

ECONOMIC EFFECTS OF DISCRIMINATORY FREIGHT RATES

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I

During the last decade spokesmen for the South, joined by those for the West, have vigorously asserted that the freight-rate structure of the United States is unjustly discriminatory to the southern and western regions and has inhibited the economic growth and development of those areas. Particularly it is asserted that industrial development has been unduly hindered by the present system of freight rates.

Generally the assertions of discrimination do not apply to *all* freight rates paid by shippers in the South and West, but are usually directed at the basic freight-rate structure, the class rates. These, to a great extent, are used for the movement of freight traffic of relatively high value, including manufactured goods.

A brief description of class rates and other types of freight rates making up the freight-rate structure is necessary for an understanding of the function and relative importance of class rates.

The cost of shipment on class rates in dollars and cents is obtained by the use of two factors. One is a first-class rate scale and the other is a freight classification. The first-class rate scale is a mileage scale, which means that it is divided into mileage blocks, in which the first-class rate increases as the distance increases but in a lesser proportion. For instance, on a given first-class rate scale for a haul of 50 miles the charge would be 47 cents per 100 pounds; for 100 miles, 62 cents; for 400 miles, 109 cents; and for 1,000 miles the charge is 182 cents.

A freight classification, the second element, is a list containing a description of almost every commodity moving as freight and the class or classes to which it is assigned—that is, its classification rating or ratings. One commodity usually has more than one rating, depending on volume and conditions of shipment. Each rating is indicated by a number, letter, or number-letter symbol. First class, known also as class 100, is the standard class, and the remaining classes are related to it by percentages. For example, articles given a classification rating of second class, which is 85 per cent of first class, move at 85 per cent of the first-class rate, while those assigned third class, 70 per cent of first class, pay 70 per cent of the first-class rate,

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and so on. Each freight classification has a number of standard or regular classes. An obvious advantage of the use of a freight classification is the grouping of a large number of items into a limited number of classes, thereby avoiding the necessity of publishing freight tariffs containing every charge for each commodity for every possible distance and for every possible volume and kind of packing. In the freight classification is also a statement of the regulations governing the carrier-shipper relationship, packing specifications, and minimum weights applicable to freight shipments.

Thus, it is important to remember that neither the classification nor the individual rating contained in it determines what the shipper must pay for a shipment. The cost will depend on the first-class rates (published separately in the form of a rate schedule containing the cost, or price, per 100 pounds of moving first-class freight each possible distance it may be moved), plus the use of the appropriate class from the freight classification. To ascertain the freight charges on a given shipment moving on class rates, the first step is to look up the article in the classification, discover its proper classification rating, then to look in the class-rate tariff for the cost of shipment for the distance involved at the first-class rate, and then to apply the percentage of first class indicated by the classification rating to the first-class rate. This is over-simplification, but it illustrates the interrelation between the first-class rate scale and freight classification.

From the foregoing discussion it must not be assumed that all freight traffic, or even a large part of it, moves on class rates. There are three other kinds of freight rates on which far more freight traffic moves:

(1) *Exception rates* are rates resulting from exceptions to the classification. Exceptions are of two types: those that transfer the ratings on an article from one standard class to another, and those that utilize percentages of first class other than those used for the standard classes. The latter are known as intermediate columns.

(2) *Commodity rates* are special rates set up for specific movements of particular commodities, which remove the commodities entirely from any relationship to the classes to which they are assigned in the classification.

(3) *Column rates* are rates which apply to specific commodities, or groups of commodities, and are fixed by percentage relationships to the first-class rates by other than standard class percentages.¹

Class rates, however, will be dealt with almost exclusively in this paper. The others will be mentioned from time to time in their relation to class rates. Exception, commodity, and column rates are generally lower than the class rates, and on them moves most of the freight traffic of the United States.

¹In Class Rate Investigation, 1939, 262 I.C.C. 447, 562 (1945), definitions of the various types of rates may be found that are as unsatisfactory as the definitions given above. One of the handicaps in the field of freight rates is the inexactness and looseness of the terminology. The writer prefers that two kinds of rates be designated: class rates, consisting of those rates obtained by application of classification ratings to the appropriate class-rate scales; and commodity rates, whether published as exceptions to the classification or as column rates.

The Interstate Commerce Commission has compiled what it chooses to term a "rough approximation" of the relative importance of carload traffic moving on the various types of rates, based on a sample study. These data are set forth in Table 1.

From Table 1 it may be seen that class rates apply on the movement of a relatively small amount of the nation's freight traffic—only slightly over 4 per cent. Within western trunk-line territory, for instance, only 0.6 per cent of the traffic moves

TABLE 1

DISTRIBUTION OF CARLOAD FREIGHT TRAFFIC ON SEPTEMBER 23, 1942, MOVING ON CLASS, EXCEPTION, AND COMMODITY RATES WITHIN MAJOR RATE TERRITORIES AND INTERTERRITORIALLY IN THE UNITED STATES

Type of Rate	Per cent of Carloads	Per cent of Revenue	
Class	4.1	6.3	
Exception	10.7	16.1	
Commodity	85.2	77.6	

Territories (within, or from one to another)	Class Rates	Exception Rates	Commodity Rates
	<i>Per cent</i>	<i>Per cent</i>	<i>Per cent</i>
Official.....	5.8	17.6	76.7
Southern.....	1.8	6.0	92.2
Western trunk-line.....	0.6	0.2	99.2
Southwestern.....	2.4	4.4	93.2
Mountain-Pacific.....	1.7	*	98.3
Official to southern.....	12.6	36.3	51.1
Southern to official.....	0.9	4.9	94.2
Official to western trunk-line.....	12.3	35.4	52.3
Western trunk-line to official.....	3.1	1.0	95.1
Official to southwestern.....	22.5	52.0	25.5
Southwestern to official.....	1.5	3.4	95.9
Official to mountain-Pacific.....	11.3	*	88.7
Mountain-Pacific to official.....	0.7	....	99.3
Southern to western trunk-line.....	1.5	13.5	85.0
Western trunk-line to southern.....	6.1	3.1	90.8
Southern to southwestern.....	6.1	22.1	71.8
Southwestern to southern.....	1.2	4.3	94.5
Southern to mountain-Pacific.....	4.1	4.9	91.0
Mountain-Pacific to southern.....	1.5	0	98.5
Western trunk-line to southwestern.....	13.0	6.2	80.8
Southwestern to western trunk-line.....	2.0	3.0	95.0
Western trunk-line to mountain-Pacific.....	2.6	0	97.4
Mountain-Pacific to western trunk-line.....	0.7	0	99.3
Southwestern to mountain-Pacific.....	3.9	0	96.1
Mountain-Pacific to southwestern.....	2.1	0	97.9
All territories to official.....	4.8	14.4	80.8
Official to all territories.....	6.7	19.4	73.9
All territories to southern.....	4.1	11.9	84.0
Southern to all territories.....	2.1	6.2	91.7
All territories to western trunk-line.....	2.3	5.4	92.3
Western trunk-line to all territories.....	1.7	0.6	97.7
All territories to southwestern.....	5.6	10.6	83.8
Southwestern to all territories.....	2.0	3.9	94.1
All territories to mountain-Pacific.....	3.3	0.2	96.5
Mountain-Pacific to all territories.....	1.5	*	98.5
All territories to all territories.....	4.1	10.7	85.2

Source: *Class Rate Investigation, 1939*, 262 ICC 447, 479, 564 (1945).

* Less than 0.05 per cent.

on class rates. An examination of the relative levels and patterns of class rates applying within and between territories indicates why the use of class rates is extremely limited.

II

From a physical standpoint the railroads of the United States are a single system. As far as the standard-gauge railroads reach, carloads of freight loaded at any point can be delivered to any other point without unloading and reloading on the way. But the uniformity that marks the mechanics of service does not extend to the class rates.² For rate-making purposes the United States is regionalized, being divided into five major territories: eastern (or official), southern, southwestern, western trunk-line, and mountain-Pacific. Each of these territories, with its sub-territories, is shown on the frontispiece.

