MAYER WOULD USE TARIFF AS WEAPON

Suggestion Offered That Reduced Duties Would Regulate Competition.

PRESENT LAW CRITICISED

Avarice Which Inspires Creators of Combinations Declared to Exist Equally Among Those Who Condemn Them.

(Continued From First Page.)

the cost of every commodity. Why should there be a distinction in social, economic or legal conditions between labor combinations on the one hand and those of manufacturers on the other?

No American Legislature attempts to make illegal a combination among wage workers for the purpose of obtaining a reasonable or unreasonable increase in wages or a decrease in hours of employment. No court in this country pronounces unlawful any such contracts. Not only do the courts not decree such agreements unlawful, but in a number of the states there are positive statutes to the effect that such labor combinations are legal.

Similar Methods in Use.

Upon what theory of economic equality can a law declare illegal the contract of manufacturers of oil or of manufacturers of tobacco, to raise the price of their product, while similar agreements among their workmen are authorized and upheld? To accomplish their respective purposes, we have the fist, brass knuckle and gun of the striker and picket and the different contrivances of the trusts by which they fix prices and limit production, so that the pathway of the combination, whether it be that of labor or of capital, is, in the words of Chief Justice White, "strewn with the wrecks resulting from the crushing out, without regard to law, of the individual rights of others."

The anti-trust act was passed July 2, 1890. Since that date it has been before the Supreme Court and the lower Federal courts many times in various phases and angles. This is neither the time nor the place for a technical analysis of the meaning and interpretation placed by the courts upon that statute.

Nor is this the occasion to suggest, much less discuss, the question whether the Standard Oil and Tobacco decisions do or do not depart from the language or doctrine of earlier decisions of the Supreme Court.

Cases Must Be Tried Separately.

It is sufficient that the court has held definitely and finally that only those combinations and trusts that unduly or unreasonably restrain interstate trade are illegal. Only those contracts which are "unreasonably restrictive of competitive conditions," and that have "not been entered into or performed with the legitimate purpose of reasonably forwarding personal interest and developing trade," are pronounced by the Chief Justice to be within the inhibition of the anti-trust act.

To make contracts or combinations illegal there must be "undue restraint of interstate or foreign commerce."

Chief Justice White has said that though the anti-trust statute does not specify, it indubitably contemplates and requires "a standard" and that it was intended by the statute that "the standard of reason" should be the measure used for the purpose of determining whether in a given case a particular act has or has not brought about the wrong against which the statute provides. To quote the words of the Chief Justice, the anti-trust act leaves it "to be determined by the light of reason . . . in every given case whether any particular act or contract was within the contemplation of the statute." In other words, each and every case must stand on its own facts.

Decision Must Be Awaited.

Few, if any, decisions rendered by the Supreme Court during the last 40 years have produced more discussion and found more champions arrayed against each other. Without entering into an analysis of the merits or demerits of these contending forces, the fact remains that no corporate official today can know positively whether his own corporation comes within the range of the law until he has had a final decision from the Supreme Court.

The suit against the Standard Oil Company was begun on November 15, 1906. It was decided by the Supreme Court May 15, 1911. It was in the courts for exactly four years and six months. The tobacco case was begun July 19, 1907, and decided May 29, 1911—a period of three years and ten months.

It is therefore entirely accurate to say that the officers of no one of the great number of big corporations engaged in interstate commerce (and all such are subject to possible suit by the Government) will be able to know with complete certainty (until each particular case has been finally decided, and this will take at least several years) what the outcome will be, if there be an attack under the anti-trust act.

Criminal Trials Even Worse.

But aside from this intolerable doubt as to commercial consequences there is the still greater fear arising from the uncertainty of an attempted enforcement of the criminal provisions of the act, which subjects offenders, if found guilty, to the possibility (if the criminal provisions of the law be upheld) of a year's imprisonment for every separate offense. In such a plight there ought to be some method of relief at least worth trying.

Under the doctrine thus announced the heads of big corporations are in constant jeopardy of a sudden attack and criminal prosecution. There is no fixed standard by which one can with certainty govern his conduct. The industrial world is at the mercy of the Secret Service men and of the Department of Justice.

