There is no difficulty in the statement of the principles involved in an action based upon an agreement to suppress, stifle or stay a criminal proceeding. Application is the problem. Whether a particular agreement was made with the intent of concealing a crime or obstructing prosecution is generally a factual one. The cases, factually, point to the conclusion that the agreement upon which the action is brought must be based directly upon an illegal consideration before recovery will be refused. *Folmar v. Siler* (1902) 132 Ala. 297, 31 So. 719; *Jones v. Henderson* (1920) 189 Ky. 412, 225 S. W. 34; *Case v. Smith* (1895) 107 Mich. 415, 65 N. W. 279; *Aycock v. Gill* (1922) 183 N. C. 27, 111 S. E. 342, 24 A. L. R. 1449. In these cases, it should also be noted, the parties to the suit are in the relation of obligor and obligee with respect to the agreement to suppress the crime. There is the further feature that the agreement which is sued upon was made after the commission of the crime and with it in the contemplation of the parties. These elements are not found in the principal case. Here the basis of both the action and the counterclaim is the bankers' bond, a contract of insurance, of which the agreement to compound the crime was entirely independent. Thus, strictly speaking, the court possibly erred in its application of legal principles. From the social point of view, however, the result is laudable because of the reprehensible conduct of both parties in their negotiations with the criminals. N. P., '34.

INTERSTATE COMMERCE—STATE POWER TO FORBID USE OF HIGHWAYS BY TRUCKS.—The plaintiff desired solely to do an interstate business as a common carrier by truck. The Ohio Public Utility Commission denied him a permit to use the route he desired on the ground that it was already congested by other traffic and that the presence of the applicant's trucks would affect highway safety. *Held:* Such state regulation is proper even though the carrier was to engage exclusively in interstate commerce. *Bradley v. Public Utilities Commission of Ohio* (1933) 53 S. Ct. 577.

The growth of motor transportation has given rise to many novel problems. The courts in the earlier cases did not always realize this and hence their adjudications give the appearance of being uncertain and wavering. George, State Regulation of Interstate Motor Carriers (1929) 14 ST. LOUIS L. REV. 136; note (1933) State Control over Contract Motor Carriers 18 ST. LOUIS L. REV. 228. The states originally claimed the power to grant or withhold certificates of convenience and necessity from interstate carriers and to require that all common carriers should have such certificates. *People v. Barbuas* (1923) 230 Ill. App. 560; *Interstate Transit Co. v. Derr* (1924) 71 Mont. 222, 228 Pac. 624; *Northern P. R. Co. v. Schoenfeldt* (1923) 123 Wash. 579, 213 Pac. 26. The Supreme Court of the United States denied this power on the ground that the primary reason for its exercise was a desire to control competition rather than "to promote safety on the highways and conservation in their use", which were proper objects for state regulation of interstate carriers. *Buck v. Kuykendall* (1925) 267 U. S. 307; *Bush & Sons Co. v. Malloy* (1925) 267 U. S. 317. The result of these decisions was to produce confusion and conflict in the law as the various courts attempted to decide what regulations were primarily designed to promote highway safety or

conservation. The state can require that the drivers be licensed. *Hendrick v. Maryland* (1915) 235 U. S. 610; contra, *International Motor Transit Co. v. Seattle* (1926) 141 Wash. 194, 251 Pac. 120 (city ordinance). The state may require the carrier to have insurance or post a bond to protect persons injured through the use of the highways. *Continental Baking Co. v. Woodring* (1932) 286 U. S. 352; *Sprout v. South Bend* (1926) 198 Ind. 563, 153 N. E. 504, rehearing (1926) 154 N. E. 369, reversed on other grounds (1928) 277 U. S. 163. The power to require a bond or insurance to protect passengers has been denied. *Cobb v. Department of Public Works* (D. C. W. D. Wash. 1932) 60 F. (2d) 631; *State ex rel. Board of Railroad Commissioners v. Martin* (1930) 210 Iowa 207, 230 N. W. 540. This denial seems largely based on the refusal to decide the point in *Sprout v. South Bend,* where however the ordinance was bad on other grounds. The requirement of a bond to protect shippers has been upheld although there would seem to be no reason for this difference in treatment. *Johnson Transfer & Freight Lines v. Perry* (D. C. N. D. Ga. 1931) 47 F. (2d) 900; *Alkazin v. Wells* (D. C. S. D. Fla. 1931) 47 F. (2d) 904.

Regulations designed to promote highway conservation have caused little difficulty when this is clearly their purpose. A state may require double decker buses to have pneumatic tires. *Pennjersey Rapid Transit Co. v. Camden* (1928) 6 N. J. Misc. 813, 142 Atl. 821. A state may limit the weight of vehicles to be operated on its highways. *Morris v. Duby* (1927) 274 U. S. 135 (gross weight limit of 16,500 pounds). This power was exercised in a very drastic manner by a recent Texas statute which imposed limits on width and height and limited the net load for ordinary trucking operations to 7,000 pounds. Nevertheless the statute was upheld. *Sproules v. Binford* (1932) 286 U. S. 374.

Attempts to protect highway safety by refusing permission to operate over certain routes have met with varied fates. Prior to the principal case they had been upheld in two state cases, involving routing on certain streets of a city. *Newport Electric Corp. v. Oakley* (1925) 47 R. I. 19, 129 Atl. 613; *People's Rapid Transit Co. v. Atlantic City* (N. J. 1930) 149 Atl. 893. An attempt to bar an interstate bus line from stopping within several miles of the business district of a city was held void as unreasonable. *Schappi Bus Line Inc. v. Hammond* (C. C. A. 7, 1926) 11 F. (2d) 940. Cf. *Magnuson v. Kelley* (D. C. E. D. Ky. 1927) 35 F. (2d) 867 (attempt to limit number of trips per day invalid).

The decision in the principal case is to be welcomed as assuring some relief to the ordinary motorist from the overcrowding of the highway. It will also give the railroads relief from the allegedly unfair competition of trucks. The railroads apparently have realized this for the affected railroads resisted the grant of the permit in the principal case. It will be interesting to see how far the Supreme Court will allow the states to go in this type of regulation, particularly in the light of the recent approval of a very strict regulation of private contract carriers to promote the same ends, although no question of interstate commerce was involved. *Stephenson v. Binford* (1932) 287 U. S. 251; note (1933) 18 ST. LOUIS L. REV. 228. G. W. S., '33.