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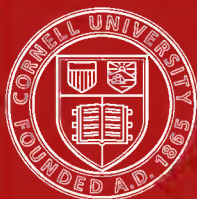
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# CONTEMPORARY AMERICAN HISTORY

1877-1913

BY

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New York

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## PREFACE

IN teaching American government and politics, I constantly meet large numbers of students who have no knowledge of the most elementary facts of American history since the Civil War. When they are taken to task for their neglect, they reply that there is no textbook dealing with the period, and that the smaller histories are sadly deficient in their treatment of our age.

It is to supply the student and general reader with a handy guide to contemporary history that I have undertaken this volume. I have made no attempt to present an "artistically balanced" account of the last thirty-five years, but have sought rather to furnish a background for the leading issues of current politics and to enlist the interest of the student in the history of the most wonderful period in American development. The book is necessarily somewhat "impressionistic" and in part it is based upon materials which have not been adequately sifted and evaluated. Nevertheless, I have endeavored to be accurate and fair, and at the same time to invite on the part of the student some of that free play of the mind which Matthew Arnold has shown to be so helpful in literary criticism.

Although the volume has been designed, in a way, as a textbook, I have thrown aside the methods of the almanac and chronicle, and, at the risk of displeasing the reader who expects a little about everything (including the Sioux war and the San Francisco earthquake),

I have omitted with a light heart many of the staples of history in order to treat more fully the matters which seem important from the modern point of view. I have also refused to mar the pages with black type, paragraph numbers, and other "apparatus" which tradition has prescribed for "manuals." Detailed election statistics and the guide to additional reading I have placed in an appendix.

In the preparation of the book, I have made extensive use of the volumes by Professors Dunning, Sparks, Dewey, and Latané, in the American Nation Series, and I wish to acknowledge once for all my deep debt to them. My colleague, Mr. B. B. Kendrick, read all of the proofs and saved me from many an error. Professor R. L. Schuyler gave me the benefit of his criticisms on part of the proof. To Dr. Louis A. Mayers, of the College of the City of New York, I am under special obligations for valuable suggestions as to arrangement and for drafting a large portion of Chapter III. The shortcomings of the book fall to me, but I shall be recompensed for my indiscretions, if this volume is speedily followed by a number of texts, large and small, dealing with American history since the Civil War. It is showing no disrespect to our ancestors to be as much interested in our age as they were in theirs; and the doctrine that we can know more about Andrew Jackson whom we have not seen than about Theodore Roosevelt whom we have seen is a pernicious psychological error.

CHARLES A. BEARD.

COLUMBIA UNIVERSITY,  
November, 1913.

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# CONTEMPORARY AMERICAN HISTORY.

## CHAPTER I

### THE RESTORATION OF WHITE DOMINION IN THE SOUTH

WHEN President Hayes was inaugurated on March 4, 1877, the southern whites had almost shaken off the Republican rule which had been set up under the protection of Federal soldiers at the close of the Civil War. In only two states, Louisiana and South Carolina, were Republican governors nominally in power, and these last "rulers of conquered provinces" had only a weak grip upon their offices, which they could not have maintained for a moment without the aid of Union troops stationed at their capitals. By secret societies, like the Ku Klux Klan, and by open intimidation, the conservative whites had practically recovered from the negroes, whom the Republicans had enfranchised, the political power which had been wrested from the old ruling class at the close of the War. In this nullification of the Fifteenth Amendment to the Federal Constitution and other measures designed to secure the suffrage for the former bondmen, President Grant had acquiesced, and it was openly rumored that Hayes would put an end to the military régime in Louisiana and South Carolina, leaving the southern people to fight out their own battles.

Nevertheless, the Republicans in the North were apparently loath to accept accomplished facts. In their platform of 1876, upon which Hayes was elected, they recalled with pride their achievement in saving the Union and purging the land of slavery; they pledged themselves to pacify the South and protect the rights of all citizens there; they pronounced it to be a solemn obligation upon the Federal government to enforce the Civil War amendments and to secure "to every citizen complete liberty and exact equality in the exercise of all civil, political, and public rights." Moreover, they charged the Democratic party with being "the same in character and spirit as when it sympathized with treason."

But this vehement declaration was only the death cry of the gladiators of the radical Republican school. Stevens and Sumner, who championed the claims of the negroes to full civil and political rights, were gone; and the new leaders, like Conkling and Blaine, although they still waxed eloquent over the wrongs of the freedmen, were more concerned about the forward swing of railway and capitalist enterprises in the North and West than they were about maintaining in the South the rule of a handful of white Republicans supported by negro voters. Only a few of the old-school Republicans who firmly believed in the doctrine of the "natural rights" of the negro, and the officeholders and speculators who were anxious to exploit the South really in their hearts supported a continuance of the military rule in "the conquered provinces."

Moreover, there were special circumstances which made it improbable that President Hayes would permit

the further use of troops in Louisiana and South Carolina. His election had been stoutly disputed and it was only a stroke of good fortune that permitted his inauguration at all. It was openly charged that his managers, during the contest over the results of the election in 1876, had promised the abolition of the military régime in the South in return for aid on the part of certain Democrats in securing a settlement of the dispute in his favor. Hayes himself had, however, maintained consistently that vague attitude so characteristic of practical politicians. In his speech of acceptance, he promised to help the southern states to obtain "the blessings of honest and capable self-government." But he added also that the advancement of the prosperity of those states could be made most effectually by "a hearty and generous recognition of the rights of all by all." Moreover, he approved a statement by one of his supporters to the effect that he would restore all freemen to their rights as citizens and at the same time obliterate sectional lines—a promise obviously impossible to fulfill.

Whether there was any real "bargain" between Hayes and the Democratic managers matters little, for the policy which he adopted was inevitable, sooner or later, because there was no active political support even in the North for a contrary policy. A few weeks after his inauguration Hayes sent a commission of eminent men to Louisiana to investigate the claims of the rival governments there—for there were two legislatures and two governors in that commonwealth contending for power. The commission found that the Republican administration, headed by Governor Packard,

was little more than a sham, and advised President Hayes of the fact. Thereupon the President, on April 9, 1877, ordered the withdrawal of the Federal troops from the public buildings, and Louisiana began the restoration of her shattered fortunes under the conservative white leadership. A day later, the President also withdrew the troops from the capitol at Columbia, South Carolina, and the Democratic administration under Governor Wade Hampton, a former Confederate veteran, was duly recognized. Henceforward, the freedmen of the South were to depend upon the generosity of the whites and upon their own collective efforts, aided by their sympathizers, for whatever civil and political rights they were permitted to enjoy.

### *The Disfranchisement of the Negro*

Having secured the abolition of direct Federal military interference with state administrations in the South, the Democrats turned to the abrogation of the Federal election laws that had been passed in 1870-1871, as a part of the regular reconstruction policy for protecting the negroes in the exercise of the suffrage. These election laws prescribed penalties for intimidation at the polls, provided for the appointment, by Federal circuit courts, of supervisors charged with the duty of scrutinizing the entire election process, and authorized the employment of United States marshals, deputies, and soldiers to support and protect the supervisors in the discharge of their duties and to keep the peace at the polls.

These laws, the Republican authors urged, were de-



signed to safeguard the purity of the ballot, not only in the South but also in the North, and particularly in New York, where it was claimed that fraud was regularly employed by the Democratic leaders. John Sherman declared that the Democrats in Congress would be a "pitiful minority, if those elected by fraud and bloodshed were debarred," adding that, "in the South one million Republicans are disfranchised." Democrats, on the other hand, replied that these laws were nothing more than a part of a gigantic scheme originated by the Republicans to fasten their rule upon the country forever by systematic interference with elections. Democratic suspicions were strengthened by reports of many scandals — for instance, that the supervisors in Louisiana under the Republican régime had registered "eight thousand more colored voters than there were in the state when the census was taken four years later." Undoubtedly, there were plenty of frauds on both sides, and it is an open question whether Federal interference reduced or increased the amount.

At all events, the Democrats, finding themselves in a majority in the House of Representatives in 1877, determined to secure the repeal of the "force laws," and in their desperation they resorted to the practice of attaching their repeal measures to appropriation bills in the hope of compelling President Hayes to sign them or tying up the wheels of government by a stoppage in finances. Hayes was equal to the occasion, and by a vigorous use of the veto power he defeated the direct assaults of the Democrats on the election laws. At length, however, in June, 1878, he was compelled to

accept a "rider" in the form of a proviso to the annual appropriation bill for the army making it impossible for United States marshals to employ federal troops in the execution of the election laws. While this did not satisfy the Democrats by any means, because it still left Federal supervision under the marshals, their deputies and the election supervisors, it took away the main prop of the Republicans in the South — the use of troops at elections.

The effect of this achievement on the part of the Democrats was apparent in the succeeding congressional election, for they were able to carry all of the southern districts except four. This cannot be attributed, however, entirely to the suppression of the negro vote, for there was a general landslide in 1878 which gave the Democrats a substantial majority in both the House and the Senate. Inasmuch as a spirit of toleration was growing up in Congress, the clause of the Fourteenth Amendment excluding from Congress certain persons formerly connected with the Confederacy, was not strictly enforced, and several of the most prominent and active representatives of the old régime found their way into both houses. Under their vigorous leadership a two years' political war was waged between Congress and the President over the repeal of the force bills, but Hayes won the day, because the Democrats could not secure the requisite two-thirds vote to carry their measures against the presidential veto.

However, the Supreme Court had been undermining the "force laws" by nullifying separate sections, although it upheld the general principle of

the election laws against a contention that elections were wholly within the control of state authorities. In the case of *United States v. Reese*, the Court, in 1875, declared void two sections of the law of 1870 "because they did not strictly limit Federal jurisdiction for protection of the right to vote to cases where the right was denied *by a state*," but extended it to denials by private parties. In the same year in the case of *United States v. Cruikshank* the Court gave another blow to Federal control, in the South. A number of private citizens in Louisiana had waged war on the blacks at an election riot, and one of them, Cruikshank, was charged with conspiracy to deprive negroes of rights which they enjoyed under the protection of the United States. The Supreme Court, however, held that the Federal government had no authority to protect the citizens of a state *against one another*, but that such protection was, as always, a duty of the state itself. Seven years later the Supreme Court, in the case of *United States v. Harris*, declared null that part of the enforcement laws which penalized conspiracies of two or more citizens to deprive another of his rights, on the same ground as advanced in the Louisiana case.<sup>1</sup>

On the withdrawal of Federal troops and the open abandonment of the policy of military coercion, the whites, seeing that the Federal courts were not inclined to interfere, quickly completed the process of obtaining control over the machinery of state government. That process had been begun shortly after the War, taking

<sup>1</sup> In 1894 the Democrats during Cleveland's administration completed the demolition of the system by repealing the remaining provisions.

the form of intimidation at the polls. It was carried forward another step when the "carpet baggers" and other politicians who had organized and used the negro vote were deprived of Federal support and driven out. When this active outside interference in southern politics was cut off, thousands of negroes stayed away from the polls through sheer indifference, for their interest in politics had been stimulated by artificial forces — bribery and absurd promises. Intimidation and indifference worked a widespread disfranchisement before the close of the seventies.

These early stages in the process of disfranchisement were described by Senator Tillman in his famous speech of February 26, 1900. "You stood up there and insisted that we give these people a 'free vote and a fair count.' They had it for eight years, as long as the bayonets stood there. . . . We preferred to have a United States army officer rather than a government of carpet baggers and thieves and scallywags and scoundrels who had stolen everything in sight and mortgaged posterity; who had run their felonious paws into the pockets of posterity by issuing bonds. When that happened we took the government away. We stuffed the ballot boxes. We shot them. We are not ashamed of it. With that system — force, tissue ballots, etc. — we got tired ourselves. So we had a constitutional convention, and we eliminated, as I said, all of the colored people whom we could under the Fourteenth and Fifteenth Amendments." The experience of South Carolina was duplicated in Mississippi. "For a time," said the Hon. Thomas Spight, of that state, in Congress, in 1904, "we

were compelled to employ methods that were extremely distasteful and very demoralizing, but now we are accomplishing the same and even better results by strictly constitutional and legal procedure." It should be said, however, that in the states where the negro population was relatively smaller, violence was not necessary to exclude the negroes from the polls.

A peaceful method of disfranchising negroes and poor whites was the imposition of a poll tax on voters. Negroes seldom paid their taxes until the fight over prohibition commenced in the eighties and nineties. Then the liquor interests began to pay the negroes' poll taxes and by a generous distribution of their commodities were able to carry the day at the polls. Thereupon the prohibitionists determined to find some effective constitutional means of excluding the negroes from voting.

This last stage in the disfranchisement process — the disqualification of negroes by ingenious constitutional and statutory provisions — was hastened by the rise during the eighties and nineties of the radical or Populist party in the South, which evenly balanced the Democratic party in many places and threatened for a time to disintegrate the older organization. In this contest between the white factions a small number of active negroes secured an extraordinary influence in holding the balance of power; and both white parties sought to secure predominance by purchasing the venal negro vote which was as large as, or perhaps larger than, the venal white vote in such northern states as Connecticut, Rhode Island, or Indiana. The conservative wing of

the white population was happy to take advantage of the prevailing race prejudice to secure the enactment of legislation disfranchising a considerable number of the propertyless whites as well as the negroes; and the radicals grew tired of buying negro voters.

Out of this condition of affairs came a series of constitutional conventions which devised all sorts of restrictions to exclude the negroes and large numbers of the "lower classes" from voting altogether, without directly violating the Fifteenth Amendment to the Federal Constitution providing against disfranchisement on account of race, color, or previous condition of servitude.

The series of conventions opened in Mississippi in 1890, where the Populistic whites were perhaps numerically fewest. At that time Mississippi was governed under the constitution of 1868, which provided that no property or educational test should be required of voters, at least not before 1885, and also stipulated that no amendment should be made except by legislative proposal ratified by the voters. Notwithstanding this provision, the legislature in February, 1890, called a convention to amend the constitution "or enact a new constitution." This convention proceeded to "ordain and establish" a new frame of government, without referring it to the voters for ratification; and the courts of the state set judicial sanction on the procedure, saying that popular ratification was not necessary. This constitution provides that every elector shall, in addition to possessing other qualifications, "be able to read any section of the constitution of this state; or he shall be able to understand the same when read to

him or to give a reasonable interpretation thereof." Under such a general provision everything depends upon the attitude of the election officials toward the applicants for registration, for it is possible to disfranchise any person, no matter how well educated, by requiring the "interpretation" of some obscure and technical legal point.

Five years later South Carolina followed the example of Mississippi, and by means of a state convention enacted a new constitution disfranchising negroes; and put it into force without submitting it to popular ratification.<sup>1</sup> The next year (1896) the legislature of Louisiana called a convention empowered to frame a new constitution and to put it into effect without popular approval. This movement was opposed by the Populists, one of whom declared in the legislature that it was "a step in the direction of taking the government of this state out of the hands of the masses and putting it in the hands of the classes." In spite of the opposition, which was rather formidable, the convention was assembled, and ordained a new frame of government (1898) disfranchising negroes and many whites. The Hon. T. J. Symmes, addressing the convention at the close, frankly stated that their purpose was to establish the supremacy of the Democratic party as the white man's party.

Four principal devices are now employed in the

<sup>1</sup> Disfranchising provisions were adopted in other southern states as follows: North Carolina, in 1900; Alabama and Virginia, in 1901; Georgia, in 1908. See Lobingier, *The People's Law*, pp. 301 ff.; W. F. Dodd, *Revision and Amendment of State Constitutions*.

several constitutional provisions disfranchising negroes: (1) a small property qualification, (2) a prerequisite that the voter must be able to read any section of the state constitution or explain it, when read, to the satisfaction of the registering officers, (3) the "grandfather clause," as in Louisiana where any person, who voted on or before 1867 or the son or grandson of such person, may vote, even if he does not possess the other qualifications; and (4) the wide extension of disfranchisement for crimes by including such offenses as obtaining money under false pretenses, adultery, wife-beating, petit larceny, fraudulent breach of trust, among those which work deprivation of the suffrage.

The effect of these limitations on the colored vote has been to reduce it seriously in the far South. If the negro has the amount of taxable property required by the constitution, he is caught by the provision which requires him to explain a section of the state constitution to the satisfaction of the white registering officers. The meanest white, however, can usually get through the net with the aid of his grandfather, or by showing his expertness in constitutional law. Mr. J. C. Rose has published the election statistics for South Carolina and Mississippi;<sup>1</sup> it appears that in those states there were, in 1900, about 350,796 adult male negroes and that the total Republican vote in both commonwealths in the national election of that year was only 5443. At a rough guess perhaps 2000 votes of this number were cast by white men, and the conclusion must be that about ninety-nine out of every hundred negroes failed

<sup>1</sup> *The Political Science Review*, November, 1906, p. 20.



to vote for President in those states. It is fair to state, however, that indifference on the part of the negroes was to some extent responsible for the small vote.

The legal restrictions completed the work which had been begun by intimidation. Under the new constitution of 1890 in Mississippi, only 8615 negroes out of 147,000 of a voting age were registered. In four years, the number registered in Louisiana fell from 127,000 in 1896 to 5300 in 1900. This was the exact result which the advocates of white supremacy desired to attain, and in this they were warmly supported by eminent Democrats in the North. "The white man in the South," said Mr. Bryan in a speech in New York, in 1908, "has disfranchised the negro in self-protection; and there is not a Republican in the North who would not have done the same thing under the same circumstances. The white men of the South are determined that the negro will and shall be disfranchised everywhere it is necessary to prevent the recurrence of the horrors of carpet bag rule."

Several attempts have been made to test the constitutionality of these laws in the Supreme Court of the United States, but that tribunal has been able to avoid coming to a direct decision on the merits of the particular measures — and with a convincing display of legal reasoning. The Constitution of the United States simply states that no citizen shall be deprived of the right to vote on account of race, color, or previous condition of servitude, and that the representation of any state in Congress shall be reduced in the proportion to which it deprives adult male citizens of the franchise.

The ingenious provisions of the southern constitutions do not deprive the negro of the right to vote on account of his color, but on account of his grandfather, or his inability to expound the constitution, or his poverty. In one of the cases before the Supreme Court, the plaintiff alleged that the Alabama constitution was in fact designed to deprive the negro of the vote, but the Court answered that it could not afford the remedy, that it could not operate the election machinery of the state, and that relief would have to come from the state itself, or from the legislative and political departments of the Federal government.<sup>1</sup>

### *Social Discrimination against the Negro*

The whites in the South were even less willing to submit to anything approaching social equality with the negro than they were to accept political equality. Discriminations against the negro in schools, inns, theaters, churches, and other public places had been common in the North both before and after the Civil War, and had received judicial sanction; and it may well be imagined that the southern masters were in no mood, after the War, to be put on the same social plane as their former slaves, and the poor whites were naturally proud of their only possession — a white skin. Knowing full well that this temper prevailed in the South the radical Republicans in Congress had pushed through on March 1, 1875, a second Civil Rights Act designed to establish a certain social equality, so far as that could be done by law.

<sup>1</sup> *Giles v. Harris*, 189 U. S., 474.

The spirit of this act was reflected in the preamble: "Whereas it is essential to just government, we recognize the equality of all men before the law, and hold that it is the duty of government in its dealings with the people to mete out equal and exact justice to all, of whatever nativity, race, color, or persuasion, religious or political; and it being the appropriate object of legislation to enact great fundamental principles into law." After this profession of faith, the act proceeds to declare that all persons within the jurisdiction of the United States shall be entitled to the full and equal enjoyment of the accommodations, advantages, facilities, and privileges of inns, public conveyances on land or water, theaters and other places of amusement, subject to limitations applied to all alike, regardless of race or color. The act further provided that in the selection of jurors no discrimination should be made on account of race, color, or previous condition of servitude under a penalty of not more than \$5,000. Jurisdiction over offenses was conferred upon the district and circuit courts of the United States, and heavy penalties were imposed upon those who violated the law. This measure was, of course, hotly resisted, and, in fact, nullified everywhere throughout the Union, north and south — except in some of the simple rural regions.

The validity of the act came before the Supreme Court for adjudication in the celebrated Civil Rights Cases in 1883 and a part of the law was declared unconstitutional in an opinion of the Court rendered by Mr. Justice Bradley. According to his view, the Fourteenth Amendment did not authorize Congress to legislate

upon subjects which were in the domain of state legislation — that is to create a code of municipal law for the regulation of private rights ; but it merely authorized Congress to provide modes of relief against state legislation and the action of state officers, executive or judicial, which were subversive of the fundamental rights specified in the amendment. “Until some state law has been passed,” he said, “or some state action through its officers or agents has been taken, adverse to the rights of citizens sought to be protected by the Fourteenth Amendment, no legislation of the United States under said Amendment, nor any proceeding under such legislation can be called into activity : for the prohibitions of the Amendment are against state laws and acts done under state authority.”

The question as to whether the equal enjoyment of the accommodations in inns, conveyances, and places of amusement was an essential right of the citizen which no state could abridge or interfere with, Justice Bradley declined to examine on the ground that it was not necessary to the decision of the case. He did, however inquire into the proposition as to whether Congress, in enforcing the Thirteenth Amendment abolishing slavery and involuntary servitude, could secure the social equality contemplated by the act, under the color of sweeping away all the badges and incidents of slavery. And on this point he came to the conclusion that mere discriminations on account of race or color could not be regarded as badges of slavery. “There were,” he added “thousands of free colored people in this country before the abolition of slavery, enjoying all of the essential

rights of life, liberty, and property the same as white citizens; and yet no one at that time thought that it was any invasion of his personal status as a freeman because he was not admitted to all of the privileges enjoyed by white citizens, or because he was subjected to discriminations in the enjoyment of accommodations in inns, public conveyances, and places of amusement."

Clearly, there was no authority in either the Thirteenth or Fourteenth Amendment for the section of the Civil Rights Act relative to inns, conveyances, and places of amusement, at least so far as its operation in the several states was concerned. If, however, any state should see fit to make or authorize unlawful discriminations amenable to the prohibitions of the Fourteenth Amendment, Congress had the power to afford a remedy or the courts in enforcing the Amendment could give judicial relief. Thus, while the Justice did not definitely say that the elements of social equality provided in the Civil Rights Act were not guaranteed by the Fourteenth Amendment, his line of reasoning and his language left little doubt as to what was the view of the Court.

