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**ROAD FROM RECEIVERSHIP:
CLAUDE PEPPER, THE DUPONT TRUST,
AND THE FLORIDA EAST COAST RAILWAY**

by ALEXANDER R. STOESEN*

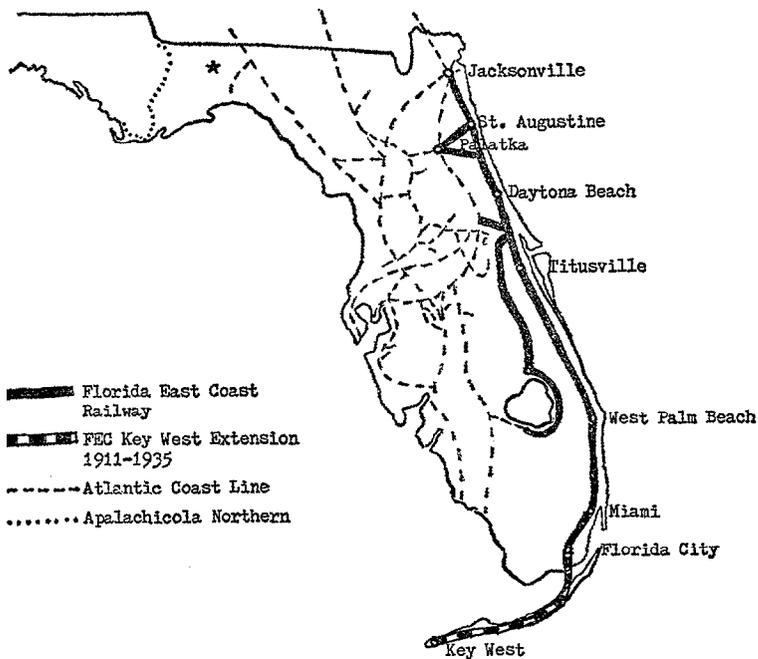
IN DECEMBER 1971, the longest labor dispute in United States history came to an end when a settlement was reached in the Florida East Coast Railway strike.¹ It began in January 1963, and was viewed nationally as a test case of railway labor work rules. Hopes for an early conclusion faded, however, as each side dug in for a fight to the bitter end.² Strife was not new to the troubled history of the FEC; it had been an object of controversy for many years, and possibly the violence-torn decade of the 1960s might have been avoided if it had been merged with a major trunk line. Instead, it became an independent line controlled by a subsidiary of the Florida duPont interests. The question of control was one of the basic issues which confronted those concerned with the complex bankruptcy proceedings that involved the line in the late 1940s.

At that time two major figures in Florida's history— Senator Claude Pepper and Edward Ball, senior trustee of the Alfred I. duPont estate— clashed over the future of the railroad. On the surface they seemed to be concerned with questions of finance, personnel, and the “public interest,” but in reality much more was at stake. The FEC case became a microcosm of a larger conflict which left a lasting imprint on the political and economic life of Florida. The technicalities of the bankruptcy proceedings were complicated by the reverberations of strong personalities and their knowledge of the deeper issues involved. This became apparent as the matter was argued and reargued for years before the Interstate Commerce Commission and the courts. Ball finally won the railroad, and Pepper's political career was temporarily

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1. *Wall Street Journal*, December 20, 1971; July 3, 1972.

2. J. Richard Elliott, “Road From Serfdom, The Florida East Coast Is Signalling the Way,” *Barron's*, XLIV (May 11, 1964), 3.



Florida East Coast Railway, Atlantic Coast Line, and Apalachicola Northern Systems in Florida

derailed, but along the way the Senator had predicted trouble for labor if the line went to the duPont interests. His predictions came true, and railway labor, which opposed him, learned from hard experience the accuracy of his forecast.

The strike came shortly after the St. Joe Paper Company, a subsidiary of the Alfred I. duPont Trust, gained full control of the railroad, a process that had taken twenty years. However, the real beginnings of the story can be traced back to 1926, when duPont became a citizen of Florida— the year after Pepper arrived in the state.³

The contrast between Pepper and duPont could not have been sharper. Claude Pepper had lived under a financial shadow

3. "Statement Regarding Reorganization Proceedings, Florida East Coast Railway by the Trustees of the Alfred I. duPont Estate," July 1947, copy in Claude Pepper Papers, Federal Records Center, Suitland, Maryland. Other Pepper Papers are in the Claude Pepper Law Offices, Miami Beach. Hereinafter noted as Pepper Papers, FRC or MB.

all his life, had pulled himself up by his bootstraps, been graduated Phi Beta Kappa from the University of Alabama, and had obtained a law degree at Harvard in 1924. After a year of teaching at the University of Arkansas, he moved to Perry, Florida, in 1925, to work for a land development company. He hoped to pay off the family debt of about \$1,000.⁴ On the other hand, Alfred I. duPont was a scion of one of the wealthiest industrial families of America. Weary of the power struggles in the E. I. duPont deNemours Company, he “made up his mind to do what he could to rehabilitate Florida” after the collapse of the boom in 1926. With his brother-in-law Ed Ball he began a search for opportunities to invest his personal fortune of \$34,000,000.⁵

Thus duPont moved in to pick up the pieces of the state’s shattered economy. Seeking to “salvage something on which a chastened and perhaps wiser populace could rebuild,” he was “spectacularly successful and . . . kept the Sunshine State afloat during the thirties.”⁶ DuPont died in 1935, and an estate trust was set up with Ball as the dominant trustee. Outside of holdings in the E. I. duPont deNemours Company, most of duPont’s fortune was invested in Florida. Few provisions of the will were made public: Mrs. duPont was to receive an annuity, a crippled children’s home in Delaware was to be supported, and Dr. Francis P. Gaines of Washington and Lee University was to be Ball’s successor.⁷ DuPont’s work was carried on by Ball, who was “ever present with wise counsel and financial strength . . . to promote the well-being of the citizens of Florida.”⁸

After the collapse in 1926 of the land company that had brought him to Florida, Pepper decided to remain in Perry. He admitted that life was “dull” there, but it made “living cheap,”

4. Alexander R. Stoesen, “The Senatorial Career of Claude D. Pepper” (Ph.D. dissertation, University of North Carolina, 1965), 1-27.

5. Marquis James, *Alfred I. duPont, The Family Rebel* (Indianapolis, 1941), 398, 401.

6. *Ibid.*, 398; Elliott, “Road From Serfdom,” 3.

7. Champion McD. Davis to Claude Pepper, October 1, 1946, Pepper Papers, FRC; Interstate Commerce Commission *Reports*, “Finance Docket 13170, Florida East Coast Railway Company Reorganization” (April 8, 1947), Vol. 267, 295, 313-14. Hereinafter, “Finance Docket 13170,” Interstate Commerce Commission *Reports* will be cited by volume number, ICC, and the page on which the decision begins, with date if not previously cited.

