INTERSTATE COMMERCE COMMISSION'S RULING IN SPOKANE CASE

HE complainants in this proceedings are the City of Spokane, Wash., the Spo-

and lard pails, nested," moves in less than carloads to both Scattle and Spokane under the second-class rate, which is the same in each case, \$2.60 per 100 pounds; but if this commodity is shipped in carloads, as it usually is the rate to Scattle is a comkane Chamber of Commerce and the Spokane Jobbers' Association of Spokane. Before the hearings began the county of Spokans was permitted to intervene as a complainant. All interests of that locality are therefore represented.

One of the allegations in the complaint is that the rates of the defendants unduly prefer Scattle, Tacoma, Portland and other Coast points. This allegation affects the commercial interests of these localities and, with a view to protecting such inter-ests, the Pacific Coast Jobbers and Manufactures' Association, the Portland Cham-ber of Commerce, the Merchants' Protec-tive Association of Sectile and the Tacoma Traffic Association have become parties of

In each case, \$2.60 per 100 pounds: but if this commodity is shipped in carloads, as it usually is, the raise to Scattle is a commodity rate of \$5 cents, while that to Spokane is a fourth-class rate of \$1.96. This is perhaps the most grievous source of discrimination against Spokane. The transcontinential tariff now in force carries 1360 westbound commodity rates, many of these rates being applicable to more than one article, while the number of such rates from St. Paul to Spokane is control to seat a set of the fourth class of the fourth of the same is generally tree of westbound commodity rates which apply from St. Paul do not in all cases extend to to trentbourd to animodity rates. Now even these commodity rates which apply from St. Paul do not in all cases extend to territory east of St. Paul. Of the 636 already referred to only 407 apply east of chicage, and of this number by no means all extend to New York. It will be seen, therefore, that Spokane is owing to the structure of its tariffs, under two disabilities. It must, in the first place, pay a higher rate upon practically overything which reaches that locality from stricted, in the second place, in the mark and of the sum of the seattle and other Coast of the Missouri fliver on east, and it is restricted, in the second place, in the market in which it can buy, for while Seattle and other Coast of the Missouri fliver on east, and it is restricted, in the second place, in the market in which it can buy, for while Seattle and other Coast of the Missouri fliver on east and other for the Missouri fliver on east and the first upon practically for the market of when the Missouri fliver on east and other for the first or while seattle and other coast of the Missouri fliver upon practically for while seattle and other coast of the Missouri fliver upon the Missouri fliver of the first of the f Traffic Association have become parties of record by petitibus of intervention. The complant was originally brought against the Northern Paulife Railway Com-pany, the Great Northern Reilway fompany, the Oregon Railroad & Navigation Company, the Oregon Railroad & Navigation Company, and the Spokane Fails & Northern Railway Company. The first four of these de-fendants form through lines of railway be-tween the Missouri Biver and Spokane. The last named extends north from Spokans to Nelson, where it connects with the Cuna-dian Pacific Bailway, thus affording a dian Pacific Railway, thus affording a ossible route from Spokane to Eastern

The complaint puts in issue not only rates Missouri Hiver to Spokane, but also from territory east of that basing line extending as far as the Atlantic seaboard. It seemed to the Commission upon an examination of the complaint that carriers participating in these raises east of the Missouri River ought to be made purtles of record as well as the Canadian Pacific. which may handle traffic in connection with the Spokane Falls & Northern from Spokane. We accordingly directed that the Canadian Pacific Ballway Company, the Chicago, Eurlington & Quincy Ballway Com-Unicago, Burington & Guiney Railway Com-pany, the Chicago & Northwestern Rail-way Company, the Lake Shore & Michigan Southern Railway Company, the New York Central & Hudson River Railroad Com-pany, the Pilitsburg, Fort Wayne & Colcaas Ballway Company, the Permsylvania Railroad Company, the New York, New Haven & Hariford Railroad Company, and the Boston & Malis Ballroad be made parties to this proceeding, and they were ac-cordingly brought in as additional defend-ants and have answered. The issues presented are important both

Spokane. Traffic over the Union Pacific lines for Portland does not touch Spokane, but all freight transported by the Northern Pacific and Great Northern companies to the coast of necessity passes through Spokane, so that with respect to all the coast business of these two defendants the complainant city is strictly an intermediate point. The distance from Spokane to Scattle by the Great Northern is 535 miles, to Tacoma by the Northern Pacific 395 miles, and to Portland 541 miles. The first claim of these complainants is that these defendants in thus charging lower rates to the coast points violate the fourth section by making a hisher charge at the intermediate point. The defendants do not dony the fact of the discrimitation, but insist that this scheme of rates is justified by water com-petition. Traffic may more from the At-intic seboard to these Pacific coast points by water. The defendants say that the water rates are much lower than a reason-able all-rail rate from the Atlantic sea-board to these same Pacific coast destina-tions; that these water rates absolutely limit the rail rates which can be charged; that this creates a dissimilarity of circum-stance and condition which withdraws the coast from the prohibition of the fourth sec-tion, and that is view of these conditions the discrimination is not undue, and there-fore not unlawful under the third section. This Commission has averant limes exam-ined this claim of the defendants with re-spect to other intermediate points, has found that water competition did exist as The issues presented are important both from the traffic, the pecuniary and the eco-nomic questions involved. A large amount of testimony has been taken and the case has been elaborately and ably argued by counsel representing all phases of the coh-troversy. These issues, while treated upon the heating and argument in a great va-riety of form, really reduce themselves to there.

First-Do the rates of the defendants unduly discriminate against Spokane in favor of Coast points? This includes the further inquiry whether these rates are in violation of the fourth section.

