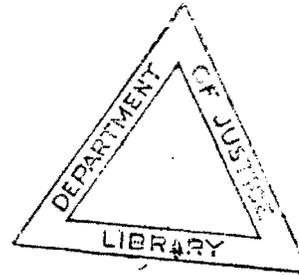


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AN ADDRESS

BY



TOM C. CLARK

ATTORNEY GENERAL OF THE UNITED STATES

Prepared for Delivery.

Before the

FEDERATION FOR RAILWAY PROGRESS

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"Where there is no vision the people perish," the Psalmist said. Railway progress demands vision too, or it will perish. It is of tremendous national importance. In fact the complete development of our country requires it and our national defense compels it.

There is no place in the railroad picture for the visionary who is a victim of fright, but for the visionary who pierces the veil of the future with an authentic second sight there is not only a great demand but an absolute necessity. Of course he has to take off his blinders. I know some visionaries who have worn blinders for years.

It used to be supposed that progress was an automatic and inevitable result of the course of human history. Thomas Jefferson spoke of "the progress of liberty" which had begun in the United States with the American Revolution, which would spread to other nations. Later, with the industrial revolution, arose a generation which had faith in the "manifest destiny" which was to result in the peopling and expansion of this nation, and in a tremendous scientific and technological development. Many people believed that the path of man's destiny led upward and onward, regardless of what wisdom and management were employed in the conduct of human concerns. It was believed that progress was inevitable and inescapable.

But now, after our experience with two world wars, we realize that progress is not something which just happens. We know that retrogression is also possible in human experience. We have seen it in Germany. We know now that progress is a plant which must be cultivated in order to produce fruit - good fruit. It is not a weed, which will thrive even on a railroad track.

When we develop that vision with a second sight, progress and accomplishment will follow. To do this we must be alert with all five of our watchful senses. The price of progress is an exacting one.

The record indicates that progress in railroading has been slow. Back in 1884 a few railroads knew of the caboose. At that time the cupola on its top was

indeed "the new look." While these little shanties were in reality the command cars handling the freight of the nation, the cupola innovation was not even made available on most roads until the turn of the century. In 1885 a man named Phelps proposed a communication system for the railroads using the principle of electrical induction. The powers that be, however, turned him down.

Today we find the same system is being developed and the present-day shanties or command cars, which we call cabooses, have communication with the engineer, as well as the station master. Heretofore a man had to have good lungs and be able to run the gauntlet of freight cars between the caboose and the engine. So now, some sixty years after Mr. Phelps introduced a communication system, some of the railroads have finally come around to putting it into effect. As a result there is no necessity of having a cupola and they are being taken off of the caboose. If someone of vision had heeded Mr. Phelps there would have been no necessity of putting them on.

Instead we would have had the beautiful bay windows that we see on a few of the more advanced cabooses over the country. Some at the top acted like our recent New England thaws. Instead of thawing out at Mr. Phelps's suggestion they just froze over again, covered their heads and went back to sleep. As a matter of fact, railroading ran along this way until World War II brought us to the stark realization that something must be done. One advertisement of an eastern railroad certainly tells the truth about it. That ad ran in big headlines with a hell of a way to run a railroad."

Railroading with a vision has picked up some since V-J Day. However, Business Week says only 1404 new cars, exclusive of freight cars, have been built. Eight hundred and twenty of these are coaches, and 85 sleepers. There are 2236 cars now on order, of which 1141 are Pullmans. It is estimated that it will take three more years to build these cars. It is also reported that only twelve rail-

roads each have fifty or more passenger train cars on order,

On the other side of the road, we know that 3,167,231 new automobiles, including trucks, were licensed in the United States last year. I fully realize that comparison between an automobile and a railroad car is similar to that of the proverbial rabbit and the elephant, but the figures of new units are likewise enormously one-sided. Pioneering continued in the automobile and trucking business, while in railroading it had been quiescent. The 100-mile trip that each man, woman and child took on the railroads in the United States last year was virtually in the same old coaches and equipment that they have been riding in for many years. Certainly they do not invite more trips. And on the merchandising side, the ten tons of freight that each man, woman and child in the United States shipped for an average of 500 miles over the railroads last year was with the same antiquated equipment and much of the same service that has been in vogue for half a century.

Railroading must keep up with the advancements in science. Each railroad in the country should be a laboratory for experimentation and research. By the use of the laboratories, innovations and improvements would keep this great transportation industry abreast of the times. Improvements when discovered should be made available to other lines, as is generally done in the automobile and airplane industry. The public welfare must be held uppermost. Bottlenecks that have existed in transportation for years must be wiped out. The public also must be brought to the realization that there is more to railroading than rates. Service must be the watchword. They who serve well always sit at the head of the table - and it is the first table, too.

For a generation some in America have forgotten this simple principle. Many of us have concentrated our thoughts largely on what we, as individuals, could claim or hope for, or get, for ourselves from our fellowman, regardless of our own contribution to their interests. Some parents - including me - have devoted

themselves to aiding their children in securing the maximum advantages merely for the children alone. The chief virtue of education, we are often told, is that income is thereby increased. We give little notice and less care to the obligations which each generation must assume to his fellowman. The ultimate question of late has been "What is best for me?" That is putting it rather bluntly, but it rings true.

Take in your own industry, for example. I read the other day - and I quote:

"Subsidies that give one system of transportation competitive advantages over another are not in keeping with the American system of free enterprise. All the railroads ask is that the principle of free competitive enterprise apply to all; that the service each renders a nation be the measure by which its existence is justified."

