

President Taft's Message to the Congress On Railroads and Trusts

(Continued from Page Eleven.)

than one year from the date of their issue, without the previous or simultaneous payment to such corporation of not less than the par value of such bonds, or other obligations, or, if issued at less than their par value, then not without such payment of the reasonable market value of such bonds or obligations as determined by the Interstate Commerce commission; and that no property, services, or other thing than money, shall be taken in payment to such carrier corporation, of the par or other required price of such stock, bond, or other obligation, except as the fair value of such property, services or other thing as ascertained by the commission; and that such act shall also contain provisions to prevent the use by the improvident or improper issue of notes maturing at a period not exceeding twelve months from date, in such manner as to commit the commission to the approval of a larger amount of stock or bonds in order to retire such notes than should legitimately have been required.

Approval of Stock Issues.
This act should also provide for the approval by the Interstate Commerce commission of the amount of stock and bonds to be issued by any railroad company subject to this act upon any reorganization, pursuant to judicial sale or other legal proceedings, in order to prevent the issue of stocks and bonds to an amount in excess of the fair value of the property which is the subject of such reorganization.

"I believe these suggested modifications in and amendments to the Interstate Commerce act would make it a complete and effective measure for securing reasonable rates and fairness of practices in the operation of interstate railroad lines, without undue preference to any individual class over any others, and would prevent the reissue of many of the securities which have given rise in the past to so much public inconvenience and loss.

"By my direction the attorney general has drafted a bill to carry out these recommendations, which will be furnished upon request to the appropriate committee whenever it may be desired.

Safety Appliances on Cars.

"In addition to the foregoing amendments of the Interstate Commerce law, the Interstate Commerce commission should be given the power, after a hearing, to determine upon the uniform construction of those appliances—such as sill steps, ladders, roof handholds, running boards and handbrakes on freight cars engaged in interstate commerce—used by the trainmen in the operation of trains, the defects and lack of uniformity in which are apt to produce accidents and injuries to railway trainmen. The wonderful reforms effected in the number of switchmen and trainmen injured by coupling accidents, due to the enforced introduction of coupling equipment, is a demonstration of what can be done if railroads are compelled to adopt proper safety appliances.

Suits Under Liability Act.

"The question has arisen in the operation of the Interstate Commerce employer's liability act as to whether suit can be brought against the employer company in any place other than that of its home office. The right to bring the suit under this act should be as easy of enforcement as the right of a plaintiff to sue on an ordinary claim, and process in such suits should be sufficiently served if upon the station agent of the company upon whose service is authorized to be made to bind the company in original actions arising under the Interstate Commerce law. Bills for such purposes have been considered by the house of representatives and have been passed and are now before the interstate commerce committee of the senate. I earnestly wish that they be enacted into law.

Changes in Anti-Trust Law.

There has been a marked tendency in business in this country for forty years past toward combination of capital and plant in manufacture, sale and transportation. The moving causes have been several:

"First, it has rendered possible great economies.

"Second, by a union of former competitors, it has reduced the probability of excessive competition; and

"Third, if the combination has been extensive enough, and certain methods in the treatment of competitors and customers have been adopted, the combination has acquired a monopoly and complete control of prices or rates.

"A combination successful in achieving complete control over a particular line of manufacture has frequently been called a trust. I presume that the derivation of the word is to be explained by the fact that the usual method of carrying out the plan of the combination has been to put the capital and plants of various individuals, firms or corporations engaged in the same business under the control of trustees.

Business Not a Crime.

"The increase in the capital of a business for the purpose of reducing the cost of production and effecting economy in the management has become as essential in modern progress as the change from the hand tool to the machine. When, therefore, we come to construe the object of congress in adopting the so-called Sherman anti-trust act in 1890, whereby in the first section every contract combination in the form of a trust or otherwise or conspiracy in restraint of interstate or foreign trade or commerce is condemned as unlawful and made subject to indictment and restraint by injunction, and whereby in the second section every monopoly, or attempt to monopolize, and every combination or conspiracy with other persons to monopolize any part of interstate trade or commerce, is denounced as illegal and made subject to similar punishment or restraint, we must infer that the evil aimed at was not the mere business of the enterprise, but it was the aggregation of capital and plants with the express or implied intent to restrain interstate or foreign commerce, or to monopolize it in whole or in part.

