

Testimony

by

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Testimony, Economist, Association of
Railways Executives, Before Senate Committee
on Interstate Commerce on Senate Bill
2793, to regulate Motor Vehicles in
Interstate Commerce.

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On Senate Bill 2793, to regulate motor
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I

It is my purpose, in this appearance to present for the consideration of the Committee, as briefly as possible, certain basic data required for a clear understanding of the problem which now faces the people of this country in the field of transportation, particularly with reference to regulation.

In the testimony that I shall give the fundamental premise is that adequate railroad transportation service in the United States is essential to economic progress and is likewise essential in public defense.

During the past three administrations Presidential messages to Congress have declared the truth of the premise mentioned above. I quote, for example, from the Message of the President to the Seventy-Second Congress, First Session, December 8, 1931, as follows:

"The railways present one of our immediate and pressing problems. They are and must remain the backbone of our transportation system. Their prosperity is interrelated with the prosperity of all industries. Their fundamental service in transportation, the volume of their employment, their buying power for supplies

from other industries, the enormous investment in their securities, particularly their bonds, by insurance companies, savings banks, benevolent and other trusts, all reflect their partnership in the whole economic fabric."

The universal attitude was expressed clearly in a condensed form by former President Coolidge as follows:

"The railroads are a public necessity. The government, in taking care of them, has rendered them unable to protect themselves. Public welfare demands an equal chance for them in a fair field."

In I. C. C. Docket No. 23400, there is a statement made by Commissioner Brainerd, then Chairman of the Interstate Commerce Commission, as follows:

"The railroads of the country have been and are today the backbone of our national transportation system. They are essential to our national protection and to our economic welfare."

In the Commission's Annual Report for 1930, page 78, is the statement that -

"the country still needs its railways and can support them".

The Secretary of War, who now, under our present system, has responsibility for developing a competitive form of transportation on the waterways, declared in a speech before the Mississippi Valley Association of St. Louis, Missouri, November 24, 1930, that:

"The expansion of our industries means increased activities of finished and fabricated products. The railways will always remain the carriers of these products of industry. * * * Whatever high state of development water transportation may reach, these railroads will remain the backbone of our national freight transportation system."

As representing the publicly expressed attitude of the shippers of the country, I quote a statement from a radio address by a Minneapolis wholesaler of hardware, who was urging the free and untrammelled development of rival forms of transportation. He said:

"No thoughtful shipper or public representative who retains his poise will do or permit anything which will weaken or destroy the essential railroad plant. And our concern for the preservation of the railroad plant will not permit us to neglect the legitimate obligations which have been incurred in the development of these properties."

So far as I know, there is no responsible, dissenting voice in this country to the statement that adequate railroad transportation service is essential to public economic welfare.

A representative of the War Department appeared in the hearing before the Interstate Commerce Commission in Docket 23400 on "Coordination of Motor Vehicle Transportation" and urged, as the Examiner of the Commission has told you, that for public defense there must be an adequate railroad transportation system in this country. Not only for public economic welfare, but also for public defense, rail transportation is essential.

The same conclusion has been arrived at in foreign countries. In Great Britain, for example, where chaotic conditions in highway transport, together with increasing accidents resulting therefrom, faced the British government earlier and more intensely than in this country, that government appointed, in 1928, a Royal Commission on Transport -

"to take into consideration the problems arising out of the growth of road traffic and, with a view to securing the employment of the available means of transport in Great Britain (including transport by sea, coastwise and by ferries) to the greatest public advantage, to consider and report what measures, if any, should be adopted for their better regulation and control, and, so far as is desirable in the public interest, to promote their coordinated working and development."

After extended investigation and hearing, this Commission, made up of representatives of the general public interest, issued its final report on "The Coordination and Development of Transport" in December, 1930.

This Commission, after reviewing the long record of transportation development in Great Britain, after analyzing the present situation and after taking as far a look ahead as it was possible for them to take, reached the following conclusions with respect to the public necessity for preserving to the British people adequate transportation service by rail:

"No civilized country can exist without railways. When a new country is being developed the first essential is the construction of railways. Canada, South and Equatorial Africa, Australia, South America and India are examples of this. The United States themselves--and especially their wonderful development in the West--have been largely the creation of their railroads. The union and federation of Canada was made possible by trans-continental railways constructed long before the traffic available justified them from a commercial point of view. Notwithstanding their recent competitors on the roads and in the air, railways hold their place and, so far as can be seen, are indispensable for many purposes. Long-distance passenger traffic, intensive 'business' passenger traffic, and the conveyance of all kinds of goods traffic in bulk could not be carried on without the existence of railways. The coal trade and most of

the other 'heavy' industries are for all practical purposes dependent on the railways, since conveyance of their products by road is impracticable except in small quantities and for short distances. Whatever else may happen--and without for a moment questioning the great advantages which mechanical transport by road has conferred and may further confer upon trade, or the possibility of the far greater development of air services--it is clear that the maintenance of an efficient railway system is a national necessity." (p.15)

And again, in the same report, we find the following:

"While we have thought it our duty to criticise railway management to some extent and to make certain suggestions for its improvement, we do not fail to recognise the great services railways have rendered and are rendering to the country. We are profoundly conscious of the importance of maintaining an efficient and prosperous railway system. Railways are far from having been rendered obsolete by newer forms of transport, as stage coaches and, to a considerable extent, canals were when railways were introduced. For many purposes--in fact for the main business of transport--they are indispensable, even though newer forms of transport have, in some ways, modified the position they previously held. In addition to this, an immense proportion of capital is invested in the railways, and, so long as they remain indispensable, the Nation cannot afford to place this capital on the scrap heap or even to render it partially unremunerative. The aim should be to harmonize and coordinate the newer and the older forms of transport with the object of obtaining from each the maximum of advantage." (p.45)

This same important problem has been under careful and intelligent study recently throughout Australasia. In the report of the Commission of New South Wales on Government Railways and Tramways for the year ended June 30, 1930, that Commission says:

"Attention has been drawn by the Commissioners in their Annual Reports for some years past to the effect of motor competition on the earning powers of this State's railway system. * * *

"The importance of this matter justifies a repetition of the final clause in the Australasian Railway Commission's statement quoted in the last report:

" * * * * it is beyond question that the road motor form of freight transport cannot pretend, in the final analysis, to cope with primary production, and as it is upon the value of such primary production that the foundation of the Commonwealth and the Dominion rests, it is obvious that if the railroads are crippled this foundation will be rendered insecure and in time the financial stability of Australia and New Zealand will be gravely depreciated.'

"The justification of this warning is now coming home to all Australasia."

Precisely the same problem faces other countries, such as France, Germany, Italy, Switzerland and Canada. In all these countries, the action taken and the investigations now under way contemplate, without exception, the maintenance of railroad transportation as the basic agency for this service.

The point of view, therefore, from which I desire to approach the question and to present the information to this Committee is based upon this premise -- In the United States, all interested parties, without exception, agree that adequate railroad transportation service is indispensable. It is indispensable for public economic welfare and progress and it is indispensable for public defense. If indispensable, it must be sustained. But it must not be sustained at the expense of progress in itself or in other forms of transportation. It is fundamental, but not all-exclusive.