Second-Do the defendants improperly al-Iow certain privileges to Coust traffic which are denied to Spokane. Use the mix-ing of carloads, lighter minirums, etc? Third-Are the rates applied by the defendants to Spokane inherently unjust and

Spokane is situated some 400 miles cast of Seattle, and Missoula, Mont. is upon the line of the Northern Pacific about 250 miles east of Spokane. For the purpose of indicating the scheme of rate-making against which this complaint is directed, these three points are taken as illustrative.

Below are given the class rates, in cents per 100 pounds, from St. Faul, Chicago and New York respectively, to Settile and Spo-kane. Wash., and Missoula, Mont.:

To Scattle, Wash. 1 2 3 4 5 A B C D E From St. Paul, Minn. Chicago, Ili New York, N. T. To Spokane, Wash." 1 2 8 4 5 A B C D E From-To Missoula, Mont.* 1 1 2 3 4 5 A B C D E From 2 3 4 5 6 75 65 50 35 80 25 New York to Chicago

*Rates from New York to Spokane and Missoula are made on combination over

SUMMARY OF COMMISSION'S DECISION IN SPOKANE RATE CASE

1. The system of transcontinental rates pow in force applies lower transportation charges from points of origin upon the Missouri River and cast to Pacific Coast cilles than are applied to intermediate interior points; Held, that this scheme of rate making has been forced by water competition between the Atlantic and the Pacific Coasts, and that the maintenance of the lower rate to the more distant coast point is not of necessity a violation of the third or the fourth sections, since water competition creates a dissimilarity of circumstance and condition between the interior and the coast.

2. Water competition may justify a difference in carload minimums and in the right of combining different odities at the carload rate, as well as in the rate itself; but carriers should be prepared to justify such prefercomm ence

3. In determining what are reasonable rates between two points neither that railroad which can afford to handle traffic at the lowest rate nor that whose necessities might justify the highest rate should be exclusively considered. Rates must be established with reference to the whole situation

Certificates issued against the ore lands forgierly owned by the Great Northern Railway Company cannot be properly considered in determining what are reasonable earnings for that company at the present day.

5. The Great Northern Railway Company has in the past distributed its stock issues among its stockholders at par from time to time, although the market value of the stock was often much above par. Without expressing any opinion upon the legality or propriety of this practice, it is hold that this fact, at this time, can have no bearing upon the earnings to which that company is entitled.

6. Neither can the capital stock of the Great Northern Raliway Company be reduced for the purpose of determining what its fair earnings should be by the amount of that stock which was originally issued without money consideration

7. In determining what will be reasonable rates for the future the Commission may properly consider that under the rates in effect a large surplus has been accumulated in the past, but it should not make rates for the purpose of distributing that surplus to the public.

8. The importance of the question whether a railway shall be allowed to earn a return upon the uncarned increment represented in the value of its right-of-way is illustrated by the facts in this case, but is not discussed or decided.

9. Upon an examination of the history of these properties, the cost of reproducing them at the present time, the original cost of construction, the present capitalization, and the manner in which that capitalization has been made; Held, that the earnings of both the Great Northern and the Northern Pacific in recent years have been excensive

10. The only duty of the Commission in this case is to establish reasonable rates from Eastern points of origin to Spokane, and in so doing it can only act upon those rates specifically called to its atiention, although it must have in mind the effect upon the revenues of these companies of resulting reductions upon other commodities and at other points man Spokane.

11. The rates attacked are class rates from St. Paul and Chicago to Spokane, and commodity fates upon 34 enumerated articles. Class rates are established from St. Paul to Spokane which are 16 2-3 per cent less than those now in effect, and class rates from Chicago to Spokane are made higher than those from St. Paul by certain named arbitraries.

12. In case of all commodities except five the present rate from Chicago to Seattle is established as a reasonable local rate from St. Paul to Spokane. Upon five articles somewhat higher rates are fixed. Rates on all these commodities from Chicago to Spokane are made 15 2-3 per cent above those from St. Paul. Neither class nor commodity rates are named from points east of Chicago.

lew York to Pacific Const terminals. There

Ined this claim of the defendants with re-spect to other intermediate points, has found that water competition did exist as now amerced by the defendants, and has held that this competition did in the main justify the system of transcontinental tar-iffs which these defendants have established Kindell ex. Atchison, Topeka & Santa Fe By Co., \$ L C C Rep. 60%; Shippers Union of Phoenix vs. Atchison, Topeka & Santa Fe Ry Co., 9 ib., 260; Business Men's League of St. Louis v. Atchison, Topeka & Santa Fe Ry. Co., 9 ib., 318. It also reached sub-stantially the same conclusion with respect to the city of Spokane in a former proceed-ing. Merchants' Union of Spokane vs. Northern Pacific Ry. Co., et al., 5 L C C. Bop., 678. Northern Pacific Ry. Co., et al., 5 L C. C. Bop., 478. It might be sufficient to adopt without discussion the conclusions reached in these investigations, but inasmuch as the whole question was gone into anew upon this hearing, and since this matter of water competition between the coasts is one of an ever-warying nature, and especially since there on he no adopting of the standard of the standa there can be no adequate understanding of

its capacity.

