

# TALKS ON RAILROAD COMMISSION BEFORE BAR ASSOCIATION

## J. N. Teal Gives Exhaustive Argument in Support of the Proposed New Law.

### TREATS QUESTION FROM ITS EVERY STANDPOINT

Discusses Need of Commission, Remedies for Existing Railroad Evils and Outlines Plan for Bill to be Presented to Legislature.

J. N. Teal, who has been the leader in drafting the proposed railroad commission bill to be presented at the next session, was one of the principal speakers at the annual meeting of the State Bar association held in the city today. He took as his subject "A State Railroad Commission—its history, its functions and its future." He discussed the need of a commission on transportation subjects and railroad control. In beginning his remarks Mr. Teal said:

"I approach my subject from a standpoint that might perhaps be more appropriate to a general audience than one composed of men learned in law. However, I see no practical good to be accomplished by entering into a long dissertation on the law in general relating to common carriers, or to attempt the hopeless task of reducing to an orderly classification the decisions of courts or the dicta of judges. As I understand the law in general, fundamental principles about which I hope there can be no question.

**Not Private Business.**  
"To appreciate the questions involved, to understand the principles on which proposed legislation is based, one must first clearly understand the fundamental elementary truths. About the first and most important is that the business of carriage used in the sense I refer to is not a private business; it is a public business, and as such is not only a fit subject for control and regulation, but in the very nature of things it is necessary that it should be controlled and regulated. A railroad is a public highway. It is the evolution and development of the toll road applied to modern conditions through modern inventions.

**Unrestrained Power Bad.**  
"Furthermore, the experience of every one and at all times shows that unrestrained power is certain to lead to abuses of the gravest kind. Transportation is a necessity. By reason of the character of the investment, the large amount of capital involved, and the service rendered, competition is rare, and it is hardly open to discussion now that unrestricted competition is undesirable. With the service rendered a necessity, with competition practically impossible, subject to no control, what follows? Discrimination of every conceivable kind. Results that under similar conditions, so long as human nature is as it is, will always follow. There was first the open rebate, followed by the vicious and criminal secret rebate, discrimination between persons and places, in the character of service, in furnishing cars, rates, in demurrage charges, in expiration of carriage, through midnight schedules, warehouse privileges, passes, through every method the ingenuity of man could devise. Extortionate charges followed, extravagant and extravagant recklessness in the cost of building roads and such charges were

the rule when even these excuses, if excuses they can be called, were not factors.

**Unjust Discrimination.**  
"Unjust discrimination followed as a natural and inevitable tendency of unrestricted control. All this, too, in the face of the most friendly feeling as evidenced by grants of vast areas of the public domain, by the issuance of bonds to aid in construction, guaranteeing interest, and many other valuable grants and gifts. These abuses created a feeling of resentment, which with time has only grown the stronger. In this country, first the states, then the nation acted, which brings us to the point where the legislatures were called upon for relief, and the courts appealed to, to define the legislative power. Not unnaturally the corporations resented as an impertinent the meddling interference by legislation with a business they assumed legislators could not possibly understand, and which from the railway standpoint was a private business and not more subject to regulation than a store or your office."

**Sees Into History.**  
"Mr. Teal then went into the history of corporations and of law as applied to them. He showed that more than 200 years ago Lord Chief Justice Hale of England had held that where a public interest is affected with a public property only. Under this rule and decision it had been the custom from time immemorial to regulate public service and common carriers. The states first took up the effort to control the carriers in this country, congress following in 1857 with the "Act to regulate commerce."  
"In 1876 the eight cases known as the *Great Cases* were decided by the supreme court of the United States. In the case of *Smith v. Ames*, 169 U. S. 544, Justice Harlan held that a railroad was a public highway and none the less a business of common carriers. The through the agency of a corporation owing its existence and powers from the state. In the case of *Budd v. New York*, 143 U. S. 549, Justice Brewer held that railroads were highways and public service and common carriers. In the changes made by them for service performed. Continuing, Mr. Teal outlined the law as it now stands in regard to railroads. He said:

**Law as Now Settled.**  
"Without citing further cases, the law as settled at this time is about as follows:  
"First—Congress has exclusive power over the regulation of interstate traffic.  
"Second—The state has exclusive power over interstate traffic.  
"Third—The rates, whether congressional or state, are subject to judicial review.  
"Fourth—Whether a given rate charged is so unreasonable as to amount to confiscation, is a judicial question.  
"Fifth—Fixing the rate for the future is a legislative function.  
"Sixth—The state can act directly through its legislature or through a commission.  
"On the trend of the public thought of today there can be no question but that it is in the direction of more thorough and vigorous control and that this sentiment will find expression in the courts there can be no doubt.