Section four of the Civil Rights Act forbidding, under penalty, discrimination against any person on account of race, color, or previous condition of servitude in the selection of jurors had been passed upon by the Supreme Court in the case of *Ex parte Virginia*, decided in 1879, in which the section was held to be constitutional as providing not a code of municipal law for the regulation of private rights, but a mode of redress against the operation of state laws. The ground of distinction between the two cases is clear. A section forbidding

discrimination in inns and conveyances is in the nature of a code of private law, but a section forbidding discrimination in the selection of jurors under penalty simply provides a mode of redress against violations of the Fourteenth Amendment by state authorities.

Undoubtedly there is an admissible distinction between discrimination against negroes in the selection of juries and the discrimination against them in inns and public conveyances, for the former may have definite connection with the security of those civil rights of person and property — as distinct from social rights — which the Fourteenth Amendment was clearly designed to enforce. This was the principle which was brought out by the Court in the two decisions.<sup>1</sup> But if Justice Bradley in the Civil Rights cases had frankly made the distinction between *civil* and *social* rights, and declared the act unconstitutional on the ground that it attempted to secure social rights which the Fourteenth Amendment was not intended to establish, then the decisions of the Court would have been far more definite in character.

Even if the Supreme Court had not declared the social equality provision of the Civil Rights Act unconstitutional, it is questionable whether any real attempt would have been made to enforce it. As it turned out, the Court gave judicial sanction to a view undoubtedly entertained by the major portion of the whites everywhere, and it encouraged the South to proceed with

<sup>1</sup> See a Massachusetts case decided before the Civil War upholding similar discriminations against negroes. Thayer, *Cases on Constitutional Law*, Vol. I, p. 576.

further discriminatory legislation separating the races in all public and quasi-public places. Railroads and common carriers were compelled to provide separate accommodations for whites and blacks, "Jim Crow Cars," as they are called in popular parlance, and to furnish special seats in street railway cars. These laws have also been upheld by the courts; but not without a great strain on their logical faculties.

Undoubtedly there are mixed motives behind such legislation. It is in some part a class feeling, for whites are allowed to take their colored servants in the regular coaches and sleeping cars. Nevertheless, the race feeling unquestionably predominates. As the author of the Louisiana "Jim Crow Car" law put it: "It is not only the desire to separate the whites and blacks on the railroads for the comfort it will provide, but also for the moral effect. The separation of the races is one of the benefits, but the demonstration of the superiority of the white man over the negro is the greater thing. There is nothing that shows it more conclusively than the compelling of negroes to ride in cars marked for their especial use."

### *The Attitude of the North*

Although all possibility of northern interference with the southern states in the management of their domestic affairs seemed to have disappeared by Cleveland's first administration, the negro question was continuously agitated by Republican politicians, and at times with great vigor. They were much distressed at losing their

Federal patronage after the election of Cleveland in 1884; and this first Democratic presidential victory after the War led many of them to believe that they could recover their lost ground only by securing to the negro the right to vote. The Republicans were also deeply stirred by the over-representation of the South in the House of Representatives under the prevailing system of apportionment. They pointed out that the North was, in this respect, at even a greater disadvantage than before the Civil War and emancipation.

Under the original Constitution of the United States, only three fifths of the slaves were counted in apportioning representatives among the states; under the Fourteenth Amendment all the negroes were counted, thus enlarging the representation of the southern states. And yet the negroes were for practical purposes as disfranchised as they were when they were in servitude. It was pointed out that "in the election of 1888 the average vote cast for a member of Congress in five southern states was less than eight thousand; in five northern states, over thirty-six thousand. Kansas, which cast three times the vote of South Carolina, had only the same number of congressmen." The discrepancy tended to increase, if anything. In 1906, a Mississippi district with a population of 232,174 cast 1540 votes, while a New York district with 215,305 cast 29,119 votes.

The Republicans have several times threatened to alter this anomalous condition of affairs. In 1890, Mr. Lodge introduced in the House of Representatives a bill providing for the appointment of federal election commissioners, on petition of local voters, endowed with



powers to register and count all votes, even in the face of the opposition of local officers. This measure, which passed the House, was at length killed in the Senate. In their platform of 1904, the Republicans declared in favor of restoring the negro to his rights under the Constitution, and for political purposes the party in the House later coupled a registration and election law with the measure providing for publicity of campaign contributions. It was not acted upon in the Senate. In 1908, the Republicans in their platform declared "once more and without reservation, for the enforcement in letter and spirit of the Thirteenth, Fourteenth, and Fifteenth Amendments to the Constitution which were designed for the protection and advancement of the negro," and condemned all devices designed to disfranchise him on grounds of color alone. Although they have been in possession of all branches of the Federal government several times, the Republicans have deemed it inexpedient to carry out their campaign promises.

With the decline in the influence of the Civil War veterans in politics, the possibility of Federal interference has steadily decreased. The North had never been abolitionist in temper or political belief, as the vote of the Free Soil party demonstrates. The Republican party was a homestead, railway, and protectionist party opposed to slavery in the territories, and its great leader, Lincoln, had long been on record as opposed to political and social equality for the negro. Emancipation had come as a stroke of fortune — not because a majority of the people had deliberately come to the conclusion that it was a measure of justice. As in the

French Revolution at its height, the extreme radical forged to the front for a time, so during the Civil War and its aftermath, "radical" Republicans held the center of the stage and gave to politics a flavor of talk about "human rights" which was foreign to practical statesmen like Clay and Webster. In a little while practical men came to the helm once more, and they were primarily interested in economic matters — railways, finance, tariff, corporations, natural resources, and western development. The cash nexus with the South was formed once more, and made far stronger and subtler than in olden days. Agitation of the negro question became bad form in the North, except for quadrennial political purposes.

### *The Negro Problem*

Thus the negro, suddenly elevated to a great height politically, was almost as suddenly dropped by his new friends and thrown largely upon his own ingenuity and resources for further advance. His emancipation and enfranchisement had come almost without effort on his own part, without that development of economic interest and of class consciousness that had marked the rise of other social strata to political power. It was fortuitous and had no solid foundation. It became evident, therefore, that any permanent advance of the race must be built on substantial elements of power in the race itself. The whites might help with education and industrial training, but the hope of the race lay in the development of intellectual and economic power on its own account.

In relative numerical strength the negro is not holding his own, because of the large immigration from Europe. In 1790, the negro population formed 19.3 per cent of the whole, and since that time it has almost steadily declined, reaching at the last census 10.7 per cent of the whole. Even in the southern states where the stream of foreign immigration is the least, the negro population has fallen from 35.2 per cent in 1790 to 29.8 per cent in 1910. In education, the negro has undoubtedly made great progress since the War, but it must be remembered that he was then at the bottom of the scale. The South, though poor as compared with the North, has made large expenditures for negro education, but it is authoritatively reported that "nearly half of the negro children of school age in the South never get inside of the schoolhouse."<sup>1</sup> The relative expenditures for the education of white and colored children there are not ascertainable, but naturally the balance is heavily in favor of the former. When we recall, however, the total illiteracy of the race under slavery and then discover that in 1910 there was an average daily attendance of 1,105,629 colored children in the southern schools, we cannot avoid the conclusion that decided changes are destined to be made in the intellectual outlook of the race.

Reports also show that negroes are accumulating considerable property and are becoming in large numbers the holders of small farms. Nevertheless a very careful scholar, Dr. Walter Willcox, believes that the figures "seem to show that the negro race at the South, in its

<sup>1</sup> This is partly due to the absence of compulsory attendance laws.

competition with the whites, lost ground between 1890 and 1900 in the majority of skilled occupations which can be distinguished by the aid of the census figures.' Taking the economic status of the race as a whole, the same authority adds: "The conclusion to which I am brought is that relatively to the whites in the South, if not absolutely as measured by any conceivable standard the negro as a race is losing ground, is being confined more and more to the inferior and less remunerative occupations, and is not sharing proportionately to his numbers in the prosperity of the country as a whole or of the section in which he mainly lives."

The conclusions of the statistician are confirmed by the impressions of such eminent champions of the negro as Dr. W. B. Dubois and Mr. Thomas Fortune. The former declares that "in well-nigh the whole rural South the black farmers are peons, bound by law and custom to an economic slavery, from which the only escape is death or the penitentiary." The latter holds that the negro has simply passed from chattel to industrial slavery "with none of the legal and selfish restraints upon the employer which surrounded and actuated the master." These writers attribute the slow advance of the race to the bondage of law and prejudice to which it is subjected in the South, and everywhere in the country, as a matter of fact. Whatever the cause may be, there seems to be no doubt that the colored race has not made that substantial economic advance and achieved that standard of life which its friends hoped would follow from emancipation. Those writers who emphasize heredity in social evolution point to this as an evidence of the

inherent disabilities of the race ; while those who emphasize environment point out the immense handicap everywhere imposed on the race by law, custom, and prejudice.

Whatever may be the real truth about the economic status of the race, and after all it is the relative progress of the mass that determines the future of the race, there can be no doubt that there is an increasing "race consciousness" which will have to be reckoned with. The more conservative school, led by Booker T. Washington, is working to secure for the negro an industrial training that will give him some kind of an economic standing in the community, and if this is achieved for large numbers, a radical change in social and political outlook will follow, unless all signs of history fail. On the other hand, there is growing up a radical party, under the inspiration of Dr. W. B. Dubois, which pleads for unconditional political and social equality as a measure of immediate justice. Dr. Dubois demands "the raising of the negro in America to full rights and citizenship. And I mean by this no halfway measures ; I mean full and fair equality. That is, a chance to work regardless of color, to aspire to position and preferment on the basis of desert alone, to have the right to use public conveniences, to enter public places of amusement on the same terms as other people, and to be received socially by such persons as might wish to receive them."

With both of these influences at work and all the forces of modern life playing upon the keener section of the colored population, nothing but congenital disabilities can prevent a movement which ruling persons, North and South, will have to take into account. How

serious this movement becomes depends, however, upon the innate capacity of colored masses to throw off their shiftlessness and indifference to high standards of life that, their best friends admit, stand in the way of their gaining a substantial economic basis, without which any kind of a solid political superstructure is impossible. The real negro question now is: "Can the race demonstrate that capacity for sustained economic activity and permanent organization which has lifted the white masses from serfdom?"

## CHAPTER II

### THE ECONOMIC REVOLUTION

LONG before the Civil War, steam and machinery had begun to invade American industries and statesmen of the new commercial and industrial order had appeared in Washington. The census of 1860 reported nearly a million and a half wage earners in the United States, and more than a billion dollars invested in manufacturing. By that year over thirty thousand miles of railway had been constructed, including such important lines as the New York Central, the Erie, the Baltimore and Ohio, and the Pennsylvania. Politicians of the type of Stephen A. Douglas, who discussed slavery in public and devoted their less obvious activities to securing grants of public lands and mineral resources to railway and manufacturing corporations, had begun to elbow the more cultivated and respectable leaders like Calhoun, Webster, and Alexander Stephens, who belonged to the old order.

But the spectacular conflict over slavery prevented the political results of the economic transformation from coming to the surface. Those who had occasion to watch the proceedings of Congress during the two decades just before the War discovered the manipulations of railway corporations seeking land grants and

privileges from the Federal Government and the operations of the "protected" interests in behalf of increased tariffs. Those were also harvest days for corporations and companies in the state legislatures where special charters and privileges were being bartered away by the wholesale. There was emerging in a number of the larger industrial centers a small, though by no means negligible, labor movement. But the slavery issue overshadowed everything. The annexation of Texas, slavery in the territories, the Compromise of 1850, the Nebraska bill, and Bleeding Kansas kept the mind of the North from the consideration of the more fundamental economic problems connected with the new order. The politicians, to be sure, did not live by the slavery agitation alone, but it afforded the leading topics for public discussion and prevented the critical from inquiring too narrowly into the real staples of politics.

The Civil War sharply shifted the old scenery of politics. It gave a tremendous impetus to industry and railway construction. The tariff measures during the War gave to manufacturers an unwonted protection against foreign competition; the demand for war supplies, iron, and steel, railway materials, textiles, and food supplies, quickened every enterprise in the North; the great fortunes made out of speculations in finances, contracts for government supplies, and land-grants placed an enormous capital in private hands to carry forward business after the War was over.

Within little more than a quarter of a century the



advance of industry and commerce had made the United States of Lincoln's day seem small and petty. The census of 1905 showed over twelve billion dollars invested in factories and nearly five and one half million wage earners employed. In that year, the total value of manufactured products was over fourteen billion dollars — fifteen times the amount turned out in 1860. As late as 1882 the United States imported several hundred thousand tons of steel rails annually, but within ten years the import had fallen to 134 tons and no less than 15,000 tons were exported. At the close of the Civil War about 3000 tons of Bessemer steel were produced annually, but within twenty years over two million tons were put out every twelve months.

The building of railways more than kept pace with the growth of the population and the increase in manufacturing. There were 30,000 miles of lines in 1860; 52,000 in 1870; 166,000 in 1890; and 242,000 in 1910. Beginning at first with the construction of lines between strategic centers like Boston and Albany, and Philadelphia and Reading, the leaders in this new enterprise grew more bold. They pushed rapidly into the West where there were no cities of magnitude and no prospect of developing a profitable business within the immediate future. Capital flowed into the railways like water; European investors caught the fever; farmers and merchants along prospective lines bought stocks and bonds, expecting to reap a harvest from increased land values and business, only to find their paper valueless on account of preferred claims for construction; and the whole West was aflame with dreams

of a new Eldorado to be created by transportation systems.

The era of feverish construction was shortly followed by the combination of lines and the formation of grand trunk railways and particular "systems." In 1869, Cornelius Vanderbilt united the Hudson River and New York Central lines, linking the metropolis and Buffalo, and four years later he opened the way to Chicago by leasing the Lake Shore Michigan and Southern. About the same time two other eastern companies, the Pennsylvania and Baltimore and Ohio secured western connections which let them into Chicago.

It must not be thought that this rapid railway expansion was due solely to private enterprise, for, as has been the standing custom in American politics, the cost of doubtful or profitless undertakings was thrown as far as possible upon the public treasury. Up to 1872, the Federal Government had granted in aid of railways 155,000,000 acres of land, an area estimated as "almost equal to the New England states, New York, and Pennsylvania combined; nineteen different states had voted sums aggregating two hundred million dollars for the same purpose; and municipalities and individuals had subscribed several hundred million dollars to help railway construction." To the Union Pacific concern alone the Federal Government had granted a free right of way through public lands, twenty sections of land with each mile of railway, and a loan up to fifty million dollars secured by a second mortgage on the company's property. The Northern Pacific obtained lands which a railway official estimated to be worth enough "to

build the entire railroad to Puget Sound, to fit out a fleet of sailing vessels and steamers for the China and India trade and leave a surplus that would roll up into the millions." Cities, townships, counties, and states voted bonds to help build railways within their limits or granted rights of way and lands, in addition, with a lavish hand.

The chronicle of all the frauds connected with the manipulation of land grants to railways and the shameless sale of legal privileges cannot be written, because in most instances no tangible records have been left. Perhaps the most notorious of all was the *Crédit Mobilier* scandal connected with the Union Pacific. The leading stockholders in that company determined to secure for themselves a large portion of the profits of construction, which were enormous on account of the prodigal waste; and they organized a sham concern known as the *Crédit Mobilier* in which they had full control and to which the construction profits went. Inasmuch as the Federal Government through its grants and loans was an interested party that might interfere at any time, the concern, through its agent in Congress, Oakes Ames, a representative from Massachusetts, distributed generous blocks of stock to "approachable" Senators and Representatives. News of the transaction leaked out, and a congressional investigation in 1872 showed that a number of men of the highest standing, including Mr. Colfax, the Vice President, were deeply implicated. Nothing was done, however; the leading conspirator, Ames, was merely censured by the House, and the booty, for the most part, remained in the

hands of those connected with the scandal. When the road was complete, "it was saddled with interest payments on \$27,000,000 first mortgage bonds, \$27,000,000 government bonds, \$10,000,000 income bonds, \$10,000,000 land grant bonds, and if anything were left, dividend payments on \$36,000,000 of stock."

It would be easy to multiply figures showing astounding gains in industry, business, foreign trade, and railways; or to multiply stories of scandalous and unfair practices on the part of financiers, but we are not primarily concerned here with the technique of inventions or the history of promotion.<sup>1</sup> The student of social and political evolution is concerned rather with the effect of such material changes upon the structure of society, that is, with the rearrangements of classes and the development of new groups of interests, which are brought about by altered methods of gaining a livelihood and accumulating fortunes. It is this social transformation that changes the relation of the individual to the state and brings new forces to play in the struggle for political power. The social transformation which followed the Civil War embraced the following elements.

<sup>1</sup> The following brief chronology of inventions illustrates the rapidity in the technical changes in the new industrial development:

1875 — Bell's telephone in operation between Boston and Salem.

1879 — Brush arc street lighting system installed in San Francisco.

1882 — Edison's plant for incandescent lighting opened in New York City.

1882 — Edison's electric street car operated at Menlo Park, New Jersey.

1885 — Electric street railways in operation at Richmond, Virginia, and Baltimore.

In the first place, capital, as contrasted with agriculture, increased enormously in amount and in political influence. Great pecuniary accumulations were thenceforward made largely in business enterprise — including the work of the entrepreneur, financier, speculator, and manipulator under that general term. Inevitably, the most energetic and the keenest minds were attracted by the dominant mode of money-making. Agricultural regions were drained of large numbers of strenuous and efficient men, who would otherwise have been their natural leaders in politics. To these were added the energetic immigrants from the Old World. That forceful, pushing, dominating section of society historically known as the “natural aristocracy” became the agents of capitalism. The scepter of power now passed definitively from the masters of slaves to the masters of “free laborers.” The literary and professional dependents of the ruling groups naturally came to the defense of the new order.<sup>1</sup> The old contest between agrarianism and capitalism now took on a new vigor.<sup>2</sup>

On the side of the masses involved in the transition this economic revolution meant an increasing proportion of wage workers as contrasted with agriculturalists, owning and operating their farms, and with handicraftsmen. This increase is shown by the following table, giving the number of wage earners in *manufacturing* alone :

<sup>1</sup> For the keenest analysis of this social transformation, see Veblen, *Theory of the Leisure Class* and *Theory of Business Enterprise*.

<sup>2</sup> See below, Chaps. VI and VII.

|                | POPULATION | WAGE EARNERS |
|----------------|------------|--------------|
| 1850 . . . . . | 23,191,876 | 957,059      |
| 1860 . . . . . | 31,443,321 | 1,311,246    |
| 1870 . . . . . | 38,558,371 | 2,053,996    |
| 1880 . . . . . | 50,155,783 | 2,732,595    |
| 1890 . . . . . | 62,947,714 | 4,251,535    |
| 1900 . . . . . | 75,994,575 | 5,306,143    |
| 1910 . . . . . | 91,972,266 | 6,615,046    |

In terms of social life, this increase in wage workers meant, in the first place, a rapid growth of city populations. In 1860, the vast majority of the people were agriculturists; in 1890, 36.1 per cent of the population lived in towns of over 2500; in 1900, 40.5 per cent; in 1910, 46.3 per cent. In the forty years between the beginning of the Civil War and the close of the century, Chicago had grown from 109,260 to 1,698,575; Greater New York from 1,174,779 to 3,437,202; San Francisco from 56,802 to 342,782.

In the next place, the demand for labor stimulated immigration from Europe. It is true there was a decline during the Civil War, and the panic of 1873 checked the tide when it began to flow, but by 1880 it had nearly touched the half-a-million mark, and by 1883 it reached the astounding figure of 788,992. Almost all of this immigration was from Germany, Ireland, Great Britain, and Scandinavian countries, less than one in twenty of the total number coming from Austria-Hungary, Italy, and Poland in 1880. On the Pacific coast, railway building and industrial enterprise, in the great dearth

of labor, resorted to the Orient for large supplies of Chinese coolies.

This industrial development meant the transformation of vast masses of the people into a proletariat, with all the term implies: an immense population housed in tenements and rented dwellings, the organization of the class into trades-unions, labor parties, and other groups; poverty and degradation on a large scale; strikes, lock-outs, and social warfare; the employment of large numbers of women and children in factories; the demand for all kinds of legislation mitigating the evils of the capitalist process; and finally attacks upon the very basis of the industrial system itself.

This inevitable concomitant of the mechanical revolution, the industrial proletariat, began to make itself felt as a decided political and economic factor in the decade that followed the War. Between 1860 and 1870, the railway engineers, firemen, conductors, bricklayers, and cigar makers had formed unions. In the campaign of 1872 a party of Labor Reformers appeared; and a few years later the Knights of Labor, a grand consolidated union of all trades and grades of workers, came into existence as an active force, conducting an agitation for labor bureaus, an eight hour day, abolition of contract labor systems, and other reforms, and at the same time engineering strikes.

In 1877 occurred the first of the great labor struggles in that long series of campaigns which have marked the relations of capitalists and workingmen during the past four decades. In that year, trouble began between the management of the Baltimore and Ohio railway and

its employees over a threatened reduction in wages—the fourth within a period of seven years. From this starting point the contest spread throughout the East and Middle West, reaching as far as Texas. Inasmuch as there was already considerable unemployment, the strikers saw that only by violence and intimidation could they hope to prevent the companies from moving their trains. Troops were called out by the governors of several states and Federal assistance was invoked. Pittsburgh fell almost completely into the hands of the strikers; railway buildings were burned and property to the value of more than ten million dollars destroyed. Everywhere the raw militia of the states was found to be inefficient for such a serious purpose, and the superior power of the Federal Government's regular troops was demonstrated. Where railways were in the hands of receivers, Federal courts intervened by the use of injunctions and the first blood in the contest between the judiciary and labor was drawn.

The last, but perhaps most significant, result of the industrial revolution above described has been the rise of enormous combinations and corporations in industry as well as in transportation. An increasing proportion of the business of the country has passed steadily into corporate, as contrasted with individual, ownership;<sup>1</sup> and this implies a momentous change in the rights, responsibilities, and economic theories of the owners of capital. Moreover, it involves the creation of a new class of men, not entrepreneurs in the old sense, but organizers of already established concerns into larger units.

<sup>1</sup> See below, p. 234.



The industrial revolution had not advanced very far before an intense competition began to force business men to combine to protect themselves against their own weapons. As early as 1879 certain oil interests of Cleveland, Pittsburgh, Philadelphia, and other centers had begun to control competition by making agreements through their officers. Three years later, they devised an excellent scheme for a closer organization in the formation of a "trust." They placed all their stocks in the hands of nine trustees, including John D. Rockefeller, who issued in return certificates representing the proportionate share of each holder in the concern, and managed the entire business in the interests of the holders.