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do.

from South Hend, and that shipments of va-fious kinds from points west of this line were comparatively frequent. He stated that the rates by his line from New York were from 20 to 60 per cent lower than via the substantially the fan Francisco, and that plied at Portland, Scattle and Tacoma. He further said that his line carried all kinds of commodities with the exception this line does not absorb the rail rate from the in-terior point of origin to New York, alments were also made to Seattle, Portland, Tacoma and Los Angeles. The rate of freight was in every case materially lowar than the published rall schedule from the point of origin. The time involved in trans-porting this freight from point of origin to destination was materially less than would have been required, in the then congested condition of traffic, for the same savice by rall, and was probably as short as could be expected upon the average under normal conditions. It cannot be denied, in view of these upthan they now are would not only result in the immediate loss of some traffe, but would invite certain competition which in the end must result in material reductions. This water competition not only limits the rates which are now in effect from the At-lantic Coast to Portland, Seattle and Ta-coma, but the existence of this connection. It cannot be denied, in view of these uncomma but the existence of this competition, especially in view of the approaching com-pletion of the Panama Canal, must be a dominant factor in determining both the present rates and the future policy of these transcontinental lines controveried facts, that water competition loes exist, and that it does produce a concolling effect upon rates to the Pacific const from many Eastern destinations. It is beyond doubt that this competition abso-lutely limits those rates from New York and points within a few hundred miles of transcontinental if

transcontinental lines. When once the fact of this competition and its effect upon these rates have been found, the decisions of the Supreme Court of the United States foreclose our conclu-sion. That court has held in numerous cases that if competition exists at the more distant point which controls the rate at that point, the charging of a higher rate at an intermediate point is not necessarily in vio-hiton of the third or fourth section. In-terstate Commerce Commission v. Alabama Midland R. R. Co. v. Behimer, 173 U.S. 648. Interstate Commerce Commission v. East Tennessee, Virginta & Georgia F. R. is no assignable reason why a shipper should pay from 15 to 50 per cent more money to transport his goods by rail when the water service is equally reliable and aimost as exp proditions Up to the present time the transportation facilities by 'water available have not been sufficient to produce a de-moralization in those rates. These water carriers do not yet need to offer the induce-ment which they might profitably. The rail rate to New York is not absorbed nor are low rates made from New York even when

of various kinds of cotton fabrics, the right to mix surloads is accurded Coast sup-ments and not to shipments to Spokane. Water competition may justify a dif-ference in minimums or in the privilege is of mixing carloads exactly as it justifies a lower rate. This Commission held in Kindel vs Boston & Albany Railroad Com-in the Boston & Albany Railroad Com-ing and the C. C. Rep. 495. that carriers need not accord a carload rate to ship-ments of cotton piece goods to Denver, all though they did apply such rates on ship-ments to San Francisco. It was held in the same case that a refural to allow the mixing of different kinds of cotton fabrics in case of Denver traffic while permitted upon transcontinental business was not in violation of inw. folation of inw.

The presumption is that whatever privilage of this sort is accorded one locality should be accorded the other, both be-ing served under the same circumstances by the same carrier. It would fairly be inby the mame carrier. It would fairly be in-cumbent upon the defendants to show in this case the chroumstances which require the more favorable rule at the Coast ter-minal. So Hitle stimution has been paid to this matter, however, that we shall undertake to make no order on this branch of the kind against Spokane which does not rest upon a substantial basis and which the defendants are not prepared to justify, they will undoubtedly correct it without further proceedings. If the complainants conceive that discrimination of the kind is unduly continued the better way is to file a new petition and bring this matter mission.

soula sill enjoya the benefit of more fa-vorable rates in a few instances. The original case was decided in the Winter of 1892, and soon after the North-ern Pacific Railway Company, which was the defendant in that proceeding, at-tempted to comply in substance with the order of the Cammission, which had di-rected certain changes in rates to Spo-kane, principally the charging of a lower class rate from St Paul than was made to the Pacific Coast. The advent of the Great Northern Railroad as a transconti-nental competitor at about the same time competitor at about the same time till further complicated the situation, and he result was a period of very unsettled and unstatisfactory transcontinental rate and unstatisfactory transcontinental rate conditions lasting from 1893 down to 1898. conditions lasting from ISBN down to ISBN The jobbers upon the Pacific Coast, notably those of San Francisco, insisted that the rates were too favorable to their competitors in the Middle West, and they were ag-gressive in their insistence upon a readjust-Tressive in their insistence upon a readjust-ment of these tartffs. Finally an under-standing was reached between the jobbers of the Pacific Coast and the transcontinon-tal lines by which rates were restored, the difference between carloads and less than carloads being materially widened. The adjustment of rates then put is to effect was subsequently in the main approved by this Commission in Husiness Men's League of St. Louis vs. Atchison, Topeka & Santa Pe Ballway Company. 9 I. C. C. Bep. 318, and has remained in effect ever since. By this restoration of rates in 1898 the original discrimination against Spokane was restored, all attempts to comply with the order of the Commission being aban-domed and rates re-established upon the original basis. We have seen that in 1990 the American Hawailan Sicamship Company put into services a line of steamships via

the American Hawaiian Steamship Company put into service a line of steamship via the Straits of Magellat, and by the year 1902 this company had extended its oper-ations as far north as Tacoma and Scattle. Traffic had also begun to move to some extent via this line and these Sound ports to Spokane. For the purpose of meeting this competition the defendants put inte effect, about 1902, certain additional com-modity rates to Spokane, but the general situation was not changed. situation was not changed.

