

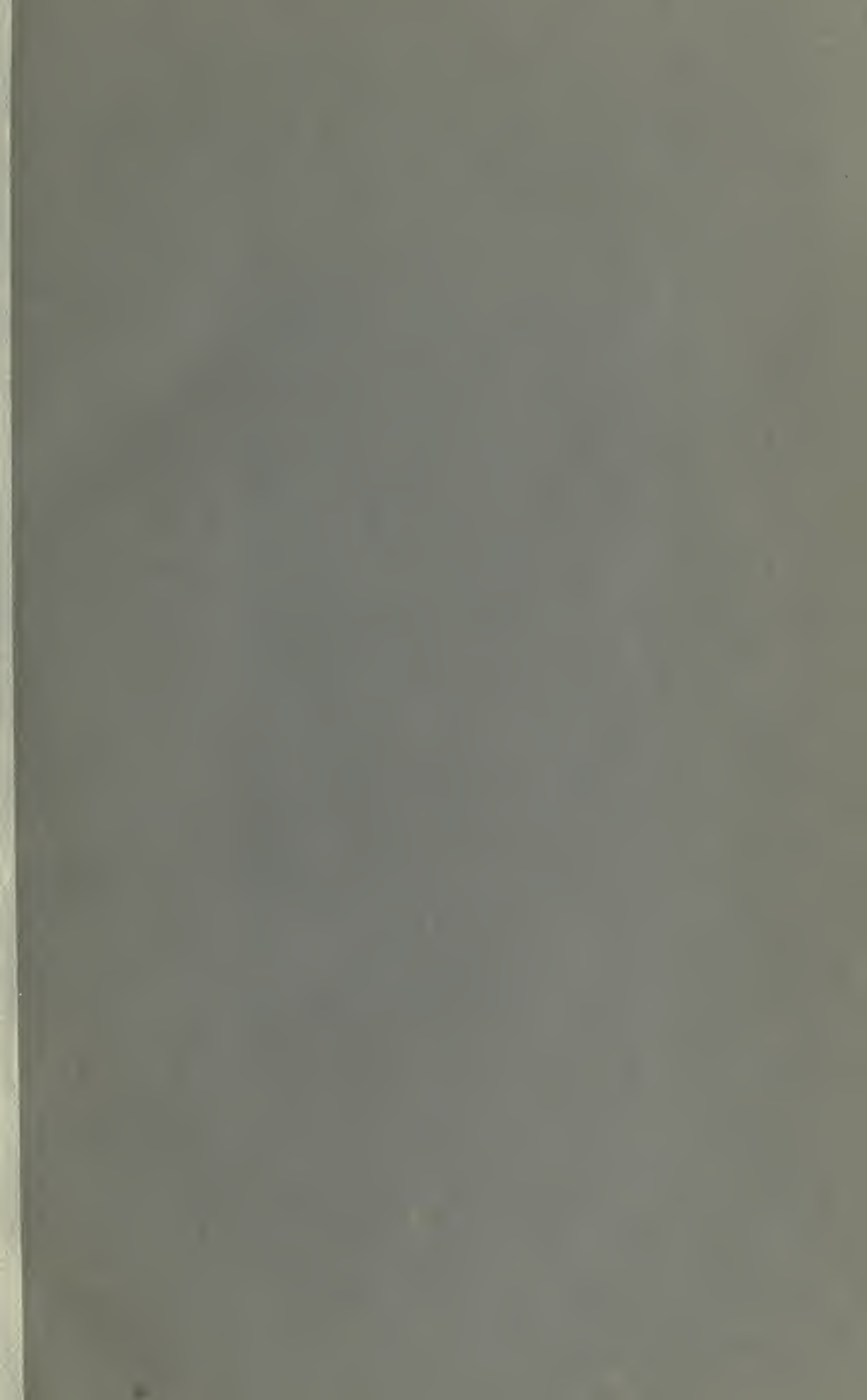
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**Railway Regulation and  
Locomotor Ataxia**