8. Francis Pendleton Gaines, *Edward Ball and the Alfred I. duPont Tradition* (New York, 1959), 21.

and hopefully his new position as a law partner of Judge William B. Davis would be good "from the money point of view."⁹ In the long run it proved better politically. Pepper served in the Florida House of Representatives in 1928, and on the state Democratic Executive Committee. Although he lost a challenge for Park Trammell's senate seat in 1934, two years later, partly as a reward for his "sportsmanlike" acceptance of disputed 1934 returns, he was unopposed for the unexpired term of United States Senator Duncan U. Fletcher. Pepper became known as an ardent New Dealer and spokesman for labor and the "little man." In 1938, his primary victory was credited with materially aiding the passage of the Fair Labor Standards Act.¹⁰

The duPont Trust had been moving to acquire real estate, banks, and industrial property, and was thought to be "the strongest economic and political influence in Florida." There was "no visible opposition" to its efforts to "take over" the state.¹¹ Ball was described as a man with the "ability to see good in something nobody else wants, a willingness to back his bet with money, and the patience to wait for a return." The duPont Trust's purchase of Florida East Coast Railway bonds beginning in 1941 was "an example of this happy knack."¹²

This was the ripest plum to be plucked. Built between 1885 and 1911 by Henry M. Flagler, it had spurred the development of South Florida.¹³ After Flagler's death, the line was extended and improved by an issue of second general mortgage refunding bonds, but by 1931 it was unable to meet either its operating expenses or fixed charges, and in August of that year it went into receivership. The road under receivership operated "successfully and profitably," interest payments were kept up on the first mortgage bonds, and a surplus of cash was accumulated. With the coming of World War II, activity on the east coast of Florida accelerated, and by 1945 the road had accumulated a surplus of about \$20,000,000.¹⁴

9. Pepper to his parents (Mr. and Mrs. Joseph W. Pepper), July 7, 1925, Pepper Papers, MB.

10. Stoesen, "Senatorial Career," 32-54, 124-31.

11. Mrs. Willis M. Ball to Pepper, August 25, 1944, Pepper Papers, FRC.

12. Freeman Lincoln, "The Terrible-Tempered Mr. Ball," *Fortune*, XLVI (November 1952), 144.

13. Sidney W. Martin, *Florida's Flagler* (Athens, 1949).

14. "In the matter of Florida East Coast Railway Company, Debtor, Proceedings in the Reorganization of a Railroad. In the District Court of

In 1936 creditors had begun to demand their lien rights. The district court required them to work out a compromise, resulting in the formation of a "5% Bondholders' Committee" which sought to retrieve the railroad from the court. In 1940, the Interstate Commerce Commission began to move toward a plan of reorganization. It refused to become involved in the complex lien question, maintaining its chief concern was the "public interest." This, the commission felt, could best be served by placing the line under efficient, knowledgeable management.¹⁵

In railroad reorganizations the ICC follows Section 77 of the federal Bankruptcy Act. Creditors are invited to submit plans of reorganization, and the commission accepts one or devises its own. By 1941, the ICC had two plans under consideration. One was from the 5% Committee and the other from the trustees of the duPont estate. Both plans claimed the "public interest" as a major consideration.¹⁶

The plans were "in general substantially the same," the chief difference being in the control of the railroad. The 5% Committee called for three "reorganization managers": the 5% Committee, the "institutional" bondholders, and the courts, each appointing one. A board of directors would be designated by the managers for approval by the court. The duPont trustees envisioned a five-member "reorganization committee": two members appointed by themselves, two from other bondholder groups, and one from the court. A board of directors would be elected annually by stockholders. In that proposal, in exchange for \$4,000,000 in new capital, the Florida East Coast would issue 400,000 new shares of common stock to the Trust, making it the majority stockholder. The 5% Committee wanted new capital to come from operating revenues and claimed duPont capitalization would force them to "surrender . . . part of the ownership of their property."¹⁷

On August 10, 1942, the ICC announced a plan of its own. Valuing the railroad at \$37,000,000, instead of \$29,896,000, as the 5% Committee had, or \$53,796,000, the duPonts' figure, the commission noted that "extraordinary economic conditions" gen-

the United States for the Southern District of Florida, January 22, 1949. [Opinion of] Samuel H. Sibley, Judge Designate," copy in Pepper Papers, FRC: 267 ICC 295, 323, 333, 360ff.

15. 252 ICC 423 (April 6, 1942), 423-24, 431.

16. *Ibid.*, 431-49.

17. *Ibid.*, 437-38.

erated by the war had improved the line's finances to the point where new capital could be secured from "current and prospective earnings." It incorporated the 5% Committee idea of three managers and left out the duPont interests altogether.¹⁸ This decision did not survive in the district court, where it was disapproved on October 19, 1943, as "inequitable," because the accumulation of cash on hand did not "afford due recognition to the rights of security holders" and because the duPont Trust was not allowed to designate a reorganization manager.¹⁹

The case went back to the commission. With the reorganization proceedings at a standstill, the duPont Trust continued to buy first and refunding mortgage bonds in the name of the St. Joe Paper Company, which already ran the Apalachicola Northern Railroad. Soon it had a majority position among the creditors with bonds worth a principle amount of \$23,259,000. Most of these had been purchased from owners who had deposited securities with the 5% Committee, but who now preferred cash at a loss to the vagaries of interminable litigation. By 1944, the 5% Committee had less than \$1,500,000 worth of bonds on deposit.²⁰

On November 8, 1944, the "S. A. Lynch interests," a group of bondholders, proposed keeping financial control, but placing operational control of the FEC in the Atlantic Coast Line Railroad. An ACL brief stated the "public interest" would be served best by making the FEC "part of an existing major railroad system," questioned the ability of the St. Joe Paper Company to run a railroad, and considered St. Joe's concern for the public interest "problematical" at best. In response to this, the ICC castigated the Coast Line for its poor showing during the depression of the 1930s and said there would be an "unwise increase in fixed charges for the Coast Line" and an excessive drain on the FEC treasury. The ACL-Lynch proposal was deemed "prima facie impracticable."²¹

The ICC yielded to the dominant duPont position. An order of January 8, 1945, contained the words: "It is thus apparent that the duPont Estate will have control of the reorganized company." Under the plan the line would be run for five years by a "voting

18. 252 ICC 731 (August 10, 1942); 252 ICC 423, 457, 455.

19. 261 ICC 151 (January 8, 1945), 151-52.

20. *Ibid.*, 151, 184.