Certain rights of was through the City of Spokane were needed by the Great North-ern Railway in the course of the construc-tion from the East to the Coast, and

or spondate were needed by the Great North-ern Railway in the course of its construc-tion from the East to the Const, and that company applied to the citizens of Spokane for a donation of the necessary land. The president of that company held several meetings with the citizens and with various committees on this status.

same service or it may charter another cor-poration for that purpose without reference to the effect upon the revenues of the existing company.

plaint a better minimum is accorded upon shipments to the Coast than would be available apon similar shipments to Spo-kane, and also that, notably is the handling of various kinds of cotion fabrics, the right to mix carloads is accurded Coast ship-ments and not to shipments to Spokane. Water competition may justify a dif-ference in minimums or in the privilege

Now the complainants say that it is the business of the commission to take this least expensive of these routes and to determine these rates upon the basis of the investment in that route. We should allow the Great Northern Company, if that be the least ex-pensive, what will be a fair return upon its property considering the innertial history of that company, and no more, even though the rates thus established when applied le the business of its competitors would de-prive them of a fair return upon their in-vestment. The defendants insist that exactly the op-

The defendants insist that exactly the op-positie course should be followed. They urge that a railroad is entitled to a fair return upon its investment, and that this rules ap-plies to all railroad laboring under disad-vantages of location and operation, as well as of that one more favorably direin-stanced. Hence the commission must col-sider that railroad whose net earnings will be least, for if it entablishes rates which only yield fair returns to the road mos-favorably situated, it of incessity know-ingly and intentionally deprives every other road of a fair return upon the value of its prove of a fair return upon the value of its provents.

In support of these propositions counsel for the complements of the counsel

not rest upon a substantial basis and which the defendants are not prepared to justify, they will undoubtedly correct it without further proceedings. If the complainants nonceive that discrimination of the kind is unduly continued the better way is to file a new petition and bring this matter specifically to the attention of the Com-mission. One other matter which was gone in at some langth upon the bearing may be referred to in this connection. The report of the Commission in the original Spokase mas, 5 1. C. C. Rep. 478, found that Spo-kane was discriminated against not only weat, but also as compared with Masoula and other towns upon the east. There has worable rates in a few hasiances. The original case was dedded in the Winter of 1892, and soon after the North-ern Pacific Railway Company, which was the defendant in that proceeding, at tempted to comply in substances with the corder of the Company in substance with the defendant in the Company of the Company, which was the defendant in this proceeding, at tempted to comply in substances with the Case to be five. If was ended the part with the Company, which was the defendant in the Company, which was the defendant in the Company, which was the defendant in the complains the was the defendant in the complany, which was the defendant in the complany, which was the defendant in the complany which was the defendant in the the proceeding. at the was to be five bridge since so on a sould pay toli when he could go for nothing upon

Charles River bridge since no one would pay toil when he could so for nething upon the Warren bridge. Thereupon, the proprietors of the Charles River bridge brought suit, claiming that their charter was virtually a contract al-lewing them to maintain their bridge at a profit and that the Legislature, by granting the account charter, had taken their prop-erty without warrant of haw. The court held, however, that the granting of the first charter did not prevent the granting of the second, even though the prantical effect of it was to render valueless the property which the plaintiffs had construc-ed under that charter. The City of Spokane, argue the com-

The City of Epokane, argue the com-plaints, is entitled to the chaspest means of transportation between St. Paul and Spokans. The dovernment may construct a railway or it may delegate that duty to an agent. If it clotts to employ an agent it may require it, and indeed must require it, to establish reasonable rates with respect to its own line, even though this should bank-runt other lines already to extend

its own line, even though this should bank-rupt other lines already in existence. This claim finds some support in Bruns-wick & Topsham Water District v. Mains Water Company, 99 Mains, 371, a well-con-sidered case, decided in 1904. That pro-ceeding was for the condemnation by the water district of a periton of the plant of the Maine Water Company, the question being the basis upon which damness an unit the matter water company, the quantum being the basis upon which damages should be massed. The water diwired claimed that the cost of construction furnished the true measure of damages, but the court held that the defendant was entitled to whatever its the defendant was entitled to whitever its poperty was fairly worth as a going con-our furnishing water to the people of that is the second second second second second wired of what was meant by a reasonable wired of what was meant by a reasonable is to the composite the second se

While, however, this is the law, we do not think that the result contended for by the complainant of necessity follows where

or point of origin to New York, alhough in naming the rate from New York count is sometimes taken of the point where the traffic originaties. The rates from New York via this line are not published or maintained. the difficulties which beset the making of these transcontinental rates without a thor-ough appreciation of this competition, it naintained, but are varied as may be neces

> Rates are made only to the scaports upon he Pacific Coast, and the consignes always eccives the goods and pays the freight harges at the port. It frequently happens, vever, that shippers at interior points in the Pacific States avail themselves of this means of transportation from the East by rebilling at the port to the interfor desti-mation at the regular local rate. Ship-ments have been made in this manner to

ary to suit the varying measures of the susiness, which means that the steamer nakes whatever rate may be necessary to seems proper to briefly state those condi-tions here.

From an examination of the above tables it will be seen that class-rates from St Faul to Scattle and Spokane are the same and that they are less to Missoula. From and that they are less to standard Prom-Chicago the class-rates are higher to Spo-kane than to Senttle in all cases, but somewhat lower to Missoula than to either Spokane or Senttle. There are no foint through rates from Chicago to Missoula. the above rates being arrived at by com-bination upon St. Paul. From New York class-rates are still the

same to Seattle as from Chicago and St. Paul, but are materially higher both to Spokane and Missoula. No joint through class-rates are published from New York, the through rate above given to Spokane being obtained by combination on Chicago. while the rate to Missoula is made by com bining the rates from New York to Chicago from Chicago to St. Paul and from St. Paul to Mini

will be seen, therefore, that if all traffic moved upon class-rates no discrimi-nation would exist against Spokane when the traffic originated at the Missouri River, save that the defendants would charge the same for transporting traffic 1829 miles to Seattle as for the 1490 miles. to Spokane. If, however, the traffic origi-nated east of the Missouri River, it would in all cases pay a sumewhat higher rate to Spokane than to Seattle, the difference against Spokane increasing with the distance from St. Paul.

