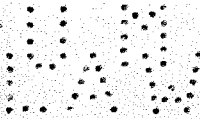


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**WILL THE RAILROAD ACT OF 1920
SOLVE THE RAILROAD PROBLEM?**



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For fourteen years I have advocated *real* public control of the railroads and the elimination of *private* control. I have advocated control by a Federal Railroad Board, controlling the boards of directors of all railroad corporations, reorganized under federal charters.

In a blind, groping, hesitating, experimental way the public is slowly moving towards the same goal. The government now fixes rates and takes surplus profits for general railroad purposes. The government also fixes the wages of railroad employees. There is not much left of private control. The Railroad Act of 1920 (designated the "Transportation Act") increases public control and decreases private control. It travels far on the road of *real* public control. That which was considered revolutionary now turns out to be evolutionary.

In some respects this Railroad Act of 1920 is a surprising move forward. It marks a revolution in public sentiment, namely, the abandonment of the fetish that railroads must compete and that the consolidation of parallel lines would be a dangerous monopoly. The record shows the evolution of public thought. In 1896 the Supreme Court of the United States held that the combination of the Northern Pacific and Great Northern Railroads was illegal and contrary to public policy.¹ In 1897 the court held that the Anti-Trust Act of July 2, 1890, prohibited the pooling of receipts by two or more competing railroads.² In 1904 the same court held that it was in violation of law and public policy for the Northern Securities Company to hold the stock of the Great Northern Railway

¹ Pearsall v. Great Northern Ry., 161 U. S. 646.

² United States v. Trans-Missouri, etc., Assoc., 166 U. S. 290; United States v. Joint, etc., Assoc., 171 U. S. 505.

Company and of the Northern Pacific Railway Company, and the Union Pacific Railway Company.¹

All of this is now changed. A silent revolution has taken place in the minds of men. Competition is recognized as impossible. Accordingly the Railroad Act of 1920 authorizes pooling,² and the leasing of one railroad to another,³ and the purchase by one railroad of the stock of another.⁴ It authorizes the consolidation of railroad systems⁵ and goes farther and directs the Commission to formulate a plan for consolidating all the railroads of the country into a few systems.⁶ The Act of 1920 authorizes, with the consent of the Commission, the "acquisition" of one railroad by another, by lease or stock control or "in any other manner," except by consolidation. Even consolidation is authorized, but "competition shall be preserved as fully as possible." That preservation of competition is feeble indeed.

Then there is another fundamental departure in the Act of 1920, namely, that the Commission shall make railroad rates high enough to pay at least $5\frac{1}{2}\%$ on the value of the railroads for two years at least.⁷

This approaches real public control and the elimination of private control. The government is being swept by the current of events into greater and more absolute control. It is dictating rates, as well as expenses.

And there is another fundamental advance by the Act of

¹ Northern Securities Co. v. United States, 193 U. S. 197.

² § 407 (5).

³ § 407 (2).

⁴ § 407 (2).

⁵ § 407 (6).

⁶ § 407 (4). The bill, as passed by the Senate and sent to Conference, directed that, if voluntary consolidations were not made within seven years, federal regional railroad corporations were to be formed to take over the present existing railroads or their stock and bonds, by issue of the federal companies stock (§ 13). The Senate bill also made strikes a misdemeanor (§§ 30, 31). Public sentiment, however, at that time, as represented by the House, had not advanced that far, and so those provisions were stricken out in Conference.

⁷ § 422 (15, a-3).

1920. Hitherto public control of the railroads has been twofold, national and state—the latter shackling the former. State control is now curbed by the Act of 1920, and federal control is made supreme¹—one step more towards full public control by the national government. The day of state hectoring is past.

But the Act of 1920 stops short of real public control in the following particulars:

(1) It gives as an emergency power that which should be a permanent, every-day power. Take an illustration. On May 15th, 1920—only ten weeks after the railroads were returned to their owners—the congestion of traffic broke down the service and the railroads themselves petitioned the Commission to declare that an “emergency” existed under the Act.²

¹ § 416 (4). “Whenever in any such investigation the Commission after full hearing, finds that any such rate, fare, charge, classification, regulation, or practice causes any undue or unreasonable advantage, preference, or prejudice as between persons or localities in intrastate commerce on the one hand and interstate or foreign commerce on the other hand, or any undue, unreasonable, or unjust discrimination against interstate or foreign commerce, which is hereby forbidden and declared to be unlawful, it shall prescribe the rate, fare, or charge, or the maximum or minimum, or maximum and minimum, thereafter to be charged, and the classification, regulation, or practice thereafter to be observed, in such manner as, in its judgment, will remove such advantage, preference, prejudice, or discrimination. Such rates, fares, charges, classifications, regulations and practices shall be observed while in effect by the carriers parties to such proceeding affected thereby, the law of any State or the decision or order of any State authority to the contrary notwithstanding.”

