

CHAPTER II

THE RAILWAY PROBLEM

THE PRESENT POSITION OF THE RAILWAYS

The position of railways in most of the countries of the world has become a source of serious concern. Their large fixed charges cannot be adjusted to cope with the exigencies of depression, and yet their financial well-being constitutes one of the main pillars of the industrial and financial system. About sixty per cent of British railway costs consist of fixed charges which cannot be materially altered when revenue is declining. With the development of road competition an increasingly large portion of the railways' business has been lost beyond recovery. Since 1921 the railways have been going through a process of reorganization, but the reforms which have been undertaken so far are only a first step in the more complete integration that seems to be necessary.¹

Although England pioneered the steam railway, she has probably suffered more from railway problems than any other important country, due in part no doubt to the persistence of extreme individualism and also to the fact that in the early stages of development she was not in the position to profit by others' mistakes. The regulation of British railways in the period between 1844 and 1888 not only established the principles of public utility regulation for other public service undertakings in Great Britain, but it became the model for the United States and for countries in other parts of the world. A *laissez-faire* Parliament, after much delay and many mistakes, contrived to make railway con-

¹ The best general sources of information on British railways are C. E. R. Sherrington, *Economics of Rail Transport in Great Britain*, 2 vols., London, 1928; C. D. Campbell, *British Railways in Boom and Depression*, London, 1932; Howard C. Kidd, *New Era for British Railways*, London, 1929; K. G. Fenelon, *Railway Economics*, London, 1932; and *Royal Commission on Transport, Final Report*, Cmd. 3751, 1931.

trol the principal avenue of State intervention in economic development. The fate of railway regulation and the future of public utility regulation as a whole are therefore closely connected.

When the British railways were returned to private operation after the war they were amalgamated into four main groups, and their rates were fixed at a level which was intended to yield the same net revenue as that of 1913. Standard rates have since been reconsidered annually. Although rates are now almost 60 per cent higher than in 1913, the "standard revenue" (based upon the 1913 earnings) has never been earned and dividends have fallen to little or nothing. The standard revenue, as determined by the Railway Rates Tribunal, is approximately £50,000,000 per annum; but the railway net receipts have fallen far below this figure as the following summary indicates:

<i>In millions</i>					
Year		£	Year		£
1922	47	1928	41
1923	43	1929	45
1924	39	1930	38
1925	37	1931	33
1926	19	1932	26
1927	42			

The result has been that reserve funds have been continually depleted during the past decade, earnings on ordinary stocks have almost disappeared, and a considerable proportion of preference capital must go without dividend. The return on ordinary stocks in 1923 was 5.55 per cent; in 1929, 3.97 per cent; in 1930, 2.23 per cent; and in 1931, 0.95 per cent.[†] In 1932 no less than £260,000,000 of railway capital went without any dividend. Under these circumstances the ability of the railways to raise new capital must inevitably become impaired, thus deferring improvements which might assist the railways to compete with road transport.

[†] Decision 164, *National Wages Board*, 97, January 1933.

A summary of the financial results for the four amalgamated companies, based upon official returns for 1923-31, will reveal recent railway tendencies :

Receipts :—

1913	1923	1924	1925	1926	1927	1928	1929	1930	1931
100%	172	171	168	145	175	168	169	161	147

Total expenditure :—

100%	216	218	216	200	219	211	208	204	188
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Railway costs had risen from £84,000,000 in 1913 to £158,000,000 in 1931. Nevertheless, a decline of over £50,000,000 in railway receipts has been offset by a reduction in expenditure amounting to more than £35,500,000.

In recent reviews of standard and exceptional charges,¹ the Railway Rates Tribunal has expressed the pessimistic view that “deficiencies not necessarily as large but substantial in character are likely to continue” and that nothing appeared on review “which established that under present conditions any modification or modifications would enable the companies to earn their respective standard revenues. . . .” Nothing has transpired since that time to improve prospects; as a matter of fact they are considerably worse.

Trade revival, drastic cuts in operating costs, the restriction of road competition, a revision of standard revenue provisions based upon capital reorganization, or nationalization are possible ways out of the serious financial plight of the railways. The first three remedies seem to hold out little hope of immediate relief, but the likelihood of the respective alternatives may better be judged after a more complete analysis of the causes of the present difficulties has been afforded.

¹ (1930) *Proceedings of the Railway Rates Tribunal*, 137; (1931) *Ibid.*, 128; (1932) *Ibid.*, 255.

RAILWAY ECONOMICS

British industry has been handicapped by the unfortunate circumstances accompanying the development of the railways. The drawbacks of the railway heritage have been felt mostly in the lean post-war years, because for almost a century prior to that time the railways had been, despite their handicaps, the principal medium of commercial expansion. No railway system in the world has been weighed down by more adverse factors. American companies were granted fabulous subsidies of land and money, and could build up the vast expanses of a rapidly developing continent; British railways not only received no State aid but paid exorbitant prices for their initial fixed capital, while the distances to be traversed were short. Railway economy depends largely upon long hauls, but no point in Great Britain is more than ninety miles from a port. The geography of the country is ideal for motor superiority.