II

It is from this point of view that I desire to present as briefly as possible certain salient facts with respect to the present situation in which the railroads find themselves as the fundamental medium of transportation and the situation which they face as to highway transportation in interstate commerce. The point which I desire to make as clearly as possible is the effect upon this essential rail transportation of a lack of regulation upon interstate commerce on highways, upon the ability of rail carriers to continue to furnish adequate service and the problems that are raised with respect to an efficient coordination of these two types of facilities.

III

First, then, as to the railroads. The financial condition in which the railroads find themselves in this period of depression has been quite fully set forth in the recent case before the Interstate Commerce Commission under the title "Fifteen Per Cent. Case, 1931, Ex Parte 103." It has been shown that through the prosperous years since 1920 the rail carriers as a whole have never received a fair return, as defined by law, in any year. In 1931 the return on property investment was only 1.96 per cent. Within the past year there have occurred receiverships on important railway lines. With a continuation of

the present situation it appears that other receiverships are threatened unless certain important railway lines receive outside assistance.

It has been repeatedly shown what ominous effect the decline in value of railroad bonds in the financial market has had upon fundamental institutions such as savings banks, insurance companies, educational institutions and trusteeships. It has further been shown that under existing conditions in the years of depression financial markets have been closed for railroad bonds and, thus, the ability of the railroads to maintain themselves financially has been threatened. Into this situation, however, have come three encouraging factors; one, the creation of the Railroad Credit Corporation, another the creation of the Reconstruction Finance Corporation, and a third, the voluntary reduction in compensation to employees. These are all emergency measures.

An important element in the financial situation of the railroads is the amount of taxes they are required to pay annually. These taxes increased year by year until the depression cut so drastically the income of the railroads as to reduce income taxes. It is still true, however, that in many states, if not in all, there are local political units whose solvency is directly dependent upon taxes paid by railroads to such communities.

I cite, simply as an illustration of the point, a recently quoted statement from a member of the Indiana Public Serv-

ice Commission. In a case concerned with the abandonment of certain unprofitable rail lines in his state, he said that if such lines continued to be abandoned some counties would find themselves bankrupt. If such a situation exists, it can only mean that the railroads serving such communities have been sustaining county solvency out of funds invested in railroad property. While I am not directly informed about the matter, I would be greatly surprised to learn that these very counties did not have improved highways which had contributed to county indebtedness.

It is apparent that the entire financial structure of the country would be tremendously affected by any collapse in railroad finances. The effect would be felt through the length and breadth of the country. This fact becomes of peculiar importance in view of the premise upon which the statement is based, namely, that adequate railroad transportation service is essential for the economic progress of the United States.

Since 1920 the Class I rail carriers of the country have invested more than five billions of dollars in providing additional facilities so as to bring their supply up to the transportation needs of the country. They have been and are now performing a transportation service which is universally commended both as satisfactory and as adequate.

A large part of the railroad transportation facilities, however, which were created to take care of the entire commercial

movement of traffic and to give the public adequate and efficient service, is now unused. To be sure, the last two years reveal the effect of the severe depression under which we still suffer, but as of January 1, 1930, out of a total number of 56,477 locomotives, 6,213 were stored or, in railroad parlance, in white lead. As of the same date there was a surplus of 476,234 freight cars out of a total of 2,264,448. The last report as of January 1, 1932, shows 740,925 idle cars, or 60.1%. Out of 53,000 locomotives, 10,000 are idle. There are, of course, other facilities unused, such as train, shop, yard and track capacities. In a word, the railroads are equipped to handle the entire land traffic of the country and with a safe margin over. Yet a substantial part of that traffic is now diverted to other transportation agencies. The railroad obligations to meet the charges on the capital used to produce these facilities, however, still continue.

The rail carriers have quite naturally undertaken to meet the situation of surplus facilities and the decreased demand for rail transportation service by reducing the number of employees over and above those who are necessary to meet the remaining demand. This situation has affected such things as local stations, many of which have been closed and the need for employees at those points eliminated. The evidence shows that directly due to motor competition numerous railroad agency stations have been closed. For example, since January 1, 1926, the

Illinois Central Railroad has closed 65 stations and has eleven other applications for that purpose pending; 30 on the D.L. & W.-all that were not paying; 138 on the L. & N. In addition, local trains have been taken off and there has been a substitution of electric-gasoline cars for steam trains, particularly on branch lines. There has also been a complete abandonment of certain mileage directly attributable to highway competition. In the Commission's report it is stated that -

"During the past five years nearly seventy-five per cent of the applications for authority to abandon rail lines alleged motor vehicle competition as one of the grounds for loss of traffic and decreasing revenues".

In the three decades preceding 1920, revenue ton miles of the railroads increased in each decade an average of over 76 per cent and passenger miles increased during each of those decades an average of over 61 per cent, while for the period from 1920 to 1929 revenue ton miles increased only 8.8 per cent and passenger miles actually decreased 34.2 per cent. During this latter decade there was a steady and large increase in the general volume of production and of traffic. The railroads simply did not get it as theretofore. That is, it went by other means of transportation. These other means of transportation include motor vehicles on the highway, traffic through the Panama Canal, which increased from 1921 to 1929 by 637.3 per cent, and traffic handled over the inland waterways, exclusive of the Great Lakes, which increased from 1920 to 1928 by 93.5 per cent.

There were also other factors contributing to this decline in rail traffic, such as pipe lines, power transmission lines and air planes.

Transportation over the highways is, therefore, one factor in the diverting of traffic from rail lines and, in our opinion, a most important factor. As I shall endeavor to show, this is selected and remunerative traffic, so that the percentage of revenues would far exceed any percentage in actual tonnage. The railroads have no means of securing information of a comprehensive and nation-wide character as to the specific amount of tonnage on the highways. Railroad officials, however, and particularly traffic solicitors, necessarily come in contact with this factor and they can get information with respect to the kind of commodities handled on the highways and specific instances as to quantity. This is the best that the railroads can do in the matter.

One rail carrier, for example, made a careful investigation as to the specific amount of passenger and freight traffic that has been lost by that line to the highways in 1930. This information shows that this one rail line lost nearly three and one-half million dollars in passenger revenues to the highways and over \$4,985,000 in freight revenues on commodities specifically studied.

This careful analysis shows further interesting points with respect to the character of traffic lost to motor trucks on the highways. Of the tonnage lost to motor truck carriers, 34.9 per cent consisted of lumber, logs, cross-ties, over 29 per cent

consisted of general merchandise, over 7 per cent of fertilizer and so on. As to losses to this line in revenue, the greatest loss was sustained on general merchandise, about 45%, followed by miscellaneous commodities, about 10 per cent, and cotton, about 8½ per cent. It was further testified -

"As to the class of motor carrier competitors, it will be noted that the total losses in revenue were to contract carriers 38.91 per cent, to privately owned carriers 37.78 per cent, to certificated carriers 23.31 per cent."

It was not possible to cover every class of commodity in the above investigation, but on the basis of facts ascertained this road estimated that it lost not less than \$6,500,000 to highway truck carriers in 1930. This represented 1,335,522 tons, or about 8 per cent of the total tonnage handled by the line, while the loss in revenue was equivalent to 10.6 per cent of total gross freight revenue.

This picture, presented by sworn testimony for this particular line, can probably be duplicated in every part of the country. The competitive relationship between railroads and highways is national in character.

