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The Chicago traction-case decision made by the Federal judges, Grosscup and Jenkins, is upon the whole a victory for the city, still further clearing the way for immediate municipal ownership, notwithstanding that upon one point the decision supports the contention of the traction companies.

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On that point, the question of the effect of the 99-year act upon the earlier grants of traction privileges (vol. vi, p. 468), the city loses. The judges hold in that particular that when the legislature of Illinois in 1859-65 empowered the original corporators to receive street traction franchises from the city of Chicago, it thereby granted those franchises itself, and for the full life of the corporations—99 years. All subsequent grants by the city, prior to the time when the home rule provisions of the constitution of 1870 became operative, are therefore held not to have been grants by the city at all, but to be in effect descriptions of privileges already granted by the State. Consequently the so-called 99-year act is held to protect and to fix the duration of all the street traction franchises in Chicago granted by the city prior to the official declaration of the result of the charter election of 1875, which was made May 3, 1875. The force of the act is held to end there because by virtue of that election the city of Chicago acquired home rule powers pursuant to the new Constitution and legislation under it.

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It is not so very long ago that some of the reasoning whereby these judges reached their conclusion in support of the 99-year term would have amazed both bench and bar. For they construe the 99-year grant from the State liberally in favor of the grantee instead of strictly against him. This easy-going method of dealing with a sovereign grant under which enormous powers hostile to public interests are claimed, would have been judicially impossible before the improvident custom of bestowing sovereign grants upon giant corporations had generated business and political conditions that make profitable legal employment and honorable judicial preferment depend largely upon corporate confidence and favor. But under that influence judicial precedents have tended away from more than one wholesome legal principle which once stood between the rights of the people and the greed of plutocratic interests.

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In passing upon the point here under consideration the judges in this case lay down substantially the following premises for their reasoning: Chicago possessed no power to grant traction rights in her streets. She assumed, however, to grant such rights and her grantees cured her defective grants by securing the State grant in question. This grant is divisible into three parts — the granting part, the identifying part, and the terms and conditions part. The granting part empowered the corporation to construct and operate traction lines within certain geographical boundaries within the city; and the identifying part allowed the authorized construction and operation to be along such streets "as the common council of said city have authorized . . . or shall from time to time authorize." The only thing bearing upon the question of duration was the mere grant of corporate life, 99 years, and the provisions of the terms and conditions part of the act, namely, that the construction and operation authorized is to be in "such manner and upon such terms and conditions, and with such rights and privileges, immunities and exemptions," as the city has or may "by contract prescribe." To most intelligent men it would seem absurd to conclude from these premises that the legislature had done anything more than to validate previous city grants upon such conditions and for such duration not exceeding 99 years as the city had contracted for, and to empower the city in its discretion to grant further ones upon such conditions and for such duration not exceeding 99 years as it might thereafter contract for. But Judges Grosscup and Jenkins reason otherwise. From these premises they conclude that the validated city grants were extended in duration by the 99-year act from the shorter period specified therein to 99 years; and that all subsequent city grants under the 99-year act continue for the 99 years, no matter what shorter period may have been specified in the contract which the act authorized the city to make.

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To reach that conclusion it seemed necessary to narrow the limiting words of the grant. And this these judges did. "Had the legislature meant," they argue, "to put within the power and disposition of the common council the period of the grant . . . apt language was at hand to express such purpose." And because "apt language" of limitation is absent the judges infer absence of purpose. They consequently construe the inapt words of the sovereign grantor liberally in favor of the grantee of this sovereign power. And in doing so they extend the city's contracts beyond the pe-

riods which those contracts specify, in spite of the fact that the State grant empowers the city to determine the traction routes "in such manner and upon such terms and conditions and with such rights and privileges, immunities and exemptions" as it may arrange for with the traction corporations "by contract."

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It is quite possible that such enormous latitude might be allowable in passing judgment upon a remedial act of legislation, but in construing a grant of sovereign power, which by such construction is recklessly improvident, it borders close upon the preposterous. Would it not have been much more in harmony with sound principles of construction for the judges to have said: Had the legislature meant to grant this power to a corporation for 99 years instead of granting it for such shorter periods as the city had contracted and might contract for, apt language was at hand to express such purpose; and as apt language for that purpose was not used, the courts must assume, with reference to a grant of this character, that the lesser and not the greater grant was intended by the inapt or uncertain language? When a legislature fails to use apt words in limiting a grant of soverign power, it is certainly not sound public policy, whatever kind of law it may be, to so construe the ambiguous words of limitation it does use as to make the grant a long one when a shorter one may be reasonably inferred.

