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STATE  
CONTROL OF TRUSTS.

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## STATE CONTROL OF TRUSTS.\*

THE common use of the term "Trust" is not marked by any scientific precision but rather conveys an abusive by-meaning. Here we shall use it to denote all organizations designed to control competition, whatever be their form, and whether intended to be temporary or permanent in duration. It thus includes not only the huge amalgamations of many businesses, where the original firms are replaced by one permanent company, but also the temporary syndicates, associations, or kartells, where the associated manufacturers bind themselves by private penalties for specific objects for definite periods of time, but otherwise retain their separate individuality. Whether they are simple associations to fix rates of discount and terms of delivery, or price associations, or syndicates to pool output, or associations to concentrate the sale of the products of the combining firms, these terminable associations are marked by the surrender of a progressively increasing share of independence, of freedom to compete. At last, with the amalgamation, we have the complete extinction of competition.

### The Abolition of Trusts.

Such a thorough reversal of the industrial principle, whereby the benefits of improvements passed to the consumer through the rivalry of competing producers, could hardly be received with favor; and it is not surprising that the first impulse has been to prohibit the new development as dangerous to the community. Destructive legislation has completely failed. In Austria kartells have sometimes disguised themselves as scientific associations in order to evade the law. In the United States anti-trust legislation has been voluminous and futile; when the original "trust" form was declared illegal it gave way to the company form, which so far has shown itself impregnable. The Sherman Act of 1890 and the supplementary Act of 1894 forbid all combinations in restraint of interstate or foreign or import trade, all attempts at monopoly of interstate or foreign commerce, and all contracts intended to restrict competition in or increase the prices of imported articles. Twenty-seven States and territories have passed laws against monopolies, and fifteen have anti-monopoly articles in their constitutions, while others rely on the common law. In the Addyston Pipe case of 1899 the combination of manufacturers in different States to fix prices was declared illegal under the Sherman Act, and similar combinations within a State have been suppressed by State laws. Even then a verbal understanding, "a gentleman's agreement," remains unaffected, even though it is as tyrannous as that of the six Chicago packing-houses, the so-called "Beef Trust." The large amalgama-

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Trusts, Industrial

tions have escaped unscathed ; except that in Illinois in 1899, on the petition of several shareholders in the American Glucose Co., an agreement to sell out to a new corporation, the Glucose Sugar Refining Co., was set aside so far as concerned the American Glucose Co.

### Trusts and Railways.

The direct attack having thus failed, attempts have been made to destroy trusts by removing their supposed causes. The Final Report of the Industrial Commission of the United States says : " There can be no doubt that in earlier times special favors from railroads were a prominent factor, probably the most important factor, in building up some of the largest combinations." In order to prevent such discrimination the Inter-state Commerce Act of 1887 was passed, prohibiting the combination of railroads for the pooling of freight or to prevent through shipment of goods. It also, to quote the above report, " places upon inter-state carriers a prohibition against unjust or unreasonable rates and against unjust discrimination, but otherwise leaves them as free as they were at common law to make special contracts looking to the increase of business, to classify traffic, to adjust and apportion rates so as to meet the necessities of commerce, and generally to manage their own business in their own way. The commission appointed under the Act is not authorized to fix rates. . . . But its powers as thus defined are not extensive, and perhaps the criticism of Mr. Justice Harlan is justified, that ' it has been shorn by judicial interpretation of authority to do anything of an effective character.' " President Roosevelt now proposes legislation to prevent secret rebates and unjust rates, but he has to face the vehement opposition of the millionaire party, and there is no security that the administration of the new law will be more efficient than that of the old. Preferential railway rates may favor the growth of trusts, but their absence does not prevent it, as is shown by the spread of combination in Germany where the railroads have been nationalized, and in Britain where discrimination is illegal.

### Causes of Combination.

The most popular view of the origin of trusts is that which declares, with Mr. Havemeyer of the Sugar Trust, that " the tariff is the mother of trusts." In one sense this is true, where the industry itself has been created by a protective tariff, but as a general proposition it is incorrect. Some of the most successful American trusts, like the Standard Oil Company, owe nothing to the tariff, and our own British combinations have, of course, grown up under free trade. The truth about the tariff is that it creates the home industry, and by making high profits possible behind its protective wall attracts an unnecessary number of manufacturers into the trade, whose violent competition produces such a state of things that combination is the only outcome.

