It is to be observed that in the latter part of this quotation the word " desirable " has been omitted. No. 2 Licensing Authority may have considered that the word " desirable " is by implication included in the word " necessary " in that no service can be desirable unless it is also necessary. We think, however, that the word " desirable " in this section has a meaning distinct and apart from the word " necessary." It is a well-settled canon of interpretation that " when the Legislature in the same sentence uses different words we must presume they were used in order to express different ideas." *Lord Tenterden C.J. Rex* v. *Great Bolton (Inhabitants)* ([1828] 8 B. and C. 71).

The reason for the use of the two words in the same context appears to us to be clear. Where any form of transport exists, proof of the absolute necessity of an alternative service might conceivably be impossible, but the desirability of a second service by reason of its speed, time of operation, suitability for carriage of particular goods, or general convenience, or a combination of any of these factors, might be of inestimable benefit to the residents of the district served. One test of desirability is surely the extent of public patronage. The fact that a service has been in operation profitably for a period of years and receiving a substantial patronage from the public it serves is a cogent factor in support of the desirability of the service.

The decision proceeds: " All that has been shown to us is that certain services cause convenience and in some cases cheapness." This Board feels that these are two vital elements in assessing the desirability of any service and cannot be lightly dismissed.

The words " necessary " or " desirable " are used in this section in conjunction with that obscure term " public interest." What, then, is the meaning of the " public interest " in relation to transport? This Board has always held the view that one of its most important duties is to ensure that the public are provided with the cheapest and most efficient form of transportation, and we conceive that we are having due regard to the public interest in keeping this object paramount in our administration of the Act.

This view necessarily involves a consideration of the position of the State-owned railway system. We have stated in previous decisions that the Government railways are entitled to such consideration and protection as is comparable with the service they are rendering to the public. We reaffirm this opinion. We can find nothing in the Act which gives the Government railways any claim to special protection or consideration. If the present transport legislation had intended that all road services paralleling the rail should be eliminated it would have expressed that intention in definite terms.

It was advanced by counsel for the Railways Board that, before the element of desirability could be introduced into our consideration, evidence of " overwhelming desirability " should be established. We are unable to agree with this contention. It is apparent that to some degree motor transportation has supplanted transport by rail; but this, we feel, is the relentless march of progress in transportation. The history of transportation reveals successive replacements of one form of transport by another. We subscribe to the principle that no form of transport can have a vested right which will stand in the way of progress towards a more economic and convenient form of transport for the general public. It may not be unreasonable to suggest that a supplanting form of transport should in some measure compensate the system it replaces. That, however, is a matter outside our present consideration.

Before leaving the subject of public interest we feel that it is incumbent to mention a factor which is not always given the consideration that it deserves. We refer to the creation of unemployment by elimination of services. If there is any circumstance beyond the provision of cheap and efficient transport directly affecting the public interest, it is, we think, the creation of unemployment by elimination of transport services. The wholesale elimination of services as suggested in the decision of No. 2 Authority must necessarily involve considerable unemployment, and in view of the present economic conditions in this Dominion it would bring about a most undesirable situation.

The decision under review raises as a further reason for the elimination of road services the fact that they compete with other forms of transport unfairly in that they do not bear the proper proportion of roading-costs. We do not consider that this aspect comes within the purview of Licensing Authorities. If a service is necessary or desirable it is no concern of the Licensing Authority that it is less heavily taxed than a competing service. The adjustment of the economic basis of competition from the point of view of taxation is a matter for the Legislature.

We pass then to a consideration of unnecessary road usage. This is a matter which must always be given careful consideration by Licensing Authorities, and the position in this connection has, we think, been quite fairly placed before us by the representative of the local bodies interested. It can largely be adjusted by regulation of road services, and particularly by effective co-ordination.

A further matter which we feel we should refer to is the effect on local carriers due to the operation of the long-distance hauliers. That local carriers are affected by such operations is inevitable. That is a direct result of the new form of transportation. If, however, a combination of rail and local carriage can (as is alleged) provide a cheaper and more efficient service, then such combined form of transport has nothing to fear. Here, again, we may observe that the regulation of certain long-distance services can effect some relief.

We note that No. 2 Licensing Authority refers to its lack of power to compel co-ordination. We agree that this creates a difficulty, and until all transport agencies can be co-ordinated it is almost impossible to arrive at a true basis of economic competition.

We conclude by expressing the opinion that No. 2 Licensing Authority has formed a wrong conception of the intention of the Legislature as expressed by the Transport Licensing Act. We are of opinion that, in respect of established services which are receiving a substantial public patronage, applications for renewal cannot be disposed of under subsection (1) of section 26, but all the elements contained in the subsequent portion of the section must be considered before arriving at a final decision.