Test is Trade Restraint.

"Monopoly destroys competition utterly, and the restraint of the full and free operation of competition has a tendency to restrain commerce and trade. A combination of persons, formerly engaged in trade as partnerships or corporations or otherwise, of course eliminates the competition that existed between them; but the incidental ending of the competition is not the evil aimed at necessarily a direct restraint of trade, unless of such an embracing character that the intention and effect to restrain trade are apparent from the circumstances, or are expressly declared to be the object of the combination. A mere incidental restraint of trade and competition is not within the inhibition of the act, but it is where the combination or conspiracy or contract is inevitably and directly a substantial restraint of competition, and so a restraint of trade, that the statute is violated.

Trivial Cases Excluded.

"In view of the opinions of the federal judges there have been intimations, having the effect, if sound, to weaken the force of the statute by including within it absurdly unimportant combinations and arrangements and suggesting, therefore, the wisdom of changing its language by limiting its application to serious combinations with intent to restrain competition

or control prices. A reading of the opinions of the supreme court, however, makes the changes unnecessary, for they exclude from the operation of the act contracts affecting interstate trade in but a small and incidental way and apply the statute only to the real evil aimed at by congress.

Legal and Illegal Methods.

"It is possible for the owners of a business of manufacturing and selling useful articles of merchandise to combine their business as not to violate the prohibitions of the anti-trust law and yet to secure to themselves the benefits of the economies of management and of production due to the concentration under one control of large capital and many plants. If they use no other inducement than the constant low price of their product and its good quality to attract custom and their business is a profitable one, they violate no law. If their actual competitors are small in comparison with the total capital invested, the prospect of new investments of capital by others in such a profitable business is sufficiently near and potential to restrain them in the prices at which they sell their products. But if they attempt by a use of their preponderating capital and by a sale of their goods temporarily at unduly low prices to drive out of business their competitors, or if they attempt, by exclusive contracts with their patrons and threats of non-dealing except upon such contracts or by other methods of a similar character, to use the largeness of their resources and the extent of their output compared with the total output as a means of compelling custom and frustrating off competition, then they disclose a purpose to restrain trade and to establish a monopoly and violate the act.

No Attack on Large Capital.

"It was not to interfere with a great volume of capital which, concentrated under one organization, reduced the cost of production and made its profit thereby, and took no advantage of its size by methods akin to those which would be used by a small man to stifle competition with it.

"I wish to make this distinction as emphatic as possible, because I conceive that nothing could happen more destructive to the property of this country than the loss of that great economy in production which has been and will be effected in all manufacturing lines by the employment of large capital under one management. I do not mean to say that there is not a limit beyond which the economy of management by the enlargement of plant ceases; and where this happens and combination continues beyond this point, the very fact shows intent to monopolize and not to economize.

"The original purpose of many combinations of capital in this country was not confined to the legitimate and proper object of reducing the cost of production. On the contrary, the history of most trusts will show at times a feverish desire to unite by purchase, combination or otherwise all the plants in the country engaged in the manufacture of a particular kind of goods. The idea was rife that thereby a monopoly could be effected and control of prices brought about. In such cases the purpose of those engaged in the combination was the path of commerce is strewn with failures of such combinations. Their projects found that the union of all of the plants did not prevent competition, especially where proper economy had not been pursued in the purchase and in the conduct of the business after the aggregation was complete. There were enough, however, of such successful combinations to arouse the fears of good, patriotic men as to the result of a continuance of this movement toward the absolute control of the prices of all manufactured products.

Sugar Trust Decision.

