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The Regulation of Railway Rates

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THE REGULATION OF RAILWAY RATES

1.—MAXIMUM RATES

THE railways of the United Kingdom have for nearly three years been in a position in which they never before were. All the rates chargeable for goods and minerals, by which a revenue of more than £41,000,000 is annually collected, are under discussion. Authority to modify the statutory classification of maximum rates was given by the Railway and Canal Traffic Act 1888 (s. 24). Upon what principles future charges were to be made Parliament did not distinctly say: 'The Board of Trade shall determine the classification of traffic which, in the opinion of the Board of Trade, ought to be adopted by the railway company, and the schedules of maximum rates and charges, including all terminal charges proposed to be authorized applicable to such classification, which would, in the opinion of the Board of Trade, be just and reasonable' (s. 25 (6)). The process of revision is now virtually complete. Parliament has passed Bills embodying provisional orders as to the classification of nine of the chief companies; similar measures will be passed next session with respect to other railways; and perhaps a final decision may be arrived at before the very principles upon which the charges should be made are settled.

In 1888 and the early part of 1889 the railway companies sent in their proposed classification and schedules of maximum rates. Time was given to the traders to examine the companies' proposals, and by June 3, 1889, over 4000 objections from over 1500 objectors were received by the Board of Trade. Some complainants were satisfied; the majority of the points of difference were found irremovable by negotiations. The Board of Trade instituted a public inquiry, which lasted altogether eighty-five days; and the result was a report by Lord Balfour of Burleigh and Mr.

Courtenay Boyle, in which they stated that 'the railway companies have built up a traffic remunerative to themselves at rates, generally speaking, much lower than those at present authorized by Parliament, and consequently we believe that it is equitable to make a reduction in their present powers, and to fix rates based to a great extent on existing rates, but with a reasonable margin of profit for possible changes of circumstances injuriously affecting the cost of or returns from the carriage of merchandise by railways.' The Normanton scale rates—the standard of through rates recognized by the majority of English companies—were taken as the basis; but the representatives of the Board of Trade pointed out 'First, that between those scale rates, and the actual rates at present charged, there is in many cases a wide margin. Secondly, that the actual rates themselves differ very widely on the same railway, and sometimes in the same district.' In other words, actual rates, and sometimes the lowest of actual rates, were made the basis of the new classification and rates.

No one was satisfied with the proposals. Companies and traders appealed to Parliament. Accordingly the Bills proposed by the Board of Trade were referred to a Joint Committee of both Houses. For forty-five days it sat, going over the whole ground again, and making changes in regard both to classification and terminal charges. The result of this second inquiry was not much more satisfactory than that of the first. By the representatives of certain trades supposed to be aggrieved an attempt was made to reopen the Committee's decisions. The House of Commons refused to do so, more perhaps from a fear that the discussion would be interminable than from a conviction that the proposed charges were unobjectionable. Altogether unique in this country, the process of revision is not unlike what has elsewhere been seen in controversies as to customs tariffs. Comparing the discussion which has gone on since 1881-82—the discussion before the Rates Committee, in Parliament over the Railway and Canal Traffic Act, before Lord Balfour and Mr. Courtenay Boyle, and before the Joint Committee—with the discussions which preceded the passing of the McKinley Tariff Act, as reported in *The Congressional Globe* and other official records, one must be struck with the similarity; the same pushing of the interests of particular trades and localities, the same higgling for better terms by particular classes of manufacturers, each interest with advocates fully heard, each interest not so represented in danger of being lost sight of, the community of consumers most of all neglected.

From the very nature of things the outcome must be un-

satisfactory.¹ The problem which Parliament imposed upon the Board of Trade and the Duke of Richmond's Committee, is, in truth, incapable of exact solution. It is difficult, as every inquiry before the Railway Commissioners with respect to undue preference shows, to calculate the present, to say nothing of the future, cost of the conveyance of traffic. Human foresight cannot foretell twelve months ahead, far less for all time, what will be a fair remunerative charge for conveyance of merchandise in all the changing conditions of railway traffic. All the elements of cost fluctuate²—some of them, such as the price of coal and wages, do so in a remarkable degree from year to year.

