GOVERNMENTAL CONTROL OF RAILWAY TRANSPORTATION.

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The question of controlling the rapid growth and increasing power of corporations, and of regulating their relations with the public, has become a prominent question in the United States. The railway companies, being the corporations in which the entire people are most directly and personally concerned, naturally receive the largest share of attention. Commerce is a factor so important in modern society that it is sometimes said to be the measure of a nation's advancement in civilization. While the building of railroads is essential to the prosperity and development of a state, yet society is as much concerned in managing of railroads well as in securing them. The public is no less interested in good railroad management than are the companies; and the railroad problem must be recognized as one of the important problems of the present time. While the American people may well take pride in the development of railways during the last fifty years, yet it must be admitted that there are evils connected with the system which demand attention. The so-called "Granger legislation," which began about 1870, has done little to settle
the question.

Two important evils in our present system of transportation are (1) discrimination between persons; and (2) discriminations between places. Collecting from residents of one place materially higher rates than are collected from residents of another, for substantially the same service, is discrimination between places. Charging one individual or firm more than is charged another in the same place for the same service, is discrimination between persons. For example, railways often charge as much for hauling a given quantity of freight a certain distance as at the same time and under similar conditions they charge for hauling the same freight twice the distance over the same line; and often they charge for the shorter haul twice as much as for the longer one. Again, one shipper will be charged twice or even three times as much toll as another will be charged under the same circumstances. The effect of discrimination, it is readily seen, is to produce monopoly. It is impossible for a grain buyer who pays a certain freight to compete with one who pays a half-cent per bushel less. The man receiving the special rate is given such an advantage over his competitor as practically to force the latter out of the business. The same is true in all lines of business.

Discrimination is often brought about by giving better rates from points where two or more roads compete for the traffic than is given where one road has the entire business. At an early period in
the development of railroads in the western states, rates were much higher than at the present time. The average rate per ton per mile was then something over three cents, while it is now less than one cent. The higher rates permitted a greater range of discrimination than is now possible. Then it was not uncommon that the "local rates" on wheat to the Chicago market were ten cents per bushel more than the through or competitive rates, although the local stations might be nearer Chicago and on the same line, so that the through wheat passed through the local point on its way to market. Other rates were similar.

One effect of this policy was a noticeable rise in the value of land. If a piece of land near the competitive station and a piece at the local station each produced twenty bushels of wheat per acre, the land near the competitive station would produce $2 a year more than that at the local station. Considering money worth 5% interest, this would make the farm at the competitive point worth $33 per acre more than equally good land at the local point, although the latter might be nearer the Chicago market. Manufacturers and the larger class of tradesmen or jobbers who had settled in the new cities or towns where there were no competing railways, were compelled to go to the large cities or competitive points. These latter cities were developed at the expense of territory having as good, if not better, natural position, but not having the competitive railways.
Discrimination is not always the result of competition. It is said by the managers to be necessary in order to develop territory. The capitalist is at liberty to locate his plant wherever he chooses. It is to the interest of the railroad company that he should locate on their road. Therefore, they offer him inducements; and these inducements take the form of special freight rates. They can afford to do this because their railroad business conforms to the law of increasing returns. The new freight will not increase the company's expenses, at least not proportionally; and if they can increase the business, they can afford to carry the new freight cheaply. This special rate given to the capitalist of course gives him an advantage over his rivals in business. That is, discrimination prevents free natural competition between persons or places, and tends to establish monopoly. This discrimination is defended by the managers by saying, "We sell transportation by wholesale as well as by retail." Where competition does exist, it is too intense. An increase in the amount of freight carried does not produce a corresponding increase in the expense, and is, therefore, almost clear profit. For this reason every nerve is strained by the agent of the company to secure freight at competitive points; and as a result secret rates are made to every large shipper; and rates between competitive points as for instance St. Paul and Chicago are absurdly low. This is counterbalanced by charging unreasonably high rates between local points. Values of
vested and real property are thereby arbitrarily changed; and trade
is not allowed to take its natural course. This is unjust to the
public.

