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In the

Supreme Court of the United States

RAYMOND MOTOR TRANSPORTATION, INC.,  
A MINNESOTA CORPORATION

AND

CONSOLIDATED FREIGHTWAYS CORPORATION  
OF DELAWARE,  
A DELAWARE CORPORATION,

APPELLANTS,

V.

ZEL S. RICE, ET AL.,

APPELLEES.

No. 76-558

Washington, D. C.  
November 8, 1977  
November 9, 1977

Pages 1 thru 54

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IN THE SUPREME COURT OF THE UNITED STATES

RAYMOND MOTOR TRANSPORTATION, INC.,  
a Minnesota Corporation

and

CONSOLIDATED FREIGHTWAYS CORPORATION  
OF DELAWARE,  
a Delaware Corporation,

Appellants,

v.

ZEL S. RICE, et al.,

Appellees.

No. 76-558

Washington, D. C.,

Tuesday, November 8, 1977.

The above-entitled matter came on for argument at  
2:25 o'clock, p.m.

BEFORE:

WARREN E. BURGER, Chief Justice of the United States  
WILLIAM J. BRENNAN, JR., Associate Justice  
POTTER STEWART, Associate Justice  
BYRON R. WHITE, Associate Justice  
THURGOOD MARSHALL, Associate Justice  
HARRY A. BLACKMUN, Associate Justice  
LEWIS F. POWELL, JR., Associate Justice  
WILLIAM H. REHNQUIST, Associate Justice

## APPEARANCES:

JOHN H. LEDERER, ESQ., DeWitt, McAndrews & Porter, S.C.,  
121 South Pinckney Street, Madison, Wisconsin  
53703; on behalf of the Appellants.

ALBERT HARRIMAN, ESQ., Assistant Attorney General of  
Wisconsin, Department of Justice, 114 East, State  
Capitol, Madison, Wisconsin 53702; on behalf of  
the Appellees.

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P R O C E E D I N G S

MR. CHIEF JUSTICE BURGER: We will hear arguments next in 76-558, Raymond Motor Transportation against Rice.

Mr. Lederer, I think we will wait a few minutes.

I might say in the meantime, I observe that both you and your friend are from Madison. If you want to get back to Madison tonight, you will have to truncate your argument; otherwise you will stay overnight and we will finish with you in the morning.

MR. LEDERER: Very well, Your Honor.

MR. CHIEF JUSTICE BURGER: I think you may proceed, Mr. Lederer.

ORAL ARGUMENT OF JOHN H. LEDERER, ESQ.,

ON BEHALF OF THE APPELLANTS

MR. LEDERER: Mr. Chief Justice, and may it please the Court:

This is a commerce clause case. Appellants, Raymond Motor Transportation Company and Consolidated Freightways, are interstate general commodity carriers who utilize twin trailer type vehicles in their operations.

A twin trailer vehicle is a type of truck that consists of a truck tractor, to the rear of which is attached a 27-foot van, riding on the rear of the truck tractor on an arrangement called a fifth wheel, a turntable type arrangement. To the rear of this 27-foot van there is attached a dolly, which



has a second turntable type arrangement on it, and a second 27-foot van. Twin trailers offer significant operating advantages to general commodity carriers. Because of the ability to separate the individual vans that make up a twin trailer and make them into new combinations, general commodity carriers are able to substitute the interchanging of vans for the unloading, sorting, and reloading of cargo which is necessary when conventional 55-foot semi-trailers are used.

Because the twin trailer can be operated as a single unit, that is, a single van with a single tractor, twin trailers can be used for downtown delivery and pickups, where normally, if a general commodity carrier were using semi-trailers in this operation he would have to unload the semi-trailer, reload the cargo into a straight truck, a short normal truck without a semi-trailer, to operate in a downtown area.

QUESTION: But do you have them in the regular -- do you mean they operate throughout the city, these double trailers?

MR. LEDERER: That is correct. What happens is the --

QUESTION: Well, what do the cars do, just run up on the curb and sit down?