The trust proved to be an attractive proposition to large business concerns. Within five years combinations had been formed in cotton oil, linseed oil, lead, sugar, whisky, and cordage, and it was not long before a system of interlocking interests began to consolidate the control of all staple manufactures in the hands of a few financiers. Six years after its formation the Standard Oil Company was paying to a small group of holders about \$20,000,000 annually in dividends on a capital of \$90,000,000, and the recipients of these large dividends began to invest in other concerns. In 1879, one of them, H. M. Flagler, became a director of the Valley Railroad; in 1882, William Rockefeller appeared as one of the directors of the Chicago, Milwaukee, and St. Paul; in 1887, John D. Rockefeller was connected with a syndicate which absorbed the Minnesota Iron Company, and about the same time representatives of

the Oil Trust began to figure in the Northern Pacific, the Missouri, Kansas, and Texas, and the Ohio River railways. Thus a perfect network of financial connections throughout the country was built up.

But on the whole the decades following the Civil War were characterized by economic anarchy — *laissez faire* with a vengeance. There were prolonged industrial crises accompanied by widespread unemployment and misery among the working classes. In the matter of railway management the chaos was unparalleled.

Shortly after 1870 a period of ruinous competition set in and was followed by severe financial crises among the railways. Passenger and freight rate "wars" for the "through" traffic brought many roads to the verge of bankruptcy, in spite of their valiant efforts to save themselves by exorbitant charges on subsidiary branches where they had no competition. Crooked financeering, such as the watering of stocks, misappropriation of construction funds by directors, and the purchase of bankrupt lines by directors of larger companies and their resale at great advances, placed a staggering burden of interest charges against practically all of the lines. In 1873 nearly half of the mileage in the country was in the hands of court receivers, and between 1876 and 1879 an average of more than one hundred roads a year were sold under the foreclosure of mortgages. In all this distress the investors at large were the losers while the "inside" operators such as Jay Gould, Cornelius Vanderbilt, and Russell Sage doubled their already overtopping fortunes.

A very good example of this "new finance" is afforded

by the history of the Erie Railway. In 1868, Vanderbilt determined to secure possession of this line which ran across New York State in competition with the New York Central and Hudson River lines. Jay Gould and a group of operators, who had control of the Erie, proceeded to water the stock and "unload" upon Vanderbilt, whose agents bought it in the hope of obtaining the coveted control. After a steeple chase for a while the two promoters came to terms at the expense of the stockholders and the public. Between July 1 and October 24, 1868, the stock of the Erie was increased from \$34,000,000 to \$57,000,000, and the price went downward like a burnt rocket. During the short period of Gould's administration of the Erie "the capital stock of the road had been increased \$61,425,700 and the construction account had risen from \$49,247,700 in 1867 to \$108,807,687 in 1872. Stock to the amount of \$40,700,000 had been marketed by the firm of Smith, Gould, and Martin, and, incredible as it may seem, its sale had netted the company only \$12,803,059."<sup>1</sup>

The anarchy in railway financing, which characterized the two decades after the War, was also accompanied by anarchy in management. A Senate investigating committee in 1885 enumerated the following charges against the railroads: that local rates were unreasonably high as compared with through rates; that all rates were based apparently not on cost of service but "what the traffic would bear"; that discriminations between individuals for the same services were constant; that "the effect of the prevailing policy of

<sup>1</sup> Youngman, *The Economic Causes of Great Fortunes*, p. 75.

railroad management is, by an elaborate system of secret special rates, rebates, drawbacks, and concessions, to foster monopoly, to enrich favorite shippers, to prevent free competition in many lines of trade in which the item of transportation is an important factor;" that secret rate cutting was constantly demoralizing business; that free passes were so extensively issued as to create a privileged class, thus increasing the cost to the passenger who paid; that the capitalization and bonded indebtedness of companies largely exceeded the actual cost of construction; and that railway corporations were engaged in other lines of business and discriminating against competitors by unfair rate manipulations. In a word, the theories about competition written down in the books on political economy were hopelessly at variance with the facts of business management; the country was at the mercy of the sharp practices of transportation promoters.

However, emphasis upon this great industrial revolution should not be allowed to obscure the no less remarkable development in agriculture. The acreage in improved farm lands rose from 113,032,614 in 1850 to 478,451,750 in 1910. In the same period the number of farms increased from 1,449,073 to 6,361,502. Notwithstanding the significant fact that "whereas the total population increased 21 per cent between 1900 and 1910, the urban population increased 34.8 per cent and the rural population 11.2 per cent," the broad basis of the population during the half a century here under consideration has remained agricultural, and in 1913 it

was estimated that at the present rate of transformation "it will take a generation before the relative number of industrial wage workers will have reached half of all bread winners."

### *The Development of the West*

When Hayes was inaugurated, a broad wedge of territory separated the organized states of the East from their sister commonwealths in the far West—Oregon, California, and Nevada. Washington, Idaho, Montana, Wyoming, Utah, Arizona, New Mexico, Dakota, and Indian Territory still remained territories. Their combined population in 1870 was under half a million, less than that of the little state of Connecticut. New Mexico with 91,000 and Utah with 86,000 might, with some show of justification, have claimed a place among the states because Oregon was inhabited by only 90,000 people. The commonwealth of Nevada, with 42,000, was an anomaly; it had been admitted to the Union in 1864 to secure the ratification of the Thirteenth Amendment abolishing slavery.

This vast and sparsely settled region was then in the second stage of its economic evolution. The trapper, hunter, and explorer had gathered most of their harvest, and the ranchmen and cowboys with their herds of cattle were roaming the great grazing areas, waging war on thieves, land syndicates, and finally going down to defeat in the contest with the small farmer who fenced off the fertile fields and planted his homestead there. So bitter were the contests among the cattle

kings, and so extensive was the lawlessness in these regions during the seventies and early eighties that Presidents were more than once compelled to warn the warlike parties and threaten them with the Federal troops.

Of course, the opening of the railways made possible a rapidity in the settlement of the remaining territories which outrivaled that of the older regions. The first Pacific railroad had been completed in 1869; the Southern Pacific connecting New Orleans with the coast was opened in 1881; and two years later the Atchison, Topeka, and Santa Fe was finished, and the last stroke was put on the Northern Pacific, connecting Chicago and Portland, Oregon. Thus four lines of communication were established with the coast, traversing the best agricultural regions of the territories and opening up the mineral-bearing regions of the mountains as well. Lawless promoters fell upon the land and mineral resources with that rapacity which Burke attributed to Hastings.

Utah presented, in the eighties, the elements of an ordered and well-advanced civilization and could with some show of reason ask for admission as a state. The territory had been developed by the Mormons who settled there, after suffering "persecution" for their religious opinions and their plural marriages, in Illinois and Missouri. Notwithstanding an act of Congress passed in 1862 prohibiting polygamy, it continued to flourish. The territorial officers were nearly all Mormons and the remoteness of the Federal authority prevented an enforcement of the law. Consequently, it remained a

dead letter until 1882, when Congress enacted the Edmunds law prescribing heavy penalties, including the loss of citizenship, for polygamous practices. Hundreds of prosecutions and convictions followed, but plural marriages were openly celebrated in defiance of the law. At length, in 1887, Congress passed the Edmunds-Tucker act authorizing the Federal Government to seize the property of the Mormon church.

Meanwhile the gentile population increased in the territory; and at length the Mormons, seeing that the country was determined to suppress polygamy and that, while the institution was maintained, statehood could not be secured, decided upon at least an outward acquiescence in the law. After much discussion in Congress, and notwithstanding the repeated contention that the Mormons were not sincere in their promises, Utah was admitted as a state in 1895 under a constitution which, in accordance with the provisions of the enabling act of Congress, forbade polygamous and plural marriages forever. Thus the inhabitants of the new state were bound by a solemn contract with the Union never to restore the marriage practices which had caused them so much trouble and "persecution," as they called it.

Although the Mormons were the original pioneers and homestead makers in that great region, theirs was in fact the last of the middle tier of territories to receive statehood. They had left the advancing frontier line far behind. To the northward that advance was checked by the enormous Sioux reservation in Dakota, but the discovery of gold in the Black Hills marked the

doom of the Indian rights. Miners and capitalists demanded that the way should be made clear for their enterprise and the land hungry were clamoring for more farms. Indeed, before Congress could act, pioneers were swarming over the regions around the Indian lands. Farmers from the other northern states, Norwegians, Germans, and Canadians were planting their homesteads amid the fertile Dakota fields; the population of the territory jumped from 14,181 in 1870 to 135,177 in 1880, and before the close of the next decade numbered more than half a million. It was evident that the region was destined to be principally agricultural in character, inhabited by thrifty farmers like those of Iowa and Nebraska. Pretensions to statehood therefore rose with the rising tide of population.

Far over on the western coast, the claims of Washington to statehood were being urged. The population there had increased until it rivaled Oregon and passed the neighboring commonwealth in 1890. In addition to rich agricultural areas, it possessed enormous timber resources which were to afford the chief industry for a long time; and keen-sighted men foresaw a swift development of seaward trade. Between the Dakotas and Washington lay the narrow point of Idaho and the mountainous regions of Montana, now rapidly filling up with miners and capitalists exploiting the gold, silver, coal, copper, and other mineral resources, and rivaling the sheep and cattle kings in their contest for economic supremacy.

After the fashion of enterprising westerners, the citizens of these territories began to boast early of their



“enormous” populations and their “abounding” wealth, and to clamor for admission as states. Finding their pleas falling upon unheeding ears, the people of the southern Dakota took matters into their own hands in 1885, called a convention, framed a constitution, and failing to secure the quick and favorable action of Congress threatened to come into the Union unasked. Sober counsels prevailed, however, and the impatient Dakotans were induced to wait awhile. Meantime the territory was divided into two parts in 1887, after a popular vote had been taken on the matter.

As had been the case almost from the beginning of the Republic, the admission of these new states was a subject of political controversy and intrigue at the national capital. During Cleveland’s first administration the House was Democratic and the Senate Republican. Believing that Dakota was firmly Republican, the Senate passed the measure admitting the southern region in 1886, but the Democratic House was unable to see eye to eye with the Senate on this matter. In the elections of 1888, the Republicans carried the House, and it was evident that the new Congress would take some action with regard to the clamoring territories. Montana was probably Democratic, and Washington was uncertain. At all events the Democrats thought it wise to come to terms, and accordingly on February 22, 1889, the two Dakotas, Washington, and Montana were admitted simultaneously.

With less claim to statehood than any commonwealths admitted up to that time, except Nevada, the two territories of Idaho and Wyoming were soon enabled,

by the assistance of the politicians, to secure admission to the Union. Republican politics and the "silver interests" were responsible for this step. Although neither territory had over 40,000 inhabitants in 1880, extravagant claims were made by the advocates of admission — claims speedily belied by the census of 1890, which gave Idaho 88,000 and Wyoming 62,000. At last in July, 1890, they were admitted to the Union, and the territorial question was settled for a time, although Arizona and New Mexico felt that their claims were unjustly treated. It was not until seventeen years later that another new state, Oklahoma, modeled out of the old Indian Territory, was added to the Union. Finally, in 1912, the last of the continental territories, Arizona and New Mexico, were endowed with statehood.<sup>1</sup>

### *The Economic Advance of the South*

Notwithstanding the prominence given to the negro question during and after Reconstruction, the South had other problems no less grave in character to meet. Industry and agriculture were paralyzed by the devastations of the War. A vast amount of material capital — railways, wharves, bridges, and factories — had been destroyed during the conflict; and fluid capital seeking investment had been almost destroyed as well. The rich with ready money at their command had risked nearly all their store in confederate securities or had lost

<sup>1</sup> By an act passed in August, 1912, Congress provided a territorial legislature for Alaska, which had been governed up to that time by a governor appointed by the President and Senate, under acts of Congress.

their money loaned in other ways through the wreck of the currency. Plantations had depreciated in value, partly because of the destruction of equipment, but especially on account of the difficulties of working the system without slave labor. The South had, therefore, to rehabilitate the material equipment of industry and transportation and to put agriculture on another basis than that of slave labor. Surely this was a gigantic task.

The difficulties of carrying forward the plantation system with free negro labor compelled the holders of large estates (many of which were heavily mortgaged) to adopt one of two systems: the leasing or renting of small plots to negroes or poor whites, or the outright sale in small quantities which could be worked by one or two hands. This disintegration of estates went forward with great rapidity. In 1860 the average holding of land in the southern states was 335.4 acres; in 1880 it had fallen to 153.4; and in 1900 it had reached 138.2. The great handicap was the difficulty of securing the capital to develop the small farm, and no satisfactory system for dealing with this problem has yet been adopted.

The very necessities of the South served to bind that section to the North in a new fashion. Fluid capital had to be secured, in part at least, from the North, and northern enterprise found a new outlet in the reconstruction of the old, and the development of the new, industries in the region of the former confederacy. The number of cotton spindles in the South increased from about 300,000 in 1860 to more than 4,000,000 at the close of the century; the number of employees rose

from 10,000 to nearly 100,000; and the value of the output leaped from \$8,460,337 annually to \$95,002,059. This rapid growth was, in part, due to the abundance of water power in the hill regions, the cheap labor of women and children, the low cost of living, and the absence of labor laws interfering with the hours and conditions of work in the factories.

Even in the iron and steel industry, West Virginia and Alabama began to press upon the markets of the North within less than twenty years after the close of the War. In 1880, the latter state stood tenth among the pig-iron producing states; in 1890 it stood third. The southern states alone now produce more coal, iron ore, and pig iron than all of the states combined did in 1870. The census of 1909 reports 5685 manufacturing establishments in Virginia, 4931 in North Carolina, 4792 in Georgia, and 3398 in Alabama.

The social effects which accompany capitalist development inevitably began to appear in the South. The industrial magnate began to contest with the old aristocracy of the soil for supremacy; many former slave owners and their descendants drifted into manufacturing and many poor whites made their way upward into wealth and influence. The census of 1909 reports more than thirty thousand proprietors and firm members in the South Atlantic states, an increase over the preceding report almost equal to that in the New England states. The same census reports in the southern states more than a million wage earners — equal to almost two thirds the entire number in the whole country at the opening of the Civil War. The percentage of increase

in the wage earners of the South Atlantic states between 1904 and 1909 was greater than in New England or the Middle Atlantic states.

With this swift economic development, northern capital streamed into the South; northern money was invested in southern public and industrial securities in enormous amounts; and energetic northern business men were to be found in southern market places vying with their no less enterprising southern brethren. The men concerned in creating this new nexus of interest between the two regions naturally deprecated the perpetual agitation of sectional issues by the politicians, and particularly northern interference in the negro question. Business interest began to pour cold water on the hottest embers which the Civil War had left behind.

## CHAPTER III

### THE REVOLUTION IN POLITICS AND LAW

THE economic revolution that followed the War, the swift and potent upswing of capitalism, and the shifting of political power from the South to the North made their impress upon every branch of the Federal Government. Senators of the old school, Clay, Webster, Calhoun, Roger Baldwin, John P. Hale, James Mason, and Jefferson Davis were succeeded by the apostles of the new order: Roscoe Conkling and Thomas Platt, James Donald Cameron, Leland Stanford, George Hearst, Arthur P. Gorman, William D. Washburn, John R. McPherson, Henry B. Payne, Matthew S. Quay, Philetus Sawyer, John H. Mitchell, and James G. Blaine. The new Senate was composed of men of affairs — practical men, who organized gigantic enterprises, secured possession of natural resources and franchises, collected and applied capital on a large scale to new business undertakings, built railways, established cities with the advancing line of the western frontier — or represented such men as counsel in the courts of law.

Not many of them were great orators or widely known as profound students of politics in its historical and comparative aspects. A few, like Blaine, Hoar, and Conkling, studied the classic oratory of the older genera-

tion and sought to apply to the controverted issues of the hour that studious, orderly, and sustained eloquence which had adorned the debates of earlier years; but the major portion cultivated only the arts of management and negotiation. Few of them seem to have given any thought to the lessons to be learned from European politics. On the contrary, they apparently joined with the multitude in the assumption that we had everything to teach Europe and nothing to learn. Bismarck was to them, if we may judge from their spoken words, simply a great politician and the hero of a war; the writings of German economists, Wagner and Schmoller, appear never to have penetrated their studies. That they foresaw in the seventies and eighties the turn that politics was destined to take is nowhere evident. They commanded respect and admiration for their practical achievements; but it is questionable whether the names of more than two or three will be known a century hence, save to the antiquarian.

Of this group, Roscoe Conkling was undoubtedly typical, just as Marcus A. Hanna represented the dominant politicians of a later time. He was an able lawyer and an orator of some quality, but of no permanent fame. He took his seat in the Senate in 1867 and according to his biographer "during the remainder of his life his legal practice was chiefly connected with corporations that were litigants in the district and circuit courts of the United States,"<sup>1</sup> — the judges of which courts he was, as Senator, instrumental in appointing. His practice was lucrative for his day, amounting to some

<sup>1</sup> A. R. Conkling, *Life of Roscoe Conkling*, p. 297.

\$50,000 a year.<sup>1</sup> He counted among his clients the first great capitalists of the country. When he was forced to retire from New York politics, "the first person who came to see him on business was Mr. Jay Gould, who waited upon him early one morning at his hotel."<sup>2</sup> He was counsel for Mr. Collis P. Huntington in his contest against the state legislation which railway interests deemed unjust and unconstitutional.<sup>3</sup> He was among the keen group of legal thinkers who invoked and extended the principle of the Fourteenth Amendment to cover all the varieties of legislation affecting corporate interests adversely.<sup>4</sup>

Criticism of the Republican party, and particularly of the policies for which he stood, Mr. Conkling regarded as little short of treason. For example, when Mr. George William Curtis, in the New York state convention of 1877, sought to endorse the administration of President Hayes, whose independence in office had been troublesome to Mr. Conkling, the latter returned in a passionate attack on the whole party of opposition: "Who are these men who in newspapers and elsewhere are 'cracking their whips' over Republicans and playing schoolmaster to the Republican party and its conscience and convictions. They are of various sorts and conditions. Some of them are the man-milliners, the diletanti and carpet knights of politics, men whose efforts have been expended in denouncing and ridiculing and accusing honest men. . . . Some of these worthies masquerade as reformers and their vocation and ministry

<sup>1</sup> A. R. Conkling, *Life of Roscoe Conkling*, p. 699.

<sup>2</sup> *Ibid.*, p. 671.

<sup>3</sup> *Ibid.*, pp. 679 ff.

<sup>4</sup> See below, p. 57.



is to lament the sins of other people. Their stock in trade is rancid, canting self-righteousness. They are wolves in sheep's clothing. Their real object is office and plunder. When Dr. Johnson defined patriotism as the last refuge of a scoundrel, he was then unconscious of the then undeveloped capabilities of the word 'reform.'"<sup>1</sup>

The political philosophy of this notable group of political leaders was that of their contemporaries in England, the Cobden-Bright school. They believed in the widest possible extension of the principle of private property, and the narrowest possible restriction of state interference, except to aid private property to increase its gains. They held that all of the natural resources of the country should be transferred to private hands as speedily as possible, at a nominal charge, or no charge at all, and developed with dashing rapidity. They also believed that the great intangible social property created by community life, such as franchises for street railways, gas, and electricity, should be transformed into private property. They supplemented their philosophy of property by a philosophy of law and politics, which looked upon state interference, except to preserve order, and aid railways and manufacturers in their enterprises, as an intrinsic evil to be resisted at every point, and they developed a system of jurisprudence which, as Senators having the confirming power in appointments and as counsel for corporations before the courts of the United States, they succeeded in transforming into judicial decisions. Some of them were doubtless corrupt,

<sup>1</sup> *Ibid.*, p. 540.

as was constantly charged, but the real explanation of their resistance to government intervention is to be found in their philosophy, which, although consonant with their private interests, they identified with public good.

*Writing Laissez Faire into the Constitution*

Inasmuch as the attacks on private rights in property, franchises, and corporate privileges came principally from the state legislatures, it was necessary to find some way to subject them to legal control — some juristic process for translating *laissez faire* into a real restraining force. These leading statesmen and lawyers were not long in finding the way. The Federal courts were obviously the proper instrumentalities, and the broad restrictions laid upon the states by the Fourteenth Amendment no less obviously afforded the constitutional foundation for the science of legislative nihilism. “No state,” ran the significant words of that Amendment, “shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.”

What unseen implications lay within these phrases the most penetrating thinkers divined at once. Protest was made by the New Jersey legislature against the Fourteenth Amendment in 1866 on the ground that it would destroy all the essential rights of a state to control

its internal affairs; and such opinion was widespread. But the most common view was to the effect that the Amendment would be used principally to surround the newly emancipated slaves with safeguards against their former masters who might be tempted to restore serfdom under apprentice and penal laws and other legal guises. Still there is plenty of evidence to show that those who framed the Fourteenth Amendment and pushed it through Congress had in mind a far wider purpose — that of providing a general restraining clause for state legislatures.

The problem of how best to check the assaults of state legislatures on vested rights was not new when the Fourteenth Amendment was adopted. On the contrary, it was one of the first concerns of the Convention of 1787 which drafted the original Constitution of the United States, and it was thought by the framers that security had been attained by forbidding states to emit bills of credit and make laws impairing the obligation of contract. Under Chief Justice Marshall, these clauses were so generously interpreted as to repel almost any attack which a state legislature might make on acquired rights. However, in the closing years of Marshall's service, the Supreme Court, then passing into the hands of states' rights justices, rendered an opinion in the case of *Ogden v. Saunders*, which clearly held that the contract clause did not prevent the legislature from stipulating that *future* contracts might be practically at its mercy. When a legislature provides by general law that all charters of corporations are subject to repeal and alteration, such provision becomes a part of all new

contracts. Marshall delivered in this case a vigorous and cogent dissenting opinion in which he pointed out that the decision had in effect destroyed the virtue of the obligation of contract clause.

The case of *Ogden v. Saunders* was decided in 1827. Between that year and the Civil War the beginnings of corporate enterprise were securely laid in the United States; and the legislatures of the several states began the regulation of corporations from one motive or another, sometimes for the purpose of blackmailing them and sometimes for the laudable purpose of protecting public interests. At all events, large propertied concerns began to feel that they could not have a free hand in developing their enterprises or enjoy any genuine security unless the legislatures of the states were, by some constitutional provision, brought again under strict Federal judicial control.