The fundamental requirement of all law and order is precision and definiteness. Before the rendition of the decision in the Standard Oil and Tobacco cases, President Taft was of the mind that the doctrine which the Supreme Court subsequently adopted would precipitate disaster.

Quotes Statement of Taft.

Mr. Taft said on January 7, 1910: "To leave to the court to say what is a reasonable restraint of trade, what is a reasonable suppression of competition, what is a reasonable monopoly . . . is to put into the hands of the court a power impossible to exercise on any consistent principle which will insure the uniformity of decision essential to just judgment. It is to thrust upon the courts a burden that they have no precedents to enable them to carry, and to give them a power approaching the arbitrary, the abuse of which might involve our whole judicial system in disaster."

This saying is just as wise today as it was before the recent decisions of the Supreme Court were announced. The science of government and of law and of business has not changed in the short space of 15 months.

Federal police and Secret Service men at any moment may suddenly take charge of any of the big industrial enterprises of the day. It is time that we be rid of these spies and watchmen. With them business cannot flourish.

Suggested Some Changes.

To meet the emergency I would suggest a few remedies that correlate with each other and which to me would seem to promise certainty where uncertainty now exists, and restore confidence where misgiving and apprehension prevail, and substitute stability for instability in the business world.

1. Place power with the President scientifically to reduce the tariff and, if necessary, remove it entirely from all imported articles that can be sold on a competitive basis with the products of trusts and monopolies.

2. Enact a Federal incorporation law, under which all corporations engaged in interstate trade may become incorporated. That law should contain provisions for visitation and examination similar to those now in the National bank act and in the regulations of the Controller of the Currency. Such a law should not be compulsory. Every corporation availing itself of its provisions should be permitted to abandon and surrender its state charter. Every such Federal corporation should be given rights, powers and privileges in every state similar to those now enjoyed by National banks, free from the harrowing, conflicting and oppressive statutory provisions and burdensome taxes that prevail in all of the states against foreign corporations doing business therein. These grinding state laws have frequently been the controlling reason why corporations have organized local and subsidiary companies and acquired their capital stock.

Federal Corporations Exempt.

3. Remove every such Federal corporation from subjection to the anti-trust act. In other words, expressly provide that the provisions of that statute shall not apply to Federal corporations but shall continue to apply to those not availing of the Federal corporation act. Give to every Federal corporation the unrestricted and untrammeled right to contract and to enter into any kind of trade agreements pertinent to its business. As a consideration for such freedom provide that every such Federal corporation shall be required to pay into the United States Treasury annually at least one-half of its net profits, after providing for all fixed charges, interest payments, depreciation, maintenance, and a dividend say of 7 per cent on all outstanding stock.

In order to avoid the payment of dividends on watered stock, provide that a department of the Government, a Federal corporation commission, shall have the right to determine to what extent the issued stock of any such corporation is in excess of the fair value of all of its property.

In this way there will be no statutory penalty on business progress and ambition, or on commercial genius. Corporate officers will then continue with increasing efforts to develop and enlarge their industries and fields of activity.

Government Will Gain Profit.

The Government will obtain through its share of the net profits a constantly increasing revenue which soon should admit of the repeal or reduction of many of the onerous and unfair Federal import duties and other taxes.

In fact I believe that under such a law the income of the Government would soon grow to such proportions as to meet not only its ordinary expenditures but to permit the building of National roads and the dotting of the country with great parks and other public improvements.

Let the Government, instead of fettering or shackling the tremendous and limitless resources, energy, and strength of our industrial world, turn its fruits into paths of profit and usefulness for all of the people.

DIVORCE SUIT IN TANGLE

Reconciled Couple Forget to Tell Attornies of New Situation.

TACOMA, Wash., Nov. 14.—(Special.)—Reconciled and again happily living together at Portland, Helen and Robert St. Clair, colored, are having difficulties in getting a suit for divorce, recently begun by the wife, thrown out of court.

While the case is pending, the husband, said to be worth $40,000, is restrained from disposing of any of his property. Attorneys for St. Clair appeared in court today and moved that the restraining order be discontinued. The attorney for the wife was on hand, however, and said he had received no notice from his client to drop the case, and asked for a continuance pending instructions from Mrs. St. Clair. Judge Card granted a continuance for ten days.