21. *Ibid.*, 187-91.

trust” made up of two St. Joe trustees and one approved by the court. They would hold on deposit the new common capital stock of the reorganized company.²²

In the opening months of 1945 the Coast Line proposed that the FEC be merged into its own system with an exchange of ACL stock for FEC bonds. The Coast Line would later claim that this was the first time the true “public interest” issue was injected into the matter. Up to this point, according to the Coast Line, the ICC had been concerned only with the “financial or security aspects of the case,” a statement which contained a degree of accuracy.²³ The commission had been involved almost totally in the private interest problems of capitalization and the relative rights of creditors, despite its claim to be working in the “public interest.”

It was now that Pepper began to move to make his opposition to the duPont Trust “visible.” In 1934, during his abortive campaign against Senator Trammell, he had promised the voters that, if elected, he would “not have been in the U. S. Senate a week” before stepping “at least upon the small toe of Big Business.”²⁴ By 1945, he had become a senator with a national and to some extent an international reputation, but his political views remained essentially the same. While there might have been some advantage to an attack on business in the depths of the depression, one might ask whether it was so wise during the closing months of World War II. American business was claiming a major share in winning the war and was offering promises of a better life for all in the postwar era. Pepper, however, refused to accept the idea that the operations of the duPont Trust, or any other large business organization for that matter, were beneficial to the people of Florida. He chose to attack the duPont Trust with full force at a time of peak prosperity. It coincided with the beginning of his own political demise.

There was much in Ball’s favor in any contest he entered. With his money, friends, and imperious attitude, he was one of the most formidable forces in the economic and political life of the state. He claimed that at one time he had been Pepper’s

22. *Ibid.*, 185-86.

23. Champion McD. Davis, “Memorandum for Conference with Senator Pepper,” July 24, 1946, Pepper Papers, FRC.

24. Claude Pepper, “Basic Speech,” 1934 campaign, Pepper Papers, MB.

friend. "In the early days," he said, he had "helped the buzzard get elected."²⁵ But it soon became evident that he and Pepper were natural political enemies. So, despite Ball's kingmaking potential, Pepper would never seek his favor, and, in fact, he moved in the opposite direction. For example, in February 1944, Pepper eloquently defended President Roosevelt's veto of a tax bill containing clauses which would provide benefits for holders of bonds bought at bargain rates for speculative purposes.²⁶ The benefits were made to order for the duPont position in the FEC case, and, although the veto was overridden, Pepper's action was not forgotten. This and other stances caused Pepper to become the object of a campaign aimed at destroying him "once and for all."²⁷

The first chance for this came in the 1944 primaries. Although Ball took a leading role in raising money for Pepper's defeat, he was not successful. Pepper's opponent, J. Ollie Edmonds, president of Stetson University, lost the election, according to Ball, because he was too nice: "I told Ollie he couldn't follow Marquis of Queensberry rules in a barroom brawl, but he wouldn't listen."²⁸ Ball was said to be in a state of "frenzy" in his opposition to Pepper and was determined to wipe out the Senator's ever narrowing margin of victory at the polls.²⁹ Although Ball's support of Edmonds would be played up in the press as a major reason for the Pepper-Ball animosity, it was more of a symptom than a cause.³⁰ Pepper was diametrically and fundamentally opposed to all that Ball epitomized in the way of special interests, the arrogance of wealth and power, and "monopoly."

After "serious reflection" and the decision that he would be "delinquent" in his duty if he did not move to "protect the public interest," Pepper filed a memorandum on April 13, 1945, "in consideration of the public interest," calling for a reopening of the FEC case.³¹ He supported the application of the ACL or "any

25. Lincoln, "Terrible-Tempered Mr. Ball," 156.

26. *Congressional Record*, 78 Cong., 2nd sess., 2049-50.

27. Robert Sherrill, *Gothic Politics in the Deep South; Stars of the New Confederacy* (New York, 1968), 139.

28. Lincoln, "Terrible-Tempered Mr. Ball," 158.

29. Sherrill, *Gothic Politics*, 142.

30. Orlando *Morning Sentinel*, February 1, 1945; *Ft. Lauderdale Daily News*, August 7, 1945; *Miami Herald*, May 22, 1947.

31. Florida East Coast Railway Reorganization, transcript of argument at Washington, D. C., May 29, 1945, 1311; "Memorandum by Senator Claude Pepper of Florida in Support of a Rehearing in this Case, Filed in His Capacity as a Citizen of Florida and on Behalf of the Public," April 13, 1945, 1, Pepper Papers, FRC.

other competent rail carrier . . . to acquire and or operate the Florida East Coast Railroad.” In Pepper’s view, the ICC ruling in favor of the duPont interests meant that it had “wholly renounced its function . . . to protect the public and promote the public welfare.” Alluding to the duPont capitalization proposal, he said the ICC was delivering to them a property worth \$40,000,000 for ten cents on the dollar. He was not, however, questioning anyone’s investment policies, but was concerned with management of the railroad in the best interest of the public³² When he entered the case Pepper knew what he was doing, who his opponents were, and what the consequences might be. It was a step that virtually guaranteed the creation of the “most elaborate crusade of political annihilation ever conducted in southern politics.”³³

A short time later, on May 29, 1945, Pepper, in oral argument before the commission, again pressed for a reopening. He began by discussing the Bankruptcy Act and the precedents of the ICC in railroad reorganizations, but quickly shifted to what became a constant drumbeat in the proceedings— his attack on duPont power in Florida and the autocratic methods of Ball. He said it was apparent the “Commission did not have the facts about the duPont estate” or its dominant trustee. The commission’s latest order would place 16.3 per cent of Florida’s railroad mileage at the “uncontrolled discretion of one man,” who in the past had “not been averse to attempting to influence public policy.”³⁴ The weight of Pepper’s elected position and the claim that the ICC had lacked information and had been derelict in its duty brought a reopening of the case. November hearings were scheduled for West Palm Beach and Washington, D. C.

