

## CHAPTER I

### NATIONAL POLITICS

POLITICS is the peculiar province of Privilege. Wherever the grants of power we call privileges are to be had from Federal, State or municipal Government, or wherever privileges, having been granted, have to be protected against attack, there the hand of those seeking or of those possessing will be found in politics. And since the authority to make grants lies with legislative bodies all over the country, from Congress at Washington down to the councils in remote villages, the effort to get or to preserve such privileges will everywhere be active. Far and wide will there be effort to put into legislative office men favoring such grants, and to keep out men opposed. Whether the purpose be to get or to protect steam railroad grants, or land grants, or bounty grants, or contract grants, or bond grants, or tariff or other grants arising from taxation, individuals or corporations wanting them will put brains and money into congressional elections and will keep "Black Horse Cavalry" alert when Congress is in session. Individuals or corporations having or seeking railroad, telegraph, telephone, water or other public franchise privileges, or subsidies, "graft" expenditures or advantages from taxation will, directly or indirectly, do their utmost for the cause of privilege in State and municipal elections and afterward, through the lobby, in legislative halls.

Privilege is the prize, the spoil, of politics. The salaries of public office-holders are commonly called such; but by comparison with privilege such salaries are as

nothing. Indeed, it is notorious that candidates who are known not to be rich men often spend more in a campaign than the salaries they will obtain if elected. Such men do not do this from any sense of pride of office nor for their health. They do it "for what there is in it" — for the large returns that service in such office to privilege will bring them. Hence privilege is the real spoil of politics.

And it is enormous spoil. It is a huge river of wealth that comes from laying villages, towns, cities, States and the nation at large under contribution.

But this contribution is not after the manner of a conquering army of old that slew and sacked. It is effected in the modern way, peaceably and legally, by acts of legislature that make direct gifts from the public treasury or that grant powers for appropriating wealth from the general mass of the people. Some idea of the magnitude of such powers may be drawn from the fact that in Greater New York alone the ownership of the franchises or mere rights of way used by the public service corporations there is by competent judges computed to be worth at the present time \$40,000,000 a year. The gross revenues of the railroads throughout the country are nearly \$2,000,000,000 annually. A portion of this, but a minor portion, constitutes cost of operation and interest on and replacement of the capital actually invested in roadbeds, buildings, locomotives, cars and other furnishings. The large remainder of this great revenue represents the garnerings of the privileges granted by Congress and the State Legislatures — chief of which is the franchise or right of way, or power to levy tolls on traffic. Moody, in his "Truth about the Trusts," computes that there are to-day "over 440 large industrial, franchise and transportation trusts" in the United States "with a total floating capital" of more than \$20,000,000,000. This "floating capital," meaning the stocks and bonds, represents far more than the combined machinery and equipment of these companies. The chief elements represented are the various kinds of gov-

ernment-made advantage by special or general acts of legislation conferred upon these trusts. These government-made advantages we are here calling privilege.

Privilege, then, is of great range and enormous magnitude. It is nothing less than a widespread power to rob the mass of the real wealth producers — the general body of the people. It is to be had by the control of politics. To get control of politics in order to obtain grants of privilege, the unscrupulous will strive long and patiently, and will use any means. They will help build up political machines and create bosses, subsidize parties and buy control of nominating conventions. They will debauch the suffrage and purchase public officials. So mighty is the prize of privilege that our princes will have it at almost any cost. They will corrupt our elections at every turn to get permission to rob the people.

And once such privilege is granted, effort is made to perpetuate and extend it. Another offspring of government is used to accomplish this. We give it the name of "corporation." A corporation is an artificial person created by government. It consists of one or more persons united in one body to act in certain ways, and having, within specified limits, all the powers of natural persons. The life in this artificial body is continuous, even though the natural members composing it may change. Hence, while natural persons die, this artificial person created by government lives on.

