Highway Transportation Committee Report.

EXPORT AND IMPORT TRAFFIC COMMITTEE REPORT

President Day: Do I understand corectly that the Export and Import Traffic Committee has no report to render?

Carl Giessow: Nothing which came before the Committee during the past year would constitute the basis for a report.

HIGHWAY TRANSPORTATION COMMITTEE REPORT

C. E. Childe: There have been so many developments in highway transportation during the past year that it has been difficult for your Committee to try to keep up with them, and probably we have not entirely succeeded in doing so. We have, however, tried to boil down within the limits of a report what we believe to have been the major developments.

If you will refer to the dissenting opinions on Pages 34 to 36 of Circular 1350, you will find to what extent there was difference of opinion in our Committee on the different subjects.

(**Note:** Where reference mark (*) appears in sub-heads below the views expressed are those of a majority of the Committee, and attention is directed to minority expressions published at the end of the report.)

Co-ordination of Motor Transportation—I. C. C. Docket 23400

The investigation of the Interstate Commerce Commission in Docket No. 23400, Co-ordination of Motor Transportation and other developments during the year, have done much to contribute additional information and bring out clearly the views of conflicting interests on the problems of highway transportation. Hearings before the Commission were conducted throughout the country from November, 1930, to March, 1931; briefs were filed June 1, and a tentative report is now awaited, after which oral arguments and final report will be made. A statement of the League's position, which was sent to members in League Circular No. 1281, was submitted by your Chairman at the Washington hearing. It is hoped that the Commission's final report will be available for consideration by the Congressional Committees in connection with any legislation that may be introduced in the next session of Congress.

The testimony before the Commission showed overwhelmingly that motor vehicles are supplying in their field an indispensable transportation service throughout the United States with which all-rail service cannot effectively compete in convenience, speed, economy or flexibility. Estimates, largely from railroad sources, of the traffic lost by the railroads to highway transportation indicate that over 50 per cent of less-than-carload freight throughout the country now moves by motor truck as well as a considerable volume of carload freight, including basic raw materials such as farm products, coal, building materials, and almost every variety of manufactured articles. The total amount of tonnage diverted from railroad to highway transportation is, however, small compared with the volume moving by rail—probably not over 3 per cent. The superiority of truck over rail transportation from the shipper's standpoint consists largely in speedier, more convenient and frequent service with complete transportation by one agency from consignor to consignee's place of business without transfer en route, overnight deliveries permitting late shipments from consignor and early arrival at consignee's place of business, economies in expense of packing, reduction of loss and damage, and lower inventories. These advantages appear to be of much greater importance to the shipping public than the rates charged for highway transportation as compared with rail. In many instances motor carriers charge higher than rail rates, but in perhaps the majority of cases the rates charged for motor transportation are as low as or lower than the rail rates plus drayage. Close and friendly contact between motor carriers and shippers and consignees, particularly the smaller firms, is also proving to be a strong inducement for patronage of the motor carriers.

The railroads, with a few outstanding exceptions, are generally demanding enactment of restrictive legislation regulating all highway carriers for hire, both common and contract carriers. There is general agreement by railroad spokesmen that it would be futile to regulate only the common carriers and leave the contract carriers unregulated. It seems to be conceded, however, by railroad witnesses, that private carriers on the highways transporting goods of their owners cannot be subjected to restrictive regulation. The railroad proposals for regulation of common and contract carriers on the highways call for:

(1) Increased taxation.

(2) Certificates of public convenience and necessity restricting operations over fixed routes and between fixed termini on established schedules and forbidding operations not authorized by such certificates.

(3) Filing of tariffs and the observance of established maximum or minimum rates; keeping and filing of accounts according to rules prescribed by the regulatory bodies; in general establishing the same character of regulation of highway carriers as applies to rail carriers.

(4) Requirements as to safety and financial responsibility of highway carriers.

(5) Permission for railroads to engage in highway transportation.

The Interstate Commerce Commission will undoubtedly discuss these proposals fully but in the meantime it appears to your Committee that the following comments are justified:

C. E. Childe: One of the outstanding things referred to is the Interstate Commerce Commission's investigation, Docket 23400, in which there was introduced and presented to the Commission a lot of extremely interesting and valuable data which have gone a long way toward increasing our information and enabling us to reach reasoned conclusions about the problem of highway transportation.

This introductory part of the report refers in a general way to the Interstate Commerce Com-

Executive Secretary: The Executive Committee, in considering this subject, recommended that it be referred to the League membership for consideration and action upon the floor of the League meeting.

R. V. Craig: In regard to this part of the report which deals with order bills of lading to non-agency stations, we were instrumental in having that recommendation adopted by the League last year. If it is the purpose of the Classification Committee to go to the railroads, asking that this proposal be granted with a charge attached to it, then, for my part, I would rather have the subject striken from the Classification Committee docket entirely and not handled by the League at all, for the reason that I think if the carriers make a charge it will be $6.30. What we wanted was the privilege of doing it for nothing, and the basis for that was the fact that the railroads are closing so many stations that formerly had been agency stations, and are making them prepay stations. We thought that that was economy for the railroads and did not help us any, and in return for that they should allow us to use order bills of lading to those stations without charge.

Francis J. Dowd: In view of Mr. Craig's remarks, I think it might be appropriate if he would make a motion to the effect that this matter be stricken from the docket of the League. I am sure that that would be quite satisfactory to the Classification Committee, because this matter was wished on us and we think that under the instructions given us it is an impossible thing, and, if the gentleman who was instrumental in getting those instructions put over at the last Annual Meeting would prefer that it be dropped rather than go ahead on a basis of a charge, I would suggest he make a motion that the thing be dropped from the docket.

J. W. Bingham: I just want to say, Mr. Chairman, that Mr. Craig appeared before one of our meetings in Chicago, and he told us just about what he told you. We were very much impressed with the necessities of the feed interests. There is no doubt that the carriers have closed a lot of stations, in the interest of economy. Most of you know it is a fact that feed is shipped to small stations, to reach the farmers. I believe that feed and other grain products are probably affected more than anything else.

If Mr. Craig is really sincere in that, I am willing to have him accept that suggestion, but I am afraid it might leave a little bad taste in his mouth, in which case I would rather have it left with the League to handle. Perhaps the Classification Committee is not the proper committee to handle it, but I do believe you ought to leave it without any strings tied to it.

R. V. Craig: Instructions last year were to make arrangements so this might be done without charge and the report of the Classification Committee says, "We desire to say the Classification Committee is practically unanimous in its belief that the vote of the League is impossible of accomplishment, and it would be wasted effort on the part of our Committee to undertake to negotiate wtih the carriers for a change in this rule without agreeing to the assessment of a charge."

Under those circumstances I shall offer a motion that the subject be stricken from the Classification Committee's docket.

W. H. Chandler: I second the motion.

Upon being put to a vote the motion was carried.

It was moved by J. W. Bingham, and seconded by F. J. Dowd, that the report as a whole, as amended, be adopted. The motion was carried.

Earlier Closing of Classification Dockets

J. W. Bingham: The Consolidated Classification Committee is going to close its dockets five days earlier than has been the case heretofore. We have been after them for the last several years to get the dockets in the hands of the shippers at least thirty days before each hearing. Hearings, as you know, are held every three months, four times a year. They have done that. These dockets have been reaching us much earlier in the last year or eighteen months. They find however, that in order to do this, it is absolutely necessary to close their dockets five days earlier. We have agreed to that. I do not think there should be any objection. We ought to co-operate with them to that extent. A League circular containing this information, will be issued on this subject.

(Note: See Circular No. 1360 of December 3, 1931.)

Francis J. Dowd: As I understand it, the carriers' Classification Committee has a great number of printed application blanks on hand, so they are going to wait until those are used up before they put the change into effect.

mission's investigation, and to the railroads' attitude as developed herein. Beginning with Subject No. 1,—Taxation,—your Committee makes some comments and recommendations with reference to the railroad program.

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1. *Taxation

The railroad argument for higher taxation of motor vehicles is based upon the contention that motor carriers are allowed to use the highways free of charge, or that taxes paid are not enough to cover their fair share of cost of construction and maintenance of improved roads. It is also argued that highways are built and maintained primarily for private and pleasure vehicles and that the use of the roads for commercial or business purposes is an unjust expense and annoyance, which, if permitted at all, should be heavily taxed to compensate for the use of the roads by the carrier for profit. These contentions are not supported by the facts. Our national highway transportation plant is now valued at about twenty-five billion dollars—about half of which is investment in highways and the other half in motor vehicles, garages, terminals, equipment, etc. Interest at 4 per cent on the investment in highways would approximate five hundred million dollars. Expense for highway maintenance in 1929 was $433,538,000.00. Total highway capital and maintenance charges therefore amount to less than one billion dollars annually. Motor vehicle taxes now total more than one billion dollars annually, of which over eight hundred million dollars comes from license fees and gasoline taxes. The average motor truck pays more than twice as much in taxes as the average passenger car and the average commercial truck for hire more than twice as much as the average owner-operated truck. These figures effectively dispose of the oft-repeated assertion that motor carriers do not pay for the use of highways. It is interesting to note that investment in highway transportation plant of twenty-five billion dollars is approximately the same as the book value of the railroads of the United States. The total taxes paid by the railroads in the year 1929 totaled $419,179,000.00, less than half the total paid by motor vehicles. The argument that heavily loaded trucks require stronger and more expensive pavement and are much more destructive of highways than passenger vehicles has been refuted by exhaustive studies and tests made by the United States Bureau of Public Roads which prove that motor trucks of 5-ton capacity and less require no heavier or more expensive pavement than passenger automobiles and that since pneumatic tires have practically displaced solid tires, even the heaviest 7-ton trucks require little, if any stronger pavement than is the present day standard for highway construction. Further, that the thickness of pavement necessary to withstand ordinary stresses of climate and moisture is strong enough to withstand the burden of motor truck transportation without undue wear and tear.

The argument that improved highways are constructed primarily for use of pleasure vehicles is an obvious fallacy. From the beginning, highways have been built and maintained quite as much for transportation of goods, including commercial freight, as for passenger travel. The public is entitled to the full benefits of lowered freight transportation costs on improved highways whether the freight be transported in owner-operated vehicles or by commercial carriers. Excessive taxation of motor freight carriers, whether private or commercial, is a tax upon transportation which must finally be borne by the public. Therefore it is clearly in the public interest not to discourage or penalize transportation on the highways by excessive tax burdens. Neither should discriminatory taxes be exacted from commercial carriers on the highways; such taxes would be a penalty on the users of such transportation and would be an undue discrimination against such users and unjust preference of commerce in not-for-hire vehicles.

It is the view of your Committee that motor truck taxes should not be greater than an amount sufficient to pay their fair share of the cost and maintenance of improved highways; that present taxes are on the whole sufficiently high for that purpose; that motor vehicle taxation should be applied alike upon private and commercial vehicles of the same class and that no penalty taxation should be exacted upon commercial carriers, and no discrimination made in taxation of common and contract carriers as distinguished from privately-operated vehicles.

C. E. Childe: That final paragraph contains the recommendation of your Committee with reference to taxation: first, that motor vehicle taxes should not be greater in amount than sufficient to pay a fair share of the cost and maintenance of improved highways; second, that on the whole present taxation is sufficient for that purpose. By that we do not mean the taxes are now fairly distributed or equalized; as a matter of fact there is a wide variation in taxation in the several states, but the total income from taxation in the United States is quite evidently enough to cover the total expenditure for improved highways. The point we wish to make is that the assertions that are frequently made to the effect that motor vehicles are not paying their fair share of taxation, that they are being furnished free use of highways, is not correct. Third, your Committee believes that motor vehicle taxation should be applied alike on private and commercial vehicles of the same class, that no penalty taxation should be exacted upon commercial carriers, and no discrimination made in taxation of common and contract carriers as distinguished from privately-owned vehicles.

