

Personal and Confidential.

**Department of Commerce and Labor
BUREAU OF CORPORATIONS
Washington**

October 14, 1907.

Miss Ida M. Tarbell,
Care, American Magazine,
341 Fifth Avenue, New York,

*Pipe Line
Inves*

My dear Miss Tarbell:

I have your letter of the 12th instant, and the proof of your article, which I have read with great interest. It is certainly very well put, in general, and I am very glad that you are writing it. It is possible that I may not get up to New York this week, so that, lest you should be delayed by waiting for a personal conference, I return the proof herewith with some comments.

The Bureau is about to issue a statement regarding the Chicago and Alton case. It will probably be given to the newspapers in a day or two, subject to release about a week hence. I will furnish you a copy, subject, of course, to the same restrictions as to release. This will, I think, aid you somewhat.

In your statement on galley 41, that somebody has calculated the total amount of the fine, I suggest that you omit the statement that "somebody" has done it, and make it an absolute statement, as it has been given out, more or less officially, by this Bureau. The number of counts in the various indictments of the Standard aggregated over 8,000, which would make a maximum penalty of more than \$160,000,000.

On galleys 42 and 43, regarding the attitude of agents of the Bureau, you will, of course, do as you think best about making such a

statement. The Bureau, of course, admits that its agents may occasionally have acted unwisely; but the statement which you quote regarding the agent who went to Europe is scarcely a correct representation of the conversation that took place, although the gentleman mentioned may have got that impression from the conversation. The agent who went to Europe was certainly discreet in most cases, if not in all cases, and he secured a great deal of strictly accurate and valuable information. I am not sure that these two paragraphs add anything to the strength of your article. ✓

On galley 45 your statement that one of the cases brought against the Standard for accepting illegal rates has been decided in the Government's favor might possibly lead some readers to assume that other cases had been decided against it. As a matter of fact, none have been decided against the Government. Several have not come to trial before the petit jury. On the rates from Olean to Vermont, the New York Central and the Pennsylvania railroads have been found guilty by the jury, and the same facts having been charged against the Standard, it would appear substantially certain that a verdict will be secured. ✓

In this connection, I would mention the fact that Mr. Roosevelt cannot, himself, institute criminal suits, but can only cause the Department of Justice to bring the facts before the grand jury, and unless the grand jury are satisfied that they indicate a probable crime, they would not bring an indictment. The fact, therefore, that the grand juries, in all the cases they have investigated, have brought indictments, is in itself a partial, though not, of course, a conclusive, evidence of the correctness of the charges. ✓

The sentence toward the bottom of galley 45, that except for the failure to file and post the rate there seems to have been nothing secret about the way the St. Louis rate was handled by the Burlington, seems to me almost necessarily to give the false impression that the rate was not really secret on the Burlington. The only difference between it and the other railroads was that it took less complete precautions to insure its remaining secret. The way bills issued by railroads are not public information, and there is every reason to believe that the freight agent of the Burlington at Chicago was definitely instructed not to quote this rate to any but the Standard. The fact of the evident secrecy on the Chicago and Eastern Illinois and Chicago and Alton roads is presumptively evidence of effective secrecy on the Burlington also. ✓

In the next paragraph, the sentence, that the rate of the Chicago and Eastern Illinois was not filed after the Elkins law though it had been before, is apt to be confusing until the reader has had the fuller facts which you present later on. It occurs to me that possibly the entire paragraph on this galley relating to the Chicago and Eastern Illinois might be omitted, and the facts stated in connection with the later discussion of the attempt of the Standard to justify the Alton rate on the ground of the Chicago and Eastern Illinois rate. ✓

On galley 46, about the middle, you state that the legal rate from Chicago to East St. Louis (~~the~~ state rate) was six cents. This seems to me very misleading, as it implies that this rate from Chicago to East St. Louis was known to the public, and that only the fact that the same rate applied from Whiting was unknown. I do not understand that the state laws of Illinois provide for the filing of rates with any state official or for

posting them, though they do prohibit discrimination. Under these circumstances, it is scarcely possible to speak of any state rate as being a legal rate, and certainly not so if it was effectively secret. I should simply omit this sentence altogether. You understand that the eighteen-cent rate itself is named specifically from Chicago to East St. Louis, and that the application sheet making the same rate from Whiting is the only authority for any rate from Whiting. This, of course, is true of rates from Whiting in general, namely, that they are the same as the Chicago rates. But, of course, as you state, to file a sheet declaring that the rates from Whiting should be the same as the rates from Chicago, is a legal compliance with the Interstate Commerce Act only so far as the rates from Chicago are legally filed.