**Proposed Law.**  
"We are now ready to consider briefly the proposed railroad commission law which has been prepared for consideration in advance of the meeting of the legislature in January next. The bill submitted follows closely the most recent and intelligent forms of legislation, particularly the interstate commerce commission act as amended at the last session of congress, and the recently enacted Wisconsin commission bill with its amendments. No attempt has been made to be original; rather has the attempt been throughout to adapt the best considered, most efficient, tested and approved legislation in other states, in order that the bill submitted may be such a practical experience and the judicial decisions of other commonwealths have commended."

**Features of the Bill.**  
"The following is a brief statement of the salient features of the bill:  
"All railroads, of whatever form of motive power, union depot and terminal companies, express, sleeping car, freight and freight line, car, oil and tank line companies, are made subject to its provisions; however, the transportation of passengers by street and electric railroads is not affected, nor are logging and other strictly private railroads included.  
"Reasonably adequate service and equipment is required, and all charges for the transportation of persons and property, or in connection therewith, must be reasonable and just, and unjust and unreasonable charges are de-

# A Direct Process

HOW DR. WILLIAMS' PINK PILLS CURED A PARTICULARLY PAINFUL FORM OF THIS DISEASE.

Statement From One Who Was Cured of a Particularly Painful Form of This Disease.

Of the many forms which rheumatism takes, that which is popularly known as sciatic rheumatism probably tortures its victims more than any other. That Dr. Williams' Pink Pills have cured this stubborn as well as painful trouble is a fact proven by the following statement, and no sufferer who reads this can afford to let prejudice stand in the way of trying these blood-making pills.

Rheumatism is now generally recognized as a disease of the blood. Dr. Williams' Pink Pills make—actually measure—the blood. When the blood is pure there can be no rheumatism. Mrs. Thomas Bronsahan of 54 Mill street, Watertown, N. Y., says: "My trouble began with a severe cold which I took about a week before Christmas in 1904. I began to have rheumatic pains in my back and limbs and after a time I couldn't straighten up. I suffered the most awful pain for months and much of the time was unable to leave the house and I had to take hold of a chair in order to walk and sometimes I could not stand up at all. My husband had to help me up and down stairs. The pain was greatest down my left limb, along the sciatic nerve."

"The disease was pronounced sciatic rheumatism and, although I had a good physician and took his medicine faithfully, I did not get better. After some six weeks of this terrible pain and suffering I tried Dr. Williams' Pink Pills and that is the medicine that cured me. After a few boxes the pain was less intense and I could see the improvement. I continued to take the pills until I was entirely cured and I have never had any return of the trouble."

**\$5,000 REWARD.**—The Dr. Williams Medicine Co. has authorized the cashier of the Union National Bank of Schenectady, N. Y., to pay the sum of \$5,000 upon proof of fraud on the part of the company in the publication of the foregoing testimonial, or any others used in making known the merits of Dr. Williams' Pink Pills.

All druggists sell Dr. Williams' Pink Pills, or the remedy will be mailed, post-paid, on receipt of price, 50 cents per box, six boxes for \$2.50, by the Dr. Williams Medicine Co., Schenectady, N. Y.

**Rate-Making Powers.**  
"The rate-making powers of the commission are in the first instance regulatory, and do not require it to formulate an entirely new schedule. Changes in rates or in classification shall be made only on notice to the commission and the public similar to that required by the interstate commerce act.  
"Concentration, commodity, transit or special rates, or other special rates, are permitted if open to the public generally. The classification of freight on all railroads shall be uniform. Full power is given for investigation and determination of rates, reasonable classification, and the enforcement of reasonable regulations and practices, as also equipment. Joint rate routes may be created, and the charges apportioned between the carriers, if need be (section 10).  
**Judicial Review.**  
"Judicial review of the proceedings of the commission is had by direct action commenced in the circuit court on complaint of the aggrieved party, with a speedy trial insured and right of appeal reserved.  
"Rather than to attempt to regulate by specific, unyielding and drastic legislation such subjects as demurrage and reciprocal demurrage, the commission is generally given jurisdiction to make proper and reasonable rules, as has been done in Virginia, where a similar provision was sustained by the courts. Provision has been made for enforcement of regulations of traffic, securing adequate and suitable depots and tracks and the connection of grade crossings and the reporting and investigation of accidents and claims against the road.  
"I doubt very much if the proposed law will suit the railroads. I never heard of one that did. They fight every effort looking to control or regulation in the legislature, and before the courts. In doing this, they are making, in my judgment, a serious mistake. For one thing, having ample protection in the courts, they certainly give the impression of being objects of respect. Their objections must be because they know their rates are too high, or that discrimination is being practiced, or the service is inadequate, or some like reason.  
**Important Feature of Law.**  
"To my mind the most important feature of the law is that of requiring the commission to ascertain the value of the railroad property and equipment in the state of Oregon. This, and the decision of the supreme court of the United States, is essential, if the law is to prove effective. The whole fabric of rate making and control of rates rests largely on the amount invested. This state could spend money to no better purpose, or on which it would realize such returns, as to ascertain with certainty the value of the railroads within its borders.  
"Respecting the question of reciprocal demurrage, it was conceded best to leave this in the hands of the commission with power to make rules and provide penalties, rather than present a hard and fast law, which the courts might hold unreasonable and, therefore, unconstitutional.  
**Necessity for the Law.**  
"We now come to the necessity for the law. About the time that legislation is proposed or has been enacted there are loud protestations of reform and indignant denials of any reason for control; but the most cogent answers to all of this are the almost daily reports in the public press of the complaints of shippers and findings of both grand and trial juries.  
"It is all well enough to say the majority of interests which prevail between the carrier and the public will in itself furnish a sufficient incentive to reach amicable and satisfactory understandings without the necessity of having to resort to any tribunal, but it doesn't work in practice. For many years the merchants of this



