# Eminent Lawyers Find Smith-Mitten Transit Lease Unjust; Sustain Contentions of Former Transit Director A. Merritt Taylo

# LEASE GUARANTEES DIVIDENDS. SAY LEADERS OF BAR

#### Inned from Page One

As a result of six weeks of constant and most earnest negotiation on my part-entery in the interest of my fellow citizens wellow management of the P. R. T. Company, in December 26, 1818, tendered a definite and fair lease to the city, whereunder it arread in definite terms clearly expressed in entry and the state of the state of the state of the state are alloged to be discriminatory. A num-ber of haven state the state of the state in proceed in definite terms clearly expressed in earlies and the bight-mean discriminatory. A num-ber of haven state in were director that the management of the P. R. T. Company, December 20, 1916, tendered a definite d fair lease to the city, whereunder it read in definite terms clearly expressed equip and operate the high-speed lines, is lease is known as the Taylor lease, had, and still has, my unqualified ap-wal.

"Mr. E. T. Stotesbury, on behalf of the R. T. Company, personally publicly ten-red the Taylor lease to the city and pro-sunced it to be a just arrangement be-centhe city and company. "The terms of the Taylor lease afforded city and street railway name

the city and street railway passengers adequals protection, and assured 5 per cent dividends on P. R. T. Company's stock, and a small bonus as a pressium on efficient

The Taylor lease was opposed by Man-

The management.
"The Taylor lonue was opposed by Mary of Smith, and President Mitten, of the ? A 'T the print of the second the secon Taylor lease which is printed in full as of Philadelphia?

"These questions and references have been compiled for my reliev officens in concluse form to enable them to readily de-termine by personal examination of the Smith lease that these questions require affirmative answers, the appalding nature of the proposition thus will be clearly exposed to them.

"I carnestly request my follow citizens to defend their city and their fellow citi-zens in this vitally important crisis."

MAYOR ARRIVES; CAUSES BUZZ

jouncil's finance chamber was prowded representatives of various business s' organizations and politicians and plong before the meeting got under Among the late arrivals was Mayor 5. His appearance caused a general He shook hands with Harry Trainer, press member of Councils and set with a Penrose member of Councils, and sat with

lim in a far corner. The meeting was called to order by Chairman Gaffney, of the finance committee. Chairman Gaffney, of the finance committee. The air was electric. It was the universal feeling that something hig was on. Mr Taylor sat quietly, and no one would have supposed, from his calm face. that within a short time he was to be responsible for the biggest transit surprise in all the long campaign to get for Philadelphia, on terms fair to the city, the rapid transit system so needed for its growth and expansion.

### EXCHANGE TECKETS CONTINUE

Mr. Taylor presented a series of questions which were answered by Mr. Lewis. Mr. Taylor asked if the Smith lease authorized and empowered the Rapid Transit Company to issue the three-cent exchange tickets, as at present, until after the subway delivery loop and the first section of the Broad street subway had been placed in opera-tion, and until the abolition of the exthange ticket had been determined upon by the Public Service Commission.

In reply Mr. Lewis said: "The eight-cont exchange lickets will continue until after the opening of the Broad street subway, The matter will be taken before the Public Service Commission and the lickets con-tinued until the commission gives an order

TWINING STILL CLINGS TO DEMAND

FOR SUPERVISORY TRANSIT BOARD

to the contracy. So I answer 'yes' to your

If he outraged, and vast, continuing and termrable damage will be inflicted upon "Mr. Taylor then asked "if the present three-cent exchange ticket charge constitutes an illegal discrimination against provide and localities, whether the city would set the set of the set of

ion to you, when you were director, that they could be abolished. We were hopeful that you would institute proceedings for their abolition. For some reason you did their abolition. For some reason you did not do so. When we opened negotiations with the transit company we had these exchange tickets, and we are forced to either arcopt them or ray to the company. We are going to test their legality.' I think even Mr. Taylor will agree that a lawsuit is a poor way to begin making a bargain. As the lease has to go to the Public Service Commission for approval, any one can ask action liten on the exchange tickets. Know we the fracts we have treated them as we

ing the facts, we have treated them as we

lease is not being rushed through. No one is being forced against his will." Mr. Taylar then added: "Would the Smith lease secure to the P. R. T. Company, in addition to one-ball the praits of the outled system, the right to pay, out of gross revenue of the unified system, under Article 22, Item 8, dividends up to but not exceeding 6 per cent per namum, compliative from and after the date more which the Smith issue shall become upon which the Smith lease shall become effective, on the \$20,000,000 of P R. T. stork now outstanding? In answer to this. Mr. Lewis said