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One point, however, which the judges make in favor of the 99-year term is at least plausible. They quote a clause of the act which they say "would be without reasonable meaning," and which does seem at least of doubtful meaning, upon any other theory than that the term of traction grants was fixed by the act and not left to the city. Of course, force must be given to the entire act, if given to any part of it; and if the 99-year theory is absolutely necessary to accomplish this, then the 99-year theory must prevail, at least as to interpretation. But other explanations of this clause have been made, and it is by no means certain that Judges Jenkins and Grosscup have adopted the only one which is consistent with the whole act.

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All this part of the decision, however, is claimed by friends of immediate municipal ownership in Chicago to be innocuous as a matter of practical concern, because the other important point in controversy is decided against the traction companies. The allusion here is to the "twig and branches" theory. It was contended by the corporations not only that the 99-year act was a grant by the State for 99 years, of all the routes which the city had in the past or might in the future (prior to a change of the law) specify for traction purposes, but also that it was a grant of a traction system under which the company acquired a vested right for traction purposes in all the streets of the city that might enter into the general system of the original grant. In other words, the company claimed that the change to the home rule principle in the State law, occurring with reference to Chicago, May 3, 1875, and the express limitation of all future grants to 20 years, has no effect upon any "branch-and-twig" traction-grant the city had made or might make at any time before 1958; but that such grants fall of their own weight under the protection of the 99-year act, no matter what terms as to duration the city may have specified, and notwithstanding that the State law requires such terms to be no longer than 20 years. This claim was too broad for the Federal judges to sustain when they got together, although Judge Grosscup had intimated pretty freely theretofore that the point strongly appealed to him.

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In substance, then, Judges Grosscup and Jenkins have decided two things: (1) All grants by the city prior to the declaration of the vote at the charter election in 1875, accepted and acted upon by the companies, are inviolable contracts, not for the contractual period of the city grant merely, but for the life of the companies—99 years from 1859; and, (2) as to grants by the city subsequent to the declaration of that vote, May 3, 1875, the duration of the contract is to be determined by its own terms and not by the life term of the corporations. An appeal from both branches of the decision will be taken. The city will appeal as to the first point, and the monopolists as to the second. Until the Supreme Court acts, therefore, the effect of this decision is uncertain. Regardless of the appeal, even, the effect cannot be defined until the making of the formal decree, which is to specify the traction grants that fall under the first branch of the decision. But if the court finds in this respect according to the calculations of the Record-Herald of the 29th, made on the basis of the opinion of the two Federal judges, the traction company will be practically at the mercy of the city. "It is estimated by friends of the city," says the Record-Herald of the date named, "that 85 per cent. of the total mileage is without the operation of the 99-year act. On behalf of the city it is also pointed out that the company is left with only three routes to the center of Chicago from the West Side; that it is deprived of an opportunity for a loop in the heart of Chicago; and that the company's outlying feeders are cut off, making its property of practically little value."

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Apropos of this Chicago traction decision, the monstrous injustice of regarding as valid any grant of public power to private use for 99 years should not be overlooked. If a grant for three generations is valid, why not one for a thousand years, or ten thousand? The dead have no right to rule the living. No man and no body or generation of men can justly vote away the rights of any

other man or body or generation of men. No franchise was ever granted by the unanimous consent of all concerned. All new-comers to a town after a franchise has been granted, are thereby governed without their consent during the lifetime of that franchise. The self-evident truth of "government by consent of the governed" invalidates every irrevocable franchise, —every one at least which is of unreasonable duration.