There are two main causes of combination, the attempt to escape from the consequences of excessive competition, and the desire to realize the economies of large-scale production. From their opera-

tion we cannot escape, and we must, therefore, regard the limitation of competition as a natural development culminating in the production of private monopoly, either complete or partial. Such monopoly is marked by the unified control of business over the whole or a part of the industrial field, and is specially directed towards prices. Only the socialist welcomes this result, and he only because he sees himself in the position desired by the Roman tyrant who wished that all his enemies had but one neck. It is not enough to dismiss the problem with the dictum that public monopoly must supersede private monopoly. For such a conclusion the public mind is not yet prepared, nor is the State machinery at present fitted to cope with industrial administration. If we believe that in the end industry must be managed by the State, we must prepare the way by the gradual development of control; if, on the other hand, we hold that the organization of industry must remain in private hands, we must purge it of manifest evils. In either case we must guide our action by the endeavor to maintain the advantages of the unified control of industry, and these, over and above the usual economies of a large business, are the prevention of the waste of competition, the specialization of plants, the better organization of talent, the application of all the expert knowledge in a trade to every establishment in the trade, and the better organization of sales.

#### Trusts and Prices.

Apart from any injury which may be done to the State in its corporate capacity, there are four classes of persons who may be damaged by a trust—the rival producers, the consumers, the employees, and the investors. With the first of these we are only concerned so far as an injury to them may lead to greater loss to the consumer, or where the methods of competition offend against the public sense of honesty. Their interests and those of the consumer can be treated together in relation to the general policy of trusts with regard to prices. The common belief about trusts is that they exist for the purpose of forcing up prices, and every rise in the price of an article produced by a trust is regarded as an exercise of their malignant power. The advance which almost invariably follows the establishment of a trust is adduced in support of this belief, regardless of the fact that comparison is made with prices so low as to be unprofitable. An increase in such circumstances is quite as justifiable as one motivated by a rise in the cost of raw materials. Nevertheless, it must be admitted that the hope of securing higher prices is one of the chief inducements to combination, and the extent to which this can be done requires our attention. The law of monopoly price is that the monopolist will charge not the highest price, but the price which will call forth the demand productive of the largest net revenue. The maximum profit, being thus a function of two variables, may be produced by different combinations of these, but the motive which will cause the monopolist to prefer a larger supply at a lower price to a smaller supply at a higher price is the fear of creating competition. Mr. Havemeyer

put the matter quite bluntly to the American Industrial Commission when, after declaring that he did "not care two cents for your ethics," he said: "As a business proposition it is right to get all out of business that you possibly can. If you get too much of a profit, you get somebody in competition." The monopolist price will be higher than that which will produce the ordinary profit gained under the rule of free competition. Thus Mr. Archbold, of the Standard Oil Company, when asked, "By virtue of your greater power you are enabled to secure prices that on the whole could be considered steadily somewhat above competitive rates?" replied, "Well, I hope so. Undoubtedly there is an ability, and when that ability is unwisely used it is sure to bring its own defeat." The degree to which competition is capable of reducing the power of a trust is strictly limited. The possibility of effective competition depends largely on the amount of capital which is required; thus, for example, it would be difficult for a new firm to compete with the United States Steel Corporation. And, so long as the trust continues to manufacture a necessary portion of the supply it can obtain its own price for it, though all the time outside producers are marketing all their product at a lower price. Thus, the Durham Coal Sales Association in 1894 was able to maintain the price of Association gas-coal at sixpence a ton above that offered by the non-associated collieries. Nor, except in exceptional cases, can reliance be placed on a shrinkage in demand, or in a shifting of demand from the trust-produced article to an alternative article. The slowness of the American coal consumers to use soft coal instead of anthracite for domestic purposes, even under the pressure of the ruinous prices of the summer and autumn of 1902, well exemplifies the conservatism of the consuming public. A trust can more quickly take advantage of a rising market and offer a longer resistance to a fall than a number of separate establishments can. It is also not under the same compulsion to give away in reduced prices the savings resulting from improvements in manufacture; in fact, the possibility of retaining these extra profits is the great inducement for a trust to seek better methods, and the Sugar Trust avowedly for years retained such profits, for, as Mr. Havemeyer said, "it was none of the public's business," and when prices were lowered that was "business policy again, and not philanthropy."

