

The Oregonian

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PORTLAND, WEDNESDAY, FEB. 13, 1907.

COURTS AND THE LAW.

A cynic has said that we misuse language when we call our legal tribunals courts of justice. He ought, he avers, to call them courts of injustice. With-out accepting his opinion in its somewhat rash positiveness we may admit that there are many facts which excuse if they do not support it. There is no denying that sometimes the courts lend themselves with singular facility to the advancement of the predatory schemes of the trusts. The story of the relations between the Gas Trust of New York and the Federal District Court which has become the foster father of its interests against the people is quite likely to remain classical as an illustration of what the law can do to make plunder easy and justice difficult. A committee of the New York Legislature, after painstaking investigation and with every wish to be fair in the premises, found that the Gas Trust could make gas at 60 cents a thousand. To allow the monopoly to raise its price to 80 cents, on the facts found by the committee, fixed the price at 80 cents a thousand. This is a net profit of one-third, or 33-1/3 per cent.

A farmer who could make such a return as this from his investment by dint of 16 hours work a day and no holidays or Sunday rest, and with joy, but the Gas Trust called it confiscation. Such are the different ideals which those acquire who live respectively on their own work and on the work of others. Following the invariable rule of all the big miscreants when they get into trouble, the Gas Trust hid itself with a rail of woe to the Federal Court and there the Trust found comfort and consolation. The court hastened to cast over the shivering shoulders of the monopoly an injunction, that mantle which warms and soothes so many bereft pirates and shields so many rascals from the strokes from threatened punishment. The injunction forbade the officers of the State of New York to enforce the legislative act which set the price of gas at 80 cents and permitted the monopoly to charge its old price of \$1. The difference between the old price and the new price was to be paid in trust to be restored to the consumer when the court has made up its mind whether the rate of 80 cents a thousand is confiscatory or not, if it ever does. The opposite question whether the old rate of \$1 confiscates the property of the consumer of course does not disturb the judicial serenity in the least.

This case is of more than local interest because it illustrates clearly the distinction between proper and improper use of the Federal authority, and the attitude of the trusts in each instance. The proper use of Federal authority, that is in matters which are beyond the adequate control of the states, is bitterly resisted by the trusts. When it is attempted they shriek usurpation and cry that the sacred doctrine of state rights is infringed. Thus the Federal authority to regulate the railroads, to oversee the transportation of food products and to check the evil of child labor is denied by every predatory corporation in the country. While, on the other hand, all these interests are a unit in asserting that the Federal Courts have authority to override state legislation in matters purely local, though common sense declares that this ought to belong to the states exclusively. Herein is the beauty of monopolistic consistency. Where the Federal Government could advance the public welfare it has no authority, where the states could act in the interest of the public they also have no authority. Thus the monopolies, should the trust theory prevail, are altogether without restraint and may plunder with a free hand. It is this contemptuous nullification of proper state legislation by the Federal Courts which constitutes the real danger to our institutions. The exercise by Congress and the President of the authority to regulate matters of national concern can never have such an effect. Federal regulation of rates, most inspection and the like can not

hinder the states from making such rules as seem proper within their own boundaries. Such exercise of national authority in no wise diminishes the just prerogatives of the states. But when a Federal judge has a stroke of his pen annuls a duly enacted law of a state Legislature then he not only contemns the legitimate authority, or right, of the state but he contributes to bring all law into contempt. Who will respect state laws when a single judge, without the formality of investigation even, can annul or suspend them as if in comparison with the profits of a trust they were utterly insignificant? When the judges act as if the state laws were trivial and presumably null, what must we expect from private citizens and corporations? Who will respect laws if its appointed administrators and guardians treat it so flippantly?

The Federal Judge does not even think it worth his while to investigate the constitutionality of the New York statute. He suspends the law as a matter of routine, at the instance of the trust, and delegates the task of investigation to a subordinate, a "master," so-called. And this person is to decide whether the Legislature of the first state in the Union was or was not competent to do its duty. We do not comment upon these phases of the matter from those ardent champions of state rights who are so disturbed at the usurpations of the President and Congress.

MR. DAVEY AND THE RAILROADS.

