safety becomes a proper and just concern of the railroads when, by reason of the increased size and weight of vehicles permitted, the existing highway plant must be upgraded to insure safe operations. In such instances, the railroads have a right to object to the Government undertaking a course of action which will result in greater expenditure for the highways, expenditures which would be unnecessary if the contemplated action were not taken, unless the additional costs are recovered from those responsible. Stated differently, the larger and heavier vehicles permitted by this legislation will create new and unique safety problems—the solution of which will cost large sums. Yet there is no provision made for these beneficiaries to pay a single additional cent towards such costs.

There is overwhelming evidence that allowing larger and heavier vehicles to operate on the highways will necessitate increased Government expenditures if safe operations are to be maintained.[6]

The recent disaster of the "Silver Bridge" (Point Pleasant) between West Virginia and Ohio has focused nationwide attention on this aspect of highway safety. While it is futile to confine consideration to the Interstate System, not all the bridges on that system as it is currently being used are designed to carry the loads and lengths that would be permitted under S. 2658. Since, as we have said, no one has come up with the means of confining the operation of a given truck entirely to the Interstate System, the question of bridges on the remainder of the Federal Aid System, and other roads and streets, becomes important. West Virginia has estimated a cost of $200 million to place its bridges in shape to carry even the presently permitted weights and sizes.[7] If West Virginia is in any way typical of the other 47 continental States, the nationwide cost of providing bridges safe for even present weights and sizes would be tremendous.

A further feature of S. 2658 that is relevant to user charges is the "grandfather" clause.

S. 2658 as passed by the Senate would establish allowable maximum size and weight limits for motor vehicles using the Interstate System, the purpose of which limits is "to adequately protect the Federal investment." Having prescribed upper limits for all vehicles, the bill proceeds to permit alternative limits even *higher* than the ones primarily prescribed, such alternative limits being those "permitted for vehicles using the public highways of such State under laws or regulations established by appropriate State authority in effect on January 1, 1968 . . ."

This plainly means that if any state on January 1, 1968 allowed its "public highways" to be used, for example, by vehicles having single axle loads of 22,400 pounds and tandem axle loads of 40,000 pounds, such loading would be permissible on the highways of the Interstate System located within that state. In fact, there are states which on January 1, 1968 permitted such axle loads on their public highways.

The grandfather clause thus creates a gaping exception to the general statutory limits which Congress undertakes to fix by this bill and flies in the face of a logical basis for prescribing any limits at all for vehicle sizes and weights. In fixing limits of 20,000 pounds for single axles and 34,000 pounds for tandem axles, the Senate determined, as a matter of policy, that those limits are the maximum that should be permitted on the Interstate System. The Senate must have concluded, on the basis of the evidence presented, that sizes and weights in excess of the proposed numerical limits would be unjustified. There has been no showing whatever on the merits that loads above those fixed by the bill would be tolerable or in the public interest. However, the grandfather clause would permit them.

The situation with respect to the grandfather concept is quite different from 1956 when the first federal size and weight limits were established. At that time there had never been federal limits on highway use, and an argument from equity could be made that the states should not at that time be disadvantaged as a result of having enacted laws in the past allowing sizes and weights in excess of the limits fixed by Congress in 1956. Those state laws had not been enacted with awareness that federal limits would have to be taken into account. However, from 1956 onwards, all of the states were on notice that Congress had imposed fixed limits on the Interstate System and had directed extensive studies and research into future size and weight limits and user charges, looking to the

[6] Appendix, p. 713.
[7] Report of The State Road Commissioner of West Virginia Concerning Collapse of The Silver Bridge, Point Pleasant, West Virginia, January 1968.