Now, at the birth of the Republic and for the first four decades of the nineteenth century the comparatively few corporations created were brought into existence by special acts of legislature. Then came the enactment of general incorporation laws, by compliance with the stipulated conditions of which any one could call a corporation or artificial person into existence. And not only were these conditions of incorporation by subsequent legislation made less and less exacting, thus rendering it easier and easier to create artificial persons, but concurrent legisla-

tion widened the limits of power, until now, under the New Jersey Corporation Act, that power, as Assistant United States Attorney-General Beck said, while arguing for the Government in the Northern Securities Merger case, has become infinite as well as perpetual, with secrecy of methods and control vested in a few.

There would, perhaps, be little need for the creating of corporations were it not for the granting of privileges. But artificial persons, which have more powers than natural persons and life-everlasting, are far better suited than natural persons to take care of privileges—to fight for their continuance and extension. As a consequence, it has now become almost an invariable rule either to form artificial persons under the general corporation laws to receive from Government the special grants of power; or else such privileges, being granted to natural persons, are at once by them turned over to corporations or artificial persons. And these artificial persons possessing Government grants, are the most active and most potent of all persons in politics.

The very significant aspect of the Presidential contest of 1904 was the charge by opponents against the managers of each of the two great parties of receiving campaign contributions from the large privilege-possessing corporations. More significant still was the common belief that the charge was true, the partisan view being that, while the opposing candidate would of necessity be contaminated by such money, their own candidate was too upright and too strong to be swerved in the least from principle, affected in the least for evil. Yet Presidents are but men, subject to men's strengths and weaknesses. And just as Mr. Buchanan was most complacent in face of the growing aggressiveness of the slave power which seated him and supported him in the Presidency, so monopoly powers might reasonably expect at least protection from a Chief Executive which their money and their efforts materially contributed toward seating in the White House.

In April, 1904, Mr. William Bourke Cockran of New York, on the floor of the House of Representatives, repeated in an insinuating way a newspaper story that the Presidential election of 1896 — the campaign that was won for "honest money" — was bought. Mr. Cockran named \$16,000,000 as the sum which was said to be paid. He did not say that this was paid; he quoted what others said. But no step was taken by the House to investigate the matter. This story is not rendered in the least improbable by the size of the alleged purchase price. For what is a \$16,000,000 investment to, say, the Standard Oil group, which, on its \$100,000,000 of Standard Oil stock, has received in no year since 1896 less than thirty per cent. dividends and has twice received forty-five per cent. or more? If it should mean protection and profit, what would \$16,000,000 be to a syndicate such as, under Mr. Morgan's guidance, cleared \$100,000,000 within the space of a few months in underwriting and manipulating steel stock? The sum of \$16,000,000 would be only one item in the expense account of railroad combinations whose annual gross revenue is \$2,000,000,000. Have not the tariff-engendered monopolies first and last put many times \$16,000,000 into Presidential, Senatorial and Congressional elections, to the end of shutting out foreign competition and thereby conducting a systematic robbery of the people at large?

There is nothing remarkable from the amount point of view in the charge repeated by Mr. Cockran. Nor did that aspect of the matter create any general surprise. What drew out intense interest and expectancy for a brief moment was the thought that, in the event of the matter being pried into, persons engaged in the election-debauching business might be found out. But this apprehension on the part of some and hope on the part of the many was short-lived. Nor was any progress made when, at the meeting of the new Congress in December, 1904, Mr. Cockran introduced a bill in the House for the crea-

tion of a commission to investigate the sources of campaign funds of the two great parties. The bill was sent to committee and chloroformed. It was regarded as too dangerous to be admitted to debate and a vote in the House. President Roosevelt in his message at that time made a brief reference to the necessity of legislation against the raising of corruption funds, but nothing further was done by him, and the matter was for the time dropped.

And how much was done when Mr. George W. Perkins, chairman of the finance committee of the New York Life Insurance Company, testified that his company gave \$48,000 to the Republican National Committee campaign fund in the Presidential fight of 1904, and \$50,000 to that fund in each of the Presidential contests immediately preceding? Mr. Perkins not only justified this by saying that he and his associates acted so because they "believed the integrity of our [their] assets was thereby protected," but he suggested that provision should be made in law by which the president of an insurance company, making public report of his doings later, should be authorized to make political donations for his company. "Of course, in a country like ours," said Mr. Perkins, "there might easily arise a situation in which we should contribute a sum of money, say 25, 50, or 75 cents, from each policy holder." He proposed that the president of the company be left to make this contribution at his own discretion, without consulting the policy holders, the other officers or the directors of the company!