This is a Congressional recognition of the Shreveport Rate Case, 234 U. S. 342 (1914); and if it proves to be insufficient (which is possible, judging from the controversy now going on between New York State and the railroads in that State), the only way by which State rates may be controlled by the federal government will be by federal incorporation or a federal constitutional amendment. The former remedy I advocated in a pamphlet on “Legal Possibilities of Federal Railroad Incorporation,” issued in January, 1917.

² § 402 — 15, reading as follows:

“Whenever the Commission is of opinion that shortage of equipment, congestion of traffic, or other emergency requiring immediate action exists in

and asked that the Commission take charge. The Commission did take charge, by three sweeping orders on May 20, 1920, directing all railroads throughout the United States, subject to the Act, to disregard routing and also to send coal cars east and box cars west. This was handling the traffic as though all the railroads were owned by one corporation, and all of its stock was owned by the Commission. That was real public control. But why should it be confined to an emergency? Why should not the Commission, or better still, a Federal Railroad Board, exercise that power every day, and day by day, in the interest of the public, the public being absolutely dependent upon the railroads? Why should 30 or 40 or 50 separate, independent, warring railroad managements be allowed to cause such a blockade of traffic as this?¹ The Amer-

any section of the country, the Commission shall have, and it is hereby given, authority, either upon complaint or upon its own initiative without complaint, at once, if it so orders, without answer or other formal pleading by the interested carrier or carriers, and with or without notice, hearing, or the making or filing of a report, according as the Commission may determine: (a) to suspend the operation of any or all rules, regulations, or practices then established with respect to car service for such time as may be determined by the Commission; (b) to make such just and reasonable directions with respect to car service without regard to the ownership as between carriers of locomotives, cars and other vehicles, during such emergency as in its opinion will best promote the service in the interest of the public and the commerce of the people, upon such terms of compensation as between the carriers as they may agree upon, or, in the event of their disagreement, as the Commission may after subsequent hearing find to be just and reasonable; (c) to require such joint or common use of terminals, including main-line track or tracks for a reasonable distance outside of such terminals, as in its opinion will best meet the emergency and serve the public interest, and upon such terms as between the carriers as they may agree upon, or, in the event of their disagreement, as the Commission may after subsequent hearing find to be just and reasonable; and (d) to give directions for preference or priority in transportation, embargoes or movement of traffic under permits, at such time and for such periods as it may determine, and to modify, change, suspend or annul them."

¹ If all of the earnings of all of the railroads were practically to go into one "pool" (as they would under the plan I have advocated for so many years), terminals would be used in common; traffic would go by the shortest and cheapest route, irrespective of what railroad received it; cars would be sent where needed, irrespective of what railroad owned them;

ican people think that by the Act of 1920 they have preserved competition in service and avoided government control of the railroads. They have done neither. Competition in service, in other words independent service, broke down in ten weeks, by the railroads' own confession, and then temporary government control by the Commission was assumed as airily as though War Control and McAdoo had never existed¹. Sooner or later it will be clear to the American people that they are trying to exercise government control over the railroads without providing proper machinery for such control.

(2) The Act of 1920 is piecemeal financing. The railroads are in dire financial straits and cannot extricate themselves, even though rates have been raised to pay 6% on their value. Only recently the New York Central, the Pennsylvania and other strong railroads issued securities at 7%. The poorer railroads cannot get money at all. The Act of 1920 authorized a loan of \$300,000,000 to assist. It was but a drop in the bucket. According to the testimony of railroad officials the government did not maintain the railroads up to the old standards, which means an immense additional expenditure to bring the roads back to their former condition. *The American people might as well face the fact that the government has got to finance the railroads.* The Act of 1920 stopped short, because public sentiment was not yet ready for comprehensive financing, by a guaranty coupled with real public control. And

and all railroad traffic would be handled as though all of the railroads were owned by one company. Emergencies would not arise, because they would be anticipated. A Federal Railroad Board would give orders to railroad general managers, and if any general manager disobeyed he would be discharged.

