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Three Important Judicial Decisions

The decision of the Missouri state supreme court barring the Standard Oil trust from Missouri, the decision of Federal Judge McPherson declaring the Missouri two-cent passenger fare and maximum freight rate laws to be confiscatory and, therefore, non-enforceable, and the decision of Federal Judge Anderson at Chicago acquitting the Standard Oil trust, occurred, practically, during the same week.

It will not be surprising, therefore, if the American people are inclined to view these three judicial results together.

Is it significant that the only relief from corporate imposition, so far as concerns legislative action, has been given through the legislative machinery of the states?

Is it significant that the one judicial opinion seeking to apply the law to a powerful corporation that has seemed so inclusive, so complete as to bring the powerful lawbreaker to a position where it is actually willing to beg for terms was rendered by the supreme court of a state?

Is it significant that on this occasion, as on other occasions, the decisions upon which these great corporations depend for escape from punishment are rendered by federal courts?

No more important decisions have been rendered than the three herein referred to.

To be sure the decision barring the Standard Oil trust from doing business in Missouri will be appealed to the United States supreme court; but it will not go to that high tribunal in any deceptive form. The highest court in the land will be required to bluntly meet the issue whether the people of a great state—the very power that creates corporations—have the right to specify the terms upon which these creatures of law shall do business within the borders of the commonwealth.

While Federal Judge McPherson's decision related directly to Missouri's two-cent passenger rate law it will, if sustained, affect all other two-cent rate laws; for if confiscation may be shown in the great state of Missouri certainly it may be shown in other and perhaps smaller states. Indeed there are already signs that railroad officials are laying plans for an organized effort looking to a restoration of the three-cent rate wherever the two-cent rate has been put in force.

From a fine of $29,240,000 by Judge Landis to a verdict of acquittal by Judge Anderson is a long leap even for the Standard Oil trust that is quite accustomed to rapid passage above yawning chasms.

Judge Anderson based his verdict of not guilty upon reasoning as follows:

That the law in the case as announced by the circuit court of appeals governs and controls in the trial of the case and is binding upon both court and jury and that this decision indicated that the government had practically failed to prove its charge.

That the government failed to establish the very foundation of the charge against the oil company in failing to prove that there was any established or fixed rate of 18 cents between Whiting, Ind., and St. Louis, and Chapell, Ind., and St. Louis, a deviation from which was necessary to a violation of the Elkins act.

That the government in relying to prove the eighteen-cent rate upon an unfixed, shifting and changeable classification, in which only maximum rates were named, and which classification was prepared and fixed by the state railroad and warehouse commission, which is a body entirely independent of the federal authorities regulating interstate commerce, was relying upon incompetent evidence.

That aside from the law and the insufficiency of the evidence, there was a variation between the counts in the indictment and the proof, and that while the government charged one thing in the indictment it offered proof about an entirely different thing.

That the fixed rates, assuming that even the unproved eighteen-cent rate was an established rate, had not been properly posted and published in accordance with the Elkins law provisions.

The Associated Press quotes "an important law officer of the government" as saying: "A four-horse rebate team can be driven through the Elkins law as it now stands after the decision of the United States court of appeals and that of Judge Anderson in the Standard Oil case at Chicago. An attorney who could not protect a client from a charge of rebating, if those decisions are sustained, would not be worthy of his hire."

This law officer pointed out that Judge Landis, who imposed the $29,000,000 fine upon the Standard Oil company, held that it was the duty of the shipper to make reasonable inquiry as to whether the rate he was using was lawful or not. Judges Grosscup, Seman and Baker of the United States circuit court of appeals, reversed that statement of the law and held, substantially, that the government had to prove that the shipper knew he was getting an illegal rate. In the opinion of government officers that rarely, if ever, could be done.

In this view Judge Anderson has not only released the Standard Oil trust from all punishment in this particular case but his decision, followed by other federal judges, will make it impossible to convict any one on the charge of rebating.

When Judge Landis assessed the fine of $29,240,000 against the Standard Oil trust there were many who questioned the policy of such a large fine. There were some who intimated that it was a bit of demagogy on the part of the federal judge who was brave enough to call to account the most powerful trust in the world. But nowhere, outside of the pleadings filed by the attorneys for the trust, has any one ever seriously contended that the Standard Oil trust was not guilty of the offense charged against it.

The proof seemed so complete that a judge whose ability as a lawyer and whose character as a man is unquestioned assessed the enormous fine of $29,240,000. It was so complete that public opinion which was somewhat divided as to the policy of assessing such an enormous fine was practically unanimous in believing that the trust was guilty as charged. Yet in the light of the opinion rendered by the court of appeals, speaking through Judge Grosscup, Judge Anderson is not only able to wipe out the fine of $29,240,000 but he is able to give a verdict of acquittal—a verdict that washes the Standard Oil trust "pure as the driven snow."

Does any intelligent man or women believe that the republican managers would have permitted, prior to election day, decisions which destroys the two-cent fare rate law and discharges the Standard Oil trust from accountability for its lawlessness?

Does any one believe that in the light of the tendency of this day—clearly showing the utter indifference to public opinion on the part of representatives of special interests—the work of reformers is at an end?

Does any one imagine that popular government can be preserved for a long period of time if this disposition to give license to corporate lawlessness is to continue unchecked?

Should not the very audacity of the champions of the trust system, the very contempt they show for the public rights, encourage democrats everywhere to renew their devotion to the cause of the people? It is true the people are generally patient in enduring great wrongs; they are often thoughtless in the presence of opportunity to cure those wrongs; but always they are powerful enough to crush the system that oppresses them and, in all reason, they are human enough to retaliate when their eyes have been opened to the solemn truth.

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THE CONGRESSIONAL RECORD

The New York Evening Sun makes a timely protest in behalf of the most important government publication when it says:

"Mr. Taft's suggestion at the Carnegie hall meeting for negro uplift, that perhaps his hearers read the Congressional Record provoked the risibles of the audience. Nevertheless, the compendium of legislative proceedings to which he referred could be read with profit by many men who rarely or never see it, but profess to take an intelligent interest in public affairs. The inveracities of the Record, such as the post-delivery embellishment of speeches and the publication of undelivered speeches under the leave to print, are negligible in comparison with its veracities. Taken as a whole, it furnishes a quantity of useful information indispensable to an adequate knowledge of the workings of our government."

A Commoner reader recently suggested that the Congressional Record be made available to every citizen at a stated price per year. This is certainly a good suggestion. Instead of poking fun at the publication wherein is recorded the doings of the world's greatest legislative assembly, men who hope to participate in the work of education ought to encourage a more intimate acquaintance, on the part of the people, with important periodicals.

AN HONEST LAWYER

In these days when so many lawyers stand ready to accept a retainer on either side and to present an argument in favor of any proposition it is refreshing to find a man who is willing to resign an office rather than enter upon a criminal prosecution which he believes to be unwarranted and dangerous to the public.

Mr. Joseph B. Kealing, who resigned the office of United States district attorney rather than prosecute in the government libel suit, acted well. Mr. Kealing would have found it embarrassing to have remained in office with the libel suit on his docket and, plainly, he is not the sort of man who could have made an argument in favor of that unjust cause.

A word of advice to Mr. Taft: Instruct your attorney general to dismiss these proceedings against the New York World and the Indianapolis News. Everything is to be gained by dismissal; much is to be lost by continuing a proceeding, which is bound to terminate in a farce.