It is difficult to estimate how far there may have been an increase in prices due to trusts, or how far that has been hurtful. From the Report on the Statistics of Labor for 1901, for Massachusetts, it appears that between 1897 and 1902 the cost of living for the working classes had risen 15.37 per cent., *i.e.*, food 11.16 per cent., clothing 16.07, rent 52.43, fuel and light 9.78, the expenditure on sundries in each year being put at the same proportion of income. These increases represent the movements in retail prices, the rise in wholesale prices being 36 per cent., and both are higher than the increase in general wages, which between 1897 and 1901 was 6.6 per cent. In Germany the kartells have shown themselves guilty of far greater extortion; it is enough to quote the sugar kartell. Some have tried to measure the loss to home con-

sumers by a comparison of prices charged to home and foreign customers; thus American shipbuilders were paying \$1.65 for steel which at the same time was exported to be sold in England at 95 cents, while during the last two years the English iron trade has been disorganized by German iron dumped on our markets at or below cost price. This practice is defended by the assertion that the lower average cost of production of the larger output enables the quantity sold at home to be sold at a lower price than otherwise could be afforded. It is also the natural device of every manufacturer who tries to get a footing in a new market, or in one where he meets with strong competition, or when he has a surplus to dispose of, and is used by associations in free trade as well as in protected countries. Thus, Messrs. Denny and Co. say\* that the Scottish Plate-makers' Association is prepared to sell boiler-plates abroad at £1 per ton below the home price. On the other hand a trust or kartell dealing in raw or semi-manufactured materials may, by selling abroad at low prices, injure a home trade which works up these same articles into the finished product; thus the Gerresheim Glassworks proprietors complained† in 1901 that their trade was falling off because their foreign competitors could get German coal at a lower rate than they had to pay. Obviously, the crux of the problem lies in the justice or otherwise of the home price. An important point is that the greatest sinners in the way of prices are not the great amalgamations, but the looser associations, syndicates, or kartells. A comparison of the range of prices during the earlier iron and steel pools in the United States, or of the price policy of the German kartells, with the more conservative conduct of the United States Steel Corporation is enough to establish this fact. Indeed a temporary organization, just because it is temporary, must force up prices and make hay while the sun shines, while a permanent combination must take longer views. Nowadays all the American trust magnates profess their belief in low prices.

#### Tariffs and Prices.

Before dealing with the normal regulation of prices we must first touch on any artificial conditions which strengthen the power of trusts. The chief of these is unquestionably a protective tariff. It is that which enabled Mr. Schwab to obtain \$27 for steel rails costing \$16 a ton. In Britain we have not had to complain of trusts raising prices because we have had the foreign producer to fall back on. The "infant industry" plea no longer holds good over large tracts of industry, and it is admitted that those iron and steel products, the labor-cost of which is low, no longer require a protective duty in America. We do not need to take the extreme view that the full amount of the import duty is always added to the cost of production and so levied from the consumer; how much will be added will depend upon the interaction of the duty and other coincident factors tending to reduce prices. In Germany the tariff seems to be very fully utilized, but in America it is not to the same degree; thus the

\* *Glasgow Herald*, November 12, 1902.

† *Das Grundgesetz der Wirthschaftskrisen*. R. E. May. (Berlin, 1902.)

price of tinplate in the States has gradually approximated to the price abroad. Dr. Grunzel, the secretary of the Central Union of Austrian Manufacturers, puts the whole case very simply:\* "An industry organized in kartells can exploit a protective tariff better than one not so organized, and therefore can do with a lower import duty."

One particular method of effecting tariff changes can, however, not be approved, that set forth in a Canadian Act of 1887. If the Governor believes that prices have been unduly raised owing to the operations of a trust, he may, after causing an inquiry to be held by a Judge of the Supreme Court, reduce or suspend the import duties on the articles in question. In virtue of this Act, the tax on imported printing paper was reduced from 25 to 15 per cent. *ad valorem* in February, 1902. Similar powers have been conferred by the Tariff Act recently passed by the Parliament of the Australian Commonwealth. This method throws the whole tariff policy into doubt and confusion, and thereby inflicts serious injury on trade; and since production by trusts now extends over a very wide range of commodities, it has the grave constitutional defect of removing the most important industrial questions from the legislative to the administrative branch of the Government. The same objection applies to the introduction of anti-trust clauses in commercial treaties. If a tariff is to be altered at all, it should be altered at proper intervals, after due notice, and not too frequently, instead of in a sporadic and irregular fashion.

