RAILWAY POOLS

Their Equity and Public Value,

BY

GEO. R. BLANCHARD.

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ARTICLE I.

GOVERNMENTAL AND RAILWAY TARIFFS.

The United States bonded debt, November 1, 1896, was $847,364,460. The railway bonds were $5,641,000,000, about seven times greater. Legitimate and so-called watered railway stocks were roundly $5,000,000,000 more, at par.

The annual interest on the national debt is about $29,000,000, and about $252,000,000 on the railway bonds.

President McKinley told Congress March 15, 1897, that the government's gross receipts for its fiscal years 1894-5-6 were $1,072,651,000, and that they were $138,000,000 less than its expenses. The railway receipts in the same period were $3,408,200,000, over three times as much.

The Interstate Commerce Commission's report for 1895 stated that $890,000,000 of railway bonds were in default of interest, being $43,000,000 more than the outstanding national bonds. These defaults increased in 1896. If the interest payable thereon averaged 5 per cent., and it was three years in default, such defaults would aggregate $133,500,000, or about the same as the government deficits in the same period. During the same three years railway dividends decreased $22,000,000 more.

The President specially convened an association of the States, called Congress, to tell them that business confidence and the public credit required *increased* import tar-

iffs to extend trade. The House concurred in his opinion by 84 majority.

Almost simultaneously the Supreme Court declared, by *one* majority, that an association of railways which had *reduced* transportation tariffs, should not agree even to that end or to aid their credits, or to secure the uniformity of charges which the government maintains in its import, postage, internal tax, land and consular tariffs, and which is required in the collection of all national, State and municipal taxes, upon the ground that such acts would restrain trade.

Effect of the Decision.

Should this decision cause further serious depletions of railway earnings, interest and dividends, it would involve greater actual loss than to pass the interest on government bonds, and as much, or more, impair the national credit, because prosperity cannot return to the nation while increased disasters assail its largest material and financial interest. The reductions of American railway values in the markets of the world prove this, despite a reassuring national election. The prevention or correction of that railway condition lies as fully within the power and duty of Congress as to restore general business confidence by increased import rates, and when rightly understood it will secure public approval because the railways desire legislative aid only to the end that their impartial published tariffs, which are the lowest of the world, may be reliably observed.

If the Supreme Court opinion was soundly based upon the laws, those laws must have been enacted through pub-

lic misapprehensions which it seems essential to remove, and such amendments of law should be made instead as will secure reasonable, impartial, public and stable transportation charges by the means found wise and necessary to determine, collect, apportion and disburse the governmental incomes, which, being smaller, touch fewer people.

The government pays uniform railway compensation in large amounts for the like carriage of its mails and stipulated prices for the transportation of its troops and supplies, yet it does not plead that "competition" is lessened, "trade restrained," or its expenses are increased because it does not receive concealed rebates from those charges. If governmental officers accepted them they would be dismissed. Nor do those officers say that as the rates they from time to time ask for are for the government, they will exercise its power to compel open or secret cut rates or that they will divert their large business if railways do not concede for the State some or all of the irregular things done privately under guises called "competition." As the government is the largest patron of the railways, its legal aid should be clearly given to put and keep all other patrons upon the same honorable plane on which it conducts its own business with the same carriers.

Governmental Control.

If the United States purchased the railways the government would continue to so act as to its own traffic and would fix and enforce against all others, transportation charges found reasonable and made public, and such charges would not be secretly reduced. Conferences among parallel governmental lines would also be as essen-

tial then as now, to decide and announce their intricate rates and the changes in them required by law, by new and trade conditions and by those great legitimate competitive forces which are controlling and ceaseless.

Railway competition, as now understood, would then cease between parallel governmental carriers as it has between governmental custom houses, and, after the railway receipts had gone into one national purse, they would be assigned to the proper departmental revenues. These analogies represent not only the whole scope of present railway conferences or associations, but also the equality and firmness of rates intended to be secured by pooling.

The legal, unifying and police powers of the government would then promptly remove all obstacles to uniform charges over its lines, as in its postal management and rates, whereas the impediments which confront the railways are vastly greater, and increase instead of diminish, because due power to regulate them is not only being withheld but lessened. New railway lines, consolidations and combinations, carriers' antagonisms, man's faults, the rivalries of States, cities and districts, the constant competition of water routes and rival foreign countries and markets, the wrongful depletions of reasonable rates by weak carriers and strong shippers, and the struggles and reprisals which ensue, compel diverse corporate policies and create recurring disturbances, which are not only uncorrected, but are growing.

The pooling plan of railway co-operation is therefore needful to secure the best public and railway accord, and it is but the counterpart and equivalent of what governmental management would be, yet it is forbidden by law and

questionable decisions, and a situation easily made better grows nationally worse.

If the government purchased only the Union Pacific Railway under the pending foreclosure, it could only announce its rates upon the large competitive traffic of that great system after the conferences and the methods that company now avails of. With all its power, the government could not maintain independent rates on that one line and secure rival traffic for it, unless its private competitors made the same rates and maintained them with equal honor and inflexibility, nor can that railway do so now. This has been found true of the competition of government railways with private lines in Europe.

If the transportation confusion caused by the Trans-Missouri decision induced the present Congress to appoint a Governmental Commission to consider and report upon the best and most equitable means to first determine reasonable rates, to change them as controlling circumstances might require, and to thereafter cause them to be observed as so fixed and changed, in order that discriminations should cease, there is no doubt that such a commission would, in all essential particulars, recommend adherence to the usage of the present traffic associations, which represent the condensations of intelligent experience and fairness.

Theorizing Upon Competition.

Such a purchase might, therefore, be desirable as a stop to Congressional theorizing upon competition, by bringing Senators, Representatives and governmental officers to consider the alternative which all competitive railways

must now contemplate throughout the country, *i. e.*, to observe the Interstate Commerce Act and thereby surrender their competitive traffic to more plastic private rivals, or to keep their shares of business by the methods employed by the latter. They would, perhaps, heed advice then which is so far ignored and doubted.

When the government publishes import tariffs designed to secure revenues adequate to its needs, or to induce private capital to enlarge national trade, it assures to the world their impartial and unabated collection. Any instability in those changes greatly disturbs trade. If the railways simultaneously file with the government reasonable transportation tariffs, which are equally or more calculated to give effect to the same national policy, and which are intended to be stable, upon what justifiable grounds can the nation deny the aid of legally regulated contracts and pooling to collect and retain their due charges, as being the only plans which have anywhere proved effective stops of illegal depletions of reasonable rates, which, however small, are always discriminations?

That one is a governmental and the other a corporate tariff is not an honest or just reply, and no government but ours so illogically answers its carriers. While, therefore, our legislators condemn railway discriminations, they more discriminate by withholding from railways any measure whatever of the protection they give rail mills and others, yet, whether national revenue, credit, labor or commerce be considered, the railways are the largest factor in those public purposes and results, and are entitled to equal or greater consideration.

For illustration, the existing import tariff may be justly

increased on some articles by the schedule now pending, but if the railways should fractionally advance their rates on imported articles it would be characterized as unjustifiable, monopolistic, extortionate, etc., although both increases might be proper, especially in instances in which privately reduced transportation rates might neutralize increased import rates.

Railway and Customs Charges.

However that may be, if the government controlled both the railway and customs charges, it would inflexibly and uniformly charge and retain both schedules as published. Any other governmental course would provoke just public indignation. It is an equally desirable and just consummation when the railways collect one of those charges. If, on the other hand, it is better that only the transportation element of commerce be capricious, concealed and preferential, because that condition is a desirable requisite of so-called "competition," should not rival customs collectors also make different import charges at competing ports of entry, and why should not the whisky tax be lower at Peoria than in North Carolina? Why should not postage-stamps be sold cheaper at profitable offices like New York, to large daily users of the mails, than to infrequent letter-writers at small offices conducted at a loss? And why should letter postage be the same from New York to both Brooklyn and San Francisco?

Next, it is widely claimed that transportation is a governmental function delegated in part to corporations, but remaining subject to national control. Upon that farther ground railway companies seem entitled to those

reasonable delegations of power which would be necessary to enable the government to secure the observance of like charges under like circumstances.

While we thus argue that governmental and private railway policy should be alike national, public, impartial and enforceable, carriers also concede that corporate as well as governmental railway management should be subject to proper national supervision.

If the government now owned the railways, the disquieting defaults of interest on their bonds, the lessened returns on their legitimate shares, the constant impairments of their gross and net revenues, especially from false "competition," would combine to the detriment of their physical condition and safety, as well as to injure their fiscal obligations everywhere, and those disturbing conditions would then doubtless have been set forth by the President as needing national corrective action as much as the other financial urgencies to which he asked consideration. If such railway retrogression nevertheless continued under governmental management, it would have been finally necessary to meet it by direct appropriations or by diverting other governmental incomes to such deficits. Either of those courses would be more expensive to all the people and more unjust in application and effect than to charge and maintain adequate rates payable by the actual users of the railways.

An Unjust Proposition.

Railway owners and managers are confronted with the same problems, but have been denied adequate powers to meet them. Therefore, they ask governmental sanction to

a policy itself could not escape from. To answer that railway proprietors and managers must take care of themselves, yet not permit them to do so legally, is the retort of theory or hostility, is not just, and is not applied to any other great national interest.

As the United States do not own any railways, these premises must be sustained by proofs drawn from other nations.