Faced with the reopening of the case, opponents of the Coast Line plan sprang into action to mobilize opinion against it. A number of pamphlets were issued, two of which bore the name of W. F. Howard, general chairman of the Brotherhood of Railway Clerks. His most reasonable point was that FEC employees would have to move to other cities if the merger took place, but otherwise his papers stirred the emotion rather than the intellect. He

32. Pepper, “Memorandum,” April 13, 1945, 9ff.

33. Sherrill, *Gothic Politics*, 140.

34. Railway Reorganization, argument, May 29, 1945, 1308-11.

took a strong stand in favor of duPont control. The FEC should be "preserved as an INDEPENDENT INSTITUTION OWNED AND OPERATED BY FLORIDA PEOPLE," he claimed, but for "some unexplained reason" Pepper supported the ACL petition for "the sale" of a Florida owned institution to out-of-state interests. The merger constituted forced sale of the property which sounded "more like the rantings of Nazis than it does the citizens of a free and democratic country." He urged those on the east coast to "rise up in opposition to the request of Senator Pepper and the Atlantic Coast Line."³⁵

Pepper was correct in his observation that it "would be naive indeed" to think that these pamphlets "were written by anyone other than a skillful propagandist" because Frank D. Upchurch of St. Augustine later admitted he had a hand in it.³⁶ The attack was something of a surprise and a discomfort to a labor advocate like Pepper. A complaint was registered with the ICC about "misleading propaganda," but nothing could be done to stop it and efforts to counter it were of little effect.³⁷

Pepper pointed "with pride" to his labor record, and urged labor to rely on his estimate that their interests would be protected under the Coast Line plan. He, too, indulged in name-calling, saying he knew of "nothing in the duPont's record that can assure the laboring man of fair treatment." He, for one, could not "visualize Mr. Ball in the role of a benefactor of labor." Pepper warned, "If this road is put in the hands of the duPont interests, my friends among the workers will regret it to the end of their lives."³⁸ He was right, but in the 1940s Pepper's seemed to be a voice crying in the wilderness.

Pepper had planned a trip to Europe at the end of World War II, so despite the fact that he had petitioned for new hearings, he was abroad when they were held. Champion McD. Davis, president of the Coast Line, cabled him in Bucharest, Rumania, saying it would be "fatal" if he was not present at the West Palm Beach hearings. The opposition was "making capital" of the like-

35. *The Cat Is Out of the Bag, Now It Must Be Summarily Dealt With*, 3; *An Urgent Plea by Employees of the Florida East Coast Railway to All Citizens on the East Coast of Florida*, 7, 14, 15, Pepper Papers, FRC.

36. "Memorandum by Claude Pepper, Senator from the State of Florida In His Capacity as a Citizen of Florida and On Behalf of the Public. On Plan of Reorganization," February 14, 1946, 41, Pepper Papers, FRC.

37. 267 ICC 295, 332-34.

38. Pepper, "Memorandum," February 14, 1946, 40, 47.

lihood of his absence, and “will completely ridicule if you do not appear at all.”³⁹ But Pepper did not “deem it necessary . . . to appear at hearing,” and promised to file a written statement upon returning.⁴⁰ As a result, “Pepper’s absence . . . was the highlight of this battle of financial giants.”⁴¹ Absence was an error of considerable proportion on Pepper’s part, and seemed to indicate that he had misjudged the ability of the duPont interests to marshal support. The matter was building up into a Pepper-Ball feud, and the opposition took advantage of every chance it had to attack.

At the West Palm Beach hearings Ball himself appeared as a witness. He had assurances that no “competent” employee of the FEC should feel the “slightest concern about his or her future” under St. Joe Paper Company management. But the commission later noted that he was a “hostile witness,” who, “while responsive in his answers to some of the questions . . . in answer to many other questions, he was vague, indefinite, and adroit.” Thus it was impossible to determine the “fitness” of the paper company to control the railroad. The ICC concluded that his unwillingness to disclose facts constituted “an unsatisfactory attitude on the part of the principal witness of that company.” Of the three congressional figures who presented testimony, Florida Representative Joe Hendricks was the only duPont supporter. He expressed fears that the merger would “adversely affect the employees” and he denounced “absentee owners.”⁴²

Representative J. Hardin Peterson and Pepper’s senatorial colleague, Charles O. Andrews, who cited congressional policy which favored merging weak railroads with strong ones, sided with Pepper. An exchange of letters between Andrews and Ball, who “took Senator Andrews to task for urging the reopening” of the case was read. Andrews “replied to the effect that his interest in the proceeding was the welfare of the people.”⁴³

Along with the transcript of the hearings which awaited Pepper on his return to the United States were urgent warnings from friends and supporters who told him “a great deal of feeling has

39. Davis to Pepper, November 1, 1945 (cable), Pepper Papers, FRC.

40. Pepper to James C. Clements, November 3, 1945 (cable), Pepper Papers, FRC. Clements was Pepper’s administrative assistant.

41. *Jacksonville Journal*, November 6, 1945.

42. 267 ICC 295,326, 315, 317, 335.

43. *Ibid.*, 334-35.

been created in favor of the Florida East Coast being purchased by the duPont interests.⁴⁴ Criticism of Pepper was mounting—“You certainly have been Crusified [*sic*] down the East Coast on this deal” — and a railway labor leader warned that if he did not quit tampering with the FEC he would be “committing political suicide.”⁴⁵ This was a matter of great importance to many people in Florida, he was informed; his extended stay in Europe had kept him from knowing what the “Florida folks are doing and thinking.” He was on the “losing end of public opinion” and must, “do something about his misunderstood position.”⁴⁶

Ball had been busy securing the support of chambers of commerce and county commissioners. He had achieved a “masterpiece” in selling his proposal to the public.⁴⁷ One approach was to “create the impression that there might be some improper relationship” between Pepper and the Coast Line.⁴⁸ This was underscored in newspaper editorials which explained Pepper’s actions as motivated by a secret deal with the ACL.⁴⁹ Pepper reacted by urging other railroads to enter the proceedings. The Southern and Seaboard did. At first the Southern took essentially a neutral position, but after the St. Joe Paper Company arranged preferential treatment for the transfer of freight to the Southern beyond Chattahoochee, the Southern switched to the duPont side, claiming its interests were best served by maintenance of the FEC as an independent carrier. The Seaboard opposed the merger as well. Pepper had hoped the other lines would offer plans for consideration, but neither did.⁵⁰

Pepper was aware of the pitfalls in the path he had chosen. He said he realized “when I undertook to oppose the duPont

44. Moorman M. Parrish to Clements, November 13, 1945, Pepper Papers, FRC.

45. Chester S. Dishong to Pepper, n.d. [December 1945]; R. G. Smith to Pepper, February 7, 1946, Pepper Papers, MB.

46. Parrish to Clements, November 20, 1945, Pepper Papers, FRC.

47. J. A. Cawthon to Pepper, February 24, 1946, Pepper Papers, FRC.

48. Parrish to Clements, November 13, 1945, Pepper Papers, FRC.

49. *Palatka Daily News*, October 2, 1945; *Ft. Lauderdale Daily News*, August 7, 1945; *Orlando Morning Sentinel*, February 1, 1945; *Jacksonville Journal*, October 5, 1945.

