

constructed since the foregoing statistics were obtained, making a total mileage at this time of 137,986. It is impossible to say, with entire accuracy, what is the number of railroad companies subject to the provisions of the Act, but it is believed that not less than 1,200, operated by about 500 corporations as carriers, engage either regularly or at times in inter-State commerce, so as to make the Act applicable. The Commission has as yet no statistics of its own collection to lay before the public, but in a manual generally accepted as reliable the cost of construction and equipment of the 133,606 miles of road is estimated at \$7,254,995,223, and the funded debt of the companies at \$3,882,966,330. Interest, according to the same authority, was paid by these companies for the last fiscal year to the amount of \$187,356,540, and the aggregate payment to stockholders in dividends was \$80,094,138.

Some idea of the magnitude of the interest which the Act undertakes to regulate may be obtained from these figures, but they fall far short of measuring, or even of indicating, its importance. The regulation of no other business would concern so many or such diversified interests, or would affect in so many ways the results of enterprise, the prosperity of commercial and manufacturing ventures, the intellectual and social intercourse of the people, or the general comfort and convenience of the citizen in his everyday life. The railroads provide for the people facilities and conveniences of a business and social nature which have become altogether indispensable, and the importance of so regulating these that the best results may be had, not by the general public alone, but by the owners of railroad property also, is quite beyond computation.

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

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

But while providing from time to time for the regulation of commerce by water Congress still abstained from undertaking the regulation of commerce by land. The reasons for this continued to be the same as at the first. The land commerce was insignificant in amount, and the rules of the common law were in general found adequate to the settlement of the questions arising out of it. The commerce of trappers and hunters, of traders with the Indians, or that of the early settlers in the wilderness, needed only the most primitive modes of conveyance; the emigrant waggon in one direction and the pack-horse and canoe in the other performed in respect to it the functions now performed by the railroad train and the steamboat. The use of such primitive instrumentalities required little regulation by either State or national law. When Congress provided for the construction of the Cumberland Road as a great national highway, it was thought quite undesirable to regulate its use by national law or to take national supervision of the commerce upon it; and, with the commerce on the ordinary highways, it was left to the supervision and care of the States respectively through or into which the road should be built.

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

As the States constructed these great inter-State highways, it was not unnatural that they should be left in charge of the regulation of trade upon them, especially as no complaint was made that their regulations were unjust, or that they discriminated unfairly as against the citizens or the