Only a comparatively small part of Spe-hane's traffic, however, moves upon the class rate. The great bulk of the tonnage from Restern points of origin to Spokane moves upon commodity rates, and this is even smore true of the Pacific Const. Hence it is necessary in order to appreciate the force of this discrimination to examine there com-modify tariffs. modity tariffs.

The complainants have referred in the complaint to a number of commodities as illus-trative of the general situation, and we have selected from these ten articles giving below the rates from St. Paul, Chicago and New York to Scattle, Spokane and Missoula. The first column in the table indicates whether the rate for less-than-carload

The first column in the labe indicates whether the rate for less-than-carload movements, while the last two columns repeat this information for carload ship-ments. In some cases, especially from New York to Spokans and Missoula, the rate is made by combination upon Chicago, in-violation of the second cases and commodity at the indicates and commodity at the spokans and Missoula, the rate is made by combination upon Chicago, in-violation with the class rates previously the abbreviation "comb." See table . . . From an inspection of these last tables in modify rate to both Seattle and Spokane than the state is undirated in the tables of the spokane in the second tiem, "show-is spades and scoops." This takes a made last table is the second tiem, "show-commodity rate to Seattle in both carloads and less than carloads, the second-class rate is spades and scoops." This takes a for the Spokane is the second tiem, "show-commodity rate to seattle in both carloads and less than carloads. The carload to Seattle is still be reflected in the theory is spade and scoops." This takes a for to Seattle is still be reflected in the second scattle is spade and scoops. The seated and the scattle is still be reflected by adding to the Soattle rate to Spokane is the complainant status in the completing that these commodity rates to Spokane the spok and is the first sconstructed in that manes who is constructed in the state of the ship part state for seattle is still be spoked to the spok and is the first sconstructed in the state spokes the spate state is constructed in the state is spoke to part the seated is per cent of the ship is is true of about 16 per cent of the dis-ties there of about 16 per cent of the dis-ties there of about 16 per cent of the dis-spoke materially the Seattle rate, who has the is is true of about 16 per cent of the dis-ties there of about 16 per cent of the dis-ties there of about 16 per cent of the dis-spoke materially the Seattle rate of the dis-spoke materially the seattle rate of the dis-ti

freight in considerable quantilies from the Atlantic to the Fracific coast was by water, and after the railway became available this mame method of transportation continued to be used. In the early days of the develop-ment of the Paolic coast passengers and freight were taken by water to Colon, car-ried by stage across the istimus of Pan-ama, and again shipped by water to San Francisco or other points upon the coast Subsequently the Panama Railroad took the place of the stage line, and this route in today in active operation. It is well under-stood that for the purpose of praventing competition by this line, the transcontinents inilroads for several years purchased a suffreight in considerable quantities from the

Traffic over the Union Pacific lines for

today in active operation. It is well under-stood that for the purpose of praventing competition by this line, the transcontinental initroads for several years purchased a suf-ficient amount of the entire space available by the sceamships plying in connection with the Franzine Railroad to control the rates. Today this line maintains rates somewhat below the all-rail rates and handles ap-proximately 40.600 ions of traffic annually. A certain amount of traffic is carried each year between the coasts by what are termed tramp vessels; that is to may, yea-sals which do not ply regularly between these points. If, for example, a steamship is constructed upon the Atlantic seaboard and is sent to the Pacific coast for service, it carries out a carge, and is with respect to that voyage a trainp. It was estimated by a winces familiar with these matters that during the year 1906 this tramp ton-mage amounted to approximately 25.600 tons. In the past that route carrying the larg-est amount of traffic and producing the greatest effect upon transcontinential rates has been the regular service around Cape Horn or through the Straits. Down to the vere outries alling vessels, and the serv-ice was known as the clipper service. The nominal time was about 135 days, but this, owing to the means of propulsion, was often lengthaned to 175 or even 200 days. This route always indored under many in-herent disabilities. The date of arrival was uncertain; the time consumed was usually long; the cost of finaurance was high. Nev-ertheless, it always produced an effect, in fact a controlling effect, upon railway rates from the Ajlantic to the Pacific Coast. About the year 1900 the American Ha-walian Steamship Company, which had for-merly been interseited in these satiling ves-

wallan Steamship Company, which had for-merly been interested in these sailing ves-sels, put into service a line of steamers via the Straits of Magellan in the place of these collipser ships. The time by this new line from New York to San Francisco was 60 days, and the date of arrival could be counted upon with great certainty. This reduced the cost of insurance, eliminated the element of incertainty as to time of arrival, and altogether rendered the route much more attractive one. It commanded from the first all the traffic its ships could

from the first all the traffic its ships could carry. In the year 1996 the tonnage via this route between New York and the Pa-cific Coast was about 115,000 tons. Beginning early in the year 1997 the American Hawaiian Steamship Company in-augurated a new route, known as the Te-huantepec route, consisting of a ship car-riage from New York to Coatzacoalcos, Mexico, a rail carriage from thence across Mexico, 103 miles via the Tehuantepec Na-tional Railroad to Salinas Cruz, and thence by vessel to destination.