MR. LEDERER: No, sir, these trucks are no wider and would not be significantly --

QUESTION: Then they are longer?

MR. LEDERER: No, sir, not when they're operated in a downtown city. The rear trailer of the twin trailer is removed.

QUESTION: Oh. I thought you said --

MR. LEDERER: What you have then is a short unit.

QUESTION: Oh, I thought you said you had both of them going through there.

MR. LEDERER: No, sir, just one.

QUESTION: Because I wanted to stay away from that town!

[Laughter.]

MR. LEDERER: But, by being able to use that type unit, carriers are able to use the same equipment that they use for long-distance operation in a downtown city; they do not have to purchase and use a different type of equipment.

QUESTION: Well, where is the transition made? You're not saying that your 65-foot rig runs only on the Interstates, are you?

MR. LEDERER: Substantially --

QUESTION: Well, I mean --

MR. LEDERER: Not only, no. The general commodity carriers have terminals, where these units would be broken down, where cargo would be loaded into them, unloaded, and so forth. These terminals are normally located quite near the Interstate Highways. In the case of Wisconsin, where we've

requested permission from the State to use the Interstate Highways, Raymond Motor Transportation has no terminals in the State, made no request other than the Interstate Highways; Consolidated has two terminals, one is located approximately one mile from the Interstate Highway in Milwaukee, the other is located approximately four miles from the Interstate Highway in Madison. Both are down four-lane divided highways.

They requested authority to operate from the Interstate to those terminals. But that would be the extent of their operation in the State, as a 65-foot twin trailer.

QUESTION: So the extent of your claim is to operate your 65-foot rig as such only on four-lane limited-access highways?

MR. LEDERER: Only on specific Interstate Highways in the State of Wisconsin, plus the very limited one-mile and four-mile additional operation from the Interstate Highway to the terminal.

QUESTION: Well, but then it is more than my question, as I -- when you say the one-mile and the four-mile. It's not just strictly confined to Interstates?

MR. LEDERER: That's correct. That's correct.

It is in the case of Raymond.

QUESTION: Incidentally, do many States have this bar on the use of twin trailers?

MR. LEDERER: There are approximately 12 States, plus

Wisconsin, which ban twin trailers. All of the States which ban twin trailers, with the exception of Wisconsin, are located on the Eastern Seaboard.

QUESTION: Well, I know I hadn't seen many rigs like this on highways in this area.

MR. LEDERER: There is -- in the Appendix there is a map which shows which States permit them and which do not.

QUESTION: Well, I've seen them, it was either in upState New York or some place up in that area.

MR. LEDERER: New York permits twin trailers on the thruways in New York; Massachusetts also permits them on the Turnpikes in Massachusetts.

QUESTION: Yes, I thought I had seen them.

QUESTION: Mr. Lederer, while you're interrupted, is there an exception in the State of Wisconsin from Tomah west to La Crosse and to the Twin Cities? Are you --

MR. LEDERER: I am familiar with that area; there is not an exception.

QUESTION: I had the other impression from reading the papers. I must have misinterpreted it.

MR. LEDERER: There is not. Wisconsin does have a number of exemptions to its general vehicle limit, wide exemptions, wide number. The only exemption for twin trailer usage in the State of Wisconsin is a permit which is granted to a Wisconsin manufacturer of these vehicles.



QUESTION: I understand that. So there is no exemption for specified highways, that you know of, specifically from Tomah west?

MR. LEDERER: There is no existing exemption, no.

The legal issues in this case are two. The first question is whether Wisconsin's ban constitutes an undue burden on interstate commerce, which cannot be justified by a legitimate local purpose. The second question is whether or not Wisconsin's entire regulatory scheme is discriminatory.

Both those questions in large part depend on a single factual issue: whether or not twin trailers are safe or are unsafe.

If, in fact, twin trailers are safe, as the conventional semi-trailer units which Wisconsin permits on its highways, then there is no legitimate local purpose served by the Wisconsin ban.

If, in fact, twin trailers are safe, then the State cannot justify its discrimination against this type of vehicle, and against interstate commerce which uses this type of vehicle, on the basis of safety.

