

The Civic Revival in Ohio

The Street Railway Controversy in Cleveland

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IN PREVIOUS STUDIES we have been concerned with the personalities of the leaders of the Civic Revival in Ohio and with the ideas which animated the movement. Interesting and important as was the dream of a city on a hill, the real import of the movement lies in its contribution of a practical example of a fight against privilege. The object of the present series of papers is to illustrate how this fight was carried on. Examples are given of how Johnson, Jones, and Whitlock applied their theories of privilege, taxation, and municipal ownership in their respective cities. The achievement of home rule and the initiative and referendum in the constitutional amendments of 1912 are traced. Finally, we show first how privilege fought the Civic Revival, and then the political techniques used by the leaders of the movement to waken the people to the fight against privilege.

I

IN BOTH CLEVELAND AND TOLEDO the street railway question was the vigorous and practical issue around which the fight against privilege centered. The Civic Revival began in both cities as a people's attempt to prevent local street railway companies from obtaining franchise extensions from supposedly corrupt councils. Popular antagonism toward the transportation and other public service companies was the backbone of the Civic Revivalists' political support. In many respects this hostility was a chauvinistic attitude, often exploited by politicians.¹ Usually the privileged interests of the city could count on it expressing itself in fitful reform waves which did no more damage than to force the temporary retirement to private life of some councilmen known to be friendly to the utility companies. Johnson, Jones, and Whitlock appealed to this sentiment but because their opposition to the street car companies was grounded in philosophy rather than prejudice, and because they were able to make the concept of privilege real to the people, they were able to crystallize an unorganized popular resentment into a coherent civic

¹This is the opinion of Brand Whitlock, "Forty Years of It" (New York, 1914), p. 330.

policy which their cities followed for almost a decade. The tangible results of the street car controversy in lowered fares were considerable. Less measureable but even more interesting to speculate about was the impetus the debate on the question gave to the doctrine of social values. Fighting the street car companies was an education in democratic action for the people of both Cleveland and Toledo, and while this war against privilege went on there was noticeable in the two cities a civic enthusiasm which unfortunately is not consistently found in American political life either on the national or municipal level.

The problem of the terms upon which cities should renew street railway franchises was one faced by many communities in the early years of the twentieth century, for grants awarded about twenty-five years before were then beginning to expire. Johnson's street railway experience, his energy and resourcefulness, and his strong single tax convictions made him recognized as the outstanding figure in the movement to bring private street car companies under closer supervision of the municipalities in which they operated. "You are going to settle our street railway problems for all of us," Brand Whitlock wrote him.² It was realized by his friends and opponents alike that Johnson's fight with the street railway companies of Cleveland involved something more than three-cent fares, something larger than the traction problems. The real issue at stake was the private control of public utilities. If Johnson was victorious in his struggle to bring the street railways of Cleveland under public control, the electric light and gas and telephone companies would be similarly attacked. If Cleveland were successful in controlling these utilities, other cities would follow her example. And if Johnson and Cleveland were defeated, the cause of municipal control of public utilities would be discredited in other cities.

II

AT THE TIME of Johnson's first election to the mayoralty (1901) there were two street railway companies in Cleveland, one controlled by Mark Hanna and the other by Horace Andrews. The two companies consolidated to form the "Concon" in 1903 but even before that date they had acted as a unit in opposing the city's attempt to obtain lower fares. The size of Johnson's majority in his first election was attributed by one of his supporters to the voters' disapproval of the generosity which the administration of his predecessor had displayed in distributing franchise

² Letter to Johnson, Nov. 19, 1907, Allan Nevins, ed., "Letters of Brand Whitlock" (2 vols., New York, 1936), vol. 1, p. 84.

grants to public utility companies.³ Shortly before the election the Council had given the gas company a ten year renewal of its franchise. Only intense public indignation, culminating in stormy "petitions in boots" to the council chamber had prevented it from renewing the franchises of one of the street car companies.⁴

Johnson's campaign slogan in his first election was "Three-cent Fares and Universal Transfers." In the winter of 1901 he had offered (for political effect, said his opponents) to operate the street railways of Columbus on these terms.⁵ Certainly he was not blind to the political appeal of such a platform, but the three-cent fare was more than a slogan to Johnson. He thought it was a reasonable rate of fare for any company whose stock was not watered. To him the difference between the profits derived from the five-cent fare then being charged and the profit which a well-operated company could make at the three-cent fare approximated the franchise (*i.e. publicly created*) value of the company. Johnson always insisted that he was not fighting private property, but rather fighting to help the public regain public property which had been appropriated by private individuals. He wanted the sacredness of public property to be as firmly recognized as the inviolability of private property.

Johnson himself admitted that one of his strongest reasons for favoring a three-cent fare was simply that it was two cents closer to nothing. He believed municipal ownership was the only permanent solution to the street railway question and as we have already seen, he looked forward to the day when cities would provide transportation service free, meeting the cost of providing it from taxation. Such a program was not immediately possible, however, because ownership of street railways was one of the activities in which the state had forbidden Ohio cities to engage. Even had state laws permitted municipal ownership Johnson would not have wished the city to buy the Cleveland street railroads until the fictitious value had been taken out of their valuations. Like Henry Demarest

³ Edward W. Bemis, "The Franchise Situation in Cleveland," *Municipal Affairs*, vol. VI, pp. 261-7 (June 1902). Bemis was a former college professor whose academic career was cut short because his liberal political and economic views did not suit the prevailing intellectual climate of either Chicago University or Kansas State Agricultural College. A well-known advocate of municipal ownership, he served as Superintendent of the Cleveland Water Works under Johnson. After Johnson's defeat in 1909 he accepted a similar position in New York City. He was also recognized as a leading expert on the valuation of street railway properties.

⁴ For a description of this demonstration see Frederic C. Howe, "Confessions of a Reformer" (New York, 1925), pp. 85-7.

⁵ See E. W. Bemis, "The Columbus Attempt to Secure Three-cent Fares," *Annals of the American Academy of Political and Social Science*, vol. XVIII, pp. 479-85 (Nov., 1901).

Lloyd, he knew that the acquisition of public utilities at inflated values only made the city the slave of the bondholder.