¹ June 9, 1920, another emergency order gave preference to the transportation of bituminous coal to Lake Erie ports.

June 19, 1920, an emergency order practically commandeered all local cars east of the Mississippi River. July 13th the mine owners declared that this last order was not being obeyed by the railroads.

July 26, 1920, coal cars on certain Eastern railroads were practically commandeered to supply coal to New England. This order was suspended on September 17.

so that Act authorized a loan of \$300,000,000. It should have worked out a comprehensive plan for \$20,000,000,000—not as a loan, not on a guaranty of the principal, but on an express guaranty of a fixed income. That will come and is already coming fast, on account of the railroads not being able to raise necessary fresh money. And the new régime will not be government ownership any more than present Commission rule, under the Act of 1920, is government ownership.

(3) An overfunctioned Commission. Theoretically and originally a Commission was supposed to be administrative in its character, but in these latter days it has become quasi-legislative, quasi-executive, and quasi-judicial; in fact, in Arizona it is declared to be practically a fourth department of the government itself.¹ We certainly have traveled far, but Americans dearly love a fad—while it lasts. Congress has gradually made the Interstate Commerce Commission legislative, executive and judicial. The result is too many powers and too much work. Even before the Act of 1920 that Commission had a Pandora's box of troubles on its hands—rate questions, valuation questions, discriminations and the kaleidoscopic panorama of troubles that appear in the reports of the Commission itself. Quite enough for one body.

But consider the colossal combination of additional powers and duties now imposed on that Commission by the Act of 1920. It is to determine what is "efficient and economical management," which, of course, is largely labor expense. It is to determine what is a fair percentage of return on the value

¹Those who are interested in the legal status of Commissions and the justification for the delegation of powers to them, notwithstanding the written constitutions and jurisprudence of America, will find the subject treated in *Honolulu R. T. Co. v. Hawaii*, 211 U. S. 282 (1908); *Grand Trunk Ry. v. Michigan Ry. Comm.*, 231 U. S. 457 (1913); *Trustees, etc., v. Saratoga Gas, etc., Co.*, 191 N. Y. 123 (1908); *Besette v. Goddard*, 88 Atl. 1 (Vt. 1913); *State v. Baltimore & Ohio R. R.*, 85 S. E. 714 (W. Va., 1915). In the case *State v. Tucson, etc., Co.*, 138 Pac. 781 (Ariz., 1914), the court held that the Corporation Commission was neither legislative nor executive, nor judicial, but included all, and was, in fact, another department of the government. *Cp. State v. Great Northern Ry.*, 100 Minn. 445 (1907).

of railroad property after two years. That value has been and will continue to be a subject of incessant controversy, and is subject to review by the courts. It is to determine rate districts for the whole country. It is to approve or veto the construction of new railroads. It is to control the issue of railroad securities, except notes of short duration and limited amount. It is to govern loans to railroads from a revolving fund. It is to regulate the division of rates between the railroads. It may require one railroad to allow another to use the terminals of the former and may fix the compensation. It is to have the power of veto over the exercise of the new powers of pooling, purchase of stock, leases and consolidations.

Does anyone believe that that Commission or any other body can exercise all of those powers effectively and satisfactorily, in the face of the vast conflicting interests that must be reconciled or overridden in each instance? Not only is the proposition absurd but the whole proposition is unnecessary. *Real* public control by control of the directors would prevent most of these questions and troubles from even arising. If a Federal Railroad Board had complete directors control, as I have advocated for years and as has been endorsed by the most advanced thinkers on the subject, that complete directors

Judge Lovett in "The Spur" of July 15, 1920, states this as follows:

"Some executive agency, such as a Department of Transportation, headed by a member of the Cabinet, or a small Transportation Board, such as was contemplated by the Cummins Bill, is absolutely necessary to relieve the Interstate Commerce Commission of the vast executive and administrative duties devolving upon it under the old law and continued and enlarged by the new law. * * * *

"Indeed, the Commission could spend its entire time in hard work upon these executive and administrative duties without ever getting to the great work of making and supervising rates and deciding rate questions for which it was primarily created and for which alone it is adapted.

