



U.S. Department of
Transportation

News:

Office of the Assistant Secretary for Public Affairs
Washington, D.C. 20590

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REMARKS PREPARED FOR DELIVERY BY
DEPUTY SECRETARY JIM BURNLEY
CONNECTICUT TRANSPORTATION WEEK DINNER
MAY 13, 1986
EAST WINDSOR, CONNECTICUT

I am delighted to join so many members of the Connecticut transportation community in continuing your quarter century tradition of celebrating National Transportation Week. Connecticut has always been one of the nation's most prosperous and highly industrialized states, and I have no doubt that you in this room tonight --the executives and transportation professionals of this state -- are largely responsible for keeping it so in the 1980s. At present, 26 percent of Connecticut jobs are in the manufacturing sector. You have one of the highest number of white collar professionals in the nation, and you rank second in per capita income. I know that a major reason for your consistent economic success is your responsiveness to change. Tonight I'd like to share with you my thoughts on one of the major changes the transportation industry has experienced in this century --economic deregulation.

Someone said "change confounds before it comforts." Winston Churchill was much more optimistic. "To improve is to change," said the British statesman, "to be perfect is to change often." Although we clearly have yet to reach perfection, economic deregulation has massively improved the efficiency and competitiveness of the nation's transportation system, and indeed the economy as a whole. No one knows better than you that the world economy is ever more competitive and that the cost of transportation

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necessarily affects the delivery price of our goods overseas as well as domestically. Six percent of all jobs in Connecticut are export-related -- the largest percentage of any state in the nation. Products manufactured in Connecticut are in head to head competition for markets in, for example, Thailand, the Philippines and South America. Every percentage point that economic regulation adds to the delivery costs of your products overseas is a step closer to losing a market to the Japanese or Europeans. The arithmetic works the same way inside our borders, where high transportation costs can rob our manufacturers of the competitive edge they need to stave off cheaply produced imports. Therefore, economic deregulation is not a Department of Transportation issue, not a carriers' issue, not a shipper's issue. It is an issue critical to the future of our economy and our nation.

Like all of you here tonight, we in the Reagan Administration know that free enterprise is the key to national growth and prosperity. The transportation industries which, over the last seven or eight years, have moved out of the regulatory womb into the real world are testimony to what President Reagan calls the "magic of the marketplace." Of course, there have been problems and discomforts as some companies long insulated from competition learned to adjust to it. But, overall, there can be little doubt that economic deregulation is a success. For shippers and travelers, it is delivering what it promised: wider choices, greater efficiency, more competitive rates and generally lower fares.

Airline deregulation has provided the most stunning success story for transportation consumers. Air carriers have cut costs and passed on savings to consumers amounting to \$10 billion in reduced fares in the first four years of deregulation. More Americans travel by air today than was ever thought possible. Right here in Connecticut, air service has increased 53 percent since deregulation and seating capacity is up 30 percent.

The dynamics of airline deregulation began with cargo services and have produced significant new benefits for shippers as well, including more competitive rates and a variety of new services. Small package carriers, such as Cliff's company, have grown dramatically in response to demands for their services.

The success of airline deregulation has paralleled that of the partial deregulation of the motor carrier industry. The time has come to complete those efforts. As many of you know, Secretary Dole transmitted legislation to Congress last year calling for complete deregulation of the economic side of trucking. Economic regulation of transportation industries by the Interstate Commerce Commission began some 99 years ago. Much of it has now become an expensive paper chase, with no offsetting benefits to consumers and questionable value to carriers. Overall, the 1980 Act has had significant, positive effects on the trucking industry. While the recession of 1981-82 caused substantial traffic declines and financial losses for some motor carriers, the industry as a whole has been making the necessary adjustments to today's more competitive environment and has returned to profitability.

With freer entry, we have had an explosion in the number of firms with Interstate Commerce Commission operating authority from roughly 18,000 in 1980 to almost 31,000 last year. New price and service options have been introduced. Established carriers have become more efficient and innovative by restructuring routes, reducing empty back hauls, providing simplified rate structures and offering shippers incentives to move freight more efficiently.

As impressive as the immediate benefits of deregulation have been, the long-term results may be even more significant. Overall distribution productivity is benefitting from improved information and inventory management systems, as well as from the greater transportation efficiency made possible by deregulation. Together, these trends are resulting in a virtual distribution revolution.

