

PROCEEDINGS

OF

A NATIONAL CONVENTION

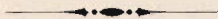
OF

RAILROAD COMMISSIONERS

HELD AT THE OFFICE OF THE

INTERSTATE COMMERCE COMMISSION,

WASHINGTON, D. C., MAY 19 AND 20, 1896.



WASHINGTON:  
GOVERNMENT PRINTING OFFICE.  
1896,

specially to communicate to the convention and I did not undertake to make any communication, and other members of the committee have not notified me that they have any papers which they desired to present.

Mr. DAVIDSON. I may say for my part that I am a member of that committee, and that our friend from Georgia headed the list. Last fall I wrote to him suggesting that we have a meeting at the Atlanta Exposition to prepare a report for this meeting. I never received an answer to this letter, and so I have never been able to do any of the work of the committee on my part, which, of course, I sincerely regret.

The CHAIRMAN. The statement in relation to the report of the committee is satisfactory, but we will not pass the subject without giving an opportunity to the members of the convention to discuss it. Perhaps some member here is running for Congress and wants to discuss railroad affairs, thinking it might be a good thing to send back to his constituents.

Mr. FLORY. If he is running for Congress perhaps he don't want to talk.

The CHAIRMAN. The next subject is the protection of public interests during railway labor contests. The chairman of that committee is Mr. Moseley, the secretary.

Mr. MOSELEY. I would state, Mr. Chairman, before reading this report, that if anybody were running for Congress I think this would be about the last subject he would want to report on.

The CHAIRMAN. About the same as silver.

The report was read by Mr. Moseley:

#### REPORT OF COMMITTEE ON PROTECTION OF PUBLIC INTERESTS DURING RAILWAY LABOR CONTESTS.

This seems to be a very difficult subject, for the reason that the feelings engendered on both sides of such controversies as railroad strikes, involving the public as a third party, are so bitter that those whose interests are at stake are likely to be irritated, whatever remedy is proposed.

If drastic measures are suggested which in any way restrict the freedom of action of the workers, the irritation is on their side; if the proposed remedy appears to railway managers to be antagonistic to their interests, irritation is created there.

The better method, surely, is to suggest measures of prevention rather than measures for correcting the evil or curing it after the disease has set in.

It would therefore be well if the committee could confine its work to the proposing of preventive measures and leave the matter there. Steps have been taken in this direction. A bill (H. R. 268) with this purpose is now before Congress, and is receiving the hearty approval of men prominent among organizations of railway employees, and

others. This is similar to a bill (H. R. 8556) which passed the House last session without division, but which was not reached in the Senate.

It is said by some of those directly interested—the employees—that the functions of the board provided for in section 2 of the bill are those of mediation and conciliation, or urging the employer and employee to get together, and preventing a resort to measures of violence. It is claimed that this can be done by disinterested parties without fear that their action will give notice or afford evidence to either side of weakness on the part of the other. It is undoubtedly true that in many cases a tender of the olive branch by one side is regarded by the other as a sign of weakness; but if there is some disinterested party to step in with the offer of mediation and conciliation, either side can avail itself of the remedy without showing any lack of confidence in the justice of its claims or ability to enforce them.

This bill has many features of interest to laboring men and is of concern to the student of political economy. The combination or centralization of capital has grown to very great proportions, while apparently no restrictive legislation has thus far succeeded in diminishing its power for evil. The control both of vast capital and of armies of laboring men is constantly going into fewer hands. To offset this a powerful agency will be incorporated—organizations of employees—with all the rights and privileges which capital enjoys, and also with the responsibilities; the right of men freely to enter into such organizations and to be dealt with through their chosen representatives—a right already generally recognized. But this is too large a field to enter upon in this paper.

Coming, therefore, directly to the subject of the report required of the committee, and speaking of the relation of the National Government to railroads, which are regulated by and under the control of the National Government and the Federal courts, there are but three ways yet devised by which to attempt to protect the public interests during railway strikes:

1. One is to use the Army of the United States.

When we consider the strong feeling that exists in every American citizen against the use of the military; the sympathy and support which almost any body of men will receive from a large portion of the community when bayonets are turned against them; the fact that the Army of the United States consists of but about 25,000 men, which may be met by a body of railroad employees 10 or 20 or more times that number, every man of which is inured to hardship, toil, and labor, many of whom are soldiers themselves—trained, as they are, constantly to face the dangers of their employment, a thousand times more hazardous than that of the soldier in time of peace and hardly less hazardous than the soldier's employment in time of war—when we think of these facts we must admit that were this army of railroad employees engaged in a strike, as has been virtually the case in Europe at times, the Gatling gun and the bayonet of the Federal Army, as now constituted, would prove of little avail.