"This is no reflection on the Commission. There is no more hard-working or devoted body of officers in our Government. It is simply impossible—humanly impossible—for such a tribunal to perform the task that has been put upon it without intolerable delays. The remedy is to put the executive and administrative duties in the hands of executive officers and departments, by whom they can be performed expeditiously and without the elaborate machinery and formal procedure that appertain to a semi-judicial tribunal such as the Interstate Commerce Commission."

control would in itself displace this vast welter and confusion and conflict.

(4) The fatal lack of directors control. What would you think of a railroad board of directors that had no power to select or discharge its general manager? What kind of control would that be? And yet that is the kind of control that the Act of 1920 confers on the Commission. Of course, Congress could do no better, unless it was prepared to reorganize the railroads under federal charters, and public opinion had not yet traveled that far. Congress could not constitutionally take from present railroad stockholders the right to control the present railroad corporations. Hence Congress could not give that power to the Commission, and no matter how incompetent or extravagant or dishonest a particular railroad management may be, the Commission cannot change it. Such a situation leads at once to conflict between the railroads and the Commission. Even in the instance mentioned above, where the Commission took charge in an "emergency," at the request of the railroads themselves, and the Commission issued an order, the railroads did not obey it, and so the Commission had to threaten them with fines and penalties. This is ominous and yet it is inevitable. The fault lies in the lack of directors control. Nor is that all. Commissions are not the right kind of bodies for such work. No Commission can successfully direct and guide (instead of merely regulating) great properties, especially great railroad systems, which are almost bursting with growth, feverish activity, infinite details and throbbing with every pulsation of the vast foreign and domestic commerce of America. A Commission is intrinsically judicial, deliberative and slow in its movements. Railroads cannot be run on that basis. Railroad men are highly executive, quick, responding to the imperative demands of the day. They cannot wait months before acting. They decide at once; otherwise they are swept into the discard. Hence when they have to wait for the slow moving action of a Commission their initiative is deadened; they cannot calculate

on the future; they cannot reassure the investing public and get fresh money. Delay is deadly in the railroad business. A Federal Railroad Board could act quickly.

(5) The investor is afraid and the Act of 1920 does not reassure him. He refuses absolutely to buy new stock issues of the railroads and so none are offered. He buys ten year notes at 7%, but only when issued by the few strong railroads. And yet the railroads need \$1,000,000,000 a year for the next five years. They simply can't get it. The investor will not invest. He can get greater safety elsewhere. This desperate financial necessity of the railroads will face Congress and the American public from now on. When you can't pay your bills something happens. Director Prouty of the Commission fore-saw this years ago when he said,

"This is the point at which regulation will break down if at all. Can private capital be induced, under the treatment which is accorded that capital by the regulating body, to invest? If Government ownership ever comes in the United States it will probably be because private capital cannot be obtained in sufficient amounts to afford an adequate service."

He repeated the warning in his final statement to the Commission at the hearing on valuation in Washington on January 9th, 1920, when arguments were made by counsel in behalf of the railroads, and of the various State Commissions, and of labor, and of the Commission itself. He said:

"On the first day of next March private ownership of the railroads of this country is going to enter on its final test. If it makes good it will be the policy of the nation. If it fails, within five years we shall have Government ownership. While I do not believe it is going to succeed, I want to give it a fair chance, and it cannot have a fair chance unless the credit of these railroads can be re-established."

He was right that success or failure of the Act of 1920 turns on whether it re-establishes the credit of the railroads; in other words, regains the confidence of the investor. How can it? It allows 6% income on the value of the railroads. The investor can do better elsewhere. He is skeptical because he has viewed with amazement and consternation the football treatment of the railroads during the past fifteen years, and he has tightened his purse strings as the game proceeded. In 1906 Congress gave the Commission absolute power to veto any

increase in rates. The Commission did not exercise that power wisely. It refused an increase in rates in 1911.¹ The investor scented danger. What next happened is described as follows by Mr. Acworth (the leading authority in England on railroad economics) in an article in the *Economic Journal*, published in London, September, 1915, where he said, in regard to the Interstate Commerce Commission:

"In July, 1914, after an inquiry extending over more than twelve months, the majority of that Commission solemnly reaffirmed their refusal of three years earlier to permit the trunk lines to raise their rates. Under the compulsion of gross and palpable fact they reversed that decision some six months later. But it is safe to say that for every dollar Jim Fiske stole from the Erie—and he stole a good many—the inhabitants of the United States lost a million in the months succeeding July, owing to financial depression and trade dislocation consequent primarily on the unintelligent appreciation of the situation by the Interstate Commerce Commission."

