

# Harper's

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- Jonathan Kwitny 14 **THE GREAT TRANSPORTATION CONSPIRACY**  
How GM and its allies dismantled America's mass transit.
- Wayne Biddle 22 **MAD STRATEGIES**  
Robert McNamara's gift to Reagan.
- Fred Reed 26 **THE COLOR OF EDUCATION**  
Misguided racial policy in Washington's schools.
- Tom Bethell 33 **HARD-MONEY MEN**  
At the goldbugs' survival conference.
- George Feifer 41 **RUSSIAN DISORDERS**  
Economic disaster and the end of the socialist dream.
- Marilynne Robinson 59 **ORPHANS**  
A story.

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## ARTS AND LETTERS

- Hugh Kenner 71 **BOOKS**  
The Oxford dictionary comes to America.
- Seymour Krim 75 **MONUMENTAL TRIVIALIST**  
John O'Hara and his duplicating machine.
- Frances Taliaferro 78 **IN PRINT**  
A life of Alice James.
- William Tucker 84 **REVISIONS**  
What Adam Smith really thought about business.

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## DEPARTMENTS

- 4 **LETTERS**
- 5 **MACNELLY**
- Lewis H. Lapham 11 **THE EASY CHAIR**  
Gifts of the Magi.
- 56 **THE PUBLIC RECORD**
- Steven Brodner 58 **ARS POLITICA**
- Tom Wolfe 70 **IN OUR TIME**
- Alexander Cockburn 80 **THE FOURTH ESTATE**  
Blood and ink in El Salvador.
- Barbara Grizzuti Harrison 88 **AMERICAN MISCELLANY**  
Beverly Hills bizarreries.
- E. R. Galli and Richard Maltby, Jr. 96 **PUZZLE**  
Vicious circles.

Cover photograph by Sam Varnedoe



# THE GREAT TRANSPORTATION CONSPIRACY

A juggernaut named desire

by Jonathan Kwitny

*What's good for General Motors is good for the country.*

—Charles Wilson, 1953

**W**HEN CHARLIE Wilson was toiling in the General Motors executive suite, earning his future Cabinet appointment as secretary of defense, GM, along with some of the oil companies, was steering the country toward its current energy predicament. Few remember it, but before the automobile companies became predominant, the country relied on centrally generated electricity for city transportation. It was relatively clean and energy-efficient. There were streetcars and off-street railways. There were also trackless trolleys—electric buses powered by overhead wires and able to maneuver through traffic.

Without realizing, much less debating the consequences, the country turned its transportation policy over to GM and its automotive allies. What followed was the destruction of mass transit; the country became almost totally reliant on the private automobile, with its necessary consumption of foreign oil. Of course, most people would consider it unfair to blame the demise of mass transit on several big corpora-

tions. They just manufactured the car and the bus—to the delight of millions.

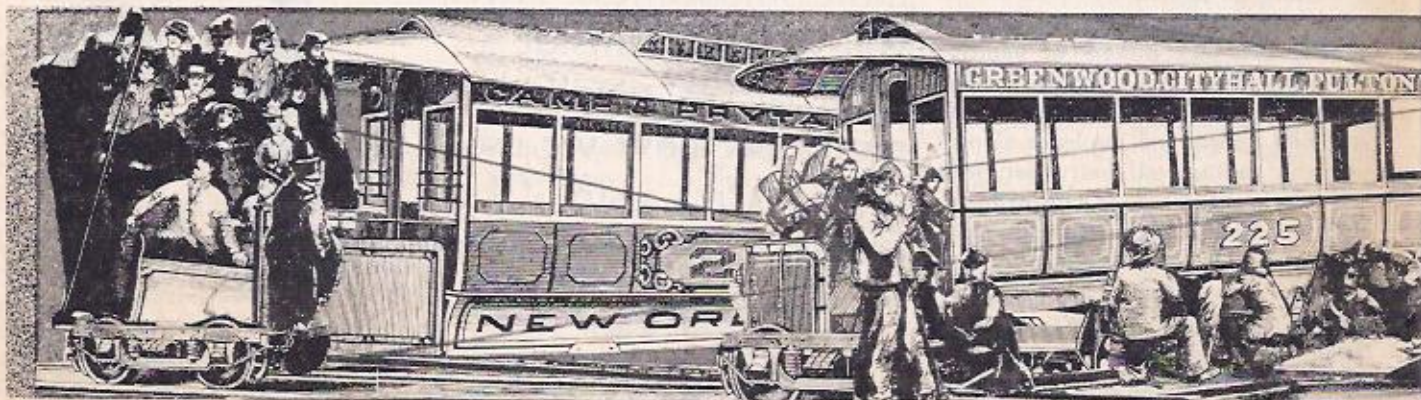
But it wasn't that simple. When GM and a few other big companies created a transportation oligopoly for the internal-combustion engine—so convenient until the cheap gasoline ran out—they did not rely just on the obvious sales pitch. They conspired. They broke the law. This was all proved at a little-remembered trial in a federal court in Chicago, in 1949. After more than a month of sworn testimony, a jury convicted the corporations and several executives of criminal antitrust violations for their part in the demise of mass transit. The convictions were upheld on appeal.

