is deprived of the power of charging reasonable rates for the use of its property, and such deprivation takes place in the absence of an investigation by judicial machinery, it is deprived of the lawful use of its property, and thus, in substance and effect, of the property itself, without due process of law. . . ."

Although the Court made a last-ditch attempt to limit the ruling of *Chicago, M. & St. P. Railway v. Minnesota* to rates fixed by a commission as opposed to rates imposed by a legislature,[161] the Court in *Reagan v. Farmers' Loan & Trust Co.*[162] finally removed all lingering doubts over the scope of judicial intervention. In *Reagan*, the Court declared that, "if a carrier . . . attempted to charge a shipper an unreasonable sum," the Court, in accordance with common law principles, would pass on the reasonableness of its rates, and has "jurisdiction . . . to award the shipper any amount exacted . . . in excess of a reasonable rate . . . . The province of the courts is not changed, nor the limit of judicial inquiry altered, because the legislature instead of the carrier prescribes the rates."[163] Reiterating virtually the same principle in *Smyth v. Ames*,[164] the Court not only obliterated the distinction between confiscatory and unreasonable rates but contributed the additional observation that the requirements of due process are not met unless a court further determines whether the rate permits the utility to earn a fair return on a fair valuation of its investment.

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[161] Budd v. New York, 143 U.S. 517 (1892).

[162] 154 U.S. 362 (1894).

[163] 154 U.S. at 397. Insofar as judicial intervention resulting in the invalidation of legislatively imposed rates has involved carriers, it should be noted that the successful complainant invariably has been the carrier, not the shipper.

[164] 169 U.S. 466 (1898). Of course the validity of rates prescribed by a State for services wholly within its limits must be determined wholly without reference to the interstate business done by a public utility. Domestic business should not be made to bear the losses on interstate business and vice versa. Thus a state has no power to require the hauling of logs at a loss or at rates that are unreasonable, even if a railroad receives adequate revenues from the intrastate long haul and the interstate lumber haul taken together. On the other hand, in determining whether intrastate passenger railway rates are confiscatory, all parts of the system within the state (including sleeping, parlor, and dining cars) should be embraced in the computation, and the unremunerative parts should not be excluded because built primarily for interstate traffic or not required to supply local transportation needs. *See* Minnesota Rate Cases (Simpson v. Shepard), 230 U.S. 352, 434–35 (1913); Chicago, M. & St. P. Ry. v. Public Util. Comm'n, 274 U.S. 344 (1927); Groesbeck v. Duluth, S.S. & A. Ry., 250 U.S. 607 (1919). The maxim that a legislature cannot delegate legislative power is qualified to permit creation of administrative boards to apply to the myriad details of rate schedules the regulatory police power of the state. To prevent a holding of invalid delegation of legislative power, the legislature must constrain the board with a certain course of procedure and certain rules of decision in the performance of its functions, with which the agency must substantially comply to validate its action. Wichita R.R. v. Public Util. Comm'n, 260 U.S. 48 (1922).