

THE OMAHA POOL

The building of the Union Pacific was the greatest railroad engineering feat of its time and the resulting enthusiasm throughout the country helped to encourage the rapid construction of all western roads, particularly those connecting Omaha with the East. The Chicago and Northwestern Railroad was completed in 1867,¹ in time to haul material for the completion of the Union Pacific, while the Chicago, Burlington, and Quincy² and the Chicago, Rock Island, and Pacific³ were both finished in 1869.

The completion of these three railroads to the Missouri River produced immediate competition, and raised the question of rates. The amount of traffic that the Union Pacific Railroad would carry during the succeeding years would produce an amount of revenue entirely insufficient to pay the cost of the connecting lines. The only hope for an adequate return lay in the building up of the country; and, until that time arrived, competition in rates would be suicidal.

As a result it became highly desirable to maintain rates so that the traffic carried would at least help to pay the expenses of the roads concerned. Rate wars meant disaster, and the roads preferred to secure a proportionate

¹ *The Commercial and Financial Chronicle* (New York), February 2, 1867, Vol. IV, p. 151; *Annual Report of the Board of Railroad Commissioners* (Iowa), 1879, p. 85; Cole's *A History of the People of Iowa*, p. 399.

² *Annual Report of the Board of Railroad Commissioners* (Iowa), 1878, p. 189; Lyle's *Official Railway Manual of the Railroads of North America for 1870-71*, p. 208.

³ Poor's *Manual of the Railroads of the United States, 1870-1871*, p. 1; *The Commercial and Financial Chronicle* (New York), July 3, 1869, Vol. IX, p. 6; Brigham's *Des Moines Together with a History of Polk County, Iowa*, Vol. I, p. 606.

share of the revenue rather than to run the risk of being forced to cut rates to a point where they would not even pay running expenses. To meet the situation, the three lines banded themselves together in what has been termed "The Omaha Pool"⁴, the first combination of its kind recorded in the United States.

Pools were a new thing to the country in 1870, but the way had been prepared for them by various types of agreements for the maintenance of rates. The chief difficulty with a simple rate agreement, from the standpoint of the railroads, was that competition still prevailed. The profit of each road depended on the amount of traffic carried, and in consequence secret rebates and discriminations of various kinds were common. These practices were encouraged by the well known fact that none of the roads were being used to capacity. Practically every one could carry a great deal more business at about the same cost and thus make more money at a lower rate, if by that rate it could attract business from other roads. The result was that rate agreements proved too idealistic to afford the railroads a solution of the rate maintenance problem.

The Omaha Pool was a verbal agreement which sought to remove the tendency toward rate cutting by removing its cause and making the return equal for each line regardless of the amount of traffic carried. All business between Chicago and Council Bluffs was to be pooled. Forty-five per cent of the passenger and fifty per cent of the freight income was to be retained to pay operating expenses, and the remainder was to be divided equally among the three roads. There was no machinery of enforcement except the opportunity given the officials to see each other's books; and the

⁴ *House Executive Documents*, 57th Congress, 1st Session, Vol. LXXXII, No. 380, p. 333; *Annual Report of the Board of Railroad Commissioners (Iowa)*, 1878, pp. 48, 49; *Railroad Gazette (New York)*, December 7, 1877, Vol. IX, pp. 542, 543; *Railway Age (Chicago)*, January 19, 1882, Vol. VII, pp. 29, 30.

success of the arrangement depended for the most part on the good faith of the parties concerned.⁵

The immediate result of this agreement of 1870 was all that could be desired and rates were maintained effectively. Instead of the balancing of accounts which the plan called for, the tendency led rather to the gradual equalization of traffic. The eastern connections of the three lines adopted the practice of giving all the traffic for one week to one road, and then similarly to the other lines in succession.⁶ In most of the later pools one of the chief difficulties lay in apportioning the receipts, but quite accidentally the Omaha Pool was not bothered by this trouble. The three lines were of nearly equal strength, and the distance between Chicago and Council Bluffs was approximately the same by all the routes. The future troubles of the organization were caused for the most part by the entrance of new competitors into the field, by the competition of outside roads, and by the competition for local traffic.⁷

The original agreement was modified in 1874 by dividing the total west bound passenger revenue.⁸ This modification was made to increase the tendency toward an actual division of traffic. Three years later there was some fear that the agreement would break down because of the action of the Chicago, Burlington, and Quincy. At that time this road was building its Nebraska line under the name of the Burlington and Missouri River Railroad and in its desire to secure traffic insisted that the Union Pacific pro rate its Nebraska traffic. Naturally the request was refused, and it was feared for a time that the Chicago, Burlington, and Quincy would retaliate by withdrawing from the pool and

⁵ For the references for this paragraph see those noted under footnote 4.