And in our opinion no criterion would exist that would permit them to do the discrimination that they do, under that regulatory scheme.

QUESTION: Do you recognize any considerations other than safety? How about just aesthetic ones, that you just

don't care to be, if you're driving a car, in the midst of 65-foot-long trucks?

MR. LEDERER: The State was required by the district court, in a pretrial conference, to amend its answer, to state in that answer all justifications that the State had for its ban on twin trailers. The State responded that its sole justification was safety.

QUESTION: And you feel it's bound by that at this point?

MR. LEDERER: I feel the State is bound by that. I think -- you know, there could be other reasons that might be imagined. Most of those were raised in this case, or at least were considered. For instance, road wear. The State conceded in its answer that twin trailers do not cause increased road wear, and some relevant, after that concession, testimony came into the record that they do not increase road wear.

I suppose it would be possible to think of other reasons, but I think safety certainly would be the only local purpose that would have a substantial enough reason that it could justify what is a very great burden on interstate commerce.

QUESTION: Mr. Lederer, getting to a personal matter. When you go down these highways, like with all the rain we've had the last few days, and you pass by a trailer

truck with a single one, you have a pretty hard time with that rain coming up off the road. This just doubles it.

MR. LEDERER: It does not, Your Honor.

QUESTION: Why not?

MR. LEDERER: There's a technical explanation, but I suppose the short answer is that there is 20 percent less splash and spray with a twin trailer than with a semi-trailer. The principal reason for that is the splash and spray which you see coming at your vehicle, a large part of it originates from the tandem drive axle of a semi. There are two axles that are located quite close to each other, the wheels are rotating and spraying water at each other, where they hit, break up and spread out in the mist that's common with trucks. That's located both at the tractor and at the rear of the semi-trailer. With the twin trailer, there are no tandem axles.

QUESTION: If Virginia passes a rule and lets them have them, I'll be glad to think of that while I'm fighting that rain coming.

MR. LEDERER: I think one of the things that's very interesting on that particular point, and the district court raised that point in its discussion of safety, there's extensive testimony on the record. In fact, of the 11 vehicle types which were tested, in tests that were under government supervision, of 11 vehicle types, the twin trailer was the vehicle

that put out the least splash and spray. It put out its splash and spray in a pattern that was lower and not as wide as other vehicles, and the vehicles that put out the most splash and spray --

QUESTION: Is this on the sides?

MR. LEDERER: That's on the sides. That's on the sides and behind. They measure the density of the splash and spray coming out from the vehicle and from behind the vehicle.

QUESTION: Now, are you asking us, the nine of us, as you did the three judges on the district court, to second-guess the State of Wisconsin on all these technical matters?

MR. LEDERER: I suppose in a sense it could be phrased as second-guessing the State, but I don't think it is truly.

QUESTION: Well, let's say, let's change it then and make it reviewing the action of the State.

MR. LEDERER: The State advanced as the sole reason for its justification safety. I think certainly the burden then fell on appellant, plaintiff at that time, to produce evidence to show that twin trailers are safe.

QUESTION: And you did not persuade the district court?

MR. LEDERER: We did not persuade the district court because the district court applied a legal presumption from prior decisions of this Court in the 1920's and the 1930's, to the effect that longer vehicles are larger vehicles, that

vehicle size is inherently tied to safety.

That presumption, I think, is completely rebutted by the evidence in this case. It's a difficult presumption to rebut, because it has the semblance of reasonableness to it. I think people automatically assume that a larger truck will, per se, be a less safe truck. The type of trucks that we're talking about here, though, are a substantially physically different piece of equipment than the semi-trailer truck that you're used to. I say "used to" because they are the most common trucks that you see on the highways around here.

QUESTION: Mr. Lederer, you mentioned earlier that there is somewhere in here a map showing what States have this and what haven't. I remember that from reading these briefs some time ago, but I can't find it now.

MR. LEDERER: I believe it's at page 278 of the Appendix, Your Honor.