Many opponents of truck deregulation argued that passage of the Motor Carrier Act of 1980 would result in poor service to shippers, with residents of rural areas unable to obtain service at any price. These fears have proven groundless, as truck service has remained good -- even in remote areas. Ninety-eight percent of all shippers contacted in a recent survey said service was at least as good as it had been before the Motor Carrier Act of 1980. Even 98.5 percent of shippers in remote areas -- defined as 26 miles or more from an Interstate Highway -- found service at least as good as it had been.

We, therefore, concluded that it is now time to eliminate those remaining economic regulations which no longer provide any benefits to shippers or consumers and are of questionable use to carriers.

There may be trucking executives here tonight who disagree with my analysis. The industry is divided on this issue. My own feeling is that the trucking industry finds itself today in a no-man's land, halfway between the familiarity and protection of a regulated environment and the excitement of a free market. Reflect for a moment with me about the absurdity of the ICC's tariff filing requirements. Tariffs must be filed on peanuts "roasted and salted in the shell," while peanuts "shelled, salted, not roasted or otherwise" are exempt. Cranberries "partially frozen" are of no interest to the ICC, but tariffs for cranberries "purposely quick frozen" must be filed in Washington. I'm sure you will all lie awake tonight wondering why no filing is needed for "manure, in the natural state," while it is absolutely required for "manure, fermented, with additives such as yeast and molds, producing a rich liquor which in water solution is used for soil enrichment."

It simply does not make sense to continue this obsolete, inefficient approach. The reforms provided by the 1980 Act comprised a good first step toward complete deregulation of the trucking industry. We believe that now is the time to take the final steps necessary to complete that process. Since Secretary Dole sent our bill to Congress last September two additional bills have been introduced -- one in the House and one in the Senate. We

hope Congress will consider the issues and move toward adoption of legislation similar to our proposal. To delay would be a mistake.

Let me discuss very briefly the key changes we propose. Our bill would eliminate all remaining ICC regulation of trucking rates and entry. Interstate motor carriers of property would be able to carry whatever commodities they wish, over whatever routes they wish, at whatever rates are mutually agreeable between them and their customers. However, carriers would continue to be required to meet federal safety and financial responsibility standards in order to engage in interstate trucking operations.

A crucial provision of the Administration's bill would eliminate antitrust immunity for collective ratemaking. Antitrust immunity for collective setting of single-line rates -- that is, rates for shipments handled entirely by one motor carrier from origin to destination -- was removed on July 1, 1984. However, many motor carrier ratemaking activities can still be undertaken collectively today, including the setting of joint-line rates, general rate increases and commodity classification.

The same free market principles that have worked such wonders in the air transport market and in partial regulatory reform of trucking apply just as validly to the railroad industry. The Reagan Administration opposes any attempt to change the Staggers Rail Act of 1980, and the contrast between the 70's and current conditions of the railroads makes our case. In the 70's the railroad industry was at its lowest ebb, yet today's railroad industry survived the 1981-82 recession without a single bankruptcy. Capital investment has increased dramatically, and deferred maintenance has been virtually eliminated. In fact, recently the Federal Railroad Administration was able to eliminate from its safety records the category for standing derailments. That's a derailment of a freight car which is standing still. Until a few years ago, maintenance was so bad that standing derailments were common. Furthermore, the pace of branch line abandonments has slowed. The railroads just had their safest year ever, which quite effectively rebuts the charge that economic deregulation and safety and incompatible.

Today, price and service innovations like multiple car grain rates, just-in-time service, and reduced rate back hauls have become standard shipper benefits. With the new flexibility permitted under the Act, the railroads have entered into more than 30,000 contracts with shippers for guaranteed deliveries at guaranteed rates.

We have also sought to reinvigorate the maritime industry by relieving the industry of some regulatory burdens. The Shipping Act of 1984 provided partial regulatory reform of that industry. The Act altered regulatory patterns for shippers and carriers in the U. S. liner trade, while the economic flexibility permitted by the measure offers our operators the freedom to pursue much needed competitive opportunities. Our operators can charter space on foreign bottoms, enter into consortia arrangements, engage

in conference agreements under liberal guidelines, form consolidated conferences, and enter into service contracts.

The Shipping Act provided important new benefits for shippers as well, including independent action, intermodal rates and encouragement for shippers' associations.

Now, there is one thing I would like to emphasize. As we proceed with regulatory reform, we have taken every step to ensure that safety is in no way diminished. Secretary Dole has made safety her highest priority. In fact, we are institutionalizing safety and we ask your support in making it a continuing priority in your organizations. Strong safety programs are good business because they cut costs. Attentiveness to safety is also an obligation each of us active in transportation has to our fellow citizens. For those of us in government, we must enforce our transportation safety laws as aggressively as we push the completion of economic deregulation.

