

Rail and Road Problems
in
U. S. A.

GOVERNMENT OF INDIA
DEPARTMENT OF INDUSTRIES AND LABOUR
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Rail & Road Problems in the U. S. A.

Being a summary of recommendations
of the Joint Committee of the Rail-Road
and Highway Users, United States
By C. E. R. Sherrington, M.C., M.A.

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RECOMMENDATIONS OF JOINT COMMITTEE OF RAILROADS AND HIGHWAY USERS, UNITED STATES

By

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INTRODUCTION.

ON January 30, 1933, there was made public in the United States the recommendations of the Joint Committee of Railroads and Highway Users in the United States. This document, like its earlier counterpart in Great Britain, commonly known as the Salter Report, since the chairman of the Rail and Road Conference was Sir Arthur Salter, is likely to prove an important landmark in the long controversy which will lead finally to a solution of the problem of co-ordinating road and rail services.

The American recommendations were the result of three months' intensive study and discussion of the rail and road transportation problem by members of the Joint Committee of Railroad Executives and Highway Users. Like the Salter Conference in Great Britain, the rail and road representation was equal, in the American case six each, as compared with four each in the British case, General Atterbury, President of the Pennsylvania Railroad, and Mr. Alfred H. Swayne, Vice-President of the General Motors Corporation and the National Automobile Chamber of Commerce, acting as chairmen respectively of the two groups. The American Committee was fortunate in obtaining a neutral secretary in Professor William J. Cunningham, Professor of Transportation in the Graduate School of Business Administration at Harvard University, and he was assisted by two Special Assistants in C. S. Duncan, Economist to the Association of Railway Executives, and Pyke Johnson, Vice-President of the National Automobile Chamber of Commerce. In their secretary the Joint Committee possessed an authority with unique knowledge, since Professor Cunningham spent many years as a practical railway officer; he was responsible at a later date, during the war-time Government railroad administration, for the general design of the present-day statistical returns of the American railroads, whilst he has conducted many special studies of the road and rail problem during the last ten years, and read a most notable address to the Society of Automobile Engineers in 1926, entitled "Motor Vehicle and Railroad Transportation: Economics of Co-ordination." With several of the most brilliant railway executives, such as Ralph Budd of the Chicago, Burlington and Quincy, and J. J. Pelley of the New York, New Haven and Hartford, serving on the Committee, together with A. M. Hill of the Atlantic Greyhound Lines, and Clarence O. Sherrill of the Kroger Grocery Company, who has made a special study of road distributive services, the work of the Committee commenced under very favourable conditions, and the degree of unanimity reached, considering the size of the United States, the manifold problems involved and variation of climatic and other conditions, reflects great credit on the members and not least upon the secretary. The transatlantic problem is far more

complex than that in European countries, because of the problem created by a Federal Government superimposed upon the various State Governments, or in the case of Canada on the Provincial Governments. To some extent this problem has arisen in Germany in connection with State postal services, but it has been largely overcome; the American situation in this respect is exceedingly difficult and should not be ignored by those responsible for designing the most adequate solutions in the British Empire. Railroads in the United States are subject to regulation, when they serve more than one State, primarily by the Interstate Commerce Commission, and secondly by the Public Utilities Commission, though the titles vary widely, in each individual State. Road services until quite recent years have been mainly local, that is to say, Intrastate, in form, and, consequently, have been regulated by the States themselves, which were equally responsible for the highway systems within their boundaries. With the rapid growth of road services for passengers and freight, the Interstate Commerce Commission finds itself without any power of road regulation other than where a railway indulges in road operations, whilst on the other hand each State has adopted an individual basis of vehicle taxation, limits of size permitted, licence methods, and so forth. It will be appreciated that the situation is chaotic, which makes it exceedingly difficult for the railroads to determine upon general principles of co-ordination, whereas for the road operator, a vehicle which satisfies all legal requirements in one State may be debarred owing to size or weight from working across any of the borders of that State. The work of the Joint Committee was, therefore, of supreme importance because on both sides it was desirable to arrive at an agreed policy on a national basis.

