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PREPARED FOR

THE NATIONAL TRANSPORTATION COMMITTEE

BY

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WASHINGTON, D.C.

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PREFACE

In the analyses submitted herewith we have endeavored to marshal in a systematic manner the essential information with reference to the various subjects covered, and to relate the whole discussion to the issues involved in stabilizing and reorganizing American transportation. In the four months at our disposal we could not cover in detail every phase of the broad problem before us, nor have we been able to give adequate attention to literary form. Numerous topics pertaining to highly technical questions and of interest to particular groups have been omitted as falling outside the primary purpose of our inquiries.

In the conduct of the investigation I have had the collaboration of a number of the regular staff of the Brookings Institution and of several other specialists recruited for particular phases of the problem. Charles O. Hardy, Adah L. Lee, and Fred W. Powell have acted as a collaborating committee sharing responsibility in the preparation of the report as a whole. Dr. Hardy has contributed Part III and much of Chapters II and III; Dr. Powell is primarily responsible for Part IX and Chapter X: Miss Lee has collaborated with me in Part V. Dr. Isador Lubin is the author of Chapter IX; Dr. Benjamin P. Whitaker of Chapter XI; Charles L. Dearing of Chapters XXIV, XXV, and XXVI; and Paul T. David of Chapter XXXI. Dr. Frieda Baird, Sheldon B. Akers, Edwin A. Lamke, and Ralph P. Ward, of the Institution staff, served as statistical assistants.

Chapter VII was contributed by Dr. Ralph L. Dewey, of Ohio State University; Chapter VIII by Dr. Wilfred

Eldred, transportation specialist; Chapters XXXIV and XXXV by Charles W. Eliot, 2d, Director of Planning, National Capital Park and Planning Commission; Chapter XXIX and a part of Chapter XXXIII by Ralph J. Fogg, consulting engineer; Chapter XXX by Lloyd C. Hoeltzel, United States Department of Commerce; and Chapter XXVIII by Porter R. Taylor, formerly Director, Bureau of Markets, Pennsylvania Department of Agriculture. Dr. Susumu Kobe, of the University of Michigan, contributed Chapters IV, V, and VI, and assisted in connection with a number of other chapters.

The undersigned has contributed the chapters not otherwise designated and he accepts responsibility for the entire analysis.

We have received innumerable suggestions and a large number of special memoranda from persons and organizations interested in transportation, for all of which we are very grateful. We are especially indebted to the Interstate Commerce Commission for its generous aid in the assembling of statistical information.

HAROLD G. MOULTON

Washington, D.C., February, 1933.

10225

CONTENTS

	PAGE
Preface	v
REPORT OF THE NATIONAL TRANSPORTATION COM-	
MITTEE	χv
Introductory	χv
A. Conclusions of the Committee	xvii
B. The Report	xxii
C. Supplemental Report of Alfred E. Smith.	lv
Appendix: Letter of Invitation	lxv
/ PART I. INTRODUCTION	
CHAPTER I	
Introduction	3
I. Summary of American Transportation Devel-	,
opment	3
II. Regulation and Regulatory Agencies	9
III. Relative Importance of Transportation Agencies	14
IV. Basic Principles of Transportation	19
CHAPTER II	
THE TREND OF RAILWAY FINANCIAL CONDITION,	
1890-1929	26
I. Financial Status of Railways as a Whole	26
II. Financial Status of Regional Groups	34
-III. Ability to Raise Capital	37
IV. Summary	47
. CHAPTER III	
RAILROADS AND THE DEPRESSION	49
I. Traffic	49
II. Rates	* 53
III. Revenues and Expenditures	57
IV. Disbursements	61
V. Investment	64
VI. Place of the Railways in the Depression	65

PART II. FACTORS AFFECTING RAILWAY NET INCOME

	PAGE
_ Introductory Statement	73
CHAPTER IV	
✓ Volume of Traffic	74
CHAPTER V	
THE DECLINE OF PASSENGER BUSINESS I. The Increasing Unprofitableness of Passen	ger
Service II. Analysis of the Decline in the Volume of I	
senger Traffic	88
III. Analysis of the Operation of Passenger Ser	
CHAPTER VI	
OPERATING EFFICIENCY	99
I. The Movement Toward Greater Efficiency	y 99
II. Results of the Efficiency Movement	103
III. Managerial Efficiency	109
CHAPTER VII	
FREIGHT AND PASSENGER RATES	112
I. The Trend of Railway Rates and Earn	
1910-1931	
II. Commission Policies Affecting Rates III. Lower Rates for Depressed Industries:	
Hoch-Smith Resolution	
IV. The Influence of Competition on Rate Level	
V. Relating Freight Rates to Costs	
VI. The Long-and-Short-Haul Problem	
VII. The Freight Rate Structure and the Movem	
toward Uniformity	
VIII. Summary and Conclusions	
CHAPTER VIII	177
	147
OBSOLESCENT LINES I. The Extent of Railway Abandonments	147
II. Estimates of Unprofitable Mileage and its	17/ Fi-
nancial Burden	152

CONTENTS

	PAGE
III. Attitude of the Interstate Commerce Commission toward Abandonments	172
CHAPTER IX	
RAILROAD WAGES AND OPERATING COSTS	179
I. The Wage Bill of the Railroads	179
II. The Status of Railroad Labor	181
III. The Trend of Railroad Wage Rates	197
IV. Labor Costs and Railroad Operation	202
CHAPTER X	
CHAPTER X UNPRODUCTIVE EXPENDITURES	222
CHAPTER XI	
TAXATION I. Trends of Federal and State Taxation, 1911-	231
I. Trends of Federal and State Taxation, 1911-	
1931	233
II. Tax Burden of Class I Railways: 1911-1931 III. Comparative Tax Burden: Railroads and other	
Industries	246
IV. Geographical Variations of the Railroad Tax	
Burden	265
V. Conclusions	270
T PART III. FINANCIAL STRUCTURE AND FINANCIA POLICIES	AL
CHAPTER XII	
FINANCIAL STRUCTURE AND OWNERSHIP OF THE	
FINANCIAL STRUCTURE AND OWNERSHIP OF THE RAILWAYS	275
CHAPTER XIII	
RAILROAD CAPITALIZATION	285
RAILROAD CAPITALIZATION I. The Control of Capitalization II. The Significance of the Amount of Capitaliza-	286
tion	287
III. Should there be a General Decapitalization?	288
IV. Should there be a Devaluation of the Funded	i
Debt?	291

CHAPTER XIV	PAG
FINANCIAL POLICIES	298
I. Railway Financing, 1925-1929	301
II. Stocks versus Bonds: Controlling Factors	306
III. Future Financing	311
IV. Decapitalization as a Financial Expedient	313
V. Dividend Policy	316
CHAPTER XV	
REORGANIZATION PROCEDURE: CURRENT PRACTICE	321
I. Reorganization Procedure	322
II. Size of Capitalization	326
III. Amount of Fixed Charges	331
IV. Reorganization Expenses	333
V. The Maintenance of Equity	336
CHAPTER XVI	
REORGANIZATION PROCEDURE: PROPOSALS FOR	
Change	349
PART IV. REGULATION OF THE LEVEL OF RATES	;
INTRODUCTORY STATEMENT	363
CHAPTER XVII	
THE VALUATION PLAN	366
I. The Antecedents of the Valuation Act	
II. The Process of Making Valuations	371
CHAPTER XVIII	
THE RECAPTURE EXPERIMENT	377
CHAPTER XIX	
Analysis of Valuation Principles	387
I. Market Values as a Basis of Rates	387
II. The Cost of Reproduction Theory	388
III. The Cost, or Investment, Theory	392
IV. Appraisal of Alternative Principles	394

CONTENTS

	PAGE
CHAPTER XX	
THE UTILITY OF PHYSICAL VALUATION I. Physical Valuation and the Earnings of In-	400
dividual Roads	400
II. Physical Valuation and the Regulation of the	405
Level of Rates	413
	418
IV. Should Valuation be Continued?	421
V. Conclusions	. 721
PART V. WATER TRANSPORTATION	
Introductory Statement	427
CHAPTER XXI	
WATERWAY HISTORY AND POLICY	429
I. Water Transportation to 1890	429
II. The Program of Waterway Rehabilitation III. The Future Program of Waterway Develop-	434
ment	442
CHAPTER XXII	
COMPARATIVE COST OF WATER AND RAIL TRANS-	
PORTATION	454
I. Analysis of General Cost Elements II. The Mississippi Valley Association's Cost Com-	454
putation	454
III. Railway Subsidies	466
CHAPTER XXIII	
Analysis of Specific Projects	469
I. The New York State Barge Canal System	469
II. The Ohio River	
III. The Missouri River Improvement	486
IV. The Mississippi River	491
V. The Intercoastal Waterway	503
VI. The St. Lawrence Project	. 505
VII. Conclusion	511

AMERICAN TRANSPORTATION PROBLE	M
J PART VI. HIGHWAY TRANSPORTATION	
CHAPTER XXIV	PAGE
NATURE OF THE HIGHWAY TRANSPORT PROBLEM	517
I. Growth of Highway Transport	517
II. Character of the Trucking Business	521
CHAPTER XXV	
HIGHWAY DEVELOPMENT AND FINANCING	527
I. Extent and Character of Highway Develop-	
ment	529
II. Highway Outlays and Methods of Financing	535
III. Summary	546
CHAPTER XXVI	
Who Pays for the Highways?	547
I. Determination of Highway Costs	548
II. Allocation of Highway Costs between Types	3,0
of Vehicles	558
	,,,,
CHAPTER XXVII	
MOTOR VEHICLE TAXATION	564
I. Special Motor Vehicle Taxes for Highway Sup-	
port	565
II. General Motor Vehicle Taxes	568
1	
CHAPTER XXVIII	
TRUCK COMPETITION IN AGRICULTURAL PRODUCTS	575
I. Livestock	578
II. Fruits and Vegetables	595
III. Dairy Products	621
IV. Poultry and Eggs	637
V. Cotton	645
VI. Summary and Conclusions	659
CHAPTER XXIX	
Possibilities of Co-ordination of Rail and Motor	
Transport	669
I. In Terminal Freight Movement	671
II. In Line Haul Freight Movement	685

CONTENTS

•	PAGE
III. Co-ordinated Railroad Bus Service	690
IV. Railroad Use of Motor Vehicles	692
V. Summary	696
PART VII. OTHER TRANSPORTATION AGENCIES	i
CHAPTER XXX	_
OIL AND GASOLINE PIPE LINES	701 7
I. Development of the System	702
II. Regulation	708
III. Competition Between Railroads and Pipe Lines	713
CHAPTER XXXI	~
AIR TRANSPORT	717
I. Size and Organization of the Industry	718
II. Economic Characteristics of Air Transport	723
III. Factors Influencing the Competitive Position	
of Air Transport	725
IV. Air Traffic Levels and Rates of Growth	733
V. Co-ordination with Other Transportation	
Facilities	737
VI. Extent of Government Aid	739
VII. Reasons for Federal Aid to Air Transport	747
VIII. Extent and Character of Existing Regulation	
IX. Conclusions	757
PART VIII. STABILIZATION OF THE RAILROAD INDUSTRY	
X INTRODUCTORY STATEMENT	763
CHAPTER XXXII	
THE READJUSTMENT OF RATES AND COSTS	765
CHAPTER XXXIII	
The Problem of Terminal Unification	780
I. The Place of the Freight Terminal in Railway	
Operations	781
II. Produce Terminals	799
III. Passenger Terminals	805
IV. Conclusions	808