But economic deregulation is only one component in our overall effort to rethink the proper federal role in transportation. We have been working hard to reduce the federal government's intrusiveness into activities best handled by either the private sector or by state and local governments. We want to get the government out of the business of owning railroads, operating local airports and subsidizing rides on railroads and city buses.

We sold the Alaska Railroad last year to the State of Alaska for \$22.3 million. And our legislation to sell Washington National and Dulles International airports to a regional authority is currently under consideration in Congress. Our 1986 budget proposal calls for an end to subsidies for Amtrak and mass transit rides. It redefines the proper federal role in transportation by focusing attention and resources on transportation needs that are truly national in character, such as the facilitation of interstate commerce. As a result, state and local authorities will have more responsibility for matters such as mass transit, that are truly local in nature, and greater discretion and flexibility to meet that responsibility. This approach not only will move the nation closer to a balanced budget, but will in addition foster a transportation system more responsive to the people who use it. The Surface Transportation Reauthorization Act now before the Congress will fund highway construction and repair at present levels, but will give the states increased flexibility in allocating those funds to where they are most critically needed. A state thus may choose to accelerate the construction of a new highway or devote greater resources to repairing the existing system.

And finally, we are urging Congress to approve the sale of the Northeast freight railroad, Conrail, and once and for all get the government out of the business of owning railroads. Secretary Dole chose Norfolk Southern in February, 1985, after reviewing all of the alternatives and then receiving competitive bids. The Norfolk Southern, with all the traffic it will add to Conrail's lines and its high standards for operations and maintenance, is the best guarantor of Conrail's financial strength and service.

Many people of good will have asked us why we did not sell Conrail through a straight public offering. We have looked at that option carefully, but have had no choice but to reject it. In the case of a public offering immense pressure would be created for the immediate and continuous payment of dividends. We believe Conrail is simply too fragile to survive that pressure in the long term. First, each year since its creation, Conrail's tonnage has declined steadily by an average of 3 ½ percent. Last year's tonnage dropped 5.7 percent. Second, Conrail is particularly sensitive to cyclical downturns in the economy because of its special vulnerability to truck diversion, its lack of significant coal reserves and its lack of a strong parent. As Hayes Watkins, chairman of CSX and one of the leading opponents of the sale to Norfolk Southern, put it: "Neither law nor management can alter the dynamics of the Northeast economy or arrest the erosion of Conrail's market... The sale of Conrail to a non-railroad entity fails to shore up Conrail's inherent vulnerability."

In other words, the most important issue is continuing availability and reliability of service, and the Norfolk Southern purchase offers the greatest assurance that shippers will have access to quality rail service in the Northeast for years to come.

Just last week Secretary Dole asked for and received a higher bid from Norfolk Southern -- \$1.9 billion instead of the original \$1.2 billion. Many price-determining factors have changed since the original bid was submitted to Congress. Interest rates have come down, the industrial economy has improved, and the stock market (including the rail averages) has moved dramatically upward to historic high levels. Although Conrail's fundamental financial prospects have not improved, there is no question that these positive changes in the capital markets and the overall economy will permit us to achieve a greater return in the sale of Conrail.

As you know, the Senate has approved our proposal. It is now running into heavy seas in the House of Representatives. Should the result be a stalemate, shippers and Conrail's employees will be the big losers. Conrail cannot continue indefinitely to aggressively shrink itself to preserve its fragile profitability without severe impact on the services it can provide. While it had paper profits of more than \$400 million last year, its cash flow was negative for the first 11 months of the year. Only by a combination of subsidies from the U.S. Treasury and deferral of the payment of bills from December to January was it able to show a modest positive cash flow for the year. It needs to be returned to the private sector now, in a way that guaranteed its long-term viability.

As we work through these issues, the most important ingredients must continue to be your views and those of your colleagues throughout the transportation and shipping community. I learned long before I went to Washington that the federal government does not have the answers to all of mankind's problems. After five years on the banks of the Potomac, I am even more convinced that if we don't listen constantly to those we are charged with governing, our good faith efforts to fix problems will more often than not make things worse.

The Reagan Administration has opened up a tremendous range of opportunities for those of you in the free enterprise system. Ultimately, however, the future of transportation is in your hands, not ours. With your leadership in Connecticut, I believe the last 15 or 20 years of the twentieth century will be viewed some decades hence as the most exciting and most productive for transportation in this state's and our nation's history.