It appears, also, that formerly railroad traffic men felt that truck competition was narrowly limited to certain types of merchandise. Recent evidence indicates, however, beyond a doubt that truck operators are soliciting more and more kinds of traffic. While still selective in their solicitation, these operators are apparently finding that with better roads and new types of equipment they can handle such traffic as formerly it

was not possible for them to carry.

So diverse are the kinds of commodities now being hauled by truck, it is not possible to give a complete list. These commodities include, however, over and beyond general merchandise and miscellaneous freight of every kind attractive to truck operators, such commodities as livestock, fruits and vegetables, oil well supplies, oil products, dairy products, cotton, tobacco, coal, canned goods, road materials, furniture and office fixtures, paper and paper products, automobiles and automobile parts and others.

And as to kinds of commodities, while concentrated upon l.c.l. or merchandise freight and while generally selective in character, the list is progressively extending to all kinds of traffic which truck operators feel can be handled by that agency. Limitations of competition in this respect have not yet been found. Motor trucks are definitely and progressively in the car-load business.

IV

I desire now to turn briefly to an economic set-up of transportation by railroad and transportation by highway, for the purpose of making clear certain important problems as we see them.

Railroads, with their facilities, and highways, with their facilities, have the same end in view, namely, the essential service to the public of carrying goods from points of production to points of consumption, enabling people to travel back and forth speedily, safely and comfortably. The facilities in each case are necessarily adapted to the roadway over which they run. In this respect there is a rather broad difference between railroads and highways as means of transportation. Different as they are in materials and construction, both as to roadway and equipment, they meet on this common ground of service. Out of this fact grow the problems of their relationship.

There is competition today between railroads and highways, both in passenger service and in freight service. The most important highway systems, and especially the Federal-State highway system, 315,000 miles, join large population centers built up by railroads and, hence, largely parallel and offer competing service with railroads in transportation. While there is likewise a certain amount of competition with respect to lateral highways -- the so-called local roads serving localities and communities -- these are naturally to a greater extent supplementary and complementary to the railroads. On the whole, it may be said that railroads and motor vehicles on the highways are competitive when they seek to perform the same service and strive to secure the same traffic.

Railroads are common carriers, with all of the rights, responsibilities, obligations and regulations involved therein.

With one exception, they operate under state charters. All important carriers operate in more than one state, with about four-fifths of their traffic interstate. As common carriers under state and federal regulation they must handle all traffic offered, with rare exceptions, and at published rates and fares, determined or approved by regulatory bodies, without discrimination or prejudice as to persons, places or commodities. They must meet all requirements as to public safety, convenience and liability. They must afford continuous, dependable and adequate service at reasonable rates despite all difficulties. In a very complete sense they are public servants, although a private enterprise.

As a private enterprise railroads are operated at private expense and are founded on the basis of private capital. Private enterprise has constructed the great systems of railroads in this country and has been responsible for their development and progress. Private enterprise has had to carry the burden of pioneer work, reap such rewards as it has been able and suffer such losses as occurred. This applies both to road and equipment. As a private enterprise the railways have fully constructed and maintained both road and equipment at all times. Both their road and equipment, as private property, are taxable and carry heavy burdens of tax for the general support of the government. Both to construct and to operate a railroad system requires a vast accumulation of capital.

The highways with their transportation facilities are essentially different in many respects. The highway itself is a government enterprise, laid out under government policy, constructed and maintained at government expense and, except for such meager tolls as have been collected, expenses thereon have been met from fees and taxes. The highway is government property and, hence, not itself taxable. While the Federal government has contributed, 1917--1930, \$1,140,000,000 toward the construction of an approved Federal-State highway system, the title to the highway remains with the state. The state or its smaller political units have title to, control, and are responsible for, the use of all public highways.

Over this public highway roll private facilities for transportation. These consist of small units. By far the greatest number are private passenger automobiles with a total registration of over 23,000,000 in 1930, registered motor buses numbering 95,400 and registered motor trucks numbering 3,481,000 in the same year. A large percentage of these vehicles, perhaps from thirty to fifty per cent, operate within city limits; the remainder operate on highways outside the cities on the so-called rural highways.

The private passenger automobile is in a class by itself. It has supplanted the horse and buggy and the family coach. It has been and continues to be the dominating influence for the improvement of highways. It does not represent a commercial enterprise except to a limited extent but rather a mixture of

personal pleasure, convenience and comfort, and expense. In matters of personal pleasure, convenience and comfort, economics of competition, that is, the relation of income and expense, plays a small part. The individual makes his decision on other than a purely commercial basis and general social welfare becomes important. Expenditures are made for personal satisfaction. The funds for such expenditures must be derived from the savings of society over and above bare necessities.

The operation of buses* and trucks is a commercial enterprise. It is carried on for profit. The unit is small and requires little initial capital. Their operation is over a highway, however, that has involved the expenditure of many billions by the government, derived from fees and taxes, and for the construction and maintenance of which these motor vehicles have only an indirect expense and no direct responsibility.

Motor buses for the transportation of persons on a commercial basis over rural highways are, generally speaking, common carriers with the rights, responsibilities, obligations and regulations pertaining thereto. There is a marked tendency toward fleet operation, with transcontinental systems in actual existence. By necessity also to attract travelers their schedules must, to some extent, be published and fares made known. Like the rail

* School buses numbering 45,000 in 1930, while engaged in government business and not touring the country, are to be excepted.

carriers, the basis of charge is the individual as a transportation unit. With extended operations and increase in the fleet of buses there has been a corresponding increase in organization, through merger and otherwise, with the rise of state-chartered corporations. The bulk of transportation by bus is still intrastate* but interstate carriage is important and increasing.

Motor trucks for the transportation of commodities over rural highways are either common carriers, contract carriers or owner-operated trucks. In number, common carriers are smallest, representing only five to seven per cent as at present reported, but represent a much greater per cent of total mileage and ton mileage since they are continuously operated. Contract carriers represent fifteen to seventeen per cent in number and, likewise, a much higher per cent of mileage and ton mileage. These two classes represent the bulk of the larger and heavier vehicles. The remainder, greatly outnumbering the other two classes, consists of trucks owned and operated over the highways to haul the owners' produce to market, raw materials to factory or to deliver goods to jobs, to dealers or to consumers.

The area of competition between railroads and highways is not yet well defined but the record indicates a continuously widening competitive field, both in length of haul and in kinds of traffic. This widening competitive field has resulted from a

*Common carriers, intercity but intrastate27,250
City.....	12,750
Interstate.....	5,000
Sightseeing.....	2,750

rapid extension of hard surface or other highly improved highways and from a rapid improvement and increased size and speed of motor vehicles.

In passenger traffic the private passenger automobile is a strong competitive factor with both the railroads and motor buses. Before the motor bus had begun its rapid development, say, from 1920 to 1925, the railroads had already felt the force of this competition, especially within the short-haul, day-coach range, such passenger revenues showing a marked decline each year while Pullman travel more nearly held its place. With the advent of the motor bus, a new competitive element entered this field in an effort to divert traffic from the rail carriers and the private passenger automobile as well as to develop new sources of traffic of its own. Throughout, however, private passenger automobiles have greatly increased in number, speed, range and use. As stated before, the basis of their use is not economic to a very great extent but is rather the individual pleasure and satisfaction of the owner. On the whole, transportation by this facility is more costly than by rail carrier or by motor bus.

