

RAILROAD MONOPOLY.

The Great Question Discussed by Pennsylvania's Great Son, Jeremiah Sullivan Black, Before the Judiciary Committee of the Pennsylvania Senate at the Session of 1883.

INTRODUCTION.

Mr. Chairman: The irrepressible conflict between the rights of the people and the interests of the railroad corporations does not seem likely to terminate immediately—I beg your permission to put our case on your record somewhat more distinctly than heretofore.

Why do I give myself this trouble? My great and good friend, the president of the Reading Railroad Company, expresses the suspicion that I am quietly acting in the interest of some anonymous corporation. I wish to contradict that as flatly as I can.

The charge that I am communist enough to wish the destruction of all corporate property is equally untrue. I think myself the most conservative of citizens. I believe with my whole heart in the rights of life, liberty and property, and if anybody has struggled more faithfully, through good report and evil, to maintain them inviolate, I do not know who he is. I respect the State Constitution; perhaps I am prejudiced in favor of natural justice and equality. I am convinced that without the enforcement of the fundamental law, honest government cannot be expected.

These considerations, together with the request of many friends, should be sufficient reason for doing all the little I can to get "appropriate legislation." At all events, it is unfair to charge me with any motive of lucre or malice.

It is not proposed by those who think as I do that any corporation shall lose one atom of its property. A lawful contract between a railroad company and the State is inviolable, and must not be touched by hostile hands, however bad the bargain may have been for the people. Mr. Gowen, and all others with similar contracts in their hands, are entitled each to his pound of flesh, and if it be "so nominated in the bond" the Commonwealth must bare her bosom to all their knives and let them "cut nearest the heart."

But we, the people, have rights of property as well as the corporations, and ours are—or at least they ought to be—as sacred as theirs. Between the great domain which we have conceded to them, and that which still belongs to us, the line is plainly and distinctly marked, and if they cross it for purposes of plunder they should be driven back under the lash of the law. It is not the intent of the amended Constitution, nor the desire of those who demand its enforcement, to do them the slightest injury. We only ask for that impartial and just protection which the State, as *parens patrie*, owes to us not less than to them.

THE COMPANIES NOT THE OWNERS OF THE RAILROADS.

In the first place, it will, I think, be admitted by all impartial persons of average intelligence, that the companies are not the owners of the railroads. The notion that they are, is as silly as it is pernicious. It is the duty of every commercial, manufacturing or agricultural State to open thoroughfares of trade and travel through her territory. For that purpose she may take the property of citizens, and pay for the work out of her treasury. When it is done, she may make it free to all comers, or she may reimburse the cost by levying a special tax upon those who use it; or she may get the road built and opened by a corporation or an individual, and pay for it by permitting the builder to collect tolls or taxes from those who carry and travel on it. Pennsylvania has tried all these methods with her turnpikes, canals and railroads. Some have been made at her own cost and thrown open; on others made by herself she placed officers to collect a special tax; others have been built for her by contract, in which some natural or artificial person agreed to do the work for the privilege of appropriating the taxes which she authorized to be levied.

But in all these cases the proprietary right remained in the State and was held by her in trust for the use of the people.

RAILROAD AND CANAL CORPORATIONS ARE PUBLIC SERVANTS.

Those who run the railroads and canals are always public agents. It is impossible to look at them in any other light, or to conceive how a different relation could exist; because a railroad which is not managed by public agents, cannot be a public highway. The character of these agents and the mode of their appointment, even upon the same work, have differed materially. The Columbia railroad, and all the canals, were for a time under the management of officers appointed by the Governor, or elected by the people, and paid out of the State Treasury. Afterwards the duty was devolved by the State upon persons associated together under acts of incorporation who contracted to perform it upon certain terms. The Erie and Northeast railroad was at first run for the State by a company; the company was removed from its trust for misbehavior; the Governor then took it and appointed an officer to superintend the work; later the Governor's appointees

was displaced, with the consent of the Legislature, and the duty was again confided to a corporation newly chartered.

None of these agents—neither the canal commissioners nor the State Receiver, nor any corporation that went before or came after, had the slightest proprietary right or title to the railroads themselves. To say that they had would be as propositious as to assert that township roads are the private property of the supervisors.

A RAILROAD BUILT BY AUTHORITY OF THE STATE, IN NO SENSE PRIVATE PROPERTY.

The legal relations existing between the State and the persons whom she authorizes to supervise her highways was somewhat elaborately discussed by the Supreme Court of Pennsylvania in the case of the *Erie and N. E. R. R. Co. vs. Casey* (2 Casey, pp. 307-324). It was there determined that a railroad built by authority of the State for the general purpose of commerce is a public highway, and in no sense private property—that a corporation authorized to run it is a servant of the State as much as an officer legally appointed to do any other public duty, as strictly confined by the laws, and as liable to be removed for transgressing them.