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PRIVATE CARRIER CONFERENCE
ATLANTA, GEORGIA
MAY 15, 1986

I am delighted by this opportunity to meet with so many private carriers. This, the largest conference of the American Trucking Associations, has become a tremendous force for progress in our nation's trucking industry. Steve Schlosser and Ed Cody from my home state of North Carolina keep me up to date on the issues affecting private carriers and of course, I appreciate your continued emphasis on safety. The "18-Wheeler" has become more than the symbol of American commerce on the move. It is the workhorse of a \$190 billion industry, employing seven million Americans, reaching into every nook and cranny of our country. Private carriers alone operate more than six million vehicles. Trucking is among America's greatest and most valued assets, and you have a right to be proud of your many accomplishments.

You are facing today some major new challenges that, in my view, can only serve to strengthen an already vigorous and responsible industry. Deregulation has created unprecedented opportunities for market growth and expansion, while at the same time the public is demanding greater safety assurances. You are already responding to both these challenges, and I want to stress that prosperity in the marketplace and the safe operation of motor carriers are entirely compatible and realizable objectives. As Tom Donohue, of the ATA said in Congressional testimony last year, "strict enforcement...of existing safety laws and strong industry self-regulation

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programs..." are the primary methods to accomplish better safety. I could not agree more.

I'd like to take a moment to describe the Department's basic regulatory approach to these issues. Secretary Dole has made transportation safety her highest priority and a consistent goal of federal policy. It is not an issue to be compromised, set aside or subordinated to other interests. The Congressional mandate for safety is spelled out strongly and clearly in the Motor Carrier Safety Act of 1984. If we fail to live up to the dictates of that law, Congress will come back with even stronger laws. State legislatures and local governing bodies will also restrict your operating freedom. Moreover, let us not overlook the fact that the mood of the American people has been evolving. The anti-drunk driving campaigns of recent years, child safety seat laws and other highway safety legislation have all originated at the grassroots. I know, however, that you share our basic concern for truck safety, and that the companies you represent are spending substantial sums on safety.

At the same time, we are sensitive at DOT to the fact that yours is a tough business. The motor carrier industry in general and private carriers in particular operate in a very fluid, rapidly changing environment. You have weathered an economic recession and a changed regulatory and legal regime. You also have problems and concerns not characteristic of other modes -- a lack of uniformity in state licensing requirements, for example. The trucking industry, however, has never lacked stamina, wanted for perseverance, or suffered from innovative anemia. You provide an essential service with a long record of proven performance, and I am confident that the stimulus of a freer economy, fewer regulations and growing markets will only enhance that record.

We at the Department of Transportation hope to work with you in doing everything possible to ensure that all carriers have high standards of safety. Fiscal year 1985 was the first full year of the Motor Carrier Safety Assistance Program (MCSAP), which is now providing increased levels of funding to the states for inspection and enforcement of federal truck safety standards. The Administration has requested \$50 million for fiscal year 1987 for the MCSAP program. This compares to \$16.3 million approved for fiscal year 1986. This funding will make possible training for a total of 4,000 state enforcement personnel in roadside driver/vehicle inspection procedures. We expect this training to yield a work force that will conduct an additional two million roadside inspection and perform 10,000 safety audits annually. In addition, about a dozen state grantees are planning to develop a safety management audit plan predicated on roadside inspection data. The plan would do for intrastate trucking what federal auditors do for interstate carriers, i.e., go into the company and check its safety programs.

Your industry has an opportunity to improve further its safety record as a result of the Motor Carrier Safety Act of 1984. The Act requires us to

review and reissue all motor carrier regulations. We appreciate the input you have given us in the rulemaking process. We want to write these regulations in a positive way that encompasses both current needs and the demands of future growth. For example, we have recently published a final rule which strengthens driver requirements by prohibiting the use of certain drugs. Earlier this week we published a notice of proposed rulemaking proposing more stringent driver qualifications for drivers carrying hazardous materials.

However, we could hire thousands of inspectors; we could appoint more panels and conduct more reviews and rewrite more regulations; but we still are not going to convince people trucks are safe so long as they encounter trucks at night with half their running lights out. We cannot succeed if automobile drivers on major highways continue to look in their rear view mirrors to find trucks riding their bumpers. Nor can we overcome the impact of trucks bearing down on them at 15 to 20 miles per hour over the speed limit.

The federal government can do much. However, you simply cannot wait for us. We depend on your cooperation and leadership. If you don't act now to police your own industry as aggressively as you can, you may very well lose the productivity gains of the last few years if federal and state lawmakers react strongly to public outcries. I know many of you have been providing such leadership, but there are still many people in other sectors of trucking that have not fully grasped this point.