In many places, mass transit didn't just die—it was murdered. No doubt the mass availability of the automobile inevitably would have changed travel habits to a great degree, but it will never be known to what extent electrified transport would have died on its own. The big conspirator companies were unwilling to entrust their fates to the market. Instead, they methodically removed the competition. In knowing violation of the Sherman Antitrust Act,

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they used their economic power to take over a small bus company and, through it, acquired and dismantled one electrified mass-transit system after another, replacing them with buses. The buses, besides being built and supplied by GM and the oil companies, never had the same appeal for riders that the electrified transit systems did, and merely added to the allure of the private car. Then the big companies that orchestrated the demise of the trolley tried to cover over their own tracks as surely as they covered over the tracks of many a rail line. The GM conspiracy case is a fine example of what can happen when important matters of public policy are abandoned by government to the self-interest of corporations—something that is occurring right now in the realm of energy.

**R**EFERENCES TO the conspiracy over the years have been few and cursory. It was cited briefly in 1974 by Congressional-committee staff member Bradford Snell in "American Ground Transport," his report on monopolistic practices in the automobile industry. The committee published the report along with a reply by General Motors,





which mostly repeated the defenses that the jury had chosen not to believe at the trial: that the dismantled electrified transit systems weren't profitable, and that the whole thing was an innocent effort to help a customer, the affiliated bus company.

There was no evidence in the committee report, or in an obscure book that mentioned the case last year, or in some occasional references Ralph Nader has made to the case, that the trial transcript itself had been dug up and consulted. GM's reply said that because the indictment dealt with anti-trust violations—"a close point of law," in GM's words—the case "lends no support" to the notion that GM induced the destruction of mass transit. The transcript of the trial, however, says otherwise.

The transcript and other evidence from the GM case are in two battered packing cartons in a federal warehouse near Chicago. That material makes this point beyond a reasonable doubt: There was for many years a criminal conspiracy behind our national transportation policy, and it was directed by some of the biggest corporations in the country. As spelled out in the court record, the conspirators did their work in many cities. They schemed from the mid-1930s through the 1940s. Electrified-rail mass-transit systems, which carried millions of riders, were bought and junked. Tracks literally were torn out of the ground, sometimes overnight. Overhead power lines were dismantled, and valuable off-street rights of way were sold.

After reading the testimony and court filings, I interviewed dozens of transit officials all over the country to find out if the old electrified system could have served us today with both convenience and savings in energy. No more than three of these officials were

even aware of the GM conspiracy case, and none knew the details. They were, however, aware that a series of "mistakes" had been made in transportation planning back in the 1930s and 1940s.

What keeps millions of American city dwellers and suburbanites from greatly reducing their use of gasoline by riding transit lines today is the enormous cost of building new trolley systems. But evidence from the trial shows that this cost might have been, to a large degree, avoided. Transit officials who remember the rails, power lines, and generating stations that were once in place say these facilities, if left intact, could have formed the nucleus for a modern American transit system. Electrified trains and trackless trolleys are not only cheaper to run than automobiles, they are substantially cheaper to run than diesel buses. Riders tend to prefer them to buses. The difference in cost can be expected to widen with each oil-price increase and with the introduction of new power-conserving devices on railcars and trolleys. But in most American cities the rails and wires are gone.

