A Scandal of American Justice

United States Attorney Henry A. Wise, addressing the National Jewellers' board of trade, said:

"But it has been difficult to send the rich to jail. The judges evidently think they should have plenty of warning, and in case after case of this kind I have howled in vain for jail sentences."

What better proof could there be that this in the main is just criticism than Judge Kohlsaat's action in Chicago in releasing under $30,000 bonds each the heads of the beef trust upon writs of habeas corpus?

What better illustration of the evils of the law's delay could there be than the bare record of the government's case against the beef trust?

It was on May 10, 1902, that the government filed a petition for an injunction against the beef trust. Ten days later a temporary writ was issued by Judge Grosscup, to which on Sept. 10 the packers demurred that they were not engaged in interstate commerce. Feb. 18, 1903, Judge Grosscup overruled the demurrer and gave the packers until March 2 to answer.

On March 1, the last day of grace, the packers announced an appeal to the supreme court of the United States, but they did not take it; so on May 27 Judge Grosscup made the injunction permanent, when the packers finally took their appeal, having thus gained three months' time.

The case slept the rest of that year, and not until July 25, 1904, did President Roosevelt order the department of justice to put it on the supreme court calendar to be tried in October. It was actually reached in 1905, when on Jan. 4 briefs were filed by the government and the packers; on Jan. 16 the case was argued, and on Jan. 31 the court sustained Judge Grosscup, leaving the way apparently clear for the trial and punishment of the packers.

Feb. 21, 1905, a special federal grand jury was called in Chicago to consider evidence against the packers. March 4 President Roosevelt sent to congress Commissioner Garfield's report on the beef trust. March 29 T. J. Conners, Armour's general superintendent, was indicted for meddling with a grand jury witness. April 14 four Schwarzschild & Sulzberger officials were indicted for interference with the service of subpoenas in the trust suit.

July 1, 1905, the grand jury indicted seventeen individuals and five corporations, who on Sept. 4 obtained an adjournment; they were "not ready to plead." On Oct. 23 they claimed immunity on the ground that facts used in indicting them had been obtained from them by the bureau of corporations, but on Nov. 17 Attorney General Moody denied this and declared that immunity had not been promised. Meanwhile, on Sept. 21, four beef trust officials had peaded guilty of rebating and were fined $25,000 each—a trifle to a trust.

The year 1906 began with a beef trust victory. Commissioner Garfield of the bureau of corporations admitted on Feb. 22 that he had worked with the department of justice, and on March 21 Judge Humphrey held that the individuals indicted were therefore immune but that the indictments against the corporations stood. Mr. Moody on April 6 decided that no appeal could be taken, and after the long vacation, on Oct. 13, the department of justice dropped the case. Four years and a half had gone for naught.

In 1907 the case was begun all over again with another federal grand jury in Chicago, called Sept. 18. No indictments were made that time; more than a year later, Dec. 7, 1908, another grand jury was called which again made no indictments; Feb. 19, 1909, still another federal grand jury was called to investigate rebating and price-fixing; also an effort was made to prove "that the meat trust exists, and that the National Packing company is its operative machinery."

On March 21, 1910, Attorney General Wickersham filed a petition against the beef trust charging restraint of trade, and six months later, Sept. 12, a new grand jury indicted Armour, Swift, Morris and the other present defendants. A civil suit was also begun to dissolve the trust and appoint a receiver for it. The following day the pckers gave bail in $30,000 each.

Nov. 17 the packers protested Judge Landis because fifteen years earlier he had been a special United States district attorney concerned in prosecuting them under the anti-trust act. Dec. 15 the indictments were amended. Dec. 24 the defendants claimed the right to have the civil suit tried before the criminal one; Dec. 27 Mr. Wickersham obliged them by ordering the civil suit dismissed altogether so as not to impede the criminal suit, but the packers ungratefully protested against the dismissal and were overruled.

In 1911 Judge Carpenter came into the case by overruling, on Jan. 2, a motion that the government be restrained from proceeding against the packers criminally and, on March 22, a demurrer on the ground that Judge Humphrey's "immunity bath" covered all future time. Judge Carpenter refused to quash the indictment.

By April 13, after nine years, it suddenly occurred to the packers that the anti-trust act did not create any new crime, and hence, even if they were disobeying it, they were committing no criminal act. They threw out the suggestion for what it was worth; as again on May 17 when they asked to have the indictments quashed on the ground that there had been no "unreasonable" restraint of trade, as defined in the Standard Oil case decision; and again when on June 3 they filed briefs asking for a rehearing of their motions to quash the indictments.

However, on July 5 the packers finally pleaded not guilty and trial was fixed for Nov. 20. In all these nine years the defendants have not yet even been put on trial. The infinite resources of delay involved in actual trial and in fighting judgment and sentence if a verdict of guilty is returned still remain. These sources may not even yet be drawn upon. The packers desire a new court test of the Sherman act on the ground of ambiguity and unconstitutionality before they are brought to trial, and for this purpose the habeas corpus writ was obtained.

