

certain extent, made clear by Messrs. Newman and Miller. I say to a certain extent, because in this phase of the subject time has not dealt gently with the authors. Thus they discuss at some length the struggle over the relation between the armed services and the Commission. The matter is of continuing significance. Yet while the desires of Congress for civilian dominance of the Commission are reflected in the Act, this Commission has been obliged to devote perhaps as much attention to the development of atomic weapons as a commission solely military in character. Realization of this fact is all-important to an understanding both of the domestic operation of the Act and of its international implications. Publication procedures, however, apparently forced the authors to bury this revealing development in three scattered footnotes. "For good or ill the Commission's production planning is currently simplified by its announced policy of devoting almost its entire resources to the manufacture of atomic weapons."⁴ Like the two other footnotes, the one here quoted deserves much greater prominence, much fuller treatment; the hurrying reader will miss it altogether.

In the section dealing with control of information the authors make clear Congress's "obsession with the safeguarding of secrets,"⁵ an obsession which leads to the enactment of truly "draconic" penalties for violations of the Act. The reviewer also finds himself in hearty accord with the authors that "the greatest danger by far in the matter of exchanges between scientists lies in a policy of unreasonable and unreasoned secrecy, a policy that may end by defeating the very purpose it was expected to serve—the maintenance of American leadership in the field of atomic energy."⁶ Such arguments, however, may at this time be interesting but academic. Only an abrupt and unforeseen change in Russian policy will make practicable any fundamental revision in American preoccupation with matters of national security.

Since *The Control of Atomic Energy* was written, the question of the future course of Russian-American relations has loomed so large that its effect has inevitably been felt, not only on the course of discussions concerning the international control of atomic energy, but also on the operation of the American act as well. There is abundant room and great need for further study of this effect. Mr. Newman and Mr. Miller, who have seen so clearly into the implications of the atomic revolution, are most competent to undertake the task.

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THE FALL OF A RAILROAD EMPIRE: BRANDEIS AND THE NEW HAVEN MERGER BATTLE. By Henry Lee Staples and Alpheus Thomas Mason. Syracuse: Syracuse University Press, 1947. Pp. x, 209. \$2.50.

The duel between the New York, New Haven & Hartford Railroad and Louis D. Brandeis is a dramatic chapter in the history of the corporation and the career of the later associate justice. It has the appeal of personal conflict: in this corner, Charles S. Mellen, the president of the monopoly, and J. Pierpont Morgan, his trainer; in that, Louis D. Brandeis, the young challenger, a disinterested crusader for the people. It has the advantage of compactness. Here is no long survey of historical development. Instead we have only the last act. At the outset the New Haven was a powerful, sacrosanct New England institution, paying 8 per cent dividends to, among others, widows, orphans, and trust estates. Seized by a delirium for consolidation, the railroad now proceeded to acquire coastal steamship lines and the trolley systems of southern New England. Finally, in 1907, it bought a large stock interest in the Boston & Maine, the major system of northern New England, and controlled that railroad by various devices for nearly seven

⁴ P. 63n.

⁵ P. 223.

⁶ P. 204.

years. The struggle to prevent this last amalgamation furnishes the major theme of this volume. In any case, by 1914 the mighty had been brought low. Weakened by internal extravagances, the rotten structure was pushed over by legislative hostility, investigations by the Interstate Commerce Commission, and a threatened suit under the Sherman Antitrust Act. Brandeis, who might well say, "All this I was," was left in possession of the battlefield—triumphant and justified. If this summary seems unduly jocund, the David-and-Goliath tone of this volume is in part responsible.

Of the immense value of the Brandeis crusade there can be, in retrospect, no doubt. As people's attorney he challenged the respectability, smugness, and mental inertia of the wise, the true, and the good. He confronted a corporation, ably managed and advised by skilled counsel, and one which concealed its march towards consolidation in a labyrinth of affiliates, fraudulent bookkeeping, and deceitful public statements. Operating with a minimum of support and upon a mere handful of data, Brandeis successfully drove a wedge into this impregnable, monolithic structure. When his and other exposures were done the New Haven was successfully convicted of political bribery, financing ostensibly "independent" experts and pressure groups, misleading public reports, deceit if not downright lawlessness, assorted episodes of railroad jobbery, and the careless expenditure of other people's money. In a public corporation, subject to control by national and state law and by national and state commissions, these acts were more than irresponsible; they shattered the premises upon which charters were granted to such enterprises. Respectable opinion in the Commonwealth of Massachusetts should have welcomed these disclosures. Staples and Mason do well to rescue them from scattered and forbidding sources.