tional Railroad to Salinas Cruz, and thence by vessel to destination. The time by this route is 25 days from New York to San Francisco, 35 days to Portland, and 40 days to Seattle. When the testimony in this case was taken this route had only just been opened for busi-ness, but its traffic manager testilied that he expected to carry to the full capacity of his vessels with ease, and that this capacity would be at the outset 250,000 tens per an-num. num. The ships of this line sail weekly from

the port of New York, but the traffic which they carry comes from the whole eastern part of the middle and New England secof the United States, being transported

the Spokane rate was higher than that to Seattle by about 70 per cent of the local from Seattle to Spokane in the majority of cases. It often happens, moreover, that an arti-ele may move on the commodity rate to Seattle, while it takes the class rate to Bpokane; thus the first item, "the boxes

0 100 95 0 100 95 1 10 5 0 85 55 7 109 98 1 0 5 3 50 47 0 73 60 5 6 80 25 0 0 95 1 0 5 1	billing at the port to the interior desit- stion at the regular local rate. Ship- ents have been made in this manner to okame liself. The traffic manager of this line was taked to file a statement which would show defail with respect to that one of his eamships able was then loading at New ork the articles which it carried, giving to character and weight of each comsign- ent, the point of origin and the destina- tor, together with the rate received for the revice; and such statement has been filed if is a grant of this roord. It fully bears it the testiment of the witness. The campo maisted of a great variety of commodilies ore than half the consignments originated The Sentile, Wash.			point, the charging of a higher rate at an intermediate point is not necessarily in vio- iation of the third or fourth socilon. In- terstate Commerce Commission v. Alabama Midland E. R. Cé. 169 U. S. 173; Louis- ville & Nashville H. R. Co. v. Behlmer, 173 U. S., 648; Interstate Commerce Commission v. East Tennessee, Viginta & Georgia R. R. Co., 151 U. S., 1. These water rates to Pacific Coast termi- nals apply only from New York. Shipments are made from various other Coast points and from various interior points, but in such case the shipper must be to the ex- puter to New York. Chy means that the rate by waler from the interior point in the eastern porflow of the United States to San Francisco increases as the distance from New York increase; that is, the rate	1902 this atloas as Traffic he extent via to Spokar this comp effect, ab modify ro situation Certain of Spokan ern Railw tion from that com Spokane hand. Th several m various c which he		
from the	Rates in conts p	 Rates in cents per 100 pounds. 				STATUTE FRITTORIES TRANSF MANAGE	very stro
by water.	Theorem and the second manufactures		Cinss. L.	C.L. Class.	C. L	BETWEETERY DISCHUT HE THE AND DONAL IN MICH.	of-way w Railway
dinble this	From St. Paul, Minn					studie in the class further also and the	Spokane.
o develop-	SPAINERIN, BUBRIEN RUCE MCOONS		Courses by	260 Comb 163 do	85 115	Provident and the starting arrive an other in the second	was opene
ngers and	Fruit jurs and glasses. Canned corn, peas and beans.		do	150 do	411	small quantities by this water route from farther west than the Huffalo-Pittsburg	tain tariff
olon, car-	Drugs and medicines	*************	do	140 do	85	line. But the rates to Spokans, as we have	put into
a of Pan-	Drugs and medicines. Cotton ducks and denims.	***********	****G0	180 do	140	aiready such, are higher than to Portland	kane not
the const.	Glassware, n. o. m.	************	do	185 do	90	from all territory east of the Missouri River.	but very
took the	Stoves, n. o. s.		Third	2:0 do	325	Assuming now that under a Missouri River.	ever actu
route is	Glassware, n. o. s. Stoves, n. o. s. Twine, in bales, boxes or barrels		Comb	725 do	0.0	Assuming now that under the decisions of	of Mr. H
ell under-	Copper wire Wire fencing, in rolls.	*************		165 60	110	the Supreme Court them defendants may	inability (
preventing	From Chleago, Hl		do]	150 do	-100	properly name a lower rate from New York	what job
ontinental	The however and load weither meeted to be						Snally led
sed n suf-				- 85		a boycott	
available				175do	125	Buffale or from Pittsburg, upon what possi-	the Great
the rates.	Canned corn, peas and beans			145	50	Did theory can they show there were	lines. Th
somewhat	Drugs and medicines.			190 do	140		diverted t
ndles ap-	Canned corn, peas and beans. Drugs and medicines. Cotton ducks and denims.			135 do	- 90	service of a matter still could not so more	Pacific In
annually.	Glassware, n. o. s. Stoves, n. o. s. There in bales, boxes or barrels. Copper wire Wire fencine in rolls			160 do	110	ton to the high local rate from the betester	& Navigo
is carried	Twine in bales hows or harris			220 do	125	Point to stor fork.	carrier.
what are	Copper wire		Comp	125do	190	Articles consumed upon the Pacific Coast	tween the
BBY, Ves-			do	165do	110		of Spokas
bert weekin					2.00	AND STATISTICS UNITS ETHNER PURCHASE AND INC.	
steamship	Tin boxes and lard pails, nested in boxes		Second	260 Comb	85	THE ANDAULT IN THE RECORD OF THE ADDRESS OF	aiso repre
or service.				135 do	125	AN ANDW ADDE IT THINK PROVIDE has made and	derstandin
th respect	Canned corn neos and beaus		****00+**	150 do	85	Finiscisco and the rull carries in motor	corded a
estimated				150 do	95	Constants of LIBEL OF FILE PURSEPORTS STREAM	It was
e matters				190 do	140	" IGSU HOID AND YON'S IN DWA TAMAN IN	territory
ramp ton-	Glassware, n. o. s.		* do	185 do	110		jobbers b
5,000 tons.	Glassware, n. o. s. Twine, in hales, boxes or barrels. Copper wire Wire foncing, in rolls		a. do	126 do	100	THE PARTY PLEASED IN THE PROPERTY AND A DAY OF A	from Epol
the larg-	Wire familing in wells		do	165 do	110		very muc
ucing the	Wire fencing, in rolls. Stoves, n. o. s. (not crated or hoxed)		do	150 do	1.00	"I WELLET, DUL INUST MOVE by sail To the	distributin
ntal rates	WHEN WE WE HAVE CLAIPE OF DOXED		Tuird	· 220 do	125	they all fall hall in 1000 miller should	Whether
und Cape	From St. Paul, Minn To Spokar					and the cost of service to the railroad	favorable
wh to the	The howas and land notis nested to howas	and a second second second	Sec.	and many	-	southparty materially leas It is the	ered, but
the serv-	Shovels, spades and scoops. Fruit fars and glasses Canned corn near and hears	***********	ancond.,	260 Fourth	190	for the interest of the railway that articles	was made
Los serv-	Fruit jars and glasses.		Third	280 Comb	154	consumed mon the Deside why that articles	purpose v
days, but			Fourth	190	120	consumed upon the Pacific Coast should be manufactured in Chicago ruther than in	Rane cert
A PARTY OF A PARTY OF A	Drugs and medicines.			and a state and	125	in Chicago rather than in	Eastern n