The indications are that Mr. Perkins is not alone in these remarkable views. At any rate, it is certain that the other two of the three great life insurance companies—the Mutual and Equitable—contributed generously to the recent Presidential campaigns, just as it came out in the legislative investigation that the three companies shared the large expense of maintaining lobbies at the respective State capitals to "watch legislation." Mr. Warren F. Thrummel, legislative agent of the Mutual,

swore that he personally placed a contribution of \$2500 in cash in the hands of Chairman Babcock of the Republican Congressional Committee in the campaign of 1904, on the ground that "there was great danger" that the Democrats would carry the House of Representatives, which would probably result in "tariff agitation" and "other legislation" unsettling to business, and hence inimical "to the interests of policy holders"!

Nor in respect to the use of money in politics is it to be assumed for a moment that one party is a whit better than the other. Privilege has no sentiment. It has no partisan preferences. It will trade with either party that can "deliver the goods" — the "goods" being legislation to its liking. If there is rivalry between the parties in this particular, then Privilege will contribute something to each so as to keep both in favor.

And does not the composition of Congress show the effect of this policy? The Senate is composed in the main of men, some of whom are Princes of Privilege and others the representatives of privilege-owning corporations. These men were sent to the Senate by Legislatures controlled by Privilege.

The House of Representatives is to a great extent made up of men whose nominations and elections were effected by railroad, tariff or other powers anxious, if not to get further grants from Congress, at least to conserve those grants they now enjoy. Analysis shows that approximately three fourths of the members of both branches of Congress are lawyers, and observation must convince any one of free mind, as four years' watching from the press gallery has convinced me, that a large proportion of these lawyers are there only nominally in the interest of their respective districts. They are really there for this railroad corporation, or that steel combination; for such and such timber company or so and so tariff-suckling giant.

Such interests, colossal in size and alluring by the mag-

nitude of their achievements, Justice Brewer of the United States Supreme Court has declared,<sup>1</sup> tempt the lawyer as a lawmaker "not merely by the money they possess and with which they can reward, but more by the influence they can exert in favor of the individual lawmaker in the furtherance of his personal advancement."

No one can be blind to the fact that these mighty corporations are holding out most tempting inducements to lawmakers to regard in their lawmaking those interests rather than the welfare of the nation.

Senators and Representatives have owed their places to corporate influence, and that influence has been exerted under an expectation, if not an understanding, that as lawmakers the corporate interests shall be subserved. . . .

The danger lies in the fact that they are so powerful and that the pressure of so much power upon the individual lawmaker tempts him to forget the nation and remember the corporation. And the danger is greater because it is insidious.

There may be no written agreement. There may be in fact no agreement at all, and yet when the lawmaker understands that that power exists which may make for his advancement or otherwise, that it will be exerted according to the pliancy with which he yields to its solicitations, it lifts the corporation into a position of constant danger and menace to republican institutions.

Is this not true? Let some one rise on the floor of the Senate or House and propose, for instance, to take away the tariff "encouragement" from some enormously rich and powerful "infant industry"! Behold! members of the chamber, who until then may have been giving only drowsy attention to the proceedings, bristle with hostile energy and send hurry calls for the absent ones. Story-telling is abruptly abandoned in cloak rooms, and skirmish lines are thrown out against the obnoxious proposal. The favorite maneuver is to make it a prisoner in committee.

On the other hand, tariff hearings before the Ways and Means Committee of the House are nothing less than rapa-

<sup>1</sup> Address on "The Ethical Obligations of the Lawyer as a Lawmaker," before the Albany Law School, June 1, 1904.



cious and gluttonous choruses of privileged interests for more, more, more power to rob the country. General Garfield, after long experience on that committee, frankly stated as much.