THE GENERAL BACKGROUND OF ROAD REGULATION.

To comprehend in correct perspective the recommendations of the Committee it is necessary first to obtain some picture of the degree to which regulation has been carried in various States. It is not possible to summarize briefly the position in all the forty-eight different States, but certain salient points picked from a selection of recent reports may serve to give a bird's-eye view of the existing situation. Thus, the Railroad Commission of California during 1932 instituted, on its own motion, an investigation into the various transportation systems operating in the State, and the report resulting therefrom, made public in October, is one of the most striking documents yet published on this problem of road and rail. Pointing out that, under existing conditions due to business depression and unregulated competition, carriers of all classes in some cases found it impossible to make ends meet, the Commission maintained that the difficulties would have to be remedied before stability could return to the industry. Trade depression had served to augment and culminate conditions that bore in themselves the seeds of inevitable collapse, because transport companies performing essentially the same service, one class under strict State regulation with service supervised and controlled as to rates, and another class without regulation, supervision or control, could not continue in competition with each other without a devastating effect on market organization, price structures, and on the territorial distribution of producing plants. They stress the fact that the flexibility of road lorry services, has provided a new service in the way of door to door service, with the virtual elimination of intermediate distributing centres, a new method of distribution economically justified, but the social advantages of which are to be seriously questioned. In California the problem is accentuated by the

fact that the loss of short haul business by the railroads casts an increasing burden on the long haul and transcontinental freight, thus handicapping Californian agricultural products in the consuming markets of the Eastern States.

5/15 The Commission inveighs against the methods adopted by the Uncertificated Hauliers by road, to the disadvantage of the railways and the Certificated Hauliers, namely undue preference as between places and persons, rebates, secret rates, rates changed without notice, disregard of reasonable hours for lorry drivers, thereby creating danger to other road users, and also disregard of adequate precautions when carrying explosives, inflammable or dangerous articles. In short, "Business stability without adequate transportation stability was declared by many witnesses to be impossible of attainment," and the remedies suggested by witnesses could be grouped under six main headings:

- (A) Equality of opportunity for different classes of transport service, specifically as to taxation, working hours and packing requirements;
- (B) Adequate enforcement of existing laws;
- (C) More adequate enforcement of speed and weight limits of lorries through the co-ordination of State regulatory bodies;
- (D) Lessening the rigidity of control over regulated carriers, particularly as to the quick quotation of rates;
- (E) A greater degree of physical co-ordination between rail and road;
- (F) Limitation of the length of trucks and the limitation of trailers.

The conclusions of the Commission itself are of considerable importance. Commencing with the assumption that "Regulation by the State is for the protection and welfare of the public and only incidentally for the protection of the regulated business," the report claims that monopoly in transport service has virtually disappeared, hence regulation by the State is necessary to hold the balance, and "the public interest demands that regulation be extended alike over all or that it be withdrawn from all and the law of the jungle be given full and equal play." Since the use of the public highway by a transportation company for hire, even by private contract, at once clothes the business with public interest, hence a certificate should only be granted to a contract carrier after due consideration had been paid to the convenience and necessity of the service, financial responsibility and establishment that the contract rates are not less than reasonable rates, unless the carrier is operating within a radius of thirty miles of a city, village or trading centre. This qualification is important, since it preserves the legitimate collection and delivery services, often of a complementary nature to the rail service within an urban area, or throughout an agricultural district.

