unlike later abandonments, the residents of Bozeman were not blindsided by the announcement but instead expected it. The article acknowledged how, after a local flour mill closed in 1960, "it was all downhill for the line." Wills added that during the half an hour that he was talking to the local rail agent at the line's main office, not a customer inquired about the line's service.³² At this point, in the Milwaukee Road's bankruptcy, necessary spur line abandonments were nearly universally supported by government officials and rail operators.³³

However, towards the middle of 1978, rural communities' attitudes regarding spur line abandonment began to change. Where the Milwaukee Road had initially abandoned redundant lines with extremely low traffic, by mid-1978, the criteria for line abandonments began to become increasingly loose for the railroad.³⁴ Controversial abandonments were not limited to communities west of the Mississippi. Communities in central Wisconsin began to push back against the proposed abandonment of the Brokaw-Tomahawk spur line. Rail industry users successfully emphasized the importance of rail service to the local economy by stating how "Virtually every stick of lumber used by woodworking plants in the city comes by rail."³⁵ As of 2023, the line is still operated by the Fox Valley & Lake Superior Railroad, indicating that under the proper management, the Milwaukee Road could have operated the line profitably.³⁶

By late 1978, the Milwaukee Road was not just abandoning small sections of spur line but instead, thousands of miles of trackage threatening the economies of entire states. Line abandonment hit South Dakota the hardest, with the state losing thirty percent of its total trackage by October.³⁷ State officials understood that losing additional rail lines would make it nearly impossible for the state's agricultural producers to get their products to market. After implementing a one-cent raise in sales tax, the state eventually financed the purchase of 936 miles of Milwaukee Road trackage. South Dakota appointed the Milwaukee Roads' longtime rival, BN, as the operator of their newly purchased lines. Wisconsin would make a similar proposal, offering the Milwaukee Road \$12 million for 500 miles of trackage rights slated for abandonment in the state.³⁸ South Dakota's purchase indicates that even before McMillen's decision, state governments intervened in the Milwaukee Road's bankruptcy to preserve service to rural communities.

As the Milwaukee Road continued to abandon trackage at staggering rates, tensions between McMillen and his appointed trustee rose. For about the first year and a half of the Milwaukee Road's bankruptcy, Stanley E.G. Hillman was the trustee in charge of the railroad's operations. McMillen hoped that Hillman, the former chairman of the profitable Illinois Central Gulf Railroad, would stabilize the Milwaukee Road.³⁹ Instead, Hillman struggled to choose a path for the railroad. Ten months into his appointment, Hillman was still unsure if the Milwaukee Road could survive at all, with him stating, "I just don't know at this point" when asked about the railroad's viability.⁴⁰ Eventually, Hillman settled on a proposal that would transform the Milwaukee Road into a small regionally dominant line through Illinois, Iowa, Wisconsin, and Minnesota. The plan, which Hillman believed would return the railroad to profitability, called for the immediate shutdown of all but 2,400 miles of the Milwaukee Road's remaining trackage and the layoff of 5,000 employees.⁴¹ Hillman's plan went against McMillen's primary goal of maintaining the status quo of the Milwaukee Road's operations: as in the days immediately following his appointment to the Milwaukee Road's case, McMillen ordered that the railroad "operate as usual."⁴² McMillen rejected Hillman's plan, citing that he did not believe

he had the authority to order such a shutdown.⁴³ Two weeks after McMillen's rejection, Hillman resigned from his position as the Milwaukee Road's trustee. Officially, Hillman stated that his poor health was the reason for his resignation.⁴⁴ In the weeks following Hillman's resignation, McMillen promoted Ogilvie from attorney trustee to the primary trustee overseeing the Milwaukee Road's reorganization. As the primary trustee, Ogilvie made it clear that the Milwaukee Road needed to change radically to survive, stating, "Generally, the nature of that change has already been revealed."⁴⁵ Despite the new face in charge, Ogilvie made it clear that he intended to continue down the path set by Hillman.

