

Railway statistics from the Statistical Record of the Progress of
the United States, 1800-1900: (P. 33)

15.
227

Year	Miles in Operation	Passengers Carried	Freight car- ried one mile	Freight re- ceipts per ton per mile
1880	93,262			
1882	114,677	375,391,812	39,320,209,249	1.24 d
1883	121,422	512,686,641	44,064,923,445	1.22
1884	125,345	334,570,766	44,725,207,677	1.12
1885	128,320	351,427,688	49,151,894,469	1.06
1886	136,369	382,284,972	52,802,070,529	1.04
1887	149,214	428,225,513	61,561,069,996	1.03
1888	156,114	451,353,655	65,423,005,988	.98
1889	161,276	494,808,421	68,677,276,992	.97
1890	166,703	520,439,082	79,192,985,125	.93
1891	170,729	556,015,802	81,210,154,523	.93
1892	175,170	575,769,878*	84,413,197,130	.94
1893	177,516	597,056,539	90,552,087,290	.89
1894	179,415	569,660,216	82,219,900,498	.86
1895	181,065	529,756,259	88,567,770,801	.84
1896	182,115	535,120,756	93,885,853,634	.82
1897	184,591	504,106,525	97,842,569,150	.80
1898	186,810	514,982,888	114,566,173,191	.76
1899	187,295*	575,769,678		
1900	193,216			

Comparison of freight rates on wheat from Chicago to New York by various
routes, in cents, from 1878 to 1898, from the Statistical Record etc.
Page 34:

Year	Lake and Canal	Lake and Rail	All Rail
1878	9.15	11.4	17.7
1879	11.6	13.3	17.3
1880	12.27	15.7	19.9
1881	8.19	10.4	14.4
1882	7.89	10.9	14.6
1883	8.37	11.5	16.5
1884	6.31	9.95	13.12
1885	5.87	9.02	14.0
1886	8.71	12.0	16.5
1887	8.51	12.0	15.74
1888	5.93	11.0	14.5
1889	6.89	8.7	15.0
1890	5.85	8.5	14.31
1891	5.96	8.53	15.0
1892	5.61	7.55	14.23
1893	6.33	8.44	14.7
1894	4.44	7.0	12.88
1895	4.11	6.95	12.17
1896	5.38	7.32	12.0
1897	4.35	7.37	12.32
1898	4.42	6.96	11.55

From the Report of the U.S. Industrial Commission, Vol. 19: 304ff :

"The Growth of Railroad Systems to 1898."
"First Period-to 1870."

"The development of American railroad systems down to 1898, as judged by magnitude alone, may be roughly divided into three periods. In the first-that is, down to 1870-a few hundred miles in length constituted the maximum for efficient operation. The Illinois Central, with 700 miles of line, was long considered one of the greatest railroads in the world. Until after the Civil War there was only one road with a length aggregating more than 1,000 miles. This growth began early in the fifties, at which time the Pennsylvania system first surpassed 500 miles in length, and in 1853 to 1858, when the New York Central nucleus was formed by the consolidation of some sixteen independent corporations. In the territory west of Chicago, the Chicago and Northwestern road operated about 119 miles in 1859, a figure which rose to upward of 500 in 1866. The inconvenience, both for freight and passenger traffic, incident to these small systems is of course obvious. It is stated that, for instance, a journey from New York to the Mississippi in the fifties involved not less than seven bodily transfers from one car to another.

"Second Period-1870 to 1890.

"The second period in the growth of consolidation extended to about 1890, at which time 5,000 miles represented about the maximum length of a railroad in the United States. The Pennsylvania road had grown to about 4,000 miles in length by 1880. The absorption of the Nickel Plate road by the Lake Shore and Michigan Southern in 1882, followed by absorption of the West Shore road by the New York Central in 1885, very considerably increased the length of systems under common control. In the West the Chicago and Northwestern road had grown by 1886 to about 3,500 miles, to which was added some 1,500 miles by the control of the Chicago, St. Paul, Minneapolis and Omaha, and the Fremont and Elkhorn roads. By 1889 the Union Pacific road owned 2,000 miles of line, but controlled nearly 4,000 more. It is difficult to determine whether the enactment of the act to regulate commerce produced any effect upon this growth of large systems. Upon the one hand it appears, from investigation by the Interstate Commerce Commission itself, that consolidation was rather lessened after 1887 as compared with the preceding years. Thus, from their data it appears that an average of twenty-seven companies per year were consolidated in 1886, 1887, and 1888, as compared with eighty-six companies annually consolidated in 1880, 1881, and 1882. On the other hand, judged by mileage, 1880 witnessed a consolidation of about 4,000 miles, followed in 1889 by 6,600 miles, and in 1890 by about 3,000 miles of line. It does not appear from this evidence that any specific influence was immediately traceable. Judgment should be based upon a considerable term of years, in order to eliminate the direct effect of prosperity or depression in any case.

"Third Period-1890 to 1898.

"The decade after 1890 for the first time witnessed the growth of systems aggregating as high as 10,000 miles under single control. The Pennsylvania road rapidly increased its mileage

to upward of 7,000, for example. The interchange of business at Chicago between trunk lines and the Western systems had already begun to foreshadow alliances covering both territories. Typical of these were the close working agreements between the Vanderbilt system and the Chicago and Northwestern and the Union Pacific in the Northwest Far West. The growth in size of the roads, for purposes of operation at least, although not all of them were necessarily consolidated, is shown by the following statement: In 1867, one road alone exceeded 1,000 miles, constituting about seven per cent of the total mileage of the country. Ten years later, in 1877, eleven roads exceeded this figure, constituting twenty per cent of the mileage. In 1887, twenty-eight companies, with forty-four per cent of the mileage of the United States, were over 1,000 miles in length: and in 1896, forty-four companies, or 56.9 per cent of the mileage, exceeded this size. In 1900 over sixty per cent of the mileage of the United States was included in systems larger than 1,000 miles. This statement illustrates the rapid development which took place after 1890. A comparison of 1880 with 1900 shows that in the former year there were 2,085 railroad companies in existence, either operated independently or under lease, aggregating 93,000 miles in length. In June, 1900, the mileage had more than doubled, with a total number of 2,023 corporations: but of these only 847 were independently operated, the rest being either leased or subsidiary.

