

NEW YORK PRODUCE EXCHANGE

v.

BALTIMORE & OHIO RAILROAD COMPANY; THE BALTIMORE & OHIO SOUTHWESTERN RAILWAY COMPANY; THE PITTSBURG & WESTERN RAILWAY COMPANY; THE CHESAPEAKE & OHIO RAILWAY COMPANY; THE CLEVELAND, CINCINNATI, CHICAGO & ST. LOUIS RAILWAY COMPANY; THE NEW YORK, LAKE ERIE & WESTERN RAILROAD COMPANY; THE CHICAGO & ERIE RAILROAD COMPANY; THE GRAND TRUNK RAILWAY COMPANY OF CANADA; THE CHICAGO & GRAND TRUNK RAILWAY COMPANY; THE DELAWARE, LACKAWANNA & WESTERN RAILROAD COMPANY; THE LEHIGH VALLEY RAILROAD COMPANY; THE ALLEGHENY VALLEY RAILWAY COMPANY; THE PENNSYLVANIA RAILROAD COMPANY; THE PHILADELPHIA, WILMINGTON & BALTIMORE RAILROAD COMPANY; THE PENNSYLVANIA COMPANY; THE NORTHERN CENTRAL RAILWAY COMPANY; THE PITTSBURG, FORT WAYNE & CHICAGO RAILWAY COMPANY; THE PITTSBURG, CINCINNATI, CHICAGO & ST. LOUIS RAILWAY COMPANY; THE TERRE HAUTE & INDIANAPOLIS RAILROAD COMPANY; THE NEW YORK CENTRAL & HUDSON RIVER RAILROAD COMPANY; THE LAKE SHORE & MICHIGAN SOUTHERN RAILWAY COMPANY; THE MICHIGAN CENTRAL RAILROAD COMPANY; THE PITTSBURG & LAKE ERIE RAILROAD COMPANY; THE WEST SHORE RAILROAD COMPANY; THE TOLEDO, PEORIA & WESTERN RAILWAY COMPANY; THE NEW YORK, CHICAGO & ST. LOUIS RAILROAD COMPANY; THE WABASH RAILROAD COMPANY; THE NEW YORK, ONTARIO & WESTERN RAILROAD COMPANY; THE PHILADELPHIA & READING RAILROAD COMPANY; THE CENTRAL RAILROAD COMPANY OF NEW JERSEY; THE BOSTON & ALBANY RAILROAD COMPANY; THE ERIE RAILROAD COMPANY; THE DETROIT, GRAND HAVEN & MILWAUKEE RAILWAY COMPANY; THE GRAND RAPIDS & INDIANA RAILROAD COMPANY; JOHN K. COWAN and OSCAR G. MURRAY, as Receivers of the Baltimore & Ohio Railroad Company; THOMAS M. KING, as Receiver of the Pittsburg & Western Railway Company; and JOSEPH S.

HARRIS, EDWARD M. PAXSON and JOHN LOWBER WELSH,
as Receivers of the Philadelphia & Reading Railroad Com-
pany.

Decided April 30, 1898.

1. Railway companies may make whatever rates, form whatever lines, and establish whatever differentials they deem best for the purpose of securing and conducting transportation, provided the just interests of the public are not sacrificed thereby, and whether in so doing they act wisely or unwisely, fairly or unfairly between themselves, is not for the Commission to determine; the jurisdiction of the Commission is confined to inquiring whether the situation which the carriers have created is in violation of the Act to Regulate Commerce.
2. Railway companies are not prohibited by section three of the Act from preferring one locality over another unless the preference is undue or unreasonable, but a preference which is without legitimate excuse is, in and of itself, undue and unreasonable.
3. Under decisions of the United States Supreme Court,—Import Rate Case, *Interstate Commerce Commission v. Texas & P. R. Co.* 162 U. S. 197, 40 L. ed. 940, 5 Inters. Com. Rep. 405, and the Troy Case, *Interstate Commerce Commission v. Alabama Midland R. Co.* 168 U. S. 144, 42 L. ed. 414,—railway competition may, but it does not necessarily, justify a preference to a particular locality or commodity; and therefore, granting that discrimination against a locality which is based on such competition is excusable in theory, the question still remains whether under the third section it is undue or unreasonable; and that question is one of fact in each case.
4. Carriers frequently disregard distance in making their rates, and they may lawfully do so under some circumstances; but distance should be regarded whenever possible, and no previous decision is authority for a ruling that a carrier may be compelled to disregard it for the purpose of placing two communities upon a commercial equality.
5. Upon complaint brought on behalf of New York City, and alleging that differentials, allowed by the defendant carriers on grain, flour and provisions from Chicago and other western points, of 2 cents to Philadelphia and 3 cents to Baltimore below the rates to New York, are unlawful under section 3 of the Act to Regulate Commerce,—*Held*, That the differentials are legitimately based upon the competitive relations of the carriers, that it does not appear upon the present record that the carriers have exceeded the limit within which they are free to determine for themselves, and, accordingly, that the differentials complained of do not result in unlawful preference or advantage to Philadelphia or Baltimore over the City of New York.

John D. Kernan and *Baldwin & Blackmar*, for complainant.
Hugh L. Bond, Jr., for Balto. & Ohio System and Receivers.
James A. Logan, George V. Massey, John G. Johnson and
Evarts, Choate & Beaman, for Penna. System.
H. T. Wickham, for C. & O. Ry. Co.
R. W. de Forest, for Central R. R. Co., of N. J.
Samuel Hoar, for Boston & Albany R. R. Co.
S. E. Williamson, for N. Y. C. & St. L. Ry. Co.
Frank Loomis, for N. Y. C. & H. R. R. R. Co.
Ashbel Green, for West Shore R. R. Co.
Francis I. Gowen and *F. H. Janvier*, for Lehigh Valley
 R. R. Co.
George C. Greene, for L. S. & M. S. Ry. Co.
John B. Kerr, for N. Y. O. & W. R. R. Co.
Henry Russell and *Ashley Pond*, for Mich. Cent. R. R. Co.
J. D. Campbell, for Phila. & Reading R. R. Co. and Receivers.
G. M. Cumming, for Erie System.
E. W. Strong, for B. & O. S. W. Ry. Co.
T. J. O'Brien, for Grand Rapids & Indiana R. R. Co.
Silas W. Pettit, for Trades League, Board of Trade and Com-
 mercial Exchange of Philadelphia.
Sherman Hoar, for Boston Chamber of Commerce.
William A. Fisher, for Baltimore Chamber of Commerce.

REPORT AND OPINION OF THE COMMISSION.

PROUTY, *Commissioner* :

The New York Produce Exchange, the complainant in this matter, is a corporation under the laws of New York, composed of merchants residing in the city of New York and interested largely in the handling of grain and other produce at that point. No question is made as to its competency to commence and maintain this proceeding.

The defendants are various railroad companies engaged in the interstate transportation of freight, including grain and other produce, to New York and various other points upon the Atlantic seaboard. They admit that, with respect to such transportation, they are subject to the Act to Regulate Commerce.

The complainant attacks by its complaint certain differentials in freight rates upon the ground that they unduly prefer Boston, Philadelphia, Baltimore, Newport News and Norfolk as localities to the locality of New York. The Boston Chamber of Commerce, the Baltimore Chamber of Commerce and certain trade organizations in Philadelphia have intervened upon the ground that the commercial interests which they represent are or may be affected by the proceeding. Norfolk and Newport News have not been represented at any of the hearings.

Upon the trial the issue apparently narrowed itself to one between New York, Philadelphia and Baltimore. The Boston Chamber of Commerce appeared upon the first hearing in New York, but did not appear at any subsequent hearing, nor did it ask to be heard upon final argument. This seems to have been upon the assumption that the complainant made no question as between itself and Boston. That is, New York does not ask to be allowed a differential upon export traffic as against Boston. Neither do we understand that it has been suggested in this case that a different differential should be applied to Norfolk and Newport News than is applied to Baltimore. The controversy is really between the three cities, New York, Philadelphia and Baltimore. Whenever facts with reference to Boston, Newport News and Norfolk are stated, they are only given to make the statement complete as bearing upon the controversy between these three localities.

It incidentally appears that Boston has two rates,—an export and a domestic rate. The legality or propriety of these different rates was not referred to in the discussion of the case, and is not considered in its disposition. The differentials in question are those upon east-bound freight traffic to the above-named cities. There is no dispute as to the rates. Taking the rate to New York as a basis, the rate to Philadelphia is 2 cents per hundred pounds lower, all classes; and to Baltimore 3 cents per hundred pounds lower, all classes. Norfolk and Newport News take the Baltimore rate, and upon export traffic, Boston takes the New York rate.

The rate itself frequently varies, but the differentials are at all times and upon all classes the same. The rates complained of in this proceeding are those upon grain, flour and provisions, and

these rates from Chicago at the time of the filing of the complaint were as follows:

To	Grain.	Flour.	Provisions.
New York.....	20 cts.	20 cts.	30 cts.
Boston (for export).....	20 cts.	20 cts.	30 cts.
Philadelphia.....	18 cts.	18 cts.	28 cts.
Baltimore.....	17 cts.	17 cts.	27 cts.
Newport News.....	17 cts.	17 cts.	27 cts.
Norfolk.....	17 cts.	17 cts.	27 cts.

For the purpose of making the rates from various points in the middle west to the Atlantic seaboard, the Chicago-New York rate is taken as a basis, the rate from the other points being a per cent of this rate. Thus the rate from Detroit, Mich., is 78 per cent, from Indianapolis, Ind., 93 per cent, from East St. Louis, Ill., 116 per cent, and from Rock Island, Ill., 122 per cent. The rate from any one of these points to Philadelphia, Baltimore, Norfolk or Newport News is made by subtracting from the New York rate the fixed differential above given.

The territory within which rates are computed upon the basis of the New York-Chicago rate is that bounded, roughly speaking, by the Mississippi River upon the west, the Ohio River upon the south, a line drawn about due north from Pittsburg upon the east, and the Great Lakes upon the north, excluding most of the State of Wisconsin. Not only do the differentials affect all traffic which originates in this territory, but also all traffic which passes through this territory upon its way to the Atlantic seaboard.

The complaint also attacks what are known as the ex-lake differentials. Large quantities of freight, especially grain and flour, are brought through the Great Lakes to various points upon the southern shores of Lake Erie and Lake Ontario, from whence they are transported by rail to the Atlantic seaboard. Upon this a differential is applied of 1 cent per hundred pounds in favor of Philadelphia and Baltimore as against New York. This differential does not seem to apply to provisions. At the time of the filing of this complaint the rates from lake ports to Boston, New

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York, Philadelphia and Baltimore respectively per hundred pounds were as follows:

To	Grain.	Flour.	Provisions.
New York.....	11 cts.	11 cts.	16 cts.
Boston (for export).....	11 cts.	11 cts.	16 cts.
Philadelphia.....	10 cts.	10 cts.	16 cts.
Baltimore.....	10 cts.	10 cts.	16 cts.

Special commodity rates by the bushel were also in effect from these lake ports to the above named cities. They were in lots of 8,000 bushels and over, to one consignee and one destination, as follows:

	Wheat.	Corn.	Barley.	Oats.
New York.....	5 cts.	4½ cts.	4¼ cts.	3½ cts.
Boston (for export)....	5 cts.	4½ cts.	4¼ cts.	3½ cts.
Philadelphia.....	4 cts.	3¾ cts.	3¾ cts.	3 cts.
Baltimore.....	4 cts.	3¾ cts.	3¾ cts.	3 cts.

It will be seen from the above tables that the regular differential upon grain when shipped in carload lots by the hundred pounds is 1 cent in favor of Baltimore and Philadelphia; when shipped under the special commodity tariff by the bushel it is considerably more, being 1 cent per bushel in the case of wheat and corn and ½ cent per bushel in the case of barley and oats. Grain for export would, of course, always be shipped under the commodity tariff.

Some knowledge of the history of these differentials is necessary to an understanding of the situation. The earliest agreed differential of which the testimony gives any account was that of 1869, by which Baltimore enjoyed an advantage of 10 cents per hundred pounds over New York. It does not appear what the differential in favor of Philadelphia was. In 1870 a war of rates occurred, with the result that the Baltimore differential was reduced to 5 cents per hundred pounds on grain and the lower classes of freight, while upon the higher classes of freight the differential was 10 cents per hundred pounds, and these differentials seem to have continued until about 1876. It does not appear what the differential of Philadelphia upon east-bound traffic was, but a tariff of November, 1875, gives the differentials upon west-bound traffic as follows:

	First Class.	Second Class.	Third Class.	Fourth Class.	Special Class.
Baltimore.....	10 cts.	9 cts.	8 cts.	6 cts.	5 cts.
Philadelphia.....	7 cts.	7 cts.	6 cts.	4 cts.	3 cts.
7 Inters. Com.		40			

In March, 1876, this system of an arbitrary differential was abandoned and the lines agreed upon a system of percentage differentials based upon the relative distances from western cities to Baltimore, Philadelphia, and New York, respectively, taking New York as the basis. Under this agreement the rate from Chicago to Baltimore was 13 per cent and to Philadelphia 10 per cent less than to New York, and from Cincinnati to Baltimore 24 per cent, and to Philadelphia 12 per cent less than to New York.

After a few weeks' experience, the New York Central and the Erie withdrew from this agreement upon the assertion that it was too favorable to Baltimore and Philadelphia. Thereupon another rate war ensued, which terminated in an agreement of April 5, 1877, by which fixed differences in rate were re-established in place of differences based upon relative distances. Under this agreement east-bound differentials from western points were 3 cents to Baltimore and 2 cents to Philadelphia upon all classes. On west-bound traffic the differentials in favor of Baltimore and Philadelphia differed with different classes, and were as follows :

From	First Class.	Second Class.	Third Class.	Fourth Class.
Baltimore	8 cts.	8 cts.	3 cts.	3 cts.
From Philadelphia	6 cts.	6 cts.	2 cts.	2 cts.

It would seem that the contentions between the carriers which had given rise to these differentials were mostly over export traffic, and that the differentials were insisted upon and were allowed for the purpose of permitting the various carriers to enjoy a portion of that traffic. The agreement of April 5, 1877, seems to have been made upon the idea of equalizing the cost of carriage from various interior shipping points to foreign ports. It recognized the fact that ocean freight rates from Baltimore and Philadelphia to such foreign ports were higher than from New York and that inland freights must be correspondingly lower so that the total freight might be the same.

The agreement provided that, upon the giving of certain notice, any party to it might withdraw, and in June, 1880, the New York Central gave notice of withdrawal, stating that the differentials were originally based upon supposed differences in ocean rates, that such differences no longer existed, that there-

fore the reasons for the differentials had ceased to exist and that the differentials themselves should also cease. The Pennsylvania and the Baltimore and Ohio insisted upon the differentials, and the action of the New York Central apparently led to another rate war, which terminated in the latter part of 1881 by a restoration of the differentials of April 5, 1877.

It would seem that the various Atlantic seaports which were served by these different railway lines had taken more or less interest in this subject of differentials. New York insisted that the differentials should be abolished; Philadelphia that there should be no difference between that city and Baltimore; and Baltimore that the differential of 3 cents allowed in its favor was too low; and each city strenuously contended that it was the duty of the railway lines serving that particular locality to insist upon and obtain an adjustment of these differentials in accordance with its views.

Apparently for the purpose of considering the claims of these different communities and perhaps placating the public rather than of settling the question for the carriers, the New York Central, the Erie, the Pennsylvania and the Baltimore & Ohio joined in requesting Allen G. Thurman, Elihu B. Washburne and Thomas M. Cooley to act as an advisory commission for the purpose of investigating and reporting upon the general matter of these differentials. These gentlemen accepted the invitation and entered upon their work in February, 1882.

In their investigation the railroad companies themselves declined to participate further than by furnishing to the commissioners whatever information might be asked for. This commission held sittings in New York, Philadelphia and Baltimore in the east, and in certain cities in the west, heard statements and arguments from the representatives of these various localities, collecting whatever information it could bearing upon the subject, and finally in July, 1882, made a report. This report seems to have been very carefully considered by the commissioners, and, while it deals largely in theory and generalities, it appears to be, as was to have been expected from the character of the gentlemen who signed it, an able and comprehensive review of the situation.

The conclusion at which they arrived was that distance could not be used as a measure of these differentials; neither could

cost of service. Competition, which embraced these two, and all other factors, if properly conducted through a series of years, was the most reliable guide. Competition, after many years, had resulted in fixing the differentials in force. Those differentials were justified to a certain extent by distance and to a certain extent by cost of service. The purpose of the differential was to equalize the cost of exporting grain and other merchandise through the various ports to which they were applied. A difference in ocean freight rates from those respective ports, corresponding generally to the inland differentials, was found to exist. Upon the whole, therefore, the commission declined to recommend that the differentials which had been agreed upon should be disturbed.

It will be seen, therefore, that in 1882 the fairness and reasonableness of the present differentials were approved by that board, and those differentials have ever since been in effect.

Manifestly, however, the conditions which determine the fairness of a differential are continually varying. That fact is clearly stated in the above report, in which it is said that if in the future the operation of these differentials should become burdensome to any one of the localities interested, they should be readjusted or abolished. The complainant insists that since 1882 conditions have so changed that, assuming them to have been just then, they are unjust to-day. The complainant's case attacks, first the general fairness of the differential, and seeks to show, second, that the arguments which justified the differentials in 1882 do not justify them to-day.

The complainant asserts at the outset that this difference in rate cannot be justified upon the score of a corresponding difference in distance. It so happens that the shortest distance from Chicago to New York, Philadelphia and Baltimore is in every instance by the Pennsylvania lines, being:

To	
New York,	912 miles.
Philadelphia,	822 "
Baltimore,	802 "

Merchandise is transported from Chicago to all three of these cities by many other lines, and the distances by these lines vary greatly. It is not deemed essential, however, to state these various distances, in the view we have taken of the application of distance to the disposition of this case.

One thing should, however, be noted in this connection. The distances above given are from Chicago, but by no means all of the traffic involved moves from Chicago, and if distance were to be regarded as a controlling factor and these differentials were to be adjusted upon the basis of distance, it would be necessary to know the relative distances from the point of origin of the traffic. Thus, spring wheat is raised mainly in the States of Wisconsin, Minnesota and the two Dakotas. Now, the complainants say that this section is naturally tributary to New York, and that the spring wheat crop is properly exported through that port. The corn belt lies farther south, and embraces Indiana, Illinois, Missouri, Kansas, Nebraska and Iowa. This territory, the advocates of Baltimore insist, is naturally tributary to that city, so that the greater amount of corn exports ought properly to go out through that port, and the testimony upon the part of Baltimore tends to show that it is the effort of her merchants to intercept this corn before it ever reaches Chicago and bring it to Baltimore, and that this effort is very largely successful.

For the purpose of showing the point of origin of this traffic as bearing upon the question of these differentials, a statement prepared under the direction of Mr. George R. Blanchard, commissioner of the Joint Traffic Association, was introduced by the complainants. This statement shows the origin of east-bound dead freight which originates at and west of the trunk line termini, including both all-rail and lake and rail traffic, and which is carried to the eastern termini of those lines. It is not deemed material to encumber this finding of facts with that statement. It embraces all the dead freight, and not merely that which is involved in this proceeding. This fact may, however, be noted, that the origin of dead freight is not fixed in its proportions, but continually varies from year to year.

This table extends from 1888 to 1896 inclusive. From it, it appears that in 1888, 15.6 per cent of such freight originated at Chicago, while in 1896 only 10 per cent originated there. In 1888, 2.7 per cent was classified as "unknown and local," while in 1896 this class embraced 14.3 per cent, much more than any other one class. It has already been noted that in this table the traffic in question is so intermingled with other traffic that no definite information is furnished as to it.