.....

You will notice that Mr. Baer and Mr. Hollopeter are not entirely satisfied that the present taxation is adequate. Their views are as follows:

Dissenting Opinions

***1. Taxation.—**

(a) "I am not able to agree with the proposition that 'private and commercial vehicles of the same class' should pay precisely the same amounts in taxation. It is fairly generally recognized that it is proper to assess business of any kind a special license fee for the privilege of doing business on public property, and this is borne out by the earlier statement that commercial vehicles 'for hire' pay approximately twice as much as owner-operated vehicles. I am not prepared to agree that that theory of taxation is wrong, though I do not believe that intercity highway transportation should be forced out of existence by unreasonable taxation.—FRANK H. BAER."

(b) "I cannot wholly agree with the conclusion on the question of taxation. I agree that it should be our view that taxes should not be greater than sufficient to

pay their fair share, but I cannot agree that the present taxes on the whole are sufficiently high for that purpose.—H. A. HOLLOPETER."

C. E. Childe: I might say that since this report was issued, The National Tax Association, which has a Motor Vehicle Transportation Committee of which I am a member, has issued a report in which they hold the view that motor vehicle taxation should only be that sufficient to pay for the construction and maintenance of highways, but they have issued a further recommendation to the effect that interstate motor carriers might properly be subject to a business tax in addition to the tax for the use of the highways. They say that in order that it be legal, it would have to be applied ostensibly for the use of the highways. They recommend that that additional tax be assessed on common carrier motor vehicles only, and not on the contract carriers or the private carriers. As a member of that Committee I filed a dissenting opinion from the report, and that has been incorporated as a part of that National Tax Association report.

The majority view of your Committee as expressed here in regard to taxation was approved by the Executive Committee.

It was moved by C. E. Childe, and seconded by Herman Mueller, that the majority recommendation of the Committee be adopted.

J. W. Montigney: Just as a matter of information, Mr. Childe, is there in your opinion a great deal of difference between the recommendations that you make and the dissent of Mr. Baer in connection with them? Mr. Baer says, "It is fairly generally recognized that it is proper to assess business of any kind a special license fee for the privilege of doing business on public property, and this is borne out by the earlier statement that commercial vehicles 'for hire' pay approximately twice as much as owner-operated vehicles." Your recommendation is, "that motor vehicle taxation should be applied alike upon private and commercial vehicles," etc. Am I wrong in the assumption that virtually you say the same thing? Mr. Baer is of the opinion, as I take it, that any truck operating over this road, whether it be private, contract or common, should be subject to exactly the same taxation, and that is exactly what you recommend. Am I right?

C. E. Childe: I do not think you state Mr. Baer's opinions correctly. Mr. Baer expresses the view that it may be proper to assess a greater tax on a commercial vehicle than on a private vehicle. I think he refers especially to a common carrier vehicle. The majority of your Committee think that taxation should be the same on vehicles of the same class, whether they be operated by the owners of goods or operated as carriers for hire.

J. W. Montigney: I am not prepared to state what Mr. Baer had in mind, but I am somewhat familiar with the situation in Ohio where we are presumed to have regulations. There is a general opinion that the trucks operating there do not pay equitable taxes whereas, as a matter of fact, I believe that the automobile license fees and gasoline taxes amount to something like three times as much as the railroads pay. That does not take into consideration the property tax or investment in terminals, and so forth.

The fact remains, however, that in Ohio two men can start out from Toledo to Cleveland with exactly the same type of outfit, with exactly the same amount of freight, one operating as a common carrier, the other as a contractual carrier, and one pays a certain license fee and the other does not. I believe that what Mr. Baer has in mind, is that both of those vehicles operating over the same road, doing exactly the same work, should be assessed in a like manner, and merely because of the fact that a man holds himself out as a common carrier he should not be penalized. As I understand it, that is what you are recommending. Is it, or is it not?

C. E. Childe: That is what we are recommending, all right. If Mr. Baer agrees with that view, it does not square with my understanding of his dissent.

J. W. Montigney: I want it distinctly understood that I cannot speak for Mr. Baer, but I have an idea, from the discussions I have had with him, that that is what is in his mind. That is what I wanted to get cleared up.

C. E. Childe: Perhaps I should say this by way of explanation: It was impossible for the Highway Transportation Committee to have a meeting at the time this report was prepared, but we did endeavor to have a meeting last night. There were only six members present, but we found in discussing these conflicting views as expressed in the report, that the dissents as made really did not amount to a very great difference of opinion from the majority view, after all.

For instance, Mr. Hollopeter's dissent with reference to taxation: It developed in our conversation last night that he was somewhat in doubt as to whether there was a correct apportionment of the tax on one kind of vehicle as against another. That is about all he had in his mind in the nature of a dissent. Maybe if we talked to Mr. Baer, we would find somewhat the same thing, but we had to prepare this report from the correspondence received, and I present it to you in the hope that I will not misrepresent either the dissenters' views or the views of the majority.

However, on this matter of taxation, it seems to me that one of the most interesting discussions and the most interesting analyses of the whole situation, that have been made available during the past year, was the testimony of Dr. McDonald, the Chief of the Bureau of Public Roads in Washington, who appeared at the Washington hearing at the request of the Interstate Commerce Commission. He gave there the results of a very exhaustive test that the Bureau of Public Roads had made, of the kind of vehicles that were operating on the highways in eleven of the states, extending all the way from Illinois to the Pacific Coast. Dr. McDonald analyzed these reports with reference to the taxes that were assessed in each of the states where the test was made. He found that the percentage of vehicles that operated as common carriers and contract carriers and owner-operated carriers was in a direct ratio to the character of taxation that was exacted on those vehicles, and wherever it had been attempted to place a high tax upon a common carrier as compared to some other kind of carrier, the common carrier vehicles were fewer in number in proportion to the others. Wherever there was no discrimination in taxation, then the proportion of common carriers was higher. He said he wanted to correct the testimony he had made before the Commission several years ago in a former investigation. He said he had expressed the fear at that time that if high taxes were levied on common carrier vehicles it would drive vehicles off the highways, whereas he finds it does not have that effect. It does not drive the vehicles off, but it simply transfers them from the common carrier class to the contract or private carrier class. It certainly does have that effect. In view of those facts, as he developed them, and, what seemed to us to be the very obvious fact, that if common carrier operation is made materially more expensive than contract, or private carriage, the shippers who use the common carriers will be discriminated against, the majority view of our Committee was that there should not be discrimination in taxation.

James F. Dougherty: Can you under the existing state laws cause a man to pay the same taxation for handling his own freight as you can charge against a common carrier or a contract carrier?

C. E. Childe: Yes. Many states make no distinction at all between one and the other. Some states do.

James F. Dougherty: A change in the laws of those states would be necessary before you could make that taxation stick. If the taxation is carried to where the private owner handling his own freight is taxed, the next step would be that the private automobile owner carrying one passenger or two passengers or three, would then be subject to the same tax that the buses would be subject to, and when you got it down that far the next step would be that a man driving his own automobile would be subject to taxation because he is carrying himself.

C. E. Childe: I do not think it works out that way. You probably know the courts have held that special taxation can be exacted for the use of the highways and they have interpreted that as meaning a tax which is sufficient to pay a fair share of the construction and maintenance cost. All attempts to assess taxation over and above a reasonable amount to pay for highway construction and maintenance have been held to be discriminatory and therefore contrary to Constitutional right. I do not think there would be excessive taxation of all vehicles under the plan the Committee has in mind. On the contrary, I think there would be a reasonable taxation of all.

C. T. Stripp: This whole question appears to be more or less of a sectional proposition involving state rights, and it is not worthy of the League. Furthermore, I do not believe that the Committee has been exactly up to date in their duties. They had no meeting. They have corresponded on the subject. They have not crystallized their views.

A substitute motion was offered by Carl T. Stripp, and seconded by W. H. Chandler, that the motion be tabled, and the subject continued on the docket. The substitute motion was lost.

R. C. Fulbright: Mr. President, I should like to make a few remarks on this now, and maybe save time when we get to the report of the Special Committee on the Railroad Declaration of Policy.

Gentlemen, you are aware that there will be submitted to you at this meeting a report of a Special Committee of the Executive Committee, which was appointed to exchange views with the Association of Railway Executives on its Declaration of Legislative Policy issued last November, and to make recommendations to this meeting of the League.

Some of the subjects dealt with were the same subjects that under our normal procedure are within the jurisdiction of the Highway Transportation Committee.

Mr. Childe was not a member of this Special Committee, and although he was invited to participate in the discussions at the meetings, he was unable to attend those meetings. Mr. Childe had been conducting his investigations, and other members of the Committee had, and they reached

their conclusions and made this report without any reference to what the Special Committee had done or might do; and, vice versa, the Special Committee did not ask Mr. Childe what he thought they should do.

That has resulted in there being printed and circulated to the members two reports on the same subject by two entirely different sets of members, with no duplications on the Committees. The conclusions of each Committee were arrived at independent of the work that the other Committee was doing. I want to make that perfectly clear.

The very remarkable thing about it is that both Committees came to almost identically the same conclusions on each feature of the subject in spite of the meager information available to either of them.

On this subject of taxation, I may say that the Special Committee has developed a great deal of information. We were fortunately provided with a man to devote his time to developing such data as could be developed on the subject of highway transportation, and we have had a good deal of assistance from various agencies; therefore, it is important that we consider, in connection with this subject, what the Special Committee had to say on the same subject, because if you adopt this it will really carry with it the other.

In the Special Committee report a recommendation was made under the heading of "Compensation for Use of Highways," and we think that is a better term than the term "Taxation." We point out that at the beginning of the new form of transportation, it had been the traditional policy of all of our states to consider the provision of public highways for vehicles as a part of the general public burden to be borne by general taxation, just as the public school was. So long as there was no competition between traffic or commerce moving upon such highways and other carrier agencies of transportation, certainly no one could complain that any discrimination resulted. In fact it was in general the policy of the railroads to encourage the development of good roads throughout the country, and they paid their share of the taxes to provide such roads as were necessary, because roads were local transportation agencies which operated as feeders for railroads. Such a thing as a through highway traversing state after state or even one state was a thing that was unheard of, because there was no such transportation.

That system had been in vogue, of course, since the foundation of the Republic, and was generally accepted. Almost overnight there burst upon us a new form of transportation, and with the advent of that form of transportation, there was developed a demand for better highways. A hard surfaced highway was a thing almost unheard of when motor vehicle transportation first became a factor. This demand for paved highways very naturally took the form of demands that taxes be levied and funds raised or bonds issued to construct such highways. That was the only way ever thought of for providing highways, but when the highway became itself an agency of transportation between incorporated towns, between states, and a right-of-way for transportation of commerce and persons and property generally, which competed with other agencies of transportation, the question arose as to whether or not it was proper to tax the whole public and all interests for highways which were particularly being used by the owners of commercial motor vehicles.

I think the American people have made very remarkable progress in all of the states in removing the injustice of a situation which taxed all property for the provision of a highway which was to be used for certain commercial or private purposes.

Today the situation is almost reversed. The tendency has been in all of the states to pass over to the users of the highways the obligation to provide the wherewithal to construct, maintain and operate that highway. That certainly is true as to those highways which are known as the state and national highways or through highways. In many states they still have local roads which are supported by local taxation. As a matter of fact today there are in the United States some 2,700,000 miles of rural highways that are more or less improved but are what we call public roads. They are local roads. Those are primarily agencies of local communities. They are feeders. They still come, for the most part, within the old category of general public institutions of each community, which are supported generally in part or wholly by general taxation.