I also want to say a few words about another issue of great importance to the motor carrier industry in general and private carriers in particular. As you know, last year Secretary Dole transmitted to Congress legislation to complete economic deregulation. There are two other trucking deregulation bills as well -- Senator Packwood has his own bill and Representatives Moody and DeLay have a version in the House. I want to share some thoughts with you about why the time has come to complete deregulation and to compare some important points in these three bills.

Economic regulation of transportation industries began some 99 years ago. Much of it has now become an expensive paper chase, with no offsetting benefits to consumers and questionable value to carriers. In fact, the research we have done since enactment of the Motor Carrier Act of 1980 has confirmed that shippers strongly favor economic deregulation. Overall, the 1980 Act has had significant, positive effects on the trucking industry. While the recession of 1981-1982 caused substantial traffic declines and financial losses for some motor carriers, the industry as a whole has been making the necessary adjustments to today's more competitive environment.

With freer entry, we have had an explosion in the number of firms with Interstate Commerce Commission operating authority from roughly 18,000 in 1980 to about 31,000 thousand last year. New price and service options have been introduced. Established carriers have become more efficient and innovative by restructuring routes, reducing empty backhauls, providing

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simplified rate structures and offering shippers incentives to move freight more efficiently.

As impressive as the immediate benefits of economic deregulation have been, the long term results may be even more significant. Overall distribution productivity is benefiting from improved information and inventory management systems, as well as from the greater transportation efficiency made possible by economic deregulation. Today, these trends are resulting in a virtual distribution revolution. I suspect all of you know this, and that this is the reason the strongest trucking support for economic deregulation comes from the private carrier sector of the industry.

Many opponents of economic deregulation argued that passage of the Motor Carrier Act of 1980 would result in poor service to shippers, with residents of rural areas unable to obtain service at any price. These fears have been proven groundless, as truck service has remained good -- even in remote areas.

Ninety-eight point eight percent of all shippers contacted in a recent survey said service was at least as good as it had been before the Motor Carrier Act of 1980. Even 98.5 percent of shippers in remote areas -- defined as 26 miles or more from an interstate highway -- found service at least as good as it had been.

We, therefore, concluded that it is time to eliminate those remaining economic regulations which no longer provide any benefits to shippers or consumers and are of questionable use to carriers.

The trucking industry finds itself today in a no-man's land, halfway between the familiarity and protection of a regulated environment and the excitement of a free market. Reflect for a moment with me about the absurdity of the ICC's tariff filing requirements, which still yield a harvest of almost a million tariffs annually. Tariffs must be filed for "cucumbers processed into pickles by the ordinary means," while "cucumbers, salt cured" are exempt. Citrus fruit sections that are chilled or semi-frozen are not of interest to the ICC, but if they are frozen, you violate the law if you fail to record the rates in Washington. I'm sure you will all lie awake tonight wondering why no filing is needed for "manure, in the natural state," while it is absolutely required for "manure, fermented, with additives such as yeast and molds producing rich liquor which in water solution is used for soil enrichment."

It simply does not make sense to stay put. The reforms provided by the 1980 Act comprised a good first step toward complete economic deregulation of the trucking industry. We believe that now is the time to take the final steps necessary to complete that process.

Now, let me discuss a couple of specific points in each bill now before the Congress.

Our bill is the no frills, "take no prisoners" approach to economic deregulation. It will simply get rid of all economic regulation across the board, leaving safety and insurance requirements. The Packwood and Moody-DeLay bills both contain a number of supposed "sweeteners." A big sweetener, of course, although we question why it is so important, is a Motor Carrier Administration. Some people in the trucking industry want a Motor Carrier Administration because they perceive that other modes get promotional benefits from the Department. I must point out that the trend is in the opposite direction. Early in the Reagan Administration, DOT transferred its automotive promotional responsibilities to the Department of Commerce. The Federal Railroad Administration has been devoting its resources to the sale of Conrail and the effort to eliminate Amtrak subsidies, neither one of which is a promotional exercise as that term is commonly understood.

You cannot fix the trucking industry's safety problems simply by creating a new bureaucracy at DOT. As President Reagan has said, "We want you to be efficient truckers, not experienced bureaucrats. If there's one thing that we don't need, it's Federal red tape which binds the hands of our most productive citizens." A separate Motor Carrier Administration could easily become yet another federal agency always on the hunt for more turf and power, creating red tape that would divert your attention and resources from shippers to lawyers.