All the judges concurred in this opinion. The two who dissented from the judgment did so on the technical ground that certain circumstances, which would have estopped the State in a judicial proceeding disarmed the Legislature of the power to repeal. Neither they nor any other judge in this country, whose authority is worth a straw, ever denied the doctrine for which I have here cited that case, though it may have been sometimes overlooked, ignored, or perchance evaded. This principle and no other was the basis of the decision in Pennsylvania and all the other States, that cities and counties might issue bonds or their money and tax their people to aid in building railroads. [Because they were public highways.—Eps.] The Supreme Court of the United States has affirmed it in scores of cases. It was so universally acknowledged that the convention of 1873 incorporated it into the Constitution as a part of the fundamental law. I do not know upon what foundation more solid than this any great principle of jurisprudence was ever established in a free country. When in addition you consider the reason of the thing, and the supreme necessity of it for the purpose of common justice, it seems like a sin and a shame and a scandal to oppose it.

RAILROAD AND CANAL CORPORATIONS ARE PUBLIC AGENTS;—HOLD THEM HARD TO THEIR RESPONSIBILITIES.

If being settled that the railroads and canals belong of right to the State for the use of the people, and that the corporations who have them in charge are mere agents to run them for the owners, it will surely not be denied that all proper regulations should be made to prevent those agents from betraying their trust. The wisdom is very plain of those provisions in our Constitution which put them on a level with other public servants, and forbid them to prostitute their functions to purposes merely mercenary, or to engage in any business which necessarily brings their private interests into conflict with their public duty. Seeing the vast magnitude of the affairs entrusted to them, and the terrible temptation to which their cupidity is exposed, it is certainly necessary that you hold them to their responsibilities, and hold them hard. THOSE CORPORATIONS DENY THAT THEY OWE ANY RESPONSIBILITY TO THE STATE.

But, on the other hand, the corporations deny that they owe any responsibility to the State more than individuals engaged in private business. They assert that the management of the railroads being a mere speculation of their own, these thoroughfares of trade and travel must be run for their interest without regard to public right. If they take advantage of their power to oppress the labor and overtax the land of the State; if they crush the industry of one man or place to build up the prosperity of another; if they plunder the rich by extortion, or deepen the distress of the poor by discriminating against them, they justify themselves by showing that all this was in the way of business, that their interest required them to do it; that if they had done otherwise their fortunes would not have been so great as they are; that it was the prudent, proper and successful method of managing their own affairs. This is their universal answer to all complaints. Their protests against legislative intervention to protect the public always take this shape, with more or less distinctness of outline. In whatever language they clothe their argument it is the same in substance as that with which Demetrius, the silversmith defended the sanctity of the temple for which he made shrines. "Sirs, ye know that by this craft we have our wealth."

That railroad corporations and their paid adherents should take this view of the subject is perhaps not very surprising. Nor does it excite our special wonder to see them supported by the subsidiary rings whom they patronize. But, it is amazing to find that this odious and demoralizing theory

has made a strong lodgment in the minds of disinterested, upright and high-placed men. Two members of the Senate Judiciary Committee—I do not say the ablest, because comparisons are odious—but they are both of them among the foremost men of the country for talents and integrity—these gentlemen emphatically dissented from me when I asserted that the management of the railroads was not a matter of business to be conducted like private enterprise, merely for the profit of the directors or stockholders. A heresy so supported is entitled to serious refutation, however absurd it may seem on its face.

A PUBLIC DUTY MUST BE PERFORMED WITH AN EYE SINGLE TO THE PUBLIC INTEREST.

I aver that a man or a corporation appointed to do a public duty must perform it with an eye single to the public interest. If he perverts his authority to purposes of private gain he is guilty of corruption, and all who aid and abet him are his accomplices in crime. *He defiles himself if he mingles his own business with that entrusted to him by the government*, and uses one to promote the other. If a judge excuses himself for a false decision by saying that he sold his judgment for the highest price he could get, you cover his character with infamy. A ministerial officer, like a sheriff, for instance, who extorts from a defendant, or even from a convict in his custody, what the law does not allow him to collect, and puts the surplus in his pocket, is a knave upon whom you have no mercy. You send county commissioners to the penitentiary for consulting their own financial advantage to the injury of the general weal.