British railways are said to represent a capital investment of £1,085,000,000, but it is generally admitted that this figure is not based upon their present or prospective earning capacity. For example, Mr. A. G. Walkden, representing the Railway Clerks' Association, suggested to the National Wages Board on December 2, 1932, that "if a capital reconstruction were fairly arranged and the capital written down to £500,000,000 instead of £1,000,000,000, and a lot of dead capital were got rid of, the public would be much more ready to subscribe."¹

If the question of expropriating British railways comes to an issue, the problem of fair value will present almost

¹ *Manchester Guardian*, December 3, 1932. "As regards watered capital, the nominal addition to the companies' capital rank for interest, the shares issued to cover them are of a perpetual character, and those shares do not represent any money put down by anybody whatever, but are in the nature of a bonus addition to the share capital. In the case of the London and North-Eastern Railway Company, nominal additions amount to £52,000,000. . . ." Evidence, *Decision of National Wages Board*, 86, January 1933. The companies contended that all the watered capital has been removed. *Ibid.*, 56.

insuperable difficulties. "It should be remembered," writes Sherrington, "that the unduly high first costs of our early railways can never be eliminated and they will always remain a permanent charge against the industrial efficiency of this country. . . ." The British railways are the most highly capitalized system per track mile in the world. The English railway capital was £54,152 per route mile in the United Kingdom, £64,453 in England and Wales, whereas the Prussian railways cost £21,000 per mile and the American less than £13,000.¹ The preliminary expenses including surveying and legal costs have been put at £4,000 per mile, and land costs ranged from £4,000 to £8,000 per mile. Land was valued for the London and Birmingham railway at £250,000, but cost three times as much. Many similar instances might be cited. The fundamental difficulty arose from the fact that the early railways were opposed by the landed gentry who were allied with the canal and turnpike interests. Due to the restricted franchise, the affairs of Parliament were almost wholly in their hands, and as a result many burdens were imposed upon the railways which are still borne today.

The existing standard revenue was computed primarily on the earnings of 1913, which was considered one of the best pre-war years. The pre-war prosperity of the railways was based largely upon the coal industry, which has suffered acutely in recent years. The total tonnage of goods traffic originating in 1930 was 17·8 per cent less than in 1913, while the decreases for general merchandise, coal, and other minerals were 22·1, 15·9, and 19·7 per cent respectively.² Passenger receipts have fallen in about the same ratio. At the same time, the general level of wages and salaries was 117 per cent higher in 1932 than it was before the war; the average wage of railwaymen in 1914 was only 28s. 5d.

¹ L. C. A. Knowles, *The Industrial and Commercial Revolutions in Great Britain during the Nineteenth Century*, 257, London, 1926.

² Campbell, *op. cit.*, 63.

per week. Finally, road competition has made great inroads on rail traffic, especially since 1926. These factors will receive further attention.

Great Britain is a short-haul country, which militates against the success of the railways. Shorter hauls result in relatively greater costs. The average haul per ton is around 60 miles in Great Britain, while it is over 330 miles in the United States. This factor, combined with the other disadvantages of British railways, results in an average charge per ton mile almost three times as great as in the United States.¹ The effects of high railway rates upon British commerce cannot be precisely measured, but they are known to be serious. The rail charges on pig iron, for example, accounted for 25 per cent of the market price in 1914, 29 per cent in 1925, and 38 per cent in 1931. In its 1931 review of standard charges the Railway Rates Tribunal referred to industry's belief that "it is really a drastic alteration of the level of railway rates which is necessary if the trade of this country is to recover." Can effective regulation supply the necessary reform?

THE PRINCIPAL STAGES OF REGULATORY CONTROL

The period of railway experimentation during which such exorbitant capital costs were incurred lasted from 1821 to 1844. At the close of this era Parliament was forced to admit that the control of railways was a necessity. Three major phases of railway regulation have occurred since 1844. During the first period, 1844-88, the railways were not effectively controlled, but by 1888 permanent regulatory machinery, the Railway and Canal Commission, had been established. The years between 1888 and 1921 saw the growth of railway unions and the emergence of a movement to nationalize the railways; during the war period the railways were commandeered by the State. The current

¹ Kidd, *op. cit.*, 47.

era dates from the Railways Act, 1921, by means of which the railways were returned to private operation, extensive amalgamations were effected, and new regulatory legislation was enacted. Since 1921 the primary responsibility for regulating railways has been fulfilled by the Railway Rates Tribunal, while the conciliation of labor questions has been entrusted to a hierarchy of tribunals.

By 1840 Parliament began to realize that through their "superior accommodation and cheapness," compared with canals and roads, the railways had "acquired command of the travelling in their district," but nevertheless there was a nervous anxiety not to interfere with private enterprise and initiative. In 1842, however, the powers of the Board of Trade were enlarged and Parliament announced that no new railways were to be opened without previous notice to the Board of Trade, which might appoint officers to inspect every new proposal. In the same year the railway interests formed the Railway Clearing House, "a sort of federal council for the English railway companies." The first railways to join it were the first ones to amalgamate. In 1844 Parliament enacted that there could be a revision of railway charges if the dividend of any railway was more than ten per cent. The Treasury was empowered to acquire by compulsory purchase, if the Government so decided, any railway built after 1844. These provisions were motivated by the canal interests, and were meant merely as a warning. They were not acted upon in any way. In the same year a commission was appointed to make preliminary reports to Parliament on railway charters, but after a year the work was discontinued.

