

ADDRESS

ON

"THE REAL DANGEROUS CLASSES"

(ILLUSTRATED BY THE RAPID TRANSIT CONTRACT)

BY

CHARLES O'CONNOR HENNESSY

BEFORE THE

BROOKLYN SINGLE TAX LEAGUE

FRIDAY, DECEMBER 14, 1900.

A week ago we had the honor to listen to an address by the Controller of the city of New York upon the subject of "Municipal Ownership," the most of which was devoted to an exposition by the Controller of his views upon the advantage to the city of the contract made by the Rapid Transit Commission, of which he is a member, with Mr. John B. McDonald, for the construction and operation of the underground tunnel railroad which is designed to supply rapid transit to the people of Man-

hattan and the Bronx. Mr. Coler, in a published work on "Municipal Government," had heretofore characterized the right to build and operate the underground railroad referred to as "the most valuable franchise ever owned by any city," and had at the same time, speaking for the city, declared that "a more advantageous contract could scarcely be imagined" than the contract of the city with Mr. McDonald. In the address which you had the honor to listen to last week, the Controller, while admitting that the contract was not an ideal one, nevertheless justified it as the best obtainable arrangement for the city, and indicated frankly his appreciation of the criticisms made upon it by stating that he would, at the earliest opportunity, vote to make a contract on similar terms extending the rapid transit railroad to Brooklyn.

The Controller's defense of the tunnel contract is, in substance, that the contract is in itself a good thing for the city because it enables the people to own the tunnel at the end of fifty years without having paid anything for it; that the gentlemen composing the Commission are men of eminent respectability and business sagacity, who could not be guilty of making either a dishonest or an improvident contract, and finally, that the best answer to the objectors to the contract is found in the fact that everything done by the Rapid Transit Commission had been substantially indorsed by the people at the polls when, in November, 1894, they had voted for just the sort of rapid transit the Rapid Transit Commission is giving them.

One newspaper report of Mr. Coler's address contained this paragraph:

"Referring to the rapid transit contract, he said it did not provide for the most ideal system of municipal owner-

ship, but the contract and everything relating to it financially, except the route, were put before the people in the way of a referendum. The Controller did not think it wise to go back on a contract made by the people."

Another report had this paragraph:

"At the close of Mr. Coler's talk there was a heated debate. Several of the speakers said that the rapid transit franchise was a pure bunco game on the people, as the people voted for municipal ownership in that work, but they did not get it. Mr. Coler, in reply, said they did not know what they were talking about, and advised them to study up and learn the facts."

BUT WHAT DO THE FACTS SHOW?

Both of these newspaper accounts are, I believe, substantially correct, except to the extent that they impute discourtesy in debate to the Controller. Now, I began a study of the facts regarding this contract many months ago, and I come here to-night prepared to state all of the facts so far as they are material to the discussion of my proposition that the Rapid Transit Commission should be abolished, that the law creating it should be repealed, and that steps should be taken at once to arouse the people of the city to the fact that their interests have been shamefully betrayed in the making of this contract; and that they should, by every means in their power, endeavor to prevent the consummation of the proposal that is made by the Rapid Transit Commission and endorsed by the Controller, to make a present to certain wealthy speculators of another franchise whose value to present and future generations of the people of the city, if properly conserved, should yield millions upon millions of dollars to the public treasury.

Before attempting to justify these conclusions by giving you the precise facts about what the Rapid Transit Commission has done and proposes to do, I may help your understanding of the situation by telling you something about the origin of the Rapid Transit Commission, and of the law which confers upon them such autocratic powers as, to a contemplative citizen, must seem to be an extraordinary perversion of the ordinary theories of popular government.

The agitation for rapid transit in New York City began, as you may know, a quarter of a century ago, and has persisted steadily since. The inadequate facilities for carrying a great and rapidly growing population between homes and business places, plus the stupidity or cupidity of public officials, led from time to time to the surrender, without compensation, of vastly valuable rights to use the highways of the city, to the surface and elevated roads. But the popular needs still exceeded the supply of transit facilities, and various Rapid Transit Commissions, before the existing Commission was created, were constituted by Tammany Mayors to solve the problem for the people. The Commission that preceded this one spent most of its time, as the records will show, in inconclusive flirtations with the Manhattan Elevated Road, which served no more serious purpose than to additionally in-trench that corporation in its immensely profitable monopoly of the greater part of the transit facilities of Manhattan Island.

THE GENESIS OF "MUNICIPAL OWNERSHIP."

The suggestion that the municipality should itself build and operate a railroad had indeed been made and discussed, but for a long time only in that limited circle of

pioneer reformers variously characterized as labor cranks, Socialists and Henry George men. The proposition had not attained respectability, because, for a long time at least, it lacked the support of those citizens, most of them members of the Chamber of Commerce, whose wealth and social position seemed then as now necessary to the successful accomplishment of any substantial governmental reform.