The complainant further insists that these differentials cannot be justified upon the basis of cost of service. No direct testimony was introduced upon this branch of the case. The complainant showed from the reports of the Pennsylvania Railroad Company that the cost of movement of all freight upon its lines in the year 1880 was 4.74 mills per ton per mile, and in 1895, 4 mills per ton per mile. Treating this as the cost of moving the commodities in question it would have cost in 1880, 2.13 cents per hundred pounds less from Chicago to Philadelphia than to New York, and 1.80 cents less per hundred pounds in 1895; in 1880, 2.60 cents per hundred pounds less to Baltimore than to New York, and in 1895, 2.20 cents less per hundred pounds. Upon this basis, therefore, the following differentials should have been allowed :

	1880	1895
Philadelphia	2.13 cts.	1.8 cts.
Baltimore	2.6 "	2.2 "

No computation of this sort can be of any value without knowing whether the basis of the computation is correct, or, in other words, whether the cost of moving the grain is as assumed.

In this connection one subject which was much discussed in the testimony may be referred to, since, if it has any force whatever, it is as bearing upon the additional cost of service. This subject is that of lighterage and terminal charges at the port of New York.

Export grain upon arriving at any of these seaports, is either placed in an elevator for storage or transferred directly to the vessel. At all the ports except New York the mode of proceeding seems to be to transfer the grain directly from the car to the elevator upon its arrival, and from the elevator to the vessel, when it is desired, the vessel being brought alongside the elevator for the purpose of receiving the grain.

In New York, upon the other hand, the grain is put in barges and towed to the side of the vessel, where it is transferred by a floating elevator from the barge to the vessel. It seems sometimes to be transferred directly from the car to the barge, but in the great majority of cases it is taken into the elevator in the first instance and from the elevator spouted into a barge in exactly the same way that it would be into the hold of the vessel.

The railroad company is at the expense of towing the barge to the side of the vessel, where the owner of the grain receives it and transfers it at his expense into the vessel. There was considerable testimony as to the cost to the railroad company of lightering grain; that is, towing the barge from the dock to the side of the vessel and giving it the four days' storage to which it was entitled, and this testimony is not altogether harmonious.

We find that the expense of this service is about $\frac{1}{2}$ cent a bushel. It costs about the same to transfer the grain directly from the cars to the barge as it does to transfer it into the elevator and thence discharge it into the barges. What this cost is did not appear.

By the agreement of April 5, 1877, it was provided that the terminal charges for the storing and loading of grain should be the same at all the ports, and this charge was then fixed at $1\frac{1}{4}$ cents per bushel, which has been the charge ever since. As a rule the railroad companies own the elevators in Boston, Philadelphia, Baltimore and probably at Norfolk and Newport News. When, therefore, the carrier transports grain from Chicago to Baltimore and puts it aboard a vessel there, it receives for that entire service the regular freight rate, and in addition the terminal charge of $1\frac{1}{4}$ cents. At New York the carrier takes the grain into its elevator, discharges it into barges and then tows those barges to the side of the vessel, receiving therefor merely the freight rate. The $1\frac{1}{4}$ cents per bushel paid for elevating at New York is received by the floating elevator company. It follows, therefore, that the carrier at New York renders for nothing the same service for which it is paid $1\frac{1}{4}$ cents at all the other ports, and in addition incurs lighterage expenses of $\frac{1}{2}$ cent per bushel.

The intervenors strenuously insisted that this additional burden under which the carriers rested at New York in the handling of grain for export justified the imposition of the differential.

It is indicated above that grain is only lightered at the port of New York. This is not quite the fact. Considerable quantities are lightered at Philadelphia, just how much did not appear, and some at Boston. In these cases, as at New York, the expense of the lighterage is borne by the carrier.

The agreement of April 5, 1877, by which these differentials were originally fixed, recognized as their justification the fact that

the ocean freights to European markets were less from New York than from Baltimore and Philadelphia, and that the inland rates to New York ought to be correspondingly higher in order to equalize the through rate. The Advisory Commission of 1882 found this same condition of things and made that, in some measure at least, a reason for recommending that the differentials be not disturbed. The complainant says that whatever the condition may have been in 1877, or whatever it may have been in 1882, at the present time ocean freights upon grain, flour and provisions are substantially the same from all the ports.

The testimony in this case shows that grain is exported in two ways: first, by full cargo; second, by berth rate. The ocean carriage is said to be by full cargo when the ship is loaded entirely with one kind of merchandise and carries no other freight. It did not appear that flour or provisions were ever exported in full cargo lots, although that may be rarely done. Grain, especially corn, is frequently exported in that way. Sometimes the ship taking the full cargo of grain comes from a foreign port to this country in ballast entirely for that purpose. Oftener it arrives here loaded or partly loaded with some kind of merchandise and seeks a return load. The testimony was that vessels for full cargo business could be chartered at practically the same price to load at either New York, Baltimore, Philadelphia, Norfolk or Newport News. If the vessel comes to the Atlantic coast for the purpose of obtaining and carrying away a cargo of corn, it is difficult to see any reason why it would not transport that corn at the same price per bushel from either of these ports. Nor did the defendants or the intervenors seriously contend that this was not ordinarily the case in full cargo business. It was alleged, however, upon the part of the intervenors that there were certain advantages at New York in doing a full cargo business, and upon the part of the complainants that there were certain advantages at the other ports in this class of business.

The great bulk of imports land at New York. If a ship is at New York, having come there with a load of merchandise, it naturally prefers to take its return cargo at that point rather than be to the expense of proceeding to some other port. The testimony showed that it would proceed to any of the other ports from New York, or from any outport to any other Atlantic out-

port for about $\frac{3}{8}$ of one cent per bushel in the freight rate. Since more vessels seeking return cargoes are consigned to New York than to the other ports this would perhaps constitute a slight advantage in favor of that port.

Upon the other hand, it appears that what are called the port charges are higher at New York than at either Baltimore or Philadelphia. Just what these port charges consist of and just how great a burden they are did not appear, but it costs a vessel more by some degree to enter and load at the port of New York than it does at its sister ports, and to that extent New York rests under a disadvantage in this full cargo business.

So, also, it was claimed that vessels loading at Baltimore, Norfolk and Newport News had during the winter months a certain advantage, in that they could load more deeply than if they cleared from Philadelphia or a port north. It seems that the insurance companies require that the vessel shall not load below a certain line, which is fixed by the Board of Trade of England. This line is the same for all ports during the summer months, but during the winter months vessels are permitted to load deeper when they clear from ports south of Philadelphia than when they clear from Philadelphia or a port north, the line to which they are permitted to load in case of the latter ports being known as "the north Atlantic winter load-line."

It did not appear just what the value of this privilege available at the southern ports was. It would, of course, depend upon the size of the vessel. The testimony tended to show that with the ordinary tramp steamer which engages in this full cargo grain business, the difference would be from \$200 to \$600 a cargo.

Baltimore and Philadelphia asserted that they were under disadvantages as compared with New York in the matter of distance and in the ease with which a ship put to sea from these respective ports. Thus, it is from Baltimore to the ocean something like 150 miles, and after the ocean is reached, somewhat farther to the foreign port. In the case of Philadelphia low water interferes with a ready passage out to sea, so that the time consumed in waiting for a proper tide is from ten to twenty-four hours. Now, while this is not a serious matter, nevertheless, it does constitute a certain disadvantage in case of these two ports, which is not experienced at New York.

Upon the whole we are of the opinion that, so far as the full cargo business is concerned, there is no appreciable difference in cost, and no appreciable difference in the ocean rate from the three ports, New York, Baltimore and Philadelphia. There might be exceptional cases or exceptional times when the rate would rule a trifle lower from one port than from the other, but we are satisfied that, taking the whole year together, or a succession of years, the expense and the rate must be substantially the same.

Nor are we able to find that the conditions in respect to full cargo ocean rates were different in 1882 than they are to-day.

Merchandise is said to be carried at berth rates when it does not constitute the entire freight cargo of the vessel, but only a portion of it. Regular lines of steamships ply between all the ports in question and European grain markets. These steamships sometimes carry passengers, but always carry freight, and their cargoes are made up of miscellaneous articles. Some articles are regarded in ocean carriage, as well as in carriage by rail, as of a higher class than others, and take a higher rate, although there does not seem to be the same difference upon the ocean as upon the railroad. In each case, however, grain is regarded as one of the lowest classes of freight, and bears a correspondingly low freight rate.

The testimony showed that fluctuations in berth rates were very great. Taking the rate on wheat for an illustration, the rate might fluctuate in a single year from 2 to 12 cents per bushel. This variation is occasioned by the law of demand and supply. The regular line steamer is advertised to leave at a certain date. It has a certain amount of freight space, and the expense of running the steamer is practically the same whether loaded with freight or not. Indeed, until modern construction provided a water ballast, it was necessary to have a certain amount of freight for ballast in order to navigate the vessel. This steamship, as the time for sailing approaches, will manifestly sell its space for whatever price it can obtain. It follows, therefore, that the same vessel may often carry freights of the same kind at different rates, that the quoted price and the price actually paid may be entirely different, and that the price to-day may be no indication of the price a week hence. The intervenors insist

that while New York may not have any advantage in the matter of cargo rates, it has an enormous advantage in the matter of berth rates, and several reasons for this are shown.

In the first place New York has a great many more lines than either Boston, Baltimore or Philadelphia, indeed a great many more than all three of these cities taken together. These lines reach many foreign ports at which American grain is bought which cannot be reached from the "outports" so-called. Steamers sail much more frequently from New York to all foreign markets than from either Baltimore or Philadelphia. The result is that New York offers much better facilities in the way of ocean transportation than do any of the outports. These additional facilities attract, first of all, the higher classes of freight, but when that freight is absorbed the residuum of the berth space which is available for the transportation of lower grades of freight, of which grain is the principal one, is always large, so that there are usually offerings of berth space in New York much in excess of those at any other, or at all other ports for the transportation of grain. That is, not only can grain be exported from New York by berth rate to many ports not available to Baltimore and Philadelphia, but it can usually be transported at lower rates than can be had at either of these cities. Still another advantage is that at New York cargoes of different commodities can be more easily made up than at the outports for the reason that the offerings of freight at New York for a particular place are much larger. As already indicated, the great bulk of berth rate business is done by regular line steamers, but considerable business of that sort is done by steamships sailing at irregular intervals whenever a load can be obtained. These vessels take various kinds of commodities but usually require them to be consigned to the same port. It is evident that in New York a steamer of this kind would be able to obtain a cargo for a particular foreign port much more readily than at either Baltimore or Philadelphia, since, as will be seen hereafter, the great bulk of our exports, other than grain and flour, move out through the port of New York.

A great deal of testimony was introduced, both by the complainant and by the intervenors, as to relative berth rates from the four ports, Boston, New York, Baltimore and Philadelphia.

The complainant introduced three tables, showing the average quoted rates in cents per bushel on wheat from these four ports, covering the years 1882 to 1896, inclusive. The first table is from December 1st to April 30th, that being the season when the canal is closed; the second from May 1st to November 30th, that being the canal season; and the third table covering the entire calendar year. These tables are given below, and are numbered Tables No. 1, No. 2 and No. 3:

TABLE NO. 1.

AVERAGE OCEAN FREIGHTS † QUOTED ON WHEAT from the undermentioned ports to LIVERPOOL, for the NON-CANAL SEASON.

December 1st to April 30th.

Non-Canal Season.	New York. Per 60 lbs.	Boston. Per 60 lbs.	Philadelphia. Per 60 lbs.	Baltimore. Per 60 lbs.
	cents.	cents.	cents.	cents.
1881-82.....	*6	†5 $\frac{1}{2}$	8 $\frac{1}{2}$	*7 $\frac{1}{2}$
1882-83.....	11 $\frac{1}{2}$	9 $\frac{1}{2}$	12 $\frac{1}{2}$	12 $\frac{1}{2}$
1883-84.....	5 $\frac{1}{2}$	4 $\frac{1}{2}$	6 $\frac{1}{2}$	7 $\frac{1}{2}$
1884-85.....	8 $\frac{1}{2}$	7 $\frac{1}{2}$	---	9 $\frac{1}{2}$
1885-86.....	5 $\frac{1}{2}$	3 $\frac{1}{2}$	---	7 $\frac{1}{2}$
1886-87.....	6 $\frac{1}{2}$	6	---	7 $\frac{1}{2}$
1887-88.....	2 $\frac{1}{2}$	4	---	3 $\frac{1}{2}$
1888-89.....	7 $\frac{1}{2}$	6 $\frac{1}{2}$	---	10
1889-90.....	8 $\frac{1}{2}$	8 $\frac{1}{2}$	---	10 $\frac{1}{2}$
1890-91.....	4 $\frac{1}{2}$	4 $\frac{1}{2}$	---	6 $\frac{1}{2}$
1891-92.....	7 $\frac{1}{2}$	6 $\frac{1}{2}$	---	8 $\frac{1}{2}$
1892-93.....	2 $\frac{1}{2}$	2 $\frac{1}{2}$	*4 $\frac{1}{2}$	4 $\frac{1}{2}$
1893-94.....	5 $\frac{1}{2}$	4 $\frac{1}{2}$	6 $\frac{1}{2}$	6 $\frac{1}{2}$
1894-95.....	4 $\frac{1}{2}$	3 $\frac{1}{2}$	5 $\frac{1}{2}$	5 $\frac{1}{2}$
1895-96.....	4 $\frac{1}{2}$	4 $\frac{1}{2}$	5	5 $\frac{1}{2}$
1896-97.....	5 $\frac{1}{2}$	6 $\frac{1}{2}$	6 $\frac{1}{2}$	6 $\frac{1}{2}$

* January 1st to April 30th only.

† January 1st to March 31st only.

‡ Reduced from sterling quotations on the basis of 1d.=2 cents.

TABLE NO. 2.

AVERAGE OCEAN FREIGHTS† QUOTED ON WHEAT from the undermentioned ports to LIVERPOOL, for the CANAL SEASON.

May 1st to November 30th.

Canal Season.	New York. Per 60 lbs.	Boston. Per 60 lbs.	Philadelphia. Per 60 lbs.	Baltimore. Per 60 lbs.
	cents.	cents.	cents.	cents.
1882.....	7 $\frac{7}{8}$	*7 $\frac{1}{8}$	---	10 $\frac{3}{8}$
1883.....	7 $\frac{3}{4}$	5 $\frac{1}{4}$	---	9 $\frac{1}{4}$
1884.....	7 $\frac{1}{2}$	5	---	8 $\frac{1}{2}$
1885.....	5 $\frac{5}{8}$	4	---	6
1886.....	6 $\frac{1}{4}$	4 $\frac{1}{2}$	---	7 $\frac{1}{2}$
1887.....	4 $\frac{1}{2}$	3 $\frac{3}{8}$	---	5 $\frac{1}{2}$
1888.....	6 $\frac{1}{4}$	5 $\frac{1}{4}$	---	7 $\frac{1}{4}$
1889.....	7 $\frac{7}{8}$	6 $\frac{3}{8}$	---	8 $\frac{3}{8}$
1890.....	2 $\frac{7}{8}$	2 $\frac{1}{4}$	---	2 $\frac{3}{8}$
1891.....	6 $\frac{3}{8}$	5	---	7
1892.....	4 $\frac{1}{4}$	4	---	6 $\frac{1}{2}$
1893.....	5 $\frac{1}{4}$	4 $\frac{3}{8}$	6 $\frac{3}{8}$	5 $\frac{7}{8}$
1894.....	2 $\frac{7}{8}$	1 $\frac{7}{8}$	3 $\frac{3}{8}$	3 $\frac{3}{8}$
1895.....	4 $\frac{1}{4}$	2 $\frac{3}{4}$	4 $\frac{1}{4}$	4 $\frac{3}{8}$
1896.....	6 $\frac{1}{4}$	3 $\frac{1}{4}$	6 $\frac{1}{4}$	6 $\frac{3}{8}$

* July 1st to November 30th only.

† Reduced from sterling quotations on the basis of 1d. = 2 cents.

TABLE NO. 3.

ANNUAL AVERAGE OCEAN FREIGHTS† QUOTED ON WHEAT from the undermentioned ports to LIVERPOOL for the CALENDAR YEAR.

Calendar Year.	New York. Per 60 lbs.	Boston. Per 60 lbs.	Philadelphia. Per 60 lbs.	Baltimore. Per 60 lbs.
	cents.	cents.	cents.	cents.
1882.....	7 $\frac{7}{8}$	---	---	10
1883.....	8 $\frac{3}{8}$	6 $\frac{1}{4}$	---	10 $\frac{1}{8}$
1884.....	7	5	---	7 $\frac{7}{8}$
1885.....	6 $\frac{3}{8}$	5	---	7 $\frac{3}{8}$
1886.....	6 $\frac{3}{8}$	4 $\frac{1}{2}$	---	7 $\frac{3}{8}$
1887.....	5	4 $\frac{1}{2}$	---	6
1888.....	5 $\frac{1}{4}$	5 $\frac{1}{4}$	---	6 $\frac{1}{4}$
1889.....	7 $\frac{7}{8}$	6 $\frac{3}{8}$	---	9
1890.....	4 $\frac{1}{4}$	4 $\frac{1}{4}$	---	5 $\frac{3}{8}$
1891.....	6 $\frac{1}{4}$	5 $\frac{3}{8}$	---	6 $\frac{7}{8}$
1892.....	5 $\frac{1}{4}$	4 $\frac{1}{2}$	---	6 $\frac{1}{4}$
1893.....	4 $\frac{1}{4}$	3 $\frac{1}{4}$	5 $\frac{1}{4}$	5 $\frac{5}{8}$
1894.....	3 $\frac{3}{8}$	3	4 $\frac{1}{4}$	4 $\frac{1}{4}$
1895.....	5 $\frac{1}{8}$	3 $\frac{1}{4}$	4 $\frac{3}{8}$	4 $\frac{7}{8}$
1896.....	5 $\frac{7}{8}$	4 $\frac{1}{4}$	5 $\frac{7}{8}$	6 $\frac{1}{4}$

† Reduced from sterling quotations on the basis of 1d. = 2 cents.

We do not regard these tables as altogether reliable, although they are probably the best that could be furnished under the circumstances. In most instances they represent the quoted rate; in some, particularly in case of New York, they stand for actual engagements, and show the price actually paid. It has already been suggested that the quoted price and the actual price often vary considerably. No data at all are available apparently in case of Philadelphia until the year 1893, and those from Baltimore are extremely unreliable.

We are inclined to think, taking the whole testimony in the case together, that it fairly appears that there is, as a rule, between Boston and New York a difference in the berth rate upon grain in favor of Boston, and that this difference amounts at the present time to something in the vicinity of 1 cent per hundred pounds; that there is a difference in favor of New York between New York and Philadelphia which amounts, perhaps, to from $1\frac{1}{2}$ to 2 cents per hundred pounds; and that about the same difference exists against Baltimore. We are unable to find that there is any appreciable difference in the ocean berth rate from Baltimore and Philadelphia. We are inclined to think also that since 1882 this difference between New York and the outports has been gradually diminishing. The rates from Boston differed from those in New York rather more in 1882 than to-day, and the same thing appears to have been true of Baltimore and Philadelphia. From the very nature of the case, however, no definite finding in this respect can be made.

It did not appear why the rate at Boston should be lower than at New York, save that the dockage expenses and other port charges were somewhat less at the former port. The Boston steamers are inferior in speed and in capacity to New York steamers.

No testimony was introduced showing exactly what cargo rates had been at any time or during any period. It appeared generally that they were ordinarily higher and much more stable than berth rates, and that a cargo business could not be done until the berth space had been exhausted or until the berth rate had risen to a point above the average.

We have no information from which it can be stated what the relative amount of cargo and berth business in grain has been for any length of time since 1882.

With the exception of cargoes from New York to a particular point which is hereafter referred to, wheat is very seldom exported by the cargo. Cargo business is almost entirely confined to corn. The complainant introduced a table showing the relative amount of berth rate and cargo exports for the years 1895 and 1896 in wheat and in corn. This table is given below, and is No. 4:

TABLE NO. 4.

(Where steamers carried both wheat and corn, they have been counted under each head.)

WHEAT.