In the meantime, must people starve while this fight is going on, no matter who comes out the victor? Must sections of the country be cut off from the very necessities of life and the highways of commerce clogged and congested by derailed trains? No! But the use of military power seems utterly inexpedient and impracticable, and we must seek other remedy during railway troubles.

2. The injunction—the weapon which was used so effectively during the recent Chicago railway strikes.

In that strike, it must be borne in mind, quite a large percentage of the railway employees and the leaders of the older organizations were opposed to it and to its continuance; and in the public interests did everything in their power to allay excitement and to prevent its growth. Their respect for the injunction was a respect for the Federal court; and the belief that in some way it would come out right had much to do with the obedience of the men to its order, sustained also, as it was, by the reverence of American citizens for the law and its representatives. But the use of this power has created great dissatisfaction, especially among men who believe that it was arbitrarily used against them; and nothing has gone further to impair faith in the Federal courts than the manner in which, at certain times, the power of injunction has been exercised. This feeling has been evinced by efforts to have the power of punishment for contempts defined and restricted. It does seem a strange state of affairs when a Federal judge can punish a man to any extent he sees fit, without trial, for an offense against the Government. We think it has been clearly shown that the use of the injunction is too irritating and seemingly unfair.

3. We have mentioned two of the three possible means of protecting public interests during railway labor contests. Both seem impracticable and offensive to the genius and spirit of the American people, and to be resorted to only when better and milder measures have failed, as indeed, sometimes they must fail. There is a higher and better ground that should be taken in this whole business, according to the old adage "prevention is better than cure." The public interests will be best protected by preventing the occurrence, in any violent form, of the very contests themselves—by mediation, conciliation, and arbitration, as provided for in the bill before mentioned.

To the objection that efforts toward mediation, conciliation, and arbitration will often fail through want of consent thereto by both parties, we say: True, they may sometimes fail; but when one party freely offers to submit his grievance to a board of mediation and conciliation, or arbitration, there will always be arrayed in his behalf the united moral sense of the whole community, which will in most cases compel the acquiescence of the other party by a power as efficient as it is salutary. An enlightened public sentiment will render its behests self-executory.

But that there may be failure in some rare case is too true; and to meet such an exigency we would say that then, at the instance of the Executive, the railroads involved in such contests should be placed in

the hands of receivers, to be operated in the public interest until their managers shall settle their controversies.

No man has had a better opportunity to judge concerning the interference of the judiciary in the protection of public interests during labor strikes than Mr. Olney, who, as Attorney-General, suggested the following provision in House bill 8556 (substantially the same as the bill now pending) in the last Congress, which might prove effective and would seem to be fair to all parties concerned:

SEC. 10. That whenever controversies between a carrier subject to this act and its employees shall be of such nature and magnitude as to prevent or obstruct, or threaten to prevent or obstruct, the operation of its railroad, or any substantial part thereof, and thereby to inflict, or threaten to inflict, upon the localities and communities, and general public served by such carrier, great and irreparable injury, the Attorney-General of the United States, if satisfied that such controversy can not be adjusted by mediation and conciliation, or by arbitration, may file a bill or bills in equity to prevent the commission or continuance of the public mischiefs caused or threatened as aforesaid, in any circuit court or courts of the United States within whose circuit or circuits said carrier may do business. Said bill or bills shall pray for the appointment of a receiver or receivers of the road and property of said carrier pending the continuance of said controversy, and for all such other orders and decrees as may be necessary to protect and conserve the public interests involved, and to secure the use and operation of said road and property in aid and promotion thereof. The defendants of said bill shall be the carrier and the employees directly engaged in said controversy, together with all known corporations, organizations, or individuals participating therein, or aiding or abetting either said carrier or said employees: *Provided, however,* That when said parties are very numerous, so that the joinder of them all would be impracticable, or highly inconvenient, it shall be sufficient to join so many as will adequately represent all the different interests involved. The said circuit court or courts of the United States are hereby given full jurisdiction in the premises, and any orders or decrees under said bill or bills may, in the discretion of the court, be directed to all said parties participating, aiding, or abetting, as aforesaid, whether actually named or joined as defendants or otherwise, and shall be operative upon all, whether so named, or joined, or otherwise, having actual notice thereof.

To this might be added, in order that this remedy could in no way be invoked by private individuals or corporations:

*Provided further,* That nothing in this act contained shall be so construed as to enlarge the remedies at law and in equity in courts of the United States now enjoyed by private persons, firms, or corporations, except as specially provided in sections 4, 6, 7, and 8 hereof; and that in cases of controversies between interstate commerce common carriers and their employees concerning rates of wages and terms of employment involving the public interests and threatening irreparable public injury, no statute of the United States shall be construed as permitting the equitable jurisdiction of the courts of the United States to be invoked except by the Attorney-General of the United States.