The Commission recommended a system of distinguishing plates for lorries operating as common carriers, contract carriers and for ancillary usage. It should be noted that as long ago as 1916 a judgment of the Supreme Court of California placed certain common carrier lorries within the jurisdiction of the Commission which required such hauliers to file their rates, fares, charge and classifications with it. Tables included in this respect show the extent to which unregulated road hauliers have gained traffic at the expense of their regulated competitors by road. Thus, out of nearly 6,500,000 tons handled by road in 1931, less than 9% was carried by Certificated hauliers, 36% by Non-certificated hauliers and 55% by Privately

owned lorries. It is to assist the regulated haulier by road as well as the regulated railroad that the California Commission has suggested the recommendations mentioned above.

The State of California is but one example; in no State has the controversy raged more furiously than in Texas, where a recent statute required contract carriers to obtain permits from the State Commission and stipulated that such permits should not be granted if it appeared that the efficiency of common carriers already adequately serving the same territory would thereby be impaired. It also provided for the establishment of minimum rates to be charged by contract lorries and specified that those rates should not be less than the rates prescribed for common carriers rendering "substantially the same service." The constitutionality of this Texas Act was challenged, and the case, *Stephenson et al. versus Binford et al.*, finally reached the Supreme Court of the United States. The decision of the latter, dated December 5, 1932, is of considerable importance. It held that a State possessed the power and right to free its highways from the burden of excessive, dangerous and inconvenient commercial traffic, thereby following out the trend of its earlier decision in *Sproles v. Binford*, "It cannot be said that the State is powerless to protect its highways from being subjected to excessive burdens when other means of transportation are available. The use of highways for truck transportation has its manifest convenience, but we perceive no constitutional ground for denying to the State the right to foster a fair distribution of traffic to the end that all necessary facilities should be maintained and that the public should not be inconvenienced by inordinate uses of its highways for purposes of gain."

It will be seen that certain of the individual States have carried regulation of Intrastate road traffic a long way, while the Federal Supreme Court by certain of its decisions, in small part quoted above, has opened the way for a considerable measure of control over Interstate carriers, but as yet no power is held by the Interstate Commerce Commission or other Federal body in respect thereof, though several bills have been before Congress to control Interstate passenger traffic by road. At the end of 1932 the National Association of Railroad and Utilities Commissioners, after its Annual Convention held at Hot Springs, Arkansas, issued a strong report endorsing adequate Federal regulation of commercial highway transport service as a necessary condition of effective State regulation. In this report, as in that of the California Commission, one finds reference to the disruption of industry by the instability of motor transport rates and the necessity of controlling the contract carrier as well as the common carrier by road. Accent was also placed on the need for adequate safety provisions and the use of proper accounting systems, so that operations and returns could be analyzed and checked. It is necessary to realize the background of events taking place while the Joint Committee of Railroads and Highway Users was deliberating, and it is now possible to turn to a consideration of their Recommendations.

SUGGESTED FEDERAL LEGISLATION.

It should be explained that the report made public at the end of January consists of Parts I and II of the Joint Committee's recommendations. Part III, when published, will consist of a summary of the historical factors with an objective discussion of the issues and their significance from

the broad point of view of the public interest. Part I, discussed hereunder, contains the actual recommendations themselves, whilst Part II consists of a series of explanatory notes giving the reasons for the differences, where separate recommendations have been made in Part I, by the two sections of the Joint Committee. In its general statement of principles the Joint Committee is in agreement that the public is entitled to the benefit of the most economical and efficient means of transportation. No legislation ought to be enacted the aim of which is to stifle any legitimate form of transportation, since the supreme test must always be the interest of the public, and the latter must retain the right to the selection of the transportation agency which it finds most useful. On the other hand all those who utilize the road system for commercial purpose, either in Interstate or Intrastate commerce, ought to be subject to regulation; equally the provisions of the Transportation Act of 1920 should not be regarded as an expression by Congress of preference for rail or water transport over transport by motor vehicle.