For freight classification purposes the country is divided into three major territories: eastern or official, southern, and western. Official and southern rate territories are roughly co-extensive with the corresponding classification territories. Western classification territory embraces the entire area west of the Mississippi River.³

Each of the freight-rate territories has its own level and scheme of class rates applicable to movements of freight traffic moving entirely within a territory. These rates are designated *intraterritorial* class rates. A comparison of the intraterritorial first-class rate scales, both in cents and percentage of eastern, applicable within eastern, southern, and western trunk-line territories, using 50-mile blocks up to 200 miles and 100-mile blocks up to 1,000 miles, is shown in Table 2.⁴

Even though the first-class rate scales are extremely important as indicating the levels of class rates in the various rate territories because they are the basis for formulating other class rates and many exception and column rates, they cannot be accepted as an absolute measure. To obtain a composite intraterritorial class-rate level for each territory, the Tennessee Valley Authority included a chart in one of its studies in which the various factors were taken into account.⁵ Using the same procedure with more recent data compiled by the southern territory railroads,⁶ the following levels of intraterritorial class rates were obtained: official, 100; southern, 137; western trunk-line, 146; southwestern, 161; and mountain-Pacific, 171. These different rate levels applicable in the rate territories are shown graphically in the map on page 511. Without question official territory has a distinct advantage in intraterritorial class rates.

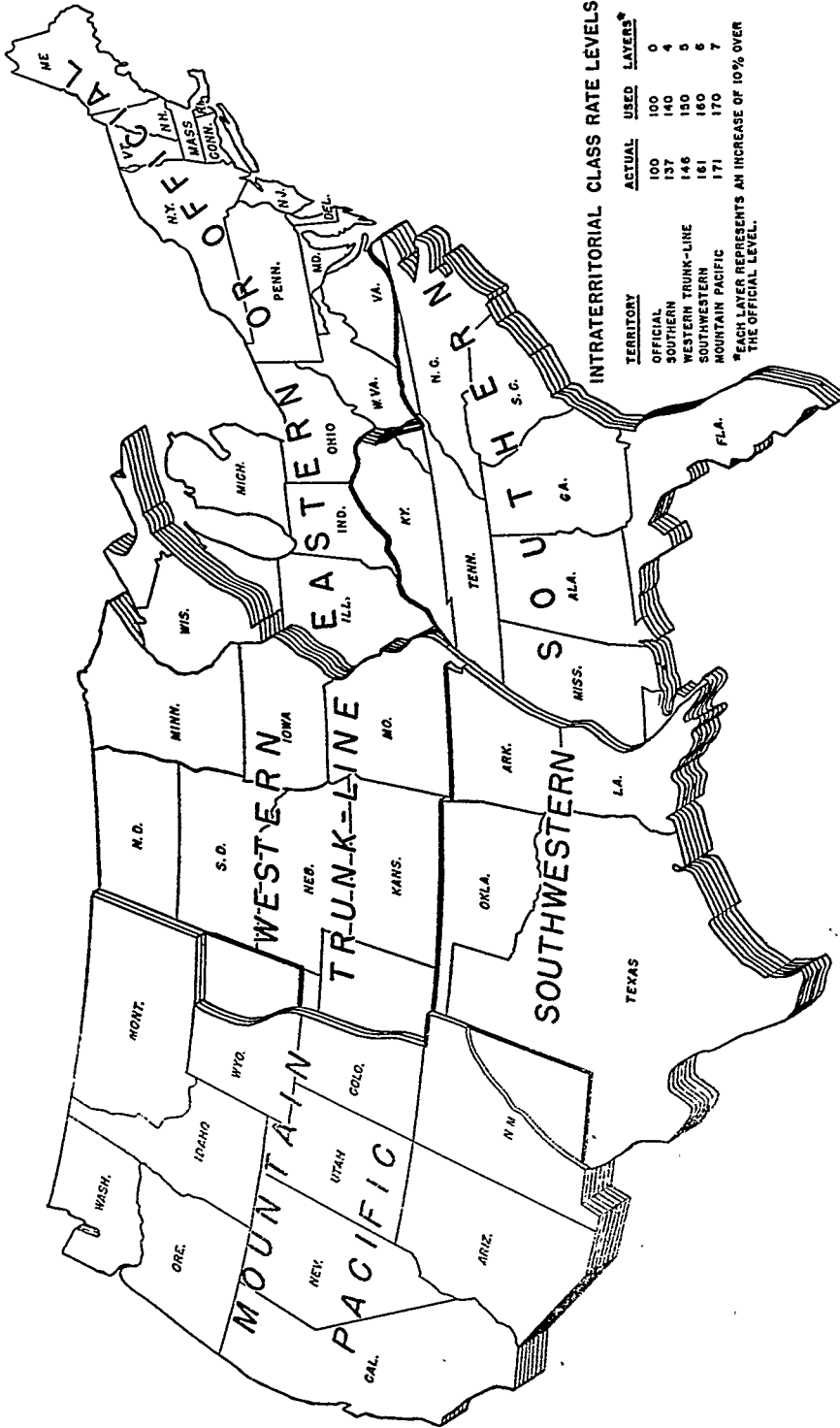
² Neither is there national uniformity in freight rates other than class rates.

³ A detailed description of the classification territories and the class rates governed by each classification is found at 262 I.C.C. 447, 456-459 (1945). A fourth classification, Illinois Freight Classification, having limited application is not dealt with here.

⁴ These and other rates shown are those in force in May, 1945, and do not include general increases subsequently granted by the Interstate Commerce Commission.

⁵ THE INTERTERRITORIAL FREIGHT RATE PROBLEM OF THE UNITED STATES, H. R. Doc. No. 264, 75th Cong., 1st Sess. (1937). The statistical technique employed is described on pp. 11-13.

⁶ Transcript of Record, States of New York, Delaware, *et al.* v. United States, *et al.*, Supreme Court of the United States, October Term, 1946, Exhibit 42, 6765, 1929.



INTRATERRITORIAL CLASS RATE LEVELS

TERRITORY	ACTUAL	USED	LAYERS*
OFFICIAL	100	100	0
SOUTHERN	137	140	4
WESTERN TRUNK-LINE	146	150	5
SOUTHWESTERN	181	180	6
MOUNTAIN PACIFIC	171	170	7

*EACH LAYER REPRESENTS AN INCREASE OF 10% OVER THE OFFICIAL LEVEL.

TABLE 2

COMPARISON OF FIRST-CLASS INTRATERRITORIAL RATES APPLYING WITHIN EASTERN, SOUTHERN, AND WESTERN TRUNK-LINE RATE TERRITORIES
(Rates stated in cents per 100 pounds)

Distance	Official Scale Rate	SOUTHERN SCALE		WESTERN TRUNK-LINE SCALE					
		Rate	Percent- age of Official	Zone I		Zone II		Zone III	
				Rate	Percent- age of Official	Rate	Percent- age of Official	Rate	Percent- age of Official
50 miles.....	47	57	121.3	53	112.8	61	129.8	65	138.3
100 miles.....	62	79	127.4	73	117.7	83	133.9	90	145.2
150 miles.....	73	96	131.5	86	117.8	98	134.2	107	146.6
200 miles.....	80	112	140	97	121.3	111	138.8	123	153.8
300 miles.....	96	134	139.6	117	121.9	134	139.6	147	153.1
400 miles.....	100	156	143.1	136	124.8	156	143.1	172	157.8
500 miles.....	122	173	141.8	156	127.9	178	145.9	196	160.7
600 miles.....	135	189	140	176	130.4	200	148.1	220	163
700 miles.....	149	206	138.3	196	131.5	222	149	244	163.8
800 miles.....	160	222	138.8	210	131.3	239	140.4	263	164.4
900 miles.....	171	235	137.4	226	132.2	256	149.7	282	164.9
1,000 miles.....	182	249	136.8	240	131.9	273	150	300	164.8
Average.....	...	...	137.7	...	129.6	...	144.4	...	159.4

Interterritorial class-rate structures are much more complicated than the intraterritorial ones. These interterritorial rates have been the source of many of the complaints which the South and West have directed at class rates. It is asserted that the eastern-territory producer has a great advantage for reaching the rich markets of official territory when his rates are compared with the higher class rates that must be paid by producers in the South and West for hauls of equal length to reach these same markets.

As has been pointed out, each rate territory has its own level and scheme of intraterritorial class rates; consequently, the rate structures do not fit together at the boundaries and are unsuited for moving traffic from one territory to another. A separate interterritorial rate structure applies between official and southern territories, another applies between western trunk-line and official, still another between southern and southwestern territories, and so on. These structures are extremely complex and reflect the patchwork of numerous attempts to adapt the present class-rate structures to a national flow of traffic in the United States—something for which they are totally unsuited. No explanation will be attempted here of the technicalities of interterritorial class rates because of the great amount of space required to make even a comparatively brief exposition.