"The anti-trust statute was passed in 1890 and prosecutions were soon begun under it. In the case of the United States against Sugar, known as the 'sugar trust case' because of the nature sought to be enjoined was not to be included within the prohibition of the act, because the agreement did not go beyond the mere acquisition of manufacturing plants for the purpose of sugar, and did not include that a direct or indirect restraint upon price and do not go beyond the mere acquisition of sugar across state boundaries in foreign trade. The result of the Sugar trust case was not happy, in that it gave our companies and combinations a certain immunity of making profit by combining an absolute control and monopoly on a particular line of manufacture a source of immunity against prosecution at the federal jurisdiction, and where that jurisdiction is barred in respect to a business which is necessarily commensurate with the boundaries of the country, no state prosecution is able to supply the necessary remedy for adequate restraint of such business.

"Following the Sugar trust decision, however, there were some who saw the course of judicial disposition cases involving a combination of the anti-trust statute and its application and how they sought to evade every phase of that law. In the case of American Sugar, the prosecution was a direct and indirect restraint of trade, and it was shown that the anti-trust act was a wise scope and applies to many combinations in actual operation, rendering their business and subject to indictment and restraint.

'Measure' Restraint Not in Law.

"The supreme court in several of its decisions has held that the statute is not violated by a 'measure' restraint of trade, or by a restraint of trade in the nature of a contract combination in the form of a trust or otherwise or conspiracy in restraint of interstate or foreign trade or commerce is condemned as unlawful and made subject to indictment and restraint by injunction, and whereby in the second section every monopoly, or attempt to monopolize, and every combination or conspiracy with other persons to monopolize any part of interstate trade or commerce, is denounced as illegal and made subject to similar punishment or restraint, we must infer that the evil aimed at was not the mere business of the enterprise, but it was the aggregation of capital and plants with the express or implied intent to restrain interstate or foreign commerce, or to monopolize it in whole or in part.

Test is Trade Restraint.

"Monopoly destroys competition utterly, and the restraint of the full and free operation of competition has a tendency to restrain commerce and trade. A combination of persons, formerly engaged in trade as partnerships or corporations or otherwise, of course eliminates the competition that existed between them; but the incidental ending of the competition is not the evil aimed at necessarily a direct restraint of trade, unless of such an embracing character that the intention and effect to restrain trade are apparent from the circumstances, or are expressly declared to be the object of the combination. A mere incidental restraint of trade and competition is not within the inhibition of the act, but it is where the combination or conspiracy or contract is inevitably and directly a substantial restraint of competition, and so a restraint of trade, that the statute is violated.

Trivial Cases Excluded.

"In view of the opinions of the federal judges there have been intimations, having the effect, if sound, to weaken the force of the statute by including within it absurdly unimportant combinations and arrangements and suggesting, therefore, the wisdom of changing its language by limiting its application to serious combinations with intent to restrain competition

or control prices. A reading of the opinions of the supreme court, however, makes the changes unnecessary, for they exclude from the operation of the act contracts affecting interstate trade in but a small and incidental way and apply the statute only to the real evil aimed at by congress.

"The statute has been aimed at by the statute book now for two decades, and the supreme court in more than a dozen opinions has construed it in application to various phases of business combinations and in reference to various subjects matter. It has applied it to the union under one control of two competing interstate railroads, to joint traffic arrangements between several interstate railroads, to private manufacturers engaged in a plain attempt to control prices and suppress competition in a part of the country, including a dozen states, and to many other combinations affecting interstate trade. The value of a statute which is rendered more and more certain in its meaning by a series of decisions of the supreme court furnishes a strong reason for the act as it is to accomplish its useful purpose even though, if it were being newly enacted, useful suggestions as to change of phrase might be made.

Duty of Investigation.

"It is the duty and the purpose of the executive to direct an investigation by the Department of Justice through the grand jury or otherwise, into the history, organization and purposes of all the industrial companies with respect to which there is any reasonable ground for suspicion that they have been organized for a purpose and are conducting business on a plan which is in violation of the anti-trust law. The work is a heavy one, but it is not beyond the power of the Department of Justice, if sufficient funds are furnished, to carry on the investigations and to lay the counsel engaged in the work. But such an investigation and possible prosecution of corporations whose prosperity or destruction affects the comfort not only of stockholders, but of millions of wage earners, employees and associated tradesmen must necessarily tend to disturb the confidence of the business community in the counsel engaged in the work. It is possible to carry on such an investigation and possible prosecution of corporations whose prosperity or destruction affects the comfort not only of stockholders, but of millions of wage earners, employees and associated tradesmen must necessarily tend to disturb the confidence of the business community in the counsel engaged in the work. It is possible to carry on such an investigation and possible prosecution of corporations whose prosperity or destruction affects the comfort not only of stockholders, but of millions of wage earners, employees and associated tradesmen must necessarily tend to disturb the confidence of the business community in the counsel engaged in the work.