"It is significant as bearing upon the growth of railroad systems that the period of depression of 1893-1897 retarded for some years the progress of its development. More than this, several important systems were dismembered as a result of the re-organizations effected during that period. Thus, for instance, the Atchison road lost the St. Louis and San Francisco [or "Frisco" as it was popularly called]; and the Union Pacific system lost the Oregon Short Line. In fact, the latter road was entirely dismembered. The Erie Railroad alone, among the important ones which were subject to re-organization, was able to resist the disrupting tendencies of financial readjustments. The low-water mark in consolidation occurred in 1898, when only 174 miles were actually consolidated, though others were merged or leased. The entire re-organization of such roads as the Richmond and West Point Terminal opened the way to the formation of newer and more important systems, such as the Southern Railway, in subsequent years. This latter has, for example, at the present time absorbed about forty minor corporations in a system aggregating between 6,000 and 7,000 miles.

"The Consolidations of 1898 to 1900.

"Since the return of prosperity in 1898, railroad consolidation upon a scale hitherto unequalled has been under way. The earlier systems, which during the nineties rose to a maximum of 10,000 miles of line, have now [1900] been superseded by the organization of systems under common control which include from 15,000 to 20,000 miles apiece. The extent of this movement may be judged from the statement of the Interstate Commerce Commission that 'disregarding mere rumors and taking account of well-authenticated statements, there were absorbed in various ways between July 1, 1899, and November 1, 1900, 25,311 miles of railroad. There are in the whole United States something less than 200,000 miles of road; more than one-eighth of this entire mileage was, within the above period, brought in one way and another under the control of other lines.'

Since the first of November, 1900, this rate of consolidation has been still further exceeded, while at the same time the character of the changes has become noticeably different. Forces are apparently at work which may within the immediate future bring the railroad systems of the United States under the control of comparatively few dominating financial interests. It is highly important that the character of this change should be thoroughly understood, inasmuch as it involves not alone the consolidation of hitherto independent railroads, but the amalgamation of entire systems.

"The recent period of consolidation was inaugurated early in ~~the~~ 1898 and 1899, notably by changes on the Eastern trunk lines. The New York Central not only took formal possession of the Michigan Central road, but also absorbed bodily the Lake Shore and Michigan Southern, which in turn controlled the New York, Chicago and St. Louis, and other subsidiary properties. These accessions have been since followed by the acquisition of the New York, Lake Erie and Western, and by further increases in investment holdings in the Big Four road. The tendency toward expansion has been marked in the case of the Pennsylvania Railroad, which, owning in fee but a little over 500 miles, now leases or operates four or five times as much directly; while at the same time, through the Pennsylvania Company, operating west of Pittsburgh and Erie, it adds about 4,350 more miles of line. [This Pennsylvania Company is perhaps the earliest example of a holding company.] The following changes effected in 1900 illustrate the scope of its recent enlargement. Substantial investments having been made in the rival soft-coal roads, such as the Baltimore and Ohio, the Chesapeake and Ohio, and the Norfolk and Western, these holdings have since January, 1900, been extended until at the present time they amount to virtual control. [1901-1902.] In March of ~~the~~ the same year the Erie and Western Transportation Company was acquired, giving greatly enlarged facilities upon the Great Lakes. This was followed in June by the acquisition of the Western New York and Pennsylvania, which, by the control of a majority of the stock, gave an independent outlet to the Pennsylvania system at Buffalo. Two months later came the announcement of the control of the Allegheny Valley Railway, adding 820 miles of line to its holdings. In the spring of the same year a majority of stock of the Long Island Railroad was purchased, and far-reaching plans were under way for improvement of terminal facilities at New York. [These plans, sponsored by Alexander Cassatt, the great president of the Pennsylvania road, and which included plans for the building of Pennsylvania Station at Seventh Avenue and Thirty-Second Street, New York, are described in Moody: Railroad Builders, Chronicle No. 38 in the chapter on the Pennsylvania system.]

"The purchase of the Central Railroad of New Jersey by the Reading Railway, and of the Pennsylvania Coal Company by the Erie system, have profoundly affected the status of the anthracite coal roads. Changes even more stupendous have been effected in 1901 in the territory west of the Mississippi. Prominent among these may be mentioned the acquisition of the Southern Pacific system by the Union Pacific; and the joint purchase of the Chicago, Burlington and Quincy by the Great Northern and the Missouri Pacific

railroads. The Southern Railway has increased its line by nearly 1,000 miles through the purchase of the mobile and Ohio in the Southern States. In the Southwest there are indications of the formation of a great system under the domination of the Missouri Pacific Railway, which, through the consolidation of various roads in Colorado, seems to be reaching out toward an outlet on the Pacific Coast.-----

"According [to the table on the next page] more than half of the mileage of the United States is now under the control of six financial interests, four of which at least each approach a limit of 20,000 miles. It should be ~~noted~~ carefully noted that this table indicates ownership and not operation. Many of the separate railroads indicated are operated in a number of groups." There follows at this point the table which I have listed on the next page.-----

Continued from the Report:

"The consolidations of the last two years [1898-1900] not only contrast strongly in magnitude with those of earlier years; they are at the same time essentially different in character. The purpose of the earlier combinations was in the main to secure business by extension of lines and feeders to strategic points. As has been properly said by Professor Hull: 'They were primarily administered not geographically; each aimed to handle its own traffic and to secure a strong position. A strong position was useful in adjusting a pool with rivals whose geographical location was like their own, and if pooling were improper or illegal, a strong position might prove not less useful in fighting.' These earlier extensions also conduced markedly to economy of operation. Thus in place of the old fast freight lines which operated over a number of independent roads, a single railroad company could run its own cars without break directly from Chicago to the seaboard. The object of these later consolidations is essentially different. The country has been well equipped with a network of branch lines and feeders. Most of the strategic points have been reached by a number of roads in common. There is no longer any object in economy of operation to be sought; in fact, the railroads since 1890 have been obliged to divide their lines into independent groups for operation separately, in order to obtain a maximum economy. The new consolidations are intended expressly to obviate competition; once rival systems are brought under control in order to insure harmonious action. The railroads of the country are no longer divided into trunk lines and Western systems, but the railroads east and west of Chicago, and even west of the Missouri River are tending to become firmly knitted together."

The various methods of consolidation employed by the railroads are discussed in the Report, page 310 ff, under the headings: 1) Actual purchase; 2) Consolidation by lease; 3) Stockholding control; 4) Minority representation in directorates.