"If the gross revenue is there, I answer a. Your reserve is divided into items an di want to make it as public as possible that itemis 5, 18 and 11 are in there out of caution. The people will be feeled if they think there is any chance for these items, doubled by the set one chance in a mil-I don't believe there is one chame in a mill ion that any money will be divided, difty-Non that any money will be dreated in a hardly fatty, under the eleventh lem. It is hardly consolvable that there is ever going to be any surplus after the opening of the Broad street subway. My oblef concern is that the people will not be fooled into going into this contract with the iwes that they will ever get a dollar unt of the fifty-fifty clause. The Public Service Communication will regulate that."

Mr. Taylor's next question brought a brief reply The question 'and answer

brief reply the quark for south tease of the tease of tease of



Thomas Raeburn White (full figure at left), Charles L. McKeehan (upper right) and William A. Glasgow, Jr., three of the most con-spicuous members of the Philadelphia bar, today in an opinion read before Councils' Joint Committee on Finance and Street Railways at the public hearing declare the proposed Smith-Mitten Transit lease to be unjust and unfair to the city.

pose any lease which, like the Taylor-Com-pany's lease, would have bound future Ad-

pany should, therefore, as the present loase proposes, be obligated to pay a restal for the city's transit facilities sufficient to charges. If at any time, to prevent an in-crease of tares, to produce a reduction of fares, or for any other reason, those who come after us wish to relieve the company, in whole or in part from its obligation to

STORESTION (

duange tickets without remuneration. by the 1316 proposal.

city a share in the revenue from such exchange tickets during this period as

# BY TERROR REIGN

Lust for Blood and Disorder Cunningly Fostered by German Spies

# INTRIGUE IS EVERYWHERE

PETROGRAD, Sept. 21. General Alexieff, commander-in-chief of the army, was reported to have resigned today owing to differences with Premier Kerensky.

The whole supreme command of the Russian army is being replaced with 'men whom the soldiers can trust." Minister of War Verkhovsky announced today. Presumably Premier Kerensky has approved of this decision. He is now at grand army headquarters.

> By WILLIAM G. SHEPHERD (Copyright, 1917, by the United Press)

STOCKHOLM, Sept. 21. Russia has reached the reign of terror period. Today the cry is for blood-for wholesale executions.

Bolsheviki members are demanding the lives of former Foreign Secretary Paul N.

Millukoff, Michael Rodzianko, president of the Duma, and twenty other Duma members. Nothing could more strikingly show the

Nothing could more scrucingly show the horrible distortion of mental perspective developed by German propaganda of incal-culable strength than this growth of the guillotine spirit in Russia. The Bolsbertki are pacifists: they demand universal brother-hood and an end to kulling. To insure this then demand execution they demand execution.

Germany's propaganda, more than Gor-many's arms, menaces the life of Russian nemocracy today.

The Teuton initigue is reaching even into the Winter Palace to attempt Premier Kerensky's life.

It tempted Kornlioff, to revolt. It is spreading unbelievably scandalous stories of Russia's great leaders to create dissen-

the sion in the new democracy. It had successed in betuddling the Rus-sian public almost to the point of hopeles-ness when I left-to the point where the insame cry is for blood.

Rumsia's armies are holding at bay nively and a half divisions of German troops-1.557.000 men-while Germany concentrates on her intrigue. Russian army officers are keeping together enough of their forces to stop the German war machine. They are superheroes

At home Kerensky is an open target for

a concentrated campaign of malignant vill-fication, scandal, intrigue, and even at-tempted assassination. GERMAN INTRIGUE EVERYWHERE

German intrigue in Petrograd stops at sothing. It fostered a mysterious story ecently that the Premier was a morphine lend, having contracted the habit following Another lie which the Kaiser's agents in-

agents unceasingly whispered, playing a me distorted pachylogical bent of the tens Russian mind. Kerensky's ploture varuus suggested Napoleon ; therefore Kerens was a new Napoleon ; therefore Kerens the old autocratic days—is today a fine some place of death and tragedy and my tery. Its lower windows are now all blow out, Lower rooms, close to where Karens works, were charred in a mysterious ; out. Lower rooms, close to a nere Karenay works, were charred in a mysterious for

Another lie which the Kaisar's agents in-dustriously circulated was that Kerensky had diverced his wife and married an actress. Utterly untrue, these scandalous insinuations found some credence. One email newspaper even published them. Kerensky's latest picture showed him standing with his cotton-gloved hand rest-ing Napoleon-like on his chest. No sconer had these been put on sale than the city was permeated with angry whisperings about Kerensky, the "dictator." German



will make the evening pass on golden wings. A selection or two from your favorite opera, the latest popular song hit, and then rugs and chairs are pushed back and the merry couples glide away to the strains of one-step or fox trot

But, remember, the New Edison is the only instrument that actually re-creates the voice of the living singer. Convenient terms arranged.