The motor bus, as a transportation agency, operates both in a field outside the rail service and as a direct competitor with rail carriers. In terminal areas, particularly in large cities, and to and from points not reached by rail, motor buses afford a new service or have supplanted the existing local service of electric lines and horse-drawn vehicles. In both fields

they have also developed new traffic. The competitive service was at first local, the long distance motor bus hauls being 50 to 75 miles. In the length of haul, however, there has been a rapid increase, now connecting all large centers of population, with through service from coast to coast.

The motor truck got its first real, great impetus during our country's participation in the World War, 1917--1918, when all available transportation agencies were being pressed into service. Before that time it had been progressively supplanting the horse-drawn truck and wagon and extending its radius of operation as improved roads and improved equipment made it possible.

The railroads and the horse-drawn truck and wagon had long since adjusted their operations one to the other with a minimum of competition. It was a supplementary and coordinated service, neither invading the field of the other. This older vehicle on the highways served in terminal areas for distributing and collecting traffic. It was an owner-operated or a contract carrier. In well-settled areas all rail carriers had stations five to ten miles apart within horse-drawn vehicle range. These vehicles also served the railroad hinterland on both sides of the track within the rail tributary territory. Thus there was adjustment and coordination of service to which industry, trade and agriculture adapted themselves.

The motor truck has disrupted this relationship. Better roads; much faster vehicles with greatly widened radius; more dependable service; special equipment for special service--

these are important elements in the new medium of transportation. Advancement beyond the horse-drawn vehicle range into the field of l.c.l. short-haul railroad traffic was made. Classes of commodities handled were extended. Particularly within the past four years further advancement has come into long haul and carload traffic of increasing classes. Two hundred and fifty to 300 miles are claimed today to be an economical haul by modern trucks with many citations to 500, 1200, 1500, or more, mile hauls. This invasion has been made by common carriers, contract carriers and owner-operated trucks. The old non-competitive field of operation is still there but greatly obscured by the vigorous development of the new medium of transportation into a vast field of competition.

It seems to be universally admitted today that railroad service is still indispensable to industry, commerce and public defense. One obvious reason is that there is no other means of transportation which offers facilities to meet fully all of the needs of the public for transportation service. The railroads are equipped to handle all traffic everywhere within the fullest limits of such service. Neither as to passenger traffic nor as to freight traffic do motor vehicles on the 700,000 miles of surfaced highway pretend to offer such complete, dependable and comprehensive service.

To meet the needs of the shipping and traveling public and for mail and express, the railroads have equipped themselves

with progressively improving devices and facilities. New types of cars, multiple tracks, sidings, spurs, yards, passenger stations, freight depots, safety devices, facilities for comfort, convenience and safety of the traveling public, for protection, handling and dependable delivery of goods -- these are concrete evidences of railroad effort to fulfill the duties, responsibilities and obligations of an indispensable public carrier.

If the railroads and all their properties were suddenly annihilated there would not be left a corresponding duplicate system of transportation via highway. There are relatively few and small motor freight depots and what do exist would be obviously wholly inadequate to meet the needs of the shipping public. Carrying on from the horse-drawn truck and wagon, such motor trucks have tended to avoid the building up of depots, yards and such facilities, largely hauling from shipping floor to receiving floor. Thus, if all motor trucks were suddenly to vanish there would be left small vestiges of facilities to show that they had once operated. Likewise, this is true of motor buses with their small waiting rooms, if any, and their use of hotels at the travelers' expense on longer journeys. This lack of evidence of substantial investment adds to the public feeling of fundamental dependence on rail carriers. It lends substance to the statement that motor vehicles use the public highway as a place of business which enables entrance into this transportation field at very small initial cost.

The broad relationship of these two methods of transportation, therefore, may be summarized from this analysis as follows:

(a) Railroads are common carriers of freight, passengers and mail, with full responsibilities and with equipment and facilities to meet them. Motor truck vehicles are common carriers, contract carriers and owner-operated trucks, neither equipped nor able to meet the full transportation demands of the public. Motor buses are common carriers for the most part but equipped to carry only a small proportion of the traveling public and without complete facilities for the comfort, convenience and safety of this traveling public.

(b) A railroad represents a vast investment of concentrated capital that is fixed and must be used or lost. Motor buses and trucks and private automobiles may be obtained as independent transportation units at small cost and enable individuals to enter the field of transportation.

(c) Railroads are a wholly private enterprise, depending upon revenues from transportation service to meet all operating, road maintenance and equipment maintenance expenses, and return upon investment. Motor vehicle operations are a mixture of public ownership as to the highway itself and private enterprise as to facilities operating over the public highways. As private enterprises, railroads are wholly responsible under regulation for maintenance of roadway and equipment and for safety to the public. Motor vehicles depend upon a government-owned and a government-maintained roadway and meet such charges as may be imposed through fees and taxes.

(d) Railroads are indispensable to the public as a medium of transportation in time of peace and as an element in public defense. As an indispensable agency of transportation the railroads must be sustained whatever the competition may be. Motor vehicles are a useful, if not indispensable adjunct to this fundamental transportation by rail.

(e) Railroads and motor vehicles are directly competitive in commercial service, both for passenger traffic and freight traffic, wherever motor vehicles have extended their operations into the field

of service offered by rail carriers.

(f) Where railroads and motor vehicles meet in competition in commercial service, this competition finally settles down to two points, namely, rates and service.

Rates and Service

Rates and service are inter-related. This is true both as to passenger fares and as to freight rates. A passenger will pay something additional for a service he wants. A shipper will pay a higher rate for a peculiarly satisfactory service. A lower fare or a lower rate will attract traffic.

A

As to bus passenger fares, they are, on the whole, sufficiently lower than rail fares to appeal to an economic class who feel that they prefer or can afford such service. They will have more money to spend otherwise. As to truck rates within a radius up to 75 miles, the charges are generally lower than by rail when cartage at origin and destination are included, but as the haul extends beyond such radius, truck charges rise to meet rail charges.

Rates and fares come finally to rest on the basis of cost. Competition between rail and highway transportation, so far as rates and fares are concerned, will be determined by the relative elements of expenses of operation, including capital charges. Upon this complicated subject, previous analysis throws some light. It may be viewed from the aspect -

- (a) of expenses for construction and maintenance of roadway;
- (b) of expenses for operation and maintenance of equipment; and
- (c) of expenses for operation and maintenance of terminal and accessorial facilities.

Roadway

The relative elements of expenses for construction and maintenance of road for rail carriers and of highways for motor vehicle competitors afford the greatest difficulties. Here is the government, on the one hand -- the highways -- and private enterprise -- the railroads -- on the other hand. Government may be either federal, state or local. As stated before, the state owns and controls the state highway system, with local county units and municipalities. The federal government contributes annually in federal aid to certain roads. The government derives its funds for highway construction and maintenance from fees and taxes, and pays no interest on funds invested. Rail carriers hire their funds from the money markets for construction and look to revenues for maintenance. Over government highways run more than 23,000,000 private passenger automobiles on a non-commercial basis.

A broad comparison of the elements of expenses with respect to roads for rail carriers and highways for motor vehicles is given in the following statement.