It was not good policy nor proper courtesy nor the honest truth for the Oregonian to have been chosen as the opponents of the appointive feature as "railroad forces." If the bill should be defeated, it will be because of the blundering tactics of its friends. By its blundering friends we do not mean its supporters in the House or Senate, but the putative author of the measure. We mean the lobbyist and aggressive lobby from Portland, led by Mr. Teal. This lobby has cared a great deal more, apparently, to turn the machinery of the commission over to the Governor than it has to get an effective measure on the statute books which would give the people a direct voice in the matter through an elective commission.

Speaker Davey, for example, is insolently and falsely characterized by Mr. Teal's Portland organ as the leader of the railroad forces. No newspaper that knows Mr. Davey and desires to do him justice would have been betrayed in making such a statement. It is not true. He is an independent, vigorous and honest man who is not to be influenced by improper railroad representations on the one hand, nor by the malicious falsehoods of a lying newspaper on the other. The representative of the people who would have been justly proud to have been chosen as a member of the commission, shall or shall not have power to appoint the temporary commissioners. After Chamberlain all are willing that the people are to elect. But why Chamberlain? Because, of course, certain interests desire that he shall continue in office. There is no other reason. If the bill is enacted, it will be because of this strong effort to make a political matter out of a measure that should be entirely divorced from politics and left absolutely to the people.

WALL STREET'S AILMENT.

Wall street has for some time been feeling a growing stringency in the money market. The stringency came at a bad time, for the railroad forces in the "street" have been preparing to finance some big loans for improvement and construction work. With the country turning off the most valuable crop of agricultural products that we have ever marketed, with every factory in the land producing over time, and with employment at good wages of every man who cares to work, it seems somewhat strange that there should be a tight money market in the financial headquarters of the country. The existence of this stringency, however, has been explained by the fact that Wall street thimblebargers and defenders of corporation abuses as an excuse for belaboring the Government for endeavoring to correct some of the abuses and regulate the movements of some of the big corporations.

New York, it is said, is experiencing difficulty in securing the money needed for flotation of some of her new schemes or for building of new railroads. It is not the fault of the men who are working earnestly for corporation reform. The blame rests solely with the men who are now suffering from the effects of the stringency. The head of a family who has something for nothing in short weight here and short measure there, day after day, month in and month out, surely has a grievance in the matter, and the grievance the Legislature now sitting at Salem is asked to redress by a clause in the pure food law which requires the grocer to give full weight and measure in package supplies as he is presumed to do when selling in bulk.

If the bill that provides for true net weight labeling of all trade packages and bottled goods becomes a law a can of sardines, for example, will have to be labeled with the exact weight of the sardines it contains. And why not? Replying to this question a prominent retail grocer of this city says: "We can't take time to label all the trade packages and bottled goods that we handle. It may be submitted that the honest man should be allowed to take to conduct his business in accordance with the simplest precepts of honesty. Selling goods short in weight and measure is taking, under the cloak of business expediency, money from the pockets of purchasers for which no return is given. Such an act, when practiced by the vendors, is held to be in direct violation of the eighth commandment—an interdiction that is reiterated in law and the violation of which is followed by penalty in every civilized land under the sun.

The bill upon the just and unjust alike, so that companies which have always been conservatively managed suffer for the sins of their weaker brethren. Just how long it will take the fever of financial stringency, which has followed the numerous speculative debauches of Wall street, to subside is uncertain, but the situation at present is so chaotic that it seems a certainty that a good many of the profits of previous "melon cuttings" will be absorbed in tiding some of the schemes over until the confidence of the public is regained. There is nothing seriously wrong with the country, but Wall street is suffering from the too rapid absorption of ill-gotten gains.

OBJECT LESSON IN SHIPPING.

The advertising columns of The Oregonian contain a notice reading as follows:

FOR SALE—THE CLIPPER IRON BARK Melanoe, partially dismantled, as she now lies at Astoria, Ore., ready to receive weight of cargo or 1,435,000 feet of lumber; hull in perfect condition, etc.

Herein might be scented an opportunity for some local capitalist to seigniorize a bargain in shipping. The Melanoe, with eight masted, to her rigging, can again be made a 100 Al ship. She has in the past carried numerous cargoes of Oregon wheat to foreign markets, and has also carried much lumber from Pacific Coast ports. She is today one of the speediest sailing ships afloat, and it is not unlikely that she will be a credit to any flag under which she will sail. And the price at which this fast, staunch freighter will be sold will not exceed \$15,000.