Sympathy is a prerequisite to understanding. Thus armed the historian should approach the periods, and biographers the individuals, with which they deal. But the complete allegiance borne by the authors to Brandeis, to his case against monopoly in general, and to his attack upon the New Haven as monopoly in particular illustrates the error of confusing sympathy with identification. To minor matters this tendency gives pervasive, if elusive, partisan coloration. Thus Mellen's devotion to monopoly is fanaticism; Brandeis' hostility is apparently based upon reason. Though Mellen is belatedly exonerated of diabolism, others who rejected the Brandeis case or failed to conform to his strategy are given short shrift. The Massachusetts Commission on Commerce and Industry of 1907, which blessed the consolidation movement for its economic advantages, is blithely discredited with the observation that it was composed of lawyers and investors in the New Haven Railroad. From Hearst's *Boston American* the authors have adopted this cheap and shallow analysis. There is no hint that one of the members, G. G. Crocker, had been chairman of the Railroad Commission of Massachusetts and won the commendation of the mugwump *Springfield Republican*, and that another, Charles Francis Adams, had had a distinguished career as chairman of the Commission, was a former railroad executive and a maverick at that, and had devoted decades to a study of railroad problems in Massachusetts and elsewhere. The thoroughness of his information surpassed Brandeis', and he was quite as capable of disinterested thought. Even by the evidence supplied in this volume, the Commission was appointed by Curtis Guild, who, as Governor, sounded the alarm against the New Haven months before Brandeis was interested in the issue. By the same token, the failure of the Taft administration to proceed, as Brandeis wished, against the New Haven under the Sherman Antitrust Act is explained by the fact "that the Department of Justice under the Taft-Wickersham aëgis was inspired with the mildest trust-busting ambition"—at best a highly dubious obiter dictum.

In judging the methods of the Brandeis-New Haven contest I get the impression, furthermore, that Staples and Mason are not quite willing to let sauce for the goose be

sauce for the gander. Should Brandeis inspire labor leaders to pressure the legislators, that is good; should Senator Henry Cabot Lodge put the steam on from Washington, that is bad. When Brandeis manipulates the threadbare symbolism of the notion that New England's roads must not fall into alien hands, the danger is real; when Mellen raises the same banner, he is parading a bogey-man. If a vice president of the road begins his testimony with the quite understandable statement, "I don't propose to stultify myself by coming here and admitting I have been guilty of unlawful acts," he is arrogant. When Mellen announces he could get the legislation he wanted at Washington because "I could have proved my case," the statement becomes one of somehow sinister power.

I suspect the root of the matter is that the authors have failed to give serious enough attention to the case for a degree of monopoly in the railroad business. Thus they admirably summarize in the last chapter the Brandeis philosophy of competition: Competition means innovation, progress comes from struggle, absolute power breeds arrogance, smallness is more efficient than bigness. In spite of the ambivalent evidence which the authors sometimes marshal for these charges, they are generally loyal to the philosophy. Still, "They know not England who only England know." The arguments for a contrary policy are never organized. If they emerge at all from the narrative they are incidental, piecemeal, particular, and, by implication, self-interested. But the case for monopoly was based upon considerations of social and economic welfare. It was also derived from decades of experience with railroad competition. Albert Fink, A. T. Hadley, and Charles F. Adams, hardly to be written off as intellectual lightweights, had all observed the competitive process and come to the conclusion that the railroad was different from other types of business. There could not be an indefinite number of competing railroads as there could be of factories. Investors in railroads could not transfer capital flexibly to other enterprises as in manufacturing. Railroad competition was from the beginning cutthroat and destructive. The proved results were a chaotic irregularity and inequity of rates, the multiplication of needless railroads, bankruptcies, and receiverships, and eventually an agreement between competitors. Combination brought order; government control of railroad practices would prevent extortion. To men of this informed opinion, the application of the Brandeis generalizations to the railroad network was somewhat archaic, probably naïve, and certainly irrelevant.

This was the verdict of history—as they read it. They dealt with a longer run of time than does the present volume, only a short chronological chapter. The monopoly here dissected began decades before Mellen and Morgan. The merging of railroad lines commenced in the Seventies and most of the steamships were acquired in the Nineties. By 1900 the cost of consolidation and technical improvements on the Consolidated, as the New Haven was called, were already so staggering that dividends were reduced from 10 to 8 per cent. Mellen and Morgan simply continued the process at a faster and a more reckless pace. But, as the history of American monopoly has demonstrated, an extravagance of methods is not necessarily inherent in the monopolizing process. The New England railroad monopolies failed, not because they were monopolies, but because of the fashion in which they were assembled. They collapsed also because of profound changes in the means of transportation and in the economics of the region they served. No railroad executive at the beginning of this century could be expected to foresee the impact of the automobile or the comparative stagnation of New England industry. Thus the New Haven and the Boston & Maine both collapsed in the Thirties from the weight of their past misdeeds and the inadequacies of the present in which they operated. It is hard to see how an earlier and more rigorous application of the Brandeis competitive formula could have prevented this outcome or provided the shippers, producers, and investors of New England with a sounder system.

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