

When the great possibilities of railroad service came to be better understood these primitive notions of local benefits gave way before a more enlightened public sentiment, and the fact was recognised that the public interest would be best subserved by making the connection between the roads as close as possible, in order that the commerce between different sections and localities might go on steadily and uninterruptedly. The railroad companies perceived also that their interest lay in the same direction, and they not only entered into close business relations with each other, but in many cases formed consolidations. The tendency to consolidation excited public distrust, being looked upon as a device to avoid competition and to deprive the public of the benefits of having more than one line of transportation for the same traffic, which, in some cases, had been the chief inducement to the building of particular lines. Laws were therefore passed forbidding consolidation; but these were avoided by taking leases of roads, or by acquiring a controlling interest in the stock, and then entering into permanent running arrangements. But it sometimes happened that the managers of a road deemed it for its interest to work in complete independence, and, while making profit out of the local conveniences it supplied, it found means to add to these a further profit from the inconvenience it could cause to the business of other roads. It therefore discriminated between other roads; it hindered the business of one while it furnished all possible facilities to the business of another; and this it was enabled to do because it was not compellable by law to make joint running arrangements or joint tariffs for business with other roads. Such action was likely to incommode the public quite as much as it did the road which was discriminated against, but it seemed impossible to deal with it adequately by law. To make railroads of the greatest possible service to the country contract relations would be essential, because there would need to be joint tariffs, joint running arrangements, an interchange of cars, and a giving of credit to a large extent, some of which were obviously beyond the reach of compulsory legislation, and even if they were not, could be best settled and all the incidents and qualifications fixed by the voluntary action of the parties in control of the roads respectively. Agreement upon these and kindred matters became, therefore, a settled policy, and short independent lines of road seemed to lose their identity and to become parts of great trunk lines, and associations were formed which embraced all the managers of roads in a State or section of the country. To these associations were remitted many questions of common interest, including such as are above referred to. Classification was also confided to such associations, it being evident that differences in classification were serious obstacles to a harmonious and satisfactory interchange of traffic. But what perhaps more than anything else influenced the formation of such associations and the conferring upon them of large authority, was the liability, which was constantly imminent, that destructive wars of rates would spring up between competing roads, to the serious injury of the parties and the general disturbance of business. Accordingly, one of the chief functions of such associations has been the fixing of rates and the devising of means whereby their several members can be compelled or induced to observe the rates when fixed. And in devising these means the chief difficulty was encountered. Agreements upon rates were voluntary arrangements which could be departed from at pleasure, and if they had behind them no sanction, they were not likely to stand in the way of a war of rates when the provocation to one seemed sufficient. Accordingly, the scheme of pooling freights or the earnings from traffic was devised and put in force through the agency of these associations, as a means whereby steadiness in rates might be maintained. The scheme was one which was made use of in other countries and had been found of service to the roads. The pooling system was looked upon with distrust by the public, mainly because it seemed to be a scheme whereby competition between the roads could be obviated, and rates for railroad service put up or kept up to unreasonable figures. But if railroad managers supposed that by this scheme they were to stop competition among themselves, the result has not answered their expectations. The competition has still gone on; each road striving to obtain as large a share of the business as possible, and no agreement among them could altogether prevent a yielding to the pressure of shippers for lower rates.

In 1877, when the pooling system was put in force by the Trunk Line Association, the rates charged on the first, second, third, and fourth classes of freights from New York to Chicago were, respectively, 100, 75, 60, and 45 cents per 100lb. They are now 75, 65, 50, and 35 cents, but the classification as to many articles has in the meantime been reduced, so that the actual reduction is greater than these figures would indicate. Rates from Chicago to New York are also proportionately less. A similar result has been apparent elsewhere. The pooling system has done much to maintain steadiness in rates, but the managers have not been able by means of it to keep rates up to former standards. It has done something, however, to check a prevailing tendency to consolidation. The motives to consolidation are diminished by any contrivance which removes obstacles to the interchange of business and increases the facilities and conveniences for uninterrupted commercial intercourse.

The Act to regulate commerce, expressing in that particular the desire of Congress to preserve to the people the benefits of competition, contains the following provision: "That it shall be unlawful for any common carrier subject to the provisions of this Act to enter into any contract, agreement, or combination with any other common carrier or carriers for the pooling of freights of different and competing railroads, or to divide between them the aggregate or net proceeds of the earnings of such railroads, or any portion thereof; and in any case of an agreement for the pooling of freights as aforesaid, each day of its continuance shall be deemed a separate offence."

But, while thus prohibiting pooling, the Act undertakes to give by other provisions some of the securities which railway managers had hoped might be realised from that device. The 7th section provides, "That it shall be unlawful for any common carrier subject to the provisions of this Act to enter into any combination, contract, or agreement, express or implied, to prevent, by change of time-schedule, carriage in different cars, or by other means or devices, the carriage of freights from being continuous from the place of shipment to the place of destination, unless such break, stoppage,