- (a) For class I rail carriers in the four-year period 1927--1930-

- (1) An average annual carrying and maintenance charge for road of \$1,110,297,609
 - (2) An average annual payment of property and income taxes for support of government of \$377,694,825.
 - (3) An average annual carrying charge and maintenance of road and taxes on all property of \$1,487,992,434.
- (b) Public road income from registration fees and gasoline taxes, for period 1921--1930 (except 1922 for which no information is available), approximately \$4,051,120,000.
 - (c) Total disbursements in same period by state and local authorities for highway purposes \$11,142,259,000.
 - (d) Special taxes mentioned in (b) on motor vehicles in this period were approximately 36.3 per cent of disbursements (in 1921--10.8%).
 - (e) No taxes were levied on highways because government property, and no interest paid on funds so invested.

It is obvious from these facts that the government has paid out of general tax funds approximately 63.7 per cent of the construction and maintenance costs of highways used by motor vehicles. It is also clear from the annual figures that there is an increasing burden being imposed upon motor vehicles in the form of special taxes. And yet, according to the latest available figures -- 1930 -- funds for highway construction and maintenance outside cities were derived proportionately 56% from general tax fund and 44% from taxes on all motor vehicles.

Taxes on all motor vehicles fall far short of paying highway expenditures even for rural highways, namely, outside incorpor-

ated places and outside thickly settled New England towns. In these taxes are those paid by the twenty-three million private passenger cars operated largely on a non-commercial basis. These taxes also include practically all moneys paid by motor vehicles operating within city limits and not using the highways. At least forty to fifty per cent of these taxes should, therefore, be deducted if the amount paid by the users alone is sought. The rail carriers, on the contrary, have fully met all roadway and maintenance costs and have paid taxes on the roadway.

THE ANALYSIS THUS FAR HAS REVEALED CLEARLY THAT:

- A. THERE IS ONE IMPORTANT ELEMENT OF EXPENSE IN RAILROAD OPERATION THAT DOES NOT APPEAR IN MOTOR VEHICLE OPERATION, NAMELY, A TAX ON "ROAD" FOR THE RAIL CARRIER AND NO TAX ON THE HIGHWAY FOR THE MOTOR VEHICLE.
- B. ALL MOTOR VEHICLES HAD PAID ONLY 36.3 PERCENT OF THE VAST EXPENDITURES THAT HAVE BEEN MADE BY THE GOVERNMENT FOR THE CONSTRUCTION AND MAINTENANCE OF THE HIGHWAYS IN THE PERIOD 1921 -- 1930.
- C. RAIL CARRIERS HAVE CONSTRUCTED AND MAINTAINED THEIR OWN ROADWAY.

At this point, certain fundamental questions arise. Do commercial motor vehicles of the heavier types destroy highways that would be suitable for passenger automobiles and light trucks? What additional cost, if any, has there been for construction and maintenance of highways due to commercial operations by heavy buses and trucks? Do these heavier commercial vehicles pay adequately for their use of the highways? Do commercial operations

as a whole pay adequately for their use of the highways?

As to the answers to these inquiries, there is an apparent difference of opinion between experts. There can be no disagreement that private automobiles, light trucks and heavy commercial vehicles, taken as a whole, have by no means paid for the highways which they use. On the other inquiries, expert opinion is as follows:

(a) With one exception, namely, the Director of the Bureau of Public Roads, in his statement I.C.C. Docket 23400, expert opinion holds that --

- (1) Heavy commercial trucks and buses will destroy or wear out highways suitable for automobiles and two or three ton trucks.
- (2) Highway specifications, largely following the formula of the Bates Road Tests in Illinois 1920--1923, call for a road to accommodate heavy vehicles at a substantial additional cost for construction and maintenance.
- (3) This additional cost has been calculated as \$3,000 per mile or 15 per cent in South Carolina by Moorefield; as \$121,271,000 from 1923 to 1929 and \$9,913,000 annually in Illinois by Older; as requirements of double the strength for three-ton vehicles and three to five times as strong for vehicles up to fifteen tons by Marvin.
- (4) These heavier vehicles constitute about 1.5 to 2% of the total number of vehicles using the highways. For example, the Governor of the State of Virginia announced a cost of \$10,000,000 for reconstructing bridges in that state to accommodate only two per cent of the vehicles.

(b) The apparent contrary opinion stated by the Director of the Bureau of Public Roads was on the assumption that only pneumatic tires or balloon

tires would be used on motor vehicles. As a matter of fact, solid rubber tire motor trucks are plying all highways throughout the country. He further asserted that the thickness of the road required by an automobile or very light truck would call for roads about seven inches at the edge and six inches at the center regardless of load, because otherwise the surface would "curl up like tissue paper in the rays of the sun * * * the frost heave would destroy them". This statement, however, is directly opposed to the experience in the Bates Road Tests which form the foundation of the specifications in forty or more states.

If the analysis is correct so far, then another conclusion becomes obvious:

HEAVY BUSES AND TRUCKS ABOVE THREE TONS OR EQUIVALENT, CONSTITUTING ABOUT TWO PER CENT IN NUMBER OF TOTAL VEHICLES, SHOULD PAY ALL ADDITIONAL COSTS RESULTING FROM ROAD DESTRUCTION ON HIGHWAYS TOO LIGHT FOR SUCH TRAFFIC AND ALL ADDITIONAL COSTS OF CONSTRUCTION AND MAINTENANCE OF ROAD BUILT FOR THEM.

There is no evidence that any such sums have been paid or are now being paid by them.

And, finally, with respect to relative costs of road and highway, there is the subject of railroad-highway grade crossings. In 1929 there were 242,809 such crossings. Year by year more such crossings are created than are avoided or closed by relocation of highways. For safety protection at these grade crossings and for their elimination by overhead or underground passages, the rail carriers have to expend more than twenty-five million dollars per year, resulting in capital expenditures for them of little

or no productive value but making for safer operation for highway transportation. A fair rule of equity is that the agency creating the additional hazard should be responsible for and pay for protection against that hazard; or, the parties directly benefitted should pay the cost.

Equipment

In respect to expenses for and maintenance of equipment, there is a clear comparison between rail and highway transportation in the matter of rolling stock. Here is private enterprise vs. private enterprise. Whatever differences exist are due to differences in size and character and to causes running back to the necessary adaptation of equipment to road.

Even here the rail carriers have been restive under a burden of discriminatory property tax. Railroad property,--roadway, stations, yards, rolling stock -- can not and does not escape property taxes. Studies by rail carriers in various states -- Tennessee, Kentucky, Arizona, Kansas, New Jersey - indicate beyond a doubt the truth of the statement made before this Committee by the New Jersey delegation that motor vehicles in interstate commerce escape a just burden of property taxes. The Nashville, Chattanooga & St. Louis Railroad has studied the conditions in this respect in 66 counties and on the basis of their information have refused to pay further discriminatory taxes and have been granted a temporary injunction against their collection.

Terminal and Accessorial Facilities.