CHAPTER XXXIV	PAGE
TRANSPORTATION AND CITY PLANNING	.810
I. The Present Chaotic Situation	813
II. The Place of Railroads in the City Plan	822
III. Streets and Highways as Transportation Lines	
in the City Plan	826
IV. Waterfronts and Ports	831
V. Airports	832
VI. Conclusion	832
CHAPTER XXXV	
METHODS OF EFFECTING TERMINAL UNIFICATION	834
I. Voluntary Consolidation	834
II. Public Controls	837
III. Public Ownership	842
IV. Conclusions	844
•	
CHAPTER XXXVI	
CONSOLIDATION AND EFFICIENCY	846
I. Economic Aspects of Consolidation	846
II. Advantages and Disadvantages of Proposed	
Plans	852
. /	
PART IX. REORIENTATION IN TRANSPORTATION REGULATION	
CHAPTER XXXVII	
DEVELOPMENT OF THE PRESENT SYSTEM OF REGULA-	
TION	861
I. The Railroads	862
II. Coastal and Inland Shipping	872
III. Motor Vehicles	875
IV. Air Transport	879
· /	
CHAPTER XXXVIII	
THE NEED FOR A NEW TRANSPORTATION POLICY	881
BIBLIOGRAPHY	896
Index	911

REPORT OF THE NATIONAL TRANSPORTATION COMMITTEE

INTRODUCTORY

Herewith are presented:

- A. The Conclusions of the National Transportation Committee.
- B. The Report of the Committee.
- C. Supplemental report by former Governor Alfred E. Smith who prefaces it, "While I am in substantial agreement with the greater part of the Committee Report, this supplementary memorandum states my conclusions in my own language, placing the emphasis where I think it belongs."
- D. Special studies by the research staff to be published shortly by the Brookings Institution, Washington, D.C.

The Committee associated itself at the request of certain Business Associations, Savings Banks, Insurance Companies, and fiduciary and philanthropic institutions interested in railroad securities (see Appendix) in response to an invitation in essential part as follows:

"We, the undersigned organizations, representing many of the interests concerned, believe that there is no more important present task than a thorough and satisfactory solution of the railroad problem, as an integral but the most urgent part of the entire transportation problem. We beg that you examine all

phases of the problem and recommend a solution which, with due regard for the public interest, will ensure an opportunity for the railroads of this country to be put on a business basis, so that neither now nor in the future will they constitute a present threat to the invested savings of our citizens, to loss of employment to our wage-earners, and to the stability of the insurance companies and savings banks; and so that the present burden on the Federal treasury and the American taxpayer may be in a fair measure removed."

The Committee met and organized on October 7, 1932. It was composed of Calvin Coolidge, Chairman, Bernard M. Baruch, Vice-Chairman, former Governor Alfred E. Smith, Alexander Legge and Clark Howell. John W. Power acted as secretary. The Committee selected Dr. Harold G. Moulton, of the Brookings Institution, to organize a research staff.

Just as the Committee's work was nearing a close, it lost the distinguished director of its deliberations who was giving his great talents unsparingly to this work. The report had not taken form at the time of his death, but the Committee has tried to carry on in the spirit of his leadership.

The Committee gathered its facts from three sources:

- (1) Open hearings;
- Studies by other investigating bodies, memoranda, briefs and specific suggestions;
- (3) The work of Dr. Moulton and the staff.

This mass of material is too voluminous and varied to publish in full, but the work undertaken by the re-

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search staff will be published shortly by the Brookings. Institution. Dr. Moulton's conclusions are his own.

The transport problem has been with man since the first rude trails of pre-history. It has shaped the destiny of humanity. The closing of the caravan routes to the East Indies discovered America. History is full of similar consequences. Just now, largely due to the recent rapid development of new forms of transportation, the railroad problem is acute in nearly all important countries, including our own. Commissions more or less similar to this Committee have been at work in England, Canada and the Argentine Republic and we have considered their reports and analyses. There are railroad commissions in nearly every one of our forty-eight States and similar bodies in many other countries. These, the Interstate Commerce Commission and the very able Congressional Committees on these subjects have all been devoting themselves to the problems created by these rapid shifts. Much of this work and a great mass of other data have been assembled and given careful study by the Committee. The problem is very complex and while the Committee is in substantial agreement as to conclusions, it is too much to expect that four men of independent mental processes would all arrive at decisions by identical paths, or with equal emphasis on various factors.

A. Conclusions of the Committee

I. The railroad system must be preserved. Changed conditions require new policies but not abandonment of railroad regulation. The development of regulation and of new methods of transport make it unnecessary for Government further to create and foster competition

with or among railroads as a defense against monopoly. That is an expensive and ineffective attempt to do indirectly what Government has shown its ability to do directly. Regulation is sufficient. Government policies should be freed of any purpose either to favor or to handicap any form of transportation with relation to any other form. We cannot solve the problem on the theory upon which horses are handicapped in a race. In a fair field and no favor competition should be permitted to decide the result. Regulation should not attempt to "run the business" of transportation. It should concentrate on protecting the public against discrimination and extortion and on requiring the most efficient service at the lowest competitive cost.

- (1) Parallel lines and systems are wasteful and unnecessary. Regional consolidations should be hastened and, where necessary, enforced, looking eventually to a single National system with regional divisions and the elimination of all excess and obsolete lines and equipment. Neither holding companies nor any other device should be permitted to hinder consolidation or evade the letter or the spirit of regulatory law.
- (2) Unprofitable railroad services should be replaced by cheaper alternative transport methods,
- (3) Railroads should be permitted to own and operate competing services, including water lines, but regulatory jurisdiction should be extended to water rates and practices in coastal, intercoastal and lake shipping to relieve commerce of present chaotic conditions. Congress should

- promptly clarify its intention on the long-andshort-haul clause of the Transportation Act.
- (4) Government assumption of all or part of the costs of inefficient competing transport as a defense against monopoly is no longer warranted and should be abandoned. As a general principle inland waterways should bear all costs of amortization, interest, maintenance and operation of the facilities for their navigation. If they cannot bear such charges and compete with other forms of transport, they should be abandoned. The St. Lawrence Waterway should be tested by this rule of self-support and if it fails in that test the pending treaty with Canada should not be ratified. Governmental commercial operation of the actual facilities of transportation, such as barge-lines, should not be continued.
- (5) Automotive transportation should be put under such regulation as is necessary for public protection. It should bear its fair burden of tax but only on a basis of compensation for public expenditure on its behalf, plus its share of the general tax load. Neither tax nor regulation should be applied for any purpose of handicapping the march of progress for the benefit of the railroads.
- (6) Wages and working conditions of labor in transportation are determinable by established procedure in another forum and are not within the scope of this inquiry. There should be no heavier burdens on the railroads in employing labor to operate automobiles than on their competi-

tors. In the railroads (as in other industries) rates, capitalization, salaries and wages must all follow changing economic conditions, but none should be sacrificed for the benefit of others.

- (7) Beacons, weather service and similar auxiliaries to air traffic should be maintained at public expense, and air transport should be encouraged during its development stage but we believe that every such service should ultimately pay its own way.
- (8) The Committee has no recommendations to make on pipe lines.

II. The policy of trying to appraise railroad properties on some selected basis of valuation and then saying that they are entitled to earn a fair return on this appraisal should be reconsidered. Where competition with trucks and other methods exists, it will determine rates. In other cases rates must be regulated, but the basis of costs of operation under efficient management is a better general guide than any attempt to preserve apital structures regardless of economic trends. We see no reason why the rate-making rule should not say in plain English that railroads are entitled to make a reasonable profit based upon costs of efficient operation and that they are not entitled to earnings merely to preserve present structures if overcapitalized.

III. The railroads should do much that they have not done to improve their condition without any Government help at all. They should prompt! y be freed of all unnecessary restrictions on the doing of it. It has been estimated that less than a 20 per cent increase in traffic

would put most of them on an earning basis. In view of the narrowness of this margin of loss and of the very great savings possible in railroad operation, we regard their outlook as far from hopeless.

- (a) Railroads should adopt the competing methods of which they complain.
- (b) Railroads should co-operate to reduce competitive expense.
 - (1) Unnecessary services should be abandoned.
 - (2) Metropolitan terminals should be consolidated and unnecessary facilities scrapped.
 - (3) Circuitous haulage should be eliminated.
- (c) Financial management should be improved.
- (d) Transport methods and equipment should be brought up-to-date.
- (e) In view of what could be done by better management, the general outlook seems far from hopeless.
- IV. Regulatory jurisdiction should be extended to the whole National transportation system but applied only to the extent necessary for public protection. The existing regulatory mechanism of the Interstate Commerce Commission is inadequate and should be improved by reorganization without expansion or increased expense.
 - V. Emergency Recommendations.
 - Corporate reorganization can and should be facilitated by revision of the bankruptcy procedure.

- (2) The recapture clause should be repealed retroactively.
- (3) The statutory rule of rate-making should be revised.
- (4) "Adequate security" does not necessarily mean "marketable collateral."

B. THE REPORT

I. The railroad system must be preserved. Changed conditions require new policies but not abandonment of railroad regulation. The development of regulation and of new methods of transport make it unnecessary for Government further to create and foster competition with or among railroads as a defense against monopoly. That is an expensive and ineffective attempt to do indirectly what the Government has shown its ability to do directly. Regulation is sufficient. Government policies should be freed of any purpose either to favor or to handicap any form of transportation with relation to any other form. We cannot solve the problem on the theory upon which horses are handicapped in a race. In a fair field and no favor competition should be permitted to decide the result. Regulation should not attempt to "run the business" of transportation. It should concentrate on protecting the public against discrimination and extortion and on requiring the most efficient service at the lowest competitive cost.

At the foundation of our system of communication is the railroad web. It is the most important single element in our social and economic life. Its rapid extension enabled us to cover the greater habitable part of a continent with a cohesive form of liberal government of 125,000,000 people united in a common language, purpose and ideal and to maintain National solidarity

through periods of stress. Both security and material welfare are involved in its continued efficient existence. The public interest is deeper than its investment or its need of good service. We are addressing a matter of National concern of the first magnitude. The railroad system must be continued and its efficiency preserved because of National necessity—economic, social and defensive.

