Opposed to Labor Union Organization

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inflict injury, it must be taken, I think, to have impliedly given the power to make it suable in a court of law for injuries purposely done by its authority and procurement."

Lord Macnaghten said:

"The substantial question, therefore, as Judge Farwell put it, is this: Has the legislature authorized the creation of numerous bodies of men capable of owning great wealth and of acting by agents with absolutely no responsibility for the wrongs they may do to other persons by the use of that wealth and the employment of those agents! In my opinion, parliament has done nothing of the kind."

Thus the supreme bench confirmed the judgment of a judge who read into the trade union statutes provisions that parliament did not originally, nor at any time during the course of a quarter of a century since intervening, see fit to put therein. For the essence of the confirmed Farwell decision was this:

That while parliament did not provide for the incorporation of trade unions, the latter must be liable for the acts of their agents, the same as if the unions had been incorporated; that a trade union has a lawful right to strike, but that it becomes responsible for whatever loss or injury suffered in consequence by the person or corporation against whom the strike is directed.

It was a very adroit decision, and closely resembled that celebrated judgment of court during the slavery days in this country which gave—

"The law to the north and the nigger to the south."

The Taff Vale decision declared that a trade union has the right to strike, but that it can be held responsible for any loss that may ensue to the other party!

Of course, parliament could have put this provision into the trade union acts, if it so desired, and there have been many revolutions of parties during these twenty-five years. But parliament did nothing of the kind, and it is doubtful if any parliament would have had the hardihood to embody such a principle into law and expect successfully to face a popular electorate.

But what parliament did not do, or even conceive of, the law courts did. Courts cannot enact laws, but they do construe them; and in this construing they have a power equivalent in some respects to that of legislation, so that we have come to refer to "judge-made laws" as distinct from those made by a legislature.

To resume our story:

The Taff Vale Railway company was not slow to perceive the great significance of the law court's decision in its favor. It at once cited the Amalgamated Society of Railway Servants to court on a suit for, roundly, $135,000 damages.

The case came up early in December, 1902, in the King's Bench Division of the British high court of justice, Sir Alfred Wills presiding, and a special jury sitting—a special jury being composed of men of certain class or property qualifications, and who generally, as the London New Age has said, "regard trade unions and strikes as enemies of the country, as forces that drive trade away. And, therefore," continued that very able periodical, "without any hesitation the defendants in this particular case were found guilty."

The judgment against the union, delivered at a subsequent sitting of the court, was, by agreement between the parties to the suit, set at $115,000. It presumably carried with it the heavy costs of litigation, which would make the entire burden against the union amount to nearly a quarter of a million dollars.

It was not pretended that the strikers had used any violence against the railroad's employes or property. The loss complained of resulted from peaceful persuasion. Thus they were punished for the consequence of an act which the law gave them a right to perform!

It was a nice distinction. It has had heavy consequences. It has astounded and stunned the British trade unions. They can now be invaded by the courts on damage suits upon their least offensive or defensive move, and, indeed, they can be rushed into court and tied up there with expensive suits on the flimsiest pretexts.

The wiser heads among the trade unionists there see that sooner or later recourse must be had by the unions to parliament. But then arises the question, what line shall parliament pursue? Shall it curb the courts and protect the unions, or shall it strike the monopoly powers? Shall it take the railroads into public ownership and operation, as they are in the progressive British colonies of Australasia? Questions like these only time can answer.

But meanwhile we in the United States may realize why it is that the great monopolies in this country, which goad their workmen by hard conditions into so many strikes, are so anxious that the unions should be incorporated.

We may now perhaps more fully appreciate Mr. Darrow's words:

"The demand for the incorporation of trade unions is the last trench of those who oppose organized labor."

Says Mr. Darrow, continuing:

"There is not a single labor organization that could keep out of the hands of a court for one year of its existence if it ever consented to become incorporated.

"All sorts of suits would be brought against labor unions; suits for real grievances and suits for imaginary grievances. Every court would be kept open for their undoing. The results would be that these labor organizations would be compelled to employ high-priced lawyers. They would be mulcted in expenses, which would be a greater burden than they could possibly sustain. The end would be speedy. A judgment rendered against a corporation and remaining unpaid would call for the appointment of a receiver on a petition in bankruptcy.

"There would not be one organization of labor which the employers wished to destroy that could keep out of the hands of a receiver for a year.