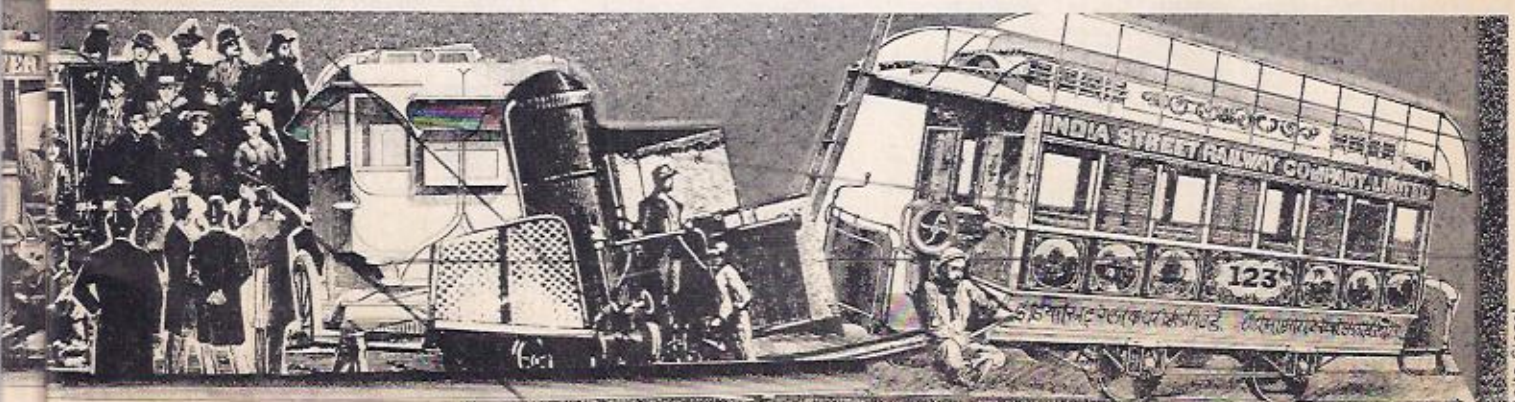
Americans didn't need a lot of arm twisting to give up mass transit for the private car. Gasoline was twelve cents a gallon in the 1930s, and the air was clean. Although the internal-combustion engine was no doubt attractive, some big companies promoting the engine evidently considered the attraction insufficient for the product to succeed legitimately. The conspirators in this case included not only General Motors but also Standard Oil of California, Phillips Petroleum, Mack Manufacturing (the big truck maker), and Firestone Tire & Rubber, among others. Though all were convicted of antitrust violations for what they did, the token punishments they received scarcely marred the success of their venture.

IRONICALLY, A Congressional anti-trust action in 1935 was what made it possible for the conspiracy to succeed as easily as it did. The new law tried to break up electric-utility monopolies and required power companies to divest themselves of ancillary businesses. Most of the nation's transit systems had been started by electric-utility companies before the days of household power. By the 1930s, the retail sale of electricity had become the main business of these power companies, and transit was just a sideline. But the forced sell-off came just when the internal-combustion engine was ready to substitute for electrified transit.

It was at about this point that the GM conspirators got together with a tiny, family-owned bus service and tutored and bankrolled it as it gobbled up one trolley system after another. The front for GM was National City Lines, Inc. After it had destroyed scores of rail and trolley systems on the pretext that buses would be more profitable, National City Lines showed its commitment by promptly getting out of the bus business and putting its assets into intercity trucking.

Perhaps the most striking example of what happened is in Los Angeles, which has become a frightening mutation of human life produced by the automotive gene. Though hard to believe now, Los Angeles once had a heavily used urban rail system extending from Newport Beach and Long Beach, through downtown, on to Pasadena, and into the San Fernando Valley—perhaps the best system in the country. The conspirators bought and dismantled it in stages during the 1940s. Taxpayers now are faced with building a similar system at a cost of billions. Year after year they have rejected the idea because of this cost.