Ludwig Piano Co., Chestnut St.



crease of fares by reducing the amount of the rent will be a matter to be decided by the responsible public officials then in office. The present Administration should not pro-

ministrations to make up large deficits in the operation of transit faulities by taxa-ton. We should heave to the future the right to regulate its own affairs. The correover the city's interest and sinking fund

pay with they should have a right to do so, They will have this right if the present proposal is adopted, and Ford, Bacon & suggestion merely emphasizes this

which have been proposed are: . First, For the company to give up ex-

Second. For the company to give up ex-change tickets after reimbursement out of the City Treasury as provided in effect

Third. To continue the use of exchange lickets as at present until the commence-ment of operation of the Broad Street Subway, but limiting the company's divi-dend during such period and giving the

ing the company would not be unlikely to

differ. As a result, an arbitrator would have to be appointed and the whole ques-tion gone over again before the arbitrator. Again, the important features of the

board are those which require initiative, namely, the powemof regulating service and the power to present to the Public Service. Commission the necessity for extensions to the surface lines and changes in fares. Two members of a board of three can act promptly even if the third member dis-On the other hand, a board comhg1:603 posed of two persons, likely to differ, would have little or no effective power of initia-

Whether the city's representative should as Measure, Ford, Bacon & Davis suggest, be slwave the Director of Transit, is a matter on which I believe we should be guided by Abolition of exchange lickets Messes, Ford, Bacon & Davis are correct to the statement that the various alterna-ves to the three-cent exchange lickets

In the statement that the various alterna-tives to the three-cent exchange tickets which have been proposed are: have a feeling that the company will see to it that the company's representative on the board has plenty of time to attend to his duties, and I do not think that we should run the risk that the city's representative will be too crowded with other work to at-tend to his duties as a board member. In this connection it should be pointed out that if, after the period of construction is over, it is found that the Director of Transit has ime to attend to the duties of the board. there is nothing in the terms of the proposed contract which prevents his being appointed

Transit Director Twining presented to the mittee a lengthy analysis of the Administration's proposal, supplementing the pre-vious statements made in defense of the do-ument by William Draper Lewis, Mayor Smith's legal transit advisor, and poloting out why, in the opinion of the Transit he-partment, the latest proposal is more favor-able to the city than the Taylor lease.

able to the city than the Taylor leave. The constructive suggestions recom-mended by the firm of Ford, Bacon & Davis as desirable changes and improvements in the jaase were ignored by the Director in his analysis, with the excention of the sug-gestion of the New York engineers at to the formation of the proposed Board of Control. The Director took exception to their recommendations in this one case and signin defended the provision of the lease as it now stands in providing for such a as it now stands in providing for such a

The analysis of the lease made by the The analysis of the lease made by the Director demonstrates clearly that the pres-ent Smith Administration has no intention of operating the system upon a flat five-cent fare basis. The tables included in the Director's report to Councils indicate that the fare, under the Smith-Mitten program vould be six cents with strip tickets. A reduction during the later years of operation however, is anticipated, and from the tables it is indicated that, with the company re-ceiving a dividend of  $\tilde{s}$  per cent, the fare rould go below five cents about 1950. The basic ideas followed by the Depart

The basic ideas followed by the Department in formulating the Smith-Mitten lease, the Director summarized as follows: First. That the community served by a public utility company should be em-powared to specify and obtain such serv-tes as it desires.

Second. That the public utility company supplying such service should be allowed a reasonable, but not g unranteed, return on the capital invested in the puble utility

Third. That the cost of the service should be the determining factor in the price to be charged for the service. Fourth, That the price to be charged for the service should be determined by

the Public Service Commission Nifth. That all the transit facilities of

a city should be so unified and co-ord)-nated as to provide economical operation of the facilities and the best possible Persies to the public.

Sixth. That in the operation of a uni-fied system the city must not assume the business risks belonging to the manage-ment of the business, and, therefore, must not interfere with the management, except for the purpose of regulating service in the public interest.

Seventh. The efficient operation and management of a public utility is best accomplished by making it possible that the operator shall have a substantial interest in the earnings of the business. A fixed, or guaranteed, return is fatal to good management and therefore fatal to good service.