(a) Governmental fostering of competition is no longer necessary as a defense against monopoly,

Above all other enterprises, railroads are, therefore, "affected with a public interest" and, under an ancient doctrine of our law, peculiarly subject to Government regulation. In earlier development, the railroad franchise created an effective and complete monopoly against which industrial and social segments had no defense. Rigorous governmental control was inevitable. It took two forms: first, an effort to foster competition among different railroads and to create and maintain, by Federal financial aid, other forms of competing transportation such as waterways; second, an intense regulatory control of the railroads themselves. The latter has been practiced long enough and sufficiently extended to prove that it dominates competition or any other influence as the government law of railroad practice. To the extent that the monopoly inherent in the railroad franchise was a menace, it is of the utmost importance to recognize that current railroad regulation safely controls it. Other safeguards have appeared. With increasing effect, new methods of transport are invading customary fields of railroad patronage. On a basis of economic efficiency, independent of Government aid, pipe lines, motor trans-

port and airways are all making bids for business which the railroads can retain only by offering equivalent service at competitive rates. In these areas of competition, there is no longer complete monopoly. These two developments—perfection of regulation and appearance of competing methods—have created a new principle, viz:

Insofar as government policies have been designed, by Federal intervention, to create and maintain competition with or among railroads as a defense against monopoly, they should be abandoned as wasteful and unnecessary. Regulation is sufficient.

(b) Regulation should provide a fair field and no favor.

The railroads complain that they are shackled by regulation while their competitors are free and unduly advantaged by various forms of discrimination in their favor. To the extent that this is true, it is unfair. But it must be equally clear that, notwithstanding the deep public interest in our railroads, the Government cannot stand in the way of progress. Certain regulation of competitive methods is necessary. They cannot be permitted to escape their just tax burdens. They ought not to be artificially advantaged by subsidy or otherwise. But regulation of them must arise from its own necessity, and burdens upon them must derive from justice. The Government cannot, for the sake of the railroads, invent and apply to their competitors either regulation or burden on the theory upon which horses are handicapped in a race. A similar principle applies to vailroads, and to the extent that they are handicapped by burdens for which the reason is obsolete or non-existent, Government

has a positive duty to remove them. The guiding rule of the whole matter seems to us quite clear:

With the danger of railroad monopoly going or gone and (whether going or gone) completely controlled by regulation, Government has a positive duty to see to it that neither the railroads nor their competitors are either unduly handicapped or unduly advantaged. Thereafter, in a fair field and no favor, economic competition must decide the question of survival under private ownership and operation.

(c) Regulation should not be abandoned. It should be put on the simple basis of public protection.

There is respectable opinion that the development of effective competitive methods argues for the abandonment of all railroad regulation. The Committee cannot concur. Competition of parallel methods is as yet limited and localized and, while it is a powerful and growing force against monopoly, it does not relieve the necessity for railroad regulation and, because of other aspects of public interest and dependence already mentioned, in our opinion, it never will. On the contrary, we regard regulation as necessary in the interest of both the railroads and the public and we think that it should be extended to other forms of transportation.

But, for reasons stated hereinafter, more care must be taken to maintain managerial initiative. Regulation, whether of railroads or other forms should not attempt to "run the business" of transportation. It should concentrate on protecting the public against discrimination, extortion and other abuses of monopoly and on insuring the most efficient service at the lowest competitive cost.

If these conclusions on general principles are correct, several changes in policy flow inevitably therefrom, viz:

(1) Parallel lines and systems are wasteful and unnecessary. Regional consolidations should be hastened and, where necessary, enforced, looking eventually to a single National system with regional divisions and the elimination of all excess and obsolete lines and equipment. Neither holding companies nor any other device should be permitted to hinder consolidation or evade the letter or the spirit of regulatory law.

The policy of maintaining parallel and competing lines or systems on the theory that thus extortionate rates and discrimination may be restrained is wasteful and, of course, untenable under a system which controls rates and practices to the ultimate.

Duplication and unnecessary overheads, facilities and services, inherent in the present multiplicity of railroads, are very expensive and consolidations should be hastened. In plans for this, consideration should be given to creating a single efficient system (rather than competing systems) for each natural trade area, even to the ultimate extent of a single National network with regional divisions. It has been estimated by good authority that several hundred million dollars, or enough to pay interest on a large part of the outstanding railroad bonds, can be saved. Consolidation is so vital to the public welfare that, unless it is voluntarily accomplished within a reasonable time, the Government should compel it. Neither holding companies nor any other device should be permitted to hinder consolidation or to evade the letter or spirit of regulatory laws.

(2) Unprofitable railroad services should be replaced by cheaper alternative transport methods.

In view of the rapid development of automotive and other transport, there is no justification for maintenance by railroads of losing services and lines, and there devolves upon regulatory bodies and controlling interests something more than a negative duty to hasten their replacement by alternative methods, such as motor transport, which can render adequate service on a profitable basis in cases where rail transportation can operate only at a loss.

(3) Railroads should be permitted to own and operate competing services, including water lines, but regulatory jurisdiction should be extended to water rates and practices in coastal, inter-coastal and lake shipping to relieve commerce of present chaotic conditions. Congress should promptly clarify its intention on the long-and-short-haul clause of the Transportation Act.

Restrictions on the ownership by railroads of waterborne, automotive or other competing services seems anomalous in a regime which has demonstrated its effective control of both rates and practices.

There are certain competitive situations where railroad rates between two ports are fixed by regulation and unregulated water rates are in chaos. This is disturbing to commerce and unfair to railroads. For this and other reasons, we believe that the jurisdiction of the regulating body should be extended to cover inter-coastal, coastal and lake commerce. We do not mean to recommend that water rates, based on actual lower costs, should be regulated upward to equalize traffic in favor

of railroads. But we do believe that, in such a situation, some stabilizing influence should be applied in the interest of commerce generally as well as in fairness to railroads.

The law prohibits a railroad from charging less for a longer than for a shorter haul, over the same line, in the same direction, the shorter being included in the longer, but permits the Interstate Commerce Commission a discretion to relieve this restriction.

The law is not altogether clear and the Commission's interpretation and decisions have been the subject of long and persistent controversy. Grave consequences affecting wide economic areas are involved and the situation requires prompt clarification. Two pending suggestions by the Interstate Commerce Commission and one by the House Committee might contribute thereto. If jurisdiction of the Commission be extended to include inter-coastal commerce, or if a new rule of rate-making be adopted, the problem would be simplified. But if neither of these things is done, it is important that Congress act at once to declare its intention on this important application of the so-called "long-and-short-haul" controversy.

(4) Government assumption of all or part of the costs of inefficient competing transport as a defense against monopoly is no longer warranted and should be abandoned. As a general principle inland waterways should bear all costs of amortization, interest, maintenance and operation of the facilities for their navigation. If they cannot bear such charges and compete with other forms of transport, they should be abandoned. The St. Lawrence Waterway should be tested by this rule of self-

support and if it fails in that test the pending treaty with Canada should not be ratified. Governmental commercial operation of the actual facilities of transportation, such as barge-lines, should not be continued.

Creation and maintenance, by Government, of competing methods of transport, where the result is not (as in the Panama Canal) to provide more efficient service at lower cost, but only (as in some inland waterways) to maintain at the taxpayers' expense, more costly and less efficient service can no longer be justified as a defense against monopoly.

This Government has long been committed to the improvement and maintenance of shipways and of at least the outer harbors of ports accessible to great naturally navigable waterways. This involves expense, defrayed by taxation of the whole Nation, but applied at particular points, in the development of the instrumentalities of interstate and international commerce. To an extent, these waterways are the railroads' competitors and, as far as they go, these expenditures favor them. But in respect of accessories to naturally navigable waterways, such as ocean harbors and their approaches and the harbors and channels of the Great Lakes, this is a recognized function of government the world over, for naval as well as commercial purposes, and the railroads may be presumed to have been located, financed, and constructed with this in view. We have not heard it decried as an unjust handicap and with these remarks it passes from our consideration.

But, with inland waterways in general, the case is otherwise. For the sake of illustration, let us imagine a Federally constructed canal between, for example, To-

peka and Oklahoma City—a stark ditch. If that canal fairly bore the burdens of its cost of construction and operation and yet could furnish transportation at an advantage over rails, nobody could complain, regardless of the extent to which it diverted railroad traffic. But if such was not the case and the canal could compete only if the public paid enough of these charges to undercut the cost of rails, it seems too obvious for argument that its creation and maintenance would be a direct impairment of the railroad system by public subsidy and distinctly inimical to the National interest.

Exactly the same principle of self-support seems applicable to any natural waterway upon which improvement and engineering devices are necessary to provide effective navigation. We think it is the very touchstone of the whole vexed problem and that every existing or projected improvement should be tested by its application. Any project which fails to answer that test should be abandoned, without hesitation, as an unwarranted waste of public money.

(a). The Great Lakes Waterway.

The connecting channels of the Great Lakes were not navigable in the modern sense in their natural state, but the Great Lakes Waterway now stands as a fully created, implemented and efficient system of navigation which, in many respects, falls under the considerations governing Federal improvement of ocean ports, harbors and shipways.

(b) The St. Lawrence Seaway.

There are obviously not at present any facilities for navigation, by ocean-going vessels, of the restricted wa-

terways connecting the Great Lakes with each other and with the sea. The project to create such a shipway to the head of Lake Superior is a major engineering project of stupendous magnitude and very great cost. There is diversity of opinion as to whether the project is practicable. It is clear from our studies that the peculiar type of Lake bulk-carriers is far more efficient than any ocean freighter and from this fact that the area of economy is restricted practically to savings in cost of transshipment. But our studies also show that, in no reasonable probability, could this minor saving be enough to approximate even the carrying charges on this project.

In conformity with one of the general principles already announced, if this seaway could be shown to be the march of progress and if cheaper and more efficient transportation can thus be achieved, no barrier should be imposed against such a development. But we think that, before ratification of the pending seaway treaty with Canada bargaining away valuable American rights, this project should be fairly tested on the rule of selfsupport and, if it fails, the treaty should not be ratified.

(c) Government barge lines.

Argument for and against Government operation of barge lines was strongly pressed before us. In this case, not only is the waterway itself provided and maintained at public expense, but the actual business of transportation thereon is in part financed by Government. The claim is made, and in our judgment sustained, that, if the methods of accounting used by the Government in respect to the Panama Canal were applied, they would reveal operating losses which are charged to the taxpayer. We think that actual Government operation of

the facilities of transportation, wholly or partly at public expense, is unjust to the vast majority of people, and unwarranted by any argument that has come to our attention.

(d) Inland waterways in general.

We recommend that the Congress give consideration to the formulation of a consistent policy on inland waterways. We think that the test of self-support should be applied to every existing or proposed inland waterway.

Unbearable tax burdens are generally recognized as a principal hindrance to economic recovery. Our waterway policy for the past few years has averaged a cost of about 100 million dollars annually and tremendous projects involving hundreds of millions are being considered. Our studies show no commensurate economic benefit resulting from much of this spending. In such circumstances, we think that a large part of this activity should be abandoned or at least suspended. It bears heavily on the taxpayer as a direct burden and even more heavily on the whole community in its contribution to the postponement of prosperity. At a time when the very stability of our system depends on the balancing of Federal expenditures with revenue and the sources of taxation seem almost dry, we find it difficult to justify this wasteful outpouring of hundreds of millions of dollars for results so barren of economic returns.