When the officers of a city corporation make a business of running it to enrich themselves at the expense of the public, you can see at a glance that they are the basest of criminals. Why, then, can you not see that the officers of a railway corporation are equally guilty when they pervert the authority with which they are clothed to purposes purely selfish? *A railroad corporation is as much a part of the civil government as a city corporation.* The officers of the former as much as the latter are agents and trustees of the public, and the public has an interest precisely similar in the fidelity of both.

Why, then, should partiality or extortion be condemned as criminal in one if it be tolerated as fair business when practised by the other? Yet there are virtuous and disinterested statesmen among us who think that faithful service ought not to be enforced against the railroad companies, however loudly it may be claimed by the body of the people as their just due, and no matter how distinctly it may be commanded by the Constitution itself.

I am able to maintain that all the corruption and misgovernment with which the earth is cursed, grows out of this fatal proclivity of public servants to make a business of their duty. Recall the worst cases that have occurred in our history and see if every one of them does not finally resolve itself into that. Tweed and his associates in New York; the Philadelphia ring; the carpet bag thieves; the Star Route conspirators; all went into business for themselves while pretending to be engaged in the public service. Oakes Ames distributed the stock of the Credit Mobilier where he thought it would do the most good to himself and others with whom he was connected, and that was business in him who gave, and in them that took his bribes. Madison Wells, when he proposed to Mr. Kenner that he would make a true return of the election if he could be assured of getting "two hundred thousand dollars a piece for himself and Jim Anderson, and a less sum for the niggers," had as keen an eye to business as if he had been president of a railroad company, instead of a returning board. Certain greedy adventurers made it a business to rob the Nation of its lands, and uniting with Congress carried it on so magnificently that they got away with an area nearly equal to nine States as large as Pennsylvania. The imposition of the whisky tax, excluding what was held on speculation, was business to the officers and legislators who were sharp enough to anticipate their own votes. You will see on reflection that every base combination which officers have made with one another, or with outside parties, has been a business arrangement, precisely like that which the railroads justify on the sole ground that it is business. The effect is not only to corrupt those who engage in such transactions, but to demoralize all who are tempted by personal and party attachments to apologize for it.

When the officers of the Pennsylvania railroad company corruptly bought the remission of the tonnage tax, and thereby transferred to their own pockets an incalculable sum justly due to the State, it was business, rich to them and profitable beyond the dreams of avarice, while to the swindled tax payers it was proportionately disastrous. The nine million steal of later date was a business enterprise which failed, because Governor Geary most unexpectedly put his veto upon it. Still more recently the same organization undertook to get from the Treasury of the State, four millions of dollars to which it had no

decent pretence of a claim. Never was any affair conducted in a more perfectly business-like way. The appointed agents of the corporation came to Harrisburg when the Legislature was in session, and regularly set up a shop for the purchase of members at prearranged and specified price. You condemn this piece of business because it was dishonest, but was it more dishonest than that which the same corporation habitually does when it stands on the highway, and by fraud or force extorts from individual citizens a much larger sum in excessive tolls to which its right is no better than to the money it tried to get by bribery?

The functions of railroad corporations are as clearly defined and ought to be as universally understood as those of any servant which the State or General Government employs. Without proprietary right in the highways they are appointed to superintend them for the owners. They are charged with the duty of seeing that every needed facility for the use of those thoroughfares shall be furnished to all citizens, like the justice promised in *Magna Charta*, without sale, denial or delay. Such services, if faithfully performed, are important and valuable, and the compensation ought to be a full equivalent; accordingly they are authorized to pay themselves by levying upon all who use the road a tax or toll or freight sufficient for that purpose.

But this tax must be reasonable, fixed, certain and uniform, otherwise it is a fraud upon the people which no department of the State Government, nor all of them combined, has power to legalize.

IT IS EASY TO SEE THE MISCHIEF, ETC.

It is much easier to see the nature and character of the mischief wrought by the present practices of the railroad companies than it is to calculate its extent. If your action depends in any degree upon the amount of the spoilation which the people of the State have suffered, and are now suffering for want of just laws to protect them, you certainly ought to direct an official inquiry into the subject and ascertain the whole truth as nearly as possible.

But investigations have already taken place in Congress and the Legislatures of several States; complaints founded upon specified facts come up from every quarter; verified accusations are made by some of the companies against others; railroad men have openly confessed their fraudulent practices, and sometimes boasted of the large sums they accumulate by them. Putting these together, you can form at least an approximate calculation. I doubt not you will find the sum total of the plunder they have taken in the shape of excessive charges to be frightful.