The passage of the Milwaukee Railroad Restructuring Act greatly increased the rate at which the Milwaukee Road abandoned its lines, causing increased strain on rural communities. Enacted as law in November of 1979, the Milwaukee Railroad Restructuring Act was a precursor to the Staggers Act. On top of reforming the railroad's finances, the act also shifted abandonment jurisdiction from the ICC to the bankruptcy court, awarding McMillen direct control over abandonments.⁴⁶ As expected, McMillen continued to resist abandoning the western portion of the Milwaukee Road's network for the next several months. His desire to maintain these lines resulted in shippers and local communities creating a half-cobbled-together plan to save the lines that was quickly deemed infeasible and abandoned. Faced with no other option, McMillen approved the abandonment of all trackage west of Miles City, Montana, marking the end of the Milwaukee Road's transcontinental operations.⁴⁷ Combined with the Staggers Act, signed into law less than seven months later, 1980 ushered in an unprecedented period of rail line abandonment. Between 1980 and 1984, around 18,000 miles of track were abandoned throughout the United States, over 7,000 miles of which belonged to the Milwaukee Road.⁴⁸

The mass abandonment of lines did assist in decreasing the Milwaukee Road's financial losses. By March 1982, the Milwaukee Road reported its first fiscal profit in five years.⁴⁹ Compared to the \$36.2 million the railroad lost in 1977, any semblance of profit was a major improvement. On the other hand, the reduced operations of the Milwaukee Road meant that its earnings were a fraction of what they were before the bankruptcy.⁵⁰ Still, to Ogilvie and the rest

of the Milwaukee Road's executives, the 1982 profit was evidence that their mass abandonment of lines was returning the railroad to viability, emboldening them to continue downsizing despite the known human cost.

An Inevitable Acquisition

The small optimism the 1982 profit represented quickly attracted the attention of rival railroads that now sought to merge with the Milwaukee Road. The Grand Trunk Western (Grand Trunk) was the first operator to try to facilitate a merger in May of 1982. Owned by the Canadian government as a subsidiary of the Canadian National Railroad, the Grand Trunk operated about 2,100 miles of track throughout Michigan, Ohio, Indiana, and Illinois.⁵¹ The lack of overlapping lines meant no additional abandonments were anticipated if the two lines were to merge. Ogilvie quickly came out in support of the proposal, stating, "The GTC acquisition of the Milwaukee will ensure the continuation of the Milwaukee Road for the benefit of its employees, shippers, and the public." Even McMillen expressed public support for the proposal, calling it "an extremely important and significant beginning to what ought to be a completely different direction for the railroad."⁵² The deal appeared so likely that a columnist for the *Chicago Tribune* described it as "definitive."⁵³ For over a year, the Grand Trunk's acquisition of the Milwaukee Road seemed inescapable. Local newspapers even began running articles speculating how the merger would affect their rail lines. Iowans took a particularly positive view of the merger as a Milwaukee Road spokesperson expected most of the railroad's remaining 665 miles of track in the state to continue operating.⁵⁴ By the summer of 1983, the Grand Trunk's acquisition of the Milwaukee seemed imminent, with the proposal only requiring ICC approval before becoming binding.

However, at the stroke of midnight, the C&NW threw a wrench into the Milwaukee Road-Grand Trunk plan. In the last week of June, the C&NW filed an injunction against the Grand Trunk, claiming that its proposed merger would give it a monopoly over Canadian lumber and potash shipments, with the railroad's ownership by the Canadian government making it

difficult for the U.S. government to regulate it.⁵⁵ Less than a week later, the C&NW threw its hat in the ring and submitted its own offer to acquire the Milwaukee Road. While the deal was similar to the Grand Trunk's offer (as both companies offered to assume \$250 million of the Milwaukee Road's debt) the C&NW's offer included a \$180 million tax shelter for the Milwaukee Road's shareholders.⁵⁶ The C&NW's offer signified its longtime pursuit to acquire the Milwaukee Road.