We are working, however, to strengthen the Federal Highway Administration's Motor Carrier Program. We have established an Associate Administrator for Motor Carriers within the Federal Highway Administration; last fall Secretary Dole swore in Richard Landis to fill this new post. Dick brought with him many years of experience from the Arizona Department of Public Safety. He is not afraid to innovate, and we expect great things from him. Dick's presence and this new office reflect our commitment to emphasize motor carrier programs. I believe it answers many of your industry's needs. It provides direct access to the Federal Highway Administrator's Office in Washington for the BMCS field staff. It increases visibility for motor carriers within the Department. Most important, it gives you in the industry and we at DOT an opportunity to work together more closely at the senior level.

Another sweetener in the Packwood and Moody-DeLay bills is state pre-exemption. Both bills would make interstate carriers immune from state economic regulation. The Moody-DeLay bill would also require state administrators to establish more uniform standards. Senator Packwood's proposal directs DOT to come up with uniform standards within 24 months.

With regard to state economic regulation, I know there are many problems, most of them confronting your sector of the industry.

For example, most states do not permit the basic reforms that private carriers have received at the federal level in the last six years, such as

single source leasing and compensated intercorporate hauling. About two thirds of the states do not allow either.

One problem has to do with local intrastate delivery from wholesale distributors after an interstate movement. Intrastate distributors are regulated by most states, which means much higher rates. In fact, 79 percent of private carriage is intrastate. The Department of Transportation recently filed comments with the ICC, in the Armstrong case, to overturn the policy of considering local moves by a for hire carrier following an interstate move to be "fair game" for state regulation. The ICC agreed with our position. It's decision will be appealed, of course, but we have every reason to believe it will be upheld.

Unfortunately, however, there is a possibility that this will not help private carriers, and I want to tell you why. In a 1936 Supreme Court ruling, Pennsylvania Railroad Co. v. Public Utilities Co. of Ohio, the Court upheld an ICC ruling that interstate transportation provided by a private carrier is not really "interstate transportation" because it is not regulated by the ICC. Thus, intrastate distribution by for hire carriers before or after an interstate movement by a private carrier will still be subject in many states to strict regulation.

I want to point out, however, that resolving this issue of preemption creates a serious philosophical dilemma for the Reagan Administration. We want greater economic efficiency through the free flow of interstate commerce on the one hand, and, the proper balance of federal and state power on the other. We don't want to intrude in areas that are appropriate state concerns.

Finally, neither Moody-DeLay nor Packwood promise the budgetary and manpower savings provided in our bill. Both still have the ICC regulating household goods, have cargo liability requirements and ICC leasing rules.

Let me conclude by mentioning a couple of other specific points in our bill. As I said earlier, we propose to eliminate all remaining ICC regulation of trucking rates and entry and, more importantly, eliminate antitrust immunity for collective rate making. Some people assume that the rate bureaus would be eliminated. That is not the case. Nobody is talking about eliminating the rate bureaus unless it is the rate bureaus themselves. They can function as very effective trade associations, providing technical information to members, following changes in laws and regulations and representing their constituents. There is no reason why the rate bureaus cannot continue to set classification standards as long as they only include transportation characteristics such as weight, volume and perishability. The bottom line will be: "Just do not agree on prices."

Our bill would also do the following:

- o eliminate tariff publication requirements;
- o eliminate the "common carrier obligation;"

- o transfer jurisdiction for consumer protection in household goods carriers' operations to the Federal Trade Commission;
- o eliminate special antitrust immunity for household goods van line-agent relationships after three years;
- o prevent states from "encroaching" -- that is, imposing new regulations on operations that previously were regulated by the ICC.

Our bottom line, then, is that any remaining economic regulation of the trucking industry is unneeded and undesirable, because there is ample competition within the industry as well as from other modes. Such regulation suppresses managerial initiative and innovation, and wastes valuable resources that the trucking industry could employ more usefully in improving its productivity.

As we work through both economic regulatory issues and safety issues, the most important ingredients must continue to be your views and those of other segments of the trucking industry. I learned long before I went to Washington that the federal government does not have the answers to all of mankind's problems. After five years on the banks of the Potomac, I am even more convinced that if we don't listen constantly to those we are charged with governing, our good faith efforts to fix problems will more often than not make things worse.

The Reagan Administration has opened up a tremendous range of opportunities for those of you in the free enterprise system. It has provided the funding and access you need to our highway system to make substantial gains in productivity. It will continue to be aggressive in carrying out its safety responsibilities. Ultimately, however, the future of the trucking industry is in your hands, not ours. With your leadership, I believe the last 15 or 20 years of the 20th century will be viewed some decades hence as the most exciting and productive in the trucking industry's history.

