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## TRANSPORTATION POLICY FOR THE UNITED STATES

(By Harold F. Breimyer, University of Missouri-Columbia)

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It may seem after-the-fact to review transportation policy for the United States 1 month following enactment of a new rail transportation law and a few months after a similar path-breaking highway law was adopted.

The caveat to this is first that no law is firmly fixed for all time and policy by its nature is always subject to review; and second that the two new laws leave so much room for administrative interpretation and court decision that little contained in them can be said to be exactly fixed. But just to make my position candid without suspense, I add a third reason why transportation policy has not been truly resolved: the new laws will lead to so many complexities and so much rancor that modifications will prove essential within a few years. The rail law particularly is faulty.

For some time to come my identification with agricultural transportation will be tied to my service on the Rural Transportation Advisory Task Force, a congressional sponsored group that met during 1979 and issued its final report in January 1980. I do not report as a spokesman for the group. Neither does any other of the 15 members. We were in fact so guarded against having a standard bearer that we never named a chairman from among our membership. On a few issues I took exception to the majority opinion, but so did various other members. And lest any misinformation circulate, the task force report was in no sense a prototype for the highway or rail deregulation bills that later came into being. Neither the executive branch nor the Congress took its lead from us. In fact, we were not even accorded the courtesies of visible reception of the product of our work.

Nonetheless, in these few pages I report my ideas independently of the task force report, not in a strategic sense of concurring or disagreeing but as a different orientation. Among task force members I was the solitary philosopher, surrounded by 14 operating types. The other men, extremely competent in their technical capacities, saw transport policy as an extension of their operating experiences. As will be made evident below, my starting point is the opposite: I visualize the economy and what is desired for it and then ask where and how transportation fits in. Transport is often thought of as a way to move freight from one spot to another. I suggest this to be too prosaic. Transport is a means to make a geographically dispersed enterprise economy work.

In another respect I was the only task force member without an affiliation, obligation, or precommitment. Most were in fact chosen to

represent an interest group. The thesis, I suppose, is that perfectly balanced representation will yield a balanced output. Perhaps so; but I suggest that operating people can tell us best not where we want to go, but how to get there.

### THE UNIQUE ROLE OF TRANSPORTATION

In papers I have written since serving on the task force I have emphasized above all the exceptional nature of transportation—its unique role, and its clumsy cost structure that is the source of so many of our woes.

The distinctive feature of freight transportation is simply that it is not a final product. I sometimes quip that no one ships a steer so that it can see the country. Nor, for that matter, is it shipped in order to give the carrier business. A steer or any other farm product is shipped because both the shipper and receiver need to have it shipped. This is no mere play on words; I am introducing a piercing principle, call it philosophical if you please, that transportation unlike most economic activity is more vitally essential to the user of the service than to the performer.

Transportation is an intermediate service. Its availability on acceptable terms is not incidental to businesses and regions; it is necessary to their very existence. By way of elaborating these principles I quote an old source and my own writings. Philip Locklin, that giant among transportation economists, loved to quote Beale and Wyman who observed many years ago regarding ratemaking in transportation: "The power to make freight rates is the power to turn a wilderness into a city or a city into a wilderness."<sup>1</sup>

In a talk given at the University of Nebraska I said:

In an advanced industrial economy that is so geographically scattered as ours, transportation vitally links the parts together. It bridges the islands of economic activity. In a different idiom, transportation can be called the lifeblood of an economy.

To use still other language a carrier, as a trucking firm or railroad, may regard the performance of a certain carriage as optional. Whether that carriage is performed may not be optional to the shipper, or even the community. To either or both, it may be essential.<sup>2</sup>

The second exceptional feature of freight transportation is that its cost structure is dominated by overhead costs. This is a highly complicating factor, and the source of many contentious issues in transportation policy. Most troublesome of all is the overhead of right-of-way. Every right-of-way is a monopoly. This is true of a Burlington Northern Railroad Line, Interstate 70 that passes through my State of Missouri, and the Mississippi River. Notably, in highway and water transport Federal policy has served to avoid converting monopoly of right-of-way to monopoly of carriage. Secretary Bergland proposed just before the Presidential election that the same principle be applied to rail trackage. It would become a public resource and made available to several railroad companies, not just a single one. Incidentally, the

<sup>1</sup> J. H. Beale and Bruce Wyman, quoted in D. Phillip Locklin, "Economics of Transportation," sixth edition, Richard D. Irwin, Homewood, Ill., p. 468.