Two practices are generally followed in constructing interterritorial class rates. The first is the use of a distance scale, or scales, of rates with the charge levied for the movement of freight depending on the distance traversed by the haul in each of the territories involved. The other is the use of "key-point" rates to apply between

groups of points in one territory and points similarly grouped in another territory. Both of these practices generally produce an interterritorial scale of rates that is intermediate to the class-rate levels applying within the two territories between which the interterritorial class rates apply.

To illustrate: Table 2 shows that on an intraterritorial movement within official territory of 800 miles a rate of \$1.60 per 100 pounds applies, while for the same distance within southern territory the rate is \$2.22. If the haul is interterritorial, with 600 miles in official and 200 miles in southern, the rate is \$2.00, or 40 cents higher than the official intraterritorial rate for 800 miles and 22 cents lower than an 800 mile haul entirely within southern territory.

Examples of interterritorial first-class rates from points in the South and West to official territory, as compared with intraterritorial first-class rates for approximately equal distances within official territory, show the disadvantages borne by the southern and western shipper attempting to market his product in official territory. Table 3 illustrates these disadvantages for hauls of equal, or nearly equal, length. The first comparison, for example, shows that the Nashville shipper pays 39 cents more on each 100 pounds of freight rated first class to Indianapolis, Indiana, than the shipper at Kent, Ohio (the distance being practically the same), a disadvantage of 41 per cent.

Obviously, the class rates do not represent the actual general level of freight rates actually paid by shippers for freight transportation either within the various territories or between them. The extensive use of exception rates, commodity rates, and column rates lowers the level of freight rates actually paid to something considerably less than the class-rate levels. There is no data available showing accurately either intraterritorial or interterritorial general freight-rate levels or the level of the exception, commodity, and column rates applicable within and between the various rate territories.⁷

Defenders of the present rate structure claim that these lower rates available in the South and West on many products shipped, particularly low-value, heavy-loading commodities, offset the disadvantages of higher class rates paid by shippers in those territories. Even if this were true, it is cold comfort to one wishing to establish an industry in a southern or western location for the production of high-grade manufactured products, that move on class rates or rates closely akin thereto, to be told that the average level of rates in his territory is lower than the class rates because of low commodity rates on logs, iron ore, phosphate rock, and the like. An average freight-rate level is as unsatisfactory to one paying higher-than-average rates as average life-expectancy figures are to one suffering from tuberculosis or cancer. Statistically the figures may be extremely satisfactory, but practically they offer no relief in an individual case.

The Board of Investigation and Research, established by the Transportation Act of 1940 to study transportation problems, observed that examinations of interterritorial

⁷ The staff of the Bureau of Transport Economics and Statistics of the Interstate Commerce Commission are gathering data on a sample basis from which such information may be available.

commodity rates "demonstrate the wide variations in the structures,"⁸ which is another way of saying that no general statement of accurate nature can be made concerning the levels of commodity rates applying interterritorially. On commodity rates of intraterritorial application the board concluded from its analysis of a number of these commodity rates that "on most of the commodities there are substantial

TABLE 3

COMPARISON OF FIRST-CLASS INTERTERRITORIAL RATES FROM POINTS IN SOUTHERN, SOUTHWESTERN, AND WESTERN TRUNK-LINE TERRITORIES TO OFFICIAL TERRITORY WITH CORRESPONDING RATES WITHIN OFFICIAL TERRITORY FOR APPROXIMATELY EQUAL DISTANCES
(Rates stated in cents per 100 pounds)

From Southern to Official Compared with Official		Miles	First Class Rates	Disadvantage of Southern Shipper Compared with Official Territory Shipper	
From	To			In cents	In per cent
Nashville, Tenn.....	Indianapolis, Ind....	297	135	..	..
Kent, Ohio.....	Indianapolis, Ind....	296	96	39	41
Knoxville, Tenn.....	Columbus, Ohio.....	395	155	..	..
Baltimore, Md.....	Warren, Ohio.....	392	103	52	50
Birmingham, Ala.....	Muncie, Indiana....	536	179	..	..
Pittsburgh, Pa.....	Rockford, Ill.....	538	128	51	40
Chattanooga, Tenn.....	Chicago, Ill.....	594	187	..	..
Philadelphia, Pa.....	Toledo, Ohio.....	595	135	52	39
Atlanta, Ga.....	Chicago, Ill.....	731	210	..	..
Danville, Ill.....	Washington, D. C....	733	151	59	39
Macon, Ga.....	Chicago, Ill.....	819	223	..	..
Trenton, N. J.....	Danville, Ill.....	819	163	60	37

Source: Transcript of Record, *States of New York, Delaware, et al. v. United States, et al.*, Supreme Court of the United States, No. 343, October Term, 1946. Exhibit 88, pp. 8138-9, 2578.

From Southwestern to Official Compared with Official		Miles	First Class Rates	Disadvantage of Southwestern Territory Shipper Compared with Official Territory Shipper	
From	To			In cents	In per cent
Little Rock, Ark.....	Detroit, Mich.....	785	222	..	..
Official Territory Point...	Detroit, Mich.....	785	160	62	39
Oklahoma City, Okla....	Cincinnati, O.....	882	244	..	..
Official Territory Point...	Cincinnati, O.....	882	171	73	43
Shreveport, La.....	Cleveland, O.....	1,013	264	..	..
Official Territory Point...	Cleveland, O.....	1,013	185	79	43
Dallas, Texas.....	Pittsburgh, Pa.....	1,224	304	..	..
Official Territory Point...	Pittsburgh, Pa.....	1,224	207	97	47

Source: *Id.*, Exhibit 96, at 8534, 2746.

⁸ BOARD OF INVESTIGATION AND RESEARCH, REPORT ON INTERTERRITORIAL FREIGHT RATES, H. R. DOC. No. 303, 78th Cong., 1st Sess. 219 (1943).

From Western Trunk-Line to Official Compared with Official		Miles	First Class Rates	Disadvantage of Western Trunk- Line Territory Shipper Compared with Official Territory Shipper	
From	To			In cents	In per cent
Des Moines, Iowa	Toledo, Ohio	558	142	..	..
Official Territory Point	Toledo, Ohio	558	118	24	20
St. Paul, Minn.	South Bend, Ind.	491	138	..	..
Official Territory Point	South Bend, Ind.	491	111	27	24
Lincoln, Nebr.	Evansville, Ind.	612	169	..	..
Official Territory Point	Evansville, Ind.	612	125	44	35
Denver, Colo.	Cleveland, Ohio	1,329	289	..	..
Official Territory Point	Cleveland, Ohio	1,329	200	89	45

Source: *Id.*, Exhibit 64, at 7556-9, 2175.

regional differences in the levels, with higher rates in the South and West than in eastern territory.”⁹

An indication of the relative levels of rates actually paid on manufactured products may be obtained by comparing railroad freight revenue on this traffic with fully distributed costs applicable thereto. Manufactured goods are included in “Group V—Manufactures and Miscellaneous (Carload)” in the Interstate Commerce Commission’s commodity statistics. For the year 1939 on this group the ratio of revenue to fully distributed costs in the eastern district was 121 per cent; in the southern region, 130 per cent; and in the western district, 119 per cent.¹⁰ In view of the fact that the cost of railroad operation is about the same in the South as in the East, or slightly lower, these figures are significant in that they show the traffic in Group V bears a greater proportion of the total transportation burden in the South than in the eastern district. That is, traffic in this group contributes substantially more to the constant cost of railroad operation in the South than in the East. This substantially heavier contribution is obtained by the payment of a higher aggregate level of rates on manufactures and miscellaneous in the South than in the East.

And how, one may logically inquire at this point, did the freight-rate structure of the United States acquire its present marked characteristic of regionalism, with such differences between the territories? While there are many factors that should necessarily enter into a complete answer to this question, in general it may be said that official territory has always been the most important manufacturing region, and the official railroads naturally developed a rate structure favorable to the movement of finished products. On the other hand, the South and West specialized in the production of raw materials and semi-finished products, and the freight-rate structures in those regions were shaped to give favorable rates to such items. The lack of manufacturing there accounts in part for the higher rates on manufactured goods.

⁹ *Id.* at 148.

¹⁰ Transcript of Record, *States of New York, Delaware, et al. v. United States et al.*, cited *supra*, note 6, at 11403.

