

"Not yet," said I.

"I guess you're right. It might start the looting."

We were walking Grant avenue, making for Portland square. "Here," he cried suddenly, "there's a Jap store and the fellow's just opening it. Get a pair of slippers."

I started for the shop; my hand went mechanically for my pocket—it was empty. The stranger read my face.

"You forgot your money. Help yourself to mine."

Three gold twenties and a five-dollar gold piece were on his palm.

His thumb projected one of the twenties. He was "forcing" it as sleight-of-hand men "force" a card.

I took the \$5 piece, gave it to the Jap and put on a pair of upperless bath slippers. The Jap gave me change—\$4.65. He could not have been cooler had the earthquake been merely a Russian army. I turned to give the change to the stranger.

"Put it in your pocket," he said, "and I wish you'd take some more. It may come in handy this day."

"You don't know me," I said.

"You don't know me," he answered, "and there's no time for exchanging cards."

After five minutes of argument on my part the stranger gave me his name and address.

In that fragment of the picture his kindness is very vivid.

My next helpful brother is a Chinaman. We met him in Portsmouth square, where hundreds on hundreds of his countrymen were gathered. Of all of them, he alone wore the product of the American clothing store. I fancied that a cigarette might go with the tweeds. I was itching for a smoke, and asked him for one, and got it, and more than it.

"A pair of socks will warm your feet, and I've got another pair for the lady," said my Chinese stranger. "Come with me. It's only over the way to Sacramento street. I own the drug store next door to the Chinese doctor."

Yes, he was kind.

So was the gentle old lady that found a seat with us on a bench in the square and opened her telescope basket and gave to the lady of my itinerant household a pair of leather slippers. Those slippers are still in commission. They shall be precious souvenirs when the city is rich again, but just now they are as blessedly useful as my own shoes, which they were the means of restoring to their original owner.

We slept in another square, the Alamo, high over Hayes valley; and there, too, all was kindness.

"To-morrow will be a hard day for the poor," said a man that had banked \$15,000 the day before.

"For the poor!" laughed a big-hearted Irish cook that had escaped with a pillow-slip full of tinned beef. "For the poor!" she laughed, giving him a can of beef. "I'd like to know what the rich have got to be rich with."

Tom Ferguson dug me up next morning. "I don't know you," he said, without reproach, "but I kept the saloon at 719 Market, and I'm a friend of some friends of yours. How much money have you got?"

"A couple of dollars."

"Not enough. You'll be wanting to get your family over to Oakland, and you'll have to bribe a wagon or an automobile. Take this twenty. Oh, hell, don't worry about me. I stuck a thousand dol-

lars in my pocket when the place went. That was for my friends and their friends. That's all money's for just now."

Mr. Ferguson's profession is not listed very highly by the ladies of certain worthy societies, and it might bar him from membership in clubs where his presence is not as welcome as his wares; but to me (and I confess myself prejudiced), Tom Ferguson is better than the best he ever sold. He sold whisky, but he gave of the milk of human kindness.

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## RAILROAD DISCRIMINATIONS.

### THE REMEDY.

#### For The Public.

What shall we say of the remedy for railroad discriminations? The thing which is absolutely essential to business and commercial freedom, is a neutral or impartial carrier. The old turnpike served rich and poor alike; it paid no rebates; it had no favorites among individuals. It was not interested in building up one town at the expense of another. It carried the small dealer's cart as safely as it did the wagon of the merchant prince. We must have the railways on the same basis, so that there will be no more unfairness or favoritism than there is to-day in the postoffice; where all must buy stamps alike, for the weight of the matter which they send.