"The fact is notorious," said ex-Secretary of the Interior Carl Schurz in a letter to the public last year in reference to party corruption, "that one of the great party organizations before every national election 'fries the fat' out of its beneficiaries, with the understanding that the beneficiaries will be protected in the enjoyment of their benefits if the yield of the frying process is satisfactory, and if not, not." And in a public document<sup>1</sup> may be seen a letter dated June 5, 1897, from Mr. A. B. Hepburn of the National City Bank of New York (Rockefeller) to Mr. Lyman J. Gage, then Secretary of the Treasury and now the President of the United States Trust Company (Rockefeller), in which Mr. Hepburn, after asking Secretary Gage to make Government deposits in his bank, said, "Of course the bank is very strong, and if you will take the pains to look at our list of directors, you will see that we also have great political claims in view of what was done in the campaign last year."

"Washington is the spot where all roads of public mendicancy converge," says a high-class New York daily, "and a grander army than the Grand Army (of pension hunters) has been for years descending upon the capital, much in the spirit of the Goths marching upon Rome."

And witness from the tale of two telegrams how well Congress is in hand.

One telegram, signed by John D. Rockefeller, Jr., and dated February 6, 1903, was sent to six United States Senators. It ran: "We are opposed to any anti-trust legislation. Our counsel will see you. It must be stopped."

The "we" presumably meant the Standard Oil group. The anti-trust legislation deprecated was embodied in

<sup>1</sup> House Doc. No. 264, Fifty-ninth Congress, first session.

three bills, one against railroad rebates, a second for publicity, a third for the expedition of anti-trust legislation.

On the same day John D. Archbold, chairman of the Board of Trustees and vice-president of the Standard Oil Company, sent the following telegram to United States Senator Matthew S. Quay of Pennsylvania:—

Yesterday's letter received. We are unalterably opposed to all proposed so-called trust bills, except the Elkins bill already passed by the Senate, preventing railroad discriminations; everything else is utterly futile, and will result only in vexatious interference with the industrial interests of the country. The Nelson bill, as all others of like character, will be only an engine for vexatious attacks against a few large corporations. It gives the right of Federal interference with business of State corporations, without giving any Federal protection whatever. There is no popular demand for such a measure. If any bill is passed, it should apply to all individual partnerships and corporations engaged in inter-State business, and it should be made mandatory on all as to making reports of their business to the commerce department. Am going to Washington this afternoon. Please send word to the Arlington where I can see you this evening.

These two telegrams found their way into the public press, and an outcry went up against this "most brazen attempt in the history of lobbying." The Littlefield bill was killed, but under the popular pressure created the other two bills were put through both houses and were made laws by President Roosevelt's signature. And with what result? So far little or none.

The Nelson amendment of the Department of Commerce bill required the organization of a Bureau of Corporations. A man of unblemished character, Mr. James A. Garfield, a son of the late President, has been placed at the head of that bureau, and has been armed with the fullest powers for investigation and publicity. Yet what has it availed? Common complaint of a beef trust was looked into and report made that no such trust existed, in face of the manifest fact that there is a most potent and onerous "community of interest" existent between the

great meat packers of the country who get special rates on stock cars and who control refrigerator cars. Through this they can hamper competition and arbitrarily keep down the price of cattle, which they buy; and keep up the price of dressed meat, which they sell. And not only this, but, possessing the refrigerator cars, they also control the fruit and other shipments in such cars.

The Elkins bill, which Mr. Archbold wired Senator Quay the Standard Oil group favored, was an amendment of the Inter-State Commerce Act, with pretense of so strengthening it as practically to prevent railroad discriminations. But when the act came to operation, it was found to have had its claws cut. The former law had not been sufficiently clear in defining what it held unlawful. The amendment remedied this in the plainest terms, but it provided no adequate punishment for infraction. The penalty of imprisonment standing in the original law had quietly been cut out on amendment, so that the railroads could break the Elkins law at their pleasure with merely a fine for punishment if the United States Attorney-General could be induced to prosecute them and they should then be found guilty. Thus what Mr. Archbold, speaking for the Standard Oil group, favored, was an amendment of the Inter-State Commerce Act, which, while appearing to strengthen that law against rate discriminations, really removed the fangs of the law.