In respect to expenses for terminal and accessorial facilities, there is to be considered, first, the more complete equipment of rail carriers in the form of passenger stations, freight depots, yards, etc. Here, also, is the complication of government, on the one hand, and private enterprise, on the other. It will be remembered that practically all funds from special taxes on automobiles are allocated to rural highways, that is, to roads outside of incorporated places and outside of thickly populated sections in New England towns. In cities and towns, the responsibility for construction and upkeep of road -- streets -- rests with the local government. All but an insignificant portion of the funds for this purpose are derived from special assessment and property taxes. The "road" in terminal areas and towns is, therefore, practically free to commercial highway users. It is estimated that one-half of commercial truck operations takes place within city limits. The figures show that common carrier buses in 1929 paid \$17,946,519 in taxes but, of this amount, "buses in city operation" contributed \$8,553,481, or almost fifty per cent.

The "road" for highway operation in terminal areas represents the expenditure of billions of dollars derived from property taxes. As public property it is not taxed. No interest is derived from the investment. Terminal properties of railroads must pay their own way in every respect as a private enterprise, including interest payment on capital invested, and, as private property, they are liable to taxation.

B

The second phase of this competitive relationship is service. The factors here differ somewhat as to passenger traffic and freight traffic.

- (1) As to passenger traffic, the attractive advantages attributed to motor bus service are -
 - (a) That the public has become automobile-minded as a result of the extensive use of the private passenger car and the motor bus is in reality a kind of community passenger automobile car.
 - (b) That there is greater personal contact between the motor bus operator and passengers than can be had between railway passenger employees and passengers in rail service.
 - (c) That highways pass through a different section of the country than railways and bus passengers can see both the road ahead and the country through which they are being carried.
 - (d) That there is less noise and greater freedom from smoke and dust by highway than by rail.
 - (e) That there is greater frequency of service with a far more flexible schedule and, therefore, increased convenience by motor bus,
 - (f) That the motor bus is more responsive to the wishes of passengers in that they stop more frequently and carry passengers to a more convenient point at destination.
- (2) As to trucks, the factors tending to divert freight traffic from the railroads are held to be -
 - (a) Over-night service from store door to store door.

- (b) A smaller transportation unit, thus making possible lower inventories in the hands of dealers.
- (c) A more flexible service than is possible on the rails.
- (d) A complete transportation service from origin to destination by one agency.
- (e) More direct and personal contact between the shipper and the transportation agency.
- (f) A service more directly responsive to shippers' or consignees' wishes by non-scheduled rush service and service peculiar to the needs of an individual business.
- (g) The elimination of packing requirements and cost.
- (h) Store-door reconsignment without transfer.
- (i) Elimination of re-handling and consequent loss and damage.

It will be observed that these advantages of highway transportation are held to be within the field of competition between rail and highway service. The increased usefulness of motor buses and trucks in the field outside of railroad service, namely, in developing regions not served by rail, and in terminal areas, is not involved.

Transportation by railroad has been regulated for many years by State laws and by the Interstate Commerce Act and related Acts. The first regulation was applied to railroad transportation alone because at that time the railroads were the only important transportation agencies engaged in interstate commerce. Later, a limited regulation was, by the Interstate Commerce Act, applied to

transportation by water in conjunction with railroads and to pipe lines. The chief purposes of this regulation have been --

- (a) To have an independent and informed body to examine into the fairness and reasonableness of rates and fares charged in the light of available information.
- (b) To prevent the charging of excessive rates and the enforcement of unreasonable rules, regulations and practices.
- (c) To prevent discrimination by secret rates or by rebating, by charging different rates to different shippers based on the amount of their tonnage and to prevent undue prejudice in rates as to commodities and places.
- (d) To prevent the unnecessary addition or abandonment of transportation lines by requiring certificates of public convenience and necessity.
- (e) To assure adequate and efficient transportation service at all times.
- (f) Requirement for adequate protection of employees, the traveling public and property and full responsibility for injuries, losses and damages.

This regulation has tended greatly to stabilize railroad transportation and rail rates. Every shipper now knows what his competitors' rates are and all shippers in the same community must be placed on an equality. The rates as between communities may not be preferential or prejudicial.

Unless the same principles of regulation are applied to motor vehicles for profit on the highways, then, so far as common carrier and contract carrier operations by such vehicles are concerned, there may be discrimination as between shippers in the

same community; a shipper with large tonnage may get lower rates than a shipper with a small tonnage; shippers in larger communities, because they naturally attract the motor truck operator, may have transportation that is not available to those located in smaller communities; motor vehicle rates may be made so as to discriminate between commodities and between communities. There can also be so much duplication of service that no one may be able to operate with a reasonable profit and so be able to provide efficient service. Some highways may become over-loaded. Thus, in principle, every important consideration that required and justified regulation of railroads as agencies of commerce now applies to motor vehicle transportation.

And, further, if rebates and undue or unjust discrimination are wrong if engaged in by railroads, can they be right if engaged in by their competitors? Can a large part of the traffic of the country be allowed to move subject to rebates and the granting of unjust discriminations, while these acts are forbidden under penalty as to the balance of traffic? Since these competitors have voluntarily entered into the field of public transportation service, should they not assume obligations and responsibilities to a corresponding degree?

It is not, however, to be assumed that there have been no regulatory measures adopted with respect to motor vehicle transportation. For the railroads, regulation began with the states. For motor vehicles, regulation has begun with the states. As to

railroads, the most comprehensive regulation is now interstate but as to motor vehicles interstate operation is very largely unregulated.

In considering the subject of regulation applying to motor vehicle transportation, it must be remembered that the highways belong to the individual states and the responsibility for obtaining revenues to improve and maintain them, as well as for protecting them and for promoting public welfare through their use, rests with the individual states. An examination of state laws adopted for the regulation of motor vehicle transportation intrastate shows that these legislative efforts have been directed to the following purposes:

- (a) Some form of regulation or some requirements for operation over highways exist in every state except one -- Delaware; requirements under the police power are largely centered in the state highway departments, while regulations corresponding to the public utilities and railroads are centered in the public utility, railroad or corresponding commission of the State. Delaware has no such commission. Kentucky has given jurisdiction over buses to a Commissioner of Motor Transportation and over trucks to the State Tax Commissioner. Washington has given jurisdiction over highway transportation to the Department of Public Works and West Virginia to the State Road Commission.
- (b) In all states where some regulation or requirement has been imposed upon highway operation, the evident purpose has been, first, to protect the highway, assure as far as possible safety to the public and impose, through the form of taxes, a payment for the use of the highway; second, certain prerequisites of operation, principally upon common carrier operations but in some cases upon so-called contract carriers, in the form of a certificate of public convenience and necessity or a permit; third, an assurance of responsibility

for damage or injury either to the persons or properties transported or to third parties; and fourth, the power to fix rates, fares and charges and require publication thereof, together with time schedules, confined almost wholly to common carrier buses.

- (1) Under the requirements for the protection of the highway and for safety to the public are restrictions as to the length, width, height and weight of vehicles operated. These requirements are different in different states but as to length vary from 28 feet in New Jersey to 50 feet in South Dakota for a single unit, and from 40 feet, as in Massachusetts and Indiana, to 85 feet in a number of states for multiple units. The width requirement is almost uniformly eight feet. The height limitation runs from 12 feet to 14 feet eight inches. The limitations to weight, where required, run from 12,000 pounds to 65,000 pounds. Some states make separate requirements with respect to trailers and combinations of vehicles. There are also speed limitations but in these there are great variations among the states and within the jurisdictions of local governments.