From the Report of the Industrial Commission, Vol. 19:308 : (1902)

Community of Interest among the Railroads of the United States.

<u>Lines</u>	<u>Miles</u>	<u>Lines</u>	<u>Miles</u>
I. Vanderbilt Group		V. Gould Group	
New York Central lines	10,016	Missouri Pacific	5,326
Delaware, Lackawanna & Western	951	Texas & Pacific	1,599
Chicago & Northwestern	8,550	St. Louis & Southwestern	1,265
	<u>19,517</u>	Internat'l & Great Northern	825
		Denver & Rio Grande	1,675
II. Morgan Group		Missouri, Kansas & Texas	2,423
Southern Railway	6,807	Rio Grande Western	603
Mobile and Ohio	879	Wabash	2,358
Queen and Crescent	1,115		<u>16,674</u>
Central of Georgia	1,835		
Georgia Southern & Florida	285	VI. Hill Group	
Macon & Birmingham	97	Great Northern	5,185
Philadelphia & Reading	1,891	Northern Pacific	5,188
Lehigh Valley	1,404		<u>10,373</u>
Erie	2,271		
Central of New Jersey	677	VII. Belmont Group	
Atlantic Coast Line	1,812	Louisville & Nashville	3,235
	<u>19,073</u>	Nashville, Chattanooga & St. Louis	1,195
			<u>4,430</u>
III. Harriman Group			
Illinois Central	5,000	VIII. Belmont-Morgan Gr.	
Union Pacific	3,102	Georgia Railroad	307
Oregon R.R. & Navigation Co.	1,137	Atlanta & West Point	87
Oregon Short Line	1,498	Western of Alabama	128
Chicago & Altoona	918		<u>532</u>
Southern Pacific	7,723		
Kansas City Southern	833	IX. Independent Systems	
Chicago Terminal Transfer	107	Seaboard Air Line	2,591
	<u>20,245</u>	Plant System	2,170
		Chicago, Milwau., & St. Paul	6,592
IV. Pennsylvania Group		Rock Island	3,819
Pennsylvania System	10,031	Chicago, Burling., & Quincy	8,070
Buffalo, Rochester & Pittsburgh	650	Atchison, Topeka & Santa Fe	7,808
Western New York and Penna.	633	St. Louis & San Francisco	3,000
Chesapeake and Ohio	1,476	(K.C.M. & B.)	
Norfolk and Western	1,671	Chicago & Great Western	1,023
Baltimore & Ohio System	3,156	Colorado Southern	1,142
Long Island	603	Pere Marquette	1,762
	<u>18,220</u>		<u>37,977</u>

Total: Groups-108,464

Independent-37,977

"Railroad Pools before 1887."

"The earliest pools were, of course, tentative in character, but at the same time were devised to meet relatively simple traffic situations. Among the first of them may be mentioned the pool which for many years existed between the Chicago and Northwestern, the Rock Island, and the Burlington roads, for their Chicago-Omaha business. Finding at an early time that their interests could be best served by co-operation, these three roads, in 1870, agreed that each one should carry one-third of the traffic between the points mentioned. This percentage was maintained throughout the agitation of the Granger period, and conducted great stability of rates. It was this pool which afterwards, in 1884, became merged into the Western Freight Association. In a similar way, in 1876, and for a few years thereafter, stability in rates between Chicago and St. Louis was maintained by the Southwestern Railway Rate Association. One of the strongest of the early pools was the one organized and maintained in the Southern States through the dominating influence of the late Albert Fink. It was far more comprehensive in scope than either of the two others, covering at first all business between Southern points and Eastern cities, afterwards being extended to cover Western gateways as well. This association existed from 1875 to 1887, when it was remodelled to suit the changed legislative conditions. In addition to the associations above named, the growth of pooling by the trunk lines should be mentioned. As a result of the panic of 1873, and after the ruinous rate wars of 1876, the first actual agreement to pool rates was entered into in 1877. This had reference solely to west-bound business, and was distinctively a traffic pool, with diversion of freight in order to make good the allotted percentages. Two years later, the beneficial results of this organization led to the establishment of the Joint Executive Committee of 1879. With varying fortunes, determined as well by bad faith on the part of the railroads as by popular hostility, these organizations existed under various forms till 1887, when pooling was prohibited by law. Especially in the Northeast, the Trunk-Line organization in 1885, as effected by Mr. Fink, had reached a high degree of efficiency, determined by the experience of the preceding decade. This was a money pool, involving monthly settlements and deposits."

Representing graphically the figures showing the growth in number of roads exceeding 1,000 miles in length, as given in the Industrial Commission's Report on Page 305 of the Report, we get the following table:

Year	Number of roads exceeding 1,000 miles in length	Per cent of total mileage of country
1867	1	7
1877	11	20
1887	28	44
1896	44	56.9
1900	--	60

Indust.Com. 19:260-261:

"The period immediately subsequent to the Civil War was characterized by the exceedingly rapid growth of railroads, especially in the extensions to the Pacific Coast. Thirty-six thousand miles of line were built before 1873, more mileage in fact than had been built in the preceding 34 years. Nearly one-half of all this increment, it should be noted, was constructed west of the Mississippi and Missouri Rivers. The greatest event at this time was the opening of the first through route to California by the completion of the Union Pacific in 1869. The experience since the Civil War is of a continued succession of waves of prosperity, interspersed with times of considerable depression. Thus, the years from 1873 to 1879, following the panic of 1873, are in strong contrast with the boom which prevailed prior to that time. Less than 16,000 miles of road were built during this period, bringing the ~~total~~ total for 1879 to about 86,000 miles. This period of depression was succeeded, after the resumption of specie payments, by the unprecedented activity in railroad building of the early eighties. This is the time during which the Atchison, Topeka, and Santa Fe, and the Southern and Northern Pacific roads were opened. In the year 1882, upward of 11,000 miles of new line were laid, a record exceeded only by 1887, when 13,000 miles were built. The panic of 1884, distinctly due to overspeculation in railroad construction, put an end to this activity, and for two years there was a considerable cessation in railroad building. A period of activity from 1886 to 1888 followed the depression incident to the panic of 1884. In those three years 28,000 miles of railroad were built, giving a total in 1890 of about 167,000 miles. In fact, from 1880 to 1890 more miles of new road were built than during the whole period previous to 1875.

