

PROCEEDINGS OF A CONVENTION
OF
STATE RAILROAD COMMISSIONERS.

HELD AT
DES MOINES, IA., DECEMBER 15 AND 16, 1886.

CALL FOR CONVENTION.

The committee provided for in a circular issued by the railroad commissioners of Nebraska, October 14, 1886, to fix a time and place for a meeting of the several commissioners of the states of Illinois, Iowa, Nebraska, Wisconsin, Minnesota, Colorado, Missouri, Kansas and the territory of Dakota, and to issue a call for the same, met at the office of the railroad commissioners at Des Moines, Ia., on October 26, 1886. The committee fixed the time of meeting for Wednesday, December 15, 1886, at 9 o'clock A. M., at the capitol building, Des Moines, Ia. The objects of the convention are: 1. To consider all matters in relation to railroad traffic that may be brought to its attention. 2. To endeavor to adopt a uniform system of blanks for the annual reports of railroad companies. The commissioners of the above-named states, shippers interested, and the auditors and other officers of the several lines of railways in the states mentioned, are respectfully invited to attend.

H. M. WARING,
L. S. COFFIN,
Committee.

In accordance with the foregoing call the following-named state and territorial railroad commissioners met in convention in the capitol building at Des Moines, Ia., December 15, 1886:

IOWA—PETER A. DEY, JAMES W. MCDILL, L. S. COFFIN, E. G. MORGAN, secretary.

COLORADO—W. B. FELKER.

KANSAS—ALMERIN GILLETTE, JAMES HUMPHREY.

DAKOTA—WM. M. EVANS, ALEX. GREGG, W. H. MCVEY, I. E. WEST, secretary.

MINNESOTA—J. H. BAKER, S. S. MURDOCK, G. L. BECKER, E. S. WARNER, secretary.

NEBRASKA—O. P. MASON, CHAS. BUSCHOW, H. M. WARING, clerk.

MISSOURI—JAMES HARDING.

There were also present Messrs. E. P. Ripley, general freight agent Chicago Burlington & Quincy; J. W. Midgley, commissioner Southwestern Railway association; M. M. Kirkman, comptroller Chicago & North-Western Ry; C. F. Meek, superintendent Wabash and Des Moines & North-Western Ry; W. T. Block, general freight agent Wisconsin Iowa & Nebraska Ry; Erastus Young, auditor Union Pacific; M. C. Healion, auditor Central Iowa; W. W. Baldwin, land commissioner Chicago Burlington & Quincy, and others.

After a preliminary meeting in the afternoon, held in the capitol building, in the handsome and spacious offices of the state railroad commissioners, at which a preliminary committee of organization was appointed, the

formal convention met in the afternoon. Officers for the session were elected as follows: President, Peter A. Dey, Iowa; vice president, James Humphrey, Kansas; secretaries, H. M. Waring, Nebraska, and E. G. Morgan, Iowa.

On taking the chair commissioner Dey made a very admirable address, alluding to the wonderful changes that had taken place in a generation in the transportation facilities of the country. He said that the states and territories represented in this convention have a population of 10,000,000 and a railway mileage of over 40,000 miles. In less than a lifetime this country had reached a degree of development which Germany had not achieved in twenty centuries. To-day we have to deal with three distinct interests—those of the producer, the wage laborer and the capitalist. The interests of the producer and railways were to some extent directly opposite. The producer needs low rates for the products of the west because he has to compete with Russia and other foreign countries. The great evil against which he has to struggle is competition abroad. The labor element is strong, organized and determined and demands higher pay. The capitalist has invested his money in the railways that have made this country and he is entitled to a return upon it. If this convention shall succeed in helping to bring together these three great interests it will have done what the wisest men of the country thus far have failed to do.

The committee on order of business then reported the following programme:

1. That the persons present representing the various railroads operating in the respective states here represented, be requested to address the convention upon all such matters as they may choose to bring before the convention, and they are respectfully requested to make answer to such questions as may be asked them by the respective members of the convention, and that Mr. Midgley and others be requested to present to the convention the grounds and reasons upon which pools of competing lines of railroads are justified, or pretended to be justified.
2. What can be done to effect uniformity in classification in freights?
3. Should the pool roads across Iowa be required to receive and retransport double-deck cars when delivered to them by roads, and if so what can be done legally by the commissions to compel them to do so?
4. Is it desirable to have uniformity of railroad returns to commissions, and if so, of what shall they consist, and at what date shall the fiscal year end?
5. Upon what basis should rates be made or what factors should be taken into consideration in determining reasonableness of rates.

Judge Humphrey of Kansas urged the need of uniformity in the reports required by the states, particularly in the matter of division of expenses, and invited railway auditors to suggest forms.