The problem of trying to develop a system of taxation, which would place upon the motor industry the proper burden or to exact an amount as a proper compensation for the use of highways, was not simple at all. It is not any wonder that we have very greatly divergent laws in the various states on that subject.

In the meantime, we have been reading constantly, and still see in some periodicals and publications, statements that the motor truck, the motor vehicle, is being given a dole from the state, being furnished a free highway, while its competitor has to pay for its highway and pay for its maintenance. It was with a view to laying that ghost that the little pamphlet was gotten

out which was circulated to the members, in answer to such an assertion by Mr. Jouett of the L. & N. Railroad. That dealt not with the problem of what was the proper compensation, but endeavored to show that, after all, the motor trucks were paying for the use of the highways, and it was shown that, taking the principal states in which the Louisville & Nashville Railroad operates, and taking a three-ton truck as typical, it would cost the three-ton truck, as compensation for the use of the highway, more per gross ton mile for operation than it cost the L. & N. Railroad for all expenses of operation,—not only the provision of its highway, but all operating expenses,—and a five and three-quarters per cent return on its investment.

That did not necessarily prove that the highway taxes were too great or too little, but it did prove that the assertion was not correct that the public was furnishing to the trucks a free highway, since a compensation for it is being exacted.

I agree with Mr. Stripp that this is a problem for the individual states, but there is an organized effort being made to get federal legislation passed to place taxes upon motor trucks and motor buses operating upon the public highways. In other words, they want to transfer that, in part, to the Federal Government. Both of these Committees believe that this is a problem for the states. I know they may say it is true that the Federal Government has appropriated funds to assist in the construction of certain through highways in the country, but after all, those funds are immeasurably less than the amounts which have been raised by the Federal Government through direct taxation upon the automobiles and trucks. This is a problem of the states, and, being a problem of all of the states, it is a national problem whether or not there should be a serious effort made to determine what is a proper compensation for the motor vehicle to pay for the use of the highway.

The Special Committee, in submitting its report, made this recommendation:

> "Your Committee believes that this is primarily a problem of the States, and we would recommend that any Federal legislation on the subject be opposed, unless it be necessary to enable the states to handle the problem themselves, or unless it be found there is no hope for a solution through action by the respective States."

In that connection, I wish to call to your attention the fact that various agencies have been giving rather serious thought to this. For example, the American Association of State Highway Officials, through its Motor Vehicle Conference Committee, has been making quite a study of it, and it has adopted certain principles covering this subject. I would like to read them to you:

> "1. The States should be the sole special taxing agency; federal, county and municipal government should be excluded from the field.
>
> "2. The motor vehicle tax should be simple in form and distributed in equitable and just proportion between the different types of motor vehicles.
>
> "3. No highway should be improved by expenditure of public funds in excess of its earning capacity. The returns to the public in the form of economic transportation is the sole measure of the justification for the degree of improvement.
>
> "4. All money raised by such special taxes should be placed in the State motor vehicle highway fund, and to secure the best results should be expended under the supervision of State highway departments.
>
> "5. The cost of building and maintaining adequate systems of highways should be distributed in an equitable relation to the benefits derived. These may be summarized as follows:
>
> (a) Benefits to society in general, such as influence on education, recreation, health, fire prevention, police protection, the National Defense, the postal service, living and distribution costs.
>
> (b) Benefits to definite groups such as agriculture, manufacture, labor, railroads, mining, forestry and waterways.
>
> (c) Benefits to property served.
>
> (d) Benefits to the road user.
>
> "6. For the purpose of apportioning costs in relation to benefits received, all highways may be divided into two classes. First, those used by the general motoring public, and, second, those which perform a purely local service function.
>
> "7. Special motor vehicle taxes should be levied and used only for the improvement and maintenance of highways used by the general public, that is, for general highway traffic flow lines.
>
> "8. Roads of a purely local interest serving only local needs should be financed out of local revenues obtained from local general taxes. Special assessments on adjoining land to defray a portion of such costs of such roads may be justified."

Those principles, and the basic studies which underlie those principles, were given consideration by your Special Committee on this subject. All that this recommendation of Mr. Childe's Committee means, is that the League should go on record in favor of a fair compensation to be paid by the motor industry for the use of the public highway, without undertaking to penalize one as against the other, but there may be a graduated schedule of compensation; it may be in proportion to the use; it may be in proportion to the possible damage it may do the highway. There is justification for penal taxation in certain cases, for instance, in the case of vehicles of a type which will damage the highway. His report recognizes that. The Special Committee also has given consideration to all of that, but, gentlemen, I want to say to you that there are many railroads in this country (not all of them — I believe the majority of the railroads are taking a broad view

of this subject, realizing it is something that they must meet) that have been undertaking, primarily in State legislatures to enact tax provisions for the purpose of penalizing or strangling this form of transportation. We might just as well be frank about it, that is what they are trying to do. That is what they have tried to do in Texas, and they may get away with it.

We are not going into the question of regulation of rates or regulation of service under this heading. I am talking about taxation. It can be done by taxation as well as by other means. When we sit down and discuss it with those railroad men who have been giving serious consideration to this subject, I believe that the great majority of them will agree with us on the principle that fair compensation should be exacted, that that compensation should contemplate the interest on the cost of the highways, the provisions of sinking fund, the cost of maintenance of the highway, and such incidental costs as may be properly allocated to the motor trucking industry should properly be the bill that it has to pay. When you agree on the principle, and that is all this undertakes to do, we are agreeing on a principle that is not merely a sectional matter. It is a matter that is of interest to all of the States and to all of those who are interested in this form of transportation. It is a national problem that is before us, and I think it is high time that The National Industrial Traffic League was getting into this thing seriously and taking cognizance of these principles. I therefore favor the motion, Mr. Chairman. (Applause)

Upon being put to a vote, the motion was carried unanimously.

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2. *Certificates of Public Convenience and Necessity

Many of the State laws now require common carriers to obtain certificates of convenience and necessity, for operation upon fixed schedules and over fixed routes between fixed termini. The railroads now propose that both common carriers and contract haulers on the highways be forbidden to operate without first obtaining certificates of convenience and necessity. There are grave legal questions as to the constitutionality of establishing such restrictions upon contract haulers. Aside from the legal questions involved, your Committee believes that practical objections against such policy are overwhelming. The flexibility of motor transportation, which is one of its greatest advantages to the public, would be largely destroyed by such restrictions. Competition between carriers, which increases the efficiency of transportation and reduces the cost to the public would be curtailed or eliminated. Expense of operating carriers on the highways would be increased. The public would have to pay the bill. Experience of the States which have tried the certificate plan for common carriers demonstrates that imposing such burdens and restrictions on the common carriers tends to make common carrier operation unprofitable or impossible in competition with the non-regulated private or owner-operated vehicle. The result of such discrimination is, of course, to penalize the shipper depending upon the carrier for hire as against the shipper operating his own trucks. Railroad proposals for such certificates are founded upon self interest, in the hope that the consequent curtailment of highway transportation would force a greater movement of traffic over the rails.

Your Committee believes that requirement of certificates of convenience and necessity as a condition precedent to operation of either common carriers or contract carriers of freight on the highways is contrary to the public interest.

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C. E. Childe: Mr. Baer, Mr. Hollopeter and Mr. Hochstedler have expressed some dissenting views, but their dissents should be somewhat qualified, and in some respects they are not, as I understand them, at variance with the opinion of the majority. Their dissents are as follows:

Dissents

***2. Certificates of Convenience and Necessity.—**

(c) "I dissent directly to the recommendation in the report that 'requirement of certificates of convenience and necessity as a condition precedent to operation of either common carriers or contract carriers of freight on the highways is contrary to the public interest.' It is true that state requirements of certificates of convenience and necessity have operated only imperfectly, but it is also true that without them there would be, in this state at least, no semblance of stability in inter-city highway transportation. The very flexibility of motor transportation makes possible the entry into the business of common carriage utterly irresponsible operators, leading inevitably to the weakening and destruction of both rail and stable highway service. In my opinion the experience of shippers in the state of Ohio before and after the enactment of our present system of regulation clearly establishes this fact.—FRANK H. BAER."

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(d) "In my opinion, and based upon conditions in the Chicago territory with which I am in constant contact, a requirement of a certificate of public convenience and necessity or similar requirement is not only in the public interest but in the interest of the responsible motor truck operators. I do not advocate that such certificate or permit be withheld or in any way influenced by the fact that the points to be served are already being served by rail transportation but solely upon the responsibility of the applicant.—C. E. HOCHSTEDLER."

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(e) "I cannot agree with the conclusion on Certificates of Public Convenience and Necessity, for I feel that in the public interest it should be just as important in the case of Highway Transportation as it is in the case of other forms of transportation. In fact our reliable and responsible motor carriers here favor such legislation as best suited to the proper development and growth of this industry and protection against the unscrupulous and irresponsible operators. This naturally is, therefore, in the public interest from the standpoint of the users of this service.—H. A. HOLLOPETER."

C. E. Childe: This matter of a certificate of convenience and necessity is a device to hold down competition. It is a device which tends to give a monopoly of transportation privileges to certain people and to prevent others from competing. It has been tried out by quite a number

of the States, and so far as I know, without achieving the results that were intended. The theory of a certificate of convenience and necessity is that it is a bad thing, from a public standpoint, to have too many carriers competing for the same traffic: therefore, if, in the judgment of regulating authorities, there is enough competition, that nobody else should be allowed to enter into that particular transportation. Certificates of convenience and necessity, so far as I know, have only been applied, however, by states to common carrier vehicle transportation. The program of the railroads, as now announced, is to extend that principle so that no carrier for hire can operate on the highways without first making a showing that the public convenience and necessity will be served, which would carry with it a showing that there is a need for that additional transportation and the existing transportation facilities are not adequate and sufficient, and so forth.

Wherever common carriers have to get a certificate of that character, there is, of course, opposition from existing carriers, both railroad and highway, against any new people coming into the field. The tendency is, where such certificates are required, that the carriers that have them, if they succeed in shutting out competition, take advantage of that situation, if they can, by raising their prices. But wherever such a situation has existed up to this time, the shippers' interests have been largely saved by the fact that the contract carrier, the private carrier for hire, so-called, steps in and affords a measure of competition with the common carrier that tends to defeat his attempt to monopolize the field. If, however, these certificates were applied generally both to the common and the contract carrier, it is obvious that that competition would cease and the public would not have the protection or the service which competition, and we believe competition alone, will insure.

So far as we can see, the certificate idea is solely in the interest of the common carrier rather than in the interest of the shipper, and we do not believe it serves the public interest.

As to dissenting views on that point, I find (I think I am expressing the dissenters' views correctly) that none of them want to have these certificates applied as a condition which a contract carrier must comply with before it can operate. They do not want a State authority to deny the right to a man who wants to haul goods for hire because they think there are enough vehicles on the road already. The idea of the dissenters seems to be, first, that to require a carrier for hire to show that he has complied with certain conditions showing that he is financially responsible and able to carry out his contracts might be a good thing. The majority of your Committee does not disagree with that view at all, but that is not the idea, as we understand it, of a certificate of public convenience and necessity. That would be merely a form of license to enforce safety and responsibility in operation. That is not what we are dealing with in this Section of our report. We are dealing with the question as to whether a State has the right to say to a man who wants to operate as a carrier, "No, you must stay off the highways because we think there are enough carriers in existence already." It is the view, however, of Mr. Baer and Mr. Hochstedler, as I understand it, that common carriers on the highways ought to be required to have such certificates. The majority of your Committee thinks that such a requirement should not be enforced against even the common carriers. The Executive Committee approves the Committee's recommendation.

