

Transcontinental Rates

by Floyd Brown Danskin

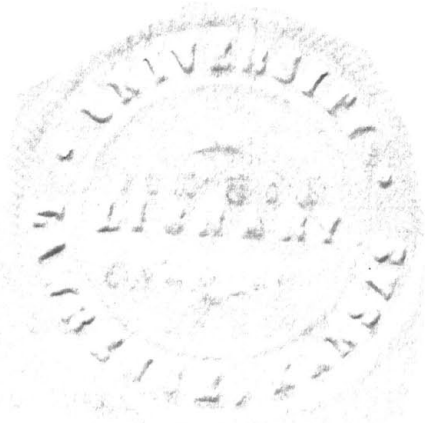
1913

Submitted to the Department of Economics of the University of Kansas in partial fulfillment of the requirements for the Degree of Master of Arts

TRANSCONTINENTAL RATES

F. B. DANSKIN

1913



RATES

TRANSCONTINENTAL RATES

A Thesis Submitted
to the
Faculty of the Graduate School
of the
University of Kansas
in Partial Fulfillment of the Requirements
for the
Degree of Master of Arts
in Economics

by

F. B. Danskin

1913.

Introduction

In this short study of Transcontinental Rates an attempt has been made to trace the situation from the beginning of transcontinental transportation to the present time. Beginning with the first water routes around Cape Horn and across the Isthmus of Panama, the changes caused by the entrance of railroads in the field, their early struggles to gain a footing, and their attempts to restrain their water competitors, are traced to the present time.

A special division is made for discussing the preliminary investigations leading to the enactment of the Interstate Commerce Act and the establishment of the Interstate Commerce Commission. Following this is a short account of the early attempts of the Commission to solve the transcontinental transportation problem and the rules then laid down which have been adhered to ever since.

The greater part of the study is devoted to an analysis of the intermountain complaints as illustrated by the city of Spokane in which the Spokane case is traced from its beginning in 1889 to its present consideration by the Supreme Court.

A general summary is then attempted in order to show the different ^{view} ~~new~~ points of the interested parties, - the railroads, the intermountain cities, and the Commission, - and the conclusions that appear to follow naturally from an examination of past experience.

Transcontinental Rates

Outline

Part I. Early History of Transcontinental Transportation.

First Water Routes .

 Cape Horn .

 Panama Route .

First Transcontinental Railroad, 1869 .

 Struggles with Water Competition .

 Special Contract System .

 Negotiations with Pacific Mail .

Later Roads .

First Transcontinental Association .

 Introduction of "Market Competition",

 Tehautepec Route and the American Hawaiian Line.

Part II. The Entrance of the Interstate Commerce Commission in 1887, and its attempts at interpretation of the Law.

 Windom Committee. 1874 .

 Reagan Bills - 1878 .

 Cullom Committee. 1886 .

Passage of the law, 1887 .

Provisions of the Interstate Commerce Act.

Transportation conditions in 1887.

Preliminary work and attempts of the Commission to formulate its policy or procedure.

The Long and Short Haul Theory.

The Louisville-Nashville Case .

The Transcontinental Situation .

The Denver Case.

Attempts by the Commission & Rys. to adjust the Transportation Problem.

Part III. The Transcontinental Rate Problem as Illustrated by the Complaint of the Intermountain Cities, and Particularly by the Spokane Case.

Situation at Spokane .

Location of City .

Railroads .

Complaint of Spokane .

Decision of the Court .

Appeal to enforce Commission's order .

Case submitted again 1907.

Complaint of City .

Discriminatory Rates .

Privileges withheld .

Unjust rates to Spokane .

Commission's decision.

Class rates reduced 16 $\frac{2}{3}$ % .

Order of the Com. postponed by petition of Union Pacific.

Proposal of Gt. Northern & Nor. Pacific, 1910.

Change of Law, 1910.

Zone System instituted by Commission.

Injunction to restrain Commission's order.

Part IV. Summarization of the Situation.

Characteristics of transcontinental roads.

Complaints of Intermountain Cities.

Rys. side of the question.

Water Competition.

Market Competition.

Commission's attitude throughout.

Great freedom to roads at first.

Gradual change in attitude.

Examination of both sides of the question.

Criticism of market competition.

Conclusions.

Early History of Transcontinental Transportation.

In the field of transportation probably the most interesting subject is rate-making. From the purely theoretical discussion of the proper principle on which rates should be based to their intensely concrete application, ^uwhere competing localities are striving for the same business, the problems presented are varied and intricate. These problems however, so puzzling in ordinary traffic, are much larger and harder of solution in the case of the transcontinental railroads.

By the term transcontinental-road is not meant a road which runs from the Atlantic to the Pacific Coast, as is often supposed by the ordinary person, but it refers to any railroad starting from an eastern terminus, located anywhere on a north and south line drawn from New Orleans to Chicago, and running to a point on the Pacific Coast. Because of the numerous trunk lines in the territory east of their terminals it has been found useless for transcontinental lines to have eastern connections and might be worse than useless if it prevented free bargaining with the competing trunk lines. There are six principal transcontinental lines, the Great Northern, from St. Paul along the northern boundary of the United States to Spokane and Portland, the Northern Pacific from Duluth to Spokane and Seattle, the

Chicago Milwaukee and St. Paul from Chicago and St. Paul to Butte and Seattle, the Union Pacific from Omaha through Ogden to Portland, the Atchison Topeka and Santa Fe from Chicago through Kansas City and Santa Fe to San Francisco, and the Southern Pacific from New Orleans to Los Angeles San Francisco and Portland. All of these roads have to cross the continental divide and long stretches of country that furnish little, if any, local traffic. Also they must compete on through freight from the Atlantic to the Pacific Coast with water transportation from the east around South America or across the isthmus. This system of water transportation developed much earlier than that by rail and is said to be in a large way responsible for many of the anomalies in the transcontinental rate-making system.

Because of its importance in early transcontinental transportation and its effect ever since, a short account of the water transportation system is well worth our notice. The oldest route between the east and west coasts of the United States is the one taken by sailing vessels around Cape Horn. For a long time, however, only tramp trading vessels or whalers undertook the voyage, but the discovery
1 of gold caused a great increase in traffic. In 1849, 775 vessels cleared from the Atlantic seaboard for San Francisco and all but 12 were sailing vessels. In 1855 when the

Panama railroad was opened the longer route was largely abandoned and most of the traffic between the two seaboards moved by the isthmus. A large number of sailing vessels however still made use of the Cape Horn route. The Panama Route was the principal competitor of the first transcontinental road in 1869. In 1900 the American Hawaiian Steamship Company, which had formerly been operating a line of sailing vessels around Cape Horn, sold them and put in a line of steamships, in this way the time was cut down to about 60 days instead of 175 or 200 and the date of arrival could be known with more certainty. The cost of insurance was reduced and the element of uncertainty largely eliminated causing this route to become very attractive.

The Tehautepee route was opened for traffic early in 1907 by the American-Hawaiian Steamship Company which had made an agreement in 1906 with the Tehautepee National Railway owned by the Mexican Government to have its traffic from Puerito Mexico to Salina Cruz for which the railroad company was to receive one third the through rate. The Mexican government also guaranteed the Steamship Company that their net earnings would not be less than they had been in 1904 when the steamship company was operating by way of the straits of Magellan. The railroad company, however, did not have to reduce its earnings to less than 25 % to make this guarantee effective.

This Tehauntepec route has been a very successful one for the American Hawaiian Company. Their steamships increased from 3 in 1899, to 17 in 1911, when five more were ordered.

The first two routes, then, the Cape Horn route and the Panama route, were the only ways in which goods could be shipped from one coast to another until 1869 when by the union of the Central Pacific and the Union Pacific the first transcontinental road was completed. The water transportation system was, however, the first in the field and was carrying traffic at very low rates which had to be equalled or very nearly so by the railroad to secure traffic for its Pacific terminals. The road was not very successful in its first endeavors to secure freight as all but the higher
2 grades of merchandise continued to be carried by the water routes. It was estimated that as late as 1878 not over 25 % of the total tonnage moved into California by rail. At that time the road began what was known as the special contract system in order to increase its traffic. In this system individual contracts were made by the railroad with each shipper in which the shipper promised to patronize the rail route exclusively and the road promised special freight rates. These special rates were determined by examining

- - - -

the records of the shipper for a few years previous to ascertain the exact amount of the shipments, the freight paid, the insurance and other risks. The rates offered did not have to be as low as the water rates but low enough so that with the other advantages it was to the shippers' interest to use the rail route.

Although not very popular at first this method of bargaining and shipping was soon used by nearly all the jobbers in San Francisco, and when the contract system was abolished in 1884 it is estimated that the percentage of rail tonnage had risen from 25 to between 60 and 75 per cent. The plan had been successful in securing to the railroads a large share of traffic and had given them a stable position in the field of competition for transcontinental traffic. By a logical application of the principle of charging what the traffic would bear the steamship competition by way of Cape Horn had been overcome.

The Panama route was dealt with differently. It was in the hands of the Pacific Mail Steamship Company when, in 1871, the Union Pacific and Central railroads entered into an agreement to ^{be}subsidize the Pacific Mail by buying its space at an agreed figure and often running the steamships empty.

- - - - -
3. I. C. R. Vol. IX. pp 336

4. I. C. C. R. Vol. XXI. pp 347.

In 1881, when the Atchison, Topeka and Santa Fe by a connection with the Southern Pacific became a transcontinental line, a trans-continental association was organized and took over the control of the Pacific Mail, and kept possession of it until 1893.

In 1883 a new transcontinental competitor entered the field in the shape of the Sunset Gulf Route, composed of a water route from New York to New Orleans owned by and connected with the Southern Pacific from New Orleans to San Francisco. This route was started for the purpose of "taking care" of the water traffic, according to those interested, and, because of the vigorous policy pursued, the clipper ships and tramps were driven out of existence and only the Pacific Mail was left to continue its subsidized competition for through traffic.

3 It was in the year 1883 also that the Northern Pacific was opened for traffic to the Pacific Northwest, and in the following year by the competition^{1g} of the Oregon Short Line and the Union Pacific, reached Portland. The increased number of rail lines naturally caused a division of interests and an increase of competition among the rail routes for transcontinental traffic. Because of this increased competition the contract system, which had been used since 1878

by all lines, broke down as the various lines could not agree among themselves as to the division of traffic and the maintenance of established rates. A large share of the disturbance was caused by the Santa Fe in 1883 when it reached Mojave and obtained from the Southern Pacific, by lease and purchase, rights to the north of that point in California and made it in effect a California through line. Upon the strength of this claim the Santa Fe now demanded a larger share of the business than the members of the transcontinental association were willing to allow. A dissolution of the association occurred followed by a rate war which lasted for over a year. These were the days when all sorts of rates could be had and all sorts of tariffs could be found. Published rates were merely nominal and the real rate was a secret one agreed upon by the shipper and the railroad. Different rates were made by different roads to the same person and different rates were made by the same road to different persons. Cut-throat competition was at its height and the desire to secure traffic overruled every other consideration. At the end of a year all parties concerned were willing to stop the quarrel and the transcontinental association was reorganized with the object of making and maintaining stable transcontinental rates.

The Santa Fe was also responsible for another development in transcontinental traffic when it entered the field.

1 Throughout the period of competition between ocean and rail lines and after the water competition had been eliminated, an interesting rate condition was in existence. Class rates to Pacific coast terminals increased with the distance and were higher from Atlantic sea board points than from interior points; commodity rates, however, which were created to meet special conditions at the sea-board, were lower at the ports than at the interior points. An explanation of the terms, class-rate and commodity-rate, should be made here. The former refers to the rates which are applied to traffic in the regular tariffs where all goods are divided into ten classes. The first five classes are numbered from one to five and the last five are designated by the letters A. B. C. D. & E. A commodity rate is a rate that is applied to a particular article because of unusual circumstances, in order to secure its transportation and no attention is paid to its class. These commodity rates were graded up from New York when the Santa Fe entered the field. That is, the rates from Pittsburg territory to California and from Chicago to California were higher than from New York, ^{the} ~~The~~ theory ^{of} ~~for~~ the railroads being that they should meet the competition where it existed, at the seaboard. The Santa Fe found the Sunset Gulf route carrying practically all of the Atlantic Seaboard

business at rates below the all-rail rates--at any rates that would secure the business. The Sunset line had sent out its steamers and driven all the other ships from the ocean for the benefit of the rail carriers, but it had not seem right to the Santa Fe that all the traffic should be left for the Southern Pacific. The Santa Fe had its terminus at Chicago, the Southern Pacific at New York. Hence the Santa Fe and Union Pacific declared that they would give the same rates from Chicago that the Southern Pacific did from New York and thus allow the cities of Chicago, St. Louis and Kansas City the same opportunity to manufacture for the people of California which the Southern Pacific had given to the people of New York and Boston. It was claimed that the middle west was building up and that market competition demanded this innovation in railroad policy. The principle of market competition will be treated later but it is well to notice its beginning in 1885 by the Santa Fe.

As might easily be imagined the new policy of the Santa Fe caused a great deal of friction resulting in a rate war which culminated in 1887 in the installation of a new set of rates, this time scaling lower as they receded from the Atlantic seaboard. It was in this year that the Inter State Commerce Commission was established and a new era was begun in transcontinental traffic.

Water transportation was the first used between the two seaboards and followed two routes, one by Cape Horn and one by the Isthmus of Panama. When the railroads entered the field special inducements had to be offered to secure traffic. By special contracts the majority of the freight was secured to the railroads and they then proceeded to drive the steamships out of business by subsidizing the Pacific Mail and competing vigorously with the Sunset Gulf line. The competition of new roads to the coast caused competition to develop among the rail routes leading to fiercely fought rate wars.

Part II. The Entrance of the Inter-state Commerce Commission.

The creation of the Inter-State Commerce Commission was the direct result of the rate wars with their attendant discriminations which aroused the indignation of the country at large. One investigation had been made in 1874 followed by the Windom report, but no action had been taken on its recommended actions. The Regan bill was first introduced in 1878 and kept before the people for the next nine years. In 1886 another committee--the Cullom Committee--was appointed to make another investigation and its recommendations materialized in the Interstate Commerce Act of 1887.

This act embodied the British and American common law principles on transportation and was the first attempt by

the Federal Government to exert any control over the railroads of the country. The act was applicable to any common carrier engaged in the transportation of passengers or property wholly by railroad, or partly by railroad and partly by water, when both were used under common control from one part of the United States to another or from one part of the United States through a foreign country to another part of the United States provided that the transportation or related service was not wholly within one state. All charges for transportation were to be just and reasonable. Those that were not were prohibited. The sections of most importance to transcontinental traffic and rates were the first part of the third, and the fourth sections which were as follows:

" Sec. 3. That it shall be unlawful for any common carrier subject to the provisions of this act to make or give any undue or unreasonable preference or advantage to any particular person, company, firm, corporation or locality or any particular description of traffic in any respect whatsoever, or to subject any particular person, company, firm, corporation or locality or any particular description of traffic to any undue or unreasonable prejudice or disadvantage in any respect whatsoever."