During this period Parliament was forced to realize that the conditions of railway labor had become "shocking," and as early as 1846 a select committee recommended a principle which was the forerunner of the Workmen's Compensation doctrine. Although the management's responsibility for their employees' safety was not recognized at

this time, company liability toward the travelling public was established. The railways came to be recognized, contrary to their desire, as "common carriers," and therein lay the legal foundation of later regulation.

In 1846 Parliament set up a special tribunal of five paid commissioners. Their function was to scrutinize proposed amalgamations, encourage competing schemes, and generally take over any supervisory powers of the Board of Trade. The plan proved a failure. In 1851 the commission was dissolved and the Board of Trade again assumed nominal control. Three years later undue preferences were made illegal, and the railways were ordered to provide facilities for through traffic. This period was characterized by the consolidation of short lines and the formation of trunk lines. Canal competition was ineffectual, and by 1870 Parliament had become alarmed about monopoly. The railways were sometimes forced to purchase the canals in order to get rid of the opposition they offered to projected railway bills in Parliament.

THE RAILWAY AND CANAL COMMISSION

The inauguration of more effective control began with the creation of Railway Commissioners under the Regulation of Railways Act of 1873. This body was the forerunner of the Railway and Canal Commission. The Commissioners were originally appointed for a term of only five years, but were not superseded by the Railway and Canal Commission until 1888. The Act of 1873 provided that the Commission should consist of not less than three members, one of whom was to be a judge and one a railway expert. The Commissioners took over some of the powers of the Board of Trade and were enjoined to enforce the Act of 1854. In addition, the Commission was given special jurisdiction over railway amalgamations, the purchase of canals by railways with the purpose of stifling competition, undue preference

between traders or areas, disputes between railways, and the reasonableness of through rates and terminal charges.

The deficiencies of the Commission were soon apparent. "It has power to annoy the railroads," concluded Hadley in 1886, "but not power enough to help the public efficiently." Although complaints regarding undue preference decreased, dissatisfaction with rates grew very rapidly. The Commission was helpless, because differing rates had been specified in the thousands of special Acts creating the railway companies. By 1866 railway law was contained in 1,880 Acts, modified by 1,300 amendatory Acts. Not until 1867, moreover, did Parliament order the railway companies to keep their accounts in a specified form. Railway rates were not only high, but they differed so much that merchants felt sure they were being "done" no matter what they were charged. With rates so confused, the railway tribunal found it impossible to establish reasonable through rates.

There was considerable disillusionment concerning the Commission itself. The traders, who had succeeded in getting the tribunal established, thought that it would act promptly, that it would be easy of access, and that its procedure would be informal and inexpensive. In most of these respects the proponents of the specialist tribunal were destined to be disappointed. The legal fraternity, jealous of its prerogatives, saw to it that the tribunal was styled a "court," and later experience proved that the Commission was to become affiliated closely with the personnel, the procedure, and the atmosphere of the law courts. Litigation was expensive. A complainant before the Commission was said to be "a marked man" and the court was powerless to protect him from the vengeance of the railway companies.

The historical importance of the commission idea was, nevertheless, very great. The railway board of 1873 was the first semi-administrative tribunal which England had ever

established for regulatory purposes.¹ Its creation recognized the necessity of relying upon technicians in government, and it marked the State's entrance as a positive force into economic affairs. The first tendency to modify "departmentalism" and parliamentary responsibility was set in motion. Independent commissions were not destined to become numerous in Great Britain, but in the United States scores of State regulatory tribunals and the famous Interstate Commerce Commission which was established in 1887, have owed their germ idea to the example afforded by the railway tribunal of 1873.²

The Railway and Canal Traffic Act of 1888 corrected several of the defects of the 1873 legislation. It really ushered in the modern era of regulatory control. The Act provided for the revision of the whole system of charging, with the result that by 1893 maximum rates and revised schedules and rates had been fixed by Provisional Orders for all of the railways. This was a prodigious task, and the consequences were epoch-making. As viewed by an economic historian, Professor Knowles,

"The State had hitherto limited its activities in the control of industry to fixing hours for women and children and seeing that the wages agreed on were properly paid. It now began to fix the prices of services. It had previously fixed maximum tolls for the use of the road because it had permitted railways or canals to appropriate property under compulsion and in many cases had fixed maximum rates, but it had made no attempt to see that these tolls or charging powers were adhered to until the Railway and Canal Commission was founded. . . . When, after 1888, the State fixed maximum rates with a view to being fair to the traders, the railways, and the public, and also with a view to simplification and publicity, it repudiated *laissez-faire* and entered upon the great struggle to limit the profits of monopolies."

The most important feature of the 1888 legislation was the creation of a new Railway and Canal Commission,

¹ Parliament's reasons for favoring the commission system have been discussed by W. A. Robson, *Justice and Administrative Law*, 92-95, London, 1928.

² I. L. Sharfman, *The Interstate Commerce Commission*, I, 16, New York, 1931.

which was established on a permanent basis. Although the tribunal was given a more distinct judicial flavor, Parliament plainly revealed its misgivings regarding the judicial technique. Efforts were made in the Act to ensure speedy redress and a cheaper procedure outside of the Commission. Complainants were given the right to lay their cases before the Board of Trade, which would thereupon attempt to reach a friendly settlement between the parties. During the fifteen years ending 1903 some 3,126 cases had been dealt with by the Board of Trade under this section of the Act. Failing to effect a satisfactory solution, the Board of Trade transferred cases to the Railway and Canal Commission.