QUESTION: Thank you very much.

QUESTION: Now, you've been speaking of just one aspect of the safety. What about the problem of passing? Does passing on the road, if anyone wants to violate the law sufficiently to pass one of these trucks, introduce a greater element of risk in crowded high-speed traffic?

MR. LEDERER: It does not, or, if it does not, the opinion of numerous experts -- these were both professional engineers and civil engineers, plus State officials from the



States of Minnesota, Kansas, and other States who had experience with twin trailers -- uniformly testified that the additional length would cause no passing problems. We're dealing with an Interstate Highway, or a four-lane divided highway, where all the traffic is going in the same direction. There's no fear that a car is going to come down in the same lane in which you're passing.

QUESTION: Yes, but even if you're passing in the left of two lanes, both going the same direction, don't lots of people prefer not to be right alongside the vehicle in the other lane? You'd rather either be behind him or ahead of him.

MR. LEDERER: That's true.

QUESTION: So, to the extent that you spend time passing him, there is a certain safety hazard?

MR. LEDERER: I don't believe that --

QUESTION: Well, if your car has a blow-out while you're passing a truck, you're in worse shape than if you have a blow-out with no other traffic around, don't you think?

MR. LEDERER: That would be true. At the time of trial when Wisconsin permitted 55-foot trucks, the difference in time was two-thirds of a second, if you assume a 10-mile-per-hour passing speed.

QUESTION: Well, it may not be much, but it's something.

MR. LEDERER: At the present time, Wisconsin has changed its law, now permits 59-foot trucks, you're talking about a matter of four-tenths of a second.

QUESTION: Well, how long does it take to pass altogether?

MR. LEDERER: It would be approximately six -- I am not sure, Your Honor.

QUESTION: How about jack-knifing?

MR. LEDERER: These trucks are far less likely to jack-knife than a semi-trailer.

QUESTION: And the tests show that?

MR. LEDERER: The tests show that. They are very conclusive on that respect. It's one of quite a few respects where these twin trailers are not only as safe as the conventional semi-trailer, but are substantially safer.

QUESTION: Well, if things are so clear and things would be so much more efficient and convenient for shippers and consignees and everybody else, to what do you ascribe Wisconsin's stubbornness?

MR. LEDERER: I think you have a situation where the original statutes which the State passed --

QUESTION: Do you think they just don't understand the evidence or --

MR. LEDERER: No, I don't think that's the case at all. I think -- you have two things: one, you have a statute

which has been in existence for a long period of time, the weight limits go back long -- or length limits go back long before twin trailers. But you've had a total absence of domestic political pressure on the State to make the change. That's the result of several factors.

The first of these is the way general commodity rates are set. They are set on a regional basis. A Wisconsin shipper does not pay a substantially higher rate because the commodity carrier has more expensive transportation into, out of, and through Wisconsin. That rate is set on the basis of Wisconsin, Illinois, Indiana, Ohio, and a number of other States. So he bears no direct cost burden, or certainly not a substantial one, because of the inefficiencies which the Wisconsin statute creates. That's --

QUESTION: Well, I would think it would be enough to convince Wisconsin that if you make more profit from your operations in Wisconsin, Wisconsin will get more taxes out of it.

MR. LEDERER: I suppose they would. I think --

QUESTION: I would think that would be enough of a reason for them to allow you to be more efficient.

MR. LEDERER: I think there's a second factor there, and that is that the type of vehicle which we're talking about here -- excuse me, I'm sorry. There's a second factor, in why there's no domestic political pressure, and that's

because of Wisconsin's entire regulatory scheme. It originally had a statute which was fairly simple. Over the years, every time a domestic political group, a domestic interest group, something of importance to Wisconsin's economy, has had problems with the length statute or the width statute or the weight statute, they've been able to get an exemption.

QUESTION: Is there some opposition in Wisconsin to any change based on competitive factors?

MR. LEDERER: Yes, there is. I think -- it's certainly not in the record, but local carriers in Wisconsin presently operate with semi-trailer equipment. To the extent that a carrier outside of Wisconsin operates with twin trailer equipment, it is far less likely that he's going to attempt to expand his route structure into Wisconsin and compete with the local Wisconsin carrier.