It was not until 1893 that the sentiment for a publicly built rapid transit system was strong enough to find powerful public supporters. At a meeting of large real estate owners at the Real Estate Exchange held in that year a resolution was proposed favoring the construction by the city of an underground road, on lines suggested by the then Rapid Transit Commission. The fact may be noted that one of the gentlemen who strongly opposed this proposition at that meeting was Hon. Abram S. Hewitt, who, a little more than a year later, appeared at a Chamber of Commerce meeting as the sponsor for the law under which the present Rapid Transit Commission came into existence. I quote now from a report of Mr. Hewitt's speech at the Real Estate Exchange meeting:

MR. HEWITT'S ONE TIME VIEWS.

"It is an ill-founded belief that a great public work can be carried forward without great—I do not like to say fraud—but shall say without great extravagance. We must take advantage of the agencies we have. One of these consists of the surface railroads, which are in process of reconstruction, and the work is in the hands of very intelligent and very powerful men, financially and

otherwise. The second agency is the present elevated system. This has done a great work for the city. It has doubled the value of property and given us the means of carrying on business that could not otherwise have been done; and the owners are entitled to all the profits they derive. But the present system is no longer adequate for existing demands. Their facilities can be largely increased if proper authority is given to them. This can be accomplished by allowing them to have a third track, which should be used for bringing down passengers in the morning and taking them back in the evening. I would give them such facilities at the Battery as intelligent engineers shall deem necessary for the more complete operation of the system."

Mr. Hewitt said he believed the gentlemen in control of the elevated railway would be willing to pay a reasonable compensation for extra privileges granted by the city. But as an alternative he suggested the idea of giving the New York Central Railroad the right to extend its tracks from the Grand Central Station through Fourth Avenue and Elm Street to the City Hall.

Mr. Orlando B. Potter agreed with Mr. Hewitt, and believed in the advisability of giving the elevated road the right to extend along upper Broadway and the Boulevard, upon both of which thoroughfares, he was frank to say, he was a large owner of real estate.

Newspaper reports of the Real Estate Exchange meeting say that a riot was almost precipitated by the fact that the Chairman of the meeting declared adopted the resolution in favor of municipal construction, a number of the influential gentlemen present stating that a majority of those voting were opposed to the idea. No immediate results, however, came from the meeting.

NOW APPEARS THE CHAMBER OF COMMERCE.

A year later the Chamber of Commerce, an institution which is described by Mr. Alexander E. Orr as "the natural guardian of our commercial interests," had taken up the matter. I shall now use a little of the language of Mr. Orr:

"Recognizing the danger that would result from further delay, the Chamber appointed a committee to investigate and report upon the rapid transit situation. This was done, and under the leadership of Hon. Abram S. Hewitt, that public-spirited citizen to whom New York owes so much, and with the assistance of the present Mr. Justice Beekman, amendments to the then existing rapid transit act were drafted and submitted to the Chamber for its approval, which they promptly received. These amendments created a new Commission and provided for municipal construction under certain conditions."

It may be of interest to the student of this most important of municipal questions at this time to remember the fact, as stated by Mr. Orr, that the Rapid Transit Law is a Chamber of Commerce law, and that the Rapid Transit Commission is a Chamber of Commerce Commission; for investigation will show that the influence of the Chamber and of the interests allied with it were sufficient at Albany to procure the passage of the bill practically unamended as it came from the hands of the committee appointed by Mr. Orr, then President of the Chamber. The only thing in the Bill that might be taken as a concession to Democratic theories of government was the condition therein providing that the question of municipal construction should be voted on by the people at the election in 1894. This provision, I find, did not origi-

nate with the Chamber of Commerce, but, I believe, was taken substantially from a Bill introduced in the Legislature of 1893 by Senator William L. Brown, which Bill he announced he had received from the labor organizations of New York, which provided for a vote on the question of the operation as well as the construction of the tunnel by the city. The Bill of the labor organizations, it seems, not having the support of those weighty and respectable influences which surround the Chamber of Commerce, did not pass the Legislature.

FACTS ABOUT RAPID TRANSIT LAW.

And now it is time to describe (and I doubt if it ever has been publicly fully described) the Rapid Transit Law of the Chamber of Commerce under which the present Commission was created and is acting. While the makers of previous rapid transit acts, apparently recognizing the fact that the people of New York should retain control of their properties, had vested the appointment of Commissioners in the Mayor of the city, the Chamber of Commerce Law named the Commissioners in the Bill itself, and so fixed it that the majority of them hold office for life, and have the power to fill vacancies however created. The first section of the Act provides that the Commission shall consist of the Mayor of the city, the Controller, the President of the Chamber of Commerce, Mr. Charles Stewart Smith, and the following named persons, to wit: William Steinway, Seth Low, John Clafin, Alexander E. Orr and John H. Starin. The present Commission consists of Alexander E. Orr, Charles Stewart Smith, Woodbury Langdon, George L. Rives, John H. Starin, Morris K. Jessup, Robert Van

Wyck and Bird S. Coler, the latter two being the only representatives of the government of the people of the city of New York upon a Commission of eight.

