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THE FEDERAL JUDICIARY

Not in Sympathy with the Common People.

"Whatever Pleases the Prince Has the Force of Law" Is the Rule by Which Free American Citizens Are Being Arbitrarily Controlled

History shows that republics gravitate toward imperialism. This process is always accomplished through the executive and judicial powers of the nation. Rome's four eras were, the kings, the republic, the empire and the decline; paralyzed and dying under the brutality, plutocratic monopoly and the scarlet imperialism of wealth. Since 1800 France has vacilated back and forth between republicanism and the empire. For thirty years we have been going down the incline, from republican self-government into the scarlet imperialism of wealth.

The "jurists" of Rome, her judiciary, appointed by and fed from the hands of the Cæsars, soaped the track to slide her from republican self-government into the minority and guardianship of empire, with such political maxims and dogmas as "whatever pleases the prince has the force of law." It is an awful thought, but we propose to point out to the readers that the Federal judiciary appointed and fed at the hands of the scarlet imperialism of wealth, the modern "prince" of the republic, is making good, in once free America, the dogma of the servile, docile, hungry, greedy jurist of the civil law of Rome.

The morality, wisdom and patriotism of the decisions of the higher courts of a country, never rise to a higher plane than that of the ruling sentiment by which they are directly surrounded. The Dred Scott decision of our Supreme Court, was the direct product of undue Executive, political and wealth influence of the slave power.

It marked the zenith of the "pride that goeth before destruction," and of "a haughty spirit that goeth before a fall." It was made in violation of the public opinion of the country and the sentiments of justice and humanity; by it the court placed itself squarely across the road of civilization and progress. It closed all avenues to a peaceable solution of the situation, and the decision and slavery were abolished by the arbitration of the sword.

The Federal courts are gravitating now with an accelerating speed in the direction of the imperialism of wealth. To do this they have reversed themselves and about-faced in every instance where that influence demands it. Individual interests are being crushed and mangled under the wheels of the corporation juggernaut. The despotism of wealth found its greatest foe in the limitation of human life. Men died, great estates crumbled to pieces and were distributed again. Hence the resort to the immortality of the corporation without a soul to save or a body to punish. "They are clothed with all the power to acquire and hold property of mortals, and in every conflict with them, flesh and blood go down like grass before the scythe." These artificial personages are created by law and inserted in society among men. Immortal in life, unscrupulous in morals, as merciless as beasts of prey, they are crowding flesh and blood to the wall. At first the power of Congress and the State Legislatures to create these artificial beings was stoutly denied. It is clear they never were thought of by the men who framed this Constitution. There was not then a railroad, steamship, telegraph or telephone in existence, when then they used the word "person" and "citizen" in that instrument, they meant a natural person of flesh and blood.

But in the Dartmouth College case, 4 Wheat, 518, the Supreme Court held that the college charter, granted by George III, had in it the elements of a "contract" within the meaning of the Constitutional clause declaring no State shall make a law impairing the obligation of contracts; and the act of the Legislature of the State of New Hampshire was therefore void. Thus was a statute of a State vetoed by the court, and this decision has been the Pandora box from which has crawled the whole brood of industrial vampires, that threaten to suck the blood of the people from their veins. But it only put into them the breath of immortal life; it did not invest them with the attributes of natural "persons," or of "citizens." In Bank U. S. vs. Deveraux, 3 Cranch, 36, Chief Justice Marshall held a corporation is "an invisible, intangible and artificial being, a mere legal entity. A corporation aggregate is certainly not a citizen and consequently can not sue or be sued in the courts of the United States, unless all the members of the corporation were citizens of the State which created it."

This was affirmed in the 5 Cranch, 267. But the "will of the prince" of wealth was, they must be invested with the attributes and powers of "citizens" of the States. So the court, in obedience to that will, giving it "the force of law," next held it would be conclusively presumed in any case, in the face of the pleadings and evidence that the members of the corporation were all citizens of the State that created it; but that was not sufficient to placate the "will of the prince;" so later, in Louisville R. R. vs. Letson, 2 Howard, 555, it held, "that the former decisions had never been satisfactory to the bar, and not entirely satisfactory to the courts that made them." So the court completely about faces on Chief Justice Marshall's decisions, and come down in plain language as follows: "A corporation created by and doing business in a particular State, is to be deemed to all intents and purposes a person, although an artificial person, an inhabitant of the same State for the purposes of its incorporation, capable of being treated as a citizen of that State, as much as a natural person."