Beginning in the 1920's the Interstate Commerce Commission conducted investigations of freight rates territory by territory, with the exception of mountain-Pacific territory, the rates of which have not as yet been subjected to a comprehensive investigation. The class rates prescribed by the Commission in each territory followed to a great extent those rates in use by the railroads, with some of the gross inequities removed. In southern territory, for instance, simplification of the rate structures seemed to be the prime object of the Commission's action. The simplification consisted mainly of removing the old basing-point system of rate making in the South and elimination of the "outer" class and commodity rates. The early characteristics of the rate structure in each region thus became permanent with Commission approval. Relatively high rates on finished goods in the South and West were one of the characteristics of the structure. Economic practices, once they have become established, are often extremely difficult to change.

Prior to World War I the official territory carriers followed the policy of concurring in low levels of rates to allow relatively small movements of southern manufactured products to official territory. Upon the termination of Federal control in 1920 the official carriers discontinued this policy, an action which resulted in the now famous statement by a prominent railroad official of the South that the official railroads' policy is to build a rate wall at the Ohio and Potomac rivers which will prevent or greatly curtail the movement of southern products into official territory.¹¹

An equally famous pronouncement of policy has been made by the official carriers as a group, in which they stated that they are "in duty bound" to protect producers located on their lines by excluding from official territory competitive products originating in the South and West.¹² By this policy the official lines are trying to retain as much revenue as possible for themselves—a natural desire. That is, they prefer the long hauls and greater revenue accompanying the intraterritorial movement of manufactured products produced in official territory to shorter hauls and divided revenues incident to the movement of similar goods originating in southern territory. Longer hauls and greater revenues accrue to official carriers on products moving from Cincinnati and Chicago to New York, for instance, than would result from shorter hauls and divided revenues obtained by taking similar traffic from southern territory at Potomac Yard, near Washington, or other gateways, for movement to New York. Also, it is more profitable for official carriers to move raw materials from the South and West into official territory with return hauls of finished products to those territories than it is to have a single inbound haul of finished products from the South or West.

III

As industrial production increased in the South and West it followed that there would be attempts to market some of these products in the thickly populated areas

¹¹ Transcript of testimony, Interstate Commerce Commission Finance Docket 10294, 2124 (1931).

¹² Brief for official carriers filed with the Interstate Commerce Commission in *Ex parte* 116—Interterritorial Rate Bases (1935).

in official territory. It also followed that these products would be excluded, or forced to enter official markets under substantial handicaps, because of the high levels of interterritorial class rates and the refusal of official carriers to concur in a level of rates comparable to that applying on such goods moving intraterritorially within official territory.

While neither the South nor the West has made any great strides relatively in increasing industrial production, greater absolute amounts of finished goods were produced after World War I in both regions. Table 4 shows comparative figures on the relative status of the various rate territories in population and value of manufactures. While there have been some changes, official territory has maintained a dominant position in population and value of manufactures.

TABLE 4

A. POPULATION OF THE FREIGHT-RATE TERRITORIES OF THE UNITED STATES

Rate Territory	THOUSANDS OF PERSONS						PERCENTAGE OF TOTAL U. S. POPULATION					
	1890	1900	1910	1920	1930	1940	1890	1900	1910	1920	1930	1940
Official.....	32,540	38,796	46,159	53,594	62,499	67,186	51.69	51.05	50.19	50.70	50.90	51.03
Southern.....	12,118	14,327	16,419	18,063	20,357	22,728	19.25	18.85	17.85	17.09	16.58	17.26
Southwestern.....	4,381	6,103	8,271	9,636	11,477	12,236	6.96	8.03	8.99	9.12	9.35	9.29
Western trunk-line.....	11,059	12,985	14,817	16,171	17,283	16,184	17.57	17.09	16.11	15.30	14.08	12.29
Mountain-Pacific.....	2,849	3,784	6,306	8,241	11,159	13,335	4.53	4.98	6.86	7.79	9.09	10.13
Total, United States...	62,948	75,995	91,972	105,711	122,775	131,669	100.00	100.00	100.00	100.00	100.00	100.00

Source: United States Census, 1890, 1900, 1910, 1920, 1930, and 1940.

B. VALUE OF MANUFACTURES BY FREIGHT-RATE TERRITORIES OF THE UNITED STATES

Rate Territory	MILLIONS OF DOLLARS						PERCENTAGE OF TOTAL VALUE FOR U. S.					
	1909	1919	1929	1933	1935	1937	1909	1919	1929	1933	1935	1937
Official.....	14,959	46,322	51,333	22,317	32,785	43,491	72.36	74.21	72.88	71.16	71.65	71.63
Southern.....	1,355	4,228	5,045	2,824	3,877	5,109	6.56	6.77	7.16	9.01	8.47	8.42
Southwestern.....	551	2,053	2,574	1,167	1,768	2,399	2.66	3.29	3.65	3.72	3.86	3.95
Western trunk-line.....	2,658	5,859	6,070	2,699	3,888	4,948	12.86	9.39	8.62	8.61	8.50	8.15
Mountain-Pacific.....	1,149	3,950	5,413	2,352	3,441	4,766	5.56	6.34	7.69	7.50	7.52	7.85
Total, United States...	20,672	62,418	70,434	31,359	45,760	60,713	100.00	100.00	100.00	100.00	100.00	100.00

Source: Manufactures Section, United States Census, 1910, 1920, 1930; Biennial Census of Manufactures, 1933, 1935, 1937.

Although official territory is predominantly industrial, and also has a large percentage of other highly paid occupations, the South and West are much more dependent on agriculture and the extractive industries as sources of employment for workers.¹³ Average income in the rate territories reflects these differences in occupation. In 1940, for example, the average dollar income per capita was \$701 in official, \$313 in southern, \$374 in southwestern, \$469 in western trunk-line, and \$694 in mountain-Pacific.¹⁴ These typical income figures, plus exercise of the ordinary

¹³ *Report on Interterritorial Freight Rates*, cited *supra*, note 8, at 227.

¹⁴ REGIONALIZED FREIGHT RATES: BARRIER TO NATIONAL PRODUCTIVENESS, H. R. DOC. NO. 137, 78th Cong., 1st Sess. 23 (1943).

powers of observation and reasoning by anyone who is even reasonably well acquainted with the economics of official territory and the southern and western rate territories, inevitably lead to the conclusion that most of the South and West are sadly in need of economic activities that will bolster up their low income status. Both the South and the West have decided that an increase in types and amounts of industrial production is the solution to their economic problems.

World War II gave parts of the South and West, that had never before had industry, a taste of the sweets of the income from industrial production, tending to whet the economic appetite of those formerly accustomed to a low income status.

In the course of the numerous economic analyses that were made in the 1930's it was disclosed that, among other handicaps to increased industrial production, the class-rate structure was unfavorable to both the South and the West. This rate discrimination, particularly as it affected the South, caught the public imagination. Almost everyone who spoke or wrote on southern economics brought in the subject of unfavorable "freight-rate differentials."¹⁵ Some, in referring to the handicaps faced by the South, probably gave too much weight to the importance of freight rates as a deterrent to southern economic well-being. Others over-simplified the condition by saying, for instance, that it is cheaper to ship manufactured goods from New York to Atlanta than it is to ship these same goods from Atlanta to New York. To the extent that class rates apply this is untrue because the class rates are the same between the two points.

The proper statement is that a haul from Atlanta to New York on a class rate is costlier than a haul of equal length from some official territory point to New York. Conversely, a movement from New York to Atlanta on a class rate is at a lower class rate than a movement of equal mileage from a southern territory point to Atlanta. Nevertheless, it became known to many that the rate structure somehow placed the southern shipper at a disadvantage in comparison with the more fortunate official territory shipper. While his conception might not have been technically perfect, the man on the street became aware that the South was unfairly burdened with a freight-rate handicap.

Regardless of the over-emphasis placed on the importance of the rate handicap or the mistakes made in defining it, those in the South had a specific problem and a grievance capable of solution by legislation, the Interstate Commerce Commission, or the courts. The handicap is a man-made one. In this respect the problem differs from some southern problems that are based on custom or natural conditions that neither legislatures nor courts can correct. No one can evaluate with exactitude the part the freight-rate structure has played in retarding southern economic development, but it is known that it is a deterring factor for which there is no apparent justification. This feeling is based to some extent on cost studies made by the Interstate Commerce Commission, and others, that show little difference between the cost

¹⁵ Freight-rate differences is a more nearly accurate term, as freight rate differentials are technically the amounts added to or subtracted from one freight rate to obtain another freight rate.

to the railroads of rendering transportation service in official and southern territories.