⁶ *Railroad Gazette* (New York), December 7, 1877, Vol. IX, pp. 542, 543.

⁷ *Railroad Gazette* (New York), November 23, 1883, Vol. XV, p. 774.

⁸ *Railroad Gazette* (New York), December 7, 1877, Vol. IX, p. 543.

cutting rates, thus bringing pressure to bear on the Union Pacific, but instead the Chicago, Burlington, and Quincy withdrew its demand.⁹

A more serious disturbing element was the Wabash Railroad which completed its main line to Omaha in 1879¹⁰ and its Chicago extension the following year,¹¹ thus being in a position to compete for the Chicago-Omaha traffic, although its line was considerably longer than any of the others. After a futile attempt to keep the Wabash out of Chicago it was admitted to the pool in 1881 on a basis of equality, each road receiving twenty-five per cent of the revenue.¹²

As time went on the affairs of the pool continued to become more complicated. The original three roads had increased to four, with every prospect that the Chicago, Milwaukee, and St. Paul Railroad would enter the field in the near future. It was also becoming evident that the pool rates could not be considered as a distinct entity, but must be fixed in relation to rates elsewhere. Omaha, as a Missouri River point, had to have a rate comparable to other Missouri River rates, and this meant that consideration must be given to the rates charged by all roads to the Missouri River and also to the rates of their eastern connections. Moreover, the competition at local Iowa and Nebraska points was becoming increasingly severe and needed attention.

The first result of the increasing complexity of the affairs of the pool was a solidifying of the organization in 1882. The terms of the agreement were put into writing under the

⁹ *Railway Age* (Chicago), April 12, 1877, Vol. II, p. 863.

¹⁰ *Travelers' Official Guide* (Philadelphia), January, 1880, pp. 200-204; *Wyandotte County and Kansas City, Kansas* (Chicago, 1890), p. 229.

¹¹ *The Commercial and Financial Chronicle* (New York), August 14, 1880, Vol. XXXI, p. 171.

¹² *Railway Age* (Chicago), August 18, 1881, Vol. VI, p. 464; *Railroad Gazette* (New York), January 20, 1882, Vol. XIV, p. 39.

name of the Iowa Trunk Lines Association, and G. H. Daniels was appointed commissioner in permanent charge of the affairs of the association.¹³ A little later the pool was extended to include all points on the Nebraska connections — the Union Pacific, the Sioux City and Pacific, and the Burlington and Missouri River,¹⁴ while the rates to Council Bluffs and Omaha were made the same.¹⁵ This new agreement covered freight traffic only, but a separate passenger agreement for the same territory was drawn up subsequently.

After 1882 affairs began to move more rapidly. The Chicago, Milwaukee, and St. Paul Railroad was completed to Council Bluffs late in that year,¹⁶ and was admitted to the association, each road then getting twenty per cent.¹⁷ The same year the Missouri Pacific Railroad acquired and completed a branch to Omaha, thus making another connection between Chicago and Omaha.¹⁸ While this new line was not particularly effective it did, however, constitute a menace and in consequence had to be admitted to the pool. The resulting arrangement gave the Kansas City, St. Joe, and Council Bluffs Railroad three and one-half per cent of the total proceeds of the pool. Then the Missouri Pacific got ten per cent and each of the other five lines eighteen per cent of the remainder. All the California business of the Missouri Pacific was included to offset its inferiority of

¹³ *Railway Age* (Chicago), January 19, 1882, Vol. VII, pp. 29, 30.

¹⁴ *Railroad Gazette* (New York), June 2, 1882, Vol. XIV, p. 335.