Because the conspirators continued





## THE GREAT TRANSPORTATION CONSPIRACY

to deny the charges even after conviction, we are deprived of the kind of thorough narrative that might have been provided if even one guilty executive had crossed over and testified for the government. But the corporate letters and memoranda unearthed by federal prosecutors, and the explanations offered by the executives who tried to justify their actions in their own defense, tell a vivid enough story. It left the jury no reasonable doubt that the big motor, tire, and oil concerns knew they were breaking the law and acted deviously to cover up for it.

The story personalized itself in the unlikely career of E. Roy Fitzgerald, who quit school in the seventh grade to work, as irony would have it, in a railroad camp. In the 1920s he and two brothers saved up enough money to start a bus service over the two miles between Eveleth and Leonidas, Minnesota. By 1933 they had moved up to a somewhat longer intercity route, from Chicago to Paducah, Kentucky. That was when a GM salesman began talking to them about the virtues of local bus service, and persuaded them to buy the transit franchise in Galesburg, Illinois, which was for sale at the time. GM said it would be glad to help Fitzgerald and his brothers meet the purchase terms if they would agree to replace the existing streetcars with GM buses.

Fitzgerald apparently didn't know it, but GM had been trying to create a successful showcase for its buses for many years, according to the testimony of Irving Babcock, president of the GM truck and bus division. "We were having great difficulty in convincing the power companies to motorize and give up their streetcars," Babcock testified. So, he said, "I went to my executive committee and asked for an appropriation to invest \$300,000 to help finance a few of these small cities." GM bought the transit systems in Kalamazoo and Saginaw, Michigan, and Springfield, Ohio, and proceeded to convert them from rail to bus.

But the transit industry missed the hint. Cities refused to give up their rail lines voluntarily, despite the presence of these showcases and the best efforts of GM salesmanship. So GM decided that more force-feeding was necessary, and to accomplish this in the best public-relations light, GM chose to stop buying transit systems directly and to act instead through an independent, or

purportedly independent, bus operator. It was at this point that GM signed a deal with Roy Fitzgerald.

So Galesburg, too, lost its streetcars. Where there were rails one day, there was asphalt the next. The enthusiastic Fitzgerald caught wind of opportunities in a few more Illinois towns, and soon he was in Detroit, in the office of Babcock himself, to negotiate financing to take over the transit franchise in East St. Louis. Such direct dealing with the GM division president indicates that Fitzgerald was no ordinary customer. He had GM's money behind him, which made it easy to buy transit systems, particularly after Congress, in forcing utilities to divest, forced them onto the market. Undeniably, as GM's defense kept pointing out, urban railway companies suffered a profit drop-off in the 1930s, and some were losing money. But, as Herbert Listman, general sales manager of the bus division at GM, testified, the same was true of other businesses during the Depression—including bus lines.

**O**N THE STRENGTH of GM's checkbook, Fitzgerald moved from East St. Louis to Joliet, Illinois, where, he testified, "they discontinued operating streetcars in the city one night and we started operating modern buses . . . the next day." Quickly into the fold came Tulsa, Oklahoma; Jackson, Michigan; and Montgomery, Alabama. General Motors even provided engineering surveys showing Fitzgerald's operation just what to do. By 1936, Fitzgerald had moved into Beaumont and Port Arthur, Texas, and Cedar Rapids, Iowa. Again, rail lines were either torn up or paved over. Fitzgerald instructed the transit systems he was dealing with that he would buy in only "if a deal could be made with the city for complete bus operation—that we were not interested in operating streetcars."

The Fitzgerald bus systems were now big business, and clearly some kind of corporate structure was needed. Just as clearly, it was not really Fitzgerald's business, so he could not set up the corporate structure on his own. Early in 1936 he and his chief underling, Foster G. Beamsley, met in Detroit again with GM division president Babcock and sales manager Listman. They decided to form National City Lines,

Inc., as a holding company for the various transit ventures. Obviously there would be further expansion—opportunities beckoned all over the map. Apparently hoping not to have to foot the bill for all this, the GM men suggested that National City Lines try to finance its expansion with bank loans and a public stock sale.