- - - -

" Sec. 4. That it shall be unlawful for any common carrier subject to the provisions of this act to charge or receive any greater compensation in the aggregate for the transportation of passengers or of like kind of property under substantially similar circumstances and conditions for a shorter than for a longer distance over the same line in the same direction, the shorter being included within the longer distance; but this shall not be construed as authorizing any common carrier within the terms of this act to charge and receive as great compensation for a shorter as for a longer distance. Provided however, that upon application to the Commission appointed under the provisions of this act, such common carrier may, in special cases, after investigation by the commission, be authorized to charge less for the longer than for shorter distances for the transportation of passengers or property; and the Commission may from time to time prescribe the extent to which such designated common carrier may be relieved from the operation of this section of this act."

Two other provisions of no little importance to trans-continental traffic were contained in the fifth and sixth sections in which pooling of freights and earnings was prohibited and the carriers were compelled to file copies of schedules with the Commission.

The field for action by the Commission opened up by the Interstate Commerce Act was exceedingly large but only that connected with the transcontinental traffic can be touched upon here. In the first place the Commission found a great variation in the methods of classification among the different roads. Every locality has some product which it is anxious to market as widely as possible and a difference in classification among the different roads as to this article might make a great difference in the extent of that market. Compromises of every kind had to be made before a uniform classification could be expected, and this the Commission started to secure at once. A great difference was found to exist in the rates as might be expected after several years of rate wars and the use of secret bargains and private schedules. Different rates were charged for the same articles and different principles were used in the determination of these rates as one company attempted to develop a market for some product which it desired to carry.

The largest problem however, was concerned with the long and short haul. The rate wars that had preceded the passage of the inter-state Commerce Act had resulted in material reductions of rates to terminal points which were not shared in by the intermediate points. A difference of opinion arose among the different traffic managers as to

1 the exact meaning of the fourth section. Some of the managers claimed that a greater charge for a shorter haul over the same line was not prohibited when the circumstances were dissimilar, and, in their opinion, the competitive circumstances controlling the business of long distance traffic were such as to constitute dissimilar circumstances. Others, however, were not willing to assume the responsibility for so construing the section and tariffs were published in which the language of section 4 was literally applied upon all transcontinental business. The result was a great increase in transcontinental rates, which was regarded by shippers as prohibitive, and freight receipts fell off to an enormous extent. The Commission was asked by letters, telegrams, and petitions from Pacific Coast business men to interfere for their relief. Many other applications of the same character were received at the same time.

The Commission after having made sufficient investigations into the facts of each case to satisfy itself that a prima facie case for intervention existed, made temporary orders for relief under the fourth section where such relief was believed to be most imperative.

2 The entire subject of the long and short haul was considered in the Louisville and Nashville Railroad Case. The

1. I. C. R. Vol. II. p 14

2. I. C. R. Vol. I p 31

opinion handed down in this case is very important as it constitutes a precedent for all subsequent rulings in long and short haul cases where dissimilarity of circumstances, particularly of water competition, has been urged. It was held in this case that:

"When a railroad company claims that the circumstances and conditions of long and short hauls on its lines are so dissimilar as to justify its making the greater charge on the shorter haul, the Commission will not on its own petition decide upon the justice of its claims but will leave it to take the initiative in fixing rates and will decide upon their justice and propriety when complaint is made by persons or localities who consider themselves injured."

"On questions of statutory construction involved in such cases the Commission held

First. That the prohibition in the fourth section of the Act to Regulate Commerce against a greater charge for a shorter than for a longer distance over the same line in the same direction, the shorter being included in the longer distance, as qualified therein is limited to cases in which the circumstances and conditions are substantially similar.

Second. That the phrase "under substantially similar circumstances and conditions" in the fourth section, is used in the same sense as in the second section and, under the qualified form of the prohibition in the fourth section,

carriers are required to judge in the first instance with regard to the similarity or dissimilarity of the circumstances and conditions that forbid or permit a greater charge for a shorter distance.

Third. That the judgment of carriers in respect to the circumstances and conditions is not final, but is subject to the authority of the Commission and of the courts to decide whether error has been committed or whether the statute has been violated. And in case of complaint for violating the fourth section of the act the burden of proof is on the carrier to justify any departure from the general rule prescribed by the statute, by showing that the circumstances and conditions are substantially dissimilar.

Fourth. That the provisions of section one requiring charges to be reasonable and just, and of section two forbidding unjust discrimination, apply when exceptional charges are made under section four as they do in other cases.

Fifth. That the existence of actual competition which is^{of} controlling force in respect to traffic important in amount, may make out the dissimilar circumstances and conditions entitling the carrier to charge less for the longer than for the shorter haul over the same line in the same direction, the shorter being included in the longer in the following cases:

1. When the competition is with carriers by water

which are not subject to the provisions of the statute.

2. When the competition is with foreign or other railroads which are not subject to the provisions of the statute,

3. In rare and peculiar cases of competition between railroads which are subject to the statute, when a strict application of the general rule of the statute would be destructive of legitimate competition.

Sixth. The Commission further decides that when a greater charge in the aggregate is made for the transportation of passengers or the like kind of property for a shorter than for a longer distance over the same line in the same direction, the shorter being included in the longer distance it is not sufficient justification therefor that the traffic which is subjected to such greater charge is way or local traffic, and that which is given the more favorable rates is not. Nor is it sufficient justification for such greater charge that the short haul traffic is more expensive to the carrier unless when the circumstances are such as to make it exceptionally expensive or the long haul traffic exceptionally inexpensive the difference being extraordinary and susceptible of definite proof. Nor that the lesser charge on the longer haul has for its motive the encouragement of manufactures or some other branch of industry. Nor that it is designed to build up business or trade centers.

Nor that the lesser charge on the longer haul is merely a continuation of the favorable rates which trade centers or industrial establishments have been ~~built~~ up.

The fact that long haul traffic will only bear certain rates is no reason for carrying it for less than cost at the expense of other traffic!"

By this decision the Commission allowed the carriers to determine in the first place whether or not circumstances were so dissimilar as to allow a greater charge for a shorter than for a longer haul, when the shorter was included in the longer ^{au}haul. Then, if this was unsatisfactory, the shippers or interested persons could file complaints and the matter would be taken up by the Commission. The reason for such a decision can easily be understood when it is remembered that the fourth section was of a revolutionary nature, ^{and} that in an unregulated rate practice, as had formerly existed, there were almost innumerable instances where greater charges were asked for a shorter than for a longer haul, and still many of the instances were undoubtedly justifiable under the law. Thus in order to save needless time and expense which would ensue if the Commission should examine each individual case, the railroads were asked to look into the cases where greater charges were made for shorter than for longer hauls and determine for themselves whether or not

such practices were in accordance with the law.

It must be apparent at first glance however that such a decision placed a great responsibility in the railroads and assumed that they would not violate the trust granted to them. When one considers the great variety of interests involved and the various circumstances under which traffic is handled, it must be evident that it is no hard matter to show dissimilarity of circumstances at nearly every shipping point if it is desirable to do so. The Commission was very generous in leaving the determination of the exact merits of different instances of greater charges for shorter than for longer hauls to the railroads and continually advised charges in tariffs to conform with the provisions of the law and in all cases ample time was allowed in which to make the necessary modifications.

I. In the first annual report the Commission said: "Tariffs are from time to time filed with the Commission showing a reconstruction of the rates in the direction of the rule laid down in the fourth section. The carriers making them sometimes protest that the rates are not voluntarily made, but only because the law so requires and that they will involve a large loss of revenue. This apprehension is in some cases supported by strong probabilities."

- - - -

1. First Annual Report I.C.C. p 20.

More trouble was experienced with the transcontinental lines than with others and in the same report the Commission says: "The Transcontinental roads have not conformed to the general rule of the fourth section. By the managers of these roads it is contended that in view of the competition which they must meet, not only of ocean vessels but of the Canadian railways, it will be absolutely impossible for them to comply with the strict rule of the fourth section without surrendering a very large portion of their through business and that such surrender will be equally ruinous to their own interests and to many other large interests on the Pacific Coast."

One of the first if not the first transcontinental rate case brought to the attention of the Commission and heard by them was the Denver case on which a report was filed May 17--1888. This case presented the question whether the transcontinental roads could properly exact a greater charge for transportation from the Pacific Coast to Denver than to Kansas City some 600 miles farther east. One fact developed at the hearing was the great difference made in freight charges to shippers by means of different classifications and different rules for the same classification. Two classifications were in use from the Pacific Coast. One,

the Western classification, was used on the Pacific Coast to points west of the Missouri river, and the Pacific Coast East Bound Classification was used on the Pacific Coast to Missouri River points to Chicago common points and to New York and common points. These two classifications ^{differed} ~~widely~~ ^{widely} different in many respects as in different classes for the same articles, and different regulations as to mixed car loads, and different rates for less than carload lots.

Separate tariffs were issued for the business conducted under these classifications. The one subject to the Western classification reading. "Joint through tariff between San Francisco and other Pacific points and all points on the Union Pacific System east of Ogden, in Utah, Wyoming, Nebraska and Kansas." The natural supposition would be that this tariff applied to Omaha, Atchison, Leavenworth, and Kansas City, the same as to Denver, but another tariff was used on the business from the same Pacific points to points on the Missouri River which was subject to the Pacific Coast East Bound Classification. And at the same time that classification contained on its face a statement of the roads that employed it, thus excluding the idea that it was used on business to the eastern terminals of the road in question.

The differences that were made in favor of those ^{who} ~~that~~

understood the tariffs and were able to secure the favorable rate may be illustrated by the difference made in the two commodities, dried fruits and raisins, which were considered in the case.

1 "In the Western Classification dried fruits are rated L.C.L. Class 3; C.L. Class 4. In the Pacific Coast East Bound Classification the same articles are rated L.C.L. class 5, C.L. class 7. Raisins in the Western Classification stand L.C.L. Class 2, C.L. Class 3. In the Pacific Coast East Bound Classification they stand L.C.L. Class 4, C.L. Class 7. The Western Classification gives a higher carload rate on raisins than on dried fruits. In P. C. E. B. C. raisins and dried fruits in car lots are in the same class. Both classifications rate raisins higher in L.C.L."

The Pacific Coast East Bound Classification, which was applied only upon long distance freight to the Missouri River and beyond, was prepared for the purpose of facilitating a free and cheap movement of California products to competing trade centers in the East. The local business was handled under the Western Classification and was charged much higher rates.

At the hearing the carriers relied upon competition by the Canadian Pacific Railroad Company, a foreign corporation,

- - - -

as the justification for the rates made. At the time when the Act to Regulate Commerce went into effect the Canadian line then recently opened from Vancouver Sound to various points of connection with lines in the Eastern states entered upon active competition for through business in both directions between all Pacific Coast points and all parts of the United States on or east of the Missouri river. In this effort to secure traffic it was the policy of the Canadian road to make rates upon leading articles a little below the rates made by transcontinental lines in this country. This was to compel the recognition by the American lines of the principle that rates upon a circuitous line between like terminals should be lower than rates upon more direct lines in order to enable the longer route to obtain some portion of the traffic; or that "natural disadvantages operating to the prejudice of a route competing for the business in question should be compensated by the privilege of offering to the public a lower rate." As a part of their plan arrangements were made with a steamer line leaving San Francisco weekly for Vancouver to take shipments of freight upon through rates to various points in the Eastern States. The competition was so managed as to make itself felt successively upon different articles sent to different points and it seriously affected all transcontinental business in both directions.

This situation as to the through business brought about an arrangement among the lines in January, 1888, by which the Canadian Pacific became a member of the trans-continental association of roads and agreed with the other lines upon through rates considerably lower than had previously been maintained. It was understood in this agreement that the Canadian Pacific should be allowed certain differentials or in other words that the charges by that line should be less by from 5 to 10 per cent on the various classes than the rates charged by the lines in the United States. And as no differential was provided for at Missouri River points the Canadian road was understood as retiring from competition in respect to that business.

In giving their opinion on this case the Commission said that, as Canadian competition had ceased to participate in the Missouri River business since the petition was filed, it was impossible for them to see any reason for charging a higher rate from San Francisco to Denver than to Kansas City. It was stated that there was no intent to modify the construction of the statute as laid down in re Louisville and Nashville Railroad Company, and that this decision was in strict conformity with that one. As the Commission had been informed that the traffic managers of the various continental roads were engaged in considering a general re-construction of their tariffs and classifications and believing that an

effort was being made in good faith to re-adjust the local tariffs of the transcontinental lines and to simplify and combine their classifications in accordance with the requirements of the law and the views of the Commission, it was considered best to drop the matter for a while, and allow the carriers an opportunity to complete the change. For this reason no order was made.

1 On September 1, 1888, a new system of trans-continental rate making was put into effect. One of the most important changes made was in respect to the classification of freight. As has been noted above in the Denver case two classifications had been used at the same time. Under the new system of rate making the Pacific Coast Classification was ~~discarded~~ and the Western Classification alone retained, enabling a close comparison of rates as far as class charges were concerned.

The method adopted for reconstructing the tariffs west of the Missouri river caused a great deal of complaint at points between the Missouri river and the Atlantic. The seaboard rates did not vary materially from those that had previously been in force on ocean-to-ocean traffic but rates from points west of the Atlantic Coast as far as the Missouri river were quite materially increased. The justification for this infringement of the long and short haul clause was

claimed to be the water competition encountered at the sea board. This competition the trans-continental association claimed was actual and of controlling force as there were several lines of clipper ships that would carry most of the business if the railroads did not approximately meet the rates made by them. This traffic the railroads said could not be given up as the sea-board business constituted fully 40 % of the revenue derived from traffic carried by trans-continental lines. If the ships should take freight destined to an interior point east of San Francisco, the freight would then be subject to the local rate from the coast to the destination and in such an event the competition would begin at the Atlantic seaboard and end at the Pacific coast.

To provide for certain traffic originating west of the Atlantic Coast for the Pacific Coast a number of commodity tariffs were issued to apply from certain points at rates considerably lower than such freight was subject to if it had been compelled to pay the class rate. These tariffs bore this notation. "Rates as provided herein will only apply upon such articles and from such points as are specifically mentioned." When examined these rates were found to be almost invariably the Atlantic seaboard rates. Many of the eastern inland cities, such as Chicago and St. Louis, that were not named in the tariffs, at once raised a storm

of opposition to these tariffs and a series of supplements were issued by the roads increasing the points from which such commodity rates applied.

