

The Commoner.

ISSUED WEEKLY.

CHARLES W. BRYAN, Publisher. RICHARD L. METCALFE, Editor. 324-330 South Twelfth Street.

Entered at the Postoffice at Lincoln, Neb., as second-class matter

Table with subscription rates: One Year \$1.00, Three Months .25c, Six Months .50, Single Copy 5c, In Clubs of Five or more Sample Copies Free, Per Year .75, Foreign Postage 52 Cents Extra.

SUBSCRIPTIONS can be sent direct to The Commoner. They can also be sent through newspapers which have advertised a clubbing rate...

DISCONTINUANCES—It is found that a large majority of our subscribers prefer not to have their subscriptions interrupted...

RENEWALS—The date on your wrapper shows the time to which your subscription is paid. Thus January \$1.08, means that payment has been received...

CHANGE OF ADDRESS—Subscribers requesting a change of address must give OLD as well as NEW address.

ADVERTISING—Rates furnished upon application.

Address all communications to THE COMMONER, Lincoln, Neb.

The Commoner will be sent from now until Election Day for Twenty-five Cents.

company of John S. Miller, John Barton Payne, leading attorneys of the Standard Oil company, and W. W. Gurley, attorney for the Chicago Traction companies...

The object of this remarkable trip of Judge Grosscup, begun a few hours after he had handed down the decision overthrowing the \$29,240,000 fine imposed on the Standard Oil company...

Judge Grosscup tonight was given an opportunity of explaining why he journeyed east with some of the biggest attorneys of the Standard Oil so soon after he had rendered a decision saving millions to the Rockefeller corporation...

In response to a request for an interview at the Waldorf, Judge Grosscup sent word that he could not be seen. He was then sent a copy of the statement of President Roosevelt criticising his remarkable decision.

In reply to this he dictated a statement which is little less than a veiled defiance of the chief executive. The statement is as follows:

"There is no more reason for my taking notice of any comment Mr. Roosevelt has made than if it were made by a private citizen. True, he is president, but that office and the office filled by a judge of the court of appeals are entirely separate and independent branches of the government."

Further than this Judge Grosscup declined to discuss the cause of his journey east.

NOT LIKE OTHER CRIMINALS

The following is taken from a New York World editorial:

For the size of the fine the appellate opinion censures Judge Landis harshly. It says that he had no right to consider the iniquities of the parent Standard Oil company and to say that it "was not a virgin offender;" that he had no right to act on "the judge's personal belief that the party marked by him for punishment deserves punishment."

This is a rebuke as well to every criminal judge in the United States. What judge ever sentences the convicted defendant without taking into account his associates, his record, whether he is an old offender and the nature of his offense? How can a judge conscientiously pronounce sentence without a "personal belief that the party deserves punishment?"

If by a change of incorporation from Ohio to New Jersey, or Illinois to Indiana, the Standard Oil company can appear "as a virgin offender," why should not any habitual burglar escape a sentence as an old offender merely by changing his name or taking an alias?

HISTORY OF THE CASE

The history of the Standard Oil case is told by the Chicago Record-Herald in this way:

The prosecution of the Standard Oil company of Indiana on the charge of accepting rebates from the Chicago and Alton railroad has been in the courts for almost two years. The indictment on which the conviction was secured was one of ten true bills returned by the federal grand jury, August 29, 1906.

A violation of the Elkins law was the specific charge set up by the government. There were in this indictment 1,903 counts, of which 441 subsequently were stricken out by Judge Landis. Shipments of oil from the company's refinery at Whiting, Ind., to East St. Louis at rates lower than those published in the Alton's tariff sheets formed the concessions about which the government complained.

These shipments and the acceptance by the oil company of the alleged rebates covered a period of eighteen months—from September, 1903, to March, 1905.

While the legal rate of shipment from Whiting to East St. Louis was eighteen cents for each 100 pounds of oil the defendant corporation, according to the testimony, paid but six cents. It also paid seven and one-half cents on shipments to St. Louis, while the published tariff called for nineteen and one-half cents.

The Standard Oil company maintained, however, that it was paying to the Alton road the legal rate because its shipments did not reach the lines of the Alton until they crossed the state line at Chappel, Ill. To substantiate this a typewritten billing order was submitted showing that the rate from Chicago and neighboring points, including Whiting, should be six cents.

The government was able to show that the shipments were not made from Chappel but from Whiting and that between the two points there existed a legal ten cent rate. Whiting was over the state line and therefore this rate did not apply.