The demand for class-rate equalization with official territory swept the South and spread to the West. Bills were introduced into Congress providing for national freight-rate equalization, none of which passed either the House or the Senate. The demand for rate equalization was expressed, however, in the Transportation Act of 1940 by one provision making unlawful any undue or unreasonable preference or advantage to any region, district, or territory; and by another provision authorizing and directing the Interstate Commerce Commission to institute an investigation into rates by rail or water on manufactured products, agricultural commodities, and raw materials, both on intraterritorial and interterritorial movements, for the purpose of removal of unlawfulness found to exist.¹⁶

Whether the regional differences in economic activity and well-being in the country are the cause or the effect of differences in freight rates has been naturally the subject of warm discussion; such discussions always accompany any proposed re-adjustment of economic advantage. This apt answer, that should be pleasing to those on either side of the discussion, has been given:

The truth of the matter is that the freight rates are both cause and effect. If they did not have the effect of aiding producers in the areas concerned it would not be necessary to grant favorable freight rates to them. The result of the situation described is that the rate structure tends to perpetuate the particular regional specialization which has existed in an area. Newer economic interests in an area must frequently make their way against rate handicaps growing out of the prevailing rate adjustments.¹⁷

In 1939, in anticipation of passage by the Congress of legislation such as was embodied in the Transportation Act of 1940, the Interstate Commerce Commission announced two general investigations. One was an investigation into class rates applying in and between official, southern, southwestern, and western trunk-line territories, which is the area lying east of the Rocky Mountains.¹⁸ The other was an investigation into freight classification in the entire United States.¹⁹ Because of the interdependence of class rates and freight classification the two proceedings were heard together and commonly designated "The Class Rate Investigation."

In May, 1945, the Interstate Commerce Commission, after exhaustive hearings, filed its report and order.²⁰ The findings vindicated the exponents of class-rate revision for the South and West. Concerning freight classification the Commission found that the existing classifications are unlawful and will continue so until national uniformity of classification is accomplished. The railroads were given the opportunity to prepare a uniform classification, which they have agreed to do. In addition,

¹⁶ 24 STAT. 380 (1887), as amended, 49 U. S. C. §3(1) (1940); 54 STAT. 902, 49 U. S. C., note following §3 (1940).

¹⁷ *Report on Interterritorial Freight Rates*, cited *supra*, note 8, at 224.

¹⁸ Interstate Commerce Commission Docket 28300, Class Rate Investigation, 1939, 262 I.C.C. 447 (1945).

¹⁹ Interstate Commerce Commission Docket 28310, Consolidated Freight Classification, 262 I.C.C. 447 (1945).

²⁰ 262 I.C.C. 447 (1945); supplemented by 264 I.C.C. 41 (1945).

the Commission found that both the intraterritorial and interterritorial rates applicable east of the Rockies violate sections 1(4) and (5)(a) of the Interstate Commerce Act;²¹ and that the relation between interterritorial class rates applying to official territory from the other territories involved, on the one hand, and the intraterritorial class rates applicable within official territory, on the other hand, results in an unreasonable preference to official territory, and to official-territory shippers and receivers of freight, in violation of section 3(1) of the Interstate Commerce Act.²² Further it was found that the unlawfulness of these rates will be remedied by class rates based on a scale set out in Appendix 10 to the Commission's original report when adopted in conjunction with the new uniform classification, the standards for which the Commission set forth in the report. The findings were bolstered by elaborate cost studies made by the Commission's staff showing the cost of rendering rail service in official and southern territories to be on almost the same level, and only slightly higher in the West.

To provide some measure of immediate relief an interim order was issued providing for a 10 per cent decrease in rail class rates for all interstate shipments made east of the Rocky Mountains and a 10 per cent increase for interstate shipments within official territory. Before the rates could be filed and become effective, the official territory states, later joined by most of the western railroads, filed a petition in the District Court of the United States for the Northern District of New York seeking to set aside the reports and orders of the Interstate Commerce Commission and seeking an interlocutory injunction pending the hearing and determination of the case.²³ The injunction was granted late in 1945. The special three-judge statutory court in May, 1946, upheld the Commission but continued the interlocutory injunction until final determination of the case on appeal.²⁴ The appeal is pending before the Supreme Court as this is written.²⁵

IV

In the evidence adduced during the hearings held by the Commission in the *Class Rate Investigation* there are numerous specific instances of actual discrimination against the South and West. In some cases the economic effects of these rates are measured by relating the handicap suffered to the various economic factors involved in the business. The Interstate Commerce Commission found this evidence convincing, particularly in light of the exhaustive cost studies presented by the Commission's staff showing cost of railroad operation in the South and in official territory to be about the same and to be only slightly higher in the West. These cost

²¹ 24 STAT. 379 (1887), as amended, 49 U. S. C. §1(4), §5(a) (1940).

²² 24 STAT. 380 (1887), as amended, 49 U. S. C. §3(1) (1940).

²³ States of New York, Delaware, *et al.* v. United States, *et al.*, Civil No. 2311.

²⁴ State of New York v. United States, 65 F. Supp. 856 (1945).

²⁵ The States of New York, Delaware, *et al.*, Appellants v. United States *et al.*, No. 343; The Honorable Horace A. Hildreth, Governor of the State of Maine, *et al.*, Appellants, v. United States, *et al.*, No. 344; The Atchison, Topeka & Santa Fe Railway, *et al.*, Appellants, v. United States, *et al.*, No. 345, Supreme Court of the United States, October Term, 1946. [Decided May 12, 1947. See the FOREWORD to this symposium. Ed.]

data exploded one of the bits of the folk-lore of transportation, long-cherished, that transportation conditions are less favorable in southern than in official territory.

As had been claimed in the South and West, from the Commission's findings it has been established in regard to movements of traffic on class rates that manufactured articles from the South and West, when moved to official territory, generally meet competition from producers of similar articles located within official territory who can reach the same markets on official intraterritorial rates that are substantially lower, mile for mile, than the interterritorial rates which the southern and western shippers must pay. An attempt to meet such competition generally results in a deduction from the price received for the product by the producer in the South or West because of greater freight charges paid. This difference must either be absorbed by the southern or western manufacturer, resulting in a reduction in his profit, or be passed on in the form of lower wages to his employees or a lower price for the raw materials used in the product. These differences in freight rates, when expressed in terms of net profit, are frequently substantial, and may mean the difference between a profitable and an unprofitable business venture.

Thus, manufacturing in the South and West is discouraged and impeded, despite the fact that, with the exception of nearness to markets, all the economic factors for industrial development are present in these regions.

From the record made in the *Class Rate Investigation* the following cases are taken, showing the economic effects of discriminatory rates on the South and West in specific competitive situations.

A Kansas manufacturer of coal-preparation plants and washeries must absorb in competitive bidding the differences in class-rate levels which favor the manufacturers in official territory. On the official basis the rates are 40 per cent of first-class, whereas from Kansas to official territory the charges actually paid are 45 per cent of a much higher interterritorial first-class rate scale. Solely because of this rate inequality, this company is considering moving its plant to Cincinnati, Ohio, where possible sites for a new location have been offered, in order to get the lower official rates.

This Kansas company is now shipping to coal operators in Indiana, Kentucky, West Virginia, Ohio, and Pennsylvania, but has experienced great difficulty in meeting competition from official territory because of the higher freight rates. It has had to forego business in Pittsburgh, Pennsylvania, because of the rates, and has lost business to Link-Belt of Chicago for the same reason.²⁶

A Wichita, Kansas, manufacturer²⁷ of heating appliances which move on class rates, including large and heavy heating units like furnaces, competes with manufacturers in Ohio, Illinois, Kentucky, Pennsylvania, New York, and Michigan. Between 1930 and 1941 some 442 cars of his product were moved into official territory under applicable class rates. This Kansas manufacturer, shipping gas or gasoline

²⁶ Transcript of Record, States of New York, Delaware, *et al.* v. United States, *et al.*, cited *supra*, note 6, at 2931-2937.

²⁷ *Id.* at 3235-3243; *id.*, Exhibit 142, at 9754-9758, 3241.

stoves to Chicago in carloads having a minimum weight of 16,000 pounds, pays \$1.10 per 100 pounds as compared with the Pittsburgh producer's rate of 59 cents on similar shipments. He is also at a disadvantage in shipping house heating furnaces to Chicago. His rate is 75 cents per 100 pounds, while the Pittsburgh shipper enjoys a rate of 41 cents. Chicago is 454 miles from Pittsburgh and 579 miles from Wichita.

