

Problems in Mass Transportation and Land Acquisition

ANNE X. ALPERN, Attorney General of Pennsylvania, Harrisburg, Pa.

● **MASS TRANSPORTATION** is the most important unsolved problem in the United States today. Hardening of the traffic arteries in metropolitan districts throughout the country is threatening the life of American cities. Fixed street patterns and the staggering cost of improved mass transportation systems and of new traffic highways, either below or above ground, have made local governments fearful of grappling with the problem.

Increasing dependence on the automobile, which is entered from the back door of one's home and parked close to the front door of one's office, has made normally venturesome planners uneasy about adopting a large-scale, costly, mass transportation construction program. The riders might stay away in droves, reluctant to give up the convenience of the private automobile, costly as it is, and willing to accept the very real burden of high-priced parking facilities rather than to walk short distances to the point of destination. This is a strange age, in which people suffer untold hardships because of repeated wars, yet will not accept minor inconveniences for major savings.

There are no easy solutions. Committees are appointed, surveys are made, but decisive action on an over-all pattern is postponed from year to year. A few steps are taken in limited areas, while master plans remain ignored even by the masters who created them. Everyone is afraid of the cost, and no one is sure of the answer.

The situation has not been helped by the plight of the mass transportation companies, which for decades chose high returns on their investments as against recognition of the obsolescence of their equipment and the need for conversion to rapid, maneuverable mass transportation systems which could give good service at reasonable cost.

The public utility commissions in many areas refused to assume the forthright, realistic position which would have prevented the breakdown of mass transportation. Demands were made by cities that obsolete transportation equipment be eliminated from the rate base and the transportation companies be required to convert to modern equipment in a reasonable period. Had this been done, there would have been immeasurable gains, not only for the public but also for the transportation companies. Conversion would have taken place over the past 20 years, not in one fell swoop but in an economically sound long-range and unburdensome manner. Modern transportation methods would have resulted in far lower maintenance costs, even though wages were high. Rapid service would have prevented the exodus that took place from mass transportation as rates increased and service dropped. The lost riders did not return.

While the public utility laws require companies to operate at reasonable rates with adequate service, this requirement was not given proper weight. The rates became increasingly higher, and the service increasingly poorer. As a result, riders were driven away from mass transportation by the thousands. Individual cars and car pools were the answer to increased rates and lower service.

The transportation companies reaped high returns from their investments for generations. Today they are bitter in their laments about their plight without accepting any of the responsibility for what has occurred. Mass transportation companies are attempting to unload the mass transportation systems upon the municipal authorities, asking more for obsolete systems than they are worth. Although some of the transportation systems still have a core of usability, many of the systems are being offered at prices too high to justify their purchase. Excessive valuations will deter municipal acquisition. The municipalities can chart out express highways and new air-conditioned buses at lower cost than is demanded for the sale of some of the old systems and the

addition of new equipment. Many of the transportation companies want to unload the companies but retain management. Some of the local governmental units are fearful of assuming the management problem because of the pressures for political appointments in an area where trained personnel are required.

The electric sweeper made the carpet beater disappear from the American home. The investment in the carpet beaters could not be foisted on a public that had better methods available to it. The straight razor was replaced by the safety razor. No one attempted to unload the straight razor factories as a condition precedent to the establishment of factories making safety razors. They would have been laughed out of the conference room if such an attempt had been made. The gas mantle gave way to the electric light bulb. Nobody thought of buying out the gas mantle factories as a means of establishing an electric street lighting company.

It is only in the field of transportation that the people are being burdened with the cost of both the old and the new. If mass transportation must be handled on a governmental level, it is well that it begin as a new venture and not as a continuation of obsolete, antiquated, and inefficient operation unless the price is right for acquiring existing franchises.

The enormity of the problem of mass transportation, its cost, its uncertain future, and the inability of local communities to grapple effectively with its solution, make it imperative that the Federal government take leadership in this field. Contributions and loans are needed, but that is not the complete answer. Leadership and guidance are absolutely necessary for realistic solutions. The problem is grave, and it must be handled on a national level, forthrightly, vigorously, and promptly.

The cultural life of America cannot survive as a series of shopping centers, miracle miles, and roadside gasoline stations. It must depend on the city as the seat of culture and communication. Universities, theaters, industry, and government are the focal points for the interchange of ideas and progress. Suburbia can never cancel the value of the central city.