"The last decade has been characterized by a steady decline in the amount of construction of new lines. It would seem as if the main trunk lines and the principal systems had been built, leaving only, for a large part of the country, the filling in of branch lines and of subsidiary routes. Low-water mark in railroad construction was touched in 1897, when only 1,600 miles were built in the entire United States. During the entire period of depression from 1893 to 1897, less than two thousand miles were built yearly. At the present time, however, there are indications of a marked revival of activity. The calendar year 1900 shows new construction aggregating almost 5,000 miles, bringing the total, --, to about 200,000 miles of line in all at the close of the present year."

Report of the Senate Select Committee on Interstate Commerce (Cullom Committee, 1885-1886: Pp. 180-181: The Causes of Complaint against the Railroad Companies:

*B
A # "1. That local rates are unreasonably high, compared with through rates.

"2. That both local and through rates are unreasonably high at non-competing points, either from the absence of competition

or in consequence of pooling agreements that restrict its operation.

"3. That rates are established without apparent regard to the actual cost of the service performed, and are based largely on 'what the traffic will bear.'

"4. That unjustifiable ~~high rates~~ discriminations are constantly made between individuals in the rates charged for like service under similar circumstances.

"5. That improper discriminations are made between articles of freight and branches of business of a like character, and between different quantities of the same class of freight.

"6. That unreasonable discriminations are made between localities similarly situated.

"7. That the effect of the prevailing policy of railroad management is, by an elaborate system of secret special rates, rebates, drawbacks, and concessions, to foster monopoly, to enrich favored shippers, and to prevent free competition in many lines of trade in which the item of transportation is an important factor.

"8. That such favoritism and secrecy introduce an element of uncertainty into legitimate business that greatly retards the development of our industries and commerce.

"9. That the secret cutting of rates and the sudden fluctuations that constantly take place are demoralizing to all business except that of a purely speculative character, and frequently occasion great injustice and heavy losses.

"10. That, in the absence of national and uniform legislation, the railroads are able by various devices to avoid their responsibility as carriers, especially on shipments over more than one road, or from one State to another, and that shippers find great difficulty in recovering damages for the loss of property or for injury thereto.

"11. That railroads refuse to be bound by their own contracts, and arbitrarily collect large sums in the shape of overcharges in addition to the rates agreed upon at the time of shipment.

"12. That railroads often refuse to recognize or be responsible for the acts of dishonest agents acting under their authority.

"13. That the common law fails to afford a remedy for such grievances, and that in cases of dispute the shipper is compelled to submit to the decision of the railroad manager or pool commissioner, or run the risk of incurring further losses by greater discriminations.

"14. That the differences in the classifications in use in various parts of the country, and sometimes for shipments over the same roads in different directions, are a fruitful source of misunderstandings, and are often made a means of extortion.

"15. That a privileged class is created by the granting of passes, and that the cost of the passenger service is largely increased by the extent of this abuse,

"16. That the capitalization and bonded indebtedness of the roads largely exceed the actual cost of their construction or their present value, and that unreasonable rates are charged in the effort to pay dividends on watered stock and interest on bonds improperly issued.

" 17. That railroad corporations have improperly engaged in lines of business entirely distinct from that of transportation, and that undue advantages have been afforded to business enterprises in which railroad officials were interested.

" 18. That the management of the railroad business is extravagant and wasteful, and that a needless tax is imposed upon the shipping and traveling public by the unnecessary expenditure of large sums in the maintenance of a costly force of agents engaged in a reckless strife for competitive business. # 24 18

* History of, and Reasons why, the Interstate Commerce Act was passed, from the First Annual Report of the Interstate Commerce Commission, December 1887, Pages 2 to 11: *

"The act to regulate commerce was passed under the authority conferred upon Congress by the Federal Constitution 'to regulate commerce with foreign nations, among the several States, and with the Indian tribes,' and in recognition of a duty which, though long delayed, had at length, in the opinion of Congress, become imperative. The reasons for the delay are well understood. When the grant of this power of regulation was made by the Constitution the commerce between the States which might be controlled under it was quite insignificant both in volume and value. It was for the most part carried on by means of coastwise vessels and by water craft of various kinds which were sailed or otherwise propelled on the lakes, rivers, and smaller streams of the interior. On the land there was very little that could be said to rise to the dignity of interstate commerce, and the regulation of that little, as also of that which was exclusively State traffic, was for the most part left to the rules of common law. The exceptional regulations, if any seemed to be called for, were made by the State laws. In a few cases where persons had associated themselves together as regular carriers of persons on definite routes, exclusive rights were granted to them by the States as such carriers, the motive to such grants being a belief on the part of the State authorities that without the exclusive privilege the regular transportation would not be adequately and reliably provided for.

"For the regulation of commerce on the ocean and other navigable waters Congress very promptly passed the necessary laws; but its jurisdiction within the limits of the States was not very clearly understood, and it was not until the great case of Gibbons vs Ogden, decided in 1824, that it was authoritatively and finally determined that the waters of a State, when they constituted a highway for foreign and interstate commerce, are, so far as concerns such commerce, as much within the reach of Federal legislation as are the high seas; and consequently that exclusive rights for their navigation cannot be granted by States whose limits embrace them.

"But while providing from time to time for the regulation of commerce by water, Congress still abstained from undertaking the regulation of commerce by land. The reasons for this continued to be the same as at the first. The land commerce was insignificant in amount, and the rules of the common law were in general found adequate to the settlement of the questions arising out of it. The commerce of trappers and hunters, of traders with the Indians, or that of the early settlers in the wilderness, needed only the

most primitive modes of conveyance; the emigrant wagon in one direction and the pack-horse and canoe in the other, performed in respect to it the functions now performed by the railroad train and the steam-boat. The use of such primitive instrumentalities required little regulation by either State or national law. When Congress provided for the construction of the Cumberland road as a great national highway, it was thought quite undesirable to regulate its use by national law or to take national supervision of the commerce upon it; and, with the commerce on the ordinary highways, it was left to the supervision and care of the States respectively through or into which the road should be built.