Three or four years ago a committee of the United States Senate collected the materials, and made a report upon this general subject, in which they showed that an excess of five cents per hundred weight charged on the whole agricultural crop of the then current year would amount to seventy millions of dollars. Upon the crop of the last year it would doubtless come nearer a hundred millions. The railroads would not get this sum, because not near all of it is carried, but it would operate as an export tax; that is to say, the producer, the consumer, or the intermediate dealer, would lose that amount on the whole crop, carried or not carried. In 1880 the charges from Chicago to the eastern markets were raised from ten cents per hundred weight to thirty-five cents, the latter rate being unquestionably twice as high as a fair one. You can count from these data the terrible loss sustained by the land, labor and trade of the country. It was the end and the attainment of a combination still subsisting between the great trunk lines, as they are called, to pool their receipts, to stop all competition, to unite the stealing power of all into one grand monopoly, and put the whole people at their mercy. It was a criminal conspiracy by the common and statute law of all the States.

THE RIGHT TO RAISE OR LOWER THE RATES.

The magnitude of these excessive charges is not the worst thing about them. The corporations think it perfectly right to raise or lower the freight as they please without regard to the rights or interests of anybody but themselves. A grain grower, manufacturer, miner, or merchant, who can sell his goods at a profit, if he can get them carried at the rates of to-day, may find himself ruined tomorrow by an increase which did not enter into his calculations. A rise in the market enures not to the benefit of the producer, but to the use of the carrying corporations, which openly avow that their rule is to charge in all cases as much "as the traffic will bear;" that is to say, as much as the shipper can submit to without being driven entirely off the road. You must see plainly that this power to depress agriculture, to diminish the profits of manufacturing industry, and to skin the commerce of the whole country by the arbitrary use of a sliding scale upon freights, cannot safely be trusted to human hands, and especially not to irresponsible corporations whose interest, as well as their

acknowledged principle of action, constantly impel them to abuse it. Can it be that a Pennsylvania Legislature will hesitate to curb the career of this destructive monopoly by adjusting the charges according to some rule equitable, fixed and certain.

THE WRONG OF DISCRIMINATION.

But even this sinks into insignificance compared with the wrong and evil of their discriminations. Common justice, sound policy, every sense of duty, the whole spirit and letter of the law, requires them to give every man equal facilities in the use of the roads, and to charge them at the same rates for the same class of goods, according to weight and distance. There can be no possible doubt about this. Every unprejudiced man who has sense enough to know his right hand from his left acknowledges that equality must be the rule of right; and he understands this perfectly well without looking at the Constitution, where it is solemnly declared to be part of the *lex legum*, the law of laws, and the rule of all rules on the subject. Yet this sacred principle is constantly and steadily violated, trampled under foot and treated with heedless contempt.

At the slightest glance you will see the enormous injury, direct and consequential, which these discriminations inflict upon the public. A man who invests his capital, or employs his time in mining or manufacturing, can be driven into bankruptcy at any time by a discrimination against him, and in favor of his competitors. This is done every day, and all the time, not in a few cases here and there, but systematically and regularly, whenever a carrying monopoly conceives that its own interests can be promoted in that nefarious way; and it will continue to be done until the prohibition of the Constitution is enforced by penal enactment.

THE FOUL BULK OF THESE ENORMITIES.

Instead of breaking the foul bulk of these enormities, I will give you a sample; convenient, because it is small and easily handled. A neighbor and friend of mine (in partnership with another) became the lessee and operator of a coal mine in Northumberland. For a short distance they were obliged to carry their product over one of the branches of the Pennsylvania company; they were charged for the use of the road and motive power alone—there was no loading or unloading in the case, and no cars were furnished by the company—at about the rate of twenty cents per ton per mile; while others whom the monopoly chose to favor were let off at two cents. They paid the excess under protest, and brought suit to recover it back. It was as simple a case of extortion as can be conceived; but certain officers of the Pennsylvania Railroad Company swore that in their judgment it was right to commit it, and moreover declared that it was a usual, common and customary practice. I blush to acknowledge that in all this the Supreme Court endorsed and abetted the corporation. The dialectics of the decision turned on a prohibition in the charter against charging more on an average than four cents per ton per mile—which was construed as a legal warrant for any robbery of one person which the company could prove to be balanced by the aggregate of favors shown to all others. But neither the greatest corporation in the State, nor the highest judicial tribunal, paid any respect whatever to the principle that all men's rights to the use of a public highway are equal.

It is known and not denied that this equality of right (sacred and fundamental though it be), is by the common practice of carrying companies corruptly disregarded.