The opportunity to secure this judicial control was afforded during the Civil War when the radical Republicans were demanding Federal protection for the newly emancipated slaves of the South. The drastic legislation relative to negroes adopted by the southern states at the close of the War showed that even in spite of the Thirteenth Amendment a substantial bondage could be reëstablished under the color of criminal, apprentice, and vagrant legislation. The friends of the negroes, therefore, determined to put the substantial rights of life, liberty, and property beyond the interference of state legislatures forever, and secure to all persons the equal protection of the law.

Accordingly, the Fourteenth Amendment was adopted,

enunciating the broad legal and political doctrine that no state "shall abridge the privileges or immunity of citizens of the United States; nor shall any state deprive any *person* of life, liberty, or property without due process of law; nor deny to any *person* within its jurisdiction the equal protection of the law."

Here was a restriction laid upon state legislatures which might be substantially limitless in its application, in the hands of a judiciary wishing to place the broadest possible interpretation upon it. What are privileges and immunities? What are life, liberty, and property? What is due process of law? What is the equal protection of the law? Does the term "person" include not only natural persons but also artificial persons, namely, corporations? That the reconstruction committee of Congress which framed the instrument intended to include within the scope of this generous provision not only the negro struggling upward from bondage, but also corporations and business interests struggling for emancipation from legislative interference, has been often asserted. In arguing before the Supreme Court in the *San Matteo County* case, on December 19, 1882, Mr. Roscoe Conkling, who had been a member of the committee which drafted the Fourteenth Amendment, unfolded for the first time the deep purpose of the committee, and showed from the journal of that committee that it was not their intention to confine the amendment merely to the protection of the colored race. In the course of his argument, Mr. Conkling remarked, "At the time the Fourteenth Amendment was ratified, as the records of the two Houses will show, individuals

and joint-stock companies were appealing for congressional and administrative protection against invidious and discriminating state and local taxes. One instance was that of an express company, whose stock was owned largely by citizens of the State of New York, who came with petitions and bills seeking Acts of Congress to aid them in resisting what they deemed oppressive taxation in two states, and oppressive and ruinous rules of damages applied under state laws. That complaints of oppression in respect of property and other rights, made by citizens of Northern States who took up residence in the South, were rife, in and out of Congress, none of us can forget; that complaints of oppression in various forms, of white men in the South, — of ‘Union men,’ — were heard on every side, I need not remind the Court. The war and its results, the condition of the freedmen, and the manifest duty owed to them, no doubt brought on the occasion for constitutional amendment; but when the occasion came and men set themselves to the task, the accumulated evils falling within the purview of the work were the surrounding circumstances, in the light of which they strove to increase and strengthen the safeguards of the Constitution and laws.”<sup>1</sup>

In spite of important testimony to the effect that those who drafted the Fourteenth Amendment really intended “to nationalize liberty,” that is *laissez faire*,

<sup>1</sup> Taylor, *Origin and Growth of the American Constitution*, p. 355. As a matter of fact, Conkling, who was a member of the committee that drafted the Fourteenth Amendment, voted against these provisions in Committee.

nt state legislatures, the Supreme Court at first sed to accept this broad interpretation, and it was until after several of the judges of the old states' ts school had been replaced by judges of the new ol that the claims of Mr. Conkling's group as to Fourteenth Amendment were embodied in copious ial decisions.

### *The Slaughter-House Cases*

ie first judicial interpretation of the significant ses of the Fourteenth Amendment which were ward to be the basis of judicial control over state omic legislation of every kind was made by the eme Court in the Slaughter-House cases in 1873 — years after that Amendment had been formally ied. These particular cases, it is interesting to , like practically all other important cases arising r the Fourteenth Amendment, had no relation what- to the newly emancipated slaves; but, on the rary, dealt with the regulation of business enter- s.

. 1869, the legislature of Louisiana passed an act gned to protect the health of the people of New ans and certain other parishes. This act created rporation for the purpose of slaughtering animals in that city, forbade the establishment of any other ghterhouses or abattoirs within the municipality, conferred the sole and exclusive privilege of conduct- he live-stock landing and slaughterhouse business, r the limitations of the act, upon the company thus

created. The company, however, was required by the law to permit any persons who wished to do so to slaughter in its houses and to make full provision for all such slaughtering at a reasonable compensation. This drastic measure, the report of the case states, was denounced "not only as creating a monopoly and conferring odious and exclusive privileges upon a small number of persons at the expense of the great body of the community of New Orleans, but . . . it deprives a large and meritorious class of citizens — the whole of the butchers of the city — of the right to exercise their trade, the business to which they have been trained and on which they depend for the support of themselves and their families."

The opinion of the court was rendered by Mr. Justice Miller. The Justice opened by making a few remarks upon the "police power," in the course of which he said that the regulation of slaughtering fell within the borders of that mysterious domain and without doubt constituted one of the powers enjoyed by all states previous to the adoption of the Civil War amendments. After commenting upon the great responsibility devolved upon the Court in construing the Thirteenth and Fourteenth amendments and remarking on the careful deliberation with which the judges had arrived at their conclusions, Justice Miller then turned to an examination of the historical purpose which underlay the adoption of the amendments in question. After his recapitulation of recent events, he concluded: "On the most casual examination of the language of these amendments, no one can fail to be impressed with the one pervading purpose



l in them all, lying at the foundation of each, and out which none of them would have been even suggested; we mean the freedom of the slave race, the stability and firm establishment of that freedom, and the protection of the newly-made freeman and citizen from the oppression of those who had formerly exercised unbridled dominion over him. It is true that only the Thirteenth Amendment, in terms, mentions the negro by recognizing his color and his slavery. But it is just as if that each of the other articles was addressed to the grievances of that race and designed to remedy them by the Fifteenth. We do not say that no one else but the negro can share in this protection. Both the language and spirit of these articles are to have their full and just weight in any question of construction. . . . But what we do wish to say and what we wish to be understood as saying is, that in any fair and just construction of any section or phrase of these amendments, it is necessary to look to the purpose, which as we have seen was the pervading spirit of them all, the evil which they were designed to remedy, and the process of construction added to the Constitution until that purpose was supposed to be accomplished as far as constitutional law can accomplish it."

Justice Miller dismissed with a tone of impatience the objection of the counsel for the plaintiffs in error that the Louisiana statute in question imposed an "involuntary servitude" forbidden by the Thirteenth Amendment. "I withdraw the mind," he said, "from the contemplation of this grand yet simple declaration of the natural freedom of all the human race within the juris-

diction of this government — a declaration designed to establish the freedom of four million slaves — and with a microscopic search endeavor to find it in reference to servitudes which may have been attached to property in certain localities, requires an effort, to say the least of it.”

In Justice Miller’s long opinion there is no hint of that larger and more comprehensive purpose entertained by the framers of the Fourteenth Amendment which was asserted by Mr. Conkling a few years later in his argument before the Supreme Court. If he was aware that the framers had in mind not only the protection of the freedmen in their newly won rights, but also the defense of corporations and business enterprises generally against state legislation, he gave no indication of the fact. There is nowhere in his opinion any sign that he saw the broad economic implications of the Amendment which he was expounding for the first time in the name of the Court. On the contrary, his language and the opinion reached in the case show that the judges were either not cognizant of the new economic and political duty placed upon them, or, in memory of the states’ rights traditions which they had entertained, were unwilling to apply the Thirteenth and Fourteenth amendments in such a manner as narrowly to restrict the legislative power of a commonwealth.

In taking up that clause of the Fourteenth Amendment which provides that no state shall make or enforce any law abridging the privileges or immunities of citizens of the United States, Justice Miller declared that it was not the purpose of that provision to transfer the security and protection of all fundamental civil rights

the state government to the Federal Government. A citizen of the United States as such, he said, has certain privileges and immunities, and *it was these and these* which the Fourteenth Amendment contemplated. He enumerated some of them: the right of the citizen to come to the seat of government, to assert any claim he may have upon that government, to transact any business he may have with it, to seek its protection, to use its offices, engage in administering its functions, to have free access to its seaports, subtreasuries, land offices, and courts of justice, to use the navigable waters of the United States, to assemble peaceably with his fellow citizens and petition for redress of grievances, to enjoy the privileges of the writ of habeas corpus. As rights of this character, the learned justice argued, not all the fundamental rights of person and property which had been acquired in the evolution of Anglo-American jurisprudence, that were placed by the Fourteenth Amendment under the protection of the Federal Government.

Within this view, all the ordinary civil rights enjoyed by citizens were still within the control of the organs of state government and not within Federal protection. If the privileges and immunities, brought within the protection of the Federal Government by the Fourteenth Amendment, were intended to embrace the whole domain of personal and property rights, then, contended the justice, the Supreme Court would be constituted a perpetual censor upon all legislation of the states, in respect to the civil rights of their own citizens, with authority to nullify such as it did not approve as consistent with

those rights as they existed at the time of the adoption of this Amendment. . . . We are convinced that no such results were intended by the Congress which proposed these amendments nor by the legislatures which ratified them."

In two short paragraphs, Justice Miller disposed of the contention of the plaintiffs in error to the effect that the Louisiana statute deprived the plaintiffs of their property without due process of law. He remarked that inasmuch as the phraseology of this clause was also to be found in the Fifth Amendment and in some form in the constitutions of nearly all of the states, it had received satisfactory judicial interpretation; "and it is sufficient to say," he concluded on this point, "that under no construction of that provision that we have ever seen or any that we deem admissible, can the restraint imposed by the state of Louisiana upon the exercise of their trade by the butchers of New Orleans be held to be a deprivation of private property within the meaning of that provision."

Coming now to that clause requiring every state to give all persons within its jurisdiction equal protection of the laws, Justice Miller indulged in the false prophecy: "We doubt very much whether any action of a state not directed by way of discrimination against the negroes as a class or on account of their race will ever be held to come within the purview of this provision." An emergency might arise, he admitted, but he found no such a one in the case before him.

Concluding his opinion, he expressed the view that the American Federal system had come out of the Civil

War with its main features unchanged, and that it was the duty of the Supreme Court then as always to hold with a steady and an even hand the balance between state and Federal power. "Under the pressure of all the excited feeling growing out of the War," he remarked, "our statesmen have still believed that the existence of the states with powers for domestic and local government, including the regulation of civil rights — the rights of person and property — was essential to the perfect working of our complex form of government, though they have thought proper to impose additional limitations upon the states and to confer additional power on that of the nation."

Under this strict interpretation of the Thirteenth and Fourteenth amendments, all the fundamental rights of persons and property remained subject to the state governments substantially in the same way as before the Civil War. The Supreme Court thus could not become the final arbiter and control the social and economic legislation of states at every point. Those champions of the amendments who looked to them to establish Federal judicial supremacy for the defense of corporations and business enterprises everywhere throughout the American empire were sadly disappointed.

Nowhere was that disappointment more effectively and more cogently stated than in the opinions of the judges who dissented from the doctrines announced by the majority of the court. Chief Justice Chase and Justices Field, Bradley, and Swayne refused to accept the interpretation and the conclusions reached by the majority, and the last three judges wrote separate opin-

ions of their own expressing their grounds for dissenting. The first of these, Justice Field, contended that the Louisiana statute in question could not legitimately come under the police power and was in violation of the Fourteenth Amendment, inasmuch as it denied to citizens of the United States the fundamental rights which belonged to citizens of all free governments — protection against monopolies and equality of rights in the pursuit of the ordinary avocations of life. In his opinion, the privileges and immunities put under the supervision of the Federal Government by the Fourteenth Amendment comprised generally “protection by the government, the enjoyment of life and liberty, with the right to acquire and possess property of every kind, and to pursue and obtain happiness and safety, subject, nevertheless, to such restraint as the government may justly prescribe for the general good of the whole.” In other words, Justice Field would have carried the Amendment beyond the specific enumeration of any definitely ascertained legal rights into the field of moral law, which, in final analysis, would have meant the subjection of the state legislation solely to the discretion of the judicial conscience. The future, as we shall see, was with Justice Field.

In the opinion of Justice Bradley, the Louisiana statute not only deprived persons of the equal protection of the laws, but also of liberty and property — the right of choosing, in the adoption of lawful employments, being a portion of their liberty, and their occupation being their property. In the opinion of Mr. Justice Swayne, who dissented also, the word liberty as used in

the Fourteenth Amendment embodied freedom from all restraints except such as were "justly" imposed by law. In his view, property included everything that had an exchange value, including labor, and the right to make property available was next in importance to the rights of life and liberty.

### *The Granger Cases*

Three years after the decision in the Slaughter-House cases, the Supreme Court again refused to interpret the Fourteenth Amendment so broadly as to hold unconstitutional a state statute regulating business undertakings. This case, *Munn v. Illinois*, decided in 1876, involved the validity of a statute passed under the constitution of that state, which declared all elevators where grain was stored to be public warehouses and subjected them to strict regulation, including the establishment of fixed maximum charges. It was contended by the plaintiffs in error, Munn and Scott, that the statute violated the Fourteenth Amendment in two respects: (1) that the business attempted to be regulated was not a public calling and was, therefore, totally outside of the regulatory or police power of the state; and (2) that even if the business was conceded to be public in character, and therefore by the rule of the common law was permitted to exact only "reasonable" charges for its services, nevertheless the determination of what was reasonable belonged to the judicial branch of the government and could not be made by the legislature without violating the principle of "due process."

Both of these contentions were rejected by the Court, and the constitutionality of the Illinois statute was upheld. The opinion of the Court was written by Chief Justice Waite, who undertook an elaborate examination of the "due process" clause of the Fourteenth Amendment. The principle of this Amendment, he said, though new in the Constitution of the United States, is as old as civilized government itself; it is found in Magna Carta in substance if not in form, in nearly all of the state constitutions, and in the Fifth Amendment to the Federal Constitution. In order to ascertain, therefore, what power legislatures enjoyed under the new amendment, it was only necessary to inquire into the limitations which had been historically imposed under the due process clause in England and the United States; and after an examination of some cases in point the Chief Justice came to the conclusion that "down to the time of the adoption of the Fourteenth Amendment it was not supposed that statutes regulating the use or even the price of the use of private property necessarily deprived an owner of his property without due process of law." When private property "is affected with public interest" and is used in a manner to make it of public consequence, the public is in fact granted an interest in that use, and the owner of the property in question "must submit to be controlled by the public for the common good, to the extent of the interest he has thus created."

But it was insisted on behalf of the plaintiffs that the owner of property is entitled to a reasonable compensation for its use even when it is clothed with the public interest, and that the determination of what is reasonable



is a *judicial*, not a *legislative*, matter. To this Chief Justice Waite replied that the usual practice had been otherwise. "In countries where the common law prevails," he said, "it has been customary from time immemorial for the legislature to declare what shall be a reasonable compensation under such circumstances, or perhaps more properly speaking to fix a maximum beyond which any charge made would be unreasonable. . . . The controlling fact is the power to regulate at all. If that exists, the right to establish the maximum of charge as one of the means of regulation is implied. In fact, the common law rule which requires the charge to be reasonable is itself a regulation as to price. . . . To limit the rate of charge for services rendered in a public employment, or for the use of property in which the public has an interest, is only changing a regulation which existed before. It establishes no new principle in the law, but only gives a new effect to an old one. We know that this is a power which may be abused; but that is no argument against its existence. *For protection against abuses by legislatures the people must resort to the polls, not to the courts.*"<sup>1</sup>

<sup>1</sup> It is to be noted that the demand of the warehousemen on the second point was not for a *judicial review* of the reasonableness of a rate fixed by the legislature, but a total *denial* of the *power* of a *legislature* to act in the matter. The question of the propriety of a *judicial review* of the reasonableness of the rates in question was not raised in the pleadings. It was not difficult, therefore, for judges in subsequent cases in which the question of *judicial review* was squarely raised to explain away as mere *dictum* this solemn statement by Chief Justice Waite to the effect that the power of the legislature to regulate being conceded, the determination of the legislature was binding on the courts and not subject to review.

The principle involved in the Munn case also came up in the same year (1876) in *Peik v. Chicago and Northwestern Railroad Company*, in which Chief Justice Waite, speaking of an act of Wisconsin limiting passenger and freight charges on railroads in the state, said: "As to the claim that the courts must decide what is reasonable and not the legislature, this is not new to this case. It has been fully considered in *Munn v. Illinois*. Where property has been clothed with a public interest, the legislature may fix a limit to that which shall be in law reasonable for its use. This limit binds the courts as well as the people. If it has been improperly fixed, the legislature, not the courts, must be appealed to for the change."

The total results of the several Granger cases, decided in 1876, may be summed up as follows:

(1) That the regulatory power of the state over "public callings" is not limited to those businesses over which it was exercised at common law, but extends to any business in which, because of its necessary character and the possibilities for extortion afforded by monopolistic control, the public has an interest.

(2) That such regulatory power will not be presumed to have been contracted away by any legislature, unless such intention is unequivocally expressed.

(3) That the exercise of such regulatory power belongs to the legislature, and not to the judiciary.

(4) And the *dictum* that the judiciary can grant no relief from an unjust exercise of this regulatory power by the legislature.

Although the denial of the right of the judiciary to

review the "reasonableness" of a rate fixed by the legislature in the Granger cases had been *dictum*, a case was not long arising in which the issue was squarely raised. Had this case gone to the Supreme Court, the question of judicial review would have been decided a full decade or more before it really was. In this case, the Tilley case, a bondholder of a railroad operating in Georgia sought to restrain the railroad from putting into force a tariff fixed by the state railroad commission, on the ground that it was so unreasonably low as to be confiscatory. Judge Woods, of the Federal circuit court, refused to grant the injunction, basing his decision squarely upon the dictum in *Munn v. Illinois*, and declaring that the railroad must seek relief from unjust action on the part of the commission at the hands of the legislature or of the people.

It was not till seven years after the Granger cases that another case involving rate regulation was presented to the Federal courts.<sup>1</sup> The Ruggles case, brought to the Supreme Court by writ of error to the supreme court of Illinois, in 1883, involved a conviction of one of the agents of the Illinois Central Railway for violating a maximum passenger fare statute of that state, and raised substantially the same question as all of the Granger cases except the *Munn* case — the right of the legislature to regulate the rates of a railroad which was itself empowered by its charter to fix its own rates. The Court affirmed the doctrine of the Granger cases, Chief Justice Waite again writing the opinion. The case is noteworthy only for the opinion of Justice Harlan, con-

<sup>1</sup> Except for two unimportant cases decided in the lower courts.

curring in the judgment, but dissenting from the opinion, of the Court, in so far as that opinion expressed, as he declared, the doctrine that the legislature of Illinois could regulate the rates of the railway concerned, in any manner it saw fit. Justice Harlan argued that inasmuch as the charter of the railroad had conferred upon it the right to demand "reasonable" charges, the legislature, when it resumed the power of fixing charges, was estopped from fixing less than "reasonable" charges; and should charges lower than "reasonable" be fixed, it would be within the province of the judicial branch to give relief against such an impairment of the obligation of contract.

Justice Harlan's opinion is interesting not only because it touches upon the possibility of a *judicial* review of the rate fixed by the legislature; but because the learned Justice bases his contention on the *contract* between the railroad and the state to the effect that rates should be "reasonable." This indicates plainly that not even in the mind of Justice Harlan, who later became the firm exponent of the power of judicial review, was there any clear belief that the Fourteenth Amendment as such gave the Court any power to review the "reasonableness" of a rate fixed by the legislature. In other words, he derived his doctrine of judicial review from the power of the Federal judiciary to enforce the obligation of contracts, and not from its power to compel "due process of law."

It is impossible to trace here the numerous decisions following the Ruggles case in which the Supreme Court was called upon to consider the power of state legis-

latures to control and regulate corporations, particularly railways. It is impossible also to follow out all of the fine and subtle distinctions by which the *dictum* of Chief Justice Waite, in the Munn case, to the effect that private parties must appeal to the people, and not to the courts, for protection against state legislatures, was supplanted by the firm interpretation of the Fourteenth Amendment in such a manner as to confer upon the courts the final power to review all state legislation regulating the use of property and labor. Of course we do not have, in fact, this clear-cut reversal of opinion by the Court, but rather a slow working out of the doctrine of judicial review as opposed to an implication that the Court could not grant to corporations the relief from legislative interference which they sought. There are but few clear-cut reversals in law; but the political effect of the Court's decisions has been none the less clear and positive.

### *The Minnesota Rate Case*

It seems desirable, however, to indicate some of the leading steps by which the Court moved from the doctrine of non-interference with state legislatures to the doctrine that it is charged with the high duty of reviewing all and every kind of economic legislation by the states. One of the leading cases in this momentous transition is that of the Chicago, Milwaukee, and St. Paul Railway Company *v.* Minnesota, decided in 1889, which made a heavy contribution to the doctrine of judicial review of questions of political economy as well as law.

This case involved the validity of a Minnesota law which conferred upon a state railway commission the power to fix "reasonable" rates. The commission, acting under this authority, had fixed a rate on the transportation of milk between two points.

The railroad having refused to put the rate into effect, the commission applied to the supreme court of the state for a writ of mandamus. In its answer the railroad claimed, among other contentions, that the rate fixed was unreasonably low. The supreme court of the state refused to listen to this contention, saying that the statute by its terms made the order of the commission conclusively reasonable; accordingly it issued the mandamus. By writ of error, the case was brought to the Supreme Court of the United States, which, by a vote of six to three, ordered the decree of the state court vacated, on the ground that the statute as construed by the supreme court of the state was unconstitutional, as a deprivation of property without due process of law.

The opinion of the Court, written by Justice Blatchford, has frequently been interpreted to hold, and was indeed interpreted by the dissenting minority to hold, that the judiciary must, to satisfy the requirements of "due process," have the power of final review over the reasonableness of all rates, however fixed. It is doubtful whether the language of the opinion sustains this reading; but the strong emphasis on the place of the judiciary in determining the reasonableness of rates lent color to the contention that Mr. Justice Blatchford was setting up "judicial supremacy." In the course of his opinion,

he said: "The question of the reasonableness of a rate of charge for transportation by a railroad company, involving as it does the element of reasonableness both as regards the company and as regards the public, is eminently a question for judicial investigation requiring due process of law for its determination. If the company is deprived of the power of charging reasonable rates for the use of its property, and such deprivation takes place in the absence of an investigation by judicial machinery, it is deprived of the lawful use of its property, and thus in substance and effect, of the property itself without due process of law and in violation of the Constitution of the United States."