The judicial characteristics of the Railway and Canal Commission are striking, and the tribunal may properly be classed with the higher law courts. The Act of 1888 provided that a judge of the High Court should *ex officio* be a member of the tribunal, and that of the other two members sitting at any time one should possess railway experience. The Act stipulated that the Commission shall be a court of record, have an official seal which shall be officially noticed, and sit in the Royal Courts of Justice. The judicial member presides over the deliberations and dominates the procedure. The other two members appear to be, and are largely in reality, merely consultants. This result has followed largely in consequence of the stipulation in the Act that the judge's "opinion upon any question which in the opinion of the Commissioners is a question of law shall prevail." Counsel addressing the tribunal disregard lay members, and address their remarks to "My Lord." On any question of law an appeal may be made to the Court of Appeal. The Commission may issue injunctions and writs of attachment, and inflict heavy penalties for disobedience. Finally, "It shall be lawful for the Lord Chancellor, if he think fit, to remove for inability or misbehavior any appointed Commissioner."

The commercial interests, who since 1873 have favored

an informal tribunal composed of railway and business men, were effectively forestalled by the conservative legal profession, suspicious of any development that might lessen its authority.

The procedure of the Railway and Canal Commission is not as formal as that of the high courts, but it is infinitely more stilted than that of American railway tribunals. The same observations apply to the nature and admissibility of evidence. The Act provides that

“The Commissioners may from time to time, with the approval of the Lord Chancellor and the President of the Board of Trade, make, rescind, and vary general rules for their procedure and practice under this Act, and generally for carrying into effect this part of this Act.”

The general rules which have been issued periodically since 1889 do not differ materially from the ordinary rules of common law procedure.

Most of the Railway and Canal Commission's jurisdiction over railways was transferred to the Railway Rates Tribunal by the Railways Act of 1921. In recent years the Railway and Canal Commission has heard on an average only two or three railway cases a year. It is not popular with the railway companies or with the traders' organizations. As a matter of fact, representatives of trade associations stated candidly to the writer that it was largely their objection to the legalism and formality of the Railway and Canal Commission, and the subordination of expert opinion, that led to the creation of the Railway Rates Tribunal.

There is now no satisfactory reason for maintaining two railway tribunals in Great Britain. The small amount of business transacted by the Railway and Canal Commission is mostly concerned with coal mines and special cases arising under the Local Government Act of 1929 and other legislation of recent years. There is general agreement among the railway and commercial interests that the entire jurisdiction over railways should be consolidated in the Railway Rates Tribunal. That such action may soon be forthcoming

is evidenced by the following conclusion reached by an important House of Commons committee in 1932 :

“Your Committee have considered whether the continued concurrent maintenance of both the Railway Rates Tribunal and the Railway and Canal Commission is necessary and economical. New duties have been placed on the Commission, principally in connection with mining, since the Tribunal was set up under the Railways Act. 1921, but your Committee are of opinion that the total volume of business does not warrant its continuance at a cost of approximately £7,000 a year. They recommend that the legislation necessary for a redistribution of its functions should be obtained as quickly as possible.”¹

The abolition of the Railway and Canal Commission would throw the whole weight of regulating the railways on the Railway Rates Tribunal. Before we can judge how capable it is of assuming this responsibility, we must analyze the events which led up to the Railways Act of 1921.

In the period prior to the outbreak of the war, the general condition of the railways was favorable for investors but unsatisfactory to labor. Railway costs began to increase significantly in 1909, and in 1913 the railways were granted a four per cent increase of rates. The average dividend on British railways in 1913 was $4\frac{1}{4}$ per cent. Prior to the beginning of the war further amalgamations had occurred, but over two hundred companies remained in existence. In 1911 an official inquiry into amalgamations concluded that “the era of competition between railways is passing away and it was recognized by witnesses on behalf of the traders that this could not be prevented.”² The tendency to diminish competition led to a proposal to unify and extend the canals, but this movement did not go very far.

The campaign to nationalize the railways, on the other hand, had become a burning issue when the war broke out in 1914. The Taff Vale decision of 1906 and the railway strike of 1911 had put the unions in fighting trim. A strike was imminent when the war broke out. The strike of 1911

¹ *Second Report*, House of Commons Committee on Estimates, 1932, Par. 7.

² *Report on Railway Amalgamations*, 7, Cmd. 5631, 1911.

had resulted in the establishment of the largest and most comprehensive union in the country. The workers advocated the nationalization of railways and a share in their management, a position which they continue to hold to this day.

During the war the railway system was commandeered by the State. No charge was made at the time for transporting the supplies and passengers of the Government, and the actual administration of the lines remained in the same hands. The "Railway Executive Committee," consisting of General Managers, became the ruling body for the railways. The Lloyd George Government was sincerely anxious to improve the lot of railway labor. Wages were increased and the eight-hour day was established. During the war the deterioration of the lines was accelerated and of course replacements were not made. The problem of railway reconstruction presented many difficult questions. The Railway Act, 1921, attempted to supply the solution of past and of future difficulties.