The C&NW's desire to acquire the Milwaukee Road transcended the typical dynamics of a rail merger, instead showcasing an example of what could be described as a corporate obsession. For nearly two decades, the C&NW and the Milwaukee Road flirted on and off with one another about potentially merging. While obviously no merger came to fruition, the repeated attempts illustrated that a merged C&NW and Milwaukee Road was not an unprecedented concept.⁵⁷ For much of the C&NW's existence, it struggled to compete with the major Midwestern railroads. While the Milwaukee Road had lines that stretched from Chicago to the Pacific Ocean, the C&NW lines only made it as far west as South Dakota.⁵⁸ Even before the Grand Trunk submitted its offer, the C&NW carefully monitored the Milwaukee Road's situation, purchasing a few dozen miles of Milwaukee Road trackage in central Iowa.⁵⁹ When C&NW submitted its offer for the Milwaukee Road in July of 1983, it simultaneously launched a public relations campaign designed to align itself with patriotic ideals while drumming up fears of the Grand Trunks' relationship with the Canadian government.⁶⁰ The Chairman of the C&NW, Richard R. Wolfe, even used conquering language to describe the Grand Trunk's proposal, stating how after it closed its acquisition of the Milwaukee road, its "next step is the Gulf (of Mexico)," adding how that would give Canada "two rapiers swords through the heart of the U.S."⁶¹ To Wolfe and the rest of the C&NW, the Milwaukee Road represented not only an avenue to expand its footprint but also a once unconquerable giant that was now nearly within their grasp.

As merger talks proceeded, additional line abandonments displayed a pattern favorable to the C&NW. Combined with the new freedoms offered by the Staggers Act, a potential merger

with the Milwaukee Road allowed the C&NW to position itself strategically in the rail market. As the Milwaukee Road and the C&NW continued rail line abandonments, some now appeared disadvantageous to the Milwaukee Road's bottom line. The need to abandon these lines comes into question after the realization that other railroads acquired and reopened the Milwaukee Road's former lines. The Grimes Spur line, for example, was a roughly fifteen-mile-long line that connected the main line of the Milwaukee Road's Iowa division to the City of Des Moines, which the Milwaukee Road abandoned in 1980.⁶² By 1985, the Norfolk Southern railroad had purchased and reopened the Grimes line and would continue to operate it for an additional twenty-seven years.⁶³ The abandonment of the Grimes branch is only logical if the Milwaukee Road did so to make itself more appealing to a potential C&NW acquisition. The C&NW already operated three separate lines that ran north/south out of Des Moines within a 12-mile radius of the Milwaukee Road's line in 1980.⁶⁴ In the eyes of the C&NW, fewer redundant lines would help streamline operations if the C&NW merged with the Milwaukee Road and would improve the likelihood of McMillen and the ICC providing their approval.

Still, perhaps more so than with other abandonments, the negligent shutdown of the Iowa lines not only played a strategic move in a corporate game of chess but also caused serious damage to the communities along them, communities that had built their economy upon the industry the railroads brought. The passage of time would reveal just how devastating these abandonments were on local economies. Like in other states, communities in Iowa began to push back against further abandonments to save themselves from economic devastation. In a February 1983 issue of the *Cedar Rapids Gazette*, local business owner Orville Beenken questioned the C&NW's need to abandon its 10.2 mile Buckingham spur line, stating, "I feel we need this line to be competitive in the market," adding, "When you get down to it this rail line is where we get all of our money." The Iowa Department of Transportation supported Beenken's claim in the article by citing a study that showed the line "was one of the most profitable for C&NW in 1980-81."⁶⁵ Still, unlike the major abandonments, there would be no intervention by Iowa or the federal government to save the Buckingham spur, with it shutting down soon after and stranding

those whose livelihoods relied upon rail service.⁶⁶ While small abandonments still negatively affected rural communities, the cries of those affected were far easier to ignore because they serviced fewer individuals than longer sections of track, resulting in most short-line abandonments going unchallenged in court. With additional interventions unlikely, the fate of hundreds of rural towns now resided solely in which rail operator acquired the Milwaukee Road.