Oil-well supplies move on class rates and are manufactured at Parkersburg, West Virginia, Fort Worth, Texas, and Tulsa, Oklahoma. The rate from Fort Worth to Centralia, in the Illinois oil fields, is 99 cents per 100 pounds, 45 cents higher than if the official scale, column 35, which Parkersburg uses, is applied. On an average car of 40,000 pounds, there is a difference of \$180.00 per car. From Tulsa to New Iberia, Louisiana, the rate is 47 cents per 100 pounds higher than the official scale rate. The rate from Parkersburg to New Iberia is \$1.19; if the official scale were applicable, the rate would be 69 cents per 100 pounds.²⁸

A transportation and industry expert from the University of Texas analyzed the economic effects of freight rates on five concerns in Texas, using their paid freight bills,²⁹ and his Exhibit 104³⁰ contains convincing data showing numerous rate inequalities that inhibit southwestern industries.

The freight bills on the shipments made by and to the industries in the Southwest, compared with the rates that would have been applied, inbound and outbound, on the same articles for similar distances within official territory, showed that the freight payments of these five concerns exceeded by \$83,054.62 the amount that would have been paid had all inbound and outbound shipments been charged on the official basis for equivalent service.

The Sche-Rose Manufacturing Company of Dallas, producers of breadmaking compound, for the year 1941 paid approximately 63 per cent more in freight charges than it would have paid had the official level of rates been applied. A shipment from Dallas to Philadelphia, for example, moved at a class rate of \$1.93 per 100 pounds, when the official level would have only been \$1.33. The economic disadvantage suffered by this concern for 1941 on the basis of freight charges represented 57.7 per cent of its manufacturing wages, over 6 per cent of its capital stock, 5.9 per cent of net sales, and over 23 per cent of office and administrative salaries. The customers, workers, or stockholders could have enjoyed the savings to be realized in freight charges had the goods moved on the official rate level.³¹

The freight charges on shipments made by the Walker's Austex Chili Company, Austin, Texas, during 1941 were over \$14,000 more than would have been charged for equivalent service under the rates in effect in official territory. The economic disadvantages of freight charges for this company when compared with official amounted to 7.31 per cent of its capital stock, 3.29 per cent of cost of goods sold, and 2.12 per cent of net sales.³²

²⁸ *Id.* at 2797; Exhibit 102, *id.* at 8610-11, 2802.

²⁹ *Id.* at 2811-29.

³¹ *Id.*, Exhibit 104, at 8634, 2820, 2817.

³⁰ *Id.* at 8629-42, 2820.

³² *Id.*, Exhibit 104, at 8630-1, 2820, 2816.

The Superior Products Company, Dallas, manufactures toilet preparations, perfumes, and related articles. Its actual inbound freight charges for the year 1941 amounted to \$65,317.39. The charges for equivalent service under the official level of rates would have been only \$37,828.22. The total freight charges amounted to over 29 per cent of the cost of the goods sold, 18.29 per cent of net sales, 69.74 per cent of capital invested, and over 300 per cent of wages paid.

To illustrate the drastic differences between the rates that are charged this producer on the present levels, as against the rates under the official basis, one actual shipment consisted of 51,495 pounds of drugs moving from Petrolia, Pennsylvania, to Dallas at a class rate of \$1.14 per 100 pounds. The total charge collected was \$5,870.49. Under the official level for equivalent service, the same shipment would have moved at a class rate of 75 cents per 100 pounds and the charge would have been only \$3,862.16.³³

A similar case history is revealed by an examination of freight charges paid by the Brenham Cotton Mills, Brenham, Texas. For example, it cost this concern \$3.53 per 100 pounds in freight charges to ship textile machinery from Biddeford, Maine, to Brenham. During 1941, numerous shipments were received from Biddeford that moved on this class rate, whereas a rate of \$2.48 is applicable on the same articles within official territory for equivalent service.³⁴

A Tennessee public official, a rate expert,³⁵ explained "why it is that Nashville cannot sell work clothing in the North and East, as her rates mile for mile are approximately 31.5 per cent higher than her competitors' in Central Territory."³⁶ The following rate comparisons were shown:

TABLE 5

COMPARISON OF LESS-CARLOAD RATES ON COTTON WORK CLOTHING FROM NASHVILLE, TENNESSEE, AND APPROXIMATELY EQUIDISTANT POINTS IN OFFICIAL TERRITORY, TO POINTS IN OFFICIAL TERRITORY (Rates stated in cents per 100 pounds)

Origin z	Destination	Miles	Rates
Nashville, Tenn.....	Chicago, Ill.....	443	106
Pittsburgh, Pa.....	Chicago, Ill.....	459	82
Nashville, Tenn.....	Buffalo, N. Y.....	725	137
Alton, Ill.....	Buffalo, N. Y.....	712	103
Nashville, Tenn.....	Boston, Mass.....	1178	176
Alton, Ill.....	Boston, Mass.....	1206	135
Nashville, Tenn.....	Detroit, Mich.....	545	120
Allentown, Pa.....	Detroit, Mich.....	585	91
Nashville, Tenn.....	Cleveland, Ohio.....	549	118
New York, N. Y.....	Cleveland, Ohio.....	556	90
Nashville, Tenn.....	Grand Rapids, Mich.....	537	120
New York, N. Y.....	Grand Rapids, Mich.....	779	108
Nashville, Tenn.....	Indianapolis, Ind.....	297	95
Buffalo, N. Y.....	Indianapolis, Ind.....	468	82

³³ *Id.*, Exhibit 104, at 8633, 2820.

³⁵ *Id.* at 2601-12.

³⁴ *Id.*, Exhibit 104, at 8632, 2820.

³⁶ *Id.* at 2607; Exhibit 91, at 8330, 2608.

A Philadelphia shipper of gas black from the Pennsylvania oil fields pays a rate to St. Louis, a distance of 981 miles, of 64 cents per hundred pounds, whereas from Amarillo, Texas, to Chicago, a distance of 978 miles, the rate is 85 cents per hundred pounds. If Amarillo and Philadelphia both ship to Chicago, the rate from Amarillo is 85 cents and the rate from Philadelphia is 57 cents, a difference of 28 cents per hundred pounds, or \$112.00 per car for a difference in distance of only 167 miles in favor of Philadelphia. The distance from Philadelphia to Chicago is 811 miles. The rating is fifth class.³⁷

The Sweet Potato Growers, Inc., with a starch plant at Laurel, Mississippi, for the seven months ending February 28, 1941, paid freight charges which amounted to 21.8 per cent more in dollars paid than the official territory level for comparable movements. On carload shipments the excess of actual charges over the official basis was 15.6 per cent and on less-carload shipments the excess amounted to 44.6 per cent.³⁸ This excess of actual charges was 2 per cent of the total net sales. If this difference in rates paid had been available to the Sweet Potato Growers, Inc., the corporation could have paid either 8 per cent more for raw materials or 10 per cent more in wages, or earned 124 per cent more in net profits.³⁹

A manufacturer of automobile truck bodies at Nashville, Tennessee,⁴⁰ labors under a rate handicap as high as 253 per cent of the rates available to his competitor at Detroit, Michigan, in the sale of truck bodies at Metuchen, New Jersey.⁴¹ In this case the Nashville rate was made on the southern classification rating of second class—\$2.10 per 100 pounds. The Detroit shipper enjoyed rates ranging from 53 cents to \$1.03 per 100 pounds, depending upon the carload minimum weight. These rates represent official classification exception ratings applied to the official level of rates.⁴² Metuchen is 965 miles from Nashville, and 616 miles from Detroit.

According to an Iowa traffic expert,⁴³ the level of class rates between official territory and Iowa does not permit Iowa industries to purchase interterritorially, for the same cost, the miles of transportation their competitors across the river can buy within official territory. The present first-class rate between Waterloo or Cedar Falls and Indianapolis, Indiana, is \$1.33 for the 415 miles. In official territory this \$1.33 will buy 580 miles of transportation, equivalent to the distance from Indianapolis, Indiana, to Omaha, Nebraska. This illustrates the severe rate handicap faced by shippers located adjacent to official territory.⁴⁴

A North Carolina washboard manufacturer's greatest competition is from Michigan and Ohio companies. Lower competitive interterritorial rates have been withheld from his company by the railroads, and therefore, in bidding on a delivered-price basis against competition in official territory, he must absorb the higher freight charges from Raleigh.⁴⁵ The less-carload class rates paid on actual shipments from Raleigh, compared below with the rates available within official territory to com-

³⁷ *Id.* at 2795.

