

LAW AND CONTEMPORARY PROBLEMS

VOLUME 24

AUTUMN, 1959

NUMBER 4

FOREWORD

The transportation problems receiving most attention in recent months have concerned the movement of a few pounds of cargo from earth into outer space. Our eyes have turned to the heavens, and newspapers teem with accounts of the rigors of astronautics. However, it bears emphasis that, in the quest to devise new methods of propulsion away from Earth, we should not forget that transportation on this planet, and even on its American portion, still presents some substantial problems. At the risk of lagging in any "race for space" that may be under way among legal periodicals, the editors of *Law and Contemporary Problems* are devoting this and the next issue to a symposium on (strictly terrestrial) American transportation problems.

For space travel, planners have faced tremendous problems in the allocation of resources. Since funds are not illimitable, how much money shall be used to develop an Atlas missile, how much for a Saturn, and so forth? In like manner, determining the best allocation of physical and financial resources can be a perplexing problem in the sphere of earthbound transportation. Dr. Nelson takes the position that the resources available for transportation in the United States are not being exploited in the most advantageous way. As a partial cure, he suggests that a system of user charges be employed to place air, motor, and water carriers on the same level of competition with the railroads. Dr. Roberts's focus is on transportation prices and their relation to the flow of transportation resources. He contends that the present regulation of these prices is excessive and does not produce the best allocation of resources.

Not infrequently, coordination and cooperation can enhance the utility of existing resources—a fact that is reflected in the praise often bestowed on "teamwork." On the other hand, the existence of statutory prohibitions against conspiracies in restraint of trade suggests that some forms of cooperation are generally deemed baneful. Since various associations have long played a major role in the transportation industry—both in the United States and elsewhere—it becomes important, therefore, to determine what is the proper field of action for the conference composed of different carriers of the same type. For this determination, Professor Marx and Messrs. Seaver and Schmeltzer provide valuable guidance.

Not only cooperation between different carriers of the same type—such as shipping conferences, rail conferences, and the International Air Transport Association—but also coordination between different types of transportation agencies—rail-truck, air-mail, water-rail, and so forth—must be considered as means of best allocating transportation resources. Professor Melton's study of such coordination has led him to recommend that transportation companies be allowed to operate in two or more media. This, however, flies squarely in the face of the historic fear, voiced by Mr. Beardsley, that transportation companies, or any type of cross-ownership, would be simply a prelude to railroad extermination of other carriers.

Railroad spokesmen, taking the opposite tack, assert that the rail carriers today are more sinned against than sinning; and that the sin is of such enormity as to threaten the loss of the vast resources that the United States and its citizens have invested in the railroads. Thus, Mr. Mackie insists that the burden of discriminatory local taxation of the railroads has become crushing. And Messrs. Gidding and McKinnon suggest that tax reform at the federal level could also promote the health of the railroads, and of the transportation industry generally.

While government subsidy has provided some of the sinews of the American transportation system, private investment, as well, has played a major part. In the future, too, the amount of capital directed to the transportation industry, and among its various segments, will depend to a great extent on the decisions of private investors. Assuming that these investors bear any resemblance at all to the traditional *homo economicus*, their decisions will be greatly influenced by the rate of return available; and this will often hinge on the policies of regulatory agencies. This, then, sets the stage for Mr. Howell and Dr. Smith, who address themselves to the question of regulation of the rate of return to transportation agencies. Since the former writer is a financial consultant who recently made an extensive study for the CAB of airline rate of return and the latter is an airline executive, both of them, not unnaturally, center on the burning controversy about airline fares and do not reach identical conclusions.

Ours is a rich country; and yet—especially with today's vast demands for national defense, space exploration, research, and the like—it is not so wealthy that it can afford to squander its resources. Among the most significant of these resources is the national transportation plant. If this symposium can point the way to a better utilization of that plant, the editors feel that it will have rendered a worthwhile service.

ROBINSON O. EVERETT.