Canned corn, peas and beans. Fourth. Drugs and medicines. Coron ducks and denims do. Glassware, n o. s. Second. Third. Twine, in bales, boxes or barrels. General do. Wire fencing. In rolls. Corper wire do. From Chicago, Ill... From Chicago, Ill... From Chicago, Ill... Front Chicago, Ill... Front Chicago, Ill... Front Chicago, Ill... Ganned corn, peas and beans. Corper do. Granted corn, peas and beans. Fourth Control ducks and denims do. Stoves, n. o. s. Second. Stoves, n. o. s. Second. Stoves, n. o. s. Second. Third... Coron ducks and controls. Second. Stoves, n. o. s. Second. Stoves, n. o. s. Second. Stoves, n. o. s. Second. Second. Stoves, n. o. s. Second. Second. Stoves, n. o. s. Second. Second. Second. Stoves, n. o. s. Second. Second. Second. Corper wire do. Second. S 200 260 220 210 Fourth 310 Camb. . do Third Fourth Fourth Second Third Second do 260 210 360 360 310 260 \$10 \$10 260 165 Comb. 205 ...do. 315 ...do. 250 435 415 365 360 300 300 210

The lot the high local rate from the interior point to New York. Articles consumed upon the Pacific Coast are manufactured both in New York and in Chicago, using these points as illustra-tive merely. If the article is manufactured in New York it may move by water to San Francisco and the rail carrier, in order to obtain a part of this business, must name a rate from New York to San Francisco which is equivalent to the water rate. If the same article is manufactured in Chi-cago it cannot, generally speaking, move by water, but must move by rail. In this case the rail haut is 1000 miles shorter and the cost of service to the railroad company materially less. It is therefore for the interest of the railway that articles consumed upon the Pacific Coast should be 90 110 100 85 125 85 140 119 100 110 100 125 consumed upon the Pacific Coast should be manufactured in Chicago rather than in manufactured in Chicago rather than in New York. The Chicago manufacturer, moreover, demands of the railway a rate which will enable him to soil in competi-tion with the manufacturer in New York. For this reason 'railways have applied from all Eastern territory the same rate which water competition forces them to make from the Atlantic seaboard and ter-ritory immediately contiguous. The Com- $125 \\ 190 \\ 175 \\ 180 \\ 150 \\ 162 \\ 183 \\ 100$

210 184 189 190 175 180 165 162 188 130 mission has previously contiguous. The Com-mission has previously examined this phase of the question, has hold that carriers need not make a lower rate from the Mid-die West than from the Atlantic seaboard. die West linen from the Atlantic seaboard, and has virtually approved the present sys-tem of blanket rates. (Business Men's League of St. Louis vs. Atchison, Topeka & Santa Fe Rellway Company, S I. C. C. Rep.,

245 185 189 143 its.) It is suggested that the Commission pos-It is suggested that the committeen pos-senses today, under the amended law, a more extensive authority than it formerly had and that for this reason we should declare this discrimination against Spekane 190 175 188 162 188 163 179

declare this discrimination against Spokans in favor of the Coast towns to be uninw-ful. The annendments of June 29, 1906, which conferred these enlarged powers did not in any respect change the third and fourth sections. The interpretation which had been put upon those sections by the court was well known to Congress, and the alleged discriminations and hardships re-sulting from that interpretation were called forcibly to the attention of the committees having that legislation in charge. That Congress did not, in making the extensive revision of the act which was effected by initing from that interpretation were called forcibly to the attention of the committees having that ignilation in charge. That Congress did not, in making the extensive revision of the act which was effected by these amendments, see fit to alter the third and fourth sections in this particular, is highly persuasive that it was the inter-tion of that body to leave the inv and its practical working, as applied to the cass before us, exactly as it had been. We are constrained to hold that the de-fendants for not by the scheme of rates inder consideration violate the third and fourth sections. The complaint also alteres that the de-fendants grant to the Coast terminals more favorable minimums and permit, in cer-tain cases, the mixing of carload shipments 150 238 142 142 142 100 107 104 105 100 276 167 167 167 119