The Sherman act has been in force more than twenty years. It has been tested at every joint, seam and rivet by the ablest legal minds of the country and stands the test. It represents the matured purpose and will of the people at the time it was passed, at the present time and for as far into future time as any man can see. Its constitutionality has been affirmed time after time by the court of last resort.

Yet this most odious of trusts, which draws its enormous profits from the monopoly and engrossment of one of the prime necessaries of life, which extorts its tribute from rich and poor alike in every part of the United States, has been able for more than nine years to use the law's delay to ward off prosecution, and today not even the beginning of the criminal trial of its chief beneficiaries is in sight.

What a reproach to American government and American jurisprudence! What a blot upon the administration of justice!—New York World.

THE GOVERNMENT AND THE PACKERS

Early in 1903—Feb. 18 of that year—Judge Grosscup issued an injunction enjoining the Chicago packing firms from combining in restraint of trade. Less than five months afterward the government presented a federal grand jury with evidence that they had so combined, and indictments were voted against them. That was eight years ago.

Since that time the government and the packers have battled back and forth over every conceivable issue on this question except one—the guilt or innocence of the defendants.

The packers have been released from prosecution on an immunity plea, because they gave the information which was used against them. They have been released by the quashing of faulty indictments. There have been new investigations, new indictments, new court proceedings—but not one yet leading to a determination of the question of whether or not they were or are organized in illegal restraint of trade. No decision of court has had anything to do with the issue raised by the government over eight years ago.

No decision, so far as can be ascertained, has changed the method of operation adopted by the packers, unless the withdrawal of the important officers of the various firms from the board of the National Packing company be construed as a change in method due to the prosecution.

The case stands where it stood when the government first undertook to prove that an illegal combination in restraint of trade existed, and in eight years it has not reached the question of proof.

The conspicuous important gentlemen whose operations the government attacks naturally approach the main issue by avoiding it. They have a peculiar and distinctive interest in the proceedings. Other great anti-trust suits have sought the dissolution of combinations. This one seeks the punishment of the men responsible for the alleged combination.

The contention of counsel for the defendants is that the "great law abiding and successful merchants" who are their clients have done nothing but what was "morally and commercially right"; that it is inconceivable that the Sherman anti-trust law is to be used as a net to draw in all and sundry for juries to pick and choose the guilty from the righteous, and that as a criminal statute the law is unconstitutional.

At the threshold of the trial court, where the guilt or innocence of the defendants was to be determined, another issue is interposed.

To another generation than this it may be given to know whether the packers of Chicago were or are combined in illegal restraint of trade.—Chicago Tribune.

IN NEBRASKA

The Omaha World-Herald prints the following letter:

"Orleans, Neb., Nov. 23.—To the Editor of the World-Herald: I have concluded to become a candidate for one of the two places of district delegate to the democratic national convention, representing the Fifth Nebraska district. I think that every candidate for a seat in the national convention should make his position clear to the end that democrats may know just what they may expect of him when it comes to voting for a candidate and adopting a platform. I therefore ask you to print my letter in order that Fifth district democrats generally may read it. I think the democratic national platform for 1912 should be framed with the greatest care and that it should be the Denver platform of 1908 brought down to date, and should plainly represent the democratic spirit which has made Nebraska famous under Mr. Bryan's leadership and has brought to the national party the credit for a willingness to take the people into its confidence. If I have a half a chance I will cast my vote for Bryan as the democratic candidate for 1912. If I can not get him then I will vote for some other man who stands for the things Mr. Bryan stands for and best represents democratic principles as we have learned them in Nebraska. Accepting Mr. Bryan as a leader who will never lead the party into the camp of the trusts I will, if elected to serve with him as a delegate to the national convention, do everything in my power to help him in the fight which we all know he will make for the people."

"P. W. SHEA."

THE PRIZE

Sixty-five miles of railroad tapping Mesaba ore deposits in Minnesota discovered by the Merritts. Value of road and ore holdings in 1893, $20,000,000.

THE OFFER

A loan of $420,000 (and the PROMISE of more) by John D. Rockefeller on securities valued at from $6,000,000 to $10,000,000 to build extension to Lake Superior.

AND THIS IS WHAT HAPPENED

Leonidas Merritt, he swears, was urged by the Rev. F. T. Gates to trust in John D. Rockefeller, that he had a conference with John D. who opposed a receivership for the road on the ground that it would have "a little tinge of violating the law." On Merritt's refusal to throw his Minnesota friends and realtives overboard and join with Rockefeller in gobbling the great property, the $420,000 loan was called in twenty-four hours, and $6,000,000 to $10,000,000 worth of securities swallowed by Rockefeller, leaving Merritt to "walk the railroad ties back to Duluth."—New York World.