If municipal ownership was impossible by law, Johnson felt the regulation of street railroads or other utilities by either state or city commissions was impossible in fact. The simple and obvious remedy of regulating fares through ordinances of the Council had been denied the city by the courts.⁶ Unable to get the old companies to accept lower fares voluntarily, and perhaps feeling from the beginning an attitude he was reported to have expressed in 1909, namely that the old companies would never make any concession until fear drove them to it,⁷ Johnson believed that only through the introduction of a competing street car company could the Cleveland traction companies be brought to terms. As he was well aware, this was a difficult and dangerous undertaking, but neither he nor his associates knew what a laborious job it would be. Two and one-half years would be required to get a valid franchise awarded to a low-fare company. After the granting of the franchise four more years would pass before the first low-fare car would reach the Public Square. Johnson's superlative handling of the obstacles put in the way of the low-fare movement is what makes him rank as one of the important practical statesmen of this century.

III

THREE IMMEDIATE DIFFICULTIES were encountered by Johnson in his attempt to get a competing street car line established. One had to do with financing the road, another with obtaining reliable men to operate it, and the third was imposed by the provisions of Ohio's existing franchise laws. Obtaining the funds to build the road was a serious problem because of the hostility to the project felt by Cleveland capitalists. In the course of the struggle extremely valuable financial aid was given the low-fare movement by friends of the Mayor, like former Congressman Ben T. Cable and August Lewis, neither of whom was a Clevelander. In order to guard against the possibility that the operators of the low-fare company might sell out to the old companies,⁸ Johnson felt compelled to rely upon men whose integrity had been demonstrated to him in previous business

⁶ An ordinance setting the fare at four cents was declared invalid by the United States Supreme Court, *City of Cleveland v. Cleveland City Railway Company*, 194 U. S. 517 and *Cleveland v. Cleveland Electric Railway Company*, 194 U. S. 538.

⁷ Johnson is quoted to this effect in Warren S. Hayden, "The Street Railway Situation in Cleveland," *Proceedings . . . of the National Municipal League* (1909), p. 407.

⁸ While connected with the Detroit street railways Johnson had purchased the three-cent fare lines promoted by Hazen S. Pingree as a competitor to Johnson's company. "My Story," (New York, 1911), p. 94.

relations. From his point of view this was a necessary expedient; but men who were disposed to distrust Johnson interpreted the activity of his friends and former business associates in the low-fare companies as evidence of Johnson's own financial interest in the new companies.⁹

The Ohio laws governing the issuing of franchises were so drawn as to make it easy for companies already enjoying franchises to secure extensions or renewals, but exceedingly difficult for new and competing companies to enter a city.¹⁰ Johnson believed their aim and their effect was to protect existing companies in the enjoyment of their privileges. Before a new company could be granted a franchise its proposed route had to be approved by the Council; then the route had to be bid upon and awarded to the lowest bidder. After the acceptance of the bid, no franchise could be given to a new company until a majority of the property owners along its route had given (or sold) their written consent to the construction of the line. On the other hand, existing companies which desired to extend their lines into new territory were allowed to do so without competitive bidding, and no property owners' consents were necessary for the renewal of an expiring grant.¹¹

The first Cleveland three-cent fare franchise was granted to John B. Hoefgen on March 17, 1902. The city took the initiative not only in designating the route of the new line, but also in drafting the conditions of the franchise. The ordinance calling for the establishment of a new street car system had been introduced in Council by Frederic C. Howe early in December 1901.¹² Hoefgen, a former associate of Johnson in his Indianapolis and Brooklyn street railway activities, was the only bidder on the route. The city's acceptance of his bid precipitated a bitter struggle for consents. The two old companies paid property owners to refuse to give consents; Hoefgen's company paid property owners for consents. The City Council helped the new company by giving one name to a thoroughfare, parts of which had previously been known by four different street names. The low-fare company had had a majority of consents

⁹ Johnson's alleged financial interest in the competing companies is the subject of an article by Harry A. Garfield, "Private Rights in Street Railways," *The Outlook*, vol. LXXXV, pp. 256-8 (Feb. 2, 1907). This point is touched upon more circumspcctly by Hayden, "The Street Railway Situation in Cleveland," *loc. cit.*, p. 403.

¹⁰ Johnson's rivalry with Mark Hanna as a private street railway operator had impressed this fact upon him. See "My Story," *op. cit.*, p. 18.

¹¹ The difficulties imposed by the consent laws are discussed by Johnson, "Three-cent Fares in Cleveland," *The Independent*, vol. LXIII, pp. 335-7 (Aug. 8, 1907). For the changes in the consent laws made by the Schmidt bill of 1908 see Bemis, "The Street Railway Settlement in Cleveland," *The Quarterly Journal of Economics*, vol. XXII (Aug. 1908), pp. 556-7.

¹² See *Cleveland Plain Dealer*, Dec. 10, 1903.

on two portions of the road, but had been unable to get the necessary number on the other two parts. Throwing the four streets into one gave them a majority on the whole thoroughfare.¹³ The franchise then awarded to Hoefgen provided for three-cent fares, supervision of service by the city, reservation to the city of the right to purchase the line after municipal ownership was legalized, and the sharing with the city of one-half of all net profits over eight per cent after ten years of operation.¹⁴

Work on the construction of the Hoefgen line was interrupted by an injunction about three weeks after the franchise had been granted. On June 21, 1902 the Eighth District Circuit Court of Ohio declared the Hoefgen grant invalid on the grounds that the franchise issued to the company covered only a portion of the route advertised for bids. A further objection was that the ordinance underlying the franchise imposed certain improper restrictions on the grantee, such as one regulating the settlement of disputes between the company and its employees. Both of these irregularities were thought by the Court to have acted as possible deterrents to other bidders.¹⁵ In other words, the Hoefgen grant was illegal because some one might have wished to enter a bid promising a rate of fare even lower than three cents.

Immediately after the invalidation of this franchise the Cleveland Council passed ordinances preparatory to granting new low fare franchises which were so drawn as to meet the Court's legal—if not practical—objections to the first three-cent fare grant. Just six days after the Circuit Court's decision in the Hoefgen case, however, the Ohio Supreme Court pronounced the charter of Cleveland (and inferentially that of practically every other city in the state) unconstitutional on the grounds that it violated the prohibition of special legislation found in the Ohio Constitution.¹⁶ Ten days before the date set for receiving bids on the new low fare route the Supreme Court enjoined the Cleveland Council from considering the granting of any franchises. Not until eleven months later, after the passage of the new municipal code, and after Johnson's re-election in the spring of 1903, were bids again opened for a three-cent fare street car line in Cleveland.