We may, therefore, conclude that where a tariff exists the surest way of preventing extortionate prices is to lower or abolish the import duties, and that where trusts exist in a free trade country, there are the strongest reasons against adopting a protectionist policy. Trusts we can put up with when modified by foreign competition; protection we might endure, if domestic competition kept down prices; but both together are too much for any nation. We, in this country, have already experienced what monopoly meant during the coal boom.

### Unfair Competition.

There are certain forms of price policy which are commonly adopted in the competitive world without doing very much harm, but which, in the hands of a trust, become instruments of tyranny.

There are three ways [says Professor J. B. Clark,†] in which a trust can crush an efficient competitor. The rival may be producing goods cheaply, and he may be the man who normally ought to survive; and yet the trust may ruin him. It may make use of the "factors' agreement," by which it gives a special rebate to those merchants who handle only its own goods. It may be resort, secondly, to the local cutting of prices, whereby the trust enters its rival's special territory and sells goods there below the cost of producing them, while sustaining itself by means of higher prices charged in other portions of its own field. Again, the trust may depend on the cutting of the price of some one variety of goods which a rival producer makes, in order to ruin him, while it sustains itself by means of the higher prices which it gets for goods of other varieties.

\* *Ueber Kartelle.* (Berlin, 1902.)

† "Monopolies and the Law." *Political Science Quarterly*, Sept., 1901, p. 467.

The most familiar example of the tyranny of rebates is given by the shipping rings, which have thereby inflicted enormous injury on British trade. Merchants shipping goods to South Africa by independent vessels not only lose all of the 10 per cent. rebate granted for exclusive patronage of the ring which they may have earned, but are also charged double or quadruple rates for any shipments they may be compelled to make by "ring" vessels. Messrs. Denny and Co., of Glasgow, again, recently reported an attempt made to force shipbuilders to deal only with the Platemakers' Association, by refusing supplies to those dealing with outside firms. This tyrannical conduct only drove Messrs. Denny to Germany. Other charges are that "the Associated Boiler-makers' ring . . . while holding out for inflated prices for boiler-plates, was underselling in the ship-plate market."\* In America the rebate policy was one of the most effective weapons of the Tobacco Trust, and differential prices were freely charged by it, as well as by the Petroleum, Salt, and Photographic Trusts.

The United States Industrial Commission recommended :

That stringent laws be enacted by the Congress and the several State legislatures, making both penal and criminal the vicious practice of discriminating between customers, and cutting rates or prices in one locality below those which prevail generally, for the purpose of destroying local competition ; and that such laws should give to any person damaged the right to sue for and recover prescribed penalties, and make it the duty of prosecuting officers to proceed against the offenders.

Professor Clark also urges the desirability of penalizing these practices, and seeing the extremely great difficulty of enforcing such laws, he advises that the commission of any one of these offences should be held proof of monopoly, thus, according to the common law of the United States, leading to the outlawry of the trust. His object is to keep alive the effective competition of efficient producers and to give reality to potential competition, which to-day are neutralized by the unfair advantages of the trusts. In this way he hopes to prevent monopoly and to escape from the ultimate nationalization of industry. Even those who do not share his hopes must agree that it is more consonant with the interests of the community that the trusts should develop solely through their efficiency as producers and not by the brute power of their wealth, and must therefore share his condemnation of trust tyranny. But in prohibiting those practices our whole view of industry is changed. It is no longer a means for securing the private gain of the individuals engaged in it, but the performance of a public service which requires all persons to be treated alike, and makes the managers responsible to the public for their whole conduct. To enforce such prohibitory laws would demand the most persistent vigilance on the part of the public, and in view of the many forms which evasion can take the best we can say is that enforcement is not absolutely impossible. In the matter of shipping rebates, the situation is much simpler than elsewhere. The case is made out for their prohibition, and we have additional weapons at hand in the grant of

\* *Financial Times*, March 13, 1903.



postal and naval subsidies. Already in the Cunard subsidy it has been made a condition that the company is "not to unduly raise freights or to give any preferential rates to foreigners."