In 1874 Switzerland invited Austria-Hungary, Belgium, Germany, Italy and the Netherlands to confer touching competitive international railway tariffs in order that like rates—bills of lading, etc., might prevail thereon via their rival routes and frontiers. Further conferences in 1878, '81 and '86, in which private companies participated, considered the competitions of the Mediterranean and North Seas and the Danube, Rhine and other rivers, as well as those of their own railways, resulting in an agreement at Berne, in October, 1890, which was subsequently ratified by all the participating nations and made effective January 1, 1893. Under that compact undue competition was ended, not only governmental, but private rights were conserved, and public, stable and reasonable charges were announced upon which to base competitive national and international traffic interchanges. Had those governments and their private railways acted upon the erroneous theories of competition held by inexperienced and hostile opponents of American railways, they would not have thus associated or agreed, but would have fought the carrying struggle to a finish. Private corporations would have been crippled by their own governments and the latter would then have continued their strifes, depleted their

several national revenues and involved their treasury budgets. The railways would have deteriorated and commercial instabilities and discriminations in rates would have continued or increased. Can there be any question which is the juster and wiser public policy?

Legislation Necessary.

The faults of the Interstate Commerce Act and the effects of the Supreme Court decision should be less deplored if the present discussion brings as wise and permanent legislation as that concluded at Berne. Otherwise, their fruits will grow more grievous to fair traders and carriers and will more incite and less regulate the evils of concealed discriminations, which no laws and no railway unity have ever yet corrected in any country except by pools.

Interstate Commissioner Schoonmaker said:

"The lack of affirmative legal authority for such associations, the bad faith often exhibited by some of their members and the inability either to restrain or punish delinquency have operated in another tendency—the tendency toward consolidation."

Moreover, should pooling be authorized by law, and be thereafter found to antagonize the public interest, prompt repeal or amendments or enlargements of the powers of the Interstate Commerce Commission would protect the people.

The argument of these articles is not that legislation should sanction a past railway policy which may be finally adjudged in conflict with law, but it holds that Congress was well advised in 1886 to sanction pooling; that its prohibition in the Interstate act was a public as well as corpo-

rate misfortune; that the Anti-Trust law was not intended to prohibit fair agreements not designed to raise prices or create monopolies, and that it was not intended to apply to railroads. Inasmuch, however, as doubts have arisen upon some of these points, it is now due to every interest involved that they be removed by affirmative legislation. The argument also represents only the writer's views.

Much of the legislative indisposition to affirm pools is based upon widespread misconceptions of railway competition, which will be therefore considered next.

ARTICLE II.

COMPETITIONS COMPARED.

When the term competition is applied to purchasing and selling transportation as it is to buying and vending goods it is a misnomer, because historically and instinctively the word conveys to most minds thoughts of bargaining and concession.

Buyers seek better terms than sellers first ask by inviting price reductions, easier terms of payment, etc., and sellers whose capital, manufacturing facilities, control of specialties, rentals, etc., differ, may, in order to divert buyers from known and unknown rivals, sell at dissimilar prices adapted to market conditions, the proportions of cash or notes offered in payment, their experiences with buyers' responsibilities, and the profits upon the entire bills sold. All this is proper, but it would not be proper for the same buyers or sellers to barter and bargain in the same ways for different railway rates, nor would it be proper or legal for rival railways to concede preferential rates varied to accord with each agent's estimate of each merchant's credit, shipments, etc., or with the various capitalizations, dividends, distances or facilities of each line.

Competing vendors in market stalls or on wagons openly cry their own and decry rival wares and misrepresent each other's goods and methods, but variable rates, fares, bills of lading and tickets, founded on misrepresentations and discriminations, must not be peddled publicly from railway wagons or privately in railway offices.

Yachtsmen "compete" for prizes with presumable honesty, but a crew may be corrupted, a yacht purposely fouled or its spars weakened, when it is not "competition," because the contest may be decided by fraud. The same principle holds true in athletic games, horse races, prize fights, etc. If the judges in competitive exhibitions of machinery or art sell their awards, it is not "competition" more than it would be if one railway procured the derailment of its rival's trains or misrepresented the time and facilities of its own or other routes. Prison laborers do not fairly compete with honest toilers, nor would railways be justified, because of labor competition, in reducing the compensations of their enginemen to the wages paid convict engineers.

Untrue Competition.

If a yacht owner, trade or art exhibitor or athlete violates the rules of his guild in its contests, he is debarred from further competition and publicly denounced, but if the fair rates and rules governing the far more important public functions of transportation are violated by a railway which aided to make them, that railway is given increased patronage on trade exchanges which would dismiss their own members for lesser infractions of their fair charges and rules. This is not competition, but a reward for illegal preferences.

It is not, therefore, true competition when one or more railways unequally alter proper public rates or rules, to which they have previously assented, and which other and more judiciously managed railways seek to observe in furtherance of law and the public interest, as the great ma-

jority of railways sincerely desire and strive to do. Nor is it true competition when strong and well-meaning carriers which have lost their business to lax rivals take some legal chances to regain and keep it, because if they waited for the law's inefficient help in such instances all their rival business would be lost, perhaps permanently.

Again, if one railway company offers a tariff rate, another reduces it unreasonably and other carriers offer further rebates therefor in varying ways, it is clear that if the first rate was reasonable the last one is unreasonably low, and that such devices, which are not competition in any sense, involve loss to the first shipper and the last carrier. Such conditions constitute preference, discrimination, waste and bankruptcy, and mean that fair rate standards should be restored.

Assume again, one railway sturdy for its legal rates pitted against another pliant with concessions from the same rates, and two shippers of diverse business standards, and that the yielding railway grants the persuasive large shipper unknown rebates. In such strife both railways may be ruined, one because it loses its business, the other because it loses its profit, and one merchant is sure to be ruined, but the receiver of rebates will survive and will control his kind of business at the point where the rebate is granted. This is not competition within any honorable meaning. Nor, even if it be modern law, is it sound business sense or good public policy to say that to rightfully and rightly place both of said railways and both of said merchants on equal and equitable conditions can be a restraint of trade.

When one of those two merchants fails, he retires from

such strife. If but one of those two railways fails it must continue in business, and the thoughtless say it is then best prepared to take the largest competitive traffic at the lowest rates, to which other carriers must conform or lose their traffic, being the only trade in which a bankrupt makes values for solvent rivals and the only business which it is popularly believed may be increased upon insolvent capital.

In no sense is this true competition, and railway reorganizations based on such false conditions invite renewed failure, for they induce just reprisals and the return of the business they thus divert from others.

One Serious Result.

Again, if all railways gave but one shipper one cent per one hundred pounds advantage, he would ultimately control the cereal markets of the nation. So would he if one railway at each large shipping point granted him that preference, while all other railways thereat stood firm for right rates and rules for him and others. The result differs only in degree if the same advantage be given by one or many railways to five shippers at the same or different points who may then attack each other until the survivors are fewer. This is not competition, but assault and unendurable favoritism. The protection of right always requires the restraint of wrong, especially in transportation, wherein both protection and restraint must come from railway co-operation which is now interdicted, or from law, which has so far denied its sanction to the best plan for both.

Further, the merchant who reduces prices affects only

his rivals in his locality, while railways which reduce through rates are legally required to make their interstate charges, say from Chicago to Boston, the maxima between numberless intermediate places. This also is not competition, but the effect of the Interstate Act, because the offending line may not reach points on other lines which are nevertheless affected by the reduced through rates made necessary via all routes by the injudicious action of perhaps only one route.

Finally, on this point, charges thus varied are illegal and punishable by fine and imprisonment. The Interstate Commerce Act requires that the actual rates shall be published and charged alike to all; that they shall be not reduced without three days' or raised except upon ten days' public notice, and that such rates shall not be "more *or less*" than the tariffs filed, thereby stipulating that railway competition *shall* differ from trade competition.

The minority opinion in the Trans-Missouri case presents this condition succinctly and clearly as follows:

"That the Interstate commerce rates, all of which are controlled by the provisions as to reasonableness, were not intended to fluctuate hourly and daily as competition might ebb and flow, results from the fact that the published rates could not be increased or reduced, except after a specified time. It follows then that agreements as to reasonable rates and against their secret reduction conform exactly to the terms of the act."

Merchants Would Co-operate.

For these reasons, as well as for the convenience, certainty and restfulness of trade, all merchants not seeking rebates would, for example, approve a rate of twenty cents per one hundred pounds from Chicago to New York, and

such regulative legislation as would sustain that rate undeviatingly until as publicly altered, rather than endorse legal decisions or railway practices which stimulate a concealed rate of fifteen cents for large shippers, when the published tariff is twenty cents. They well know that such vicious discriminations resemble trust methods and render commercial competition impossible except between controllers of vast capital, who may impoverish smaller traders, and, controlling warehouses full of traffic, tender it in trainloads to pliable railways or those which lack business, else shift their large tonnages from line to line or unite with other shippers to more compel preferential rates or conditions. It is regretable to say that they too often obtain them. By such means some shippers become dealers in diverted railway earnings as much as or more than in their own merchandise and thereby grow the stronger to exact further railway concessions, to stipulate purchase prices to producers and sale prices to consumers, and perhaps use their combined rebates and capital to further control values on trade and financial exchanges.

The real purpose of the Anti-Trust law is thus reversed. Not being, as the railways contend, meant to apply to them, it is thus far adjudged that it does ; yet being clearly applicable to trusts, the latter escape its effect and grow stronger from large transactions between themselves and those carriers who grant them special advantages. That decision more encourages them to this course and restrains trade by limiting it to the favorites thus created.

Reasoning from these conditions, it cannot be too often or strongly argued that however much all competitive rail-

ways but one may observe common and legal rates, the strongest and best disposed companies must succumb to the objectionable conditions forced upon them by the weakest or worst competitor physically or morally. This also reverses commercial and trust conditions wherein the stronger always control.

Another Illustration.

As a further illustration, the government's postal business would be impaired and disorganized if railways, express companies and house to house carriers cut the postal rates twenty per cent., yet if real competition is the legislative desire and intent, why should they be restrained from such carriage by law as they now are ?