The dissenting members of the Court in this case certainly saw in Justice Blatchford's opinion an assertion of the doctrine that whatever the nature of the commission established by law or the form of procedure adopted, the determination of rates was subject to review by a strictly judicial tribunal. In his dissent, Mr. Justice Bradley declared that the decision had practically overruled *Munn v. Illinois* and the other Granger cases. "The governing principle of those cases," he said, "was that the regulation and settlement of the affairs of railways and other public accommodations is a legislative prerogative and not a judicial one. . . . The legislature has the right, and it is its prerogative, if it chooses to exercise it, to declare what is reasonable. This is just where I differ from the majority of the Court. They say in effect, if not in terms, that the final tribunal of arbitrament is the judiciary; I say it is the legislature. I hold that it is a legislative question, not a judicial one,

unless the legislature or the law (which is the same thing) has made it judicial by prescribing the rule that the charges shall be reasonable and leaving it there. It is always a delicate thing for the courts to make an issue with the legislative department of the government, and they should never do it, if it is possible to avoid it. By the decision now made we declare, in effect, that the judiciary, and not the legislature, is the final arbiter in the regulation of fares and freights of railroads and the charges of other public accommodations. It is an assumption of authority on the part of the judiciary which, it seems to me, with a due reverence to the judgment of my brethren, it has no right to make. . . . Deprivation of property by mere arbitrary power on the part of the legislature or fraud on the part of the commission are the only grounds on which judicial relief may be sought against their action. There was in truth no deprivation of property in these cases at all. . . . It may be that our legislatures are invested with too much power, open as they are to influences so dangerous to the interests of individuals, corporations, and societies. But such is the Constitution of our republican form of government, and we are bound to abide by it until it can be corrected in a legitimate way."

### *The Development of Judicial Review*

A further step toward judicial review even still more significant was taken, in the case of *Reagan v. Farmers' Loan and Trust Company*, decided by the Supreme Court in 1894. This case came up from the Federal circuit



court of Texas which had enjoined the state railway commissioners from fixing and putting into effect railway rates which the Trust Company, as a bondholder and interested party, contended were too low, although not confiscatory.

The opinion of the Court, written by Justice Brewer, who, as Federal circuit judge, had already taken advanced ground in favor of judicial review, went the whole length in upholding the right of the judiciary to review the reasonableness, not only of a rate fixed by a commission, as in the case in hand, but even of one fixed by the legislature. The case differed in no essential way, declared the justice, from those cases in which it had been the age-long practice of the judiciary to act as final arbiters of reasonableness — cases in which a charge exacted by a common carrier was attacked by a shipper or passenger as unreasonable. The difference between the two cases was merely that in the one the rate alleged to be unreasonable was fixed by the carrier; in the other it was fixed by the commission or by the legislature. In support of this remarkable bit of legal reasoning, the opinion adduced as precedents merely a few brief excerpts, from previous decisions of the Court, nearly all of which were pure *dicta*.

The absence of any dissent from this opinion, in spite of the fact that Judge Gray, who had concurred in Justice Bradley's vigorous dissenting opinion in the Chicago-Minnesota case four years before, was still on the bench, indicates that the last lingering opposition to the doctrine of judicial review in the minds of any of the Court had been dissolved. Henceforth it was but the emphatic

affirmation and consistent development of that doctrine that was to be expected.

If we leave out of account Mr. Justice Brewer's *dicta* and consider the Court to have decided merely the issues squarely presented, the Reagan case left much to be done before the doctrine of judicial review could be regarded as established beyond all possibility of limitation and serious qualification. Other cases on the point followed quickly, but it was not until the celebrated case of *Smyth v. Ames*, decided in 1898, that the two leading issues were fairly presented and settled. In this case the rate attacked was not fixed by a commission, but by a state legislature itself; and the rate was not admitted by the counsel for the state to be unreasonable, but was strongly defended as wholly reasonable and just. The Court had to meet the issues.

The original action in the case of *Smyth v. Ames* was a bill in equity brought against the attorney-general and the Nebraska state board of transportation, in the Federal circuit court, by certain bondholders of the railroads affected, to restrain the enforcement of the statute of that state providing a comprehensive schedule of freight rates. The bills alleged, and attempted to demonstrate by elaborate calculations, that the rates fixed were *confiscatory*, inasmuch as a proportionate reduction on all the rates of the railroads affected by them would so reduce the income of the companies as to make it impossible for them to pay any dividends; and in the case of some of them, even to meet all their bonded obligations. On behalf of the state, it was urged that the reduction in rates would increase business, and, therefore, increase

net earnings, and that some at least of the companies were bonded far in excess of their actual value. Supreme Court Justice Brewer, sitting in circuit, on the basis of the evidence submitted to him, consisting mainly of statements of operating expenses, gross receipts, and inter- and intra-state tonnage, found the contention of the railroads well taken, and issued the injunctions applied for.

The opinion of the Supreme Court, affirming the decree of Judge Brewer, was, in the essential part of it — that asserting the principle of judicial review in its broadest terms — singularly brief. Contenting himself with citing a few short *dicta* from previous decisions, Justice Harlan, speaking for the Court, declared that the principle “must be regarded as settled” that the reasonableness of a rate could not be so conclusively determined by a legislature as to escape review by the judiciary. Equally well settled, it was declared, was the principle that property affected with a public interest was entitled to a “fair return” on its “fair” valuation. These principles regarded as established, the Court proceeded to examine the evidence, although it admitted that it lacked the technical knowledge necessary to a completely equitable decision; and sustained the finding of the lower court in favor of the railroads. There was no dissent.

With *Smyth v. Ames* the doctrine of judicial review may be regarded as fully established. No portion of the judicial prerogative could now be surrendered without not merely “distinguishing” but flatly overruling a unanimous decision of the Court.

The significance of *Smyth v. Ames* was soon observable in the activities of the lower Federal courts. Within the nine months of 1898 that followed that decision, there were at least four applications for injunctions against alleged unreasonable rates, and in three of these cases the applications were granted. During the years that followed *Smyth v. Ames*, Federal courts all over the country were tying the hands of state officers who attempted to put into effect legislative measures regulating railway concerns. In Arkansas, Florida, Alabama, Minnesota, Missouri, Illinois, North Carolina, Louisiana, and Oregon, rates fixed by statute, commission, or ordinance were attacked by the railways in the Federal courts and their enforcement blocked. In several instances the injunctions of the lower courts were made permanent, and no appeal was taken to the Supreme Court of the United States. With *Smyth v. Ames* staring them in the face, state attorneys accepted the inevitable.

The decision in *Smyth v. Ames* left still one matter in doubt. The allegation of the railroads in that case had been that the rates fixed were actually confiscatory — that is, so low as to make dividends impossible. In the course of his opinion, Justice Harlan had stated, however, that the railroads were entitled to a “fair return,” an opinion that had been expressed also in the *Reagan* case, where indeed it had been necessary to the decision, and still earlier, but with little relevancy, in the *Chicago-Minnesota* case. In none of these cases, however, had any precise definition of the terms “reasonable” or “fair” return been necessary, and none had been made.

The first direct suggestion of the development of the

judicial reasoning on this point that was to take place is found in the Milwaukee Electric Railway case, also decided in 1898. In that case Judge Seaman, of the Federal circuit court, found from the evidence that the dividends of the street railway company for several years past had been from 3.3 to 4.5 per cent, while its bonds bore interest at 5 per cent. Anything less than these returns, the judge declared, would be unreasonable, inasmuch as money loaned on real estate, secured by a first mortgage, was at that time commanding 6 per cent in Milwaukee.

Eleven years later, in 1909, the Supreme Court sustained virtually the same rule in the New York Consolidated Gas case, holding, with the lower court, that the company was entitled to *six* per cent return on a fair value of its property (including franchises and the high values of the real estate used by it in the business), because six per cent was the "customary" rate of interest at that time in New York City. On the same day the court decided that a return of six per cent on waterworks property in Knoxville, Tennessee, was also not unreasonable. In neither of these cases, however, did the Court attempt any examination or explanation of the evidence on which it rested its determination that six per cent was the "customary" rate in the places named; nor did it attempt to explain the principle on which such "customary" rate could be determined for other times and places. Plainly there is still room for a great deal of "distinguishing" on this point. The extreme vagueness of the rule was exemplified by the decision of Federal circuit Judge Sanborn in the Shephard case (1912), in which he

decided that, for a railroad running through Minnesota, *seven* per cent was no more than a "fair" return, and that any reduction in rates which would diminish the profits of the road below that figure was unreasonable.

Equally important and of as great difficulty are the questions entering into the determination of a "fair" valuation. This point is both too unsettled and too technical to render any discussion of it profitable here. Attention may, however, be called to two of the holdings in the Consolidated Gas case. In arriving at a "fair" valuation of the gas company's property, the Court allowed a large valuation to be placed upon the franchises of the company — none of which had been paid for by the companies to which they had originally been issued, and which had not been paid for by the Consolidated Company when it took them over, except in the sense that a large amount of stock, more than one sixth of the total stock issued by the company, had been issued against them, when the consolidation was formed. The particular facts surrounding this case are such as to make it very easy for the Court to "distinguish" this case from the usual one, for the consolidation was formed, and its stock issued, under a statute that authorized the formation of consolidations, and forbade such consolidations to issue stock in excess of the fair value of the "property, franchises, and rights" of the constituent companies. This last prohibition the Court construed as indicative of the legislative intention that the franchises should be capitalized. Equally plain is it, however, that this particular circumstance of the Consolidated Gas case is so irrelevant that it will

offer no obstacle whatever to the Court's quoting that case as a precedent for the valuation of franchises obtained *gratis*, should it so desire.

Another holding of great importance in the Gas case was that the company was entitled to a fair return on the value of real estate used in the business, that value having appreciated very greatly since the original purchase of the real estate, and there being no evidence to show that real estate of so great value was essential to the conduct of the business.

The importance of these two holdings is exemplified by the fact that in this particular case the combined value attributed to the franchises and the appreciation of real estate was over \$15,000,000 — more than one fourth of the total valuation arrived at by the Supreme Court. It will readily be seen that if these two items had been struck from the valuation by the Court, it would be possible for the state to make a still further substantial reduction in the rate charged for gas in New York City without violating the Court's own canon of reasonableness — a six per cent return.

The steps in the evolution of the doctrine of judicial review may be summarized in the following manner :

The Supreme Court first declared that the legislative determination of what was a "reasonable" rate was not subject to review by the courts.

The first departure from this view was an intimation, confirmed with increasing emphasis in several cases, that a rate so low as to make any return whatever impossible was confiscatory and would be set aside by the Court as violating the Fourteenth Amendment. For a time,

however, the Court took the position (steadily undermined in subsequent decisions) that a rate which allowed some, even though an "unreasonably low" return, was not prohibited by the Fourteenth Amendment and could not be set aside by the Court.

Next in order came the holding that the determination of a commission as to what was reasonable could not be made conclusive upon the courts, at least when the commission had acted without the forms and safeguards of judicial procedure, and, probably, even when it had acted with them.

In the same decision appeared an intimation, which in subsequent decisions became crystallized into "settled law," that not only were totally confiscatory rates prohibited by the Fourteenth Amendment, but also any rates which deprived the owners of the property regulated of a return equal to what was "customary" in private enterprises.

This rule was applied by the Court for the first time against a rate fixed by a commission, and where the rate was admitted by the pleadings to be confiscatory. But it was shortly thereafter applied to a rate fixed by a legislature, and where the "reasonableness" (not the confiscatory character) of the rate was a direct issue on the facts and evidence.

Finally, the principle that what is a "fair" or "reasonable" rate is to be measured by the customary return in private enterprises under similar conditions, has been applied in several cases to warrant the requirement of a definite rate of interest; but no precise rules have been laid down for the determination of such rate in all cases.



The most striking feature, perhaps, of the development of the doctrine of judicial review here traced, as seen in the opinions of the Supreme Court, is the brevity and almost fortuitous character of the reasoning given in support of the most important and novel holdings. A comparison of the reasoning in *Smyth v. Ames*, for example, with that in *Marbury v. Madison*, in which Chief Justice Marshall first held a law of Congress unconstitutional, will forcibly exemplify this. The explanation is to be found largely in the fact that each step in advance in the building up of the doctrine had been foreshadowed in *dictum* before it was established as decision. It was thus possible for the judge writing the opinion in a case when a new rule was actually established, to quote, as "settled law," a mere *dictum* from a previous opinion. Justice Gray's citation, in this fashion, in the *Dow* case, of Chief Justice Waite's *dictum* in the *Ruggles* case (although he might, with equal cogency, have cited the Chief Justice's contrary *dictum* in the *Munn* or *Peik* cases), is a good instance of this curious use of "precedent"; and parallel instances could be adduced from virtually every one of the important subsequent cases on this subject.<sup>1</sup>

It is apparent from this all too brief and incomplete

<sup>1</sup> It should be noted that the Supreme Court not only undertook to pass upon the reasonableness of such rates as the states were permitted to make, but also added in 1886 that no state could regulate the rates on goods transported within its borders, when such goods were in transit to or from a point in another state. Such regulation was held in the *Wabash, etc., Railway Company v. Illinois* (118 U. S. 557) to be an interference with interstate commerce which was subject to control by Congress only.

account of the establishment of judicial review over every kind and class of state legislation affecting private property rights that no layman can easily unravel the mysterious refinements, distinctions, and logical subtleties by which the fact was finally established that property was to be free from all interference except such as might be allowed by the Supreme Court (or rather five judges of that Court) appointed by the President and Senate, thus removed as far as possible from the pressure of public sentiment. Had a bald veto power of this character been suddenly vested in any small group of persons, there can be no doubt that a political revolt would have speedily followed. But the power was built up by gradual accretions made by the Court under the stimulus of skilful counsel for private parties, and finally clothed in the majesty of settled law. It was a long time before the advocates of leveling democracy, leading an attack on corporate rights and privileges, discovered that the courts were the bulwarks of *laissez faire* and directed their popular battalions in that direction.

Those who undertake to criticize the Supreme Court for this assumption of power do not always distinguish between the power itself and the manner of its exercise. What would have happened if the state legislatures had been given a free hand to regulate, penalize, and blackmail corporations at will during the evolution of our national economic system may be left to the imagination of those who recall from their history the breezy days of "wild-cat" currency, repudiation, and broken faith which characterized the thirty years preceding the Civil War when the Federal judiciary was under the dominance

of the states' rights school. The regulation of a national economic system by forty or more local legislatures would be nothing short of an attempt to combine economic unity with local anarchy. It is possible to hold that the Court has been too tender of corporate rights in assuming the power of judicial review, and at the same time recognize the fact that such a power, vested somewhere in the national government, is essential to the continuance of industries and commerce on a national scale.

Thus far attention has been directed to the activities of the Federal Supreme Court in establishing the principle of judicial review particularly in connection with legislation relative to railway corporations, but it should be noted that judicial review covers all kinds of social legislation relative to hours and conditions of labor as well as the charges of common carriers. In 1905, for example, the Supreme Court in the celebrated case of *Lochner v. New York* declared null and void a New York law fixing the hours of work in bakeshops at ten per day, basing its action on the principle that the right to contract in relation to the hours of labor was a part of the liberty which the individual enjoyed under the Fourteenth Amendment. Mr. Justice Holmes, who dissented in the case, declared that it was decided on an economic theory which a large part of the country did not entertain, and protested that the Fourteenth Amendment did not "enact Mr. Herbert Spencer's *Social Statics*."

As a matter of fact, however, the Supreme Court of the United States has declared very little social legisla-

tion invalid, and has been inclined to take a more liberal view of such matters than the supreme courts of the states. The latter also have authority to declare state laws void as violating the Federal Constitution, and when a state court of proper jurisdiction invalidates a state law, there is, under the Federal judiciary act, no appeal to the Supreme Court of the United States. Consequently, the Fourteenth Amendment means in each state what the highest court holds it to mean, and since the adoption of that Amendment at least one thousand state laws have been nullified by the action of state courts, under the color of that Amendment or their respective state constitutions.

As examples, in New York a law prohibiting the manufacture of cigars in tenement houses, in Pennsylvania a law prohibiting the payment of wages in "scrip" or store orders, and in Illinois a statute forbidding mining and manufacturing corporations to hold back the wages of their employees for more than a week were declared null and void. Such laws were nullified not only on the ground that they deprived the employer of property without due process, but also on the theory that they deprived workingmen of the "liberty" guaranteed to them to work under any conditions they chose. In one of these cases, a Pennsylvania court declared the labor law in question to be "an insulting attempt to put the laborer under a legislative tutelage which is not only degrading to his manhood but subversive of his rights as a citizen of the United States."

Where the state court nullified under the state con-

stitution, it was of course relatively easy to set aside the doctrines of the court by amending the constitution, but where the state court nullified on the ground of the Fourteenth Amendment to the Federal Constitution, there was no relief for the state and even no appeal for a review of the case to discover whether the Supreme Court of the United States would uphold the state tribunal in its view of the national law. Under such circumstances, the highest state court became the supreme power in the state, for its decrees based on the Federal Constitution were final. It was the freedom, one may say, recklessness, with which the courts nullified state laws that was largely responsible for the growth of the popular feeling against the judiciary, and led to the demand for the recall of judges.<sup>1</sup>

<sup>1</sup> Below, p. 287.

## CHAPTER IV

### PARTIES AND PARTY ISSUES, 1877-1896

IT was a long time before the conditions created by the great economic revolution were squarely reflected in political literature and party programs. Indeed, they were but vaguely comprehended by the generation of statesmen who had been brought up in the days of the stagecoach and the water mill. It is true that the inevitable drift of capitalism in the United States might have been foreseen by turning to Europe, particularly to England, where a similar economic revolution had produced clearly ascertainable results; but American politicians believed, or at least contended, that the United States lived under a special economic dispensation and that the grave social problems which had menaced Europe for more than a generation when the Civil War broke out could never arise on American soil.

From 1861 to 1913, the Republican party held the presidential office, except for eight years. That party had emerged from the Civil War fortified by an intense patriotism and by the support of the manufacturing interests which had flourished under the high tariffs and of capitalists anxious to swing forward with the development of railways and new enterprises. Its origin had been marked by a wave of moral enthusiasm such as has seldom appeared in the history of politics.

It came to the presidency as a minority party, but by the fortunes of war it became possessed of instruments of power beyond all calculation. Its leading opponents from the South deserted in a mass giving it in a short time possession of the field—all the Federal branches of government. It had the management of the gigantic war finances, through which it attached to itself the interests and fortunes of the great capitalists and bankers throughout the North. It raised revenues by a high tariff which placed thousands of manufacturers under debt to it and linked their fortunes also with its fate. It possessed the Federal offices, and, therefore, railway financiers and promoters of all kinds had to turn to it for privileges and protection. Finally, millions of farmers of the West owed their homes to its generous policy of giving away public lands. Never had a party had its foundations on interests ramifying throughout such a large portion of society.

And over all it spread the mantle of patriotism. It had saved the Union, and it had struck the shackles from four million bondmen. In a baptism of fire it had redeemed a nation. Europe's finger of scorn could no longer be pointed to the "slave republic paying its devotions to liberty and equality within the sound of the bondman's wail." The promises of the Declaration of Independence had been fulfilled and the heroic deeds of the Revolution rivaled by Republican leaders. As it declared in its platform of 1876, the Republican party had come into power "when in the economy of Providence this land was to be purged of human slavery and when the strength of the government of the people, by the

people, and for the people was to be demonstrated." Incited by the memories of its glorious deeds "to high aims for the good of our country and mankind," it looked forward "with unfaltering courage, hope, and purpose."

Against such a combination of patriotism and economic interest, the Democratic party had difficulty in making headway, for its former economic mainstay, the slave power, was broken and gone; it was charged with treason, and it enjoyed none of the spoils of national office. But in spite of all obstacles it showed remarkable vitality. Though divided on the slave question in 1860, those who boasted the name of "Democrat" were in an overwhelming majority, and even during the Civil War, with the southern wing cut off completely, the party was able to make a respectable showing in the campaign which resulted in Lincoln's second election. When the South returned to the fold, and white dominion drove the negro from the polls, the Democratic party began to renew its youth. In the elections of 1874, it captured the House of Representatives; it narrowly missed the presidency in 1876; and it retained its control of the lower house of Congress in the elections of 1876 and 1878.

The administration of President Hayes did little to strengthen the position of the Republicans. His policy of pacification in the South alienated many partisans who believed that those who had saved the Union should continue to rule it; but it is difficult to say how much disaffection should be attributed to this cause. It seems to have been quietly understood within official



circles that support would be withdrawn from the Republican administrations in Louisiana and South Carolina. Senator Hoar is authority for the statement "that General Grant, before he left office, had determined to do in regard to these state governments exactly what Hayes afterward did, and that Hayes acted with his full approval. Second, I have the authority of President Garfield for saying that Mr. Blaine had come to the same conclusion."

Charges based on sectional feeling were also brought forward in criticism of some of Hayes' cabinet appointments. He terrified the advocates of "no concession to rebels" by appointing David M. Key, an ex-Confederate soldier of Tennessee, to the office of Postmaster-General; and his selection of Carl Schurz, a leader of the Liberal Republican Movement of 1872 and an uncertain quantity in politics, as Secretary of the Interior, was scarcely more palatable in some quarters. He created further trouble in Republican ranks by his refusal to accede to the demands of powerful Senators, like Cameron of Pennsylvania and Conkling of New York, for control over patronage in their respective states. No other President for more than a generation had so many nominations rejected by the Senate.

On the side of legislation, Hayes' administration was nearly barren. During his entire term the House of Representatives was Democratic, and during the last two years the Senate was Democratic also by a good margin. Had he desired to carry out a large legislative policy, he could not have done so; but he was not a man of great capacity as an initiator of public policies.

He maintained his dignity and self-possession in the midst of the most trying party squabbles; but in a democracy other qualities than these are necessary for effective leadership.

In their desperation, the conservative leaders of the Republican party resolved to have no more "weak and goody-goody" Presidents, incapable of fascinating the populace and keeping it in good humor, and they made a determined effort to secure the renomination of Grant for a third term, in spite of the tradition against it. Conkling captured the New York delegation to the national convention in 1880 for Grant; Cameron swung Pennsylvania into line; and Logan carried off Illinois. Grant's consent to be a candidate was obtained, and Conkling placed his name in nomination in a speech which Senator Hoar describes as one of "very great power."