THE RAILWAYS ACT, 1921

The coordinated management of railways between 1914-21 had demonstrated that economies were possible under unified control. During the war a certain amount of reorganization was effected, such as the introduction of common user of rolling stock and the inter-availability of tickets between certain common points. There was general agreement that the railways should not be returned to private operation without preserving the benefits of coordination, standardization, and improved labor conditions. The railway managements faced the future with an uncertainty that required an overhauling of the railway system. Moreover, the American Congress had just adopted far-reaching reforms in the form of the Transportation Act of 1920; this legislation provided an example for the Railways Act of 1921, as a comparison of the two Acts will readily reveal.

The Railways Act of 1921 served three definite but related purposes: in the first place, the railways were compensated by the Government and were amalgamated into four major groups under private management; secondly, important changes were made in the responsibilities and the actual administration of the companies; finally, the provisions of law relating to rates and labor were considerably expanded, and permanent administrative machinery was created in order to carry out the new legislation. Moreover, as Sir Eric Geddes, the Minister of Transport, stated,

“The Railways Act is really a ‘Traders Charter’ and with the great trading organizations which exist they can afford, and will afford, the best brains and the greatest skill to enable them to take advantage of that charter. The companies can now induce the cooperation of the trader by offering lower rates whenever the trader will help them to work more cheaply.”

The Act was also a charter for labor, because it firmly established the principle of collective bargaining and virtually made it impossible to return to the wage conditions of 1914. The Railways Act of 1921, stated Sir William Acworth, “recognizes that the wages and conditions of employment of the staff engaged in an essential service can no longer be regarded as a matter of private bargain—still less a matter for mere employers’ dictation—and establishes a hierarchy of councils and boards culminating in a National Wages Board in which representatives of the public have the final voice.”

During the war the Government took all the receipts, met all the working expenses, and made up to the companies annually the same net income as they had earned in the year 1913. In other words, the war receipts enabled the guaranteed income of railway stockholders to be paid. In consequence of the Railway Act of 1921, the Government paid the railway companies a lump sum of £60,000,000 as compensation for deficiencies in net receipts, repairs, and renewals. This settlement was certainly generous, and

coupled with rate increases in 1923, the railways appeared to be in a favorable position.

Part One of the Railways Act of 1921 dealt with the reorganization of the railway system.¹ It provided for the amalgamation of the numerous independent companies into four groups "with a view to reorganization and more efficient and economical working of the railway system of Great Britain." The more important companies in each group were termed constituent companies and became the nuclei of amalgamations. The "Big Four" have been called the Southern, the Great Western, the London Midland and Scottish, and the London and North-Eastern. The stockholders and debenture holders of the constituent companies exchanged their securities for corresponding holdings in the new group. The remaining companies allotted to a group were called subsidiaries and were absorbed by the purchase of their stock. The Act provided that each group was to submit its amalgamation scheme to the Minister of Transport on or before January 1, 1923, and these were to be examined by a "Railway Amalgamation Tribunal" consisting of three commissioners. Should the companies fail to submit an agreed scheme, the tribunal was empowered to devise a compulsory solution. Only two companies had failed to reach agreement by the specified time, and hence the tribunal was dissolved in 1923. In effecting the combination only a small transfer of cash was necessary.

A railway monopoly was not created, but competition was curtailed and provision was made whereby it could be reduced still further. The significance of Parliament's action will be appreciated when it is recalled that for a century Parliament had been suspicious of railway combinations. The Act of 1921 makes unification possible, because provision was made whereby further amalgamation may take place through purchase, lease or working,

¹ 11 and 12 Geo. 5, ch. 55.

or the reduction of competition through allocation or pooling of traffic, subject to the consent of the Minister of Transport.

The Act purposely provided that each of the four groups should not have a monopoly of their respective territories. Sir William Acworth stated in 1923 that "The effect of the new statutory grouping is to leave the bulk of the territory of Great Britain non-competitive but the bulk of the traffic still competitive." This view has proved to be too sanguine, because competition has not been eliminated even to that extent. Although the four amalgamations dominate their respective areas, their lines are by no means confined to definite geographical regions, but invade each other's territory. In short, the respective groups penetrate into each other's areas both directly and indirectly by means of running powers. The grouping did not effect a geographical redistribution or consolidation of natural traffic areas because there was a desire to link up weak units with strong units. This consideration was particularly true in the case of the two northern companies which serve the great manufacturing centers of the Midlands. The disadvantages of competition in this area have already become convincing, and steps have been taken to reduce it to a minimum.

In July 1932 an agreement was reached between the L.M.S.R. and the L.N.E.R., the two northern companies, whereby about 50 per cent of their traffic receipts will be pooled for a period of fifty years.¹ The Minister of Transport appointed the members of the Railway Rates Tribunal as the committee to hear the case. During the course of the hearings witnesses representing no less than one hundred commercial and labor organizations were given an opportunity to present their respective viewpoints. The Traders' Coordinating Committee alone, a permanent organization through which business negotiates with the railways, represents over eighty commercial undertakings. Eventually only

¹ *Report of the Railway Pool Committee*, Stationery Office, 1932.

two traders' associations and the three major railway unions¹ expressed dissatisfaction with the agreement which the Committee recommended to the Minister of Transport. The pooling plan is expected to effect an annual operating saving of not less than £100,000 and perhaps considerably more.