BY

**FRANK TRUMBULL**



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# Railway Regulation and Locomotor Ataxia

AN ADDRESS

BY

FRANK TRUMBULL

CHAIRMAN, RAILWAY EXECUTIVES' ADVISORY COMMITTEE

BEFORE THE TWENTY-THIRD  
ANNUAL CONVENTION OF THE  
NATIONAL HAY ASSOCIATION AT  
CEDAR POINT, OHIO. JULY 12, 1916

NEW YORK  
61 BROADWAY  
1916

The National Hay Association has a membership of about one thousand representative hay dealers of the country. In 1915 the hay crop was the second most valuable crop produced in this country, aggregating over one hundred million tons, carrying a value to the farmers of over one billion dollars, and the 1916 crop is expected to be as large.



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# Railway Regulation and Locomotor Ataxia

I shall not weary you with figures or with platitudes about what you do for the railroads or what they do for you. The fact that you have invited a representative of the railroads to address you evidences sufficiently the mutual welfare and regard of shippers and carriers. Neither shall I apologize for the railroads. There has been a great deal of critical comment about exceptional instances of railway administration, but if you will put it all together you will find it relates to less than 10% of the mileage of the country, and that it has very much exceeded in volume and sound the praise bestowed upon the other 90%.

Railway administration of today in this country is as honest as any other business. Notwithstanding this, railway directors and officials accept the principle of regulation because railway companies are public service corporations. Discriminations and unreasonable practices by such corporations are and ought to be forbidden by law. Discriminations by individual states against the commerce of other states and unreasonable requirements ought also to be done away with by some better method than tedious litigation. Obviously, any adequate scheme of regulation ought to deal not with 10% of the roads or with 90% but with all of them, and no regulation can be adequate that is not unified and consistent.

I might entertain you with a long history of various attempts at regulation, commencing with the so-called "Granger Laws," followed later by the Interstate Commerce Law, enacted twenty-nine years ago, and both in turn followed by hundreds

upon hundreds of statutes enacted by federal and state governments. But it is sufficient for this occasion to say that these endeavors, due to a variety of motives, have, after establishing general principles, all been of a piece-meal and patch-work character; court plasters, not blood remedies. Railway legislation has been more conspicuous for quantity than for quality, and "legislation" and "regulation" are not synonymous terms.

## PRINCIPLES FOR RATE MAKING

It is true that much progress has been made. For example, in the so-called Eastern Rate Case the Interstate Commerce Commission made, in December, 1914, the following declarations of principle:

That there is in this country a fundamental need of adequate transportation facilities.

That such facilities during the continuance of present economic conditions can only be had by means of private capital, combined with private enterprise.

That private capital can only be obtained by the hope and realization of fair and reasonable return.

That to produce such return, freight rates may be raised, when it is shown that existing rates as a whole (considered regionally in this case) yield inadequate revenue, and that the higher rates proposed would be reasonable.

That such reasonable passenger fares may be charged as will yield a fair return on the property devoted to passenger use, and further—that in general each class of service, including the mail and express, should contribute its just proportion to the total economic cost of operation.

That in determining reasonable rates, interest upon railway debt is not a factor and will be discarded. This has mightily clarified a thing about which there has been much confusion of thought and even more confusion of tongues. The fact is that bonds and stocks indicate only the ownership of property, and are not the property itself which is used by the public. This is simply a corollary to the long established principle that if railway companies take private property for public use, they must pay its reasonable value, regardless of how the previous owner acquired it or paid for it.

However, almost immediately after this decision was handed down, one state made an order reduc-

ing rates which, if sustained by the courts, will take away several million dollars per annum of the benefits derived at Washington. Various state rates and practices could not be changed to conform to the recommendations of the Commission; payments by the Post Office Department were still outside the Commission's jurisdiction; various tribunals (sometimes both the legislature and the commission of a single state) were determining what "each class of service" should pay upon traffic within the states as distinguished from that between the states; all the states were at liberty to make requirements which in one way or another changed the net revenue of the roads. All of which illustrates the real helplessness of the Interstate Commerce Commission to actually "regulate." Clearly, something was still lacking.

