

JUST REGULATION.

The Public and the Investor Both Have Rights.

The Problem of State Legislatures. What is a Reasonable Return Upon Capital Invested?—Experimental Industries Should Offer Unusual Profits to the Enterprising Investor.

By EVERETT W. BURDETT.

The subject of public control of private investments in quasi public enterprises has had a somewhat natural and logical development in this country. Beginning at practically the zero point, it progressed slowly at first, but is now moving forward with giant strides. At the time of their inception these new enterprises were so welcome to the public that it did not seek to throw about them any obstructive or harassing conditions. Rather, it welcomed them with open arms and was only anxious for their establishment and development.

This is strikingly shown by the provisions of the charters granted by the state of Massachusetts to three of the first railroads in this country, organized respectively in 1829 and 1830—that the rates of fare and freight, the construction of the roads, the form of cars "and all other matters and things in relation to the use" of the roads should be wholly within the discretion of the directors. At the close of 1830 the total railroad mileage of the United States was only twenty-three, and the public was and for many years continued to be interested in the establishment and development and not in the regulation and control of railroads.

And so it was with reference to the electric telegraph. The first line was built between Baltimore and Washington in 1844, and, if my memory is not at fault, congress voted the inventor a large sum in recognition of his contribution to the public welfare.

So also when the street railway was introduced in 1852 and its successor, the electric railway, about 1886, and when the telephone and electric light both made their first appearance in commercial use in 1876 the communities which they were established to serve were clamorous for their introduction and were not much if at all concerned about their regulation.

But in all these cases what was at first a wonder or a novelty soon became a commonplace adjunct to daily life. The public awakened to the fact that these utilities had not been established for purely eleemosynary purposes—that, in the expressive language of the day, their owners were "not in business for their health." The more modern doctrine, promulgated, I believe, from New York city, of "the public be damned" was a more or less natural outcome of later conditions. The result was that in each case and in a somewhat natural order the public took a hand in what turned out to be the dangerous game of public regulation and control.

At first these efforts took the form of rate regulation in the case of railroads. These were frequently the product of resentment and prejudice and except for the intervention of the federal judiciary would have been disastrous. By throwing over transportation companies the protection of the constitution, guaranteeing all our citizens, including corporations, against spoliation under the forms of law, ruinous consequences of ill advised legislation have frequently been avoided.

The supreme court, while affirming the right and exclusive authority of state legislatures to regulate rates and fix maximum charges, has also subjected the reasonableness of legislative action in this respect to the test of judicial inquiry. It has insisted upon rates which are sufficiently alike to give a reasonable return upon a reasonable investment and at the same time be inherently fair and reasonable to the public. While insisting that ordinarily a corporation is entitled to some profit upon its enterprise, the court has not as yet undertaken to say what that profit shall be, except in one case (192 U. S. 201, 1903), that the rates of a water company may be lawfully reduced by legislative action to a point where the business will yield only 6 per cent upon the fair value of the investment.

It seems natural and appropriate to suggest at this point that one of the most important functions of the newly created public service commissions of the state of New York may be to determine, in the first instance, what a reasonable return is upon capital invested in the public service corporations which are under their supervision and control, and it is at least reasonable to indulge the hope that they will not undertake to limit that return within the narrow margin which has been accepted by the court as sufficient in the case of such a comparatively simple and well established enterprise as that of the supply of water. There is but little analogy between the cases. If the return on capital invested in what can be properly described as essentially experimental industries, such as street railway and electric enterprises, is to be confined to any such figure as 6 per cent it will, in my judgment, be a sorry day, not only for those who have their money at hazard in these enterprises, but for the public at large whose interest lies in their proper development and extension.

As conservative a man as President Eliot of Harvard university has recently said:

"In such enterprises there are often heavy risks. . . . Hence men will not undertake them for the ordinary return on safe investments. They must be induced to venture their cap-

ital and their capacity by a prospect of unusual returns."

So far as I know public service corporations other than steam railroads have in but rare instances been made the subject of state regulation or control by special tribunals created for the purpose. They have ordinarily been left at the mercy of state legislatures or, worse yet, of the various municipal authorities where they operate. They have thus been forced more or less into state and local politics, a course justified, if at all, by the dictates of "the first law of nature"—that of self defense. But in 1894 the state of Massachusetts entered upon a more enlightened experiment in public regulation and control of quasi public enterprises, and since that time the capitalization, debt, rates, service and general conduct of the public service corporations of Massachusetts have been within the control and regulation of public bodies created for the purpose.

