

visions is a fair inference from the fact that the companies, et al., are so eager to make a "hurry-up" matter of the ordinance. The Tribune, which has labored for the stock-jobbing interests steadily, is now so much in love with this ordinance, the supposed principle of which as outlined in the Werno letter it despised last Summer, that it is running a faked referendum with a view to having the ordinance adopted without a real referendum in the Spring. United with the Tribune in trying to rush the ordinance through, are the Lawson papers, which have opposed every referendum heretofore; the Republican business and political clubs, which have always favored the stock-jobbers and opposed referendums; and the "local improvement clubs," which have been organized by agents of the public utility corporations for just such purposes as this. When the same newspapers and organizations that have all along stood by the stock-jobbing traction interests, and opposed the past referendums whereby alone the traction interests of the city have been saved—when these soldiers of plutocracy line up with absolute unanimity by the side of the traction companies in opposition to a referendum on the pending ordinance and in favor of its immediate adoption, there is reasonable ground for grave suspicion. If this ordinance has no tricks hidden away in its verbiage, it will suffer none from a three months' referendum campaign. The people who have waited more than ten years for good service can afford to wait that much longer rather than be buncoed again. If the ordinance has tricky provisions in it, let the people have the opportunity to hunt for them. Any man, any paper, any organization, which demands the passage of this ordinance without a reasonable opportunity for public inspection, discussion and deliberation, is fairly an object of suspicion. Unless approved on a referendum it should be rejected. This policy is not new. Mayor Dunne distinctly pledged himself to it in his campaign, and so did Mr. Harlan, his Republican adversary. So also did the city council unanimously a year ago. For the friends of the ordinance to advise now against this policy, is to indicate that the ordinance will not bear investigation and that they know it.

* * *

Is It a Railroad Board of Equalization?

Of the Illinois Board of Equalization it is often said that its membership is owned and its action is dictated by the railroads whose franchise valuations it is required by law to assess. On this

matter we disclaim all knowledge. The Board may be morally immaculate, for all we know to the contrary. It must be admitted, however, that its standards of morality, when considered in connection with its actions, tend to produce confusion in the mind.

*

This Board is in law the original assessor for taxation of the value of all railroad franchises within the State. The law very definitely points out its mode of procedure. It must ascertain the fair cash value of the capital stock of the railroads, this being obviously the only reasonable basis for estimating the value of the roads, over and above their indebtedness. Having thus ascertained the net value of the roads, the Board is then required by the law to deduct the assessed value of their tangible property, for the taxation of which other provisions in the law are made. The remainder, as a moment's reflection shows, is the value of the franchises, and it is this value that the State by this means aims to reach for taxation. Without some such process the franchise values would escape taxation altogether. It was evidently the intent of the law that they should not escape. Nevertheless they have escaped, year after year, because the Board of Equalization has established for its own guidance the arbitrary, unlawful and absurd rule that a railroad company's capital stock is worth no more for purposes of taxation than the value of its tangible property; in other words, that franchise values are not taxable property. The courts have always overruled this practice when cases have reached them; but the Board assumes to overrule the courts in the other cases.

*

One of the consequences of this lawless procedure by the Board of Equalization has been the financial strangulation of Chicago. Some years ago the Teachers' Federation attacked the Board of Equalization in the Courts and forced it to tax the Chicago utilities corporations on the value of their franchises. This resulted in adding some six or seven hundred thousand dollars to the city's annual income, of which the schools get about \$250,000. But the Board of Equalization has disregarded in other cases the action of the courts in this case. And now Mayor Dunne's law department has taken a step toward enforcing the same rule of law against the steam railroads that the Teachers' Federation brought to bear against the street car companies of Chicago. Corporation

Counsel J. Hamilton Lewis, assisted by William B. Fleming and John M. Duffy as special counsel, presented a case to the Board of Equalization which it seemed impossible for that Board to escape. But it has escaped it so far. It has done so by simply refusing, arbitrarily and with a high hand, to act upon it. Whether the power of the courts can yet be invoked we are not advised; but upon the showing made by Mr. Lewis and his associates, that power should be invoked, if not with reference to this year's appraisalment then to next year's.

+

From the presentation made it appears that in 1873 the Board assessed 51 railroads on their franchise values; that this number was increased until 1875, when there were 61, and that the number dropped to none from 1877 to 1900. Since 1900 it has ranged from 2 to 4. On the matter of values, the franchise value in 1873 was \$64,611,070, and since then it has run steadily down. From 1877 to 1900 it was nothing, and in 1905 it was less than one million. This year it is raised to about three millions. "It then appears," as is well observed by the special counsel named above, "that in 1873, when the railroads had less than two-thirds of the present mileage and less than one-third of the present values, this capitalization was assessed at more than \$64,000,000, whereas since 1876 it has either escaped assessment altogether or been assessed at a nominal sum." We repeat that the Board of Equalization is morally immaculate so far as we know to the contrary. But we do not know everything.

+ + +

VESTED RIGHTS.

As public sentiment more and more insistently questions the moral right of individuals to own common property, these privileged individuals and their parasitical apologists increasingly assert the sanctity of "vested rights." Consequently an antithetical relationship of moral rights and vested rights is becoming continually, in greater and greater degree, a burning issue with reference to private property.

It is an issue that has always flamed up whenever legal privileges of the few in any form have been assailed as derogatory to the natural rights of the many. Royal rights to govern from thrones have, for instance, been defended against demands for popular government on the ground that these so-called rights were vested. Similarly vested rights to govern in hereditary legislative bodies have been defended—are indeed still de-

fended, though weakly—because they were vested. The defense of great landed estates against the plainest dictates of the moral law is a familiar instance of a resort to the doctrine of vested rights as an armor for the perpetuation of wrongs. To-day we hear the same appeal to vested rights for the protection of owners of great iron deposits, great coal deposits, great railroad rights of highway, great oil-pipe lines, and the stock which represents vast interests in mere privileges—in the values of common property held by individuals or corporations as private property.

The fallacy which may be found in these deceptive uses of the doctrine of vested rights is not far to seek nor difficult to find, if the desire be to find and not to confuse. It consists in conjuring a legal expedient into the semblance of a moral principle.

+

The legal expedient known as the doctrine of vested rights has a useful function in its own sphere. Its function is to put an end to controversies over circumstances whose effects, so far as we can know them, are complete with the happening. Any wrong which is complete with its commission, any right which is temporary in its effects upon others, should be removed from the field of controversy after the lapse of a reasonable time.

This is in the interest not only of social peace but also of a fair adjustment of social relationships. No one should be held answerable for wrongs, or be required to prove rights affecting past interests, after time has blurred the memory of witnesses. However important the matter may have been to the parties originally, it becomes less important even to them as the years go by. Peaceable possession, not redress, comes then to be the important consideration.

If, for illustration, one man steals a horse from another, the gain to the one and the loss to the other are complete at the time. A wrong has been done which ought to be righted; but if the injured party sleeps upon his right, he ignores the wrong to himself and allows an assertion of title by the other to grow into an appearance of unquestioned right. No one is injured but himself, and he has acquiesced in the injury. Not only that, but the injury itself is temporary. The horse will soon die, and thereafter the title will be of no value.

The theft itself soon ceases to affect the distribution of the products of labor. Though all such property as horses, houses and machinery were