PORTS.	Exports, Bushels.	1895. Carried in Grain Cargoes.			Exports, Bushels.	1896. Carried in Grain Cargoes.		
		Bushels.	Per cent.	No. of Cargoes.		Bushels.	Per cent.	No. of Cargoes.
New York.....	20,339,263	6,707,934	33.0	66	18,476,263	4,056,878	21.9	55
Boston.....	4,810,384	-----	-----	---	9,838,955	-----	-----	---
Philadelphia.....	1,537,226	461,165	30.0	5	4,863,886	2,831,017	58.2	29
Baltimore.....	3,977,261	-----	-----	---	6,589,856	2,085,199	31.6	22
Norfolk.....	165,765	165,765	100.0	2	-----	-----	-----	---
Newport News..	1,185,400	361,431	30.5	6	17,327	-----	-----	---
Totals.....	32,015,299	7,696,295		79	39,786,287	8,973,094		106
CORN.								
New York.....	19,626,817	892,051	4.6	10	19,100,190	1,797,082	9.4	24
Boston.....	5,320,083	-----	-----	---	5,893,209	-----	-----	---
Philadelphia.....	3,307,413	524,818	15.9	5	8,829,376	4,947,789	56.0	46
Baltimore.....	9,645,758	1,896,452	19.7	18	26,382,182	10,297,059	39.0	99
Norfolk.....	3,545,363	incompl't	*	*	12,891,285	8,977,802	69.6	81
Newport News..	4,866,835	2,278,872	46.8	22	10,376,625	5,042,104	48.6	50
Totals.....	46,311,769	*5,592,193		*55	83,472,867	31,061,836		300

* Exclusive of Norfolk for 1895, which cannot be given from any data in our possession.

It will be seen from an examination of the above table that the exports for 1896 were somewhat larger in wheat and almost twice as great in corn as in 1895; that what may be called the excess

exports of 1896 over those of 1895 went mostly by cargo shipments, and that these excess cargo shipments were almost entirely from Philadelphia, Baltimore, Norfolk, and Newport News. The complainant introduced another table showing the number of cargoes of corn exported from New York, Philadelphia and Baltimore for the years 1893 to 1896, inclusive. This table is designated as No. 5 and is as follows:

TABLE No. 5.

	New York. Cargoes. Corn.	Philadelphia. Cargoes. Corn.	Baltimore. Cargoes. Corn.	Totals. Cargoes. Corn.
1893	1	11	7	19
1894	2	5	17	24
1895	7	7	13	27
1896	19	41	77	137
Totals	29 cargoes.	64 cargoes.	114 cargoes.	207 cargoes.

New York shipped 29 cargoes corn, equal to 14%.
 Philadelphia " 64 " " " 31%.
 Baltimore " 114 " " " 55%.

207 cargoes.

From this it appears that in the four years New York shipped 29 cargoes; Philadelphia, 64; and Baltimore, 114, which gives New York 14 per cent of the entire cargo business for that series of years.

Mr. Neal, a witness for the intervenors, testified from records in his possession that from 1878 to 1896 there had been exported from the three ports in all 1,357 full cargoes of corn, and that of these 187 had gone from New York, 499 from Philadelphia, and 671 from Baltimore. This, too, would give New York in that series of years just 14 per cent of the full cargo business.

It may well be inquired how, in view of the differentials and in view of the fact that full cargo rates are the same from all these ports, New York manages to do any full cargo business. It appears that Boston under the operation of the same condition of things does not. It is impossible to answer this question with certainty. New York has much the largest storage capacity. It has a corn market and a wheat market, and stocks of corn and

wheat are carried for delivery. The result is that a full cargo can be loaded and shipped from New York quicker than from the other ports, and very often cheaper, as the price fluctuates upon the Chicago market.

It appears, too, with reference to the full cargo business in wheat, which was considerable from New York in both 1895 and 1896, that most of it consisted of cargoes for Lisbon, Portugal. The trade at that point requires a New York bill of lading, and for this reason shipments to fill those orders are made from New York, although the same grade of wheat could, perhaps, be obtained somewhat more cheaply at some other port.

The complainant claimed that if the object of these differentials was to equalize the cost of exporting grain through the three ports, then the cost of grain in Europe should be the same by each port, whereas, in point of fact, it was and had been less through the outports than through New York.

It appeared that this export business was largely done by grain brokers. These people do not as a rule own the grain themselves nor carry stocks from which their orders are filled. Upon receiving an order, they go into the market and fill it at the least price possible. They sometimes sell the grain on board the vessel on this side, but ordinarily it would appear that their price includes a delivery in Europe. Agencies are often maintained by them in Chicago, and it appears that they purchase grain to fill export orders in one of three ways. They may purchase the corn in the west, paying themselves the transportation charges to the seaboard and so across the water. They may buy the grain F. O. B. the vessel at some American port. This embraces all the charges which are necessary to deliver the grain upon the vessel, including the freight rate and the terminal charge; or they may purchase the grain what is called C. I. F. Europe. These three letters signify cost, insurance and freight, and that kind of a contract calls for the delivery of the grain in Europe, or its equivalent in insurance money if the grain is lost. It appeared that these brokers themselves in recent times had almost exclusively confined their operations to the purchase of export grain either F. O. B., at the Atlantic seaboard or C. I. F. Europe. Although their agencies still continued to be maintained in some instances in the west, little or no business was transacted through them. This

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was for the reason that they could purchase the grain F. O. B. or C. I. F. cheaper than they could buy it in the west and pay the transportation charges themselves.

The testimony of these gentlemen showed that the price of grain F. O. B. or C. I. F. was not at all times the same through the different ports. Sometimes it could be exported cheaper through Baltimore; sometimes through Philadelphia; and sometimes through New York; but, on the whole, the preponderance of this testimony was that in the year 1896 prices had ruled cheaper through the outports than through New York.

We attach very little importance to this testimony. These brokers have no stock in trade. They have no expensive plant which they must utilize at a particular point. While for the most part they reside and have their principal place of business in New York, they can, with almost equal convenience do business through any one of the three ports. It was conceded by all that a difference in cost of from $\frac{1}{8}$ to $\frac{1}{4}$ of a cent a bushel would divert grain from one port to the other, and these brokers always know what grain can be purchased for at each one of these three ports. The conclusive answer, therefore, to the inquiry, through which port at a particular time was the price of grain C. I. F. Europe the cheapest is found in observing through what port grain at that time actually moved.

The complainant claimed that the operation of these differentials had been growing more and more burdensome to New York ever since 1882, and that matters had come to that pass that they were a menace to the commerce of that port, and in confirmation of this they instituted a comparison of the exports of the commodities in question through the different ports for the years 1895 and 1896, from which a very striking falling off at New York appears.

The intervenors replied that while a comparison of the year 1896 with the year 1895 might show unfavorably to the port of New York, no comparison of any two single years could be a fair test, that the differences in those two years were no greater than might be observed between some other two preceding years if properly selected, that New York had not lost absolutely but only relatively, and that the loss to New York was not owing to any gain by Baltimore and Philadelphia, but to the fact that Norfolk, Newport News, Galveston and New Orleans had become new

factors in the export situation, owing to the opening up and improvement of new lines of transportation to these ports.

As bearing upon these contending claims a great mass of statistics was introduced upon both sides. All of this matter has undoubtedly some bearing upon this question. Much of it is interesting, but to reproduce it all, or to even consider it all in any finding of fact, giving to each piece of testimony its due weight, would be utterly impossible. We reproduce here sufficient of the tables introduced by the respective parties to show what their claims were and the nature of the testimony upon which they relied, and to also show in a general way the actual situation at these respective ports.

The following is a table showing the total receipts and the total exports of flour, wheat and corn in bushels at New York, Boston, Philadelphia, Baltimore, Norfolk and Newport News for the years 1873 to 1896, inclusive. It is marked No. 6 :

TABLE No. 6.
JANUARY 1ST TO DECEMBER 31ST. (100 PER CENT. = TOTALS AT, OR FROM, THE 6 PORTS.)

Jan. 1 to Dec. 31.	NEW YORK.				Percentage of receipts of FLOUR, WHEAT and CORN in bushels at						Percentage of exports of FLOUR, WHEAT and CORN in bushels from					
	By Rail.	By Canal and Water.	Total.	Boston.	Phila-delp'a.	# Balti-more.	+Nor-folk.	+New-port News.	New York.	Boston.	Phila-delp'a.	Balti-more.	Nor-folk.	New-port News.		
															Percentage of receipts of FLOUR, WHEAT and CORN in bushels at						Percentage of exports of FLOUR, WHEAT and CORN in bushels from
1873	28.8	32.6	61.4	10.9	14.3	13.3	0.1	*	77.9	2.4	6.9	12.7	0.1	*		
1874	33.0	29.5	62.5	9.7	12.6	15.2	--	*	74.8	2.6	7.9	14.7	--	*		
1875	33.1	24.9	58.0	11.0	16.3	14.6	0.1	*	67.6	4.9	11.8	15.5	0.2	*		
1876	28.8	18.2	47.0	12.0	19.1	21.7	0.2	*	49.4	5.4	20.4	24.5	0.3	*		
1877	25.0	26.5	51.5	12.3	14.3	21.6	0.3	*	54.8	5.7	13.1	26.0	0.4	*		
1878	29.9	23.7	53.6	9.8	17.2	19.3	0.1	*	54.1	6.8	16.7	22.3	0.1	*		
1879	31.8	19.3	51.1	9.8	16.2	22.8	0.1	*	53.0	6.4	14.9	25.6	0.1	*		
1880	28.1	24.1	52.2	11.4	15.9	20.4	0.1	*	56.3	7.9	13.7	22.0	0.1	*		
1881	38.5	16.6	55.1	14.4	11.3	19.1	0.1	*	57.6	9.7	10.4	22.2	0.1	*		
1882	38.9	18.4	57.3	15.7	10.5	16.1	--	0.4	61.5	9.6	7.5	20.7	0.1	0.6		
1883	32.5	20.0	52.5	17.6	10.8	18.4	0.3	0.4	54.5	11.3	9.9	23.3	0.4	0.6		
1884	33.7	20.4	54.1	18.0	9.2	18.1	--	0.6	53.6	14.9	8.4	22.2	--	0.9		
1885	37.1	18.4	55.5	15.0	10.8	18.1	--	0.6	54.6	11.7	11.5	21.3	--	0.9		
1886	31.4	23.6	55.0	15.1	8.2	18.6	--	3.1	52.1	11.1	7.6	24.8	--	4.4		
1887	29.2	24.2	53.4	14.4	11.0	19.4	0.3	1.5	53.9	10.5	10.0	23.3	0.4	1.9		
1888	31.1	23.8	54.9	15.9	8.8	19.4	0.1	0.9	54.2	13.5	6.2	24.5	0.1	1.5		
1889	30.7	20.1	50.8	15.2	8.7	24.4	--	0.9	51.6	11.7	6.8	28.8	--	1.1		
1890	28.9	15.6	44.5	12.6	17.3	23.8	--	1.8	43.1	8.8	17.2	28.5	--	2.4		
1891	41.5	13.0	54.5	12.0	11.5	18.0	1.0	3.0	52.9	9.0	10.2	22.2	1.4	4.3		
1892	38.9	8.5	47.4	10.9	18.8	19.5	0.6	2.8	43.6	8.9	18.1	25.0	0.8	3.6		
1893	29.5	20.0	49.5	14.5	12.8	18.7	0.5	4.0	49.5	11.4	10.2	22.8	0.7	5.4		
1894	27.0	18.9	45.9	15.5	14.3	18.1	0.7	5.5	46.8	13.0	9.4	22.2	0.9	7.7		
1895	41.2	5.2	46.4	15.5	11.7	17.7	2.2	6.5	47.6	13.1	7.0	19.8	3.2	9.3		
1896	30.3	6.3	36.6	14.5	13.6	22.1	5.6	7.6	33.7	12.7	9.5	26.6	7.5	10.0		
Average	32.4	19.6	52.1	13.4	13.1	19.1	0.5	2.6	54.1	9.2	11.0	22.5	0.7	3.6		
								\$						\$	2.2	

‡ Baltimore's Flour receipts are exclusive of city milling. * Newport News.—No transactions prior to July 1st, 1882.
 † Receipts at Norfolk and Newport News not procurable, hence the quantity exported has been taken as the quantity received.
 § Average since 1882. ¶ Average since 1873.

The table below, marked No. 7, states the relative proportions of the total receipts of flour and all kinds of grain, including oats, rye and barley, in bushels, including receipts of wheat, corn, oats, rye and barley, at the four named Atlantic ports for the years 1878 to 1896, inclusive:

TABLE No. 7.

During year	New York, per cent.	Boston, per cent.	Philadelphia, per cent.	Baltimore, per cent.	Total per cent.
1878.....	55.7	10.0	16.9	17.4	100
1879.....	52.7	10.6	15.4	21.3	100
1880.....	53.4	11.8	15.9	18.9	100
1881.....	56.4	14.4	11.9	17.3	100
1882.....	59.3	15.7	10.9	14.1	100
1883.....	56.1	17.0	10.9	16.0	100
1884.....	56.3	17.5	10.6	15.6	100
1885.....	58.1	15.2	11.5	15.2	100
1886.....	57.3	16.3	9.8	16.6	100
1887.....	56.5	14.9	11.5	17.1	100
1888.....	57.6	16.5	9.8	16.1	100
1889.....	54.9	15.2	9.5	20.4	100
1890.....	51.5	13.3	15.7	19.5	100
1891.....	59.7	12.7	11.6	16.0	100
1892.....	52.2	12.1	18.0	17.7	100
1893.....	54.6	15.2	13.0	17.2	100
1894.....	52.6	16.5	14.6	16.3	100
1895.....	53.6	16.6	12.9	16.9	100
1896.....	50.1	14.7	13.1	22.1	100
Average.....	55.1	14.5	12.8	17.4	

Below is given the same table with the addition of Norfolk and Newport News, which shows the extent to which those ports have become a factor in the situation of recent years. It must be remembered that the exports do not necessarily correspond with the receipts. There is at New York for example an enormous domestic consumption, while at Newport News there is practically none.

TABLE No. 8.

During year.	New York, per cent.	Boston, per cent.	Philad'phia, per cent.	Baltimore, per cent.	*Norfolk, per cent.	*Newport News, per cent.	Total per cent.
1878...	55.7	10.0	16.9	17.3	0.1	---	100
1879...	52.7	10.6	15.4	21.2	0.1	---	100
1880...	53.3	11.8	15.9	18.9	0.1	---	100
1881....	56.3	14.4	11.9	17.3	0.1	---	100
1882....	59.1	15.6	10.9	14.1	---	0.3	100
1883....	55.8	17.0	10.9	15.7	0.2	0.4	100
1884....	56.1	17.4	10.5	15.5	---	0.5	100
1885....	57.8	15.1	11.5	15.1	---	0.5	100
1886....	55.8	15.9	9.6	16.2	---	2.5	100
1887....	55.7	14.6	11.4	16.9	0.2	1.2	100
1888....	57.2	16.4	9.7	16.0	---	0.7	100
1889....	54.5	15.1	9.5	20.3	---	0.6	100
1890....	50.6	13.0	15.4	19.3	---	1.8	100
1891....	57.4	12.2	11.2	15.4	0.9	2.9	100
1892....	50.4	11.7	17.4	17.1	0.6	2.8	100
1893....	52.7	14.6	12.5	16.6	0.4	3.2	100
1894....	50.0	15.7	13.9	15.5	0.5	4.4	100
1895....	49.8	15.5	12.0	15.7	1.7	5.3	100
1896....	44.7	13.2	11.7	19.7	4.1	6.6	100

*Total receipts at Norfolk and Newport News not procurable, hence the quantity exported has been taken as the quantity received.

A statement was prepared under the direction of Mr. Blanchard, Commissioner of the Joint Traffic Association, showing in tons the dead freight forwarded by the defendants to the points named for the years 1888 to 1896, inclusive. From that statement the following statement is taken, showing these facts with reference to flour, grain and mill stuff, provisions and lard, and also showing the grand total of all kinds of freight. This table is designated as No. 9:

TABLE No. 9.
FLOUR.
TOTAL TONS FORWARDED BY ALL ROADS TO

Years.	Balto. & Vicinity.	Boston & Vicinity.	N. York & Vicinity.	Phila. & Vicinity.	Norfolk, N. News, Richmond & Vicinity.
1888.....	105,324	42,402	62,437	39,754	-----
1889.....	25,812	21,350	41,923	29,995	-----
1890.....	34,173	19,818	37,334	25,144	-----
1891.....	26,235	21,857	45,966	34,595	-----
1892.....	39,094	31,193	57,932	40,861	-----
1893.....	33,530	47,284	73,275	45,377	19,516
1894.....	25,953	27,179	54,299	25,953	13,833
1895.....	32,126	33,101	85,565	29,345	64,484
1896.....	30,423	29,818	82,043	31,420	73,297

GRAIN AND MILL STUFF.

1888.....	121,116	179,073	344,158	155,528	-----
1889.....	140,578	136,167	319,292	167,424	-----
1890.....	185,717	175,200	450,705	382,923	-----
1891.....	96,003	159,151	457,912	231,380	-----
1892.....	143,411	149,263	476,626	265,353	-----
1893.....	106,184	211,727	415,450	227,306	31,022
1894.....	143,992	223,426	302,358	230,179	35,510
1895.....	129,153	361,949	410,433	233,738	37,603
1896.....	260,127	365,172	510,491	172,876	161,556

PROVISIONS AND LARD.

1888.....	29,506	49,623	130,744	47,900	-----
1889.....	45,177	68,313	206,473	49,260	-----
1890.....	74,743	84,813	217,292	55,825	-----
1891.....	61,357	55,681	158,440	48,751	-----
1892.....	55,367	52,753	151,419	51,782	-----
1893.....	58,463	60,123	183,551	51,682	15,574
1894.....	70,140	78,075	236,996	53,932	15,476
1895.....	77,172	104,861	297,255	52,215	20,054
1896.....	74,862	101,913	201,358	57,424	46,244

GRAND TOTAL.

1888.....	349,695	381,237	792,647	387,823	-----
1889.....	341,150	354,227	893,706	410,384	-----
1890.....	441,736	412,593	1,021,768	666,345	-----
1891.....	306,965	353,997	956,948	451,348	-----
1892.....	390,515	370,169	969,132	497,469	-----
1893.....	353,568	496,359	1,086,996	466,719	81,808
1894.....	376,240	533,067	1,023,372	437,909	81,215
1895.....	380,496	743,900	1,290,876	464,842	140,763
1896.....	497,561	751,936	1,293,663	395,983	328,928

The complainant introduced a statement showing the number and tonnage of vessels in the foreign trade which entered at and

cleared from the ports named during each year from 1882 to 1896, inclusive. The following are for the years 1882, 1886 and 1896:

TABLE No. 10.

1882.

	No. Entered.	Tonnage.	No. Cleared.	Tonnage.
New York	6,525	7,360,843	6,180	7,263,174
Boston	3,018	1,416,231	2,950	1,305,172
Philadelphia	1,313	1,055,961	1,156	969,163
Baltimore	915	852,575	856	802,627
Norfolk	53	51,728	140	137,106
Newport News				

1886.

New York	5,719	5,558,938	5,160	5,388,335
Boston	2,595	1,184,108	2,498	1,018,921
Philadelphia	1,348	1,155,066	1,013	895,486
Baltimore	541	521,470	626	607,868
Norfolk	63	56,483	158	145,092
Newport News	33	23,712	199	224,568

1896.

New York	4,378	6,911,782	4,065	6,552,614
Boston	2,194	1,757,291	2,182	1,523,096
Philadelphia	1,070	1,421,081	936	1,214,683
Baltimore	613	895,093	685	1,067,543
Norfolk	50	63,095	154	203,058
Newport News	89	159,719	372	607,265

The years 1882 and 1896 were selected by the complainant in its brief for comparison. Of all the years between 1882 and 1896 the tonnage at New York was the largest in 1882 and the smallest in 1886. These three years give a fair idea of the way in which the tonnage has averaged, and the entire statement need not be reproduced.

The intervenors upon the part of Baltimore and Philadelphia also introduced various tables showing the movement of the articles embraced in this proceeding from all ports upon the Atlantic coast as well as from these ports in controversy.

Table No. 11 shows the total export of wheat, corn and oats from the ports named for the years 1878 to 1896 inclusive and the percentage of the whole for each port and also for each commodity. It will be noticed that this table includes all the Atlantic and Gulf ports and also the port of Montreal.

TABLE No. 11.

EXPORTS OF WHEAT, CORN AND OATS FROM PORTS ON THE ATLANTIC COAST, IN BUSSELS, WITH PERCENTAGES FROM EACH PORT.