¹⁵ *Railroad Gazette* (New York), August 4, 1882, Vol. XIV, p. 481.

¹⁶ *Travelers' Official Guide* (Philadelphia), June, 1883, pp. 230-238.

¹⁷ *Railway Age* (Chicago), September 14, 1882, Vol. VII, p. 507; *Railroad Gazette* (New York), September 22, 1882, Vol. XIV, p. 586.

¹⁸ *Wyandotte County and Kansas City, Kansas* (Chicago, 1890), p. 232; *The Commercial and Financial Chronicle* (New York), March 18, 1882, Vol. XXXIV, p. 316.

route.¹⁹ During the following year the Illinois Central was admitted, receiving seven per cent of the total pool, the remainder being divided according to the old percentages.²⁰ About the same time penalties were fixed for violating the agreed rates of the association.²¹

The trouble which finally terminated the pool occurred in 1883. The Chicago, Milwaukee, and St. Paul Railroad had been dissatisfied for some time with its position in the arrangement: it had been excluded from the passenger agreement, and the officials felt that their road deserved a larger percentage of the freight business. This railroad also felt mistreated because both the Chicago and Northwestern and the Chicago, Burlington, and Quincy carried all their business for their Nebraska branches in addition to their regular proportion of Omaha traffic. In consequence the Chicago, Milwaukee, and St. Paul had stirred up trouble by promising to work for lower rates for the Stock Growers' Association if this organization in return would route its cattle over the Chicago, Milwaukee, and St. Paul. This action increased the receipts of the road and thus created a large balance to be divided among the other roads. When the Chicago, Burlington, and Quincy presented a draft for her share of the proceeds the Chicago, Milwaukee, and St. Paul refused to honor it, claiming that it was impossible to change the routing of cattle, and that the very fact that there was such a great difference in the amounts of such traffic carried showed that the pool was an impossibility and already dead. An effort at compromise failed. The Chicago, Milwaukee, and St. Paul was finally forced to pay

¹⁹ *Railroad Gazette* (New York), November 10, 1882, Vol. XIV, p. 695; *Railway Age* (Chicago), November 9, 1882, Vol. VII, p. 622.

²⁰ *Railway Age* (Chicago), April 12, 1883, Vol. VIII, p. 206; April 19, 1883, Vol. VIII, p. 213; and April 26, 1883, Vol. VIII, p. 227; *Railroad Gazette* (New York), April 13, 1883, Vol. XV, p. 229.

²¹ *Railroad Gazette* (New York), May 25, 1883, Vol. XV, p. 337.

over the balance, but it was found impossible to adjust the other points and the pool was allowed to expire by limitation on December 31, 1883.²²

Even before the Iowa Trunk Lines Association had expired, steps were taken to make a new agreement to maintain rates. The Union Pacific, in particular, was interested in some sort of a definite agreement because it was dependent on its eastern connections for practically all of its west bound business. For this reason it was the primary mover in the formation of the "Tripartite Agreement" between the Union Pacific, the Chicago, Milwaukee, and St. Paul, and the Chicago, Rock Island, and Pacific. The Iowa roads were to be equal in everything and were to make all west bound rates, while the Union Pacific was to make all east bound rates. The division of the proceeds, omitting minor details, was as follows: on all traffic to points on the Union Pacific within two hundred and thirty miles of Omaha the Union Pacific was to receive forty per cent and the Iowa roads sixty per cent; on traffic from the same points to Chicago the Union Pacific received forty-seven per cent and the Iowa roads fifty-three per cent; traffic to or from points west of two hundred and thirty miles west of Omaha was to be pro rated according to mileage, the distance from Omaha to the Mississippi River being considered two hundred and forty miles and to Chicago five hundred miles. In this last case, however, the mileage of the Union Pacific was to be counted at one and one-half times the real mileage. The Union Pacific had the best of the agreement since it had the only line that led directly west from Omaha.²³

²² *Railroad Gazette* (New York), November 23, 30, December 7, 1883, Vol. XV, pp. 774, 781, 788, 799, 810, 811; *Railway Age* (Chicago), November 22, 29, December 6, 1883, Vol. VIII, pp. 739, 754, 769.