The Hon. Robert Baker's courageous and useful record in Congress is about to be rewarded, so it is reported, by the Democratic Boss of Brooklyn, inspired thereto by Wall street men, with an interdict forbidding his renomination. Political bosses and Wall street men have no use for a Congressman who declines railroad passes. Not that they care so much about the passes per se; but a Congressman who refuses passes, especially if he tells about it, thereby exposes a weakness for being honest and courageous in the public service, and this identifies him unmistakeably with the "dangerous classes." It is probable, however, that the premature discovery of the Brooklyn Boss's purpose may frustrate it. At a dinner given to Baker on the 27th in Brooklyn (p. 106), where the subject was mentioned, the demonstration was menacing to Bosses. This dinner is reported by the New York and Brooklyn papers as having been extraordinarily successful and significant. Over 200 were present and the speaking was vigorous and excellent. Among the speakers were Gov. Garvin, of Rhode Island, and Bird S. Coler, the last Democratic candidate for governor of New York, besides Congressman Baker himself. Since Baker's district is a Republican stronghold, any attempt by the plutocrats to prevent his getting the Democratic nomination cannot but testify to his popular strength and indicate the wholesome fear in which he is held by spoilsmen of both parties.

Mr. Baker has issued a challenge to the Republican party which might well be imitated by radical Democratic candidates elsewhere. It is contained in the following letter:

544 Carlton avenue, Brooklyn, N. Y., May 26, 1904. Hon. Jesse Overstreet, Secretary Republican Congressional campaign Committee, Washington, D. C.:

Dear Sir—A news item which appeared in the Washington Evening Star of April 25 has been brought to my attention. It relates to the speech of Hon. William Bourke Cockran of New York, delivered in the House of Representatives on Saturday, April 23, and announces the intention of the Republican campaign committee to print large quantities of the speech for circulation in certain Congressional districts. I have no means of knowing whether this article was inspired or not. Assuming, however, that such announcement was authentic, I respectfully submit this proposition:

Should your committee print this speech, it will, of course, be because convinced that the free trade utterances of Mr. Cockran will lead voters to desert the Democratic and support the Republican candidates. Believing in the circulation of literature rather than "boodle"—especially literature which calls a spade a spade—I shall be glad to assist in the wide distribution of this speech and therefore hereby promise and agree, if your committee will supply the same, to address and mail a copy to every voter in this, the Sixth Congressional District. Being thus circulated under my frank, the voters will understand that I heartily indorse the free trade sentiments therein expressed.

I shall be glad to be favored with an early reply. Yours respectfully,

Robert Baker..

The Republicans were supposed to have suffered great loss in the way of campaign management when Senator Hanna died, but Secretary Cortelyou is well-conditioned to make a good substitute. It must have been somewhat like an inspiration, the idea of turning the job of raising campaign funds and "jollying" labor union leaders over into the hands of the cabinet officer who is at the head of the Department of Commerce and Labor.

A socialist orator, J. L. Fitts, as reported in Appeal to Reason, had an interesting time in Salisbury, N. C. When he undertook to speak on the street a policeman took him down, and when he appealed to the mayor he met the following decision:

I don't want my people stirred up. I know what is good for them, and have their welfare at heart. You don't look like you do. I allow candidates and their friends to speak, but you can't. I have that entirely in my charge, and you need not talk any more about it.

The fine, large way in which the mayor talks of "my people" and "their welfare" is worthy of His Majesty Edward VII. or Kaiser Wilhelm, and shows that the "protective spirit" still reigns supreme in Salisbury, as well as in some other places.

It is with profound regret that we note the suspension of City and State of Philadelphia. Under the devoted editorial management of Herbert Welsh, that paper has exerted the most wholesome influence, both in its own commonwealth on local questions, and in the nation on imperialism. It has stood bravely and intelligently for clean politics, equal rights, just laws, and genuine democratic government. Deeply as its suspension is to be deplored its influence while it lived can not be forgotten. After all, with newspapers as with men, the vital consideration always is, not whether they are dead, but whether their work and influence lives and is worthy to live.

That distinguished anti-labor leader, David M. Parry, is reported to have drawn a queer distinction between restriction of competition by labor unions and restriction of competition by protective tariff laws. The matter is put in the form of this question to Mr. Parry and his reply:

Question: As you believe in unrestricted competition in the employment of labor, do you also believe in conducting industrial enterprises in harmony with natural competitive conditions? Do you believe in free trade or protection? If you are a protectionist, how do you harmonize the application of a natural law in employing laborers and the ignoring of this law in conducting a manufacturing enterprise?

Mr. Parry's reply: As an interference with natural law the tariff is to be tolerated because its aim is the advancement of the interests of the whole people; but the interference of organized labor with natural law is not to be tolerated because its aim is the advancement of the interests of only part of the people.

Mr. Parry's reply fixes his stand