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city have been trying to get lower distributive rates out of Portland, and have thus far failed in their efforts.  
**Factor in Fixing Rates.**  
"Consider the one question of capitalization which is a factor in fixing rates. How is it to be ascertained by the stockholders naturally sympathized with local conditions, now they have all been eliminated and the greatest factor in our commercial development is controlled by strangers whose interests in other directions far outweigh those locally. Furthermore, the last four years has seen a wonderful change in the conception of one's duty as citizen. There is a higher plane of citizenship. Issues which have been lying dormant have been forced to the front.  
**Greatest Obstacle.**  
"The greatest obstacle in the past has been judicial obstruction of the law. I do not mean by this to cast any reflection on the bench, but to those who are familiar with the temporary injunc-

tion, the 'distinguishing' of cases, the change in rulings, the rules adopted for determination of the reasonableness of rates, the application of established principles to particular cases, there is little wonder that commissions get discouraged. There are not wanting signs that the judiciary also see that the present problems are quite different from those of a few years ago and that the law will have to meet the new conditions. Then, too, there are not wanting those who for many reasons may oppose the enactment of this class of legislation, and this opposition is generally found amongst heavy shippers or interests closely affiliated in one way or another with the railroads; there are others also. So taking it altogether, a commission has anything but a smooth road before it, but it is one that can be traveled. What is needed is honest, strong, determined men, backed by a public sentiment that only demands justice. If the experience of other

states is of any importance in helping us to form a conclusion, we find that the commission idea is steadily growing and never more rapidly than in the last four years, until today Oregon is one of a little group of five of the less important states and territories without any restrictive legislation of this character to speak of. Thirty-one states have commissions with more or less powers, and all the rest excepting four or five have legislated in various ways on the subject. Moreover, the tendency is distinctly toward strengthening the powers of the commissions.  
"I speak seriously, with no ill-will or prejudice. To my mind there can be but one outcome to the question. A nation that sacrificed men without number and untold millions of money to demonstrate that it could not—would not live half slave, half free—will never submit to a commercial bondage which in the end would sap the very foundations of our national life."

prevailing. The world has moved in the last 10 years and people understand these problems better than they did then. The roads in this state are now under one control, the local element, then in the directorates and amongst the stockholders naturally sympathized with local conditions, now they have all been eliminated and the greatest factor in our commercial development is controlled by strangers whose interests in other directions far outweigh those locally. Furthermore, the last four years has seen a wonderful change in the conception of one's duty as citizen. There is a higher plane of citizenship. Issues which have been lying dormant have been forced to the front.  
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# Which Little Girl's Cookies Will Win the Gas Range?

Four Burners, Top Oven and Broiler and Warming Oven

That's the question uppermost just now in the mind of every little lass in Portland. Some one of you little girls—and every one has an equal chance—will be pretty happy on Christmas morning, when she finds Santa Claus has left her a "real truly" gas range—and one of the very finest ones there ever was, too; and another little lass will be happy when she finds a magnificent gas reading lamp—value \$15—all complete with shade, Welsbach burner and tubing; and fifty more little maids will find handy toasters.

## The Contest Is Open to Every Little Girl Under the Age of 15, Absolutely FREE!

Bake a little batch of cookies—all yourself—any kind, any shape, and write us a little composition on "Cooking With Gas." On December 21, or 22, bring the cookies, wrapped in paper, to which your composition is pinned, and on which you have plainly written your name, address and age, to our office. A committee of well known Portland ladies will decide which little girls have baked the best cookies and written the neatest and best essays, and to these we will award the prizes. Then we'll send all the cookies to some of the charitable organizations for their Christmas feast for the poor.

Now, little maids of Portland, don't you think this is a "happy thought"? We know you will all want to try for the prizes, and will all want to contribute to this Christmas dinner for those who are less fortunate than you. So we know its going to be a grand success.

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