## THE MEANING OF REGULATION

Let us get down to fundamentals; back to the intent and real meaning of things. If you will look at Webster, you will find these definitions of the word "regulate":

"To adjust by rule or method."

"To put in good order."

"To adjust or maintain with respect to a desired condition."

"To regulate a watch or clock, to adjust its rate of running so that it will keep approximately standard time."

The carriers and the public have suffered because they have not really obtained regulation according to the intent and meaning of that much-used word. Don't take my statement for it, but let me read to you an extract from a recent report of the House Committee on Interstate and Foreign Commerce upon a resolution providing a joint committee of inquiry into the whole problem of transportation—

similar to the Monetary Commission—a resolution which has already passed the Senate and is expected soon to pass the House:\*

“Since the approval of the act to regulate commerce in 1887 the system has had a gradual and irregular growth by various and sometimes sporadic amendments, some of them making decided if not radical changes in the original plans and policies and some of them adding new and important activities. So that the entire law to regulate commerce now in force is not a uniform, compact, symmetrical structure easily understood, but is an incoherent growth, sometimes inconsistent, in some parts hardly reconcilable, and, to say the least of it, the diversities and incongruities should be carefully considered and wherever possible unified and improved, to the end that the Federal regulation of carriers may be successfully carried on with the best possible service to the public. . . . It is the earnest hope of every member of your committee that the investigation, if ordered, shall be directed to the detection of defects in the system, the establishment of truth as to the best way to remedy these defects, and the perfection of the system for the increased convenience and prosperity of the people in every way that human legislative wisdom can accomplish perfection in anything.”

President Wilson, in writing about transportation in 1914, said, among other things:

“They (the railroads) are indispensable to our whole economic life, and railway securities are at the very heart of most investments, large and small, public and private, by individuals and by institutions.”

And in addressing Congress on December 8, 1915, he said, in recommending the Special Committee above mentioned:

“It (transportation) is obviously a problem that lies at the very foundation of our efficiency as a people. . . . The question is whether there is anything else we can do that would supply the effective means in the very process of regulation for bettering the conditions under which the railroads are operated and for making them more useful servants of the country as a whole. . . . For what we are seeking now, what in my mind is the single thought of this message is national efficiency and security.”

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\*Resolution passed by the House of Representatives July 15, 1916, and approved by the President July 20, 1916.

You will perceive that I am not giving you my own views, but those of great leaders of thought in this country. Senator Underwood, of Alabama, said in an address at Chicago on February 4, 1916:

“We must recognize that the man who is willing to invest his money at a moderate rate of interest in railroad securities is not exploiting the public but is a public benefactor.”

“We must solve the problem along lines of private ownership and Government regulation. We must consider the wisdom of substituting one master for the forty-nine masters that regulate our commerce today.”

Colonel Roosevelt and Mr. Taft have made almost identical statements in clear and unmistakable terms, and Mr. Hughes said immediately after his nomination:

“We must rescue our instrumentalities of interstate and foreign commerce, our transportation facilities, from uncertainty and confusion. We must show that we know how to protect the public without destroying or crippling our productive energies.”

## SERVING MANY MASTERS

The “Locomotive Engineers’ Journal,” official organ of the 75,000 railroad engineers, said not long ago:

“The railroads are almost wholly interstate in character, and it requires little thought to realize how unsatisfactory and unbusinesslike it makes the conditions for the railroads with a commission in every state demanding all sorts of conditions from the roads.

“The great thoroughfares should have one boss instead of forty-nine, and the rate making should be done by one factor of the Government, so that a survey of the whole territory may be before them, when all the varied conditions can be readily seen, and rates made that are just, both to the shipper and the railroads.