Then came the Act of Congress of 1916² arbitrarily increasing railroad wages, but not increasing railroad rates to pay those wages. That left the railroads in desperate financial straits, facing insolvency. Even this, however, did not cause the Commission to grant a 15% raise in rates in June, 1917.³ Then the war came on and the government took over the railroads in December, 1917, and McAdoo raised the rates 33% on freight and 20% on passengers. Meantime the government let the railroads run down and bought little new equipment. And worse than all in the eyes of the investor, during all these years State Commissions were gnawing at the vitals of the railroads by reducing rates and by an infinite variety of other persecutions. On July 31st, 1920, the Commission raised freight rates about 34.5%; passenger rates about 20%, and 50% on sleeping and parlor cars. The total increase is about 70% on freight rates and 40% on passenger rates. The increase is estimated at about \$1,500,000,000 a year, in the hope of producing 6% on the estimated value of the railroads, as directed by the Railroad Act of 1920. But this merely enables the strong railroads to pay the dividends they have been paying

¹ 20 Int. Com. Com. Rep., 243, 307.

² Act of September 3, 1916; 39 U. S. Stat. 721.

³ See The Fifteen Per Cent Case, 45 I. C. C. Rep. 303.

and leaves the weak railroads helpless. The investor still refuses to invest except at ruinous rates. The Railroad Act of 1920 does not enable the railroads to do necessary financing.¹

In October, 1920, twelve eminent railroad officials published, on twelve different days, articles on the railroad problem, and stressed the imperative need of money, but not one of them proposed any feasible plan for obtaining it.²

¹ Judge Lovett in "The Spur" of July 15, 1920, says of this:

"One must indeed be an optimist to expect a boom in the creation of additional railroad facilities under such a law."
The Railway Age for October 1, 1920, p. 565, contained the following:

"The interpretation of the provision of the Transportation Act which requires the Interstate Commerce Commission, in approving a loan to a railroad from the revolving fund, to certify that the applicant, in the opinion of the commission, 'is unable to provide itself with the funds necessary from other sources' than the Government, was the subject of a hearing before the commission at Washington on September 23. * * *

"A. H. Harris, vice-president of the New York Central, said that his company had borrowed as much money as it regarded proper from other sources and that it needs additional money from the revolving fund.

"George Whitney, of J. P. Morgan & Co., said that the New York Central had already obtained \$61,000,000 in recent months and that his company did not feel it could advise the road to attempt the sale of another issue of securities at this time, as such a course would hurt the general market.

"Samuel Rea, president of the Pennsylvania, which has already issued \$50,000,000 of 7 per cent bonds, also pointed out that it would be impracticable for his company to attempt to borrow in the market the additional sums which it needs and that as a practical matter it is dependent upon the revolving fund."

If such is the situation as to the powerful New York Central and Pennsylvania Railroads, what is to become of the rest?

W. W. Atterbury, Vice-President of the Pennsylvania Railroad, recently said:

"Many other conservatively capitalized and efficiently managed railroad companies are in the same position. We cannot sell new stock at par with old issues below par. The bond market for the best corporate securities is far above 6 per cent, so we can to-day raise no money at rates which the Transportation Act permits us to earn. We may be forced to pay on a 7 per cent basis for refunding, but where is the money to come from for improvements?"

"For such improvements and extensions as it is imperative to make in the near future, the best solution would seem to me to be that advocated last week in Washington by our president, Mr. Rea, before the Interstate Commerce Commission, namely, a more liberal policy with regard to Government advances at interest rates which the provisions of the Transportation Act give reasonable assurance of ability to earn."

In October, 1920, the Interstate Commerce Commission approved a

(6) The Act of 1920 is only a midway step to real and effective public control by directors control. I do not agree with Mr. Prouty that unless the present mode of handling the railroads succeeds we shall have government ownership. For many years I have advocated a medium course, which is embodied in the Thomas Bill, which has been introduced three times in the Senate and which bill I drew. The principle of that bill has been approved by many leading thinkers on the railroad problem; among others by Senator Lenroot, who, when the Act of 1920 was before the Senate for discussion, said:

“* * * I believe, Mr. President, that the time is not far distant when it will be recognized that the only solution of the railroad problem is either out-and-out Government ownership and Government operation or Federal incorporation and unification of the railroads under private ownership and public control.”