Plan for Federal Charters.

"The question which I wish, in this message, to bring clearly to the consideration and discussion of congress is whether, to avoid such a possible business danger, something cannot be done by these business combinations may be offered a means, without great financial disturbance, of changing the character, organization and extent of their business into one which is not subject to federal supervision and control, and to secure compliance with the anti-trust statute.

Cannot Recognize 'Good' Trusts.

"Many people conducting great businesses have cherished a hope and a belief that in some way or other a line may be drawn between 'good trusts' and 'bad trusts', and that it is possible by amendment to the anti-trust law to make a distinction under which good combinations may be permitted to organize, suppress competition, control prices and do as they please, but not abuse the power by taking two great profits out of the business. They point with force to certain notorious trusts as having grown into power through criminal methods, by the use of illegal rebates and plain cheating, and in various acts utterly in violation of business honesty and control, and urge the establishment of some legal line of separation by which 'criminal trusts' of this kind can be punished, and they, on the other hand, are permitted under the law to carry on their business.

Necessity for National Control.

"If the prohibition of the anti-trust act against combinations in restraint of trade is to be effectively enforced, it is essential that the national government should provide for the creation of national corporations to carry on the United States. The conflicting laws of the different states of the union with respect to foreign corporations make it difficult, if not impossible, for one corporation to comply with their requirements in relation to carry on business in a number of different states.

Methods Formerly Legal.

"In considering violations of the anti-trust law, we ought, of course, not to forget that that law makes unlawful methods of carrying on business which before its passage was regarded as evidence of business, of sagacity and success, and that because of their intrinsic morality, but because of their serious results toward which they tended, the concentration of industrial power in their hands, leading to oppression and injustice. In dealing, therefore, with many of the men who have used the methods condemned by that statute for the purpose of maintaining a profitable business, it may well facilitate a change by them in the method of doing business and enable them to bring it back into the zone of lawfulness without losing to the country the security of management by which in our domestic trade the cost of production has been materially lessened.

Law for Federal Corporations.

"I therefore recommend the enactment by congress of a general law providing for the formation of corporations to engage in trade and commerce among the states and with foreign nations, protecting them from undue interference by the states and regulating their activities, so as to prevent the recurrence, under national auspices, of



HAYDEN'S FOR JUST ONE DAY **HAYDEN'S**

Saturday, Jan. 8th

THE RELIABLE STORE Fur Overcoats Excepted THE RELIABLE STORE Fur-lined Coats Excepted

Your Unrestricted Choice of

ANY MAN'S SUIT OR OVERCOAT

In Our Entire Stock Suits worth from \$20 up to \$37.50, blues, blacks, fancies, for dress or business wear, all choice fabrics, styles & patterns

\$15

In Our Entire Stock Auto Coats, Dress Coats, Rain Coats, Top Coats that sold from \$20 to \$40—no better garments ever produced.

All are highest class fabrics and tailoring, all are garments bought for our regular fall and winter trade and which we guarantee in every respect.

1,000 Men's Suits and 850 Men's Overcoats—that sold regularly to \$18.50; go Saturday at one price each. **8.75**

All Our Youth's Suits at Half

1,500 Boys' Suits—In all sizes from 6 to 16 years, and worth up to \$6.50—on sale in one lot — **2.50**

Don't miss this sale Saturday, the greatest real clothing bargain event of the season. Not a garment offered but is of absolutely dependable quality and strictly up-to-date styles and colorings.

