

**THE COMMUNITY OF INTERESTS
METHOD OF REGULATING
RAILROAD TRAFFIC IN ITS
HISTORIC ASPECTS**

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Joseph Nimmo

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THE COMMUNITY OF INTERESTS METHOD OF REGULATING RAILROAD TRAFFIC IN ITS HISTORIC ASPECTS.

The public interest manifested in the method of regulating railroad traffic known as a "community of interests" suggest a brief statement in regard to the experiences and the existent circumstances and conditions which have led up to the adoption of that expedient.

The Unification of the American Railroad System.

From the year 1830 to about the year 1860 the railroads of the United States were, as a rule, dissociated. Each line pursued its own traffic policy, prescribed its own classification and rate sheets, avoided joint traffic arrangements with the lines of other companies and stoutly resisted the common use of cars and tracks. Different track gauges were adopted by the different companies in order to subserve the commercial interest of their several termini or points of intersection, as well for the purpose of avoiding entangling alliances incident to joint traffic.

This policy was for many years firmly main-

tained and defended by the leading railroad managers of the country. But from time to time inroads were made upon this constricted mode of conducting railroad transportation. During the Civil War, 1861 to 1865, the Government of the United States demanded the continuity of railroad transportation for the movement of men and munitions of war, and soon thereafter the commercial interests demanded a larger and less restricted method of conducting the internal commerce of the country by rail. There also arose a general and imperious demand for uninterrupted postal communications and for improved facilities for travel. These demands were gradually met by the railroad companies and in time the new arrangements acquired the sanction of both national and state law. The more important statutory enactments which have secured the practical unification of the American Railroad System are as follows :

1. The Act of June 15, 1866, entitled "An Act to Facilitate Commercial, Postal and Military Communication among the States," provided as follows :

"That every railroad company in the United States whose road is operated by steam, its successors and assigns, be, and is hereby, authorized to carry upon and over

its road, boats, bridges and ferries all passengers, troops, government supplies, mails, freight and property on their way from one State to another State, and to receive compensation therefor, and to connect with roads of other States, so as to form continuous lines for the transportation of the same to the place of destination "

R. S., Sec. 5258.

This Act has been aptly designated "The Charter of the American Railroad System."

The general facilities for joint traffic afforded by the companies under the provision of the Act just quoted in a high degree accomplish the unification of the American Railroad System for the purposes of internal commerce, embracing the postal service, the Pullman car service and the express business.

2. For many years the continuity of railroad traffic was impeded by objections to allowing railroad bridges to be constructed across navigable streams. But the fact that the commerce over railroads was assuming even larger proportions than the commerce upon the rivers, at an early day, led the courts to overrule this objection upon grounds of justice and public policy. Subsequently, by special State and national statutes and eventually by the general act of Congress of September 19, 1890, the construction

of bridges over navigable streams was authorized throughout the United States. Thus was removed a serious obstacle to the unification of the American Railroad System.

3. States of the Union have by general as well as by special statute not only authorized railroad companies to cross their boundary lines and to engage in interstate commerce without let or hindrance, but have extended to such companies solicitous invitations to do so. This has contributed largely toward the unification of the American Railroad System.

4. The "Interstate Commerce Act," approved February 4, 1887, in its guiding principles, positive requirements and specific inhibitions is firmly based upon the idea of a deftly articulated American Railroad System. Its first section provides that it shall apply to the transportation of passengers or property "for a continuous carriage or shipment from one State or Territory to any other State or Territory, or from any place in the United States to an adjacent foreign country, etc.," indicating clearly that the act was intended to apply to an existent and intimately connected system of railroad transportation.

In its second section, which is at once considerate, mandatory and enabling, the Interstate

Commerce Act provides that the railroads of the country "shall, according to their respective powers, afford all reasonable, proper and equal facilities for the interchange of traffic between their respective lines, and for the receiving, forwarding, and delivering of passengers and property to and from their several lines and those connecting therewith."

Section 6 of the Interstate Commerce Act requires the railroad companies to file joint rate contracts with the Interstate Commerce Commission and to maintain such joint rates involving the unification of traffic. This section also provides for the publication of joint tariffs of rates.

Section 7 of the same act specifically provides for continuous traffic over connecting lines, and clearly authorizes agreements and combinations involving the common use of tracks, cars, locomotives and depots, and the harmonious management of the entire apparatus of railroad equipment, by prohibiting any act which would tend to prevent such practical unification of the entire railroad system of the United States.

In a word, the requirements of the Interstate Commerce Act relates to incidents of a closely connected and co-operative American Railroad System, instituted by the railroad companies and administered by them.