The records of the Legislature of 1894 show that strong efforts were made to amend the Bill so as to give the appointing power to the then Governor of the State, Mr. Flower, himself a large owner of local railroad securities; but the influences in and out of the Chamber of Commerce were strong enough to put the Bill through practically in the shape in which it was designed by Mr. Hewitt and his associates on the Rapid Transit Committee of the Chamber. When we pass this remarkable feature of the Bill it is only to be confronted with features more remarkable. The Commission has the power to determine when and what kind of Rapid Transit facilities are needed for any part of the city, and to lay out routes and provide plans for the building of a railroad over, under, upon, through and across any streets, avenues and lands within the city. After selecting the route, the Commission has the right to let to any one whom it may select the right to build and equip a railroad on terms to suit the Commission, which railroad, after having been paid for by the city, shall be operated by the contractor upon a lease for a period of fifty years, with a contingent extension of the lease to seventy-five years. As to the terms upon which the right of way owned by the city and the railroad built with the city's money are to be leased, the city authorities have absolutely nothing to say, the decision of the Commission being final in the matter, with the single exception that the Legislature has named a minimum rental, which must be obtained, which is specified as an amount equal to the interest on the bonds issued by the city for the cost of con-

struction, and at least one per cent. of such cost additional. This is practically the only limitation upon the power of the Commission as to the terms of lease. It is true that the Act provides that after the Commission has prepared the specifications for the kind of road it thinks the people ought to have, that bids are to be advertised for and the contract publicly let. But the farcical nature of this provision is indicated by the fact that the law literally provides that the Commission shall have the right to reject any and all bids, and to award the contract, irrespective of the bids, in a manner that shall to the Commission seem for the best interests of the city. Nowhere in the law is there any recognition of the right of the people, as represented by their government in the city of New York to have any controlling voice in the disposition of the vast public made wealth thus to be disposed of. Nor does there appear to be any way in which the people may have redress by appeal from the decision of the Commission. That it was the deliberate intent of the Chamber of Commerce gentlemen who framed this legal iniquity that the people or their representatives should be excluded from a controlling voice in the matter of selecting a contractor to build and operate the road is indicated, clearly, I think, by the fact that, while the law gives the city authorities a nominal veto power as to the approval of the route selected by the Commission, the matter of selecting the contractor and fixing the terms of his contract is left exclusively to the decision of six members of the Commission of eight, upon which the city has two representatives.

THE ASTOUNDING NO-TAXATION FEATURE.

But, perhaps the most astounding provision of this law is the brief section therein respecting taxation. I have traced the history of this feature so as to place the responsibility for its present aspect just where it belongs. The Rapid Transit Act of 1891 contained this provision:

"Section 15.—Every corporation organized under this Act shall have its principal office and be taxed on its property in the city where its railway or railways are situated."

In 1892 this section was amended by adding to it this language:

"But no taxes of any kind or nature shall be levied or imposed upon that portion of any railway constructed under this Act which is in process of construction and not in actual operation for the transportation of passengers or freight; but this exemption from taxation during construction shall not apply to any portion or portions of said railway after the date on which said portion or portions shall have been opened to the public for the transportation of passengers or freight."

In 1894, when the Chamber of Commerce gentlemen took hold of the rapid transit situation, their Bill, which is the present law, contained this section:

"Section 35.—The person, firm or corporation operating such road shall be exempt from taxation in respect to his, their or its interest therein under said contract, and in respect to the rolling stock and other equipments of said road; but this exemption shall not extend to any real property which may be owned and employed by said person, firm or corporation in connection with the construction of said road."

As this provision might be construed so as to make the contractor pay at least some taxes, it was further amended in 1896 so as to define the word equipment, as follows:

"Section 35.—The equipment to be supplied by the person, firm or corporation operating such road shall include all rolling stock, motors, boilers, engines, wires, ways, conduits and mechanisms, machinery, tools, implements and devices of every nature whatsoever used for the generation or transmission of motive power, and including all power houses and all apparatus, and all devices for signaling and ventilation."

JUST WHAT THE TAX EXEMPTION MEANS.