(5) Automotive transportation should be put under such regulation as is necessary for public protection. It should bear its fair burden of tax but only on a basis of compensation for public expenditure on its behalf, plus its share of the general tax load. Neither tax nor regulation should be applied for

any purpose of handicapping the march of progress for the benefit of the railroads.

The problem of the automobile is very difficult. Its roadbed is provided at public expense and it requires few, if any, terminal or similar facilities. It need notas must railroads-load any part of its cost of operation with a charge for this construction and maintenance. It can make rates which do not involve charges for depreciation and amortization. It can pay whatever scale of wages and exact whatever hours of labor it can make effective. It can bargain closely and instantly and can walk away with business while the railroads are involved in a prescribed process before their regulating overseers. It is not attached to rails and can furnish swift door-todoor service which railroads as such cannot even approximate. It may be a common carrier, a contract carrier or a private operator. It moves intra-state and inter-state and may change its character in these matters instantly. It need not maintain continuous schedules and service. It can pick its business and is prone to take the cream of the traffic and leave the rest for the railroads, which must receive whatever is tendered. It can be permanently or sporadically in business and competition. With these advantages it has made inroads into railroad business and the difficulties are only partly suggested by this short recitation of complexities.

The problem thus presented has been regarded as serious in every important country and commissions similar to this Committee have been convened in several of them. The difficulty is not solely in the amount of tonnage diverted but resides also in the chaotic rate conditions presented to commerce in general and in many new necessities for public protection. It has been a matter of

primary concern to our Interstate Commerce Commission, to State Commissions everywhere, to the Congress, to the highway users themselves, and to all who have given great study to the transport problem.

One thing is certain. Automotive transportation is an advance in the march of progress. It is here to stay. We cannot invent restrictions for the benefit of railroads. We can only apply such regulation and assess such taxes as would be necessary if there were no railroads, and let the effect be what it may.

On the question of whether public financing of roadbeds operates as a subsidy, there is a vast variety of circumstance. The automobile itself, its fuel, lubricants and operations are all heavily taxed. Does the total of these assessments bear its share of the general tax load and also sufficiently reimburse the public expenditure on the roads it uses? If it does, the circumstance that the charge is not comparable in amount to railroad costs of construction and maintenance of terminals and roadbeds is immaterial. The purpose is not to handicap automotive competition, but only to do justice.

These questions are of mixed State and Federal bearing and very difficult of determination. Both taxes and regulation on motor transport vary among the States and, while it has been strongly urged as the only solution, the Committee believes it impracticable to get uniformity by any plan for concert of State action. Our studies clearly indicate that in some States automotive vehicles do not bear their full burden of taxes. We think they should pay the carrying charges and cost of maintenance of the highways they use and also their share of the general tax load. The Interstate Commerce Commission recommends regulation of inter-state buses and ex-

tension of their jurisdiction to include inter-state trucks. The Committee believes that the situation requires general Federal jurisdiction of motor transport. It recognizes that no such intricacy of regulation as characterizes railroad supervision can ever be extended to this field, but it is convinced that a broad measure of Federal and uniform State control can and should be applied.

A valuable advance is registered in the recent report of the Joint Committee of Railroads and Highway Users on the regulation and taxation of highway transportation recommending principles governing the subject which have been agreed to by these diverse interests. This kind of public-spirited cooperation is one of the most hopeful aspects of this difficult problem.

(6) Wages and working conditions of labor in transportation are determinable by established procedure in another forum and are not within the scope of this inquiry. There should be no heavier burdens on the railroads in employing labor to operate automobiles than on their competitors. In the railroads (as in other industries) rates, capitalization, salaries and wages must all follow changing economic conditions, but none should be sacrificed for the benefit of others.

It is asserted in behalf of the railroads that certain restrictions imposed on them in the matter of hiring labor for truck and bus operation which automotive transport escapes, unfairly prejudice the railroads and that labor in this competing industry is not properly protected. The Committee thinks that the railroads should be under no greater restrictions in employing labor for automotive operation than are other automotive users but it would prefer to see equalization by improv-

ing conditions in automotive labor rather than by impairing conditions of employment in railroads.

The Committee regards the particular wages and conditions of labor generally as beyond the scope of its inquiry. It merely offers the suggestion that, while Governments cannot and should not attempt to regulate the use by owners of their own automotive property, they might, in assessing taxes or issuing licenses, impose conditions of employment on vehicles not operated by owners.

The Committee believes that a permanent and universal liquidation and downward adjustment of values and incomes of all kinds have occurred in this country and that railroad rates, capital structures, salaries and wages must all respond to this generally changed condition, but that none should be sacrificed for the benefit of others.

A considerable number of obsolete rules governing overtime, hours constituting days' work, and restrictions on service, survive in the railroad wage structure. The Committee does not wish to see labor lose any of its hard-won improvement in conditions, but it believes that the just substance of them can be retained without adherence to obsolete forms, and that labor is as eager as railroads to modernize and simplify the structure of wages and working schedules.

We regret that the labor organizations did not see fit to avail themselves of the Committee's invitation to submit their recommendations on the general subjects of our investigation. We had hoped to have the benefit of their wide knowledge concerning railroad labor conditions and also their views on the best methods of protecting labor in railroads from conditions in competing

methods and of improving conditions in the latter field. It is only fair to call attention to the fact that our material does not include any presentation by the labor organizations of any facts that might have seemed pertinent from their point of view.

(7) Beacons, weather service and similar auxiliaries to air traffic should be maintained at public expense and air transport should be encouraged during its development stage but we believe that every such service should ultimately pay its own way.

Air service is diverting some traffic from railroads and threatens greater inroads. Here again the railroads are confronted with a development of human progress. It cannot be handicapped in their behalf. The most that they can ask is that it be not unfairly advantaged and, for reasons stated herein, we think that the real railroad remedy against this competition is to enter and help develop it.

Existing American airways are unquestionably subsidized at public expense. Various forms of flying-aids are maintained. Mail contracts, paying much more than receipts from air postage, are in effect with a deliberate purpose of subsidy and there is no doubt that lower rates on all air service are thus made possible at public expense.

The Committee believes that beacons and flying-aids are like lighthouses and navigation aids at sea and cannot be abandoned or charged for. The railroads were themselves subsidized in their development period. We cannot condemn Government aids to the inauguration of this valuable service. But, however much subsidy may be justified in a development period, we feel that every

established transport service should ultimately be selfsustaining, that air service has a definite place, that it will inexorably take that place without the continuing necessity for the subsidy granted in the early stages of development and that the necessity for such aid is even now decreasing. It is of the utmost importance that such aid as is given should be fairly and economically distributed.

(8) The Committee has no recommendation to make on pipe lines.

There are projects for a wider use of pipe lines as a transportation agency but at present they do not constitute a problem. They are not subsidized and they are effectively regulated. The subject has been ably and exhaustively studied by the House Committee on Commerce in a forthcoming report. From our own studies we do not recommend further present affirmative action.

II. The policy of trying to appraise railroad properties on some selected basis of valuation and then saying that they are entitled to earn a fair return on this appraisal should be reconsidered. Where competition with trucks and other methods exists, it will determine rates. In other cases rates must be regulated but the basis of costs of operation under efficient management is a better general guide than any attempt to preserve capital structures regardless of economic trends. We see no reason why the rate-making rule should not say in plain English that railroads are entitled to make a reasonable profit based upon costs of efficient operation and that they are not entitled to earnings merely to preserve present structures if overcapitalized.

Notwithstanding social and economic dependence on railroads—right or wrong—we have, since the begin-

ning, relied on private initiative for their development and financial support. Profit is the only incentive to private investment. Unless the railroads are permitted reasonable earnings on the cost of efficient operation, there is no alternative to Government ownership and complete socialization of our railroad system. But that does not mean that railroads, any more than other industries, are entitled to a guarantee of earnings on their investments in property. In early periods of railroad development and unregulated monopoly, the profit incentive was over-emphasized and resulted in unconscionable abuse. Extravagant profits, or the hope of them, contributed to the rapidity of the extension of the system, but they also got a sharp rebuke in certain instances of attempted confiscatory rate regulation. The courts intervened with an opinion that rate-making must be limited by the right to a "fair return" on the value devoted to public service. Though originally probably intended as a protection against confiscation in individual cases, this principle, by a process of evolution, became a rule governing the general level of rates.

We think this rule should be abandoned. Nobody ever thinks of saying that the costs of bricks and mortar in an industrial plant should determine what it shall charge for its products. If it can keep its costs low enough to earn a profit on what its product is worth to the public in competition with other products, then it is worth from ten to twenty times what it can earn. If it cannot do that, it is as apt to be a liability as an asset.

In this sense, the present railroad rule puts the cart before the horse. It tends to ununiformity of results, perpetuation of debt and of obsolete and exaggerated capital structure, insufficiency of allowance for obsolescence and

depreciation, inadequacy of surplus and reserves, and maintenance of unnecessary properties and facilities. The results are unjustifiably high rates in some cases and low rates in others. It evolved on the theory that, if not so restricted, the railroad monopoly would earn inordinately. That theory is becoming obsolete. The day is not far distant, if, indeed, it has not already arrived, when, even if wholly unregulated, some of our railroads may have difficulty in earning a "fair return" on asset values, no matter by what rules such values are defined. These competitive developments are incorable. The public is entitled to all benefits of the march of progress and nothing will prevent that consummation. We think that the right principle of rate-making is as follows:

Wherever there is fair economic competition it will decide the rate question and it should be permitted to do so freely. Where there is no such competition, the problem of rate regulation arises, but costs of service under efficient operation are a better general guide than some arbitrary determination of asset values.

If, on that basis, a railroad cannot earn enough to support its capital structure, the remedy is not to raise rates. It is to revise the structure. And if on no reasonable revision can the capital structure be maintained, it is an economic misfit. Parts of it that cannot live should be abandoned and the rest either set up in a new system or consolidated with other groupings.

Fixed railroad indebtedness is not commonly retired. It is refunded. It is a universal rule of financing that any debt for purchase of productive facilities should be amortized during the lives of those facilities out of re-

turns from their use. Railroads are not exempt from this well-established principle and rates should be subject to no restriction which contravenes it. A cause contributing to the present crisis is the unwieldy proportion of interest-bearing debt in railroad capitalization, much of it representing facilities long ago scrapped. We distinctly do not believe that past mistakes as represented by present unwieldy debt structures should be salvaged by increased rates. The present debt structure must be revised and losses written off. But, as to the future, we do think that rate-making should look to the retirement of new debt incurred for purchase of productive facilities during their lives and out of returns from their use.

The Interstate Commerce Commission petitions for "A simple rule which shall make it clear that, in regulating the general level of rates, we shall always keep in mind and be guided by the need for producing, so far as possible, revenues which are sufficient for the maintenance of an adequate National railway transportation system and also recognize the principle that the railroads may justly earn a surplus in time of prosperity to offset deficiencies in time of depression."