"With the application of steam as a motive power for propelling vessels the conditions were immediately, to a considerable extent, changed. An impetus was given to the internal commerce of the country which promised immense results, and which made immediate and imperative demand for other and very different highways to those which accommodated the pack-horses and heavy wagons of the early traders and settlers. But even then the circumstances were favorable to a prolongation of State control. The first improved highways were turnpikes; the next in grade were canals; but the highways by water as well as by land were provided for by the States. The General Government made some appropriations for canals where they were needed as improvements in existing navigation, but the great ~~artificial~~ artificial channels of water transportation were State creations. Such was the case with the Erie Canal, which during the period when emigration to the wilderness was greatest, and when improvement in the new Territories was most rapid, constituted the most important of all the highways connecting the interior with the sea-board. Such also were the canals which were constructed to connect the Delaware with the Hudson, the Chesapeake with the Ohio, the waters of Lake Erie with the Ohio at Portsmouth, at ~~Cincinnati~~ Cincinnati, and at Evansville, the waters of Lake Michigan with the Mississippi, and many others now almost forgotten, but which were of great temporary importance and value.

"As the States constructed these great interstate highways, it was not unnatural that they should be left in charge of the regulation of trade upon them, especially as no complaint was made that their regulations were unjust, or that they discriminated unfairly as against the citizens ~~of another~~ or the business of other States. When, in 1830, steam-power began to be applied to the propulsion of vehicles upon land, the same reasons as regards control continued to prevail. The roads constructed for such vehicles were authorized by and built under the authority of the States; the corporate charters under which they were operated, and which prescribed the rights, privileges, and powers of the associated owners were State laws; the States determined for them the measure of their taxation, and limited if it seemed politic their charges and their profits. The States thus touched them so nearly in all their interests and all their functions that Federal intervention seemed not only unnecessary but intrusive unless State power should be abused; and the abuse not often appearing, intervention was scarcely thought of by any one.

"For a long time, therefore, the power of the Federal Government in the regulation of commerce between the States was put forth by way of negation rather than affirmatively; that is to say, it was put forth in restraint of excessive State power when it appeared, instead of by way of affirmative national regulation. The national restraint, when there was any, was commonly effected by invoking the action of the judicial department of the Government, and by its assistance arresting such State action as appeared to constitute an unauthorized interference with interstate traffic and intercourse. This special intervention, whether in the exercise of any original jurisdiction, as in the Wheeling Bridge case, reported in 13 Howard, 518, or under an appellate authority, as in Ward vs Maryland (12, Wallace, 418), and Welton v Missouri (91 U.S. Reports, 275), has been important and useful in a considerable number of cases, but in the nature of things it could not accomplish the purposes of general regulation. On the other hand, the effect was to leave the corporations, into whose hands the internal commerce of the country had principally fallen, to make the law for themselves in many important particulars—the State power being inadequate to complete regulation, and the national power not being put forth for the purpose.

"The common law still remained operative, but there were many reasons why it was inadequate for the purposes of complete regulation. One very obvious reason was that the new method of land transportation was wholly unknown to the common law, and was so different from those under which common-law rules had grown up, that doubts and differences of opinion as to the extent to which those rules could be made applicable were inevitable. A highway of which the ownership is in private citizens or corporations who permit no other vehicles but their own to run upon it bears obviously but faint resemblance to the common highway upon which every man may walk or ride or drive his wagon or his carriage. If we undertake to apply to the one the rules which have grown up in regulation of the others, there must necessarily be a period considerable in which the state of the law will, in many important particulars, be uncertain, and while that continues to be case, those who have the power to act and must necessarily act by rule and according to some established system, will for all practical purposes make the law, because the rule and the system will be of their establishment.

"Such, to a considerable extent, has been the fact regarding the business of transporting persons and property by rail.

"Those who have controlled the railroads have not only made rules for the government of their own corporate affairs, but very largely also they have determined at pleasure what should be the terms of their contract relations with others, and others have acquiesced, though oftentimes unwillingly, because they could not with confidence affirm that the law would not compel it, and a test of the question would be difficult and expensive. The carriers of the country were thus enabled to determine in great measure what rules should govern the transportation of persons and property: rules which intimately concerned the commercial, industrial, and social life of the people.

"The circumstances of railroad development tended to make this indirect and abnormal law-making exceedingly unequal and oftentimes oppressive. When railroads began to be built the demand for participation in their benefits went up from every city and hamlet in the land, and the public was impatient of any obstacles to their free construction and of any doubts that might be suggested as to the substantial benefit to flow from any possible line that might be built. Under an imperative popular demand general laws were enacted in many States which enabled projectors of roads to organize at pleasure and select their own lines, and where there were no such laws the grant of a special charter was almost a matter of course, and the securities against abuse of corporate powers were little more than nominal. For a long time the promoter of a railway was looked upon as a public benefactor, and laws were passed under which municipal bodies were allowed to give public money or loan public credit in aid of his schemes on an assumption that almost any road would prove reasonably remunerative, but that in any event the indirect advantages which the public would reap must more than compensate for the expenditures.

"In time it came to be perceived that these sanguine expectations were delusive. A very large proportion of all the public money invested in railroads was wholly sunk ~~and~~ lost. Many roads were undertaken by parties who were without capital, and who relied upon obtaining it by a sale of bonds to a credulous public. The corporation thus without capital was bankrupt from its inception, and the corporators were very likely to be mere adventurers who would employ their chartered powers in such manner as would most conduce to their personal ends.

"It is striking proof of the recklessness of corporate management that 108 roads, representing a mileage of 11,066 miles, are now in the hands of receivers, managing them under the direction of courts, whose attention is thus necessarily withdrawn from the ordinary and more appropriate duties of judicial bodies. So serious has been the evil of bringing worthless schemes into existence and making them the basis for an appropriation of public moneys or for the issue of worthless evidences of debt, that a number of the States have so amended their constitutions as to take from the legislature the power either to lend the credit of the State in aid of corporations proposing to construct railroads, or to authorize municipal bodies to render aid, either in money or credit. State legislation has at the same time been in the direction of making compulsory the actual payment of a bona fide capital before a corporation shall be at liberty to test the credulity of the public by an issue of negotiable securities.

"When roads were built for which the business was inadequate, the managers were likely to seek support by entering upon competition for business which more legitimately belonged to the other roads, and which could only be obtained by offering rates so low that if long continued they must prove destructive. A competitive warfare was thus opened up in which each party endeavored to underbid the other, with little regard to prudential considerations, and freights were in a great many cases carried at a loss, in the hope that in time the power of the rival to continue the strife would be crippled and the field practically left to a victor who

could then make its own terms with customers. When the competition was less extreme than this, there was still a great deal of earnest strife for business, some of which was open and with equal ~~offerings~~ offerings of rates and accommodations to all, but very much of which was carried on secretly, and then the very large dealers practically made their own terms, being not only accommodated with side tracks and other special conveniences, but also given what are sometimes spoken of as wholesale rates, or perhaps secret rebates, which reduced the cost to them of transportation very considerably below what smaller dealers in the same line of business were compelled to pay. Such allowances were sufficient of themselves in very many cases to render successful competition, as against those who had them, practically impossible.