The result of these money-raising efforts over the next six months is significant because it contradicts the cover story that GM and the other conspirators later put forward. The companies argued in court that they had gone in with Fitzgerald to create modern, profitable bus lines out of broken-down rail systems. But the financial community disagreed at the time. The banks refused to lend any money. "They did not think it was the proper time," Fitzgerald explained on the witness stand. National City Lines did succeed in raising \$1.9 million from a public stock sale, but only after agreeing to the most extreme terms—15 percent off the top as fees to the brokers, which was practically Mafia rates.

Moreover, \$1.9 million wasn't nearly as much as was needed. So in October Fitzgerald and Beamsley were back in Babcock's office at GM for more capital. Also present was Glenn Traer, an executive from Greyhound, the bus company. Babcock later testified that GM had gone to Greyhound earlier to help pay for the takeover and destruction of some of the rail lines Fitzgerald had started with in Illinois. (Neither Greyhound nor any of its executives was charged in the conspiracy case.) Now Greyhound agreed to participate with GM in a much wider venture, but only if others were brought in to share the load. A lot of money would be needed. The B. F. Goodrich Company seemed a logical choice to approach because a tire concern would certainly benefit from transforming city railways into paved streets. But B.F. Goodrich declined to join the conspiracy. So Firestone was approached and agreed to come in. By their later actions, the conspirators appear to have been well aware that they were violating the Sherman Antitrust Act, which prohibits companies from joining together to restrain competition or to sabotage competitors.

But they were quite undeterred by the law, which may be a fair comment on its general effectiveness.



EVENTUALLY the conspirators invested about 10 million 1930s dollars in the plot. GM and Firestone stationed their own service personnel where Fitzgerald operated his buses. Stuart Moore, a Greyhound maintenance executive, was put on the National City Lines staff and board of directors to help supervise the conversion of the rail systems. At least one government regulator, who acknowledged at the trial that he had helped engineer official approval for what the GM conspirators did, was later made a paid consultant for the fraudulent holding company.

In midsummer of 1937, the conspirators resolved to expand the bus scheme to the Western states. But the financing problem remained, and Traer, the Greyhound executive, was sent out to raise cash. "Well," he reported back to Babcock, "I talked to investment houses, brokers, and private capital. . . . I couldn't get the money." If the city bus was indeed a brilliant new idea that was sweeping the country on its own merit, as the conspirators later contended, the country's capital markets were curiously slow to catch on. The only way the GM group could raise more money was to bring in more conspirators. An oil company seemed a logical bet, so Traer and Babcock went to Standard Oil of California.

"We could see . . . from our standpoint, it was going to create a market for our product—gasoline, lubricating oils, and greases," a Standard Oil executive recalled from the witness stand. "If the Fitzgeralds were able to accomplish anything along this line on the Pacific coast, then other people would do it, and that would open up even more markets for us," he said. So Standard Oil came in.

Then the conspirators went to Mack Trucks—GM's supposed direct competitor in the bus-making business. A Mack officer named Roy Hauer showed up on Roy Fitzgerald's farm in the winter of 1937–38 and agreed that the new law forcing electric companies to sell their transit businesses provided a rare opportunity. So officers from Mack Trucks, Standard Oil, and General Motors all met in the office of Greyhound Bus Lines in Chicago and decided who was going to pay Fitzgerald to dismantle the West Coast rail system.

Part of the deal was that Fitzgerald's operations would buy at least 42.5 per-

cent of their buses from General Motors and 42.5 percent from Mack (an obvious Sherman violation), with the other 15 percent to be decided by need. At the trial, Fitzgerald said that the new bus lines promised to make big money for his investors; that was why they invested, he testified. But there were indications from the investing companies themselves that they expected their profits to come not from bus operations at all but from the sale of their products after electrified transit was destroyed. An internal memo at Mack, for example, spoke of a "probable loss" on the bus-line stock, but said it would be "more than justified" by "the business and gross profit flowing out of this move in years to come."