This system of making special commodity rates, from certain specified points only, did not meet with the approval of the Commission and in a conference with the representatives of the transcontinental lines the opinion was given that this system was objectionable in that the rates were given to favored points only and the roads intended to allow other points to be included if application should be made showing that some considerable amount of traffic would follow.

1 "Why one rate should be named on hammers and hatchets from Cohoes and another from Troy or Schenectady; why wind mills should have a certain rate established from forty-six specified points named in the various tariffs of the series to the exclusion of all the rest of the United States presents a question to which no answer can be found in the tariffs themselves. It is no doubt, however, the fact that the enumerated places as to each commodity are the places where the respective articles are chiefly manufactured for California consumption. In fact it has been semi-officially announced that manufacturing points, where important shipments of each commodity have been heretofore received for the Pacific Coast, have been selected and named, and that it is the

- - - -

intention to supplement these lists with new points when any important amount of traffic in the articles named shall be offered for shipment by manufacturers or producers. If these rates are just and reasonable from the selected points ranging as they do through the entire territory east of the Missouri river and west of the Atlantic sea-board it would seem to follow that they would likewise be just and reasonable from all other points in the same territory. What right has a common carrier to keep this hold upon merchants and manufacturers? Where is its power to say to the people of the United States, as these tariffs practically do, that if any citizen desires to start a new industry for the California market he must ask the permission of the Trans-continental Association? It is not easy to see what interests the carriers seek to promote by maintaining this policy of exhibited power; the result of it is that they are enabled to say who shall ship to California and who shall be excluded from shipping."

As a result of the above opinion of the Commission expressed at the conference, the roads issued a circular governing all west bound traffic destined to Pacific Coast terminals originating at the Atlantic seaboard and common points, and west thereof and east of the 97th meridian of longitude. The effect of this was to establish the principle that no higher rate could be charged to Pacific Coast points

on any articles from points between the Atlantic ocean and the Missouri River than was charged on the same articles from points situated on the Atlantic seaboard.

The Commission was greatly pleased with this change both in classification and in rates. In their second annual report they said: "The Transcontinental rates have received a large share of the attention of the commission during the year. - - - - The changes made were very radical, and were in the direction of conformity to the fourth section of the law. They resulted in many reductions at intermediate points in part compensated by some increase upon through business--^{to} Many changes were made and more are in contemplation; suggestions made by the Commission to the representatives of the lines have been promptly acceded to. The ocean competition is still recognized by the roads to some extent as controlling through rates upon overland traffic, and is relied upon as a justification for somewhat higher rates to points this side of Pacific coast terminals than are made to points situated directly on the Pacific coast. With this exception and some others of minor importance the rule of the short haul provision of the law has been put in force upon the transcontinental roads, where its operation and effect can be observed under what now appear to be favorable conditions."

- - - -

1. Second Annual Report of I.C. C. p 14.

Part III. The Transcontinental Rate Problem as Illustrated by the Complaint of the Intermountain Cities, Particularly Spokane.

Probably the most serious part of the trans-continental rate problem is involved in the treatment of the intermountain cities of which Spokane is typical. This problem is ~~so~~^{very} difficult of solution and has received more attention than any other phase of the transcontinental rate situation. For these reasons it is proposed to devote the greater part of this study to that part of the question, tracing the Spokane complaint through its various developments down to the present time.

The first complaint was filed by the Merchant Union of Spokane against the Northern Pacific Railway in 1889.

1 The complainant represented the city of Spokane in the state of Washington and was an organization of men to secure reasonable and equitable rates to and from Spokane. When the case was begun in 1889 the N. P.^{orthern Pacific} was the only road reaching Spokane, but in October that year the Union Pacific completed a branch from that city to Pendleton, and as it maintained the same rates to Spokane that the N.P. did the Commission made an order on April 21st 1891 allowing it to intervene as a party to the proceeding.

The N. P. owns and operates a line of railway from Ashland, Wis. to Portland, Oregon and Wallula, Wash. a distance of 2,137 miles. Its principal eastern termini are St. Paul, Minneapolis and Duluth in Minnesota, and its principal western termini are the city of Portland in Oregon, and the cities of Tacoma and Seattle in the state of Washington. Spokane is in eastern Washington on the main line of the N. P. Ry. and is 1,512 miles west of St. Paul and 544 miles east of Portland, and the distance from Spokane to Tacoma and Seattle is about 400 and 440 miles respectively.

The Union Pacific main line extends from Council Bluffs Iowa, to Ogden, Utah, where it connects with the Southern Pacific to form a trans-continental line to San Francisco. Both of these roads have many branch lines, among those of the U. P. is the one from Pendleton to Spokane and one from Pocatello, Idaho, to Helena, Montana, which is also on the main line of the N. P. about 1,130 miles west of St. Paul. The distance from Chicago to Portland by the Union Pacific is 200 miles less than by the N. P. But Spokane is 400 miles nearer to Chicago by the N. P. than by the U. P. while from St. Paul to Spokane by the N. P. is much less.

Spokane itself is the largest city in eastern Washington and is situated at the falls of Spokane river in the center of a splendid agricultural and mining country that extends for about 150 miles on all sides of it. Its competitors

are separated from it both on the east and west by mountains that are very difficult for railroads to cross. Everything seems to indicate that Spokane is to be a great distributing center for a large and prosperous territory.

The chief competitors for this territory are the western terminals of the Northern Pacific, Portland, Tacoma, and Seattle, which are all situated on navigable rivers connected with the Pacific Ocean, and the interior towns of Ellensburg in Washington, Genessee in Idaho and Missoula in Montana. The facts showed that Portland, and possibly Seattle and Tacoma, received rates by rail on through shipments from the east very much lower than Spokane could and hence were able to undersell the wholesale merchants of Spokane in all their territory and even to compete for some trade in the city of Spokane itself. Tacoma and Seattle are similarly situated and their competition is of the same nature as that of Portland. Ellensburgh and Genessee, because of their inferior size, do not compete to any great extent with Spokane. Missoula, however, 250 miles to the east is a serious competitor of Spokane for the reason that its rates from the east are proportionally much less than those accorded to Spokane.

1 The freight rates complained of were made by the North-

- - - - -

ern Pacific Railroad and the transcontinental association of which both defendants were members. The trans-continental Association was composed of the following roads. Atchison Topeka and Santa Fe; Atlantic and Pacific; Burlington and Missouri River; Canadian Pacific; Chicago Rock Island and Pacific (West of Missouri River) Colorado Midland; Denver and Rio Grande; Great Northern; Missouri Pacific; Northern Pacific; Oregon and California; Rio Grande Western; Southern California; Southern Pacific; St. Louis and San Francisco; Texas and Pacific, and Union Pacific. The territory covered by this association included common points east of the 97th meridian, located on the roads of the Association and points east from there on roads with which the association had an agreed basis for the division of rates, and on the west there were the Pacific Coast Terminals and Intermediate Points.

1 These intermediate points are points located on roads of the association on direct lines over which traffic passes in reaching any of the following terminals:

1. San Francisco, Sacramento, Marysville, Stockton, San Jose; & Oakland California when routed via any of the lines^{of} the association except the Canadian Pacific Ry.

2. Los Angeles & San Diego, California when routed via any of the lines of the association except the Canadian Pacific Ry., the Northern Pacific R. R. or the line of the Union Pacific System via Huntington & East Portland.

3. Portland, East Portland & Albina Oregon when routed via the Canadian Pacific Ry. Northern Pacific R. R. or Union Pacific System; & via Ogden, Roseville Junction El Paso, Mojave and Mt. Shasta route.

4. Astoria Ore. when routed via the Canadian Pacific Ry. Northern Pacific R.R., or Union Pacific System only.

5. Tacoma, Seattle, Port Townsend, Olympia, Anacortes Fair Haven, New Whatcom, Edmonds, Everett, Blaine, & Quarter Master Harbor Wash. Victoria, Nanaimo. & Ladner's Landing B. C. only when routed via the Canadian Pacific Ry. Northern Pacific R.R. or Union Pacific Ry & steamer from Portland Ore.

6. Vancouver & New Westminster B. C. only when routed via the Canadian Pacific Ry, or Northern Pacific R. R.

1 The territory between the 97 meridian and the Atlantic seaboard is divided into six groups or territories as follows

1. Missouri River Common Points.
2. Mississippi River Common Points.
3. Chicago-Milwaukee & Common Points.
4. Cincinnati-Detroit & Common Points.

- - - -

5. Pittsburgh-Buffalo & Common Points.
6. New York, Boston, Philadelphia, Baltimore and points common with each.

Each of the ten classes into which the traffic is divided ordinarily has a different rate between the same points. The Western Classification which is used in the tariffs of the trans-continental association, is made by a committee representing lines leading westward from Chicago and the Mississippi River and governs all through and local traffic on such lines, but on trans-continental lines its application is extended to include shipments originating on the Atlantic Seaboard.

The class rates then in force (Nov. 28, 1892) which were the same as they were on Sept. 1, 1888, applying between Pacific Coast Terminals and Intermediate points, and the six territories east of the 97 meridian, were applied in both directions and are as follows:

Class Rates between Pacific Terminals, Intermediate points and Territory east of the Missouri River.

Between Pacific Coast Intermediate Points and	Classes									
	1	2	3	4	5	A	B	C	D	E
Missouri River Com. Pts.	350	300	250	200	175	155	135	120	110	100
Miss. River Com. Pts.	370	320	260	205	180	182	163	130	115	105

	1	2	3	4	5	A	B	D	D	E
Chicago, Milwaukee & Com Pts.	390	340	270	210	185	190	170	135	120	110
Cincinnati Detroit & Com. Pts.	395	345	275	215	190	195	175	140	125	115
Pittsburgh Buffalo & Com. Pts.	400	350	280	250	195	195	175	140	125	115
N.Y. Bost. Balt etc.	420	370	295	230	200	200	180	145	130	120

Spokane being an intermediate point received the same class rates as the terminals. Rates to and from San Francisco via the Canadian Pacific Ry. were lower by differentials varying from 15 to 28 cents in class 1, to 5 cents in class E.

A large amount of traffic however moved by special commodity rates both east and west. There were many more of these however applying to west bound traffic than to east bound. And in the west bound traffic there were about three sheets that applied to intermediate points and Pacific Coast Terminals, while there were about 50 pages more that applied to terminal points only, and in this list were the greater number of articles that were shipped west from the territory east of the 97th meridian. When the commodity rates to the terminal plus the local back to an intermediate point was less than the straight intermediate rate, the

combination was used,

The rates from St. Paul to Spokane were made and published by the Northern Pacific R. R. and were progressive until a point was reached where the rate was found to be as high as the class rate to the Pacific Coast terminals; from this point on the terminal rate was applied under the rule that the terminal rate was to be the maximum rate to intermediate points with the exception that has been noted.

3 As the rates were then arranged the maximum class rate was reached at Athol, Idaho; 42 miles east of Spokane, and continued from there west to Portland a distance of 586 miles. The same rate for anything like so great a distance had never been known. The closest approach to it, from West End Montana to Garrison Montana inclusive, covered only 160 miles.

Most of the shipments to Spokane were charged class rates while most of the traffic to western terminals moved by commodity rates. And as has been remarked there were only three pages of commodity rates for Spokane as against 50 pages applying to Portland.

The following table shows the class rates & distances from St. Paul to the various stations therein named, showing increased rates per 100 lbs. compared with increased
1 distance from starting point:

1. I. C.C. R. Vol. IV. p 188.

Comparative Rates and Distance from St. Paul to Western

Towns.

Miles from St. P.	Station	Per 100 lbs.									
		1	2	3	4	5	A	B	C	D	E
231	Hitterdale, Min.	77	65	50	39	31	31	27	23	19	15
251	Fargo N.D.	80	68	52	40	32	32	28	24	20	16
486	Sims, N.D.	130	109	90	78	66	54	48	41	37	30
744	Miles Cy. Mont.	170	144	124	107	94	84	74	65	57	47
1007	Livingston Mont.	235	205	165	140	120	105	88	78	68	58
1130	Helena Mont.	250	215	175	145	125	110	92	82	72	62
1254	Missoula Mont	260	225	185	155	135	120	102	87	77	67
1512	Spokane W.	350	300	250	200	175	175	155	125	110	90
2056	Portland O	350	300	250	200	175	175	155	125	110	100

The increase in first class rates between different points at substantially equally distances from each other between St. Paul and Spokane is as follows:

Comparative Increase in Rates from St. Paul to Western

Towns.

Hitterdale	231	miles from	St. Paul	77 cents
Sims	255	" "	Hitterdale	53 "
Miles City	258	" "	Sims	40 "

Livingston	263	miles from	Miles City	65 cents
Missoula	247	" "	Livingston	25 "
Spokane	258	" "	Missoula	90 "

The increase in the other nine classes was proportionally the same. This shows an extraordinary increase from Missoula to Spokane on west bound freight, and on east bound freight from the Pacific Coast there was very little increase in the rate to Missoula over that to Spokane.

"There is no point on the line of the Northern Pacific where west bound rates are higher than to Spokane; consequently western terminals pay no more than Spokane even on articles carried at classification rates and notwithstanding such articles may not be adapted to water carriage or actually subjected to water competition."

The freight tonnage carried to Spokane and earnings, compared with Portland Tacoma and Seattle show the relative revenues of the different towns for the year ending June 30--1890.

Station	Tonnage	Earnings
Spokane	182 018	\$1 664 905.48
Seattle	122 174	1 216 494.42
Tacoma	534 219	1 859 645.86
Portland	73 383	746 194.99.

1. I. C. C.R. Vol. IV. pp 188-9
2. I. C. C. R. Vol. IV. p 189.

Freight Shipped from these points for year ending
June 30, 1890.

Station	Tonnage	Earnings
Spokane	48 809	\$163 848.52
Seattle	19 371	110 862.97
Tacoma	84 404	457 789.44
Portland	118 066	586 451.14

The tonnage was greater from east to west than back and many empties had to be hauled back, especially was this true of the traffic to the coast and has much to do with high rates from the west to Spokane.

However most of the traffic to Pacific terminals is carried not at class rates but at special commodity rates. The difference between the class rate and the commodity rate may be determined from the tariffs.

A few illustrations will show the difference in these rates and the different cities that received them in 1889.