Nor would the average cost—that is, the cost at which no one article is, in fact, carried—throw light on the question what is the fair remunerative charge for carrying, say, sulphur from Liverpool to Manchester, wire, crude or manufactured, from Sheffield to Hull, castings from the Midland towns to London. The elements of cost are changing from month to month; whether the wagons go the return journey full or empty makes a material difference. In the inquiry at Westminster there was much discussion whether, as suggested by the Company, £1 16s. 8d. a ton, or, as suggested by the traders, £1 was a fair maximum for sugar; whether silk waste should be put in Class 3 or Class 5, whether plush, made of a silk waste surface and a cotton weft or back, should be treated as cotton or silk; whether undamageable iron goods should be in Class A or B. For many days Lord Balfour and Mr. Courtenay Boyle sat inquiring into the conditions of hundreds of articles; considering, for example, whether basic material should be included in Class A, whether lime or burnt limestone should be classed in the same class—in other words, what rates such articles would bear. Who can decide such questions? Who can tell, or rather foretell, the fair maximum or proper margin, for such articles? No one was charlatan enough to say that more than a rough guess was possible. Never, even in the days when the prices of bread and ale were fixed by law, was an attempt made such as that undertaken under the Railway and Canal Traffic Act—the attempt to fix the maximum charges for the transport of all varieties of merchandise from minerals to mouse-traps. The assize of ale, as regulated by

¹ The following may be taken as the opinion of the railway companies: 'The result of the Rates Bill was, he need hardly say, unsatisfactory on the whole. . . . The rates had been lowered down to a *minimum*. It was called a *maximum*, but he called it a *minimum*.' Speech of the Chairman of London and North-Western Railway Company, *Times*, August 15, 1891.

² See evidence of Mr. Lambert as to the cost of working of the Great Western Railway Company, in Minutes of Board of Trade Inquiry, 9451.

the Statute of Henry III., was a much less ambitious project than that conceived by the Parliament of Victoria. The Court had not the temerity to fix the price of a large number of commodities ; it established a sliding scale ; ‘ where a quarter of barley is sold for two shillings, then four quarts of ale should be sold for a penny, &c.’ The order of a manor court that the best ale should be sold at threepence a gallon within a particular district, seems to me more rational than the proposal that ‘ basic slag, ground, packed, blooms, billets, or ingots, bog ore for gas purifying ; bricks, clay, common and finer ; bricks crushed,’ and so on for a hundred articles, shall be carried at one price, and scrap iron, millstones, pig lead, at another. I go further ; the inquiry in regard to maximum rates seems to me a mistake, a piece of superstition, a search after that which is not only unattainable, but almost useless even if it could be attained. The trader is concerned with actual rates. From their very nature maximum rates must be at any given time too high or too low. Fixed with an eye to the contingency of increased prices of coal and labour, they are too high ; fixed without reference to these elements, they may be unfair to shareholders. The presumption is that a large margin to provide for unknown contingencies will be given. What is the expected advantage ? The consignor of goods does not know what he will be asked to pay ; he does not know what he ought to pay ; there is the uncertain element of terminal charges, and, perhaps, of special services ; and the actual rate, though well under the maximum, may be illegal as being an undue preference or unreasonable.

‘ What is the real object of maxima ? I submit to your lordship that the real object of maxima is the simplest possible. It is to secure to those persons who have not the advantage of competition something . . . which competition gives to others. If you had complete competition there would be no need of maxima at all.’¹

Of the justice of this proposal, under which the companies might get no profit, nothing need be said ; it is enough to point out that the maximum rates will not be at any moment the same as the competitive rate. To contend, as some of the witnesses called by the railways did in the recent inquiry, that the effect of maximum rates is in all circumstances absolutely *nil* is an exaggeration. In districts in which no competition exists, a company may choose to earn its revenue by carrying a small

¹ Mr. Jeune, Q.C., on behalf of colliery owners in Northumberland, Durham, and South Wales, Minutes of Proceedings, 2251.

quantity at a high rate; before the Railway Commissioners have been proved instances of charges in excess of maximum rates. But their influence is small, the protection which they afford is generally delusive. Writing of the period between 1823 and 1839, Mr. Hunter in his book on *Railway Rates*, says, 'No maximum rates were charged for goods'; and he adds, 'From 1825 to 1840 the insertion of maximum rates for passengers, though not for goods, was frequent, but not universal.'¹ 'Not a single Act between 1838 and 1840 had a maximum rate for goods.' On a large part of the Midland Railway system there were until 1846 no maximum rates, and this may be still true of some sections of that system. A study of the speeches of the late Mr. Morrison, who more than any other person in the early history of railways urged the propriety of fixing maximum charges, shows that he had in view actual charges, a working, not a statutory, maximum classification. It is submitted that the value of statutory maxima has been enormously exaggerated, and that the prolonged inquiry by the Board of Trade and before the General Committee has been a search after the useless and the unattainable.

2.—INTERESTS INVOLVED IN THE QUESTION.