If American cities are worth saving, the Federal government must come to the rescue of the cities, which are the source of most of the Federal tax income, by helping to plan and finance sound transportation systems. The fact is that out of the tax turkey, the white meat goes to the Federal government, the dark meat to the state, and only the wings and wishbones to the cities. From this residue it is impossible for the cities to work out their own economic salvation in the field of transportation.

The American people have been willing to face squarely the problems of cancer, polio, and other crippling diseases, but they are not willing to face up to the problems of this most crippling aspect of American urban life. Millions are spent in attempting solutions in certain areas where success is speculative, but in this important and significant field, where a solution could be achieved in a reasonable period, operation has been dilatory, piecemeal, and ineffectual.

Creation of a Department of Urban Affairs at the Cabinet level, with a separate expertly-staffed Division of Transportation, would be a giant stride forward. The President could make a marked contribution to the solution of the mass transportation problem by giving it the status and the leadership on a national level that is imperative for its realistic solution.

NEED FOR INDEPENDENT APPRAISERS FOR PROPERTY TAKEN FOR PUBLIC USE

Millions of tax dollars are thrown away in overpayments for land acquisition of property needed for public improvements. The extensive Interstate Highway construction and the vast construction programs undertaken by states throughout the United States make the problem of excessive payments for land acquisition increasingly important.

Both the State and the Federal governments have every desire to protect the interests of the owner whose property is needed for the public good. The Constitution requires just compensation for property taken. The states and cities have no desire to defraud property owners of the true market value of their properties. The difficulty is that although most property owners are reasonable in their demands, some ask for compen-

sation at values having no relation whatever to the price of similar land in the area. It is this relatively small group that has caused major problems. On appeals from Boards of Viewers, they have insisted on valuations that are unsound and unfair.

Condemnation cases are tried by juries who have no knowledge of real estate and who reach their conclusions on the basis of expert testimony. The wide disparity in the valuations placed on property taken for public improvement has been a source of grave concern to Federal, State, and local governments. The juries, confused by figures that are widely divergent, frequently solve their dilemma by the expedient of adding the figures of the two opposing experts together and dividing by two. This simple arithmetic solution has cost the taxpayers millions of dollars.

Every condemnation lawyer can cite examples of this problem. There are cases where a piece of property is appraised on one side at \$20,000 and on the other side at \$250,000. In a recent case, property was appraised at \$75 on one side and at \$53,000 on the other side.

If such disparity existed in two appraisals in any other area, one appraiser would be dismissed summarily. If a chandelier, a desk, a rug, or any other article, were appraised so disproportionately, the court would decide that fraud was being committed by one of the appraisers and call attention to the palpable falseness of the figures given. Amazingly enough, in the appraisal of land the courts may indicate disapproval, but they have become so accustomed to the outrage that they accept it as a fact of condemnation. Only in cases where the results are shockingly unfair do the courts grant new trials.

These overpayments could be used to finance the educational system. They could be used to improve the penal systems. It is wrong that the views of opposing appraisers are accepted as if they were sparring partners in a boxing ring and the public is allowed to make vast overpayments for the needed acquisition of private property for public purposes.

The legislatures should authorize courts to appoint impartial appraisers to assist the juries in reaching honest verdicts, with the costs being assessed against the parties. The professional appraisal societies should take a firm position on this problem so that honest appraisers would not be adversely affected by the disrepute which results from dishonest appraisals.

Recently, the author spoke to the American Institute of Real Estate Appraisers and presented the problem as one in which that group had a strong moral and professional responsibility. Significantly, constructive action was taken by the organization, which adopted a resolution requiring every member in the future to file a written report on the appraised value that was testified to by him in any judicial or public proceeding involving property value, damage, or benefits. This will bring wide divergencies in valuation before the group for appropriate action. It is a major step in the right direction.

The Federal government could assist in the solution of this problem by giving special benefits to those states that use impartial experts in land acquisition, just as it has given incentive payments to the states that do not allow billboards on Interstate Highway systems. The Attorney General should survey this situation and recommend realistic measures.

This problem cannot be placed entirely on the doorstep of the appraisers. It is a responsibility of the legislature and of the courts as well. There must be unflagging zeal in giving property owners their just compensation and equally unrelenting determination to keep dishonest property owners from unjust enrichment at the expense of the taxpayers. There is nothing that brings the law and government in greater disrepute than unequal justice. There is nothing that strengthens democracy more than the just treatment of all persons with similar problems.