YEARS.	MONTREAL.		PORTLAND.		BOSTON.		NEW YORK.		PHILADELPHIA.		BALTIMORE.		NEW ORLEANS.		NOVFOLK.		NEWPORT NEWS. (From the Yorktown prevents to 1891.)	GALVESTON.	TOTALS.
	W.	C.	W.	C.	W.	C.	W.	C.	W.	C.	W.	C.	W.	C.	W.	C.			
1878. Total Exports.....	19,500,500	6.0	1,628,202	0.9	10,532,388	6.0	79,029,255	45.4	28,697,575	16.5	36,305,285	20.8	7,144,488	4.1	355,735	0.1		2,787	174,369,728
1879. Total Exports.....	22,700,000	10.3	992,891	0.5	11,057,464	5.0	64,853,201	43.3	30,853,830	14.1	53,024,528	23.8	6,818,905	2.9	210,670	0.1		2,553	210,000,750
1880. Total Exports.....	8,227,890W. 7,045,745 C.	5.6 3.2	1,014,825W. 1,329,811 C.	0.9 1.5	11,263,798W. 3,275,565 C.	5.1 3.8	74,863,063W. 34,646,959 C.	50.5 40.0	11,213,506W. 16,370,644 C.	10.1	34,924,153W. 14,604,351 C.	19.9	5,565,023W. 8,353,579 C.	4.1 10.3	192,908	0.2			147,189,913W. 86,510,809 C.
1881. Total Exports.....	15,297,640	6.5	2,371,196	1.0	14,539,463	6.8	70,569,177	46.8	37,839,234	11.9	49,427,109	21.2	14,360,559	6.2	102,908	0.1			293,669,718
1882. Total Exports.....	5,590,484W. 3,259,928 C.	6.9 4.9	975,594W. 283,889 C.	1.3 0.4	3,162,540W. 8,065,065 C.	3.9 12.3	38,286,183W. 37,554,077 C.	23.9	8,899,200W. 6,496,951 C.	10.9	13,455,976W. 3,997,376 C.	24.2	4,343,675W. 7,929,359 C.	5.4 11.8	8,930W. 232,816 C.	0.4			89,599,569W. 65,154,514 C.
1883. Total Exports.....	8,500,962	6.2	1,208,288	0.8	11,168,565	7.6	63,928,393	45.1	31,991,894	15.1	61,361,053	21.5	12,641,684	8.2	472,904	0.2		456	143,935,464
1884. Total Exports.....	5,297,155W. 510,380 C.	7.3 4.8	801,413W. 21,948 C.	1.0 0.1	8,843,403W. 2,174,829 C.	3.8 17.1	89,670,180W. 7,243,845 C.	49.6 69.4	5,342,951W. 805,569 C.	7.9	17,383,469W. 1,132,107 C.	23.5	4,699,626W. 253,700 C.	6.3 2.1			131,850W. 1,648W.		73,943,811W. 13,157,189 C.
1885. Total Exports.....	6,323,383	7.3	813,360	0.8	5,017,818	5.8	43,924,086	31.1	6,601,559	7.7	18,265,879	21.4	4,882,828	5.6			134,859	1,048	88,055,009
1886. Total Exports.....	3,738,127W. 4,122,182 C.	7.1 7.1	1,347,067W. 390,670 C.	2.7 0.5	1,989,748W. 4,355,098 C.	4.6 8.0	35,046,291W. 23,648,530 C.	30.7 33.6	4,996,207W. 5,304,943 C.	8.2	15,425,889W. 13,885,575 C.	31.1 17.8	2,624,717W. 881,183 C.	5.1 7.7			176,541W. 881,183 C.		49,259,524W. 57,657,188 C.
1887. Total Exports.....	2,443,969	7.2	1,643,737	1.6	6,644,737	6.1	42,895,311	40.1	9,461,349	8.8	33,720,544	24.0	13,478,538	11.7	394,183	0.3		278,541	169,016,388
1888. Total Exports.....	1,463,865W. 2,083,053 C.	6.1 7.4	263,181W. 1,329,600 C.	0.5 4.7	1,038,598W. 4,156,438 C.	2.9 15.1	36,727,396W. 6,468,309 C.	23.9 31.0	5,368,754W. 1,741,252 C.	10.0	18,421,600W. 4,943,010 C.	21.1 18.9	1,846,619W. 3,975,626 C.	2.4 14.4			309 C.		63,330,010W. 27,921,224 C.
1889. Total Exports.....	3,463,985	6.5	1,536,791	1.8	5,796,191	7.0	36,254,396	43.5	7,310,425	8.8	31,150,610	23.4	5,321,543	6.4	309			568,256	82,206,728
1890. Total Exports.....	8,873,109W. 1,945,884 C.	10.5 3.2	1,650,629W. 438,541 C.	2.7 0.7	1,680,629W. 8,778,823 C.	5.3 6.2	17,111,298W. 67,214,189 C.	38.4 44.4	3,529,193W. 5,929,344 C.	11.0 9.7	4,321,341W. 14,088,527 C.	14.3 22.9	978,283W. 7,302,210 C.	9.1 11.9					32,036,615W. 33,091,430 C.
1891. Total Exports.....	5,348,038	4.7	2,318,119	1.1	5,438,915	5.8	46,323,483	47.5	9,461,456	10.1	18,636,548	20.0	7,081,193	8.0				21,486	98,354,478
1892. Total Exports.....	7,885,625W. 9,810,826 C.	9.8 8.9	900,882W. 411,953 C.	1.6 0.8	2,376,236W. 3,023,973 C.	3.9 5.7	32,993,610W. 39,893,705 C.	33.0 39.4	6,679,146W. 1,837,831 C.	10.8	16,373,203W. 3,911,011 C.	17.3	1,041,141W. 7,969,829 C.	1.7 14.8					1,838,550W. 1,969,538 C.
1893. Total Exports.....	9,756,871	8.6	1,372,437	1.2	5,391,971	4.7	33,087,315	46.7	7,889,499	7.0	23,913,021	20.7	8,967,480	7.9	33,021			3,304,548	113,800,328
1894. Total Exports.....	7,424,716W. 1,381,106 C.	11.2 3.8	1,333,450W. 318,938 C.	1.7 0.9	3,968,925W. 2,318,928 C.	5.0 7.0	41,888,049W. 19,264,372 C.	32.1 27.3	8,774,174W. 1,696,588 C.	10.9	11,057,290W. 7,116,314 C.	13.7 21.6	4,299,242W. 7,905,611 C.	5.3 22.1				1,501,477W. 364,481 C.	60,434,157W. 33,091,430 C.
1895. Total Exports.....	8,697,834	7.7	1,333,450	1.2	6,297,883	5.5	54,121,831	17.8	10,790,757	9.5	15,744,164	16.0	11,600,238	10.2	808,480	0.3		2,009,908	112,453,636
1896. Total Exports.....	2,127,548W. 2,090,000 C.	9.6 7.3	179,169W. 411,953 C.	0.8 0.8	1,310,065W. 3,023,973 C.	5.3 10.7	12,626,943W. 14,236,181 C.	56.0 47.0	946,844W. 3,045,871 C.	4.2 2.8	4,982,564W. 3,911,011 C.	14.1 13.3	1,027,822W. 5,035,312 C.	4.6 16.7					323,360W. 437,410 C.
1897. Total Exports.....	4,817,551	1.1	1,051,109	0.3	4,456,486	8.5	30,843,433	30.8	1,800,313	3.4	7,921,422	14.8	6,038,831	11.5	82,674	0.2		740,419	39,844,134
1898. Total Exports.....	2,336,434W. 6,901,939 C.	11.7 9.5	459,411W. 641,983 C.	2.3 0.8	1,074,303W. 7,253,933 C.	2.3 9.1	10,754,303W. 28,786,977 C.	53.6 33.9	1,110,603W. 8,040,316 C.	4.7	4,899,100W. 16,322,508 C.	21.8 21.6	991,184W. 13,488,754 C.	4.9 17.3					3,889,010W. 880,251 C.
1899. Total Exports.....	8,368,488	9.1	641,883	1.7	7,596,644	7.8	39,371,389	40.3	11,401,922	4.8	11,213,506	14.8	14,469,989	11.8				99,885	912,136
1900. Total Exports.....	3,158,807W. 4,819,034 C.	9.6 5.7	65,218W. 323,376 C.	0.4 0.4	1,038,598W. 615,878 C.	2.5 4.4	13,369,383W. 24,901,717 C.	56.0 29.1	617,876W. 3,961,010 C.	2.8 19.7	4,630,458W. 15,735,521 C.	21.4 19.8	1,368,710W. 10,447,144 C.	5.8 22.9					365,640W. 1,331,276 C.
1901. Total Exports.....	6,069,114W. 2,728,020 C.	6.1 7.7	900,137W. 80 C.	0.8 0.0	2,787,425W. 3,897,465 C.	3.0 13.8	40,957,113W. 18,180,309 C.	50.3 46.5	6,840,508W. 6,836,677 C.	7.3	15,678,534W. 3,832,911 C.	16.8	15,497,110W. 1,848,809 C.	11.2 6.5					1,492,024W. 39,617 C.
1902. Total Exports.....	8,489,686W. 1,764,836 C.	7.6 3.5	1,016,545W. 73,745 C.	0.9 0.1	7,301,303W. 2,971,898 C.	6.7 4.1	50,818,295W. 18,786,601 C.	15.1 20.1	6,762,604W. 446,478 C.	8.5 3.0	15,567,699W. 17,707,257 C.	14.8 27.4	6,363,824W. 7,044,044 C.	12.9 9.8					6,363,824W. 1,025,039 C.
1903. Total Exports.....	15,274,697	7.5	1,010,543	0.5	11,547,506	5.5	78,542,508	37.7	29,989,949	15.4	38,447,780	18.7	31,404,856	11.0	1,326,789	0.6		4,984,321	252,690
1904. Total Exports.....	6,505,287W. 9,950,571 C.	7.9 20.6	1,069,049W. 24,763 C.	1.2 0.1	1,275,270W. 3,961,720 C.	6.0 10.9	38,647,593W. 19,309,633 C.	43.7 36.6	5,723,510W. 5,197,907 C.	6.6 4.1	13,141,263W. 7,232,850 C.	15.1 11.8	13,390,944W. 6,844,375 C.	15.5 13.2					105,972W. 3,639,088 C.
1905. Total Exports.....	19,979,121	18.5	1,071,724	0.7	10,520,697	7.8	50,048,978	38.6	9,094,533	6.7	31,618,808	14.9	16,875,319	13.7	513,979	0.4		4,710,354	1,409,458
1906. Total Exports.....	5,387,455W. 1,869,417 C.	9.7 5.0	385,961W. 623,578 C.	0.7 1.0	5,812,828W. 2,823,635 C.	10.5 9.7	25,141,454W. 11,603,711 C.	15.6 28.9	4,487,490W. 3,377,510 C.	8.2 6.5	8,513,685W. 7,637,862 C.	15.5 19.7	2,601,531W. 5,341,317 C.	5.3 13.5					2,361,462W. 4,829,788 C.
1907. Total Exports.....	7,384,441	7.8	1,019,539	1.1	9,638,812	10.1	69,931,010	28.8	7,005,205	7.4	16,226,593	17.1	8,243,045	8.7	1,928,938	1.3		7,188,149	149,810
1908. Total Exports.....	3,765,000W. 2,468,000 C.	8.1 4.7	.....	.....	7,380,304W. 5,381,069 C.	16.9 8.9	34,554,768W. 19,668,471 C.	56.2 33.2	1,895,505W. 3,110,920 C.	4.3 3.3	3,876,838W. 9,645,258 C.	9.1 16.3	762,878W. 8,538,768 C.	1.7 14.8					162,255W. 3,716,651 C.
1909. Total Exports.....	6,232,730	6.0	456,035	0.4	12,602,080	12.1	45,779,816	43.7	5,985,938	4.8	23,755,312	13.1	9,510,644	9.1	8,879,346	3.7		6,125,717	1,238,477
1910. Total Exports.....	6,877,816W. 6,058,914 C.	12.0 5.3	78,222W. 365,856 C.	0.1 0.5	9,781,250W. 3,969,897 C.	17.1 1.9	21,706,956W. 18,891,794 C.	28.0 15.3	4,904,181W. 8,854,402 C.	8.6 1.4	6,888,590W. 9,419,519 C.	11.5 21.1	8,851,397W. 23,201,530 C.	4.7 20.8					17,267W. 10,376,635 C.
1911. Total Exports.....	16,168,575	7.5	639,159	0.3	17,691,234	8.4	56,448,304	26.9	14,373,467	6.8	39,110,777	18.9	29,162,897	13.9	12,923,820	6.1		14,144,036	9,643,893

Exports of Oats are shown from 1890 to 1896 inclusive. Figures prior to 1890 are only for Wheat and Corn.

The complainant claims that the exportation of oats for the year 1896 was abnormally large, and a very considerable part of the total export seems to have gone out through the port of New York, so that the percentage in favor of New York is considerably larger, if the three grains are considered, than it is if merely wheat and corn are taken into account. Considering only wheat and corn the percentage of New York for the year 1896 would be 22.7, while that for the other ports remains substantially the same. The differential, however, applies on oats as well as other grains, and we can see no reason why all grain should not be considered in the tabulation of these statistics.

Table No. 12 shows the exports of wheat, corn and oats from the Atlantic ports named for the years 1878 to 1896 inclusive, with the percentage from each of these ports. This is similar to Table No. 11, except that the ports of Montreal, New Orleans and Galveston are omitted.

TABLE No. 12.
EXPORTS OF WHEAT, CORN AND OATS FROM PORTS ON THE ATLANTIC COAST, IN BUSHELS, WITH PERCENTAGES FROM EACH PORT

	Portland.	Boston.	New York.	Philadelphia.	Baltimore.	Norfolk.	Newport News. (Known as York- town previous to 1889.)	Totals.
1878. Total Exports	1,628,393	10,502,388	70,620,255	28,907,275	36,309,886	255,795	0.16	156,932,992
1879. Total Exports	963,891	11,057,454	94,898,291	30,853,800	52,024,526	240,670	0.12	190,038,632
1880. Total Exports	2,371,186	14,539,463	109,509,172	27,892,234	49,527,516	192,903	0.09	204,032,474
1881. Total Exports	1,208,233	11,168,635	65,920,262	14,991,694	31,551,052	272,296	0.22	125,112,222
1878 to 1881 inc.	6,171,753	47,267,940	349,956,980	102,345,003	169,412,980	901,664	0.14	676,116,320
1882. Total Exports	813,560	5,017,813	43,924,086	6,661,550	18,365,876			74,917,744
1883. Total Exports	1,613,737	6,544,757	42,895,811	9,401,240	25,720,564	384,183	0.44	80,766,833
1884. Total Exports	1,536,761	5,796,081	36,256,490	7,310,425	21,160,910	300	0.74	72,596,023
1885. Total Exports	1,313,119	5,458,845	44,325,483	9,461,436	18,629,848	21,486	0.03	80,055,432
1886. Total Exports	1,372,437	5,401,971	53,087,315	7,936,499	23,613,624	53,021	0.06	95,065,715
1887. Total Exports	1,333,456	6,297,883	54,192,321	10,770,737	18,173,104	333,080	0.42	93,167,559
1888. Total Exports	176,100	4,456,486	26,845,423	1,809,215	7,824,422	82,674	0.19	41,943,799
1889. Total Exports	641,683	7,595,044	89,571,280	4,750,922	21,212,598	30,885	0.04	74,714,518
1890. Total Exports	388,569	5,541,868	46,470,479	17,365,984	24,867,650	38,728	0.04	97,376,922
1891. Total Exports	700,207	6,720,096	63,342,972	9,759,037	19,526,793	1,575,641	1.50	105,466,517
1892. Total Exports	1,010,545	10,547,506	73,342,908	29,988,948	36,447,180	1,226,799	0.75	157,518,137
1893. Total Exports	1,074,754	10,520,097	50,849,971	9,692,543	21,943,898	615,979	0.59	104,313,603
1894. Total Exports	1,019,539	9,638,813	36,931,010	7,065,205	16,220,593	1,228,962	1.55	79,292,232
1895. Total Exports	456,505	12,662,980	45,745,816	5,085,938	13,756,914	3,879,346	4.42	87,744,216
1882 to 1895 inc.	13,481,052	102,200,240	662,978,378	137,059,699	287,163,374	9,531,084	0.76	38,525,463
1896. Total Exports	639,158	17,691,324	56,448,894	14,275,407	30,110,771	12,921,820	8.32	155,232,380
1882 to 1896 inc.	14,120,210	101,119,891,564	719,427,272	151,335,106	329,274,145	22,454,904	1.59	406,172,690

Table No. 13 is a recapitulation of the average percentages for these different ports for the periods named :

TABLE NO. 13.

RECAPITULATION.

PORTS.	SUMMARY OF PERCENTAGES		
	1878 to 1881 (inclusive)	1882 to 1895 (inclusive)	1882 to 1896 (inclusive)
Portland	0.91%	1.08%	1.01%
Boston	7.00%	8.18%	8.53%
New York	51.76%	53.00%	51.16%
Philadelphia.....	15.13%	10.95%	10.76%
Baltimore	25.05%	22.95%	23.20%
Norfolk .....	.15%	0.76%	1.59%
Newport News ...	.00%	3.08%	3.75%
	100.00%	100.00%	100.00%

Table No. 14 shows the exports of wheat, corn and oats from Boston, New York, Philadelphia and Baltimore from 1878 to 1896, inclusive, together with the percentages, in each case, of the total shipments from these four ports. Table No. 15 shows the value of all exports from Boston, New York, Philadelphia, Baltimore, Norfolk and Newport News for the years 1878 to 1896, together with the percentage of each port to the whole. These tables follow :

TABLE No. 14.

SHIPMENTS OF WHEAT, CORN AND OATS FROM BOSTON, NEW YORK, PHILADELPHIA AND BALTIMORE FROM 1878 TO 1896 INCLUSIVE, REPRESENTING

Philadelphia Commercial Exchange
Philadelphia Board of Trade
Grocers' and Importers' Exchange
Philadelphia Produce Exchange

Philadelphia Oil Trade Association
Master Builders' Exchange
Manufacturers' Club
The Trades League of Philadelphia

Hardware Merchants' and Manufacturers' Association,
W. R. TUCKER, Secretary,
The Bourse, Room 248.