The Interstate and Foreign Commerce Committee of the House of Representatives recommends the following: "In the exercise of its power to prescribe just and reasonable rates the Commission shall give due consideration, among other factors, to the effect of rates on the movement of traffic, to the need, in the public interest, of adequate and efficient railway transportation service at the lowest cost consistent with the furnishing of such service; and to the need of revenues sufficient to enable the carriers, under honest, economical, and efficient management, to provide such service."

It will thus be seen that those who have given the subject of rate-making the closest attention have abandoned the theory of making rates on some basis of evaluation. It is said that the principles just discussed are implicit in both of these suggested rules. If so, we approve them, but the Committee sees no reason why a rule for rate-making should not say in plain English that rail-roads are entitled to make a reasonable profit on costs of efficient operation and that they are not entitled to preserve over-capitalized corporate structures.

III. The railroads should do much that they have not done to improve their condition without any Government help at all. They should promptly be freed of all unnecessary restrictions on the doing of it. It has been estimated that less than a 20 per cent increase in traffic would put most of them on an earning basis. In view of the narrowness of this margin of loss and of the very great savings possible in railroad operation, we regard their outlook as far from hopeless.

The effect of protracted depression is to reveal the underlying trends of an era. While part of our transport difficulties are, like other troubles, no more than reflections of depression, continued traffic stagnation has uncovered organic difficulties. It by no means follows, however, that this condition was either caused, or can be cured by Government. In this time of extreme stress on everybody, the public has a right to expect the railroads to do what they can for themselves before-they call on the rest of us and we are convinced that there is a great deal which the railroads have left undone. It has been said by experienced and informed observers that—because of enforced reduction in expense—a 20 per cent or even a lesser increase in traffic volume would put most

of the railroads on an earning basis and that less than a 50 per cent increase would restore them to net earning levels of 1929. Passing the question of strict accuracy in these broad assertions, the fact is that, here as elsewhere, there has been such liquidation of the general extravagance of the 1929 delusion, that a very moderate movement on the upward business spiral would dissipate much of the seeming cloud on the solvency of many railroads. The Committee is not proceeding on conjectures of unwarranted optimism, but it does seem that, if the margin of loss is as scant as this, it is narrow enough to invite some robust action in railroad administration to improve earning statements—not by increased traffic or Government intervention-but by economies and improvements in operation, and perhaps by a reduction in rates to attract more business. That has been the universal action in sister industries and that is the view of some of the leading authorities in railroad management.

Against this view it is urged that railroads have been prevented by statutes and regulations from acting freely or that, where they have been permitted to act, restrictions legally imposed upon them as railroads have been extended to them in new fields. While we believe that this argument is too much emphasized, we have found some substance in this complaint. The Committee believes that railroads should be permitted to act along the lines suggested herein subject to no more and no heavier restrictions than their competitors and that the Congress and regulatory bodies owe them a positive duty to relieve them promptly of any handicap whatever in this regard.

(a) Railroads should adopt the competing methods of which they complain.

Much of the difficulty which the railroads ascribe to automotive and potential air and pipe line competition should and could have been relieved by an alert and aggressive railroad policy. We believe that if the railroads had regarded themselves more accurately as purveyors of transportation rather than as guardians of a monopoly, they would have been more alert to take advantage of every development in their field and that a more progressive policy might have turned to their own distinct advantage the very things they now regard as a burden and a threat.

Resort to Government as an alternative to self-help is to be deplored. The early transport pioneers did not go to Washington to have their ferries and steamboats protected against rails. They developed the rail service and became controlling figures in the new field. We think it is quite clear that the railroads have been distinctly remiss in not getting the most out of the new methods. It seems to us that the truck, in local and terminal service, motor drawn equipment on rails and highways in many cases, and the airplane, where rapid transit is required, afford a way to a beneficent transport revolution, that the railroads themselves owed a duty to the public to have led, and that the quicker they do so now, the better it will be for all concerned. After they have taken this logical step, we wonder whether they will be so eager to restrict these other forms of transportation as they are now.

- (b) Railroads should cooperate to reduce competitive expense.
 - (1) Unnecessary services should be abandoned.

We think that there has not been sufficient cooperation. among the railroads. As an example, we quote from the Interstate Commerce Commission's 1932 report, P. 37:

"The expenses so chargeable to passenger and allied services for the year 1931 before taxes, rentals and interest were 110.82 per cent of the revenues from those services. For the freight service the corresponding figure was only 68.62."

The public is familiar with the spectacle of "crack" passenger trains shuttling back and forth across the country empty or nearly so and perhaps, also, with the explanation that this "is necessary to retain the competitive reputation for service"—in other words, for sales promotion or advertising. The Committee believes that agreements in good faith and within the law could relieve this expense. We think empty trains should either be filled by reduced rates or taken out of service. With our whole economic structure at stress, sympathy with such extravagance is difficult.

(2) Metropolitan terminals should be consolidated and unnecessary facilities scrapped.

Terminal expenses constitute an astonishing proportion of railway costs. Great economies, and much improved service, are possible through the use of trucks in terminal areas and further large savings by unification of railway and other terminal facilities. Railroads have insisted on separate terminals in metropolitan areas for purely competitive advantage. The resulting multiplic-

ity has imposed high costs, poor service, and great waste. This burden upon shippers is indefensible. Reform is as necessary to modern metropolitan convenience as to railroad economy. It is impossible to deal effectively with the manifold problem of a modern city without a unified plan of development for all forms of transportation. This problem differs in different cities and there are legal and other difficulties involved, but much could be accomplished at once by cooperation among railroads and a complete solution would be greatly facilitated if all forms of transportation were placed under a single regulatory agency and if railroad consolidation were worked out along regional lines.

These improvements would entail wholesale scrapping of some facilities. We cannot follow the argument against the writing-off of obsolete, non-earning, and unnecessary properties. We think that there are thousands of miles of trackage and many other facilities, both in terminals and elsewhere, which serve no necessary purpose and which do not now earn and never can. They are handicaps on efficient operation and burdens on the public. Their elimination would reduce capital assets but it would result in lower rates, better earnings and improved service.

(3) Circuitous haulage should be eliminated.

Circuity in haulage to keep traffic on the rails of a single system entails great waste for which the Committee can find no sufficient excuse. As in all attempts to apply general principles to the infinite variety of circumstance in a great nation, a flat rule requiring freight to be routed by the most direct route, letting the revenue fall where it may, would result in some hardship, but

the present practice leads to grotesque results. It is not easy to reduce the effect to figures, but the unnecessary haulage of freight has been estimated at a large percentage of total ton-mileage. Until the railroads are willing, by cooperation, to eliminate this kind of waste, it is difficult to share their apprehension of competing methods.

(c) Financial management should be improved.

We have discussed our view of the contribution of existing rate-making rules to present financial distress, but we also question the policy of some railroads in applying too great a proportion of earnings to dividends and too little to the retirement of debt and the accumulation of surpluses and reserves—a practice which we regard as responsible, at least in part, for the existing unfortunate condition of some roads.

(d) Transport methods and equipment should be brought up-to-date.

We acknowledge the restrictions on railroad initiative through regulation of appliances and on railroad resources through rate regulation. We are also aware of the progress that has been made in speed, quality of service, and increase in the radius of use of material equipment. Nevertheless, it cannot be fairly said that railroad advance in applied science is abreast of that in other industrial fields. For example, the improvements in Germany with stream-lined Diesel and electric trains of very light tonnage maintaining schedules of 96 miles per hour to offset motor transport, has no counterpart here. The Committee has not found it practicable to make exhaustive studies on this subject, but offers the suggestion that the Interstate Commerce Commission

authorize, and the railroads set up, one or more central research and engineering organizations to which all railroads in certain groups shall contribute—their products to be available to all contributors.

(e) In view of what could be done by better management, the general outlook seems far from hopeless.

Generally speaking, it must be recalled that, in rail-roads—almost alone among sister industries—rates remain at boom-time levels. Adjustment to new economic horizons lags. It is hard for us to believe that whole-hearted cooperation and vigorous application of contemporary principles of industrial management and control, within the various railroad companies themselves, along lines just discussed, would not do more than can Government or any other outside force to rehabilitate this most important of American industries.

In depths of depression, as at peaks of prosperity, fundamental values become distorted by the fog of gloom, on the one hand, and the rosy haze of hope on the other. These opportunities for aggressive policy and management coupled with at least some of our suggestions in aid of the transportation situation as a whole seem to us to indicate a distinctly hopeful (rather than a despairing) prospect for the railroads and we think that both regulating agencies and others having interest and influence in the railroads should act promptly to overcome what seems to us a degree of inertia in this regard.

IV. Regulatory jurisdiction should be extended to the whole National transportation system but applied only to the extent necessary for public protection. The existing regulatory mechanism of the Interstate Commerce Com-

mission is inadequate and should be improved by reorganization without expansion or increased expense.

The work of the Interstate Commerce Commission is a contribution to the advancing science of political economy. One has only to read its most recent report to realize the sympathy and intelligence with which it addresses the problems confronting it. It has pioneered a complex subject and, if it has recently operated on principles which this Committee regards as in part obsolete, it is important to remember that they are statutory principles. We think that if critics would give more attention to the legal limitations upon the Commission and its own repeated recommendations thereon, they would find less ground for complaint.

The studies of the Committee clearly indicate the advisability of extension of regulatory jurisdiction to the whole transportation system. The Committee feels that a judicial type of organization, such as the Commission now has, is inappropriate to its present work and wholly inadequate to a wider jurisdiction. In extending its powers, it is not necessary to expand its personnel and expenditures. What is needed is to reorganize its functions, divide its work, and give it a form and method more appropriate to the tasks before it. At present they include rate-making, and that is at least a quasi-legislative function; decisions in conflicting causes, and that is distinctly judicial; and supervision of administration, and that is certainly executive. From another angle of analysis, we find it attempting to plan, and that is a staff duty, and to carry plans into execution, and that is purely operative. For all these inconsistent purposes, it must finally act in a body on many questions, with no sufficient latitude

for delegation, and that is utterly inconsistent with any modern theory of operation except for legislative and judicial action of the very highest order.

The data before us indicate that (whatever may be the limits to which actual regulation or administration is extended) the necessity for planning and for comprehensive information on the whole transport problem is absolute. A cogent railroad argument is to the effect that the Government has regulated the initiative out of the railroads, and that by reason thereof, they are in their present plight. While there is a tendency to overemphasize this, three facts remain: first, that the Government, principally through the agency of the Commission, has for many years assumed to dominate railroad administration; second, that railroad policy and management are not abreast of sister industries; and third, that some railroads are in a perilous condition. Nobody can assume authority without accepting responsibility. The existing railroad condition speaks for itself to say that regulation by the Commission has left something to be desired.