“No other kind of business could live under such unknown and unfixed conditions.”

The Massachusetts Public Service Commission, in reporting not long ago on the New Haven road, after an exhaustive inquiry, made this statement:

“The whole legal question is so difficult, so entangled and confused by conflicting claims and rights, that it raises serious doubts as to the wisdom of the system from which it arose. No man can serve two masters. Is there public advantage in compelling a corporation to serve three or more? A system under which a single undivided corporation is at the same time three separate corporations is wholly illogical and seems contrary to good order and reason.”

Formerly, wages and rate matters were dealt with in a rather lawless way by shippers, employes and individual roads, but in the last few years there has been an evolution; both wages and rates have been considered regionally, and now, for the first time, the train service employes are insisting that their wages shall be considered on a nation-wide basis.

Industrial and commercial bodies all over the country, recognizing the great need for unified and more efficient regulation of transportation, have passed significant resolutions during the present year calling upon Congress for investigation and relief. The Merchants Association of New York, the Chamber of Commerce of Philadelphia, the National Manufacturers Association, the National Lumber Dealers Association, the Southern Pine Association, National Leather Association, American Hardware Manufacturers Association and many similar organizations of wide influence in the business world have expressed themselves vigorously to this effect.

So under our very eyes this thing has come to pass. Men of all classes and of all shades of political opinion are declaring that the transportation question is a national problem,—not a local issue. Now, if you and other shippers, and the people who travel in passenger trains or who receive mail and parcels post carried by the railroads, and railway directors and officials are all agreed that the propriety of regulation is no longer

in dispute—surely all of us together ought to be able to search our hearts, ascertain our paramount duty, get down to business and discuss the whole question from the viewpoint of the public interest.

## PERTINENT QUESTIONS

We may, therefore, ask ourselves :

Is it in the public interest that the railroads of this country are required to make over two million reports per annum to various federal and state tribunals ?

Is it in the public interest that passenger rates are only two cents a mile in some states and higher in more populous states ? And in considering this question will not the most obvious thing to the public be the cost and comfort of the passenger equipment of to-day as compared with twenty years ago ?

Is it in the public interest that wagon-loads of testimony be submitted to various state tribunals—at a cost of millions of dollars to the railroads and the public—to prove that rates ought to be higher, or ought not to be reduced, resulting in adverse decisions after a corresponding laborious inquiry by the Interstate Commerce Commission, which resulted in the finding that charges are inadequate and that passenger traffic is not paying its share ?

Is it in the public interest that some states pass inharmonious head-light laws, boiler inspection laws, extra-crew laws and other laws affecting operation while other states are refusing to pass them ?

Is it in the public interest that compensation paid by one shipper—the Post Office Department—is determined without submission to the Interstate Commerce Commission when other shippers are deprived of such a privilege ?\*

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\*Since this address was delivered, authority to determine compensation for railway mail pay has been conferred upon the Interstate Commerce Commission.

Is it in the public interest that public service corporations are required by divided authority to violate the spirit if not the letter of Section Two of Article Four of the Constitution of the United States, which declares that:

“The citizens of each state shall be entitled to all privileges and immunities of citizens in the several states.”

Is it in the public interest that public tribunals have said in some cases that rates by one line may be higher than another because the cost of operation is higher, thereby penalizing superior location and construction? If so, what incentive is there to build better roads, or improve existing roads?

Is it just that wages of steel workers, coal miners and others be voluntarily increased by employers and these increases then passed along to the consumer, including the railroads, the largest purchasers of such commodities, unless similar flexibility be accorded to railroad investors and nearly two million employes? If not, what is the alternative?

Beside innumerable difficulties like those mentioned, there are confusing Anti-Trust Laws of various states as well as the Federal Government. These laws not only conflict with each other, but are quite inconsistent with competent regulation; they have cost millions of dollars in litigation and have prevented many economies in transportation. Nowhere else in the world do railroads have this handicap.