50. 267 ICC 295, 336ff; Pepper, “Memorandum,” February 14, 1946, 33, 52; Pepper, “Brief of Claude Pepper, Senator from the State of Florida, in His Capacity as a Citizen of Florida and on Behalf of the Public, on Plan of Reorganization,” August 15, 1946, 22; Florida East Coast Railway Reorganization, transcript of argument at Washington, D. C., October 9, 1946, 4568-69, copy in Pepper Papers, FRC.

interests that I would be very much vilified and undoubtedly misunderstood” and that the “criticism . . . might achieve the intensity of denunciation or recrimination.” Even though it had “chanced to become so” he would hold to his course because he considered Ball and the duPont interests “a menace to the state . . . not [to] be trusted with a great public utility like this railroad.”⁵¹

On February 14, 1946, Pepper filed his promised written statement. Later, on August 15, he submitted a fifty-two page brief to the ICC, and he also appeared at additional hearings held in Washington on October 9 and 10. In all three instances his major emphasis was why the duPont Trust should not control the line rather than why another plan should be accepted, which tends to discredit the contention that an “improper relationship” existed between Pepper and the ACL.

In his arguments which did not directly refer to the duPonts he repeatedly explained the provisions of Section 77 of the Bankruptcy Act which placed the major burden of railway reorganization on the ICC in order to relieve the courts of long, drawn out equity cases. Pepper sought to make clear that owning railway securities and operating a railroad were two different things and pointed out a Supreme Court ruling that the ICC could order a merger despite nonacceptance by creditors.⁵² Many years earlier the power of the commission to require disassociation of railroads from other interests had been affirmed in a case which involved the Duke Trust.⁵³ The trail through this legal maze was only to back up his contention that the “heart of the matter” was protection of the public interest by joining the FEC to a major system. It did not matter which trunk line, he said, and gave the assurance, “I have no connection with the Atlantic Coast Line.” In order to satisfy him, the Coast Line would have to pay the “full, fair value of the property,” keep the Jacksonville gateway open to competitors, and deal fairly with FEC employees.⁵⁴

51. Pepper to Parrish, December 29, 1945, Pepper Papers, FRC; Railway Reorganization, argument, October 9, 1946, 4650.

52. United States Supreme Court Reports, “Reconstruction Finance Corporation *et al.*, v. The Denver and Rio Grande Western Railroad *et al.*” (April 10, 1946), Vol. 328, 495.

53. Interstate Commerce Commission Reports, “In the Matter of Proposed Construction of Lines by Piedmont & Northern Railway Company” (1928), Vol. 138, 363.

54. Pepper, “Memorandum,” February 14, 1946, 1-5, 38; Pepper, “Brief,”

But his lengthy and most volatile arguments were ranged against Ball and the duPont Trust. Apparently ACL President Davis at first supported Pepper's thrusts against "the evils which would result from transfer of control of the East Coast to Mr. Ball," but before Pepper submitted the August 15 brief Davis's memos had dropped mention of the Trust and only referred to the advantages of a merger with the Coast Line.⁵⁵

The Trust, Pepper said, was a "monopolistic concentration of power," and he held the belief that "monopoly is undermining the security and stability of our democratic form of government." DuPont's holdings, including a list of banks and their capitalization, were cited. The "octopus" was solely interested in "developing and making more valuable their property on the east coast." It would be folly to turn over a railroad to "inexperienced and indifferent railroad management." The logical solution was "a natural merger . . . or integration into a main system" such as the Coast Line.⁵⁶ Ball was an "autocratic power in Florida," an "expert propagandist . . . and a thorough realist." He was "ruthless" and when he "snaps his fingers" his employees have to "dance." The "financial and industrial emperor" thought that "he and he alone had the right to dictate the reorganization plan," and his only thought was to build his "empire into a greater and greater economic system." The record, where he avoided definite answers, demonstrated that "Mr. Ball is unfit to control the Florida East Coast Railway." His grasp for power "bodes ill for the people of Florida."⁵⁷

At the Washington hearings the bitterness that had developed between Pepper and the duPont representatives was obvious, and the Trust's attorneys struck back with vengeance. After agreeing that the public interest was indeed at stake, a duPont lawyer said Pepper was really indifferent to the public interest, because at the time of the hearings at West Palm Beach Pepper was "in Moscow learning about the party line." Pepper, stung by this, called it an

August 15, 1946, 12ff; Railway Reorganization, argument, October 9, 1946, 4559, 4568.

55. Davis, "Memorandum," July 24, 1946.

56. Pepper, "Memorandum," February 14, 1946, 15, 34; Pepper, "Brief," August 15, 1946, 10, 12, 26; Railway Reorganization, argument, October 9, 1946, 4594; October 10, 1946, 4812, 4816.

57. Pepper, "Memorandum," February 14, 1946, 16, 17, 21, 23; Pepper, "Brief," August 15, 1946, 20, 25; Railway Reorganization, argument, October 9, 1946, 4600.

“unjustifiable reference” more suitable to the hustings than a hearing. The duPont attorneys went on to attack Pepper for making the matter into a personal feud with Ball.⁵⁸

Following the hearings, the ICC issued a third supplemental report in April 1947, in which it completely reversed its 1945 order. A plan to consolidate the FEC with the Coast Line was issued in a five-to-four decision with two commissioners abstaining. The commission noted that control of the FEC was a “matter of the greatest public interest” as exemplified by the mass of evidence it had received during 1946, and added that “improved and expedited service” could not be obtained by keeping the FEC an independent carrier. After a lengthy discussion of the history of the case the report concluded:

It is clear from the evidence presented, that the St. Joe Company would be in a position, if it controlled the reorganized debtor, to so control its operation as to further its own interests and the other interests of the duPont estate to the ultimate disadvantage not only of the State but to the detriment of the national transportation system as well.⁵⁹

The report spelled out the “fairness of the Coast Line plan”: bondholders would receive fair value in ACL stock, seniority rights of employees would be maintained, and connections with the Southern and Seaboard would be kept open. The Commission stated that the “apprehensions of the citizens and communities of the east coast of Florida that a merger would adversely affect their interests are not justified” because the ACL would “serve all its territory impartially.” The public would have a better transportation service.⁶⁰

Pepper was said to have “let loose” a “shout of triumph” when he heard of this decision.⁶¹ Elsewhere there was gloom. It was said that the people of the east coast were “shocked and bitterly resentful” over the fact that the commission had “flouted the known and proved demand . . . that the Florida East Coast be maintained as an independent carrier under the operation of the Florida duPont interests.” Pepper was accused of causing

58. Railway Reorganization, argument, October 9, 1946, 4689ff.; October 10, 1946, 4808.

59. 267 ICC 295, 308, 318, 326, 348.

60. *Ibid.*, 349, 351, 387-89.

