

It is scarcely worth while any longer to spend time in pointing out that true competition in the railroad business is an impossibility. That has come to be almost universally recognized, even though it may be evaded by the advocates of private ownership. Their pet argument now, that public management would not be economical, is of little more force. Whether their contention is correct is extremely doubtful, for very many of the economies most insisted on as illustrations are of the kind that are really extravagant—such as have been practiced by roads like the Baltimore & Ohio or the Long Island, notoriously unprofitable because of their niggardly policy, or like the New York Central, whose enormously valuable franchise alone saves it from similar results. But even if it is true that privately owned roads are managed more cheaply than public ones would be, that is a matter of small consequence to the public at large, so long as all the benefits of economy—that are not absorbed by the managing officials—go to the stockholders and are not enjoyed by the patrons. One feature in this connection is often lost sight of—that the stimulus to good service, to the inventive spirit that leads to improvement, which competition affords, in a business where competition is possible, must be seriously deadened as private monopoly increases, without responsibility to its patrons; while a condition in which railroad officials, high or low, would be public servants, subject to the criticism or approval of those who use the roads, could not but awaken a spirit of eagerness to meet public approval; and in the most conspicuous instance for comparison we have yet had in this country, outside of the postoffice service—the Staten Island ferry—the very men who were most indifferent and overbearing under the old regime are now showing the most eagerness to please the passengers, whom they recognize as their employers.

But, after all, the chief thing to be considered is, the taking out of private hands the enormous power which means of transit have for oppression of those who do not control them. The tribute paid by the public to stock and bondholders of railroads is not in the aggregate so great. It is the opportunity to discriminate which is enjoyed by those in control, and who often actually own only a small part of the capital. It is this which would be destroyed by public ownership, because they could not tell us then, "We will run our business to suit ourselves;" for it would be our business and not theirs.

E. J. SHRIVER.

Frank Stephens was unanimously nominated on Sept. 19th for Congress from Philadelphia, against ex-Congressman John Reyburn, Republican, and is free to make a free trade campaign.

#### A REMARKABLE JUDICIAL OPINION.

An action was recently brought in Wisconsin entitled *Nunnemacher vs. The State*, and was decided June 21st, 1906. The plaintiff sued to recover from the State an inheritance tax which had been paid under protest. The question of law arising was decided in favor of the State, and the complaint was dismissed. We need not go into the precise questions involved. Those with a legal turn of mind who wish to do so may readily find the case for their own perusal. Justice Marshall, in a concurring opinion used the following somewhat remarkable language, which shows that even the bench, the most conservative body in the country, is being impregnated with the great and vital truths set afloat twenty-five years ago by Mr. Henry George; and now slowly but steadily working such a wonderful revolution in social, political and economic conceptions. The language of Justice Marshall follows:

"I concur in all that is said in the opinion of the court written by my Brother Winslow. I choose to add a few words, more by way of emphasis than for any other reason.

It should be cause for much gratification to all who appreciate the principles of constitutional liberty, now so signally vindicated, that, rising above the influence of mere precedent, the court has the courage to cut loose from a judicial error that has been almost universally proclaimed by the courts of this country for many years—again demonstrating that:

'Truth crushed to earth shall rise again;  
The eternal years of God are hers;  
But Error, wounded, writhes with pain,  
And dies amid his worshippers.'

As we face and try to measure the limitless significance and importance of the conception of that great change in civil government from the old order to the one under a written constitution, we are utterly unable to harmonize it with the idea, inconsiderately expressed at first, and followed, thereafter, without original thought upon the subject, as it seems, that the transmission and taking of property through inheritance, blood or by will rests in sovereign grace and not in right, and that it is competent for the law-making power to abolish all regulations on the subject, leaving property upon the circumstance of the death of the owner liable to be seized upon and enjoyed by the first taker or to escheat to the people as a whole. How that relic of a system recognizing a personal, earthly sovereign as the source of all power and opportunity to acquire and enjoy and transmit the fruits of individual energy, could have been regarded as the light to guide judicial footsteps under a system dignifying former so-called privileges or graces, as rights, puzzles the mind. True, it has been affirmed over and over again by judges and courts of the highest respectability. Emi-