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REMARKS PREPARED FOR DELIVERY BY
DEPUTY SECRETARY OF TRANSPORTATION JIM BURNLEY
TO THE HARVARD LAW SCHOOL ASSOCIATION
OF THE DISTRICT OF COLUMBIA
MARCH 18, 1986
WASHINGTON, D.C.

Thank you Don (Bliss; President, Harvard Law School Association of D.C.), for welcoming me here today--it is certainly a pleasure to be here. I'd like to talk about an issue that has been very much in the headlines recently. I know of few issues that have been more misrepresented, misunderstood, demagogued and sensationalized than this one. I speak of the relationship between economic deregulation and aviation safety, and I intend to spend the next few minutes offering a context for your intellectual and visceral processes the next time your plane is accelerating toward takeoff.

First and foremost, let me emphasize that when we speak of "airline deregulation," we are talking about the elimination of economic regulation. Safety has most assuredly not been deregulated. And the benefits of economic deregulation both to the individual American consumer and the American economy as a whole cannot be exaggerated. They are real, substantial and ongoing, and they are measured in billions of dollars in reduced travel costs.

There has been a tendency recently to romanticize the days of economic regulation of the airlines. In order to dispel that romanticism, I'd like to provide you with a bit of history.

A comprehensive and centralized regulatory system was imposed on the infant aviation industry in 1938. That regulatory regime, administered by

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the Civil Aeronautics Board, controlled virtually every airline economic decision for the next four decades. The CAB prevented active price competition through its reliance on industry-wide fare increases. Further, as a consequence of the Board's limited entry and mandatory service policies, airlines had very little discretion to adjust their routes or enter new markets, especially if another carrier was already serving those markets. Despite all the protection and predictability offered by this system of regulation, the industry didn't always prosper. Many of the largest operators experienced financial problems year after year.

When you look at the vibrant airline competition of today, it's hard to remember how truly suffocating the regulated environment was only 8 short years ago. Routes, tariffs and service were in the firm grip of federal central planners. There was little room for creative thinking because of the absence of true competition. The results were entirely predictable: the airline industry was stagnating.

It became increasingly clear that if the American public's changing transportation needs were to be met, the artificial constraints limiting expansion and competition would have to be eliminated. Finally, in 1978, Congress passed the Airline Deregulation Act. This effort culminated with the closing of the Civil Aeronautics Board a little more than a year ago and the transfer of its residual functions to the Department of Transportation.

Under deregulation, entrepreneurs launched a new era in aviation. Today there are twelve major carriers flying, another score or so medium-sized carriers and a host of regional and commuter airlines. Deregulation has clearly brought a new level of cost consciousness and service options to the airline industry. Before deregulation, when we traveled, our choice was limited to first class or coach. Today, you can find as many as 10 categories of fares, each tailored to a specific market segment.

The low fares mean that air travel has been brought within the financial reach of millions who otherwise could not have afforded to fly. Exotic vacations and distant family and friends have been brought closer for millions of ordinary American citizens.

The important point here is that these benefits have not, as some would claim, come at the expense of aviation safety. Flying remains one of the safest forms of transportation, and air travel in the United States is still the safest in the world. Each day, some 15 thousand scheduled airline flights carry an average of 1 million passengers, and 99.999 percent of these flights reach their destinations without so much as a minor operational error.

Now there has been a lot of concern recently because international commercial aviation in 1985 experienced its highest number of fatalities in a single year. It is crucial, however, that this bare statistic be put in perspective. About 70 percent of these fatalities occurred in accidents on

foreign airlines and almost 50 percent occurred in the Japan Airlines and Air India crashes. We have found no common thread in the causes of last year's tragic accidents -- either here or abroad -- and we have no evidence that the presence or absence of government economic regulation contributed to those crashes. In fact, J.A.L. and Air India operate under heavy government economic regulation.

Aviation accident and fatality rates in the U.S. -- have declined steadily over the past 25 years, and this very reassuring trend has continued unabated since deregulation. Indeed, the accident rate has improved 28 percent for the 7 years after deregulation as compared to the 5 years prior to deregulation. And last year, commuter carriers saw the best -- the safest -- year in their history, and general aviation totals and rates all were at recent record lows.