Class	Commodity	Local Class rates of N.P.					Comb-Commodity ina- tion El- burg
		Miss oula	Spok ane	Genn- essee	El- lens	Port land	
5	Canned goods C.L.	135	175	175	162	107	
3	Coffee roasted L.C.L.	185	250	250	250	176	
1	Calico's L.C.L.	260	350	350	294	189	
2	Crockery & Earthenware L.C.L.	225	300	300	242	149	

5	Iron bolts & nuts C.L.	135	175	175	160	105
3	Paper bags I. C. L.	185	250	250	228	149
5	Stoves ranges, etc. L.C.L.	135	175	175	172	117
4	Tin plate L. C. L.	155	200	200	196	131
A	Farm Wagons C. L.	120	125	175	163	113
5	Nails C. L.	135	175	175	154	99
1	Table Sauce L. C. L.	260	350	350	276	171
2	Twine harvesting L. C. L.	225	300	300	242	149
3	Baking powder L. C. L.	185	250	250	246	171
1	Brooms L. C. L.	260	350	350	294	189
2	Cordage L. C. L.	225	300	300	282	189
3	Currants (dried) L. C. L.	185	250	250	250	220
5	Soap C. L.	135	175	175	154	99
	Syrups C. L.	135	175	175	162	107
					294	189
1	Woodenware, Staple bulk & notions	350	350	350	270	
		260				
					287	216

These rates show that many staple articles for which there was a large demand could be laid down on the Coast much cheaper than at Spokane.

There existed in the tariffs many differences of classification that favored the coast terminals in addition to their lower rates. On many commodities carload rates were made to Portland and not to Spokane. Spokane had to take the L.C.L. rate on C.L. lots. The privilege of mixing car-

load lots and C. L. rates was given to Portland and not to Spokane, while the minimum on which a C. L. rate could be given was in some cases 15,000 lbs. to Portland and 20,000 to Spokane. The railroads admitted this and said they were going to correct the differences.

The Commission decided that the all important point was whether water competition of an effective nature existed at the Pacific Coast terminals so as to necessitate maintaining lower rates at those points than at the intermediate points. All of the terminal cities enjoyed the privilege of water transportation and might choose between them as the occasion and necessity determined. Formerly most of the traffic was carried to ^{the} Coast via Cape Horn. When railways were extended to that territory the demands of the country for transportation services were increased and these the railroads were amply able to care for, but their advantage did not outweigh all that the ocean carriers were able to offer and the latter are still in business and for certain kinds of commodities are offering exceptional terms. The continual opportunity to use ocean transportation acts as a very effective limitation on the amount to which rail rates may be raised.

1 "Nor is the quantity of merchandise which now goes by water to these western terminals by any means insignificant.

A line of steamships from New York to San Francisco by way of the isthmus of Panama dispatches a steamer every ten days and has done so for a number of years, and numerous sailing vessels take cargoes with more or less regularity from Atlantic and foreign ports to various distributing points on the Pacific Coast. Several lines of steamers run from San Francisco to Portland and Puget Sound ports. One of them sending a vessel to the last named port every five days and two others every ten days. Between August 1888 and April 1889 nineteen ships with merchandise cleared from New York for San Francisco and Portland and during the twelve months ending in May 1891 eight loaded vessels entered Portland sailing directly from the Atlantic Coast. Clipper ships also make more or less frequent voyages from New York to Puget Sound ports direct, bringing merchandise of various kinds to Tacoma and Seattle in competition with the overland roads. In addition to these there are occasional vessels coming to these ports for return cargoes of lumber, wheat etc, and willing to take outgoing freight in place of ballast at almost nominal figures."

The extent to which the Canadian Pacific was a factor in maintaining low rates at the coast terminals could not be so easily determined. It was a foreign road chartered and subsidized by a foreign government and not directly amenable to the regulating authority of Congress. It was so

located as to constitute a prominent factor in all questions of transportation between the eastern and western sections of the United States. The fact that the roads agreed to allow it certain differentials indicates that it has^d considerable power to direct traffic.

Although the Commission was of the opinion that the lower charge to comparative points was fairly excusable by substantial differences in circumstances nevertheless it was their impression that some of the commodity rates under which traffic was taken to the western ports were exceptionally low, ~~and~~^{and} lower than the demands of water competition would warrant. The only justification for a through rate less than the intermediate rate on the same article is the compulsion of rail carriers to make that rate or else suffer the loss of the traffic to their water competitors. In
1 their opinion the Commission said: "No judgment can be passed upon any particular rate but only upon the general propriety of the scheme as a whole. The rate to Spokane from St. Paul is unreasonable not because a lower rate is made to coast towns but simply because the rate is unjust in ~~and~~^{and} of itself. Class rates identical with those in force to Spokane are maintained to the coast terminals and the impression is that if there were no competition these rates would provide a fair remuneration to the roads for carrying

the traffic to the coast. And if such is a fair rate to Portland via Spokane the same class rate to Spokane alone must be excessive

"The Cascades intervene and cause a very expensive haul and a blanket rate that applies for 560 miles is entirely too inclusive.

"The difference between through and intermediate rates prove the unreasonableness of the latter. Something it is admitted must be made on through traffic over the expense of the operation and to that extent it is profitable. But if it is profitable to any extent at all to carry merchandise of every grade 2056 miles to Portland at an average compensation of \$30 a ton there must be an unreasonable profit in taking \$52 a ton for carrying the same mdse. to Spokane a distance of 1512 miles."

"A comparison of the Spokane and the Missoula rate shows almost conclusively that there must be an unreasonable rate at Spokane. The distance from St. Paul to Missoula is 1254 miles, only 258 less than to Spokane, yet Missoula has a 260 rate and Spokane a 350 on first class articles. The increased distance to Spokane is about 20 % of the distance to Missoula but the increase to Spokane of the Missoula rate is nearly 35 %" For these reasons the Commission decided that the Spokane rate should be reduced 18 %.

This was the Commission's first decision on the case in 1892.

1 Because of delay in acting upon the order of the Commission proceedings were instituted by the merchants and Shippers of the city of Spokane under Sec. 16 of the I. C. law amended by the Act of Mar. 2nd, 1889, to enforce the orders of the Interstate Commerce Commission in the case of the Merchants Union v. N. P. R. Co. (5 I. C.C. R.--478-513) The Petition was filed in 1894, when the N. P. Railroad was in the hands of receivers, and it was claimed they were not complying with the order of the Commission. The receivers answered the petition and a master in chancery was appointed to take the evidence.

 Meanwhile the N. P. Ry. Company got possession of the road and they were substituted as respondents in place of the receivers. In the decision by the Circuit Court a great deal was made of the fact that the statute gave the right to the Commission or any interested party to bring a proceeding to enforce an order, and customarily the Commission had brought the proceeding, and that it did not do so in this case raised the presumption that it did not consider its order was being violated.

 The opinion of the circuit court was that the Commission has no power to make rates, and especially has the Commission no power to order that rates from a given point to one city shall bear a certain relation to the rates from

the same point to another city. (Head note No. 9, I. C. C. v
Louisville & N. R. Co. 73 Fed. Rep. 410)

1 "Where the Commission has assumed to make an order fix-
ing rates and a proceeding is brought to enforce such order
it is the duty of the Court to declare the same to be null
& and void.

2 "The Interstate Commerce Commission cannot fix a rate
absolutely or relatively, directly or indirectly but must
content itself with pronouncing a rate unjust or unreason-
able leaving it to the carrier to readjust its rates as
often as required to.

1 "An order made by the Interstate Commerce Commission
which authorizes a railway company to make commodity rates
on competitive traffic to terminal points, less than their
rates on like traffic to an intermediate non-competitive
point, but directs that such commodity rates must not be
lower than necessary to meet competition, nor to be applied
to articles not actually subject thereto, is a mere general
statement of the duty of the railway company as defined by
the law, and is too indefinite to be the Basis of a decree
by the court to enforce obedience."

For these reasons the orders of the Commission was not
enforced by the courts.

This decision practically annulled all orders and efforts
of the Commission and the complaints were discontinued for

1. Fed. Rep. 83 p 249
2. Fed. Rep. 83 p 256

several years.

After the passage of the Hepburn law in 1906, the City of Spokane renewed its complaints thinking that the new law would be favorable to them. The complaint was brought against the Northern Pacific Ry. the Gt. Northern Ry. Company, the U. P. R. R., the Oregon R. and Navigation Co. & the Spokane Falls and Northern Ry. Company. The first four form through lines between Missouri River and Spokane and the fifth forms a connecting line at Nelson with the Canadian Pacific Ry. making a route for Spokane to the east. Rates east of Missouri river as well as west were complained of and roads that thus participated were made parties to the proceedings and answered.

The issues of the case were three.

1. "Do rates of defendants unduly discriminate against Spokane in favor of Coast points and thus violate the fourth section?

2. "Are certain privileges allowed to coast traffic that is denied to that of Spokane?

3. "Are rates applied by defendants to Spokane inherently unjust and unreasonable?"

Spokane is 400 miles east of Seattle, and Missoula Mont. 250 miles east of Spokane. Class rates in cents per 100 lbs. from St. Paul, Chicago and New York to Seattle,

1 Spokane and Missoula were as follows:

Class Rates from St. Paul & Chicago to Seattle, Spokane
And Missoula.

From	To Seattle									
	1	2	3	4	5	A	B	C	D	E
St. Paul	300	260	220	160	160	160	125	100	95	85
Chicago	300	260	220	190	165	160	125	100	100	95
N. Y.	300	260	220	190	165	160	125	100	100	95

From	To Spokane									
	St. Paul	300	360	220	190	150	145	125	100	95
Chicago	360	310	260	210	170	170	145	117	109	98

From	To Missoula									
	St. Paul	236	201	165	142	118	118	94	83	59
Chicago	296	251	205	167	138	143	114	100	73	60

Class rates from St. Paul to Seattle and Spokane were the same and less to Missoula. From Chicago they were higher to Spokane than to Seattle and lower to Missoula. There were no joint rates to Missoula from Chicago but they were arrived at by a combination on St. Paul.

From N. Y. class rates were the same to Seattle as from St. Paul and Chicago, but higher to Spokane by combination on Chicago. If traffic originated at the Missouri river there would have been no discrimination on Spokane. The majority of Spokane traffic moves upon commodity rates,

What the rates were on these commodities from St. Paul Chicago and N.Y. to Seattle, Spokane and Missoula may be seen from the following table.

1 Rates from St. Paul to Seattle, Spokane and Missoula.

St. Paul to Seattle.

	Class	L.C.L.	Class.	C.L.
Tin boxes nested	2nd	260	comb.	85
Shovels spades & Scoops	Comb.	165	"	116
Fruit jars and glasses	"	150	"	75
Canned corn peas and beans	"	140	"	85
Drugs and medicines	"	180	"	140
Cotton ducks & denims	"	135	"	90
Glassware N. O. S.	3rd	160	"	110
Stoves N.O.S.	3rd	220	"	125
Twine in bales and boxes	Comb,	125	"	90
Copper wire	"	165	"	110
Wire fencing in rolls	"	150	"	100

St. Paul to Spokane

Tin boxes nested	2nd	260	4	120
Shovels spades and scoops	"	260	Comb	154
Fruit jars and glasses	3rd	220	"	129
Canned Corn peas and beans	4	190	"	125
Drugs & medicines	1st	300	"	190
Cotton ducks & denims	"	300	"	175

	Class	L.C.L.	Class	C.L.
Glassware N.O.S.	2nd	260	Comb.	180
Stoves N.O.S.	3rd	220	"	150
Twine in bales and boxes	2nd	260	"	162
Copper wire	"	260	"	188
Wire fencing in rolls	3rd	220	"	100

St. Paul to Missoula.

Tin boxes nested	2nd	201	4	142
Shovels spades and scoops	"	201	Comb	148
Fruit jars and glasses	3rd	205	"	135
Canned corn peas and beans	4th	142	"	125
Drugs & medicines	1st	236	"	180
Cotton ducks & denims	"	236	1st	236
Glassware N.O.S.	2nd	201	4th	142
Stoves N.O.S.	3rd	165	Comb.	147
Twine in bales and boxes	2nd	201	4th	142
Copper wire	"	201	"	142
Wire fencing in rolls	3rd	165	Comb.	100

Rates from Chicago to Seattle, Spokane and Missoula,
to Seattle.

Tin boxes & lard pails	2nd	260	Comb.	85
Shovels spades etc.	Comb.	175	"	125
Fruit jars and glasses	"	150	"	85
Canned corn peas, beans	"	145	"	90
Drugs & medicines	"	190	"	140

Cotton ducks denims	Comb.	135	Comb.	90
Glassware N.O.S.	"	160	"	110
Stoves N. O. S.	3rd	220	"	125
Twine bales & boxes	Comb.	125	"	90
Copper wire	"	165	"	110
Wire fencing in rolls	"	150	"	100

To Spokane.

Tin boxes & lard pails	2nd	310	4th	210
Shovels spades etc.	"	310	Comb.	164
Fruit jars & glasses	3rd	260	"	139
Canned corn peas beans	4th	210	"	130
Drugs & medicines	1st	360	"	190
Cotton ducks denims	"	360	"	175
Glassware N.O.S.	2nd	310	"	180
Stoves N.O.S.	3rd	260	"	165
Twine bales & boxes	2nd	310	"	162
Copper Wire	2nd	310	"	188
Wire fencing in rolls	3rd	260	"	139

To Missoula .

Tin boxes & lard pails	2nd	251	4th	167
Shovels, Spades etc.	"	251	Comb.	164
Fruit jars & glasses	3rd	205	"	135
Canned corn, peas, beans	4th	167	"	130
Drugs & medicines	1st	296	"	190

	Class	E.C.L.	Class	C.L.
Cotton ducks denims	Comb	276	Comb.	276
Glassware N.O.S.	2nd	251	4th	167
Stoves N.O.S.	3rd	205	Comb.	162
Twine bales & boxes	2nd	251	4th	167
Copper wire	"	251	"	167
Wire fencing in rolls	3rd	205	Comb.	110

Rates from N. Y. to Seattle, Spokane & Missoula
to Seattle.

Tin boxes & lard pails	2nd	260	Comb.	85
Shovels, scoops, spades	Comb.	175	"	125
Fruit jars glasses	"	150	"	85
Canned peas, corn, beans	"	150	"	95
Drugs & medicines	"	190	"	140
Cotton ducks denims	"	135	"	90
Glassware N.O.S.	"	160	"	110
Twine bales boxes	"	125	"	90
Copper wire	"	165	"	110
Wire fencing in rolls	"	150	"	100
Stoves N. O. S.	3rd	220	"	125

to Spokane .