## MILLIONS GOING OVER THE DAM

In consequence of all these wasteful things, millions upon millions of dollars which ought to be saved for somebody, are going over the dam every year, and warrant the query whether there



is any more wisdom in disembarking railroad corporations at state lines than there would be in disembarking passengers and freight or changing wages at state lines. Who, for example, would think of advocating a Post Office Department for each state in the Union?

Is it not your duty and mine to cut out waste wherever we can, no matter how prosperous we may be?

The net result of conditions such as I have enumerated is that individual states are under the guise of "regulation" actually disorganizing commerce, and are shifting to other states burdens of railway credit which the latter ought not to assume. They are in reality requiring railway corporations to do what the Federal law prohibits them from doing, that is to discriminate between persons and places. This encourages litigation and is wasteful in every way.

### LOCOMOTOR ATAXIA— NOT REGULATION

The fact is, we haven't had "regulation" at all. It is locomotor ataxia. If you will look again at the dictionary, you will see locomotor ataxia described as:

"A disease of the spinal chord characterized by peculiar disturbances of gait, and difficulty in co-ordinating voluntary movements."

Surely Webster must have had the railroads in mind when he wrote that! The railroads may be likened to the spinal chord of our industrial and commercial life. Congress can and should—without any Constitutional amendment—act in these matters in behalf of all the states and "co-ordinate" the railroads. The small number of people who would be thrown out of political employment are as nothing in the balance to the

millions who would be benefited. In fact, State Public Service Commissions would still have quite enough to do in supervising street car lines, lighting companies, water companies and local regulations affecting railway operation. Any fear of too much centralization could be easily overcome by regional commissions, and the best State Commissioners, if promoted to such Federal positions, could render far greater service, and more satisfactorily to themselves, than is possible under their present limitations.

If we can mobilize the strength of the banks regionally, why not also the railroads? The people of the states would be better served and better protected, for no merchant or producer is willing to be restricted to his own state in comfortable travel or in commercial opportunity. Our state lines are not the "frontiers" of forty-eight separate countries, and the people care nothing for state lines on the map, or for theoretical state sovereignty, when they want to do business with each other.

## RELATION OF RAILWAY CREDIT TO ADEQUATE SERVICE

Not long ago I heard an after-dinner speaker say: "The railroads must be taken out of the field of speculation." I do not know just how this is to be accomplished, unless by Government guaranties, but certainly the business ought to be relieved of the speculative risks of conflicting treatment by public authorities.

Railway investors are quite willing to take their chances with the other people of this country. They do not have any problems except so-called regulation that you have not. You have your puzzles about wages, about fluctuations of crops,

about demand and supply and many other things. The railroad investor takes "pot-luck" with you but is timid, even in prosperous seasons, about the one thing with which he has to contend and with which you do not; that is, bewildering artificial limitations on profits. He is quite willing to have supervision of railway securities, but, naturally, thinks that the machinery should be simple and prompt and the Federal Government should act in behalf of all the states in regulating the instrumentalities of commerce.

Right now nineteen states are trying to regulate the issuance of securities, and no two of the regulations are alike. If you were a banker, how long would you, with present opportunities for making money, tie up your funds or your customers' funds, waiting for "consents" of various tribunals, some of which impose a heavy special tax on this "privilege" of devoting money to public use—although the proceeds of the securities may be largely spent in other states?

No railway regulation can really put the machine "in order" that does not comprehend the question of railway credit. Facilities must, of course, precede service and credit must precede facilities. Our railroads should always be ahead of, not behind, the growth of the nation. In this connection, may I bring to your attention just one graphic statement? The debt of the railways of this country is now, roughly speaking, about Ten Billion Dollars. The stock amounts to about Six Billion Dollars. Now, how long would your bankers do business with you if you were attempting permanently to borrow ten dollars for every six you put in the business yourself? Manifestly, the financial condition of the railroads will become more and more unsound and more and more diffi-

cult and expensive unless future financing is done more with stock and less with debt.