The total value of the mine output of gold, silver, copper, lead and zinc in the Eastern or Appalachian States for the calendar year 1910 was $10,127,804, against $11,818,631 in 1909.

LONDON ACTRESS IS PRETTIEST GIRL WILLIAM ROCKEFELLER EVER SAW.

Gracie Leigh.

LONDON, Nov. 14.—(Special.)—William Rockefeller, who is in London on a brief vacation for the benefit of his health, has become interested in a young woman he describes as "the prettiest girl I ever saw." She is Gracie Leigh, and she has a minor role in the London production of "The Quaker Girl," a comic opera also being given on the other side of the Atlantic. Miss Leigh never attracted great attention. It remained for the American millionaire to discover her attractiveness.

It has been reported that Mr. Rockefeller came to Europe to undergo an operation. Nothing has been heard of this recently, however. Mr. Rockefeller is enjoying himself.

TALESMEN IN LINE TO BE CHALLENGED

Day in McNamara Case Only Adds to Number to Be Excused Later.

TROUBLE APPEARS EARLY

Member of Venire, Aged 75, Baffles Lawyers, and Another Who Has Talked to Wife Is Scheduled for Dismissal.

LOS ANGELES, Nov. 14.—By twists and turns the McNamara case sailed slowly ahead today, weathering snags old and new, until the inventory of the day disclosed at adjournment three sworn jurors, eight talesmen passed for cause by both sides, and a 12th man passed by the defense, though still under examination by the state.

James B. McNamara sat with his chair a-tilt and a smile of amusement on his face as counsel for both sides tossed about in apparent dissatisfaction with some of the talesmen, yet unable to find ground for challenge and thereby compelled to leave them in the box to await elimination by peremptory challenge.

Real Progress Doubtful.

Though William J. Andre, a carpenter, and T. H. Elliott, an aged gardener, joined the "talesmen club" today and left only one seat in the box undecided before the process of peremptory challenges again will be in order, both were passed after examinations, which, though not providing sufficient ground for challenge for cause, convinced counsel for the defense that they would better use peremptory challenges against them. This was admitted tonight by Clarence Darrow, chief counsel for the defendant, and it is known that against four or five of the others added to the box since the three sworn jurors were secured a week ago peremptory challenges will be exercised. Except for exhausting a part of the supply of peremptory challenges, therefore, the progress resultant from the present personnel of the jury-box is doubtful.

Talesmen M. W. Corcoran, who was passed quickly by the defense after he had related that he read little and knew less about the case was taken in hand by the state just before court adjourned and there is a possibility that he will be accepted by the prosecution and that peremptory challenges will be in order early tomorrow.

Talesman Talks to Wife.

Kinks in the progress of events began to appear when Talesmen Andre did not come up to the expectations of Attorney Lecompte Davis, of the defense, on interrogation. In a big book before him, in which is contained advance information about the talesmen, Attorney Davis had a statement that Andre had made to his wife, declaring the McNamaras guilty.

On the stand Andre said he had not discussed the case with anybody or formed any opinion, so that after a vain search for ground for challenge, Attorney Davis passed him though he let it be known outside of court that Andre's peremptory challenge surely would be used against him.

Another thorn to smooth progress was furnished by T. H. Elliott, who spoke unintelligibly at times from out of a profusion of beard. Seventy-five years he had lived and had never expressed an opinion about any subject with which he was not entirely familiar, and, the McNamara case being no exception, he declared himself open-minded on the question of the guilt or innocence of the defendant.

Counsel Is Baffled.

He pointed out how frequent service on juries had taught him that a man must be presumed innocent from the start. Counsel for the defense, though maneuvering about for awhile to ascertain the state of his mind, regardless of prospective jury duty, and to pin him to a definite expression as to the effect on his mind of his reading about the case, finally abandoned the task and passed him for cause, though here, too, the defense informally expressed its intention of using a peremptory challenge.