This has been the cause of the Granger legislation. Transpor-
tation is a public industry assigned to corporations. It is not a
mere article of commerce to be sold or not at the option of the own-
er. As society exists to-day, transportation is as necessary to the
public as the air we breathe. That cannot be considered merchandise
which no one can refuse to buy. Hence, when the corporation to which
this industry is assigned by the state fails to do justice, it be-
comes the duty of the government to protect the interest of the pub-
lic by legislation.

Competition, rather than governmental control, has been adopted
in the United States for controlling transportation. Railroads have
been built, not only where required, but new roads have been demanded
by the people for the sole purpose of securing competition. The ex-
erience of the last few years, however, has proved that competition
as a controlling force in transportation, is not a success.

So long as private and public interests are the same, competi-
tion is sufficient. But an industry conforming to the law of in-
creasing returns, as transportation does, is not subject to the sat-
isfactory control of competition. Competition in railroad traffic
is confined to certain places; certain cities only get the benefit
In 1885, a committee, of which Senator Cullom of Illinois was Chairman, was appointed by the Senate to investigate and report on the subject of the regulation of transportation. The result of the investigations of this committee was given the next year in a report which fills a printed volume of more than fourteen hundred pages, and may fairly be claimed to represent the best thought of the American people on the questions involved in the regulation of commerce in the United States. It is said on page seven of this report: "The policy which has been pursued has given us the most efficient railway service and the lowest rates in the world, but its recognized benefits have been attained at the cost of the most unwarrantable discrimination; and its effect has been to build up the strong at the expense of the weak; to give the large dealers an advantage over the small trader; to make capital count for more than individual credit and enterprise; to concentrate business at great commercial centers; to necessitate combinations and aggregations of capital; to foster monopoly; to encourage the growth and extend the influence of corporate power; and to throw the control of the commerce of the country more and more into the hands of the few. On page forty of this report it is said;—"Unjust discrimination is the chief cause of complaint against the management of the railroads and the conduct of business, and gives rise to much of the pressure upon congress for regulative
legislation. The railroad companies do not recognize as they should the fact that they sustain a different relation to the public, from people engaged in ordinary business enterprises. Railroad companies are not disposed to regard themselves as holding a public office, and bound to the public, as expressed in the ancient law. They do not deal with all citizens alike; they discriminate between persons and places; and the states and congress are consequently called upon to in some way enforce the plain principles of common law for the protection of the people against the unlawful conduct of common carriers in carrying on the commerce of the country."

Based on the report of Senator Cullom's committee, the law known as the Inter-state Commerce Act was passed by congress, and became effective in 1887. This act does not fix rates but it provides that rates fixed by the companies shall not be changed. It provides against all forms of discrimination between persons or places; that secret rates shall not be made; but that all rates shall be made public. It was supposed that this law would prevent in the future all such transactions as that in the well known case of the Standard Oil Company. This Standard Oil Company brooks no competition. Railway managers were compelled to make, and did make an arrangement with this company whereby a uniform rate of 35 cents per barrel was made for all persons except the Standard Oil Company. This company was charged ten cents per barrel, and also was paid 25
cents per barrel out of the 35 cents collected from other shippers.

Many of the excellent provisions of the Act are rendered useless for want of execution. In fact, that may be said of the whole law. The machinery which the law provides for its enforcement is wholly inadequate; and in fact, is insignificant compared to the task assigned to it. The Act provides for a commission called the Interstate Commerce Commission, which consists of five members; and the small sum of $100,000 for the fiscal year was appropriated for all the purposes of the Act, including salaries of the commissioners, their secretaries, and the employees. These means are insufficient for setting in force a law intended to revolutionize, against the active opposition of managers, the methods of conducting transportation of more than 125,000 miles of railway, valued at over $7,000,000,000 and earning annually over $823,000,000,—figures so large that they are hardly comprehensible.

