

BUSINESS FRIENDSHIP

A FEW men on the executive staff of the St. Paul financial society had at their disposal, subject to the formal or nominal control of the board of directors, the property of the forty thousand and more St. Paul owners. The individual conceptions which these few men entertained of their duty to this society, and the extent of their personal equipment to discharge that duty effectively, became matters of particularly great moment to a society threatened for years with bankruptcy.

In a business world where personal friendship was frequently involved with business relationships and might be exploited to the advantage or disadvantage of the railway company, the skill of the operating staff in this regard was unavoidably a factor in the struggle of the company to survive. Examples of two types of occasions when this factor entered into St. Paul operations are here drawn from the records of the Interstate Commerce Commission's investigation.

Coal Purchases

President Byram was desirous of increasing the revenues of the St. Paul by building up its traffic in commercial coal. One of his reasons for getting the Terre Haute road was that it was a coal line. He thought that by offering the mines on this line special opportunities in selling coal to the St. Paul for its own

fuel needs, he could induce the mines to develop their own business to the point of securing customers at distant points on the St. Paul road, thus providing the railway with increased freight revenues. The degree of success attained by this policy may be illustrated by the facts with respect to one coal company which became the subject of special inquiry.

The company was formed by two men named Leland and Binkley, both of whom were friends of Mr. Spratlen, assistant to President Byram. Mr. Leland had met Mr. Spratlen at a golf club some time earlier and had introduced his partner to Mr. Spratlen at the Athletic Club in Chicago. The partners bought a coal mine in Illinois and through Mr. Spratlen's good offices secured an order for forty cars of coal from the chief purchasing agent of the St. Paul. Mr. Spratlen could not remember any other concern for which he had rendered a similar service. The entire forty cars of coal were rejected for inferior quality, but the partners appealed to the chief purchasing agent, and the coal was accepted.

Shortly thereafter the St. Paul acquired the Terre Haute. It was said that the railroad wanted to bring enterprising men into the Terre Haute field, so that the road's transportation of commercial fuel might be increased. Mr. Binkley and Mr. Leland decided to buy a mine on the Terre Haute division. Mr. Spratlen directed the company's superintendent in that district to take care of Mr. Leland, who was to make an inspection trip. When Mr. Leland arrived, the superintendent's railway car was waiting for him, and the superintendent and Mr. Leland made the trip together. No one else was on the train. Mr. Spratlen later explained, when the Commerce Commission made its investigation, that the Terre Haute was not a passenger line, and that the train on which the trip was made "is not a special train. It is a car attached to the superintendent's car." Mr. Leland, when asked whether he had not really had a trip in a private car on a private train, said: "I think we had to buy our tickets. I do not recall at any time riding without buying a ticket."

The coal mine was bought, and the two partners formed a

corporation known as the Binkley Coal Company. The lawyer who organized the company for them was Mr. Howard, also acquainted with Mr. Spratlen. Mr. Howard had never been in the coal business, but he gave up his law practice to join Mr. Binkley and Mr. Leland in their coal company.

The Binkley Coal Company sold the St. Paul large quantities of coal, rising in the two years before receivership to second place among the concerns which sold coal from the Terre Haute district to the railway. In each year it sold over four hundred thousand tons to the St. Paul. It was one of three companies which got most of the railway's fuel business, although there were a great many coal operators on the Terre Haute line, and, as Mr. Byram testified, "they all like railroad contracts; railroad contracts are very desirable." The three concerns which got most of this business were either not engaged in mining operations or mined only part of the coal they sold to the St. Paul. They were selling agencies.

Mr. Byram preferred the practice of buying direct. He wanted to avoid the payment of brokers' commissions, and after he came to the St. Paul, in 1917, he tried to break up the practice, then in effect, of buying through brokers. But with the acquisition of the Terre Haute line, in 1921, there entered in full force the purchasing of coal from selling agencies rather than from the mine operators direct.