²³ *Railroad Gazette* (New York), December 28, 1883, Vol. XV, p. 857, January 4, 1884, Vol. XVI, p. 13; *Railway Age* (Chicago), May 21, 1885, Vol. X, p. 322.

The formation of the Tripartite Agreement presaged the formation of the larger Western Trunk Line Association which was created on similar principles and included the members and territory of the old Iowa Trunk Lines Association, the Colorado Traffic Association, and the "Eight Point Nebraska Pool". The policy followed was that of the Tripartite Agreement. The only important road not included was the Chicago, Burlington, and Quincy which refused to accept the percentage of the business awarded it unless the Union Pacific divided the Nebraska business with its western branches. Other roads such as the St. Louis and San Francisco, the Santa Fe, and the Chicago and Alton entered some of the competitive fields — Nebraska, Colorado, and Utah, but avoided trouble by coöperating with the pool.²⁴

The new association got into difficulties before it was well launched. Early in March, 1884, the St. Louis and San Francisco Railroad attempted to get more business by cutting rates to Colorado, Utah, and New Mexico. Commissioner E. P. Vining met the cut by lowering the rates of the Association to such a point that it would have been necessary for the St. Louis and San Francisco to have operated at a loss in order to meet them. Instead of ending the trouble, however, this action only extended it, for the Santa Fe immediately supported the St. Louis and San Francisco, while the Chicago, Burlington, and Quincy and the Chicago and Alton met the cut.²⁵ In an effort to meet this exigency, at least in part, the Union Pacific²⁶ compromised its long standing disagreement with the Chicago, Burlington, and

²⁴ *Railroad Gazette* (New York), January 4, February 1, 1884, Vol. XVI, pp. 16, 996; *Railway Age* (Chicago), January 3, February 7, 1884, Vol. IX, pp. 2, 15, 86.

²⁵ *Railway Age* (Chicago), March 6, 20, 1884, Vol. IX, pp. 149, 179, 180.

²⁶ *Railroad Gazette* (New York), April 18, 1884, Vol. XVI, p. 308; *Railway Age* (Chicago), May 1, 1884, Vol. IX, p. 277.

Quincy and turned over to it a part of the Nebraska traffic. While this action helped clear the air, it did not end the trouble, which continued unabated throughout the summer.

A series of conferences was held during the fall in an attempt to effect some sort of compromise and to bring about an agreement which would include all the lines entering the various fields of competition. The principal obstacle was the refusal of the members of the Tripartite Agreement to accept any solution not founded upon that document, while at the same time the Santa Fe refused to enter any association as long as the Tripartite Agreement remained.²⁷ The Santa Fe finally receded from its position and the Tripartite Agreement remained, although succeeding developments took away a great deal of its significance.

The final arrangement provided for a subdivision of the organization into three pools: (1) all business originating east of the Missouri River, with J. W. Midgley of the Southwestern Traffic Association as the head; (2) Utah business from Ogden and Salt Lake City with G. H. Daniels as the head; and (3) business from Colorado points with G. H. Daniels also in charge.²⁸

This arrangement was no sooner made than it collapsed because of a misunderstanding with the Chicago and Northwestern Railroad over the traffic to be included.²⁹ Arbitrators decided against the contention of the Northwestern early in 1885,³⁰ but that line refused to accept the decision,

²⁷ *Railroad Gazette* (New York), August 15, September 19, 26, 1884, Vol. XVI, pp. 611, 691, 706; *Railway Age* (Chicago), September 18, 1884, Vol. IX, p. 585.

²⁸ *Railway Age* (Chicago), October 2, 9, 1884, Vol. IX, pp. 612, 613, 625; *Railroad Gazette* (New York), October 3, 17, 1884, Vol. XVI, pp. 725, 726, 757.

²⁹ *Railroad Gazette* (New York), October 24, 1884, Vol. XVI, p. 777; *Railway Age* (Chicago), March 26, 1885, Vol. X, p. 195.