"No sooner would suits be instituted in the various state and federal courts than applications would be made for receivership, and these receiverships, according to the usages of courts, would be appointed by the parties interested in the collection of judgments and redress decreed by the courts, and the result would be that the labor organizations would soon be controlled and owned by the employers, and for their own benefit!"—Henry George, Jr., in Philadelphia North American.

The Creed of Democracy.

Malone (N. Y.) Forum: The men who sold out democracy in two campaigns have no standing in the party unless like the prodigal son they return and do penance, wearing sack cloth and ashes in token of present submission. But if they pose as leaders and endeavor to steer the bark of democracy into the republican camp, as did Grover Cleveland in 1892, disaster will follow their efforts as in 1896, when their galvanized ticket received less than one per cent of the vote and only carried one precinct in the United States. The Kansas City platform is the creed of democracy. Woe to the man or the clique that attempts to repudiate it. Democrats that are democrats have no use for traitors or skulkers.

THE MERGER CASE DECISION

The United States court of appeals sitting at St. Paul, Minn., passed upon the Northern Securities case on April 9. The opinion of the court was delivered by Judge Thayer and in that opinion the merger of the Northern Pacific Railroad company and the Great Northern Railroad company was declared to be illegal. The Northern Securities company, which is the trust formed by this merger, is by this decision prohibited from exercising any of the powers contemplated in its formation. J. Pierpont Morgan announces that the case will be appealed to the United States supreme court.

The story of this decision is told in an Associated press dispatch under date of St. Paul, April 9, as follows:

The United States circuit court of appeals today at noon handed down a decision in the United States against the Northern Securities company, enjoining the company from voting the stock of the Northern Pacific or Great Northern railroad companies, but allowing the return of such stock as had been delivered to that holding company.

The opinion was unanimous, all four judges concurring. The opinion was written by Judge Thayer. The substance of the order in the decree is as follows:

"A decree in favor of the United States accordingly will be to the following effect: Adjudging that the stock of the Northern Pacific and Great Northern Railway companies, now held by the securities company, was acquired in virtue of a combination among the defendants in restraint of trade and commerce among the several states, such as the anti-trust act denounces as illegal; enjoining the securities company from acquiring or attempting to acquire further stock of said companies; also enjoining it from voting such stock at any meeting of the stockholders of either of said railroad companies or exercising or attempting to exercise any control, direction or supervision or influence over the acts of said companies or either of them by virtue of its holding such stock; enjoining the Northern Pacific and Great Northern companies, respectively, their officers, directors or agents from permitting such stock to be voted by the Northern Securities company or any of its agents or attorneys on its behalf at any corporate election for directors or officers of either of said companies and likewise enjoining them from paying any dividends to the Securities company on account of said stock or permitting or suffering the Securities company to exercise any control whatsoever over the corporate acts of said companies or to direct the policy of either; and, finally, permitting the Securities company to return and transfer this stock to the stockholders of the Northern Pacific and Great Northern companies, any and all shares of stock of those companies which it may have received from such stockholder in exchange for its own stock, or to make such transfer and assignment to such person or persons as are now the holders and owners of its stock originally issued in exchange for the stock of said companies."

Circuit Judge Thayer stated the conclusions of the court. He recites the petition which was brought under the anti-trust act of 1890, and adds that under the act of February 11, 1903, this case being of "general public importance," has been given precedence over others and in every way expedited.

It is declared that under the admissions of the defendants the matters of fact are that the roads were parallel and competing lines; that they had jointly secured control of the Burlington; that in 1901 a holding company had been formed by large owners of the stock of the Northern Pacific and Great Northern railways, by which new company large stock interests had been acquired at an agreed price, and the court holds that "the scheme was thus devised and consummated, led inevitably to the following results:

"First, it placed the control of the two roads in the hands of a single person, to-wit: the Securities company, by virtue of its ownership of a large majority of the stock of both companies; second, it destroyed every motive for competition between the two roads engaged in interstate traffic, which were natural competitors for business, by pooling the earnings of the two roads for the combined benefit of the stockholders of both companies; and, according to the familiar rule that every person is presumed to intend what is the necessary consequence of his own acts, when done wilfully and deliberately, we must conclude that those who conserved and executed the plan aforesaid intended, among other things, to accomplish these objects."

On the point whether the present case comes within the inhibition of the anti-trust act, the court discussed the meaning of the word "trust" in the act and adds that congress was careful to declare that a combine in any other form, if in restraint of trade or commerce, that is, if it directly occasioned or effected such restraint, should likewise be deemed illegal. Moreover, in cases rising under the act, it has been held by the highest judicial authority in the nation, and its opinion has been reiterated in no uncertain tone, that the