

CURRENT TOPICS

EDWARD W. MITCHELL died recently in Chicago and the members of the Chicago board of trade made up a fund to bury him. A writer in the New York American says: "Mitchell died a pauper; he was once a great man. Where the names of Gates, Morgan, Armour and other stock plungers and market plungers are now printed Mitchell's name was printed thirty years ago. Mitchell was a big grain operator in Chicago when Fisk and Gould were piling up money in railroads in New York. In 1868 he 'cornered' the wheat market in Chicago. He had a company of fellow conspirators against consumers. They shot the prices sky-high. Mitchell made a million or more. Then he went into the market as a bigger plunger. He was betrayed and sold out and found himself penniless. That was thirty-five years ago. Mitchell for ten years sought to regain his fortune, but he was outclassed by keener-minded men. Then he became a pauper. And every man that has tried to 'corner' a food product has died poor. There is a retribution for food gamblers. It does not seem to follow stock gamblers. The same evil fortune may yet overtake 'those conservative business men' who, through the infamous meat trust, are robbing the people of the United States."

WITH reference to railroad rate legislation, Walter Wellman, in the Chicago Record-Herald, says: "Not only railroad men, but shippers, perceive that the constitution may present a serious and possibly fatal obstacle to the desired rate legislation. Some of the best lawyers in the senate say they do not see how the constitutional provision can be got round; that if congress makes rates at all, it must make them purely on a distance basis; that anything save a per mile tariff, regardless of any other conditions, would be construed by the court as constituting a preference such as the constitutional requirement aimed at. Unless some way can be found to obviate this difficulty the proposed legislation has a rocky road before it; for it is generally admitted that if government-made rates, so far as they apply to rates to and from ports, can not possess any elasticity, but must be laid down by the mathematical rule of so many pounds, so many miles, so much charge, the whole scheme is likely to be a failure."

IT WOULD seem that some of the members of the interstate commerce committee are considerably distressed. Mr. Wellman quotes one member of the committee as expressing an anxiety to know "What would be the liability of the government if it makes rates so low as to effect the prosperity of the railways? Would the government be compelled to stand damages?" Or would the next thing be a move to force the government to buy out the railroads and institute government ownership on a tremendous scale? Furthermore, if the government could fix the earning power of the properties and decided to do so, would it not next be proper for the government to enact laws as to how much should be paid by the railroads in wages and other costs of operation?

MR. WELLMAN admits that these inquiries indicate that the member quoted is not very much in favor of legislation, particularly legislation such as the friends of the proposed reform have advocated; but Mr. Wellman goes further and says that "It is very doubtful if any member of the senate committee is in favor of such legislation." He adds: "While it is as yet impossible to classify the committee with any degree of certainty, all the indications are that a majority is either opposed to what is commonly called government ratemaking, or at least takes an exceedingly conservative view of the question. For these reasons the representatives of the railroads are more confident than ever before that when the thing is finally thrashed out and a law enacted it will be found one which can not give them much trouble."

SOME idea of the determination of the railroad magnates to prevent serious action may be obtained from this statement made by Mr. Wellman: "Before they get through the managers of the railroad side of the case expect to produce a

strong protest from organized labor against the passage of such a bill as the one which went through the house. Elaborate efforts have been made to work up the labor end of the case, and the various railway unions have been impressed with the idea that if the government goes into the making of rates the next step will have to be the fixing of the wages. At the outset the railroad managers will endeavor to make an impression with arguments from the standpoint of the property holders, the owners of railway securities."

EVIDENTLY there are sharp differences in Mr. Roosevelt's cabinet with respect to the railroad rate question. Secretary Taft recently delivered an address before the International Railway Congress assembled at Washington and the Associated Press reports say that "he fairly took the breath of the 300 railway men present." Mr. Taft declared that railway rate legislation must come; that if the railway men of the country were wise they would aid and not hinder it; that the sentiment of the country is such that failure of proper regulation meant a campaign on the subject that would do no good to the railroads. Absolute silence reigned as Secretary Taft spoke his mind on the subject of rates. He was positively against government ownership, he said, believing that nothing so deleterious could come to the country as this solution of the question. "But," he continued, "you can not run railroads as you run private business. You must respond to the public demand. If there is danger of discrimination, then you must allow the establishment of some tribunal that will remedy that discrimination." The secretary saw no reason why a tribunal properly constituted should not be competent in every sense of the word to fix a maximum rate.