The drawbacks of the remaining competition, and the possibility of effecting greater economy and standardization, have convinced some observers that the amalgamation of the two northern routes is the next logical step. Others favor the unification of all four companies under national administration, a proposal which we shall consider at a later point.

When the Railway Act of 1921 was passed, estimates of economies which could be effected through amalgamation ranged from £20,000,000 to £45,000,000. Everyone was convinced that amalgamation would certainly bring about considerable reductions in rates and fares. The Minister of Transport declared in 1921 that "within a very measurable time we can look forward to immense prosperity in the railway industry and to a reduction of charges to users." With railway charges 60 per cent higher than before the war, Sir Josiah Stamp estimated in 1929 that savings of £20,000,000 had been effected, but his figure included the whole of the fall in the cost of materials, for which the railways can take no credit. During 1931 the companies were able to effect savings of over £11,000,000 but about half of this sum was due to wage and salary cuts.²

The way in which savings have been effected and the

¹ The companies announced their willingness to undertake that they would not, as a result of the pooling arrangement, dismiss any of their staff included in the conciliation or salaried grades, although they reserved the right to accelerate the retiring age and to reduce employees to an inferior grade. The unions rejected the proposals because they were said to provide less protection to employees than Parliament had guaranteed under general laws. *Report*, *Ibid.*, 23-27, 32-34.

² "Future of the British Railways," *Manchester Guardian Commercial*, January 7, 1933.

possibility of bringing about additional reforms may best be judged by a discussion of the broad outlines of railway management.

THE GENERAL ADMINISTRATION OF BRITISH RAILWAYS

The question of the organization and management of the four amalgamations is closely related to the problem of reorganizing British railways. It is commonly said that the railways "must put their own houses in order" before they can justifiably complain of the burden of competition.

The railway companies of Great Britain were created by specific statutes of Parliament instead of under the Companies Acts as are most joint stock companies. The management is controlled by the stockholders, who elect the Board of Directors and the auditors.¹ The Board acts through numerous committees, such as Finance, Traffic, and Legal Matters. The minutes of each committee must be submitted to and approved by the Board of Directors. The auditors, usually two in number, are appointed by the shareholders, and act in their behalf rather than for the Board. The form in which the accounts and the balance sheet must be prepared, as in the case of the American companies, has been stipulated by Parliament.

The chief officer of the company, who is usually called the General Manager, is responsible for executing the general policies determined by the Board of Directors. In the past he was really a combined operating and commercial manager, without complete responsibility over the engineering and the finance departments. As such he was necessarily concerned with a considerable amount of operating detail, and as a result coordination and planning suffered. In recent years the General Manager's position

¹ Wood and Stamp, *op. cit.*, ch. 7, provides the best account of general administration.

has been made more analogous to that of the permanent head of a Department of State. The objective of the modification is to coordinate the policy of the several departments of the service through the General Manager, although leaving most of the responsibility for technical matters with the engineering officials. This change has naturally increased the Manager's influence with the Board.

In 1927 the L.M.S.R., the largest corporation in the country, adopted a plan of organization which was patterned after American railway administration. A President (formerly General Manager) and three Vice-Presidents form an Executive Committee which is responsible to the Board. Each Vice-President controls, and acts in the capacity of director of a number of departments, divided along functional lines. The Vice-President concentrates on one of the main branches of railway work—commercial and operating, technical, or finance. There is a continuous chain of delegated responsibility down to the lowest grades.

The L.M.S.R. and the Southern have adopted a "departmental" system according to which the whole of the staff in one department, through the district and divisional officers, is responsible to the chief of that department. This is the Civil Service system. The L.N.E.R. is organized partly on a departmental and partly on a regional basis. The L.M.S. is the only system that has completely absorbed its constituent companies under a unified administration: the managements of the other three amalgamations are weakened, in the view of impartial observers, by the fact that they have simply created an administrative superstructure on top of the old company organizations.

The L.M.S.R. has created an independent officer for all staff and labor questions. The example of the establishment officer in the Civil Service was consciously followed. The other companies have a corresponding official who is attached to the office of the General Manager.

There is reliable evidence to show that administrative

reorganization and greater coordination have played some part in effecting the economies of recent years. One important instance of this is the reduction of manufacturing and repair stations. The number of these has been reduced to ten, and their productive capacity is still greater than the demand warrants. Although constant pressure is brought to bear on the railways by manufacturing interests, the railways have found it advisable to continue the manufacture of their own rolling stock and equipment. If it were possible to unify all of this work an important additional saving could undoubtedly be effected. Although a considerable amount of reorganization has occurred in some cases, a great deal more is necessary if all four amalgamations are to become completely unified and smoothly operating systems. More attention to administrative reorganization would undoubtedly produce greater efficiency.