It seems very doubtful that a really neutral carrier can be obtained short of government ownership and possibly government operation. The reasons for this conclusion are many. The owners of railways are not in business solely to sell transportation to the people. They own mills, foundries and mines; they have manufacturing establishments, farms and vineyards. They own real estate in cities and towns; they are interested in trusts and combinations. When I speak of the owners of railroads, I mean those who direct their policies. If the owner of a railroad also owns a mill or factory or real estate along the line of his road, his financial interest leads him to discriminate in favor of the mill or factory or in favor of the town where his real estate is located. He makes and remakes the tariffs of the road with a view, not only to make dividends for the road, but also to make profits for him and his friends in their business ventures. Human nature, when left to itself, can bring no other result. Again, the owner of the railway is after dividends; there may still be competition between his line and others. He is approached by a large shipper, who asks him for a special low rate and promises him in return a certain number of carloads per week to be shipped over his line, a "bonanza" for his road. He gives a special rate and his road makes dividends. The large shipper, with this special favor, drives all his competitors out of business or persuades them by inexorable logic that it is best for them to sell out; and the large shipper becomes a trust. In some cases the railway owner finds that the tables are turned, the trust is now bigger than the railroad. It dictates to the railroad, and perhaps swallows up this and other roads and runs them to suit itself. How true this is, is seen in the extensive control to-day of railroads by the Standard Oil interests. Whether the big business enterprise absorbs the

railroad, or merely continues the first arrangement for large shipments in return for special rates, the unholy alliance between business and transportation is fatal to the life of free industry and commerce.

The railroads, although given the exclusive right to run the transportation system of the country, do not accept and fulfill the duty which goes with that right. They farm out a portion of the transportation business, not because they could not do it themselves, but for purposes best known to high finance. They abdicate an important part of the business of transportation to the express companies, which have thus far operated practically without control from any source, having been held not even subject to the Interstate Commerce Act. The railroads do not perform the complete duty of transportation of passengers, but farm out a part of the service to a private company which claims to be no carrier at all, but only an inn-keeper. I refer to the providing of facilities for sleep and rest by means of sleeping and parlor cars. The passenger has to deal with two companies, and is often perplexed to know which one is responsible for his grievances. This service is an integral part of transportation, and the prices charged and practices followed should be under as strict control as those of the railway. Many railroads farm out to a private company the furnishing of a necessary part of the transportation service for perishable goods, the furnishing of refrigerator cars and ice to go in them. The curious claim is made that this is not a part of transportation, but is a local service, and therefore the rates charged for it are not under the control of any public authority. Yet the railroad compels the shipper to buy his refrigeration of a particular company at a price limited only by what this company thinks the traffic will bear. The private company is at liberty to engage, and often does engage, in buying, shipping and selling these same perishable products which are transported for the public in its care. Here we have perhaps the acme of transportation injustice, producers being bound to entrust the products of their orchards and vineyards to a company which is not a carrier with any responsibility as such, but a mere interloper, which is either actually a competitor in the shipment and sale of these products, or may easily become so. When one merchant or manufacturer has to send his goods to market in the care of his competitor and pay an exorbitant price in addition, the end of that merchant or manufacturer can readily be seen, and the way for the forming of a gigantic trust is made easy. A merchant cannot trust another merchant to carry his goods to market or fix the price of carriage; he must have a neutral carrier in order to get fair treatment. It is serious enough to have a privately owned railroad, but when a separate and private carline is ingrafted upon a private railroad, confusion is worse confounded. The shipper and producer are powerless to prevent extortion when the service is rendered; they are in a state of constant terror for fear the service will be withdrawn; and the inevitable result is the formation of a trust which will in the end dictate the price paid for perishable products to producers, and the price paid by consumers, just as the beef trust now dictates what cattle raisers shall receive and what meat consumers shall pay. The operation of these private

carlines results in the payment of rebates to the carline company under the guise of an operation agreement, and it often results in the payment of rebates to individual shippers through the irresponsible carline.

Another device for the payment of rebates, one which proceeds so nearly under the forms of law that it is often impossible to detect it, is found in the so-called industrial railroad. A manufacturing concern may have a half mile of sidetrack and switching tracks entering its grounds, and perhaps also a switching engine. The manufacturing company is forbidden by law to take rebates or to have a rate lower than its competitors. The owners of the road, or their cousins or their aunts, may be interested in the factory. Some of the factory officers, together with their bookkeepers and clerks, organize a railroad company to operate this half mile of track, which is in reality nothing but a sidetrack. This new railroad company files a joint tariff in connection with the railroad proper, and in the division of the freight rate between the two roads, is given an allowance which is nothing more or less than a rebate on the shipments of the factory. This device, when too transparent, has been investigated by the Interstate Commerce Commission and denounced as a fraud and illegal. But in other cases the division of rates between the factory sidetrack and the genuine railroad might not give to the factory so much more than a fair switching charge as to be a clear fraud or call forth the condemnation of a commission or court; and yet the rebate might exist. For in close competition between rival factories, even a discrimination of a fraction of a cent per hundred pounds may mean the decay of one and the prosperity of the other.