Tin boxes & lardpails	Comb.	365	Comb.	245
Shovels scoops spades	"	365	"	185
Fruit jars & glasses	"	315	"	139

	Class	L.C.L.	Class	C.L.
Canned peas, corn, beans	Comb,	250	Comb.	143
Drugs & medicines	"	435	"	190
Cotton ducks denims	"	415	"	175
Glassware N.O.S.	"	365	"	188
Twine bales boxes	"	360	"	162
Copper wire	"	360	"	188
Wire fencing in rolls	"	300	"	169
Stoves N.O.S.	"	310	"	179

to Missoula.

Tin boxes & lard pails	Comb	316	Comb,	202
Shovels scoops spades	"	291	"	194
Fruit jars & glasses	"	260	"	185
Canned peas, corn, beans	"	207	"	160
Drugs & medicines	"	371	"	240
Cotton ducks denims	"	331	"	331
Glassware N.O.S.	"	306	"	202
Twine bales boxes	"	301	"	202
Copper wire	"	301	"	202
Wire fencing in rolls	"	245	"	140
Stoves N. O. S.	"	255	"	192

From these rates it may be seen that when an article moved under a commodity rate to both Seattle and Spokane the rate was usually higher to Spokane than to Seattle.

The Commission found that the Spokane commodity rate did not equal the Seattle rate plus the local back to Spokane but in the majority of cases the Spokane rate was higher than the Seattle rate by about 70 per cent of the local from Seattle to Spokane.

Many times an article was allowed to move to Seattle on a commodity rate while to Spokane it took a class rate. Transcontinental tariffs then in force had 1560 west bound commodity rates but the number of such from St. Paul to Spokane was only 636.

Class rates to Seattle apply as blanket rates for most part to all territory east of Missouri river and ^{the} same was usually true of west bound commodity rates. Of the commodity rates from St. Paul to Spokane not all extended east, only 407 extend to Chicago and a less number still to N.Y.

Spokane was compelled to pay higher rates for what it received from the east and in addition its market was restricted.

By the Northern Pacific and Gt. Northern to the coast, Spokane is strictly an intermediate city and a violation of the fourth clause was urged.

From previous examinations of this subject the commission decided that there was such a thing as effective water competition from the Atlantic to Pacific coast points. The traffic manager of the American Hawaiian Steamship Comp-

1 any, the largest water transportation company competing for this traffic, said at this investigation that they seldom drew any traffic west of Buffalo & Pittsburg. And as the rates by water apply only from N. Y. to coast points the further inland the traffic originates the less it is sought for by water transportation and the more expensive it is to move it by water.

The rates to Spokane, however, were higher than to Pacific coast points from all the territory east of the Missouri river. The articles used on the coast are manufactured both at Chicago and New York. If they should move from Chicago they must almost necessarily move by rail which is a much less difference ^{stave} than from New York, and much less expensive to the railroad. And the Chicago manufacturer asks for a rate that will allow him to sell in competition with the N. Y. manufacturer. This has led railroads to apply the same rate that water competition forces them to make from the Atlantic coast, to all territory east of the Missouri river. This application of a blanket rate was investigated by the Commission in a previous case--Business Men's League of St. Louis v A. T. & S.F. Ry. Co. (9 I. C. C. Rep. 3 18.) where it was held that "with water competition compelling low all-rail freight rates from N. Y. to San Francisco

and other Pacific Coast terminals, a showing that the distance is less and that graded rates were formerly in force is not sufficient to warrant an order requiring lower rates from St. Louis, Chicago, and other interior points, than from New York on traffic carried by rail to Pacific coast destinations." For this reason it was held that the defendants did not violate the third and fourth sections of the Interstate Commerce Act.

The second point to be decided was the question of granting more favorable minimums and permits, in certain cases to the coast terminals than to Spokane. In *Kindel v Boston & Albany Railroad Co.* (11 I.C.C. Rep. 495) it was held that water competition may justify a difference in minimum or in the privilege of mixing carloads exactly as it may justify a lower rate. And this rule was held to apply in this case.

The third point to be decided was the reasonableness of the rates from the east to Spokane. To determine the effect of any order that might be made the roads were asked to produce a statement showing the loss of income that would have been incurred by applying terminal rates to the traffic that actually moved to Spokane for the year 1906. Two months of that time were selected as representative. The

1 results showed that the loss to the Gt. Northern

would have been \$340,484 and to the Northern Pacific \$477 139. As the Spokane rates are part of a definite scheme of rate making any change in those rates would have necessitated changes for the surrounding territory also, which would have more than doubled the above sums.

That discrimination was practiced by the roads in applying a lower rate to Seattle than to Spokane was urged by the complainants, but the court held that Seattle was peculiarly situated and could command a better rate than Spokane and hence a charge of discrimination could not be urged. All that could be asked for was a just rate for the city of Spokane itself regardless of the practice at other points.

Two kinds of rates are made to Spokane--class and commodity rates.

The first class rate from St. Paul to Spokane & Seattle was the same while the first class rate from Chicago was 60 cents higher to Spokane than to Seattle, and about the same relation was maintained in the other classes.

The first class rate from Chicago to N. Y. was 75 ¢ for about a thousand miles; a rate that was made the basis for all rates from the Atlantic to territory east of the Missouri River. From St. Paul to Spokane the rate was four times as much for a distance about one third greater. As a

defense for this the roads claimed that different traffic and operating conditions obtained that made the higher rate perfectly justifiable.

Earnings and Expenses of Three roads in 1897 & 1907.

1	Gross earnings-		net earnings-		Ratio of operat-	
	1897	1907	1897	1907	1897	1907
Nor.Pacific	\$4 074	12 574	1 338	5 666	67.15	54.94
Gt.Nor.	3 950	9 606	1 805	3 972	54.31	58.65
U.P.&others	5 754	13 403	2 300	6 288	60.04	53.08

From these figures it may be seen that conditions changed very materially in the ten years between 1897 & 1907. And the changes were such as to make for a lower rate instead of an advance.

2 The Commission held that although class rates to Pacific coast terminals might to some extent be influenced by competition they were not influenced to the same extent as commodity rates, and that competition applied more strictly to conditions east of Missouri river points than to those west of the Missouri river, and hence it was thought that the scale of class rates from St. Paul to Seattle afforded ample compensation for the defendants. With this as a basis it was decided that reasonable rates from St. Paul to Spo-

1. I. C. C. R. Vol. XV. p 420
 2. I. C. C. R. Vol. XV. pp 421-2.

kane would be obtained by reducing the rate from St. Paul to Seattle by about 16 2/3 %. And as the distance from Chicago to Spokane is only slightly more than from St. Paul to Seattle and there was found to be no condition that would justify a higher rate in the former instance, the rate from St. Paul to Seattle was thought to be reasonable from Chicago to Spokane.

From these facts the commission decided that the following rates should be reasonable class rates from St. Paul and Chicago to Spokane.

	To Spokane									
From	1	2	3	4	5	A	B	C	D	E
St. Paul	250	217	183	158	133	133	104	83	79	71
Chicago	300	259	216	179	150	154	121	97	91	82

The complainants also claimed that the commodity rates, of which there were about 1600 items, many of which were lower to Seattle than to Spokane, were creating a discrimination against Spokane. And it was further urged that the rates to Seattle would be reasonable if applied to Spokane. As the existence of effective water competition had already been established no discrimination by a violation of the third or fourth sections of the Interstate Commerce Act could be held to exist, and the only question was as to whether the rates to Seattle would be reasonable if applied to Spokane without reference to Seattle.

The terminal rates to Seattle applied very generally from all points either on the Missouri river and east, and the complainants insisted that as it is 400 miles from Chicago to St. Paul and 400 from Spokane to Seattle and the Chicago Seattle rate can be maintained through St. Paul and Spokane, the same rate should be reasonable when applied as a local rate from St. Paul to Spokane. Moreover as the rate from N. Y. to Seattle was usually the same as the Chicago to Seattle rate and it must be assumed that this rate at least pays the cost of transportation in spite of the competitive water rate that must be met the same rate which pays the cost of movement for 3200 miles should yield a reasonable profit when applied as a local rate for the 1500 miles that lie between St. Paul and Spokane.

It was found by the Commission that the ton-mile revenue that would be produced by applying the Chicago-Seattle rates as locals between St. Paul and Spokane would be nearly the same as that on the rates that were established for carrying fruit and vegetables east from the Pacific country. The rates on the 32 commodities in force Jan. 1, 1909, specifically attached for corresponding distances in other parts of the United States, as well as the rates from Chicago to Seattle and from St. Paul to Spokane, are given below:

Relative Commodity rates showing discrimination against
Spokane.

Commodity	Boston to Omaha	Cleve- land to San Francisco Antonio	Chicago to El Paso	Chicago to Seattle	St.Paul to Spokane
Tin boxes	68	107	118	85	190
Plow points	57 1/2	92	95	110	164
Shovels	62	103	106	135	164
Fruit jars	57	91	93	85	190
Canned corn, peas	57	67	69	90	125
Belting canvas	94	139	142	120	205
Bicycles crated	136	187	179	250	335
Blank books flexible covers	62	144	132	125	170
Blank books	119	144	132	125	170
Paper tablets	53	96	98	125	154
Books	119	144	126	140	225
Bottles wine beer	57	91	93	75	90
Drugs & medicine	103	...	179	150	200
Cotton ducks denims	100	...	164	100	175
Window glass	57	81	83	90	150
Glassware	68	121	132	120	190
Dry paint	50	51	51	90	115
Paints in oil buckets	57	71	73	90	115
Paint in oil iron drums	57	71	73	90	115
Paper bags	53	96	98	100	120

Rubber boots	136	181	179	150	235
Circular saws in boxes	127	164	158	150	228
Alcohol stoves	63	96	98	150	150
Stoves	57	96	98	130	155
Twine in bales	62	121	132	95	167
Cordage in pckgs.	62	121	132	95	167
Wheelbarrows Kd	59 1/2	101	104	90	141
Windmills	60	92	95	135	155
Copper wire	68	121	132	110	188
Wire fencing	59	74	74	80	105
Woodenware	68	107	118	125	174

The rates from Chicago to Seattle when examined were, except in a few cases, found to be reasonable if applied from St. Paul to Spokane, and the Commission decided that reasonable rates on these same commodities from Chicago to Spokane should be 16 2/3 more than the rate from St. Paul to Spokane. The following rates were established and ordered effective May 1, '09.

Rates from St. Paul & Chicago to Spokane Established by the Commission in 1909.

1 Commodity.	Rate from	
	St. Paul	Chicago
Tin boxes & lard pails N.O.S.	100	117
Boxed crated or jacketed	100	117

	St. Paul	Chicago
Nested in boxes barrels or crates.	100	117
Carpets N.O.S.	185	216
Plow points	110	128
Shovels spades scoops in pckgs.	135	157
Fruit jars and glasses	100	117
Canned Corn	90	105
Canned beans	90	105
Canned peas	90	105
Belting, cotton or rubber	120	140
Bicycles boxed	250	292
Bicycles crated	250	292
Blank books and tablets	125	146
Books N.O.S. boxed	140	163
Drugs & medicines	150	175
Cotton duck & denims any quantity	150	175
Glass--window under 68 inches	90	105
Paint dry in boxes cans boxes barrels casks	90	105
Paint in oil in cans (boxed) or barrels	90	105
White or red lead or in oil	90	105
Paper bags plain	100	117
Paper bags printed	100	117
Rubber boots and shoes	175	204
Circular saws (on boards)	150	175

	St. Paul	Chicago
Circular saws in boxes	150	175
Water heaters gas or gasoline	170	198
Stoves and ranges cast iron	130	148
Stoves air tight heaters	150	175
Glassware N.O.S.	120	140
Twine & cordage bales boxes	125	146
Wheelbarrows Kd flat	90	105
Windmills k.d.	135	157
Wire copper	110	128
Wire fencing in rolls	80	93
Woodenware, in packages	125	146

No attempt was made to deal with less than carload lots as it was felt that the carriers were better able to deal with this matter themselves.

1 After the commission had established these class and commodity rates from Chicago and St. Paul to Spokane via Nor. Pacific and Union Pacific lines in Feb. 1909, the Union Pacific filed a petition asking to be relieved from this order on the ground that there was no direct line from St. Paul to Omaha included in the case, hence the Union Pacific could not establish any rates from St. Paul and because the distance from St. Paul and Chicago via Union Pacific was much greater than via the Northern Pacific.

Because no direct line from St. Paul to Omaha was included in the proceedings, the order was modified to except the Union Pacific from St. Paul traffic.

As class rates from St. Paul to Spokane were fixed at $16 \frac{2}{3} \%$ less than those to Seattle, principally because of the difference in distance, the Union Pacific insisted that they should not be compelled to put in force over their lines including a distance of 2300 miles the same rate that was found reasonable for 1900 miles. As Spokane had adequate service over two roads from St. Paul, the Nor. Pacific and the Gt. Northern, there seemed no necessity for insisting that freight should be carried at the same rate over a much longer route.

In relieving the Union Pacific from these rates a serious problem arose concerning the territory lying between Pendleton and Spokane. This happened because ^{of} ~~for~~ the different directions taken by the railways in that section. The Union Pacific, it will be remembered, leaves the main line at Pendleton and reaches Spokane by a branch 251 miles long, while the Nor. Pacific reaches Pendleton by extending south from Spokane. Formerly it had been the practice to grant to all territory between Spokane and Pendleton the Spokane rate. But in relieving the U. P. of the Commission's order regarding the Spokane rate some change seemed certain to

be made in the territory that had previously enjoyed the Spokane rate.

Several petitions to the Commission were sent in by interested communities but as they were not parties to the proceedings no notice could be taken of them.

The effective date of the order of the Commission was postponed until June 1, and one condition was that by May 20, a comprehensive plan for establishing rates in all intermediate territory should be submitted. All of the territory from Spokane to Pendleton was supposed to be included in this plan.

1 In May, 1909 the Gt. Northern & Northern Pacific presented a schedule of commodity rates from eastern points to Spokane and asked permission to be allowed to establish them. This scheme of rates caused many protests and on June 9, 1909, Spokane filed its supplemental report making these commodity rates an issue and asking that joint rates should be established from destinations east of Chicago to Spokane on class and commodity rates. Many other cities filed petitions as interveners.

A hearing was held in Washington in June 1909, and another at Spokane in September and October of that year to determine the merits of the rates.

2 The schedule as proposed made a rate to Spokane from

1. I. C. C. R. Vol. XIX p 162
2. I. C. C. R. Vol. XIX p 166

from Chicago by taking 75 % of the terminal rate from eastern territory and adding to it the local rate back to Spokane reduced by 16 $\frac{2}{3}$ %. Their reason for this peculiar scheme was that although rates from the east to terminals were induced by water competition they did not fully meet it since a great deal of traffic still moved by water. Hence it was assumed at the beginning that rates 25 % lower would be necessary to fully meet the water competition. Traffic to an interior point could move from an eastern point of origin to a terminal and then by adding the local rate to the interior point. The coast cities have claimed that the east bound rates were excessive and the roads conceded this by using in their Spokane rate not the full local but one reduced by 16 $\frac{2}{3}$ %.

