

late court holds in effect that as the Standard Oil company of New Jersey was not a party to the suit and had not had its day in court, the trial court has no right to take its resources into consideration, although it was shown that it owned and controlled the defendant company, and that the fine was excessive with respect to the Indiana company, the legal defendant.

The decision involves points and establishes rules of immediate if not of very great ultimate importance. The ruling of the court which imposes upon the government the burden of showing that the defendant was aware of the legal rate when he accepted the smaller rate will doubtless add materially to the difficulty of securing convictions in such cases. It is due perhaps to the tribunal which renders this decision to accept it as legally correct, if not, owing to the novelty of the point, fortified by precedent, at any rate by approved rules of construction. The grounds of policy given are, however, a little dubious. It is true that a ruling to the contrary would in theory throw upon the shipper of, say, a dozen eggs the burden of ascertaining what is the lawful published rate, which might prove so technical a problem that his commercial impulse would be discouraged by the difficulty. But in practice the small shipper and even the general shipper would have no occasion for fear of prosecution, partly because in the main the rate given him is the legal rate. In theory, of course, the law is equal upon all men, and the court was perhaps in legal duty bound to consider the case theoretically from the standpoint of the general shipping public. It is true also that the immediate effect of the Landis decision was to frighten many shipping interests, who drew the logical conclusions expressed now by the reviewing court.

However, the unbiased layman will feel some doubt that the decision on this point will

really serve the end aimed at by the interstate commerce law. That law is aimed at secret concessions because such concessions, rebates, and unfair advantages were believed to establish or fortify monopoly. These evils were practiced by the great shippers, virtual monopolies or on the high road to monopoly. The smaller shipper did not, and by this very hypothesis could not, obtain concessions from the published rate. He was, therefore, in no danger of prosecution under the most technical construction and the most drastic enforcement of the law. To make more difficult the enforcement of a law designed, under definite economic conditions, for his protection, and to do this under the guise of protecting him from the law itself, has an element of irony in it which may escape lawyers but not laymen.

The third ground of reversal will appeal even less strongly to the laity. The court seems to have been profoundly impressed by the fact that the Standard Oil company of New Jersey had not its constitutional right of a day in court. This is an incontrovertible legal fact, and yet we believe it will leave the average man singularly cold. It is a matter of record that the Standard Oil company of New Jersey owns and controls the Standard Oil company of Indiana. The profits and the acts of the one are, in fact, if not as a matter of law and bookkeeping, the profits and acts of the other. Perhaps the technical distinctions are important, but they will seem to laymen hardly to merit the somewhat solemn and excessive emotion with which the opinion declares that the Standard Oil company of New Jersey had not had its day in court, that Tweedledum shall not be fined for the crime of Tweedledee, that the head shall not be punished for what the fist broke.

Let us grant that the court has to do with the law as it is, and was constrained to recog-

nize the legal distinction, but it may be suggested with all respect that the grave concern manifest in this part of the opinion over the fact that the Standard Oil company of New Jersey had not had its day in court might have been reserved for some of the palpable and unescapable consequences which may flow from such distinctions.

For example: A great continental railroad, in the course of its expansion, buys or builds in Montana or Oregon a smaller line. This feeder is a corporation created by the state of Montana or Oregon, a separate legal entity from the transcontinental line, but owned and operated in conjunction with it. Perhaps by itself it is a relatively unprofitable, even a bankrupt road. But as a part of the main line it is important and to the main company profitable, directly or indirectly. This smaller road commits offenses against the law of the land. Perhaps it is guilty of the most serious offenses—offenses out of all proportion to its own activities. The parsimony, the negligence, the hardened selfishness of the directors of the main company may compel a policy of operation resulting in a frightful accident. The legal injury is committed by the Oregon legal entity. Its funds may be taxed, but how about the real culprit, the real source of the wrong suffered?

Apparently this large entity can not be brought into court, and, being deprived of its day in court, legal justice puts up the barrier of technical distinction to protect it from real justice.

If this is law it must cease to be law. This artificial creature, the corporation, must not in its ubiquity forever escape the single justice which the natural individual must face. If through defects in our procedure an actual identity is now able to escape its own misdeeds by a mere fiction, that fiction should be destroyed by statute.

DEMOCRATIC CAMPAIGN FUNDS FROM THE PEOPLE

Already contributions are coming from the masses. The Commoner has already received a number of such contributions and will continue to receive them until the new treasurer of the democratic national committee shall make arrangements for the collection of these funds.

Recently Mr. Bryan received telegrams from the Oklahoman of Oklahoma City, and the News-Scimitar of Memphis announcing that they had started dollar subscriptions. Mr. Bryan expressed himself as much gratified at this evidence of support. His statement follows:

"I wish every democratic paper would begin the collection of a fund from its own subscribers. There are very few democrats who could not afford to make a small subscription, and the people will never be able to control the government until they take upon themselves the burden of supplying campaign funds. As long as a few men furnish the money to fight a campaign these men will exert an undue influence upon the government. It seems to me we have reached the end of corporate contributions, and this is a step in advance, but the individuals who control these favor-seeking corporations may still dominate politics by furnishing the sinews of war. The democratic party has struck at this system by limiting contribution to \$10,000 and providing for publicity before election. The republican party has so far refused to join with us on this proposition, but public sentiment may yet compel it to do so. I have no doubt that the democratic party will receive contributions from more individuals than ever contributed to any campaign, and there is no reason why the entire sum necessary should not be supplied by contributions from the masses. If every democratic paper will take the matter up and lend a helping hand, we will soon have money enough in the treasury to provide for legitimate campaign work, and that is all we want."