The prices paid for coal varied considerably. During the two years before the receivership, the prices paid within the same month varied from twenty-five cents to one dollar per ton in 1923, and from five to forty cents per ton in 1924. The Binkley Coal Company uniformly received the top price, or almost the top price, each month in 1923, and the top price each month in 1924. It was argued that price differences were due to the fact that the Binkley Coal Company had a contract fixing the price for a year, while most other operators sold so-called "spot" coal at the price prevailing at the moment. When three concerns which had the lion's share of the business were asked to submit bids, however, the Binkley Coal Company's bid was the

highest, but it got its share of the St. Paul fuel purchases nevertheless.

The Binkley Company frequently charged the St. Paul more per ton than it charged other customers purchasing in smaller quantities, from the same mine, at the same time.

The question arose as to whether personal relations played any part in all this. So far as concerned Mr. Leland, it appeared that personal relations which had enabled him to bring his partner Binkley and his friend Spratlen together came to an end, and he then promptly passed, as the business phrase goes, out of the picture. He sold out to his associates in the company, transferred his business activities to Canadian mines, and never, on his trips back to Chicago, looked in at the Binkley offices. The trouble seems to have been between him and Mr. Spratlen, the assistant to the St. Paul president, as indicated by the following colloquy during the Commission's investigation:

Mr. Grady: Have you ever discussed the transactions of the Binkley Coal Company with the . . . St. Paul road, in any conversation with Mr. Spratlen, since you left . . . ?

Mr. Leland: No, I do not even speak to him.

Mr. Grady: You do not speak to him?

Mr. Leland: Not if I can avoid it.

Mr. Grady: Oh. Have you not spoken to him since the first of April 1922?

Mr. Leland: I presume likely I have when he said "Hello, Bill," and I may have answered him, but surely if he did not, I would not.

Mr. Grady: Beyond that—

Mr. Leland: Beyond that, you can have him.

Mr. Grady: I can have him?

Mr. Leland: Yes.

Mr. Grady: No one seems to want him.

Mr. Leland: You cannot work him off on me.

Mr. Grady: You do not want him.

Mr. Leland: No.

But Mr. Binkley and Mr. Howard continued their friendly relations with Mr. Spratlen and with the chief purchasing agent, Mr. Taylor, whom Mr. Binkley saw every day. "In the course of three years' constant daily contact with Mr. Taylor," Mr. Binkley testified, "we had discussed everything, every man, woman, and child on the Chicago, Milwaukee & St. Paul Railroad." Mr. Binkley and Mr. Spratlen "were very close friends," and the purchasing agent knew it, but "I always put it to Mr. Taylor that I looked to him for what business we got there. . . . All I ever tried to do was to assure Mr. Taylor that I had no desire or that I had no thought of trying to influence the coal business, except through him."

Mr. Binkley said: "I had nothing to do with Spratlen, so far as the coal business is concerned," and added that he never discussed with anyone his friendliness and intimacy with Mr. Spratlen, "not so far as the coal business is concerned. I might have said that Spratlen was a good friend of mine, and he is . . . and has been. . . . My relations with Spratlen from then on were purely friendly. . . . I was in Mr. Spratlen's office a good many times, yes," but this was in connection with the commercial fuel business, not for the purpose of selling coal to the railroad. "I never went to Mr. Spratlen to try to get him or to influence him in any way to bring pressure upon Mr. Taylor [the purchasing agent]."

Mr. Spratlen testified later that the Binkley Coal Company was valuable in developing commercial fuel business, so that the St. Paul obtained considerable freight business that way. In his view, "they were friends of ours, good friends." Some four months after the St. Paul receivership, the chief operating officer of the St. Paul wrote to its chief traffic officer: "I think we are paying too much of a premium for our coal, and I question if the traffic we get from it would make up the difference."

Free Passes

At the time that Mr. Byram was initiating the commercial fuel

policy of the St. Paul road, a number of its directors were resigning because of the federal law against interlocking directorates. Among these were Mr. Percy Rockefeller and Mr. Ryan, the chief protagonist of interlocking directorates in the Commission hearings several years later. Soon after, Mr. Byram acquired the Gary road and made Messrs. Rockefeller and Ryan directors of that subsidiary. Their testimony on the subject is enlightening.

Mr. Rockefeller: Mr. Byram said that he would like to be in a position to give the complimentary passes over the system, and it could not be done unless he made me a director of some subsidiary company. . . . I told him I should be very complimented to have the privilege. . . . Simply to give transportation, that was all.