¹³ See Bemis, "Franchise Situation in Cleveland," *loc. cit.*, p. 263 and Johnson, "My Story," 161-2.

¹⁴ For the provisions of the Hoefgen grant see Bemis, "Franchise Situation in Cleveland," *loc. cit.*, p. 262.

¹⁵ William M. Reynolds *v.* Cleveland *et al.*, pp. 14-29 Ohio Circuit Courts 215.

¹⁶ The State of Ohio *ex rel* the Attorney General *v.* Beacom *et al.*, vol. 66 Ohio State p. 491. In the text this case will hereafter be referred to as "the Cleveland Charter case."

The Cleveland charter case had been instituted by Attorney-General John B. Sheets on December 8, 1901, two days after the introduction of Howe's original low fare ordinance. The decision in the case was based upon another decision rendered on the same day. In the latter case the act removing the Toledo police force from Jones' control was also held to contravene the constitutional prohibition of special legislation.¹⁷

In these two cases the Court refused to follow the precedents it had established in a long line of decisions in which more or less obvious infractions of the rule against special legislation had been winked at. Whitlock, who was one of Jones' attorneys in the Toledo police ripper case felt the decision represented victory for home rule, nevertheless he admitted that Mark Hanna's influence was perhaps more directly responsible for making up the judges' minds than were the arguments of Mayor Jones' counsel. Most students of political science agreed that in ending the municipal classification system the Court had rectified a long-standing legal error.¹⁸ Some critics, however, pointed out that the Supreme Court had shown little disposition to correct the error until it was to the benefit of privileged and partisan interests to do so.¹⁹ In the course of the mayoralty campaign of 1905 Johnson said that he was "inclined to agree" that the Court had been correct in finding the Cleveland Charter unconstitutional. But the thing that made him suspect that the Court had lent a hand to the destruction of the whole system of municipal government in Ohio for the primary purpose of destroying the low fare movement in Cleveland was that Cleveland, alone of all the cities in the state, was enjoined by the Court from granting any franchises until the new municipal code had been put into effect.²⁰ Ohio courts had not usually been so protective in their attitude toward a city's disposal of privileges.

IV

THE CITY GOVERNMENT organized according to the terms of the new municipal code went into operation on May 4, 1903. On the same day the fight for low fares was resumed with the introduction into Council of eleven low fare ordinances. The plan Johnson now followed was the same as that agreed upon a year before when the city had passed street railway ordinances designed to correct the defects in the Hoefgen grant:

¹⁷ The State of Ohio *ex rel* Knisely *et al.* v. Jones *et al.*, vol. 66 Ohio State p. 453 ("The Toledo police ripper case").

¹⁸ For the legal aspects of the case see John A. Fairlie, "The Municipal Crisis in Ohio," *Michigan Law Review*, vol. I, pp. 352-63 (Feb. 1903).

¹⁹ Milo Roy Maltbie, "Home Rule in Ohio," *Municipal Affairs*, vol. VI, pp. 242-3 (June 1902).

²⁰ *Johnson-Boyd Debates, 1905, First Debate, p. B4.*

instead of submitting a whole long route to prospective bidders the route was divided into segments with the understanding that first one small section was to be awarded to the low fare line, and that it would then acquire the rest of the route as an extension of its original franchise. On September 9, 1903 a franchise to operate a three-cent fare street car line on Dennison Avenue was awarded to Albert R. Green. This Dennison Avenue line was the base line of the Forest City Railway Company, the most important of the three-cent lines. As the franchises of the old company (the Hanna and Andrews street car lines had combined in the summer of 1903) expired they were awarded to the Forest City Company. Fear that one by one all of its franchises would be acquired by the competing company was what eventually brought the Cleveland Electric Railway Company (the Concon) to make a settlement with the city.

That settlement was still far in the future in 1903, however. The legality of the Green franchise was first challenged in the courts on November 12, 1903. This was five weeks after it had been granted and after a mile of track had been laid on Dennison Avenue. Accompanying this suit were a flurry of temporary injunctions blocking work on the road until it was decided that the conduct of the plaintiff, in waiting to bring his suit until after Green had expended much money on the new line, created an estoppel.²¹

In this case political expediency aided the low fare movement. Johnson was convinced that but for the approaching state election there would not have been the five weeks delay in bringing the suit to set aside the Green franchise. "Government by injunction" had been made an issue of the campaign by Johnson who was running for governor. Realizing the unpopularity of the injunction, and unwilling to prejudice Republican chances in what was to him a crucial election (for the legislature chosen in November 1903 was one which would, or would not, return him to the Senate), Senator Hanna had had the legal action postponed until after the election. At one point in his career Hanna had said that when politics interfered with business, he would give up politics. Now, with growing political ambitions and weighty party responsibilities, he reversed his old policy and sacrificed his business interests to his political desires. "The city's real success in creating a line from which extensions could be made was due to the fact that Senator Hanna sacrificed his street railway interests to political necessity."²²

²¹ Johnson, "My Story," p. 188. The case is reported in the *Cleveland Plain Dealer*, Nov. 13 and 17, 1903.

²² Johnson, "My Story," p. 189.

Financing the Forest City Company remained a difficult problem because of the continued hostility of established financial interests toward the venture. The effect of this antagonism extended beyond the offices of brokers and bankers. John B. Hoefgen, grantee of the first three-cent fare franchise, found that his relation to the Cleveland low fare movement made it hard for him to obtain equipment for his street railway holdings in other cities.²³ Constant litigation, which included a contempt of court action against the mayor,²⁴ as well as the granting of fifty-eight injunctions in less than seven years, frightened away many prospective investors. In 1906 the people of Cleveland were summoned to the aid of the low fare movement. Johnson and E. W. Scripps joined in guaranteeing (through the medium of the *Press*, a Scripps-McRae newspaper) the payment of six per cent dividends on Forest City stock. As a result of this guarantee over one million dollars was subscribed to the company by small investors.²⁵ One judge, however, construed the guarantee as a financial interest on Johnson's part in the success of the low fare movement. Until the decision was overruled the guarantee served as an excuse to prevent the Forest City Company from using municipally owned tracks in the middle of the city.