Notwithstanding the many inquiries into the subject of railway rates here and elsewhere, it is still necessary to investigate the principles regulating them. For weeks such inquiries may go on, and large masses of evidence be collected, with little edification, and decisions be arrived at arbitrarily, for want of a preliminary consideration of principles. The first thing to be done is to consider the interests involved. In controversies about rates in Parliament and the press or before committees or commissions, only traders and railway companies are usually heard of. The question is what will be the effect of this or that rate on the traders' or companies' profits. In the 3926 pages of the minutes of the Board of Trade inquiry I find scarcely a reference to any other interest. The almost equally voluminous evidence laid before the Rates Committee of 1881-2 is equally silent. In the Act of 1888 there is only one phrase, and that merely parenthetical, which clearly recognizes the interests of the public at large, neither owners of railway stock nor consignors of goods. The Lancashire and Cheshire Conference, formed in 1885 to represent

¹ P. 18.

the opinions of town councils, chambers of commerce and trade associations, and the Devon and Cornwall Conference formed in 1888 by certain corporations, mercantile and agricultural associations, have strenuously pressed the traders' views ; it was not their business to be the advocates of others. Throughout the long controversy respecting rates there has been an assumption that the traders' interest was necessarily that of the consumer, and that any reduction of rates must redound to the advantage of the latter.

Familiar facts and theoretical considerations are against this. Either the trader is getting with present rates of transport fair profits, or he is not ; on the first hypothesis, he has no grievance ; on the second, it is clear that he will not lower his prices until he has obtained a fair profit. It may be easy to quote instances in which cost of transport appears to be an important element of price ; usually, however, when the whole circumstances of the cases, including the profits of all persons engaged in distribution are known, this element proves to be comparatively small.¹ In the recent inquiry complaints were made as to the rates for milk. One witness stated that the retail price of twelve gallons in London is sixteen shillings, of which the farmer gets six shillings, the railway company one shilling, and the dealer nine shillings. Does any one suppose that if the company reduced the cost of carriage to sixpence, the whole, or necessarily any part of the reduction would go to the customers ? Evidence was given as to alleged exorbitant rates for fish. Here are Mr. Acworth's comments.²

'Take mackerel, for instance, sold at sixpence each fish, weighing say 1lb. ; the retail buyer pays £56 per ton, out of which the extortionate railway company takes, allowing for weight of packages, &c., certainly not more than £5. How is the remaining £51 divided ?

If it be true, as the fish traders assure us, probably with perfect accuracy, that the fisherman does not get as large a share of the price as the railway company's charges amount to, there must be left a sum of £46 per ton to be shared amongst the various middlemen. Is this an ideally just division ? And is it not conceivable that the fisherman's dinner ought to be added to by the sacrifice, not of the ewe-lamb—the £5 of the railway company—but of a portion of the well-fed flock from the rich pastures of Billingsgate ?'

Elsewhere Mr. Acworth says in his interesting volume :—

'For articles of ordinary trade we may say that 50 shillings a ton from door to door, from the docks in London to the warehouse in Yorkshire,

¹ See Mr. Atkinson's *Distribution of Products*. Appendix I.

² *The Railways and the Traders*, p. 136.

or *vice versa*, is certainly a good deal above the average charge. Now 50 shillings equals 600 pence, and therefore a 50 shilling rate per ton is in other words a rate, $\frac{600}{2240}$, or say, $\frac{2}{7}$ of a penny on every pound weight conveyed. Consider at what rate this charge works out to the consumer. Is it not a percentage of the total sum which he pays so small as to be scarcely noticeable? Take tea, for instance, sold to the north of England for 2s. per pound. The railway charge on this amounts to little over one per cent. of the retail price. Is the Yorkshireman soft-headed enough to believe that, if the railway carried his tea gratis, he would get the very slightest concession in price from his friend the grocer? Or turn it the other way round; the Bradford goods which go up to London to pay for this tea are worth on the average certainly not less than 2s. 6d. per pound. And out of this the railway claims once more $\frac{2}{7}$ of one penny, or less than one per cent. . . . But we are often told—though the reasons for a statement which on the face of it is questionable are never produced—that it is not fair to calculate percentage on retail costs. We must consider the weight of the burthen laid upon the wholesale dealer. Let us do so, therefore, and imagine a London commission merchant engaged in the Bradford trade, and turning out say, £150,000 a year. This at 2s. 6d. per pound, once more (and though some of his goods may be worth a little less, the finer qualities will be worth ten times as much) would imply that he sold 536 tons per annum. Suppose that half of it comes to London at the local rate of 43s. 4d. and half at the export rate of 35s., his total expenditure, therefore, on railway carriage, or cartage, is a little over £1000 a year. Now imagine an all-round reduction of 10s. per ton in all these rates—and the chairman of the Railway Committee of the Bradford Chamber of Commerce declared in 1881 that such a reduction would bring salvation to a perishing industry—the London merchant would save £268 per annum.’