"The system of making special arrangements with shippers was in ~~many~~ parts of the country not confined to large manufacturers and dealers, but was extended from person to person under the pressure of alleged business necessity, or because of personal importunity or favoritism, and even in some cases from a desire to relieve individuals from the consequences of previous unfair concessions to rivals in business. The result was that shipments of importance were commonly made under special bargains entered into for the occasion, or to stand until revoked, of which the shipper and the representative of the road were the only parties having knowledge. These arrangements took the form of special rates, rebates, and drawbacks, underbilling, reduced classification, or whatever might be best adapted to keep the transaction from the public; but the public very well understood that private arrangements were to be had if the proper motives were presented. The memorandum-book carried in the pocket of the general freight agent often contained the only record of the rates made to the different patrons of the road, and it was in his power to place a man or a community under an immense obligation by conceding a special rate on one day, and to nullify the effect of it on the next day by doing even better by a competitor.

"The system, if it can be called such, involved a great measure of secrecy, and its necessary conditions were such as to prevent effective efforts to break it down, though the willingness to make the effort was not wanting among intelligent shippers. It was of the last importance to the shipper that he be on good terms with those who made the rates he must pay; to contend against them was sometimes regarded as a species of presumption which was best dealt with by increasing existing burdens; and the shipper was cautious about incurring the risk. Nevertheless it was a common observation, even among those who might hope for special favors, that a system of rates, ~~open~~ open to all and fair as between localities, would be far preferable to a system of special contracts into which so large a personal element entered or was commonly supposed to enter. Permanence of rates was also seen to be of very high importance to every man engaging in business enterprises, since without it business contracts were lottery ventures. It was also perceived that the absolute sum of money the charges exacted for transportation, if not clearly beyond the bounds of reason, was of inferior importance in comparison with the obtaining of rates that should be open, equal, relatively just as between places, and as

steady as in the nature of things was practicable.

"Special favors or rebates to large dealers were not always given because of any profit which was anticipated from the business obtained by allowing them; there were other reasons to influence their allowance. It was early perceived that shares in railroad corporations were an enticing subject for speculation, and that the ease with which the hopes and expectations of buyers and holders could be operated upon pointed out a possible road to speedy wealth for those who should have the management of the roads. For speculative purposes an increase in the volume of business might be as useful as an increase in net returns; for it might easily be made to look to those who knew nothing of its cause like the beginning of a great and increasing prosperity to the road. But a temporary increase was sometimes worked up for still other reasons: such as to render plausible some demand for an extension of the line, or for some other great expenditure, or to assist in making terms in a consolidation, or to strengthen the demand for a larger share in a pool.

"Whatever was the motive, the allowance of the special rate or rebate was essentially unjust and corrupting; it wronged the smaller dealer, oftentimes to an extent that was ruinous, and it was very generally accompanied by an allowance of free personal transportation to the larger dealer, which had the effect to emphasize its evils. There was not the least doubt that had the case been properly brought to a judicial test these transactions would in many cases have been held to be illegal by the common law; but the proof was in general difficult, the remedy doubtful or obscure, and the very resort to a remedy against the party which fixed the rates of transportation at pleasure, as has already been explained, might prove more injurious than the rebate itself. Parties affected by it, therefore, instead of seeking redress in the courts, were more likely to direct their efforts to the securing of similar favors in their own behalf. They acquiesced in the supposition that there must be or would be a privileged class in respect to rates, and they endeavored to secure for themselves a place in it.

"Personal discrimination in rates was sometimes made under the plausible pretense of encouraging manufacturers or other industries. It was perhaps made a bargain in the establishment of some new business or its removal from one place to another that its proprietors should have rates more favorable than were given to the public at large; and this, though really a public wrong, because tending to destroy existing industries in proportion as it unfairly built up others, was generally defended by the parties to it on the ground of public benefit.

Local discriminations, though not at first blush so unjust and offensive, have nevertheless been exceedingly mischievous and if some towns have grown, others have withered away under their influence. In some sections of the country if rates were maintained as they were at the time the Interstate Commerce Law took effect, it would have been practically impossible for a new town, however great its natural advantages, to acquire the prosperity and the strength which would make it a rival of the towns which were specially favored in rates; for the rates themselves would establish for it indefinitely a condition of subordination and depen-

dence to 'trade centers.' The tendency of railroad competition has been to press the rates down and still further down at these trade centers, while the depression at intermediate points has been rather upon business than upon rates. In very many cases it has resulted in the charging of more for a short than for a long haul on the same line in the same direction; and though this has been justified by railroad managers as resulting from the necessities of the situation, it is not to be denied that the necessity has in many cases been artificially created and without sufficient reason.

"The inevitable result was that this management of the business had a direct and very decided tendency to strengthen ~~the~~ unjustly the strong among the customers and to depress the weak. These were very great evils, and the indirect consequences were even greater and more pernicious than the direct, for they tended ~~to~~ to fix in the public mind a belief that injustice and inequality in the employment of public agencies were not condemned by the law, and that success in business was to be sought for in favoritism rather than in legitimate competition and enterprise.

"The evils of free transportation of persons were not less conspicuous than those which have been mentioned. This, where ~~it~~ it extended beyond the persons engaged in railroad service, was commonly favoritism in a most unjust and offensive form. ~~Free trans-~~ portation was given not only to secure business but to conciliate the favor of localities and public bodies; and, while it was often demanded by persons who had, or claimed to have, influence which was capable of being made use of to the prejudice of the railroads, it was also accepted by public officers of all grades and of all varieties of service. In these last cases the pass system was particularly obnoxious and baneful; for if any return was to be made or was expected of public officers, it was of something which was not their to give, but which belonged to the public or to constituents. A ticket entitling one to free passage by rail was often more effective in enlisting the assistance and support of the holder than its value in money would have been, and in a great many cases it would be received and availed of when the offer of money, made to accomplish the same end, would have been spurned as a bribe. Much suspicion of public men resulted, which was sometimes just, but also sometimes unjust and cruel; and some deterioration of the moral sense of the community, traceable to this cause, was unavoidable while the abuse continued. The parties most frequently and most largely favored were those possessing large means and having large business interests. #

"The general fact came to be that in proportion to the distance they were carried those able to pay the most paid the least. One without means had seldom any ground on which to demand free transportation, while with wealth he was likely to have many grounds on which he could make it for the interest of the railroad company to favor him, and he was sometimes favored with free transportation not only for himself and his family but for business agents also, and even sometimes for his customers. The demand for free transportation was often in the nature of blackmail, and was yielded to unwillingly and through fear of damaging consequence through a refusal. But the evils were present as much when it was extorted as when it was freely given.

