

of his municipal ownership task, but also the success of the policy of municipal ownership and operation when that task shall have been accomplished.

This is what makes his problem a double one. His is the duty of giving Chicago a clean and confidence - inspiring government; and, borne forward upon the confidence so established, it is his to wrest from the traction corporations the public rights they are withholding from public use.

Thus far everything he has done has strengthened public confidence in the scope and integrity of his purpose and his ability to promote it. Those who know him best believe that this confidence will grow in strength as his period of service lengthens.

NEWS NARRATIVE

Week ending Thursday, April 27.

The Traction Question in Cleveland.

As the excitement over an acute stage of the traction controversy in Chicago (p. 38) subsides while the work of actual adjustment proceeds, the older but for some time quiescent controversy over the same subject in Cleveland (vol. vii., p. 632, 713) revives. This is chiefly due to a heated controversy between the traction monopoly and the city authorities, regarding renewals of franchises, which culminated in a formal conference, open to the public, in the Mayor's office on the 24th. The conference was largely attended by city officials and citizens.

At that conference Horace E. Andrews, president of the Cleveland Electric Railway company, represented the monopoly interests, and Tom L. Johnson, the mayor, stated the policy of the city. The discussion, as reported by the Plain Dealer of the 25th, was conducted on the basis of the following plan submitted by the mayor after Mr. Andrews had consented to consider anything except a 3-cent fare proposal:

That a company, working in the interests of the people, be organized to lease the property and rights from the present company, guaranteeing the present stockholders a certain stated profit on the investment, and that all profits above that sum be used for the

benefit of the people, either in lower rates of fare, extensions over greater territory, betterment of service, or other matters.

Mr. Andrews offered to consider the plan provided a fair price were fixed as the basis for the stated profit to be paid to the stockholders of the present company. Mayor Johnson replied to this that the price ought to be fair and liberal, but that stock market prices could not be allowed to govern. After a conference with his directors Mr. Andrews is to resume the negotiations.

Meanwhile Mayor Johnson has explained his plan, which would approximate municipal ownership as closely as the laws of Ohio allow, and would serve as a transition method if a municipal ownership enabling act were passed. As reported in the Plain Dealer of the 25th, he said:

I have simply applied the recognized rules of modern finance to our local situation, only, for the first time so far as I know. It is proposed to work the trust idea backwards, so that the public may get the benefit instead of paying the freight. I am applying the same laws and rules by which the United States Steel company acquired and operates all the steel mills of the country; it is the same way that the American Stove company is operating half a dozen stove factories in this city; it is the plan by which all modern trusts are formed. The scheme as applied to street railways is now in operation in Cincinnati, where the Elkins-Widener syndicate of Philadelphia has leased all the lines and property of the Cincinnati Traction company. In brief, it is not municipal ownership, but private ownership without profit. It will absolutely take the street railroads out of politics and will also take their securities out of the speculative stock markets. Here in brief is my plan: Let the city and the Cleveland Electric Railway company agree upon a fair valuation for all its stock and bonds and a fair dividend upon the stock; in arriving at this valuation we must count in (1) the cost of reproducing the present tracks, power houses and equipment; (2) value of unexpired franchises, based on their earning capacity; and (3) a reasonable payment for the good will of the company and for peace and immediate possession. In arriving at this valuation the city should be liberal and the Cleveland Electric Railway company should be fair and just. Having arrived at a valuation, let the city (through the Council and Mayor) and the Cleveland Electric Railway company select five or seven men who are acceptable to all parties. By this I do not mean that

each side should select half, but each man must be acceptable to both sides and trusted by the public. Let these men secure a charter from the State for a company of small capitalization, and let the Cleveland Electric Railway company lease all its lines and property to this new company. The new company will be bound under its lease to pay a fixed interest on the Cleveland Electric Railway company bonds, fixed dividends on its stock, and to provide a sinking fund to retire the bonds. The Cleveland Electric Railway company is to give the leasing company an option to buy its stocks at the agreed price at any time. Under the terms of the lease, if the interest and dividends are not kept up or the property is allowed to get out of repair, the Cleveland Electric Railway company would have a right to come in, as under a mortgage, and take possession of the property. As a bond or guarantee, the City Council should pass a new blanket franchise for 25 years, six tickets for a quarter, and with all the other terms and conditions the same as are in existing franchises. This franchise will become of full force and effect if the leasing company fails in its obligations. The new company would execute to the city an option, in turn, of all the rights it may have under the lease agreement so that the city could buy at any time and without paying any profit all these rights. The members of the new company should be paid liberal salaries and should not be allowed to make any other profit out of the operation of the property. This would secure the services of the very best street railway and business men. Neither the city nor the Cleveland Electric Railway company can name any future members of the operating company. They will select their own successors just as members of sinking fund commissions or the trustees of the Society for Savings do. All profits left after paying dividends, interest and sinking fund charges are to be expended in one of three ways: First, in extending and bettering the service; second, in reduction of rates of fare; and third, in buying the property under the terms of the option in the lease. The operating company would be absolutely free of politics and would be free from the temptation to squeeze the public in order to increase dividends or affect the securities on the stock market. Under the State law, municipal ownership is impossible, but this plan gives the city all the benefit of municipal ownership, and at the same time avoids an increase in the number of city employes, which by some is urged as an objection. It is really equivalent to the best civil service regulation. Mr. Andrews has said that he, as one of the large stockholders of the Cleveland Electric Railway company, is willing to try the scheme if a fair valuation can be arrived at, and I feel sure that if we all work honestly and