Nor does it appear that GM expected to make its principal profit from the sale of buses, the new form of mass transit. If it did, there is no satisfactory explanation in the trial record for why GM gave half the prospective bus business away to Mack, its supposed competitor. Another explanation, of course, is that the real profits were going to be made from the sale of cars (in Mack's case, trucks) after the destruction of mass transit opened the way for a huge public network of streets and highways. That this is what happened offers some justification for the explanation that it was intended.

The agreements under which the conspirators provided money did not require merely that all buses, tires, and petroleum products be purchased from the particular supplier who was putting up the cash. The contracts also specified that the transit systems could never buy another streetcar or any other piece of equipment that would "use any fuel or method of propulsion other than gasoline." (In the early 1940s, when the diesel bus came into vogue as a replacement for the older, gasoline-engine models, it was discovered that diesel equipment violated this restrictive clause. Accordingly, the clause was changed, specifically to permit the purchase of diesel fuel.)

AS OPERATIONS SPREAD around the country, more capital was needed and the conspirators decided to bring in others who would benefit from what they were doing. A plan was devised to carve up the United States among various oil

companies; each one was to be awarded a region in which it would supply the bus companies run by National City Lines. Texaco was approached to handle the Midwest and South; its sales department liked the idea, but the top executives turned it down, saying only, according to Fitzgerald's testimony, that they were "not interested."

Phillips 66 was offered the same deal and showed unrestrained enthusiasm. At the negotiations with Phillips, Fitzgerald was accompanied by R. S. Leonard, a finance officer of Firestone, and Victor Palmer, the treasurer of Standard Oil of California—a competitor of Phillips. The transaction was sealed personally by Frank Phillips, the petroleum company's founder and chairman, and Kenneth S. Adams, the president and heir to Phillips's position as head of the company. According to Fitzgerald, Phillips told him that "anywhere along the line that I might feel that his people were doing anything to us that might change this deal, he would be glad to have me come back and talk to him."

Meanwhile, the GM transit juggernaut rolled on. Butte, Montana; Fresno, Oakland, Stockton, and San Jose, California; Portsmouth and Canton, Ohio; Terre Haute, Indiana. In St. Louis, the whole electric utility had gone into bankruptcy receivership. Seven banks had taken over, and were glad to have an investor named Fitzgerald buy control of the streetcar system, which became a bus system.

Roy Fitzgerald was being made into the biggest transportation tycoon since Jay Gould. His capacity to manage it all was finally spread so thin that it was decided the West Coast portion should be split off and run separately. Victor Palmer left his job as treasurer of Standard Oil of California to take over the presidency of the West Coast bus systems, which were called Pacific City Lines. John L. Wilson, a Mack executive, was made president of the St. Louis system and was given seed money to buy and convert the Lincoln, Nebraska, transit system in his own name.

In general, the conspirators took great pains to disguise their involvement. They clearly didn't want the public to know who was really behind all the marvelous new transit systems that Roy Fitzgerald and General Motors were designing. Firestone executive



Leonard wrote a chummy letter to Phillips stating that Firestone was keeping its transit investments secret by investing in the names of two employees acting as nominees, and hinting that Phillips might do the same thing (apparently Phillips didn't). At one point, even National City Lines, the front group, operated behind a front name of its own, the Andover Finance Company, in order "to make investments in situations beyond the legal limits," in the words of a Fitzgerald aide. Standard Oil of California made its investments in the name of two nominee companies, because, Standard's treasurer, Henry Judd, testified: "We didn't want to be criticized. . . . We didn't want to have the people in the community feel that if the service was not what they wanted . . . the complaints would rest with the Standard Oil Company of California." This seems strange behavior from companies that defended themselves on the grounds that they had performed noble public service by hastening the advent of the bus. At one point, B. F. Stradley, acting treasurer of Phillips, wrote to Harry L. Grossman, vice-president and secretary of GM's bus division:

*From our conversation, it appears there may be a difference of opinion between us in respect of the propriety and perhaps the legality of certain requirements which we have in mind in respect of the agreement covering the purchase of stock in American City Lines [a proposed National City Lines affiliate]. We shall be glad to present our views to you at any time . . . although it occurs to me that it might not be well to discuss the problem jointly with the American City Lines group since by so doing it would become obvious that our meeting was prearranged.*

The same letter noted that the details of the transaction had already been discussed with Firestone.