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Mr. Fisher: You did go on the board of directors of the Gary, did you not?

Mr. Rockefeller: I did.

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Mr. Fisher: Well, did you ever attend a meeting of the board of directors of the Gary?

Mr. Rockefeller: No, never.

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Mr. Grady: Now, Mr. Rockefeller, I understood you to say the reason that Mr. Byram wanted you on the Gary as a director was that you might lawfully use a pass over the entire system of the Chicago, Milwaukee & St. Paul Railway Company, is that correct?

Mr. Rockefeller: That is correct.

Mr. Grady: Had there been any time in the last twenty years . . . that you had not had a pass over the entire Chicago, Milwaukee & St. Paul Railway system?

Mr. Rockefeller: I would have to look up the records to be sure.

.....

Mr. Grady: Have you been paying your fare or riding on a pass? You would not have to look up the record for that, would you?

Mr. Rockefeller: I have always had transportation on the St. Paul.

Mr. Grady: Was it in the form of a pass, or was it in a mileage book that was given to you gratuitously?

Mr. Rockefeller: Naturally, in the form of passes in the old days.

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Mr. Grady: So there wasn't any real reason why you should be put on the board of directors in order to get a pass, was there?

Mr. Rockefeller: It is illegal.

.....

Mr. Grady: So you thought that when you accepted . . . a place on the board of directors of the Gary, that you could thereby safely use a pass?

Mr. Rockefeller: The pass was naturally convenient.

Mr. Grady: And Mr. Byram told you that that was the only reason he asked you to serve on that board?

Mr. Rockefeller: That was the only reason that was mentioned.

Mr. Grady: In other words, it was a means of avoiding the anti-pass law?

Mr. Dynes (the attorney for the St. Paul Company): Now, just a moment. I object to that question.

Mr. Rockefeller: No, I should say it was a means of complying with the anti-pass law.

Mr. Grady: Complying with it. Then did you meet with the board of the Gary?

Mr. Rockefeller: I never have.

Mr. Grady: So you have not fulfilled your obligations very fully, then, have you, in complying with the law?

Mr. Rockefeller: I quite acknowledge that, as far as serving on

the board of the Gary road, I have not.

Mr. Grady: But you have had the pass all the time?

Mr. Rockefeller: I have had the pass.

Mr. Rockefeller said that as a Gary director he had received, in addition to a pass good on the St. Paul system, passes on some, but not all, of the roads outside the St. Paul system on which he had passes when he was a St. Paul director. This led to the following colloquy:

Mr. Grady: All that you wanted were [*sic*], were they not?

Mr. Rockefeller: One never gets all one wants.

Mr. Grady: All the railroad passes you wanted? Did you have all you wanted of them?

Mr. Rockefeller: The more the merrier.

Mr. Ryan went on the witness-stand some days later. A portion of his testimony follows:

Mr. Grady: Are you an officer of any other railway company?

Mr. Ryan: I am a director of the Gary railway, so called.

Mr. Grady: And were you asked by Mr. Byram to become a director of the Gary railroad, so that you might have pass privileges?

Mr. Ryan: I think so.

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Mr. Grady: How many meetings of the Gary have you attended?

Mr. Ryan: I have never attended any.

.....

Mr. Ryan: . . . I thought at the time that Mr. Byram extended to me a little courtesy, and I accepted it.

.....

Mr. Grady: When Mr. Byram proposed that you act as a director of the Gary, what was said about it?

Mr. Ryan: I do not recall. I think he asked me to become a director of the Gary road, and told me that the St. Paul controlled it, and I accepted it, and thanked him for it.

Mr. Grady: Could you see very much distinction between acting as director for the parent company and acting as director for one of the subsidiaries, in so far as the propriety was concerned . . . ?

Mr. Ryan: Oh, yes. The director of the subsidiary would have no say in the matter of the contracts of the parent company.

Mr. Grady: In other words, they had nothing—

Mr. Ryan: But I have not questioned the propriety of being on the parent board at all. As a matter of fact, I resigned to comply with the law, not with the proprieties.

