

year as heretofore, by the Interests to prevent the election of the man they fear. But their tricks are better understood now. Even the man who needs business accommodation at his bank will not be so easy to handle as he was twelve years ago.

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Sullivan's Chance.

To paraphrase an old joke for serious uses, if Roger C. Sullivan would leave the Democrats and join the Republicans it would improve the character of both parties.

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I Came; I Talked; I Nominated.

The Independence party has held its convention and named a ticket. Experience has shown this to be a hazardous thing to do for a party hopelessly in the minority, and composed of free men who believe intensely in their principles; for the temptation is great to vote for some candidate who has a chance of winning and who stands for a few of their principles, rather than the candidate who stands for them all but is certain to lose. With a privately owned, automatic, count-twenty-and-cheer party, however, the danger of defection is undoubtedly decreased.

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Kansas City to Vote on a Charter.

The people of Kansas City, Mo., will on August 4, at a special election held coincident with the primaries, vote on the adoption of a new city charter. In it provision is made for reference to the people, of grants to public utility corporations. Petition for such reference must be signed by twenty per cent of the total vote cast at the last preceding election. Recall of officials is provided for in a section that will be voted on separately from the body of the charter. A petition for recall must be signed by thirty per cent of voters "qualified to vote for a successor to the incumbent"—a seemingly doubtful proviso. The petitions are subject to official censorship, without recourse. The first section on taxation indicates a strong tendency to real reform. Provision is made to wholly avoid, or reduce the rate, on any particular class of property. This section makes possible honest taxes—by all odds the most important matter in public affairs. Its use, however, is probably dependent on the adoption of an amendment to the State constitution which will be voted upon in November. The proposed amendment gives like power to all local governments in Missouri. If rightly used, control of local taxation will bring more prosperity

to our harassed people than any amount of "trust-busting" and corporation regulation.

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Taxation of Corporations.

Lawson Purdy, President of the New York tax department, takes a sound position when he opposes special taxation of corporations simply because they are corporations. "There seems no good reason," he says, "for any taxes on business corporations in excess of the taxes imposed on individuals doing the same class of business. If the opportunity to incorporate is open to every one for the payment of a small fee, there is no special privilege involved, and all are equally at liberty to avail themselves of the continuous existence and freedom from personal liability obtained by corporate organization. The invention of the corporation provides conveniently for the co-operation of many people in an enterprise, all of whom cannot participate in the management." While it may be doubted that the corporation is the best form for enabling men to co-operate in business—since joint stock partnerships with exemption from personal liability beyond the capital contributed and published, would serve all legitimate corporate purposes—yet Mr. Purdy's point that there should be no extraordinary taxation of unprivileged corporations, leaves no room for doubt. Public revenues should be derived from the value of extraordinary privileges, such as are unavoidable. They should never be derived from useful occupations that have no special privileges, whether conducted as corporations or not. This is sound doctrine as to public revenues, and it is sound doctrine with reference to the desirability of equalizing opportunity by divesting extraordinary privileges of their extraordinary profits.

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THE FIASCO AND ITS LESSONS.

Thousands of monopoly haters were disappointed and grieved by the unanimous decision of the United States Circuit Court in the Standard Oil rebate case. Of course, in one sense the reversal of Judge Landis's decision is deplorable. It is calculated to give plutocracy fresh hope and confidence, and to beget an intolerable amount of cant on the wisdom and strength of the "higher" courts. But we cannot join in the denunciation of Judges Grosscup, Baker and Seaman, and we freely recognize that the opinion, aside from certain disputed points affecting the record of the case, is able, sound and strong.

Judge Landis is reversed on three distinct grounds:

1. That he adopted and applied a strange, erroneous and untenable view as to the duty of the shipper with regard to the rates of the carrier.

2. That he assumed that the number of carloads of property transported in alleged violation of the anti-discrimination provision of the commerce act determined the number of separate offenses.

3. That he abused his discretion in imposing the maximum fine for each of the offenses.

The second ground we leave on one side. Customs of trade and the practice of merchants and carriers should have been, and should now be consulted to reach a just conclusion on this question. If one orders the carrying of a quantity of goods by letter, expecting to pay for the transaction with one check, the fact that it may take 19 cars to transport the goods does not divide the transaction into 19 acts of transportation. On the other hand, the carriers themselves may have established the rule of regarding a carload as a unit for all purposes relevant to the rebate and preference provisions. Here the law and the courts should follow commerce.