Mr. Kirkman of the Chicago & North-Western said that the railways had no objection to furnish any information asked; they had no secrets to withhold from the commissioners; their only objection is to questions which cannot be answered on account of their indefiniteness. Several years ago the commissioners of a number of the states held meetings in order to agree upon uniform blanks for railway reports. At the Saratoga convention a form was adopted and it was agreed that all the commissions would make use of it. The Chicago & North-Western therefore changed its blanks at the expense of several thousand dollars, but it was now obliged to report on dif-

ferent forms to different states. The Iowa commissioners propound eleven questions to the railways, while those of Minnesota ask answers to forty-seven; those of Kansas and Nebraska about thirty each, and the federal government comes in with one hundred and eighty questions. The companies find it very difficult to comply with all these forms. The railways could easily unite on a form if the states would all accept and abide by it.

Mr. Young, auditor of the Union Pacific, stated that his company was willing to furnish the state all the information asked for but that it was impossible to answer some of the questions. He thought there would be no difficulty in adopting uniform forms for reports if the states would agree to them.

Judge Felker of Colorado offered a resolution, which was adopted, for the appointment of a committee of three to confer with the freight auditors as to the best method of arranging the forms of returns. Messrs. Felker of Colorado, Murdock of Minnesota, and Harding of Missouri, were appointed such committee, with the understanding that they would report at the next convention of railroad commissioners. The resolution was discussed by Messrs. Felker, Humphrey, Baker and others, all agreeing as to the need of uniformity for blanks. General Baker said that only four states followed the form prescribed by the Saratoga convention; others used the forms adopted by the railways or those marked out by the commissioners. The action of this convention would effect only a few states, but he believes this meeting would result in a yearly congress of the state railway commissioners of the country and hoped that such congress would result in general action on this subject.

The difficult subject of local and through rates was then taken up in a discursive manner by a question put to Mr. Ripley by the chairman, asking on what principle railways based their charges for local and through freight. Commissioner Coffin questioned the propriety of charging almost as much for a haul across the state of Iowa as from the western boundary of Iowa to Chicago, and asking if some way could not be devised by which the farmers of western Iowa, where the corn crop was short, could obtain that product from Nebraska and western Iowa where it was abundant.

Mr. Ripley being appealed to said he knew of no such case where as much or nearly as much was charged for a haul in Iowa as across Iowa and Illinois. Local rates in Iowa were not higher than in other states. The movement of grain was almost interstate, the market being outside of Iowa. In reply to other questions Mr. Ripley gave very clear and candid answers on the subject of long and short hauls. Being asked if the railways would not reduce their rates for grain to certain localities in which the crops had failed he replied that this doubtless might be done, but added with quiet humor that while the railways could easily reduce the rates they could not raise them. If it was possible when a crop was short and the price was low in any locality to reduce rates so as to help farmers out and then for the railways in some way to recoup themselves it might be a good thing. If they could reduce rates on grain and live stock and raise them on dry goods

it might effect the desired result; but this could not be done because public sentiment does not justify. Any increase in rates is looked upon as robbery.

Commissioner Coffin called attention to the fact that during the grasshopper famine in the northern part of Iowa, a few years ago, the railways carried food and seed free and he did not think that any complaint of discrimination was made against them for this. The commissioners' inference seemed to be that the railways could reduce their rates in special cases of short crops, etc., in certain localities.

A somewhat extended discussion then followed on the troublesome question of classification, in which Mr. Ripley and Mr. Midgley recounted the repeated efforts of the railways to secure uniform classification. Four years ago the western roads got together and agreed on a joint western classification on through business. This applied to business from Chicago and St. Louis to the west, including Colorado. The trunk lines adopted another classification, their jurisdiction on through freight commencing at the Mississippi river, so that freight destined to seaport is billed under western classification to the Mississippi river and from that point takes the eastern classification.

The third question, "Should the pool roads across Iowa be required to transport double-deck cars," etc., was taken up.

Mr. Ripley explained that the reason why the railways declined to carry double deck cars with sheep was that the cars were not available to back load, and moreover there was danger of the decks breaking down. The roads would rather make cheaper rates for carrying sheep than carry double-deck cars.

Mr. Midgley and Mr. Ripley both referred to the great decrease in eastbound freight which had been going on within a few years. Formerly the rate on eastbound freight was double that on westbound; now the conditions were reversed. Corn was now carried in the condensed form of cattle. The revenue of the Southwestern association this year was two and a quarter million dollars less than in the previous year. If the Reagan bill passed Mr. Midgley did not see how the railways were going to carry any grain east.

On motion of commissioner Baker a committee was appointed to take into consideration uniformity of classification. The chair appointed commissioners McVey, Humphrey and Mason.

A committee consisting of commissioners Baker, McDill and Gillette was appointed to draft resolutions in regard to the interstate commerce bill now pending in congress.

The meeting then adjourned until the next morning.

SECOND DAY'S SESSION.