The plan of the Thomas Bill is simplicity itself. A Federal Railroad Board, not incorporated, but the members nominated by the President and confirmed by the Senate, would control five railroad companies, incorporated by the same Act of Congress. *That Board would name the directors of these five Federal Railroad Companies.* These five Federal railroad companies (one for each of five districts into which the railroads of the country would be divided) would acquire the stocks and in some cases the bonds of the present existing railroad companies, in any one or all of three ways, namely, by exchange or purchase or by condemnation. The Federal Railroad Board would fix the basis, from time to time, on which the exchange would be based or purchase made. The five Federal railroad companies would sell their own capital stock to the public from time to time, as money would be needed to buy the existing railroad stocks and bonds, or to provide funds for extensions and improvements. The five Federal railroad companies would also have power to acquire existing railroads themselves, the

loan to the Pennsylvania Railroad of \$6,780,000 from the revolving fund for additions and betterments. The necessity of that great railroad obtaining such a comparatively small amount of money in this way instead of doing its own financing is significant, to say the least.

physical properties, by purchase or condemnation. The Federal railroad stock would be made salable and desirable to the public as an investment by a rate of dividend varying according to the going rate of interest generally at the time of issue, such dividends being guaranteed by the Government. All financial operations of the federal railroad companies would be directed by the Federal Railroad Board. All railroad rates would be fixed by that Board.

This plan is not Government ownership. The government would not own any of the property, either stocks, bonds or the railroads themselves.¹ The Government would merely name the Federal Railroad Board and guarantee the dividends. The Federal Railroad Board appointed by the President, and confirmed by the Senate, would be governmental in its origin, but not governmental in its work. But the Board *would* have complete control of all of the railroads. It could select, employ and discharge at will, directly or indirectly, any railroad general manager in the United States. It would have complete and absolute control over receipts and expenditures, the same as the old railroad kings used to have. There would be no divided responsibility, no delayed decisions. It would be a unified power and would be workable and logical in its structure. It will come.

I am aware that there are serious objections to this plan. There is danger that the Federal Railroad Board might become a political machine. But that would depend on whether public sentiment would insist that the President and the Senate put high-class men on that Board—men who would administer the railroads for the public and not for party. This political objection was raised against the Federal Reserve Board and the Interstate Commerce Commission, but no one

¹Government ownership is thoroughly discredited in this country at present, on account of war experiences, resulting in a loss of about one and a half billion dollars, to say nothing of the bad service. Yet the American Federation of Labor, at its annual convention, held in Montreal, voted on June 17, 1920, by 29,059 to 8,349, that the American government should own the railroads and exercise "democratic management."

has yet made any charge of political control as to either of those bodies or as to their employees.

Another objection is that if the government guaranteed results there would be no necessity for economy, no need for close, careful management. This would depend upon the character of the general managers, chosen for the various vast systems by the Federal Railroad Board. Here, too, the result would depend on the personnel of the general managers, the same as at present.

Then there is the greatest danger of all, namely, that first-class salaries would not be paid in order to obtain first-class men. A fifty thousand dollar railroad general manager cannot be obtained or retained by a twelve thousand dollar salary. Here is where real public control of the railroads would break down, if at all.¹

But however that may be, the Railroad Act of 1920 will not solve the railroad problem. It places too great a burden on the Interstate Commerce Commission. It will not attract \$1,000,000,000 a year from the investor. Judge George W. Anderson of the United States Circuit Court of Appeals in Massachusetts, and one of the clearest thinkers on the railroad question, himself formerly an Interstate Commerce Commissioner, said, in an address November 9th, 1920, at Washington:

"Slowly, reluctantly, and with persistent inadequacy, the American people have approached the recognition of the essential nature

¹ Sir Eric Geddes, of the Ministry of Transport in England, said in 1920:

"The experience of other lands proves that state management would never pay the market price for the best brains, which is a handicap you could never get over."

The old railroad kings paid high salaries for the highest railroad talent. There will be no more railroad kings, because the opportunities to make fortunes have been eliminated by the acts of Congress and by Commission regulation. Future railroad general managers will be paid less, and will be men who cannot duplicate the achievements of the past, in low rates and efficiency and improvements in handling traffic. In other words, whether the government assumes control or not, apparently a cheaper and less efficient leadership is inevitable.

of their railroad problem. In my own thinking, I see no solution until our railroads are both unified and federalized."