On the first ground the Circuit Court's reasoning seems unanswerable. The law is intended to prevent rebates, preferences and favors, to insure equal treatment of shippers, big and small. The shipper who does not ask favors, or knowingly receive them, cannot rationally or fairly be burdened with further duties. One applies for information as to a rate; he gets the information and relies upon it; it turns out subsequently that the rate was preferential or unlawful, or that it had not been duly published. What offense is he guilty of morally? of none. And he is guilty of no legal statutory offense, unless the commerce act expressly impose on him the duty diligently to investigate the rates and satisfy himself that the one made to him is discriminatory and unfair. Judge Landis ruled that such a duty was actually imposed, but this is an unreasonable construction of the phraseology of the act.

It is urged, indeed, and with truth and vigor, that the oil trust must have known perfectly well that it was getting preferential and unlawful rates on the shipments covered by the indictment; that it has been a persistent, contumacious offender; that it owes its monopoly largely to secret rebates; that its methods have notoriously been those of a highwayman, dictator and bully; that the talk of "innocence" is ridiculous in its case, and

the alleged danger to small, law-abiding shippers grotesquely far-fetched.

But all this is utterly beside the point. If the government had proof of deliberate and wilful solicitation or acceptance of unlawful rates, why did it not produce such evidence? If it had produced it, the extraordinary Landis theory of the shipper's duty diligently to investigate the rates quoted to him would have been totally unnecessary. If the government had no evidence and was forced to set up the theory in question, then it was not entitled to a verdict of guilty, no matter how sure it was, and how sure we all are, of the trust's guilt.

The third ground of the reversal is also reasonable and sound. The fine was excessive from any standpoint that the trial court had any authority, under established principles, to adopt. It was dealing with a "first offense," after all, and the case was neither clear nor strong. The Standard Oil of New Jersey was not a party defendant; *its* wealth or character could not have been discussed at the trial and should not have been considered in the post-trial inquiry into the circumstances of the defendant.

It is true, again, that we *know* that the Indiana concern is a mere dummy, and that the parent corporation was the real offender! but this "knowledge," while it properly influences public opinion, could not influence any legal handling of the case. The government should have attacked the trust years before the trial of the rebate case, under the Sherman act, and secured its dissolution. Then the relationship between the Indiana and the New Jersey company would have been terminated, and the present situation could not have arisen. Is the Appellate Court to be blamed for the long neglect, the delays, the impotence, the cowardice of the administration? As matters stand, no court is justified in assuming that the Standard is an illegal combination and punishing it "on general principles."

What, then, are the lessons of the government's fiasco? These, in our judgment:

That such methods as the administration has employed could not lead to substantial results;

That the way to fight monopolies is to fight them, not to fulminate, denounce, issue "scathing" proclamations, and stop there;

That even a justly hated monopoly must be attacked with powerful legal weapons and along rational, promising lines.

Finally, that the whole Roosevelt anti-trust campaign is doomed to fail, because it is short-sighted and ignorant. Regulation, suits and sen-

sational fines have no terrors for monopolies resting on vicious land and tariff laws, or illegitimate privileges and fundamental violations of equal freedom and equal opportunity.

S. R.

EDITORIAL CORRESPONDENCE

BOUND FOR THE SEA.

Steamer Ottawa, off Father Point, Quebec, Canada, July 19th.—Why anyone from the West should want to go to Europe by way of New York, so long as there is a Montreal to sail from, I cannot see. Neither can the patriotic Montrealers. But I am not wondering about it from the viewpoint of patriotism. As matter of economy it is attractively cheaper. You get a through ticket to Liverpool—from Chicago, for instance—for \$67.50; first class with a sleeper on the Grand Trunk railway to Montreal, and nominally second class though actually first the rest of the trip. And for comfort on board and beauty of land and water on the way, New York cannot more than compete. The Grand Trunk land-trip gives you all the monotonous prairie scenery of any of the lines from Chicago to the Niagara region, and the same charm as that of the New York Central afterwards, except that the beauties of Lake Ontario and the St. Lawrence region are substituted for the unapproachable magnificence of the Hudson.