These matters perhaps illustrate the subtle power of Privilege in Congress. But take other instances of governmental blindness or impotence relative to Privilege. These may be called the Morton pacts.

Mr. Paul Morton, for a time Secretary of the Navy in Mr. Roosevelt's Cabinet, was formerly second vice-president and traffic manager of the Atchison, Topeka and Santa Fé Railway. As such he was drawn into the courts and before the Inter-State Commerce Commission to testify on alleged illegal railroad agreements in restraint of trade and on discriminating rates.

On May 18, 1896, Paul Morton, for the Southern California Railway Company, the western division of the Santa Fé system, and J. C. Stubbs, third vice-president of the Southern Pacific Company, signed a pooling agreement for the two roads for all manner of freight to and from Southern California, which territory the roads divided between them as if it was a conquered province.<sup>1</sup>

Moreover, it developed in what is known as "the Orange Rate Case" that these two railroads, acting in harmony, made rebate contracts with private fruit car lines, the Southern Pacific with the Continental Fruit Express and the Southern California with the Earl Fruit Car line. These contracts gave a practical monopoly of fruit carriage from that section of the country to those two private car companies, which in turn were owned by the Armour Beef Trust combination. The complaint was made that the two railroads divided traffic: sixty per cent. to the Southern Pacific, forty per cent. to the Santa Fé. In the course of his sworn testimony when this case was brought into the United States Circuit Court at Los Angeles, Mr. Morton said, "We [the Santa Fé road] made several endeavors—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 got to do as the Romans did."

That is, that the Santa Fé, in order to get what it deemed to be its share of traffic, entered into secret rebate agreements with the Refrigerator Car Trust (Beef Trust) in utter disregard of other shippers, and in conscious violation of the law forbidding such discrimination.

And there were similar rebate rates on the carriage of wheat, salt, coal, iron and other things. On December 29, 1904, testimony proved that the Santa Fé, by contract made in August, 1902, granted a rebate of \$1 a ton to the Colorado

<sup>1</sup> What appears to be the full text of this remarkable contract was given in a speech in Congress, on Feb. 1, 1905, by Robert Baker of New York. See p. 2071, Vol. 39, Part 3, *Congressional Record*.

Fuel and Iron Company, the great Gould-Rockefeller combination lately merged into the still greater Rocky Mountain Coal and Iron Company.<sup>1</sup> It has been computed that this provision was worth in money to the Colorado Company \$400,000. Of the Colorado Company, Mr. Morton had been vice-president before joining the Santa Fé road. In connection with the Colorado contract the railroad had issued a circular headed, "For Information of Employees Only, and Must not be Given to the Public." Inter-State Commerce Commissioner Prouty declared that he "never saw such barefaced disregard of the law as the Santa Fé and the Colorado Coal and Iron Company" manifested in this coal case.

In Kansas the Inter-State Commerce Commission found that the Santa Fé and other roads had been giving rebates to the Kansas Salt Trust in the shape of a proportional on a side track owned by the trust. This proportional operated in favor of the great salt company and against the independent salt producers.<sup>2</sup>

Inquiring into how the grain business was conducted on the Santa Fé road "through the Kansas City (Missouri) gateway and in the grain territory back of it," the Inter-State Commerce Commission was informed by Mr. Morton that it had become the custom with each railroad to have one or two, sometimes three, commission firms to act as grain agents for it. The business of each agent was to get as much grain shipped by its road as possible. To that end the railroads made terms that afforded material encouragement. Richardson and Co. became grain agents for the Santa Fé, which paid the firm one quarter of a cent on every bushel of grain shipped and a cut rate in addition. That is to say, Richardson and Co. obtained a considerable reduction on the published rate and also a

<sup>1</sup> Interstate Commerce Commission *re* coal and mine supplies rates by the Santa Fé Railway.