RAILWAY EFFICIENCY AND SERVICE

The railway systems and their operation are under the nominal supervision of the Minister of Transport.¹ The responsibility for enforcing reasonable service and adequate facilities is shared by the Railway and Canal Commission, but as has already been said the tribunal is now called upon very rarely to exercise these powers. In comparison with the Interstate Commerce Commission's active and comprehensive control over service requirements and general operating standards, the attitude of the British administration appears to be passive. The Transportation Act of 1920 virtually made the State a partner in the railway industry, and hence responsible for making suggestions and improvements; the Railways Act of 1921 placed the State more nearly in the position of an auditor or a trustee:

¹ An excellent analysis of the Ministry of Transport's powers over railways will be found in (1929) *Minutes of Evidence, Royal Commission on Transport*, I, pars. 123-164.

generally speaking, power is not used unless something goes wrong. The nominal character of the Ministry of Transport's control over the railways is clearly revealed by the fact that there are only seven railway inspectors of the Ministry in the entire country, while in the Headquarters establishment there are only twelve employees who devote their full time to railway matters.

The responsibilities of the Minister of Transport over railway operation are very few and relate primarily to safety regulations. Various Acts provide for an inspection by the Minister prior to the opening of any new, additional, or deviation line on which passengers are to be carried. The Minister's powers in this respect are confined to giving or withholding permission for new railways or works to be brought into use and do not relate to subsequent maintenance.¹

The inspections referred to are carried out wholly with the idea of public safety. In addition, railway companies are required to report to the Minister "all accidents causing personal injury, all derailments and collisions in which passenger trains are involved, and any other accident of a kind prescribed by the Minister," who has power to hold inquiries into the causes of such accidents. The reports of these hearings are made public, and they sometimes contain recommendations. However, the Minister has no statutory power to compel companies to carry out his advice. "We are glad to learn," stated the Royal Commission on Transport, "that in practice it seldom happens that a company declines to adopt, or at any rate to test such recommendations."

Most of the above observations also apply to the safeguarding of railway employees. In this case the Minister is empowered, and has made Rules. The scope of the power is broad, applying to any matter which the Minister considers may cause avoidable danger to persons employed on

¹ *Royal Commission on Transport, Final Report*, 18-21, Cmd. 375, 1931.

railways. Here again the machinery of enforcement has been reduced to a minimum. Not until recent years did British railways begin to install air brakes, and the transformation still has a considerable way to go. This factor not only affects safety, but it diminishes the speed of trains—a consideration which is vital to competition with road transport. The employment of private wagons, accounting for nearly half of all freight cars, has seriously retarded the installation of air brakes.

The Minister of Transport has important powers relative to standardization of equipment and rolling stock, but these powers have not been widely used. The Railways Act of 1921 provided that the Minister of Transport may require the companies gradually to standardize their equipment and to adopt schemes for cooperative working or common user of rolling stock, or other facilities, unless the railways can satisfy the Railway and Canal Commission that the capital involved would prejudice the interests of their stockholders. Moreover, any order enforcing standardization except by agreement with the companies concerned, must be referred to a committee consisting of representatives of each of the groups, together with three other persons selected from panels set up under Section 23 of the Ministry of Transport Act of 1919.

The development of standardization has been achieved almost wholly by voluntary action, but much remains to be desired. The complete interchange of freight cars, which the Interstate Commerce Commission was authorized to enforce under the Transportation Act of 1920,¹ has not been effected in Great Britain, nor is it wholly possible to do so under existing circumstances. Under the present system of private ownership of wagons, of which there are something like 700,000, a great deal of empty haulage and unnecessary waste are involved. These private wagons belong mostly to coal and colliery owners, but ownership is distri-

¹ Sharfman, *op. cit.*, I, 235-244.

buted among at least 5,000 firms. About two-thirds of the coal traffic is conveyed in them, and the majority of the wagons have a capacity of between 10 and 12 tons, which is less than half that of the Continental coal wagons. Sir Ralph Wedgewood, General Manager of the L.N.E.R., calculated that the elimination of private wagons would result in a saving of £600,000 to £1,000,000, but the "great bulk of operating opinion is inclined to the view that the savings effected would be vastly greater."¹

Despite these handicaps, a considerable degree of standardization and coordination has been brought about by means of the Railway Clearing House, a central organization which is controlled by a board representing the railway companies. "The Clearing House," states Fenelon, "has been of the greatest importance in facilitating proper coordination of British railway traffic and in promoting the rationalization of the railway industry." In 1850, eight years after its creation, the Clearing House was given a legal status and granted power to sue debtor companies; in 1897 it was reincorporated; and in the Railways Act of 1921 its powers were again recognized and extended. The organization, employing 2,000 persons, is divided into Secretarial, Merchandise, and Coaching Departments. The Clearing House is the neutral ground on which meetings of general managers, engineers, and other employees are held. These conferences sometimes produce standardization schemes. The primary object of the organization, however, is to facilitate the sending of through carriages and wagons from one railway system to another and to provide a method for the division of through rates among the companies concerned. Railway companies are still entitled to payment for the use of common user wagons passing over another company's line. The Clearing House administers this highly complex system by means of junction employees, and debits and credits the several companies on a monthly basis. One

¹ *The Times*, May 16, 1932.

of the advantages of unifying the railways would be the elimination of the administrative complication and the overhead cost involved in the work of the Clearing House.

The obligation of railways to afford reasonable facilities for traffic and the prohibition against undue preference were placed upon the companies by the Railway and Canal Traffic Act of 1854. Jurisdiction over this class of complaints was bestowed upon the Railway and Canal Commission in 1888. The fact that there are few cases does not necessarily prove that grounds of complaint do not exist; it may indicate instead that the present machinery of enforcement is inadequate. The principal difference between railway regulation in Great Britain and in the United States is with respect to the vastly greater control which American railway commissions exercise over service and facilities.