As Commissioner Schoonmaker well said :

"A rate made by one line on a particular traffic must be the rate of all other lines to share in the business."

He also said :

"And this pernicious power is the creation of law, and is protected by the law upon the antiquated and once respectable theory, but now fully demonstrated fallacy, that unrestricted competition among railroads is a public benefit."

All such rate-cutting methods simply sell transportation awards to the lowest and not the highest bidders, and are not therefore proper competition more than are auction sales of pawned, bankrupt or damaged goods legitimate business rivalry. It is the control or extinction of true carrying competition and the destruction of all its legitimate rules, functions, agencies and honorable standards.

In these facts and illustrations lie answers to those who say the railways have only themselves to blame for

the unreasonable reductions of rates and the untoward conditions of which they now complain.

Based on these unassailed premises, competition properly means that when various persons seek a coveted consummation or patronage they shall be governed by those rules in each branch of endeavor which apply equally to all honorable contestants therefor, and which experiences have proven fair and essential to enable the best man, horse, yacht, machine, picture, shipper or railroad to win under equal conditions.

True Railway Competition.

Comprehensively, justly and legally, considered and applied only to railways, competition means due adjustments and readjustments of rates to conform equitably to those causes which properly control or affect them—such as rivalries with oceans, rivers, lakes and canals, competing markets which distribute, consume or reship, the relations of localities, etc. Economies in cheaper rails, coal, etc., longer and more numerous trains, lower grades, improved terminal facilities, better station-houses, more and safer tracks, celerity of service, etc., are also elements of legitimate emulation calculated to transfer and increase business and which effect lower rates thereon. This true competition will, therefore, never cease between any rival lines.

When all these justly competitive forces have been duly expressed in reasonable and uniform rates, fares and rules, each and every violation of them, however small, especially by those who helped to make or who indorsed them, constitutes a discrimination, is dishonorable com-

petition and should not longer receive even negative trade or national sanction.

Various Interstate Commissioners have strongly confirmed these views. Judge Cooley said :

"How distinctly it is seen here that it is utterly impossible to judge of railroad competition and its effects, its usefulness and its mischiefs, by comparing it with competition as we encounter it in other lines of business."

Hon. Martin A. Knapp said :

"Deprived of special and exclusive rates, an advantage far more odious and powerful than exemptions from taxation, those trusts are shorn of their strength and divested of their supremacy."

Judge Patterson, who introduced the pooling bill of 1895, said :

"This preferential system throughout the country is gradually destroying the small and enriching the large shippers."

The great English Commission of 1882 said :

"While committees and commissions carefully chosen have for the past thirty years clung to one form of competition or another, it has, nevertheless, become more and more evident that competition must fail to do for the railways what it does for ordinary trade."

It also said :

"Reliance upon competition between railways to regulate rates and maintain them upon a fair basis and to prevent unjust discriminations will have to be abandoned as a failure."

Other Endorsements.

Hons. A. G. Thurman, E. B. Washburn and T. M. Cooley said in their joint report of 1882 :

"It is a state of things that, like a war between nations, from its very destructiveness cannot be a normal condition, but must speedily terminate in peace or disaster."

They further said :

"The mere statement of these results is sufficient to show that this is not what in other business is known and designated as competition."

A distinguished United States Senator said, in 1887 :

"Competition of railroad transportation differs from every other kind of competition in the world. * * * It is not competition in trade. The railroad buys nothing of the producer; it sells nothing to the customer; it simply carries; it distributes."

The Chief of Statistics of the United States said :

"Success waited upon intrigue and false representations. The freight agents deceived the merchants and the merchants deceived the freight agents."

Senator Cullom's committee said :

"If competition is to have full sway, as it does now, the constant changes it would necessitate would render it impossible to maintain fixed rates."

It further said :

"Competition does not prevent personal discrimination, for the evil is most conspicuous when and where competition is most active."

Judge, afterward Senator, Howe said :

"Competition (meaning improper competition) has done more to monopolize trade or secure exclusive advantages in it than has been done by contract."

The Interstate Commerce Commission said, in its first annual report :

"Excessive and unreasonable competition is a public injury."

Why the Interstate Commerce Act has largely failed to meet and correct these conditions will be considered next.

ARTICLE III.

THE INTERSTATE COMMERCE ACT.

The conditions which led to the Interstate Act were dealt with in the Windom report of 1878 and the Reagan Bill of 1879, and were reported upon fully by the Cullom committee in 1886, which held the railway system to eighteen (18) counts, eleven (11) of which related to discriminations, the others to undue rates, capitalization, management, classification and engaging in extraneous business. Time has non-suited the last seven (7) complaints.

That report anticipated what experience has fully confirmed, when it declared :

"That a problem of such magnitude, importance and intricacy can be summarily solved by any master stroke of legislative wisdom is beyond the bounds of reasonable belief."

The Interstate Act has, nevertheless, secured more publicity of rates, lessened open rate wars, equalized long and short haul rates; has exercised beneficial warning or police powers, silenced much unjust clamor against railways, has been mutually educational, and has been judiciously administered, but as secret discriminations and open wars have continued, the law has failed in its chief object.

Hon. T. M. Cooley said, when Chairman of the Interstate Commission :

"The law was best observed at the outset, but in a few months it began to be noticed that many persons in rail-

road service were giving more attention to contrivances for evading the spirit and intent of the law than they were to obeying it.

* * * * * *

"Any misconduct of this sort on the part of one road is imitated at once. * * * In the end the account of profits and losses shows gains by no one. It is all loss, and all the roads share it."

Charge Partly True.

It is due to the law, to its administrators and to frank discussion, to admit much of this charge against the carriers as a whole.

Nevertheless, this relapse proceeded mainly from the national refusal to confirm the only plan which was thus commended, and which, less than a year before, had enabled strong and sincere carriers, and others less strong in purpose or facilities, to equally observe reasonable and common rates between leading points, by giving all a joint interest and power to resist demoralization by agreeing to divisions of tonnage or money, or both. The Interstate Act followed foreign precedents, but only to the point which they all found most essential to the fulfillment of prior requirements.

Mr. W. M. Acworth, author of "The Railway and Traders" (London, 1886), wrote (1892):

"Your Interstate Commission was largely modeled on our Railway Commission * * * since 1873, and the undue preference clause of your act to regulate commerce is copied almost verbatim from the English act passed as long ago as 1854."

There *our* law unwisely stopped. It was as if consulting physicians had adopted the discredited cures known to

earlier science, but discarded the latest and best discovery for the disease treated, and then blamed the patient for his relapses; or, as if Congress had failed to enact the leading recommendations of army and navy experts, which were undeniably for the public welfare and security.

This primal error made the other mistakes of the Act more marked. Railway officers and patrons otherwise disposed cannot be legislated into mutual rectitude, especially when their gains are thereby lessened. Even the divine law has not done that in any calling.

Intent of the Act.

The act did not intend to protect railways, and was therefore unjust. To stimulate "competition" it exempted parallel water carriers. It regarded the railways as alone responsible for all the conditions condemned, and devolved their corrections upon them alone, although it applied theoretical penalties to shippers who procured preferences. None of its provisions were remedial, nor did it create mutual interests between government and carriers. It held to the perversion that railway warfare is synonymous with peaceful business competition. It fostered the fallacy that while rates must be alike via one railway, it was publicly desirable, and should be made legal if they were different upon rival railways, or, elsewhere, that, however different in facilities, rival railways could obtain equal rates. Finally, it has encountered legal reverses which have induced laxity in its observance. These failures did not proceed from the administration of the act. Here, more than in foreign countries, because of our great area and more complex conditions, mere mandates against dis-

criminations have failed because the principle of giving the parties affected a common interest to obey the law was disregarded, and because the act, as it stands, does not, and cannot, protect upright carriers or shippers against the devious encroachments of others less so.

Constant Demands for Rebates.

Railways do not pay rebates unasked, and the solicitations for them are incessant. Government has not helped the railways to educate forwarders to regard freight rates as firm as are postage or import rates. The importunities of some shippers, their adroit intimations as to what other carriers will concede, and their own suggestions that they may concentrate or divert their shipments unless their wishes are conceded, all devolve upon some companies not only constant and strong moral opposition to them and to the carriers disposed to yield to such persuasions, but also losses of business and the protection of their tariff-paying forwarders. That such resistance sometimes gives way is therefore true, because no company will allow large and permanent depletions of its business when it can be retained by like rates. When, for example, a new railway opens, former reasonable rates are clearly more justified because more railways share the traffic. The newer line, being usually weaker, offers reduced rates to divert business from older routes, and shippers withhold freights from the latter to induce or compel them to like or greater concessions, and they usually succeed.

Favored shippers oppose all methods to defeat rebates, weak lines will not remain without business, and the strong lines will not permanently lose theirs. Devices and con-

cealed rates therefore inevitably ensue, and are illogically urged as desirable "competition" and public benefits.

If, further, the ten (10) lines from Chicago to New York each openly published different public grain rates ranging from twenty (20) to twelve and one-half (12½) cents per one hundred pounds, each rate would be legal to its line, but the result would be as discriminating to trade and as hurtful to adjacent and intermediate points as to make such different rates secretly.

Per contra, if they all held to equal rates and conditions, some of them could not secure the shares of traffic to which they deemed themselves entitled by their charters and their necessities for business and earnings.

Ten years of such actual practices and results since the act, clearly predicted before its passage from the amplitude of home and foreign experiences, have again demonstrated that it is for the public interest that due and reasonable rates be upheld by legally empowering some lines to concede portions of their traffic to others which will accept it, especially while shippers may act or combine to shuttle their traffic from line to line and divide the proceeds of *their* combinations to defeat such due rates.

It is clearly more desirable to practically regulate than to theoretically increase such miscalled competition, but its due regulation cannot be accomplished without the aid of law or the removal of its prohibitions.