³⁰ *Railway Age* (Chicago), April 9, 1885, Vol. X, p. 227; *Railroad Gazette* (New York), April 10, 1885, Vol. XVII, p. 238.

and in consequence the Association again became disorganized.³¹

A new organization formed in May, 1885, under the name "The Western Freight Association" felt sufficiently strong to exclude the Chicago and Northwestern. J. N. Faithorn, an assistant of J. W. Midgley, was made commissioner. The new organization was subdivided into six pools: (1) all freight moved either way from points east of the Mississippi River between Minneapolis and St. Louis to Omaha locally; (2) all freight to and from points on the Union Pacific east of and including Julesburg Junction; (3) all freight from east of the Missouri River between Dubuque and St. Louis that was delivered to the Union Pacific-Burlington and Missouri River Pool, the Chicago, Burlington, and Quincy waiving its right to carry all Burlington and Missouri River business in addition to its share of Omaha business; (4) all business carried by lines east of the Missouri River destined for the Union Pacific-Sioux City, Pacific-Fremont, Elkhorn, and Missouri Valley pools; (5) all business in either direction between points from Dubuque to St. Louis on the Mississippi River to points west of Julesburg on the Union Pacific; (6) all Nebraska cattle business.³²

This division of the pool, like those of the preceding ones, really produced a zone arrangement. The principal advantage of such a division was the aid it gave in determining the percentage of traffic to be allotted to each road. This percentage was either settled by the general meeting which organized the pool or by arbitration, and depended roughly on the supposed amount of business that each road would

³¹ *Railroad Gazette* (New York), April 24, May 1, 1885, Vol. XVII, pp. 270, 286; *Railway Age* (Chicago), April 30, 1885, Vol. X, p. 275.

³² *Railway Age* (Chicago), May 14, 21, 28, 1885, Vol. X, pp. 307, 322, 324, 343; *Railroad Gazette* (New York), May 15, 22, 1885, Vol. XVII, pp. 318, 335.

get under normal conditions with equal rates. When two or more roads combined in one haul, the return to each one was based on a comparative mileage. The traffic was to be diverted as much as possible according to the percentages determined upon, and the balances were to be paid monthly.³³

This agreement worked with a fair degree of success for about a year. The main difficulties were outside competition at some of the points, and a feeling of resentment by some of the lines with western branches, because of an alleged undervaluation of their work. Matters came to a head in June, 1886, at which time several of the roads refused to continue to report and a short rate war followed.³⁴ The most comprehensive remedy proposed was to expand the pool to take in all western traffic, but this plan failed because of the opposition of the Illinois Central,³⁵ and in July, 1886, the old Western Freight Association was revived temporarily and rates restored.³⁶

A new agreement was formulated in September, again widening the territory of the Association, and dividing it somewhat differently. With minor modifications, the pools included all traffic to or from points on the Mississippi River between Minneapolis and New Orleans, or originating between the Mississippi and Missouri rivers to the following places: (1) Omaha locally; (2) points east of Julesburg on the Union Pacific except points pooled by the Union Pacific with other lines; (3) points pooled by the Union Pacific and the Burlington and Missouri River; (4) points

³³ See references under footnote 32.

³⁴ *Railroad Gazette* (New York), June 25, 1886, Vol. XVIII, p. 452; *Railway Age* (Chicago), July 15, 1886, Vol. XI, p. 382.

³⁵ *Railroad Gazette* (New York), July 16, 1886, Vol. XVIII, pp. 494, 500.

³⁶ *Railway Age* (Chicago), July 22, 1886, Vol. XI, p. 398; *Railroad Gazette* (New York), July 23, 1886, Vol. XVIII, p. 516.

pooled by the Union Pacific, Sioux City and Pacific, and Fremont, Elkhorn, and Missouri Valley; (5) points on the Union Pacific west of Julesburg; (6) Lincoln. A separate pool covered all cattle coming from west of Laramie City and Douglass.³⁷

This new pool, like the preceding one, somewhat expanded the territory of the Association. Its downfall did not come from the inside, as heretofore, but was created by factors over which it had no control. The Interstate Commerce Act of 1887 prohibited pooling, and caused a radical readjustment of conditions. The Western Traffic Association was kept alive temporarily until the exact meaning of the act could be ascertained. The carrying into effect of the anti-pooling clause naturally meant the destruction of the Association as it was then constituted and a violent rate war followed in 1888.³⁸

All the other pools were in the same situation and they all assembled in joint session early in 1889 to try to find some solution. Two factors were uppermost: in the first place it had become evident that there must be unity of action between all of the western roads if any rate schedule was to remain permanent; in the second place it was necessary to make the organization as effective as possible and at the same time stay inside the anti-pooling clause of the Interstate Commerce Act.