Assuming that he gave the customer the whole benefit of the reduction, 10 shillings a ton, when reduced to the price in yards, represents, as Mr. Acworth observes, ‘an amount too fractional to be represented in English currency.’

There is the same difficulty in determining the ultimate incidence of cost of transport as in ascertaining the incidence of taxation on commodities. *A priori* speculations on the subject are apt to be fruitless and delusive. A minute study of the economic conditions at the time when a tax is levied or the rate is charged is necessary. Professor Sax, discussing this point in his work *Die Verkehrsmittel*,¹ lays it down that the greater the exchangeable value of the article, the less is the influence of freight. Of undoubted consequence is the number of intermediaries between production and consumption. The more they are, the greater the risk that the advantage of a reduction of freight will

¹ P. 25.

not reach the consumer; if the quantity usually purchased be small, this is almost a certainty. There are, says Mr. Albert Fink, 'two classes of people who are the special beneficiaries of railroad wars and dissensions—the producers and the middlemen. As a rule, whatever reduction is made in the transportation charges goes to increase the profits of these two classes.'¹ What seems true of both taxes or rates is that a small reduction, such as would not in the most favourable circumstances affect, except to a small extent, the price of the quantity or amount purchased by the average consumer, does not in ordinary circumstances affect it at all. The producer or middleman is benefited; the consumer rarely. Is it to be supposed that if the price of conveying fish from Great Grimsby to London were reduced by 3s. a ton the householder would buy a couple of soles any cheaper? The consumer is indeed interested in rates being so low that they enable goods to be carried rapidly great distances; the very rates, by the way, to which traders near the chief centres of consumption take exception. He does not join in the outcry against the London and North-Western Railway and Great Western Companies for carrying American meat from Liverpool or Birkenhead to London for 25s. a ton, while the charge for shorter distances is greater. He would be glad if Cheshire meat were carried at the same or cheaper rates. If that cannot be, he is content to see exceptionally low rates to London without asking questions about undue preference. The dwellers in great cities desire exceptionally low rates for articles of food or other necessities of life. That such rates are of the nature of undue preference may be a grievance to certain producers; to the consumer it is a matter of indifference. For his own goods the trader wishes low rates; but if he lives nearer the market or the port of shipment than his competitors he will insist upon a mileage rate or an approximation thereto. If he be charged for conveyance 50 miles as much as others are charged for 100 miles he will complain that he is deprived of 'the advantages of natural position;' he will ask that his rates be lowered or those of his rivals raised.² Railway companies, on the other hand, desire to obtain

¹ Argument before the Committee on Commerce of the United States House of Representatives.

² I state the position of reasonable traders. The following letter by a trader expresses a common opinion:—

'Berwick:—"What we want is to have our fish carried at *half* present rates. We don't care a — whether it pays the railway or not, railways ought to be made to carry for the good of the country, or they should be taken over by the Government. This is what all traders want, and mean to try and get."'

the largest amount of net profit from their traffic, and this they may attain in two ways—either by carrying a large amount at low rates, or a small amount at high rates, and with diminished traffic expenses.

The working of these interests I may illustrate by a case suggested by Thünen's *Der Isolirte Staat*. A is a town the centre (the *Absatzort*) of several concentric circles or zones, segments of which are shown thus :—

First hypothesis : A supplied with food, building materials, &c., from the adjacent zones ; a road $A b c d$ connecting segments of such zones with A. In these circumstances the cultivation within $A B b'$ will be intensive, that within the outer zones more and more extensive ; within $A B b'$ will be produced perishable articles, such as milk, and articles of great weight or bulk. Articles of small bulk or weight and articles of great value will be conveyed from the outer zones to A ; articles of small value and great bulk or weight will not be conveyed from the outer zones ; rent of the inner zone will be high ; rent of the outer zones gradually diminishing. This is the condition of things while merchandise is conveyed by road.