<sup>2</sup> Inter-State Commerce Reports, No. 207, *re* transportation of salt from Hutchinson, Kansas.

quarter of a cent commission. Here is what Mr. Morton stated under oath to the Commission: —

*Commissioner Prouty.* In what way and at what time is the departure from the rate paid back to Richardson and Co.?

*Mr. Morton.* In cash settlements about quarterly.

*Commissioner Prouty.* He [Richardson] makes a statement to you?

*Mr. Morton.* Yes, sir.

*Commissioner Prouty.* And charges the quarter of a cent a bushel commission, and in addition to that the difference between the published rate —

*Mr. Morton.* The actual rate and the published rate.

*Commissioner Prouty.* And upon that statement you pay?

*Mr. Morton.* We settle with him.<sup>1</sup>

Here, plainly told, was the method by which Mr. Morton broke the law against discriminating rates. And in testifying before the Commission relative to a rebate contract with one of the Beef Trust packers, Mr. Morton said frankly: "Yes, sir; it is an illegal contract. It was illegal when we made it, and we knew that."<sup>2</sup>

And what followed all these admissions of law breaking — of favoring a few great at the expense of the many weak? Nothing of a punitive nature followed. Nor did these admitted misdeeds seem in the least to cast any shadow upon Mr. Morton's political fortunes. In inviting him into the Cabinet the President took no note of the foregoing testimony. Nor did the House of Representatives, when Mr. Robert Baker of New York offered two resolutions of inquiry, do more than report the resolutions back from the Judiciary Committee and, at the motion of the chairman of the committee, instructed by its Republican majority, adopt by a majority vote a recommendation that the resolutions "do lie on the table" — the "parliamen-

<sup>1</sup> "Inter-State Commerce Commission Orders and Testimony in the Matters of Rates, Facilities and Practices applied in the Transportation, Handling and Storage of Grain and Grain Products carried from Western Points to Atlantic Seaboard and Other Eastern Destinations," pp. 281-282.

<sup>2</sup> Inter-State Commerce Commission *re* transportation of dressed meats and packing-house products, p. 148.

tary method," said Mr. Baker, "of strangulation." But at length public opinion was roused and Mr. Morton was constrained to retire from the Cabinet. He conveniently had a call to adjust the flagrantly inequitable affairs of the Equitable Assurance Society — at a very large salary.

What brought public opinion to a focus was the resignation of special counsel for the Department of Justice because the President refused to act upon their advice and bring contempt proceedings against Mr. Paul Morton and others who had been officers of the Santa Fé road at the time of its opprobrious contract with the Colorado Fuel Company. These special counsel were Mr. Judson Harmon and Mr. Frederick Newton Judson, the former an ex-Attorney-General of the United States. But in the lawyer's phrase, Mr. Roosevelt "made a precedent." He drew a delicate line between the railroad corporations and their officials, and in a letter of exoneration to Mr. Morton, which he gave to the newspapers, he said that he would not "dream" of proceeding against the officers individually — a distinction to be fully appreciated by the trade union leaders when they and not their unions are arrested and punished by the courts if the latter adjudge them to be contempt. Is it not calculated to raise a doubt in their minds of the equality of the law? Nevertheless the President gravely requested the Attorney-General, Mr. Moody, to proceed against the offending railroad corporation, but not against its officers.

This does not signify that the Government at Washington makes a rule of willfully condoning the breaking of laws and taking steps hurtful to the welfare of the people. But it does signify that where the public mind is not alert, the little finger of Privilege is stronger than the loins of the mass of the people. Monopoly influence, however grossly or subtly, makes public officials in control of the administrative and legislative branches of the Government at Washington blind to actions of monopoly corporations that would awaken them to lively aggres-

siveness if displayed by unprivileged individuals. If we had no other, two instances of this purblindness would be furnished in the Government's persistent attitude toward the express companies and its extravagant payment for mail carriage. It gives \$160 a ton to the railroads for carrying mail an average haul of 442 miles, while on occasion the private express companies have their matter carried by the railroads the same length of haul for \$8 a ton! The Government pays the railroads 8 cents a pound for doing only about half the service for which the Government receives one cent! And as has often been stated, the transportation lines charge the Government every year for the use of the postal cars (besides the 8 cents a pound) more than it would cost to build the cars! The charge upon the Treasury of the United States for inland railroad transportation is now approximately \$40,000,000 yearly!