If you want to drive business competition out of the field, bribe a railroad manager to raise the freights upon your rivals and lower your own, or take the whole board of directors into partnership with you, or promise to divide the spoils with the corporation, and they will make you a monopoly with power to plunder, limited only by the rage of your dealings. The loss thus inflicted upon the worthiest men in the land is startlingly large. By a single one of these arrangements—that with the Standard Oil Company—the estimated injury direct and consequential to honest persons within the State, amounts to not less than a hundred and fifty millions of dollars. For this fact you have the statement of Mr. Gowen, whose veracity no man that knows him will doubt, and whose faculties of observation, sharpened by a personal interest in the subject, make him a most intelligent witness.

[TO BE CONTINUED.]

THE MULE.

A mule is always worth 25 per cent more than a horse because 50 per cent better. Close acquaintance with mules for about five years has taught me this fact. They are really more docile than horses; are hardier; do more work; eat less, and thrive upon coarser fare; are never sick unless shamefully ill-used or ill-fed; live longer and are more useful while they live. I never saw a mule team run away. Mules rarely stumble on the roughest roads; are scarcely ever balky and will pull heavy loads as steadily as an oxen, hanging on in the traces with all their weight, without

any jerks or giving back. Consequently the harness lasts longer than with horses. They may be made as kind in disposition as horses by the same kind of treatment. A pair of young mules, coming 3 years old, which I have raised, will come when I whistle for them from the far end of a 100-acre pasture lot; will eat corn or take salt from my hand; will enjoy petting as much as the horse colts, and have never yet lifted a foot to kick. The mule is made vicious by vicious treatment; it has the patience, hardness, abstemiousness and docility of the ass, with the strength and intelligence of the horse. There is money in rearing mules, and economy in using them anywhere.—*Tribune Correspondence.*

RAISE MORE HORSES AND CATTLE.

The United States is a great horse and cattle producing country, yet the importation of these animals into the United States within a period of eleven months, ending June 1, 1889, would indicate that it is necessary for other countries to assist us in supplying our home demand. According to facts gathered from United States treasury reports there were 50,529 cattle and 46,230 horses shipped into the United States on which duty was paid. Of course they were not for breeding purposes, as breeding stock is exempt from tariff duty. The inquiry naturally follows: Where did they come from? This we are not prepared to answer, but we will suppose that a large portion of the horses were of the Mexican pony stock and shipped in from that country. We do not favor such importations. This pony stock of horses are a curse to this country, and any country advanced in the improved stock business as we are. We see farmers in the West who have been induced to buy a team of ponies on account of price, toiling away in an effort to cultivate the soil with a team in no way qualified to do the work. The result is a failure partial or entire. They are vicious, treacherous, small and an absolute nuisance in the hands of all persons except the trader.—*Eps.*

ORGANIZING.

Evidence is coming in from all sides that the farmers throughout the country are organizing for self-protection. It is one of the best signs that they begin to see what is the proper method to secure themselves against those who have been plundering them right and left in the past.

We hope this organization will not end in the mere establishment of exchanges for selling produce and purchasing the necessities of life for the farmers. These things are only the beginning of the reforms which are needed. It is one great step in the right direction to get this much, and if we can get no more we may congratulate each other on accomplishing this much. But let us get more.

Farmers constitute a vast majority of the citizens in our country and they should have a corresponding majority in all the responsible positions in legislation throughout the land. From the President of the United States to the Governor and representatives in our State Legislature the farmers should be in the majority. It is the height of folly to say, take no organized action about who shall make and execute our laws. We want farmers and the friends of agriculture wherever we can get them, and we must have farmers at the head of political affairs if we would have them as we wish them.

It is very well known that laws are of such an intricate nature now that very few can understand them and the way of justice is hard to find out. The vast machinery of the law is more complicated than steam engines or electrical motors—and why? Because our rulers have been to a very great extent lawyers—men who have no sympathy with farmers, and whose interest consists in promoting feuds instead of cultivating peace; who grow fat upon laws which have been fashioned especially to accomplish this end.

We want plain, hard-common-sense farmers in the majority, that laws may be made plain and justice may be had without the necessity of quibbles and technicalities, and without the chance of escape of criminals through the omission of a word or the neglect of a formality.

Most of all we want farmers in the majority in State and United States legislative halls that farmers may have their just share of the benefits coming from laws which bear upon farming interests. We should have the President, Governors and legislators to the extent necessary to secure those rights which are now torn from us to build up millionaire manufacturers, corporations and monopolies generally as well as the vast trusts which openly defy the right in their greed after the farmers' toil-earned dollars.

Let the organizing go farther, then, than the selling of produce and the buying of a few articles for the house and farm. Let it resolve, not in the spirit of Democrat or Republican, but in earnest co-operation to place farmers to rule over us, to make and execute the laws upon which depend all our welfare and happiness.—*Maryland Farmer.*