The practical solution of the above problem was found in the Interstate Commerce Railway Association, an organization which included all the western roads, and provided for a distribution of traffic rather than a money pool. The effectiveness of the organization was to be secured by its subdivision into three groups with local autonomy. Two of

³⁷ *Railway Age* (Chicago), September 16, 23, 1886, Vol. XI, pp. 509, 523.

³⁸ *House Executive Documents*, 57th Congress, 1st Session, Vol. LXXXII, No. 380, p. 336.

these groups — the Southwestern Traffic Association and the Western Freight Association, had been in operation previously and their territory remained practically the same. The third group was known as the Trans-Missouri Freight Association and included all the territory west of the Missouri River, with control over east bound rates. It was decided to distribute the traffic, presumably in order to avoid the legal prohibition against pooling.³⁹

This latest arrangement did not prove entirely successful and had practically broken down within a year.⁴⁰ In the meantime the Sherman Anti-Trust Act had been passed to prevent monopoly, and while it was not certain that it included railroads, its provisions had to be considered in making any new arrangement. The organization that was finally created, the Western Traffic Association, followed very closely the plans of its predecessor except that the powers were left more vague. It provided that "the Commissioner shall adopt such measures as will tend to secure uniform, stable and reasonable rates, prevent unjust discrimination, and enable each line to carry its fair share of the competitive traffic".⁴¹ Before the year was over it was demonstrated that such powers⁴² were not effective.

Even the idea of a rate agreement with penalties for vio-

³⁹ *House Executive Documents*, 57th Congress, 1st Session, Vol. LXXXII, No. 380, p. 336; *Railroad Gazette* (New York), January 11, 18, March 22, 1889, Vol. XXI, pp. 23, 40, 41, 188. The Western Freight Association, formed late in 1888, included the old Northwestern, Western, and Southwestern groups.

⁴⁰ *Railroad Gazette* (New York), June 21, November 22, 1889, Vol. XXI, pp. 413, 780, February 14, 1890, Vol. XXII, p. 120; *House Executive Documents*, 57th Congress, 1st Session, Vol. LXXXII, No. 380, p. 336.

⁴¹ *Railroad Gazette* (New York), January 23, February 20, 1891, Vol. XXIII, pp. 54, 122; *House Executive Documents*, 57th Congress, 1st Session, Vol. LXXXII, No. 380, p. 336. It included additional transcontinental and passenger divisions.

⁴² *Railroad Gazette* (New York), April 24, May 22, 1891, Vol. XXIII, pp. 278, 346, September 23, 1892, Vol. XXIV, p. 716.

lations, and a division of traffic seemed to the Federal officers to be more than the law allowed. On January 6, 1892, suit was brought against the Trans-Missouri Freight Association on the grounds that it violated the Interstate Commerce Act and the Sherman Anti-Trust Act. The Association won its case in the Circuit Court and in the Circuit Court of Appeals but lost in the Supreme Court and was ordered to dissolve. This decision did not affect the organization against which it was aimed because the organization was already practically non-existent. The important result was the implied disapproval of any type of effective rate agreements and of any sort of money or traffic pool.⁴³

The Trans-Missouri Freight Association decision effectively put an end to the pooling arrangements which had been in use since 1870. After 1897 the organization continued to function under various names, but the pooling arrangements ceased to exist, at least publicly.

An organization such as the Omaha Pool shows the original grouping of a small number of entities for mutual protection and advantage, and then the gradual increase of that number, the expansion of its territory, and the meeting of the problems occasioned by the increasing complexity of the organization and by the contact with outside forces. After the arrival of national control in the late eighties the study loses its interest as the effort of free individuals to work together and becomes a battle of wits between the government and the railroads.

ROBERT E. RIEGEL

DARTMOUTH COLLEGE
HANOVER NEW HAMPSHIRE

⁴³ A history of this case as well as the history of the organization is given in the summary of the Supreme Court proceedings, 166 U. S. 290.