The committee on the subject of uniform returns presented the following report through its chairman, Judge Felker:

Your committee beg leave to report; That they have had under consideration the advisability of uniformity of annual returns of the railroad companies to the railroad commissioners of the several states; and also a change in the various statutes of the states, fixing the date of the close of the current year embraced in such returns, and recommend that, in view of the early passage of proposed congressional legislation, and the establishment of a national railroad commission, both subjects be referred for action thereon to a convention of railroad commissioners of the United States, to be called as hereinafter provided, and that the executive committee and the officers of this convention shall request the United States Railway commission, in case such body shall be created, to call such a convention, and that the attendance of the auditors and traffic managers in the United States, be requested in said call.

The subject of calling a northwestern convention of railroad commissioners and also a national convention was debated by Messrs. Felker, McDill, Gillette, Humphrey and others, during which the fact was developed that the western commissions feared a difference of opinion upon some important considerations on the part of eastern men, in a general convention, the feeling being that this body should at least provide for a northwestern convention. It was finally voted that an executive committee should be appointed with power to call the next meeting of the railroad commissioners of the northwest. Messrs. Gillette, Kansas; Baker, Minnesota; Harding, Missouri, were appointed such committee with power to fix time and place of the convention.

The committee on classification submitted the following through Mr. W. H. McVey, chairman:

Your committee appointed to report on the subject of freight classification, beg leave to report that not having before them the classifications in force in the different states here represented, and not being advised in what respect, if any, such classifications vary, but recognizing the utility and importance of maintaining a uniform classification covering the railroad freight traffic of the western states, we recommend that the subject be referred to a committee to inquire into the matter, and if necessary to confer with gentlemen managing the freight traffic of roads operating in the western territory with a view to the introduction of uniformity in classification covering local shipments in the different states and territories.

The report was adopted and following committee was appointed: Commissioners Coffin, Iowa; Gregg, Dakota; Humphreys, Kansas; Becker, Minnesota; Cowdrey, Nebraska; Harding, Missouri; Felker, Colorado.

Commissioner Baker, of the committee of interstate commerce, presented the following:

Resolved, That this convention of railroad commissioners of the states of Iowa, Kansas, Missouri, Nebraska, Colorado and Minnesota, and of the territory of Dakota, while regretting the differences which have occurred between the true friends of interstate regulation, leading to the failure of the Cullom bill, yet rejoices to learn that the conference committee of the senate and house of representatives of the congress of the United States have agreed upon a measure retaining the essential features of the Cullom bill. That it is the sense of this convention that the state railway commissioners will not attain to the full measure of their usefulness till they are supplemented by a national commission, and that we regard any regulation of rates based upon a pro rata scale of mileage, as detrimental to the interests of our respective states and territories.

Pending the discussion of this report it was suggested that the two gentlemen who had been invited to address the convention were present and thought it would be well to hear from them first.

Mr. E. P. Ripley, general freight agent of the Chicago Burlington & Quincy, being called upon made the following remarks upon the question of the proper basis for freight rates:

REASONABLE RATES—REMARKS OF MR. E. P. RIPLEY.

It is recorded in the celebrated case of *Bardwell vs. Pickwith* that the junior counsel, Mr. Phunky, opened the case for the defense, but having opened it there appeared to be very little inside of it. I fear that the gentlemen from Nebraska and Colorado who are responsible for the infliction upon this convention of a repetition of so much that has been said on an old and well worn subject will neither merit nor receive the thanks of the gentlemen present. As for my own share of the responsibility I can only say that I came here prepared to listen and possibly to answer a few questions, but totally unprepared to tackle a question of such magnitude. I shall ask your indulgence if I repeat myself or if I contribute nothing new to the literature existing already on this subject.

The questions you have called on me to answer are:

1. What is the proper basis for fixing freight rates, and
2. What is a reasonable rate?

The gentleman who propounded this question has no doubt asked it many times before and heard it asked many times, but I greatly doubt whether he has ever heard or seen a satisfactory answer to it. I have attempted it many times but have not been able to satisfy myself—still less I imagine have I satisfied the questioner. I should be more inclined to lay this to my own disabilities had I been able to discover that anyone else had successfully attacked the question, but as I have not I am forced to the conclusion that the fault does not lie in meso much as in the question itself and that it is difficult to give what is in the abstract a reasonable rate as to say what is a reasonable price for a piece of land or a reasonable size for a piece of cheese. The two questions you have asked are properly one, because we are not prepared to admit that we have intentionally fixed any rates in our tariffs that are unreasonable, and hence if we give the general basis upon which we seek to make our tariffs we shall perhaps approximate as nearly as possible the answer to the question "what is a reasonable rate?"