Second hypothesis : A supplied as before, but a railway connecting the zones. There will be a tendency to equalise the economical conditions of the zones ; nevertheless, the distinctions indicated above will be discernible. Suppose, to take one commodity, milk, $A B b'$, $B C c' b'$, $C D d' c'$, regions from which 24,000, 48,000, 96,000 quarts are procurable under the existing system of agriculture ; $5d.$ the highest price at which milk can be sold at A ; $2d.$ the lowest price at which a dairy farmer can make a profit ; $1d.$ the rate of transport from A to b , b to c , c to d , sections of equal or almost equal length. With equal mileage rates only the producers within the two districts nearest the town can supply it ; those within $A B b'$ making a profit of $2d.$, those within $B C c' b'$ a profit of $1d.$ a quart. The total supply of A will be 72,000.

The difference in profits will bring about a difference in rent in proportion to the difference in profits. This state of things will be unsatisfactory to the consumers, limited to a supply of 72,000 quarts, to the railway companies, conveying only that number of quarts for a total amount of £500 ($24,000 \times 1d. + 48,000 \times 2d.$), and to the farmers and the landowners in the outer zones. Then begins a change similar to what is going on all over the world—a change which is exemplified by every railway, and which is illustrated also by shipping freights. A demand is made for the reduction of rates on long distant traffic; it is acceded to, and we have

Third hypothesis: Suppose the rates from A to b , A to c , A to d are $1d.$, $1\frac{1}{2}d.$, and $1\frac{3}{4}d.$ Milk may now be brought from outer districts; the supply of A is increased to 168,000 quarts; the gross earnings of the railway company rise from £500 to £1,100; and then comes about an equalising movement in rent—to a large extent the expression of the difference in the cost of transport—in the inner districts rents falling, in the outer rising. In other words, with differential, as distinguished from equal mileage, rates, there is an equalisation of rent or profits, together with an increase of the area of supply.¹

Most strikingly all this is illustrated in the case of shipping freights, which have no relation to the distance which cargoes are conveyed. The rent of corn land lying a few miles from the point of consumption is reduced to the same level as that of land four thousand miles off. Geographical advantages are almost annihilated by modern shipping freights, to the profit of all except the producers near the markets; and similar advantages are produced by differential rates.

These hypotheses correspond to the actual history of railways. In their early days, here and elsewhere, they adopted the practice in force on canals—they charged according to distance. This policy excluded many districts from the full benefits of railways. Many commodities of large bulk and small value could not be moved at a profit. Consumers and producers lying apart were not brought together. This was altered after 1845, when the business of carrying wholly passed into the hands of the companies. Railway managers found that cost of transport did not increase proportionately to the distance traversed; that many of the charges were much the same whether goods were conveyed

¹ The theory of the effect of charges in cost of transport is worked out mathematically in Launhardt's *Theorie der Tarifbildung der Eisenbahnen*. Archiv für Eisenbahnwesen, 1890, p. 1.

100 or 500 miles; and that they could obtain, by giving low rates, traffic which would not otherwise be moved. Everywhere it became a maxim of railway management to vary the rates according to the circumstances of the traffic, to charge what, according to the common and much misunderstood saying, 'it will bear.' That abuses came in its train, that some districts were unduly favoured, is true. A point apt to be slurred over, by reason of the question being usually regarded almost exclusively from the view of the companies or their customers, is that this change, diminishing the effect of distance, reducing if not annihilating geographical advantage, is of priceless value to consumers.

3.—CONFLICTING INTERESTS.

Obviously the interests above described may be conflicting. Those of the railway companies may in certain circumstances conflict with those of the community. Desiring to earn the largest possible net income, they may do so by carrying a small quantity of traffic at a high rate. Whether this is often done may be doubted; it would be possible only where there was no competition; and the promoters of a new line could go to Parliament with an overwhelmingly strong case if such oppression were proved. Still such a state of things is conceivable. With some commodities, the 'margin of utility' of which is great, it is perfectly possible, at all events for a time. There is a second danger; short distance traffic may be, and sometimes has in fact been, made to pay unduly for long distance traffic. I do not refer to the numerous cases in which a company earns a much larger profit on one part of its system than on another—to the instances in which a company, rather than lose its traffic altogether, conveys it at rates just sufficient to pay a little more than the working expenses, but totally inadequate to pay a dividend on the whole system. Most producers on a large scale obtain different rates from different branches of their business. Any one with much experience as an arbitrator or otherwise in estimating the value of business assets will tell you that the profits on particular contracts or with particular customers vary from zero to 50 per cent. A gas company may be earning 15 per cent. on its gas; it may be disposing of by-products, such as coke and tar, at prices yielding less than 1 per cent. Mr. Taussig¹ has lately pointed out that the business of a railway company is joint

¹ *Quarterly Journal of Economics*, June, 1891.