	BOSTON.		NEW YORK.		PHILADELPHIA.		BALTIMORE.		TOTALS.	
1878.			53,510,363 W 23,118,892 C	65.07 41.91	8,354,449 W 19,632,826 C	10.89 31.54	10,768,074 W 16,543,812 O	24.01 26.55	82,230,886 62,315,590	
Totals	10,602,388	6.77	79,629,255	51.36	28,997,375	18.45	28,309,886	23.43	155,045,904	
1879.			60,541,284 W 34,357,057 C	55.94 49.39	16,814,572 W 14,039,328 C	15.53 30.18	30,869,104 W 21,135,424 O	28.52 30.43	108,224,910 69,551,707	
Totals	11,057,454	5.85	94,898,201	50.25	30,853,800	16.34	52,024,526	27.55	188,894,071	
1880.	11,265,798 W 3,275,695 C	8.51 4.74	74,869,083 W 34,646,059 C	56.58 50.13	11,312,890 W 16,579,645 C	8.54 23.29	84,923,153 W 14,604,264 C	26.38 31.13	132,562,623 69,165,762	
Totals	14,539,493	7.22	109,509,172	54.35	27,892,234	13.94	49,527,616	24.58	201,468,385	
1881.	9,169,540 W 8,066,095 C	4.52 14.89	33,368,195 W 27,554,077 C	54.91 51.26	8,892,260 W 6,069,434 C	12.79 11.34	19,453,876 W 12,097,376 C	27.84 22.50	69,974,661 53,756,983	
Totals	11,165,635	9.03	65,920,262	53.32	14,961,694	12.13	31,551,652	25.32	123,631,643	
1882.	2,843,403 W 3,174,320 C	4.54 10.12	26,070,191 W 7,253,595 C	58.58 63.79	5,552,951 W 808,599 C	9.35 7.10	17,223,469 W 1,132,407 C	27.53 9.96	62,600,104 11,369,221	
Totals	5,017,813	6.78	43,924,686	59.38	6,661,550	9.01	18,365,876	24.83	73,969,325	
1883.	1,989,748 W 4,555,009 C	4.79 10.69	20,046,291 W 23,849,520 C	48.22 58.14	4,096,297 W 5,304,943 C	9.85 13.34	15,434,689 W 10,235,876 C	37.13 23.92	41,567,025 42,985,347	
Totals	6,544,757	7.74	42,895,811	50.72	9,401,240	11.11	25,720,564	30.41	84,562,372	
1884.	1,629,598 W 4,156,483 C	3.26 20.44	26,787,296 W 9,442,300 C	53.32 46.67	5,566,173 W 1,744,252 C	11.09 8.57	16,217,690 W 4,943,010 C	32.31 24.31	50,190,667 20,335,945	
Totals	5,786,081	8.31	36,229,496	51.41	7,310,425	10.26	21,160,610	30.00	70,526,612	
1885.	1,680,022 W 3,778,823 C	6.24 7.41	17,111,394 W 27,314,189 C	63.60 53.39	3,532,192 W 5,929,244 C	13.13 11.63	4,581,261 W 14,048,287 C	17.03 27.36	26,904,769 50,970,543	
Totals	5,458,845	7.01	44,325,483	56.92	9,461,436	12.15	18,629,548	23.92	77,875,312	
1886.	2,376,298 W 3,025,673 C	4.65 7.75	32,090,610 W 20,996,705 C	62.89 63.81	6,079,146 W 1,857,353 C	11.91 4.76	10,475,395 W 13,138,239 C	20.53 33.67	51,021,449 39,017,960	
Totals	5,401,971	6.00	53,087,315	58.98	7,936,499	8.81	23,613,624	26.23	90,039,409	
1887.	3,983,925 W 2,313,958 C	6.06 9.74	41,899,049 W 12,306,272 C	63.75 61.85	3,774,174 W 1,996,583 C	13.35 8.41	11,057,290 W 7,115,814 C	16.88 29.18	65,701,438 29,732,627	
Totals	6,297,883	7.04	54,192,321	60.59	10,770,757	12.04	18,173,104	30.32	89,434,065	
1888.	1,210,606 W 3,245,820 C	6.42 14.69	12,609,242 W 14,236,181 C	66.82 64.46	949,844 W 859,371 C	5.03 3.89	4,082,508 W 3,741,914 C	21.65 16.94	3,852,260 23,063,286	
Totals	4,456,426	10.88	26,845,423	65.58	1,809,215	4.42	7,824,422	19.11	40,935,543	
1889.	459,111 W 7,136,233 C	2.74 12.65	10,784,303 W 28,789,977 C	64.41 51.06	1,110,666 W 3,640,316 C	6.63 6.45	4,380,790 W 16,822,808 C	26.21 20.83	16,743,810 56,386,084	
Totals	7,595,044	10.33	39,571,280	54.11	4,750,923	6.49	21,212,598	29.01	73,139,844	
1890.	525,287 W 4,590,703 C 515,878 O	2.83 6.59 4.93	12,569,386 W 24,693,147 C 9,501,046 O	67.88 37.08 39.04	617,876 W 16,735,521 C 12,387 O	3.33 25.63 0.12	4,803,453 W 19,447,144 C 617,953 O	25.91 29.78 5.90	13,515,902 63,333,515 10,446,564	
Totals	5,541,868	5.87	46,470,479	49.31	17,365,984	18.42	24,867,650	26.38	94,245,081	
1891.	2,787,125 W 3,897,665 C 35,406 O	3.85 16.56 0.83	46,957,113 W 13,180,893 C 3,205,466 O	64.98 65.99 90.25	6,840,569 W 2,698,677 C 809,867 O	9.46 11.08 8.70	15,678,334 W 3,852,911 C 548 O	21.69 16.36	72,258,075 23,539,546 3,551,277	
Totals	6,720,606	6.76	63,842,972	63.75	9,759,037	9.82	19,526,793	19.65	93,348,998	
1892.	7,501,903 W 2,971,858 C 73,745 O	8.86 4.85 1.64	50,513,295 W 18,786,801 C 3,742,812 O	60.03 30.67 84.37	9,762,594 W 19,779,876 C 446,478 O	11.53 32.39 10.06	16,567,652 W 19,707,257 C 172,371 O	19.57 32.16 3.88	84,645,444 61,245,793 4,435,806	
Totals	10,547,506	7.09	73,342,908	48.79	20,958,948	19.95	36,447,180	24.24	150,326,542	
1893.	5,275,376 W 5,241,170 C 3,651 O	8.48 18.05 0.95	38,047,932 W 12,802,039 C 5,197,007 O	61.18 44.09 77.75	5,723,510 W 3,865,632 C 108,400 O	9.20 13.81 1.54	13,141,269 W 7,122,350 C 1,389,235 O	21.13 24.53 20.62	62,188,011 29,031,198 4,634,313	
Totals	10,520,997	10.74	56,046,978	57.24	9,692,545	9.90	21,642,895	22.11	97,903,516	
1894.	5,812,628 W 3,828,485 C 2,350 O	13.21 15.00 0.61	35,141,494 W 11,406,711 C 882,805 O	57.16 44.76 90.34	4,487,496 W 2,577,540 C 189 O	10.20 10.11	8,543,685 W 7,879,962 C 46 O	19.42 30.13	43,955,503 25,484,748 386,370	
Totals	9,638,813	13.80	36,931,010	53.88	7,065,205	10.11	16,220,893	23.22	69,855,621	
1895.	7,380,391 W 5,281,069 C 1,520 O	19.52 12.98 0.09	24,554,758 W 19,693,471 C 1,497,667 O	64.90 62.15 88.47	1,885,598 W 3,140,920 C 59,420 O	4.98 8.32 3.51	3,976,898 W 9,645,755 C 134,318 O	10.53 25.54 7.98	27,797,066 37,781,218 1,692,845	
Totals	12,662,980	16.39	45,745,816	59.31	5,055,985	6.55	13,768,914	17.61	77,251,648	
1896.	9,781,359 W 5,990,397 C 1,919,677 O	23.73 10.69 7.62	21,766,950 W 18,361,794 C 15,890,150 O	50.57 31.68 63.12	4,902,181 W 8,934,402 C 495,524 O	11.28 15.06 1.74	6,588,539 W 26,603,698 C 6,919,519 O	15.31 43.15 27.50	43,038,940 59,329,285 25,185,170	
Totals	17,691,324	18.82	56,448,894	44.26	14,275,407	11.19	39,110,771	36.67	127,526,396	

TABLE No. 15.

Statement showing percentages of Value of all Exports from Philadelphia, New York, Boston, Baltimore, Norfolk and Newport News for fiscal years ending June 30th, 1878, to June 30, 1896, inclusive.

	1878.		1879.		1880.		1881.		1882.		1883.		1884.		1885.		1886.		1887.	
	Dollars.	Per cent.	Dollars.	Per cent.	Dollars.	Per cent.	Dollars.	Per cent.	Dollars.	Per cent.	Dollars.	Per cent.	Dollars.	Per cent.	Dollars.	Per cent.	Dollars.	Per cent.	Dollars.	Per cent.
Philadelphia	44,508,089	9.42	47,013,751	9.59	49,612,195	8.50	44,147,296	7.35	37,957,661	7.77	38,132,145	7.33	36,467,799	7.99	38,642,516	7.31	33,719,861	7.08	33,381,576	7.57
New York	327,236,478	69.36	327,796,319	66.87	386,506,602	66.07	393,683,204	65.89	332,102,136	67.94	347,308,334	66.77	320,016,246	67.45	334,718,227	67.68	304,496,611	69.34	306,842,375	65.72
Boston	46,542,044	9.85	48,100,019	9.31	58,023,587	9.95	72,100,198	12.01	61,614,526	12.60	61,273,101	11.78	62,628,000	13.18	61,378,633	12.41	63,428,513	12.17	67,776,156	12.38
Baltimore	43,492,327	9.63	57,474,495	11.72	76,220,870	13.06	72,444,418	12.07	39,412,642	8.06	54,986,080	10.57	43,064,217	9.08	46,041,634	9.11	36,844,829	8.16	51,601,118	11.05
Norfolk	8,693,680	1.84	9,890,392	2.01	14,065,455	2.42	17,804,780	2.98	17,730,532	3.63	18,445,548	3.55	12,353,256	2.60	14,797,181	2.99	11,666,187	2.65	15,310,247	3.28
Newport News . . . . .	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
	1888.		1889.		1890.		1891.		1892.		1893.		1894.		1895.		1896.			
Philadelphia	28,733,415	6.47	29,707,437	6.29	37,239,890	6.85	33,438,639	6.18	53,460,926	8.63	40,374,447	5.78	40,280,353	6.88	38,345,970	7.31	43,880,275	7.88		
New York	301,486,784	67.37	312,542,253	63.13	341,332,396	62.78	333,938,649	62.66	406,021,531	89.97	339,737,339	60.44	389,230,901	61.37	317,994,574	60.62	344,356,492	60.34		
Boston	55,482,664	12.49	65,868,409	13.04	70,364,955	12.94	78,719,517	14.13	86,611,526	12.78	84,505,169	15.05	82,841,346	14.15	85,035,218	16.21	84,633,178	16.58		
Baltimore	46,212,036	10.40	50,602,996	10.71	73,964,802	13.60	64,356,479	11.90	93,799,300	14.38	71,482,682	12.71	78,340,983	13.38	61,894,218	11.80	66,303,273	11.63		
Norfolk	12,280,110	2.77	13,841,897	2.83	13,841,897	2.55	16,476,752	3.05	13,065,537	1.92	8,877,236	1.56	10,335,597	1.77	7,792,572	1.49	6,761,484	1.19		
Newport News . . . . .	.....	.....	.....	.....	6,958,369	1.28	10,961,744	2.03	14,444,307	2.10	8,113,714	1.44	14,337,597	2.45	13,469,541	2.57	14,755,676	2.83		

Table No. 16 shows the total exports of provisions, including beef, canned, salted and fresh; bacon, hams, pork, lard, mutton and tallow for the years 1892 to 1896, inclusive, at the ports named:

TABLE No. 16.

NEW YORK.

1892.....	887,836,620 lbs.
1893.....	804,765,036 "
1894.....	778,758,027 "
1895.....	770,718,476 "
1896.....	766,227,891 "

BALTIMORE.

1892.....	157,383,519 lbs.
1893.....	88,567,714 "
1894.....	125,220,538 "
1895.....	143,705,570 "
1896.....	141,037,642 "

PHILADELPHIA.

1892.....	64,802,181 lbs.
1893.....	76,751,046 "
1894.....	64,426,543 "
1895.....	52,940,973 "
1896.....	62,920,448 "

BOSTON.

1892.....	384,779,993 lbs.
1893.....	368,908,074 "
1894.....	346,687,323 "
1895.....	397,863,666 "
1896.....	418,743,485 "

NEWPORT NEWS.

1892.....	7,899,766 lbs.
1893.....	290,386 "
1894.....	6,788,410 "
1895.....	10,111,046 "
1896.....	21,866,968 "

NORFOLK.

1892.....	293,507 lbs.
1893.....	1,293,250 "
1894.....	116,800 "
1895.....	163,500 "
1896.....	137,800 "

Table No. 17 shows the exports of flour in barrels from Boston, New York, Philadelphia, and Baltimore for the years 1886 to 1896, inclusive:

TABLE No. 17.

YEAR.	BOSTON.	NEW YORK.	PHILADELPHIA.	BALTIMORE.
1886.	2,083,732	3,466,843	386,162	1,662,502
1887.	2,058,321	4,431,100	603,093	3,081,246
1888.	1,493,460	3,820,274	670,439	2,417,874
1889.	1,222,851	3,710,565	554,370	2,332,805
1890.	1,289,297	3,693,598	834,480	2,624,282
1891.	1,558,673	4,128,360	1,156,342	2,703,715
1892.	2,090,720	6,024,260	1,843,647	3,661,623
1893.	1,855,471	6,047,931	1,376,434	3,331,374
1894.	2,103,422	6,292,106	1,277,767	2,943,562
1895.	1,433,157	4,516,145	903,122	2,539,981
1896.	1,457,526	4,817,439	654,126	3,065,845

Table No. 18 gives the total value of imports of all kinds at Boston, New York, Philadelphia, Baltimore and Norfolk, for the years 1878 to 1896, inclusive, together with the percentages of the total for each port:

TABLE No. 18.

VALUE OF IMPORTS OF FOREIGN MERCHANDISE FOR FISCAL YEARS ENDING JUNE 30TH.

YEAR.	Baltimore.	Boston.	New York.	Philadelphia.	Norfolk.*	Total in Round Numbers.
1878	16,899,855	40,268,023	292,797,559	19,333,496	33,011	369,000,000
1879	14,017,604	40,448,791	302,349,053	24,377,271	33,814	381,000,000
1880	19,945,989	68,503,136	459,937,153	35,944,500	47,057	584,000,000
1881	16,189,816	61,960,103	435,450,904	32,583,106	113,688	546,000,000
1882	14,938,258	69,594,057	498,060,891	34,136,579	369,096	612,000,000
1883	11,599,179	72,552,075	496,005,276	33,738,556	186,355	617,000,000
1884	11,423,665	65,865,551	465,119,630	33,657,216	223,626	576,000,000
1885	11,849,696	53,445,929	380,077,748	29,919,019	130,214	475,000,000
1886	11,696,944	58,430,707	419,338,932	36,561,313	124,717	526,000,000
1887	12,535,920	61,018,330	456,698,631	39,952,349	99,956	570,000,000
1888	11,741,585	63,897,778	470,426,774	41,772,121	95,036	587,000,000
1889	15,223,844	66,731,023	472,153,507	48,528,602	180,640	602,817,616
1890	13,140,203	62,876,666	516,426,693	53,936,315	89,042	646,468,919
1891	20,555,637	71,212,614	537,786,007	59,427,890	75,172	639,037,370
1892	13,418,523	71,780,489	536,538,112	60,006,791	44,435	631,738,350
1893	16,150,946	79,357,654	548,558,593	66,122,147	40,153	710,229,493
1894	11,978,900	50,309,331	415,795,991	53,726,963	104,997	531,916,182
1895	12,260,706	66,889,118	477,741,128	49,037,037	268,330	606,196,319
1896	13,476,630	79,179,864	499,932,792	44,001,500	219,350	636,810,136

* Norfolk imports were less than 1 per cent.

We have caused to be compiled from the government records the following table, marked No. 19, showing the total value of all imports and exports through the Atlantic and Gulf ports for the years 1895, 1896, and 1897, together with the percentage of each port to the entire group for the year 1897, and also the percentage of each port to the total imports and exports of the United States for the same year:

TABLE No. 19.

IMPORTS.

PORTS.	1895.	1896.	1897.	P. Ct. Total.	P. Ct. Group.
Boston	\$66,889,118	\$79,179,864	\$90,178,419	11.80	13.39
New York	477,741,128	499,932,792	480,603,580	62.85	74.06
Philadelphia	48,802,676	43,840,836	48,072,672	6.29	7.41
Baltimore	12,260,706	13,476,630	11,371,193	1.49	1.75
Norfolk	268,330	219,350	121,858	.02	.02
Newport News	1,032,849	1,131,628	1,169,315	.15	.18
New Orleans	13,861,507	13,471,142	16,618,727	2.17	2.57
Galveston	369,575	602,770	779,101	.10	.12
Total			\$648,914,865	84.87	100.00

EXPORTS.

Boston	\$85,505,196	\$95,851,004	\$100,857,281	9.60	12.22
New York	325,580,062	354,274,941	391,679,907	37.27	47.43
Philadelphia	35,043,093	39,567,376	47,305,273	4.51	5.72
Baltimore	61,938,991	66,398,905	85,692,651	8.15	10.37
Norfolk	7,792,572	6,761,484	18,581,532	1.77	2.25
Newport News	13,469,541	14,850,117	22,109,575	2.10	2.68
New Orleans	68,413,362	80,986,791	101,494,120	9.66	12.29
Galveston	41,886,651	36,397,091	58,198,174	5.54	7.04
Total			\$825,918,513	78.60	100.00

The complainant contends that an inspection of all these statistics shows that since 1882 the export business in grain and provisions has been gradually leaving the port of New York and that this is especially marked in the year 1896. In explanation of this last named fact, it further contends that during most of the time the differentials, while existing nominally, have not in reality been maintained, but that beginning with 1896, they were rigorously maintained and that for that reason the result in 1896

is a fair test of what the differentials will do, and conclusively demonstrates their unfairness.

Several witnesses were introduced who testified that rates generally were not maintained, and that probably means that the differentials were not maintained. For the purpose of showing, however, that they were maintained in 1896, the complainants introduced George R. Blanchard, commissioner of the Joint Traffic Association, who testified, in substance, that after the taking effect of the Joint Traffic Association agreement, on the 1st of January, 1896, rates were better maintained than they had been at any time for a long period except for something like a year or a year and a half after the Act to Regulate Commerce went into effect, which was April 1, 1887. Mr. Blanchard did not profess to say that at the time of the giving of his testimony, about March 16, 1897, rates were being maintained, nor did he distinctly state how long they had been maintained, nor the extent to which they had been maintained, but simply gave his impression in general that they were better observed in 1896 than at any other period, except a year or thereabouts immediately following the enactment of the Interstate Commerce Law.

There is no testimony in this case, and we have no information from which we can form even a reasonable conjecture as to the extent to which these differentials have been on the whole ignored from 1882 down. It seems to be tacitly admitted that they have been to some extent, some witnesses thought to a great extent. The testimony upon this subject was only fragmentary. It applied to no definite time and it gave no definite figures. It was simply an impression. There was, however, testimony in the case which tended to show that during the year 1896 and in the early part of the year 1897 these rates were not maintained. Witnesses testified that corn F. O. B. the vessel could be and had been bought at Baltimore and Philadelphia for between 3 and 4 cents a bushel less than it could be bought for in New York. Other witnesses testified that at times corn could be purchased F. O. B. New York cheaper than it could be at the outports. The differential is 2 cents per hundred in favor of Philadelphia and 3 cents in favor of Baltimore. This would, roughly speaking, amount to 1 cent a bushel on corn to Philadelphia and $1\frac{1}{2}$ cents a bushel to Baltimore. The differential, therefore, would not

account for the difference in price between those ports and New York, nor would anything else account for it, except the fact that a better freight rate was obtained to those ports for the time being. The fact that export dealers, having houses in Chicago where they could buy the corn and pay their own transportation charges and where in past years they had to a very considerable extent transacted this business, did not during the year 1896 buy corn there at all, because they found it cheaper to buy it upon the seaboard, indicates that the rate charged was not the open and published rate, but that the persons of whom they purchased corn at the seaboard enjoyed certain advantages in the way of transportation facilities which they did not enjoy. The Joint Traffic Association was formed for the purpose among others, of maintaining the published rates, and the members of that association undoubtedly entered upon the execution of that agreement with the resolution that rates should be maintained. That, together with the machinery of the association, undoubtedly resulted in the better maintenance of rates for a time, but for how long a time it is altogether impossible to say from any testimony before us. There is nothing in this case upon which any finding of value as to the maintenance of rates at one time and their non-maintenance at another time can be based, and we cannot undertake to make any finding of that sort.

The testimony upon the part of Baltimore tended to show that the Baltimore & Ohio Railroad during the years 1893, 1894 and 1895, and possibly some preceding years, was so crippled financially that it was in no position to compete actively with other lines for this business, but that in 1896, owing to large expenditures by the receivers, it did become able to enter such active competition. The probability would seem to be that these different lines leading from the west to the seaboard have felt themselves entitled to about a certain part of this business. When they have been able to obtain that at the tariff rate the tariff rate has been maintained. When, in order to obtain the business, it has been necessary to reduce the tariff rate, it has been reduced. When the Baltimore & Ohio Railroad was in shape to do the business it got the business to do, and every other line in the same way.

The complainant alleged that New York enjoyed certain

advantages which entitled it to the larger share of this export business. The intervenors insisted that the port of New York labored under certain disadvantages. Some of these relative advantages and disadvantages have been referred to. New York has the largest and most accessible harbor, but, upon the other hand, its port charges are heavy. Its advantages arising from the great accumulation of wealth and concentration of business at that point need not be referred to here. They are matters of common notoriety, and the extent to which New York enjoys those advantages abundantly appears from the tables hereinbefore given. There are certain elements which may be peculiar to the handling of grain and which perhaps ought to be especially referred to.