The lack of incentive or authority in the Commission to plan and to act affirmatively is evident throughout its most recent report. It hopes that "efforts have been or will be made to bring the rival transportation agencies into some measure of agreement." It thinks that "no rival transportation agency should be given unfair advantage," but complains that "there is no adequate information . . . nor do we know of any comprehensive and definite plan for a cure . ." It believes that the public "safety and convenience" should be protected by regulation of automotive agencies but aske for "a thorough investigation under authority of Congress." It says of regulation of port-to-port rates, "We have not in-

vestigated this subject, but are convinced that it merits serious consideration by Congress." Speaking of restrictions on railroad ownership of water-carrier lines, "If the railroads wish this prohibition removed, they should so request the Congress without further delay. Until the reasons for such a change have been fully presented, we have no opinion to express upon it." On the question of stifling of railroad initiative, there is the suggestion that the railroads "ask the appropriate authorities for definite relief." Without unduly extending these quotations, it is fair to say that the whole report is eloquent of a somewhat passive attitude toward acknowledged evils and also of grave difficulties that have arisen from drastic regulation verging on administration by an authority which sits and hears but has only a limited scope in which to inquire and plan and act.

If, as we think it should, the regulating body should pass on railroad corporate reorganization, there would be a new and expert function for which we think the Commission is not now equipped or organized. There should be a separate department and an appropriate expert personnel for this work. This is an emergency matter.

The organization should be reformed without expansion to act along wider and more affirmative lines with less attempt to run the business of transportation and with more concentration on protection of the public, and maintenance of a healthy national transport system. It should have inquisitorial powers and duties to keep constantly abreast of changing developments and should be required to report annually to Congress on the state of the nation's whole transport system with its recommendations for betterment.

Its activities should be reorganized with appropriate separate departments, with a chief at the head of each, for its legislative, executive and judicial functions, and for each major special function such as control of corporate reorganization. It should have also a planning department with a research staff and such other departments as experience indicates. Except in the exercise of its more important legislative and judicial functions, departmental hearings and decisions should be sufficient and action as a body should not be required. While all heads of departments should sit in council on basic policies and important problems, the body should have a vote only on the most important legislative and judicial decisions. Either one man, or at most an executive committee of three, should have exclusive responsibility and authority in all executive functions, and final decision in all but the more important legislative and judicial functions of the separate departments.

This form of organization and method divides, decentralizes and so speeds works, permits specialization yet assembles special views on general policies. It retains the advantage of the committee form for council but secures the advantage of a compact responsible group for action. All these attributes will be needed in the tasks inevitably confronting future transport regulation and only a few of them are available now.

- V. Emergency Recommendations.
- (1) Corporate reorganization can and should be facilitated by revision of the bankruptcy procedure.

Present railroad distress is sufficiently shown in the current report of the Interstate Commerce Commission, that 122 Class I railways failed to earn fixed charges in

the first three quarters of 1932. The financial structures of many railroads carry too many inflexible charges and too few liquid surplus assets to survive protracted non-earning periods. This condition cannot be cured by increasing rates to salvage old mistakes or by lending Government money to preserve them. They require realistic reorganization in accordance with the facts. Some railroads can hope to survive only on drastic reorganization and scaling down of fixed obligations.

The Reconstruction Finance Corporation was created to tide over an emergency, in the hope of some recovery, but this use of Federal credit encountered a link between the emergent and the more permanent problems. The fixed charges of some roads are heavier than any fair prospect of restored traffic will bear. The corporation cannot pour public treasure into situations where, instead of temporarily supporting operations and loaning to maintain prudent interest payments, there is a wasteful delta of out-flowing streams of interest on unsupportable capital structures. That would postpone inevitable readjustments at public loss to no good purpose. There is need to reform these top-heavy structures to make them available for emergency aid before it is too late and the present legal mechanism is too slow and cumbersome to serve.

We recommend revision of bankruptcy procedure to permit prompt and realistic reorganization of overcapitalized corporate structures without destructive receiverships and judicial sales on depressed markets to the end that the railroads' justifiable borrowing requirements may be met with safety to the lender under adequate protection.

(2) The recapture clause should be repealed retroactively.

The so-called "Recapture Clause" of Section 15-a of the Transportation Act is based on an economic misconception and has proved to be an element of uncertainty in railroad financing. We join the recommendation of the Commission for its repeal "both for the future and retroactively."

(3) The statutory rule of rate-making should be revised.

Reasons and suggestion for amending the present rate-making rule are discussed beginning at page 21. As was there stated, rate-making cannot be made to preserve unsound capital structures or to "attract capital" regardless of what the service is worth but if the rule is put on a common-sense and forthright basis, we can approach the railroads' financial problem with more intelligence. While this is a permanent as well as an emergency reform we think it is important to a prompt and sound solution of the railroad problem. We understand that both the Interstate Commerce Commission and the House Committee on Interstate and Foreign Commerce recommend a change and regard its necessity as emergent. Indeed the Committee found no opposition to change in any of the evidence or representations before it.

(4) "Adequate security" does not necessarily mean "marketable collateral."

The Reconstruction Finance Act requires "adequate security" for railroad loans. It should do so and we recommend no change in the law. As a matter of interpre-

¹ Page xxxviii in present volume.

tation, however, if, upon reorganization of overcapitalized structures or on sound existing structures, a particular loan is sufficiently protected by priority of lien and reasonable prospects of earnings available to its priority of payment, we do not regard marketable collateral as a determining factor. In fact we believe that, with prompt improvement of capital structures where necessary, private capital will be available for necessitous railroad loans.

Bernard M. Baruch,
Vice-Chairman
Clark Howell

ALEXANDER LEGGE

New York, February 13, 1933

C. Supplemental Report of Alfred E. Smith

While I am in substantial agreement with the greater part of the Committee's report, this supplementary memorandum states my conclusions in my own language, placing the emphasis where I think it belongs.

EMERGENCY ACTION

As to emergency action, I recommend the following:

- The recapture clause of the Transportation Act should be repealed retroactively.
- 2. A debtor relief act with a special provision governing railroads, which will have for its object scaling down debts and composing differences without bankruptcy receiverships, should be passed, but its operation should be for the period of the emergency only, which for the purposes of this act should be declared to end on January 1, 1935.

After most careful consideration I cannot recommend

as an emergency measure that there is immediate need of action by Congress to make a new statutory rule of rate making, nor that the present powers of the Reconstruction Finance Corporation to make loans to railroads should be extended or materially changed. Specifically I believe no useful purpose will be served at this time by an extension of the powers of the Reconstruction Finance Corporation with regard to railroads so that they can make additional loans without full collateral. upon the assumption that railroad rates will be adjusted in such a way that these loans are bound to be repaid.

Coming now to the basic troubles which afflict the railroads I have considered carefully the diagnosis offered by numerous groups and individuals, and the corresponding cures. No purpose would be served by extended analysis and comment because this subject is fully covered in the report of the staff. My conclusions are stated herein in summary form.

THE RAILROAD'S COMPETITORS

As to the subject of competition by air, water, pipe and highway lines. I believe that the effect of competition of these lines upon the railroads has been exaggerated. Drastic regulation of competing services is not the solution of the railroad problem, and such regulation should be established only in the general public interest. Regulation is expensive. It is bureaucratic. Once established it expands, and it paralyzes private initiative without offering constructive leadership. I believe that the air lines should be left as they are at the present, with no more regulation than is now provided for. This is a new field, and the less private initiative is interfered with, the better it will be in the long run. The railroads

had their day of freedom from restriction coupled with enormous government subsidies. That day is over and individual initiative in blazing trails and laying ties for railroad lines across the Rocky Mountains and the Sierras is no longer needed. Air lines are an infant industry and are entitled for the present to some government help without undue regulation.

The pipe lines are built. They serve a very limited purpose. They present no serious menace to the railroads. I see no advantage in extending regulatory control over them.

As to water transportation, with particular reference to inland waterways, I believe that government subsidies in this field should be curtailed, not primarily because they result in unfair competition with the railroads, but because these subsidies have not proved effective. Certainly the New York State Barge Canal cannot be said to compete with the existing railroads, because in spite of construction and maintenance by the State and free tolls, the barge canal carries so little freight that it presents no problem to the railroads. The New York State Barge Canal is an heirloom. Sentiment rather than common sense makes us keep it up. I am opposed at this time to the construction of the St. Lawrence Waterway, because it would be a waste of public funds. Present rail facilities are more than adequate to provide for everything which the proposed canal can accomplish. The cost of moving grain would not be lowered by this canal sufficiently to justify the enormous expenditures which it would involve; keeping in mind also, that this waterway would be open only for a part of the year, and that the railroads would have to be used anyway the rest of the year. I believe that a special investigation should

be conducted into the Inland Waterways Corporation, to discover exactly what it costs the War Department to operate this corporation, and whether or not further expenditures for this purpose should cease.

As to competition by motor trucks and buses, the testimony given before us does not indicate to me that the competition is at this time as serious a menace to the railroads as they claim it to be. Interstate trucks and buses as yet carry only a comparatively small part of all freight and passengers. On the other hand, it is unquestionable that this form of transportation will soon be used more and more, because it is economical and efficient. In a number of cases, buses and trucks have actually relieved the railroads of burdens on short hauls, and have enabled them to cut down train service where these could not possibly pay.

railroad as contrasted with highway transportation by taxes and by numerous regulations affecting service and labor. Trucks and buses are already substantially taxed through license, gasoline and oil taxes, and these are being steadily raised so that within a short time, in the course of normal events, the users of highways for commercial purposes will be paying their full share of the cost of construction, reconstruction and maintenance. The tendency in every state is to make them pay their way, and the Federal Government is already taxing them for gasoline. In fact, at the present time in many states of

Extravagant claims are made as to the penalizing of

fields of government expenditure.

While there is much to be said for regulation of all common carriers on highways by the Interstate Com-

the Union, gasoline and license taxes are being diverted from highway maintenance and construction to other

merce Commission or some other federal agency, and by the appropriate state regulatory agencies, it should be noted, however, that such regulation cannot reach the individual farmer, merchant, and owner who is not a contract or common carrier. I believe that such regulation should for the present, be for the purpose of insuring responsibility, and fixing the physical standards for vehicles and for similar purposes, rather than for the fixing of rates. This is practically what the railroad and bus representatives themselves have recently agreed on. The plan for a federal license tax with a return to the several states of their respective shares, suggested by various witnesses, seems to me to be impractical, undesirable and at present unjustified. I believe that the railroads should go into the bus and truck business on a larger scale, and that they should be encouraged to do so by appropriate legislation.

GRADE CROSSINGS

As to elimination of crossings at grade of highways and railroads, I believe that the railroads' share of the cost should be materially reduced. In many states the railroads' share is as high as 50%. This is unduly burdensome and unfair to the railroads, and it has naturally resulted in bitter opposition to elimination orders and the general slowing up of the crossing elimination program. This reduction cannot, however, be accomplished by federal legislation or fiat. It must be brought about by persuasion in the several states.

I cannot subscribe to the recommendation made to the Committee that Congress should fix a maximum rate of taxation on railroad property beyond which any state and local levies would be invalid.