There is no uniformity with respect to the imposition of taxes upon commercial vehicles for operation over highways. There are two general types of such taxes, one a flat annual fee or percentage of revenues, the other on some form of mileage basis. The flat fee gives recognition generally to size and weight of the vehicle. This is likewise true of the forms of mileage taxes, although the latter vary more directly with use. Practically everywhere there is, in addition, a gasoline tax, which varies from two to seven cents among the states. There is general recognition also of the difference in effect upon highways of pneumatic tires and solid tires and as to the number of wheels, indicating a recognition of a factor that the wheel base in contact with the pavement is an important consideration.

- (2) The prerequisites for operation, confined largely to common carrier buses and trucks, are certificates of public convenience and

necessity obtained from the state body having jurisdiction and, in case of protest, after public hearing. In some cases a permit from the regulatory body is required for property carriers operating over irregular routes-- a kind of semi-common carrier.

- (3) In many states also there is a requirement of a bond for indemnity or liability and to insure the payment of fees, taxes, etc.
- (4) The states that have gone farthest in the detail of regulation with respect to highway operation have included in their laws the power within the regulatory body to fix fares and rates or charges and determine routes, rules and practices.

A survey of state legislation shows that earliest interest was aroused in the question of public safety and connected directly with speed. Later came concern with respect to the protection of the highways that had been built and interest was aroused in the weight of motor vehicles. As bus operation developed on a common carrier basis, the principle of certificates of convenience and necessity was applied to them as had been applied to rail carriers. And, again, as truck operation took the form of common carrier service attempt was made to carry the same principle over into their operations. Some concern also has been displayed with respect to the fares, rates and charges by such common carrier operations and provision has been made in some state laws with respect thereto. This means the application of another regulatory principle in railroad operation to common carrier service on the highways.

State laws in recent years have been rapidly changing and have extended the power and jurisdiction of regulatory bodies over intrastate operations. Since the Supreme Court decision in the Buck case in 1925, however, there has been a hiatus of regulation and legislation with respect to interstate traffic. This lack of jurisdiction over interstate operation has been a disturbing and demoralizing factor in intrastate highway transportation on this account. No interstate operation, because it is interstate, ought in justice to escape any reasonable requirements deemed wise and proper by any state in meeting its responsibility for obtaining revenues to improve and maintain the highways which it owns, as well as to protect them and to promote public welfare through their use. In every practical sense a truck is a truck or a bus is a bus when operated over a state highway, regardless of whether or not it is engaged in interstate commerce.

There is an obvious lack of uniformity among the states in all factors of regulation and requirements as to highway transportation. Different requirements exist also among the states in some aspects of state regulation with respect to rail carriers, as, for instance, length of train and full crew laws. But the dominating factor tending to uniformity in regulation and requirements for railroads is Federal regulation. For highway operation there is no federal regulation or requirement; interstate operations are proportionately very few, though increasing and important now.

From the fact of state ownership of and responsibility for the highways and from the fact that commercial operations over these state highways are so largely intrastate, it follows that the foundation of just and reasonable regulations and requirements for such commercial operations must be laid by the states. Federal action should fill the hiatus existing as to interstate commerce. Since such foundation has already been laid by the states, action by the Federal government is now due in order that interstate operations shall not escape just and reasonable requirements and regulation imposed upon the intrastate operations over which the state has jurisdiction. If federal action should first take the form of requiring interstate operation to meet in a just and reasonable way all state regulations and requirements, then such interstate operations will have imposed upon them progressively the improved regulations and requirements adopted by state legislatures.

Thus, then, attention is focused on state action with respect to highway commercial operations. The present status of such action is far from satisfactory, lacking not alone in uniformity and enforcement but also in a fully informed and scientific basis. Progress lies in these directions:

- (a) A recognition that the use of the highway for commercial purposes in the field of competition with existing transportation agencies is essentially different from the use by the private passenger cars.
- (b) Commercial use of the public highway in this field is an economic proposition and must be based on the basis of all elements of cost.

- (c) In the construction and maintenance of public highways open to commercial use, careful consideration must be given to all additional costs incurred due either to width or strength of surfacing, stronger bridges, wear and tear, grades and locations, and all such additional costs should be charged directly against the commercial users on a just and reasonable basis.
- (d) Full jurisdiction and power of control should be given to some appropriate body over the number, character, size, weight, width, length, height and speed of all motor vehicles operating over highways, with adequate force to enforce the law.
- (e) Recognition must now be had of the fact that motor vehicle operations, both in passenger and in freight service, have reached the degree of importance to affect the condition of existing transportation facilities and, therefore, must bear the corresponding responsibilities of that position, in view of the fact that such existing transportation facilities are public service agencies and are essential to the public welfare.
- (f) Recognition must also be had of the fact that commercial operations, especially by trucks, have become such an important influence in business competition that the rates charged affect the competitive relationship of manufacturers and merchants and, therefore, rise above a mere private transaction.
- (g) And finally, recognition must be had of the fact that in the competitive relationship between railroads and commercial operations on the highways, conditions can not be fair, the true economic status cannot be determined, motor vehicle transportation cannot develop on a stable economic foundation, regulation will be undermined and an essential industry will be threatened so long as railroads are so comprehensively regulated in all essential respects, including rates, while highway commercial operations do not pay all legitimate costs, are left free to give rebates, to discriminate between persons, commodities and places and to select only the traffic most desirable to handle.

In the consideration of the question as to what shall be the terms and conditions prerequisite for operation in interstate commerce over the highways, that is, proper regulation under public authority, so that competitive relationships may be fair and just and coordination most effectually achieved, there are these methods of approach:

1. To relax and liberalize certain regulatory provisions now applying to rail carriers;
2. To impose corresponding regulatory provisions over highway operations in interstate commerce; and
3. A combination of these two methods.

There is, of course, something that may be done under existing conditions and without substantial change in the present Interstate Commerce Act and that is a more liberalized administration of the provisions of that Act in view of changed conditions. Attention is seriously directed to the following:

1. The need for the Commission to give due consideration to the new and menacing competition on the highways in administering all the provisions of the Interstate Commerce Act as apply to rail carriers.
2. The rigidity and inter-relationship of the present rail-rate structure and the handicaps which face the rail carriers from the progressive application of the transportation-at-cost or zoning, or mileage rate theory now apparently held by a majority of the Commission.

3. The patent fact that the fundamental concept lying at the base of railroad regulation in the provisions of the Interstate Commerce Act, namely, the natural monopoly of transportation by railroad, is no longer tenable to the extent that an alternative choice of facilities is being offered to and utilized by the shippers of the country.

4. The fact that as the volume of traffic available for rail carriers, due to diversion to competitive types of transportation, becomes smaller, the inevitable consequence is the imposition of heavier charges upon that traffic which must of necessity use rail transportation. The obvious reason for this is that a railroad is a business with a high proportion of fixed costs and these costs do not decrease in step with a decrease in traffic.

The specific handicaps that have been cited by railroads as standing in the way of fair terms of competition between trucks on the highway and rail carriers are, in general, as follows:

1. Rigidity of Rates. There is the general rigidity of rates for rail carriers as the results of a structure carefully balanced throughout the country. If a rail carrier undertakes to meet competitive rates locally, there is a liability of disturbing the general balance of rates and affecting in manifold ways movements wholly unconnected with the local competitive situation.