STUYVESANT FISH, a railroad magnate who served as toastmaster on the occasion referred to, answered Secretary Taft. Mr. Fish said that the law to prevent discrimination and secret rebates was sufficient. He spoke of the vested rights of the money tied up in railways and when he took his seat, Mr. Taft who sat next to him, asked for fifteen minutes in which to reply. The time was granted and Mr. Taft made himself more emphatic in favor of railroad rate legislation. "The law," said the secretary, "is as decided by the supreme court of the United States that first a commission and then the courts may declare whether a certain rate is reasonable or unreasonable. Now, in fixing that, in the very mental process in determining whether a rate is reasonable or unreasonable one has got to fix what is a maximum. As I understand it, what is proposed is only that in litigated cases a commission shall be constituted that shall fix a maximum rate; in other words, to go through the same process it now goes through to determine what is a reasonable rate. What I am strongly in favor of, though, is that we shall have a body that shall decide things, and that these things shall be decided within a reasonable time finally by the courts." Mr. Fish again took up the argument, contending that it was the question of fixing the price for the seller of goods.

ATTORNEY GENERAL MOODY has replied to Senator Elkins' request calling for information in regard to the government's power to regulate the operation of railroads, especially in fixing rates. The attorney general's opinion sustains the claim that the government has the power. He lays down a statement of law, in brief as follows:

1. There is a governmental power to fix the maximum future charges of carriers by railroad, vested in the legislatures of the states with regard to transportation exclusively within the states, and vested in congress with regard to all other transportation.

2. Although legislative power, properly speaking, can not be delegated, the law-making body having enacted into law the standard of charges which shall control, may intrust to an administrative body not exercising in the true sense judicial power the duty to fix rates in conformity with that standard.

3. The rate-making power is not a judicial

function and can not be conferred constitutionally upon the courts of the United States, either by way of original or appellate jurisdiction.

4. The courts, however, have the power to investigate any rate or rates fixed by legislative authority and to determine whether they are such as would be confiscatory of the property of the carrier, and if they are judicially found to be confiscatory in their effect, to restrain their enforcement.

5. Any law which attempts to deprive the courts of this power is unconstitutional.

6. Any regulation of land transportation, however exercised, would seem to be so indirect in its effect upon the ports that it could not constitute a preference between the ports of different states within the meaning of article 1, section 9, paragraph 6 of the constitution.

7. Reasonable, just and impartial rates determined by legislative authority are not within the prohibition of article 1, section 9, paragraph 6 of the constitution, even though they result in a varying charge per ton per mile to and from the ports of the different states.

THE general discussion of the subject of government ownership of public utilities, is reflected strongly at the national capital. The Washington correspondent for the Chicago Journal says: "One indication of the drift of public opinion is the avalanche of requests which have poured in upon the department of commerce and labor, the census bureau, the labor bureau, and even the department of state, appealing for statistics and literature on the subject of government ownership of railways. 'We are sending out hundreds a day of the consular sheets having to do much with municipal ownership in Great Britain,' said Mr. Monaghan, chief of the consular reports department. 'It has been suggested that they be compiled and made into a special report, and this may be done.'"

THE subject of government ownership of railroads is also attracting a large share of public attention. The Journal correspondent says that municipal ownership is regarded as a preliminary step to federal ownership of the interstate highways of commerce, and adds: "The agitation for railway control, and particularly the study of rate-making legislation, has raised the question whether it might not be simpler to start in on straight federal ownership. The secretary of the senate committee on interstate commerce received a terrible shock this week by a request from a prominent 'settlement' worker in New York for an opportunity to make an argument before the senate committee on the advisability of substituting for the Esch-Townsend bill some measure looking to the government ownership and operation of the railroads. It is understood that this gentleman is an advanced student of political economy and inclines toward socialism in his views. He takes the position that the senate committee, in seeking for light on this important topic, should not hear one side only, but that, after listening to the attorneys for the railroads the committee should give attention to a solution which has been tried in many parts of the world with some success."

A MEMBER of the interstate commerce commission, speaking to the Journal correspondent, said: "The broad powers conferred on the national government in that section of the constitution which gives power to build and operate post roads, doubtless would apply to railroads. Post roads are now railroads. Congress could pass an appropriation tomorrow, if it were in session, authorizing the federal government to build and operate, as an experiment, a transcontinental line of railroad. So congress could authorize the purchase and operation of any and all the roads now in existence. Personally, I see nothing so alarming in the government ownership proposition. The government runs the postal system, and there is less complaint of this than there is of the private management of city and national railway systems. Post rates are more satisfactory than the rates of the private express companies, which have steadily defeated a parcels post system in this country, and which are notoriously extortionate in their charges. The