The one primal defect in the laws of Massachusetts regulating and limiting the stock and bond issues of its public service corporations, an error which ought to be avoided in the administration of the law in New York, lies in the failure to discriminate between new enterprises or hazardous extensions of old enterprises on the one hand and well established industries on the other. Admitting that the securities of the latter can properly be limited to amounts sufficient only to cover the reasonable expense of ordinary additions to plant and the returns upon them to the going rates of interest or profit legitimate in established businesses of like character, the reasonableness of the rule disappears when applied to extensions of unusual character or into fields of doubtful profit, and particularly to cases of incursions by new enterprises into hitherto unexplored fields.

The pioneer who first dares to explore hitherto unexplored territory or the investor who is willing to increase the usefulness of his enterprise by extending it into channels of doubtful profit should not be treated in the matter of initial securities or the returns upon them with the same strictness as the conservative investor in an established business. To quote President Eliot again:

"There is much to be said on behalf of the proposition that there shall be no water in the stock of public service corporations, yet if this principle had been applied to all street railway and lighting companies during the past thirty-five years the public would have waited long for facilities which they have greatly enjoyed and profited by."

The great authority of the supreme court of the United States, as expressed in the case of Handley versus Stutz, 129 U. S. 417, stands for substantially the same proposition.

THE FEAR OF POLITICS.

Why High Grade Employees Prefer Private Positions.

One of the first results of the semi-municipal ownership of trolleys in Cleveland is the feeling of high grade employees that they had better look for positions which are not hampered and endangered by political interference. Of the resignation of the engineer of maintenance of way the Cleveland News says:

"Engineer Tilton of the former traction regime resigned his place Tuesday because his profession had nothing in common with politics. He feared that politics might come to be a factor in the affairs of the holding company. He had had that fear ever since the public was told that the board of directors could not meet to discuss a grave labor difficulty because most of the members had gone to Columbus to attend a political convention."

The same paper quotes Mr. Tilton as saying: "I desire to say that I hold Mr. du Pont in the highest esteem. Moreover, I like Mayor Johnson. I don't want to criticize the mayor and his associates for being politicians either. They have a perfect and absolute right to be politicians. It is the fact I am looking at. Here is a management which includes Mayor Johnson, City Solicitor Baker, Senator Howe, County Solicitor Stage and Senator Thomas P. Schmidt. All of them are politicians. It is the political influence I fear for the future. Those men cannot keep politics out—could not if they tried. I don't doubt they mean well by me. It is the inevitable situation that makes it seem to me well to make a change."

Postal Tyranny.

As showing how far advanced this country is in bureaucratic interference with personal liberty the article on "Russlanizing the American Post-offices" in a recent issue of the Public will be a revelation to most Americans. The writer shows how men have been driven out of business by "fraud orders" issued by the postoffice department when the courts have held their business to be maintained by fraud. Moreover, these orders, which prevent a man from receiving any mail, are kept in force after the courts have pronounced the business legitimate. "Truly we are passing from a republic into a bureaucracy."

They.

Why don't they keep the streets a little cleaner?
You ask, with deep annoyance not undue.
Why don't they keep the parks a little greener?
(Did you ever stop to think that they mean you?)
How long will they permit this graft and stealing?
Why don't they see the courts are clean and true?
Why will they wink at crooked public dealing?
(Did you ever stop to think that they mean you?)
—Life.

acres in Clackamas Riverside; \$1.

D. L. Cogan et al to I. M. Davidson—17 acres in Clackamas Riverside; \$1.
R. H. DeShazer to I. M. Davidson—17 acres in Clackamas Riverside; \$1.
J. G. DeShazer to I. M. Davidson—17 acres in Clackamas Riverside; \$1.
A. C. Hodgkin to E. A. Boyd—Lots 18, 19, 25 and 26, Jennings Lodge; \$1000.
Edwin Hodges et al to B. F. Mitchell—Lots 16 and 16, Block 30, in Gladstone; \$200.
W. A. Proctor to Glat & Palmquist—8.08 acres in Sec. 26, T1, 4E; \$1000.
J. R. Edwards to F. Roadarmel—41 acres in Sec. 178, T4, E; \$1230.

Real Estate Transfers

Barney Cronin to Thos. O. Biggs—part of Sec. 14, T38, R1W; \$150.
J. W. Watts to M. I. Shortidge—Lot 6 of block "H" of Clackamas Heights; \$1.
Oregon Swedish Colonization Co. to Erik Janson—NW 1-4 of NE 1-4 of Sec. 8, T5, 3E; \$450.
Jane W. Edwards to J. R. Edwards—61 acres in Sec. 17, T48, R2E; \$1.
S. P. Ward to Ida M. Davidson—17 acres in Clackamas Riverside; \$1.
M. J. Jones to I. M. Davidson 17

Do People Read Advertisements?

