

Rebates and Secretary Morton

Since the results of the interstate commerce commission's inquiry concerning rebates paid unlawfully to the Colorado Fuel and Iron company by the Atchison, Topeka & Santa Fe railroad company were made known, additional facts pointing to other violations of law by the Atchison company have come to light. They have been received by the public with much interest, not only because they relate to the projected railway legislation so earnestly desired by Mr. Roosevelt but also for the reason that they direct attention to the conduct and utterances of Secretary Paul Morton before he entered the cabinet.

Reviewing, on the 12th ult., the available evidence in this Colorado Fuel case, we spoke of President Ripley's application for a further hearing, at which, it was said, it would be shown that Mr. Morton's side of the case should be presented fully and without delay, in order that public opinion might be formed justly. But Mr. Ripley has withdrawn his application, Mr. Morton has made no explanation, and the commission—holding, as Mr. Prouty said, that the two companies had shown a "barefaced disregard of the law"—is about to lay the evidence before the department of justice, with the expectation that prosecution will follow.

Secretary Morton said to the public, a few weeks ago, that the president

had asked him to take up the problem of railroad supervision and that he had consented to remain in the cabinet in order that he might do so, and might assist the president in obtaining needed legislation. It is natural and reasonable, therefore, that the public should be interested in the record made by the secretary while he was vice president of the Atchison and supervising the freight traffic of that great company.

We have heretofore given the substance of the evidence in the Colorado Fuel rebate case. It is alleged that rebates amounting to about \$1,000 a day were allowed for four days (up to November last) and that a competing company was thus driven out of business and virtually into bankruptcy. The traffic manager, Mr. Biddle, who was subject to Mr. Morton's authority, assumes the entire responsibility for what was done. Mr. Morton has not denied that recently to a newspaper correspondent he expressed approval of Biddle's action, saying that he would have taken the same course.

There was published on the 21st ultimo what was said to be the full and exact text of a pooling agreement (some 3,000 words) between the Atchison and the Southern Pacific, covering territory in southern California, and the southwest, dated May 18, 1896, and signed by J. C. Stubbs for the Southern Pacific and by Paul Morton for the Atchison. Provision was made for canceling it after December 31, 1897, if ninety days' notice should first be given. Mr. Morton declined last week to discuss the matter. The question whether the agreement is still in force has not been answered. Making such an agreement was well known to be a direct violation of the interstate commerce act. Under the decisions of the courts it was also a violation of the Sherman act. In the orange rate case, three years later, an officer of the Southern Pacific denied that there had been an agreement. Mr. Morton testified that the two companies (there were no others doing business in southern California) co-operated in making contracts with private car lines. "There is necessarily," said he "a great deal of co-operation between us." If his signature was wrongfully published in connection with what is alleged to be a copy of an unlawful pooling agreement he should have said so last week.

One year ago (Jan. 19, 1904) the commission made a decision in a case brought before it by certain manufacturers of salt at Hutchinson, Kan., who complained that they had virtually been driven out of business by rebates which the Atchison road had given to a salt company controlled by two brothers of Secretary Morton. In a recent volume of the commission's reports the record may be found. Joy Morton was president of the salt company and Mark Morton its treasurer. A siding, or spur track, in all less than 5,000 feet, connected the Atchison line with the mills. Owning this side track, the salt makers incorporated it under the name of the Hutchinson and Arkansas River Railroad company, of which Joy Morton was president and Mark Morton treasurer. They had neither a locomotive nor a car. But with the Atchison (of which Paul Morton was vice president) they were able to make a traffic agreement which allotted to these 5,000 feet of side track about 25 per cent of the freight charges on salt. This disguised rebate amounted to 50 cents a ton on salt to Kansas City, 235 miles, the full rate being \$2. Therefore the Morton brothers were easily able to undersell their Hutchin-

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son competitors at Kansas City and other markets, and they did so undersell them with the great beef companies at Kansas City and Omaha and St. Joseph.

"A mere subterfuge to give a concession in rates, and therefore unlawful," was the decision of the commission, which brought the evidence to the attention of the district attorney, explaining that he was "required to prosecute such violations under the direction of the attorney general." Secretary Morton has declined to discuss this case. Commissioner Prouty remarks that for five years past the Atchison has been guilty of "deliberate, extensive, persistent and flagrant violations of the statutes."

Mr. Morton has testified frankly before the commission and in court. In 1901 he admitted that his company's rebate agreement with the beef companies was illegal. "We knew that it was." In the grain rate inquiry (followed by injunctions) he explained that the published rates were disregarded by his company and all its competitors. Testifying in the orange rate case in California, he said:

"We tried the costly experiment of being honest in this thing—living up to the law as we understood it, and declining to pay rebates; and we lost so much business that we found we had to do as the Romans did."

In public statements he has recently urged that carriers or shippers guilty of giving rebates or preferences "by any device" should be severely punished.

We do not question the sincerity of the expressed disapproval of such injustice and such violations of the law. But, being a member of the cabinet, and, as he says, having consented to assist the president in procuring legislation in accord with the latter's railway policy, he owes to the administra-

tion and the public a full and frank explanation of all the transactions, alleged to have been unlawful or unjust, with which he has been connected by official reports, other publications, and his own testimony. Such an explanation should be made at once.

It is also Mr. Morton's duty to consider carefully whether, in view of the record as it stands, or even as it will stand after any explanation he may decide to make, the reform projects and other policies of the president can be commended to the public or otherwise promoted by anything he, remaining in the cabinet shall do or say. —The Independent.

How Congress Can Acquit Itself

Representative Mann and a few other unusually sensitive members represent a reputed statement that two-thirds of the congressmen owe their election to the railroads. It is a good sign to find the national legislators displaying a sensitiveness to such criticism. Probably the statement, if it was made, is not true. While it is possible that two-thirds the members of congress have received railroad aid in their campaigns, either for nomination or election, we doubt very much if nearly so large a proportion of members as that was elected through the railroad influence.

The best way for congress to disprove the slander is to pass the railroad legislation requested by President Roosevelt. Nobody, when that is done, will believe two-thirds of congress is owned by the syndicated railroads.—New York Press.

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