61. *Miami Herald*, May 22, 1947.

harm to his own state by engaging in a personal feud with Ball for abandoning him in 1944.⁶² From Tampa on the west coast, however, came the view that the merger would mean "less chance of abuse of power, the public interest will be better served, and the future of Florida will be brighter."⁶³ Pepper made a state-wide radio address to explain the virtues of the decision, which, he said, was "based upon sound reasoning and sound public policy." "Time and events," he was certain, would "confirm the wisdom and justice of the decision."⁶⁴

In July 1947, the trustees of the duPont estate issued a statement, claiming the ruling "contrary to the law and facts of the case." The order was analyzed in detail to show that it was not only unlawful but also "unfair" to the workers and bondholders, and "detrimental to the people of the East Coast of Florida." They observed that public support in favor of the duPont plan had come from every community on the east coast, which "represents the sentiment of a vast majority of the citizens."

We regret that this plain business matter, of tremendous importance to the entire East Coast of Florida, has as a result of Senator Pepper's injecting himself in the case, degenerated into a political matter in an apparent attempt by the Senator to obscure the merits of the case and resort instead to improper political lobbying and log-rolling. Many charges and irresponsible statements have been made.

The trustees wished to refute only one of his statements: the idea that they had "already made \$20 million profit on a very small investment in Florida East Coast Railway bonds." "This statement," they said, "like many others made by Senator Pepper . . . is grossly inaccurate." The estate would make no profit because it looked on its investment as "permanent." On the other hand, if the accumulated cash in the FEC treasury were to be handed over to the Coast Line, the result would be "an investment profit to the Coast Line of \$20,500,000 on the reorganization valuation and \$32,833,000 on the rate-making valuation," a "tremendous profit" at the expense of FEC bondholders all with no risk or investment on the part of the Coast Line.⁶⁶

62. *Ibid.*

63. *Tampa Tribune*, May 22, 1947.

64. *Radio Address by Senator Claude Pepper, Florida East Coast Railway Reorganization Case*, May 31, 1947, pamphlet, Pepper Papers, FRC.

65. "Statement by Trustees of duPont Estate."

At the time of the ICC report an opinion was written by the dissenting commissioners on the grounds that the Coast Line was a "stranger seeking to acquire," and they warned that the plan would result in "prolonged litigation."⁶⁶ They were correct; the end was nowhere in sight. The sanguine expressions of public benefit from the merger were accepted by Pepper, the Coast Line, and a few minority bondholders. Thirteen groups of creditors requested "further argument and further hearing," and so in October 1947, the case was reopened again. The ICC had asked the petitioners to present the "constitutional question," feeling that not enough time had been allowed for it. The duPont interests secured the counsel of former Supreme Court Justice James F. Byrnes, a member of the Senate at the time Section 77 of the Bankruptcy Act was amended in 1935. Byrnes held that the plan was an "involuntary merger" which would deprive his clients of their property without due process of law. But the commission, in a six-to-five decision found nothing new brought out in the re-argument, and "'none of the important facts recited in our third supplemental report . . . challenged either by petition or on re-argument.'" It reiterated its belief that the proposed merger was both legal and in the public interest. Backing its decision with a mass of documentation based on precedents, the commission flayed those who bought bonds with the expectation of "wind-fall" profits. The merger plan was reaffirmed in an order of March 25, 1948.⁶⁷

In his review of the order, United States District Court Judge Designate Samuel H. Sibley decided the court did not have to "consider . . . the public interest," only "the rights of each class of creditors and stockholders." Sibley despairingly said it was "perfectly futile to waste time and effort to go further into the matter" since the creditors had already said they would vote against the merger, which should have been a "last resort" measure by the ICC anyway. Deploring the "partisan struggle" connected with the case, he "disapproved and rejected" the ICC plan.⁶⁸

Stunned Coast Line attorneys found the judge not only hostile but also unfamiliar with their briefs and recent Supreme Court

66. 267 ICC 295, 390-91.

67. 267 ICC 729 (March 25, 1948), 729-30, 734, 738.

68. "Opinion of Sibley," 7, 9, 11.

rulings such as the Denver case on railway reorganizations. He had relied on a lay definition of "fair and equitable," they argued, and had attempted to "read the minds" of the commissioners. In their opinion his decision contained an "extraordinary combination of errors," which meant a good chance of having it reversed in the appeals court.⁶⁹

They were to be disappointed. In a two-to-one decision of January 17, 1950, the Fifth Circuit Court of Appeals ruled against the Coast Line. Judge Joseph C. Hutcheson, Jr., described the plan as a "forced merger . . . contrary to statute." To Hutcheson, the commission had "closed its eyes" to other possibilities, and had "in desperation . . . seized upon the Coast Line offer as its only way out." The appeals court declared Judge Sibley's "order was right. It is AFFIRMED."⁷⁰

It had been noted earlier that "few observers expect either Claude Pepper or Ed Ball to give up short of at least an effort to get before the Supreme Court." The Coast Line petitioned the high court for a writ of certiorari in February 1950, requesting consideration of whether the ICC had followed the mandates of Section 77 of the Bankruptcy Act. It also claimed that Judge Hutcheson's ruling would "substantially veto" three previous Supreme Court decisions and create "confusion and uncertainty." Despite a call for the court to deal urgently with a matter "which has been in the Courts since August 31, 1931" the Supreme Court denied the writ in April 1950.⁷¹

After eight years of intensive maneuvering and nearly twenty years in the courts, the Florida East Coast Railway still remained in receivership. Although it continued to operate in a normal fashion, the questions centering around its future remained an unsettling factor in the economy and politics of Florida. It was unfortunate for Pepper that the case was not settled by the 1947 decision of the ICC. At that time the Florida Brotherhood of

69. 328 *Statutes* 495; R. B. Gwathmey to Davis, January 29, 1949; Edward W. Bourne, "Memorandum on Judge Sibley's Opinion," January 27, 1949, copies in Pepper Papers, FRC.

70. United States Court of Appeals for the Fifth Circuit, "Atlantic Coast Line Railroad Company *et al.*, v. St. Joe Paper Company *et al.*," January 17, 1950, copy in Pepper Papers, FRC.

71. *Miami Daily News*, October 13, 1946; United States Supreme Court, "Petition of Atlantic Coast Line Railroad Company to the United States Court of Appeals for the Fifth Circuit," October term, 1949, 2-5, 33, copy in Pepper Papers, FRC; *New York Times*, April 4, 1950.

Railway Clerks had distributed copies of a letter written by its state chairman to Pepper accusing the Senator of sponsoring an "illegal transaction" and of deceiving "the people of Florida and the employees of the Florida East Coast in particular." A shrill succession of paragraphs concluded:

You are not a deity, but you are subject to the will of the people, although you apparently do not recognize these facts. I believe this still a government of the people and by, and not of, for and by CLAUDE PEPPER. If you cannot represent the people according to the desires of the majority WHY DON'T YOU GET OUT OF THE SENATE?