For one reason or another this provision was not embodied in either bill.

Speaking of the arbitration bill, Mr. Olney stated:

No bill of this nature can be regarded as complete which does not anticipate and provide for a condition of things in which arbitration is a failure, either because not resorted to or because not acquiesced in, and in which the controversy reached a

stage of heat and violence causing or menacing great public mischiefs. When an industry is of a strictly private character the quarrels of employer and employed, so long as they do not result in a breach of the peace, do not interest the public generally, and may be left to go on indefinitely, even to the entire exhaustion of the parties and to the complete ruin of the industry itself.

But the industry this bill deals with is of a public nature and has often been so pronounced by the courts. It is wise to facilitate the speedy and peaceful settlement of the differences of those engaged in it, but the paramount duty is to take care that it shall go on at all hazards. Grievances are to be redressed, of course, with all the promptness which their investigation will permit, but in the interim the public interests must not suffer, and the business the bill is concerned with must go on with the least possible interruption.

The bill therefore should contain a section to the effect that whenever, either before arbitration or after arbitration, or without arbitration, strife between employers and employed engaged in the business covered by the bill threatens to altogether obstruct or to seriously hinder the transaction of that business, the Attorney-General on behalf of the United States may, by proper bill in equity, seek to prevent the commission or continuance of the public mischiefs caused or threatened, and call for the appointment of receivers to take charge of the road and property involved until the controversy is settled.

This provision would really be in furtherance of arbitration. It would bring a pressure to bear upon the managers of the roads and upon the employees, who would see their interest in the speedy settlement of their controversies. The managers would submit themselves and their interests to an arbitration board, rather than to temporary management by the Government. The proposed section simply means that when the railroads of the United States are threatened with interruption, the State shall then take the roads and operate them—just as would be done in case of foreign invasion—in order to protect the lives and property of its citizens. We can surely rely that this will never be done except in answer to popular demand upon the President and then only in the public interest.

We therefore beg to submit with this report said House bill now pending. The amendment suggested should, however, not be incorporated therein until its objects be fully understood and indorsed as the other features of the bill have been.

What we have above said applies, of course, to those larger and widespread railway labor contests which obstruct the flow of interstate commerce and involve the interests of the people over great sections of the country. Railway labor contests, merely local, not affecting public interests beyond the State of their origin, are to be dealt with under local and State authority, vested, as the legislation of each State may direct, in its board of railroad commissioners, or in a board, permanent or otherwise, of arbitration, etc.

Contests, competitions, or rivalries between capital and labor will probably always exist in some form, since they seem to arise out of the constitution of human nature. These contests, properly conducted, tend to higher planes of living and to bring about just appreciation of the rights both of employer and employed; but when they degenerate

into the barbarism of open, actual warfare, as at Pittsburg in 1877 and at Chicago two years ago, the result must be serious injury rather than gain, and a distinct arrest of the progress of our civilization is always to be noted.

Repeating, in conclusion, what we have before said, we believe that under a judicious and conservative law like that proposed by the bill in question, with the additional section suggested, public interests during railway labor contests will be best protected by preventing the occurrence of such contests in any violent or destructive form.

We believe that such contests will become less and less frequent as public opinion and sentiment grow in strength and intelligence under the benign operation of the law until their madness and waste will be known no more forever.

EDW. A. MOSELEY.

H. W. HICKMAN.

WALTER MCLAURIN.

D. J. MCKENZIE.

The CHAIRMAN. Gentlemen, you have heard the report of the committee. It is before you for discussion.

Mr. SEYMOUR. I move that the report be accepted.

The motion was agreed to.

The CHAIRMAN. By accepting the report it is not past discussion. The next business in order is the report of the committee on regulation of State and interstate electric railways. Is the committee prepared to report, Mr. Brown?

Mr. Brown, of Pennsylvania, read the report.

#### REPORT OF COMMITTEE ON REGULATION OF STATE AND INTERSTATE ELECTRIC RAILWAYS.

During the session of the national convention of Railway Commissioners, with the Interstate Commerce Commission, held in the city of Washington one year ago, a paper was read by the Hon. George M. Woodruff, of the State of Connecticut, on the subject of the "Regulation of State and interstate electric railways." The paper was a concise, comprehensive, and able exhibit of the many features of this important subject, and but for the rapidly developing use of electricity as a motive power in the transportation of passengers and commodities would have been acted upon by the convention then in session, and the suggestions so ably made would have been approved. The events of the past year and the experiments made have undoubtedly strengthened the general belief among the people, if not among scientists, that electricity is destined to become the power by which the commerce of the world, both by land and sea, is to be moved; that is, as it has already banished the faithful horse from the street railways, so it is soon to encroach upon the dominion of the steam locomotive, and relegate to the rear this great agent of transportation in our past and