Strong opposition to Grant developed, however, partly on account of the feeling against the third term, and particularly on account of the antagonism to the Conkling faction which was backing him. Friends of Blaine, then Senator from Maine, and supporters of John Sherman of Ohio, thought that Grant had had enough honors at the hands of the party, and that their turn had come. As a result of a combination of circumstances, Grant never received more than 313 of the 378 votes necessary to nomination at the Republican convention. After prolonged balloting, the deadlock was broken by the nomination of James A. Garfield, of Ohio, as a "dark horse." The Grant contingent from New

York received a sop in the shape of the nomination of Chester A. Arthur, a politician of the Conkling school, to the office of Vice President.

In spite of the promising signs, the Democrats were unable to defeat the Republicans in 1880. The latter found it possible to heal, at least for campaign purposes, the breaches created by Hayes' administration. It is true that Senator Conkling and the "Stalwart" faction identified with corporation interests were sorely disappointed in their failure to secure the nomination of Grant for a third term, and that Garfield as a "dark horse" did not have a personal following like that of his chief opponents, the Hero of Appomattox, Blaine of Maine, and Sherman of Ohio. But he had the advantage of escaping the bitter factional feeling within the party against each of these leaders. He had risen from humble circumstances, and his managers were able to make great capital out of his youthful labors as a "canal-boat boy." He had served several terms in Congress acceptably; he had been intrusted with a delicate place as a member of the electoral commission that had settled the Hayes-Tilden dispute; and he was at the time of his nomination Senator-elect from Ohio. Though without the high qualities of leadership that distinguished Blaine, Garfield was a decidedly "available" candidate, and his candidature was strengthened by the nomination of Arthur, who was acceptable to the Conkling group and the spoilsmen generally.

The Republican fortunes in 1880 were further enhanced by the divisions among the Democrats and their inability to play the game of practical politics. Two sets

of delegates appeared at the convention from New York, and the Tammany group headed by "Boss" Kelly was excluded, thus offending a powerful section of the party in that pivotal state. The candidate nominated, General Hancock, was by no means a skilful leader. In fact, he had had no public experience outside of the Army, where he had made a brilliant record, and he showed no ability at all as a campaigner. Finally, the party made its fight principally on the "great fraud of 1876," asking vindication at the hands of the people on the futile theory that the voters would take an interest in punishing a four-year-old crime. In its platform, reported by Mr. Watterson, of Kentucky, it declared that the Democrats had submitted to that outrage because they were convinced that the people would punish the crime in 1880. "This issue precedes and dwarfs every other; it imposes a more sacred duty upon the people of the Union than ever addressed to the conscience of a nation of freemen." Notwithstanding this narrow issue, Hancock fell behind Garfield only about ten thousand votes, although his electoral vote was only 155 to 214 for his opponent.

Whether Garfield would have been able to consolidate his somewhat shattered party by effective leadership is a matter of speculation, for, on July 2, 1881, about four months after his inauguration, he was shot by Charles J. Guiteau, a disappointed and half-crazed office seeker, and he died on September 19. His successor, Vice President Arthur, though a man of considerable ability, who managed his office with more acumen and common honesty than his opponents attributed to him, was unable to clear away the accumulating dissatisfaction within

his party or convince the country that the party would do its own reforming.

In fact, Arthur, notwithstanding the taint of "spoils" associated with his career, proved to be by no means the easy-going politician that had been expected. He took a firm stand against extravagant appropriations as a means of getting rid of the Treasury surplus, and in 1882 he vetoed a river and harbor appropriation bill which was specially designed to distribute funds among localities on the basis of favoritism. In the same year, he vetoed a Chinese exclusion act as violating the treaty with China, and made recommendations as to changes which were accepted by Congress. Arthur also advocated legislation against the spoils system, and on January 16, 1883, signed the Civil Service law.<sup>1</sup> He recommended a revision of the tariff, including some striking reductions in schedules, but the tariff act of 1883 was even less satisfactory to the public than such measures usually are. Judging by past standards, however, Arthur had a claim upon his party for the nomination in 1884.

But Arthur was not a magnetic leader, and the election of Grover Cleveland as governor of New York in 1882 and Democratic victories elsewhere warned the Republicans that their tenure of power was not indefinite. Circumspection, however, was difficult. A "reform" faction had grown up within the party, protesting against the gross practices of old leaders like Conkling and urging at least more outward signs of propriety. In this

<sup>1</sup> See below, p. 130.

faction were Senator Hoar of Massachusetts, George William Curtis, Henry Cabot Lodge, and Theodore Roosevelt — the last of whom had just begun his political career with his election to the New York legislature in 1881. Senator Edmunds, of Vermont, was the leader of this group, and his nomination was warmly urged in the Republican convention at Chicago in 1884.

The hopes of the Republican reformers were completely dashed, however, by the nomination of Blaine. This "gentleman from Maine" was a man of brilliant parts and the idol of large sections of the country, particularly the Middle West; but some suspicions concerning his personal integrity were widely entertained, and not without reason, by a group of influential leaders in his party. In 1876, he was charged with having shared in the corruption funds of the Union Pacific Railroad Company, and as Professor Dunning cautiously puts it, "the facts developed put Mr. Blaine under grave suspicion of just that sort of wealth-getting, if nothing worse, which had ruined his colleagues in the *Crédit Mobilier*." Moreover, Mr. Blaine's associations had been with that wing of his party which had been involved or implicated in one scandal after another. Partly on this account, he had been defeated for nomination in 1876, when he was decidedly the leading aspirant and again in 1880 when he received 285 votes in the convention. But in 1884, leaders like Senator Platt, of New York, declared "it is now Blaine's turn," and he was nominated in spite of a threatened bolt.

The Democrats were fortunate in their selection of Grover Cleveland as their standard bearer. He had

been mayor of Buffalo and governor of New York, but he had taken no part in national politics and had the virtue of having few enemies in that field. He was not a man of any large comprehension of the economic problems of his age, but he was in every way acceptable to financiers in New York, for he had showed his indifference to popular demands by vetoing a five-cent fare bill for the New York City elevated roads which were then being watered and manipulated by astute speculators, like Jay Gould. Moreover, Mr. Cleveland possessed certain qualities of straightforwardness and homely honesty which commended him to a nation wearied of scandalous revelations and the malodorous spoils system.

These qualities drew to Cleveland the support of a group of eminent Republicans, like Carl Schurz who had been Secretary of the Interior under Hayes, George William Curtis, the civil service reformer, Henry Ward Beecher, and William Everett, who were nicknamed "Mugwumps" from an Indian word meaning "chief." Although the "reformers" talked a great deal about "purity" in politics, the campaign of 1884 was principally over personalities; and, as a contemporary newspaper put it, it took on the tone of "a pothouse quarrel." There was no real division over issues, as will be seen by a comparison of platforms, and scandalous rumors respecting the morals of the two candidates were freely employed as campaign arguments. Indeed, the spirit of the fray is reflected in the words of the Democratic platform: "The Republican party, so far as principle is concerned, is a reminiscence. In practice, it is an organization for enriching those who control its machinery.

The frauds and jobbery which have been brought to light in every department of the government are sufficient to have called for reform within the Republican party; yet those in authority, made reckless by the long possession of power, have succumbed to its corrupting influence and have placed in nomination a ticket against which the independent portion of the party are in open revolt. Therefore a change is demanded." Having enjoyed no opportunities for corruption worthy of mention, except in New York City where they had reaped a good harvest during the sunshine, the Democrats could honestly pose as the party of "purity in politics."

Their demand for a change was approved by the voters, for Cleveland received 219 electoral votes as against 182 cast for Blaine. A closer analysis of the vote, however, shows no landslide to the Democrats, for had New York been shifted to the Republican column, the result would have been 218 for Blaine and 183 for Cleveland. And the Democratic victory in New York was so close that a second count was necessary, upon which it was discovered that the successful candidate had only about eleven hundred votes more than the vanquished Blaine. Taking the country as a whole, the Democrats had a plurality of a little more than twenty thousand votes.

Cleveland's administration was beset by troubles from the beginning. The civil service reformers were early disappointed with his performances, as they might have expected. It is true that the Democratic party had posed in general as the party of "reform," because forsooth having no patronage to dispense nor favors



to grant it could readily make a virtue of necessity; but it is fair to say that the party had in fact been somewhat noncommittal on civil service reform, and Cleveland, though friendly, was hardly to be classed as ardent. The test came soon after his inauguration. More than one hundred thousand Federal offices were in the hands of Republicans; the Senate which had to pass upon the President's chief nominations was Republican and the clash between the two authorities was spectacular. The pressure of Democrats for office was naturally strong, and although the civil service reformers got a few crumbs of comfort, the bald fact stood forth that within two years only about one third of the former officeholders remained. "Of the chief officers," says Professor Dewey, "including the fourth class postmasters, collectors, land officers, numbering about 58,000, over 45,000 were changed. All of the 85 internal revenue collectors were displaced; and of the 111 collectors of customs, 100 were removed or not reappointed."

Cleveland's executive policy was negative rather than positive. He vigorously applied the veto to private pension bills. From the foundation of the government until 1897, it appears that 265 such bills were denied executive approval; and of these five were vetoed by Grant and 260 by Cleveland — nearly all of the latter's negatives being in his first administration. Cleveland also vetoed a general dependent pension bill in 1887 on the ground that it was badly drawn and ill considered. Although his enemies attempted to show that he was hostile to the old soldiers, his vetoes were in fact based

rather upon a careful examination of the merits of the several acts which showed extraordinary carelessness, collusion, and fraud. At all events, the Grand Army Encampment in 1887 refused to pass a resolution of censure. Cleveland also killed the river and harbor bill of 1887 by a pocket veto, and he put his negative on a measure, passed the following year, returning to the treasuries of the northern states nearly all of the direct taxes which they had paid during the Civil War in support of the Federal government.

On the constructive side, Cleveland's first administration was marked by a vigorous land policy under which upwards of 80,000,000 acres of land were recovered from private corporations and persons who had secured their holdings illegally. He was also the first President to treat the labor problem in a special message (1886); and he thus gave official recognition to a new force in politics, although the sole outcome of his recommendations was the futile law of 1888 providing for the voluntary arbitration of disputes between railways and their employees. The really noteworthy measure of his first administration was the interstate commerce law of 1887, but that could hardly be called a partisan achievement.<sup>1</sup>

Holding his place by no overwhelming mandate and having none of those qualities of brilliant leadership which arouse the multitude, Cleveland was unable to intrench his party, and he was forced to surrender

<sup>1</sup> Below, p. 133. The tenure of office law was repealed in 1887. The presidential succession act was passed in 1886.

his office at the end of four years' tenure, although his party showed its confidence by renominating him in 1888. He had a Democratic House during his administration, but he was embarrassed by party divisions there and by a Republican Senate. Under such circumstances, he was able to do little that was striking, and in his message of December, 1887, he determined to set an issue by a vigorous attack on the tariff — a subject which had been treated in a gingerly fashion by both parties since the War. While he disclaimed adherence to the academic theory of free trade as a principle, his language was readily turned by his enemies into an attack on the principle of the protective tariff. Although the performance of the Democrats in the passage of the Mills tariff bill by the House in 1888 showed in fact no strong leanings toward free trade, the Republicans were able to force a campaign on the "American doctrine of protection for labor against the pauper millions of Europe."

On this issue they carried the election of 1888. Passing by Blaine once more, the Republicans selected Benjamin Harrison, of Indiana, a United States Senator, a shrewd lawyer, and a reticent politician. Mr. Wanamaker, a rich Philadelphia merchant, was chosen to raise campaign funds, and he successfully discharged the functions of his office. As he said himself, he addressed the business men of the country in the following language: "How much would you pay for insurance upon your business? If you were confronted by from one to three years of general depression by a change in our revenue and protective measures affecting our manu-

factures, wages, and good times, what would you pay to be insured for a better year?" The appeal was effective and with a full campaign chest and the astute Matthew S. Quay as director of the national committee, the Republicans outwitted the Democrats, winning 233 electors' votes against 168 for Cleveland, although the popular vote for Harrison was slightly under that for his opponent.

Harrison's administration opened auspiciously in many ways. The appointment of Blaine as Secretary of State was a diplomatic move, for undoubtedly Blaine was far more popular with the rank and file of his party than was Harrison. The civil service reformers were placated by the appointment of Theodore Roosevelt as president of the Civil Service Commission, for he was a vigorous champion of reform, who brought the whole question forcibly before the country by his speeches and articles, although it must be said that no very startling gains were made against the spoils system under his administration of the civil service law. It required time to educate the country to the point of supporting the administrative heads in resisting the clamor of the politicians for office.

Harrison's leadership in legislation was not noteworthy. The Republicans were in power in the lower house in 1889 for the first time since 1881, but their majority was so small that it required all of the parliamentary ingenuity which Speaker Reed could command to keep the legislative machine in operation. Nevertheless, several important measures were enacted into law. The McKinley tariff act based upon the doctrine

of high protection was passed in 1890. In response to the popular outcry against the trusts, the Sherman anti-trust law was enacted the same year; and the silver party was thrown a sop in the form of the Sherman silver purchase act. The veterans of the Civil War received new recognition in the law of 1890 granting pensions for all disabled soldiers whether their disabilities were incurred in service or not. Negro voters were taken into account by an attempt to get a new "force bill" through Congress, which would insure a "free ballot and a fair count everywhere."

There had been nothing decisive, however, about the Republican victory in 1888, for a few thousand votes in New York changed the day as four years before. Harrison had not proved to be a very popular candidate, and there was nothing particularly brilliant or striking about his administration to enhance his reputation. He was able to secure a renomination in 1892, largely because he controlled so many officeholding delegates to the Republican convention, and there was no other weighty candidate in the field, Blaine being unwilling to make an open fight at the primaries.

In the second contest with Cleveland, Harrison was badly worsted, receiving only 145 electoral votes against 277 cast for the Democratic candidate and 22 for the Populist, Weaver. The campaign was marked by no special incidents, for both Cleveland and Harrison had been found safe and conservative and there was no very sharp division over issues. The tariff, it is true, was vigorously discussed, but Cleveland made it clear

that no general assault would be made on any protected interests. The million votes cast for the Populist candidate, however, was a solemn warning that the old game of party see-saw over personalities could not go on indefinitely. The issues springing from the great economic revolution were emerging, not clearly and sharply, but rather in a vague unrest and discontent with the old parties and their methods.

President Cleveland went into power for the second time on what appeared to be a wave of business prosperity, but those who looked beneath the surface knew that serious financial and industrial difficulties were pending. Federal revenues were declining and a deficit was staring the government in the face at a time when there was, for several reasons, a stringency in the gold market. The Treasury gold reserve was already rapidly diminishing, and Harrison was on the point of selling bonds when the inauguration of Cleveland saved the day for him. Congress was deadlocked on the money question, though called in a special session to grant relief; and Cleveland at length resorted to the sale of bonds under an act of 1875 to procure gold for the Treasury. The first sale was made in January, 1894, and the financiers, to pay for the bonds, drew nearly half of the amount of gold out of the Treasury itself.

The "endless chain" system of selling bonds to get gold for the Treasury, only to have it drawn out immediately, aroused a great hue and cry against the financial interests. In November, 1894, a second sale was made with similar results, and in February, 1895, Cleveland in sheer desperation called in Mr. J. P. Morgan and

arranged for the purchase of gold at a fixed price by the issue of bonds, with an understanding that the bankers would do their best to protect the Treasury. To the silver advocates and the Populists this was the climax of "Cleveland's iniquitous career of subserviency to Wall Street," for it seemed to show that the government was powerless before the demands of the financiers. This criticism forced the administration to throw open the issue of January 6, 1896, to the public, and the result was decidedly advantageous to the government — apparently an indictment of Cleveland's policy. Congress in the meantime did nothing to relieve the administration.

While the government was wrestling with the financial problem, the country was in the midst of an industrial crisis. The number of bankruptcies rose with startling rapidity, hundreds of factories were closed, and idle men thronged the streets hunting for work. According to a high authority, Professor D. R. Dewey, "never before had the evil of unemployment been so widespread in the United States." It was so pressing that Jacob Coxey, a business man from Ohio, planned a march of idle men on Washington in 1894 to demand relief at the hands of the government. His "army," as it was called, ended in a fiasco, but it directed the attention of the country to a grave condition of affairs.

Reductions in wages produced severe strikes, one of which — the Pullman strike of Chicago — led to the paralysis of the railways entering Chicago, because the Pullman employees were supported by the American Railway Union. The disorders connected with the

strike — which are now known to have been partially fomented by the companies themselves for the purpose of inducing Federal interference — led President Cleveland to dispatch troops to Chicago, against the ardent protest of Governor Altgeld, who declared that the state of Illinois was able to manage her own affairs without intermeddling from Washington. The president of the union, Mr. E. V. Debs, was thrown into prison for violating a “blanket injunction”<sup>1</sup> issued by the local Federal court, and thus the strike was broken, leaving behind it a legacy of bitterness which has not yet disappeared.

The most important piece of legislation during Cleveland’s second administration was the Wilson tariff bill — a measure which was so objectionable to the President that he could not sign it, and it therefore became law without his approval. The only popular feature in it was the income tax provision, which was annulled the following year by the Supreme Court. Having broken with his party on the money question, and having failed to secure a revision of the tariff to suit his ideas, Cleveland retired in 1897, and one of his party members declared that he was “the most cordially hated Democrat in the country.”

### *Party Issues*

The tariff was one of the issues bequeathed to the parties from ante-bellum days, but there was no very

<sup>1</sup> A judicial order to all and sundry forbidding them to interfere with the movement of the trains.



sharply defined battle over it until the campaign of 1888. The Republicans, in their platform of 1860, had declared that "sound policy requires such an adjustment of these imposts as to encourage the development of the industrial interests of the whole country"; and although from time to time they advocated tariff reductions, they remained consistently a protectionist party. The high war-tariffs, however, were revenue measures, although the protection feature was by no means lost sight of. In the campaign of 1864, both parties were silent on the question; four years later it again emerged in the Democratic platform, but it was not hotly debated in the ensuing contest. The Democrats demanded "a tariff for revenue upon foreign imports and such equal taxation under the internal revenue laws as will afford incidental protection to domestic manufactures."

From that campaign forward the Democrats appeared to favor a "revenue tariff" in their platforms. It is true they accepted the Liberal Republican platform in 1872, which frankly begged the question by acknowledging the wide differences of opinion on the subject and remitted the discussion of the matter "to the people in their congressional districts and the decision of Congress thereon." But in 1876, the Democrats came back to the old doctrine and demanded "that all custom-house taxation shall be only for revenue." In their victorious campaign of 1884, however, they were vague. They pledged themselves "to revise the tariff in a spirit of fairness to all interests"; but they promised, in making reductions, not "to injure any domestic

industries, but rather to promote their healthy growth," and to be mindful of capital and labor at every step. Subject to these "limitations" they favored confining taxation to public purposes only. It was small wonder that Democratic orators during the campaign could promise "no disturbance of business in case of victory."

Cleveland, in the beginning of his administration, faithfully followed his platform, for in his first message he "placed the need of tax reduction solely on the ground of excess revenue and declared that there was no occasion for a discussion of the wisdom or expediency of the protective system." But within two years he had seen a new light, and he devoted his message of December, 1887, exclusively to a discussion of the tariff issue, in vague and uncertain language it is true, but still characterized by such a ringing denunciation of the "vicious, illegal, and inequitable" system of taxation then in vogue, that the Republicans were able to call it, with some show of justification, a "free trade document." The New York *Tribune* announced with evident glee that Cleveland had made "the issue boldly and distinctly and that the theories and aims of the ultra-opponents of protection have a new and zealous advocate." Of course, Cleveland hotly denied that he was trying to commit his party to a simple doctrine of free trade or even the old principle of the platform, "tariff for revenue only." Moreover, the Democrats, in their platform of the following year, while indorsing Cleveland's messages, renewed the tariff pledges of their last platform and promised to take "labor" into a careful consideration in any revision.

In spite of the equivocal position taken by the Democrats, the Republicans made great political capital out of the affair, apparently on the warranted assumption that the voters would not read Cleveland's message or the platform of his party. In their declaration of principles in 1888, the Republicans made the tariff the leading issue: "We are uncompromisingly in favor of the American system of protection. We protest against its destruction, as proposed by the President and his party. They serve the interests of Europe; we will support the interest of America. We accept the issue and confidently appeal to the people for their judgment. The protective system must be maintained. . . . We favor the entire repeal of internal taxes rather than the surrender of any part of our protective system, at the joint behest of the whisky trusts and the agents of foreign manufacturers." Again, in 1892, the Republicans attempted to make the tariff the issue: "We reaffirm the American doctrine of protection. We call attention to its growth abroad. We maintain that the prosperous condition of our country is largely due to the wise revenue legislation of the Republican Congress," *i.e.* the McKinley bill.

The effect of this Republican hammering on the subject was to bring out a solemn declaration on the part of the Democrats. "We denounce," they say in 1892, "the Republican protection as a fraud, a robbery of the great majority of the American people for the benefit of the few. We declare it to be a fundamental principle of the Democratic party that the Federal government has no constitutional power to impose and collect tariff

duties, except for the purposes of revenue only, and we demand that the collection of such taxes shall be limited to the necessities of the government when honestly and economically administered." Although elected on this platform, the Democrats did not regard their mandate as warranting a serious attack on the protective system, for the Wilson tariff act of 1894 was so disappointing to moderate tariff reformers that Cleveland refused to sign it.

A close analysis of the platforms and performances of the parties from 1876 to 1896 shows no clear alignment at all on the tariff. Both parties promise reductions, but neither is specific as to details. The Republicans, while making much of the protective system, could not ignore the demand for tariff reform; and the Democrats, while repeating the well-worn phrases about tariff for revenue, were unable to overlook the fact that a drastic assault upon the protective interests would mean their undoing. In Congress, the Republicans made no serious efforts to lower the duties, and the attempts of the Democrats produced meager results.

Among the new issues raised by the economic revolution was the control of giant combinations of capital. Although some of the minor parties had declaimed against trusts as early as 1876, and the Democratic party, in 1884, had denounced "land monopolies," industrial combinations did not figure as distinct issues in the platforms of the old parties until 1888. In that year, the Democrats vaguely referred to unnecessary taxation as a source of trusts and combinations, which, "while

unduly enriching the few that combine, rob the body of our citizens by depriving them of the benefits of natural competition." Here appears the favorite party slogan that "the tariff is the mother of the trusts," and the intimation that the remedy is the restoration of "natural competition" by a reduction of the tariff. The Republicans in 1888 also recognized the existence of the trust problem by declaring against all combinations designed to control trade arbitrarily, and recommended to Congress and the states legislation within their jurisdictions to "prevent the execution of all schemes to oppress the people by undue charges on their supplies or by unjust rates for the transportation of their products to market."