sincerely to a common end a fair, liberal and just bargain can be made that will (1) fully respect the property rights of the Cleveland Electric Railway company; (2) take the street railway forever out of politics; (3) give the people who pay car fare the benefit of all future increase of franchise values and of future inventions which may lower the cost of street railway service; and (4) keep the street railways out of the stock markets. With the stock of the street railway tied up by options and its earning and sale value absolutely fixed; with a disinterested commission running the road, not for profit; and with the car-riding public practically buying the property with every fare they pay, all hands should be contented and the vexed problem forever solved. As to the rates of fare under the new plan they would be worked out within six months and would of course be the lowest possible with the best and completest service.

On the very day of the above-mentioned conference a decision of vital importance was made by Judge Tayler, of the Federal court at Cleveland, in the injunction suit (p. 35) of the Cleveland Electric Railway Company, the owner of all the old franchises, against the City authorities and the Forest City Railway Company. The latter company was incorporated after Mayor Johnson's first election, for the purpose of bidding for Cleveland franchises under the policy of reducing fares to three cents, upon which Mayor Johnson had been elected. The bidding was ignored by the old company until bids by the new one, at 3-cent fares, had been accepted by the city, and then injunction suits were brought, some of them by the old company and others at its instigation. One of these suits resulted in nullifying the bids because, for other reasons, the city had required the bidders to name terms for restoration to the city upon the passage of a municipal ownership enabling act by the State legislature, the courts holding that in the absence of an enabling act for that purpose no municipal ownership conditions could be inserted in the bids. Accordingly new bids, omitting the municipal ownership feature, were called for, and again the Forest City company was awarded the franchise at 3-cent fares, the other company still refusing to bid. One of the injunction suits, the one which has just been decid-

ed, was brought in the Federal Court to restrain the 3-cent company from building and operating on Woodland and Central avenues on two grounds, first, that the franchise of the old company would not expire until 1914, and second that it was perpetual. The Federal Court now holds that the franchise of the old company which affects those streets expired on the 22d of last month.

The decision is summarized as follows by the Plain Dealer of the 25th:

1. Prior to the act of May 14, 1878, it was competent for the Council to make grants for street railway purposes, either with or without limitations as to time.
2. Whatever be the duration of a grant, whether limited or unlimited, it may be changed by contract between the city and the grantee of the right, subject only to the proviso now in force, that no grant shall be valid for more than 25 years.
3. Neither the consolidation of street railway lines into one company and one system, nor the transfer of the obligations imposed by the Wilson avenue ordinance, operates to prolong the life of any prior grant.
4. An extension of the life of a grant by implication is not favored, and will not be declared except when clearly manifest and obviously necessary; and this rule is invoked with special propriety where the implication is sought to be made in ordinances not one of which in its title gives the slightest intimation of a purpose to deal with the subject of the life of a grant.
5. Permission to extend tracks and operate them, "in connection with main line," for a period which endures longer than the right to operate the main line will not have the effect of extending a life of the main line grant.
6. The ordinance of March 6, 1890, authorizing a substitution of electricity for horse power on the Garden street (Central avenue) branch fixed a uniform period for the termination of the franchise of the Garden street line over its entire length to Woodland Hills avenue, and abrogated, by consent of both parties, any prior contract for a different date, if any such there was.
7. An "extension" is not a new route, it has not an independent life; it depends upon, and is a part of, the line to which it is added; and, as it could have had no legal existence without the original line, so it can have no tenure of life beyond that of the original line.
8. The Garden street branch was established as a "route" and is an original line, the franchise to operate it including all of its extensions and additional tracks, expired March 22, 1905.

Accordingly the injunction is dissolved. The case will doubtless be carried to the United States Supreme Court, and the injunction will meantime probably be continued. The operations of the Forest City company are also tied up by a State court injunction involving the validity of its 3-cent fare franchise.

The Traction Question in Chicago.

The counsel for the Union Traction Company of Chicago, Mr. Govin, was reported on the 26th as having the day before announced the willingness of that company to sell to the city at "a fair price" on the plan proposed by Mayor Johnson of Cleveland, of which he is quoted as saying that it "would enable the city to enter upon municipal ownership at once and pay for the properties out of the profits of operation." Conferences between the city officials and traction representatives of Chicago (p. 38) have been reported during the week, but nothing definite is disclosed.

Another decision by Judge Grosscup (vol. vii, p. 778) bears upon the Chicago traction question in its fundamental legal aspects. He made permanent on the 20th an injunction restraining the enforcement by the city of the universal transfer ordinance (vol. vii, p. 732), holding that it is confiscatory. This decision is based upon the conclusion that what is known as the 99-year franchise constitutes a contract between the State and the street car companies which does not expire until 1958, and that under this contract the companies have the indefeasible right to charge 5 cent fares. Consequently, an ordinance requiring one company to accept transfers from another, as he decides that this ordinance does, is in abrogation of contract rights.

Public Works Department of Chicago.

In the administration of municipal ownership affairs in Chicago, a reform is being instituted by the new Commissioner of Public Works, Mr. Patterson, for the better management of the public water service. This reform includes an adaptation to that department of the financial methods prescribed by the Mueller bill for municipally operated street rail-