The complaint also alleres that the defendinits grant to the Coast terminals more favorable minimums and permit, in cer-tain cases, the mixing of carload shipmenis to the projudice of Spekane, in addition ta the charging of, the higher rate. Very little was said upon this branch of the case in the testimody and it has scarcely been referred to in the argument. It does not appear from an examination of the tariffa that in the instance referred to in the instance referred to in the traination of the tariffa 202 194 185 160 240 202 202 202 202 140 192

ous committees on this subject, during which he clibbr expressly subject, chirang very strong impression that if this right-of-way was granted the Great Northern Hailway would apply terminal rates at Spokane At about the time that railroad Spokace. At about the time that railroad was opened for operation to Spokane, a cer-tain tariff was printed, but apparently never put into effect, which named rates to Spo-kane not quite as low as those to Scattle. but very much lower than any which were ever actually applied. The alleged failure of Mr. Hill to keep his promises and the inability of Spokane to procure in any way what jobbers conceived to be fair rates, finally led, in 1904, to the organization of a boycott by the jobbers of Spokane sgainst a boycoti by the jobbers of Spokane against the Great Northern and Northern Pacific lines. These shippers by concerted action diverted their entire shipments to the Union Pacific line, of which the Oregon Hallway

Pacific line, of which the Oregon Raliway & Navization Company is the delivering carrier. The result was a conference be-tween the raliways and the jobbing interests of Spokane at which Coast jobbers were also represented, the outcome being an un-derstanding that Spokane was to be ac-corded a certain defined territory. It was said upon this hearing that this territory was turned over to the Spokane jobbers by reducing the distributing rates from Spokane, which were declared to be very much lower than the corresponding distributing rates from Coast towns whether those rates are or are not more favorable to Spokane, we have not consid-ered, but it seems certain that no change was made in these rates at this time. The purpose was effected by according to Spothis time. The ording to Spopurpose was effected by according to Spo-kane certain carload commodity rates from Eastern points of supply. The railways inmastern points of supply. The railways in-quired where the various jobbers obtained their supplies and put into effect such rates from those points as would, in com-parison with rates to terminal points, en-able Spokane to undersell the terminal job-ber. Previous to this time the commodity rates accorded to Spokane had been few in number. They were now very much in

rates accorded to Spokane had been few in number. They were now very much in-croased. Provious to this they had seldem extended further east than St. Paul and never beyond Chicago. Now many of them were applied as far as the Buffalo-Fittsburg line and some were extended even to the Atlantic scaboard. The conceded effect was to pass over to the jobber of Spokane a territory about 100 miles in extent to the east and to the south, including the Pa-louse country upon the north of the Snake Siver.

While, therefore, Spokane rests under the rate disabilities and discriminations stared in the opening of this report, it edjors, in so far as it can under that acheme of rate-making, exceptional freight rates. Spokane is probably more favored in this respect than any other interior jobbing point. The real question which this commission has, therefore, to consider arises upon the third claim of the complainant, that these rates to Spokane from the East are unjust and unreasonable, under the first section of the act. Before proceeding to the main question, there is one preliminary matter raised both

the countrial the result contended for by the countrial the receasely follows when these principles are applied to the rultways of this country. There is a wide difference between a water system which supplies a single community and a railroad which is part of a commercial and industrial whole supplying many communities. The City of spokane could not develop if served by the Great Northern Ballway along, for cut as a look wholly to the interest of Spokane. The whole iterillory served by these de-feadant lines must be considered, and the existence of all these railroads to that sur-ritory is absolutely essential. These rult-haded which will yield a fair return upon their property. We must, therefore, in fay-ing any one particular railroad but to the

Their property. We must therefore, in this their property. We must therefore, in this whole situation, and must consider the effect of whatever order we make upon all these defendants. Such was the opinion we the opinion between the effect of whatever of this commission in the constitution of the constitu

what, then, are reasonable rates to be charged over the lines of the deformants to Spokane from various Ensiern destinations, principally frem St. Paul and corresponding territory, having reforence mainly to the Northern Pacific and the Great Northern commanies?

istrittory, having reference mainly to the Northern Pasific and the Grant Northern companies? In that of -quoted excerpt from Smyth v. Ames, high U.S., sole, the supreme Court of the United States said: "We hold, however, that the basis of all ediculations as to the reasonableness of rates to be charged by a corporation main-taining a highway under legislative mand-tion must be the fair valuation of the property being used by it for the con-venience of the public. And in order to ascertain that value, the original cost of construction, the amount expended in per-manent improvements, the amount and value of its handle and stock, the present as compared with the original cost of construction, the amount expended in per-manent improvements, the amount and value of the probable earning capacity of the property node particular rates pre-scribed by the statutes and the sum required to meet operating expenses are all mattees for considerating expenses are all mattees for onsiderating actual there may not be other mattern to be regarded in esti-mating the value of the present case. We do not any that there may net be other mattern to be regarded in esti-mating the value of the present case weight as may be just and right h a su-be other mattern to be regarded in esti-mating the value of the present case we have, first, an estimate of the cost of reproducing at the present into the pre-ploys for the public convenies." Wat of the elements above enumerased have we before us in the present case the money which has actually gone hav-theler construction. Third, the present indi-ther construction. Third, the present is a the properties after the state for recent schedules of rates. We have alwa a statement showing the reduction in reve-nue which would result from certain changes in these rates to Spolaare. We will briefly state the facts upon the first fur basedings with respect to each of these tag

briefly state the facts upon the first four headings with respect to each of these two defendants, beginning with the Northern Pacific

Cost of Reproduction-Northern Pacific,

The Northern Pacific Company with a lew to showing the cost of reproducing that property, gave evidence upon the heat

ing to the following import: In 1598, after the conclusion of the last receivership and after the present com-pany had entered into the operation of the