Following are extracts from letters received at The Commoner office, accompanied by contributions:

Wilbur, Wash.—Herewith find draft for \$24 to be turned over to the democratic national committee for campaign expenses.

Wyncote, Wyo.—Herewith find \$5 in currency to be used in the campaign.

Beloit, Wis.—Please find enclosed check for \$10 for campaign fund.

Washington, D. C.—Herewith find \$1 for use in the campaign.

Garland, Utah—I enclose \$5 as a contribu-

tion for the democratic campaign fund. Hope we win at the polls in November.

Erie, Pa.—Please turn over the enclosed \$1 remittance to the democratic national committee.

Kansas City, Kan.—I hand you herewith \$1, my contribution to the campaign fund.

Atlantic City, N. J.—Herewith money order for \$1 for national campaign fund. If I find employment soon will add a little more. I am a brotherhood carpenter.

Abbottsford, Wis.—Herewith find remittance of \$1 to help in the campaign. Mr. Bryan will get all the democratic votes here and many from the republicans.

Lincoln, Neb.—Please accept my check for \$5 to be used in the democratic national campaign.

Minneapolis, Minn.—Enclosed find check for \$2, my contribution for the national campaign fund. Wish I could do more than this. Will do everything I can in the campaign.

Missouri—One month ago I commenced work in my father's bank on a salary of \$10 per month. Last night I was handed my first pay check which I enclose as my contribution to the cause.

Atlanta, Ga.—I enclose a \$1 bill for campaign fund. If every loyal democrat will contribute \$1 to your campaign fund it will not be necessary for large corporations and wealthy individuals to furnish the sinews of war.

Chicago, Ill.—Let me suggest a plan for raising funds that is democratic and will place the finances of the campaign with the people and not with trusts, etc. Let the committee call on democratic voters each to contribute \$1; surely from the six and a half million voters there will come a vast free voluntary donation. I enclose my \$1 to start such a fund.

Denver, Colo.—I want to be one of the five hundred thousand who will give \$1 for the democratic campaign fund. Call it the \$1 fund and find my \$1 enclosed.

Memphis, Tenn.—Herewith find my check for \$100 which I cheerfully contribute to the success of the democratic party. I went to Denver last week to attend the national convention, renew my faith, and strengthen my hope to see another democratic president in this life; with the broad democratic and patriotic platform made there, I sincerely believe it will come to pass March 4, 1909.

Peoria, Ill.—Enclosed find money order for \$10, contribution to your campaign fund. I hope a couple of million democrats will re-

spond, so that Mr. Bryan may not lack funds to present properly the issues.

St. Louis, Mo.—Herewith \$10, contribution to the democratic national campaign fund.

Denver, Colo.—Believing that you will "make good" and give the people in this section bounded by Canada on the north, Mexico on the south, Missouri on the east, and the Pacific coast on the west, an equal chance, I take pleasure in enclosing you my check for \$50, and while I am not rich, I offer my time and pay my own expenses in placing facts before the public as to why Mr. Bryan should be our next president.

Hartford, S. D.—Please find my personal check for \$25 for your 1908 campaign. You stand for what is politically the best in the north and the south, the east and the west, and can not be budged by the corporation whip.

Chicago, Ill.—Enclosed please find my little mite for the campaign fund, \$25.

Lincoln, Ill.—I see your appeal to the farmers for contributions to the campaign fund. Enclosed find check for \$50, \$10 for my wife, \$10 for each of my sons, \$10 for my daughter, and \$10 for myself.

St. Louis, Mo.—Enclosed find check for \$25, which please endorse to the treasurer of the national democratic committee to be used for campaign purposes.

Dorchester, Neb.—I notice the statement of Mr. Bryan and Mr. Kern asking farmers for contributions to the campaign fund and take pleasure in handing you herewith my check for \$100.

Philadelphia—Enclosed find check for \$10 which you will please turn over to the treasurer of the national committee. They can't keep a good man down.

Huntsville, Ala.—Enclosed find \$5 ("the widow's mite"). Wish I were able to make it one thousand times more, but out of the salary of \$40 a month this is the best I can do.

Denver, Colo.—I enclose my check for \$25 and will do more from time to time. I am a business man, but if the cause needs me I am ready to go when and where needed.

Orange Lake, Fla.—I am in my seventieth year and feeble, and fear I may pass over e'er the time to vote. Please find enclosed my contribution of \$1 to the campaign fund.

Kansas City, Mo.—Herewith find \$5 to assist in paying national campaign expenses. This from a republican who voted for Mr. Bryan in 1896 and he is glad to have the opportunity to vote for him again.