None of this should come as any surprise if you remember that, contrary to some recent academic revanchism, competition promotes safety. If a carrier acquires a reputation for sloppy operations and marginal practices, passengers will stay away in droves. It is also important to recognize that airline executives faced economic pressures before deregulation but had much less flexibility to adjust to those pressures than today. Because the government set fares under regulation, the carriers could not, in order to increase overall net revenue, lower their fares to attract new business or adopt new schedules to meet changing consumer demands. One of the few ways a carrier could reduce losses or increase profits was by cutting maintenance, pilot training and other safety items.

I am not claiming, however, that the post-1978 era has been problem-free. It is inevitable that in the transition from a stagnant, regulated industry to a booming competitive one, there will be some growing pains. Additionally, the PATCO strike, right in the middle of our transition to a free market, compounded these pains by requiring restrictions on air traffic while the controller workforce was being rebuilt. Finally, the FAA, which had geared itself to the lethargic pace of an industry in which economic change was inhibited at every turn by the CAB, has faced the challenge of keeping a step ahead of a newly invigorated, competitive industry.

I want to emphasize again that economic deregulation in no way can be allowed to undercut safety regulation. It is the Reagan Administration's view that aggressive oversight of the safety of aviation is a critical federal responsibility. And Secretary Dole's initiative, the FAA has been conducting a series of intensive safety improvement programs. In 1984, for example, the Secretary ordered an unprecedented, comprehensive "White Glove" inspection of all the nation's airlines. Overall, this first step identified a high level of compliance and a safe system, but it also uncovered defects among some carriers identified some needed procedural changes by the FAA.

The intensification of the FAA's inspection programs during the past 2 years led to the discovery of violations that needed attention and correction. During 1985, the FAA suspended or revoked the certificates of over 60 major and commuter carriers and imposed more than \$2 million in fines. And to further strengthen the system, Secretary Dole announced several months ago that the inspector workforce would be increased by 500 people over the next 3 years.

Last fall, the FAA completed the Project SAFE Report, a comprehensive review of its safety inspection system including inspector tasks and work functions. Among the most important findings was the need for greater standardization of the FAA's inspection activities. In the past, regulations have sometimes been applied inconsistently from one office to the next and even from one inspector to another within the same office. To ensure greater standardization in the application of our regulatory requirements, we are revising the entire set of internal handbooks used by our inspector workforce.

We also have provided all FAA field offices for the first time with a comprehensive surveillance work program to be followed in fiscal year 1986, setting out the minimum numbers and types of inspections which should be conducted annually for each operator. In addition to our ongoing inspection program, we also plan to conduct detailed, in-depth operations and maintenance inspections every 2 to 3 years for all major carriers. One of these has just been completed and others are in progress. Additional one-time special focus inspections are also underway for engine repair facilities and overseas military operations.

To assure adequate follow up to our inspection efforts, we are currently developing a system called the Aviation Safety Analysis System (ASAS), and we have recently completed the installation of 12 national ASAS software subsystems. Through the automation provided by this system, we expect to increase the productivity of our inspector workforce and provide a national data base of up-to-the-minute information concerning, among other things, the inspection and enforcement histories of each operator.

I will spare you an exhaustive explanation of the massive effort by the FAA and the Department to update our safety-related regulations. The next time you are half-listening on one of the early morning television news shows to an expert, self-appointed or legitimate, who can find nothing good to say about the FAA, please remember the following: during the last 2 years alone, we have promulgated final rules setting tougher flammability standards for seat cushions; requiring floor level emergency lighting, smoke detectors and automatic fire extinguishers in lavatories, and more hand-held fire extinguishers in the cabin; strengthening prohibitions on alcohol and drug use by crewmembers; requiring all air carriers to provide basic medical equipment for use during in-flight medical emergencies; and requiring all pilots of aircraft equipped with transponders to keep them turned on while flying in controlled airspace. Rulemakings which will be completed in the foreseeable future include updated, tougher standards for protective

breathing equipment for crewmembers; higher flammability standards for the rest of the materials used in the cabin; and expanded requirements for the categories of information preserved on flight data recorders.

Time constraints also prevent me from giving you a detailed explanation of the National Airspace Plan, our decade-long, \$12 billion replacement program to completely modernize the air traffic control system's hardware and software. It will double the capacity of the system while continuing and even improving the level of air safety. Over the last 5 years, Congress has appropriated almost \$4 billion, somewhat less than the Reagan Administration's requests, to fund these procurements, and we have already signed 17 significant contracts.

In closing, I would just like to stress again that the enormous benefits to the American people that have resulted from economic deregulation should not be and have not been at the expense of safety. Our safety record since deregulation has shown steady improvement, and we are committed to seeing that this trend continues.

Thank you very much. I would be happy to take questions.

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