A Courtroom Battle

Through the autumn of 1983, the Grand Trunk and the C&NW attempted to outmaneuver each other for control of the Milwaukee Road. Like any good public two-way race, the battle for control of the Milwaukee Road quickly devolved into a mud-slinging match, with both railroads emphasizing the other's weaknesses.⁶⁷ While originally skeptical of the C&NW's offer, labeling it as "more elimination than reorganization," Ogilvie eventually threw his support behind C&NW. Later, a C&NW official commented that the implication behind Ogilvie's original hesitancy toward the C&NW was rooted in a desire to get it to "put up some more dough."⁶⁸ Meanwhile, the governors of Wisconsin, Minnesota, and Iowa all came out in support of the Grand Trunk's offer, citing how "it would maintain (rail) service in many small communities."⁶⁹ Yet McMillen remained silent, refusing to comment on the matter until the ICC released its opinion.⁷⁰ The debate about which company offered the best chance of survival continued into the winter until January 19, 1984, just when it appeared certain that it would be a two-person race for the Milwaukee Road, a third hat entered the ring, the Soo Line Railroad.

In many regards, the Soo Line was a mix of the Grand Trunk and the C&NW. Half owned by the Canadian Pacific railroad, the Soo Line operated about 7,500 miles of track throughout the Midwest, except for Iowa, a market it had long coveted. Financially, the Soo Line was stable, with first-quarter profits tripling in 1984.⁷¹ Although the Soo Line seemed to combine the best aspects of C&NW and the Grand Trunk, it still faced an uphill climb. Before the Soo Line even officially made its offer, rumors of its entry caused C&NW stock to drop by over 13% on December 13, 1983. The drop, however, was not rooted in the belief that the Soo Line would

acquire the Milwaukee Road. Instead, analysts feared the Soo Line could cause a “delay in its (C&NW’s) reaping of millions of dollars in tax credits from the Milwaukee Road transaction.”⁷² Potentially harming the C&NW’s long-term viability.

With the stage set, the battle for control of the Milwaukee Road shifted primarily to the courtroom. Despite opposition from the C&NW and the Grand Trunk, McMillen allowed the Soo Line to submit a bid for the Milwaukee Road. McMillen believed "the court would be remiss not to let those two railroads (Soo Line and C&NW) get involved in these proceedings."⁷³ McMillen’s desire to have multiple bidders for the Milwaukee Road signified how he hoped competition would lead to a better acquisition proposal. After the Soo line made an initial offer of \$40 million, the C&NW quickly upped its bid to \$60 million.⁷⁴ Not to be outdone, the Soo Line increased its bid, leading to a bidding war between the Soo Line and C&NW. A month after the initial increase, the Soo Line’s bid had over quadrupled to \$168.5 million while the C&NW’s sat at \$100 million.⁷⁵ Understanding that the status quo had changed, Ogilvie rescinded his endorsement of the C&NW’s offer, and took a neutral stance, perhaps hoping to spur them to once again up their capital.⁷⁶ To set themselves apart from the C&NW, the Canadian-backed railroads began to explore outside-of-the-box approaches regarding the Milwaukee Road. A fourth proposal that would keep the Milwaukee Road independent for the time being in hopes of spurring a more opportune merger was also rejected during this time.⁷⁷ Unwilling to increase the capital of its original offer, the Grand Trunk quickly fell out of contention. While it was still the preferred partner of those serviced by the Milwaukee Road, the Grand Trunk tapped out in September of 1984, leaving the C&NW and the Soo Line to battle for the Milwaukee Road.⁷⁸

After several months of back and forth negotiations, by mid-November of 1984, the C&NW and the Soo Line submitted their final bids for the Milwaukee Road. The battle was now a waiting game. In mid-October, the C&NW bid ballooned to a reported staggering \$786 million, an increase of over \$210 million compared to its previous offer.⁷⁹ While McMillen encouraged the Soo Line to increase its offer, with no additional capital available, it held at \$570 million.⁸⁰ Upon receiving the higher offer, Ogilvie again threw his support behind the C&NW, flatly

stating in an interview with the *Chicago Tribune* that “money was obviously a critical factor” in his decision to endorse the C&NW’s offer. The same article even predicted that McMillen would go along with Ogilvie’s recommendation⁸¹ However, over the summer, the Soo Line’s offer had gained traction. With the Grand Trunk out of the picture, state governors and DOTs shifted their support to the Soo Line. Officials from Wisconsin, including governor Tony Earl, even penned a letter to the ICC urging them not to approve the C&NW’s offer, fearing that a combined C&NW and Milwaukee Road would destroy “Meaningful railroad competition.”⁸² Soon after, at a hearing, all four ICC commissioners recommended the Soo Line’s offer. The ICC’s choice to endorse the lower capital offer over the C&NW’s confused most of the parties involved. A C&NW spokesperson was so bewildered by the decision that he openly admitted, "No one here understands what happened yet," as he was apparently unsure of what the decision meant.⁸³ Still, with the Staggers Act removing the ICC’s power to approve mergers, it could only recommend to McMillen how he should rule. The decision that would emerge from McMillen’s courtroom would nevertheless be his own.