QUESTION: You don't want us to try to evaluate factors like that, do you?

MR. LEDERER: No, I don't think that this Court should. I think --

QUESTION: Even if we knew how to.

MR. LEDERER: I think the simple question here, and it is a relatively simple issue, there is a substantial burden on interstate commerce. There is no dispute, serious dispute in the record as to the nature of that burden, and as to the substance of it. It's a severe burden.

If it is to be justified, it has to be justified on the basis of safety, and the record in this case is a very exhaustive and comprehensive record, which shows in its entirety that twin trailers are as safe or safer as the conventional semi-trailers which the State permits. In point of --

QUESTION: Does the record also show that on either the single or the double trailer, if you've got two pounds of pressure wrong in one tire, by accident, you're going to have something to happen?

MR. LEDERER: The record does not show that.

QUESTION: Well, you know it's true. They have to keep those tires absolutely perfect, with air.

MR. LEDERER: One of the things --

QUESTION: And if you have a careless driver, with one, that's one amount of damage or lack of safety; but if you've got a careless man with two, you double the carelessness.

MR. LEDERER: Well, Your Honor, I think that that question -- I don't know the answer to the specific question about tire pressures; but I think that general question is answered in the record. The United States Department of Transportation conducted studies to determine what the actual accident experience with twin trailers, compared to conventional semi-trailers, was. They went to a number of commodity carriers who use both types of equipment and surveyed their



operations over a five-year period.

What the summary, the bottom line of that, I suppose, was that twin trailers suffered approximately two-thirds or three-quarters of the total number of accidents per mile of operation that the conventional semi-trailers did.

QUESTION: Well, my point is, let's take the one that's absolutely clear. If you have a drunken driver, and he has two, he's going to do more damage than having one.

MR. LEDERER: If he makes no attempt to maneuver the vehicle and no attempt to stop the vehicle, the answer is yes.

QUESTION: And he's drunk?

MR. LEDERER: If he's drunk, and he makes no attempt to stop or maneuver, the answer is yes. If he's not drunk and he --

QUESTION: If he is drunk and he does try to stop or maneuver, he will do twice as much damage.

MR. LEDERER: No, sir. If he is --

QUESTION: Well, now you lost me some place.

MR. LEDERER: Okay. These vehicles --

QUESTION: He's got twice as much truck.

MR. LEDERER: He does not have twice as much truck in terms of weight, he does not have twice as much truck in terms of length; you're talking about a total difference in length of ten feet.

QUESTION: Well, he has --

MR. LEDERER: These are 65 feet long, not 55.

QUESTION: Well, it is more. It is more.

MR. LEDERER: He has slightly more, and he has slightly --

QUESTION: Well, he has slightly more danger.

MR. LEDERER: No, sir. He has slightly more length, he has slightly more weight, but he has --

QUESTION: And slightly more danger.

MR. LEDERER: No, sir, I don't -- he has a truck which can maneuver better and can stop better.

QUESTION: That's right, and if he's a drunken driver and he has two, the first one will wreck and the other one will just go on its merry way.

Do I understand you to say that a 65-foot truck can stop in a shorter distance and quicker than a 55-foot one?

MR. LEDERER: Yes, sir, that is correct. A 65-foot twin trailer.

QUESTION: Twin trailer, yes.

MR. LEDERER: The reason -- there are about five different reasons why this is true. One is because they simply have better brakes, they have a type of brake that uses a valve which is called a fast-air transmission valve, which results in almost simultaneous application of the brakes. It has a better tire footprint, because of better axle loads,

better weight distribution.

QUESTION: Are you comparing it with a 55-foot twin trailer truck?

MR. LEDERER: Excuse me, sir?

QUESTION: Are you comparing the 65 with --

MR. LEDERER: No, to a 55-foot semi-trailer, the type of vehicle which is permitted in Wisconsin and every other State in the country. The 65-foot twin trailer compared to a 55-foot conventional semi-trailer.