The first of these is the elevator storage capacity.

That of the four ports is, in bushels, about as follows :

New York.....	30,075,000
Boston.....	4,550,000
Philadelphia.....	3,925,000
Baltimore.....	5,350,000

Practically all the storage capacity at Boston, Philadelphia and Baltimore is owned by the railroad companies, while at New York private companies own 24,075,000 bushels. This great storage capacity in and around New York enables the carrying by private parties for immediate delivery of very considerable stocks of grain, and the testimony showed that grain, especially wheat, was so carried to a very considerable extent. New York, as already said, has a grain market of its own, and it is possible to buy there at almost any time for immediate delivery. The great storage capacity at New York also permits the bringing of grain during the canal season and the storing of it against the time when it must be brought in upon the higher all-rail rates.

The canal gives New York another advantage to the benefit of which it strenuously insisted it was entitled. It is well known that grain can be brought *via* the Great Lakes and the Erie Canal to New York by water, and that the cost of transportation by this means has heretofore been ordinarily considerably less than by rail. The comparative water and rail rates from 1878 to 1896, inclusive, appear in the following tables. The first of these, No. 20, states the rates per bushel by lake from Chicago to Buffalo

and by canal from Buffalo to New York on wheat and corn. The second, No. 21, gives a combination of these two rates, showing the total rate per bushel by water from Chicago to New York. This last rate is exclusive of elevator charges. The third table, No. 22, gives the average rail rate for the same period from Chicago to New York by the bushel, while No. 23 states the same rates by the hundred pounds.

TABLE No. 20.

SEASON AVERAGES OF LAKE AND CANAL FREIGHTS FROM 1878
TO 1896, INCLUSIVE.

Season	CHICAGO TO BUFFALO. LAKE.		BUFFALO TO NEW YORK. CANAL.	
	Wheat, 60 lbs. Cents.	Corn, 56 lbs. Cents.	Wheat, 60 lbs. Cents.	Corn, 56 lbs. Cents.
1878	3.07	2.85	6.08	5.46
1879	4.74	4.27	6.86	6.17
1880	5.76	5.34	6.51	5.80
1881	3.44	2.97	4.75	4.30
1882	2.50	2.29	5.39	4.94
1883	3.41	3.10	4.96	4.56
1884	2.18	1.94	4.13	3.70
1885	2.02	1.83	3.85	3.55
1886	3.68	3.42	5.03	4.56
1887	4.13	3.82	4.38	4.06
1888	2.56	2.32	3.37	3.09
1889	2.51	2.26	4.38	3.93
1890	1.96	1.69	3.89	3.41
1891	2.33	2.20	3.58	3.16
1892	2.19	1.94	3.42	3.09
1893	1.66	1.45	4.65	4.26
1894	1.27	1.13	3.17	2.86
1895	1.92	1.76	2.19	1.95
1896	1.58	1.42	3.71	3.51

TABLE No. 21.
SEASON AVERAGES OF LAKE AND CANAL FREIGHTS FROM 1878
TO 1896, INCLUSIVE.

Season	CHICAGO TO NEW YORK, VIA BUFFALO.	
	Wheat, 60 lbs., Cents.	Corn, 56 lbs., Cents.
1878	9.15	8.31
1879	11.60	10.44
1880	12.27	11.14
1881	8.19	7.26
1882	7.89	7.23
1883	8.37	7.66
1884	6.31	5.64
1885	5.87	5.38
1886	8.71	7.98
1887	8.51	7.88
1888	5.93	5.41
1889	6.89	6.19
1890	5.85	5.10
1891	5.96	5.36
1892	5.61	5.03
1893	6.32	5.72
1894	4.44	3.99
1895	4.11	3.71
1896	5.29	4.93

TABLE No. 22.
Statement showing the average rail rate on wheat and corn
from 1878 to 1896, inclusive. Rates in cents per bushel.

Year.	FROM CHICAGO TO NEW YORK VIA ALL RAIL.	
	Wheat.	Corn.
1878	17.62	16.44
1879	17.36	16.20
1880	19.65	18.34
1881	15.02	12.84
1882	14.66	12.85
1883	16.18	15.10
1884	13.57	12.67
1885	12.89	12.03
1886	15.09	14.08
1887	15.67	14.63
1888	14.71	13.73
1889	14.85	12.69
1890	14.39	11.35
1891	15.	14.
1892	14.09	13.15
1893	14.74	13.75
1894	12.38	11.56
1895	12.17	11.36
1896	11.11	10.37

TABLE No. 23.

Statement showing the average rail rate on wheat and corn from 1878 to 1896, inclusive. Rates in cents per hundred pounds.

Year.	FROM CHICAGO TO NEW YORK VIA ALL RAIL.	
	Wheat.	Corn.
1878.....	29.36	29.36
1879.....	28.93	28.93
1880.....	32.75	32.75
1881.....	25.03	22.92
1882.....	24.43	22.95
1883.....	26.96	26.96
1884.....	22.62	22.62
1885.....	21.48	21.48
1886.....	25.15	25.15
1887.....	26.12	26.12
1888.....	24.52	24.52
1889.....	24.75	22.66
1890.....	23.99	20.26
1891.....	25.	25.
1892.....	23.49	23.49
1893.....	24.56	24.56
1894.....	20.64	20.64
1895.....	20.29	20.29
1896.....	18.52	18.52

In connection with the subject of the canal and canal rates, it is proper to notice the testimony of Mr. Depuy, the owner of a fleet of canal boats, who asked leave to appear before the Commission in this matter.

Mr. Depuy stated that the elevator charges at Buffalo and at New York were a most serious handicap to the transportation of grain by canal, and that these charges were to a very considerable extent illegal and excessive.

The statute of New York fixes $\frac{5}{8}$ of a cent per bushel as the charge for elevating grain in that State. It is not possible, however, to obtain the transfer of grain at Buffalo from a lake vessel to a canal boat for that price. In addition to the $\frac{5}{8}$ of a cent a charge of $\frac{1}{4}$ of a cent for storage and \$1.65 per thousand bushels for trimming is made. These amount upon a hundred thousand bushels to \$415. The legal charge for rendering that service, according to the claim of Mr. Depuy, would be \$625, while the actual charge for transferring 100,000 bushels from the vessel to the canal boat is \$1,040.

At New York, the grain is sometimes stored in private ware-

houses and sometimes placed directly upon the vessel. If stored not to exceed ten days in a private warehouse, and from thence taken and put into the vessel, the cost per 100,000 bushels, according to Mr. Depuy, is \$1,812.50. If it goes directly from the canal boat into the vessel the cost for the 100,000 bushels is \$1,250, which is the charge made by the floating elevator for transferring the grain from the canal boat to the vessel. Of this charge Mr. Depuy says that \$625 is legal and the balance illegal. The floating elevator charges $\frac{5}{8}$ of a cent for elevating, $\frac{1}{8}$ of a cent for trimming and $\frac{1}{2}$ cent per bushel for moving the elevator from place to place, making in all a charge of $1\frac{1}{4}$ cents per bushel as against the statutory charge of $\frac{5}{8}$ of a cent per bushel.

The terminal charges, therefore, necessarily incurred in taking 100,000 bushels of grain from the vessel at Buffalo and putting it upon the vessel at New York are \$2,290, of which Mr. Depuy says \$1,010 are illegal.

He further insisted that the railroad companies themselves owned the elevators at Buffalo and made from their operation by transferring canal grain at this price a very large sum, insisting that the actual cost of elevating grain did not exceed $\frac{1}{3}\frac{1}{2}$ of a cent per bushel, and that the statutory charge of $\frac{5}{8}$ of a cent per bushel was $2\frac{1}{2}$ times what the elevators had previously charged in open competition before the elevator trust at that place was formed.

We should hardly base any finding of fact upon this testimony, nor does the subject seem to be very material to the disposition of this case. We refer to it as an item of some importance in determining possibly why the canal brings less grain to New York now than in former years. The average rate of transportation by canal from Buffalo to New York in the year 1895 was about 2 cents a bushel, so that the terminal charges upon 100,000 bushels during that season must have considerably exceeded the total freight money.

It was contended by the intervenors that the system of grain inspection at New York worked to the disadvantage of that port. It appeared that grain which graded No. 2 at Chicago would take the same grade at Boston, Philadelphia or Baltimore, while at New York it might grade as "Steamer," that being the next

lower quality. The principal difference between Steamer Corn and No. 2 seemed to be that the former was somewhat damper than the latter. The elevators at the port of New York in the process of elevating subject the corn to a blowing operation by which it is dried, cooled and to some extent relieved of foreign substances. It appeared to be admitted that corn which graded in as Steamer after being subjected to this process almost invariably graded out for export as No. 2. It did not appear exactly what the difference in price between No. 2 and Steamer was. It seemed to be generally understood that Steamer Corn at New York was available for export as No. 2, after being treated in this manner, and the price may very likely have been affected by that understanding. At times there was a difference of 2 or 3 cents a bushel. At times there was practically no difference, and the rule seems to have been that the difference was slight—not usually exceeding 1 cent or $1\frac{1}{2}$ cents a bushel.

Whether this worked to the disadvantage of New York did not clearly appear. It did seem that it was generally understood that the inspection at New York was more rigid upon inward grain than at other ports, so that the seller in the West did not always obtain at that port the grade to which he conceived himself entitled, and this operated to render New York unpopular as a market. Upon the contrary, if the merchants at New York can pay for Steamer Corn and export the same corn as No. 2, that must be a considerable advantage to them.

CONCLUSIONS.

The questions presented by this record upon the foregoing facts are of very considerable importance. The differentials in case of every locality except Boston apply not merely upon freight intended for export, but upon all traffic forwarded to these points. In order to abolish the differentials it would be necessary either to raise the Baltimore and Philadelphia rates, or to reduce the New York rate. If the New York rate were to be reduced it would amount, upon all the traffic to which that differential applies, to the loss of nearly \$1,000,000 per year. If the Baltimore rate were to be raised to the basis of the New York rate, that would add about the same amount to the revenues of the lines serving localities south of New York, and in each case this

would mean an addition to or a subtraction from the net revenues of the companies. This is upon the assumption that the volume of traffic continues the same; but the purpose of a differential is to influence the flow of traffic and the abolishing of these might divert to the New York lines such quantities of freight as to seriously deplete the revenues of the southern lines. It is, therefore, from the standpoint of the carriers, a most delicate matter to attempt to modify these differentials, and this is sufficiently shown by the fierce contests which resulted in the adoption of those now in force.

Upon its part the complainant insists that some relief of the kind asked for is of vital consequence to New York. In 1882 something more than 50 per cent of all the wheat, corn and oats exported through the Atlantic and Gulf ports went out from the port of New York, while in 1896 this per cent had fallen to a little more than 25, and the decline from 1895 to 1896 was shown to be more than three fourths of the total shrinkage. Now, the complainant says that while New York may for a single year, or for two or three years, continue to hold its import trade, notwithstanding the loss of its exports, eventually imports will flow in through the same ports from which exports go out, and that if the larger part of grain exports are diverted by these differentials from New York, the result will eventually be the loss to that city of a corresponding amount of its foreign trade, so that this condition of things becomes a most serious menace to the commerce of that port.

Philadelphia and Baltimore, upon the other hand, strenuously insist that to abolish these differentials would take from them the little foreign trade which they are now enabled to obtain.

It should be noticed in the outset exactly what the relation of the Commission is to the questions presented. It seems to have been more or less assumed upon the hearing and discussion of this matter that the Commission was vested with authority to revise the action of the defendants in the making of these differentials, and that the same considerations would address themselves to us in passing upon their correctness that the defendants ought to have considered in putting them in force. This is entirely wrong. Our function is not that of the Advisory Commission of 1882. We are not discharging the duties of arbitrators selected to determine

between the different carriers upon the fairness of these differentials. Our only jurisdiction is to inquire whether the Act to Regulate Commerce has been violated. That law does not seek to interfere with the business operations of carriers subject to its provisions until those operations contravene the provisions of the Act itself.

Take the situation presented by this case. Here is a vast amount of freight to be transported from the West to the Atlantic seaboard, and here are these various lines of railway so situated that they can participate in that transportation. Now, considering this as a business proposition from the standpoint of the carrier, we have nothing whatever to do with it. The railways may make whatever rates, form whatever lines, establish whatever differentials they may deem best for the purpose of securing and conducting that transportation. Whether in so doing they act wisely or unwisely, fairly or unfairly between themselves, we do not inquire. Our only inquiry is, does the situation which the carriers have created violate the Act to Regulate Commerce. That this is the extent of our authority is now settled by the decisions of the United States Supreme Court. *Interstate Commerce Commission v. Baltimore & Ohio R. Co.* 145 U. S. 263, 36 L. ed. 699, 4 Inters. Com. Rep. 92; *Texas & P. R. Co. v. Interstate Commerce Commission*, 162 U. S. 197, 40 L. ed. 940, 5 Inters. Com. Rep. 405; *Interstate Commerce Commission v. Cincinnati, N. O. & T. P. R. Co.* 167 U. S. 479, 42 L. ed. 243; *Interstate Commerce Commission v. Alabama Midland R. Co.* 168 U. S. 144, 42 L. ed. 414.

The question before us for consideration is, therefore, whether these differentials are in violation of the Interstate Commerce Act. The complainant alleges that they are in contravention of the third section of that Act, for the reason that they discriminate against the locality of New York and in favor of the localities of Baltimore and Philadelphia. It should be noticed in this connection, upon the authority of the cases above cited, that it is not sufficient to show the fact of such a discrimination. Railway companies are not prohibited by the third section from preferring one locality to another unless that preference amounts to an undue or unreasonable one. This phase of the law does not seem to have been much dwelt upon in the argument, but it

is important that it should be fully appreciated. It is insisted that these differentials give an undue preference for the reason that they are without excuse or justification. If the assumption of fact embraced in this statement is true, the conclusion probably follows. A preference without legitimate excuse would be in and of itself an undue and unreasonable one. It is therefore proper to consider at the very outset upon what alleged pretext the defendants have instituted these differentials.

A good deal has been said in various parts of the case about differences in distance and differences in cost of service, and these alleged advantages in favor of Baltimore and Philadelphia have been earnestly relied upon by the representatives of those localities in justification of the preference which they receive. An examination of the whole case plainly shows, however, that while these elements may have to some extent entered into the determination of the question by the defendant carriers, the controlling purpose of the differentials is to distribute between rival railway lines the export traffic which moves from the west to the Atlantic seaboard. Very large quantities of grain and provisions are exported from the United States to foreign countries. This traffic originates in the west and the defendant lines are so situated that they can carry it to the ports of export. If it passes over one line it is exported through the port of New York; if it passes over another line it is exported through the port of Baltimore. Now, the primary purpose of these differentials is, not to do justice to a particular port, nor to recognize the advantages of a particular port, but to enable the various competing lines to obtain a fair proportion of this traffic. In other words, the reason for these differentials is competition between railways. Cost of service and distance are very likely taken into account by the defendants in determining whether under the operation of the differentials a particular line has obtained more than its share of the traffic, but the underlying principle is competition. Upon no other theory could Boston, which is 88 miles farther from Chicago than New York, be given the same rate with New York, while Norfolk, which is 72 miles farther from Chicago than New York, has a rate of 3 cents per hundred pounds less.

Do these competitive conditions justify the preference of one locality to another? It is clear under the recent decisions of the

United States Supreme Court, not that they necessarily do, but that they may. It was held in the Import Rate Case, *Interstate Commerce Commission v. Texas & P. R. Co.* 162 U. S. 197, 40 L. ed. 940, 5 Inters. Com. Rep. 405, that competition *might* justify a railway line between New Orleans and San Francisco in carrying merchandise as a part of a through shipment from Liverpool to San Francisco at a rate which yielded to that company for its division less than one-third of what it received for carrying the same kind of merchandise from New Orleans to San Francisco. In the Troy Case, *Interstate Commerce Commission v. Alabama Midland R. Co.* 168 U. S. 144, 42 L. ed. 414, it was determined that railway competition did justify the defendant in making a lower rate to a more distant point. Railway competition may, therefore, excuse the giving of a preference to a particular locality or a particular commodity, provided the interests of the public are not unduly sacrificed to those of the carrier.

In the light of these cases it is difficult to see why it is not perfectly legitimate for carriers to make differentials like those in question. The Baltimore & Ohio Railroad extends from Chicago to Baltimore. It comes into competition with the lines running to New York for this export grain traffic. There are many kinds of traffic in which other facilities, like expedition, are of more importance than the mere question of rates, but in the case of this traffic where a change of $\frac{1}{8}$ cent a bushel in the cost determines through which port it shall be exported, the rate is practically the only medium of competition, and the only way by which the Baltimore & Ohio Company can secure a share of this traffic is by making a rate in competition with the rate to New York which will secure it. If a lower rate is necessary it may make that lower rate, and it might make it even though the distance from Chicago to Baltimore was greater than the distance from Chicago to New York, and even though the cost of transporting that grain to Baltimore was greater than the cost of transporting it to New York.

We think, therefore, that the principle upon which these differentials are made is legitimate, but it does not by any means follow that the differentials themselves are legitimate. A given preference may be justifiable under some circumstances, and not under others; to some extent, and not to a greater extent. Grant-

ing that a discrimination against a locality is excusable in theory, the question still remains whether under the third section it is undue or unreasonable, and that question is one of fact in each individual case. Upon the whole situation, is the preference justifiable? This seems to be the rule of the cases above referred to.

Evidently in applying this rule to a particular case the just interest of the carrier should be considered. Carriers are allowed to prefer one locality to another under stress of competition in some instances, for the reason that the interest of the carrier requires it; but every preference is to a degree a hardship upon the community against which it is enforced, and that hardship should be, in a way, set over against the interest of the carrier. In this connection, what the Supreme Court of the United States, in *United States v. Trans-Missouri Freight Assn.* 166 U. S. 290, 41 L. ed. 1007, said of the relation of the railways to the public, "that they all primarily owe duties to the public of a higher nature even than that of earning large dividends for their shareholders," must be borne in mind. Still it is plain that the interest of the carrier is an important factor to be considered, and that in order to justly estimate a given case it is necessary to know how the carrier as well as the public stands affected by the preference.

In this case we have no information from the carriers' standpoint. The defendants appeared at the opening hearing, but gradually withdrew from participation in the proceedings until finally the contest became one between the three ports, New York, Philadelphia and Baltimore. We only know that the defendants have established and are maintaining these differentials, and we assume that they are satisfactory to them, and that any disturbance of them would be against their wish and against their interest. This is, perhaps, equivalent to saying that the complainant assumes the burden of establishing the fact that there is an undue preference.

The complainant alleges that an examination of the basis upon which these differentials are constructed and the history of the differentials themselves shows them to be manifestly unfair to the port of New York for the reason, first, that the pretended difference in cost of ocean freights from the various ports does

not exist, and, secondly, that, assuming the differentials to have been fair when they were first agreed upon in 1877, the changed conditions render them grossly unfair at the present time. We will examine briefly these claims.

The rates complained of are at the present time recognized and maintained by most of the defendants through the medium of the Joint Traffic Association. Mr. George R. Blanchard, the commissioner of that association, stated in his testimony before the Commission the theory upon which these differentials were fixed. As we understand his testimony upon that point, it was this: A considerable part of the grain in question is actually shipped from the city of Chicago. Almost all of it is purchased upon the basis of the Chicago market price. Chicago may therefore be treated as the point of origin. The largest foreign market is Liverpool, and that, for the purpose of illustration, may be treated as the point of destination. Now, the object of these differentials is to make the cost of transporting this grain from Chicago to Liverpool the same through all these ports. Perhaps, more accurately speaking, Mr. Blanchard testified that the purpose of the differential was to equalize the advantages of transportation through these several ports, but inasmuch as in the exportation of grain, cost is the principal element, it comes to substantially the same thing.