<sup>2</sup> Harold F. Brelmyer, "A Long Range Interpretation of the Transportation Dilemma," Univ. of Mo.-Columbia Dept. of Agr. Economics Paper No. 1979-45, p. 2.

advisory task force very nearly proposed the same idea as a fallback policy in the event its preferred recommendations failed to solve transport problems. In a second, final vote the majority shifted to the other side. But contrary to what appears in the final report, there was considerable sentiment on the task force for nationalization of roadbeds in the event rail transport stays in trouble.

As another incidental note, section 2 of the rail deregulation bill carries the line that "most transportation within the United States is competitive." Congress has awesome powers but they do not extend to declaring that the Moon is composed of cheese or that transportation is competitive. Transportation by its nature has a considerable monopoly element.

But overhead costs are not confined to right-of-way. Power, freight cars, traffic management staffs—an enormous portion of the costs of transportation are overhead in nature and not affected appreciably by whether three or five trains run a day or each one has 50 versus 70 cars. What this leads to is discriminatory pricing, on what is known as the value of service principle or what the traffic will bear. In other words, the overhead cost is to be recovered where it is recoverable. Justification for the rule lies first in its practicality but second in the important fact known to theoretical economists, namely, that wisely chosen discriminatory pricing allows a broader and more complete bundle of services to be provided than is possible under any rigid formula for ratemaking.

For a century the Interstate Commerce Commission has stood guard to insure that discriminatory freight rates not be unduly discriminatory (the adverb "unduly" is crucial). That has been its central mission, its reason for being—though connected, of course, with quality of service provided.

The new rail law changes ratemaking rules. It first allows a great deal of ratemaking freedom. But it then reverses itself as Congress put limits on exercise of that freedom, doing so by specifying formulas for maximum rates. Even though I was glad to see a limitation added my smile was accompanied by tears. For what a formula! Rates are subject to ICC review if, where a railroad is dominant, rates exceed 160 percent of variable costs. The formula opens the door for all sorts of sleight of hand in classifying costs. What is the variable cost of adding one car of wheat to a train—on a branch line, on a main line, for short distances, long distance? It's whatever the accountant says it is. The complexities in applying such a formula, and the opportunities for protracted litigation, can make one's bones rattle.

Aside from the questionable workability of the formula, the course taken by Congress reminds of a principle I have observed during my 45 years of involvement in agricultural policy. Congress cannot successfully legislate the details of policy. It can only establish the general terms of policy. Administrators in the executive branch must be given the responsibility for tooling any economic policy. Congress broke that rule. I predict it will live to regret doing so.

I noted above that the ICC has traditionally had surveillance not only over rates but over the equally important companion to them, the kind of service offered. In some respects the new law is more devastating in abolishing that ICC activity than in the new ratemaking policy.

The heart of the matter is the authority for contract rates and abandoning the common carrier principle.

Again I cite history and tradition. The high overhead component to costs could readily allow not only ratesetting by whim, caprice, and predatory strategy, but an equal arbitrariness in the kind of service provided. So it has been that the ICC has said to railroad companies for a century—and to regulated truckers since 1935: If you set out to offer freight service to an area of our Nation you offer it uniformly, regularly, dependably; to big and small shipper, to big city and small town. You cannot pick and choose, and definitely once committed to provide service you cannot provide or withhold it whimsically.

#### THE NEW LAW AND THE COMMON CARRIER PRINCIPLE

The mandate I have just described is the common carrier principle. The principle fits with regarding transport as the lifeblood to smaller communities and smaller shippers/receivers.

The principle has become a casualty of the new railroads deregulation law. The law does not abolish it in so many words. It does so backhandedly. It endorses contractual freight services. Although it puts a limit on the relative proportion of contracting it also contains the devastating provision that in case of a crunch, contracts take priority over common carriage.

Bury the common carriage principle deep, and mark the grave with its cause of death, action of the Congress and Executive, 1980.

On this subject I get some wry humor. The advisory task force supported freight contracting. But it added that the common carrier obligation of rail carriers should be continued. I then aimed my dart: Giving priority to contracting and maintaining common carriage, I protested, are "incompatible." "If shippers armed with contracts get preference, some others will be left without service." The new deregulation bill proves the accuracy of my warning.