QUESTION: What's the status under Wisconsin law of the 55-foot twin trailer?

MR. LEDERER: It is prohibited by exactly the same administrative regulation which prohibits the 65-foot twin trailer. That administrative regulation prohibits twin trailers of any length, from one foot to 100 feet.

Wisconsin, by statute, empowered the Highway Commission to grant permits for twin trailers up to 100 feet in length -- trailer trains is the phrase which Wisconsin uses. The Highway Commission passed an administrative regulation which said it would grant those permits only for vehicles used for municipal refuse and only for vehicles in transit from manufacturer to dealer or for repair.

In regard to the braking of the 55-foot semi-trailer and the 65-foot twin trailer, those tests are in the record. And, in point of fact, those tests show that the 65-foot twin

trailer when more heavily laden than the 55-foot -- than a semi-trailer type vehicle, I don't know that it was a 55-foot, but a semi-trailer type vehicle, the twin trailer was able to stop in a shorter length of road.

That was true both on ice and snow and on a dry pavement.

QUESTION: Mr. Lederer, are you going to get to the -- a little more deeply into the exemptions as distinguished from the safety features of the case?

MR. LEDERER: Yes, Your Honor. I think the exemptions are important in part, because of the question which Mr. Justice White raised, which is why there is no domestic political pressure in Wisconsin to permit this type of vehicle.

Wisconsin, over the years, has responded to its local interest wherever the Wisconsin vehicle limits have constricted or restrained or created problems for Wisconsin industry, and Wisconsin has granted them a permit to use a longer vehicle. They have -- over the years this has become -- the exemptions almost swallow the rules. I believe over a three-year period where there was record in this case as to number of exemptions granted, Wisconsin granted over 40,000 exemptions which were general or annual exemptions. That is, not a single-trip exemption, but an exemption that would apply to a vehicle for an entire year and would be only restricted

as to mileage or use. Over a three-year period there would have been over 40,000 of those.

QUESTION: What range are they? Aren't they categorized, at least under the regulation? The regulation --

MR. LEDERER: There are numerous types. Probably one of the largest usage is auto transporters, car carriers. They are permitted to run 65-foot long trucks in Wisconsin. Wisconsin, of course, is the home State of American Motors, and we have a large General Motors plant in our State.

There are a variety of different trucks which are permitted to run in 65-foot lengths or longer under the industrial interplant permit section. This statute grants the Highway Commission the authority to give to a Wisconsin manufacturer --

QUESTION: Any plant in the State can have an inter-plant exemption?

MR. LEDERER: That's right, to operate --

QUESTION: Plus -- what if you only have one plant, can you get an exemption at the State line?

MR. LEDERER: You can, from the plant to the State line; but not in reverse.

QUESTION: But no one -- and also for importation?

MR. LEDERER: Not for importation. Some of the plants --

QUESTION: What if the plant wants raw materials?

MR. LEDERER: Then, presumably, it cannot obtain an



industrial interplant permit.

QUESTION: So you couldn't consolidate, couldn't deliver to a plant in 65-foot trailers, although the plant could export in 65-foot trailers?

MR. LEDERER: That's right. Assuming that we could get an industrial interplant permit to export -- well, the plant could export, we could not deliver; that is correct.

QUESTION: But you mean in their own equipment?

MR. LEDERER: In their own equipment they could only export, they could not import.

QUESTION: Well, how about -- may the people they hire to carry their goods out have 65-foot trailers?

MR. LEDERER: To carry their goods out, yes. They may --

QUESTION: So they can --

MR. LEDERER: -- they may always use 65-foot trucks whether with general commodity carriers, interplant carriers, whatever, for export, but not for import.

QUESTION: If you're hauling for a plant with a permit, you could use 65-foot trailers to carry their goods out?

MR. LEDERER: Well, presumably under the terms of the statute we could. In actuality, we cannot gain a permit under an industrial interplant --

QUESTION: Well, I know, but the plant can; the plant

can.