Why Sure! You Are Reading This Ad

ADVERTISE

ADVERTISE

Are you not? If you read this ad others will read yours if you will place it where it will be seen. If you place your advertisement in some paper that people do not care to read of course you cannot expect results from your efforts. But if you go to a paper that is aggressive and alive and is brim full of news you are sure of reaping results from the money you spend. And again you cannot expect to place an ad in any paper and expect people to come and buy you out the next day. You must give them a dose one week and then double the dose the next time; give them both doses the next week. If this does not fix them repeat what you have given before but add a greater amount of vim. When you have done all this get in and **ADVERTISE**

Did you ever stop and consider why the Courier leads in advertising? It is easy to see why if you will stop and consider how much larger a circulation the Courier has than other Clackamas County papers. And why this larger circulation? Because the management of the Courier is ever on the lookout for new ideas to give their readers; new features to add that will give a greater variety that will please everybody. To give the readers of the Courier the news in an unbiased form. These and many more are the reasons why the Courier has a larger circulation than other Clackamas County newspapers, and the reason why the Courier has a great deal more advertising matter than other Clackamas County papers.

The Courier's job plant is excelled only by the larger plants of Portland, and is prepared to print anything from the finest society stationery to the big wholesaler's catalogue.

IF YOU WANT GOOD PRINTING

CALL ON

THE OREGON CITY COURIER

THE HOME OF GOOD PRINTING

FLIES AND SHEEP.

Pine Tar and Dipping to Protect Health of the Flock.

Fly time is on, and sheep, especially rams, should be watched closely for maggots. All rams should have liberal quantities of pine tar around the horns, which will prevent the fly from depositing her eggs. When present turpentine or dip will dislodge them and pine tar will keep them away, writes an Ohio breeder in the National Stockman and Farmer. The long and middle wool sheep are more annoyed by the common house fly than the Merinos and should have a dark woods or an underground cellar or cave in which to spend the day. A single fly will prevent one of these sheep from thriving a whole day.

The owner of a grade flock of Shropshires once took the writer to the mouth of a cave in which his sheep spent the daylight of summer, secure from flies and in a climate very nearly like the native conditions of the Shropshires of England. He lamented the loss of the manure, but the loss was more than made up in the condition of the sheep.

Look out for the gadfly. Her eggs are deposited in the nostrils of the sheep and almost as soon as deposited move up into the sinuses of the head, and the sheep has grub in the head. Tar on the nose or even dust will warn the mother fly that such a place is not a promising home for her future family. In the absence of bare ground a furrow plowed in the pasture will supply the dust. Sheep salted in a V shaped trough with tar on sides of trough is practiced as a preventive by some flockmasters. Sometimes I think that between gaddies, stomach worms, lung worms—indicated by the sheep standing with their heads close together, with their noses on the ground and by running ticks—foot rot, blizzards and tariff takers we have a strenuous time.

Hold the Cow's Tail.

A new and improved contrivance for holding the switch of a cow when the cow is being milked has been designed by a Massachusetts man. The holder



PROTECTION FOR THE MILKER.

is constructed from a flat circular strip of spring metal, which is clamped around the leg of the attendant. To prevent it moving a number of projections are placed on the inner face, which engage the trousers of the wearer.

On the outer face of the strip is a spring clamp, one end of which is riveted to the strip, while the opposite end is free and curved slightly outward, so that the switch of the animal can be readily entered between the strip and the clamp. The animal is thus unable to swish her tail in the milker's face, protecting the latter from injury in this way.

THE HORSEMAN.

Brood mares should be fed liberally, but not to excess. They should have the best quality of well cured hay, oats and bran. Moldy hay that has been heated in the mow or bale, musty oats and bran that has soured will not supply the proper nutriment for producing stake winners.

The Courier is the paper that gives you the market report.

How's This?

We offer one hundred dollars reward for any case of catarrh that cannot be cured by Hall's Catarrh Cure.—F. J. CHENEY & CO., Toledo, Ohio. We, the undersigned, have known F. J. Cheney for the last 15 years, and believe him perfectly honorable in all business transactions and financially able to carry out any obligations made by his firm.—Walding, Kimman & Marvin, Wholesale Druggists, Toledo, O. Hall's Catarrh Cure is taken internally, acting directly upon the blood and mucous surfaces of the system. Testimonials sent free. Price 75c per bottle. Sold by all druggists. Take Hall's Family Pills for constipation.

Summons.