VALUATION

Coming now to valuation, I have not been able to give this subject sufficient study even to attempt a solution. The questions involved are exceedingly intricate. Members of Congress and experts outside of the government have been studying them for years without coming to a satisfactory conclusion. From a superficial study, I am not entirely satisfied that the prudent investment theory is unworkable. The reproduction cost theory is obviously obsolete and must be discarded. I cannot subscribe to the idea of basing railroad rates on ability to attract new capital, on the present cost theory or on the theory of the natural rule of survival. I doubt whether the courts would sustain or the public tolerate the survival theory. The present cost theory would tend to put the seal of approval on existing chaotic and wasteful railroad organization. The theory of fixing rates to attract new capital begs the whole question. It starts with a conclusion and adjusts all the facts to meet it. Moreover, this theory would defeat itself because the public would not be able to pay the high rates which it would bring about. In the end there would be less traffic and less revenue than before. Moreover, even if the public were able to pay the bill, I believe that the adoption of this theory would perpetuate bad management, write up values of many railroad securities beyond their actual worth, and take away the incentive to consolidation and good management.

A new principle of valuation has recently been proposed by the Committee on Interstate and Foreign Commerce of the House of Representatives which seems to me to have considerable merit, but which is in such general language that it is difficult to see how it can be made

the basis for the scientific determination of rates. It seems to me, however, that this is a subject which Congress should decide.

Whatever principle is adopted, I am satisfied that the general public will not tolerate writing up values or increasing rates merely upon the theory that a great many railroad securities are held by savings banks, trustees and insurance companies as security for widows, orphans or other beneficiaries of trust. It must be recognized that many railroad bonds are worth less than par in the light of conditions entirely separate from the depression, and that railroad stocks have declined even more in value. These assumptions are based upon any common sense theory of true valuation, whatever it may be. Similarly, I do not believe the public will approve the proposal that railroad rates should be high enough to retire a substantial part of outstanding bonds, because this will be regarded as just another way of attempting to give present bonds artificial values.

THE INTERSTATE COMMERCE COMMISSION

Taking up now the general question of federal regulation, we are all agreed that effective regulation is an indispensable feature of the solution of the transportation problem. I find, however, little in recent history to justify the continuance of the Interstate Commerce Commission as now organized. This implies no criticism of its members. They have attempted to function under an obsolete and unworkable law, and in the face of conditions which call for intelligent planning and leadership as distinguished from endless debate on details. Everyone admits that more and more of the work of the board must be delegated anyway, and if this is so, the question

arises as to why a board is needed at all. I believe that too much emphasis has been placed on the judicial functions of the Interstate Commerce Commission, especially on valuation and rate making, and too little on planning and administration. The complete break-down of the present valuation formula has left the Commission in a condition which would be laughable if it were not so serious. The scrapping of the present formula opens up some very interesting questions for taxpayers. What, for instance, becomes of the tons of statistics and other data collected on the basis of the old formula? What of the payroll army of federal commissioners, counsel, experts and clerks? What of the wasted time of local officials. railroad representatives, farmers, business men and commercial organizations? Suppose that just a little common sense had been substituted for all this scientific hash, this maze of regulation and red tape? I favor the abolition of the Interstate Commerce Commission and the creation in its place of a new department of transportation headed by one man, or a one man bureau head in the Department of Commerce determining policies with the approval of the Secretary of Commerce. What we need is a new transportation system, not endless hearings on a system that does not work.

THE FUNDAMENTAL PROBLEM

I am convinced that the fundamental problem of the railroads is that of nation-wide consolidation and reorganization to reduce costs and rates, and to write off losses. The era of railroad pioneering and competition is over. The roads must reduce overhead and operating expenses. They must scrap unnecessary, competing and weak lines. They must get rid of obsolete equipment.

They must cut out unnecessary services. They must use trucks and buses, eventually air transportation and, if necessary, waterways and pipe lines as a supplement or substitute for rails wherever these new forms of transportation are more economical. The establishment of a limited number of strong regional railway systems would be a start in the right direction. Even this will leave a certain amount of wasteful and unnecessary competition.

Whatever may be the basis of valuation and ratemaking, there must be a scaling down of many railroad securities. I believe that the banks, trust companies, insurance companies and other holders of railroad securities must be realistic about this phase of the problem. The public will not stand for making them a preferred class of investors, who must get a hundred cents on a dollar, irrespective of the true value and condition of the business they have invested in, when values in all other fields are being readjusted and cut down.

The question for the railroad executives, directors and security holders to decide is whether the steps taken in this direction should be compulsory or voluntary. To date voluntary regional consolidation under the auspices of the Interstate Commerce Commission has made little progress. The question has been raised whether compulsory consolidation is constitutional. As distinguished an authority as the late Senator Cummins thought it was, but there is no decision of the United States Supreme Court squarely on this subject. There is much to be said for the theory that we are moving inevitably toward one national railroad system. Upon this theory, the major railroad systems might well give serious consideration to the appointment of some sort of an im-

partial chairman, arbitrator or director-general to coordinate their present activities, and to prepare a plan of permanent consolidation.

If the railroads show no willingness to reorganize, reorganization can surely be brought about by some form of condemnation or eminent domain. I believe that the railroads will be unsuccessful in attempts to maintain their present physical, operating and financial structure at the expense of the general public by penalizing competitors and raising competing transportation costs, inflating securities, raising rates, limiting taxation by states and municipalities through federal legislation, borrowing government money without adequate security and other like devices. Similarly, attempts to bring about economy largely at the expense of railroad labor will prove unsuccessful unless this is part of a logical general reorganization in the interest of the public. Undoubtedly many wasteful and unjustifiable regulations have been made governing railroad wages, hours and conditions of labor, and others which, however admirable in themselves, the country simply cannot afford today, but the railroads cannot expect public support in changing these regulations merely as a means of retaining and perpetuating other conditions which are equally wasteful. They cannot expect to make labor the only scapegoat.

Those who are responsible for present railroad management need not complain of radical or drastic governmental action in the near future if they are unwilling even to attempt to meet their problems in a bold, forthright way through their own initiative and cooperation. They have an unrivalled opportunity to do themselves and the country a great service. They should have the

guidance and help of the national and state governments in this effort.

ALFRED E. SMITH

Appendix

LETTER OF INVITATION

Hon. Calvin Coolidge, Hon. Alfred E. Smith, Mr. Bernard M. Baruch, Mr. Clark Howell, Mr. Alexander Legge.

Gentlemen:

The present financial position of the railroads of the United States is a matter of grave concern. Collectively the greatest and most important industry of our country, the railroads have operated in this year at staggering deficits. Only wise and timely Federal aid has averted the financial breakdown of important systems.

This situation touches every citizen. It affects directly the security of wage and employment of the 1,500,000 railway workers. It affects equally the many and important industries supplying railway equipment and supplies. It touches the financial problem of local, State, and National government, to the support of which the railroads contribute over \$300,000,000 annually in taxes. It has given rise to a severe decline in the value of the \$19,500,000,000 of railroad obligations and shares, and has occasioned concern to institutions which hold such obligations among their assets, representing in part the savings of that thrifty portion of our population which is to be found among the policyholders of insurance companies and the depositors in savings banks. The relief that the present emergency has made it nec-

essary to grant to the railroads is a drain on the Federal treasury, and any ultimate loss will constitute a burden on every taxpayer.

The present deplorable position of the railroads is not due wholly to the stagnation of traffic resulting from the long-continued depression. Many of the present ills are due to governmental, financial, labor, and management policies, some wrong in conception, some wrong in application, and others rendered obsolete by radically changed conditions. As a result, the railroads have not been in a position to adjust themselves, as well as have other industries, to present conditions.

There are many disagreements as to causes, many disagreements as to remedies, but unanimous agreement as to the urgent necessity of some thorough-going solution of the problem. No solution, however, will be effective unless the problem of the railroads is considered as an integral part of the entire transportation problem of the United States, whether by rail, highway, waterway, pipeline, or air.

Every industry in the country is entitled to fair treatment—the railroads no less than the others. The public interest must certainly be protected, but regulation should not place the railroads at a hopeless disadvantage with competing agencies and destroy flexibility of operation and management initiative. The railroad workers are entitled to a fair wage and the greatest possible security of employment. The holders of railroad securities are entitled to a fair and stable return on the true value of their investment.

But more important than the interests of any one group, the people of the United States are entitled to the most effective and economical form of transporta-

tion to meet their various needs, whether by land, water, or air. Each form of transportation should be unhampered to provide effectively at a reasonable cost and at a fair profit the service for which it is best fitted. No form of transportation should be favored either at the expense of another agency or at the ultimate expense of the people of the United States.

We, the undersigned organizations, representing many of the interests concerned, believe that there is no more important present task than a thorough and satisfactory solution of the railroad problem, as an integral but the most urgent part of the entire transportation problem. We beg that you examine all phases of the problem and recommend a solution which, with due regard for the public interest, will ensure an opportunity for the railroads of this country to operate on a business basis, to the end that there may be a stabilization in employment of wage-earners and in the values of investments made in behalf of insurance policyholders and savings bank depositors, and a general enhancement of the prosperity of the country which to so great a degree depends upon the prosperity of the railroads and of the many lines of business which in turn depend upon them.

UNDERSIGNED ORGANIZATIONS

Aetna Life Insurance Company
Connecticut General Life Insurance Company
The Connecticut Mutual Life Insurance Company
The Equitable Life Assurance Society of the United
States

The Guardian Life Insurance Company of America John Hancock Mutual Life Insurance Company Home Life Insurance Company

The Lincoln National Life Insurance Company Massachusetts Mutual Life Insurance Company Metropolitan Life Insurance Company The Mutual Benefit Life Insurance Company The Mutual Life Insurance Company of New York New England Mutual Life Insurance Company New York Life Insurance Company The Penn Mutual Life Insurance Company Phoenix Mutual Life Insurance Company Provident Mutual Life Insurance Company of Philadelphia The Prudential Insurance Company of America The Travelers Insurance Company National Association of Mutual Savings Banks Investment Bankers Association of America Railway Business Association American Central Insurance Company Phoenix Insurance Company of Hartford Connecticut Fire Insurance Company Hartford Fire Insurance Company Hartford Accident & Indemnity Company National Fire Insurance Company of Hartford Aetna Insurance Company Caledonian Insurance Company of Scotland Columbia Casualty Company Commerce Insurance Company of Glens Falls

Fidelity-Phenix Fire Insurance Company American Eagle Fire Insurance Company Maryland Insurance Company of Delaware Niagara Fire Insurance Company First American Fire Insurance Company

Glens Falls Insurance Company
The Continental Insurance Company

The Fidelity and Casualty Company of New York Eagle, Star & British Dominions Insurance Co. Ltd. Lincoln Fire Insurance Company of New York Fireman's Fund Insurance Company Home Fire and Marine Insurance Company Occidental Insurance Company Fidelity and Guaranty Fire Corporation Glens Falls Indemnity Company of Glens Falls Great American Insurance Company Insurance Company of North America Norwich Union Fire Insurance Society Limited The Eagle Fire Company of New York Norwich Union Indemnity Company Northern Assurance Company, Ltd. of London London & Scottish Assurance Corp., Ltd. Phoenix Assurance Company, Limited Imperial Assurance Company Columbia Insurance Company United Firemen's Insurance Company The Union Marine & General Insurance Company, Ltd. The Pennsylvania Fire Insurance Company Security Insurance Company of New Haven Springfield Fire & Marine Insurance Company Sentinel Fire Insurance Company Michigan Fire & Marine Insurance Company New England Fire Insurance Company SVEA Fire and Life Insurance Company Hudson Insurance Company Skandia Insurance Company Columbia University Harvard College The University of Chicago Yale University