MR. LEDERER: Yes. It is questionable -- you know, I do not know whether the Highway Commission would grant it.

QUESTION: All right.

MR. LEDERER: The Wisconsin regulatory scheme, this scheme of exemptions is discriminatory, but it's not discriminatory on its face. Wisconsin, in general, with the exception of the industrial interplant permits, does not make its exemptions applicable solely to Wisconsin industries. Instead, what Wisconsin has done is taken those industries important to the State, whether it be milk production, pulpwood, automobile manufacturing, agricultural machinery, and has granted to those industries an exemption. An out-of-State agricultural machinery manufacturer could use the exemption, too. But by tailoring these exemptions to Wisconsin's needs, what has resulted is a discrimination of effect, not on the face.

I'd appreciate it if I could reserve the rest of my time for rebuttal.

MR. CHIEF JUSTICE BURGER: Very well.

Mr. Harriman.

ORAL ARGUMENT OF ALBERT HARRIMAN, ESQ.,

ON BEHALF OF THE APPELLEES

MR. HARRIMAN: Mr. Chief Justice, and may it please the Court:

Very briefly, and we'll get back to the subject of safety, but the safety aspect is, I think, obviously the one that has chiefly concerned Wisconsin residents. And it isn't a scientific concern based upon lots and lots of scientific tests, such as we have in this case; it's the reaction of the general public, the general driver, who writes to his Legislator and says, "I'm afraid of these; don't let them into our State".

Now, we had the testimony of the Chairman of our State Highway Commission. His testimony is set forth in the Appendix at the end of our brief, and he explained that he had been in the Legislature and he had seen these letters, and he was aware of the public's reaction and fright over them. And then, as Chairman of the Highway Commission, he said that "Out here we do as the Legislature directs", and we know that the Legislature has failed to pass several laws allowing these longer trailers, trucks, vehicles. And, consequently, we know what we're expected to do out here.

And I asked him from his own experience, and his statement was: "As I reflect upon the kinds of letters" -- I'm not reading all the words -- "in the days when I was still in the Legislature, their concern" -- meaning the constituents -- "seemed to center around a commingling of vehicles" -- that is -- well, I'm sorry; I won't interpret -- "in this case 10 feet longer in the case of the trucks, and the ability to

be able to pass such a vehicle caused a great deal of concern among the people at that time."

Now, that's the reason that the law hasn't been changed in our State. The people have told their Legislators they don't want it changed, that they are afraid of these vehicles. And I say, no one claims that this is based on any scientific studies; this is people driving on the highway, worried about what they see, and afraid of big trucks.

And that's -- as I understand it, that's the basis for the fact that our law has not been changed.

QUESTION: Aren't they similarly afraid of the big trucks from Wisconsin plants?

MR. HARRIMAN: They haven't -- as far as I know, they haven't told their Legislators that.

QUESTION: It's all right as long as it's a Wisconsin manufacturer?

MR. HARRIMAN: I don't know if they are aware that there are some of the -- I mean generally aware that there are some of these other big trucks.

QUESTION: I suppose that has less impact, because it isn't as pervasive throughout the State; is that true?

MR. HARRIMAN: Well, that's what I'm thinking, and I'll get into this a little further.

One of the principal uses of longer vehicles is made by American Motors hauling car bodies from Milwaukee to

their assembly plant at Kenosha. I understand that's about 45 miles, and they do haul lots and lots of car bodies; and they are big, long vehicles.

Now, that, as far as I know, is the only place they haul these car bodies, just on that one route, 45 miles long.

QUESTION: How long are those trucks? Over-all.

MR. HARRIMAN: I think they are over 65 feet.

QUESTION: Over 65?

MR. HARRIMAN: Yes, they are fairly long. I think -- as I remember, about -- they may not all be the same, but they are about 70.

QUESTION: A maximum, though, of close to 70 feet?

MR. HARRIMAN: I think close to 70, yes.

And although the number of miles per year is probably relatively high, the dispersal throughout the State --

QUESTION: You say a 45-mile route; 90 miles round trip.