Now, if the purpose of the differential is to make the cost of exporting through the different ports the same, it is evident that in case the cost of carriage from the various domestic ports to the foreign port is the same, then the cost of placing the grain on shipboard at the domestic ports should also be the same, but that any difference in the expense of ocean carriage should be equalized by a corresponding difference in the cost of inland carriage. Assuming that the cost of ocean carriage from Baltimore to Liverpool is 3 cents per hundred more than from New York, then the inland rail rate from Chicago to Baltimore must be 3 cents per hundred less, so that the total rate may be the same. This Mr. Blanchard says, is the theory upon which the differentials are determined. There are certain minor considerations, but, broadly speaking, the differential is supposed to correspond with and make good a difference in the ocean freight rate. In order to determine whether the present differentials are consistent

with that theory it is only necessary to inquire whether the existing difference in ocean rates corresponds to the established differential.

It will be seen by referring to the findings of fact that grain is carried either in full cargo shipments or at berth rates. It will be further seen that the full cargo rate is the same from each one of these three ports. There are certain minor differences in favor of New York and certain minor differences in favor of Baltimore and Philadelphia; but taken altogether, we are satisfied that practically there is no difference in the expense of the ocean carriage of grain in full cargo lots from New York, Philadelphia and Baltimore.

With berth rate business this is different, and New York enjoys very important advantages over either Baltimore or Philadelphia. In the first place the lines of steamship from that port reach more grain markets than can be reached from either Baltimore or Philadelphia. Then, the lines to all the principle grain markets are much more numerous and the sailings very much more frequent. All this gives the port of New York, in berth rate business of all kinds, a great advantage over either of her competitors in this proceeding, and we have found that this difference amounts to about 2 cents per hundred pounds as to both Baltimore and Philadelphia. From this alone it would follow—assuming this to be the only question involved in the establishment of the differential—that there ought to be no differential upon full cargo business, and that the present differential is substantially right as to berth rate business. But there is no way in which full cargo grain can be distinguished in the matter of the freight rate from berth rate grain, and it is necessary to find some figure which will properly adjust the two. The articles involved in this proceeding are provisions, grain and flour. Provisions and flour are entirely shipped upon the berth rate. Wheat, except in exceptional cases, is exported by berth rate. Corn more frequently goes by full cargo shipments. An idea of the relative amount of grain shipped by berth rate and full cargo can be obtained from tables 4 and 5.

The berth rate is very much less stable than the full cargo rate and, as a rule, lower than the full cargo rate. As a result, little or no full cargo business can be done until the berth space has been

exhausted. As was well said by counsel for one of the intervenors, a full cargo business is only possible when the berth business has come to the point of saturation. It follows, therefore, that in years when grain exports are light the full cargo business is small, while in years when exports are heavy that business is larger; and from this it further follows, inasmuch as the full cargo business can be done more advantageously at Baltimore and Philadelphia than at New York, that in years of large grain exports Philadelphia and Baltimore ought to obtain much more of this export traffic than they do in years when the total amount of exports is small. This rule is not an invariable one, however, since other traffic conditions may make the supply of berth space larger in years of large exports than in years of small exports.

It should be observed further that any finding of fact as to the relative berth rates from these three ports for any one year or for any succession of years, especially for a series of years in the past, must be extremely unsatisfactory. The rate which is quoted and the rate paid for actual engagements are not by any means the same, so that it cannot be stated within the limits of perhaps a cent per hundred what the relative berth rates from New York, Philadelphia and Baltimore are.

It will be seen, therefore, that any attempt to determine exactly the relative cost of ocean carriage from New York, Philadelphia and Baltimore of the commodities embraced in this proceeding is, for the reasons above stated impossible. It is possible to give the relative cost in the case of full cargo shipments. It is possible to give, within reasonable limits, the relative berth rates; but to combine the two and to say what will for a series of years be the difference in the cost of carrying flour, grain and provisions, and to make that the basis of a differential which will be strictly fair, is out of the question.

Assuming that the differential is intended solely to equalize the difference in ocean rates, we should be of the impression that there is no ground for a different differential at Baltimore than at Philadelphia, for we do not find that the cost of ocean carriage from those ports differs materially, and we should be of the further impression that the present Philadelphia differential just about equaled the difference in berth rates and would be some-

what too high as applied to both berth and cargo business. It should be observed, however, that New York enjoys certain advantages in reference to its berth business in addition to the mere difference in rate. Many ports can be reached in this way from New York which are not accessible at all from the outports. The sailings from New York are much more frequent than from the outports, so that it is possible to deliver small quantities of grain more frequently from that port than from the outports and to sell in many localities which cannot be reached from the outports at all. Just what the measure of advantage to New York in the fraction of a cent per hundred pounds on all the grain exported is, cannot be even intelligently surmised.

Taking this whole situation together, we do not think it could be fairly determined in advance what differential would be required to offset the advantages of New York over its rivals in the matter of ocean facilities. About all that can be done is to determine within probable limits what that differential should be and then decide from an observance of the actual operation of the differential whether its effect is a fair one.

These differentials were established in 1877, and re-established, and approved by the Advisory Commission, in 1882. The complainants insist that assuming them to have been perfectly fair upon either of the above mentioned dates, they have, owing to changed conditions, become grossly unfair at the present time.

Since the differentials are arbitrary, the rates differ by so many cents no matter what the New York rate may be. An examination of table No. 22 shows that in 1878, that being the year after the present differentials were fixed upon, the rate on corn from Chicago to New York was about 30 cents per hundred pounds. This would make the Baltimore rate 27 cents, or 90 per cent of the New York rate. In 1882 the New York rate had fallen to 23 cents; and the Baltimore rate would be 20 cents, or about 87 per cent of the New York rate. In 1896 the New York rate was 18.5, and the Baltimore rate 15.5, or 84 per cent of the New York rate. In other words, the gradual lowering of rates since these differentials were established has operated to make the Baltimore and Philadelphia rates relatively less in comparison with the New York rate than they were in 1878 or 1882. If the purpose be to establish a fixed relation between these rates and that relation was correct then, it is wrong now.

So, too, in the matter of ocean rates. It seems to be pretty well established that the agreement of April 5, 1877, fixed the differentials at the present figure for the purpose of equalizing the difference in the cost of ocean transportation. The Advisory Commission in 1882 found a difference in the cost of such transportation which approximately equaled the amount of the differentials. The testimony before us shows that this difference in the cost of ocean transportation has been gradually growing less since 1882. While no change has taken place in reference to full cargo shipments, the difference in berth rates in favor of New York is less now than it was then, so that if the differential is to be determined upon that basis it would seem that, if right then, it is wrong now.

Again, a given differential has more effect now than when these were fixed. The price of grain in 1882 was more than in 1896. Corn sold in 1882 upon the Chicago market for about 62 cents as against 25 cents in 1896. It appeared in testimony that at the present time a difference in the total expense of exporting corn of $\frac{1}{8}$ cent a bushel was sufficient to divert it from one port to the other, but it was said that in 1882 this would not have been so, since competition in this business had increased and the margin upon which the business was done had grown smaller so that $\frac{1}{8}$ cent a bushel had become a more important factor.

We think this contention of the complainant is well taken. The gradual lowering of rates, the shrinking of values, the increase of competition, have all operated to make the differentials in favor of Baltimore and Philadelphia mean more to-day than they did when agreed upon. A difference of 3 cents per hundred pounds was more effective in drawing export grain traffic through Baltimore in 1896 than in 1882. Just how far this makes out that the present differential is unduly preferential against New York will be considered farther on.

The intervenors earnestly insist that the preference granted to Baltimore and Philadelphia is justified by the fact that those localities are nearer the point from which this traffic originates, and that the expense of rendering the service covered by the transportation rate to Philadelphia and Baltimore is less than at New York. For the purpose of determining to what benefit, if any,

these localities are entitled upon the score of distance, the short line to each port must be considered.

In this case the short line from Chicago to New York, Philadelphia and Baltimore is in all cases by the Pennsylvania Railroad, and is 912 miles to New York, 822 miles to Philadelphia and 802 miles to Baltimore. The distance from Chicago to Baltimore is 88 per cent of the distance to New York, and that, when these differentials were first adopted in 1877, was almost exactly the percentage which the Baltimore rate was of the New York rate. At the present time the Baltimore rate on corn is about 84 per cent of the New York rate.

The complainant says that distance should not be considered as a justification for these differentials because it is habitually disregarded by the defendants and it instances the rates which are made by the defendants in this very case. Thus, the distance to Boston is 1,000 miles while the rate for export is the same as that to New York. Newport News is 94 miles farther from Chicago than is Baltimore, but it takes the Baltimore rate. Norfolk, Va., is 72 miles farther from Chicago than is New York, but it takes a rate 3 cents lower than New York. Now, the complainant says, since these defendants have disregarded the element of distance in the making of these very rates complained of they cannot be allowed to set it up as a justification in the case of a particular one of these rates.

Distance is frequently disregarded by carriers in the making of their rates. The Commission has held that it may be under some circumstances properly disregarded to some extent. It has been repeatedly said, however, that distance ought, when possible, to be regarded, and we have never held that a carrier would be compelled to disregard it for the purpose of putting two communities upon a commercial equality.

Commercial Club of Omaha v. Chicago, R. I. & P. R. Co. 6 Inters. Com. Rep. 647; *Freight Bureau of Cincinnati Chamber of Commerce v. Cincinnati, N. O. & T. P. R. Co.* 7 Inters. Com. Rep. 180.

It must be remembered that carriers are allowed a certain latitude in this respect. They may within certain limits regard or disregard distance, as their interest demands. If the Pennsylvania Railroad Company, by reason of competitive conditions saw

fit to make the same rate to New York and Philadelphia, it is possible that Philadelphia could not insist that such a disregard of distance was unduly preferential, but it is clear to us that if the Pennsylvania Company elects to make a lower rate from Chicago to Philadelphia than to New York, it may show in justification of that rate that traffic for New York must be hauled through and 90 miles beyond Philadelphia. We also think that when New York asserts that the differential in favor of Philadelphia unduly prefers that locality, Philadelphia may reply that its advantage of distance entitles it to a lower rate.

Distance is recognized as an element in determining the amount of a rate upon the assumption that it corresponds in a degree with the cost of service. It does not, however, necessarily follow that the greater cost of service necessarily goes with the greater distance. It is certain that the expense of transporting grain from Chicago to New York by the Pennsylvania lines is more than from Chicago to Philadelphia, for, by those lines, the transportation is through Philadelphia; but it is quite possible that it might cost less to transport grain from Chicago to New York *via* the New York Central than to Philadelphia, even, by the Pennsylvania. Nothing of that has been gone into in this case, and we are left to assume that the cost of transportation is measured by the distance, for as a general rule, in the absence of exceptional conditions, the greater the distance the greater that cost.

One subject has, however, been considerably discussed both in the testimony and in the argument which bears upon the cost of service, and that is the terminal charges and service at the various ports. It will be seen by referring to the findings of fact that the carrier at Baltimore or Philadelphia ordinarily receives $1\frac{1}{4}$ cents per bushel in addition to the rate for performing a somewhat less service than is performed at New York for the rate. The carrier to New York for putting the grain upon a barge and towing it to the side of the vessel receives the rate, whatever it may be, while the carrier to Baltimore or Philadelphia for a service equivalent to putting the grain upon the barge, without the added expense of lighterage, receives the rate and in addition $1\frac{1}{4}$ cents per bushel. This $1\frac{1}{4}$ cents amounts to more than the differential at Philadelphia, and, if the cost of lighterage be

added, to nearly the differential at Baltimore. Apparently this has the same bearing upon the questions involved as has the element of distance.

The defendants do not justify these differentials upon the ground either of distance or cost of service. We do not express an opinion that they could be justified to their full extent upon either of these grounds. They certainly could not in the case of Norfolk and Newport News. But we do think that in this inquiry between the three localities, New York, Philadelphia and Baltimore, in determining whether there is an undue preference, the advantage which Philadelphia and Baltimore possess in the way of distance should be considered, and that the same is true of the additional expense of delivery at New York.

The Advisory Commission of 1882 was apparently of the opinion that the most satisfactory test of these differentials was the result of their operation. Such must be the opinion of anyone who gives the matter careful attention. The problem is so complex, the factors which enter into it are so numerous and so impossible of exact estimation, that it is difficult of solution by any *a priori* process. Actual observation of the effect of these preferences is the best if not the only means of determining their fairness or unfairness. Complainant unhesitatingly accepts this test and asserts that from this phase of the case more plainly than anywhere else does the justice of its contention appear. Indeed it was the very marked falling off in exportations of grain through the port of New York which alarmed the complainant and led to the prosecution of this proceeding. It is to this aspect of the case that the testimony has been largely addressed upon both sides.

In 1882, about 65 per cent of all the exports from the United States exported through the Atlantic and Gulf ports passed through the port of New York. The same year 80 per cent of all the imports into the United States by way of these same ports came in at the port of New York. It will be seen, therefore, that during that year, being the year when the Advisory Commission pronounced upon the reasonableness of these differentials, New York practically engrossed the foreign trade of this country. A preliminary question is how far is the port of New York "entitled," or how far can that port expect to continue, to enjoy that commercial supremacy.

Plainly not to the same extent. It would be in accordance neither with the theory of our institutions nor with the history of the development of our nation to permit any one port upon our vast extent of seacoast to monopolize the trade with foreign nations.

Within recent years the United States government has expended in improving navigation to and at the port of Philadelphia about \$9,500,000; at Baltimore \$3,600,000; at Galveston \$8,500,000; and at New Orleans, or upon the Mississippi River, of which New Orleans takes the benefit, about \$8,000,000. These vast sums have not been appropriated and expended certainly upon the theory that it was desirable for the foreign trade of this country to flow through the port of New York alone. Rather does this recognize it as the policy of our government that its foreign commerce should be distributed between various ports.

Such is also the inevitable tendency of the development of our country. Hitherto that development has gone on in such a way that New York has been enabled to seize more of our export and import trade than would naturally belong to it. The lines of transportation leading to New York and the pecuniary interests concentrated at that point have been so strong as to divert both export and import traffic to that port which might naturally go to some other port. These same influences will unquestionably continue to have the same effect in the future, but not to the same extent. Other strong influences are beginning to operate in favor of other ports.

The distance from Chicago to New York is about the same as to New Orleans, and the water communication between Chicago and New York will, during certain seasons of the year at least, give New York an advantage as to traffic which fairly originates at Chicago. But a glance at the map of the United States shows that the grain-producing territory, much of it, lies between New Orleans upon the south and Chicago upon the north, and is most of it nearer New Orleans than New York. When this export corn moves to Chicago it moves away from New Orleans, or at least not towards it; and the same thing is true of much of the export wheat. The distance from Kansas City and St. Louis to New Orleans is less than two thirds that to New York. The Mississippi River and its tributaries give access to all this region.

A year ago the Commission inspected the terminal and harbor facilities at New Orleans. Its docks are already extensive and are capable of almost unlimited extension. There is no place in the United States, with possibly one exception, where grain can be transferred from the car to the vessel more cheaply than here. The grade from the grain fields to these elevators is an easy one. The corporations which operate the lines of railway leading to them are strong and aggressive. They will undoubtedly demand a larger portion of that traffic which is tributary to them, and will gradually acquire more and more of it, and this in its turn will bring to New Orleans a certain amount of those importations which now reach New York. The same thing is and will be true of Galveston and other ports. New York cannot expect, therefore, to occupy the same relative position of supremacy with reference to our foreign commerce in the future that it has in the past.

This is indicated by actual results up to the present time. In 1882, of all wheat, corn and oats exported through Atlantic or Gulf ports, 51.1 per cent passed through New York and 5.8 per cent through the ports of New Orleans, Norfolk, Newport News and Galveston; while in 1896, 26.9 per cent passed through New York, and 31.3 per cent through the four ports above named. From one half the whole, New York has fallen to one quarter, and from practically nothing, these four ports have risen to about one third.

It would, however, be unfair to the position of the complainant to state that it was insisting in this proceeding upon the right of New York, as against the whole country, to retain the proportion of the export grain traffic which that port has formerly done. In 1896 of the grain and flour exported through the six Atlantic ports, Norfolk had 7.5 per cent and Newport News 10 per cent. Until 1890 practically nothing had gone through these ports. Export business is done through them now because lines of transportation have been opened up and strengthened from the West to these points and extensive terminal facilities provided. Now it does not seem to be the contention of the complainant that a portion of the export grain ought not to pass over these lines and through these ports; nor is there any claim that these two ports should not be allowed the same differential, if any, as Baltimore. The com-

plainant insists that each port is entitled to what it can fairly obtain, and that these differentials give to the southern ports an unfair advantage. The evidence of that is not that Norfolk and Newport News, owing to recently provided facilities, have increased their grain exportations, but that Boston, Philadelphia and Baltimore have, under the operation of these differentials and without the assistance of any new advantageous conditions, gained as against New York. In other words, the complainant says that the fair test of these differentials is their actual working as observed at these four ports where the conditions have remained the same, and it is to these ports that they direct attention.

For the purpose of comparison the complainant has selected the years 1882, 1895 and 1896. The alleged reason for this is that 1882 was the year of the Advisory Commission when the present differentials were approved, and 1895 and 1896 the last two years next preceding this investigation.

The last half of Table No. 6 gives the percentages of exports of wheat, corn and flour, from New York, Boston, Philadelphia, Baltimore, Norfolk and Newport News for the years 1873 to 1896, inclusive. Those percentages for the years in question are as follows:—

	1882.	1895.	1896.
Boston	9.6	13.1	12.7
New York	61.5	47.6	33.7
Philadelphia	7.5	7.	9.5
Baltimore	20.7	19.8	26.6

The complainant says that a comparison of 1882 with 1896 shows, roughly speaking, that New York has lost one half its export business, that Boston has gained one third, Philadelphia one fourth, and Baltimore one fourth. While that is the showing which results from a comparison of these two years, it is not a fair deduction from the table itself. In the first place 1882 is, of all the years since 1875, that year in which the percentage of New York was the largest, that year in which the percentage of Philadelphia was smaller than it had been for eight years before, and smaller than it was again for five years to follow; the percentage of Baltimore smaller than it had been for six years preceding,

and smaller than it ever has been since, except in the year 1895, when it was a trifle lower.

Excluding from our consideration the year 1896, we observe that the percentage of New York in 1895 was larger than it had been in 1894, 1892 or 1890, and but 12 per cent below the average from 1873 to 1896; that the percentage of Philadelphia in 1895 was smaller than it had been in any year since 1875, except the years 1888 and 1889, and 36 per cent below the average; that the percentage of Baltimore for that year was smaller than it had been since 1875 and about 13 per cent below the average. The percentage of Boston was more than it had ever been except in the years 1888 and 1884, and about 42 per cent above the average.

If, therefore, this case had been tried in the spring of 1896 instead of 1897, the tables being brought down to the close of 1895, instead of to the close of 1896, it would hardly be claimed that those tables disclosed any undue diversion of traffic from New York to either Philadelphia or Baltimore. Baltimore could have with truth asserted that its percentage for that year was smaller than it had ever been before and more below the average for the last twenty years than that of New York, while Philadelphia might well have said that its percentage for 1895 was less than one half what it had been in 1878 and 36 per cent below the average for the last twenty years. Boston alone would have been the gainer, but Boston has never enjoyed a differential.

But a comparison of the the year 1896 with 1895, or indeed with almost any previous year, makes an entirely different showing, and the complainant insists that in this proceeding the results for the year 1896 are entitled to more consequence than those of any one or indeed all the previous years.

Its position apparently is that while these differentials nominally existed from 1877 down to January 1, 1896, they never were actually maintained until the latter date. Of course, the mere existence of these differentials, if they were not in fact collected, could have no effect to divert traffic one way or the other, and if we were satisfied that there had been no differentials in effect down to January 1, 1896 and that these differentials had gone into effect on that date and had since that time been rigorously enforced with the result upon the export traffic of these various

ports which that year apparently exhibits, it would certainly present a strong case for the complainant.