In the Circuit Court of the State of Oregon, for Clackamas County, Ida M. Martin, Plaintiff,

vs. John Martin, Defendant. To John Martin, the above named defendant:

In the name of the State of Oregon



The Bigger the Basket

of groceries we send you the greater your satisfaction, the larger number of articles you order the greater will be your appreciation of the all-round Excellence of our Groceries. We do not make a specialty of one good article, trusting its good quality will make up for deficiencies in other lines. Every thing we sell is the best we can get. SPECIAL—this week only: a 5c2 box of toilet soap free with each pound of tea or coffee.

SEELEY'S

The Peoples' Store
Main Street OREGON CITY

you are hereby required to appear and answer the complaint filed against you in the above entitled suit on or before Sept. 21, 1908, said date being after the expiration of six weeks from the first publication of this summons, and if you fail to appear and answer said complaint, for want thereof the plaintiff will apply to the Court for the relief demanded in the complaint, to-wit: For a decree dissolving the bonds of matrimony now existing between plaintiff and defendant.

This summons is published by order of Hon. Grant B. Dimick, Judge of the County Court for Clackamas County, Oregon, which order was made and entered on the 6th day of August, 1908, and the time prescribed for publication thereof is six weeks, beginning Friday, Aug. 7th, 1908,

and continuing each week thereafter, to and including Friday, Sept. 18th, 1908.
First publication of this summons August 7th, 1908. Date of last publication Sept. 18, 1908.
M. MOREHEAD, Attorney for Plaintiff.
Thos. Fox to E. LaForest—certain Lots in 1st addition to Oswego; \$1.
Reta Pierce to F. M. Amen—28-100 acres in Sec. 5 T38, R3E; \$500.
D. M. Stephenson to J. L. Paul—15.01 acres in Presley Welch D. L. C.; \$5200.
C. S. Bard to Robert Hileman—20 acres in John Stephenson D. L. C.; T38, R4E; \$600.
Mary E. Barlow et ux to F. S. Hart—100 acres in Sec. 16, T38, R1E; \$2000.

The John Barrett Co. to John Barrett—undivided half of lot 7 Sec 16 T. 38, R3E; \$1.

James W. Partlow to Andrew Blom—44 acres in S. S. White D. L. C. No. 41, T2-2E; \$3800.

G. Polittowski to Herman Krause—24 acres in Sec. 3, T4-E; \$4000.

N. R. Lang et al to Willamette Pulp & Paper Co—7.92 acres near Oregon City.

Alfred Hinman to H. A. Hostetler—87.88 acres in Secs. 16 and 17, T38, R4E; \$5400.

H. A. Hostetler to Axel Vester—47.88 acres in Wm. Wade D. L. C.; \$2500.

Lyman B. Andrews to Axel Vester—10 acres in Stephen Walker D. L. C. T2-1E; \$1.

FOR SALE—Modern Bungalow

IN PORTLAND



Just Completed—All modern improvements—7 Rooms, Hot and Cold Water, Electric Lights and Bath. On one or two Lots.

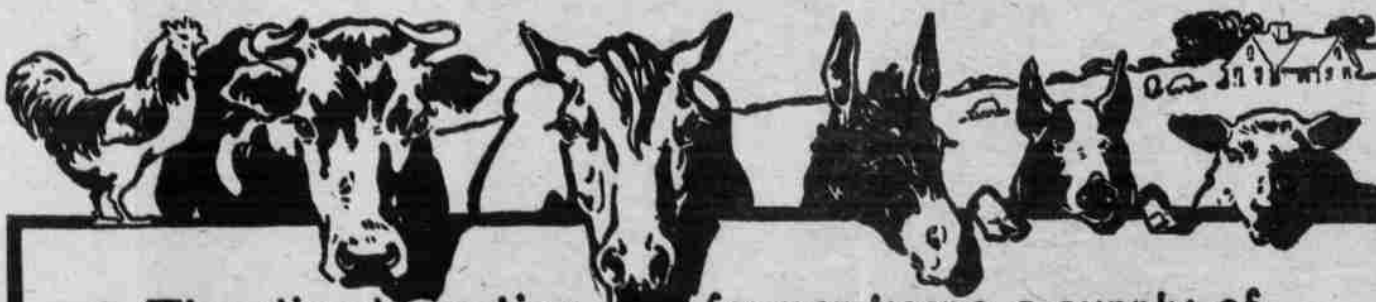
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Portland's Fast Growing Addition. On the Main Street to New Driving Park. Terms.

EASTHAM, SMITH & CO.

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The discriminating farmer keeps a supply of SLOAN'S LINIMENT

For spavin, curb, splint, sweeny, capped hock, founder, strained tendons, wind puffs and all lameness in horses - For thrush, foot rot and garget on cattle and sheep - For hog distemper, hog cholera, thumps and scours in hogs - For diarrhoea, canker and roup in poultry -

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