Millions of people are as dependent upon weak roads as other people are upon the strong ones. For example, take the Southwest. A large part of its railroads are in bankruptcy. Surely that is not all due to bad management. How much of it is due to unwise regulation, how much to unsound laws about financing, and how much to other things? Could any Congressional action be of greater service than to do whatever is necessary to safeguard and strengthen all railway credit?

Railway net returns for the fiscal year just ended, although it showed the largest gross earnings in their history, were equivalent to about 5½% on the property used by the public—surely not exorbitant. Is there any prosperous private business in the world that yields so small a return? In 1913, the return was about 5%; in 1914, about 4%; in 1915, about 4%. I am speaking of the railroads as a whole; not even a unified regulation can be successful if it is not to make weak roads healthier and more serviceable, nor can it be successful if based on returns of prosperous years only.

In no business is it conservative to draw out every year all of the profits. How long would your bankers be cordial if you were to withdraw every year all of your gains, instead of building up reserves or adding to the real value of your assets?

## COMPENSATION FOR SERVICE

I have said that I am not here to apologize for the railroads, nor am I here to boast; but perhaps I may give you one or two illustrations: The average passenger train in this country earns for carrying passengers, mail, express and parcels post about \$1.40 per mile. The average equipment of loco-

motive and cars provided for this probably weighs about 500 tons and is projected through space at a speed varying from 20 to 60 miles per hour. That is to say, a 500-ton train of steel, plate glass, expensive woodwork, electric lights, etc., costing \$200,000 or more, is projected twelve miles at high speed for the price of a ton of hay. Do you happen to know of any equivalent service for less money?

Again, as I have illustrated in the past: If you should write a letter to an American railroad official, his company will have to haul a ton of freight—two thousand pounds of average freight—coal, ore, silks, ostrich feathers, and everything—for more than two and one-half miles to get money enough to buy a postage stamp to send you an answer. Out of that kind of service the company must pay its employes, buy its materials, pay its rents and taxes, interest on its debt, and make its living.

Let me also quote from a recent statement of W. M. Acworth, a distinguished English writer on railway economics. He said:

“This is my tenth visit to the United States, of whose railway affairs I have been for about thirty years a diligent student. Every time I am brought into contact with American railways, the overpowering impression produced on my mind is of the marvelous results which the efficiency of the railroad men produces with the minimum expenditure both of capital and income.”

## NATIONAL CONSCIOUSNESS

A very helpful American writer has said:

“A nation is made great not by its fruitful acres but by the men who cultivate them; not by its great forests but by the men who use them; not by its mines but by the men who work in them; not by its railways but by the men who run them. America was a great land when Columbus discovered it; Americans have made of it a great nation.”

I am sure you will not censure me for reminding you that we are a great nation, not a federation of tribes. Never before has there been such a

national consciousness. The word "National" in the name of your Association signifies something, and I venture the hope that, when the Congressional inquiry to which I have referred is inaugurated, all of us will join hands in doing what the House Committee suggested, in the quotation I have made, to wit: seek "the establishment of truth as to the best way to remedy defects and the perfection of the system for the increased confidence and prosperity of the people."

Your co-operation will help our statesmen to do for the railroads of this country, and, therefore, for the whole people, as fine a piece of constructive work as has already been done for the banks. We should be as proud of safe and prosperous railroads, as of safe and prosperous banks; we must have both if we are to keep pace with the great expansion ahead of us, to say nothing of our normal growth.

The opportunity of this generation—your opportunity and mine—is to serve our country by promoting national unity. The paramount "state right" is to be part of the Union. Nothing will promote national unity more than unified and consistent regulation of transportation, which, as President Wilson has suggested, is "the one common interest of our industrial life." It is a fascinating task, and it is most gratifying that all the multiplying signs of mutual friendliness and appreciation are so favorable to its accomplishment.