The next tangle of the day came when Burton B. Collins was on the stand. He came originally from Troy, N. Y., and is a cousin of Cornelius V. Collins, who was prominently identified with the contest waged by President Roosevelt for the control of the Saratoga convention, which nominated Stimson for Governor in New York State. Collins is the head of a tile and marble manufacturing plant here, and employs a hundred men. He disclosed the fact that, as a member of the Merchants' and Manufacturers' Association, he had contributed to funds other than dues, but that he supposed it was to further the efforts of the association in its contest for the open shop. Asked if he knew whether any funds had been used toward investigating the Times disaster, he declared that he did not know, but that he would not have contributed for such a cause. Collins said he had had difficulties with labor unions and was prejudiced against them.

His opinion about the case simply extended, however, to the notion that the Times building was dynamited through the instrumentality of the unions, but he had no idea as to whether the McNamaras were guilty or not.

Personal Inquiry Disqualifies.

Counsel for the defense delved deeper into Collins' views as to the cause of the disaster and emerged finally with the information that Collins had seen the twisted beams and crumpled girders of the wrecked building, and this had strengthened the opinion he earlier had formed that a powerful explosive destroyed it. Personal investigation of the wreckage hitherto has disqualified talesmen, and the court allowed the challenge against Collins on this ground, although the state raised a point—not now in the trial, yet about which there has been sporadic argument—namely, that a man believing the Times to have been destroyed by dynamite does not necessarily hold the McNamaras guilty.

Judge Bordwell explained that he did not mean by this ruling on Collins "to foreclose argument on the subject," and would hear it either when the point arose again, or at the convenience of counsel.

Collins, however, was permanently excused.

Fowler Hopes to Start Today.

EL PASO, Tex., Nov. 14.—Aviator R. G. Fowler spent today overhauling his aeroplane, preparatory to resuming his flight eastward. Fowler announced that he had abandoned plans for an exhibition flight here and that with favorable weather, he would start tomorrow for Pecos, Tex., 200 miles distant.

Jerusalem has evicted its dogs and introduced the latest sanitary devices.

BONDS MADE SAFE

Way Found to Hold Postal Securities at Par.

FIRST SALE STIRS ACTION

Investment of 30 Per Cent of Deposits, However, Is Expected to Protect Investors — System Held in Jeopardy.

WASHINGTON, Nov. 14.—As the result of the first sale of postal savings bank bonds in New York recently at the low rate of 92.5, the trustees of the postal savings banks are considering the adoption of prompt methods to maintain the securities at their face value.

They will announce their willingness shortly, it is expected, to invest in these bonds at par the 30 per cent of postal savings deposits which the law places at their disposal for investment "in bonds or other securities of the United States."

Parity Virtually Assured.

This, it is pointed out, would virtually insure 100 cents on the dollar to the holders of these bonds at any time during the 20-year life of the securities. The low price for which the first bond was sold created surprise in Government financial circles. If 92.5 could be accepted as a criterion of the market value of the investment, the trustees believed the success of the postal savings system would in large measure be placed in jeopardy.

While the bonds are as good as gold at maturity, it could hardly be expected, it is said, that there would be any extensive investment in them if there were a probability that in case a holder had to surrender them before the expiration of 20 years he would lose 7½ per cent of his principal.

President Can Retire Bonds.

If the 30 per cent at the disposal of the trustees should be insufficient at any time to maintain the parity of outstanding bonds, it is pointed out that the law authorizes the President to direct the withdrawal of 65 per cent, or all but 5 per cent of the remainder, for investment in bonds or other securities of the United States when in his judgment the general welfare and interests of the United States so require.

The postal savings bank law authorizes the Secretary of the Treasury to redeem United States bonds subject to call and reissue them to the postal savings bank trustees up to the 30 per cent they are authorized to invest. The only bonds of this character now outstanding are United States 3s, and, before the postal savings bonds situation developed, it had been generally understood that the trustees would invest in these securities.

In buying the postal savings bonds, which bear only 2½ per cent, the postal savings investment would lose one-half of 1 per cent. This, it is argued, is insignificant, compared to the maintenance of the parity of the postal savings bonds.

Miss Anna Willis Williams, the original "Miss Liberty," whose profile adorns the silver dollar, has been for the last 12 years at the head of the kindergarten system of Philadelphia, her native city.