The force of this amendment, which I am prepared to show emanated from the same Chamber of Commerce sources responsible for the law itself, may be best estimated by quoting the exact language of the contract made by the Rapid Transit Commission with Mr. McDonald. The contract, after reciting that the contractor shall be exempt from taxation in respect to his interest in the railroad, and in respect to the equipment to the extent provided by the law, then defines equipment as follows:

"The word equipment is to mean all equipment used or intended for use on the railroad, including all motors, cars, whether used for passengers, freight, express or any other purpose, and all other rolling stock, all boilers, engines, wires, ways, conduits, mechanism, machinery, power houses; all real estate upon which any such power houses shall stand, or which shall be necessary for the generation or transmission of motive power, and all tools, implements and devices of every nature whatsoever used

for such generation or transmission of motive power, and also all apparatus and devices for lighting, signaling and ventilation—whether such equipment be situated on or near or separate from the railway; provided that the same may be used or intended for use in connection therewith, or for any of its purposes, and including all such equipment in existence at any time during or at the end of the term of the lease."

The Rapid Transit Statute covers sixty pages of printed matter, and as I have yet to consider the contract made by the Rapid Transit Commission with Mr. McDonald, and the contract that it proposes to make, and which Mr. Coler says he will vote for, extending the tunnel to Brooklyn, I will not devote more time to a consideration of the law itself. But before leaving this fascinating product of the wisdom of those gentlemen who are characterized by Mr. Coler as some of our best citizens, I should call attention to that provision of the law which deals with sub-surface structures, and I am inclined to believe that this feature will bear a great deal of investigation. This provision of the law reads as follows:

KINDNESS TO THE SUBWAY MONOPOLIES.

"Where, under the direction of the said board, or in pursuance of any general plan adopted, or of any contract made by the said board, galleries, ways or subways shall be constructed to contain sewers, pipes or other sub-surface structures, the said galleries, ways or subways shall be maintained by the said city, and shall be in the care and charge of the said board and subject to such regulations as it shall prescribe not inconsistent with the

provisions of this act, and any revenue derived therefrom shall be paid into the treasury of said city, except that where bonds shall have been issued to provide for the cost of construction of such railroads such amounts shall be paid to the sinking fund of the city, if there be one, or if not then into the sinking fund to be established and created out of the annual rentals of the said road, as provided in section thirty-seven of this Act. Provided, however, that any person or corporation who or which, at the time of the construction of the said galleries, ways or subways, shall own pipes, subways or conduits in a street, avenue or public place in which said galleries, ways or subways shall be constructed pursuant to this Act, shall be entitled to the use of such galleries, ways or subways for his or its said pipes, subways or conduits in the same manner as the said person or corporation shall be entitled by law to the use of such street, avenue or public place, and that no rent shall be charged for such use, except a reasonable charge to defray the actual cost of maintenance, unless such pipes, subways or conduits shall be of a greater capacity than those theretofore owned by such person or corporation in said street, avenue or public place, and that, if the capacity of any such pipe, subway or conduit so placed in the said galleries, ways or subways, shall be increased, the rent shall be charged only for such increased capacity; and provided, further, that the placing in any such galleries, ways or subways, of the subways or conduits of any corporation owning subways or conduits for electrical conductors, shall not in any wise affect the right of such corporation to charge and demand such compensation or rent for the use of said subways or conduits by other corporations or individuals as is, or may be, permitted by law."

Good lawyers tell me that the effect of this provision, whatever its intendment was, is to confirm by law into a perpetual franchise the privilege enjoyed by the telegraph, telephone, electric light, gas and other similar monopolies, to the use of the streets of the city, which privilege has been capitalized by them into literally hundreds of millions of dollars. When we reflect that many of these privileges were originally obtained by bribery or fraud, and have been permitted because of a complacent or corrupt city government here and at Albany, the provision of this Rapid Transit Statute, which expressly declares that all sub-surface structures now existing shall be entitled to the free use of the subways that may be created under this law, is not the least interesting aspect of the subject.

THE CONTRACT THAT MR. COLER DEFENDS.

I will now ask you to consider the nature of the contract made by the Rapid Transit Commission with Mr. John B. McDonald, for the construction and operation of the Rapid Transit Railroad in Manhattan and the Bronx, which contract is so stoutly defended by Controller Coler. The Controller, in his address last week, indicated rather bluntly that those of you who criticised the contract did so upon insufficient information, and I think he suggested, courteously, that the critics should get more facts before they discussed the matter again.

Now, the best evidence, I take it, of the terms of the contract may be found in the contract itself, and I have before me a copy of the document obtained at the office of the Rapid Transit Commission. When I tell you that this document consists of two hundred and twenty-two printed pages of legal verbiage, it may not be wondered

at that the average citizen should shrink from attempting to know as much about it as the Controller. The essential features of it, however, may, I think, be fairly stated in a brief way. Before attempting such a statement, however, I would remind you of the statement of Mr. Coler to the effect that he found the best answer to the critics of the contract in the fact that the people of the City of New York had, in 1894, at the polls, voted for just such a contract, and that, therefore, it was bad policy now to question a business arrangement which had the very highest sanction that, under our form of government, any governmental proceeding may have—the indorsement of the people at the polls. This was an allusion to the referendum feature of the Chamber of Commerce Rapid Transit law. I have already adverted to the fact that this feature of the law did not originate with the Chamber of Commerce, but was a part of the law which the labor organizations failed in passing through the Legislature of 1893—the proposition in their bill being in substance that the people should be allowed to vote upon the question of municipal construction and operation of a rapid transit system. To show you how far Mr. Coler is justified in stating that the rapid transit contract was authorized by popular vote, I will read the substance of the section of the Rapid Transit law known as the Referendum Section, which is as follows:

WHAT THE PEOPLE VOTED FOR.