"These were some of the evils that made interference by national legislation imperative. But there were others that were of no small importance. Rates when there was no competition were sometimes so high as to be oppressive, and when competition existed by lines upon which the public confidently relied to protect them against such a wrong, a consolidation was effected and the high rates perpetuated by that means. In some cases the roads, created as conveniences in transportation, were so managed in respect to business passing or destined to pass over other roads that they constituted hindrances instead of helps, to the great annoyance of travel and to the serious loss of those who intrusted their ~~property~~ property to them. Then their rates were changed at pleasure and without public notification; their dealings to a large extent were kept from the public eye, the obligation of publicity not being recognized; and the public were therefore without the means of judging whether their charges for railroad service were reasonable and just or the contrary.

"But the publications actually made only increased the difficulties. Railroad rates, difficult enough to be understood by the uninitiated when printed plainly in one general tariff with classification annexed, became mysterious enigmas when several different tariffs were printed, as was the case in some sections; some relating to competitive points and others to what were called local points, and each referring to voluminous and perhaps different classifications, which were printed but not posted, and which were observed or disregarded at will in the rates as published. Such unsystematic and ~~xxx~~ misleading publications naturally led to many overcharges and controversies, and naturally invited and favored special rates and injurious preferences.

"These were serious evils; and they not only to some extent blunted the sense of right and wrong among the people and tended to fix an impression upon the public mind that unfair advantages in the competition of business were perfectly admissible when not criminal, but they built up or strengthened a class feeling and embittered the relations between those who for every reason of interest ought to be in harmony. It was high time that adequate power should be put forth to bring them to an end. Railroads are a public agency. The authority to construct them with extraordinary privileges of management and operation is an expression of sovereign power, only given from a consideration of great public benefits which might be expected to result therefrom. From every grant of such a privilege resulted a duty of protection and regulation, that the grant might not be abused and the public defrauded of the anticipated benefits.

"The abuses of corporate authority to the injury of the public were not the only reasons operating upon the public mind to bring about the legislation now under consideration; some other things which in their direct effects were wrongs to stockholders only also had their influence, and this by no means a light one. The manner in which corporate stocks were manipulated for the benefit of managers and to the destruction of the interest of the owners was often a great scandal, resulting sometimes in the

bankruptcy and practical destruction of roads which, if properly managed, would have been not only profitable but widely useful. This in its direct results might be a wrong to individuals only, but in its indirect influence it was a great public wrong also.

"The most striking and obvious fact ~~xx~~ in such a case commonly is that persons having control of railroads have in a very short time by means of the control amassed great fortunes. The natural conclusion which one draws who must judge from surface appearances is, that these fortunes are unfairly acquired at the expense of the public; that they represent excessive charges on railroad business, or unfair employment of inside privileges, and furnish in themselves conclusive evidence that current rates are wrong and probably extortionate. An impression of this sort, when it happens to be wide of the fact is for many reasons unfortunate. It creates or strengthens a prejudice against all railroad management—the honest as well as the dishonest—which affects the public view of all railroad questions; it renders it more difficult to deal with such questions calmly and dispassionately; it makes the public restive under the charges they are subjected to, even though they be moderate and necessary; it tends to strengthen a feeling among the unthinking that capital represents extortion. However careful, considerate, fair, and just the management of any particular road may be, and however closely it may confine itself to its legitimate business, it is impossible that it should wholly escape the ill effects of this prejudice, which are visited upon all roads because some conspicuous railroad managers have by their misconduct given in the public mind a character to all.

"Evils of the class last mentioned were difficult of legislative correction, because they sprang from the over-confidence of stockholders in ~~the~~ the officers chosen to manage their interests, and whose acts they perhaps at the time assented to. But if capable of correction by any legislative authority, it was in general that of the States, not of the nation. The States in the main conferred the corporate power, and it was for the States by their legislation to provide for the protection of the individual interests which were brought into existence by their permission. The National Government had to do with the commerce which these artificial entities of State creation might be concerned in. Nevertheless, the manifest misuse of corporate powers strengthened the demand for national legislation, because the ~~private~~ gains resulting from corporate abuse were supposed to spring, to some extent at least, from excessive burdens imposed upon the commerce which the nation ought to regulate and protect.

"For the purpose of correcting the evils above alluded to, so far as it was constitutionally competent for national legislation to do so, the act to regulate commerce lays down certain rules to be observed by the carriers to which its provisions apply, which are intended to be and emphatically are rules of equity and equality, and which, if properly observed, ought to and in time no doubt will restore the management of the transportation business of the country to public confidence.

"The leading features of the act are as follows: #

"All charges made for services by carriers subject to the act must be reasonable and just. Every unjust and unreasonable charge is prohibited and declared to be unlawful.

"The direct or indirect charging, demanding, collecting, or receiving, for any service rendered, a greater or less compensation from any one or more persons than ~~from~~ from any other for a like and contemporaneous service, is declared to be unjust discrimination and is prohibited.

"The giving of any undue or unreasonable preference, as between persons or localities, or kinds of traffic, or the subjecting any one of them to undue or unreasonable prejudice or disadvantage, is declared to be unlawful.

"Reasonable, proper, and equal facilities for the interchange of traffic between lines, and for the receiving, forwarding, delivering of passengers and property between connecting lines is required, and discrimination in rates and charges as between connecting lines is forbidden.

"It is made unlawful to charge or receive any greater compensation in the aggregate for the transportation of passengers or the like kind of property under substantially similar circumstances and conditions for a shorter than for a longer distance over the same line in the same direction, the shorter being included within the longer distance.

"Contracts, agreements, or combinations for the pooling of freights of different railroads, or for dividing between them the aggregate or net earnings of such railroads or any portion thereof, are declared to be unlawful.