What the Railways Ask.

The railways therefore ask that if some lines concede parts of their tonnage or earnings to other companies and both they and disinterested shippers agree that such

method will best resist the persuasions of some shippers and the wavering of some railways, joint contracts for such desirable mutual purposes should be legalized. This policy will sooner make weak lines and shippers stronger, all forwarders may continue to use the routes they desire, and all lines may make economies which will better justify the low present charges and the betterments and extensions of their facilities. If smaller shippers assent that their freights may be used to so equalize the joint tonnage because they thereby secure the desired parities of rates with large forwarders, which are their right and necessity, it is a potential and conclusive argument. The largest shippers now get the best terms, while the smaller ones most need them.

It is because the Interstate Act has thus and so far failed to deal adequately with such discriminations and their remedy, that the railway contention for pooling seems easily understandable and is unanswerable. If the government reserves its approval of rates, it should also aid in their uniform collection. Whatever rates receive its sanction should receive its strong support, like its own tariffs, its arbitrations, its treaty obligations, its international postal union, etc. Government is justly jealous of its faith in all those respects, and should be equally so for its carriers, because they have done, and are doing, more for its extension and power than all those other agencies. If, therefore, the carriers supplement the railway reports of Senatorial and House Committees and National and State Commissions and trade bodies, as well as those in Europe, with pleas for a mere trial of the system commended by all those authorities, and further propose to submit their data, contracts and rates to governmental

review and approval, upon what defensible grounds can the national Legislature longer rely upon only the present inadequate Act and answer us in effect :

"It is true you publish ostensibly legal and reasonable rates; collect them if you can, but we think competition—as we understand it—should go on unregulated and preferential because otherwise trade will be restrained and competition stopped."

Reasonableness of Rates.

The reasonableness of rates is now rarely questioned, and hardly touches the present discussion. Mr. Nimmo said :

"During the year ending December 31, 1893, only sixteen cases came to a formal consideration and hearing. In only one of the cases decided was the reasonableness of the rates called in question, and in that single instance the claim was decided to be not well founded."

There are not less than two million freight rates and passenger fares in this country applicable to interstate traffic. When this enormous aggregate is considered, that hundreds of transactions occur annually under each rate or fare, and that complaints to the Interstate Commission have not been one-hundredth of one per cent. of the transactions related to these tariffs, such striking facts should challenge legislative attention and prove that the wrongs falsely charged to railway associations and pooling exist in the minds of unintelligent agitators or opponents, and not with patrons who have actual transactions with the railways.

Some assume that the railways create all their own difficulties and that only their mutual determination to observe joint tariffs is required. This is true if, by law

or agreement, they all will observe like rates and conditions; but no laws and no agreements are universally observed in any business or between nations; hence the multiplicity of contentions and courts, and all such critics fail to realize the essential differences between railway rivalries and environments, wherein the weakest or worst company may, and does, make rates for the strongest and best.

Stephenson, the younger, therefore said to a committee of Parliament :

"What we ask is knowledge. * * * All we ask is a tribunal that is impartial and that is thoroughly informed, and if impartiality and intelligence are secured we do not fear the result."

We believe that the pooling clauses of the Act of 1887 were not enacted because our legislators were not thoroughly informed. A distinguished Senator told his colleagues in the Senate debate of 1887 of the "utter and lamentable ignorance of what pooling contracts were."

We will endeavor to explain them in the next article.

ARTICLE IV.

WHAT RAILWAY POOLING IS.

Pools usually mean the sales of shares in ventures which remain to be decided by chance or fraud, while railway pooling means certainties of which the public has full and published foreknowledge, and in which only the railways incur the possible hazards.

Railway pools do not specify rates, because they cover fixed terms, during which changes in rates may be made necessary by law, by altered trade conditions, by rates at other points, etc. The rate-making function and agreement is, therefore, entirely distinct and separate from the pooling agreement.

Senator Platt (of Conn.) said, in 1887 :

"What is a pool? It is simply an agreement between competing railways to apportion the competitive business; that and nothing more."

This being true, a legalized pool agreement would read substantailly as follows, in all respects which touch public interests :

"We agree to report to a joint officer and always at the tariff rates, weights and classifications applicable thereto as from time to time legally published, filed and approved, all tonnage carried by us between the specified points.

"After each company shall have retained — per cent. of its gross receipts on its own tonnage, the sum of the remainders shall be divided between them monthly in proportions agreed or arbitrated.

"All questions of difference hereunder, except those of law, shall be decided by arbitration."

Two unassailable transportation principles uphold such agreements and attention should be drawn thereto at the outset.

Some standards of rates *must* be reasonable, and being so fixed, approved by the Interstate Commerce Commission, legally announced to forwarders before shipments and uniformly collected from consignees, the railways then challenge proof of any possible public wrong from the division of such legal proceeds between them as they may agree. Only the rates affect the public interest. Their apportionment is not a just public concern any more than the proportions in which railways share the cost of constructing and operating and the incomes from their joint double tracks, union depots, belt lines, etc.

Pools Benefit the Public.

Pools are, moreover, for the public welfare, because they stop solicitations for rebates and the payments thereof; they transfer unconsigned or assenting tonnage first, or if not that, money, to the carriers in deficit from the acknowledged overplus of their associates, who are therefore the only parties who can be injured; they account for all the included traffic at the tariff rates, and if rebates are nevertheless paid which produce an excess of any carrier's due tonnage, the company thus unworthily securing such excess must pay not only the rebates but also the excess tonnage or money balances to its associates.

Pooling therefore stops rebates because each party thereto shares the proceeds of observed legal rates and enjoys the comforts of management and peace with law and con-

science which good faith, thus reinforced, brings to both associates and rivals.

The agreeing carriers also share the included competitive traffic in substantially the proportions of their previous carryings, while shippers continue to choose their routes, because only the traffic of assenting forwarders is used for tonnage equalizations. Pooling combines the facilities of the agreeing lines as if they were one company organized to carry the tonnage of a community as impartially as they would that of one great firm. If one railway charges all the members of one firm alike, it is also the best corporate and national policy for all companies to charge like rates between the same points to all firms and persons.

Secures Stable Rates.

Pooling secures stable rates, not only at traffic centers but at those local points which depend thereon, whereas small shippers at both central and tributary points now incur two disadvantages ; they can neither sell to nor compete with the large shippers at large points, nor can they ship against them with equal profits from small points, where the rates are usually held firmly.

Pooling gives the public the united facilities of all lines at times of calamity or emergency.

Proper emulations are stronger under pools which assure equal rates, because only improved facilities, speed, courtesy and promptness attract and retain business thereunder, whereas rebates are now more relied upon.

Pooling simply seeks to conduct competitive business upon the impartial rates and rules observed at local points,

where applications for preferential cut rates are not entertained, but where applications for public reductions of rates are considered and decided after conferences and usually upon the merits of the causes.

Pooling secures uniform inspections for the detection of those false weights, misdescriptions, etc., by which honorable merchants may be defrauded by others who are not, and thereby further tends to put all patrons upon equal shipping conditions as well as rates. There were 135,000 cases of misdescription by forwarders detected by the railways at three seaboard cities last year on westbound through freights.

Moved by Facts.

The following facts sustain the foregoing averments :

Former pooling actually diminished rebates, and would have stopped them before now had it been so legalized as to justify long-term agreements. If honesty was not always observed under pooling, it is no argument against it. It did not cause bad faith, but checked it, and discriminations would have increased without them. No laws have stopped conquests, reprisals or crimes among nations or persons, therefore union and laws are the more necessary. It would be as proper to allege that the customs laws have failed because undervaluations, defalcations and smuggling continue. Importers who undervalue goods to evade the customs laws will misdescribe their wares to subvert uniform and just transportation charges. The government uses all its power to stop such frauds upon its rules and revenues, but the railways can rely only upon separate action if the recent decision is maintained.

Under pools some tonnage was transferred from road to road, but not to the extent conjectured. In the last year of the eastward pools from Chicago, St. Louis, Peoria, Cincinnati, Louisville and Indianapolis, all the tonnage changed from one route to another at all these points was but 2.2 per cent. of the total and without a protest from shippers. The cash paid by all companies therefrom to each other in money settlements did not average nine (9) cents per ton, whereas cuts in through rates are usually fifty (50) cents per ton, or more. Of about $12,000,000 pooled freight earnings, less than $300,000 changed hands, and over one-half the last amount was returned to those who paid the excess balances, because to get their money back they reduced their tonnages and not their tariff rates. Not a shipper or consignee was harmed by any of these results.

No American pool can be cited which advanced rates unless to restore unjustifiable rate-war reductions. When the trunk lines were organized in 1877 the average of the eastward and westward tariff class rates between Chicago and New York was seventy-one cents per 100 pounds. When they discontinued pooling in 1886, it was under fifty cents.

None contend that pooling has fostered, or that its legalization will increase discriminations, because its purposes and effects are always to minimize them.

Do Not Restrict Tonnage.

Nor has pooling restricted tonnage. The westward tonnage from New York City proper under the above-named pool was 716,000 tons in 1877 and 1,415,000 tons in 1893,

and although New York was most of that time pooled, while Boston, Philadelphia and Baltimore were not, the New York tonnage indicated the greater relative increase. Nor has pooling restricted any just competition created by the laws of trade, the rivalries of seas, lakes and rivers, or those betterments of transportation conditions which cheapen rates and attract traffic reasonably to the lines bettered. Under pooling each company preserves or increases its individual strength, which is the true railway competition.

Then, upon what defensible grounds has pooling been legislatively antagonized? It is idly averred that pooling will stop competition, and is meant to secure dividends for watered stocks. It has even been recently said in the national Senate that it will consolidate American railways into one gigantic corporation having about twelve thousand millions of bond and share capital, which will advance rates.