The railroad as a carrier is the successor of the canal and the turnpike. When railroads were first built their rates were fixed a little [but not much] below what had been charged by the canal and the turnpike. There was at that time no question of "reasonableness" such as has since appeared to vex us. The roads could not well charge more than the other modes of conveyance and they feared to charge much less, because it was yet an open question whether they could live at all. The first rates made by rail then were fixed within narrow bounds and are sufficiently accounted for. As railroads multiplied, as population increased, and as new methods and new economies were introduced, the rates were gradually reduced and the general reduction has kept on ever since. I venture the assertion that almost every tariff of rates published in the last twenty years has had for its basis a comparison with the tariff of some existing road. Even when a road is built through a new country, undeveloped and raw, its resources a matter of conjecture only, the manager in fixing the rates to be charged will first compare the tariffs of existing roads whose location or business bears some resemblance to his own. Comparing the rates they receive and the results therefrom he estimates the result of a similar tariff applied to his own line and modify-

ing it to suit his own situation, applies it experimentally. If he finds that certain industries or certain commodities are injuriously affected he may reduce his rates, but it is exceedingly improbable that he will advance them. I have yet to hear of a single case in which a railroad in financial difficulties resorted to the expedient of raising its local rates to raise necessary funds; so that we may justly conclude that the primary basis of making rates is comparison.

But it is urged sometimes that rates are too high and there seems to be a real necessity for determining not what is in the abstract a reasonable rate, but what is a reasonable rate in specific cases. This, while a less impossible question than the abstract one, is still difficult and depends largely on the standpoint from which it is viewed, but even in this case we are driven mainly to comparison in order to form an opinion—for a rate of 20c. for a hundred miles might be exceedingly reasonable as compared with what would be charged by mule team, but unreasonable as compared with the charges on another railroad located in a similar district. In fact all our views as to the reasonableness or unreasonableness of things in general are based on comparisons. Hutchinson on Carriers says: "What is a reasonable rate can of course be fixed by no particular rule, but must be determined in every case as a question of fact, by the same rules which would apply to other cases of service performed, except that the extraordinary responsibilities of the carrier for the safety of the goods must always, in such cases, be taken into consideration as an element of the service." But the term "reasonable rates" has become such a favorite and has come into such general use that though we must concede as a matter of course that there can be no fixed standard, it may be worth while to consider the elements of reasonableness, or at least those which are popularly supposed to enter into the constitution of that desirable but elusive quality. The following are the bases given by one or other of the practitioners who have attempted this case:

1. Rates should be based on the cost of service.
2. Upon what the service is worth to the shipper.
3. No higher than is necessary to secure a fair return on the capital invested.
4. A basis that will stimulate and develop commerce and the community.

Now it is perfectly evident that neither one nor all of these furnish the definition for which we are seeking—they furnish no rule; apply any of them and what is the result? You can not ascertain the cost; you can not prove and perhaps you can not guess what the service is worth to the shipper. We can adjust rates with but very remote reference to payment of interests or dividends, and our judgment as to the fostering of business and the general interest of the community must be exercised with extreme caution lest our action injuriously affect ourselves, the business or other communities. Experience shows that the silent working of natural forces is doing for rates what it does in the long run for all other commodities in a state of freedom—making them reasonable in price. I admit that the cost of the service and the value of the service to the shipper, and the necessity of securing fair returns to the capital invested, the fostering of business, aiding of commerce, and the stimulation of industries, each and all will enter into the rate; they are among the considerations which naturally and inevitably influence the agreement which the carrier and the shipper make. It results in a state of freedom that, taking all the agreements together, the carrier gets no more than the cost of the service and fair returns upon his invested capital, and that the shipper pays no more than the value of the service to him, and that business is fostered and industries are stimulated. But it does not follow that these results can be declared the basis upon which agreements shall be made. They are every one of them open to dis-

pute and subject to change. Valuable as illustration, they are unsafe as standards.

Mr. Ripley closed by reading at some length from a letter written by him to the Missouri railroad commissioners on this subject and published in their report for 1885. His remarks were listened to with very great attention throughout.

Mr. J. W. Midgley, commissioner of the South-Western railway association, was then called upon to inform the convention in regard to the existence of railway pools. He said:

WHY POOLS SHOULD EXIST—REMARKS OF MR. J. W. MIDGLEY.

Mr. J. W. Midgley commissioner of the South-Western railway association was called upon. He said:

Mr. Chairman and Gentlemen:—You have asked me in substance to demonstrate why railway compacts, commonly called pools, should exist. Although called upon unexpectedly and without time for special preparation, I deem myself fortunate in being permitted to lay before a body so eminent as this, some reasons which justify the formation and operation of railroad pools. And, at the outset, allow me to congratulate you that your positions are becoming more agreeable. When first the state commissioners were appointed, they were looked upon by the railroad companies somewhat askance, while at the same time they were closely watched by the people who expected overmuch from them. The attitude of distrust on the part of the railroads, and of unreasonable demands from the public seem to be fast giving way, and the state commissioners to-day are by their integrity, ability and fair dealing, alike winning the respect of the railroads and the confidence of the public. In keeping with that progress this convention seems to have been called, to afford opportunity for the interchange not only between the officers of the several states, but also between those officials and representatives of the railroads. In such spirit of mutual recognition only can misconceptions be removed, and a true understanding be had of the railroad situation as it exists.