Come Early **Don't Forget Try Hayden's First It Pays** Come Early

those abuses which have arisen under state control. A law should provide for the issue of stock of such corporations, to an amount equal only to the cash paid in on the stock; and if the stock be issued for property, then at a fair valuation, ascertained under approval and supervision of federal authority, after a full and complete disclosure of all the facts pertaining to the value of such property and the interest therein of the persons to whom it is proposed to issue stock in payment of such property. It should subject the real estate to the same taxation as is imposed by the state within which it may be situated upon other similar property located therein, and it should require such corporations to file full and complete reports of their operations with the Department of Commerce and Labor at regular intervals.

Constitutionality of Act.

"Second—There are those who doubt the constitutionality of such federal incorporation. The regulation of interstate and foreign commerce is certainly conferred in the fullest measure upon congress, and if for the purpose of securing in the most thorough manner that kind of regulation, congress shall insist that it may provide and authorize certain agencies to carry on that commerce, it would seem to be within its power. This has been distinctly affirmed with respect to railroad companies doing an interstate business and interstate bridges. The power of incorporation has been exercised by congress and upheld by the supreme court in this regard. Why then, with respect to any other form of interstate commerce like the sale of goods across state boundaries and into foreign commerce, may the same power not be asserted? Indeed, it is the very fact that they carry on interstate commerce that makes these great industrial concerns subject to federal prosecution and control. How far as incidental to the carrying on of that commerce it may be within the power of the federal government to authorize the manufacture of goods, is perhaps open to discussion, though a recent decision of the supreme court would seem to answer that question in the affirmative.

Concentration of Power.

"Even those who are willing to concede that the supreme court may sustain such federal incorporation are inclined to oppose it on the ground of its tendency to the enlargement of the federal power at the expense of the power of the state. It is a sufficient answer to this argument to say that no other method can be suggested which offers federal protection on the one hand and close federal supervision on the other hand of these great organizations, that are in fact federal because they are as wide as the country, are entirely unlimited in their business by state lines. Nor is the centralization of federal power under this corporation would avail themselves of such a law, because the burden of complete federal supervision and control that must

certainly be imposed to accomplish the purpose of the incorporation would not be accepted by an ordinary business concern. The third objection that the worst of offenders will not accept the federal incorporation, is easily answered. The decrees of injunction recently adopted in proceedings under the anti-trust law are so thorough and sweeping that the corporations affected by them have but three before them.

Three Courses Open.

"First they must resolve themselves into their component parts in the different states, with a consequent loss to themselves of capital and effecting organizations and to the country of concentrated energy and enterprise, or

Under Examination.

"Do you know the prisoner well?" asked the attorney. "Never knew him ill," replied the witness. "Did you ever see the prisoner at the bar?" "Took many a drink with me," was the reply. "How long have you known this man?" "From two feet up to five feet tall." "Stand down!" yelled the lawyer in disgust. "I can't do it," said he. "37 at down stand up!" "Officer, remove that man." And he did.—Pittsburgh Chronicle.

JUST NATURALLY DROP IN

Some of the Daily Visitors Whose Wants Prove Incidental Remarks.

Speaking of pests, there's the visitor who calls on you at the office, stands around your desk, making conversation on unimportant topic, while you wait, with your hand on the telephone, for him to go, and asks: "Are you busy?"

The proper answer is: "Oh no! I am not busy. They just have me here because I am ornamental and have such an engaging personality. I draw a salary for entertaining acquaintances at the office."

Also the friendly soul who approaches you when you are reading and engages you in conversation. "Maybe I am interrupting you," he suggests, noticing that you are using one finger for a book mark, while you keep up an indifferent pretense of his forest. And if you are as polite as you should be you respond: "Certainly not. I am just holding the place for a friend who has been called out of town for a few days."

One might also note the long-necked person who sits behind you on the car, craning his neck to see your paper. When he finally abstracts your view of the news, you look a little peeved, and he says: "Do you read the Baseos?" "Oh no," you answer, with much con-

Syrup of
Elixir
Cleanses the

Dispels colds due to Acts naturally

Best for Men
ren—Young

To get its benefits always

CALIFORNIA FIG SYRUP CO.
SOLD BY ALL LEADING DRUGGISTS
one size only, regular price 50¢ per bottle.