The trial occupied the attention of Judge Landis for six weeks. The jury was sworn in March 4 and the first witness was heard the following day. More than three tons of documentary evidence were submitted to the jury. This included more than 15,000 way bills, shipping orders, receipts and transcripts from records and accountants' books.

Throughout the trial there were numerous contentions over technical points, and April 13, the issues were submitted to the jury. After deliberating but two hours and ten minutes the jury returned the verdict of guilty on 1,462 counts.

Judge Landis, unable to obtain satisfactory information as to the financial status of the oil concern, on June 27 subpoenaed John D. Rockefeller and other officials of the company. He obtained but little information from them, and on August 3 he gave his decision, fixing the fine at \$29,240,000, the maximum penalty.

A motion that the judgment be set aside was overruled by the court and the case went to the United States circuit court of appeals on a writ of error. It came to a final hearing before that tribunal May 7, last.

WHAT JUDGE LANDIS SAID

Following are extracts from Judge Landis' opinion when he imposed the fine upon the Standard Oil company:

Common honesty among men ought not to be altogether ignored in business, even in this day.

It is the business of the judge to administer the law as he finds it, rather than to expatiate upon the inadequacy of punishment authorized for its infraction.

This court is unable to indulge the presumption that in this case the defendant (the Standard Oil company of New Jersey) was convicted of its virgin offense.

We might as well look upon this situation squarely. The men who thus deliberately violate the law wound society more deeply than does he who counterfeits the coin or steals letters from the mail.

It is the defendant's position that its offense was wholly technical; that nobody has been injured and that therefore the punishment, if any, should be a modest fine. It is novel, indeed, for a convict defendant to urge the complete triumph of a dishonest course as a reason why such course should go unpunished.

When the only possible motive for a crime is the enhancement of dividends and the only punishment authorized is a fine, great caution must be exercised by the court lest the fixing of a small amount encourage the defendant to future violations by esteeming the penalty to be in the nature of a license.

For the law to take from one of its corporate creatures, as a penalty for the commission of a dividend-producing crime, less than one-third of the net revenues accrued during the period of violation falls far short of the imposition of an excessive fine, and surely to do this would not be the exercise of as much real power as is employed when a sentence is imposed taking from a human being one day of his liberty.

Under the doctrine insisted upon by the defendant, the railway company might give the Standard Oil company a low transportation rate and by contract obligate itself to withhold the same rate from the very man the taking of whose property by condemnation rendered possible the construction of the road. A more abhorrent heresy could not be conceived.

The court is not impressed by the doleful predictions of counsel for the defendants as to the hardships upon the honest shipping public to be anticipated from the enforcement of this rule. The honest man who tenders a commodity for transportation to a railway company will not be fraudulently misled by the company into allowing it to haul his property for less than the law authorizes it to collect.

The nominal defendant is the Standard Oil company of Indiana, a million dollar corporation. The Standard Oil company of New Jersey, whose capital is \$100,000,000, is the real defendant.

WANTED—VOLUNTEERS

A dispatch to the Denver News under date of Birmingham, Ala., July 16, follows:

John W. Tomlinson, member of the national democratic committee, announces that volunteers to assist in the campaign throughout the United States would be accepted, and asks all speakers to advise him immediately as to states and time desired by the orators. Said he:

"Each speaker will be a volunteer fighter, devoting his own time and money to the cause."

Tomlinson is one of the most aggressive Bryan leaders in the south. For twelve years he has battled to make the democracy of Alabama adhere to the policies of the great commoner.

"This is no ordinary campaign," said Tomlinson today. "Bryan by his declaration on the matter of campaign contributions has raised a tremendous issue. The interests are financing Taft's campaign, and if elected Taft will in a great measure be the creature of the interests. Bryan depends upon the people—the plain people, if you please—to make the fight for him, and if he is elected he will be the servant of the people."

"Confronted by such a clean cut issue, it is time for every lover of his country to take off his coat."

Advertisement for 'MOSTLY REPUBLICANS' by D. G. Pickett, M. D., Fredonia, N. Y. Enclosed find money order for \$28.20 and names of men whom I desire The Commoner sent for one year. This is the center of Chant county, N. Y., where republicans abound to a greater degree than any other place in New York state. Fully half of this list are republicans, in fact they are the ones I solicit most. Several republicans have told me that they are tired of the old party and want democracy tried out. I began with the first issue of The Commoner and wish to continue until Mr. Bryan is elected.