production on the largest known scale—the performance of joint services. As Mr. Mill explained with respect to joint production, ‘Cost of production can have nothing to do with deciding the value of the associated commodities relatively to each other. . . . Cost of production does not determine their prices, but the sum of their prices. . . . When two or more commodities have a joint cost of production, their natural values relatively to each other are those which will create a demand for each, in the ratio of the quantities in which they are sent forth by the productive process.’¹

Applying this reasoning to railways, it is not unreasonable (always supposing undue preference out of the question) that one section should be worked at a high profit and another at a low. I have in view chiefly the instances in which one kind of traffic is carried at low rates for collateral reasons and objects—the destruction or injury of a rival, the abstraction of certain traffic from its natural channel. There is a plain limit to the application of the principle that merchandise is to be carried at the rate it will bear; and the limit is reached when the rates charged are such that the volume of traffic is artificially diminished, or that the profits of producers are reduced below the usual rate. That this limit has sometimes been exceeded in districts where no competition existed is certain. That it is often realised seems very doubtful; and I find in the voluminous evidence collected by the traders few clear cases of the kind. The supposed instances brought forward prove, as a rule, on examination, cases in which a company is making on some kinds of local traffic 10 per cent., and is carrying certain goods which would otherwise go seaward at a rate just sufficient to pay a little more than working expenses. The truth is that the most grasping of general managers hesitates to stir up an agitation for a new line—an agitation which Parliament would readily yield to.

4.—COST OF TRAFFIC AS A MEASURE OF RATES.

Every inquiry by careful, responsible investigators has ended in a condemnation of all attempts to base rates on cost of transport. In one form or another this is often proposed. When examined, it is invariably rejected. Not the least emphatic rejection of such a scheme is that by Lord Balfour of Burleigh and Mr. Courtenay Boyle in their report to the Board of Trade.

¹ *Political Economy*, Book iii., chap. 16.

‘Another mode of fixing maxima which came before us in the course of our inquiry, was the method of fixing rates by relation to cost and profit on capital ; in other words, that the cost of carriage should be ascertained, and that to this should be added whatever might be necessary, in order to produce the companies a fair return for their capital and labour. We find that there are absolute bars to the adoption of the method. In the first place, the cost of carriage cannot be accurately ascertained. The evidence which came before us entirely supports the conclusion arrived at by the Joint Committee of the House of Lords and the House of Commons in 1872. The original cost of the particular line ; the cost of the carriage for the particular goods on that part of the line as compared with the carriage of other goods on the same line and of the same and other goods on other portions of the line ; and the proportion of all these to the whole charges and expenses of the company are items which the companies themselves cannot give, and which we find it absolutely impossible to ascertain.’

It is possible to obtain the average cost per ton-mile. Approximate results may with great difficulty be procured with respect to the conveyance and handling of particular articles in normal circumstances ; they are often produced before the Railway Commissioners in applications with respect to undue preference ; though, speaking with some experience as to the preparation of such calculations, they are, and must be, largely conjectural. Even, however, if accurate figures could be got, they would be useless as a basis for rates. It would be intolerable that slag or scoriæ, copper ore or pig lead, a box of silk and a bag of refuse rags, should be charged alike because the cost of haulage and other incidental services are the same.

‘It was very early in the history of railroads perceived that if these agencies of commerce were to accomplish the greatest practicable good, the charges for transportation of different articles of freight could not be apportioned amongst such articles by reference to the cost of transporting them severally, for this, if the apportionment were possible, would restrict within very narrow limits the commerce on articles where bulk or weight was large as compared with their value. On the system of apportioning the charges strictly to the cost, some kinds of commerce which have been very useful to the country, and have tended greatly to bring its different sections into more intimate business and social relations could never have grown to any considerable magnitude, and in some cases would not have existed at all, for the simple reason that the value at the place of delivery would not equal the purchase price with the transportation added. The traffic would thus be precluded because the charge for carriage would be greater than it could bear.

‘On the other hand, the rates for the carriage of articles which

within small bulk or weight concentrate great value may on that system of making them be absurdly low; low when compared to the value of the articles, and perhaps not less so when the comparison was with the value of the service in transporting them.'

So say the Interstate Commerce Commissioners in their first report;¹ and they proceed to sketch the outlines of a system based, as all reasonable systems of classification must be, not on the cost of carriage, but on what it is supposed the particular commodity will bear.

5.—UNDUE PREFERENCE.