**F**ITZGERALD HIMSELF obviously knew that there was something wrong with talking to representatives of more than one supplier at a time, because from the witness stand he kept denying that he had ever done so. In the face of all the evidence, he insisted that he had merely gone around independently trying to

raise money from the most logical investors he could think of, his suppliers. For example, there was a meeting in April 1939 to discuss the formation of an affiliate that later took over and wrecked the suburban Los Angeles rail transit system. Fitzgerald testified that the only people there were himself and Russell M. Riggins of Phillips. He specifically swore, on questioning, that R.S. Leonard of Firestone hadn't joined the discussions at all.

Yet the prosecution produced a letter from Riggins to Leonard saying, "It was a real pleasure to again have the opportunity to be with you" at what Riggins called "the big meeting last Monday," as a result of which "everything has been mutually agreed upon."

Sacramento, Salt Lake City, Portland, Tampa, Mobile, Baltimore, El Paso, and Spokane were taken over. The takeover of Los Angeles had been carefully plotted for a couple of years. In 1941, the Glendale and Pasadena railway systems were bought and transformed into all-bus operations according to an engineering plan drawn up by General Motors. The Long Beach system was bought and scrapped.

In its reply to the Congressional staff study's account of the Los Angeles takeover, GM argued that the bus-for-rail substitution there was accomplished gradually over four decades, starting before GM even got into the bus business. But the trial testimony of Henry C. Judd, treasurer of Standard Oil, was pretty blunt:

"Mr. Fitzgerald called me on the telephone [in December 1944]. He told me that they had made an offer for the purchase of the [downtown] Los Angeles railway, and that it had been accepted, and that he would like to have us put about \$1 million into [the deal]."

Besides its own contribution, Standard used its influence to pry loose another \$5 million from Bank of America to finance the takeover.

Soon after the war, GM, Standard Oil, Firestone, and Phillips all got out of their stock ownership in the transit systems. Mack and Greyhound already were long gone. Victor Palmer, leaving the presidency of Pacific City Lines, was welcomed back to the executive payroll at Standard. Money had been made, all right, but not on transit company stock. As Herbert Listman, general sales manager for GM buses, testi-

fied, "It was the policy of General Motors to get out of all these investments. They were temporary finance plans. . . . They have served their purpose."

Soon, National City Lines was out of the bus business, too. What was left were cars.

Those indicted and convicted of violating the Sherman Antitrust Act were National City Lines, Pacific City Lines, Firestone Tire & Rubber, General Motors, Phillips Petroleum, Mack Manufacturing, Standard Oil of California, Federal Engineering (a Standard Oil subsidiary), E. Roy Fitzgerald, Foster G. Beamsley, H.C. Grossman (assistant secretary of GM), Henry C. Judd, L.R. Jackson (vice-president of Firestone), B.F. Stradley (secretary and treasurer of Phillips), and A.M. Hughes (vice-president and director of Phillips). These few took the rap for everyone involved.

Recalling the old rail network in Los Angeles, Gerald Haugh, currently general manager of the bus system in the city's Long Beach section, says, "It would be great if we had it all back again. It could have been modernized. You'd have tried to extend the rails out into those areas where people were buying. It would have been a hell of a lot cheaper than to do it today. It was a damn shame they took up the tracks."

As for the people who took up the tracks, they suffered little for it. U.S. District Judge William J. Campbell sentenced the guilty corporations to pay fines of \$5,000 each (except for Federal Engineering, a Standard Oil subsidiary, which had to pay only \$1,000). The guilty individuals paid fines of exactly \$1 each. The defendants also had to pick up the court costs, which totaled a not too princely \$4,220.78.

A few years after the trial, Julius and Ethel Rosenberg paid the death penalty for treason in a case that unfolded at about the same time as the GM conspiracy case. The Rosenbergs' crime, as it turned out, had no appreciable effect on the future of the country. On the other hand, what the transit conspirators did was destroy mass-transit systems that today could benefit millions of citizens and, ironically, make for improved national security by reducing reliance on foreign oil. And they did it for no greater cause than their own profit. □

HARPER'S/FEBRUARY 1981