In spite of all these difficulties and delays the low fare line made progress. The first "threefer" car was run on November 1, 1906. Johnson acted as motorman and the new yellow car made its way down Dennison Avenue through crowds of waving and cheering people and past houses decorated as if for a holiday.²⁶ Ten weeks later, after having almost literally traversed a maze of injunctions, the first three-cent car reached the Public Square.²⁷ A few days previously the low fare movement had won its greatest legal victory. This was the United States Supreme Court's decision upholding the city's contention that the Concon's franchises on Central and Quincy Avenues had expired in 1905. The Court refused to set aside the grant the city had made to the Forest City Company to operate on these streets.²⁸

The success of the "threefer" line, the threat that all of its franchises

²³ E. W. Bemis, "Street Railway Settlement in Cleveland," *loc. cit.*, p. 547.

²⁴ This occurred in the summer of 1906. See "A Striking Case of Corporation Contempt of the People . . .," *The Arena*, vol. XXXVI, pp. 416-8 (Oct. 1906).

²⁵ Bemis, *op. cit.*, pp. 547-8.

²⁶ There is a colorful description of the trip of the first three-cent car in the *Cleveland Plain Dealer*, Nov. 2, 1906.

²⁷ See Johnson, "My Story," pp. 240-1 for an account of the picturesque expedients of "jumping the viaduct" and the laying of temporary tracks on Superior Avenue.

²⁸ *Cleveland Electric Railway Company v. Cleveland and the Forest City Railway Company*, vol. 204 U. S. p. 116.

would go the way of the Central and Quincy Avenue ones, and finally Johnson's defeat of Theodore Burton in the mayoralty election in November, 1907 at last made the old company ready to consider a settlement of its differences with the city. Elbert H. Baker, general manager of the *Cleveland Plain Dealer*, secured acceptance of a plan for the mediation of the controversy between two men, one representing the city and the other the Concon. Johnson was the city's representative in the negotiations and the railway company named Frederic H. Goff, a well-known attorney and banker as its representative. The fact that these two men had wide authority to work out its details made the settlement easier to obtain. But the real reason for the success of the negotiations was that by 1908, having overcome all kinds of legal, financial, and political obstacles, Johnson's policy of competition had proved a success. "Fear of something worse happening to them if they didn't" was what made the men who controlled the old company come to terms with the city in 1908.

V

JOHNSON MADE an important contribution to the solution of the problem of how the people of a city can control a public utility when municipal ownership of the utility is legally forbidden and regulation of the rates and service of the utility by a commission is held to be practically impossible. For our purpose, the most important thing about the negotiations between Johnson and Goff was the understanding at the outset that if the physical and franchise values of the Cleveland Electric Railway could be satisfactorily determined, then all the company's properties were to be leased to a new company which was to operate all the street railways of the city. This new company was to pay the stockholders of street railway companies a certain percentage of interest on the agreed valuation of the system.

The lease plan was first suggested to the Concon as a basis for settlement in 1905 but was rejected. It was first applied in Cleveland in June 1906 when the properties of the Forest City Railway Company were leased to the Municipal Traction Company, a corporation whose entire stock of ten thousand dollars was owned by its six directors. The directors were salaried and self-perpetuating but had no financial interest in the railway company whose property they leased. The Municipal Traction Company constructed and operated low fare lines with money raised through the sale of Forest City stock. On this stock the lessor paid dividends of six per cent. The directors of the Traction Company were pledged to use any surplus for extensions and improvements in the street

railway system. Under the terms of the Johnson-Goff settlement the Municipal Traction Company was designated to assume the operation of all the street railways of Cleveland.²⁹

The chief issue which had to be threshed out between Johnson and Goff in the one hundred meetings they held between December 4, 1907 and April 27, 1908 was the valuation of the Cleveland Electric Railway Company.³⁰ Determination of this figure was recognized as a tremendously important point by both the city and the company. The value of the Concon was the chief item in the valuation of the whole Cleveland street railway system, *i.e.* the figure on which the Municipal Traction Company was to pay a six per cent dividend. It was also by far the largest item in the amount upon which would be computed the price the city would have to pay for the system if municipal ownership of street railways were ever authorized by the state. Johnson's estimate of the value of the Concon (including physical value, value of unexpired franchises, and good will) was about twenty-one million dollars. In terms of Cleveland Electric Railway stock, this represented a valuation of fifty dollars a share. Goff named a sum which would have established sixty-five dollars as the value of the stock. The compromise figure eventually agreed upon was slightly above twenty-two million dollars, or fifty-five dollars per share.³¹ The valuation of the Forest City Company and of another low fare company then operating in the city was set at about one million eight hundred thousand dollars, making the total value of the combined street railway systems approximately twenty-four million dollars.

The transactions necessary for putting the Johnson-Goff settlement into effect were performed on April 27, 1908. A new company owning all the street railways of Cleveland was formed. This new company, known as the Cleveland Railway Company, was a consolidation of the old Concon and the two low fare companies. In the organization of the new company fifty-five dollars worth of Cleveland Railway Company stock was substituted for one hundred dollars worth of Concon stock, while the securities of the low fare companies were exchanged for stock in the new company at par value. Next the franchises of the Concon were surrendered

²⁹ Johnson explains the relation between the Municipal Traction Company and the Forest City Railway Company in "My Story," p. 224.

