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Report of Freight Rate Committee of Southern Governors' Conference

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Since the last full meeting of the Conference in Savannah on December 13 & 14 of last year there has been considerable activity on the "Freight Rate Equalization Front", requiring the attention of your Freight Rate Committee and considerable work on the part of our rate staff, as well as further employment of our Commerce Counsel for the purpose of resisting the latest efforts to jettison or delay our long fight for class rate equalization.

The Conference, from its very inception, has had as one of its prime objectives the establishment of a system of non-discriminatory freight rates applying in and between all the sections of the United States. The first complaint to be filed and prosecuted to a successful conclusion was the "Governors' Commodity Rate Case", ICC Docket No. 27746. While that order had an immediate beneficial effect on certain industries in our region, its greatest importance lay in the fact that it sustained for the first time the contention of the Southern Governors' Conference that there was no justification for the maintenance of a higher level of rates within Southern territory and between Southern and Official territories than the level of rates existing within the Official territory. With that barrier removed, the Conference, in cooperation with shippers and traffic organizations, urged the Interstate Commerce Commission to initiate a general investigation into railroad class rates throughout the nation with the view of bringing about nationwide uniformity of these rates. The importance of adjusting and unifying the class rate structure is due to the fact that the class rate level provides the yardstick or gold standard to which almost all other rates are related in one way or another.

Responsive to this appeal the Interstate Commerce Commission on the 29th day of July, 1939, issued its order in Dockets 28300, Class Rate Investigation, 1939, and 28310, Consolidated Freight Classification, initiating an investigation into the lawfulness of class rates and classification ratings throughout the United States east of the Rocky Mountains.

Following numerous hearings, and the consideration and denial of repeated motions for abandonment or delay, the investigation was eventually concluded with the final hearing
before the Commission at Washington on April 1, 1943.

On May 15, 1945, the Commission handed down its decision in these proceedings in which it fully sustained the contention of the Conference that there should be a uniform, nation-wide, non-discriminatory level of class rates applicable within and between all the freight rate territories east of the Rockies. The Commission prescribed a scale of class rates for application throughout the territory involved, and directed the carriers to proceed without delay to prepare a uniform freight classification for application in connection with the new scale of class rates.

The order contained an interim equalization provision designed to bring the varying class rate levels closer to equality, pending the formulation of the classification. This objective was to be accomplished by increasing the rates in Official territory 10% and making a corresponding reduction of 10% within the South and West as well as between all territories.

Before this order could become effective the Western Railroads and the Governors of 11 states in Official territory sought and obtained from the United States District Court for the Northern District of New York a temporary injunction. The petition for a permanent injunction was heard by a 3-Judge Court, which unanimously sustained the orders of the Interstate Commerce Commission, and dissolved the temporary restraining order on May 9, 1946.

The effective date of the order was again delayed, however, for another 12 months, while the decision of the District Court was under review on certiorari to the Supreme Court of the United States.

The Supreme Court affirmed the decision of the 3-Judge Court and fully sustained the order of the Interstate Commerce Commission. This decision was released on May 12, 1947, and on August 22, 1947, the shippers of the South and West realized the first fruits of this long struggle for freight rate equality when a 10% interim reduction became effective.

This, however, was only a small measure of the relief to which the South was entitled and the next task was to get a uniform classification filed in order that the ultimate uniform scale of rates prescribed by the Commission in Docket 28300 could be made effective. This litigation had also delayed the carriers in undertaking the preparation and filing of the classification, but this work was promptly commenced following the decision of
the Supreme Court, under the direction of a 3-man committee made up of the chairman of the three territorial classification committees.

The rail carriers conducted their first public hearings on the proposed classification revision, beginning in August of 1947, and when it became apparent that these hearings were productive of little helpful testimony but, on the contrary, were replete with wrangling and opportunity for delay, your Freight Rate Committee appealed to the Interstate Commerce Commission and to the railroads to discontinue the procedure and permit the carriers' Uniform Classification Committee to devote its full time to formulating a proposed classification. The railroads acceded to this suggestion and completed their proposed classification about the first of this year. They then conducted public hearings, at which I am happy to report shippers cooperated to a much greater extent than before.

Our rate staff has followed the work of this Committee from the very beginning. In so far as it has appeared advisable, we have had a representative in attendance at the numerous public hearings which have been held throughout the country. The most important task of our rate staff, however, has been the complete and detailed analysis of all the changes in classification ratings which have been proposed by the carriers from time to time as contained in the formal dockets issued in advance of the hearings.