From their inception, not only in this country, but also in England, pools or "joint purse arrangements," as they are termed, have been, by those not familiar with them, regarded with more or less aversion. And yet, aside from what may seem to be the selfish object of securing to each road its fixed percentage of tonnage, or its equivalent in money, the interests of the public are conserved by the maintenance of reasonable rates which are intended to be alike to all. No other method has been devised whereby equal rates can be secured. The purport of all state and national legislation is to insure rates of freight being made uniform and alike to all parties under similar conditions. The intent has been to prohibit unjust discrimination—that is, the giving of one man a preferential rate over another who is engaged in the same line of business. This is precisely what any well ordered pool aims to do, and, to do it more effectively than can be accomplished by law, however strongly framed. But equality of treatment is not what many shippers want. Professedly they desire that competition should be free and unrestricted. In other words, they want the railroads to be at liberty to bid one against the other. If such latitude is not allowed, because of pooling restrictions, they complain that competition is suppressed and monopoly is substituted. They do not point the length to which unregulated competition surely leads. When two or more roads are free to compete for a given traffic the worst kind of discrimination follows. Instead of the rates then being alike to all parties, they are unequal as the caprice of the

railroad agent or the selfishness of the shipper may dictate. That inequality continues until merely nominal figures are reached, and, when that result is attained, the grossest discriminations against dealers and shippers at other sections are practiced.

Experience has amply demonstrated that no agreement will suffice to maintain established rates, unless it is supported by a well conceived and firmly administered pool. There is a certain amount of traffic in sight. Each road is resolved to have what it is pleased to term its share. How is it to be had? Simply by bidding for it. The shipper plays one carrier against another, and the result is a scramble. One shipper may be given one rate, while another secures a lower rate for a like service. This feature was illustrated in the statement I made to the Interstate Commerce Committee, from which permit me to quote as follows:

"Before the South-Western association was formed, the several roads extending from Chicago and from St. Louis and other Mississippi points to Kansas City, Leavenworth, Atchison and St. Joseph indulged in frequent struggles for the competitive traffic, the inevitable result of which was that the published tariff was disregarded, and special or contract rates became the rule. Thus while the tariff from Chicago to Kansas City on the first four classes was 90, 70, 50 and 30 cents per hundred pounds, respectively, large shippers had contracts at one-half the rates above named, while a few procured contracts at even less than the rate last described. For example, a merchant might think he had done well to secure a first class rate of 45 cents per hundred weight from Chicago to Kansas City, and 30 cents from St. Louis, until he learned incidentally that his rival in the same trade and located on the same street, had obtained rates 10 cents per hundred weight lower from Chicago and St. Louis. Such experiences were of frequent occurrence so long as each road was at liberty to bid for the business without restraint from any general authority. Primarily, however, it will be admitted, that the compacts, of which the South-Western is an example, originated with the idea of self preservation. There was little or no profit in the business at the rates which were current when each road was a law unto itself as to the manner in which the traffic should be conducted. Under such circumstances none but the unwary paid tariff rates. The alert shippers—and the large came under that head—were shrewd enough to work one road against another, exciting their jealousies and suspicions, until those having freight to forward were able to name the price at which it should be carried. Simple agreements to maintain rates had utterly failed, because of the lack of confidence among railway men as to the good faith of their rivals or associates. It remained, therefore, to promote honesty in operations by removing from freight agents the incentive to dishonesty. During the strifes which had prevailed no road had obtained all the freight to and from common points. At no time had any road been excluded from sharing in the competitive business. The remedy proposed contemplated that each road should be accorded such a percentage of the business as it was fair to presume it could secure, if agreed rates were maintained by all routes. That percentage might be considerably less than the officers of the road felt they were entitled to receive. Yet such proportion at tariff rates would yield better net results than would the larger volume at nominal or fighting figures.

On that basis the pools which have been formed stand, and in case the managers cannot agree as to the percentages which shall govern, resort is had to arbitration. The period during which these are made to run are seldom less than one year, the object being to impart to the compact the element of permanency. Furthermore it is believed that when the roads realize that they cannot by any devious practice exceed the allotments which have been agreed upon, it must occur to them that it would be foolish to throw away revenue by cutting the established rates. They are

absolutely sure of a fixed percentage of the gross revenue to be derived from the competitive business included in the pool. That result they cannot improve upon; hence it is to their interest to quietly accept the conditions marked out, and observe the agreement strictly. The South-Western association, during its formative period partook largely of the character of a deliberative body. It held monthly sessions at which rules were formulated and measures adopted for the better conduct of the pool. The general freight agents met in separate session, and agreed as to the changes in rates and classification to be recommended to the managers. Those recommendations the managers approved, amended or rejected, as seemed to them expedient. In such way the organization assumed shape, whereupon meetings became less frequent, and the rates on the principal commodities continued unchanged. Shippers became accustomed to them, and requests for changes therein are comparatively rare. In the latter instance discretion rests with the commissioner to act for the association; and lest the authority thus exercised may be misunderstood, it should be explained.