The recommendations at once separate Interstate from Intrastate commerce, and proceed to deal under each of these heads with the problems presented by the Common Carriers, the Contract Carriers and Other Carriers. Taking Interstate regulation first, it is proposed that the Common Carrier be placed under the jurisdiction of the Interstate Commerce Commission, or some properly constituted Federal body, and certificates would be issued after due consideration had been given to the:

1. Necessity for and convenience to the public of the proposed service;
2. Quality and permanence of service to be offered;
3. Adequacy of the existing service whether by road, rail or water, and the effect thereon of the proposed service;
4. Financial ability of the applicant, including provision for insurance, so as to give adequate protection to other users of the roads, passengers, traders and the general public.

In the case of passenger services, the requirements should be sufficient to ensure just and reasonable fares which ought to be published, adhered to and kept free from undue preference. In the case of freight services, a similar recommendation is made which has been qualified by the representatives of the road interests by the proviso "if and when sufficient data have been collected to indicate the desirability of such regulation in the public interest." The railroad representatives maintain that ample data are already available to prove the desirability of such rates control as being in the public interest, whereas the road representative quote the 1932 report of the Interstate Commerce Commission as being in favour of delay, in part because "the Federal Government is wholly inexperienced in this field of regulation. Under these circumstances we deem it wise to make haste slowly." There is, however, unanimity in the recommendation in favour of proper accounting, and the filing periodically of reports and statistics with the regulatory body, as also for the regulation of security issues, drivers' qualifications and hours of service, with adequate provision for the granting of certificates to operators who have been offering *bona fide* services prior to the enactment of the suggested legislation.

The Joint Committee recommends that Contract Carriers in Interstate commerce be required to secure a permit to operate, though occasional passenger services on a contract basis, if offered by a certificated carrier, are excluded from this provision: In other respects the recommendations

follow those applying to Common Carriers, with the same qualification by the road representatives in regard to the adherence to minimum rates regulations in the case of freight services. So far as Other Carriers in Interstate commerce are concerned, licences would only apply to a private carrier who transports commodities not of his own production, unless he has an established place of business, regularly and continuously used for the sale of such commodity; otherwise he must provide adequate provision for insurance, etc., or in other words, he comes within the category of a Common or Contract Carrier. This recommendation is of supreme importance because in many countries, as a result of regulation of common carriers, the control has been negatived by the transfer of the motor vehicles to the category of a private owner. In South Africa this evasion is understood to have created a very difficult problem, and the figure reproduced earlier in this article with regard to California shows that over 50 per cent. of the tonnage is carried by the owner operator as an ancillary business. Though figures are not available for Great Britain it has been estimated that a very large percentage of road traffic is carried by the ancillary user. The question is of considerable moment because it is frequently this type of operator who undercuts the common carrier in order to obtain a return load, as a means of helping to cover his overhead charges. It will be recalled that the Salter Report equally dealt with this problem.

Where services are Intrastate exactly the same recommendations apply in the case of the three categories, Common Carrier, Contract Carrier and Other (or Private) Carriers, but the regulatory authority would, naturally, be the State Public Utilities Commission, or whatever the title of the existing body might be; in short, the Joint Committee in practice recommends that the various States take up a uniform attitude and procedure in regard to the policy of controlling and regulating road traffic.

TAXATION AND VEHICLE LIMITATIONS.

It is proposed that opportunity should be accorded to railroads to engage directly or indirectly by means of subsidiaries in motor vehicle operation on the roads on equal terms with other operators, together with the right to acquire existing vehicle fleets or services, and to bring this about the anti-trust laws would probably have to be modified somewhat. Translated into British equivalents, the Joint Committee would accord to the American railroads what the Railway (Road Powers) Acts 1928 accorded to the British railways. On the question of level crossings, it is suggested that the railroads be freed from being forced to make capital expenditures on their abolition, except in proportion to the capitalized value of the savings derived from such, for example, the elimination of gate keepers, watchmen, maintenance of mechanical appliances and the like. Where level crossings are abolished the division of cost should be determined jointly by the Public Service Commission and the Highway Commission of the State concerned.