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INDEX

Calves, see Livestock

Acquisition cases, use of yaluation Canals, see Waterways data, 414-15 Agricultural corporations, taxes on, 261-64 Agricultural products, freight rates on, 119-27 truck transportation of, Chap. XXVIII Air transport, Chap. XXXI co-ordination with other transport, 737-38 with city plans, 822 costs, 725-27 fares, 727-28 principal companies, 720-22 regulation, 753-57, 879-80 safety, 729-31 service, 728-33 subsidies, 739-53 traffic, 733-37 Ann Arbor case, 123 Atlanta, Birmingham and Atlantic Railway, reorganization plan, 341-42 Baltimore, truck distribution from, Board of Mediation, 196 Bonds, use in railway finance, 293-97, 299-313; yields, 38-39 Boston, truck receipts at 601-602, 604, 628 Brandeis, Mr. Justice, 392, 395-96, 402 Brotherhoods, railway, see Trade unions Bus service, co-ordination with railway, 690-96 Buscheck, A. J., 350, 352

Butler, E. S., 155-56

Butter, see Dairy products

Abandonments, railway, 147-52

amount raised by railways, 41cost to railways, 40-41 Capitalization, of railways amount, 326-31, 416-18 control of, 286-87 form, 276-79, 303 significance, 287-88 valuation as basis of, 416 Cattle, see Livestock Chicago, railway terminal situation, 791-93, 801 truck receipts at, 628-29, 635, 636, 640, 643-45 Chicago, Milwaukee, St. Paul and Pacific Railway, reorganization plan, 337-39, 351 Circuitous routing, 848-49 City planning, Chap. XXXIV Collateral trust bonds, 275-76 Collective bargaining, 181-82 Committees, reorganization, 320-22, 350, 356, 360 Commodities Clause, of Hepburn Act, 710-12 Commutation traffic, amount, 89-90 receipts from, 54 Compensation, of railway employees, 60-61, 209; see also Wages Competition. effect on failway rates, 127-32 wastes of, 849-50 Condemnation proceedings, use of valuation data in, 415-16 Consolidation, of railroads, Chap. XXXVI

Containers, in terminal service, Express service, 674-78 compared with highway trans-Convertible bonds, 276 port, 610-11 Cost, as factor in rate-making. use of trucks in, 681-82 132-35, 145 co-ordination with air transport, Cotton, truck transportation of, 738 645-68 Cream, see Dairy products Farms, taxes on, 250-54 Federal aid, 542 Dairy products, truck distribution Finance, railroad, Chaps. II, XII of, 621-37 to XVI Decapitalization, 288-07, 313-16 Fixed charges, railway, 82; Denver and Rio Grande Western, in reorganizations, 331-33 reorganization plan, 339-41, Forwarding companies, 681-82 Freight rate structure, 140-44, 146 Depressed industries, railway rates Freight receipts, per ton mile, 55 for, 119-27 Fruits, truck transportation of, Depression of 1930-33, effect of, 595-621 on railroads, Chap. III Full-crew laws, 226 on rates, 53-56 Funded debt, devaluation of, 291on tax burdens, 232 97 on truck competition, 576 on various industries, 50-62 Gasoline, Dividends, railway, 63, 316-20 taxes, 544 pipe lines, 702 Dual basis, of wage payments, 187see also Highways, financing of 90 Grade crossings, railroad and high-Eastman, J. B., 382-85, 395-96, way, 223-25, 227 Efficiency, railway, 99-109, 772-Highway transport character of, 521-24 74, 778-79, 788-89 Eggs, truck transportation of, 617growth of, 517-19, 529, Chap. 18, 642-45 XXVIII Electric power companies, taxes on, see also Trucks 254-56 Highways, Electric railways, taxes on, 254financing of, Chaps. XXV to XXVII Employment, in transportation, 23 increase of mileage, 530-31 Equipment obligations, 277 Hoch-Smith resolution, 119-27, Erdman Act, 195 145, 409 Erie Canal, 3-5, 430, 439, 456, Hogs, see Livestock 459. See also New York State Ice cream, see Dairy products Barge Canal Illinois and Michigan Canal, 430, Expenditures, railroad, 29; unproductive, Chap. X 431 Illinois River navigation project, Expenses, of reorganizations, 333-440 36

Inland Waterways Corporation, 498-503 Interstate Commerce Commission attitude toward abandonments. 172-78; toward Hoch-Smith resolution, 124-25; toward recapture clause, 384-85 powers of, 841-42, 891-951 Intra-coastal Waterway, 445- 503 Investment, in railways amount and purpose, 101-103 as base for rate-making, 392as basis of capitalization, 326-28 results of, 46-47, 100 return on, 21, 30-34 Labor, railway, status of, 181-97 Labor costs, of railroad operation, 202-21 Leased line securities, 276 Livestock, truck transportation of, 578-95 Long-and-Short-Haul Clause, 131, 135-40 Los Angeles, truck receipts at, 604-605 Mail, air, 739-45, 751-53 Majority control, in reorganization cases, 349, 353-56, 360 Manufacturing corporations, taxes on, 261-64 Market values, as rate base, 387-Milk, see Dairy products Mining corporations, taxes on, 261-64 Mississippi River navigation project, 441, 491-98 Missouri-Kansas-Texas Railway Company, reorganization plan,

Income, national, tax burden on,

Income bonds, 276, 307

248

Missouri River, 486-91 Motor vehicles regulation of, 875 taxation of, Chap. XXVII *see also* Trucks New York truck distribution from, 620 truck receipts at, 602, 626-27 New York State Barge Canal, 469-76 see also Erie Canal Newlands Act, 195 Obsolescent lines, Chap. VIII O'Fallon case, 375-76, 395-98, 401-03 Ohio River, 476-86 Oil, as fuel for locomotives, 773transportation of, see Pipe lines Operating averages, 104-07 Operating ratio, 26-28, 67-68 On nership, of railway securities, 279-84 Packing-house products, truck transportation of, 594-95 Panama Canal, influence on railway rates, 129, 139 Par values, 313-16 Passenger terminals see Terminals Passenger traffic, Chap. V, 774-77, causes of decline, 88-93 expenses caused by, 92-98 receipts from, 54 unprofitableness of, 86-88 Per diem charges, freight car, 107-109 Philadelphia, truck distribution from, 619-20 truck receipts at, 509-04, 627-28 Pick-up and delivery service, 678-Pipe lines, 9, Chap. XXX competition with railways, 713-

development development of, 702-08 862-72; of. regulation, 708-13 Chap. XXXVII taxes on, 257-61 of highways, 12 Pittsburgh, truck distribution from. of pipe lines, 12 of transport agencies in general, 618-19 Pouldy, truck transportation of, 13, 840-41, 888-95 Relative priority, 349-52, 360 618-42 Post Office Department, control Reorganization, of railway corporations, Chaps. XV and over air transport, 753-57 XVI; procedure in, 322-26 Prices, of railway supplies, 58-60 Reproduction cost, Theory of rate-Principles, of transportation, 19-23, Chap. XXXVIII making, 388-91 Preferred stock, railway, 277-78 Revenues, railway, effect of the de-Produce terminals pression on, 57 see Terminals Richmond, Frederick, and Potomac Prudent investment, 392-94 Railroad Company, Excess in-Public ownership, of transportation come of, 403-409 Rochester, truck receipts of milk, facilities, 843 Public utilities, taxes on, 261-64 625-27 Railroad Credit Corporation, 56, St. Lawrence, navigation project, 66-68, 295 505-13 Railroad crossings, highway, see St. Louis-San Francisco Railway, Grade crossings reorganization plan, 342-47 Railroad Labor Act, 196 Safety, of air transport, 730 Railroad Labor Board, 185-86, Security issues, railroad, 304-06 196, 208, 212 Sheep, see Livestock Railroad Labor Executives' Asso-Smyth vs. Ames, 371, 374-75, 390ciation, 186 91, 401 Rates, railway, 22, Chap. VII Spectulators, treatment of, in reoreffect of depression on, 53-56 ganization cases, 349, 356-57 policies of Interstate Commerce State and local taxes, railway, 216-Commission, 115-19 37 regulation of, Part IV Stephenson case, 876-78 relation to earnings, 112-15; to Stock dividends, 315 prices, 465-67 Stock, railway, 277-78 rigidity of, 293 Stockholders' equity, in railroads, Recapture clause, of Transporta-31 tion Act. Chap. XVIII Streets, Receiverships, 357-58 in city plans, 826-31 Reconstruction Finance Corpora-Subsidies. tion, 68-70, 295, 416 to railroads, 6, 446-68 Regional groups of railways, to air transport, 739-53 finances compared, 34-36 Surface, highways classified by, Registration fees, motor vehicle, 530-33 Regulation, of railways, 9-12, 851, Surpluses, of cars, 104

Taxation, of motor vehicles, Chap. XXVII of railways, Chap. XI use of valuation data, for, 413-14 of Inland Waterways Corporation, 501 Telegraph companies, taxes on, 254-61 Telephone companies, taxes on, 254-61 Terminals, cost of operation, 671-74, 783freight, 781-99, 815, 823-25 operation of, Chap. XXIX, 784passenger, 805-807, 814, 823 produce, 617-19, 799-805 unification of, Chaps. XXXIII, XXXV Texas, statute regulating use of highways, 656-57, 876-78 Tolls, 4, 433, 566 Track elevation, 227, 228 Trade unions, railway, 181-86 Traffic, railway, composition of, 75 density, relation to earnings, Chap. IV, 153-61 effect of depression on, 49-53 Train control, automatic, 228 Train-limit laws, 226, 228 Trucks, competition of, with railways, Chap. XXVIII number of, 517-18, 529 ownership, 520-21, 577-78, 609-10, 630-31 types of, 518-19, 524-26 use by railways, 674-89

see also Highway transport, Motor vehicles Unprofitable railway mileage, 152-Valuation, of railways, Part IV as basis of capitalization, 328-30 as base for rate-making, Chaps. XIX, XX data, 379 procedure, 371-76 Valuation Act, of 1913, antecedents of, 367-71 Vegetables, truck transportation of, 595-621 Washington, D.C., terminals, 817-18 Wages, 21, 768 railway, Chap. IX highway, 522-23 waterway and railway compared, 461 Watres Act, 718, 741 Water carriers, regulation of, 872-74 taxes on, 257-61 wages paid by, 461 Waterways, 3, Part V capacity of, 457-59 co-ordination with railways, 821federal expenditures on, 438 investment costs, 456-57, 463-66 operating costs, 461-62 projected development, 443-50 traffic, 471 Westmeyer, R. E., 151-52

Working rules, on railways, 191-

94

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