³⁸ *Id.* at 2386.

⁴² *Id.* at 4634.

⁴⁵ *Id.* at 2469-73.

³⁹ *Id.*, Exhibit 76, at 7981, 2393.

⁴⁰ *Id.* at 4614-53.

⁴³ *Id.* at 3032-51.

⁴¹ *Id.* at 4635.

⁴⁴ *Id.* at 3034.

petitors for equal service, are representative of the disadvantage of the southern-territory shipper:⁴⁶

TABLE 6

To	Mileage	CLASS RATES IN CENTS PER 100 POUNDS	
		Paid by Raleigh Shipper	Official Basis
Charleston, West Virginia.....	403	90	78
Chicago, Illinois.....	862	132	118
Detroit, Michigan.....	760	124	109
Portland, Maine.....	831	126	116
Scranton, Pennsylvania.....	533	101	90
Toledo, Ohio.....	704	117	106
Wilkes-Barre, Pennsylvania.....	515	98	87

An official of a tanning company in Andrews, North Carolina, which ships leather products to the North, testified⁴⁷ that he had "experienced considerable difficulty in selling and quoting prices in line with prices quoted from tanneries who are in position to ship at lower freight rates."⁴⁸

The significance of certain inbound class-rate discriminations affecting this tannery is illustrated by specific inbound shipments which cost this company 25.7 per cent more in freight charges than would have accrued had the goods moved under official territory rates. The economic disadvantage here, arising out of payments on inbound consignments of dry hides, is emphasized when the applicable fourth-class rates to the following actual shipments⁴⁹ are compared with rates for equidistant hauls in official territory:

Shown below⁵⁰ is a list of manufactured articles produced in Atlanta, Georgia, that have markets in official territory. These articles move on class rates in both southern and official territories, and the disadvantage of the Georgia producer as compared with the official producer is shown for each commodity in the last column:

TABLE 7

ILLUSTRATIVE SHIPMENTS, DRY HIDES, CARLOAD MINIMUM 20,000 POUNDS
(Class rates stated in cents per 100 pounds)

From	Date	Car No.	Class Rate Formula Miles	CLASS RATES		Revenue Differential (dollars)
				As Applied	Official Basis	
New York, N. Y.....	6-10-42	PRR 78932	812	122	84	205.58
New York, N. Y.....	6-10-42	PRR 50632	812	122	84	207.86
Waverly, N. J.....	6-16-42	PRR 56792	812	122	84	154.66
New York, N. Y.....	6-18-42	N-W 46790	812	122	84	158.84

⁴⁶ *Id.*, Exhibit 79, at 8015-6, 2472.

⁴⁸ *Id.* at 2457.

⁵⁰ *Id.*, Exhibit 220, at 11696, 4765.

⁴⁷ *Id.* at 2455-61.

⁴⁹ *Id.*, Exhibit 77, at 8003, 2459.

TABLE 8

Commodity (carloads, unless otherwise shown)	CLASSIFICATION RATINGS STATED AS PERCENTAGES OF FIRST CLASS			Southern Rate Level (Per Cent of Official)
	Southern	Official	South to Official	
Calendars, paper.....	55	55	55	138
Electrical appliances: switchboxes, outlet plates, conduit outlet boxes, with or without fittings.....	LCL 70	70	70	138
	CL 45	40	45	156
Cloths or rags, wiping.....	40	30	40	180
Tanks, iron or steel, thinner than No. 2 gauge but not thinner than No. 16 gauge.....	55	55	55	138
Lead products:				
Sheet.....	30	35	35	138
Pipe and fittings.....	40	35	40	160
Wine (in tank' cars).....	55	55	55	138

The Commissioner of the Memphis, Tennessee, Freight Bureau testified as to the movement of macaroni, noodles, and spaghetti from Memphis, and comparative rates.⁵¹ The Memphis manufacturer distributes his goods throughout southern territory, but, with the exception of border points, has been unable to market his goods in official territory in competition with manufacturers at Chicago and St. Louis, because shippers there enjoy rates relatively lower than those applicable from Memphis. He testified that the movement both in southern and official territory was on class rates.^{51a}

The rate on macaroni, spaghetti, and noodles, less-carload, from Memphis to Hamilton, Ohio (512 miles), is 82 cents per 100 pounds; the rate from St. Louis, Missouri, to Cleveland, Ohio (522 miles), is 62 cents per 100 pounds.^{51b}

Taking Evansville, Indiana, as a representative border-point destination, the rate from Memphis (301 miles) is 70 cents per 100 pounds. From Chicago (284 miles) the rate is 48 cents per 100 pounds. This 22-cent advantage was typical.

The rate from Memphis to Metropolis, Illinois, is 53 cents per 100 pounds for the haul of 179 miles, while the Chicago producer, for the haul of 355 miles, nearly twice as far, enjoys a rate of 52 cents.⁵²

On palmetto fiber, used in the manufacture of brushes, the applicable class rates and certain basic scale rates from Jacksonville, Otter Creek, and Benson Junction, Florida, to representative official territory cities, are compared with the applicable import class rates from New York to the same localities.⁵³ The following tabulation⁵⁴ indicates, among other disparities, that a competing manufacturer in St. Louis, 1,027 miles from New York, can get imported fiber from New York at a rate of \$1.21, that is, 71 cents less than the rate on Florida fiber from Benson Junction, Florida, to St. Louis, for a comparable haul of 1,029 miles. The Florida producer has a rate disadvantage of 58½ per cent:⁵⁵

⁵¹ *Id.* at 2335-56.

^{51b} *Id.*, Exhibit 75, at 2356 uu, 2341.

⁵³ *Id.* at 2651.

⁵⁶ *Id.* at 2651.

^{51a} *Id.* at 2336.

⁵² *Id.* at 2356 vv.

⁵⁴ *Id.*, Exhibit 92, at 8440-1, 2654.

TABLE 9

PALM OR PALMETTO BRUSH FIBER, LESS-CARLOADS
(Rates stated in cents per 100 pounds)

To— (A) Chicago, Ill. (B) St. Louis, Mo.	Mileage	Rates Applicable (3d class)	Southern Basic Scale K-2 (3d class)	Official Territory Basis	Amount and Percentage Difference, Applicable Rate Over Official Territory Basis	
					Amount	Percentage
Jacksonville, Fla.....	(A) 1,061	184	181	133	51	38
	(B) 915	172	167	172	50	41
Otter Creek, Fla.....	(A) 1,087	198	183	135	63	47
	(B) 933	181	169	123	58	46
Benson Junction, Fla.....	(A) 1,173	207	190	141	66	47
	(B) 1,029	192	178	131	61	47
New York, N. Y.....	(A) 890	*111	...	120	..	..
	(B) 1,027	*121	...	131	..	..

* Import class rates.

On this traffic another witness,⁵⁶ who made studies of the manufacture and distribution of palmetto fiber at these Florida points, testified as follows:

The differences in the rates, and the particularly low rates on imported fibers actually encourage the importation of fibers produced under low wage conditions. Inducement is given to import fibers rather than to use the only domestically produced vegetable brush fiber, Florida palmetto. The domestic fiber, Florida palmetto, suffers the disability of much higher freight rates and its production and usage is thereby curtailed.⁵⁷

Table 10⁵⁸ indicates, for example, that fiber brushes manufactured in Florida must overcome a rate handicap of 48½ per cent in competition with the New York to St. Louis rate of 157 cents.

Another witness had this to say about the Florida fiber brush figures:

It is my opinion based upon my study of this industry that the existing freight rate structure is partly, at least, accountable for the fact that the manufacture of brushes from fiber has been in Official Classification Territory and that the manufacture of brushes in Florida near the sources of raw materials is of such relatively insignificant proportions. It is my opinion that if an equitable and uniform basis of rates, mile for mile, were established, the manufacture in Florida of brushes from Florida palmetto fiber could be expanded far beyond the present output. . . .⁵⁹

An expert rate witness representing 95 per cent of the southern furniture manufacturers testified⁶⁰ that the present adjustment of rates on furniture within and from the South dates back to 1932 and represents various kinds of rates, all published as percentages of first class. Since the revisions of 1932, the rates on furniture within and from the South, with a few minor exceptions, have been made with direct rela-

⁵⁶ *Id.* at 2706-30.

⁵⁸ *Id.*, Exhibit 92, at 8442-3, 2654.