The necessity for special action arises in a variety of ways. Competition in various forms is not removed by confederation of roads. There is too much navigable water in the country to permit of the railroads becoming extortionate; and too many sections are able to supply the wants of a community to admit of any combination monopolizing the transportation to a given territory. Between St. Louis and Kansas City steamboats ply with more or less regularity on the Missouri river. These bid for the coarser articles, in the carriage of which time is not an important consideration. Take for example a cargo of nails. Twenty car loads are brought by river from Wheeling and stored at East St. Louis, awaiting favorable rates of transportation to Kansas City. The boats will forward them at 10 cents per keg. The roads are offered them at an advance of 5 cents per hundred, that is, 15 cents. The rate named is perhaps 3 cents per hundred pounds less than the current rate on like shipments between the same points; but is any shipper injured, if the commissioner in the interest of the association authorizes the reduction in order to secure the shipment? If he does not, the freight will be lost by the roads, in which event, neither the regular shippers nor the roads are benefited. Hence, in such case, he should have the authority to make the reduction and secure the business. He does it in the general interest for, in consideration of his granting the special rate, the right is conveyed to designate the route by which the freight shall be carried. If each road were at liberty to do as it chose, they would all strive for the business against the boats, and the outcome would be a decline in rates until neither the boats nor the roads would profit by the transaction. By acting through the association such demoralization is avoided, because the commissioner represents all the roads; and as he can have no preference the freight thus secured is used as an equalizer, to even the percentages of the members.

The through rates to and from common points are equalized, i. e. are, made the same via the several gateways or cities. To illustrate: Pittsburg is a center from which articles that are manufactured are distributed throughout the west. Rates of transportation from Pittsburg to St. Louis are largely affected by what the Ohio river boats charge. In order, therefore, to secure uniformity in the through rates, it is agreed that the roads on which the business originates in the Ohio valley shall make, to any point on the Mississippi river, north of St. Louis, whatever rate they believe is current from Pittsburg to St. Louis. This they can do via Chicago or either one of the gateways to the Mississippi. Then, as the rates are arbitrary and alike from all points on the Mississippi river to all points on the Missouri river, south of and including Omaha, the through rate is thereby made the same via the several routes. So, also, on east-bound business. The rate on corn from Kansas City to St. Louis is 15 cents per hundred

pounds; thence to New York it is 29 cents, while from Chicago it is 16 per cent less, that is, 25 cents. Now, in order to enable the shipper to forward his grain via St. Louis, Hannibal or Chicago at pleasure, the rate on such business is made four cents higher from Kansas City to Chicago than to St. Louis, thus making a through rate of 44 cents per hundred pounds by whatever route the business may be carried. If these conditions are maintained manifestly there can be no discrimination against any shipper. In fact, such complaints arise because all the business is not pooled. Usually parties who call for "protection," as it is termed, against less than tariff obtained by their competitors, refer to rates secured by outside or non-pooled lines. Thus the complaints which proceeded from Chicago so loudly early last year, because of the discrimination in grain rates against that city, grew out of the fact that while the business forwarded from St. Louis Peoria and Chicago, to the east, was comprised in separate pools from those cities, there were a number intermediate gateways through which grain could be and was carried, and when so forwarded it was not amendable to any restrictions or pooling obligations. Those conditions impelled the shipping public to demand that all or else none be pooled. If none is pooled, then the contest for the business degenerates into a scramble, during which favoritism is shown a few large dealers, while the others fare indifferently. Ordinarily shippers profess to care but little what rates are charged, provided they are alike to all; but the temptation to work for a better rate than any one else has is not always overcome.

Notwithstanding it is to the immediate interest of a road when it becomes party to a pool to adhere strictly to the agreement, such is the weakness of human nature under the blandishments of shippers, that few are the number that firmly resist. Soon the breach of faith is discovered, whereupon confidence is destroyed, and with difficulty are the others restrained from making reprisals. If the violations are repeated, positive measures are adopted, and the agreed rates cease to be regarded. This has been the mortifying experience of all compacts, thus compelling the admission that no means have yet been devised whereby an absolute maintenance of established rates can be assured. Self-interest has failed to effect it; hence compulsory legislation could not be relied upon to accomplish it. Yet, despite their imperfections, the fact remains that the pools which have been wisely ordered have approximated the desired results, whereas all other forms of regulation have failed. Pools may, by those unacquainted with them, be criticized unfavorably, but it is noticeable that notwithstanding their imperfections and the failures which have marked their history, whenever the railways, after a period of severe strife and dire disaster come together with a view of adjusting their differences and maintaining agreed rates in the future, resort is inevitably had to the pooling system as the only means whereby the desired ends can be attained. Hence it is that they have become "too numerous to mention" separately, and reference by title could only be made to the larger compacts now in existence in the west.