On February 8, 1985, what seemed improbable less than a year prior materialized: McMillen selected the Soo Line’s bid. Despite the Soo Line only being able to put up \$570 million compared to the C&NW’s offer of \$780 million, McMillen believed “preserving rail competition was more important than a bigger profit for the Milwaukee Road’s owners.” Most likely understanding public interest to be insufficient reasoning in his era of deregulation, McMillen also grounded his decision in national security, arguing that additional track abandonments would harm the country’s transportation abilities in the event of another world war.⁸⁴ Still, McMillen told the *Chicago Tribune*, “The public interest is not something you can attach a value to. The money shouldn’t control the decision,” adding how “he (McMillen) gave more weight to public interest considerations than to the fact that Chicago Milwaukee (shareholders) would gain about \$210 million.”⁸⁵

However, McMillen was not ignorant of the dispute that his decision would cause. He told the court that, “Nobody knows how this controversy will turn out,” pointing to his

understanding that the C&NW and The Milwaukee Road could appeal his ruling.⁸⁶ Indeed, almost immediately, the Milwaukee Road filed an appeal against the decision, citing the money stockholders would lose out on because of the \$210 million less offer. An attorney for the Milwaukee Road even stated that “McMillen was derelict in his fiduciary responsibility to the estate (the Milwaukee Road).”⁸⁷ But the appeal would be one-sided, with the C&NW withdrawing its offer soon after McMillen released his decision. The C&NW likely understood that acquiring the Milwaukee Road had become a lost cause and didn't want to waste additional resources pursuing it. The C&NW blamed \$4.2 million of its \$10 million loss for the fourth quarter of 1984 as stemming from “acquisition costs” related to its pursuit of the Milwaukee Road.⁸⁸ With no legal pushback from the C&NW, the Soo Line would officially close its acquisition of the Milwaukee Road on February 20, 1985, over eighty-five months after it initially declared bankruptcy.⁸⁹

More surprising than McMillen's decision was Ogilvie's reaction: Ogilvie cried. The grizzled veteran, known for his imposing demeanor, broke down on the witness stand upon hearing Judge McMillen's decision, despite his earlier outward projection that he had no preference in the bids between the two companies.⁹⁰ To say for certain that Ogilvie's reaction was because of collusion between him and the C&NW would be inappropriate. However, this obvious public display of disapproval over the Soo Lines's now imminent acquisition of the Milwaukee Road points to him having more of a stake in the process than his official position allocated. The cause of Ogilvie's tears was most likely the substantial decrease in payout he would receive because of the Soo Line's lower offer.⁹¹ For much of the Milwaukee Road proceedings, money appeared to be at the top of Ogilvie's mind instead of the best interest of the rail line. Years later in a private letter, McMillen recalled how, during the proceeding, as a reward for Ogilvie's turnaround of the railroad, McMillen allocated \$100,000 to him as a bonus. Dissatisfied with such a meager amount, Ogilvie petitioned for an additional \$3 million.⁹²

Regardless of corporate executives' disapproval of the Soo's acquisition, the news exhilarated those who lived along the affected lines. A *Des Moines Sunday Register* reporter

called the merger “one of the biggest upsets in the annals of corporate railroad battles.”⁹³ A resident of Manchester Iowa wrote an opinion for the *Cedar Rapids’ Gazette* where he called McMillen “a very wise man for giving the Soo Line rights to purchase the Milwaukee Road,” adding that “he is keeping what is left of it out of the monopolizing hands of the North Western.”⁹⁴ The news only got better for Iowans as the Soo Line kept its word and maintained the Milwaukee Road’s presence in the state. When asked about the 75 Milwaukee Road workers in Davenport, a Soo Line spokesperson put it frankly, “Our plans are business as usual.”⁹⁵ Shippers also favored the Soo line’s offer. The manager of a co-op elevator told *The Des Moines Register* that the acquisition would “keep them competitive and provide savings to the farmers.” The head of the United Transportation Union's Milwaukee Road section later added, “We anticipate good things and high traffic levels.”⁹⁶ Untold thousands of blue-collar midwestern workers could now rest easy knowing that their rail service was safe for the time being.