It is difficult to discuss such screeds seriously. To assume that Oregon and Florida railways will pool with each other; those in Florida with one or more in New Hampshire; that the Philadelphia and Reading Railway Company will pool with the Mexican Central, or the Boston and Maine with a Los Angeles line, may be used in hostile heat, but it is not intelligent, because no such instance is on record, or is contemplated or possible.

Comparison With Trusts.

The unintelligent assertion is repeatedly made that pooling will enable and stimulate railroads to combine as a trust, whereas all forms of pooling ever suggested have been the opposite of trusts.

Trusts are antagonized because their methods are publicly believed to be secret, extortionate, that they combine capital to fix and control the prices of their products and that they strive to prevent or annihilate competition.

Not one of these discredited features transpires in railway pooling. Railway rate prices must be publicly announced. Not so the prices of trust products. Railway rates must be filed with and receive the preliminary approval of a governmental commission appointed by the President and confirmed by the Senate of the United States. Not so with trusts, which may legally avoid or evade such publicity and review. The Interstate Commission receives the detailed annual reports of the interstate carriers, and publishes them to the country. Not so with trusts. The railroad companies do not control their own rates, but fix, announce and change them publicly, with reference and concessions to great and ceaseless elements of competition, or because of undeniable leniency to weak or wavering railways. The trusts make their own prices and sale conditions, and may grant various terms and preferences. Railway prices must be public, just, fair and uniform, and their reasonableness may be reviewed and established by the courts. Not so with any trust prices. Railway rate prices are known to all competing railways. Trust prices are withheld from their competitors, if practicable, and competition with them may be modified, merged or extinguished. Trusts may restrict trade. Railways seek in their own and the public interest to greatly enlarge it. There is no restriction or crushing out of railway competition, because all competing carriers are legalized and are ever living agencies of com-

merce and law. The more crushed and the poorer a rival railroad becomes, the more active, usually, is its competition. The very reverse is the fact as to trusts.

Further, no railway is required to join any pool legislatively sanctioned, and if three roads in five pool, the two which do not are as fully and publicly advised of the methods of the other three as if they were parties to the agreement. Not so with trusts.

Voiding Competition.

As to voiding competition, the railways could contract to divide money or tonnage, or both, and to maintain rates, until 1887, yet none of the things now held up to public fear and execration as to pooling ever transpired. Why, with all their power and higher rates, did they not then stop parallel construction, then "establish monopolies," and then increase rates, or at least resist and stop the annual tendency of rates downward? The enormous increase of railway mileage of the United States, and the constant and voluntary rate reductions are among the incontrovertible answers. They did not attempt to do it, and could not. The unceasing forces of the great factors of true competition produced annual reductions in rates, and will keep them low permanently.

An additional strong reason, even more forceful to-day than then, is that railways sought to build up large local and through traffics at low rates rather than to carry less business at higher rates, a policy which developed local traffic as well as the national tonnage. By enlarging local freight traffic local travel increased, and belonged to the company which gave it growth. There was no water

route from Pittsburg or local points to Baltimore, but those points were given the benefit of rates at least as low as the rail rates from Buffalo to New York, which were made against the canal rates. In other words, due competition and enlightened self-interest prevailed.

Pools did not even preserve former dividends on railway stocks. Every company in the Union which has increased its stock has reduced its average rates. If the New York Central Company should double its bonds and shares this year, it could not, with all its own powers, plus those of its strong proprietors and allies, increase its average rate in the slightest degree, because the lines competing with it would not increase their capitalizations or rates, and the Erie Canal, and the Hudson, St. Lawrence and Mississippi rivers, and the competition of Galveston, Baltimore, Montreal and London would continue to prevent it.

The Telegraph Charges.

The analogy of the present telegraph charges to railway pooling is strong and convincing. Simultaneously with the earlier construction of railways, parallel telegraphs were built, the one to transport persons and property, the other information. The telegraphs entered into what was then, as now, falsely called "competition," in which they had rate contests, lost money, struggled for capital and became involved with legislatures. They increased their stocks and entangled interested railway companies. Finally the wires were substantially consolidated. The railways could only amalgamate connecting lines, but the telegraph companies combined parallel lines.

When Mr. Gould made his telegraph combinations, it

was widely alleged by many who now deem railway pooling equally monstrous, that he might use the information derived from inspected messages, to create syndicates and fortunes which would threaten the Republic. On the contrary, although its stock was increased, the Western Union Company proceeded, through desirable economies, to increase business, to reduce its rates, extend its lines, increase its facilities, achieve greater celerity in the transmission and delivery of messages, and made them so inviolate that it resisted even the government's demands to produce them. Aside from special telegraphic charges to government and the press, and for night messages, the charges made territorially are uniform, and the users of its facilities not only no longer complain of discriminations, but applaud its reduced, well-known and unrebated charges, because they are uniform. No man believes his rival pays less to that company than he does for a like service. Its business is practically postal without law. Substantially, railways seek corresponding rights to agree legally with parallel transporters, in order that they also may maintain those sound principles and charges, to be guarded, however, in the railway instance, by due national regulation. The telegraph results clearly represent better commercial and public conditions without law, than the disturbing railway conditions under the Interstate Commerce and Anti-Trust Acts and decisions.

Incontrovertible Facts.

As these facts cannot be controverted, the railways desire those distinctive grants of authority for legal organization which will remove business and legal doubt, and

which are as practicable, effective and necessary in railway administration as to organize and conduct Chambers of Commerce, Stock, Maritime or Produce Exchanges and Boards of Trade. The same principle requires the union and concert of counties in the State and of the States in Congress. The New York Clearing House, with annual clearances fifty times the gross yearly railway receipts, has proven a national bulwark of finance, and assists all right fiscal purposes and doers. That one or more of such bodies sometimes do wrong is an argument *for* them, because their principles and deeds show high averages of rectitude and public benefit and they correct those wrongs.

When, however, railways seek to adopt like sound business methods to enable them to practically and publicly exercise these beneficial public principles, law denounces, legislation condemns and decisions hamper them, and have done so for too many years.

It is time this was changed, and that more just consideration be now given to the great benefits they have wrought, and to the facts and experiences which have exploded many prejudices and theories of the past.

These benefits will be discussed next.

ARTICLE V.

RAILWAY CLAIMS TO LEGISLATIVE RELIEF.

A generation ago orations applauded the opening of new railway lines because they would develop new and great arable areas at the rates then current. Reductions of such former rates were sometimes publicly opposed. A State convention at Syracuse in December, 1858, resolved :

"To recommend the passage of a law by the next Legislature which shall confine the railroads of this State to the business for which they were originally created." (Local traffic.)

The average rate of the New York Central Company in that year was 3.18 cents per ton per mile, equal to 70 cents per 100 pounds on grain from Buffalo to New York. The rate now is not more than nine (9) cents per 100 pounds. In 1873 the all-rail grain rate from Chicago to New York was 55 cents per 100 pounds. It is now 20 cents on wheat and 15 cents on exported corn.

In 1873 the freight rates upon 70,268 miles of railway then built averaged 2.21 cents per ton per mile for 168,000,000 tons carried. In 1895 the rate averaged .839 of one cent for 763,800,000 tons carried upon 179,162 miles of railway, producing gross freight revenues of $743,784,451, the rate for 1873 being over 263 per cent. of the rate in 1895. At the average rate charged in 1873 the freight earnings in 1895 only, would have been $1,215,344,000 more than they were, over eighty millions more than the entire indebtedness of the States and Territories in 1890.

Hon. Edward Atkinson says that in 1895 ten and three-fourths tons of food, fuel, fibres and fabrics were moved 126 miles by railway for each of 71,000,000 inhabitants for $10.47 per capita, and that

"A generation since a charge of treble that sum was deemed a great achievement," which "* * * would have been $31.41 per head."

Railway owners have not correspondingly benefited. In 1872, 57,533 miles of railway paid stock dividends of $64,418,157, or $1,120 per mile. In 1895, 179,162 miles operated paid $81,375,774 in dividends, or but $454 per mile, being but 40 per cent. of the dividends per mile paid in 1872. The mileage increased 310 per cent., the dividends 26 per cent.

Railway Earnings.

Of American railway earnings in 1895, 68 per cent. was derived from freights, 24 per cent. from passengers, and 8 per cent. from miscellaneous sources. The gross earning upon each ton of freight moved in that year was 97 cents and 48 cents upon each passenger carried. The addition of but one cent per ton on each ton carried in 1895 would have been $7,638,000, and one cent on each passenger carried would have been $5,439,742, or over $13,000,000, calling one ton of freight and one passenger equal revenue producers.

Apportioning the amount paid as dividends upon stock in 1895 in the above proportion, the freight traffic would be chargeable with $55,335,526 and the passengers with $19,530,187, equal to but 7.2 cents per ton and 3.6 cents per passenger carried.

Poor's Manual reports for 1895, $5,182,122,000 of railway stock capital outstanding. The dividends on stock in that year being $81,375,774, the average rate of dividends was 1.57 per cent. The Government reports say that nothing was paid in that year on $3,475,640,253 of this stock, being 68 per cent. of the whole amount outstanding.

Even had the average charge for transporting one ton one mile which obtained in 1888—the first full year of the Interstate Act—been charged in 1895, the freight revenues of the latter year would have been $122,223,523 more than they were, yet railway taxation increased in the same period from $25,435,229 to $39,250,000, or 54 per cent. These facts seem to prove a sufficient evaporation of the "water" in stocks to satisfy the most optimistic hydraulicon.

Railway Investors.

The number of railway investors is also too often ignored. The Eastern Trunk Lines report that their shareholders number 99,826. To this add the share and bond holders on the same and all other American railroads. One Eastern line reports that 50 per cent., and the Pennsylvania Railroad Company that 40 per cent. of its shareholders are women.