If this is not a scandal of first magnitude, what is it? Yet Congress, or rather a majority in Congress, under the railroad spell, will allow no reduction of its annual payment for mail transportation. Year after year the monstrous robbery continues, and all the while various departments of the Government are called to detect petty mail thefts when suspicion is aroused, and to meet with condign punishment any small defalcations in the postal administration or overcharge for supplies.<sup>1</sup>

The express companies of this country, being originally offshoots of the railroads and now working in close harmony with them, for years have by hypnotic suggestion induced Congress to refuse to institute as part of the postal system a parcels delivery service such as even most of the third-rate nations of the world have been enjoying for a generation. The refusal of Congress to do this enables the private express companies to levy highway-

<sup>1</sup> J. L. Cowles, in "A General Freight and Passenger Post," offers a very thorough analysis of these conditions between the Government and the railroads.



robbery charges upon an enormous volume of business which the Post-Office Department could profitably and much more efficiently conduct at a fraction of the present rates.

How do the railroads come to have such extraordinary influence over the Government at Washington? Their sources of influence are manifold. They range from the obvious one of the lobby with its blood money, down through "legal retainers" and Wall Street tips, to railroad passes. A new member of the House of Representatives, Robert Baker of New York, created a stir at the opening of the Fifty-eighth Congress, November, 1903, by returning an annual pass sent to him by the attorney of one of the great railroad systems running through Washington. By the railroad officials Baker was set down as a raw fool; by those pass-takers not too supercilious to care what the public said, he was thought worse than a fool for "giving the snap away."

Yet as a matter of fact the railroad pass is the entering wedge of bribery of the legislator, whether the body be Federal, State or municipal. "In investigating legislative corruption," said Governor Folk of Missouri, after his prosecution of the malodorous legislative baking powder bribery cases, "it has been my experience that the first step a legislator takes toward bribery, as a rule, is the acceptance of a railroad pass." And indeed Thomas Jefferson went even farther than this, saying in a letter to Samuel Hawkins at the close of his long political career in 1808: "On coming into public office, I laid it down as a law of my conduct, while I should continue in it, to accept no present of any sensible pecuniary value."<sup>1</sup> Yet so changed has come to be the order of things with us a century later that not only do the majority of members of all our Federal and State legislative bodies accept valuable annual railroad passes, but President Roosevelt,

<sup>1</sup> Jefferson's Writings, Jefferson Association Edition, Vol. XII, p. 203.

until deterred by public opinion, accepted private cars and even private trains in which to travel over the broad expanse of the country. "Things of sensible value," wrote Jefferson, "however innocently offered in the first examples, may grow at length into abuse, for which I wish not to furnish a precedent." These nice distinctions have as a rule now become obsolete.

Yet the law is plain and blunt.<sup>1</sup> The Inter-State Commerce Commission has interpreted it to prohibit the issuance of passes to any one; but then what do the interpretations of that tribunal amount to when the tribunal itself has been reduced and, by railroad influence, has been kept reduced to the business of merely marking time? This is the law, but it is probably as little regarded by most of the Members of Congress as if never put upon the statute books. And, indeed, several of the Presidents have not refused free cars and even free trains. President Roosevelt stopped the practice only toward the end of his first term. The railroad pass has come to be generally regarded among men in legislative offices as a perquisite, a right, of office, and the railroads treat it as part payment for services rendered or favors to come.

<sup>1</sup> Chapter 382, Act of Congress, March 2, 1889, reads, "And when any such common carrier shall have established and published its rates, fares and charges in compliance with the provisions of this section, it shall be unlawful for such common carrier to charge, demand or collect, or receive from person or persons, a greater or less compensation for the transportation of persons or property, or for any services in connection therewith, than is specified in such published schedule of rates, fares and charges as may be at the time in force."