As you will recall from my report at the Savannah meeting the National Industrial Traffic League, and a number of northern shippers, filed a petition with the Commission asking that the class rate case and the classification investigation be reopened. Several arguments were advanced in support of the petition, but it was apparent that this was only another of the many, many attempts to nullify the favorable decision. At the Savannah meeting the Conference authorized me to re-employ our counsel of long standing, Mr. J. Van Norman, of Louisville. Mr. Norman, with the help of Mr. E. L. Hart, who has served for many years as our chief rate expert and advisor, prepared and filed an excellent and forceful reply, and as a result the petitions for reopening and reconsideration were denied outright by the Interstate Commerce Commission.

On June 20th of this year a report entitled, "The Impact of Federal Policies on the Economy of the South", was filed with the President's Council of Economic Advisors. Unfortunately, this report, which had been prepared by two Duke University professors, Dr.
Calvin B. Hoover and Dr. B. U. Ratchford, contained a very perturbing and unjustified attack on the efforts of the Conference to gain freight rate equality.

Not only did the authors undertake to debunk the importance of freight rate equalization, but they bluntly stated that the existing discrimination had not retarded the industrial progress of the South and they charged the Governors' Conference with using political influence to achieve uniformity, and with making political capital out of the entire issue. As soon as I saw this report I realized that it should be answered, not so much to defend the Conference, because we certainly need no defense for the consistently unselfish efforts we have made for the betterment of the entire nation. My conviction that the report should be answered was predicated on the fear that it would be used against us as the basis for some further effort to delay the culmination of the Class Rate Investigation.

Accordingly, I formulated what might be described as a very frank reply, and in it I charged the two professors with misinformation, misinterpretation and motives unfriendly to the South. I sent copies of my reply to each member of the National Planning Association of the South, to the Council of Economic Advisors, and to others whom I thought should know the truth. I also released the statement to the press, but as is so often the case the reply failed to receive as great publicity as the erroneous charge.

My original concern was confirmed when, on October 19, 1949, the railroads operating in the Western District filed with the Commission a petition for reconsideration and modification of the Commission's findings. In that petition they quoted word for word the complete statement of Dr. Hoover and Dr. Ratchford in further support of their rehashing of the time worn arguments against uniformity.

At first glance it may appear that we have little interest in the petition of the western lines, for it frankly states that the Western Carriers have no objection to uniformity east of the Mississippi River, provided they are authorized to assess a difference and higher scale of rates west of the River. But a review of the history of these proceedings and a plain practical analysis of the situation will demonstrate that our bid for freight rate equality is inseparably linked with the fight of the West to overcome its even greater discrimination. Also the States of Arkansas, Oklahoma and Texas are members of this Conference, and while they have pursued their fight through the Western Conference, this Con-
ference has joined with us in presenting a united front. Furthermore, Arkansas this year joined the Southern Governors' Conference fight. The unity of action is important to success in the freight rate fight. Indeed, if the carriers should succeed in securing an opening wedge it is likely that we would find ourselves immediately confronted with a last ditch stand to protect our favorable decision.

Accordingly, I promptly notified the Freight Rate Committee that in the absence of objections I would request our Counsel, Mr. J. Van Norman, to prepare and file a reply to this petition, insisting that it be denied. This reply was filed today and I am confident that we have assigned sufficient reasons to demand the denial of the petition. Once we have frustrated this latest of the many, many attempts to deprive the South and the West of freight rate equalization we should be on the high road to success.

The rail carriers have now completed the proposed uniform classification and have finished with their series of public hearings. The only things which remains to be done is for the Interstate Commerce Commission to direct the carriers to file the new classification and to set the date upon which it will become effective, and further to take such action as is necessary to bring the prescribed uniform scale of rates up to date.

Unfortunately by "bringing up to date" we mean applying to the scale some of the many and large rate increases which have been granted the carriers since the end of the war. Frankly, I am greatly concerned, not only with our primary aim of achieving uniformity, but also with getting freight rates back down to some reasonable level. Of course, the Interstate Commerce Commission has not given the carriers all of the rate increases which they have sought, and without detailed information on all these cases I must assume that the Commission was justified in granting the authority it did. Regardless of the justification, however, there are now new and powerful forces at work which make it absolutely necessary for the good of the railroads themselves that rates be reduced substantially. The railroads are meeting the most strenuous of competition from for hire motor carriers, water carriers, pipe lines, and most of all from privately owned trucks. The dangerous and unfair aspect of this situation is that many small shippers and many producers of agricultural commodities are unable to avail themselves of these competitive forms of transportation, and therefore must pay the higher freight rates, while others more favorable situated, either because of geo-
graphical location, or because of their wealth and magnitude, secure an important advantage.

I am gratified to have this opportunity to make a further report to you, and in closing I should like to say that while we are on the brink of success in our fight for uniform rates it is my firm conviction that the Governors' Conference must continue to be vigilant about the transportation situation within our great territory, for good transportation provided at a reasonable cost can be one of the greatest incentives to the industrial development of our southland.

J. Strom Thurmond
Governor of South Carolina
Chairman, Freight Rate Committee
Southern Governors' Conference