With such a rare bargain in shipping property it might be expected that the Portland capitalists would all rush down to Astoria when the ship is sold Friday and bid on the craft. But they will not do so. Our beneficent laws, which prevent admission to American registry of any vessel not built in this country, make this Melanoe bargain available to the British, Germans, Japanese and all other nations on earth, but our own citizens are denied the right to purchase cheap ships which will admit of their successfully competing with other nations. In consequence the Melanoe will be bid in by some one who will direct the vessel over her. We have under the American flag a few metal ships of similar age, style and build to the Melanoe.

These vessels were smuggled in against violent protest when Hawaii became an American dependency. They are easily worth \$20,000 apiece. In fact, would sell in the open market, for that figure today, as they are paying handsome profits on that valuation. Just at present they are making enormous profits in the coastwise trade, but as soon as that slackens up again, they will drift back into the coast trade in competition with the cheap ships of other nations. We will find the \$15,000 Melanoe paying good dividends on a freight rate which would be ruinous for American vessels representing a valuation from three to five times as great.

The merchant paying \$100 per month for the same privilege of sailing in the same line of trade as his neighbor who pays but \$35 per month, will, under the stress of sharp competition, be bested. If he followed the policy of the ship subsidy grafters he would immediately demand Government assistance to make profitable a practically impossible business. If he obeyed the dictates of common sense, and displayed American independence, he would at once rent \$25 quarters and be on even terms with his competitor. Some day America will enter the shipping business, but not until we are afforded the same opportunity as was afforded the British, who were granted our competitors.

A QUESTION OF SIMPLE HONESTY.

The question of giving full weight and measure in grocers' supplies is one of simple honesty in business dealing. It is discreditable to a civilized people that a law compelling the observance of this principle of equity between seller and buyer is necessary for the protection of the latter. Why, instead of making provision for such pounds of land and receives pay therefor at a stipulated price per pound, furnish but four pounds, or even a fraction less than five pounds? Why should the purchaser of five pounds of crackers pay for the cardboard box in which they are put up the same rate per pound that is charged for the crackers? And why should a law that provides that the package, pail, can or bottle in which grocers' goods are sold shall contain full weight or measure in the contents work, as it is contended that it will, "a hardship" upon the dealer?

Even granted that it would work a hardship on the dealer, what is to be said about the hardship that short weights and measures work upon the purchaser? The rights in these premises are surely not all on the side of the grocer. The purchaser has a right to head of a family who has something for nothing in short weight here and short measure there, day after day, month in and month out, surely has a grievance in the matter, and the grievance the Legislature now sitting at Salem is asked to redress by a clause in the pure food law which requires the grocer to give full weight and measure in package supplies as he is presumed to do when selling in bulk.

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The newspaper stories of our bar pilot and tug service at the mouth of the river for many months have indicated quite clearly that the port was suffering a handicap which should be remedied. There has been a shifting of blame, and with tug and pilot interests conflicting at times, it has been impossible to accomplish much in the way of reform. The Port of Columbia is now before the Oregon Legislature was drafted for the exclusive purpose of maintaining an efficient economical tug and pilot service at the mouth of the river. We have reached a point in

our maritime growth where it is absolutely essential that port charges should be no higher here than at the ports whose competition we are beginning to feel. It is impossible to reduce our charges, under the existing order of things, and, if the Port of Columbia bill cannot be passed, we should at once abolish all compulsory pilotage. The service at the worst would not bring the port into any greater disfavor than that in which we now stand with the foreign shipowner.

The bills of Senator Miller, of Linn-Marion, providing for the establishment of a state institution for the feeble-minded and for its support for the ensuing two years are measures that commend themselves at once to the humanitarian and the social and political economist. In common humanity these creatures should not be classified and domiciled with the insane; they should not be permitted to run at large or remain in their own homes, since they thereby become a menace to the community through their liability to propagate their kind and through the burdens that they add to thrift by their inability to take care of themselves and their witless progeny. It is clearly the part of wisdom to segregate these people and place such restriction upon them as will prevent their multiplication, and as clearly the part of humanity to take care of them and teach them such simple industrial arts as they may apply to their own support.