The law has been operative about seven years, and yet every well-informed person knows that it has not been obeyed. When we consider that the railway companies of the United States collect annually an amount nearly equal to two and one-half times the total revenue of the government, it would seem that the execution of the laws regulating them is of sufficient importance to command the services of a distinct department, whose chief should be a cabinet officer. There is no other nation that has so many miles of railway, or whose
internal commerce conducted by railways is comparable in point of magnitude with that of the United States; and there is no other government which has assumed control of its railways that has not raised the chief executive of this department to the dignity of a cabinet officer. The railways of the United States are at present in the control of about forty men, who are now practically denying their amenability to the laws of the country. If the government would compel them to recognize and obey the laws, it must use the means necessary to accomplish that end. It must have executive officers sufficient in number as well as armed with adequate power and dignity to command respect. The Inter-state Commerce Commission is entirely inadequate.

It was said, "The way to resume specie payment is to resume." And we might say that the way to regulate transportation, is to regulate it. The officers having charge of this department should have authority to take possession of railway property, if that should become necessary. Certainly the right and duty to regulate carry with them the authority to do so. Congress had a precedent for such legislation in the National Banking Act. The business of distilling spirits is regulated by the government. The minutest details of this business is under the immediate control of an officer of the Internal Revenue Department. Why should railways not be similarly controlled? Railways cannot be controlled by the common-law rules governing com-
mon carriers. They are common carriers, but they are more. The modern railway has brought entirely new conditions; and it requires new legislation.

While the Act which created the Inter-state Commerce Commission is legislation against discrimination, it fails to accomplish its purpose because it does not remove the cause of discrimination. So long as the present method of governing transportation by competition is continued, discrimination must, and will, be continued. It is evident that so long as railway managers are allowed to fix rates, they will continue to discriminate between persons and places. If congress would enforce rates that are just to the public as well as to the company, it must definitely fix schedules of specific rates. There appears to be no other remedy; and there is no doubt that congress has this power. Mr. Stickney in his "Railway Problem" has suggested a method of establishing rates that there is every reason to believe could be successfully adopted.

The tendency in European countries is toward government ownership; and this has been called for in this country as the solution of the question. Government ownership, however, is not in harmony with the spirit of our institutions; and control or regulation by the government, without ownership, is believed to be desirable in the United States.

Railways are improved highways. The opening and building of
highways is exclusively the function and prerogative of the state. In America the state does not build highways directly; but the power is delegated to municipal or private corporations. Railway companies must, therefore, be considered as agents of the state. If they were not so considered, taxes could not be imposed to forward their enterprises, nor could the exercise of eminent domain in their behalf be allowed. A prominent judge has said, "The right to establish highways and charge tolls, being sovereign rights, the legislature cannot alienate them. It is definitely decided by our courts that the right of the railway companies to charge for services rests upon an entirely different principle from that on which the right of common carriers to charge for similar services is based. The right of the latter to make charges rests upon contract, express or implied, to pay a quantum meruit. The right of the company to charge for transportation rests not upon the law of contract, but upon the license of the state to collect tolls. This being true, there is no foundation for the statement that the company sells transportation by wholesale as well as by retail.

Government control, when correctly understood, is favorable to railway owners as well as to the public. It would prevent confusion in rates, secure steady incomes, make transportation between competitive points profitable, which as a rule, at the present time it is not. For twenty-five years, the companies have endeavored by
pools and combinations to make and maintain uniform, stable rates. Pooling in the past, however, has not been successful; and probably will not be in the future.

Let the law make and maintain uniform, stable rates, and discrimination, which takes from the poor and gives to the rich, will be abolished. Business men will be allowed to compete with each other; and multitudes of men will not be driven from their chosen vocations into positions as clerks and employees. Value of real estate will not be arbitrarily decreased in non-competitive districts, while it is increased at competitive points. Value of personal property will not be decreased in the hands of small shippers, while it is increased in the hands of the large dealers who are granted cut rates. Population and manufactures and commerce will not be forced to the large cities. The artisan will then be enabled to live in the smaller town where he can own his home, and give his family the advantages of country life, instead of being compelled to live in a vicious tenement house of the crowded city, where his children must breathe air laden with the odors of the gin-shop, and where they are made familiar with vulgarity, brutality, and crime.

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