In the case of the private car used by the railroad for the transportation of freight, the railroad company pays mileage to the company which owns the car. This varies from three-fourths of a cent to one cent per mile for the distance traveled by the car. We cannot deny that if the railroad is to use the car of another company, it should pay for the use of the car; but if that other company is engaged in shipping the very goods which are transported in these cars for itself and its rivals in business, then the payment of mileage which is a little too large to be fair compensation, will be in fact a rebate to this one shipper. The Interstate Commerce Commission or a court may inquire whether this mileage is only a fair compensation, but in the nature of the case it is impossible for any tribunal to fix this mileage so that it may not contain a small rebate.

It is such facts as these I have mentioned, together with the ingenuity of corporation managers and attorneys in inventing means of evading statutes, and the difficulty of obtaining a carrier that will not be a merchant or manufacturer at the same time that it is a carrier—it is such facts which have led me to say it is extremely doubtful if satisfactory conditions can be obtained without government ownership of the transportation system.

But while some might disagree as to the necessity or desirability of this remedy, there can scarcely be any difference of opinion among those who view the matter from a public standpoint, as to the necessity for strict and effective government regulation. The first thing to undertake is to separate the carrying

interests as much as possible from outside business. If the carrier cannot be absolutely neutral, that is, divested of all other interests except that of transportation, it should be made as neutral as possible. To this end the railway company should be made to perform the entire service of transportation over its road, and should be forbidden to hire a part of the necessary service or equipment from any other party, except a bona fide railway company, with which it may exchange cars. This would remove the entangling business alliances of the carriers, which arise from the farming out of part of their work to express companies, sleeping car companies and private car companies. The railway company and those having the controlling interest and management of it, should be forbidden to be interested in any business which has to employ that railroad. These are rather sweeping reforms, and they have not yet been made a part of the practical program of those who are working for better railroad regulation. But it is obvious that we can never have anything that approaches a neutral carrier, until these changes are made.

The government must have and use the means to prevent excessive rates levied upon the producing and consuming public. It must prevent discrimination between individuals and between places. The separation of the carrying business and those interested in it from other business, would largely remove the motive for discrimination. But even then, while the carrier himself may not be interested in the industries which use his road, his friends or relations may be, and he is likely to have favorites if left to himself. The law must, by positive regulation, prevent his being unfair to those whom he serves.

The Interstate Commerce Act and the commission created by it have been productive of much good; but the legislation stopped short of the point which was absolutely essential to make it effective. It has not given to the commission or any other tribunal the authority to say to the railroads: "Your present rate is excessive; henceforth, that rate shall be thus and so; your present rates or practices are discriminatory, henceforth they shall be thus and so." The proposition would seem to be nearly axiomatic, that without this power in some tribunal which will act from the public standpoint, the evils already mentioned cannot be remedied. The commission has the power to pass on rates and practices and condemn them as unreasonable and order the railroads to desist from them; but it cannot tell them what is reasonable and compel them to do it. This is the authority that is asked for; and this being the authority which is effective, we may expect the railroad baron to oppose this measure with all the force, cunning and sophistry at his command. This change is the kernel of the recommendations made by the President to Congress. The commission must be given power to prohibit too low rates as well as too high rates. In cases involving discrimination between places or commodities, the power to name a maximum rate is not sufficient. It is the relation, or differential, as it is called, between the two places or the two commodities, which is the important thing. The judgment of the commission must also go into effect soon after it is pronounced. This is a vital point, for the forte of railway attorneys is delay; and very often after the delay necessary

to take the case to the Supreme Court, the conditions have entirely changed and the occasion for the making of the order by the commission has passed. If the rate prescribed by the commission is at once put into effect, the court on appeal can see by a practical demonstration of the way the new rate works in practice, whether or not it is so low as to be unjust to the railroad. If the rate or practice prescribed by the commission is so unreasonable in its effect upon the railroad as to amount on the face of it to injustice, the federal courts have the right under the constitution, which no statute can either give or take away, to suspend the operation of the commission's decree until the question may be passed upon by the courts. The commission, however, is a public body, acting in the public interest no less than any of the courts, and its judgments should be presumed to be just until the contrary is shown. If the railroad is occasionally compelled to obey a decree that is finally set aside, this is only a partial offset to the injustice which shippers and the public endure long in silence before taking the trouble to make complaint.