This rate as has been said was applied from Chicago and the same rate applied from the Mississippi river, but from the Missouri river a 10 % reduction was made because that was supposed to equal a supposed increased cost of manufacturing in that district.

From points east of Chicago the full local rate was to be added to Chicago, when the commodity was produced in large quantities in Chicago or west of there. When the commodity was produced almost exclusively on the Atlantic coast or East of Chicago, the Chicago rate was to be constructed

by subtracting the local rate from that place to Chicago, which meant applying the Chicago rate to the point of origin. Wherever possible Spokane was to buy in Chicago and where that was not possible a rate should be given that would allow it to buy in the same market with the terminal competitors.

1 The complainants objected to these rates on the ground that they were not as favorable to Spokane as those enjoyed by the terminal competitors and that the proposed rates were no substantial reduction from the existing rates. Neither of these objections were considered as very serious by the commission which held that there was no reason for applying the rates from Chicago instead of some more eastern point since the terminal rate, 75 % of which was used as a basis for the Spokane rate, was a blanket rate applied from all territory east of the Missouri River. That blanket rate was claimed to have been induced by water competition. Hence if the Spokane rate was to meet water competition why should it not have been applied from all territory east of the Missouri river as well? The roads claimed in answer to this that they were allowed to meet water competition in any way they saw fit.

The general idea seemed to be to compel Spokane to buy

as far west as possible for the convenience of the carriers and while they could decline to apply the same rates for longer hauls they could not be allowed to lay down a rate that practically limited the field for Spokane buyers. Besides the proposed rates were of no benefit to any other place except Spokane, and the Commission had stated in its restraining order that some kind of a scheme was desired that would be applicable to other points in the intermountain territory. Nothing was said about how far west or east the 75 % of the terminal rate should be added to the local rate. If Spokane was entitled to a rate equal to 75 % of the terminal rate because of water competition certainly every point west of there should be allowed the same privilege.

And if the same principle ~~was~~ used for towns east of Spokane the rate would increase the farther east it was extended because the local from the terminal would increase. It is very doubtful if there was ever any very serious water competition at Spokane that had to be met and hence the rates were based on facts that did not exist.

In the original complaint the class rates from Chicago to St. Paul to Spokane were attacked and the Commission fixed lower rates in their place, also thirty-four commodity rates were complained of and lower ones were substituted for them. A general complaint was also made against all rates from Chicago and St. Paul to Spokane but the Com-

mission said that a specific attack must be made on each rate before the complaint could be considered.

1 There was much dissatisfaction with the commodity rates established by the commission as the complainants claimed that no rate should be allowed which exceeded the rate to Seattle and the railroads claimed that if that plan of making rates was carried to its logical conclusion it would mean financial ruin to them. As to the complainants claim the Commission held that in view of the fact that water competition was an established fact the Seattle rates could in no way be used as a measure of reasonable rates to any other point, and that rates to Spokane should be fixed which would be just under all circumstances regardless of what might obtain at competitive points.

The railroads urged that they had made numerous improvements which required the previous rates to make them profitable, but the Commission held that if the improvements were needed their increased traffic would make them profitable without increased rates. In a supplemental petition the complainants attacked 580 commodity rates and the Commission held that they were unreasonable and should not in the future exceed certain rates which they prescribed.

The railroads objected to the Commission's fixing

either class or commodity rates east of Chicago. Spokane tariffs then in effect divided the territory east of the Missouri river into six groups and no joint class rates existed from territory east of Chicago. Because of the attempt to fix the jobbing territory of Spokane in 1904, a great deal of confusion resulted in the commodity rates. Some applied from Chicago only, others extended farther east, and a few from the Atlantic sea board. Class rates from the eastern territories to Pacific terminals governed by the western classification were in effect for a time but on Jan. 1 1910 all of these except for the first four classes were withdrawn. And as then existing class rates to Spokane from territory east of Chicago were made by a combination upon Chicago or St. Paul governed by the official classification to either of these points and by the Western classification for the rest of the way. As might easily be imagined a great deal of annoyance was experienced because of this difference in classification regarding transcontinental traffic and the different requirements as to packing, minimum etc. prescribed by each one.

Joint through class and commodity rates were established and a lower rate charged from Mississippi River points than from Chicago points. The previous findings of the commission as to the proper difference that should be made be-

tween the St. Paul and Chicago class rates to Spokane was amended so as to lessen the difference, as was also the finding regarding the commodity rates from the same places.

1 After deciding on the rates from points of origin another serious question was to decide to what points the Spokane rates should apply. Spokane was the original petitioner but Baker City, La Grande, and Pendleton in Oregon, and Walla Walla in Washington, later filed petitions asking that the rates to Spokane should be applied to them also. Baker city, La Grande, and Pendleton are on the main line of the Oregon Railroad and Navigation Company and are distant from Omaha 1,442, 1,494 and 1,568 miles respectively. Walla Walla is upon a branch of the Oregon Railroad and Navigation Company from Pendleton to Spokane and is 47 miles from Pendleton.

Previously Spokane rates from St. Paul had applied on the Great Northern as far west as Avery, 111 miles from Spokane, and upon the Northern Pacific as far west as Kenne-
wick, 149 miles. On its branch to Pendleton the Northern Pacific had maintained the Spokane rate from St. Paul and in the opinion of the Commission the rates established by it should apply in this same manner. Rates from St. Paul, Omaha and other Missouri River points to Spokane had previously been the same. The Union Pacific lines extended from Pendleton to Spokane and it had been the policy of that road to

apply the same rate from Omaha to Spokane that had been made by the northern roads from St. Paul to Spokane and even to join with connecting lines in applying the same rates from St. Paul through Pendleton to Spokane that the northern roads made over the direct route. And no higher charge was made at any point between Pendleton and Spokane resulting in what was called the Spokane rate territory. Higher rates had, however, been charged to Baker City and La Grande from Omaha than to Spokane, although Spokane was farther from Omaha.

1 The Commission held in this case that there was no justifiable reason for the higher charge for the shorter distance and ordered the established rates to apply to Baker City, Pendleton, La Grande, and Walla Walla. The Union Pacific was not required to maintain the same rates to Spokane and no opinion was expressed as to the territory between Walla Walla and Spokane.

In order to determine the effect of these new rates the roads were ordered to keep accurate accounts of all business affected by them for the months of July, August, and September, and any criticism of the rates could be filed before August 10, 1910.

The territorial description of eastern defined territory and the class rates established were as follows:

Schedule A.

1 Class and Commodity rates from Eastern defined territories to Spokane, Washington.

Territorial description of eastern defined territories used in this schedule in naming rates to Spokane Wash.

Territory No. 1. Missouri River and Common points known as Missouri River territory.

Territory No. 2. Mississippi River and common points known as Mississippi river territory.

Territory No. 3 Chicago and Common points, known as Chicago territory.

Territory No. 4 Cincinnati-Detroit and common points known as Detroit territory.

Territory No. Pittsburg-Buffalo and common points known as Pittsburg territory.

Territory No. 6. New York--Boston and common points known as New York territory.

Class Rates proposed from Eastern Defined territory to Spokane Wash. by the Commission June 7, 1910.

From	Classes.									
	1	2	3	4	5	A	B	C	D	E
Missouri River	2.50	2.17	1.83	1.58	1.33	1.33	1.04	0.83	0.79	0.71
Miss.Riv.	2.80	2.42	2.03	1.71	1.43	1.46	1.14	.91	.86	.78

From	1	2	3	4	5	A	B	C	D	E*
Chicago	2.90	2.51	2.09	1.75	1.47	1.50	1.18	.94	.89	.80
Cinn- Detroit	3.05	2.63	2.19	1.81	1.52	1.56	1.23	.98	.92	.83
Pittsburgh	3.20	2.76	2.29	1.87	1.57	1.62	1.28	1.03	.96	.86
New York	3.50	3.01	2.49	2.00	1.67	1.75	1.38	1.11	1.03	.93

Besides the class rates there were 40 pages of commodity rates, from all the six groups, in carload and less than car load lots, proposed as proper ones but no effective order was made concerning them.

1 On June 18, 1910, shortly after the opinion had been given concerning class rates to Spokane, the fourth section of the Interstate Commerce Law was amended by the Mann-Elkins Law by striking out the words "under substantially similar circumstances and conditions", along with some other changes that did not concern the Spokane case.

A difference of opinion arose as to what the section meant in its revised form. The carriers were of the opinion that the power of initiative on their part had been taken away by making necessary application to the Commission for relief which had to be given if the circumstances were at all dissimilar. The city of Spokane on the other hand insisted that the Commission should hold that the fourth

section as revised imposed an absolute~~ly~~ long and short haul rule which should at once be enforced against the railroads,

To the Commission it seemed evident that the purpose of Congress was to commit to them the duty of determining whether, if the carrier were permitted to charge a higher rate at the intermediate point, it would result in a violation of the provisions of the act. That is, that if after an investigation it was decided that a departure from the rule of the fourth section would not result in unreasonable rates or undue discrimination, it must permit that departure. And if the Commission thought that an unlimited departure would be unwise it should prescribe definitely the extent to which a departure could be made.

Turning to the Spokane case where it was again claimed that active water competition did not exist, the Commission, by reason of the findings of the circuit court of the United States on the question and its own previous findings in earlier cases, as well as recent investigations of fact, decided that water competition really did exist and that a departure from the provision of the fourth section was allowable.

As has been previously said this competition is met by commodity rates which are largely blanketed from the east over a territory 2 000 miles wide, and higher rates are in force to intermediate points.

There were about 300 commodity rates in effect from eastern destinations to Pacific coast terminals and the Commission in its report of June 7, 1910, proposed as reasonable about 550 commodity rates from the same points to Spokane.

In this proposed schedule no difference was made in the rate for traffic originating at Missouri river points for either Seattle or Spokane. But from territory farther east a higher charge was allowable to the intermediate points. And to be consistent, in determining the extent to which a departure was allowable under the amended section the same principle had to be observed.

The Spokane complainants asserted that even if there was water competition between the Atlantic and the Pacific coasts, still there could be no such competition from the interior and while a higher rate might reasonably be charged from New York to Spokane to Seattle, the same difference could not properly be maintained from Chicago. The same transcontinental rate, however was maintained from Chicago as from New York because of the ^{indirect} ~~inherent~~ effect of water competition as an illustration shows:

- 1 "A large building requiring steel is to be erected at San Francisco. That steel is manufactured at New York and Chicago. The steel at New York City can move by water and this competition will determine the rate at which it does

move. Assuming that the cost of producing the steel is the same at both plants which is usually true, in order for both producers to compete equally for the San Francisco market it is necessary that the rate from both points should be the same. Many roads begin at Chicago and if the traffic originates east of there they are allowed only part of the rate for carrying it from Chicago to the Pacific Coast, while if traffic originates at Chicago the entire rate goes to the one road. It is to the interest of these lines that traffic should originate at Chicago, while the trunk lines desire that it should originate on the Atlantic Coast, and as a compromise they finally agree that the rate shall be the same from both places." What is true in this illustration may be said of nearly every commodity that moves from the east to the west.

A great deal was made by Spokane of the fact that while water competition is recognized upon the Atlantic coast for the preference of Seattle by blanketing the eastern territory, the force of water competition is not recognized on the Pacific coast when traffic may and does move from New York to coast terminals by water and then inland by rail. The railroads claimed that they could meet this water competition in any manner and at any points that they saw fit. The Commission, however, held that the roads were not at liberty to adopt any method which would unjustly discrimin-

ate between different localities, or to concentrate in the coast cities commercial and transportation advantages to which their location does not entitle them.

For the purpose of making an order the commission divided the United States into five territorial zones, using the ten transcontinental groups in the description of them.

1 "Zone No. 1. comprises all that portion of the United States lying west of a line called line No. 1, which extends in a general southerly direction from a point immediately east of Grand Portage, Minn. thence southwesterly, along the northwestern shore of Lake Superior, to a point immediately east of Superior Wis., thence southerly, along the eastern boundary of transcondinental group F, to the intersection of the Arkansas and Oklahoma state line, thence along the west side of the Kansas City Southern Railway to the Gulf of Mexico.

"Zone No. 2 embraces all territory in the United States lying east of line No. 1 and west of a line called line No. 2 which begins at the international boundary between the United States and Canada immediately west of Cockburn Island, in lake Huron, passes westerly through the Straits of Mackinaw, southerly through Lake Michigan to its southern boundary, follows the west boundary of transcontinental

group C to Paducah, Ky., thence follows the east side of the Illinois Central Railroad to the southern boundary of transcontinental group C, thence follows the east boundary of group C to the gulf of Mexico.

"Zone No. 3 embraces all territory in the United States lying east of line No. 2 and north of the south boundary of transcontinental group C and west of line No. 3, which is the Buffalo Pittsburg line from Buffalo, N. Y. to Wheeling, W. Va. thence follows the Ohio river to Huntington W. Va.

"Zone No. 4 embraces all territory in the United States east of line No. 3 and north of the south boundary of transcontinental group C.

"Zone No. 5 embraces all territory south and east of transcontinental group C."

1 As to the differences in the transcontinental rates from these zones the commission held that from zone No. 1 no higher charge could justly be made at any intermediate point than to a more distant point, for the reason that this territory is about 1,500 miles from the Atlantic seaboard and there is very little possibility that any traffic will ever be transported from this territory to the Atlantic coast and thence by water to the Pacific coast.

In Zone 2 a different ruling was made allowing an in-

- - - -

crease of 7 % in the rate from this territory to intermediate points over that to coast terminals.

From zone 3, as there is greater possibility of actual water competition on business destined to the Pacific coast, rates to intermediate points may exceed those to coast terminals by not more than 15 %.

From Zone 4 where the greatest amount of traffic has originated and where the force of water competition is the greatest rates to intermediate points may exceed those at the coast by not more than 25 %.

Nothing was said about zone 5 as rates from that territory were not involved in the proceedings.

The schedule of rates that had formerly been proposed by the Commission was not ordered established as it was desired that the carriers should have all the freedom possible in adjusting their tariffs themselves, although it was expected that in complying with the Commission's order the roads would establish rates in close accord with those suggested by the commission.

1 After the fourth section order of the Commission on June 22, 1911, proceedings were begun in the Commerce Court to restrain the operation of that order. As a result an injunction was secured against the enforcement of the order.