It was moved by C. E. Childe, and seconded by E. A. Jack, that the Committee's recommendation be adopted.

C. E. Hochstedler: Possibly I owe an apology to the Chairman of the Committee as well as to the League for not making my so-called dissent to this portion of the report a little more specific. I did not have in mind the certificate of convenience and necessity as referred to by the Chairman. More specifically I had in mind the obvious desirability, at least from our viewpoint, of requiring the common carrier, as a condition necessary to enable him to operate on the highways, to secure from the proper regulatory authority a permit (permit is probably a better word than certificate of convenience and necessity), with the requirement that, in order to obtain such a permit, he satisfy the regulatory body that he would be responsible to the shippers who use that service.

We have a great deal of difficulty in the Chicago territory because of the lack of responsibility of the motor truck carriers who hold themselves out for hire as common carriers. That is the condition which I had in mind in filing this so-called dissent. I made it clear, I believe, that I would in no case withhold a certificate or permit, if you please, merely because there is another transportation facility operating between the same points.

R. C. Fulbright: Again the Special Committee has to be heard from. The distinction made by Mr. Hochstedler is very important to be kept in mind. When I first read this paragraph of the general report I had the same impression that Mr. Hochstedler got from it. There is a very

broad distinction between legislation providing for a permit, or requiring the carrier to obtain a permit, — whether it be a private or public or common carrier, — to obtain a permit in order that the State may have a proper check to protect it in all police regulation, safety legislation, legislation that may be designed to protect the public against irresponsible operators, and all that. So far as the Special Committee is concerned, it is its view that there would be no objection to permits required of any operators carrying commerce upon the highways to the extent that it may enable the State to enforce its own laws on the subject. As a matter of fact, most of the States today require a permit for a driver before he can operate his own automobile. That is simply the carrying out of the same principle.

This certificate of public convenience and necessity has a peculiar meaning. That meaning is pretty well known to the railroads who have been fighting it and handling it in the Transportation Act, 1920. They have very skilfully worked it into the bills gotten through the legislatures in a number of the States. They did not make a very good job of it in some of the States and the bills were knocked out in court.

Bills have been passed in thirty-seven states already, undertaking to regulate in one way or another, to a greater or less extent, motor truck highway operations. In Texas this year, a bill was put through by the railroads, who were able to write their own ticket, written by distinguished railroad counsel who knew what they were doing, which provided that both common carrier truck operators and contract carrier truck operators must obtain a permit from the Railroad Commission of Texas. They prescribed the things that must be shown before the permit could be obtained. It provided, for example, that a contract carrier must show all of the highways, every highway upon which it would be permitted to operate, describe, — identify in its petition, mind you, — the condition of each of those highways, the amount of charges that they then made or proposed to make for their private contracts to haul, which charges in another part of the bill are placed under the regulatory power of the Railroad Commission. Incidentally, it would reduce instead of increase some of them. It also provided that if it should appear that to grant the permits of even a private contract operator would impair existing transportation agencies by common carriers, the Commission should deny the permit.

As soon as that law became effective, there were numerous petitions filed by private contract carriers for authority to operate. The railroads appeared with counsel fighting them tooth and nail at every step. The railroads took the position that the burden of proof was on the private operators to show by affirmative evidence that to grant this permit would not impair the existing transportation being handled by the railroads or the common carriers, — the prettiest little thing to strangle them you ever saw.

I do not believe the Railroad Commission is going to go to that extreme in interpreting the law and say that burden is upon the operators, but what they will say is that the burden is upon the railroads. The railroads have not been heard from. They are fighting it down there right now. The railroads will come up and say, "Here is our business, here is how it is dwindling, and here is how we are losing money, and if you grant these permits, our income will be further impaired." How is the poor private operator going to deny it? There they will be, all tied up and strangled, and that is what the railroads want to do. They have the public lined up. The private automobile driver goes down the road, sees a big truck coming along and he goes into the ditch, and then tries to get legislation to put them off the highway. I am not for the irresponsible operator. We have to deal with that problem.

You fellows remember when the jitneys broke out in nearly all cities of the country, during the depression of 1921. Any man who could make a first payment on a Ford or hunt up an old broken-down second-hand Ford went out and operated a jitney. Everybody thought the street car and other transportation agencies and public utilities were going to be put out of business. A lot of irresponsible owners and drivers were turned loose. I do not know how you dealt with them in your cities, but I know they disappeared. In the first place they were not economical; in the second place proper legislation was effected requiring those fellows to establish their moral and financial responsibility for their operations and these were the things that put them out of business, coupled with the waking up of the utility companies who put on some bus lines and rendered a more flexible transportation than they had theretofore rendered. They are gone. The irresponsible truck operator will, as sure as the sun shines, go the way of the jitney. We do not need to pass a lot of wild legislation, because right now they appear to be bothering somebody.

The certificate of public convenience and necessity, referred to in Mr. Childe's report, refers to the matter of undertaking by that device to shut out another form of transportation by an artificial means, and to prevent an enlargement of the competition by it, and does not undertake to say that there may not be a proper permit system to en-

able the State to assure to the public safe and dependable operation and financial responsibility, and any other proper police regulation.

James F. Dougherty: May I ask Mr. Fulbright one question? You speak of private carriers, private operators, and then you speak of private operators for hire. Where do you draw the line of distinction?

R. C. Fulbright: I should like to read what the Pennsylvania Railroad's policy is on that, in answer to your question. The Pennsylvania Railroad has announced the policy to be followed by that railroad for the information of its officers and others dealing with the public. I may say that in this discussion we are dealing with trucks and not with buses. After setting forth that the Pennsylvania Railroad believes there should be regulation of automobile bus transportation, it comes to trucks. It says: "It is not, under existing conditions, believed practicable to attempt the application of similar measures to the operation of motor trucks. Passenger bus lines are nearly all common carriers, and hence as amenable to regulation as train service. Motor truck operations, on the other hand, are of at least four kinds." And here they are: first, privately-owned and operated trucks. That covers for instance, a wholesale grocery house in Chicago that owns and operates a fleet of trucks; second, private carriers for hire. That means the grocer that hires.

James F. Dougherty: He becomes a contract carrier instead of a private carrier?

R. C. Fulbright: He is a private carrier for hire if he is handling it for one concern or two concerns. For example, we had an instance of that where the Southwestern Bell Telephone Company had a contract, that had been in existence for several years, with a truck operator who did nothing but handle their material, running the material out on the lines when there was a breakdown, or anything like that. He had to render a special service. He charged more than the L. C. L. freight rate, because the service was worth more; it was a more flexible service. The railroad could not give that service. He had to come up and ask the Railroad Commission for authority to operate, and when he did, the railroads said, "You have no right to operate, because you are impairing railroad service." Then they got to questioning him about his charges and found he would have to reduce his contract charges to the railroad basis under the previous orders issued by the Commission, if he were permitted to operate at all. That was a private carrier for hire.

Third: contract trucks. A contract truck operator is a man who is in the contracting business but operates no regular line, between any given termini, and he may operate or not operate as he feels like it, but he is just going out and earning something.

Fourth: A common carrier, one who undertakes to hold himself out as a regular operator to engage in a given transportation for the public generally. There is a thin line of demarcation there that is very hard to define, and most of the statutes fall down, in that they do not undertake to define them.

James F. Dougherty: Did you, in your investigation, find out whether or not certain States specify the difference between common carriers and contract carriers?

R. C. Fulbright: In some states they have passed laws where they undertake to make an arbitrary definition of the two. That may be one way for them to bring about a regulation of contract carriers for hire.

James F. Dougherty: To get back to the private carrier: The private carrier trucks I spoke of in the remarks about the first subject brought up by Mr. Childe were those owned by the company who manufactured goods,—owned by the company hauling their own goods, which company paid income tax to the United States Government, part of which is used in federal aid roads, paid state tax, highway tax to the state, highway tax to the county, and highway tax to the township, and were not operating for profit but merely for their own convenience. In your remarks you referred to private carriers and then again private carriers for hire, and I just wanted to get that distinction.

R. C. Fulbright: If the man were not operating them for profit, he would not be operating them. They operate for profit, all of them; they are a commercial service. It is his own service, it is his own business. Here is what happened down in Texas. Those of them who were wise who had contracts with the trucks immediately turned around and leased the trucks and hired the fellows to operate them as chauffeurs. The bigger concerns that could afford to do that kept on just the same as if nothing had happened. The fellow who was not financially able to do that was up against it. It has created another inequality. I do not say there is not a problem here that we have to consider seriously. We have to consider it from the standpoint of our own interest, of the railroad's interest, and of the traveling public's interest, but you cannot deal with it from the standpoint of just simply trying to shut it out because somebody is going to lose some money over it.

Let me give you the reason why the Pennsylvania Railroad says it does not believe this kind of regulation should be applied to motor trucks. It says,

"The last named (that is the common carrier truck) contributed only a relatively small proportion of the total truck operation, yet are the only form practically capable of regulation of rates, adequacy of service, accounting, and so forth, at this time." In that connection, your special Committee has reached practically the same conclusion.

J. W. Montigney: I must get this clear in mind before I vote. Do I understand, Mr. Childe, that you subscribe to the expression of Mr. Fulbright as to what your intent is, so far as this certificate is concerned?

C. E. Childe: I have not found anything in Mr. Fulbright's remarks so far that I take serious exception to. I think if we stick together we shall get both of these reports approved. (Laughter) It is a fact that a certificate of public convenience and necessity deals with the right of the State to exclude a man from the highways, not with the question of safety and responsibility in operation. That phase is dealt with in Section No. 4 in the Highway Transportation Committee's report.

C. T. Stripp: I just want to read what the Ohio law is. I do not know why the Ohio law should not be adopted generally. I think it is a good one because it means the preservation of the common carrier because the common carrier operating on the highways needs just that kind of protection for his own good. It reads:

> "Every motor propelled vehicle used in the business of carrying and transporting persons or properties as a common carrier for hire within this state is under the supervision and control of the Public Utilities Commission, and it is unlawful to operate any such vehicle without first obtaining from the Commission a certificate of public convenience and necessity."

That same rule goes on a lot further and enlarges it. But a rule of that kind is for the preservation of the motor vehicle on the highways, and instead of voting against such certificates, it is my judgment at least that the League ought to support instead of condemn just those things. If we do not support them, then we ought to get together and vote against the Transportation Act, —the Interstate Commerce Commission Act.

Upon being put to a vote the motion was carried.

3. *Publication of Maximum and Minimum Rates, Filing of Tariffs, Keeping Accounts and in General Establishing the Same Governmental Regulations on Highway Carriers as Apply to Rail Carriers

The arguments favoring rate regulation of highway carriers are generally to the effect that public interest will be served by eliminating cut-throat competition between the highway carriers and discrimination in charges paid by one shipper as compared with another. It is significant that these arguments come mainly from railroads — not from the shippers. Very few highway freight carriers advocate rate regulation. All of them insist that if such regulation is attempted it should be enforced against contract haulers as well as common carriers on the highways. The impracticability of requiring contract haulers to publish rate schedules is, however, manifest and no practical suggestions have been made as to how it can be done. Even if such rate regulation were attempted it would be applied only upon freight hauled by carriers for hire, which constitutes only about 15 per cent of the total. Over 85 per cent of the motor vehicles on the highways are hauling freight of their owners. Obviously any attempt to establish fixed rates for commercial vehicles would encourage the use of the owner-operated vehicles and give advantages to shippers operating their own fleets of motor trucks as compared with the shipper dependent upon commercial vehicles. Competition between motor carriers, and the easily adopted alternative of shippers operating their own trucks are, in the opinion of your Committee, sufficient public protection against excessive rates and unjust discrimination. An army of men would need to be employed to enforce rate regulation upon highway carriers. The expense of highway transportation would be correspondingly increased and its efficiency reduced. **Your Committee believes that legislation designed to enforce rate regulation upon highway carriers is ill-advised and contrary to public interest.**

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Dissenting Opinions

***3. Publication of Maximum and Minimum Rates, Etc.—**

(f) "I must dissent from the recommendation that 'legislation designed to enforce rate regulation upon highway carriers is ill advised and contrary to the public interest.' I agree that there is no present need of any regulation to protect the public against excessive rates. So long as rail transportation exists in any reasonable state of efficiency, its competitive influence will protect the public against excessive truck charges. At the present time excessive competition between highway carriers, not only has the effect of protecting against unreasonable rates, but frequently results in the establishment of ruinously low rates. If it were possible to do so, and it may be, the public in general should be protected against such low rates and it certainly is in need of protection against discrimination and all sorts of unsound practices. My experience leads me to believe that responsible shippers are ready and willing to pay a fair price for transportation but they will not voluntarily pay more to one man than another is willing to charge.