Conclusion

The effects of the Soo Line acquiring the Milwaukee Road resonated throughout the Midwest. The Soo Line continued to operate all of the Milwaukee Road’s trackage until 1987. Instead of abandoning its overlapping trackage with the Milwaukee Road, the Soo Line spun some excess lines off into a separate corporation: The Wisconsin Central Ltd operated about 1,350 miles of former Soo Line trackage throughout Wisconsin and Illinois profitably for fourteen years before Canadian National acquired it in 2001.⁹⁷ The C&NW continued to shed trackage into the early 1990s until the Union Pacific Railroad acquired it in 1995.⁹⁸ Ogilvie’s connection with the C&NW would continue past their respective deaths. Although he died in 1988, the former “Chicago and North Western Terminal” in downtown Chicago was renamed the “Richard B. Ogilvie Transportation Center” in 1997.⁹⁹ McMillen, on the other hand, has not received the same positive remembrance. Upon appeal, a judge concluded that it was “unsettling” for McMillen to keep the \$ 210 million from the Milwaukee Road’s shareholders, calling it a “Judicial error.”¹⁰⁰ Despite the harsh criticism, McMillen was not around to hear it.

He retired in September 1985, opening a private law office where he worked until shortly before he died in 2002.¹⁰¹ Still, while McMillen lacks widespread contemporary respect, his choice to rule in opposition to the trends of the Staggers Act and deregulation preserved rail competition in the Midwest.

While McMillen's decision stopped a monopolistic merger, his precedent proved to be the outlier, not the rule moving forward. Since 1993, the number of class I railroads in the U.S. has decreased by over 50% from 15 to just 7.¹⁰² Even the Soo Line has fallen to the same monopolistic practices that the C&NW exhibited. In 2023, the Canadian Pacific, the corporate successor to the Soo Line, merged with the Kansas City Southern Railroad to form the first railroad to operate across Canada, the U.S., and Mexico, despite a controversial approval process. In a strange twist, Richard Wolfe's fear of the Soo Line eventually reaching the gulf proved accurate, although it had far less disastrous consequences. Still, the effects of deregulation are incredibly harmful. McMillen's rejection of C&NW's offer undeniably shows that the cost of railroad revitalization was not just "a few thousand miles of rusty branch lines," as Albro Martin states, but rather the livelihoods of thousands of rural Americans.¹⁰³ By examining the Milwaukee Road's bankruptcy proceedings, the negative effects of railroad deregulation become apparent. Because of the isolated nature of many rural communities, they lacked the reach to properly disseminate the negative effects of rail deregulation resulting in their stories being widely forgotten. By placing the reaction of said rural communities in the context of the Milwaukee Road's bankruptcy, it is impossible to the notion that the Staggers Act and rail deregulation only had positive effects. Without a doubt, McMillen's intervention in the Milwaukee Road bankruptcy proved necessary, with the primary downside being lower payouts for the Milwaukee Road stockholders.