"All carriers subject to the law are required to print their tariffs for the transportation of persons and property, and to keep them for public inspection at every depot or station on their roads. An advance in rates is not to be made until after ten days' public notice, but a reduction in rates may be made to take effect at once, the notice of the same being immediately and publicly given. The rates publicly notified are to the maximum as well as the minimum charges which can be collected or received for the services respectively for which they purport to be established.

"Copies of all tariffs are required to be filed with this Commission, which is also to be promptly notified of all changes that shall be made in the same. The joint tariffs of connecting roads are also required to be filed, and also copies of all contracts, agreements, or arrangements between carriers in relation to traffic affected by the act.

"It is made unlawful for any carrier to enter into any combination, contract, or agreement, expressed or implied, to prevent, by change of time schedules, carriage in different cars, or by other means or devices, the carriage of freights from being continuous from the place ~~exp~~ of shipment to the place of destination. #

"These, shortly stated, are the important provisions of the act which undertakes to prescribe the duties and obligations of the carriers which by its passage are brought under Federal control."

34
246

Some general observations on the act, eight months after its passage, made by the Commission, Report, 1887, p. 41-42:

"One immediate effect was to cause inconvenience in many quarters, and even yet the business of some parts of the country is not fully adjusted to it. Some carriers also are not as yet in their operations conforming in all respects to its spirit and purpose. Nevertheless the Commission feels justified in saying that the operation of the act has in general been beneficial. In some particulars, as we understand has also been the case with similar statutes in some of the States, it has operated directly to increase railroad earnings, especially in the cutting off of free passes on interstate passenger traffic, and in putting an end to rebates, drawbacks, and special rates upon freight business. The results of the law in these respects are also eminently satisfactory to the general public, certainly to all who had not been wont to profit by special or personal advantages. In connection with the abolition of the pass system, there has been some reduction in passenger fares, especially in the charge made for mileage tickets in the Northwest, the section of the country where they are perhaps most employed.

"Freight traffic for the year has been exceptionally large in volume, and is believed to have been in no small degree stimulated by a growing confidence that the days of rebates and special rates were ended, and that open rates on an equal basis were now offered to all comers. The reflex action of this development of confidence among business men has been highly favorable to the roads.

"In some localities the passage of the act was made the occasion on the part of dissatisfied and short-sighted railroad managers for new exactions, through a direct raising of rates, by change in classification and otherwise. The manifestation of the spirit which induced such action is now but seldom observed, and the wrongs resulting from it have in general been corrected. ----- The changes in classification made since the act took effect have been in the direction of greater uniformity, and have also in general, it is believed, been concessions to business interests.

"The tendency of rates has been downwards, and they have seldom been permanently advanced except when excessive competition had reduced them to points at which they could not well be maintained. No destructive rate wars have occurred, but increase in stability in rates has tended in the direction of stability in general business. There is still, however, great mischief resulting from frequent changes in freight rates on the part of some companies; changes that in some cases it is difficult to suggest excuse for.

"The general results of the law have been in important ways favorable to both the roads and the public; while the comparatively few complaints that have been heard of its results are either made with imperfect knowledge of the facts, or spring from the remembrance of practices which the law was deliberately framed to put an end to."

RAILWAYS.

Railroad Consolidation and Federal Regulation:

Documents etc.:

- Interstate Commerce Commission: Annual Reports, especially First Annual Report, Dec. 1887.
- Interstate Commerce Commission: Special Report No. 1, 1909: Inter-corporate Relations of Railroads of U.S. (On Methods of Consolidation.)
- Report of the Cullom (Senate Select) Committee on an Investigation of Interstate Commerce, 1885-1886, 2 Vols.
- Statistical Record of the Progress of the United States, 1800-1906.
- U.S. Census Report, 1880, Vol. IV: Report on the Agencies of Transportation in the United States.
- U.S. Census Report, 1890: Report on Transportation Business in the United States, Part I.
- U.S. Industrial Commission: Report, Vols. 4, 9, and 19.

Secondary:

- Daggett, Stewart: Railroad Reorganization, 1885-1900
- Dixon, F.H.: Railroads in their Corporate Relations, Pol. Science Quarterly, Nov. 1908.
- Haney, L.H.: Congressional History of Railways in the U.S., 2 Vols, 1910, on Federal land grants and regulation.
- Janes, E.J.: The Railway Question, Amer. Econ. Assoc., 1887.
- Meyer, B.H.: Railway Legislation in the United States, N.Y., Macmillan 1903.
- Moody, John: Railroad Builders, Chronicle, N. Haven, Yale Univ. Press, 1919. Two splendid maps of railway combinations.
- Minneapolis Times: Ammunition for Anti-Mergerites. Pamphlet, 1901.
- Newcomb, H.T.: The Recent Great Railway Combinations, in Amer. Review of Reviews, 24:163 ff. 1901. He was at the time editor of the "Railway World." This article is not based on reliable data but the maps of railway combinations are excellent as are also the pictures of important railroad men.
- ✓ Lingley, C.R.: Since the Civil War, Rev. Ed., 1926, N.Y., Century Co. Chapter on "Transportation and Control", pages 201-223 is excellent and probably along the same line as you will write this chapter.
- Ringwalt, J.L.: Development of Transportation Systems in the United States, Phila. 1888.
- Ripley, W.Z.: Railroads: Rate and Regulation, N.Y., Longmans, Green, & Co., 1912.
- Ripley, Wm.Z.: Railroads: Finance and Organization, N.Y., Longmans, Green, 1915.
- Ripley, Wm.Z.: Railway Problems, Rev. ed., 1913.

Biographies and Individual Road Histories:

- ✓ Davis, J.P.: The Union Pacific Railroad, Chicago, 1894.
- ✓ Hovey, Carl: Life Story of J.P. Morgan.
- ✓ Kennan, Geo: E.H. Harriman, Vol. I, N.Y., Houghton, Mifflin Co., 1922.
- ✓ Pyle, J.G.: James J. Hill, Vol. 2, N.Y., Doubleday, Page & Co., 1917.
- ✓ Smalley, E.V.: History of the Northern Pacific R.R., N.Y., 1893.
- ✓ White, H.K.: History of the Union Pacific Railway, Chicago, 1895.
- ✓ Wilson, W.B.: History of the Pennsylvania R.R. Company, 2 Vols., Phila., 1899.