MR. HARRIMAN: A 45-mile run, and I assume people are used to --

QUESTION: What do they do when they are assembled? Do they ship them out by truck?

MR. HARRIMAN: Yes. I'm sure they do.

QUESTION: On long trailers?

MR. HARRIMAN: Well, yes. Then they go out on this vehicle that is displayed in the Appendix at page 276, and I



wanted to describe that. That is 65-feet long, and that is a truck with a superstructure on it, with a vehicle -- now, this is the load now -- mounted over the cab, and two behind the cab. Now, that's all on the truck part. Then there's a trailer, and the trailer is pulled by this truck, and the trailer has four cars on it. For a total of --

QUESTION: Six.

MR. HARRIMAN: I believe there are seven, because there's three on the truck and four on the trailer; the picture is taken from a height, but I believe you can see down under there.

So that by sticking one out over the cab, and by obtaining a 65-foot length, they are able to haul seven vehicles.

QUESTION: So it's still a pretty big vehicle, though.

MR. HARRIMAN: Yes. Yes.

QUESTION: Pretty scary, too.

MR. HARRIMAN: You think so?

QUESTION: I do. I go -- every time I go past one of them, I sure am scared.

MR. HARRIMAN: Well, I don't feel too comfortable going by them, either.

Now, these long -- these particular car carriers are used, or available for use, by any car carrying company hauling

for any manufacturer to any place in the State, all the way through or just part-way through. It isn't an exemption granted to locals or to a local industry, or to benefit a local industry; it's granted to benefit the whole automobile manufacturing industry from Detroit to the consumer who buys a car to drive, and all the people in between.

QUESTION: Well, if Pontiac is sending cars from Michigan to Seattle, can it get a permit to have one of these kind of car carriers go through Wisconsin?

MR. HARRIMAN: Yes. Yes. There's no problem with this particular type of vehicle.

QUESTION: Is there anything wrong with that picture, comparing the two sizes?

MR. HARRIMAN: As far as I know, it's accurate. As I understand, they are 65 feet --

QUESTION: It's unbelievable how one's good and one's bad.

MR. HARRIMAN: The difference is that one has a limited use, and it's granted to -- obviously granted to assist the automobile industry, but not just Wisconsin's industry. And they are allowed to run throughout the State, and --

QUESTION: It must take pressure from the automobile industry, as contrasted to the meat industry or the milk industry.

MR. HARRIMAN: I suspect -- I suspect that the reason for pressure -- you see, if you took another --

QUESTION: Do they have a bigger lobby?

MR. HARRIMAN: -- if you -- I don't think a bigger lobby. If you took ten feet off of there, you'd have to take two cars off; not that those cars are ten feet long, but you still wouldn't have space enough left for those two cars.

Now, why this special exemption was given to the automobile industry, I don't know. I don't know that we have any way of telling how or why it was granted.

But the fact is that it is somewhat different than granting authority to run all trucks, all trucks long -- or, I mean, as many as truckers might wish to run -- throughout the State. It's only one kind of big truck, and it's given to the whole industry, not just to Wisconsin industry. And I guess that's about all I can say about it, that particular type of vehicle.

QUESTION: Of course, I suppose you can't say that with respect to the exemption granted from the Wisconsin plant to the State line, can you?

MR. HARRIMAN: No. The exemption granted from the Wisconsin plants to the State line, there again I haven't -- we have no way of knowing what was in the mind of the Legislators to motivate that. The only thing I can think of is that our sister States nearby us allow these longer vehicles. And if

we have a manufacturer -- and the one that's pointed out in the book is a boat company up near Green Bay, sporting boats, small boats -- they have authority to operate a longer vehicle to haul these boats. And they have authority to run to the State line.

MR. CHIEF JUSTICE BURGER: I think we'll resume there in the morning, since you gentlemen decided you wanted to stay overnight.

MR. HARRIMAN: All right, sir.

[Whereupon, at 3:00 p.m., the Court was recessed, to reconvene at 10:00 a.m., Wednesday, November 9, 1977.]

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