That foundation is broad enough to enable them to elaborate the doctrine until the "invisible, intangible, and artificial being," of the time of Chief Justice Marshall can have its carcass invested with the attributes of flesh and blood, so that it may claim the rights to marry, vote, hold office, and take the sacrament.

And this legal somersault is turned by our grave and learned court in construing and ascertaining the meaning of our Constitution. The first decision was made by men contemporary with and associates of the men who framed it; men who entered into their very thoughts, feelings and sympathies and made them part of their decision. Every person of thought and reflection knows it was, and still is, right. The Constitution is the same to-day it was when the first decisions on that all-important subject were made. It is a clear case of the application of the old Roman jurist's dogma, "The will of the prince has the force of law," worked out through a judiciary, who are "independent" of the people. Now the Federal courts are, practically usurped by the railroad, express, telegraph and other corporations. Under one pretense or another, almost every case involving $2000 to which a corporation is a party, is almost as a matter of course "removed" into the Federal courts. The "invisible, intangible" beings, as a matter of instinct, seem to crawl under the wings of their alma mater, for verily the Federal courts are to them a nourishing mother. They laid the nest egg in the Dartmouth College case, they have incubated and hatched the whole brood; they have clothed their invisible carcasses with nearly all the attributes of flesh and blood and promise all the rest as fast as the "will of the prince" desires or demands them.

"The will of the prince" has had "the force of law" in this instance.

The Constitution has been made and unmade, or construed to mean one thing under Marshall (undoubtedly right), and since to mean the very opposite. And to get there the court has walked deliberately over State constitutions, statutes and decisions of their highest courts.

But a judiciary appointed for life by the Executive and "independent" of the people, does not have its serenity disturbed by any circumstances of so small moment. As we point out these legal summersaults of our Federal judiciary, we call the attention of the reader to the facts: First, in each one of them the principle involved is of vital importance to the corporations, the imperialism of wealth and the people; second, that by the somersault, the court is putting itself in line with "the will of the prince" of that imperialism, and giving it "the force of law."

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(*Continued next week*)

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The Growing Importance of the Power of Congress to Regulate Commerce--The Courts Can Not Take the Initiative on this Subject

The power of Congress "to regulate commerce among the several States" has of late years grown into an unforseen importance. There was not a steam locomotive or craft or telegraph in existence when the Constitution was framed. Before the undue power of the corporations was felt the Supreme Court had defined the relative powers of Congress and the States on this great subject. For seventy-five years there was an unbroken line of authorities on that subject. In 1829, in the case of Wilson vs. Blackbird Creek Company, 2 Peters, 245; the court held as follows:

"The measure authorized by this act stops a navigable creek and must be supposed to abridge the rights of those who have been accustomed to use it. But this abridgement unless it comes in conflict with the Constitution or a law of the United States, is an affair between the government of Delaware and its citizens, of which this court can take no cognizance. Counsel for plaintiff in error insists that it comes in conflict with the power of the United States to regulate commerce among the several States. If Congress had passed an act which bore upon the case we should feel not much difficulty in saying that a State law coming in conflict with such act would be void. But Congress has passed no such act. The repugnancy of the law of Delaware to the Constitution, is placed entirely on its repugnancy to the power to regulate commerce among the several States, a power which has not been so exercised as to affect the question."

The same doctrine was reaffirmed in Gillman vs. Philadelphia, 3 Wall., 713, and Escanaba Co. vs. Chicago, 107 U. S., 678-683. Thus the doctrine that in all matters of commerce among the States they had full power to enact and enforce all needed and healthful legislation was established. "Until Congress has acted the courts cannot assume control over the subject as a matter of federal cognizance. It is Congress and not the judicial department to which the Constitution has given the power to regulate commerce with foreign nations and among the several States. The courts can never take the initiative on this subject." In Pick vs. R. R., 94 U. S., 164, the Legislature of Wisconsin had enacted a law to regulate the price of freights and passenger rates on the roads in the State. The Court applied the principle already established, and since Congress had not acted the act of the State Legislature was declared valid. In Munn vs. Illinois, 94 U. S., 113, the Legislature of that State had enacted a law to regulate elevator charges. It was assailed as an attempt to regulate commerce among the States. The Court again applied the principle and again upheld the State law. In 1846, in the License cases, 5 How., 540, the principle was elaborated and laid down very explicitly. From the accession of Marshall in 1801 to the opinions pronounced by Wait in the Grange cases, in 1876, covering three quarters of a century, it was uniformly held that in this class of cases the power of the State was complete when exercised in good faith, in the absence of an act of Congress, and could not be made the subject of review by the federal courts.