We are not, however, as indicated by the findings of fact, satisfied that this is true. The testimony of the complainant conclusively shows that rates were not maintained in the year 1896. From that testimony it appears that grain could be purchased at Philadelphia and Baltimore at times for more than 3 cents per bushel below the price at New York, while at other times the price would be practically the same or occasionally in favor of New York. Now, the price of grain is determined by the Chicago market, and the price in these various ports is obtained by adding to that price the freight rate. The Baltimore differential is less than $1\frac{1}{2}$ cents per bushel. It follows, therefore, almost of necessity that these fluctuations indicate manipulations in the rate. When corn is worth the same price in Baltimore and New York the presumption is that the differential is not maintained, and when corn is worth 3 cents a bushel less in Baltimore than in New York the presumption is that a greater difference than the differential has been made. In support of its proposition the complainant relies mainly upon testimony of Mr. Blanchard, the commissioner of the Joint Traffic Association. Mr. Blanchard testified that he had been familiar with freight rates since before 1878 and that in his opinion those in question were better maintained beginning January 1, 1896, when the Joint Traffic Agreement went into effect, than they had been at any previous period except for the year or year and a half following the enactment of the Act to Regulate Commerce. This Act went into effect April 1, 1887, and if we were to give Mr. Blanchard's testimony its full effect it would still remain that rates were as well maintained in 1887 and the first part of 1888 as they were during the year 1896. This being so, and no reason being suggested to the contrary, it is fair to assume that the maintenance of the differential would have produced the same effect in 1887 and the year following that it did in 1896. We should expect to find, therefore, the same remarkable falling off at New York and the same increase at Baltimore and Philadelphia. But upon turning to complainant's Table No. 6 we find that the percentage of New York in 1887 was 53.9, an actual increase over the preceding year, and just about the average from 1873 to 1896 inclusive; that the percent-

age of Philadelphia was 10 per cent, an increase over the previous year but below the average; while that of Baltimore was 23.3 per cent, a falling off as to the previous year. During the year 1888, while the salutary effect of the Interstate Commerce Law may be presumed to have still lingered, we find that New York had further increased its percentage to 54.2, while Philadelphia had fallen to 6.2, the lowest in her history, and Baltimore had risen to 24.5. The effect of enforcing the differential in 1887 and 1888 was apparently to raise rather than to lower the percentage of New York. We see no reason for giving the year 1896 any greater prominence than is given to every other year.

For the purpose of comparing the four ports Table No. 14 is perhaps the best. That does not include exportations of flour, but it has been already observed that flour and provisions are exported entirely by berth rate and an examination of the tables covering those articles shows that New York has little if anything to gain by an investigation into the movement of these commodities. From the nature of the case the differential produces the most effect in the movement of grain. This table, therefore, which embraces only wheat, corn and oats, is as favorable to New York as any can be. The years covered are 1878 to 1896, inclusive, so that the movement of these articles is exhibited over substantially the whole period during which the present differentials have been in operation.

An examination of this table shows in the first place that the percentages of these four cities vary from year to year, and that this variation, so far as can be observed, does not obey any rule or law. It might be thought, inasmuch as the differential operates especially in the case of full cargoes, and as full cargo shipments are more numerous when exports are large, that the percentage of New York and Boston would decline and the percentages of Philadelphia and Baltimore would rise in those years when the total exports were the largest, and this may be to some extent the case; but it appears that in 1890 and 1891 the total volume of exports through these four ports was almost identical while the difference in the percentage between New York, Philadelphia and Baltimore was nearly as great as in any other two years down to 1896. A study of these fluctuations emphasizes what has already been said in the findings of fact, namely, that

the conditions governing the price of ocean freights and the movement of this grain are so complex that it is impossible to predict from the knowledge of any one factor, like the quantity of the exports, what channel they will take.

It is apparent in the second place that it is altogether unsatisfactory to compare any single year with any other year and that any deduction from such a comparison is almost certain to be misleading.

Suppose the port of Philadelphia in 1888 had complained that the differentials in its favor were not sufficient and had cited in illustration the fact that its exports had fallen from 12.04 the previous year to 4.42 per cent that year, and that the exports from New York had risen from 60.59 to 65.58 per cent its case would have been almost as strong as that made by the complainant, and yet in the year 1890 the percentage of New York had fallen to 49.31, while that of Philadelphia had risen to 18.42, and that of Baltimore to 26.38. In 1891 New York had again risen to 63.75 while Philadelphia had fallen to 9.82 and Baltimore to 19.65; and in 1892 New York had once more fallen to 48.79, while Philadelphia had risen to 19.95 and Baltimore to 24.24.

A comparison of averages is somewhat more satisfactory. Table No. 13 embraces the ports of Portland, Norfolk and Newport News in addition to the four under consideration, and states the percentage of each to the group for the period of 1878 to 1881 inclusive, and from 1882 to 1896 inclusive. By reference to this it will be seen that the percentage of New York for the first period was 51.76 and for the last period 51.16; of Philadelphia for the first period 15.13 and for the last period 10.76; of Baltimore for the first period 25.05 and for the last period 23.20. These averages do not indicate any falling off in the case of New York and do indicate a very large falling off in the case of Philadelphia and a slight decrease in the case of Baltimore.

None of these tables are absolutely correct, nor are they in all cases quite consistent with one another. It is also possible to marshal these figures in such a way as to point to radically different conclusions. Generally speaking, however, the tables do agree in their main features, and the trend of all these statistics is to the same conclusion. Taking the whole period together from 1878 down to the end of the year 1896, it is pretty apparent that

of these four ports as compared with one another Boston has been a decided gainer, Baltimore has made a small gain, while New York and Philadelphia have both lost, and as between these two, Philadelphia has been the greater loser. Compared with the entire group New York has lost.

If, instead of considering the entire period, we were to take the year 1896 alone, the result would be entirely different, but it has been already said that no special prominence can be given to that year over any other year, certainly not over the years 1887 and 1888. One very great embarrassment in disposing of this case arises from the feeling that these rates have not been maintained, and that there is no reliable indication in actual practice of what the effect of the differentials would be if strictly enforced. This is no reason why we should not alter the differential if it was found to be wrong, for we must assume that the published rate is collected, but when the effect of the differential is relied upon to show the wrong, and it is claimed that the differential has been enforced in a particular year and has not been enforced in other years, that fact must be clearly established.

The results of the year 1896 show a very unusual percentage in favor of Baltimore and a large increase in favor of Philadelphia, and it is our impression that these two ports will perhaps obtain in the future rather more than their average for the last twenty years. But this impression is based not upon any deduction from these tables but upon the further impression that the lines leading to Baltimore are in a position to demand more of this traffic than they have obtained at least in recent years, and that the port of Philadelphia will not, when the improvements in the Delaware River give it deep water to the ocean, and perhaps ought not to rest content with the small amount of foreign trade which it has enjoyed in the past. If these ports gain, it must be largely at the expense of New York.

Now, upon the whole situation, does the complainant make out a case? Can it be said that these differentials unduly discriminate against the locality of New York? We have stated it as our impression that the difference in ocean freight rates at the present time was something less than the amount of these differentials, and that the gradual change of conditions since 1877 makes the differentials of more effect to-day than when they were instituted.

These two circumstances would point strongly to the conclusion that they ought to be modified. There is, however, one other circumstance that should be noticed in this connection.

These differentials apply upon all classes of freight and accordingly upon all commodities. In the very nature of the case they cannot be abstractly just, but only fair in the aggregate result. Their purpose is to give to each line its fair share of export business. Many other commodities are exported besides those embraced in this proceeding. In case of grain the freight rate is a very large factor in its value, while in case of other exports it may be insignificant. A differential which determines the route by which grain shall be exported would have no effect whatever upon some other article. These higher grade exports go almost entirely to the port of New York, from which they find quicker service to all parts of the world, and from which they can only find communication with many parts of the world. Now, if the quantity of these exports, which the differential does not divert to Baltimore or Philadelphia, has been increased in late years, it is manifest that this offsets to that extent any increased diversion of grain to the outports. The freight rate which these other exports pay is higher, and it is therefore more for the interest of the carrier to transport them. The ocean rate is also higher, and the advantages to the port of New York in the way of attracting shipping are probably greater than arise from the exportation of grain. So it is by no means certain that more grain ought not to go through the outports to offset the increased exports of other kinds from New York.

That this may be so is indicated by Table No. 9, which gives the total quantity of traffic forwarded by all lines to these four localities for the years 1888 to 1896 inclusive. From this it appears that during these eight years the total number of tons had increased 42 per cent in the case of Baltimore, 97 per cent in the case of Boston, 63 per cent in the case of New York, and but 2 per cent in the case of Philadelphia. These figures include both domestic and foreign traffic and are not therefore of great significance as bearing upon this question, but they show that traffic over the lines leading to New York has, during the last eight years, increased more in proportion than that over those leading to Baltimore and Philadelphia.

Table No. 15 perhaps bears more directly upon this suggestion. This table gives the percentages of the value of all exports from Boston, New York, Philadelphia, Baltimore, Norfolk and Newport News from 1878 to 1896 inclusive. From this it appears that New York exported in 1878, 69.26 per cent as against 60.34 in 1896; Philadelphia 9.42 as against 7.68; and Baltimore 9.63 as against 11.63; it further appears that the percentage of New York in 1892 was but 59.97 while in 1896 it was 60.34. From this it seems that New York exported in 1896 almost the same proportion in value that it did in 1878, and that its percentage that year notwithstanding the very great falling off in grain exportations, was more than it had been in at least one previous year and substantially the same as it had been since 1890.

It seems to be true that New York is in a measure losing its export grain business. But does it follow upon the testimony in this case that this is due to the operation of these differentials?

It must be borne in mind that the grain of New York does not reach that port from the interior exclusively by rail. The canal has brought in the past a very considerable portion of that traffic, and it is to this water communication between the West and the East that New York has largely owed its predominance in the foreign trade. Now, these differentials have nothing to do with grain moving by canal. Their purpose is merely to divide fairly between the different competing lines the export business which moves by rail. If for any reason the canal were to be entirely shut up so that no grain could be transported by it, it would by no means follow that all the grain which had formerly come to New York by canal ought now to come there by rail. Quite the contrary. This canal traffic ought now to be distributed in the same proportions over the various lines leading to the different ports. New York has no vested right in the having of so much grain shipped to that port. The canal has been a most important element in her commercial supremacy. If that element drops out, she must expect to lose that portion of her supremacy which was due to it.

The first half of complainant's table No. 6 shows the percentage of all wheat, corn and flour in bushels transported to the six ports in question, from the year 1873 to the year 1896, inclusive; and with reference to New York these percentages are stated

both by rail and by canal. Thus, in 1877, when these differentials were agreed upon, the rail carriers transported to New York 25 per cent and the canal 26.5 per cent of the entire amount going to all the ports, and for the whole series of years the rail lines have averaged 32.4 per cent and the canal 19.6 per cent. In the year 1896 the rail lines carried 30.3 per cent and the canal 6.3 per cent, that is, of the great falling off at New York, the bulk of it was in canal carriage. If the canal had transported in 1896 the same percentage that it did in 1877 the grain exports through New York would have been relatively larger that year than the average, and if it had transported even the average quantity, they would have shown no remarkable falling off.

As already suggested, these differentials are intended to secure to the rail lines a proper distribution of this traffic, and we find that under their operation in 1895 those lines carried to New York a larger per cent of all the traffic to these six ports than they had ever carried save in the year 1891, which was substantially the same. Can it be said, therefore, that their operation as applied to the traffic which they properly affect, has been unfair in the result? The great supremacy of New York in the past has been measurably due to its canal. If it would hold that supremacy in the future, it must give attention to that same waterway. The testimony of Captain Depuy as to excessive elevator charges upon canal grain is not material to this investigation, but it is extremely suggestive in connection with the facts above referred to. If the canal were to be restored to-day to the same position in this carrying trade that it has occupied in the twenty years past, the commerce of the port of New York could not suffer.

The Baltimore differential presents the most difficult question. To every practical intent the cost of ocean freights from Baltimore is no greater than from Philadelphia; nor did it appear that Philadelphia afforded other advantages over Baltimore in the transaction of this export business. What ground is there then for a distinction between those two ports?

The representatives of Baltimore strenuously insisted that the proximity of that port to the corn area was such that, by reason of the greater advantage in the way of distance, it was entitled to more of this business. An examination of Table No. 14 shows that in recent years at least the percentage of corn exports through

Baltimore has been larger than of wheat. The great advantage of Baltimore in 1896 rested in the very great increase of corn shipments. It is a significant fact that the distance differentials which were in force for a short time in 1877 seem to have been unsatisfactory to the New York lines, not because the difference in the percentage of the distances from Chicago gave to Baltimore too great an advantage, but because the distances from other points were in favor of that city. The differential which Baltimore obtained upon the Chicago rate by the distance differential was almost exactly what was obtained under the arbitrary differential, but when the distance differential was applied to all points from which traffic originated, Baltimore seems to have profited to such an extent thereby that this system only remained in force for a very few months. This would indicate that possibly the traffic does originate at points relatively nearer Baltimore than is Chicago. How far this fact may be recognized in the present system by which rates from western points are based upon a percentage of the New York-Chicago rate, does not appear.

The testimony tended to show that the corn exported at Baltimore did not come from Chicago, but was intercepted before it reached that market. If, in point of fact, Baltimore is in closer proximity to the corn fields from which these exports come, and if the lines leading to that port have secured recognition of that fact in these differentials, we certainly should not disturb them, for they are a recognition of an advantage in location to which Baltimore is fairly entitled.

No claim is made as between Baltimore and Philadelphia, that the present relation should be disturbed. As between those two cities and New York, it might not be altogether easy to say whether, on the case presented, the Philadelphia differential should be raised or the Baltimore differential lowered. It might be that in justice to the city of Philadelphia we ought to make that differential more rather than the Baltimore differential less.

It must be remembered, moreover, that to the solution of this question no absolute standard can be applied. In recognizing competitive conditions of this kind the carrier has a certain latitude within which this Commission cannot interfere. It is only when that limit is exceeded and when the action of the carrier becomes undue that we can act. In the last utterance of

the United States Supreme Court on this subject, *Interstate Commerce Commission v. Alabama Midland R. Co.*, 168 U. S. 144, 42 L. ed. 414, it was held that the Alabama Midland Railway might charge a higher rate to Montgomery, the more distant point, than it charged to Troy, the nearer point. This was upon the ground that Montgomery was a railway center and that the competitive forces at that point might be recognized in the making of rates. Suppose now that the Alabama Midland Railway Company had elected to charge the same to Montgomery and to Troy, could the locality of Montgomery have insisted, in a proceeding before this Commission, that Montgomery was entitled to a better rate than Troy? Clearly not. Whether the carrier will or will not meet those competitive conditions and to what extent rests primarily with it, and its action in that respect is not subject to review by this tribunal so long as it is due and reasonable. Whether it is due or reasonable is, however, a matter of judicial investigation and determination by the Commission and the courts.

While there is much in the case to induce a different conclusion, and while we have arrived at this conclusion with a good deal of hesitation, we do not think that, upon the present record, the carriers have exceeded the limit within which they are free to determine for themselves. The principle upon which these differentials have been established is legitimate. Looking to the basis of the differentials themselves, while there is much to indicate that they should, perhaps, be somewhat modified, it cannot be affirmed with certainty that they are wrong. Considering their effect as exhibited through a long series of years, it is impossible to say that they have exercised any untoward or unnatural influence upon traffic. We do not think, therefore, that they should be disturbed by us.

The Act to Regulate Commerce does not aim to fetter competition, nor interfere with the natural flow of trade and commerce. One cardinal object of that Act was to secure perfect freedom of competition among the carriers themselves. It is only when that competition becomes tyrannical, so to speak, when in the competitive struggle localities, commodities, individuals are in danger of being crushed that the law steps in. In the very nature of things it can seldom happen that the powerful commercial center

has occasion to invoke the law for protection against its weaker rivals. The lines which extend to the port of New York are numerous, powerful, and aggressive. It is difficult to believe that those lines will ever suffer any great or permanent injury to the commerce of that port, when in permitting that they must submit to a depletion of their own revenues. It might happen that some combination of these lines, for the purpose of promoting their interests at some other point, would sacrifice the port of New York, or that for the purpose of promoting their interests as to some other kind of traffic they would sacrifice this particular traffic. If anything of that sort were apparent, if there seemed to be anything arbitrary, anything unreasonable, any undue preference against this locality or this species of traffic, it would be our duty to correct it. But there is nothing of that kind and we can do no better than to leave this matter where competition has left it.

In coming to this conclusion we have perhaps been somewhat influenced by the fact that the consequence of an error in this direction is not as serious as one in the other direction might be. The pecuniary importance of these differentials to the carriers interested has already been suggested. Their importance in the distribution of traffic may be even greater. If it were possible to abolish them altogether and absolutely enforce the same rate to all these ports, it might so deplete the revenues of lines to southerly ports as to render practically valueless the outlay of enormous sums spent in their development. Upon the other hand, if we wrongfully refuse to interfere, it simply follows that foreign trade which ought to pass through New York is diverted to some rival port. This, considering the manner in which this export grain business is conducted, does not mean the breaking down or the building up of any industry. It destroys no capital invested, it renders no dock and no ship useless. At the most, it simply determines where some new dock shall be built. If this were a question of an unreasonable rate, where the thing complained of was the exaction of more than a just compensation by the carrier, where whatever the carrier gained unjustly was necessarily paid by the public, the consequences of an error would be more evenly balanced.

Again, if we have made an error, it is in favor of the weak and

against the strong. New York may have lost somewhat in the matter of its foreign commerce, but it is still immeasurably in advance of all rivals. As appears from Table No. 19, which is brought down to January 1, 1898, in the year 1897 New York had 47.43 per cent of all the exports moving out through the Atlantic and Gulf ports of the United States and 74.06 per cent of the total imports moving in through those same ports. It is almost impossible for us to feel that a locality which engrosses one half of all the exports and three fourths of all the imports upon the Atlantic seaboard can justly complain of any undue diversion of its commerce. The population of Greater New York is said to be about 3,000,000; the population of Philadelphia, distant less than 100 miles, is 1,200,000. In 1897 the imports of Philadelphia were about one tenth and the exports about one eighth of those at New York. Can it be said that Philadelphia is unduly preferred to New York in respect to this foreign trade?

Nothing has been said in the disposition of this case touching the ex-lake differentials as such. These apply, it will be remembered, to traffic originating in the West, brought by water to various points upon the southern shore of Lake Erie or corresponding points and from thence transported by rail to the ports in question. The complainant insists that whatever may be said of the all-rail differentials these are absolutely indefensible since the distances to Baltimore, Philadelphia and New York are practically the same.

If the justification for the all-rail differentials were found in differences of distance, that would be true. It appears, however, that while distance is an element which may be taken into account in inquiring whether those differentials are undue and unreasonable, it is not the ground upon which they are made. This ex-lake traffic originates at the same points with the all-rail traffic and is, therefore, properly regarded as competitive. Looking to the differential itself, we find that no distinction is made between Baltimore and Philadelphia, thus removing what seemed to be the most serious objection to the all-rail differentials. We also find that the amount in one hundred pounds is but 1 cent against New York. There are in force commodity rates on grain by the bushel which, when translated into rates by the hundred

pounds, amount to about $1\frac{1}{2}$ cents per hundred pounds against New York, upon wheat, corn and oats. This probably does not exceed the difference in cost of ocean carriage. If, therefore, our decision in reference to the all-rail differentials is correct, it seems to follow all the more that the ex-lake differentials should not be disturbed by us.

Neither have we considered the legality or propriety of the Joint Traffic Association, for the reason that those questions are not involved in this proceeding. If that association is in violation of some other statute of the United States, we have nothing to do with it. If it is in violation of the fifth section of the Act to Regulate Commerce, as a pooling arrangement, then we might upon proper proceedings order the carriers to cease and desist from further maintaining it. Such is not directly nor indirectly the scope of this proceeding. The existence and methods of that association could only become relevant in this case with a view to finding and enforcing a remedy if one was called for. Since we have found no infraction of law, no remedy need be sought, and all questions in regard to that association become immaterial.

In arriving at these conclusions the year 1896 has been treated the same as previous years covered by the investigation. If the diversion of export grain from the port of New York, which is shown to have taken place in that year, should continue in subsequent years, and it should appear with reasonable certainty that the published rates had been maintained to all the ports, the actual effect of these differentials upon the movement of grain could be determined with confidence and a different question would be presented, which might merit further consideration, and of which the disposition of the present case would not be controlling.

The complaint is dismissed without prejudice.