* * * "Separate ballots shall be printed and supplied to such electors, one-half in number of which shall read: 'For Municipal Construction of Rapid Transit Road,' and the other half in number of said ballots shall

read: 'Against Municipal Construction of Rapid Transit Road.' * * * In case the majority of votes cast at such election shall be in favor of such municipal construction of said railway or railways, it shall be the duty of such Rapid Transit Commissioners, within thirty days after the official declaration of the said vote, to proceed to the construction of the said railway or railways, and to make and let all contracts required for the performance of the work necessary to be done and performed in and about the construction thereof."

From this it may be seen that what the people voted for was simply that the city should construct the rapid transit road, and no doubt the people who voted for this proposition in 1894 thought that they were voting for municipal ownership of a kind essentially different from that which the Rapid Transit Commission is giving them.

Now let me recall for you the leading features of this contract with Mr. McDonald, which is defended by the Controller, and which he frankly tells you he is going to duplicate in the contract for extending the Rapid Transit system to Brooklyn, to the extent that he, as one member of the Rapid Transit Commission, can do so.

WHAT THE PEOPLE ARE GETTING.

Under this contract Mr. McDonald (who, it should be said right here, is generally recognized as only a representative of certain wealthy speculative gentlemen who are more or less in the background), agrees with the city to fully construct and equip the Rapid Transit railroad upon the routes and general plan prepared by the Rapid Transit Commission, and to maintain and operate the railroad when it is completed upon a lease from the city

for the term of fifty years, with the right to an extension of the lease for twenty-five years longer upon certain contingencies. For this he is to receive from the city, payable in installments as the work progresses, the sum of thirty-five millions of dollars, and additional sums that may probably amount to two millions or more for the erection of terminals and way stations. I wish to emphasize the fact that his contract is to *construct and equip* the railroad ready for operation. You have already been told what the definition of equipment means. It is very reasonable to assume that the price agreed upon for the construction and equipment of the railroad is a sum not only sufficient to enable the contractor to do this work at a profit, but that the profit will be a very handsome one.

One of the greatest railroad contractors in the United States, whose name, unfortunately, I am not permitted to publicly use, has informed me that his examination of the plans and specifications for the construction of the road led him to believe that it could be completed with profit to the contractor for twenty-five millions of dollars. As this question, however, must remain largely a matter of speculation, and as our assumptions thereon are not susceptible of proof, I will simply contend that it is fair to assume that the compensation to be paid by the city to Mr. McDonald for constructing and equipping the railroad ready for operation is liberal enough to allow him a profit upon that aspect of the transaction. I mention this simply to give proper significance to another fact about the contract, which is, that while the intent of the contract is that the city shall own the railroad after fifty years, it is specifically provided that the equipment of the railroad, paid for by the city, is to be the property of the contractor,

and that at the termination of the lease it is to be purchased from the contractor by the city.

I have already explained the extent to which the contractor is to be exempt from taxation during the entire period of the lease, in respect to the capitalized value of the contract, as well as in regard to the rolling stock and all other equipment of the railroad. This remarkable condition is, of course, in accordance with the law, and the Rapid Transit Commission is responsible for it only to the extent that the gentlemen on the Commission are responsible for the law itself, and I think it may easily be demonstrated that the influences which now dominate the Commission are the same influences which are responsible for the law.

HOW THE COMMISSION USED DISCRETION.

Now, two most important provisions of the law were those vesting in the Commission itself the determination of what should be a fair compensation to the city from the contractor to whom the railroad, when paid for by the city, would be turned over for at least half a century, and what should be the rate of fare which the contractor should be permitted to charge for the use of the railroad. The Legislature left this question to the determination of the Rapid Transit Commission, except to the extent that the law mentioned a minimum compensation to the city for the lease, and a maximum fare. I find by the contract made with Mr. McDonald that the Commission has fixed the compensation at the very lowest point in the city's interest that the law would permit, and that they have authorized Mr. McDonald and his successors, for the entire fifty years of the contract, to charge the highest

fare that the law would permit. The lease provides that the compensation to be paid by the contractor for the use of the railroad during the entire period of the lease shall be an amount equal to the interest upon the bonds issued by the city to provide the money for constructing the road, plus one per cent. additional upon the amount of these bonds. It is carefully provided that the rental thus to be paid by the contractor is to date from the time when the railroad is ready for operation, and that the contractor is not to be held to pay any additional rental by reason of any bonds issued or disbursements made by the city to pay for rights, terms, easements or other privileges, the cost of which to the city, in addition to the cost of construction, may, indeed, amount to some millions of dollars.