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- 2 Carol Jouzaitis, "Soo Closes \$570 Million Purchase of Milwaukee," *Chicago Tribune* (Chicago Tribune, February 20, 1985), www.chicagotribune.com/news/ct-xpm-1985-02-21-8501100743-story.html
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- 4 Stanley W. Johnson, *The Milwaukee Road Revisited*. Moscow, ID: University of Idaho Press, (1997), Roger H. Grant, "The North Western. A History of The Chicago & North Western Railway System." Northern Illinois University Press, 1996, Historian H. Roger Grant has even argued that the rail regulation, which was implemented in the late nineteenth century and existed until its repeal by the Staggers Act of 1980, was an unnecessary hindrance to some operators as they generally had the "public's best interest" in mind. Roger H. Grant, "Railroaders and Reformers: The Chicago & North Western Encounters Grangers and Progressives." *The Annals of Iowa* 50, no. 7 (1991): 772-786. Wm. H. Schmidt, "The Singular Milwaukee—A Profile." *Railroad History*, no. 136 (1977): 5–21. <http://www.jstor.org/stable/43523966>.
- 5 Scholars such as Richard Saunders and Albro Martin have argued that the deregulation of the rail industry resulting from the Staggers Act allowed railroads to partake in essential mergers that addressed their unique challenges. Richard Saunders. *Main Lines: Rebirth of the North American Railroads, 1970-2002*. DeKalb, IL: Northern Illinois University Press, (2003). Albro Marin. *Railroads Triumphant: The Growth, Rejection, And Rebirth of a Vital American Force*, New York, NY: Oxford University Press, (1992) Historians have long pointed to the latter half of the 20th century as a period of rebound for the rail industry. However, these interpretations focus exclusively on the Staggers Act's effect on a corporate level, ignoring its impact on those who lived along the railroads. The one key exception to this rule is an early work by Saunders, who in 1978 argued that the economic struggle facing the railroads of the era, primarily the government-created behemoth Conrail, resulted from the operators' own blunderings. He points to the merging of rail companies with considerable overlapping trackage and their refusal to adapt to changing demands as the core of the industry's struggle. Richard Saunders,. *The Railroad Mergers and the Coming of Conrail*. Greenwood Press, (1978).
- 6 Johnson, *The Milwaukee Road Revisited*. Grant, "Railroaders and Reformers: The Chicago & North Western Encounters Grangers and Progressives."
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- 8 Mark Burton, and Paul Hitchcock. "The Evolution of the Post-Staggers Rail Industry and Rail Policy," in Jeffrey T. Macher and John W. Mayo, eds., *U.S. Freight Rail Economics and Policy: Are We on the Right Track?* New York: Routledge, (2019). pp. 3–31. Richard N.Langlois, *The Corporation and the Twentieth Century: The History of American Business Enterprise*. Princeton University Press, (2023). Michael L. Pettus, Yasemin Y Kor, Joseph T Mahoney, and Steven C Michael. "Sequencing and Timing of Strategic Responses after Industry Disruption: Evidence from Post-Deregulation Competition in the US Railroad Industry." *Strategic Organization* 16, no. 4 (2018): 373–400. <https://www.jstor.org/stable/26540164>. Scholars Douglas W. Caves, Christensen R. Laurits, and Joseph A. Swanson co-authored an article unsure of the Staggers Act shortly after its passage. In celebration of the Act's thirtieth anniversary, they reevaluated their original stance and concluded that the political motivation for the act has proven just, adding that the deregulation of the rail industry has created "No moral hazards" but rather the economic stabilization of a historically fluctuating industry. Douglas W. Caves, R. Christensen, R. Laurits, and Joseph A. Swanson. "The Staggers Act, 30 Years Later: The Authors of a 1981 Article on Railroad Deregulation Review their Observations." *Regulation* (Washington. 1977) 33, no. 4 (2010): 28.
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- 10 Martin. *Railroads Triumphant: The Growth, Rejection, And Rebirth of a Vital American Force*, Mark Burton, and Paul Hitchcock. "The Evolution of the Post-Staggers Rail Industry and Rail Policy, Richard N.Langlois, *The Corporation and the Twentieth Century: The History of American Business Enterprise*. Michael L. Pettus, Yasemin Y Kor, Joseph T Mahoney, and Steven C Michael. "Sequencing and Timing of Strategic Responses after Industry Disruption: Evidence from Post-Deregulation Competition in the US Railroad Industry." Douglas W. Caves, R. Christensen, R. Laurits, and Joseph A. Swanson. "The Staggers Act, 30 Years Later: The Authors of a 1981 Article on Railroad Deregulation Review their Observations."
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- 12 John F. Stover. *American Railroads (2nd ed.)*. (Chicago: University of Chicago Press. 1997): 218–235
- 13 John H. White, Jr. *The American Railroad Passenger Car*. (Maryland: John Hopkins University Press, 1978): 491-492
- 14 Saunders. *The Railroad Mergers and the Coming of Conrail*.

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