When on board a Dominion Line boat, nine hundred miles of river lie between you and the heaving ocean, with the straits of Belle Isle, separating Newfoundland from Labrador, to pass before the solid ground bids you good-by. Your journey is a third over then, and you have but entered upon the unhappy possibilities which beset the New Yorker as soon as he finishes the short-lived passage of the Narrows. Of course you miss this beautiful strait; but if you have been through the Narrows before, you won't miss it going out, and will enjoy it all the better if you come back that way.

Speaking of the patriotism of the Montrealers. I am not given much to local patriotism and always find great difficulty in enjoying it in others. I would rather boast about myself, and be done with it; for, after all, personal pride is the quintessence of local patriotism. My city, my State—yes, and I can remember when I got angry at a slighting mention of my township by an irreverent townsman across the line. He hadn't insulted those swamps and hills where I was born, and they didn't care if he had; he had insulted me. But local patriotism is pretty general. We have the malady in Chicago as severely as they have it in Montreal, and probably with less reason on the whole. And neither Montreal nor Chicago is unique. Both Canada and the United States break out with it all over. Every little place has it in detail, and each country has it as a unit. Canada, moreover, not only has Canadian patriotism, but British patriotism superimposed.

I had thought myself wholly free not only of local but of national patriotism, until I woke up on board a British vessel and saw the British flag afloat above her. Then I experienced a brief spasm. But it only lasted long enough for me to reach out for the only patriotic philosophy I swear by—"The world is my

country,"—and after that the British flag seemed to be the symbol with another family for the same democratic freedom that gives the stars and stripes their real glory.

In many respects the British are freer than we are, in some not so free; in respect of the old landmarks of the struggle for liberty they cling closer than we do, in respect of some of the later things to struggle for they may lag a little; they would not tolerate our police "sweat box" and our postal censorship, they might tolerate some undemocratic things that we resist; but take us both by and large, and the two of us are standing out more or less unsteadily for the distant port of Fundamental Democracy. Then why shouldn't we Yankees feel toward the British flag much as we do toward our own—loving it for the democracy it symbolizes to our British and Canadian brethren, and weeping over it with the thoughtful among them for the base uses to which, as with the stars and stripes, it has been subjected by spurious patriots who have considered it merely as a valuable commercial asset?

At Montreal, between the arrival of my train at 6:30 in the afternoon of the 17th and the sailing of the Ottawa at daylight on the 18th, I was most cordially entertained by a party of Montreal free traders, who, like all free traders of the blood, are patriots of the cosmopolitan as distinguished from the provincial order. But early in the morning, as we were sailing smoothly down the St. Lawrence, with Montreal hidden by distance, and her suburbs along the banks of the great river showing with impressionistic quaintness through the light mist, I was again reminded of the "mud patriotism" that besets us all when off our guard. A seaman was decorating the vessel as a sign of welcome to the warships now in attendance at the Quebec tri-centennial, and with three or four passengers was discussing a subject of momentous international concern. "Well, sir," said he, at one point in the conversation, "it's God's country that will win." Now God's country has always meant the United States to me. That is what most Americans returning from abroad think it the proper thing to say, and I had never heard any other application of those pious words. You can imagine, then, how startled I was to learn from this sailor that God's country is not the United States at all, but England, only England. And what do you suppose it was about? What else could it have been about but the international sports at London? Well, that's better, at any rate, than the international sports which usually excite "mud patriots" to enthusiasm—the sports of the bloody field and the "white, up-turned face."

As the Ottawa passed the ruins of the transcontinental bridge which collapsed in the building last August (vol. x, p. 541), and killed scores of workmen, evidences of Quebec's tri-centennial celebration came in sight. The tent city on the historic Plains of Abraham, the warships in the river and the decorated buildings on the bluff, told of the union of the British who had conquered the country, with the "habitants" (now as British as the British themselves except in language), whose French ancestors had been conquered, to celebrate the founding of the city three hundred years ago. As the Ottawa stopped here six hours by intention and at least two more by the clock, the passengers were afforded an oppor-