AN ESTIMATE OF THE PROFITS.

Assuming that the city will sell bonds at a premium under favorable conditions to procure money for construction, the cost to the contractor would not exceed approximately three per cent. upon (say) \$37,000,000, equal to about \$1,110,000 per annum. Adding to this the additional one per cent. called for (equal to \$370,000), it would appear that the fixed charges of the city against the contractor, under the most unfavorable conditions, would amount to \$1,480,000. The contractor is authorized by the contract to charge a five cent fare during the entire period of the lease, for short or long rides on the railroad. How much the gross income of the road will be must remain, of course, a matter largely for speculation; but a conservative estimate, agreeing, as I understand it, with that made by railroad experts, is that

the reasonable expectation of travel on the tunnel road when completed will yield at the very beginning a gross income exceeding \$10,000,000 per annum, or a net profit of not less than \$3,500,000 per annum, after paying the expenses and the annual rental to the city, which profit should, of course, increase year by year until the railroad with the increase of population has reached its utmost capacity. In my estimate of gross revenue, I have included the not inconsiderable profit to be derived by the contract or from the advertising privileges in the cars and at the stations of the railroad, which privileges, I am informed, were not contemplated in the original draft of the contract, but which were recognized in the final draft because of Mr. McDonald's insistence upon them. The rental of station space by the contractor for news-stands, cigar counters, and for similar purposes, is clearly permitted by the contract. Just here I wish to call attention to an unobtrusive paragraph in the lease which perhaps will stand some elucidation from those who know more about it than we are permitted to know. This is the paragraph:

"Nor shall the contractor make any use of the railroad or any part of it, or of its equipment, which shall to any extent or in any way interfere with such use to its fullest capacity for passengers."

"What does that paragraph mean?" I asked a lawyer who is not in the confidence of the Rapid Transit Commission or of Mr. McDonald.

"I think," said he, "you will find that it means that the people who control that tunnel for fifty years can use it for such purposes not inconsistent with its use as a railroad as shall seem most profitable to them."

If this be a reasonable construction of the provision, and I believe it is, we should not be surprised to find, for illustration, that in equipping the railroad with electricity for motor purposes, the contractor will not consider it improper or unprofitable to enlarge his electrical equipment to such an extent as to allow a very handsome profit upon the sale of surplus power. Nor do I see in the lease anything contained which would prohibit the contractor from the sale of valuable rights in the tunnel that might be considered incidental, if not necessary, to its use as a railroad.

MOST VALUABLE FRANCHISE IN THE WORLD.

Excluding these interesting speculations, however, I think it is now generally admitted that Mr. McDonald and his financial sponsors are the owners of the most valuable franchise in the world, a franchise which, according to the statement of the late secretary of the Third Avenue Railroad in New York, is more valuable to its owners than would be the franchise, privately owned, to build the Nicaragua Canal. If my estimate of the net profit at \$3,500,000 per annum is not extravagant—and I understand railroad experts to concede an annual profit to the contractor of at least this amount—the contract made by the Rapid Transit Commission with Mr. McDonald, means then that the city has, under the guidance of representatives of the Chamber of Commerce, presented some eminently wealthy speculative gentlemen with an annuity which, if reserved to the city's sinking fund, would, with its increment, pay for the railroad and its equipment in less than ten years. The surplus earnings for forty years more, would, if similarly invested, exceed one hundred

and forty-five millions of dollars, which is at least the size of our present to Mr. McDonald and his financial sponsors. That is the sort of Rapid Transit contract that Mr. Coler stands for and defends as the best possible exemplification of what he calls municipal ownership.

I have stated nothing but facts about this contract, and about the law which authorized it, and I challenge correction of my statements. If they be true statements, then it must seem obvious to every right-minded person, I think, that the making of this contract, as well as the making of the law that permitted it, constitute a stupendous outrage upon the rights and interests of the people of the City of New York. Nothing that can now be said or done can help matters with regard to the contract that has been made, except that it may be helpful to place responsibility for it, as I have attempted to place it, just where it belongs. A contemplation of the character of this contract, too, should be useful in illuminating the significance of Mr. Coler's really brave declaration that when he gets a chance, which I understand will be very soon, he will vote for just such another contract for the extension of the tunnel railway to Brooklyn.

NOW ABOUT THAT BROOKLYN EXTENSION.

I cannot, unfortunately, now treat for you as fully as I should like to do, the actual facts about this proposed Brooklyn extension of the tunnel. I am informed by the secretary of the Rapid Transit Commission—who should be good authority—that he understands that the Commission will, within a short time, let the contract for extending the tunnel from its present terminus at the post office in Manhattan, to the Flatbush avenue terminus of the

Long Island Railroad in Brooklyn. The secretary's understanding was, as he stated it to me, that the contract was to be let to Mr. McDonald as the only available bidder.