"I am inclined to doubt the statement that over 85% of the motor vehicles on the highways are hauling freight for their owners. This statement may be true as to the actual number of trucks, but, in the territory surrounding Cleveland, it is certainly not true with regard to the total volume of freight business carried in inter-city trade. Carriage 'for hire' is far more important in my judgment

than is reflected by the figure of 15%.—FRANK H. BAER."

.....

(g) "In the Chicago territory, the larger and more responsible truck operators advocate a reasonable degree of rate regulation for their own protection and the small operators who are opposed to such regulation are the source of constant annoyance because of their dilatory methods and lack of responsibility. While we appreciate the possible difficulty of enforcing regulation, it is not an impossible thing, and we can not agree that a reasonable step in this direction would be ill-advised or contrary to the public interest.—C. E. HOCHSTEDLER."

.....

(h) "I must take the same position in regard to Publication of Maximum and Minimum Rates, Filing of Tariffs, etc., by Highway Carriers. It has only been within the past year (and perhaps the latter part of that period) that the shipping public in general have been sufficiently interested in the use of highway transportation that we might expect a development of public sentiment on the question of rate regulation. I find this sentiment is developing in this territory along the same lines and to the same extent that rate regulation is desirable in connection with rail rates. With this position on these features it naturally follows that we must take a consistent attitude with regard to financial responsibility requirements of the highway carriers, and we believe it is highly in the public interest that action be taken working toward securing more assurance in this direction.—H. A. HOLLOPETER."

C. E. Childe: That includes, of course, rules and practices as well as the rates themselves,—in general the idea of regulating the highway carrier in the same manner as a railroad is regulated. Our Committee thinks that legislation to regulate the rates of highway carriers is not in the public interest and so recommends.

Your Committee was talking about freight carriers and the Executive Committee recommends the word "freight" be inserted between the words "upon" and "highway," in the next to the last line. As recommended, that sentence would read:

> "Your Committee believes that legislation designed to enforce rate regulation upon highway freight carriers is ill-advised and contrary to public interest."

It was moved by C. E. Childe and seconded by W. H. Chandler that the recommendation of the Committee as amended by the Executive Committee, be adopted.

C. E. Childe: The whole trouble with the theory of rate regulation of highway carriers, as we see it, is that there probably is no way in which such regulation can be enforced on any other than the common carrier by highway. Unquestionably, the State can regulate the rates of common carriers if it sees fit. It is very doubtful indeed whether any such rate regulation could be enforced against the contract carrier. Certainly the casual carrier for hire could not be compelled either as a practical or legal matter, in our judgment, to publish rate schedules. Then as to the owner-operated vehicle, obviously there is no way of enforcing any rates on that man. All those vehicles are more or less in competition with each other. They are all engaged in transporting freight from town to town. It has been the invariable experience where the States have tried to put a rigid form of regulation on one type and not on the other, that they simply handicap the one type of carrier as against the other. In every State, so far as our investigation goes, where they have tried to regulate and make rigid the rates of common carriers on the highways, the trial has been a failure. The common carriers may be forced to comply with such regulations, but under those conditions the contract and private carriers haul the great bulk of the business.

Since any such discrimination affects the shipping public in that it makes the man who uses a common carrier pay a different and usually a higher charge than the man that uses the contract carrier or hauls his own freight, we believe it is not in the public interest to attempt such discriminatory legislation.

J. W. Montigney: Mr. Childe, would you object seriously to adding to your recommendation the statement that you do not believe that rate regulation is in the public interest unless a way is found to deal with contract carriers? In other words, I have come to the conclusion that unless we find a way to deal with the contract carrier, we shall never get anywhere. I do not believe that it is in the public interest to regulate rates unless they are all regulated. **I should like to sound out the sentiment of this League by moving an amendment to this, reading as follows: Your Committee believes that legislation designed to enforce rate regulation upon highway freight carriers is ill-advised and contrary to the public interest unless a way is found to regulate all carriers alike.**

Clare B. Tefft: I second the amendment.

C. E. Childe: If this is an inquiry,—and I believe is is in part,—I agree with you, but I go further than you do, and our Committee goes further, in that we have reached the conclusion that it is utterly impracticable to try to enforce rate regulation against a contract carrier. The carrier for hire does not operate every day or over fixed routes or on fixed schedules. He is like a tramp steamer. He goes wherever the business is availble, and upon whatever terms the business is available,—necessarily so. Otherwise he cannot keep alive. To try to enforce a schedule of rates against that kind of operation to our notion is utterly out of the question, the same as it is on your tramp steamer on the waterway, or even

more so. But even if it were possible to reach your contract carrier by rate regulation,—which we think cannot be done, but if it were done it would simply mean your contract carrier could not serve the public as well as, or as cheaply as, he does now,—there would still be the problem of owner-operated vehicles, and they, according to all statistics, handle the great bulk of the freight that moves on the highways today. For example: Out in our country an implement manufacturer enters into an arrangement whereby he transports implements out into the country towns for a distance of 200 miles or so. He makes a deal with a produce man whereby those trucks will haul back eggs and poultry and that kind of stuff, giving a return load. They enter into an arrangement whereby they become joint owners of those vehicles. They do not charge any rates at all, but they operate so cheaply that if a carrier for hire had to observe published rates enforced by a regulatory body, he could not meet that competition. What happens now? The carrier for hire, when it encounters a situation like that, sharpens its pencil a little, and, where it is necessary, it does compete, and the man who uses the carrier for hire is put on an equality with the man who owns his own vehicle under such arrangements as I speak of. I think it is in the public interest that freedom of competition should be preserved. I think it would be utterly impossible to meet thousands of competitive situations, if you tried to make the carrier for hire, the contract carrier, publish rates and go to the trouble of filing tariffs and send them all over the country, virtually making a common carrier out of himself before he could go and get that kind of business.

If our views are correct that it is impracticable and contrary to the interest of the shipper and the public to try to hamper the contract carrier that way, it follows of course there is no use trying to do it to the common carrier, because that would only affect a very small group of vehicles on the highways. Therefore, in view of the fact that anybody can operate his own vehicle or can hire somebody to haul his product as a private or contract carrier, it is quite obvious that it is not practicable to put the burden of rate regulation on the common carrier by highway.

W. H. Chandler: Maybe I can give some information that will be helpful and it might have the effect of shortening the debate. I wrote Senator Couzens when I saw notice in the Traffic World that it was his intention to introduce a bill regulating motor buses. I obtained a copy of House Bill 10288, and anyone who has read that bill knows that the Senate Committee's mind is operating along the lines Mr. Childe has recommended the League should act. In a letter which Senator Couzens wrote me, he said he was not in favor of requiring a certificate of convenience from either the common carrier or the contract carrier, and he was not in favor of regulating the rates. It seems, if we have any contrary views, we might go down there and try to convince the Senator.

H. A. Hollopeter: I think I should briefly explain something in connection with my dissent on this, and make a few remarks which I think are pertinent to the question. I did not understand that regulation as contemplated in this particular section of the report necessarily meant fixing minimum rates. My idea of regulation was somewhat the same as we have with the rail carriers, that the motor carriers themselves in the first instance fix their own rates. My particular thought in connection with this section was rather the publication of rates for the same purpose that we desire, and require, publication of rail rates, principally to permit us to know what our competitor is going to do in any given market. There are numerous obstacles in connection with the whole subject from beginning to end. There are with most questions we have to deal with, but I think that should not deter us from trying to work out some solution.

I want to illustrate very briefly the situation that we are confronting in connection with the truck situation. I realize that the truck industry, the motor transportation industry, is here to stay. It is serving a very valuable purpose and we should try to foster it and develop it in the proper channels. The question of rates made by motor trucks was touched on this morning in connection with the report of the Committee to Cooperate with the Railway Traffic Executives, and a little later perhaps we shall deal more specifically with the question of the carriers meeting motor truck rates. They are doing it today in many instances, and I think they ought to continue to do so, but when they do it, quite frequently it creates the very discrimination we have fought for years to prevent in our rail rates.

Take a situation, for illustration, from Terre Haute and Indianapolis to Chicago. Two producers of the same commodities at those respective points, coming into the common market at Chicago have had their rail rates adjusted properly, which gives them equal opportunity to get into the market. The one at Terre Haute develops truck movement and keen truck competition bears down the rate to a very low point, and the other producer finds himself being crowded out of the market, and ofttimes he does not know why, has no way of knowing why, because he does not know what his competitor is doing. He

knows his rail rate is the same as his, but in due time the carriers come along and propose to reduce the rail rate from Terre Haute to Chicago, and the competitor at Indianapolis says, "Well, if you do that you are going to discriminate against me." We are met with the very logical argument that it is not going to be discrimination to reduce this rate, and disrupt the relationship you have gone to great length to secure, because the tonnage from your competitor is now moving on a lower basis. If there is any discrimination, it exists today just as much as though rail rates were reduced.

We cannot prevent such situations. I think the time will come when our whole rail rate structure is going to be revised by the truck situation. It is a thing that should not be stopped, but my point is that we ought to have some kind of legislation or regulation looking toward the publication of truck rates which would give us an opportunity,—the same opportunity we have today with our rail rates,—to know what kind of conditions we must meet competitively in our markets. I think certain legislation along that line is entirely proper and can be enforced, for this further reason: Figures available today, of course, point to the fact that up until recently, at least, the trucking industry was preponderantly a contractual business. Obviously that is so because it is a new industry and it orginally started with all truck movement under contract. My observation has been, although we have not any very recent and definite figures, that the actual common carrier is increasing very rapidly and it is the common carrier truck operating between definite points that is bringing about this disruption of our rail rate structure. Some regulation or some legislation looking toward publication of rates, as the first step, will, I think, help us very greatly in that particular direction.

R. C. Fulbright: I wish to speak to the amendment just a moment. We must remember that in making recommendations from time to time we have to act in the light of information that is at that time before us. The League has changed its position, as conditions have changed, or as it developed there was some change in the opinion of the members. The action taken at a given time may not fit the conditions that develop at some later time. I may say that the Special Committee, in dealing with this subject, gave some recognition to that and expressed its recommendation in this language:

> "Your Committee is of the opinion that we have not yet reached the stage where rates and charges of interstate motor truck operators should be regulated by law."

We have not "yet" reached the stage. It may be developed to where we can, in a practical measure, accomplish something to bring about a stability of charges. I should not want to vote in favor of this motion of Mr. Childe, the resolution that an absolutely permanent policy be fixed for all time for the League. I think, as Mr. Montigney does, that we may be able to develop something on it. When we do develop it, we can depend on the good sense of The National Industrial Traffic League to recognize it and act accordingly.