During the last few years a large number of branch lines and railway stations have been closed by the British companies. Between 1928 and 1932 some 730 miles of branch line were closed to passenger traffic. This policy will undoubtedly be expedited as road competition increases and as the railways are able to cover larger adjoining areas by ancillary motor services. Referring to this development, the Royal Commission on Transport stated,

"We are somewhat concerned with the consequent disappearance of facilities for travelling. Speaking generally, it appears that railway companies do not require express authority to close the lines or stations; the matter is one governed for the most part by the obligation of the companies to provide 'reasonable facilities,' and persons who feel that the closing of a particular line deprives them of a 'reasonable facility' may, if they wish, take the matter before the Railway and Canal Commission—a proceeding which we fear would involve a certain amount of expense."

As a matter of fact, since the war only two attempts have been made to challenge the railways' right to close lines, and both failed. In the more recent case, decided in 1931, the Railway and Canal Commission stated that it would be unreasonable to demand that a railway company "should

provide some particular service for which there was so little demand that it could only provide it at a dead loss; the company is entitled to carry on its own business in its own way, but if it chooses to carry on a certain traffic, this court has jurisdiction to see that reasonable facilities are granted in respect of that traffic.”¹ The expense of bringing an objection, and the well-known solicitude of the tribunal for the financial difficulties of the railways, are probably the principal reasons that more cases involving facilities are not taken to the Railway and Canal Commission. In the United States no branch line can be closed without the permission, preceded by an investigation, of the Interstate Commerce Commission.

Few administrative regulations regarding railway passenger facilities have been adopted in Great Britain, and as a result crowding on suburban and short-distance railway trains has become a common complaint. The Royal Commission on Transport heard many such objections and came to the conclusion that

“A railway company is apparently under no obligation to find a seat for a particular passenger on a particular train, and, therefore, it is more or less a matter of chance whether that passenger travels sitting or standing. . . . We do not suggest that railway companies should be placed under a statutory obligation to find a seat for each passenger desiring to travel by a particular train, but we do recommend that they should be placed under a statutory obligation to provide a seat for each passenger who joins a main-line train at its starting point. With regard to passengers joining a train at other stations on the route, we think that the companies should make greater efforts to find this accommodation, the lack of which causes much discomfort.”

With reference to the general facilities and efficiency of the railways, other than those matters which have been mentioned, the Royal Commission on Transport brought

¹ *Winsford Urban District Council v. Cheshire Lines Committee*, decided July 23, 1931 (unreported), following the leading case of *Darlaston Local Board v. London and North-Western Railway Co.*, (1894) 8 *Railway and Canal Traffic Cases*, 216.

out many interesting facts, of which the high-lights may be summarized as follows :

“it cannot be denied that in the days of their monopoly (i.e. prior to road competition) the railways had in some ways insufficiently studied the needs of the public, and that their policy had become unduly conservative; it is in the short and moderate distance journeys that the railways have lost passenger traffic by failing to make full use of their capacity for speed. It is remarkable that there has been practically no improvement in locomotive speed in this country during the last eighty years; the average load for general merchandise is only 2·94 tons, a factor which greatly increases costs; finally, it is not yet possible to give a considered opinion as to what extent, or in what directions, amalgamations have affected the railway companies, either in the matter of economics or in that of services.”

“The truth of the doctrine,” stated the Commission, “that facilities create traffic appears to have been forgotten.” However, the railways were congratulated on the following improvements: the use of containers to avoid unnecessary handling of fragile goods; the electrification of a large proportion of its lines by the Southern; the development of rail motors; and, if it is not carried too far, the extension of ancillary lorry services.

The railways have, in varying degree, considerably improved their public relations technique during late years. The L.M.S.R. has been outstanding in this respect. Keen competition from the roads is indirectly responsible for the new policy of the railways, which aims at anticipating the wants and pleasures of the travelling public. This is an important gain, and in any future reconstruction safeguards should be taken to preserve this attitude.

SUMMARY

The British railways have suffered severely as a result of years of depression. Their financial position has gone from bad to worse. In 1932 the railways earned only slightly over half of their standard revenue requirements. Although the railway system has been improved by reorganizations

which commenced in 1921, railway transport has received a severe setback as the result of road competition, which has become very acute since 1926. Moreover, the modern railway system inherited the weaknesses of exorbitant first costs and the confusion of organization which marked the maze of companies in existence before the amalgamations of 1921. The new alignment into four great units has not completely settled down; the process of reorganization has not been concluded. Unification may be the necessary next step.

Parliamentary policy relative to railways has been strongly *laissez-faire* or else suspiciously restrictive. A more positive attitude has commenced to appear since 1921. However, the Railway and Canal Commission, which was established in 1888, has exercised very little control over railway service and efficiency, and its influence is very small today. The Ministry of Transport's relation to the railways is one of nominal control—its powers are kept in reserve. Railway regulation has been "timid" and negative. In the days of their prosperity a passive policy on the part of the State did not matter much, but, faced by problems like those of the present, the railways require a definite policy vigorously pursued.