It was pointed out, for example, that under the Commission's decision in I. C. C. Docket 13535, applying to the South-

west, if a carrier undertook to reduce rates to meet a local competitive situation created by a truck operation, then numberless adjustments would have to be made in other traffic to conform to the rate pro-rate principle in that decision. Inevitably the losses that would be sustained not only by the carrier immediately affected by the truck competition but by other carriers in other movements would far outweigh the local situation.

As a further illustration of this competitive element, one carrier cited the movement of 10,000 to 12,000 tons of sugar per year from Philadelphia out to a destination 55 miles distant. This sugar is now handled by trucks which secure a return load of products from this sugar of from four to five thousands tons a year. The carrier felt that it could make a rate that would have retained both the sugar and the products if it had been free to do so. It was restrained, however, by the fact that if this reduction was made to meet this local competitive situation, it would probably disrupt the rates on sugar from New York to Allentown, Bethlehem, Wilkesbarre and Scranton and from Baltimore into the Reading District and extend so as to disrupt the whole sugar rate structure east of Pittsburgh and might extend into the New Orleans district and ultimately involve even the Pacific Coast rates on sugar.

2. Provisions of Interstate Commerce Act. The rail carriers testified that they were further handicapped in competition with highway transportation by provisions of the Interstate Commerce Act, at least to the extent of its administration by the Commission

during recent years. Attention was called to the Commission's interpretation of discrimination under Section 2, which would be brought to the front by any efforts at rate competition with local truck operations. This was true also of the administration of Section 3. Section 4, the long and short haul clause, is a limitation upon the rail carriers which does not apply to highway transportation. Section 6 of the Act requires notice with respect to rate changes and suspensions are provided for in section 15, thus delaying rail efforts to meet competitive situations that have suddenly developed, from which limitations also highway operations are exempt. The Act calls for an observance of freight classifications, which provisions likewise do not apply to their unregulated competitors on the highways.

The difficulties that grow out of this condition of railroad regulation, as contrasted with the unregulated highway transportation, are of paramount importance. Under severe penalty railroads must comply with the Commission's interpretation of those provisions in the Act, Sections 2, 3 and 4, which deal with rate discrimination and undue prejudice as to persons, commodities and localities. All shippers must be treated alike and charged rates known to all. The evidence shows conclusively, however, that highway operators can and do with impunity discriminate as to persons, as to commodities and as to places. Those very evils which were publicly condemned by the insistent public demand for regulation of rail carriers are today in existence and are of growing importance in highway transportation. Successful competition under

such conditions appears to rail witnesses to be practically impossible.

3. Common carrier responsibility. The rails as common carriers have responsibility for meeting fully the public requirements for transportation service. A corresponding responsibility does not attach to their competitors upon the highways.

These competitors can operate or cease to operate when they so desire.

A particular feature of this responsibility is the operation of trains at a loss. In many instances train schedules are under the regulation of a state and trains can only be eliminated by consent of the regulatory body. In consequence, many local train operations today pay little or no more than for the wages of train crews. They must, however, be operated. There is the further obligation for carrying express and mail which the rail carriers can not escape.

4. Non-productive capital expenditures. Attention was directed to the large capital expenditures required of rail carriers from which little or no benefits are derived. Instances of these expenditures are for safety appliances such as signal devices and automatic train control devices. Of more importance, and of increasing importance, are the expenditures for elimination of highway grade crossings. Every year the expenditures by the rail carriers for the protection and elimination of grade crossings increase. The irony is that these safety expenditures, of little

or no benefit to the rail carriers, make directly for safer operation by their competitors on the highways.

5. Government subsidizing of competitors. Many rail witnesses testified to their belief that highway operations in competition with rail carriers were being subsidized by the state and Federal governments through the expenditures for improvements and maintenance of improved highways out of the general tax fund. To this tax fund the rail carriers are compelled to contribute liberally. Thus, the operating expenses of the rail carriers are increased while their competitors are relieved from legitimate operating charges and pay nothing in taxes to the railroads. Opposing witnesses pointed to the traffic created for rail haul by roadbuilding and the automobile industry.

It is apparent that all these handicaps create problems in the competitive relationship between railroads and highways.

Steps have been taken to achieve effective coordination between railroads and highways already.

- (a) In 1931 eighty-one railroads were operating 4,000 buses over 50,000 miles of bus routes; 60 railroads were operating 7,000 trucks, exclusive of the Railway Express Agency trucks.
- (b) Due to differences in, and lack of proper regulation, railroad operation on the highways is practically all through subsidiaries.
- (c) Perhaps the most widespread effort throughout the country, involving some element of coordination, has been the substitution of motor bus service and motor truck service for train service. These efforts have all been practically limited to local operations. They have resulted in a large number of local passenger trains being

discontinued and their places taken by parallel motor bus operations. In freight service there has likewise been considerable utilization of the motor truck in the place of local way freight service, resulting either in the discontinuance of trains or in the elimination of local way freight stops.

- (d) Somewhat sporadic development has occurred in a pick-up and store-door delivery service on a line rail haul in different parts of the country.
- (e) A few rail carriers have experimented with the use of new facilities in the form of a container which could be handled either on a freight car or on a truck and readily transferable from one to the other.
- (f) There has been some development also in cooperation with consolidating or forwarding companies, where motor trucks have been used either at origin or destination and frequently at both.

Efforts at coordination have been hampered, as in the matter of competition, by instability in highway operations, due to a lack of stabilizing regulatory provisions. It becomes clearer every day that neither fair competition nor effective coordination can be had until highway operations are founded on a basis of economic stability and have been required to meet in full the responsibilities inherent in the service which they seek to perform.

Regulation does not imply that all of the traffic, nor even a large proportion of the traffic, now carried over the highways by motor vehicle would be forced or would gravitate back to the railroads.

The railroads are not advocating regulation as a means of legislating motor vehicles off the highways or as a means of

forcing an increase in all the rates, fares and charges of motor vehicles to the level of railroad rates, fares and charges. This is obvious from the fact that the rail carriers are asking for adequate authority themselves to operate such facilities.

What the rail carriers desire is regulation as a means of placing motor vehicle operation as a whole on a sound economic basis to the end that the proper sphere of operation of the railroads and the motor vehicles can be intelligently determined. When the proper sphere of operation is determined, it will result in the retirement of either the railroads or the motor carriers from those fields in which they can not compete at the rates or can not give the service provided by the more efficient carriers.

Regulation would require each carrier to operate on a sound basis and prevent either carrier from competing destructively for such traffic as the other could carry more economically and efficiently. The result would be an advancement of the best interests of the railroads, the motor carriers and the public. Whether or not it would mean the return of any traffic to the railroads can not now be determined with any degree of certainty

The railroads believe that proper regulation of motor vehicle transportation service would probably mean the return of some traffic to the rails. They are advocating regulation, however, more particularly in order that unrestrained and unfair competition of motor vehicles may not lead to such further losses of traffic as to impair the ability of the rail carriers to supply

the efficient service required by those who of necessity must depend on railroad transportation for essential "full community" service, for national protection, security and welfare.

.. The crucial test of all proposals by railroads or others is adequate and efficient transportation service. Such service must not be broken down by wasteful competition. To prevent competition from being wasteful, it should be regulated and systematized. No temporary advantage derived from unreasonably low rates will compensate the public for the loss or deterioration of transportation service essential to its welfare.