#### **'Anti-Trust Combinations.**

When we have pared off these excrescences of price policy, we have still to face the fact that trusts can keep prices somewhat above competitive rates, and we may anticipate that they will prefer a steady "squeeze" in this way to sudden raids on the public purse. A trust can be met by combination among its customers, who are thus able to oppose a unified demand to a unified offer, or even to undertake manufacture co-operatively for themselves. The Austrian glass and soap workers in 1897 started a co-operative soda factory in opposition to the soda kartell, and in 1901 the mere threat of such action enabled the millers to win concessions from the Austro-Hungarian jute kartell. Early in 1902, the Union of Austrian Manufacturers, wearied of the monopoly of the coal commission houses, started an agency of their own, Gerich and Co., to purchase coal and coke as directed by the Union, to be sold to members at a price just enough to cover expenses. Last year a syndicate of Clyde ship-builders started a nut, bolt and rivet works in opposition to the Scottish Rivet, Nut and Bolt Co., an amalgamation including most of the firms in the trade, but it has not been a success. A more significant experiment is the Piece Dyeing Trade Board of Bradford, constituted last spring of an equal number of representatives of the Bradford Dyers' Association and of the merchants, their customers, the latter appointed by the Bradford Chamber of Commerce. An independent umpire or chairman is provided for, and, while the merchants agree that the Association is entitled "to a first preference in respect of dyeing work," it is stipulated "that any difference or matter of dispute arising between the Association and their customers shall, if not capable of settlement between the parties, be referred to the committee for their arbitration, and their decision shall be final." In all these arrangements, however, the interests of the ultimate consumer are left out of sight, and it might well be that if an industry were controlled by a chain of trusts each strong enough to hold the others at bay, they would come to an understanding which would work to the detriment of the final purchaser, for it must not be overlooked that the relations between the trusts are every day becoming closer.

The establishment of a counter-trust might be a comparatively easy matter in the case of manufacturers who work up semi-manufactured products, but it is much more difficult among wholesale dealers and almost impossible among retailers, whose interests are too diverse and whose relations with each other are too uncertain to permit of effective joint action. In the retail trade the tendency is to frame agreements with the manufacturers and wholesale houses to fix retail prices which are enforced by the boycott of undercutters. Abundant examples of such agreements in this country may be found in the drug, grocery, and baking trades, and the tobacco retailers are still trying to secure a similar arrangement. Naturally the interests

of the manufacturers and retailers are alone considered in these alliances. To some extent the consumer can and does find a defence in the co-operative movement. Yet though co-operators have gained great benefits from their mutual support and will in future gain even greater, the movement is not strong enough to defeat the trusts and revolutionize the industrial system. Trusts spread faster than co-operation, which is practically confined to the factory workers, and though the capital engaged in co-operative production is large, it is only a drop compared to the industrial capital of the country. The co-operative stores can cope with the retailers even though, as at present, some manufacturers withhold their goods, but they cannot get control of the sources of raw material, and the heavy lines of manufacture are quite out of their sphere.

### Regulation of Prices.

In the final resort we come to the State regulation of prices. To do so we must take a great leap in advance of public opinion, and even after having performed that feat we are still in the midst of difficulties. No Government department could possess the knowledge requisite to enable it to fix prices in a number of industries differing in all their circumstances. Only an intimate acquaintance with the course of the markets, to be acquired only from daily work in each trade, could give that capacity. Besides, it is a safe assumption that the best talents in any industry would be engaged in the practice of that industry, and that only, at best, second-rate abilities would be available to exercise such important judicial functions as are involved in the fixing of prices. One might almost say that State management of industry would be simple compared with the fixing of prices. Many of the trusts could even now be taken over by the State with as little dislocation as followed on the nationalization of the telegraphs. "We might even add," says Professor W. J. Ashley,\* "that in the case of the Standard Oil monopoly, the development has already reached a point at which, on the purely economic and administrative side, there could be little objection to the Government taking over the business—if only there were a Government politically capable of the task." Perhaps the Wall Paper Manufacturers' Association and the Fine Cotton Spinners' and Doublers' Association approximate to the same condition. The problem is made little easier if we seek to limit prices by limiting the rate of profit, though there are precedents in our dealings with gas companies. Herr R. E. May of Hamburg is a strong advocate † of the limitation of profit to, say, seven per cent., and to meet the objection that this would sterilize progress, he would allow an additional one per cent. where improvements had been introduced, deducting a like amount where no effort had been made at development. The administrative difficulties would be immense in deciding what was admissible as an improvement, and in coping with juggles as to capitalization, depreciation, and reserves, nor must the doubtful result on the money market of such fixing of profit be overlooked.