The experience of south-western lines is not exceptional. When the Transcontinental association dissolved last March, rates to and from the Pacific coast, whether all-rail or by water and rail, immediately fell to absurdly low figures. They have not yet been restored or very considerably advanced, and presumably will not be, until another pool is formed. In like manner, on the disruption of the compacts formerly existing between Chicago and Omaha, and Chicago and St. Paul, the rates fell to a fighting level within a week. Similar disastrous record has repeatedly been made by the trunk lines. Whenever they failed to agree as to any vital provision of their pools, rates fell to prices the continuance of which meant bankruptcy to the participants. It was, doubtless, a knowledge of these facts which impelled Judge Dandy of the circuit court of the United States for the district of Oregon, when the receiver of the Oregon & California railway

applied to him for instructions as to whether he should comply with the new law of the state which, among other things, prohibited pooling, in delivering his opinion to says: "Pooling freights or dividing earnings is resorted to by rival and competing lines of railway as a means of avoiding the cutting of rates, which, if persisted in, must result in corporate suicide. It is not apparent how a division of the earnings of two such roads can concern or affect the public so long as the rate of transportation on them is reasonable." The senate committee on interstate commerce quoted that decision in their report to the United States senate, and, on the question of pooling, after an investigation during which all shades of opinion found expression regarding railroad agreements, they advised—

"The committee does not deem it prudent to recommend the prohibition of pooling, which has been urged by many shippers, or the legalization of pooling compacts, as has been suggested by many railroad officials and by others who have studied the question. The prohibition of pooling is asked only to prevent the evils incident to the operation of the system as it has been conducted, and to avert the political dangers apprehended from combinations of aggregate corporate power. Its legalization is asked because pooling has thus far failed to accomplish its purpose, by reason of the impossibility of enforcing the compacts made. The ostensible object of pooling is in harmony with the spirit of regulative legislation, but it is admitted that it has failed to accomplish its avowed purpose. The effect of pooling under a wise system of regulation cannot, perhaps, be fairly judged by its operation in the past under entire freedom from legislative restrictions, nor can it be safely assumed that it would be subject to the same objections and give rise to the same complaints under legislative regulation, as it has under the conditions which have heretofore governed its operation. It is believed that the evils which have been complained of can be largely remedied under the method of regulation proposed in the bill herewith reported. If this should prove to be the case, the prohibition of pooling is unnecessary. If it should not, this defect in the system of regulation can readily be corrected by additional legislation. But in any event, the evils to be attributed to pooling are not those which most need correction, and if agreement between carriers should prove necessary to the success of a system of established and public rates, it would seem wiser to permit such agreements, rather than by prohibiting them to render the enforcement and maintenance of agreed rates impracticable. The majority of the committee are not disposed to endanger the success of the methods of regulation proposed for the prevention of unjust discrimination, by recommending the prohibition of pooling, but prefer to leave that subject for investigation by a commission when the effects of the legislation herein suggested shall have been developed and made apparent.

This paper held the closest attention of the convention and at its close, on motion of commissioner Baker, a vote of thanks was tendered to Mr. Midgley and to Mr. Ripley for the fairness and intelligence with which they had replied to the questions propounded.

Commissioner Coffin asked Mr. Ripley if a railway company could not base its charges as to what is reasonable on the same principle as an insurance company fixes its rates, and if the experience of a term of years was not sufficient to form a basis for rates. In reply Mr. Ripley briefly showed the difference between the risks of life and fire insurance companies and railways. With railways the conditions are constantly changing; the volume of business increases; but competition increases in greater ratio. The speaker cited the cases of the Michigan Central and Lake Shore & Michigan

Southern railways, formerly prosperous and dividend paying lines, which now under the changed conditions of traffic and in the sharpness of competition pay no dividends to their stockholders. The railways are now operating under conditions which they are powerless to control. A prime factor in determining the revenue of a railway is the question of crops and he doubted if any one present could tell what the crops would be for next year.

Mr. Midgley stated that he had never known of an instance where a pool had advanced rates above their normal state. He stated that no grain could be carried long distances upon the principle that the long distance rate should be the sum of the short distance rates contained therein.

Mr. West of Dakota, in a spirited speech called on this convention, representing the great west and northwest, to take a strong and outspoken stand against the theories of Mr. Reagan of Texas, who was interested in building up Galveston as a seaport at the expense of the interior, and whose bill, if it became a law, would have the effect of preventing the farmers of the great west and northwest from sending their produce to the seaport.