³⁰ Reports and exhibits of evidence filed with the negotiators fill nine large volumes. The most intelligible summary of the proceedings is Bemis, "Street Railway Settlement in Cleveland," *loc. cit.*

³¹ In 1905 Johnson would have agreed to a valuation of eighty-five dollars on Concon stock. In the Spring of 1907 he proposed a value of sixty dollars per share. When Cleveland bought the street railway system in the Spring of 1942 the price was forty-five dollars a share.

to the city and a new franchise (the security grant) was issued to the Cleveland Railway Company. Finally the properties of the Cleveland Railway Company were leased to the Municipal Traction Company, which was now to operate all the street car lines of the city under the same terms as it had formerly operated the cars of the Forest City Company. It was understood that the Municipal Traction Company was to charge three cent fares and that the security grant would go into effect only in case the lessor failed to meet the agreed interest payments. The provisions of the security grant, while protecting the city's interests in all essential points were purposely made generous to the grantee so that the franchise would in fact be good security on which the holding company could raise money through the sale of Cleveland Railway Company stock.³²

On April 28, 1908 all street cars in Cleveland were run free. Plans were made for the annual celebration of "Municipal Day" to commemorate the people's first victory in their fight against privilege. Johnson, while regarding this as anything but a final victory, was yet sure that it represented a long step forward. At a dinner the night before he had given his interpretation of the aims of the Cleveland movement:

We are trying . . . to set an example that others may follow in self-government, in some plan by which people living in great congested centres can govern themselves in the way that the greatest happiness will come to them. This is our big object.³³

VI

THE CIVIC REVIVALISTS looked upon the Johnson-Goff settlement as a people's victory because the holding company plan removed the public utility which affected the lives of city-dwellers in the most intimate way from the control of those whose primary interest in it was profit and put it in the hands of men who, as unofficial public trustees, had for their chief interest the improvement of service and the lowering of fares. It was not regarded as an ideal solution for it still allowed private individuals to make a profit out of the social necessity of transportation, but it did limit private profit to a reasonable amount. Some supporters of the holding company plan objected that the valuation assigned the Concon in the settlement was too high.³⁴ The success of the plan necessarily rested

³² The security grant reserved to the city the right to purchase and provided for regulation of service by the city. It allowed the company to charge five cent cash fares and to issue six tickets for twenty-five cents.

³³ Johnson's speech is printed in the *Cleveland Plain Dealer*, April 28, 1908.

³⁴ For Peter Witt's objection to the valuation see Carl Lorenz, "Tom L. Johnson" (New York, 1911), pp. 164-5. Bemis thought if the city had waited another year or two it could have secured a much lower valuation, "Street Railway Settlement in Cleveland," *loc. cit.*, p. 557.

upon the good faith of the self-perpetuating board of directors of the holding company. The directors were not legally responsible to the city; they could not legally be compelled to carry out their promise to use possible surpluses for extensions and improvements (rather than for dividends to the director—stockholders of the holding company); there was no legal way in which the city could force them to charge rates lower than those set out in the security grant. The only guarantees that they would not abuse their powers were the characters of the directors and the publicity under which they would be required to operate the street car lines. The directors were all men known to be friendly to Johnson—a sufficient reason for distrusting them, according to some Clevelanders.³⁵ The events of the next few months were to demonstrate, however, that it was not the directors of the holding company who broke faith with the public. Those who sympathized with the aims of the Civic Revival agreed that the lease plan, devised and put into operation by Johnson, was the most workable means by which the public could get the substance of municipal control until home rule achieved, municipal ownership was possible.

VII

AS IT TURNED OUT, the victory was not yet won. Even before the lease went into effect the business depression of 1907 had caused a decline in the number of street railway passengers. In order to meet the interest charges on the twenty-four million dollar valuation and at the same time operate the cars on three-cent fares, the directors of the municipal traction company felt required to inaugurate some economies in the service. Fares to suburbs like East Cleveland were left at five cents and until August 1, 1908 there was a one-cent charge for transfers. Service on some unprofitable lines was greatly curtailed, and in a very few cases, was discontinued altogether. Schedules were revised so that fewer cars were run during the slack hours of the day and more during the rush hours. Some routes were altered slightly and places of stopping were changed. These service changes provoked wide criticism, bearing out, so Johnson thought, the truth of his theory that the people would demand better service from a public company than from a private one. He believed that most of the criticism was caused simply by the novelty of the changes. However, he admitted that some service economies had caused inconveniences to car riders.³⁶

³⁵ Among the original directors were A. B. DuPont, Frederic C. Howe and C. W. Stage. Later Johnson was made Treasurer of the company and Newton D. Baker and Ben T. Cable were added to the Board of Directors.

³⁶ "My Story," p. 283.

The Municipal Traction Company's operation of the street cars was complicated by the mechanical difficulty of making change for three-cent fares. This should have been only a temporary and minor annoyance. Johnson set out to remedy it by perfecting a new type of fare box. The change problem was made important by the failure of some disgruntled conductors, former employees of the Concon, to collect fares and by the systematic refusal of some opponents of the Municipal Traction Company to pay fares. Crowds of men would get on the cars together and press past the conductor, who was unable, and in some cases unwilling, to make them pay their fares. A more subtle way of embarrassing the company was practiced by men who deliberately exhausted the conductor's change by presenting large bills in payment of fare. In Johnson's words, "It wasn't men with dinner-pails who offered five-dollar bills in payment of three-cent fares . . ." but rather "some of the people who were pledged to carry out the agreement which Mr. Goff had made in their behalf."³⁷

The most direct obstacle thrown in the path of the holding company's attempt to operate the system successfully came on May 16 when, just as arbitration machinery was beginning to function, three-fourths of the company's employees went on strike. These were the seventeen-hundred motormen and conductors who had formerly been employed by Concon. Late in 1906 the Concon entered into a closed shop agreement with local 268 of the Amalgamated Association of Street and Electrical Railway Employees. The contract provided for a wage rate of twenty-four cents an hour but promised a two-cent an hour increase if the company obtained a new franchise. The Concon had previously opposed unionization of its employees, and friends of Johnson interpreted the conditional promise of a wage increase to mean "if Tom Johnson is defeated for re-election in 1907 and an administration friendly to the company is put into City Hall." Earlier in 1906 the Municipal Traction Company, then operating the Forest City line, had entered into a twenty-five cents an hour agreement with local 445 of the street railway union. After the holding company leased the property of the Cleveland Railway Company, the wages of former Concon employees were raised to twenty-five cents an hour, but the men insisted that the Company carry out the Concon promise in regard to a two-cents an hour increase. The question of whether or not this agreement was binding on the Traction Company was the ostensible cause of the strike. However, the issue between the holding company and the old Concon employees had been further complicated by a jurisdictional

³⁷ *Ibid.*, pp. 281-2.

dispute between locals 445 and 268 and by the firing of fifty conductors charged with deliberate failure to collect fares.