The author of this statement must have forgotten that in the original development of the railroad system we have today acts of Congress and of state legislatures granted land and other financial support to the then infant railway industry. I recall one road that received some five million acres of American land that requires its grantees and lessees to ship exclusively over its road. And further, it requires them to order their purchases sent over this one railroad.

This contract is reminiscent of the tie-in clauses in patent licensing. But it even goes them one better. This author also failed to mention that the railroads were also given the right of eminent domain - which is, as you know, the power of sovereignty itself - a power that is very seldom granted to private concerns.

In recent years the Congress and the States have also legislated with regard to the law of torts which has a direct bearing on the liability of the railroads for personal injuries. Likewise, the railway labor laws of the country have established a continuity of operation in the railroads that is known in no other industry. The Congress has also created the Interstate Commerce Commission,

which not only gives protection to shippers and communities engaging in interstate commerce, but also to the railroads. Certainly a thankful people through their federal and state governments have been considerate and ever-helpful to an industry that has been so important in the development of the country.

But the Congress has up to this date made the railroads, as it has all industry, subject to the other laws, particularly the antitrust laws. Nothing is more peculiarly American than the doctrine of free enterprise. I am confident that the railroads can live and prosper under this American system. I am confident they can furnish adequate transportation service to the public. Some in the industry seem to be skeptical about the traditional American method of doing business. They seek to obtain a status of special privilege exempting them from the competitive standards which are so vital to the American business structure.

As you know, at the present time there are two cases pending in the courts alleging restrictive policies on the part of the railroads which impede independence of action and managerial judgment. The Supreme Court took jurisdiction in one case, the so-called Georgia case. Each of these cases point up agreements between some of the roads depriving the individual railroad from effecting lower rates, adjusting schedules, and, in the case at Lincoln, Nebraska, of even installing air conditioning for the comfort of the public.

It is not surprising with this kind of agreement that our railroads are more or less still in the horse and buggy days. But what is surprising to me is that many prominent figures in the industry appear to be desirous of perpetuating this self-imposed burden, in that they advocate and urge the enactment of the so-called Bulwinkle Bill. This legislation would confer upon carriers a status of special privilege and exemption from the antitrust laws. It would grant to the railroad organizations power over the industry which would be greater than those enjoyed by the Interstate Commerce Commission itself.

The Bulwinkle Bill would place in the hands of such private organizations an immunity from prosecution on subjects over which the Congress has not seen fit to even entrust the Interstate Commerce Commission. For example, questions relating to equipment, schedules and time of departure and arrival of trains would be beyond the control of the Commission once it approved basic agreements. Likewise in the fixing of rates and charges of transportation, the private organizations of carriers would be given complete immunity from the antitrust laws and would be enabled to engage in an unrestrained program of price fixing.

Doubtless many other industries, besides the railroad industry, would be happy to be the beneficiary of legislation permitting them to engage in price fixing. No industry should be placed above the law. The law should apply equally to all;— for equal justice under the law is one of the basic principles of our democratic system.

The fact that railroads are subject to regulation in the public interest, is no justification for such a discrimination in their favor. Regulation merely means that the carriers are subject to certain obligations peculiar to themselves, in addition to the obligations which the law imposes upon all businesses generally. It does not mean that they should be permitted to escape from such general obligations.

One might as well argue that because the railroads are subject to regulation they should be exempted from the payment of taxes. But obviously the fact that they must obey the Interstate Commerce Act is no reason why they should be free to disregard the Internal Revenue Act or the Antitrust Act. Their status as public utilities means that there are more, not less, legal requirements with which they must comply.

It is therefore absurd to claim, as some railroad spokesmen do, that transportation is being placed under two masters. It should have but one master — the

people; and to use the phrase of an old record - it should heed that master's voice more often.

Now that I have tried to be constructive in pointing out some of the weaknesses of the railroads let me say that I have nothing but the kindest feeling for those who operate the railroads and that goes for management and labor. The railroads of the United States have done more than any other single force to bring about the greatest federal union of states that the world has ever seen. The early pioneer railroaders were certainly men of vision and brains and brawn. They forged a band of steel around our country which has bound us together. Truly the railroads are often described as constituting the "backbone" of the nation's transportation system. They are vital to our industrial development. If by magic overnight the railroads of this country were to disappear, the handicap and burden to our industrial life would be indescribable. What I have said regarding the importance of railroads to the nation's economic and industrial life applies with even greater force when the requirements of national defense are kept in mind. During each war they have rendered monumental service. In the last war I am familiar with their operation. I venture to say that we could not have won the war so quickly had it not been for the railroads. Theirs was a service dedicated to the cause of victory.

So it is clearly apparent that both in war and peace the importance of railroads to American national life, to our industrial and military economy, is extremely vital. No wonder then that Government regards "the maintenance and development of an economical and efficient railroad system" as "a matter of primary national concern."

It was because of this outstanding operation under the most difficult conditions that we, who were thinking of the privileges and duties of freedom, turned to the railroads for help. One of the railroads furnished the facilities that

finally resulted in what is known in every community of America as "The Freedom Train." It is fitting that the railroads should be entrusted with the responsibility of carrying to over 300 cities in America the precious documents of our freedoms. It is fitting, because they helped to put life - reality - into those written parchments. In a sense every train is one of freedom, for by affording the facilities of transportation to the people the railroads promote unity, goodwill and brotherhood - and have won a place deep in the hearts of all Americans.