The principles of vehicle taxation are important, and rest upon two main principles. Firstly, motor vehicles should pay the entire cost of the State Highway system and a part of the cost of county and parish roads, the proportion being determined by the degree of their usage for local purposes, and this determination is to be made by the authorities in each State, as also the extent of the contribution by motor vehicles to the cost

of arterial routes through cities. Secondly, the total amount of taxes to be collected should be determined by the annual highway budget, which should include administration, maintenance, interest charges on highway debt, and amortization of capital expenditure. It is suggested that projects for improvements or additions to existing highways should only be undertaken after adequate traffic surveys have been made, and it is proved that there be economic justification for the project. Concerning the apportionment of special taxes among motor vehicles, these should be based upon the use of facilities required, thus calling for the determination of separate schedules for private cars, buses and lorries, while the basic cost of constructing, improving and maintaining a given highway should be determined from a highway designed for private passenger cars or other similar vehicles. By this means each vehicle would pay its proportionate share of the total as a base tax, and the total additional cost of construction, improvements and maintenance required to make such a road suitable for heavy vehicles should be shared by each vehicle of greater size. In short, each group should share in the base cost, plus all increments of cost, up to and including cost required by it.

Working along these lines the Joint Committee recommends: (1) for passenger cars, a registration fee, graduated in accordance with weight or horsepower, coupled with a petrol tax; (2) for buses, a registration fee, based on mileage operated and graduated according to seating capacity, coupled with a petrol tax; (3) for lorries, a registration fee, graduated so that it will increase more than directly with weight, coupled with a petrol tax.

It is laid down that all carriers should be required to observe regulations as to safety devices and measures, size, weight, speed and operation of motor vehicles, whilst as a corollary suitable provision should be made for enforcing all regulatory requirements. Since motor vehicle taxes are to be levied upon the annual highway budget, they naturally ought to be earmarked for highway purposes, with no element of diversion to any other purpose; at the same time petrol taxes should not be fixed sufficiently high as to encourage evasion.

The urgent need for complete administrative co-ordination between State, county and township highway authorities is a prerequisite to efficiency in road expenditure, and following the lines adopted in Great Britain, there is a recommendation that the State be regarded as the sole agency for special motor vehicle taxation. At present the practices of the individual States vary widely as to dimensional and weight limitations, and a uniform set of limits is proposed by the Joint Committee, namely, an outside width including load of eight feet, a height with or without load of twelve feet six inches, though vehicles in existence at the beginning of 1933 should be allowed a reasonable time to wear out, and where such vehicles are to be fitted with pneumatic tyres there should be a slight allowance for extra width involved by this change over. It is recognized that provision must be made for the movement of exceptional loads with out-of-gauge dimensions, and special permits would be obtainable in such cases. The railroad representatives found themselves unable to suggest a standard limit for weight per axle, and loads, and expressed the opinion that such matters would best be left to the individual State regulatory body; on the other hand, the Highway Users representatives recommended the limits of weight and length laid down by the American Association of State

Highway Officials, and the United States Bureau of Public Roads, a section of a Federal Government Department, on November 17, 1932. It may be pointed out, parenthetically, that the proposed national code is much less stringent than the existing limitations in many of the States, especially in the south and west, where the mileage of hard surfaced roads is as yet comparatively small. Since the new code, as it is called, is likely to prove a basis from which most States in the future will work, it is worthy of consideration in some detail.

UNIFORM STANDARD OF GROSS WEIGHT, DIMENSIONS AND SPEEDS.