This means, we may assume, that Mr. McDonald will get the job of building the extension to Brooklyn practically on his own terms; and that he, or the gentlemen behind him, will then own, for at least fifty years, the entire underground system from the Bronx to Brooklyn. From the beginning to the completion and equipment of the underground railroad, it will not have cost Mr. McDonald and his friends a cent, for I think I have made it plain that the city pays the bills. The entire rental, which approximates four per cent. upon the cost of construction, does not begin, as you have seen, until the railroad is ready for operation.

Now, not the least interesting fact about the Brooklyn extension—a fact that has not, I believe, been before publicly stated—is that a satisfactory financial arrangement has been made between the officials of the Pennsylvania Railroad, who control the Long Island Railroad, and Mr. McDonald, for sharing the responsibilities—not to say the profits—of the proposed undertaking.

How valuable this arrangement will be to the Pennsylvania Railroad may be judged when I recite a little, perhaps forgotten, history to you.

In the early months of 1899, efforts were made at Albany to pass a bill giving the Long Island Railroad a perpetual franchise for a tunnel railway under Atlantic avenue and the East River to about the corner of Maiden Lane and Broadway, Manhattan. These efforts failed, but a bill acceptable to the railroad people was finally passed, by which the Greater New York Charter was

amended so as to give authority to the Municipal Assembly to grant a tunnel railroad franchise for a period of fifty years, and providing for an extension of the franchise to seventy-five years, upon reasonable terms, after the expiration of the first period. It was provided in the law that no franchise could be granted without compensation to the city which was to be three per cent. of the annual net profits of the tunnel company after it had paid five per cent. upon the capital employed in building the tunnel. A few weeks after the passage of this law (in May, 1899), the New York and Long Island Terminal Railway Company was organized by the officials of the Long Island Railroad Company, and through its President, W. H. Baldwin, Jr., it immediately applied to the Municipal Assembly for a franchise to construct an extension of the Long Island Railroad from its Flatbush avenue station to a point at or near the corner of Broadway and Maiden Lane. By the terms of this application, the railroad was to construct the tunnel at its own expense, estimated, I think, to be \$15,000,000, and was to operate it for fifty years, with a contingent twenty-five-year renewal, the city getting annually at least a small share of the net profits of the railroad. At the termination of the period mentioned, the tunnel, exclusive of equipment, became the property of the city. The railroad company was, of course, to be subject to taxation under the laws of the State, which might mean taxation not only upon the value of its franchise, but undoubtedly upon the value of all its property employed in the equipment and operation of the road. That the most experienced railroad officials in the country were willing to risk at least \$15,000,000 of their capital upon these conditions was an indication that large re-

turns might be depended upon. While the application for the consent of the Municipal Council to this franchise was pending, the arguments used in the Municipal Council for not giving the franchise the indorsement of that body were to the effect that the franchise was so valuable that the annual return to the city provided for was an entirely inadequate compensation. Shortly after the Rapid Transit Commission entered into its contract with Mr. McDonald, which I have fully described, the president of the Long Island Railroad suddenly, and in some quarters, it was said, mysteriously, withdrew the application to the Municipal Council for the approval of the franchise for the obtainment of which so much effort on the part of the railroad officials had been expended. A little before this significant event, it had been announced that the Legislature of 1900 would be asked to amend the Chamber of Commerce Rapid Transit Act, so as to give the Rapid Transit Commissioners the right to lay out Rapid Transit routes over all the Boroughs of the city, it being doubted in some quarters, as alleged, whether the Commission had power over a larger territory than that constituting the City of New York when the Commission was created. This bill passed the Legislature in a hurry, and almost simultaneously it was announced that the Rapid Transit Commission was now engaged in the worthy work of attempting to alleviate the congested conditions of travel between the Boroughs of Manhattan and Brooklyn.

LUCKY LONG ISLAND RAILROAD.

Then a route was laid out and plans prepared, which investigation shows are similar in many respects to the plans and routes previously selected by the officials of the

Pennsylvania Railroad for connecting the Long Island Railroad depot in Brooklyn with downtown New York. There was, of course, this notable difference in the plans (viewed from either the transit or the profit standpoint) that whereas the railroad upon which the Pennsylvania people were willing to spend \$15,000,000 or more had its terminus somewhere in the neighborhood of Maiden Lane, the railroad planned by the Rapid Transit Commission naturally enough had its terminus as a feeder to and from Mr. McDonald's tunnel, an arrangement obviously for the convenience of the public, not to say anything about the profit of the railroad people.