The effort to secure the repeal of the law prohibiting crimping sailors for the sailor boarding-house business in this port is now conducted in a more satisfactory manner than ever before. Mr. Stoddard, of San Francisco, and Mr. Fursmith, of San Francisco, who at heart is seeking repeal of the law, but it will not be so easy to get credit of our port if we open a way by which sailors can be enticed from foreign ships for the purpose of filling berths on coasters. A repeal of the existing laws would be a step backward to the days of Jim Turk, Bunco Kelly et al. Mr. Stoddard, of San Francisco, will need to advance some stronger argument than that "corresponding Federal statutes have long since been repealed" and that the present law is "useless." It has at least had the effect of checking the wholesale desertions which in the past have placed a dark blot on our port.

Sheepstealing is one of the most profitable industries of this state. Why not let the sheep barons take measures to protect their flocks from the predaceous coyote and the skulking mountain lion and pay for such protection out of the profits of their business? Why should the people of the entire state, of any portion thereof, be taxed to protect a single industry, and one that turns out millionaires every year? Why should the pests of sheep bandits be exterminated or checked at the public expense, and horticulturists compelled to fight at their own expense the pests of their orchards? Why should the wheatgrower be left unaided to guard against snail and weevil out of the income from his crops and the public be taxed to destroy the enemies of the woolgrower?

The pressure of damage by freezing to the extent of 50 per cent of the plants in some of the yards of the Willamette Valley is, no doubt, premature. It is difficult at this season of the year to pass upon the vitality of dormant roots well buried in the soil. The probability of life in roots thus protected for outweighs the possibility that they have been killed by freezing. It is as yet too early to decide this question with any degree of accuracy. This being true, and it being also too early to plow up the hop yards and reset them or plant them to some other crop, it is the part of wisdom to withhold discouraging prognostications.

The escape of a number of "boys" from the Reform School, the leaders of whom were practically grown men, with seemingly an uncontrollable tendency toward evil ways, suggests the possibility that the quality of humanity has been trained in dealing with truants. The Reform School is for wayward boys, not for grown men eager for a chance to commit crime.

An indignant Portland woman chased her errand husband for eight hours and caught him just in time to prevent his elopement and to elude the other woman's face. It is understandable why she might want to have a little interview with the other woman; but what does she want with such a husband?

The loafers around that Woodburn saloon who drove the Japanese section hands out of town and who have got a little public sympathy if they had wanted the jobs themselves. But they didn't. They simply wanted the Japanese not to have them.

We really wonder if Mr. Joey Teal and his disinterested associates would have been so poorly instructed in an appointive railroad commission if Mr. Withycombe had been elected Governor, or Mr. Geer? We wonder.

The President doesn't seem to understand that Mayor Schmitz and other fellows peddling indicted and indicted are ambassadors extraordinary from Washington from the sovereign state of California.

It was persistently rumored on the streets yesterday that Senator Hodson, of Multnomah County, will be the grand old man of the local legislature to deliver the next St. Patrick's day oration.

All the Democrats in the state Senate think the Governor should appoint the railroad commission. Sure. But how did the Democratic party in the House get away?

Mr. Teal, it seems, wanted one railroad commission bill, and the Legislature is disposed to enact another. There are 80 mighty stubborn men in Oregon.

STAND BY THE BURNS BILL.

Mr. Myers Supports Measure in Interest of Fair Dealing.

PORTLAND, Feb. 12.—(To the Editor.)—Every just-minded person in Portland ought to rally to the support of Burns' honest food and trade bill, though I see a few interested parties are opposed to it. But why should any honest dealer apologize for the practice of defrauding his customers by short weights and measures? That practice is robbery. Nothing else can be made out of it, and it is surprising that any one should attempt to defend it.

One retailer of groceries is represented as saying in defense of the manufacturers, that "There was no attempt on the part of the manufacturers of those goods to defraud or deceive the public." He may believe that statement, but few of his customers will. If the manufacturers are innocent, how is it that their weights and measures are always short and never too long or too heavy? Do things "happen" in that way? The argument is too thin. Does this dealer think the people are "chumps," to be put on labels in accordance with their provisions. Very well then, let them stay out of this market. The people here can live without them and their products. It is hard to think it, but it is true, that the law, and robbers of whatever grade or profession ought to be compelled to obey it. Still another apologist for the practice of short weights and measures says, "It is an important line of trade, says 'It will inconvenience dealers.' This is too bad! 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