At the same ratio of shareholders to mileage, the total number of stockholders in the railways of the Union would be over 950,000, not including bondholders. Calling the total 1,250,000 of bond and share holders at home and abroad, they, with 785,000 employees, make over 2,000,000 persons dependent upon or interested in our railways. Assuming each reported adult to represent five per-

sons, the total number affected by railway results is ten millions of persons, exclusive also of those interested in the manufacture or production of locomotives, cars, rails, other iron products, wheels, lumber, cross-ties, stone, paints, plushes, oils, paper, etc., used by the railways and now in stagnant states of production, largely because the railways lack even ordinary prosperity.

The total number of employees of the United States Government June 30, 1896, was 220,594, excluding judicial and legislative appointees, but including the army and navy and the marine corps. The number of railway employees in 1895 was 785,034, being 88,568, or 11 per cent. less than 1893, although the railway mileage had increased 4,380 miles. The number of persons employed per mile operated in 1893 was 5.04 and but 4.38 in 1895, a reduction of over 13 per cent.

American and Foreign Rates.

A comparison of the rates charged on American and foreign railways for 1892 produced the following results :

	For Passengers, per Mile.	For Freight, per Ton per Mile.
United States	2.14 cents.	0.97 cents.
Prussia	2.99 "	1.32 "
Austria	3.05 "	1.56 "
France	3.36 "	1.59 "
Belgium	2.25 "	1.39 "

English railway accounts are not stated per ton mile and their rates usually also include cartage. A compari-

son is therefore difficult, but a treatise by Edward Bates Dorsey upon "American and British Railways Compared," which was awarded the Norman medal of the American Society of Civil Engineers, said of the freight rates in 1886 :

"The rate as given from Liverpool to Birmingham, ninety-seven miles, on grain and flour, is $3.01 per gross ton, and the rate as given from Chicago to New York, 1,000 miles, is $5.60 per gross ton." (It is now $4.48.)

J. S. Jeans on "Railroad Problems" (London, 1886), said as follows:

"English railways practically work on the same tariffs to-day they did in the infancy of the system," and "It is probable that the average ton mile rate on English railways will not be much if any under 1½d. (three cents), which is just three times the amount charged on the principal American lines."

Our best late information is that our rates have been reduced since then more per mile than have theirs.

The average receipts of all European railways in 1890 were $9,800 per mile; ours $5,700, or but fifty-nine per cent. as much.

If these annual reductions in American railway rates continue they will stop investments of capital for construction and betterment, will impair the physical conditions of the railways most affected, will induce inferior service with increased risks to persons and property, and cause yet greater depletions of the values of railway securities. This will be mainly caused by so-called "competition," brought about or encouraged by adverse legislation, by withholding proper legislation, by erroneous legal judgments, or from some combination of those hurts.

We have 26.5 miles of railway for every 10,000 inhabitants, while Great Britain and Ireland, Germany, France and Austria-Hungary average but 5.4 miles.

American and Foreign Wages.

Contrasting the wages of American and foreign railway labor, the following statement will suffice, as the same ratio extended substantially through other branches of railway service:

	Per Day.		Per Month
	Engineers.	Firemen.	Conductors.
United States	$3.65	$2.05	$82.40
England	1.25 to $1.87	.75 to $1.12	30.40
France	1.00 to 1.16	.75 to .83	.....
Germany	.81 to 1.25	.62 to .81	28.30
Belgium	.81 to .89	.50 to .60	.....
Holland	.83 to 1.04	.54 to .72	.....
Hungary	.....	.....	32.40

This comparison is yet more favorable to American railway labor when the longer hours and more onerous conditions which constitute a day's work abroad are considered.

There *must* be points below which reductions of railway rates should not in equity be borne entirely by railway owners. No reason can be fairly alleged that the farm labor of Kansas should be reduced, while the railway labor of New York is maintained without reduction.

When not only rates are greatly lower, but wages and taxation are higher, American labor must ultimately share the losses if the public good is in question and the incessant

tendency of legislatures and courts to reduce rates and fares continues.

The Board of Trade and Transportation of New York well said in February, 1896:

"Rates may be too low as well as too high for the public interest."

Most railways were first constructed to connect important objective points between which there was substantially no local traffic until, in conjunction with immigration, opening mines, etc., which the railways most stimulated, the intermediate traffic was developed. Whatever bonds or stocks were issued to construct such lines, their holders were compelled to await returns thereon until the sparse territories, built through them, furnished adequate business. Before such better results were reached many of the railway companies defaulted upon their interest, were sold out and reorganized, and much, if not all, of the so-called water was thus pressed out of them then. . However much the railways lost, the country traversed invariably benefited greatly.

After this earlier period of much loss and long waiting for railway returns there was a short intermediate period of comparative peace, but more recently reasonable revenues are again jeopardized or reduced by law, by unregulated strife, by stringent interpretations, general legislation, the failure to sanction reasonable rate agreements and by drastic legal definitions. The railway history of the United States does not therefore prove that even average fair returns have come to the railway capital actually invested, that it has received the average profits yielded

by other investments, or that the nation appreciates the value of the carriers to its highest development and power.

More legislative, legal and commercial consideration for railway interests seems, for all these strong reasons, a long deferred justice, especially as the form in which it is urged will also conserve the public weal. One alternative is more railway consolidations and the survival of the strongest corporations, when the desired uniformity of rates will more fully ensue.

Legislation More Restrictive.

These facts, arguments and conclusions remain uncontroverted, yet National and State legislation grows more hostile and legal decisions more stringent. Not only has there been no Congressional recognition of interstate railway benefits, but consideration therefor has decreased as those benefits have become more apparent. National and State legislatures constantly consider, or enact, additional restrictions upon the railways, and courts inherit and proclaim this tendency. Within five years numberless National, State and municipal measures have been enacted or entertained or are now pending, to reduce rates and fares, for pro rata rates, amended bills of lading, car couplers, automatic brakes and safety appliances, more protection for labor, grade crossings, speed of trains, elevated tracks in cities, reduced working hours, legislation as to strikes, more taxation, etc., all intending to, or producing, decreased net railway revenues.

There were, for example, over thirty measures pending in the Fifty-third Congress affecting railways, but one—the pooling amendment—being for their relief, and it was unhappily defeated. If the public good requires ad-

ditional import measures to protect tin makers, farmers, lumbermen, importers of silk, etc., and national finances, should not railway owners and employes be also now reasonably protected in some due and well regulated manner, since they most make effective the cheap and quick distributions of American products throughout the nation and world?

To this mutual end two views are to be reconciled: One, the fear that if pools are authorized rates will be advanced; the other, the conviction of the railways that, without pooling, competitive rates will become yet more unprofitable and disastrous.

What the Railways Propose.

The railways propose to protect the public in the first instance by submitting their rates to the preliminary review of the Interstate Commerce Commission. They propose, on the other hand, that the carriers be empowered to stop undue depletions of those rates by enforceable agreements, and that they be legally enabled to collect and enjoy their reasonable published charges, through the agency of pooling, which shall also be open to governmental approval and current inspections and reports. If fairness and intelligence and the precedents of all experience are to be regarded, as in all other leading acts of government, law and justice, no valid objections lie against these proven mutual benefits, and all interests should be able to agree upon the needed consummation.

In a word, we claim small relief for great benefits conferred.

We will show next how pooling has been recognized and indorsed.

ARTICLE VI.

INDORSEMENTS OF POOLING.

The extent to which pooling has been considered by legislatures, trade bodies, State railway commissions and individuals, and the changes in the opinions of important persons and commercial associations, constitute important testimony in the railway behalf.

The Cullom committee of 1886 especially considered pooling, and of 149 persons whom it questioned, 42 favored pooling generally, 26 favored legalized pools, 41 pools with legal and other restrictions, *and no witness offered any acceptable substitute for pooling.*

For these reasons that committee reported in 1886 :

"It would seem wiser to permit such agreements rather than by prohibiting them to render the enforcement and maintenance of agreed rates impracticable."

Further :

"The committee does not deem it prudent to recommend the prohibition of pooling." And "The ostensible object of pooling is in harmony with the spirit of regulative legislation."

Still further :

"The majority of the committee are not disposed to endanger the success of the methods of regulation proposed for the prevention of unjust discriminations by recommending the prohibition of pooling."

The law that committee first submitted therefore provided :

"Said Interstate Commission shall especially inquire into that method of railway management or combination

known as pooling and report to Congress what, if any, legislation is advisable and expedient upon the subject."

Senator Cullom says that Judge Reagan, of Texas, then Chairman of the House Committee on Commerce, mainly defeated this majority of witnesses, and the conclusions of his committee to legalize pooling as proposed in the act reported.

Judge Reagan went thence to the United States Senate, and, having thereafter became a Railway Commissioner of Texas, he frankly said :

"Farther study has caused me to believe that the (5th) Section may be amended so as to benefit both the railroads and the people by allowing the railroads to enter into traffic arrangements with one another."

Now Think Differently.

Among other prominent men who have as frankly changed their views are Hon. Charles S. Smith, late president of the New York Chamber of Commerce; Hon. Simon Sterne, the counsel for the New York Board of Transportation against the railways of New York, and others.

Mr. Smith said :

"Pooling certainly has some good points for shareholders and the public; it does prevent, to some extent, unjust discriminations; it aims to treat all alike."

Mr. Sterne said of pools :

"They have brought about a change for the better from that which prevailed before the pooling arrangements were made."

Prof. Atwater, of Princeton, described pools as agreements among railways :

"For each to accept as its share of the competitive business at a moderately remunerative rate common to all

what shall be judged to be its just proportion by an umpire or board selected by them to make the apportionment."