What we are going to get under the new rail law is a mish-mash of service and rate arrangements that will be incomprehensibly complex. Any semblance of uniform, preannounced, reliable rate structure will disappear. The situation will be exploited to best advantage by carriers and shippers who are most favorably situated, at the expense of all others. What carriers prefer is to move through-trains of freight long distances between terminal points. As that kind of shipment often does involve alternate carriers (there are several rail lines between Kansas City and St. Louis, for example), competition will likely exist there. It could be vicious. It could in fact prove predatory. I foresee the kind of rate and service structure that has emerged in decontrolled air travel. For air travel the 120 miles from Columbia to St. Louis the fare has skyrocketed to \$65. Yet at times one could fly from New York to Los Angeles for \$99.

The new rail law has another feature that gives cause for concern. It is the burden placed on aggrieved parties to petition for redress. This policy is wrong on principle: Government ought to enforce justice; it should not knowingly allow injustice to prevail subject only to protest by the victim. The policy is wrong for the further reason that only larger firms will have available the accounting and legal services that are necessary if corrective action is to be sought.

The rail deregulation law reeks of favoritism for large shippers, large receivers, large carriers, and terminal locations. For smaller shippers and more remote locations it promises severe problems and, in some cases, disaster.

In no sense do I oppose all features of the new law. Also, it must be admitted that the actual effect will depend in part on how the Interstate Commerce Commission administers it. But another flaw is the unilateral action allowed railroad companies in setting joint rates. And there are others.

#### HOW TO BE HOPEFUL

If my negative judgments are at all justified, it is hard to account for the course of events leading to the new transport policy. Several of the "findings" in section 2 of the rail act are simply invalid. Worse, the act seems to be based on a nonsequitur. Railroad earnings have not been adequate to assure good service, it is said, correctly. "Therefore, allowing railroads to earn more money will restore good service," is offered as a logical deduction. It is false. Railroads can earn more money in a thousand ways that do not constitute good service.

Much at fault, it seems to me, is the atmosphere that has prevailed in our Nation. A malaise, a disbelief that approaches nihilism, a growing factionalism in place of national unity, all these are involved. In 1979 when the administration proposed its rail deregulation bill I called it an exercise in irresponsibility, and pointed out that support for it came from opposite ends of the political spectrum. "Liberals favor deregulation," I wrote, "because they believe regulatory agencies such as the ICC only shelter their industries and gouge the public. Persons of opposite political view object in principle to public checking of private power."<sup>3</sup>

I have not touched on branch line abandonment or a dozen other issues. The principal deficiency, it seems to me, is an incapacity to address transportation in the broad view—intermodally, interregionally, and intergovernmentally. Decisions regarding branch lines ought not be made line by line, nor mode by mode. There is an interrelationship among various means of transport—it can be supportive, symbiotic, or disruptive, chaotic. To be sure, the various States are induced to set transport planning in motion but progress to date has been extremely patchy.

But the basic problem is that in the present mood we address the issues from the wrong point of view. I have remarked often that transportation must constitute a system. Our highways meet that test; our railroad flunk it. We do not have a single coast-to-coast rail line. Our rail system is truly a melange of short lines. A transport system must be planned. In a democracy both the agencies of government and the private interests involved have voices in the planning. And the object must be a system. This orientation—the word I used at the beginning of this paper—is what counts most.

In that regard I find myself respectful toward various heroic efforts by local interests to provide their local rail services. I approve

<sup>3</sup> Harold F. Breimyer, "The Proposal to Deregulate Railway Transportation," "Economic and Marketing Information for Missouri Agriculture," University of Missouri-Columbia, May 1979, p. 4.



the new trial runs in cooperative short lines, modeled after the rural electric cooperatives. The advisory task force asked for experimental efforts of that kind. Yet the thought keeps nagging that we do not need ever more separate, uncoordinated providers of rail freight service. In my more acid moments I say we can forego more Tooner-ville Trolleys. So although I respect the efforts I have some reservation as to whether they go in the correct direction.

I doubt we want to nationalize all railroads—although some railroad companies (and railroad unions too) almost invite that action, by their intransigence. Therefore my best proposal is for a combined governmental-private governing board that sets the terms by which all rail service is provided. This would involve much telescoping of management. Definitely in my mind's eye is the combining of all freight cars, or at least the standard types, into a single carpool, managed centrally by computer control.

But what I plead for is philosophy. It begins with a recognition that the business of providing transportation is not like any other business. On the contrary, it is different from almost every other business. And the principal difference is that its essentiality puts it in the public interest. Not pronouncement by railroad presidents nor decree by the Congress nor declaration by executive officials can alter this basic fact. Until that fact is recognized and acted on, it is difficult to be hopeful.