Especially in its first few days the strike was accompanied by violence. Dynamite was placed on some tracks either by the strikers or by their sympathizers; cars were stoned; and power lines were cut. Johnson suppressed the strike with what Whitlock called "a rather ruthless hand."³⁸ Service was maintained throughout the strike by the employment of new men. After the first day or so the police were able to prevent any serious violence and within ten days cars were running as usual. At the time of the strike there was a general feeling in Cleveland that men like John Stanley, who had been prominent in the old Concon, were encouraging the strike.³⁹ It is at least worth noting that newspapers and organizations not ordinarily conspicuous for their friendliness to labor were in this case not unsympathetic to the strikers.⁴⁰

Although the strike itself was broken, the bad feeling intensified by it was chiefly responsible for nullifying the Johnson-Goff plan of settling the Cleveland street railway controversy. After car operation had returned to normal the men hired to run the cars during the strike were permitted to retain their positions if they wished to do so. As vacancies occurred the strikers were invited to return to their old jobs at twenty-five cents an hour. About one thousand of the latter refused to return to work unless their seniority rights were restored and all the new (*i.e.* strike-breaking) employees were discharged. It was these strikers, presumably getting financial assistance from some source hostile to the Municipal Traction Company, who took advantage of an act recently passed by the Ohio legislature and circulated petitions calling for a referendum on the security grant issued to the Cleveland Railway Company as one of the corner-stones of the Johnson-Goff settlement. The act they invoked was one introduced in the Senate by Thomas P. Schmidt, a friend and supporter of Johnson. Originally it had called for changes in the Ohio consent laws, but it had been amended so as to authorize referendums on street railway franchises when petitioned for by fifteen per cent of the voters.⁴¹ The strikers were successful in obtaining enough signatures to their petitions and the security grant was submitted to a referendum at a

³⁸ Letter to William Allen White, January 16, 1909, Nevins, ed., "Letters," *op. cit.*, p. 103.

³⁹ For Stanley's purported rôle see Lorenz, "Johnson," *op. cit.*, p. 171.

⁴⁰ For example, see an editorial in *The Cleveland Leader*, May 17, 1908. The best description of the strike is in *The Public*, May 15, 22, 29 and June 5, 1908.

⁴¹ For the interesting legislative history of this measure see Whitlock's letter to William Allen White, January 16, 1909, *loc. cit.*, p. 102.

special election held on October 22, 1908. The franchise was rejected by the people by a majority of less than one per cent of the number of votes cast.

Various writers have presented different explanations for the defeat of the security grant. Usually the reasons assigned by each writer bear a close relationship to his attitude toward the holding company plan. Two writers hostile to Johnson emphasize discontent with the street car service provided by the holding company and distrust of the directors caused by alleged irregularities in the company's handling of its funds as reasons for the defeat of the franchise.⁴² The writer believes the explanations offered by two friends of Johnson, Brand Whitlock and E. W. Bemis, are closer to the truth.⁴³ This is not because either of them was necessarily more objective in his viewpoint than Johnson's detractors, but because their understanding of his aims made them try a little more conscientiously than other writers to seek out all the reasons for the defeat and to weigh each one judiciously.

Both Whitlock and Bemis noted the activity of the striking employees of the Municipal Traction Company in campaigning against the grant. Both agreed that dissatisfaction with the service had something to do with the defeat of the franchise. Both were inclined to give more emphasis, however, to the large funds at the disposal of those who wanted to overthrow the Johnson-Goff settlement by cancelling the security grant. Bemis showed not only how the strikers were financed by interested parties, but also how money was spent for misleading advertisements which warned that a vote for the franchise was a vote for a five-cent fare. Whitlock, who was himself engaged in a bitter fight with a street railway company, revealed the interest street car companies all over the country felt in the defeat of the holding company plan. Both Bemis and Whitlock agreed that partisan feeling was an important factor in bringing about the defeat of the franchise. Coming as it did in the midst of the Presidential campaign of 1908 the referendum election gave many voters, even in a city as politically independent as Cleveland, a chance to feel that by voting against the Johnson plan of settlement they were voting against the Democrats and Bryan and for the Republicans and Taft. One thing we should notice in summary is that the referendum on the

⁴² Hayden, "The Street Railway Settlement in Cleveland," *loc. cit.*, p. 411 and Paul L. Haworth, "Mayor Johnson of Cleveland. . . ." *The Outlook*, vol. XCII, p. 471 (Oct. 23, 1909).

⁴³ Whitlock to White, Jan. 16, 1909, *loc. cit.*, pp. 103-4 and Bemis, "The Cleveland Referendum on Street Railways," *op. cit.*, pp. 179-83. *The Public*, Oct. 30, 1908 has an interesting account of the referendum campaign.

security grant and the one on the Schmidt grant in the following year demonstrate the fallibility of the referendum as a popular weapon when the voters are blinded by partisan feeling and when their agencies of information are in the control of privilege.

VIII

AFTER THE FAILURE of the security grant the Municipal Traction Company was placed in receivership, not, the friends of the company insisted, because it was bankrupt or failing to meet its obligations, but because court control was felt desirable until a final settlement of the traction problem had been worked out. The imminence of the expiration of the old Concon franchises made it hard to raise funds and threatened the interest of the Concon bond-holders.⁴⁴ Yet even after the defeat of the security grant and the appointment of receivers, the city still held the whip hand in the fight. Three-cent fares were still being charged; the Council was still dominated by Johnson's supporters; and in February 1909 the Federal District Court ruled that Concon franchises on certain important streets had expired more than a year previously.⁴⁵ If it had chosen to take advantage of this decision the city could have continued its policy of granting franchises to low fare companies to operate on streets where Concon rights had expired. Within a year or two the city would have been blanketed by low fare franchises. Presumably the old company would then either have had to accept the city's terms or have been forced out of business.

This was the policy Johnson planned to follow after the Cleveland Railway Company turned down a plan of settlement contained in an ordinance drafted by City Solicitor Newton D. Baker. On June 7, 1909 Council issued a franchise (the Schmidt grant) to the Cleveland Traction Company. The original Schmidt grant simply authorized the Cleveland Traction Company to build and operate a three-cent fare street railway on Payne Avenue but later in the month considerable extensions to this franchise were granted. In the extensions were placed the regulatory provisions which the decision in the Hoefgen case prevented the council from writing into the original grant. Evidently the voters were wearying of the street car controversy for they rejected the Schmidt grant at a referendum election held on August 3, 1909.