The attention of the first Interstate Commerce Commission was promptly directed to this subject, and their first annual report said :

"The scheme of pooling rates, or the earnings from traffic, was devised and put in force * * * as a means whereby steadiness in rates might be maintained."

The same report further said :

"The scheme was one which was made use of in other countries, and had been found of service to the roads." And: "* * * the absolute sum of the money 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."

The Railway Commissioners of Kansas said, in 1885 :

"Since the violent conflictions of rates consequent on rate wars between rival lines result usually in discriminative benefits to a few at the ultimate expense of the public, means should be taken to at least moderate this disturbing element to the business interests of the country. As a means to this end, we venture to suggest that contracts or agreements between rival companies to carry on interstate traffic upon common rates, providing those rates are reasonable and just, should be invested with a legal status and be enforceable with appropriate sanctions."

The average rate for freight in that year was 1.036 cent per ton per mile. It was .839 of one cent in 1895, or but 80 per cent. as much.

Judge Cooley's Views.

Judge Cooley said :

"The avowed purpose in pooling is to avoid ruinous competition between the several roads represented and the

unjust discrimination between shippers which is found invariably to attend such competition. * * * It may therefore be taken as agreed that, so far as pooling arrangements have the correction of this subject in view, the purpose is commendable."

He said further :

"Without the aid of the law to enforce pooling arrangements it is not yet apparent that any scheme can be devised whereby the cutting of rates can be effectually prevented."

He said in an address delivered to the Boston Merchants' Association, January 8, 1889 :

"The old pooling was never so harmful as some persons supposed, and was probably condemned by law more because of what it was feared it would become or might become than because of what it was."

He also said to a convention of State Railway Commissioners, in Washington, May 20, 1890 :

"It may seem altogether proper that the government should make, or permit to be made, some provisions whereby the comparatively feeble road may be supported, not entirely by the resources of the district which it serves, but to some extent also by a tax upon the business or resources of other roads. A provision to this end is not uncommon."

Charles Francis Adams said :

"The practice known as pooling, which the Interstate Commerce Act inhibits, was merely a method through which the weaker railroad corporations were kept alive. To prevent excessive and unequal competition business was so divided that the less favored corporation had some share of traffic assigned it."

Ex-Commissioner Walker said, June, 1893 :

"The pooling of freights or of earnings is the only practice ever known in the history of the world, short of common ownership, by which such a resolute maintenance of rates as is justly required by law for the prevention of

unjust discrimination can be secured. In other words, it is seen at last that a fair division of competitive traffic would be an aid and support to the regulative statute."

The Minneapolis Board of Trade, in its appeal to Congress in 1892, said :

"The railroad pool honestly administered is the natural balance wheel of interstate commerce."

Prof. Hadley said to the Commercial Club of Chicago in April, 1894 :

"Pools were better administered in 1880 than in 1877, and better in 1886 than in 1880."

In 1893 the United States Senate referred the subject to the Interstate Commerce Commission for reconsideration, whereupon the latter asked commercial bodies and others as to the advisability of amending the Interstate Act so as to legalize "pooling contracts which would tend to diminish unlawful discriminations."

Eighty-nine (89) answers favored that proposition, or the entire repeal of the Interstate Act.

In June, 1894, a conference of commercial interests in Washington, representing twenty-three States and eighty-seven trade bodies, unanimously recommended the passage of the Patterson bill, which has now been modified to more favor the public in the Foraker bill.

Seven Years' Experience.

After seven years of experience under the Interstate Act pooling was also indorsed—in Washington, December, 1894—by all the State Railway Commissions, except Minnesota, at which time it was resolved:

"That competing carriers may safely be permitted to make lawful contracts with each other for the apportion-

ment of their traffic or the earnings therefrom, provided conditions and restrictions are imposed which protect the public from excessive and unreasonable charges."

The most recent authoritative expression upon this subject was that of the National Convention of Railroad Commissioners held in Washington in May, 1896, when Hon. J. H. Reagan, of Texas, chairman, who had once so strongly opposed pooling, reported as follows, after suggesting that "the Interstate Commerce Commission" be empowered "to make, regulate and maintain rates on interstate shipments of freight:"

"I have believed and do believe that the pooling of freights and division of earnings could be authorized by law and so regulated as to prevent, to a large extent, if not entirely, railroad wars and unjust discriminations in freight rates, with advantage both to the railroads and to shippers."

A separate report by Mr. Lape, of the Illinois Railway Commission, said of pooling:

"* * * It would be a great benefit to the entire public, as well as the railroads."

In the same report he said further:

"I therefore give it as my opinion that a law should be passed legalizing the pooling of freight earnings by railroad companies, under the inspection and approval of the Interstate Commerce Commission. Because it would protect the weaker lines; protect railroad property as a whole; protect the smaller shipper as against unfair advantages possessed by the larger shipper, and would secure first-class railroads and railroad service for both freight and passengers, and in addition to all these advantages, the working classes would unquestionably be benefited to a great extent."

No objection was offered to either of these reports.

The Committee on Government Ownership, Control and Regulation of Railways, reported to the same convention, without dissent :

" Congress must legalize pooling in order to make it an effectual remedy for rate wars."

The National Board of Trade has twice recommended such legislation. All these judgments received the approval of the House of Representatives in the Fifty-third Congress by a majority of fifty-six, and the Senate Committee on Commerce reported the bill favorably at the same session.

An English Authority.

As to experiences abroad, Mr. Acworth, of London, said in the New York " Independent " (October, 1892) :

" Certain it is that rate-cutting has been practically put an end to by an understanding between the companies which, like international law, has no sanction behind it except the agreement of the high contracting parties. * * * Over a considerable part of England the traffic is pooled. * * *

" Some of these pools are subject to revision every ten years, others I believe, to be agreements in perpetuity, but in this latter case they are, perhaps, more of the nature of partitions of territory than traffic pools."

He also said in the same article :

" To pools properly so-called there does not seem to be any popular objection. Indeed, within the last year the two great Scotch companies, the North British and the Caledonian, have agreed to a twenty-five years' pool of their traffic, and though there was a good deal of opposition in Glasgow when it was first announced, within the last few weeks the Glasgow traders have confessed that they were mistaken and that none of the ills which they anticipated have arisen. * * * But the fact is the

public see what looks like competition going on all around them. As traders they see the canvassers of the different companies coming to them, hat in hand, and begging for traffic, promising a later departure, more careful handling and more prompt delivery, it may be more generous settlement of claims. As passengers they see the companies vieing with one another in improvements, in accommodations, in frequency of service or increased speed, as well as in a score of details which make up the comforts of passenger travel. Accordingly, when the theorist comes along with his assurance that competition is extinct and that pools have done the mischief, they are apt to shrug their shoulders and take not much notice."

American Railway Rates.

One feature of American railway rates is too often forgotten. It is alleged that they are usually made arbitrarily, and are excessive, whereas, it is believed that, aside from the reduced tariffs due to natural competitive forces, and the changes wrought in local rates by the long and short haul clause of the Interstate Act, 95 per cent. of all other rates have been reduced to their present low bases by conference, discussion, trial, change and ultimate agreement between the large producing and consuming interests of the country and the railways, so that the Interstate rates now published and filed substantially meet all the requirements of powerful competition and of the law, and have the public approval. At all events, no appreciable percentage of the rates is complained of on that score. Secret and preferential reductions from such rates should, therefore, the more promptly cease ; yet while asking means to that end from the national Legislature there should also be a closer supervision of railway management by railway financiers, owners and officers.

While many of the difficulties which embarrass the railways could be corrected by the sterling good faith which characterizes the management of English railways, the equality of their lines in distance and facilities, their short distances and dense traffic all make it easier to maintain their rates on faith, yet they have had their periods of distrust and wrong. The dissimilarities in our conditions, the vast extent of our country, our long railway distances and extended systems, the greater differences in the facilities and strength of American railways and the strong rivalries of interior and exterior water-carriers, etc., require that good faith be supplemented here by legislative sanction and safeguards.

In the case of the Omaha Board of Trade against various railways, Judge Cooley said :

"If a rate when made by one company as a single rate would in law be unobjectionable, it would be equally so when made by several as a joint rate. The policy of the law and the convenience of business favor the making of joint rates, and the more completely the whole railroad system of the country can be treated as a unit, as if it were all under one management, the greater will be the benefit of its service to the public and the less the liability to unfair exactions."

This is all the most perfect pool could do. The foreign railway rate and pool policy accords with his wise utterance, and these articles will conclude with that review.

ARTICLE VII.

FOREIGN RAILWAY RATES AND POOLING.

English public railway policy was best stated by the Royal Commission of 1867, which inquired into the charges, rates and tolls of British railways:

"We are of the opinion that a sound principle to act on, in the matter of working and traffic agreements between railway companies, is to allow any companies to enter into them without reference to any tribunal, upon the sole condition that the particulars should be made public in the locality and that they should be terminable by either party at the expiration of limited periods. If any such agreement contained anything contrary to the rights of the public, the Court of Common Pleas should have a power of setting it aside at the instance of the Board of Trade."

"Railway Rates, English and Foreign," by J. Grierson, manager of the Great Western Railway (London, 1886), said:

"Agreements for the division of traffic, or for 'pooling,' as they are termed in the United States and Canada, are not unknown in this country. Some have been sanctioned by Parliament, others have been made between the companies without any express Parliamentary authority, and have been carried out. Mr. Gladstone made in 1851 an award apportioning, for five years, the receipts for traffic carried between London, York, Leeds, Sheffield, etc., between the Great Northern, and London and North-western, and Midland railways. In 1857 he made a further award determining, for fourteen years, the proportions in which the proceeds from passenger and goods traffic between the same and other places were to be

divided between those companies and the Manchester Company."