Mr. Grady: Do you mean to say that that is your understanding of a compliance with the Clayton Act, to resign from the parent company and to accept a position on the subsidiary company and get the same privileges and passes, or is it a mere subterfuge?

Mr. Ryan: I don't know how you would put it.

Mr. Grady: And merely a means, not of complying, but evading both the spirit and the letter of the law.

Mr. Ryan: I think it is a means of complying with the law.

Mr. Grady: That is your idea of compliance?

Mr. Ryan: Yes, it was.

Mr. Grady: And is it also your idea of compliance with the duties of a director never to attend a meeting?

Mr. Ryan: I agree with you that that is not complying with the duties of a director.

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Mr. Grady: Do you recall the roads over which passes were furnished you by reason of this important connection as member of the board of directors of the Gary?

Mr. Ryan: I think over the Chicago, Milwaukee & St. Paul, the Great Northern, the Northern Pacific and the Burlington.

Mr. Fisher, the special counsel for the Interstate Commerce Commission in this investigation, later took up the subject with Mr. Ryan:

Mr. Fisher: Do you carry a Pullman pass?

Mr. Ryan: No, I have never had one.

Mr. Fisher: You travel in a private car?

Mr. Ryan: I travel in the car that is owned by the company in whose business I am principally engaged.

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Mr. Fisher: . . . To haul that private car over these three trunk lines in the northwest . . . of course, those trunk lines make no profit in hauling that car?

Mr. Ryan: Never.

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Mr. Fisher: . . . What do you think of the wisdom or propriety of that custom?

Mr. Ryan: It is a custom that goes on between railways, and I don't know that I have any particular opinion about it, as to its propriety.

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Mr. Fisher: . . . The Gary is about as unimportant a line from a traffic point of view as you can think of in the United States?

Mr. Ryan: I really am not in a position to judge about that.

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Mr. Fisher: What do you think of the policy of giving to the officers or directors of a line of that character passes over the trunk lines of the Northwest territory of the United States?

Mr. Ryan: Well, I would not want to pass on the policies of other people.

Mr. Fisher: Well, then, put it the policy of acceptance of that

policy on your part, as a matter of public policy, looked at as a citizen? Do you think it can be justified?

Mr. Ryan: It is generally done by railroads.

Mr. Fisher: Don't you think it ought to be generally discontinued by the railroads?

Mr. Ryan: Well, I don't know that I want to say that.

Mr. Fisher: If you do not want to express an opinion about it—I am giving you an opportunity. You prefer not to express an opinion?

Mr. Ryan: I think so.

Mr. Fisher: The people who ride on the passes furnished by such a road, so far as you know, are probably among the very limited number of people in the United States who are best able to pay for their transportation, aren't they?

Mr. Ryan: I don't know about that.

Mr. Fisher: Don't you know about that?

Mr. Ryan: I don't know.

Mr. Fisher: You don't know about that?

Mr. Ryan: I don't know who they are.

Mr. Fisher: You know that you are a director, and you know that Mr. Percy Rockefeller is a director?

Mr. Ryan: Yes.

Mr. Fisher: Don't you think it has a bad effect? Don't you think it is a very unwise public policy to have men like you and Percy Rockefeller travelling on passes because you are dummy directors on the board of a belt line at Chicago?

Mr. Ryan: It might be. It had not struck me that way.

The report of the Interstate Commerce Commission has the following to say on the subject of the free passes:

“ . . . Byram made Rockefeller a member of the board of the Gary so that he could receive free transportation, including a general Pullman pass, on the theory, as Rockefeller expresses it, that ‘one never gets all one wants.’ John D. Ryan, too, was made a member of the Gary's board by Byram so that he could receive free transportation. As a result he may ride over the St.

Paul and other northwestern roads in a private car without cost to him. Neither Rockefeller nor Ryan up to the time of our hearings had ever attended a meeting of the Gary board. Aside from this phase of the matter there is the much more serious question of their resigning from the board of the St. Paul admittedly on account of the provisions of section 10 of the Clayton Act and almost immediately becoming members of the board of a subsidiary controlled by the St. Paul. It would not seem possible that the spirit of section 10, if indeed the letter, could be so easily circumvented.”