The adoption of a uniform standard is considered most desirable in order to establish one of the prerequisites of highway design, and to promote efficiency in Interstate road transport. Equally it would help to increase safety on the roads, as well as removing undesirable vehicles. The proposals as to width and height have been included in the Joint Committee's recommendations as set out above, but concerning overall length the Uniform Code sets the maximum for any vehicle at thirty-five feet, whilst combinations must be limited to two vehicles, not exceeding together a total length of forty-five feet, a tractor and semi-trailer being regarded as one vehicle and must not exceed thirty-five feet. In the realm of speed the Uniform Code is unique in that it suggests the limitation of minimum speed, below which no vehicle should be driven so slowly as to impede or block the normal and reasonable movement of traffic, except when such a reduced speed is required on account of safety, or in compliance with law. Maximum speed of lorries or buses is fixed at forty-five miles per hour. Private cars may be operated at such speeds as are consistent at all times with safety and the proper use of the roads. Any vehicle, including trailers, operated at over ten miles per hour, is to have all its wheels fitted with pneumatic tyres, and no wheel is to carry a load exceeding four short tons, or any axle a load in excess of eight short tons, since it is claimed that "research indicates that low pressure pneumatic tyres can carry four and a half short tons per wheel without increasing pavement slab stresses." It is pointed out that the code is not intended to apply to metropolitan areas, if the State concerned desires otherwise, and the axle loads are subject to curtailment by a State Highway Department when roads are materially weakened by heavy thaws or other climatic conditions. For gross weight a formula is recommended, namely, $W = C(L \text{ plus } 40)$ where

W = total gross weight with load in pounds;

C = co-efficient to be determined by the individual States (it is suggested that C should not be lower than 700), and

L = the distance between the first and last axles of a vehicle or combination of vehicles in feet.

CONCLUSION.

When the Joint Committee's recommendations were made public it was stated that, in addition to being brought to the attention of public authorities throughout the United States, a copy was also presented to the National Transportation Committee, of which the late Calvin Coolidge was chairman. This action being taken at the request of the National Transportation Committee. Since the latter's report is now available in published

form, brief reference may be made to its conclusions concerning the questions studied by the Joint Committee.

Motor vehicle transportation is dealt with in the fifth conclusion of the National Transportation Committee's Report, and this states that motor vehicle transport should be placed 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, and neither tax nor regulation should be applied for any purpose of handicapping the march of progress for the benefit of the railroads. The report admits that the problem of road competition is extremely difficult, since it employs a track provided at public expense and requires few if any terminal facilities.

As to the rates charged by road transport, these may not include any allocation for depreciation or amortization, and under existing conditions it is entirely free from restrictions as to wage rates and conditions of service. It may be sporadic or permanent in service, but it has to be regarded as an advance in the march of progress and it is definitely here to stay; hence the report recommends a general Federal jurisdiction of motor transport with a uniform application of State control.

The report of the Joint Committee is referred to as a kind of "public spirited co-operation" which is one of the most hopeful aspects of this difficult problem.

One may suitably conclude this brief outline by quoting six paragraphs from the letter signed by General Atterbury and Mr. A. H. Swayne which accompanies the publication of the Joint Committee's report.

"Common ground has been found on many aspects of regulation and some phases of dimensional control of vehicular movements.

"Rate regulation and the length and weight of vehicles are the subjects upon which it has not been possible to reach complete agreement.

"It is our hope and expectation that, as future conferences are held and facts are developed, even the present differences will disappear. To this end, we are recommending to our sponsoring bodies that our committees be continued for further discussions.

"We regard the achievements of the present report as a distinct step forward in the development of sound public transportation policies, as it is always wiser that economic problems should be solved by conference rather than by legislation.

"Our conferences grew out of a mutual appreciation of the need for a rational appraisal of the relations between rail and highway transport in the light of the broad public interest involved in the use of these facilities.

"The railroad representatives were appointed and authorized to act on behalf of the Association of Railway Executives. The highway members drew their authority from the National Highway Users Conference."

It will be appreciated that this outline deals mainly with recommendations, and these recommendations will have to be translated into practice before a real forward step can be claimed.

The United States have been long in grappling with this problem on a national basis, but the recommendations made by the Joint Committee of Railroads and Highway Users, if adopted, should go far towards a solution of a problem which is the subject of study virtually throughout the world.