⁴⁴ E. W. Bemis, "The Cleveland Referendum, Aug. 3," *The Independent*, vol. LXVII, pp. 222-3 (July 29, 1909). Judge Tayler's decision in the receivership suit is printed in *The Public*, vol. XI, pp. 802-4 (Nov. 20, 1908).

⁴⁵ *Central Trust Co. of New York v. Municipal Traction Company et al.*, vol. 16 Ohio Federal Decisions p. 311.

From Johnson's viewpoint this referendum provided an almost perfect example of the political behavior of privilege. The center of opposition to the franchise was the Cleveland Chamber of Commerce, four hundred of the members of which owned over one-half of the stock of the Cleveland Railway Company. The Chamber circulated the petitions for the referendum and after sufficient petitions had been secured, it organized the Citizen's Committee of 100 which led the attack on the Schmidt grant. Intimately connected with the Chamber in helping to defeat this franchise were the banking institutions of the city. The bankers influenced the manufacturers and retailers, who, as advertisers, influenced the editorial policy of the newspapers. Papers which had either been opposed to settlement, or were only lukewarm for it at the time of the referendum on the security grant, now drummed home to the people "Settle. Settle. Settle. Settle or this traction war will ruin business."⁴⁶ Johnson thought that in blunt language what they wanted was a settlement on terms favorable to the railway company. He believed the company's refusal to consider the Baker ordinance indicated its unwillingness to make any important concessions voluntarily. "I am as eager for settlement as anyone," was his attitude, "but I want a settlement on the city's terms."⁴⁷

The alternative favored by those who opposed Johnson's program of continued competition was an ordinance to be drafted by Judge Robert W. Tayler of the United States District Court. It was Judge Tayler who had appointed the receivers for the Municipal Traction Company. In letters to the receivers he had listed the points which he felt should be included in any permanent settlement of the street railway controversy. The essence of his plan was that street car riders should receive transportation at cost and that cost should include a six per cent return to the street car company on a fair valuation of its property.⁴⁸ At the time of the Schmidt grant the Cleveland Railway Company had promised to accept any ordinance drawn up by Judge Tayler and with the defeat of the Schmidt franchise the Council called upon Tayler to prepare an ordinance. On December 18, 1909, after Johnson had been defeated for re-election, but while he was still in office, the Tayler service at cost plan was accepted by both the Council and the Railway company. The Tayler grant went into effect in 1910 and with several later amendments, was the basic

⁴⁶ "Tom L. Johnson's Defeat," *The Public*, vol. XII, pp. 773-4 (Aug. 13, 1909), describes how privilege fought the Schmidt grant.

⁴⁷ For the Civic Revivalists' attitude toward an "immediate settlement" see Johnson, "My Story," p. 288; Bemis, "The Cleveland Referendum, Aug. 3," *loc. cit.*, and W. G. Osborn, "Questions and Answers," (Cleveland, 1909).

⁴⁸ For comment on the Tayler plan see Robert W. Tayler, "Service at Cost," *Franchises of the Cleveland Railway Company*, pp. 67-75.

franchise under which the Cleveland street railway system was operated until the city purchased the lines in the spring of 1942.⁴⁹

IX

"THIS ORDINANCE is not a victory," said Johnson on the eve of the referendum at which the people upheld the Tayler grant. "It is a defeat."⁵⁰ A year before, he had expressed his approval of Judge Tayler's general ideas even as Tayler had expressed his approval of Johnson's aims. The real difference in viewpoint between Tayler and Johnson was revealed in the winter and spring of 1909 when the two men tried to work out an ordinance embodying the Tayler plan. The crux of the issue between them was the amount of supervision which the city should exercise over the Cleveland Railway Company if a new franchise were awarded to it, and the way in which the control should be exercised.

Service at cost was fundamentally a plan designed to leave the control of public utilities in private hands. Tayler proposed that the city "super-vise" the street railway service through a Street Railway Commissioner and that disputes in regard to service, fares, or stock issues should be settled by a Board of Arbitration. Johnson suggested that the company could be held to even greater responsibility if the tenure of the franchise was made indeterminate. He wanted the franchise to reserve the city's right to name a purchaser for the line at any time after the franchise had been in effect for two years. Then if the company did not operate the street car system to the city's satisfaction, it could be supplanted by a new company more amenable to the city's desires. In the Tayler grant as passed in 1909 the city's right to name a purchaser was reserved to it, but it was not to be exercised until 1918 and was so hinged with qualifications and restrictions as to indicate that it would be practically impossible to apply. Johnson was more successful in inserting another provision for controlling the company in the Tayler grant. This was the famous "invalidity clause" which stated that if any of certain articles in the franchise were declared invalid by the courts, the city council was to regulate rates and service and to arbitrate disputes. If the company refused to assent to regulation by the council, then the whole franchise was to be forfeited.⁵¹

⁴⁹ On the Tayler grant see the following: E. W. Bemis, "The Cleveland Street Railway Settlement," *op. cit.*, pp. 550-60; T. L. Sidlo, "Cleveland's Street Railway Settlement," *The American Political Science Review*, vol. IV, pp. 279-86 (May, 1910). The ordinance is officially known as "Ordinance No. 16238-A" and is printed in *Ordinances of the Cleveland Railway Company*.

⁵⁰ Archer H. Shaw, "The Plain Dealer" (New York, 1942), p. 294 quoting an interview with Johnson in the *Cleveland Press*, Feb, 12, 1910.

⁵¹ See T. L. Sidlo, "The Cleveland Invalidity Clause," *The Journal of Political Economy*, vol. XIV, pp. 124-8 (Feb. 1911).

Even after his defeat for re-election Johnson insisted so stoutly on the inclusion of this clause that at last it was written into the grant. Both he and his City Solicitor, Newton D. Baker, had seen too many examples of franchises whose regulatory provisions had been voided by the courts while the privileges granted by the franchises were enforced.