Geo. F. Hichborn: I should like to ask for some information. Perhaps Mr. Childe can enlighten me. He speaks about something which would apply only on freight hauled by carriers for hire, which constitute only about 15 per cent of the total, since over 85 per cent of the motor vehicles on the highways are hauling freight of their owners. If I understand the term "highway," it means between cities or villages. If so, my observation in the East would lead me to believe those figures should be reversed.

C. E. Childe: I do not know just how comprehensive your studies may have been in the East, but I can tell you this: The only statistical studies that have been made, on an actual check of highway transportation, either in the East or in the West, have supported the figures which I quote here, namely, over 85 per cent are owner-operated trucks. That sounds pretty high to me, but referring again to Dr. McDonald's test for the Bureau of Public Roads,—which is a recent one and covered several hundred thousand trucks, —it supports these views. In addition to that, some tests have been made by several of the states, one of them a New England State, and some independent tests have been made by the railroads, all of which are matters of record in Docket No. 23400. Wherever they have been made, they have, to my surprise,—as I assume it is to yours,—shown a great preponderance of freight is moving in owner-operated vehicles. They go further than that. They show that the common carriers operating in interstate commerce transportation are somewhere around two per cent,—just a drop in the bucket.

Mr. Hollopeter takes exception to those figures. He says that in Indiana and Ohio those are not correct. I do not have any figures for Indiana and Ohio, but it seems to me that, after all, the question of whether it is 80 or 60 or 40 per cent is immaterial, so long as the opportunity exists for any man to operate his own truck if he wants to. Then it follows, in my judgment, that the man who uses a truck for hire should have a chance to compete with him.

J. S. Marvin: As long as the question has been raised, I agree with Mr. Childe's last remarks; it is probably immaterial. The meeting may be

interested in having some figures which were given to me within the last two or three days, on this very point. They show there are three and one-half million registered trucks in the country. There are two and one-half million owners. That is an average of less than one and one-half trucks to each. Eighty-two per cent of these trucks are shipper-owned; eleven per cent are shipper-controlled by contract; five per cent are shipper-controlled by agreement with the truckers who hold themselves out to go here, there and everywhere; which makes a total of 98 per cent of the trucks registered in the country, actually under the shippers' control, either they own them or hire and send them here, there and everywhere.

President Day: The action comes first on the amendment of Mr. Montigney, which was an addition to the original motion, reading as follows: "Unless a way is found to regulate all carriers alike."

R. C. Fulbright: That is added to the recommendation of the Highway Transportation Committee.

Upon being put to a vote, the amendment was lost.

President Day: Action comes now on the original motion.

Upon being put to a vote, the original motion was carried.

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4. Requirements as to Safety and Financial Responsibility of Highway Carriers

The railroads, many truck operators and shippers suggest the advisability of legislation requiring adequate financial responsibility of highway carriers and guarantees of safe and reliable transportation. Undoubtedly one of the strongest sources of irritation between shippers and highway carriers arises from unsatisfactory dealings with irresponsible truckers. The League is on record as favoring such legislation. Unfortunately the advocates of such protection to the public have not suggested any specific proposals as to just what legislation is desirable. It is questionable whether requirements as to cargo insurance, etc. can constitutionally be imposed upon other than common carriers. Some of the League members have called the Committee's attention to the fact that insurance policies supposed to protect motor carriers and the public against losses in transportation do not in reality give adequate protection. The various State laws in regard to bonding, insurance, hours of service, etc. lack uniformity and as a rule apply to common carriers and not to contract carriers. **This subject, in your Committee's opinion, affords a field for constructive study and we recommend that it be left in the hands of the Highway Transportation Committee and the Legislative Committee of the League for further consideration, and that members give these committees the benefit of their views.**

C. E. Childe: This is in reference to requirements for safety and financial responsibility and covers the field that Mr. Hochstedler was talking about a little while ago. Our Committee agrees that legislation which would enforce responsibility on highway carriers for safety in operation is a desirable thing. We, ourselves, have not as yet been able to work up, nor has there been called to our attention any proposed legislation or program which would bring about such desirable results. It is a subject which deserves very serious consideration, and we should certainly like to have the benefit of members' views on the subject.

Our recommendation is, therefore, that this be left in the hands of the Highway Transportation Committee and the Legislative Committee of the League for further consideration, and that members give these Committees the benefit of their views. That was approved by the Executive Committee.

It was moved by C. E. Childe and seconded by W. H. Chandler, that the Committee's recommendation be adopted. The motion was carried.

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5. Permission to Railroads to Engage in Highway Transportation

The railroads are already engaged rather extensively throughout the country in bus transportation and are beginning to operate motor trucks in various parts of the country, particularly for pick-up and delivery service and for short hauls in congested areas. There are no legal obstacles barring railroads from freight transportation on the highways so far as your Committee has any knowledge, other than the following:

1. Charters of some of the railroads limit them to rail transportation or at least do not specifically permit highway transportation. Any such deficiency, however, can ordinarily be overcome by formation of a subsidiary company to operate on the highways.

2. Joint rail and highway rates and routes are not specifically authorized by the Interstate Commerce Act or regulatory laws of some of the States.

Your Committee believes that joint rail and highway rates and routes would be in the public interest and recommends that the League's Legislative Committee be instructed to advocate whatever change in federal legislation may be necessary to permit railroads to establish them.

C. E. Childe: It is your Committee's view that railroads have as much right as anybody else to engage in highway transportation now, but there should be legislation designed to permit the establishment of joint rail and highway rates and routes.

It was moved by C. E. Childe and seconded by W. H. Chandler that the recommendation of the Committee be adopted, to-wit: that whatever change in federal legislation may be necessary to permit the carriers to establish joint rail and highway rates and routes be endorsed by this League, and the matter be put into the hands of the Legislative Committee.

Clare B. Tefft: I am not particularly objecting to this recommendation of the Committee, but the thought occurs to me that if there should be a requirement that the rail lines enter into joint rates with motor truck lines, it would be attempting to tell the rail lines they shall enter into agreements with a lot of irresponsible motor truck operators, and it seems to me that if this were required it would be necessary to set up certain conditions that these motor truck operators would have to meet before they could establish these joint rail and truck rates. Obviously, rail lines should not be required to enter into joint rates with a lot of irresponsible motor truck haulers and then at all times leave the rail carriers holding the bag. I am not holding any brief for the rail lines in this particular matter, but it seems to me that that is just a matter of common sense. I think that is a condition you would meet.

W. H. Chandler: Have you not interpreted the word "permit" there to mean "require"?

Clare B. Tefft: I am wondering what conditions you might set up, that these motor truck operators would have to meet before any such permission could be given.

R. C. Fulbright: We shall deal further with that subject in our recommendation that through joint rates between railroads and motor truck carriers be made subject to the Interstate Commerce Commission just like through joint rail and water rates are under the Interstate Commerce Commission. It carries this one step further, and I think in part answers your inquiry.

Upon being put to a vote, the motion was carried.

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6. Co-ordination of Rail and Highway Transportation—Store-Door Pick-up and Delivery

The railroads have been showing during this year, active and widespread interest in this subject and important developments are taking place. The service offered by railroad-owned bus lines is country-wide in scope and testimony of railroad executives before the Commission shows that important savings in rail operations have been made possible by substituting bus service for local passenger train operation.

The use of motor trucks by railroads for freight hauling between towns and for terminal pick-up and delivery service is in its infancy but after starting out as an anæmic, unwanted child it is now showing distinct signs of development into a lusty member of the railroad family. Developments in railroad motor truck operations to date certainly show that prospects for improved transportation through railroad operation of motor trucks and co-ordination with rail service, and economies in rail operating expense flowing from handling increased tonnage with greater efficiency and substitution of highway service for unprofitable local freight trains, are very promising indeed.

In England store door pick-up and delivery has been an established part of railroad service on package freight for many years, and has resulted in a high degree of speed and co-ordination in the movement of freight from shipper's warehouse to consignee's place of delivery and has made possible the handling of a great volume of freight through small and congested rail terminals. In fifteen or more cities in Canada pick-up and delivery service is available at a nominal charge above rail rates, with the option, however, that shipper or consignee may elect to perform the drayage services themselves. Here also congestion of rail terminals has been relieved and the service has been generally satisfactory. In both England and Canada, however, in recent years there has grown up a large volume of movement over the highways in competition with the rail service, and English and Canadian railroads are quite concerned as to how they can meet highway competition. In Canada particularly it appears that considerable speeding up of railroad freight service and revision of rates will be necessary as well as the inauguration of pick-up and delivery service at smaller stations where it is not now available. League Circular No. 1327 reproduces a prize-winning paper in a contest conducted by the Canadian Railway Club on the subject which is illuminating as to the Canadian situation.

This is a report for information.

C. E. Childe: This includes a subject referred to your Committee by special resolution at the last Annual Meeting.

There is nothing in this section of the report which requires any action. It is submitted merely for information.

I can add this much to it, that since the report was prepared I have heard through the Executive Secretary of another little scheme of our Canadian friends whereby they are using passenger trains, particularly on branch lines, to haul freight in order to get the stuff to destination in time to compete with the trucks. It all goes to show that the railroads of Canada, like those of the United States, are trying various means and devices to meet the truck competition.

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7. *Developments in the United States

In Eastern territory the New York Central, Pennsylvania and some other railroads have for several years transported less-than-carload freight between stations in congested areas by highway instead of railroad, through contract arrangements with independent trucking lines, with resulting economies in local freight train operation and quicker service to the public. These operations, however, do not include pick-up and delivery service for shippers and consignees although the trucks handling the freight frequently pass by the consignees' and shippers' doors on their way to and from freight houses. These railroads have also been experimenting with container cars, which seem to hold forth important possibilities for transportation interchangeable on trucks and railroad cars without rehandling or requiring the expensive packing which is necessary for shipment in ordinary freight cars. The question of rates and other conditions of transportation in container cars is before the Interstate Commerce Commission for decision. The development of container car transportation will depend largely upon the outcome of the Commission's decisions. A very interesting discus-

sion of co-ordination of rail and highway transportation by the use of container cars and motor trucks in connection with rail service, condensed from the testimony of J. F. Deasy, Vice-President, Pennsylvania Railroad, before the Interstate Commerce Commission in Docket No. 23400, was sent to League members with Circular No. 1286. Mr. Deasy's testimony was also notable as an expression of the attitude of the more enlightened and better informed railroad executives toward regulation of motor trucks in that he regards rate regulation of trucks as impracticable and advocates the policy of intelligent development and use of both highway and rail transportation rather than that of hostile opposition which has unfortunately been the typical attitude of the majority of railroad executives.

New England railroads through subsidiaries such as the New England Transportation Company and the Boston and Maine Transportation Company are extensively engaged in motor truck transportation between towns, with store-door pick-up and delivery, and are also co-ordinating their truck transportation with overnight rail transportation in advertised trains such as "Speed Witch" and "Maine Bullet." These operations have given New England territory improved service and have increased railroad tonnage besides permitting economies in railroad operating cost by the elimination of freight trains.

In New York City, railroad store-door pick-up and delivery service on carload freight has been advocated by the Merchants Association and others for over twelve years. Store-door pick-up and delivery on less-than-carload freight has been considered impracticable because of congestion on streets and sidewalks incident to serving the many industries located in loft buildings, etc. In 1922 the Erie Railroad established "inland" stations at warehouses on Manhattan Island and trucked freight between those warehouses and its Jersey terminals for the convenience of New York shippers and receivers, but did not extend the service to shippers' places of business. The Erie also designated ferry and tunnel exits on the New York side as "constructive delivery stations" to which the railroad assumed delivery, leaving the remainder of the cartage haul as the responsibility of the consignee. Competition between truckers made this practice, in many cases, the equivalent of store-door delivery at rail rates, or even cheaper. Other railroads adopted the same practice, for competitive reasons, but it became burdensome to the railroads and "constructive delivery stations" were discontinued after suspension proceedings before the Interstate Commerce Commission at which the shippers sought to have the arrangement made permanent. The Erie's inland station is still in use. A universal inland freight station in New York is now under construction by the Port Authority of New York, and the New York Central and other railroads have similar projects in mind. These developments will probably lead to the inauguration of at least limited pick-up and delivery service at New York by the railroads. Conditions on Manhattan Island are peculiar and cannot be compared with those elsewhere in the United States.