Now, this is the Rapid Transit proposition for Brooklyn that Mr. Coler told you frankly he was going to vote for when he got a chance. I shall not indulge in reflections upon it that the facts do not themselves instantly suggest to you, but cannot refrain from showing you how generous the proposed arrangement will be to the Pennsylvania Railroad people who control the Long Island Railroad, and who, it may very reasonably be assumed, are the people behind Mr. McDonald's proposed bid. Assuming the cost of the tunnel to Brooklyn and its equipment to be, as has been estimated, \$15,000,000, it would, under the old arrangement of a privately-built tunnel, have cost the Pennsylvania Railroad people at least \$900,000 a year for interest charges upon the capital employed in the construction of the road. What I mean by this is that any person familiar with the way that new securities are floated in New York to-day, will probably bear me out in the assertion that the cost of floating \$15,000,000 worth of new railroad bonds would make the net cost of them to the company approximate six per cent. per annum, or a fixed charge of

\$900,000 a year, to say nothing of the annual contribution of the corporation to the treasury of the city in the form of taxes and in the form of rental, which I have already mentioned.

A QUEER KIND OF MUNICIPAL OWNERSHIP.

Now, if the Pennsylvania Railroad is able to get its railroad extension built by the city, as is proposed, and then presented to them free of taxes for fifty years, upon an understanding that the company shall be required only to pay an annual charge equal to that paid by Mr. McDonald, that is, at the most not more than four per cent. per annum upon the actual cost of construction and equipment by the city, it may be seen, without any labored analysis, that substituting the Rapid Transit Commission's proposition for the one which the Pennsylvania Railroad people voluntarily offered to the city, amounts to making a present of nobody knows how many millions of dollars additional profits to the Pennsylvania Railroad.

These, my friends, are, I believe, the essential facts about the kind of municipal ownership that the people of New York are getting and are likely to get from the Rapid Transit Commission. It is not a prospect, it seems to me, which justifies so sagacious a gentleman as the Controller in congratulating the city of New York upon the progress it is making toward securing for the people their share in the great values which the needs of a vast population have given to our public utilities.

Could the thinking people of the city be informed, as we are, of the real condition of affairs, they would, I am sure, realize as we do that real municipal ownership appears to be as far away as ever.

The contract that has been made by the Rapid Transit Commission, and whose chief features I have accurately described to you, speaks for itself; and how any sane person having as much knowledge of the contract as we now have, could point to it as a triumph of astute financing, is more than I am able to understand, if honesty and good faith on the part of the city representatives is to be conceded. I call this contract a brazen prostitution of the principles of municipal ownership, since its effect, if not its intent, is plainly to alienate from the city treasury the vast public made wealth that inheres in this franchise, and to charter upon the generations of the future a colossal monopoly whose great powers and privileges will have undisputed sway until that far distant day when a more enlightened and less complacent community, amazed at the ignorance, incapacity or worse, of our rulers of to-day, will put an end to it.

Passing from the contract to the law itself, I ask you what sound justification can there be for vesting the contract for the building and operating of the road in one contractor. To the ordinary intellect it would appear to have been the proper and prudent thing, since the people had voted for municipal construction, to build the railroad first, and then decide the question as to whether it should be operated by the city or leased for a term of years to the highest bidder. If municipal operation was considered to be impracticable after the completion of the railroad, the fact that the road was a complete proposition whose character and proportions were visible to all, would be likely to induce most liberal offers from private capital.

THE REAL DANGEROUS CLASSES.

And now, with the facts before us, what are we going to do about it? It must be evident to you that the influences that created this law and this contract are perhaps the most powerful influences in the community, badged, as they are, with respectability, high social position, and vast wealth. But despite all this, I believe that if the masses of the people of this city could be informed as to how their interests have been betrayed in this matter, and could be awakened to the dangers which still threaten them, there would be aroused throughout the community a feeling of such resentment and such anger and such determination for better things, that the repeal of this iniquitous law and the dismissal from public service of this Rapid Transit Commission would be quickly accomplished.

Before I conclude, I cannot resist giving expression to the reflection suggested by the facts before us, that it is time that the people of New York realized that all the wisdom, all the prudence and all the probity of the community does not reside in the Chamber of Commerce. And, further, I am led to think that at this time, when some of the citizens whose names I have mentioned in this recital are most prominent in leading the worthy work of exterminating vice in New York, it would be well to remind them that the real dangerous classes of the community should be looked for not in the tenement house districts, nor even in Tammany Hall—much as these features of New York life need reformation. The real dangerous classes of the community, as I see it, are those leaders of the social world and of the Stock Exchange and of the Chamber of Commerce, known to the newspapers as our best citizens, who have made fortunes

for themselves or for others by getting from government, for themselves or for others, at the expense of the masses of the people, rich special privileges, which, if reserved to public ownership, would measurably reduce the vice and crime of the city by alleviating some of the general poverty, which is the prime source and cause of vice and crime.