In your next paragraph, your statement, that it may be true that the rate clerk of the Chicago and Alton stated that the six-cent rate was filed, seems to me to give an impression that it probably is true. I do not believe it for a moment, and, as you remember, the statement of the rate clerk himself was by no means definite.

Further down, you have a sentence on which I have made some suggestions in the proof, referring to the Grand Junction rate. The sentence as it stands might give the impression that the point of origin of this rate was Grand Junction, instead of the point of destination. I think it also desirable to emphasize the fact that it was the Chicago and Eastern Illinois which had this correspondence.

As to the next question, I am quite sure that you misunderstood Mr. Wilkerson's letter, or else that he himself was misled. As I stated in my previous letter, the assistant auditor of the Chicago and Alton did

handle his accounts in substantially the way you describe, and I think it well worth while to show that, in order to prove that the Alton was treating the rate secretly. If you will examine again the evidence in the report of the Bureau of Corporations, I think you will get a clear idea as to the character of the documents which passed between the Alton and the Standard. The Alton consistently put the rate of eighteen or ten cents upon its way bills. A way bill, however, is not a document which goes to the shipper. It accompanies the freight and is the basis for the settlement between the local freight agent and the auditor of the railroad. The shipper receives at the time of shipment a receipt for each separate car, which receipt may or may not show the rate. I do not know that any evidence was presented to show that these receipts going to the Standard indicated an eighteen or ten-cent rate. The auditor of the Chicago and Alton rendered to the Standard twice each month a statement showing the cars which had been shipped during the period, together with a bill for the freight charges on the total weight, at the rate of six cents per hundred pounds. On two or three of the statements thus rendered by the auditor of the Chicago and Alton the freight rate of ten cents per hundred pounds (I think, not eighteen cents) was indicated opposite the entries for the individual cars, and the charges at that rate were extended in the next column, while at the bottom the rate was recapitulated and the actual charges computed at six cents.

I suggest that after showing, by the description which follows, how carefully the Alton kept the rate secret, even going so far as to make false entries on its books, you state that it is evident that the only motive of such secrecy was to benefit the Standard by concealing the rate from its competitors, and that it is absurd to suppose that the road would do this for

the benefit of the Standard without the knowledge of the Standard.

When you come to the Chicago and Eastern Illinois rate on this galley, I suggest that you emphasize further the secret methods used by that road, which prove conclusively that the filing of the rate with the Interstate Commerce Commission did not make it an open rate. I should repeat the fact that the rate ^{was} from the insignificant town of Dolton, Whiting being mentioned only in a note, and should repeat the fact previously mentioned that the rate was blind billed and collected through the auditor's office. Here again, blind billing refers only to way bills, which, as I said before, do not necessarily come to the knowledge of the shipper. The fact that the rate was collected through the auditor's office was ^{himself} itself a notice to the Standard of its irregularity, for the only instances discovered by the Bureau in connection with shipments from Whiting in which collections were made through the auditor of the company were in connection with the shipments over the Alton to East St. Louis and the shipments over the Chicago and Eastern Illinois to East St. Louis, ^{Bloomington and Grand Junction} respectively, all of these being secret rates. The fact is, that the rate from Dolton to East St. Louis was at all times, and not simply after 1903, a secret rate. While there is no evidence that the earlier tariff was not sent to the local agent at Dolton, or at Whiting, or at Chicago, the method of collection and all the circumstances go to show, either that the agent was not permitted to know the rate or that he was instructed not to make it public. You understand that the normal method of handling rates from the Chicago territory is to name them from Chicago and then, by application sheets, to make the same rate in force from all surrounding switching points. It is very unusual to name a rate from one of these switching points in the first instance.

Miss Ida M. Tarbell

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I trust that these suggestions may be of some assistance. I will call you up on the telephone as soon as I reach New York, and if you care to take up any of the points personally, I shall be very glad then to do so. I cannot now tell just when I shall come to New York.

Very truly yours,

Edna Durand