- - - -

An appeal was then taken to the Supreme Court of the United States where the case was argued and submitted on Feb. 27, 1912. On April 8, 1912, the Supreme Court reassigned the case for argument in October. Realizing that a great deal of time would elapse before the case was settled, the interested cities filed protests asking the Commission to allow some relief from the rates which the Commission itself had condemned. The Commission then set the case for further consideration on May 8th, and considered establishing the schedules proposed on June 7, 1910.

At the hearing the carriers presented a schedule of rates slightly in advance of those proposed by the Commission and with no provision for less than carload lots. It was claimed that an agreement had been reached in which these rates were to be established at once and the proceedings discontinued if the commission approved.

The Commission, however, refused to approve this scheme and would not allow the proceedings to be dropped because of other cities had intervened as complainants and were vitally interested in the case.

No further opinion was expressed on the case and no action was to be taken until a decision had been given in the case by the Supreme Court, in which the case is pending.

Part IV. A Summarization of the Situation.

The characteristic features of transcontinental rates as a study of the previous cases show are well stated by two railway authorities as follows: "Blanket or common rates are in force on west-bound transcontinental traffic from most points east of the Missouri River. This is true of both class and commodity tariffs, but as will appear there are numerous exceptions made to the general policy of blanket rates from the territory east of the Missouri. Upon some commodities the rates east bound from the Pacific Coast are the same to all places east of the Missouri and on more articles common rates prevail to places east of the Mississippi but the blanketing of rates is less general upon east bound than upon west bound shipments.

2. Upon east bound traffic and to a less extent upon that toward the west, graded zone tariffs have been established, the places east of the Rocky Mountains are classified in ten "rate groups" A to J. Upon the higher classes of freight and upon numerous commodities the rates to all groups are the same, but upon the lower classes and upon most commodities the tariffs vary by rate groups. Class rates west bound are practically identical with those east bound--i.e. graded for classes below the third; and in west

1. E. R. Johnson & G. G. Bubner "R. R. Traffic & Rates Vol. 1 p 409-60."

bound commodity tariffs there are numerous instances of grading by groups but the grading of commodity tariffs west bound is an exception to the more general rule of blanket-ing rates from points on and east of the Missouri River.

3. The rates west bound to the intermediate points east of the Pacific seaboard terminals are as a rule higher than the through tariffs the higher charges being fixed by the addition to the through rates of either fixed arbitrari- es or the local rates back from the terminals. The rates east bound from the intermediate points are usually higher than from the terminals, although many intermediate towns are given the same rate as the terminal cities enjoy."

To this system of rates the intermountain towns and cities have continually objected because the terminal cit- ies were permitted to obtain transportation at lower rates. To secure redress of this alleged discrimination they have at different times urged that water competition was not a controlling factor, that being nearer to eastern manufactur- ing points they deserved a lower rate than their terminal rivals, that the earnings of the railroads serving them were too large, and that in its revised form the Inter-State Commerce Act absolutely prohibited a greater charge for the shorter than the longer haul when the shorter was included in the longer. Their ^{one} ~~one~~ desire has been to secure lower rates that would strengthen them in their competition with

the terminals and their attempts to secure these lower rates have been supported by widely different complaints.

The railroads in defense of their refusal to lower the intermediate rates have relied upon the necessity of meeting water competition and of complying with the demands of market competition. Water carriers were the first transcontinental freight lines and the railroads had to meet the rates offered by them or nearly so in order to secure any traffic at all and ever since it has been claimed that rates offered by water carriers have been the controlling factor in transcontinental rate making. For this reason the various roads have maintained that they were justified in allowing terminal points more advantageous rates from Atlantic Coast points than were granted to the intermediate cities. But blanket rates which allow the same rate on the same article from any point east of the Missouri river to Pacific points are said to be just and reasonable because induced by market competition.

Water competition determines the rate which must be maintained from Atlantic coast points, but the manufacture of articles consumed on the Pacific coast is not confined to the Atlantic seaboard. Interior cities such as Pittsburg, Chicago, and St. Louis produce the same commodities and must be allowed a rate which will enable them to place their products on the coast as cheaply as their eastern competit-

ors. And hence blanket rates are justified.

The Commission's attitude in the struggle has changed radically. In the initial complaint made in the first years of the Commission's existence no radical changes or orders were made, and there was a great willingness on the part of the Commission to allow the railroads ample time to settle any apparent unreasonableness themselves. In the first complaint by Spokane it was decided that rates to that city were unreasonable, not because lower than terminal rates, but simply because they were inherently unreasonable, and a reduction of 18 % was ordered. After the Hepburn act was passed and the former complaint was again urged, it was decided that the earnings of the roads were excessive and for this reason lower rates should be offered to the intermountain towns.

In the last decision of June, 1911, which applied to the Reno and Salt Lake cases as well as to that of Spokane, the Commission decided that the system of transcontinental rates as applied to the intermountain cities was unjustly discriminating to these places as compared with terminal points and violated the Inter State Commerce Act as amended by the Mann-Elkins Law. No specific reduction of intermediate rates was ordered but instead the relation that should exist between the rates to terminal and intermediate points

was established.

The relation in rates and distance from certain points in formerly blanketed territory to Spokane ordered by the decision of June 22, 1911, is as follows:

✓ Rates to Spokane in percent as ordered June 22, 1911.

Missouri River	Miss. Riv.	Chicago	Detroit	Pittsb-g	N. Y.
100	107	107	115	115	125
Distance from Spokane expressed in percent.					
100	115	126	146	160	193

The different ideas which the Commission entertained as to the proper rates to Spokane from these points within a period of a little more than two years may be shown by the following table taking the rate from the Missouri River as a base rate for each decision

2 Differing Decisions of the Inter-State Commerce Commission from June 1909 to 1911.

Rates to Spokane -

	from Missouri River	Miss. R.	Chicago	Detroit	Pittsburg.	N.Y.
Feb. 9-09	100	116 2/3	116 2/3	No rates ordered		
June 7-10	100	110	113	118	125	135
June 22-11	100	107	107	115	115	125

It might be claimed of course that the Commission had

1. I. C. C. R. Vol. XXI. p 425-6.
2. I. C. C. R. Vol. XV. p 423. XVI p 179, XXI p 425

changed its opinion because of the change in the Interstate Commerce Act, made by the Mann-Elkins Law. This law, however merely gave the Commission more power to enforce the long and short haul clause and there is no reason in it for holding on June 7, 1910 before the law was amended that a reasonable rate from Chicago to Spokane would be 13 % more than the rate from St. Paul to Spokane and the on June 22, 1911 after the law was amended, that a reasonable rate from Chicago to Spokane should be only 7 % more than the St. Paul rate, *... and unfairly discriminating. But their solution*

It must be admitted that the Commission had new information as to the loss that the change in rates would make in to the roads but Prouty said when the opinion was written 1 June 22, 1911: "We find nothing in these figures, made up since the previous opinion to show what reduction the proposed rates would make in the R.R. earnings which would incline us to change our opinion as to the reasonableness of the suggested rates."

From a position in which it was held that rates to intermediate points should be reasonable and just in themselves regardless of the terminal rates, and that no necessary relation existed between terminal and intermediate rates the Commission has changed its attitude so that it orders inter-

mediate rates based on terminal charges and prescribes the maximum extent to which rates may vary between points like Spokane and Seattle.

The Commission's latest decision has not met with a great deal of approval because it makes the rates from all territory east of the Missouri River to Pacific Coast territory dependent upon the rates made by water carriers from the Atlantic to the Pacific Coast. It is evident that the Commission believes rates to intermountain territory are excessive and unfairly discriminating. But their scheme will hardly solve the problem as its effect will be to force the railroads to choose whether they will cease competing with water carriers and be able to maintain rates to the interior or continue to meet water competition and reduce all rates to the interior.

In order to arrive at any sound conclusion concerning the transcontinental rate situation it will be necessary to examine most carefully the claims of the railroads and then see if their methods of treating Pacific Coast traffic have been necessitated by the conditions which the railroads have always held responsible for their actions.

The problem has its origin in water competition--the primary cause for all the difficulties encountered in the disposition of transcontinental traffic. Nor can the ques-

tion be raised as to whether water competition of an effective nature was in existence at the time when the first trans continental railroad was constructed. Water carriers were the first in the field. The circuit court of the United States has twice found that water competition was an actual and controlling factor.--Farmer's L. & T. Co. v N. P. Ry. Co. 83 Fed. Rep. 249; I. C. C. v A. T. & S. F. Ry. Co. 50 Fed. Rep. 295.

The next question is; has water competition, of an effective nature, persisted till the present time and controlled the rates to the Pacific Coast? The railroads have tried from the first to neutralize the effect of water competition and have done all in their power to restrain it. Beginning with the special contract system in which rebates were paid to shippers employing the rail route, they soon robbed the ships of the bulk of their traffic. When the complaints against this practice showed that the public would tolerate it no longer, other devices were used.

In 1871 the Panama route was subsidized when the trans continental lines bought a considerable part of the space in the boats of the Pacific Mail and often allowed them to run empty. This arrangement was continued until 1900 when the control of the Pacific Mail was taken over by the Southern Pacific. Before this, however, in 1883 the Southern Pacific

line had placed a competitor in the field for water traffic which was in the words of one of the officials "to take care" of the water competition. And if we may believe the reports of its success it soon drove its rival carriers from the ocean. The Inter State Commerce Commission says (Vol. 21, p 347) "By the year 1885 competition by sea was no more than nominal." This was the year that the Santa Fe entered the field and began to exert its influence.

For several years now the American Hawaiian Steamship Company has been the only really active water competitor. But the most friendly relations exist between these competitors. There is no attempt to take traffic from each other by means of rate cutting. And it is a question whether the rail rates are affected by water rates more than water rates are influenced by rail charges. The assistant to the vice president of the Southern Pacific said, in answer to the question whether the water lines controlled the transcontinental routes: "I believe the rail lines control the making of their own rates, and when we say that we do not care to go any lower that indicates our disposition in that regard in making rates." The same official also said "I have never seen a tariff of the American Hawaiian line, because they have never been published. They are simply based on our rate as the basis of theirs." The president of the American Hawaiian

ailian line in testifying before the Senate Committee on Inter oceanic Canals in 1910 said "We are friendly with the railroad traffic managers. We discuss rates. We are not tied up, we are not committed. Our traffic manager doesn't attend the conferences of the railroads but he goes to Chicago and gets his ear pretty close to the ground."

The Interstate Commerce Commission said in the Spokane case that there might not be a definite agreement between the American Hawaiian line but there was a general understanding that such rates should be maintained as would give to the vessels a reasonable amount of traffic from the vicinity of New York.

None of the foregoing evidence would sustain one in the opinion that water competition is today active and effective. For over forty years the railroads have been restraining and controlling water competition and at present there appears to be an exceedingly friendly if not cooperative spirit between the one remaining line of water carriers and the transcontinental roads. But in spite of all this water competition is an influential factor in determining rates. This water competition is not active-only 14.2 % of
6 the transcontinental traffic moved by water in 1911; but potential. The very existence of the ocean means ever present opportunities to steamships to engage in transportation

if the railroads should attempt to charge all that the
*traffic would bear. Neutralizing ocean competition does
not destroy its restraining effect upon the upward tendency
of railway rates, although it may lessen the receipts of the
vessels and accordingly swell those of the railway. This
however is only good business policy. Hence we may conclude
that wherever water competition is active or potential it
is perfectly justifiable to make rates that recognize this
fact.

Now do the railroads do this? They have long refused
to apply terminal rates to the intermountain towns because
it was claimed that water competition did not compel them
to do so.

In speaking of the application of favorable commodity
rates to terminal points the Inter-State Commerce Commission
said:

/"The principal ones (terminals) are Seattle, Tacoma,
Portland, San Francisco, Los Angeles, and San Diego. In or-
egon but two places enjoy these rates--Astoria at the mouth
of the Columbia River, and Portland at the junction of the
Williamette and the Columbia Rivers--to both of which points
steamships and sailing vessels carrying Atlantic seaboard
traffic have easy and constant access. In southern Calif-
ornia San Diego is upon a harbor and is a port of call for

steamships engaged in interoceanic traffic. Los Angeles however, is not upon the sea, at least has not been until recently. The city limits of Los Angeles have now been extended so as to include a strip of land extending from that city to the port of San Pedro which has become the port of Los Angeles, and the citizens have raised a fund for the improvement of the harbor and its water front and the building of a municipal line of steam railroad for the 16 miles between the heart of the city and the waters edge. This anomalous condition of things however, exists that until a recent order of the Commission the little city of San Pedro through which traffic by water moved to and from Los Angeles was denied terminal rates although the city of Los Angeles which was inland enjoyed such rates. Many cities and towns an equal distance from the seaboard but equally available thereto do not enjoy terminal rates, and some immediately upon the coast, such as Ventura and Santa Barbara pay higher rates than does Los Angeles. How then is the preference of Los Angeles justified? The answer of the railroads is that the benefits of sea competition were extended to Los Angeles by an arrangement between the Santa Fe Railroad and the American Hawaiian Steamship line the Santa Fe publishing an extraordinarily low schedule of rates upon traffic transshipped at San Diego and destined to Los Angeles. In 1909 the American Hawaiian Company put on a line of steamships by way of the

Straits of Magellan, and for the last five years has had a considerable fleet engaged in this through business by way of the Tehautpec railroad which is controlled by the Mexican government. This steamship line stops at San Diego, but does not stop at the port of San Pedro. The Santa Fe railroad extends to it and other water carriers a schedule of class rates from San Diego to Los Angeles approximately the same as that obtaining over the San Pedro line from San Pedro to Los Angeles, this schedule being based on a 16 cent rate per 100 pounds for first class traffic. Thus Los Angeles by a combination of circumstances becomes a "terminal point."

"Proceeding northward to Central California, the first terminal that we find is San Jose which is some ten or twelve miles removed from the bay of San Francisco and can not be reached by water, but it enjoys the advantages being upon the original line of railroad which was built around the southern end of the bay of San Francisco. Moreover it is possible to transport freight from San Francisco to San Jose by water and wagon and by rail for perhaps \$1. a ton.

"Without continuing this inquiry into the geographical position of the various terminals, it may be stated in general that around San Francisco there has been thrown a corodn of terminal points extending from San Jose on the south, to

Marysville, on the north, to which points terminal rates are given--that is, rates which are the same as to San Francisco--but^{to} none of these points do the steam ships ply directly in the carriage of west bound freight. That is to say although San Francisco is the only city in central California which enjoys direct water competition with the Atlantic seaboard the railroads serving that city have as a matter of policy given to many of her neighbors the same rates that she enjoys, and because of railroad competition the steamship lines which reach San Francisco now give these cities the same rates as are given to San Francisco. The steamships absorb the local transshipment rates from San Francisco to interior points, because it has been railroad policy to establish these additional terminals not directly upon the ocean and not served immediately by the ocean carriers."