Both old parties returned to the trust question again in 1892. The Democrats recognized "in the trusts and combinations which are designed to enable capital to secure more than its just share of the joint product of capital and labor, a natural consequence of the prohibitive taxes which prevent the free competition which is the life of honest trade, but we believe the worst evils can be abated by law." Thereupon follows a demand for additional legislation restraining and controlling trusts. The Republicans simply reaffirmed their declaration of 1888, indorsed the Sherman anti-trust law already enacted by Congress in 1890, and favored new legislation remedying defects and rendering the enforcement of the law more complete.

The railway issue emerged in 1880 when the Republicans, boasting that under their administration railways

had increased "from thirty-two thousand miles in 1860 to eighty-two thousand miles in 1879," pronounced against any further grants of public domain to railway corporations. The Democrats went on record against discriminations in favor of transportation lines, but left the subject with that pronouncement. Four years later the subject had taken on more precision. The Republicans favored the public regulation of railway corporations and indorsed legislation preventing unjust discriminations and excessive charges for transportation, but in the campaign of 1888 the overshadowing tariff issue enabled them to omit references to railway regulation. The Democrats likewise ignored the subject in 1884 and 1888. In 1892 the question was overlooked by the platforms of both parties, although the minor parties were loudly demanding action on the part of the Federal Government. The old parties agreed, however, on the necessity of legislation protecting the life and limb of employees engaged in interstate transportation.

Even before the Civil War, the labor vote had become a factor that could not be ignored, and both old parties consistently conciliated it by many references. The Republicans in 1860 commended that "policy of national exchanges which secures to the workingmen liberal wages." The defense of the protective system was gradually shifted by the Republicans, until, judging from the platforms, its continuation was justifiable principally on account of their anxiety to safeguard the American workingman against "the pauper labor of

Europe." The Democrats could not overlook the force of this appeal, and in their repeated demands for the reduction of the tariff they announced that no devotion to free trade principles would allow them to pass legislation which might put American labor "in competition with the underpaid millions of the Old World." In 1880, the Democratic party openly professed itself the friend of labor and the laboring man and pledged itself to "protect him against the cormorant and the commune." In their platform of 1888, the Democrats promised to make "due allowance for the difference between the wages of American and foreign labor" in their tariff revisions; and in 1892 they deplored the fact that under the McKinley tariff there had been ten reductions in the wages of the workingmen to one increase. In the latter year, the Republicans urged that on articles competing with American products the duties should "equal the difference between wages abroad and at home."

Among the more concrete offerings to labor were the promises of homesteads in the West by the Republicans — promises which the Democrats reiterated; protection against Chinese and coolie labor, particularly in the West, safety-appliance laws applicable to interstate carriers, the establishment of a labor bureau at Washington, the prohibition of the importation of alien laborers under contract, and the abolition of prison contract labor. On these matters there was no marked division between the two old parties; each advocated measures of its own in general terms and denounced the propositions of the other in equally general terms.

The money question bulked large in the platforms, but until 1896 there was nothing like a clean-cut division.<sup>1</sup> Both parties hedged and remained consistently vague. The Republicans in 1888 declared in favor of "the use of both gold and silver as money," and condemned "the policy of the Democratic administration in its efforts to demonetize silver." Again, in 1892, the Republicans declared: "The American people, from tradition and interest, favor bimetalism, and the Republican party demands the use of both gold and silver as standard money, with such restriction and under such provisions, to be determined by legislation, as will secure the maintenance of the parity of values of the two metals, so that the purchasing and debt-paying power of the dollar, whether of silver, gold, or paper, shall be at all times equal." The Democrats likewise hedged their profession of faith about with limitations and provisions. They declared in favor of both metals and no discrimination for mintage; but the unit of coinage of both metals "must be of equal intrinsic or exchangeable value, or be adjusted through international agreement or by such safeguards of legislation as shall insure the maintenance of the parity of the two metals." Thus both of the platforms of 1892 are paragons of ambiguity.

<sup>1</sup> See below, p. 119.



## CHAPTER V

TWO DECADES OF FEDERAL LEGISLATION, 1877-1896

### *Financial Questions*

IT was inevitable that financial measures should occupy the first place in the legislative labors of Congress for a long time after the War. That conflict had left an enormous debt of more than two billion eight hundred million dollars, and the taxes were not only high, but they reached nearly every source which was open to the Federal government. There were outstanding more than four hundred millions of legal tender treasury notes, "greenbacks," which had seriously depreciated and, on account of their variability as compared with gold, offered unlimited opportunities for speculation and jugglery in Wall Street — of which Jay Gould's attempt to corner the gold market and the precipitation of the disaster of Black Friday in 1869 were only spectacular incidents.

Three distinct problems confronted the national administration: the refunding of the national debt at lower rates of interest, the final determination of the place and basis of the paper money in the currency system, and the comparative treatment of gold and silver coinage. The first of these tasks was undertaken by Congress during Grant's administration, when, by

the refunding acts of 1870 and 1871, the Treasury was empowered to substitute four, four and one-half, and five per cent bonds for the war issues at the high rates of five, six, and even seven per cent.

The two remaining problems were by no means so easy of solution, because they went to the root of the financial system of the country. Most of the financial interests of the East were anxious to return to a specie basis for the currency by retiring the legal tender notes or by placing them on a metallic foundation. The Treasury under President Johnson began to withdraw the greenbacks from circulation under authority of an act of Congress passed in 1866; but it soon met the determined resistance of the paper money party, which looked upon contraction as a banker's device to appreciate the value of gold and reduce the amount of money in circulation, thus bringing low prices for labor and commodities. Within two years Congress peremptorily stopped the withdrawal of additional Treasury notes.<sup>1</sup>

Shortly after forbidding the further retirement of legal tender notes, Congress reassured the hard money party by passing, on March 18, 1869, an act promising, on the faith of the United States, to pay in coin "all obligations not otherwise redeemable," and to redeem the legal tender notes in specie "as soon as practicable." A further gain for hard money was made in 1875 by the passage of the Resumption Act, providing that on and after January 1, 1879, "the Secretary of the Treasury shall redeem in coin the United States legal tender notes then outstanding, on their presentation for redemption

<sup>1</sup> See below, p. 123.

at the office of the Assistant Treasurer of the United States in the City of New York, in sums of not less than fifty dollars." When the day set for redemption arrived, the Secretary of the Treasury was prepared with a large hoard of gold, and public confidence in the government was so high that comparatively little paper was presented in exchange for specie.

Out of the conflict over the inflation and contraction of the currency grew the struggle over "free silver" which was not ended until the campaign of 1900. To understand this controversy we must go back beyond the Civil War. The Constitution, as drafted in 1787, gives Congress the power to coin money and regulate the value thereof and forbids the states to issue bills of credit or make anything but the gold and silver coin of the United States legal tender in the payment of debts. Nothing is said in that instrument about the power of Congress to issue paper money, and it is questionable whether the framers intended to leave the door open for legal tenders or notes of any kind.

In 1792, the new Federal government began to coin gold and silver at the ratio of 1 to 15, but it was soon found that at this ratio gold was undervalued, and consequently little or no gold was brought to the Treasury to be coined. At length, in 1834, Congress, by law, fixed the ratio between the two metals approximately at 16 to 1; but this was found to be an overvaluation of gold or an undervaluation of silver, as some said, and as a result silver was not brought to the Treasury for coinage and almost dropped out of the monetary system. Finally, in 1873, when the silver dollar was already prac-

tically out of circulation, Congress discontinued the coinage of the standard silver dollar altogether — “demonetized” it — and left gold as the basis of the monetary system.<sup>1</sup>

It happened about this time that the price of silver began to decline steadily, until within twenty years it was about half the price it was in 1870. Some men attributed this fall in the price of silver to the fact that Germany had demonetized it in 1871, and that about the same time rich deposits of silver were discovered in the United States. Others declared that silver had not fallen so much in price, but that gold, in which it was measured, had risen on account of the fact that silver had been demonetized and gold given a monopoly of the coinage market. On this matter Republicans and Democrats were both divided, for it brought a new set of economic antagonisms into play — the debtor and the creditor — as opposed to the antagonisms growing out of slavery and reconstruction.

Some Republicans, like Senator Morrill, of Vermont, firmly believed that no approach could be made to a genuine bimetallic currency, both metals freely and equally circulating, without the coöperation of the leading commercial nations of the world; and they also went so far as to doubt whether it would be possible even then to adjust the “fickle ratio” finely enough to prevent supply and demand from driving one or the other metal out of circulation. Other Republicans, like

<sup>1</sup> The Silver Democrats declared that this demonetization was secretly brought about by a “conspiracy” on the part of gold advocates, and named the act in question “the crime of ’73.”

Blaine, declared that the Constitution required Congress to make both gold and silver coin the money of the land, and that the only question was how best to adjust the ratio. In a speech in the Senate on February 7, 1878, Blaine said: "I believe then if Germany were to remonetize silver and the kingdoms and states of the Latin Union were to reopen their mints, silver would at once resume its former relation with gold. . . . I believe the struggle now going on in this country and in other countries for a single gold standard would, if successful, produce widespread disaster throughout the commercial world. The destruction of silver as money and establishment of gold as the sole unit of value must have a ruinous effect on all forms of property, *except those investments which yield a fixed return in money.*"

It was this exception made by Blaine that formed the crux of the whole issue. The contest was largely between creditors and debtors. Indeed, it is thus frankly stated by Senator Jones of Nevada in a speech in the Senate on May 12, 1890: "Three fourths of the business enterprises of this country are conducted on borrowed capital. Three fourths of the homes and farms that stand in the name of the actual occupants have been bought on time, and a very large proportion of them are mortgaged for the payment of some part of the purchase money. Under the operation of a shrinkage in the volume of money, this enormous mass of borrowers, at the maturity of their respective debts, though nominally paying no more than the amount borrowed, with interest, are, in reality, in the amount of the principal alone, returning a percentage of value

greater than they received — more in equity than they contracted to pay, and oftentimes more in substance than they profited by the loan. . . . It is a remarkable circumstance that throughout the entire range of economic discussion in gold-standard circles, it seems to be taken for granted that a change in the value of the money unit is a matter of no significance, and imports no mischief to society, *so long as the change is in one direction*. Who ever heard from an Eastern journal any complaint against a contraction of our money volume, any admonition that in a shrinking volume of money lurk evils of the utmost magnitude? . . . In all discussions of the subject the creditors attempt to brush aside the equities involved by sneering at the debtors." Both parties to the conflict assumed a monopoly of virtue and economic wisdom, and the controversy proceeded on that plane, with no concessions except where necessary to secure some practical gain.

By 1877, silver had fallen to the ratio of seventeen to one as compared with gold, and silver mine owners were anxious to have the government buy their bullion at the old rate existing before the "demonetization" of 1873. In this they were supported by the farmers and the debtor classes generally, who thought that the gold market was substantially controlled by a relatively few financiers and that the appreciation of the yellow metal meant lower prices for their commodities and the maintenance of high interest rates. Criticism was leveled particularly against the bondholders, who demanded the payment of interest and principal in gold, in spite of the fact that, at the time the bonds were

issued, the government had not demonetized silver and could have paid in silver dollars containing  $412\frac{1}{2}$  grains each. In addition to the holders of the national debt, there were the owners of industrial, state, and municipal bonds and railway and other securities who likewise sought payment in a metal that was appreciating in value.

In the Forty-fourth Congress, the silver party, led by Bland, of Missouri, attempted to force the passage of a law providing for the free and unlimited coinage of silver approximately at the ratio of sixteen to one, but their measure was amended on the motion of Allison, of Iowa, in the Senate, in such a manner as simply to authorize the Secretary of the Treasury to purchase not less than two million nor more than four million dollars' worth of silver each month to be coined into silver dollars. The measure thus amended was vetoed by Hayes, but was repassed over his protest and became a law in 1878, popularly known as the Bland-Allison Act. The opponents of contraction were able to secure the passage of another act in the same year forbidding the further retirement of legal tender notes and providing that the Treasury, instead of canceling such notes on receiving them, should reissue them and keep them in circulation.

None of the disasters prophesied by the gold advocates followed the enactment of the Bland-Allison bill, but no one was satisfied with it. The value of silver as compared with gold steadily declined, until the ratio was twenty-two to one in 1887. The silver party claimed that the trouble was not with silver, but that the appre-

ciation of gold had been largely induced by the government's discriminating policy. The gold party pointed to the millions of silver dollars coined and unissued filling the mints and storage vaults to bursting, all for the benefit of the silver mine owners. The retort of the silver party was a law issuing silver certificates in denominations of one, two, and five dollars, in 1886. This was supplemented four years later by the Sherman silver purchase act of 1890 (repealed in 1893), which provided for the purchase of 4,500,000 ounces of silver monthly and the issue of notes on that basis redeemable in gold or silver at the discretion of the Treasury. Congress took occasion to declare also that it was the intention of the United States to maintain the two metals on a parity — a vague phrase which was widely used by both parties to conciliate all factions. Neither the Republicans nor the Democrats were as yet ready for a straight party fight on the silver issue.

### *Tariff Legislation*

At the opening of Hayes' administration the Civil War tariff was still in force. It is true, there had been some slight reduction in 1872, but this was offset by increases three years later. During the two decades following, there was much political controversy over protection, as we have seen, and there were three important revisions of the protective system: in 1883 on the initiation of the Senate, in 1890 when the McKinley bill was passed, and in 1894 when the Wilson bill was enacted under Democratic auspices.



The first of these revisions was induced largely by the growing surplus in the Federal Treasury and the inability of Congress to dispose of it, even by the most extravagant appropriations. In 1882, the surplus rose to the startling figure of \$145,000,000, and a tariff commission was appointed to consider, among other things, some method of cutting down the revenues by a revision of duties. This commission reported a revised schedule of rates providing for considerable reductions, but still on a highly protective basis. The House at that time was Republican, and the Senate was equally divided, with two independents holding the balance of power. The upper house took the lead in the revision and escaped the constitutional provision requiring the initiation of revenue bills in the lower house by tacking their measure to a bill which the House had passed at the preceding session.

Under the circumstances neither party was responsible for the measure, and it is small wonder that it pleased no one, after the fashion of tariff bills. There was a slight reduction on coarse woolens, cottons, iron, steel, and several other staple commodities, but not enough to place the industries concerned on a basis of competition with European manufactures. New England agricultural products were carefully protected, but the wool growers of Ohio and other middle western states lost the ad valorem duties on wool. The Democrats in the House denounced the measure, and most of them voted against it because, they alleged, it did not go far enough. William McKinley, of Ohio, then beginning his career, opposed it on other grounds; and Senator

Sherman from the same state afterward regretted that he had not defeated the bill altogether. The tariff was "revised but not changed," as a wag put it, and no one was enthusiastic about the measure.

Almost immediately attempts were made to amend the law of 1883. For two years the Democrats, under the leadership of W. R. Morrison, chairman of the Ways and Means Committee, potted about with the tariff, but accomplished nothing, partially on account of the opposition of protectionist Democrats, like Randall, of Pennsylvania. In 1886, President Cleveland, in his second message, took up the tariff seriously; and under the leadership of Roger Q. Mills, of Texas, the Democratic House, two years later, passed the "Mills bill" only to see it die in the Senate. The Republican victory of 1888, though narrow, was a warning that no compromise would be made with those who struck a blow at protection.

The Republican House set to work upon a revision of the tariff with a view to establishing high protection, and in May, 1890, Mr. McKinley, chairman of the Ways and Means Committee, introduced his bill increasing the duties generally. In the preparation of this measure, the great manufacturing interests had been freely consulted, and their requests for rates were frequently accepted without change, or made the basis for negotiations with opposing forces, as in the case, for example, of the binding twine trust and the objecting farmers. On the insistence of Mr. Blaine, then Secretary of State, a "reciprocity" clause was introduced into the bill, authorizing the President to place higher

duties on certain commodities coming from other countries, in case he deemed their retaliatory tariffs "unreasonable or unjust."

The opposition to the McKinley bill was unusually violent, and no opportunity was given to test its working before the country swung again to the Democrats in the autumn of 1890; but the Republican majority in the Senate prevented the House from carrying through any of its attacks on the system. The election of Cleveland two years later and the capture of the Senate as well by the Democrats seemed to promise that the long-standing threat of a general downward revision would be carried out. William Wilson, of West Virginia, reported the new bill from the Ways and Means Committee in December, 1893. Although it made numerous definite reductions in duties, it was by no means a drastic "free trade" measure, such as the Republicans had prophesied in their campaign speeches. The bill passed the House by a large majority, with only a few Democrats voting against it. Even radical Democrats from the West, who would have otherwise demanded further reductions, were conciliated by the provision for a tax on all incomes over \$4000.

When the Wilson bill left the House of Representatives, it had some of the appearances at least of a "tariff-for-revenue" measure. Reductions had been made all along the line, not without regard, of course, for sectional interests, in memory of the principle that the "tariff is a local issue." But the Senate made short work of it. There the individual member counted for more. He had the right to talk as long as he pleased,

and he could trade his vote on schedules in which he was not personally interested for votes on his own schedules. Thus by forceful and ingenious manipulation, the Wilson bill was shorn of its most drastic features (not without some rejoicing in the House as well as in the Senate), and it went to President Cleveland in such a form that he refused to accept it as a tariff reform measure and simply allowed it to become a law without his signature.

The action of the Democratic Senate is easily accounted for. Hill, of New York, was almost rabid in his opposition to the income tax provision. Louisiana was a great sugar-growing state, and her Senators had their own notion as to what were the proper duties on sugar. Alabama had rising iron industries, and her Senators shared the emotions of the representatives from Pennsylvania as the proposed reductions on iron products were contemplated. Senator Gorman, of Maryland, had no more heart in "attacking the interests" than did Senator Quay, of Pennsylvania, who, by the way, used his "inside information" during the passage of the bill to make money by speculating in sugar stocks.

With glee the Republicans taunted the Democrats that their professions were one thing and their performances another. "This is not a protective bill," said Senator O. H. Platt, of Connecticut. "It is not in any sense a recognition of the doctrine of protection high or low. It is not a bill for revenue with incidental protection. It is a bill (and the truth may as well be told in the Senate of the United States) which proceeds upon free trade principles, except as to such articles as it has

been necessary to levy protective duties upon to get the votes of the Democratic Senators to pass the bill. . . . No such marvel has ever been seen under the sun as all the Democratic Senators, with the possible exception of the Senator from Texas (Mr. Mills), giving way to this demand of the sugar trust. How this chamber has rung with the denunciations of the sugar trust! How the ears of waiting and listening multitudes in Democratic political meetings have been vexed with reiterated denunciations of this sugar trust! And here every Democratic Senator, with one exception, is ready to vote for a prohibitive duty upon refined sugar."

Twenty years of tariff agitation and tinkering had thus ended in general dissatisfaction with the promises and performances of both parties. The Republicans had advanced to a position of high protection based principally upon the demands of manufacturing interests themselves, modified by such protests on the part of consumers as became vocal and effective in politics. The Democrats had been driven, under Mr. Cleveland's leadership, to what seemed to be a disposition to reduce the tariff to something approaching a revenue basis, but when it came to an actual performance, their practical views, as manifested in the Wilson-Gorman act, were not far behind those of the opposing party. Representatives of both parties talked as if the issue was a contest between tariff-for-revenue and protection, but in fact it was not. The question was really, "which of the several regions shall receive the most protection?" Of attempts to get the tariff upon a "scientific basis," striking a balance among all the interests of the country,

there was none. Ten years of political warfare over free silver and imperialism were to elapse before there could be a renewed examination of protection as a system.

### *The Civil Service Law of 1883*

The "spoils system" of making Federal offices the reward for partisan services began to draw a strong fire of criticism in Grant's first administration. It was natural that the Democrats should view with disfavor a practice which excluded them entirely from serving their country in an official capacity, and the reformers regarded it as a menace to American institutions because it was the basis of a "political machine" which controlled primaries and elections and shut out the discussion of real issues. In response to this combined attack, Congress passed in 1871 a law authorizing the President to prescribe regulations for admission to the civil service and provide methods for ascertaining the fitness of candidates — a law which promised well while the distinguished champion of reform, George William Curtis, was head of the board in charge of its administration. Congress, however, had accepted the reform reluctantly and refused to give it adequate financial support. After two years' experience with the law, Curtis resigned, and within a short time the whole scheme fell to the ground.

The reformers, however, did not give up hope, for they were sufficiently strong to compel the respect of the Democrats, and the latter, by their insistence on a reform that cost them nothing, forced the Republicans

to give the merit system some prominence in their campaign promises. But practical politicians in both parties had small esteem for a plan that would take away the incentive to work for victory on the part of their followers. It was scornfully called "snivel service" and "goody-goody reform"; and the old practices of distributing offices to henchmen and raising campaign funds by heavy assessments on office-holders were continued.

Never was the spoils system more odious than when the assassination of Garfield by a disappointed office hunter startled the country from its apathy. Within a year, a Senate committee had reported favorably on a civil service reform bill. It declared that the President had to wear his life out giving audiences to throngs of beggars who besieged the executive mansion, and that the spectacle of the chief magistrate of the nation dispensing patronage to "a hungry, clamorous, crowding, and jostling multitude" was humiliating to the patriotic citizen. And with the Congressman the system "is ever present. When he awakes in the morning it is at his door, and when he retires at night it haunts his chamber. It goes before him, it follows after him, and it meets him on the way." The only relief, concluded the report, was to be found in a thoroughgoing merit system of appointing civil servants.

At length in 1883 Congress passed the civil service act authorizing, but not commanding, the President to appoint a commission and extend the merit system to certain Federal offices. The commission was to be composed of three members, not more than two of the

same party, appointed by the President and Senate, and was charged with the duty of aiding the President, at his request, in preparing suitable rules for competitive examinations designed to test the fitness of applicants for offices in the public service, already classified or to be classified by executive order or by further legislation. The act itself brought a few offices under the merit system, but it left the extension of the principle largely to the discretion of the President. When the law went into force, it applied only to about 14,000 positions, but it was steadily extended, particularly by retiring Presidents anxious to secure the jobs already held by their partisans or to improve the efficiency of the service. Neither Cleveland nor Harrison enforced the law to the satisfaction of the reformers, for the pressure of the office seekers, particularly under Cleveland's first administration, was almost irresistible.