ment jurists whose names are written high in the temple of judicial fame have stood sponsors for it. But the greatest errors of the past have had the most distinguished supporters. If it were true that error could be sanctified by mere weight of the number or ability of its advocates, and be given the character of infallible truth by the mere force of repetition, then the error that the constitutional guaranties do not reach the subject we are considering, would have long ago taken such deep root, that the the most courageous could not have hoped to dislodge it. But such, as experience shows, is not the case. Error, though often repeated, is error still, and because it is error, it is mortal and must be swallowed up by immortality. We may well hope that the position of this court, now taken, will mark a return movement to a better appreciation of the great change which the Constitution made from a form of personal government, unrestrained, in the ultimate, except by the conscience of the sovereign, to a government by the people under the restraints of a written constitution setting up the standard necessary to life, liberty, and the pursuit of happiness; and creating a judicial system, independent of all other departments, with supreme power to guard that standard.

The very opening lines of the immortal Declaration mark one of the greatest changes wrought in human affairs. It was not the mere expression of a sentiment; it was the declaration of a fundamental truth, designed to stand for the future as the central object of civil government, and to be a test of the legitimacy of legislative action. 'We hold these truths to be self-evident; that all men are created equal; that they are endowed by the Creator with certain unalienable rights; that among these are life, liberty and the pursuit of happiness.'

In a former case, *Black vs. The State*, 118 Wis., p. 224, the same Judge uses equally strong language in relation to the same question, namely, whether the right to have one's property pass in some way to his successors is wholly a creature of the law and not in any sense a natural right; and refers to this doctrine as a relic of feudalism. He says in the *Black* case, "It is not my purpose to do more at this time than to take issue, most decidedly, with the theory that the right to transmit property by inheritance, and the right of next of kin and the immediate members of one's family to take by inheritance, have no constitutional protection." He refers over and over again, to the right to transmit property, and the right to inherit property, as "natural rights." This is very comforting at a time when so many so-called "best thinkers" are continually denying that there are any natural rights, and basing all governmental action upon expediency and the "greatest good to the greatest number."

To be sure, the learned jurist, at page 229, in the *Black* case runs off into some (to us) erroneous notions as to "landed estates;" but what he said was not material to the case at issue, thus: "There is no basis left for a public proprietary right in private property"—meaning to include "landed estates." It is thought that with his clear conception of "natural rights," and of their importance, if the question came squarely before him, and was properly presented, he would see some conflict between the "natural right" of man to live on and from the land, and its monopoly in the hands of the few. He would also have difficulty in reconciling his very sound ideas of the equal rights of all, with the confiscation by a few of the vast "unearned" land values of a great city. When he considers rightly the great and rapidly growing values of public service franchises that are pouring their annual or semi-annual wealth into a few private pockets, and when he contemplates who creates these values, he will see that there is private property and "private property."

JOHN HARRINGTON.

#### AN ISSUE WORTH POSSESSING

Is that of the Johnstown (Pa.) *Democrat* of Sept. 1st. It is a Henry George Memorial number, and it is filled with contributions from well known Single Taxers and a few prominent public men. Wm. J. Bryan and Joseph W. Folk are among the latter. The former says, "Henry George was a great democrat in the broadest sense of the word," and Mr. Folk writes an eloquent eulogy upon the life and work of our great teacher. Edward Osgood Brown tells, "How Henry George made me an Optimist." Charles R. Eckert writes that, "The Truths of the Declaration can become fact only through the acceptance of George's philosophy." Eugene Wood, author of "The Black Home," in "The Voice of the Forerunner," tells how Henry George changed the world for him, "which looked like a hopeless hell to nine out of ten of my brethren into a purgatory out of which we shortly clamber into heaven." John Z. White contributes a leading editorial, and reviews the progress of the movement. Joseph Leggett, Tom L. Johnson, Wm. Lloyd Garrison, L. F. C. Garvin, John S. Crosby, Ernest Crosby, Bolton Hall and Father Cox are among the contributors. There are liberal extracts from the *SINGLE TAX REVIEW* showing the growth of the movement, and the poetry of the number comprises one on Henry George by J. W. Bengough, and the Commemoration Ode, written by Joseph Dana Miller, and read by James A. Herne at the Grand Central Palace in this city in 1899.

A Single Taxer in the person of Alfred S. Niles, of Baltimore, has just been appointed to the Supreme Court Bench of Maryland.