"The Working and Management of an English Railway" (1891), by George Findlay, manager of the London and Northwestern Company, said:

"There is another plan which railways sometimes adopt which is known as 'Percentage Division of Traffic,' and which is carried out in the following manner:

"Supposing that there is a certain traffic to be conveyed between two towns or districts, and that there are two or more railway companies, each having a route of its own by which it is enabled to compete for the traffic. An agreement is come to and the receipts derived from the whole of the traffic carried by all routes shall be thrown into a common fund, and that each company shall be entitled to a certain percentage of the whole.

"The percentages are usually adjusted on the basis of past actual carryings."

Competition Still Prevails.

"The Railways and Traders," by W. M. Acworth (London, 1891), said:

"Companies have combined and do combine every day, but for all that they have competed, do compete, and, as far as we can see at present, are likely to continue to compete to the end of the chapter. Will any Lancashire trader go into the witness-box and declare that the Lancashire and Yorkshire and the Northwestern never make any attempt to get hold of each other's traffic? And yet all the world knows that, from a time whereof the memory of man runneth not to the contrary, these two companies have agreed to divide the traffic at competitive points."

He further said:

"The much discussed Continental Agreement between the Southeastern and the Chatham and Dover, which settles the proportions in which the two companies are to share the receipts for all traffic to the Continent passing

over their lines, is solemnly scheduled to an act of Parliament and has been judicially considered by every court in the country up to and including the House of Lords. Yet is it not matter of common knowledge that the Southeastern and the Chatham each fight their hardest to divert the stream of traffic from the rival line?"

A prominent case of Hare *vs.* L. & N. W. Ry. Co., grew out of the fact that:

"Independent conterminous routes agreed to divide the profits of the whole traffic in certain fixed proportions calculated on the experience of past course of traffic. It was held that such an agreement, being *bona fide*, was not *ultra vires*."

Wood, on Railroads (London, 1894), said of this case:

"A shareholder applied, though after several years of acquiescence, for an injunction to restrain the companies from carrying out the agreement. The application was refused. The Vice-Chancellor considered not only that on principle such an arrangement was legal, there being nothing prejudicial to either the shareholders or the public, but also that he was concluded by the judgment of Lord Cottenham, of the Court of the Queen's Bench, in the Shrewsbury case."

Other English Authorities.

The same authority said generally:

"In England it is held that 'pooling' contracts or arrangements between competing roads, by which they agree to divide their joint earnings upon certain classes of business, or even their entire earnings, are legal and valid, where it does not appear that the interests of the shareholders or the public are prejudiced thereby."

The "Mogul Steamship Company, Lim., *vs.* McGregor, Gow & Co. *et al.*," grew out of a contract limiting the number of ships to be run in a certain service. Lord Bramwell said of this, in 1892:

"It does seem strange that to enforce freedom of trade, of action, the law should punish those who make a

perfectly honest agreement with a belief that it is fairly required for their protection."

Hon. Thomas M. Cooley, the first chairman of the Interstate Commission, said January 8, 1887:

"Pooling arrangements have been sustained in Great Britain. One of the cases passed upon was a pooling arrangement between stevedores; another was between competing railroads. Vice-Chancellor W. Page Wood said, among other things: 'It is a mistaken notion that the public is benefited by pitting two railroad companies against each other until one is ruined.'"

Prof. Hadley's Views.

Prof. Hadley, of Yale College, testified in 1885 before the Senate Select Committee on Interstate Commerce, as follows:

"It is a noticeable fact that at the time when the first series of attempts was made to check discrimination in England the first pools were arranged."

He more comprehensively testified:

"It may be stated as a fact of history that no nation has succeeded in prohibiting discrimination and pooling at the same time. I should be willing to go further, and say that, as far as I know, no law has been permanently effective in prohibiting or discouraging either discrimination or pooling, except in so far as it at the same time indirectly or directly encouraged the other. On the Continent of Europe the worst forms of discrimination, the worst abuses from which we suffer, are, in general, efficiently prohibited, but it is generally by an organized system of pools of whose completeness we have no conception in this country, pools that are not merely recognized by law, but enforced by law. The state itself enters into such pooling contracts on account of its own lines with private lines."

Senator Platt, of Connecticut—"To what countries do your remarks apply?"

Mr. Hadley—"Chiefly to France, Belgium and Aus-

tria; also to a less extent to Switzerland and Italy. In France they have never recognized railroad competition as a principle, and scarcely have had it in practice at any time; but in Belgium and Germany they have tried railroad competition, and, what is all the more striking, have given it up as producing discriminations only to be avoided by pools. About the year 1860 the railroad system of Belgium was partly in government hands and partly in the hands of special private companies. The private companies had longer lines, but the government had unity of management and had had the chance of first laying out its railroads and choosing the best routes. The result was an extremely even system of competition. Competition produced the same effects it has produced in America—good and bad. It tended to the rapid development of the country. It caused railroad rates to become lower in Belgium than they were or had been in any other part of Europe, or any other country except the United States. On the other hand, it caused all sorts of oppressive preferences, special rates, special contracts with private individuals; the government itself, in spite of all the central authority could do, being a worse sinner than any of the private lines in the matter of giving special rates to individuals. The people would not stand that the government road should not make money, while a private road, apparently not quite so well situated, should make money. They tried to prohibit the competition of private lines by law. It was partly ended by the absorption of the competing lines and partly by pooling arrangements.

"There is one large private company, the Belgian Grand Central, that has a most inflexible pooling contract with the government.

"In Germany also about the year 1870 there was a tolerable equality, in Prussia particularly, between the state railroads and the competing private lines, and there was also a system of discriminations. Just in so far as the state either consolidated with private railroads or entered into pooling contracts with them the discriminations were abolished, but not until then. They never had discrimination so badly in Germany as we have in America, or as badly as they had in Belgium even, but they had some, and it was only abolished by consolidation and pooling.

"At present the Prussian Government owns practically all its railroads, but there was a time when it had large pooling arrangements with private lines.

"The Austrian Government and the private railroad men have come to the conclusion that the only way they can possibly abolish discrimination is by systems of pooling. The two main cities, Vienna and Budapest, the capitals of Austria and Hungary, are connected by two railroads and the River Danube, one of these railroads having been built by the state. As soon as the second railroad was made there was this division made, which included the state road and second road and the water route, each carrying its percentage, although the water route was a natural water course, * * * and so anybody who said he would not go into a pool would be considered to be a very strange man, and a man who was making trouble.

"A still stronger instance, perhaps, is the Arlberg Tunnel. Before they had opened that road they made a percentage division between that and the existing roads by dividing the traffic at each end of the tunnel. The parties to this division were the Austrian state railroads, Austrian private railroads, Bavarian railroads, two or three Swiss private companies, railroads in other South German States and several French companies that formed remote connections. They state themselves in all that is written on the subject, that the only way of avoiding discrimination between competing points is by such percentage divisions, with the authority of the government."

Pools Cannot Be Prevented.

Prof. Hadley said later in his work on "Railroad Transportation" (1886):

"With all the police power which the German Government controls, a power a hundred-fold greater than anything we have in this country, and with all its dread of irresponsible combinations, it seems that pools are not a thing which can be prevented, and that the only way to control them is to recognize them as legal and then hold them responsible for any evils which may arise under their management."

Speaking of the governments of Central Europe, he said:

"To secure obedience to this (prohibitory) system they must take away the temptation to violate it. This can only be done by a system of pooling contracts. These are accordingly legalized and enforced. They are carried on to an extent undreamed of in America. They have both traffic pools and money pools. There are pools between state roads and private roads, between railroads and water routes."

The committee of the German Empire reported, prior to its purchases of its main railway lines:

"The uniting of the property, of the traffic and of the management of the inland main lines under the strong arm of the state, are the only efficient and proper means to solve the task."

This clearly is a governmental "pool."

Remedial Legislation Imperative.

This long study, these concurrent conclusions and the clearly just and beneficial mercantile as well as railway results, which followed these policies in those great countries, cannot be ignored by denunciations and arbitrary declarations of our dissimilar conditions, which really differ only because they are more complicated, because our rates average not more than two-thirds those which prevail in those nations under their enforceable contracts, and because, instead of jealous nations which there assisted the solution, we presumably have harmonious States which should aid us.

Any act or amendments which substitute theories for these actual carrying and commercial experiences throughout the world, and paradoxes for principles, will continue impracticable, ineffectual and hurtful to consistent carriers and patrons.

Senator Cullom said in the "Independent," in October, 1892:

"The stockholder in a railroad corporation owns his stock as fully and is entitled to as much consideration in respect to his rights as if he were a stockholder in any other enterprise, and the State is bound to respect those rights."

Addressing a committee of Parliament, in 1872, on behalf of railway interests, the younger Stephenson said:

"What we want is a tribunal competent to judge and willing to devote its attention to railway subjects only. We do not impute to Parliament that it is dishonest, but we impute that it is incompetent. Neither its practical experience, nor its time, nor its system of procedure, is adapted for railway legislation. * * * What we ask is knowledge. Give us, we say, a tribunal competent to form a sound opinion. Commit to that tribunal, with any restrictions you think necessary, the whole of the great questions appertaining to our system. Let it protect private interests apart from railways; delegate to it the power of enforcing such regulations and restrictions as may be thought needful to secure the rights of private persons or of the public; devolve on it the duty of consolidating, if possible, the railway laws, and of making such amendments therein as the public interests and the property now depending on the system may require; give it full delegated power over us in any way you please; all we ask is that it shall be a tribunal that is impartial and that is thoroughly informed; and if impartiality and intelligence are secured we do not fear the result."

This is as applicable to-day and to us as it was then to England.

May we not, therefore, soon say with Von Humboldt that the

"Chasms which divide facts from each other are rapidly filling up?"

GEORGE R. BLANCHARD.