And yet we have seen courts of law more and more inclined to carry out a theory of rates which every economist and every competent inquirer reject as untenable. For all forms of personal favouritism or discrimination by public carriers there is no excuse; in all civilised countries, so far as I know, a railway company may not legally grant better terms to one trader than to another similarly situated; for example, give a rebate to one and deny it to another, charge to A and B alike a collection and delivery rate, and perform for B in effect only the same services as if it were a station to station rate. There may be unfair preference of A to the disadvantage of B, even if they do not consign precisely the same articles, and probably English law does not take sufficient cognisance of this form of undue preference. Subject to this criticism, discriminations 'under similar circumstances' are forbidden under the Railway Clauses Act, 1845, and the Traffic Act, 1854. Does the phrase refer only to the cost to the company of the services? Does it refer also to the value or utility of the services to the consignor? May we look at the demand for the service performed, the position and circumstances of the customer? May A and B be said to be similarly circumstanced, though they trade in different towns? After much fluctuations of opinions the courts have here, and as far as I can gather in the United States also, come to the conclusion that in determining the question of undue preference only the cost to the railway company of the services is to be considered.

'I take it that when a railway company receives goods to be carried over the same line under circumstances involving the same cost and the same risk to themselves, and in respect to these goods renders the same

¹ Cited with approval in the third report, p. 355.

services, there is an undue preference if a higher charge is made to some customers than to others.'¹

Economically regarded, this seems to me to be a mistake; carried out logically, it would be destructive of many industries; and, as applied by the courts, it has done harm. An excellent rule when the circumstances of production are the same, when the value of the service is the same to all, it has no applicability to circumstances in which they are diverse. Two fishing ports are each 100 miles from London, the one with a good harbour, a safe beach, the take of fish large and constant; the other without any of these advantages. If the cost of conveying to market be the same, the one port will flourish, the other will be ruined. On a strict application of the law of undue preference, perhaps the rates to the more prosperous town would be lowest, the traffic being larger and continuous. Another illustration may be given.

Leeds is situated thus with respect to three ports on the east coast:—

If the rates from Leeds to all these ports be alike, there will be in a sense undue preference.² Follow the goods to their destination—Havre, Hamburg, or India. To the purchaser at Calcutta, it is of no consequence by what port they are shipped. If the rates are the same, the goods are shipped indifferently by any of these ports, according as freights are procurable. A reduction of the rates between Leeds and any of these ports will not probably affect the purchaser in Bombay or the shipowners. The sole effect will be to direct, to the inconvenience of the shippers, most of the traffic to one port. In the United States the same question has often arisen. The Trunk lines from Chicago and other western points gave for Liverpool, Glasgow, &c., through rates for grain, flour, lard, &c. The Interstate Commissioners required the companies to publish

¹ Cotton, L. J., in *Evershed v. London and North-Western Railway Company*, Q. B. D., p. 149.

² An application, founded on the above alleged undue preference, was actually made in 1885 under the Regulation of Railways Act, 1873, but was not proceeded with.

such rates, stating 'what part of the whole is allowed to the carrier for inland transportation to the point of export by sea.' This part was sometimes 10 cents or more per 100 lbs. less than the published tariff rates charged to New York. The Produce Exchange of that city complained that there was an unfair discrimination of consignors to that city; and the companies were ordered by the Court to make no difference between the inland proportion of the through rate and the rate for seaboard consignments. What must probably be the effect of such an order? The total transport charges for consigning grain to Europe depend, not solely on circumstances in the United States, but also on the demand and supply here. The portion of the whole rate allotted for transport to the seaboard may be nominally fixed. What portion will really go to the steam-ship companies and what to the railways the Interstate Commission cannot determine. At most the order can operate only somewhat to the benefit of persons handling grain in New York. From English practice another illustration may be taken. The establishment of 'group rates,' that is uniform rates for all traffic within a certain district, is obviously convenient. The practice exists; at one time it promised to spread more than it has; and it was possible that there would be formed naturally zones or regions within which rates were uniform, to the great convenience of all concerned. Such a tendency was checked by the courts, certain decisions appearing to make many group rates a contravention of Section 2 of the Railway and Canal Traffic Act, 1854. Nor are matters much improved by the new legislation. Section 29 (1) of the Act of 1888, while professing to legalise group rates, adds the embarrassing proviso,

'Provided that the distances shall not be unreasonable, and that the group rates shall not be such as to create an undue preference.'

Unless meaningless, this is mischievous; under this provision the law of undue preference may be a law of protection to certain traders. Under it 'geographical advantages' may be preserved; for the public the best state of things would be uniform low rates irrespective of distance; a tariff similar in principle to the postal charges. That being unattainable, the next best course is the free formation of group rates or zone tariffs—a policy hitherto impeded by the action of courts of law.