It is my personal opinion that you are about as much interested in the welfare of the people of Florida as I am in the breeding and raising of kangaroos in far-off Australia. The people of Florida will tell you more impressively than I can when the proper time comes. Until that time, Senator, why don't you "straighten up and fly right?"⁷²

The "proper time" had come. The case, having remained in abeyance, was on the minds of many union members when Pepper sought the Democratic nomination for the United States Senate in 1950.

The time also had come for Pepper's opponents to test their handiwork, and the results were not disappointing. The Dan Crisp advertising agency of Jacksonville had been "under orders to defeat Pepper" since the mid-1940s, and according to a report a "noose" had been woven for Pepper's political execution.⁷³ Prominent among the forces which opposed Pepper were the United States Chamber of Commerce, the National Association of Manufacturers, and the American Medical Association. Splinter groups and new organizations were coordinated by the Crisp agency, which, according to one account, sought to "remake the thinking of Florida."⁷⁴ This time there was not only money available for it, but a candidate, Congressman George Smathers of Miami, a protege of Pepper's who "fell into Ball's pot of senatorial campaign money and refused to struggle."⁷⁵ That the work of ending Pepper's political career was well-done became

72. W. F. Howard to Pepper, July 21, 1947, Pepper Papers, FRC.

73. Sherrill, *Gothic Politics*, 143.

74. *Ibid.*

75. *Ibid.*, 149.

evident when state railway labor officials opposed Pepper against the advice of their national leadership.

The dichotomy was seen early in the contest. On January 26, 1950, George M. Harrison, national president of the Brotherhood of Railway Clerks, wrote to labor officials in Florida urging them to "join in the effort to return one of the greatest of Liberals to the Senate."⁷⁶ But W. F. Howard, state chairman, who received one of these letters held quite a different view. In a reply that was mimeographed and sent to union members and officials throughout the state, he said:

Regardless of what you may consider liberalism in Senator Pepper, we on the East Coast of Florida cannot forget, and I had hoped you would not forget what he has attempted to do and is still attempting to do to the employees of the Florida East Coast Railway and the legal owners of the property.

I do not, of course, know whether or not the duPont interests are leading the fight to defeat Pepper, but I certainly hope and pray they are. Why should we be concerned over a strong financial interest leading a fight to defeat the man who is out to destroy our jobs and our homes? I think we should lend assistance to that strong financial interest.

Howard brought up Pepper's vote for the wartime Smith-Connally Labor Act, which liberals of Pepper's stripe had considered a necessity of war, no matter how much they questioned it or agonized over it in their own minds. The state chairman denigrated Pepper's vigorous fight against the Taft-Hartley Act, saying it was a meaningless gesture since it did not affect railway employees. Howard concluded: "I care not one whit about the labor record in Washington of Pepper's opponent. I would vote for anyone opposing Pepper. No one in my opinion could be any worse or less desirable than Claude Pepper."⁷⁷

Railway Labor's Political League sought to counter the opposition of the disgruntled Florida Brotherhoods by advising them to "forget about disagreement" with Pepper on the FEC matter. It was of "relatively small importance" in view of the way Pepper had always "rendered tremendously valuable serv-

76. George M. Harrison to W. F. Howard, January 26, 1950, copy in Pepper Papers, MB.

77. Howard to Harrison, February 5, 1950, copy in Pepper Papers, MB.

ices” and “been right practically all of the time.”⁷⁸ But the emotional appeals of men like Upchurch, chairman of the St. Augustine Chamber of Commerce, were more to the liking of the rank and file of labor. Upchurch stated that Pepper supported a merger to “rob St. Augustine of its principal payroll, one-third of its population, and reduce property values fifty percent.”⁷⁹ The *Orlando Star* chimed in to say that for two years Pepper had sought to give the Coast Line “a stranglehold on the central part of the state.”⁸⁰ The A.F. of L. worked to counter this by publishing special Florida editions of *Labor* calling on workers, and especially railway labor, to “vote, to the last man or woman for Senator Pepper.” Pepper was described as a man who “has never failed us and the people should not fail him now.”⁸¹

Pepper lost the 1950 election, and labor lost one of its best friends and most staunch supporters in the Senate, a man whose record was virtually one hundred per cent in labor’s favor, and who represented the rare phenomenon of an “integrated liberal” in the South. His defeat was one of several which pointed to a trend to the right in southern politics and an end to the pro-New Deal sentiment. Even though he had gotten out of step with majority views in Florida, Pepper was a genuine advocate of the “little man” and had maintained a great deal of independence from the large interests that had begun to move into Florida. His successor, George Smathers, has been described as a senator who was closely aligned with business and industry and an exploiter of patriotic and racial sentiments on the hustings. One journalist saw him as “the perfect case of the southern politician who, having treated his constituents to the public orgy of a witch-burning, is thereafter left alone to the private orgies of serving special interests and himself.”⁸²

It is difficult to say just how much Pepper suffered in the state from the opposition of some labor leaders to his candidacy. Certainly it must have influenced the attitudes of employees of the FEC, but whether other parts of the state were particularly

78. Edward H. Wolfe to all general chairmen residing in the state of Florida, March 28, 1950, copy in Pepper Papers, MB.

79. Frank D. Upchurch to friends, April 26, 1950, copy in Pepper Papers, MB.

80. *Orlando Star*, March 31, 1950.

81. Washington, D. C., *Labor*, April 15, 1950.

82. Sherrill, *Gothic Politics*, 137.

concerned is an open question. It seems clear, however, that among the strongest and oldest unions in the state were the railway brotherhoods, and it is possible that more votes were affected than might appear likely at first. He lost every east coast county but Dade, and carried that by less than 1,000 votes.⁸³ One labor leader later wrote to Pepper that in his "considered judgment . . . your activities in this ACL-FEC case . . . cost you reelection to the United States Senate."⁸⁴ Pepper replied that the Coast Line meant nothing to him, and that he held no brief for it, but rather for the public interest. He concluded with a warning: "I doubt if anyone could be any worse for the public interest or these employees themselves than the duPont banking crowd. . . . Nobody hates labor and everything labor stands for more than that crowd."⁸⁵

After further study by the Interstate Commerce Commission and extended litigation in the district and circuit courts, the FEC case again reached the Supreme Court in 1954, where it was held that the ICC could not order an involuntary merger of the two railroads.⁸⁶ Two years later the Coast Line offered to buy the FEC for \$51,000,000, but in 1958 the courts and commission determined that ownership should be vested in the St. Joe Paper Company, and the ACL "gave up the fight for control."⁸⁷ By 1959 the district court had approved a plan favoring the duPont interests, and in 1960 the line's bankruptcy was officially ended.⁸⁸ Thus, in the view of the courts and the commission, the "public interest" would be served best by maintaining the line as an independent carrier under a Florida-based corporation. While this might have seemed a reasonable and clear logic, only time could really judge the wisdom of any decision regarding the railway.