\* *Surveys, Historic and Economic*, p. 387.

† *Das Grundgesetz der Wirthschaftskrisen*.

### Supervision of Trusts.

It thus seems conclusive that the State can only effectively regulate prices by assuming the management of industry, but nevertheless some attempt at regulation may be anticipated. The plan most likely to work well is that sketched out by Dr. Grunzel, and as it comes from a believer in combination, and an official of a manufacturers' association, it is worthy of attention. He deals only with kartells or syndicates, not with amalgamations, and he would compel them all to be registered and to file their statutes with a State department. Registration would confer on kartells full legal capacity, including the power to sue members for breach of contract, which they cannot do at present in Austria, Britain or America.

The supervising department would be empowered to hear all complaints and to take cognizance of all acts contrary to the public interest; it would have the right to conduct enquiries and to call for explanations; and if the offending kartell did not amend its ways it would be struck off the register and thus cease to be legalized. The same procedure might be extended to amalgamations, though Dr. Grunzel does not go so far, for, though an amalgamation cannot be dissolved like a kartell, it could be refused the aid of the law courts in enforcing contracts, as, for instance, has happened to illegal combinations in Illinois. We may find a precedent in our own Railway Commission, though experience of that body shows that while effective in repressing injustice or excess, this method might be inoperative in dealing with rates or prices which inflicted injury on the community, as apart from individuals. Control would be strengthened by the constitution in different industries of arbitration courts, with the help of the Chambers of Commerce, similar to the Piece Dyeing Trade Board. The shipping industry would certainly seem to afford a good case for experiment in this direction. The alternative to State supervision of kartells or associations is that we must rely for the prevention of monopoly or oppression on dishonorable members who break their agreements. That happens often enough, but it does not conduce to a high moral tone in industry. It is only the abuse of combination which requires to be suppressed; combination itself is to be welcomed as leading to improved industrial organization and the contract of combination should be enforceable like any other.

### Trusts and the Workers.

As with prices so with wages, the power of the trust seems at first to be absolute. A great corporation could lock out a section of its men permanently if it could keep its other works going; it could, and sometimes does, move a branch from one town to another and so has an effective weapon of punishment at hand; even in the ordinary process of concentration it inflicts suffering by the closing of unnecessary works; the terror of the "black list" is multiplied. But, on the other hand, the American anthracite strike has shown that public opinion can force even a trust to give way, and there is also the certainty that it would not be economically advantageous to force down wages, since without high wages the

care and skill cannot be secured which are needed in the handling of expensive and complicated machinery. Lastly, the working man has a much keener sense of his interests as an employé than the consumer has of his interests as a consumer, and a trust would think twice before carrying out an anti-labor policy which would send the workers flocking to the polls to vote for anti-trust candidates. So far as American experience goes the fears of an anti-labor campaign scarcely seem justified. The final report of the Industrial Commission says :

The evidence before the Commission indicates that the great majority of the combinations recognize trade unions and deal with their representatives in fixing the wage-scale and conditions of labor. . . . So far there seems to be no indication that the combinations are attempting to lower the wages of working men. The attention of the Commission has not been called to a single instance of an attempt on the part of the combinations to reduce wages generally. In fact, the combinations have, apparently, raised wages as willingly as individuals, and given their employees privileges of all kinds with no more hesitation. The investigation made by the Department of Labor shows that combinations have raised wages slightly more than other employers of labor in the same industry.