6.—CONCILIATION OF INTERESTS.

Two principles on this subject seem intelligible. Rates may be fixed with reference to the actual cost of conveyance; a principle intelligible, but leading to consequences from which the advocates of it recoil. Rates may be fixed with reference to what the traffic will reasonably bear; a principle consistent with some abuses, but as it seems to me the only one which can be applied. Even those who quarrel with it usually end by proposing it in some disguised form. In a pamphlet on railway rates Mr. Horrocks thus describes a scheme of classification:—

‘ Each article of the 4,000 and more received at the Clearing House classification should be subjected to a severe and careful scientific examination, as to its specific gravity, &c., in order to ascertain the maximum weight of that article which an ordinary railway truck would carry. In the next place, the value of the article should be ascertained, together with the liability to damage from wet, breakage, delay, theft, or any other cause. One or more individuals practically acquainted with merchandise and its prices, and one or more individuals practically acquainted with the handling of traffic on railways, should have this task assigned to them. A standard should be agreed upon by each division of investigation, and the articles as examined, should receive values in accordance with it. Finally the respective values of each article should be collected, and its place *permanently* fixed in an amended classification, the names thereof being registered and published.’

What is this but a laborious attempt to discover what traffic will bear, at what price it can be carried consistently with a fair profit to carrier and customer—to anticipate the results of the higgling of the railway companies and traders? Sometimes it is said that rates should be ‘just and reasonable.’ This is the test recognized in the Railway Clauses Act 1845, s. 86: companies are empowered to make ‘reasonable charges.’ This may mean that the charges shall be whatever an arbitrator would determine. It may be an admission that no rule can be formulated. The language of the statute receives precision only if it means that the traffic shall be charged what it can bear—that the rates shall be such as to be consistent with ordinary profits to carrier and customer. Two evils are possible with railways owned by private companies: they may artificially diminish the amount of traffic by rates so high as to raise prices and lessen demand; they may diminish the profits of their customers below the usual rate—I

will not say below the rate of profits earned by the railway companies, but below that earned by other traders. The practical problem is to correct these evils with the minimum of interference—not to seek a remedy in the charlatanism of so-called scientific and really arbitrary methods; but, continuing old modes of charging, to correct a few evils which experience has disclosed. In the many controversies about the defects of railway management here is a proneness to forget its merits. Foreigners do not; they admire and envy its elasticity, efficiency, celerity, and the ease with which it has adapted itself to the requirements of modern industry. The peril of the hour appears to be that from exaggerated solicitude about giving certain traders larger profits we may by excessive interference impair these virtues.

In regard to this subject definiteness is everything. I venture to make suggestions as to some expedient corrections in legislation; it will be easier to pick holes in them if stated in detail. It may seem strange to sketch the outlines of a new Bill before the existing Act has come fully into operation. But the chief sections relating to this subject are so vague and unsatisfactory that further legislation may be soon needed.

7.—SUGGESTED HEADS OF A CANAL AND TRAFFIC BILL.

(a) Abolition of maximum rates and statutory classifications as useless. They give the customer an appearance of protection which they do not afford; they require periodical revision if they are not to be unjust and far removed from the actual rates.

(b) No interference, directly or indirectly, with rates which are the result of competition. Rates from A to X, 10s.; rates from B to X, the same distance, only 5s., there being competition by sea or otherwise. The courts have avoided clearly saying when, in such circumstances, there is undue preference. When competition really operates the excuse for interference is gone.

(c) No interference with group rates; let alone, they will be formed where they are convenient, according to the requirements of trades, and not according to the opinions of courts of law, and they may become the germs of a system of zone tariffs.

(d) Interference as heretofore with discriminations between persons really in the same circumstances; none when the value and utility of the services are different, even if the cost of performing them be the same.

(e) Interference when one line of traffic—for example, long distance traffic—is carried at a loss, which is made good in whole or part by enforcing high rates on other kinds of traffic, with the effect of unfairly diminishing profits.

(f) Interference when it is apparent that the amount of traffic is artificially restricted; when experience as to other parts of the same railway or in similar circumstances shows that the rates are so high as to diminish the volume of traffic.

(g) No change in rates without reasonable notice. Section 33 (6) of the Act of 1888 imperfectly provides for this. Fourteen days' notice may be much too short for people who give quotations and make contracts on the faith of certain rates.

Were these changes made, all would not be satisfactory: the clash of interests which renders a perfect solution impossible would exist. But we should have a simple and intelligible system. Attention would not be concentrated exclusively upon the relations and interests of railway companies and their customers. We should thus be most likely to retain the merits of the English railway system.

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