It is impossible here to point out in detail the objections which are made to this proposed change and the answers to these objections. A few words, however, may be said concerning those who object. It is difficult to classify people correctly according to their interest. The railroads are clever enough to enlist on their side many persons whose direct interests would seem to be with the shippers. But every large shipper who is getting a rebate in one form or another, is opposed to effective regulation. Many shippers who do not get rebates, but get special favors of some sort, are likewise in line with the railroads on this question. A shipper who has, or whose friends or relations have, railway stocks or bonds, is very likely to be found with the railroads. And many shippers who get no special favors, but who fear hostility or discrimination against them in the future, allow themselves to be counted in favor of a policy which is contrary to their real interests. Many individual shippers and representatives of boards of trade and other commercial organizations, who hope to get for their localities better rates from the railroads, and who think these better rates, which they may be lawfully entitled to, can be more easily coaxed from the railroad baron if he is kept good natured, are induced, perhaps by judicious winks of the baron's eye, to keep quiet or even express a doubt as to the advisability of the proposed regulation. How completely the industries of a locality or of a State are under the benignant protection of the railroad baron is shown by a quotation from the last annual report of the secretary of the Grand Rapids Board of Trade, in which he says that the promotion of a certain man to a commanding position in the management of a certain railroad, "has already demonstrated the domination of a broader, more liberal and generous spirit toward the industrial centers of Michigan." The secretary continues by saying that the policy of another railway official, who is in immediate charge of the lines running through Michigan, "shows a clearer appreciation of the needs of Michigan cities, and all indications are favorable to Grand Rapids." What a commentary this official report to the Board of Trade is upon the industrial freedom of the people of Michigan.

Is it any wonder that when the people or the business men of a locality are hoping for a "generous spirit" toward their industries on the part of the railroad baron, they should be inclined to be influenced by the nods of the baron's head, in regard to their attitude toward legislation that affects the baron's financial interest? The present situation, as brought out by the discussion of rate regulation, shows plainly the baleful effects of mingling public functions with private business. With the railroad baron so strongly entrenched in power that the people of cities and States are looking to him for "generous treatment" instead of demanding of him their rights, it is utterly impossible to get a fair expression of opinion on proposed legislation. The master often persuades the slave that his slavery is good, or at least makes him say so and look pleasant while he is saying it.

Many of the objections against granting this power of fixing rates to the Interstate Commerce Commission are very far-fetched. It is sometimes seriously asserted that the commission would fix rates upon a mileage basis, compelling roads to charge strictly in proportion to distance, and would therefore prevent the movement of much traffic that now goes long distances. I have said that the commission now has power to pass upon reasonableness of rates. In exercising this power it has passed upon hundreds of cases involving this very question of relation of rates to distance, and in the eighteen years during which it has been deciding these cases, it has never committed itself in any way to the making of rates in all cases proportional to distance. The commission, with its extensive experience in investigating rates and practices in all parts of the country, and on all railroads, has become more experienced and competent than the traffic officials of any limited railroad or system could be; and, most important of all, it looks at all questions from a public point of view. It has been guided by very many of the principles which have already been worked out in the theory and practice of the railroads themselves, when it has found those principles to be consistent with the public good.

It is hardly necessary to emphasize further the fact that rate regulation affects every man, woman and child in the United States. Almost every article that we use has a transportation charge included in its price. We are taxed in this way many times more than we can possibly be taxed by the tariff. If the charge is unreasonable, it is confiscation under the forms of law. Every man, woman and child feels the unjust burdens laid upon him by the trusts, which a private and unregulated railroad has called into being. Every person, except those interested in railroads or their industrial allies, is interested in bringing back industrial freedom, in freeing American citizens from the unjust and unequal burdens of transportation, in allowing the American character to shake off the servile chains it has so long worn, and reassert its independence and manhood. The issue is strictly drawn. Effective regulation means greater industrial freedom. Continuation of the present ineffective regulation means industrial dependence and subjection.

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