Too much must not be deduced from these facts, for American trusts have only experienced prosperity, and it remains to be seen whether in a period of depression they would not use to their own advantage that stronger strategic position which concentration gives them. That is all the more to be feared in Britain, since, as one of our judges has said, it is now almost impossible to conduct a strike without illegality. It therefore becomes necessary for the State to guarantee the minimum standard of life just as it prescribes a minimum standard of safety, and to provide for the scientific settlement of industrial disputes by arbitration. For these purposes it is urgently necessary that the trade unions should increase their membership, and devote their energies to political action. It is true that Mr. Baer, the president of the Reading Company, assured us during the American anthracite strike that "the rights and interests of the laboring man will be protected and cared for, not by the labor agitators, but by the Christian men to whom God in His infinite wisdom has given the control of the property interests of this country," but on the whole the working classes will probably prefer to supplement this fatherly care by the protection of the State.

#### Protection of Investors.

The investor in bubble companies is scarcely an object for much pity, and many would consider that the losers from over-capitalized trusts have little claim on public sympathy. Yet it is to the public interest that industry should have a sound financial basis, and that commercial confidence should not be shaken by the frequent collapse of water-logged businesses. The late Lord Russell's stinging denunciations of company-promoting frauds and questionable practices are not yet forgotten. In the United States the position is much worse, for there the law does not require the disclosure of the amount of purchase money, assets, earning capacity, or promoters' profits.

The larger combinations usually issue to their stockholders once a year an annual report regarding the business. This report, however, is frequently in terms so general that it is difficult to learn much regarding actual conditions. This secrecy in promo-

tion, combined with very large capitalization, gives a great advantage to directors and officers of the combination and others associated with them in knowing the value of the shares. There seems to be no doubt that in many instances the promoters of combinations have been able to unload large blocks of stock at prices far above their values, as shown by later experience.

But the Industrial Commission Report continues, "it is probable that the period of the most excessive capitalization of corporations has passed," for bankers and investors, warned by experience, are insisting on "more and more information." This improvement comes too late for a large number of heavily over-capitalized trusts which at the first breath of adversity will pass into the hands of receivers and be reconstructed. Afterwards, like the American railroads which have gone through the same process, they may become sound and prosperous. Meantime, the attempt to earn dividends on an inflated capital tends to keep up prices.

The American ideal at present seems to be to bring their joint-stock company laws up to the British level. The Industrial Commission recommended :

That, to prevent over-capitalization, the several State legislatures enact laws similar to the anti-stock-watering laws of Massachusetts ; also to provide for State supervision of all public service corporations, with power to recommend or regulate rates for service, and to pass upon the public need, desirability, or exigency of any proposed new service.

These laws require that stock must only be issued for cash or for value in actual property, and the directors must obtain from the State Commissioner of Corporations a certificate that he is "satisfied that the valuation given within is a fair and reasonable valuation for the property described." The value of patents would appear to be admissible in such valuation, but not that of goodwill or trade marks. Yet this exclusion would seem to be unfair, since goodwill, if reasonable, measures earning capacity, and would only serve to send up market prices above par. To get a State valuation of goodwill does not appear feasible, and, where ordinary stock which includes goodwill is taken by the vendors, it is unnecessary. It is enough to require that all information should be given necessary to enable the investor to protect himself, and then to ask that he should exercise reasonable caution in his investments. If, as in the case of the English Sewing Cotton Co., investors are ready to pay £457,000 for the goodwill of businesses that are admittedly "in serious difficulties," it is difficult for any law to protect them. The only other proposal, beyond the adoption of the British law made by the Industrial Commission to ensure publicity, was that "the larger corporations—the so-called trusts—should be required to publish annually a properly audited report . . . such report and audit under oath to be subject to Government inspection" in order to bring to light any irregularities or illegalities. To this there can be no objection—there is an American precedent in the State inspection of banks—but under the Companies Act of 1900 auditors in Britain have already very full powers and very serious responsibilities. In fact, the main alteration in our law required to make it fully applicable to trust evils is that it should be compulsory on promoters to disclose all expenses and proceedings leading up to the flotation of the company.