Judge Anderson is right. Unification and federalization summarize the first step in the solution of the railroad problem. Then if the railroads fail to finance themselves, as fail they will, a government guaranty will be necessary. In fact, there is no great difference between a government guaranty and governmental increases in rates, as at present. In the end the public pays either way, and in either case the deadening effect of a sure thing must be contended against. The Railroad Act of 1920 probably went as far as public sentiment would sustain at that time. But that Act will fail to furnish proper railroad service, and that failure will force Congress to back the railroads financially, while taking real public control. This will be by controlling the boards of directors, under a simple mode of reorganization by federal charters.

England and Canada are faced with this same railroad problem, and inasmuch as all branches of the Anglo-Saxon race adopt each other's solutions of public questions, when adoptable, we may well inquire what they are doing.

In England, on June 29th, 1920, the Ministry of Transport proposed to Parliament that all the railroads in England, Scotland and Wales be consolidated into seven companies and that all competition be eliminated. The terms of consolidation, if not voluntarily agreed upon, are to be dictated by Parliament. The government is to give no guaranty, but "appropriate" rates are to be fixed by Parliament on some pre-war basis, any surplus profit to be used by the state for railroad purposes. A majority of the directors of each consolidated company are to be elected by the shareholders, the minority to be elected, two-thirds by and from railroad employees, and one-third selected from railroad officials by the rest of the board. The whole proposition resembles much the Cummins Bill in the United States Senate.

This English plan is criticized as dividing responsibility and the criticism is good. It is also criticized as not giving the government the power to control traffic, and that criticism is sound.

Furthermore it is pointed out that there is a point beyond which rates cannot be raised, and when that point is reached the government will be forced to give financial assistance. It remains to be seen what Parliament will do with the proposition.

Canada, however, is the country that has travelled farthest on the road towards public control by controlling the directors of railroad corporations. Three years ago Canada acquired the capital stock of the Canadian Northern Railway System. By the Act of June 6, 1919, the "Canadian National Railway Company" was incorporated. Its stock is held by the Minister of Finance. It is to take over the Canadian Northern System and other government railways, and any entire or controlling interest the government may acquire in any other railway company. Either this new company or the Governor-General-in-Council may vote such stock so acquired. Its directors are named by the Governor-General-in-Council, composed of the 14 cabinet ministers of the Canadian Government. The Government is to pay any deficit of the company and take any surplus. The new company may acquire securities of the railways it controls and may loan money to them and may borrow on its securities. It may construct and operate railways authorized by Parliament. It may issue bonds and other securities up to \$75,000 per mile of railway owned or controlled. It may buy and sell stocks and securities of other railways and of companies whose business is incidental to that of railways. Most of these powers are exercised only with the approval of the Governor-General-in-Council.

The Canadian Government has now acquired another of the three great railway systems of Canada, namely, the Grand Trunk System, by acquiring all of its preferred and common stock. By the Act of November 4, 1919, on approval of a majority in interest of the stockholders of that system, new non-voting stock, with 4% dividends guaranteed by the government, was to be issued in exchange for the then existing preferred and common stock, the basis of exchange to be fixed by arbitration but not to exceed a specified amount. This is

practically the same as the Thomas Bill in the United States Senate, which I drew several years ago. On April 22nd, 1920, the Canadian Parliament confirmed a contract of March 8, 1920, carrying out this arrangement. The arbitrators were directed not to consider any rise in the market value of the stock due to this legislation. The government guaranteed the debts of the railroad. Stockholders who did not voluntarily turn in their stock were forced to do so, the Act being one of condemnation in this respect. The management is to be by five persons, two to be appointed by the Government, two by the railroad company, the fifth to be selected by those four. Inasmuch as the directors of this Grand Trunk Railway Company will be elected by the Government voting its stock, the Government will practically name four of these five directors. Temporarily this Grand Trunk System is being administered by a joint board of officials of the Canadian Northern and Grand Trunk Systems, pending further legislation.

Canada was impelled to act by the insolvency of two of its three railroad systems. It chose to acquire the stock rather than the physical property, thus avoiding payment at once of the funded debts. The United States will be impelled to the same action by the same railroad incapacity to furnish sufficient railroad facilities. Three advantages will be gained; first, there will be real public control; second, the funded debts will not be disturbed; third, the corporation will be used to separate the railroads from the office seekers by an intervening obstacle. That intervening obstacle in the United States will be a Federal Railroad Board.

WILLIAM W. COOK.

December 9th, 1920.

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