If there was a feeling of euphoria on the part of labor and local interests it was dissipated in the early 1960s when the question of railway work rules was being studied on a national basis. In January 1963, after the FEC claimed exemption from national

83. *Report of the Secretary of State of the State of Florida, For the Period Beginning January 1, 1949 and Ending December 31, 1950* (Tallahassee, 1951), 264-65.

84. Robert G. Smith to Pepper, May 30, 1950, Pepper Papers, MB.

85. Pepper to Smith, July 12, 1950, Pepper Papers, MB.

86. *New York Times*, April 6, 1954.

87. *Ibid.*, February 1, 1956; April 19, June 3, November 13, 1958.

88. *Ibid.*, December 3, 1960.

bargaining on rules on the grounds that it operated only within Florida, eleven non-operating unions struck the line. The company halted operations and at the same time abolished the strikers' jobs.⁸⁹ Later the company began running trains on a limited basis using men who were willing to work under its rules. Efforts of courts, commissions, and boards to have the FEC reinstate the strikers or put work rule changes into effect failed.⁹⁰ The strike was punctuated by "400 acts of violence" which saw dynamiting of the tracks, and at one time the company itself was said to have sabotaged one of its own trains.⁹¹ In 1965 the State of Florida succeeded for a time in obtaining a recognition of the "public interest" when it required the resumption of passenger service, but the company later sold most of its passenger cars.⁹² In 1969 the Supreme Court ruled that the company could operate the road during the strike and reversed a Florida decision which had prevented picketing.⁹³ The strike lingered on, almost forgotten, with no end in sight.

The settlement in December 1971, came as a "surprise" to many. Ed Ball had the reputation of being harder than nails. A Labor Department official once remarked, "At least nails bend." But Ball bent because the \$1,500,000 in damages the FEC agreed to pay the union was only ten per cent of what might have been exacted under a pending lawsuit. Another reason was a high employee turnover rate, which was costly to the company and undermined its claims of savings. The agreement include a twenty-five per cent pay raise effective January 1, 1972, for employees hired prior to 1970, and annual raises of six per cent for the next three years. There was also a guarantee that no employee would be "required to cross craft lines." Even so, FEC wages were "well below the industry scale," the work force had been cut in half, and union membership was no longer required as a condition of employment.⁹⁴

Business Week reported the settlement was "sweet victory for the unions."⁹⁵ Was this really true for the majority of the strik-

89. *Ibid.*, January 24, 1963.

90. *Ibid.*, November 10, December 24, 1963.

91. *Ibid.*, April 8, 1963; *Wall Street Journal*, August 3, 1965, July 3, 1972.

92. *New York Times*, January 15, 1965; *Wall Street Journal*, January 10, 1966.

93. *Wall Street Journal*, March 26, 1969.

94. "A Break in Florida's Nine-Year Strike," *Business Week* (December 25, 1971), 18; *Wall Street Journal*, December 20, 1971.

95. "Break in Florida's Strike," 18.

ers? When the strike began 1,600 workers walked out expecting the strike to last a few weeks. But weeks, months, and years went by, and in time 900 went back to work on the company's terms, while others found employment elsewhere. Only about 100 stayed out to the bitter end. There was no "victory" for them. Most were either too old or unable to pass the physical examination required under the settlement. At the same time the end of the strike ended the meager union benefits that had enabled them to survive.⁹⁶ A *New York Times* article depicting the plight of one of these men probably has greater accuracy. Under the headline, "Gloom Marks End of Long Florida Rail Strike," it described how the strike had reduced a once proud railroad man to a state of poverty and destitution.⁹⁷ The *Wall Street Journal* found a "very satisfied" Ball the winner of the strike. As one worker put it, "God knows he ought to be, he ran the unions off. And that's what he set out to do so he could run the railroad the way he wanted to."⁹⁸

The road to this outcome was accurately forecast in 1946 by a newsman who predicted that once Ball got the railroad he would lapse back into his "public be damned attitude." He urged Pepper to "let the duPonts have the railroad and then criticize their operation."⁹⁹ This was good advice, but Pepper rejected it. For an astute man to ignore that advice and the warnings of friends and supporters seems out of character, but Pepper was an idealist who believed that labor was depending on him to fight for their rights. The feeling that he could not let labor down compelled him to disregard the possibility of untoward consequences coming from his actions. Also, he seemed to think it was possible for a public figure to act as a private citizen.

More than anything, however, Pepper was a liberal. Since the Broward era liberals have opposed corporation domination in Florida.¹⁰⁰ To them Ball became a very real symbol of evil to be opposed at all costs. Pepper would have fought Ball in any case, but the fact that they had split openly in 1944 certainly made it

96. *Wall Street Journal*, December 20, 1971.

97. *New York Times*, December 26, 1971.

98. *Wall Street Journal*, July 3, 1972.

99. J. A. Cawthon to Pepper, February 20, 1946, Pepper Papers, MB.

100. Samuel Proctor, *Napoleon Bonaparte Broward, Florida's Fighting Democrat* (Gainesville, 1950), 62, 151.

easier to attack. The results were tragic for everyone but the duPont Trust. Pepper was right about the consequences of a takeover for labor, but the constituency realized its error too late to pay back Pepper for his continued effort which almost had the quality of sacrifice.

To remain in office Pepper could not afford to sacrifice a single vote. A "conservative-progressive" stance earned Duncan U. Fletcher twenty-seven years in the Senate, and Pepper was an anomaly whose strength clearly had been waning since 1944.¹⁰¹ By miscalculating the extent to which his participation in the FEC matter would alienate many of his old supporters on the east coast and by badly underestimating Ball's strength and ability to win support, not to mention intensifying Ball's hostility, Pepper himself added the last straw to the forces which led to his defeat. Afterwards he said he had "been in a dilemma for a good long while about whether I should seek to continue to represent Florida in the Senate or not."¹⁰²

Was the fight worth what it cost? Labor probably would say "No." Pepper, as an idealist and liberal, would probably reply, "No, but I would go the same route again." Ball probably would say "Yes." In any event, it can only be hoped that from the travail of the past will come a new viability and stability which those connected with the case so richly deserve.

101. Wayne Flynt, *Duncan Upshaw Fletcher, Dixie's Reluctant Progressive* (Tallahassee, 1971), vii.

102. Pepper to Earl Faircloth, May 22, 1950, Pepper Papers, MB.