### Trusts and the State.

When all possible laws have been passed to prevent excessive prices, to protect the worker, and to safeguard the investor, so that the trust is left to rely on skill in management and on business advantages, its development will be slower but for that very reason the more sure. Under such circumstances the relations between the trusts and the State become of great importance, because we are then confronted by the alternatives of private monopoly and public monopoly. At the best private monopoly can only be a benevolent despotism; at the worst it may be a grinding tyranny, even though its slaves are well fed. It is an error to suppose that the joint-stock company system as exhibited in trusts leads to any widespread redistribution of wealth; at most the investing classes have turned their attention from gold mines and Turkish bonds to industrials. The Industrial Commission could find no evidence that wealth in the States was better distributed than before the trust period, and if in the United Kingdom we are scarcely likely to see the production of such a very wealthy group as in America, the concentration of businesses has given a very much greater power to the comparatively small class of men who own the largest blocks of stock. So long as he gets his dividends the small shareholder will never interfere with the directors except to urge them to the extraction of still greater profits. It is to be expected that wealth will make a strong effort to capture the national administration; it has ability, it has leisure, it has prestige, and it is at present in occupation. We do not need to look for the coarse and worn-out methods of bribery, but for the more subtle processes by which the "interests"—banking, shipping, railway, etc.—secure so large a proportion of parliamentary representation to-day, and for the vehement efforts which gas, tramway, water, and electric monopolies make to influence municipal elections. As in the parallel case of the liquor traffic so with the trusts, it would not be surprising if a strong public feeling should grow up that the only efficient control was public management. Additional impetus would be given to that feeling if, as some suppose, the private monopolies secure of their field ceased to trouble about improvements. A preliminary step to protect the State against the aggression of the over wealthy class would be the special taxation of the rich. That is already admitted in our taxation system, and the Industrial Commission advised the levying of a small graduated tax on the gross earnings of companies. On this it is only to be said that the special taxation of an industry or of a particular method of conducting an industry, not in itself objectionable, does not seem justifiable. The only discrimination which should be made in taxation is between earned and unearned incomes. When that principle is conceded taxation is an excellent method of taking for the State a portion of that wealth which is created by our common social activity.

The operations of foreign trusts have a special concern for the countries with which they trade. A threatened domestic industry can only be protected by itself combining against the foreigner. So much we learned from the Tobacco War. Even where a foreign

trust dumps its surplus product in a country at cost price, the home corporation could probably meet it by availing itself of the best methods of production and the economies of combination, by reducing prices temporarily as the Gas Strip Association did in 1902, or, like the Imperial Tobacco Co., by carrying the war into the enemy's country. The first duties of the State in aiding domestic industries against outsiders should be to ensure efficiency by providing a suitable education for all the industrial classes from top to bottom, and to prevent the hampering of commerce either by the railway companies or by shipping rings. If the German Government makes itself a partner with private industry by granting low freights for export over the national railways, then in the long run we shall find ourselves compelled to do with the railways what we have done with the telegraphs, and work them as a national system. If we cannot grasp the idea that commerce and industry are no longer merely individual undertakings, but predominantly national services, we shall neither understand the significance of recent changes nor the real character of the problems of the near future. So long as a nation is to exist as a nation it cannot endure servitude to a foreign trust and the disappearance of necessary industries. A protective tariff is so favorable to individual as opposed to national interests that it is naturally the first crude method of defence proposed, but rather than protect our industries against the efficient foreigner we want to force them up to his level; in the long run it is only efficiency that is dangerous. The Cunard subsidy plan, where the Government lends capital on conditions as to moderation in rates and efficiency in service, is a safer precedent, but with participation in the risks of capital should go too participation in management.

The international war of trusts may lead to two other results calling for State intervention. It may end, like the Tobacco War, in the division of territory, thus destroying the safety valve of foreign competition, or in amalgamation. In either case the possibilities of tyranny are enhanced. There is no effective defence against an international trust, except nationalization, for formal dissolution of the union would probably result only in the substitution of an equally objectionable and far less vulnerable private understanding. Public opinion turns inevitably towards the replacement of private initiative by national control, and nothing would hasten that development more rapidly than either the parcelling out of the world among the trusts or the appearance of many large international organizations.

#### RECENT BOOKS ON TRUSTS.

- British Industries. Edited by Prof. W. J. ASHLEY. Longmans, 1903. 5s. 6d.  
 Trusts, Pools and Corporations. Edited by Prof. RIPLEY. Ginn and Co., 1905.  
 8s. 6d.  
 The History of the Standard Oil Company. Miss IDA M. TARBELL. Two vols.;  
 Heinemann, 1905. 24s. net.

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