The Grange cases of 1876 were thought to be, as they were, a signal victory of the people over the railroad corporations. But "the will of the prince" was only defeated for a time; it was not vanquished; it did not entertain the thought of obedience to law. It never loses; it bided its time. The corporations are immortal in this world; the members of the Supreme Court are not. In ten years death made its ravages among them. Those who stood for the people against the scarlet imperialism in those cases died, and their places were safely packed with railroad and corporation attorneys. It had been decided in the Grange cases that the legislation of the States declaring and regulating the maximum charges for passengers and freights were legal and binding in the absence of Congressional action.

At the October term, A. D. 1886, the corporations summoned a State, its Legislature and court before this august court to answer for its conduct in attempting to deal with one of these corporations it had created and that now denied its authority. The Legislature of the State of Illinois had made a law to regulate the long and short haul, making it illegal to charge more for the short than the long haul. Pick vs. Chicago & N. W. Ry., 94 U. S., 177, upon a Wisconsin statute of the same tenor and effect and sustaining it, was urged upon the consideration of the court, but in vain. One justice who had concurred in the Granger cases had received new light, two adhered to their former opinion, and the rest stood firm for the corporations.

The court performed another legal somersault, at the beck of the corporation, imperialism of wealth, and overthrew a line of decisions of seventy-five years' standing—overrides State constitutions, statutes and decisions of their courts. And in the case of Milwaukee and St. Paul Railway Company, decided in 1890, the practical application of the railroad doctrine was clearly laid down. The Legislature of Minnesota had made a law regulating the maximum rates to be charged and the long and short haul. The corporation claimed the State had no right to fix such rates by law; that it violated the Constitution in that it affected the validity of contracts and was a taking of their property without due process of law. It claimed what was a "reasonable charge" for freights was not a question of law for the Legislature, but was one of fact for judicial determination by the courts. It demanded that evidence be taken to determine whether the charges made were unreasonable. The State court refused it and held under the Granger cases the Legislature in the absence of Congressional enactment had the right and power to regulate their rates. But again "the will of the prince had the force of law." The court positively and unequivocally reversed every principle laid down in such cases as in the Granger cases and held the question of the reasonableness of freight and passenger charges was a judicial one for the court.

Thus again has the alma mater of the corporations, in a motherly fashion, changed front to hover its brood of corporation chickens to save them from doing justice to the people. The people do not as yet half comprehend the awful meaning of this later change of the Supreme Court. It simply means withdrawing from the Legislatures of the States, yea, and of Congress, too, all control of that all important question of the rates for freights and passengers. The old alma mater of the corporations has arrogated to herself the imperial scarlet right, the sole power of passing at last, solely and alone, on all these questions. And the corporations have now and will continue to pack the court with their attorneys to decide their cases with and against the people. The Inter-state Commerce Commission, the creature of the corporations, composed of a set of old broken-down politicians and railroad attorneys, is created upon and pretends to administer the interstate commerce law on this same principle. It contended from the first, in the face of the Granger decisions, that the reasonableness of a charge of freight was "a business question" to be decided by the commission.

Yes, let the slumbering, unconscious American people know, here is their second Dred Scott decision, a decree of the red imperialism of wealth that is an insult to God and man.

It may be like the first, the emanation of the "pride that goeth before destruction" and "a haughty spirit that goeth before a fall." It will be observed that each time the corporations call their alma mater back from the doctrine of *stare decisis* and cause the serene highnesses of the court to stand in deliberation (on their heads) with their gowns and pedals waving in the winds of doubt, they finally fall over all right on the side of the corporations.

We will present one more instance in which the court has stood on its head and tumbled finally to a corporation brief.

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