It is evident from this description of the Pacific terminal situation that it is not the result of a rigid application of any principle based upon sea competition, for terminal rates are given to cities that are not on the ocean and the railroads have even forced the steamships to absorb inland rates in order to meet railroad competition at these interior points.

An analysis of the west bound rail shipments to Pacific coast terminals shows that the greater part of such shipments do not originate on the Atlantic coast.

Analysis of West Bound Traffic

Origin	L.C.L. %	C.L. %	Total %
New York, Boston & Common points	39	19	22
Pittsburgh, Buffalo & Common points	8	14	13
Cincinnati-Detroit & common points	12	8	8
Chicago and Common points	16	16	16
Miss. River and Common Points	9	11	11
Mo. Riv. & Com. pts.	10	25	23
Southeastern points	2	3	3
Colorado points	<u>4</u>	<u>4</u>	<u>4</u>
Total	100	100	100

According to this tabulation only about 22 % of the rail shipments originate east of Pittsburgh. And the application of special rates to such traffic can not be met by any substantial opposition.

The fact however that the railroads have seen fit to blanket all the territory from the Missouri River to the Atlantic coast requires quite a different explanation.

We have that explanation given to us by the railroads, for they claim that market competition compels no less insistently than water competition that special treatment should be given this section of the country. The industrial center has moved westward they claim and the young manufactur-

ing center must be allowed to place their goods in the west as advantageously as eastern manufacturers. The water carriers determine the rate eastern manufacturers must pay, and so to allow western industries the same advantages that rate must be extended so as to blanket all the territory east to the Mo. river,

It will be remembered, however, that the first indication of extending N. Y. rates to interior points was made in 1885 when the Santa Fe was completed from Chicago to Los Angeles and began an active fight for transcontinental traffic. Before this road entered the field commodity rates had been graded upward from New York and were higher from Pittsburgh and Chicago than from New York.

The Santa Fe, however, apparently saw the westward movement of industry and knew that the western manufacturers should be placed on a par with their older eastern rivals in Pacific Coast markets and, without waiting for more insistent demands from Chicago itself, allowed New York rates to the Pacific to apply from Chicago. Thus did market competition cause the blanketing of rates in the eastern part of the United States, if the railroads defense ever since is credited. It is probably only an interesting coincidence that in the attempt to place Chicago markets on a par with New York for Pacific business the Santa Fe lost nothing. It

might even be surmised that they actually profited by their generosity, And that this was only another case of "philanthropy with ten percent profit". When the Santa Fe reached Chicago the Sunset Gulf route was carrying most of the traffic from New York where the manufacturers were principally located. To secure any of this traffic the Santa Fe had to make the same rates and pay a large share to some trunk line for bringing the freight to its Chicago terminus. Naturally the Santa Fe would rather make the same rate from Chicago that it had been compelled to make to N. Y. when it could build up the western manufacturers and incidentally be allowed to retain the full rate.

This radical change in rate making was vigorously opposed by other roads not situated as the Santa Fe was and ten years elapsed before all the transcontinental lines felt the demands of western manufacturers for New York rates.

No change was made in the Pacific Coast terminal conditions but the intermountain cities felt that the extension of the advantages of market competition to Pacific Coast points robbed them of their geographical advantage. Extending New York rates to the Missouri river but still retaining the former differences to intermountain towns does not appear to be the result of conditions over which the railroads have no control.

It is to the advantage of the Pacific Coast people naturally that such a condition should exist and their attitude is well shown in the St. Louis case, which bears so pointedly on the subject considered that it should be reviewed in detail.

In this case the viewpoint of the terminal cities which are trying to retain all their advantage over the intermountain cities is shown, along with the attitude of the middle west jobbers which shows some of the complications induced by water competition, as well as the difficulty and impossibility of equalizing advantages to all cities without restricting any.

In this case the Business Men's League of St. Louis made complaint concerning the transcontinental rates claiming that these rates discriminated against the jobbing houses of the middlewest by making a lower rate to Pacific Coast terminals than to points upon the Pacific Coast farther east, by making a blanket rate from all territory east of the Missouri River to Pacific Coast destinations, by undue and unreasonable differences between carload and less than carload rates; by an unjust system of varied commodity rates and by unreasonably refusing to permit shipments for mixed carloads.

It was complained that rates to intermediate points were

1. I. C. C. R. Vol. IX. p 318.

made by adding to the terminal rate the local back from the terminal to the intermediate point. Certain class rates were named to these intermediate points as maxima so that whenever the through terminal rate plus the local back to the intermediate point exceeded the class rate to that intermediate point the class rate was used. By this method of rate making the rate increased as the distance decreased.

The blanket system of rates from all territory east of the Missouri River to the Pacific Coast was complained of as it was claimed that graded rates should be substituted. That is that the rates should increase toward the Atlantic Coast.

As a reason for graded rates it was urged that previous to 1894 graded rates had existed. At that date the San Francisco jobbers organized the North American Navigation Company as a competitor of all trans-continental lines. Following this a bitter rate war was begun, and every inducement was made by the railroads to the middle west jobbers to invade the territory of their Pacific Coast Competitors. The result was disastrous to both conflicting parties. The San Francisco jobbers lost most of the money they had invested in their steamship Company and the railroads had carried traffic at a loss.

By 1897 both parties were ready to cease the struggle and in that year the jobbing interests of the Pacific Coast

sent a communication to the railroads saying that rates ought to be readjusted in the interest of the coast jobbers and steps taken to prevent the middle west competitors from obtaining fraudulent rates. In this was done they said that they would find it convenient to place their shipments with the railroads at advanced rates.

For the purpose of perfecting arrangements two conferences of the transcontinental lines and delegates from the San Francisco jobbers were held, and as a result the tariff of Jan, 25, 1898 was issued in which rates were blanketed from the east. The middlewest jobbers at once insisted that the tariff had not had proper consideration and another meeting was held in May 1899 which resulted in a supplementary tariff issued by the Great Northern and Northern Pacific Railways, containing some modifications favorable to middle west jobbers.

In their complaint the Middle West jobbers claimed that by the great difference in the carload and less than car load rates from the east to the Pacific coast the Middle West jobbers were discriminated against. The average differential between carloads and less than carloads was about 50 cents a hundred pounds.

Most of the articles consumed on the Pacific coast are produced in the east. Shipments ~~from~~ the factory to any jobbing house ^{are} ~~is~~ usually made by carload lots. This means

that the Pacific Coast jobber may get his goods carried to his place of business which is usually on the coast at very low rates, from which he may distribute them to retailers at local rates. On the other hand the middle west jobber gets his goods in carload lots at Chicago or St. Louis and then has to sell to the Pacific Coast retailer in small lots which means that his goods are carried west at the less than carload lot rate, making a very substantial difference in the cost at which retailers receive their goods. This gives to the Pacific Coast jobber an advantage equal to the difference between the carload and less than carload rate, and this advantage is important in proportion as the margin of profits per hundred pounds is greater or less.

A concrete illustration will make this clear. "The rate on bar iron from the east to the Pacific Coast was 75 cents L.C.L. \$1.25. Assume some intermediate point to which the local rate from the terminal is 50 cents L.C.L. The Pacific Coast jobber paid in freight upon a hundred pounds of iron delivered to the retailer at that point 75 cents to his ware house and 50 cents local, in all \$1.25, while the eastern competitor paid on the L.C.L. shipment from his ware-house \$1.75. This would give the Pacific Coast jobber a clear advantage of 50 cents in the freight rate to all points that based upon the terminal point." As

the profit in handling bar iron is less than 50 cents a hundred pounds it can easily be seen that this differential would absolutely prohibit the middle west jobber from the territory whose rates were based on terminal points except where such shipments could be made in car load lots. To a very limited extent it is possible to send a carload lot to one consignee upon the coast and distribute from that point but this has always proved very unsatisfactory and is little used.

Another means of discrimination was urged in that the right to ship in mixed car loads, commodities of the same character. Rates on sheet iron were L.C.L. \$1.25 C.L. .80. These applied to black sheet iron of two different weights and to galvanized sheet iron. But these commodities could not be shipped in mixed carloads, and hence middle west jobbers were prohibiting from shipping these articles west except in carload lots, which was not at all convenient; while the Pacific Coast jobber can easily buy a car load of each separate kind of sheet iron and then distribute it from his warehouse in local rates.

The Pacific Coast jobbers claimed that because ^{of} the peculiar conditions under which they did business and from their peculiar location they were entitled to all the advantage which the tariff of 1898 allowed them. Their supplies as has been noted are drawn largely from the east. Because

of the method by which rates are made, the territory to which the coast jobbers can distribute is very limited for as soon as the terminal plus the local east equals the intermediate rate from the east, the advantage lies with the eastern jobber. It was generally agreed that the 115th meridian about three or four hundred miles from the coast marked the eastern boundary of the territory in which the Pacific Coast jobber could operate.

Besides limiting the territory east and west for all Pacific coast jobbers the system of rates also limits the territory north and south which each individual jobber may operate. The rates from the east are the same to all coast terminals. And rates to the interior are local rates from the terminal. As a jobber from San Francisco goes north or south he very soon reaches a point where his local rate exceeds the local from some other Coast terminal such as Portland or Los Angeles.

This small amount of territory in which each coast jobber may operate renders the amount of business done by each house very slight and for this reason they asked that they should not be deprived of any advantage which they possessed.

In rendering the decision the Commission found that the reason the blanket system rates was applied in the east and not in the west was because there were no strong com-

mercial interests at the intermediate points which could insist upon a change, as the strong manufacturing cities of the Middle West had done. And it was added, "Apparently there never can be so long as the present system continues in force."

It was decided that in the interest of the consumer it would be cheaper to transport goods in car load lots to coast terminals to be distributed from there than to carry them to the retailer at less than carload lot rates, even for the sake of competition, and for the reason the differentials were not found excessive. But many details were thought to be unjust ^{and} additional ^{hearing} ~~lowering~~ was advised.

From this investigation of the transcontinental rate situation and the preceding summary, the following personal conclusions are drawn.

That water competition from coast to coast, while potential instead of active, is effective and compels the railroads to make lower rates to the terminal cities than to intermediate points.

That the plea of market competition as a justification for rates from Chicago and similar points to the Pacific coast is an afterthought, in defense of a policy of distinctly advantageous to the transcontinental lines.

The bargain that California people have made with the

railroads in the past, together with the fact that little or nothing is known concerning the actual rates charged by water carriers, causes^{an} exceedingly strong suspicion that "water competition" has been used to cover a multitude of anomalies in transcontinental rates.

That the Commission, by attempting to adjust rates to intermountain towns by prescribing the relations which they should bear to competitive compelled rates, acted in the only way possible when water competition directly or indirectly controls rates on all freight to the Pacific Coast from one half of the country. Accordingly to law it should first have decided a reasonable rate to the intermountain cities and then prescribed the extent to which such rates could be departed from at competitive points. At these places, however, the rates were fixed by forces beyond control and reasonable rates had to be determined afterwards.

Thatⁱⁿ as much as water competition is responsible for the majority of problems in transcontinental rates, and so little is known of them, it would certainly be proper to compel regular lines of water carriers to file tariffs with the Commission and such other reports as would aid in determining the commodities carried, rates charged, and inland extent of water competition.

And finally it appears ~~that~~, in view of the conflicting sectional interests, the probable increasing importance of

water competition in the near future, and the varying opinions of the Commission in the last few years, that the problems of Transcontinental Rates are not yet solved. A long period of experimentation must follow before we can expect any satisfactory settlement of the situation acceptable to all sections of the country.

Bibliography.

Cleveland, F. A. & Powell F. W.

Railroad Promotion in the United States
Longmans, Green & Co., N. Y. 1909.

Dixon F. H.

State Ry. Control, Crowell & Co, 1896.

Dunn S. O.

American Transportation Question. Appletons, 1912.
Great Battle over Rys in the West. Scrib. 47:364
Fair Regulation of Rates. No. Am. 191:185.
Rys. & Sherman Anti-Trust Law. World Today, 16:601
Shippers & Railroads. World Today 15:1250
Ry. Discrimination. J. P. E. 20:437

Hadley, A. T.

Railroad Transportation. Putnam's Sons, 1903

Haines H. S.

Restrictive Ry. Legislation. McMillan, N. Y. 1905.

Hendrick. Frank

Railway Control by Commission, Putnam's Sons, N.Y. 1900.

Johnson E. R.

Am. Ry. Transportation. Appletons, N. Y. 1903

Panama Canal Traffic & Tolls

Govt. Doc. No. 875, 62nd Cong. 2'd Session.

Johnson & Huebner.

Railroad Traffic & Rates, 2 Vol, Appletons, N. Y. 1912.

Lord. J. W.

Review of Fed. Ry. Regulation, No. Am. 181:87

Merritt AM. N.

Fed. Regulation of Ry. Rates. Houghton, Mifflin & Co. 1907

Meyer B. H.

Ry. Legislation in the United States.

Macmillan Co. N. Y. 1903.

Meyer Hugo R.

Gov't. Regulation of Ry. Rates.

Macmillan Co. N: Y. 1906.

McPherson L. G.

Railroad Freight Rates. Holt & Co. 1909.

Newcomb H. T.

Facts About Railroad Rates. Am. Bank Note Co. N.Y. 1905

Noyes W. C.

American Railroad Rates. Little, Brown & Co. Boston, 1906

Hammond M. B. Rate Theories of the Inter-state Commerce Commission.
Harvard Economic Studies 1911.

Parsons Frank

The Heart of the Railroad Problem

Little, Brown & Co. Boston, 1906

Report of the Industrial Commission. Parts 4 & 9

Interstate Commerce Commission Reports.

Annual Reports of the Interstate Commerce Commission.

Freight Rates Made By Rys. R. of R's. 32:70

Difficulties of Gov't Rate Making. R of R's 33:96

Transcontinental Rys. in the United States. Sc. Am. 108:588

Local Discrimination in Transportation. Q. J. E. 23:470

Ry. Theories of Interstate Com. Commission. Q. J. E. 25:1

City Competition in Ry. Rate Making. J. P. E. 16:227

Reasonable Rates. J. P. E. 12:70

Minnesota Rate Cases. J. P. E. 16:305

Gt. Changes in Railroad Problem. Worlds Work 10:6764

Our Freight War in the West. World Today 18:373

Ry. Riddle. Arena 40:553

Ry. Freight Rates. Yale Review 18:122

Ry. Age Gazette, Files of. 1910 & 11

University of Kansas Libraries



3 3838 100531091