A very recent development in the East is the publication by the Pennsylvania, Baltimore and Ohio, Reading, Lackawanna, and Central of New Jersey of "truck body" and "all freight" rates, effective November 5 and 7, 1931, between New York, Philadelphia, Baltimore, Washington, and nearby territory. The truck body rates are stated in dollars per truck body of various dimensions to be packed, loaded, and unloaded by the shipper and consignee. The "all freight" rates are in cents per 100 pounds, considerably below the class rate levels. Official classification ratings and packing requirements do not govern. Loading and unloading must be performed by shipper and consignee. These tariffs state on their face that they are filed to meet truck competition. It is not known at this writing whether tariffs will be allowed to become effective or whether they will accomplish their avowed purpose.

In Central Freight Association territory there have been no important steps taken by railroads to establish pick-up and delivery service, although some of the electric lines are affording such service to shippers in connection with rail movement which has resulted in marked increase in freight business on these lines. A few instances have been reported in this territory of the establishment or rates by railroads on loaded truck bodies which permit trucking companies to perform a combination rail-truck service without intermediate rehandling.

In the Southwest, the Cotton Belt, Texas and Pacific, M. K. & T. and some other railroads have for several years been giving free pick-up and delivery service on less-than-carload freight and to some extent operating trucks on the highways through subsidiary trucking companies. These operations have been so successful that effective October 1, 1931, all the southwestern railroads, by Johanson's Tariff No. 88, have inaugurated free pick-up and delivery service on less-than-carload freight, at rail rates, with the further provision that where consignor makes his own delivery to freight house an allowance of 5c per 100 pounds from the rail rates will be made. This service applies only on traffic moving within a limit of 300 miles and is subject to minimum charges of approximately the rail rate for 50 miles. It remains to be seen how successful this experiment will be in enabling the railroads to meet truck competition.

In Western Trunk Line territory a few experiments have been made by the North Western, Milwaukee and one or two other railroads in establishing limited pick-up and delivery services at the rail rates plus drayage charges. These have been of little practical importance in that they afford the shipping public little if any improvement in service and no saving in transportation charges. The most important experiment undertaken in Western Trunk Line territory has been establishment by the Union Pacific Railroad of a subsidiary known as the Union Pacific Stages for transportation of freight intrastate between all Union Pacific stations in Nebraska and Kansas. Pick-up and delivery service is afforded at all stations, with the alternative that if shipper or consignee elects to perform the drayage service an allowance of 5c per hundred pounds at either or both ends of the line will be made. The transportation between stations is in railroad cars but rail rates and classification are entirely disregarded. The only requirements as to packing are that shipments may be rejected if they are not packed in condition reasonably safe for transportation. Three classes of rates designated as A, B, and C are published. Class "C" which is somewhat lower than the fourth-class rail rate applies on heavy commodities moving mainly in third and fourth classes under Western Classification although it includes second and first class articles. Class B, which is approximately the railroad third-class rate, applies on all other articles of freight except a limited list of light and bulky or high grade freight, which takes class "A" rates, which are approximately the same as the first-class rail rates. Overnight service is afforded competitive in time with trucking service and while the rates are slightly higher than available over independent trucking lines they are so much lower than rail rates that a large volume of freight is being attracted to this co-ordinated rail-truck service to the general satisfaction of the shipping public. A complaint has recently been filed before the Interstate Commerce Commission attacking the Union Pacific Stages rates as prejudicial against interstate commerce. It is presumed that legal questions as to the right of the railroad to depart from published

rail rates and whether such rates are unjustly prejudicial against rail shippers will probably be determined in that proceeding.

In Pacific Coast territory the Northwest Freight Transport Company, a subsidiary of the Spokane, Portland and Seattle, and the Union Pacific Stages have inaugurated co-ordinated rail and truck services which are undertaking to meet truck rates in a manner somewhat similar to the Union Pacific Stages in Nebraska and Kansas, and with similar successful results, satisfying to both the railroads and the public. In California the Pacific Motor Transport Company is furnishing like service with similar encouraging results. An article in the Railway Age, of August 22, 1931, reproduced in League Circular No. 1330, gives an interesting summary of railroads' efforts in the southwest and on Pacific Coast to meet truck competition. The views of L. B. Young, Vice-President and Manager of the Pacific Motor Transport Company are worthy of summarization here:

1. Co-ordinated rail-truck operation presents such intricate problems and wide departures from railroad practice that a subsidiary company not bound up by the affairs of the parent railroads is desirable.

2. The carrier must make rates competitive with the rates charged by truck operators regardless of what existing rail rates may be.

3. Rates should include pickup and delivery service. The shippers want complete service from store-door to store-door in one transaction.

4. Rates should be governed by classification much more liberal than the usual railroad classification, and packing rules should be lenient and flexible.

5. The railroads should provide service no slower than that offered by the truck carriers, and should stand ready to accept shipments up to a late hour in the evening and make delivery immediately upon arrival at destination.

6. The carriers should stand ready to provide those many trivial personal services of apparent insignificance to the railroad but of first importance to the patron, which he has been educated by the truck carrier to expect.

Your Committee believes that the railroads must adopt the practices above outlined in order to meet successfully the competition of trucks. The mere establishment of pick-up and delivery service at origin and destination and movement at rail rates will not accomplish the purpose. We believe, however, that shippers and consignees should have the option of performing their own pick-up or delivery service, and allowances from the full-service rates should be made in such cases. We believe there are important possibilities of economies of transportation and improvement of service to be derived from further development of container cars with units which can be transported on trucks and rails without re-handling.

The League should, in our opinion, go on record advocating a liberal attitude by the Interstate Commerce Commission and other regulating authorities toward all experiments in this new field of co-ordinated rail-truck transportation to encourage its maximum development in the public interest with a minimum of restriction by regulatory rules. We commend the awakened attitude of railroads throughout the country in dealing with these problems.

Dissent

***7. Developments in the United States.—**

(i) "We cannot go along with the statement 'The League should, in our opinion, go on record advocating a liberal attitude by the Interstate Commerce Commission and other regulating authorities toward all experiments in this new field of coordinated rail-truck transportation to encourage its maximum development in the public interest with a minimum of restriction by regulatory rules.' Some of the most outstanding violations of the underlying principles of Section 3 of the Interstate Commerce Act that have ever come to our notice are reflected in some of the situations now obtaining under the guise of experiments and, while we are wholeheartedly in accord with the view that the railroads must adopt plans for the coordination of rail and truck service, it is wholly unnecessary that this be accomplished in a way which will reflect widespread preference, prejudice and discrimination between competing industries or communities.—C. E. HOCHSTEDLER."

C. E. Childe: This is really bound up with No. 6, and deals with the developments in the United States in a general way.

On Page 32 of Circular 1350, at the top of the right-hand column, reference is made to some new "truck body" rates and "all freight" rates, so-called, published by the Eastern Trunk Lines. The report says that we did not know at that writing whether or not the tariffs were to go into effect without suspension. My information now is that the tariffs have gone into effect, but that there is not much disposition on the part of the truckers to use these truck body rates for the reason that their present equipment is not designed for interchangeable transportation on the railroad and the highway.

Some years ago there were efforts made by some of the Eastern Trunk Lines to induce the railroads to go into this joint rail and highway transportation. At that time the railroads would not consider it. Now they are publishing rates for truck bodies which might permit co-ordinated movement on rail and highway, but trucks that are now in use cannot be used that way. It may be, however, that equipment will be designed that will make practicable the use of these new tariffs.

After going over the various experiments that are being tried, our Committee reached the view that the awakened attitude of the railroads in dealing with these problems is commendable and that the League should go on record as advocating a liberal attitude by the Interstate Commerce Commission and other regulatory authorities toward these experiments in co-ordinating rail-truck transportation to encourage a maximum development in the public interest with a minimum of restriction by regulatory rules. The Executive Committee approved of that.

It was moved by C. E. Childe and seconded by W. H. Chandler, that the recommendation of the Committee be adopted.

H. A. Hollopeter: I should like to offer an amendment, if I may. As we all know, the carriers in meeting motor truck rates today are very frequently creating situations which are very close to discrimination and prejudice, and so forth. It is a practice that is tearing down the rate structure we have built up to be free from prejudice and preference. I agree heartily that we should commend the attitude of the carriers in trying to meet this situation and in working it out.

I want to offer an amendment that we urge the carriers to consider this as a national question and not as a sectional subject, and in working it out to prevent the discriminatory situations which naturally follow sectional consideration.

C. E. Hochstedler: I second the amendment.

H. A. Hollopeter: May I state that this is not at all in opposition to the recommendation of the Committee. In fact it is amplifying it, I think, or is intended to go along with it, and prevent some situations which might develop,—and which I think are already developing,—if we adopt the recommendation as origially made. The point we want to make, which is to be covered by this amendment, is that we do exactly what the recommendation says,—we commend the attitude of the carriers in trying to meet truck rates, trying to co-ordinate truck and rail transportation,—but also urge that in doing so, they do it in a way that is not going to create prejudice and preference by confining their changes to one road, or to one state, or to one territory, so the shippers in adjoining territories will be without that kind of service temporarily, at least.

I want to illustrate briefly: Recently there was a docket before the Illinois Freight Association to establish pick-up and delivery service free under the rail rates, in Illinois. Naturally we did not object to the principle of that, but we were faced with the fact that, if it went into effect, people just across the line on either side, shipping into Illinois, would have to stand their own delivery and pick-up costs, which the carriers estimated to be 10 cents a hundred, and it would have created a situation where shippers within the defined territory would secure transportation costs 10 cents lower, on a general basis, than like shippers just across the boundary lines. It is that kind of a condition that the amendment is designed to prevent.

J. S. Marvin: Do I understand correctly that in that event the League would be asking the carrier that sees this truck competition from Station A to B to let the business go to the truck instead of putting in the rates because it would have to put in a rate from C to D to meet the equalization?

H. A. Hollopeter: The point is we simply urge the carriers to consider this as a national proposition. When you are co-ordinating rail and truck rates, certainly there is just as much need to do it in Indiana as Illinois or Massachusetts or Pennsylvania, or anywhere. The only point I am making is this: let us urge the carriers to consider it generally and not to consider it sectionally, and create discriminatory situations. We are urging that that be worked out as promptly as possible.

President Day: Action comes on the amendment.

Upon being put to a vote, the amendment was lost.

President Day: Action comes now on the Committee's recommendation.

Upon being put to a vote, the original motion was carried.

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8. *The Railroad Rate Situation

There is no question that one of the serious difficulties confronting railroads in their efforts to compete with motor trucks lies in the present day methods of rate construction. We inherit from the days of railroad monopoly of transportation, and the struggles between railroads for competitive traffic, a pattern of making the short-haul rates relatively high and long-haul rates relatively low. In the zone of keenest motor truck competition railroad rates are generally much higher than they need to be, especially on carloads, to cover cost of transportation and yield a fair profit to the carrier. Under the old railroad practice of charging "what the traffic will bear" short-haul traffic was largely non-competitive and could stand high rates. Conditions today are quite the reverse and the doctrine of "what the traffic will bear" demands that short-haul rates must be made in much closer relation to cost of transportation if that traffic is to be retained by the railroads. The Interstate Commerce Commission has, however, in establishing class and commodity scales throughout the country quite generally followed the old outworn patterns of the past by making the short-haul rates relatively high. This policy, in the judgment of your Committee, must be changed, in the interest of the shipping public as well as the railroads. Railroad classification rules, packing requirements, methods of handling less-than-carloads and light and bulky shipments likewise need overhauling and modernizing to enable the railroads to compete effectively with highway transportation.

