

TEN YEARS OF TRUST.

"Trusts are combines, and that settles the whole question." The public is inclined to close the controversy about trusts in this manner. It must certainly be admitted that the trust is a combine; and so is a partnership or any other business association. If all combinations are to be suppressed, all associations in business must cease. Some objectors, including law writers and judges, not a whit more logical than my friend, define trusts to be combinations for certain illegal purposes. Such a definition also settles the whole question. If trusts are combinations for illegal purposes, no more can be said in their favor than in favor of a partnership or any other association for illegal purposes.

What is the objection to trusts, combinations, or associations formed not for illegal purposes.

The Real Question. but for the purpose of carrying on business? So long as the business is small and the trust is formed by a few persons and called a partnership, there seems to be no serious objection on the part of the public. If the trust takes the form of a corporation not too large or too successful, people not too much tainted with socialism seem willing to tolerate it. If it takes the form of a large corporation, does a large business, and makes much money, it is denounced by persons of communistic tendencies, and it is yet to be determined whether it will be allowed peaceably to exist. If it takes the form which gave rise to the name trust as applied to business associations, namely, a trust of corporate stocks by means of which a body of men united in interest are enabled to carry on business through separate corporate agencies, it is not at all tolerated, is even denounced as a crime; and yet no objection on the ground of antagonism to public interests can be urged to such an association to which any other business association is not equally amenable.

Reasonable persons opposed to trusts, if they will analyze their reasons, will

Analysis. find them based upon the opinion

that certain evils are incident to all associations; that these evils increase as the association increases in wealth and power; and that by reason thereof association itself may be carried to such an extent as to become a public evil. The real question concerning trusts, therefore, is whether the evils incident to large associations for business purposes are such as to render these associations contrary to public policy. The present controversy in relation to trusts is but the continuation of a struggle that has been in progress for five centuries. It

is the assertion, on one side, of the right of freedom of association for business purposes, and on the other side a denial of that right because association tends to monopoly, tends to increase prices, tends to suppress competition, and tends to crush out individual industry. The advocates of liberty of association admit that association confers power upon the associates, that it gives them an advantage over unassociated individuals, and that such power may be used for evil as well as for good. On the other hand, they allege that association is a necessary instrument of modern industry; that it coöperates with and is made necessary by the steam engine, the railroad, and the power loom; and that, while these instrumentalities of modern industry may produce some evils, such evils are more than counterbalanced by the advantages conferred upon mankind.

During the five centuries of conflict referred to, the theory has always been that associations tended to increase prices and to oppress the public; the facts, however, have always been contrary to the theory. Legislators and justices in olden days feared high prices more, if possible, than witchcraft, and the former fear has not entirely passed away with the latter visionary terror. The attempt by law to fix, regulate and protect prices, directly or indirectly, has never ceased. Laws regulating the prices of bread and beer are so old that their date is not known. From the fourteenth to the nineteenth century the statute books abound in regulations of prices of meat, clothing, poultry and wine. Not only were prices fixed by law, but other laws were enacted to prevent laws fixing prices from being violated. Thus it was that it became criminal to buy commodities on their way to market, to buy in order to sell again in the same or a neighboring market, and to buy in large quantities. Thus also originated the whole brood of crimes known as offences or conspiracies against trade. Thus also originated the laws, both statute and common, against associations or combinations of business men.

Permit a brief reference in illustration of this fact to the laws against combinations of laborers. But one reason was ever given for these laws, namely, that high wages caused high prices for the necessaries of life. The earliest statute against combinations, in 1425, made it a felony for masons to confederate together to raise their wages above the amount fixed by law. From that date, for nearly five centuries, wages were fixed by law and workmen were forced by penalties to work at the fixed rates. Not only were workmen punished for taking greater wages than those fixed by law, but employers were punished for paying them. By some statutes justices and mayors were permitted to fix the rates of wages, they to be

governed in so doing by the cheapness and dearness of the necessaries of life.

Against these infamous laws laborers combined, labor guilds and secret societies innumerable were organized.

Guilds.

It became necessary, therefore, for the law to attack combinations which were intended to keep up rates of wages. Thus it was that combination itself became a crime in the eyes of the law and in the estimation of lawmakers, who were consumers, not producers, esteeming laborers as little better than slaves, and shopkeepers and men of business as scarcely worthy their attention. The effect, as they supposed, of every combination of workmen, manufacturers, or traders was, by increasing wages, to increase the price of the necessaries of life. By Statute 24th Edward III, "alliances, covines, congregations, chapters, ordinances and oaths made by masons and carpenters shall be void and annulled." The object of the infamous "statute of laborers" of 5th Elizabeth, which fixed hours of labor and empowered judges to fix rates of wages, was to break up combinations of laborers. The Act of 40th George III made criminal any combination between workmen for the advancement of wages. Even after these acts were repealed, laborers were punished by the judges upon the ground that combination was an offence at common law. Lord Kenyon said that not only was a combination of workmen to obtain an increase of wages indictable, but it would be indictable in the master to agree to raise wages. Now, I think it will be admitted that workmen have the right to combine to obtain fair wages, and it is true, whether admitted or not, that good wages do not increase the price of products. These laws against laborers are a fair sample of enactments intended to prevent increase of prices, and they show the origin as well as the effects of the prevalent opinion that the purpose and tendency of all combinations was to increase prices.

Laws as severe as those against combinations of laborers were for like

Partners.

reasons directed against all manner of business associations. So strong was the feeling of the governing class against such associations that judges frequently pronounced combination a crime in itself. Yet, as already said, business combinations were common. Partnerships existed, and all the potency and tendency that inhere in any combination, be it joint-stock association, partnership, or trust, to repress competition, to fix and influence prices, to restrain production, and to monopolize business, exist in the partnership. We may wonder that men denounced as wholly evil, and the law punished with severity, combinations, and yet this form of combination went unchallenged. Sin-