The Tayler franchise provided for a sliding scale of fares with ten gradations up to a maximum of four cents and one cent for transfers. The initial rate, under which the cars were to be operated for at least eight months, was three cents with penny transfers. Johnson's chief practical objections to the Tayler grant was that the valuation allowed the railway company was too high and that control of the fare policy was left too much with the company. He felt that the owners of the Cleveland Railway Company not only had no positive interest in low fares but that their street railway holdings in other cities would actually make them try to discredit low fares. He suspected that the company looked upon the Tayler grant only as a stopgap and that sooner or later it would claim that even the maximum fares named in the ordinance was too low and would try to obtain the right to charge higher fares.⁵² The history of street railway fares in Cleveland since 1910 shows that while the fare was kept at three cents until 1917, the maximum was later raised by successive amendments to the franchise.⁵³ In general, the history of the Tayler grant illustrates the history of the service-at-cost plan. Originating as a way of lowering fares, with the curtailment of investment opportunities it turned into a device to pull up fares so as to insure a six per cent return on private capital.⁵⁴

X

THE BASIC REASON for Johnson's discontent with the Tayler grant as a means of settling the Cleveland street railway controversy was that it did not give full recognition to the doctrine of social values. The Tayler ordinance recognized the interest of the community in low fares and good service. It recognized the ultimate desirability of municipal ownership. But it was based on the theory that money in private possession is private property. Judge Tayler's ordinance looked upon the money made by a

⁵² For criticism of the Tayler grant see Johnson, "My Story," p. 289; Bemis, "The Cleveland Street Railway Settlement," *loc. cit.*; and Osborn, "Questions and Answers," *op. cit.*, pp. 20-2.

⁵³ Straight three-cent fares went into effect in 1911 two months after Johnson's death. For the amendments to the Tayler grant see *Franchises of the Cleveland Railway Company*.

⁵⁴ Delos F. Wilcox, "An Analysis of the Electric Railway Problem" (New York, 1921), p. 434.

street car company primarily as a return upon the private capital invested in it. Tayler thought this investment must be protected and that the best way to protect it was to leave the management of the company to the investors. Johnson, on the other hand, looked behind the possession of wealth to see how it was produced. In the case of profits from the operation of a street railway company he thought the wealth was publicly created, for its source was the social necessity of transportation. At the opening of this paper we noted Johnson's insistence that his fight was not against private property, but to regain public property which had gone into private pockets. He thought the main emphasis of any street railway settlement should be on the assertion of public rights rather than on safe-guarding investments in the privilege of exploiting socially-created wealth. That is why Johnson could not support a settlement whose chief aim he thought was to protect private investors, and which left control of the policies of the company in the hands of men whose chief interest in the company was private profit.

The settlement of the street railway controversy in Toledo was postponed even longer than in Cleveland. During his last administration Jones vetoed an ordinance passed by the Republican Council granting the Toledo Railways and Light Company a twenty-five year renewal of its franchise rights. The Council would have passed the ordinance over his veto had not Negley D. Cochran's editorials in the *Toledo News-Bee* aroused public opinion against the franchise. After Jones' death in July 1904 similarly inspired popular demonstrations again prevented the passage of the franchise over the veto of his successor.

The Toledo street railway system, with an actual physical value of about five million dollars, was capitalized at about thirty million dollars. The company's important franchises ran out in 1910. Neither Jones nor Whitlock felt equipped by experience to undertake Johnson's arduous policy of introducing a competing company. Both hoped that if the city refused to pass any franchise renewals until the old ones were on the point of expiring, a favorable settlement could be made with the company. After the franchises had expired in 1910 the company was allowed to operate cars on sufferance. The absence of a franchise enabled the city to force the street railway company to consent to charge lower fares. Especially after the passage of the home rule constitutional amendments in 1912 Whitlock was in no hurry to reach a settlement, because he thought that municipal ownership was now a distinct possibility. In negotiations carried on with the company during his term the valuation of the company was the chief subject of dispute. The Whitlock admin-

istration received valuable assistance from Clevelanders like Carl Nau, E. W. Bemis, Peter Witt, and Newton D. Baker in this matter. The street railway question was still unsettled when Whitlock left office. In 1920 the Milner plan, a service-at-cost settlement providing for ultimate municipal ownership, was adopted.⁵⁵

⁵⁵ On the Toledo street railway question, see: Whitlock, "Forty Years of It," pp. 340-8; Whitlock, letters to E. W. Bemis, L. F. Post and John H. Flynn, Nevins, ed., "Letters," pp. 162-3, 150-1, 141-2 and 147; Wendell F. Johnson, "Toledo's Non-Partisan Movement" (Toledo, 1922), pp. 17-22; Wendell F. Johnson, "Toledo's Street Car Question Settled," *The American City*, vol. XXIII, pp. 608-9 (Dec. 1920); and Wilcox, "An Analysis of the Electric Railway Problem," p. 763.

Ohio State University

Ending Illiteracy Among the Educated

SCIENTISTS MUST WRITE WELL. They are becoming more conscious of this all the time. Recently C. E. Rist, in charge of starch and dextrose work at the United States Department of Agriculture's Northern Regional Research Laboratory, Peoria, told the writer about a doctor of philosophy who had to be fired because he could not write comprehensible reports. Since you cannot be taught to write but must learn, the only sure way to make scientists write well is to compel them to do so as part of the prescribed course which leads to their undergraduate and graduate degrees.

But Mr. Rist differs with us about "officialese." He told of one employee who had just entered Government service and wrote "the hulls were removed by manual manipulation" instead of "by hand," and of another who, when filling out a form, asked: "What's a longer word for 'job'?" Sonorous, pompous, and scarcely understandable language is not necessarily governmental in origin. It can be a byproduct of the educational process. Thus a dignified and essentially dead language is developed in which to prepare scientific papers, reports, and addresses, as distinguished from the colloquial language of the living which is used for letters and conversation. Yet why have that special on-the-job language, asks Mr. Rist.

Dr. E. C. Lathrop who heads work on agricultural residues at the same lab and who is widely known for his slogan: "Agricultural waste is nobody's business," told us the impressively activated sentence the little boy used to wind up his story of Elijah and the bears. You remember the children were calling the prophet names and that angered him. So he told the children that if they kept that up he'd sic bears on them to eat them. And the boy concluded: "So they did and he did and the bears did." Well, there can be better writing than that, but not a great deal better!

T. S. H.