⁶⁰ *Id.* at 4815-33.

⁵⁷ *Id.* at 2718.

⁵⁹ *Id.* at 2719.

TABLE 10
FIBER BRUSHES, LESS-CARLOAD
(Rates stated in cents per 100 pounds)

To— (A) Chicago, Ill. (B) St. Louis, Mo. From—	Mileage	Rates Applicable (2d class)	Southern Basic Scale K-2 (2d class)	Official Territory Basis	Amount and Percentage Difference, Applicable Rate Over Official Territory Basis	
					Amount	Percentage
Jacksonville, Fla.....	(A) 1,061	224	220	162	62	38
	(B) 915	208	203	148	60	40
Otter Creek, Fla.....	(A) 1,087	241	223	164	77	47
	(B) 933	220	206	150	70	46
Benson Junction, Fla.....	(A) 1,173	251	232	171	80	47
	(B) 1,029	233	217	159	72	47
New York, N. Y.....	(A) 890	*142	...	145	..	..
	(B) 1,027	*157	...	159	..	..

* Import class rates.

tionship to the first-class rates, and therefore the first-class rates are the basis for determining the southern rates on furniture.⁶¹

In the Fall of 1932 the official lines published truck competitive rates on furniture by exceptions to the classification. The southern carriers then sought approval of official carriers in revising the rates from southern territory to a percentage of the applicable first-class rates which would approximate the level in official territory so as to equalize the reduced rates in the latter territory. The official carriers declined, in line with their announced policy, to equalize the rates, and countered with a suggestion, accepted reluctantly by the southern carriers, that resulted in rates higher than the existing commodity rates established by the southern carriers. Immediately there began an erosion of the furniture traffic from the South to official territory—from the rails to highway carriers.⁶²

In 1940 the southern furniture manufacturers and carriers made vigorous renewed efforts to correct the discrimination, but were unsuccessful. As the result of the refusal of official-territory carriers to concur in the reduced rates from the South, the southern carriers lost seven or eight thousand cars of furniture per year. The witness concluded as follows:

Because of that situation and because of the numerous efforts we have made from time to time to get the clearance of the Official lines in an equalized basis of rates, *we are convinced that it can be done only if required by this Commission, or if first class rates are prescribed on the same level in the two territories or between the two territories.*⁶³

The following table was taken from Exhibit 92:⁶⁴

⁶¹ *Id.* at 4816.

⁶² *Id.* at 4820-1.

⁶³ *Id.* at 4822. (Emphasis supplied.)

⁶⁴ *Id.* at 8448, 2654.

TABLE II
CIGARS, ANY QUANTITY
(Rates stated in cents per 100 pounds)

To— (A) Chicago, Ill. (B) St. Louis, Mo.	Mileage	Rates Applicable (2d class)	Southern Basic Scale K-2 (2d class)	Official Territory Basis	Amount and Percentage Difference, Applicable Rate Over Official Territory Basis	
					Amount	Percentage
From— Jacksonville, Fla.....	(A) 1,061	224	220	162	62	38
	(B) 915	208	203	148	60	40
Tampa, Fla.....	(A) 1,226	256	240	178	78	44
	(B) 1,049	239	217	159	80	50
New York, N. Y.....	(A) 890	*142	...	145	..	..
	(B) 1,027	*157	...	159	..	..

* Import class rates.

The Tampa producer of cigars pays \$2.39 per 100 pounds to move his product to St. Louis, a distance of 1,049 miles; a competitor located in New York pays \$1.57 per 100 pounds to ship imported cigars to St. Louis, a distance of 1,027 miles.

Unsuccessful efforts to obtain reduced rates on matches in 1939 resulted in the abandonment and loss of a Jacksonville plant which had previously manufactured safety matches in cardboard strips for use as advertising matter, shipped in appreciable volume, both carloads and less-carloads. Exhibit 92⁶⁵ shows the fifth-class rates on matches, in carloads, from Jacksonville to important cities in official territory, and the percentages by which the rates exceeded the official class-rate basis. Reference, in particular, is made to the applicable rate of 118 cents from Jacksonville to Chicago as being 176 per cent of the official basis or fifth-class rate of 67 cents for equidistant hauls. "The high level of the class rates from Jacksonville into Central Territory was one of the primary causes of the discontinuance of the manufacture of safety matches in the Jacksonville plant."⁶⁶

An executive of a large iron and steel company located at Pueblo, Colorado, testified⁶⁷ that his company's present eastern distribution radius is 700 miles, whereas to the North, West, and South, its steel products move from 1,000 to 1,600 miles to important markets; that the controlling factor in preventing a larger distribution to eastern markets is the prejudicial effect of the class rate structure,⁶⁸ which requires the payment of higher freight charges for the same distances than shipments from eastern origins. "The class rate structure is equally responsible whether the steel moves at the full fifth-class rate or at 32½ per cent of first class. As a matter of fact, the Colorado Fuel and Iron Corporation pays the full fifth-class rate from its mill at Pueblo, Colorado, on most of its shipments to an area in northwestern Oklahoma and Texas that is larger than the six New England States put together."⁶⁹

⁶⁵ *Id.* at 8394, 2654.

⁶⁶ *Id.* at 2654.

⁶⁷ *Id.* at 2495-2506.

³⁸ *Id.* at 2498.

⁶⁹ *Id.* at 2499.

Pittsburgh can ship 50 per cent farther for the same charge than Pueblo, as illustrated by the applicable class 45 rate from Pittsburgh to Omaha, Nebraska, against the current class A rate from Pueblo, Colorado, to the same destination, on an actual movement of shell body forgings. The present rate from Pueblo to Omaha, for a haul of 601 miles, is \$1.05, whereas from Pittsburgh to Omaha, involving a haul of 922 miles, the rate is only 99 cents, a double penalty in as much as the rate, mile for mile, is lower in the East than in the West, while at the same time the article is rated higher—40 per cent of first class in the East against 45 per cent (class A) in the West. As the western United States becomes industrialized it will ship new commodities, and it is unfair for a western-located industry to have to wait until the problem arises, only to discover that variations in classification impose extra and unexpected handicaps.⁷⁰

Additional examples of class-rate disparities favoring official territory over southern territory are set forth in Exhibit 88.⁷¹ The figures shown in the last column of the following table represent the percentage relationship of the actual rates under the southern class-rate scale to the actual rates under the official class-rate scale for any selected distance.

The Interstate Commerce Commission, in its report in the *Class Rate Investigation*, characterized the data presented as "abundant evidence"⁷² of the higher

TABLE 12

Commodities (carloads, unless otherwise shown)	CLASSIFICATION RATINGS STATED AS PERCENTAGES OF FIRST CLASS			Southern Rate Level (Per Cent of Official)
	Southern	Official	South to Official	
1. Acid, sulphuric (in containers).....	30	30	35	120
2. Acid, sulphuric (in tank cars).....	27½	27½	35	110
3. Aluminum articles.....	75	75	75	138
4. Aluminum articles, LCL.....	100	100	100	138
5. Aluminum stearate, N.O.I.B.N.....	40	40	35	160
6. Batteries, electric storage.....	40	40	40	138
7. Bottles, glass.....	35	35	35	138
8. Charcoal, wood.....	22½	27½	25	125
9. Cement, concrete, waterproofing compound....	40	40	35	160
10. Drugs.....	45	45	50	122
11. Iron and steel articles, structural, LCL.....	40	40	50	114
12. Lead products, sheet.....	35	35	35	138
13. Lead products, pipe and fittings.....	40	40	35	160
14. Paint (other than earth) dry.....	40	40	35	160
15. Pottery.....	35	35	35	138
16. Starch.....	30	30	27½	150
17. Softener, cotton.....	37½	37½	35	150
18. Tanks, iron or steel: No. 2 Gauge.....	40	40	40	138
No. 3 Gauge.....	55	55	60	130
19. Wine.....	55	55	55	138
20. Yarn, rayon.....	45	45	55	115

⁷⁰ *Id.* at 2503.

⁷¹ *Id.* at 8162-71, 2578.

⁷² *Id.* at 123.

charges paid by shippers in the South and West using class rates. While no one can confidently forecast the decision of the Supreme Court, it is prognosticated here that the Court, like the Commission, will find the evidence ample and will uphold the Commission's decision, thereby removing the class-rate barrier to the economic development of the South and West.⁷³

⁷³This prediction was borne out by the Court's decision. See the FOREWORD to this symposium. [Ed.]