Eighth. That all new capital invested in a public utility should be amortized and retired within a reasonable time out of the net earnings of the utility by sinking funds established for that pur-pose. This applies equally to the capital invested by the city and the correany. invested by the city and the company. Ninth. That good service and publicity in regard to the activities of a public utility company are the best means of ecuring the good will of the public served.

Tenth. That the city's tax rate should not be increased because of the city's participation in the program of transit development, and that the city's borrowing capacity should be only temporarily utilized in the program and released as rapidly as possible.

provided in the present proposal. Fourth. Immediate abolition of ex-change tickets and compensation to the company by some concession in the coneact which would not involve a draft on

he fity Treasury. I am not certain, but apparently Mesure Ford. Bacon & Davis are inclined to the hast alternative, for they say: In our opinion a small charge for trans-

In our opinion a small charge for trans-ters between high-speed and surface lines, or for all transfers, would be preferable to the three-cent exchange tickets which are used only in certain localities and are thus discriminatory. The suggestion is worthy of careful con-sideration. But I am not at present pre-pared to advise it. It apparently does not provide for the accumulation of a surplus prior to the opening of the Broad Street Subway, and such an accumulated surplus is necessary to insure the payment of the city's rental during the years immediately succeeding the opening of that line, and this rental must be paid in order that the borrowing capacity of the street will increase at a rate sufficiently fast to enable the rest at a rate sufficiently fast to enable the rest of the city's construction to proceed with reasonable rapidity.

## SUGGESTION D

This suggestion relates to the composition f the Board of Supervising Engineers. It is that the "Director represent the city and that the company appoint and pay for its representative, who, together with the city's representative, should be empowered to pass upon problems subject to this joint control. In case it is found advisable these two par-ties should be empowered to add to the board a third member appointed by the Fub-lice Service Commission, for such term as they deem advisable, or directed to submit any matter in dispute to the Public Service

As at present advised, 1 do not regard these suggestions as wise. 1 am unable to see ho wa board of two members, one representing the city and one the company, can have the power of initiative and quick de-



William Draper Lewis read an opinion he had written relating to the suggestions of bord. Bacon & Davis as contained in their inter of September 4 concerning, the pro-noted Smith contract. The opinion read: I heg to submit the following opinion on the suggestion of Messre. Ford, Bacon & parts on the proposed transit contract now before you for consideration.

### STOGESTION A

This suggestion is that at the co ond paragraph of Article XXIII a somewhat as follows should be

othing herein shall prevent the Comian reducing the fares from time to e or the City making application to se-

a reduction. More the proposed contract the Commis-has unquestionably the right to reduce in There is of course, no objection to adoption of the suggestion. If it is pred, however, the innguage should be general so that it is expressive stated morning in any section of the contract prevent the Commission from reducing

### GESTION B

suggestion is that there should be a clause to the effect that, my line while the question of fare in before the Fublic Service Comthe city may by collinance waive ion (property limited as to amount rich) of the interest and Minking earges payable to it under from 7. In Bistry and intend on the part.

Public Service Commission to be taken into consideration in fixing rates of fare. This suggestion is an admirable one

Under the Taylor-Company's lease it was absolutely cortain that for many years the eity would not receive is dollar from its investment of probably over \$100,000,000 in transit facilities. Ford, Bacon & Davis estimated that an increase in the tax rate of twenty-zeven cents to carry the interest and sinking fund charges on the city's bonds issued to construct the transit facilities would have been inevitable. Under this lease the city will receive annually in rental its charges on such transit bonds

If the company, being unable to earn a t per cent dividend on a five-cent fare and universal free transfers on account of the intrepretation of the second second of the second s being a portion of the stent payable to 1. To give the city this right it is not necessary to insaft the clause suggested by Ford, Hacon & Davin, but the suggestion to inseft such a clause is a good one and should be adopted, because its adoption would set at rest once and for all the erroreous asser-tion that the proposed base recently rest once and for all the erroneous asser-tion that the proposed lease necessarily means a fare greater than five cents as a basic sate with universal free transfers. It does nothing of the sort. It is true that a time will come when the company will not be able to pay, on such rates of fare, the rest to the city and a i per cent dividend. When that time does come, whother the city should then prevent any possibility of in-





as a member of the board, provided of ourse he is, as he should always be, an expert engineer.

For the reasons stated I am inclined to believe that the provisions in the proposed contract for the constitution of the board and the selection of the board members should not be changed as suggested.



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ers; sizes 9 to 13% Untown Beare, 2424 Kour