Mr. McDill thought they were not called upon by the resolution to indorse the old Reagan bill which none of them favored.

Judge Humphreys did not apprehend the danger to the west which some feared from the passage of the Reagan bill. He thought the courts would construe it so as not to require that the same proportionate sum should be paid on a short and a long haul. Referring to pools he said that the courts of Great Britain had legalized them and he had no doubt that the United States supreme court would do the same if the question was presented to it.

General Baker said the committee's report did not indorse the pro rata charge idea, if it was in the Reagan bill.

Mr. Ripley said that the western people could not afford to adopt a policy setting state boundaries as a limit. For instance, suppose the people of Illinois should demand that Iowa be compelled to pay their full state rate in addition to their own, and that Iowa should in turn demand the same from the people of Nebraska, and they from Colorado, it is easy to see how disastrous would be the effect upon the people in the far west.

The report of the interstate commerce committee was then adopted.

AFTERNOON SESSION.

Commissioner Coffin, supported by commissioner Humphrey, offered the following resolution to be presented to congress with the resolutions already adopted:

Resolved, That it is highly desirable that some reasonable plan for reaching the abuses in the transaction of interstate commerce shall be adopted by congress. It is also plain that any such measure must be largely experimental in character and we deem it highly important that the legislation be framed as to admit of prompt modification or suspension

if any results demonstrates that the consequences of executing any of the proposed provisions will result in general disaster to the railroads, or that any considerable portion of the business interests of the country. These considerations will, in our opinion, apply with especial force so those parts of the pending Cullom and Reagan bills forbidding pooling, and undertaking to regulate the long and short haul by exact rules, because in practical operation these and other causes of the proposed law may result in great injury to the people of the western states whose interests lie in securing cheap and stable rates for agricultural products.

This resolution brought out some sharp opposition. General Baker said that they had already indorsed the Cullom bill and such measures as are understood to be embodied in it; they had not indorsed the Reagan bill. This resolution he thought vitiated and nullified their previous question. He did not accept the idea that the Cullom bill meant ruin to the railways and the interest of the country.

Judge Mason of Nebraska was opposed to a portion of the resolution. He was not yet prepared to accept the very able and elaborate argument for pools which they had heard as fully expressing their views. That was on one side, and there was another side to be heard. For example, the city of Lincoln, Neb., was shut out from the whole sale trade because rates were higher than to Omaha and other competing points. Was the convention prepared to commit itself to the doctrine of pools? The railways should not be injured, but back of them there was a still more important factor, the people, on whose interest the railways must prosper if they prosper at all.

Mr. Coffin was willing to assume the responsibility of the resolution although he did not write it. He did not believe that any state or national legislation could not be effective that makes east iron rates for carrying freight. The people would find that the railway problem could best be solved by giving the railways the widest liberty to adapt their rates to differing conditions of the country. There were many conditions which demanded special rates, and he would have the widest publicity given to the rates. He had no confidence in national legislation that tried to fix the principle of the long and short haul. He had great fear about the result of the interstate commerce bill as it now stood. Western people were farther advanced in the idea of railway control than those of the east and were willing to take a forward step in all these directions. The only way to solve these difficult questions was on the broad platform suggested in the resolution.

Judge Mason indorsed Mr. Coffin's remarks fully, but could not indorse the resolution entire. The first part he accepted but he dissented from that portion which refers to pooling. He wanted to see that tried. He was opposed to legislatures fixing rates; that should be left free, but the railways should be under surveillance. He concurred in the objection to the idea of fixing iron rates. So far as Nebraska was concerned she had not much to complain of; she got cheap rates for long hauls and was a long way from market. He regretted the necessity of action by the national and state governments so far as Nebraska was concerned; he never kicked because the railways charged the people of Iowa as much for hauling grain to market as they did those of western Nebraska.

Judge McDill felt that the subject of pooling had not yet been fully understood. The senate commission said they were yet in the clouds in regard to it. Pooling contracts had an able defender in the case of Mr. Midgley, but he was not fully satisfied on the subject. The Reagan bill went farther on the question than any of them would like.

Mr. Coffin then withdrew his resolution.

The executive committee was instructed to call the national convention, to be held at Washington, as soon as possible after the appointment of the national railroad commissioner.

The time for holding the northwestern convention was fixed the second Wednesday in June. General Baker of Minnesota extended a cordial invitation to the convention to meet in St. Paul, and Judge Felker of Colorado, in a very amusing speech, painted some of the beauties of Colorado and promised that his successor would entertain them with great hospitality if they would meet there. The feeling, however, seemed to be in favor of St. Paul and it is probable that the next convention of North-Western railroad commissioners will be held there in June,

After a vote of thanks to the officers the meeting adjourned.

PETER A. DEY,
President.

H. M. WARING,
E. G. MORGAN,
Secretaries.



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