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Dissenting Opinion

***8. The Railroad Rate Situation.—**

(j) "Regardless of our agreement or disagreement with this portion of the report, it is our opinion that it has no proper place in a report of the Highway Transportation Committee, and we suggest that it be entirely eliminated.—C. E. HOCHSTEDLER."

C. E. Childe: This section contains some comments on the railroad rate situation on which there is no recommendation by the Committee. Mr. Hochstedler takes exception to the Highway

Transportation Committee's saying anything about rail rates. Outside of that, there is no dissent in the Committee.

I am reminded, in talking about rates, of an address that was made by J. R. Turney, Vice-President of the Cotton Belt Railroad, at the Tulsa meeting of the Associated Traffic Clubs, copies of which, the Executive Secretary advises me, will be sent to all members in a few days. If you gentlemen have not read that speech, I want to recommend that you do so. It is one of the best, most outspoken utterances from railroad sources on this matter of motor vehicle versus rail transportation that has come to my notice.

Mr. Turney says a lot of things that our Committee would hardly dare to say about our friends, the railroads, because we probably would be faced with requests that we find some other jobs, but in connection with rates, he points out much the same thing that our Committee endeavors to point out, that the rigid and obsolete and archaic rate structure under which the railroads are operating, is one of the principal reasons why they cannot effectively compete with truck transportation in the short-haul areas. There are a lot of other very interesting comments in Mr. Turney's address, upon which I shall not take time to comment in detail.

President Day: Copies of the address to which you refer will shortly be distributed to all members as information.

Note: Copies were sent all members November 24th, with Circular No. 1355.

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9. *Legislation

Following the Declaration of Policy published by the Association of Railway Executives in October 1930 (League Circular No. 1246) organized efforts were made during the year by the railroads in the State Legislatures of many of the States to obtain the enactment of restrictive laws against motor carriers, increasing taxation and burdening them with restrictive regulatory rules and requirements. Some of these efforts were successful. In Minnesota a severely restrictive law was pushed through the Legislature and vetoed by the Governor. We commend to the attention of members, the Governor's veto message incorporated in League Circular No. 1290. In Illinois, South Dakota, Texas, Kansas and Nebraska restrictive motor carrier laws were enacted but have since been enjoined in the courts, wholly or in part, or held up by referendum proceedings. It is logical to assume that similar restrictive legislation will be sought by the railroads in the coming session of Congress. The Court decisions which will be forthcoming from pending litigation will no doubt do much to clarify many of the disputed questions as to the power of governmental authority to tax and regulate motor carriers. In this connection the decision of the U. S. Supreme Court in the Florida case of Smith v. Cahoon, of which members were advised in League Circulars 1299 and 1303 is of great significance in holding that a private motor carrier cannot be classed or treated as a common carrier by legislative fiat, and that discriminatory taxation against a carrier of one kind of freight, exempting a carrier of farm products or some other kind of freight, is discriminatory and in violation of Constitutional rights.

The Interstate Commerce Commission in its decision in the Fifteen Per Cent Advance Rate Case, suggests that Congress and State Legislatures direct their attention to proper regulation "as the public interest may require" of size, weight and lading of trucks; taxation, as may be necessary to impose upon them a fair share of the burden of highways; avoidance of destructive and wasteful competition; and regulation of rates and service, all dependent on the "definite ascertainment of facts, many of which are now in controversy." The Commission indicates that it will have specific recommendations to submit in its forthcoming report in Docket 23400.

The National Association of Railroad and Utilities Commissioners at their annual meeting in Richmond, October 23, adopted a resolution favoring enactment of federal legislation providing for the regulation of rates and service of motor carriers engaged in transportation for hire upon the highways, and authorizing their legislative and motor vehicle committees to represent them before Congress on any proposed legislation.

The Association of Railway Executives at Atlantic City, October 23, according to newspaper dispatches, determined to adopt aggressive efforts to obtain interstate regulation of competitive transportation (buses, trucks, and pipe lines), including fees for the right to use highways, to put them on a more nearly equal footing with the railroads.

Congressman Parker, Chairman of the House Interstate and Foreign Commerce Committee, and Senator Couzens, of the Senate Interstate Commerce Committee, have announced that they will introduce in Congress bills to regulate motor traffic, including trucks as well as buses.

These facts emphasize the importance of the League taking all proper and necessary steps to protect the public interest in the legitimate development of commerce upon the highways.

Your Committee believes that developments during the year have amply sustained and justified the League's policy of opposing rate regulation or other restrictive legislation against motor truck transportation except in the interest of safety and responsibility. We recommend that this policy be continued and that the League's officers and Legislative and Highway Transportation Committees be authorized to oppose actively any bills contrary thereto that may be introduced in Congress during the next session.

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Dissenting Opinions

***9. Legislation.—**

(k) "The proposed report recommends that the League's policy of opposing rate regulation or other restrictive legislation be continued on the ground that developments during the year amply sustain and justify that position. I dissent from that recommendation and would refer particularly to the Interstate Commerce Commission's words on pages 582 and 583 of volume 178 of its reports, **Fifteen Per Cent Case, 1931 (Ex Parte 103):**

"'Congress and the State legislatures should also, we believe direct their attention to the proper regulation in the public interest of all competitive forms of transportation. In this we include such restrictions on the size and weight of trucks and their lading as public

safety may dictate, such taxation of trucks and busses as may be necessary to impose upon them a fair share of the burden of the public highways which they use, such supervision of truck and bus common carrier lines as may be necessary to avoid destructive and wasteful competition, and such regulation of their rates and service as the public interest may require. We are here stating only very broad principles, the practical application of which must be governed by the definite ascertainment of facts many of which are now in controversy. Our purpose for the moment is only to direct attention to matters which are in urgent need of legislative consideration. The facts in regard to motor competition we helped to develop some years ago in a report made after special investigation. We hope in the near future to supplement these facts and bring them up to date, together with specific recommendations for legislation, in a report on the coordination of rail and motor service which is now in progress.'

"Developments during the past Summer appear to have shown a substantially different view of highway transportation than was before the Commission at the time of its decision in Docket 18,300.

"A STUDY OF HIGHWAY ECONOMICS: Whether it is a proper matter for study by the League or not, I wish to suggest here, as I have upon other occasions, that there should be a scientific and impartial study of the economics of highway transportation for the purpose of determining, to some extent at least, the proper place for that service in our national use of transportation. I am entirely certain that many truck services are being rendered which are not self-supporting and which cannot become self-supporting without a complete revolution in the type of equipment used, highway conditions, and numerous other factors. I am convinced that most of the shippers of the country are reasonable men and that they do not desire to secure services at less than cost and that they do not desire to assist in prolonging the life of services which are doomed to failure, and which, while failing, will inflict serious if not lasting damage upon sound agencies of transportation.

"No such study has ever been made by a reliable and impartial agency, and the facts and figures which are normally current are misleading and confusing.—FRANK H. BAER."

.....

(l) "We do not agree with the conclusion that developments during the year have justified the League's policy of opposing motor truck legislation except in the interest of safety and responsibility, nor in the recommendation that this policy be continued. The report of the Commission in the **15 Per Cent Case, 1931** and the press report of the address made by Chairman Brainerd before the National Association of Utilities Commissioners a few days ago indicate to my mind that the Commission itself is going to recommend some regulation on motor transportation; it is my view that the longer legislation is delayed the more drastic it will probably be and I am convinced that it will be far better for the League to cooperate to the end of obtaining some reasonable legislation than to arbitrarily oppose any legislation whatever.—C. E. HOCHSTEDLER."

.....

(m) "I feel that it is time now that the League change its policy of simply opposing legislation against motor transportation, except in the interest of safety and responsibility, and that we actively participate in the formulation of proper legislation to foster and develop in this field of transportation, efficient and responsible service, and work toward the prevention of the evils of discrimination and prejudice consistent with our attitude toward such questions in connection with rail transportation.—H. A. HOLLOPETER."

C. E. Childe: Your Committee recommends that the League adhere to the policy approved last year at the Annual Meeting, and before that time, opposing rate regulation or other restrictive legislation against motor truck transportation, except in the interest of safety and responsibility, and that the League's officers and the Legislative and Highway Transportation Committees be authorized to oppose actively any bills contrary thereto that may be introduced in Congress during the next session.

I might say, by way of explanation, that it is a matter of common knowledge that there will be some strenuous efforts made in the next session of Congress to pass some highly restrictive legislation upon motor vehicle transportation. If the League wants to adhere to the policies heretofore adopted,—and I assume it does from what you have already approved in this report,—the officers and these Committees should be empowered to express the League's views in connection with such legislation. That is what this recommendation amounts to. The Executive Committee approved the Committee's recommendation.

It was moved by C. E. Childe and seconded by J. W. Montigney that the report be adopted. The motion was unanimously carried.

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10. League Circulars on Highway Transportation Matters

As a matter of convenience there are listed below League Circulars issued during the year dealing with highway transportation matters:

No.	Date	Title
1259	1/21/31	Who pays for the highways? Pamphlet, Highway Tax Costs 1931.
1267	2/24/31	"Regulation or Strangulation of Highway Transport." Pamphlet by National Automobile Chamber of Commerce.
1281	3/19/31	Testimony, C. E. Childe, Chairman, Highway Transportation Committee in I. C. C. Docket 23400, Co-ordination of Motor Transportation.
1284	4/2/31	"What Price Transportation — Railways, Highways, Waterways." Address by Horace M. Hill.
1286	4/14/31	"Condensed Testimony of J. F. Deasy, Vice-President, Pennsylvania R. R. before the Interstate Commerce Commission, in Docket 23400."
1290	4/29/31	Motor Truck Bill vetoed by Governor Olson of Minnesota.
1294	5/12/31	Are Motor Vehicles Adequately Taxed?
1299-1303	6/8/31 - 6/12/31	Supreme Court holds Florida Statute Regulating Auto Transportation Companies Unconstitutional.

1305	6/16/21	Facts and Figures of the Automobile Industry. Pamphlet by National Automobile Chamber of Commerce.
1314	7/2/31	"Rails and Roads." Pamphlet by American Railway Association containing statements of A. P. Thom, C. S. Duncan, R. N. Collyer in I. C. C. Docket 23400.
1319	7/27/31	U. S. District Court enjoins Illinois Motor Vehicle Statute.
1324	8/4/31	"Is the Competition between Railroads and Motor-carriers Unfair?' Pamphlet by R. C. Fulbright replying to statement of E. S. Jouett, V.-P., L&N RR on competition between railroads and motor carriers.
1326	8/14/31	Pamphlet — "Motor Transport is a National Asset."
1327	8/14/31	"Increasing LCL Freight Traffic." Article on Canadian rail-truck situation.
1330	8/31/31	"How can railways recover lost freight traffic?" Article in Railway Age of August 22, 1931.

Respectfully submitted,

Highway Transportation Committee

C. E. Childe, Chairman
O. T. Arnold
J. F. Atwater
Frank H. Baer
T. A. Durrant
C. L. Eyanson
D. C. Fenner
Frank E. Guy
C. E. Hochstedler
H. A. Hollopeter
John L. Lovett
Wm. T. Lowe
L. E. Luth
James S. Marvin
W. J. O'Neil