### *Railway and Trust Regulation*

In the beginning of the railway era in the United States, Congress made no attempt to devise a far-sighted plan of public control, but negligently devoted its attention to granting generous favors to railways. It was not until the stock-watering, high-financing, discriminations and rebates had disgraced the country that Congress was moved to act. It is true that President Grant in his message of 1872 recommended, and a Senate committee approved, a comprehensive plan for regulating railways, but there was no practical outcome. The railway interests were too strong in Con-



gress to permit the enactment of any drastic regulatory laws. But at length the Granger movement, which had produced during the seventies so much railway regulation in the States,<sup>1</sup> appeared in Congress, and stirred by a long report by a Senate committee enumerating a terrifying list of abuses against shippers particularly, Congress passed, in 1887, the first important interstate commerce law.

This act was a timid, halting measure, and the Supreme Court almost immediately sheared away its effectiveness by decisions in favor of the railway companies. The law created a commission of five members empowered to investigate the operations of common carriers and order those who violated the law to desist. The act itself forbade discriminations in rates, pooling traffic, and the charging of more for "short" than "long hauls" over the same line, except under special circumstances. In spite of the good intentions of the commission, the law was practically a dead letter. According to a careful scholar, Professor Davis R. Dewey, "By 1890 the practice of cut rates to favored shippers and cities was all but universal at the West; passes were generally issued; rebates were charged up to maintenance of way account; special privileges of yardage, loading, and cartage were granted; freight was underbilled or carried under a wrong classification and secret notification of intended reduction of rates was made to favored shippers. . . . The ingenuity of officials in breaking the spirit of the law knew no limit, and is a discouraging commentary on the dishonesty

<sup>1</sup> See above, p. 67.

which had penetrated into the heart of business enterprise.”<sup>1</sup>

The critics of railway policy who were able to force the passage of the interstate commerce act usually coupled the denunciation of the industrial monopolies with their attacks on common carriers; and, three years after the establishment of the interstate commerce commission, Congress, feeling that some kind of action was demanded by the political situation, passed the Sherman anti-trust law of 1890. There was no consensus of opinion among the political leaders as to the significance of the trust. Blaine declared that “trusts were largely a private affair with which neither the President nor any private citizen had any particular right to interfere.” Speaker Reed dismissed the subject by announcing that he had heard “more idiotic raving, more pestiferous rant, on that subject than on all others put together.” Judge Cooley, on seeing “the utterly heartless manner in which the trusts sometimes have closed many factories and turned men willing to be industrious into the streets in order that they may increase profits already reasonably large,” asked whether the trust “as we see it is not a public enemy; whether it is not teaching the laborer dangerous lessons; whether it is not helping to breed anarchy.”

In the midst of this general confusion of opinion on the trust, it is not surprising that Congress in the Sherman law of 1890 enunciated no clear principles. Apparently it intended to restore competition by declaring illegal “every contract, combination in the form of trust or

<sup>1</sup> *National Problems*, p. 103.

otherwise, or conspiracy, in restraint of trade or commerce among the several states or with foreign nations." But a study of the debates over the law fails to show any consistent opinion as to what combinations were included within the prohibition or as to the exact meaning of "restraint of trade." Of course, the lawyers pointed at once to the simplicity of the old common law doctrine that conspiracies in restraint of trade are illegal, but this was an answer in verbiage which gave no real clew to concrete forms of restraint under the complex conditions of modern life.

The vagueness of the Sherman anti-trust law was a subject of remark during its passage through Congress. O. H. Platt, in the Senate, criticized the bill as attacking all combinations, no matter what their practices or forms. "I believe," he said, "that every man in business — I do not care whether he is a farmer, a laborer, a miner, a sailor, manufacturer, a merchant — has a right, a legal and a moral right, to obtain a fair profit upon his business and his work; and if he is driven by fierce competition to a spot where his business is unremunerative, I believe it is his right to combine for the purpose of raising prices until they shall be fair and remunerative. This bill makes no distinction. It says that every combination which has the effect in any way to advance prices is illegal and void. . . . The theory of this bill is that prices must never be advanced by two or more persons, no matter how ruinously low they may be. That theory I denounce as utterly untenable, as immoral."

Senator Platt then went on to say that the whole

subject had not been adequately considered and that the bill was a piece of politics, not of statesmanship. "I am sorry, Mr. President," he continued, "that we have not had a bill which had been carefully prepared, which had been thoughtfully prepared, which had been honestly prepared, to meet the object which we all desire to meet. The conduct of the Senate for the past three days — and I make no personal allusions — has not been in the line of the honest preparation of a bill to prohibit and punish trusts. It has been in the line of getting some bill with that title that we might go to the country with. The questions of whether the bill would be operative, of how it would operate, or whether it was within the power of Congress to enact it, have been whistled down the wind in this Senate as idle talk, and the whole effort has been to get some bill headed: 'A Bill to Punish Trusts,' with which to go to the country."

Senator Hoar, who claimed that he was the author of the Sherman anti-trust law, says, however, that the act was not directed against *all* combinations in business. "It was expected," he says, "that the court in administering that law would confine its operations to cases which are contrary to the policy of the law, treating the words 'agreements in restraint of trade' as having a technical meaning, such as they are supposed to have in England. The Supreme Court of the United States went in this particular farther than was expected.<sup>1</sup> . . . It has not been carried to its full extent since, and I think will never be held to prohibit those lawful and

<sup>1</sup> See below, p. 332.

harmless combinations which have been permitted in this country and in England without complaint, like contracts of partnership, which are usually considered harmless.”

The immediate effects of the Sherman anti-trust law were wholly negligible. Seven of the eight judicial decisions under the law during Harrison's administration were against the government, and no indictment of offenders against the law went so far as a trial. During Cleveland's second term the law was a dead letter. Meanwhile trusts and combinations continued to multiply.

### *The Income Tax Law of 1894*

In the debates over tariff reduction, silver, and paper money, evidences of group and class conflicts were almost constantly apparent, but it was not until the enactment of the income tax provision of 1894 that political leaders of national standing frankly avowed a class purpose — the shifting of a portion of the burden of national taxes from the commodities consumed by the poor to the incomes of the rich.

The movement for an income tax found its support especially among the farmers of the West and South and the working classes of the great cities. The demand for it had been appearing for some time in the platforms of the agrarian and labor parties. The National or Greenback party, in its platform of 1884, demanded “a graduated income tax” and “a wise revision of the tariff laws with a view to raising revenues from luxury

rather than necessity." The Anti-monopoly party, in the same year, demanded, "a graduated income tax and a tariff, which is a tax upon the people, that shall be so levied as to bear as lightly as possible upon necessaries. We denounce the present tariff as being largely in the interest of monopolies and demand that it be speedily and radically reformed in the interest of labor instead of capital." The Union Labor convention at Cincinnati in 1888 declared in its platform: "A graduated income tax is the most equitable system of taxation, placing the burden of government upon those who can best afford to pay, instead of laying it upon the farmers and producers and exempting millionaire bondholders and corporations."

In the campaign of 1892, the demand for an income tax was made by the Populist party and by the Socialist Labor party. The former frankly declared war on the rich, proclaiming in its platform that, "The fruits of the toil of millions are boldly stolen to build up colossal fortunes for a few, unprecedented in the history of mankind; and the possessors of these, in turn, despise the republic and endanger liberty." Among the remedies for this dire condition of things the Populists demanded "a graduated income tax." The Democrats, at their convention of that year, denounced the McKinley tariff law "as the culminating atrocity of class legislation," and declared that "The Federal government has no constitutional power to impose and collect tariff duties except for the purpose of revenue only."

When it was discovered in the ensuing election that the Democratic party, with its low tariff pronunciamento

was victorious, and that the Populists with their radical platform had carried four western states and polled more than a million votes, shrewd political observers saw that some revision in the revenue system of the Federal government was imperative. President Cleveland, in his message of December, 1893, in connection with the recommendation for a revision of the tariff, stated that, "the committee . . . have wisely embraced in their plans a few additional revenue taxes, including a small tax upon incomes derived from certain corporate investments." It is not clear what committee the President had in mind, and Senator Hill declared that the Ways and Means Committee had not agreed "upon any income tax or other internal taxation"; although it had undoubtedly been considering the subject in connection with the revision of the tariff.

When the tariff bill was introduced in Congress, on December 19, 1893, it contained no provision for an income tax, and it was not until January 29 that an income tax amendment to the Wilson bill was introduced in behalf of the Committee. In defending his amendment, the mover, Mr. McMillin, declared that the purpose of the tax was to place a small per cent of the enormous Federal burden "upon the accumulated wealth of the country instead of placing all upon the consumption of the people." He announced that they did not come there in any spirit of antagonism to wealth, that they did not intend to put an undue embargo upon wealth, but that they did intend to make accumulated wealth pay some share of the expenses of the government. The tariff, in his opinion, taxed want, not wealth.

He was impatient with the hue and cry that was raised, "when it is proposed to shift this burden from those who cannot bear it to those who can; to divide it between consumption and wealth; to shift it from the laborer who has nothing but his power to toil and sweat to the man who has a fortune made or inherited." The protective tariff, he added, had made colossal fortunes by levying tribute upon the many for the enrichment of the few; and yet the advocates of an income tax were told that this accumulated wealth was a sacred thing which should go untaxed forever. In announcing this determination to tax the rich, Mr. McMillin disclaimed any intention of waging a class war, by declaring that the income tax, in his opinion, would "diminish the antipathy that now exists between the classes," and sweep away the ground for that "iconoclastic complaint which finds expression in violence and threatens the very foundations upon which our whole institution rests."

The champions of property against this proposal to tax incomes in order to relieve the burden upon consumption summoned every device of oratory and argument to their aid. They ridiculed and denounced, and endeavored to conjure up before Congress horrible visions of want, anarchy, socialism, ruin, and destruction. J. H. Walker, of Massachusetts, declared that, "The income tax takes from the wealth of the thrifty and the enterprising and gives to the shifty and the sluggard." Adams, of Pennsylvania, found the income tax "utterly distasteful in its moral and political aspects, a piece of class legislation, a tax upon the thrifty, and a reward to dishonesty." In the Senate, where there is



supposed to be more sobriety, the execrations heaped upon the income tax proposal were marked by even more virulence. Senator Hill declared that, "The professors with their books, the socialists with their schemes, the anarchists with their bombs, are instructing the people of the United States in the organization of society, the doctrines of democracy, and the principles of taxation. No wonder if their preaching can find ears in the White House." In his opinion, also, the income tax was an "insidious and deadly assault upon state rights, state powers, and state independence." Senator Sherman particularly objected to the high exemption, declaring, "In a republic like ours, where all men are equal, this attempt to array the rich against the poor, or the poor against the rich, is socialism, communism, devilism."

In spite of this vigorous opposition, the House passed the provision by a vote of 204 to 140 and the Senate by a vote of 39 to 34. In its final form the law imposed a tax of two per cent on all incomes above \$4000 — an exemption under which the farmer and the lower middle class escaped almost entirely. Cleveland did not like a general income tax, and he was dissatisfied with the Wilson tariff bill to which the tax measure was attached. He, therefore, allowed it to go into effect without his signature.

### *Labor Legislation*

The only measures directly in the interests of labor generally passed during this period were the Chinese

exclusion act, the law creating a labor bureau at Washington, and the prohibition of the importation of alien workingmen under contract. Shortly after the Civil War, protests were heard against cheap Chinese labor, not only in the western states, but also in the East, where manufacturers were beginning to employ coolies to break strikes and crush unions. At length, early in 1882, Congress passed a measure excluding Chinese laborers for a period of twenty years, the Republicans from the eastern districts voting generally against it. President Arthur vetoed the bill, holding in particular that it was a violation of treaty provisions with China, and suggested a limitation of the application of the principle to ten years. This was accepted by Congress, and the law went into force in August of that year. More stringent identification methods were later applied to returning Chinese, and in 1892, the application of the principle of exclusion was further extended for a term of ten years. In 1884, a Federal bureau of labor statistics was created to collect information upon problems of labor and capital. In 1885, Congress passed a law prohibiting the importation of laborers under contract, which was supplemented by later legislation.<sup>1</sup>

<sup>1</sup> In 1887, Congress enacted a law providing for counting the electoral vote in presidential elections. This measure grew out of the disputed election of 1876.

## CHAPTER VI

### THE GROWTH OF DISSENT

IMPORTANT as was the legislation described in the preceding chapter, there were sources of discontent which it could not, in the nature of things, dry up. With the exception of the income tax, there had been no decisive effort to placate the poorer sections of the population by distinct class legislation. It is true, the alien contract labor law and the Chinese exclusion act were directed particularly to the working class, but their effects were not widely felt.

The accumulation of vast fortunes, many of which were gained either by fraudulent manipulations, or shady transactions within the limits of the law but condemned by elementary morals, and the massing of millions of the proletariat in the great industrial cities were bound in the long run to bring forth political cleavages as deep as the corresponding social cleavage. The domination of the Federal government by the captains of machinery and capital was destined to draw out a counter movement on the part of the small farmers, the middle class, and the laborers. Mutterings of this protest were heard in the seventies; it broke forth in the Populist and Socialist movement in the nineties; it was voiced in the Democratic campaign of 1896; silenced

awhile by a wave of imperialism, it began to work a transformation in all parties at the opening of the new century.

This protest found its political expression in the organization of "third" or minor parties. The oldest and most persistent of all these groups is the Prohibitionist party, which held its first national convention at Columbus, Ohio, in 1872, and nominated Mr. Black, of Pennsylvania, as its candidate. In its platform, it declared the suppression of the liquor traffic to be the leading issue, but it also proposed certain currency reforms and the regulation of transportation companies and monopolies.

Although their popular vote in 1872 was less than six thousand, the Prohibitionists returned to their issue at each succeeding campaign with Spartan firmness, but their gains were painfully slow. They reached 9522 in 1876, and 10,305 in 1880. In the campaign of 1884, when many Republicans were dissatisfied with the nomination of Blaine, and unwilling to follow Curtis and Schurz into the Democratic camp, the Prohibition vote rose to 150,369. A further gain of nearly one hundred thousand votes in the next election, to which a slight addition was made in 1892, encouraged the Prohibitionists to hope that the longed-for "split" had come, and they frightened the Republican politicians into considering concessions, especially in the states where the temperance party held the balance of power. In fact, in their platform of 1892 the Republicans announced in a non-committal fashion that they sym-

pathized with "all wise and legitimate efforts to lessen and prevent the evils of intemperance and promote morality." The scare was unwarranted, however, for the Prohibition party had about reached its high-water mark. Being founded principally on one moral issue and making no appeal to any fundamental economic divisions, it could not make headway against the more significant social issues, and its strength was further reduced by the growth of state and local prohibition.

Almost immediately after the Civil War, labor entered politics in a small way on its own account. In 1872, a party known as the "Labor Reformers" held a national convention at Columbus which was attended by delegates from seventeen states. It declared in favor of restricting the sale of public lands to homesteaders, Chinese exclusion, an eight-hour day in government employments, civil service reform, one term for each President, regulation of railway and telegraph rates, and the subjection of the military to the civil authorities. The party nominated Justice Davis, who had been appointed to the Supreme Court of the United States by Lincoln and had shown Populist leanings immediately after the War; but Mr. Davis declined to serve, and O'Connor of New York, to whom the place was then tendered, only polled about 29,000 votes.

This early labor party was simply a party of mild protest. It originated in Massachusetts, where there had been a number of serious labor disputes and a certain shoe manufacturer had imported a carload of Chinese to operate his machinery. Although Wendell Phillips,

who had declared the emancipation of labor to be the next great issue after the emancipation of slaves, was prominently identified with it and stood next to Justice Davis on the first poll in the convention, the party as a whole manifested no tendency to open a distinct class struggle, and the leading planks of its program were shortly accepted by both of the old parties.

Standing upon such a temporary platform, and unsupported by any general philosophy of politics, the labor reform party inevitably went to pieces. Its dissolution was facilitated by the rise of an agrarian party, the Greenbackers, who, in their platform of 1880, were more specific and even more extensive in their declaration of labor's rights than the "Reformers" themselves had been. It was not until 1888 that another "labor" group appeared, but since that date there has been one or more parties making a distinct appeal to the working class. In that year, there were two "labor" factions, the Union Labor party and the United Labor party. Both groups came out for the public ownership of the means of transportation and communication and a code of enlightened labor legislation. The former advocated the limitation of land ownership and the latter the application of the single tax. Both agreed in denouncing the "Democratic and Republican parties as hopelessly and shamelessly corrupt, and, by reason of their affiliation with monopolies, equally unworthy of the suffrages of those who do not live upon public plunder." The vote of both groups in the ensuing election was slightly over 150,000.

The labor groups which had broken with the old

parties took a more definite step toward socialism in 1892, when they frankly assumed the name of the Socialist Labor party<sup>1</sup> and put forward a declaration in favor of the public ownership of utilities and a general system of protective labor legislation. Although the socialism of Karl Marx had by this time won a wide influence among the working classes of Europe, there are few if any traces of it in the Socialist Labor platform of 1892. That platform says nothing about the inevitable contest between labor and capitalism, or about the complete public ownership of all the means of transportation and production. On the contrary, it confines its statements to concrete propositions, including the political reforms of the initiative, referendum, and recall, all of which have since been advocated by leaders in the old parties. The small vote received in 1892 by the socialistic candidate, 21,532, is no evidence of the strength of the labor protest, for the Populist party in that year included in its program substantially the same principles and made a distinct appeal to the working class, as well as to the farmers.

Indeed, the discontent of the two decades from 1876 to 1896 was confined principally to the small farmers, who waged, in fact, a class war upon capitalists and financiers, although they nowhere formulated it into a philosophy. They chose to rely upon the inflation of the currency as their chief weapon of offense. A precursor to the agrarian movement in politics is to be found in the "Granger Movement," which began with the formation of an

<sup>1</sup> See below, p. 296.

association known as the "Patrons of Husbandry" in 1867. This society, which organized local lodges on a secret basis and admitted both men and women, was originally designed to promote agricultural interests in a general and social way, and its political implications were not at first apparent. It naturally appealed, however, to the most active and socially minded farmers, and its leaders soon became involved in politics.

The sources of agrarian discontent were obvious. During the War, prices had been high and thousands of farm "hands" and mechanics had become land owners, thanks to the homestead laws enacted by the Republican party; but they had little capital to start with, and their property was heavily mortgaged. When the inflated War prices collapsed, they found themselves compelled to pay interest at the old rate, and they figured it out that capitalists and bondholders were the chief beneficiaries of the Federal financial legislation. In spite of all that had been paid on the national and private debts, the amount still due, they reckoned, measured in the products of toil, wheat and corn, was greater than ever. They, therefore, hit on the conclusion that the chief source of trouble was in the contraction of the currency which reduced the money value of their products. The remedy obviously was inflation in some form.<sup>1</sup>

While the currency thus became the chief agrarian issue, the farmers attributed a part of their troubles to the railway companies whose heavily "watered" capital made high freight rates necessary, and whose discrimina-

<sup>1</sup> See above, p. 121.



tions in charges fell as heavy burdens on shippers outside of the zones of competition. The agrarians, therefore, resorted to railway legislation in their respective states — the regulation of rates and charges for transportation and the conditions under which grain should be warehoused and handled. In Illinois, Iowa, Wisconsin, and other states, the law makers yielded to the pressure of the farmers for this kind of legislative relief, and based their legal contentions on the ground that the railways “partook of the nature of public highways.” The Grangers were strengthened in their convictions by the violence of the opposition offered on the part of the railways to the establishment of rates and charges by public authority, and by their constant appeals to the courts for relief.<sup>1</sup>

Of course, the fixing of flat rates without any inquiry into the cost of specific services was open to grave objections; but the opposition of the companies was generally based on the contention that they had a right to run their business in their own way. The spirit of this opposition is reflected in an editorial published in the *Nation*, of New York, in January, 1875: “We maintain that the principle of such legislation is either confiscation, or, if another phrase be more agreeable, the change of railroads from pieces of private property, owned and managed for the benefit of those who have invested their money in them, into eleemosynary or charitable corporations, managed for the benefit of a particular class of applicants for outdoor relief — the farmers. If, in the era of progress to which the farmers’

<sup>1</sup> See above, pp. 67 ff.

movement proposes to introduce us, we are going back to a condition of society in which the only sort of property which we can call our own is that which we can make our own by physical possession, it is certainly important to every one to know it, and the only body which can really tell us is the Supreme Court at Washington."

Not content with their achievements in the state legislatures, the agrarians entered national politics in 1876 in the form of the Independent National or Greenback party, designed to "stop the present suicidal and destructive policy of contraction." They declared their belief that "a United States note, issued directly by the government and convertible on demand into United States obligations, bearing a rate of interest not exceeding one cent a day on each one hundred dollars and exchangeable for United States notes at par, will afford the best circulating medium ever devised." In spite of the small vote polled by their standard bearer, Peter Cooper, of New York, they put forward a candidate in the next campaign<sup>1</sup> and made a third attempt in 1884, growing more and more radical in tone. In their last year, they declared: "Never in our history have the banks, the land-grant railroads, and other monopolies been more insolent in their demands for further privileges — still more class legislation. In this emergency the dominant parties are arrayed against the people and are the abject tools of the corporate monopolies." The Greenbackers demanded, in addi-

<sup>1</sup>They polled about a million votes in the congressional elections of 1878.

tion to currency reform, the regulation of interstate commerce, a graduated income tax, labor legislation, prohibition of importation of contract laborers, and the reduction of the terms of United States Senators. Although their candidate, B. F. Butler, polled 175,000 votes in 1884, the Greenbackers gave up the contest, and in 1888 yielded their place to the Union Labor party.

The agrarian interest was, however, still the chief source of conscious discontent, and the disappearance of the Greenbackers was shortly followed by the establishment of two societies, the National Farmers' Alliance and Industrial Union and the National Farmers' Alliance, the former strong in the South and West, and the latter in the North. In 1890, these orders claimed over three million members, and in several of the southern states they had dominated or split the Democratic party. The Northern Alliance was likewise busy with politics, and in Kansas and Nebraska, by independence or fusion, carried a large number of legislative districts.

Although professing to be non-political in the beginning, the leaders of these alliances called a national convention at Omaha in 1892 and put forth the most radical platform that had yet appeared in American politics. It declared that the newspapers were subsidized, corruption dominated the ballot box, homes were covered with mortgages, labor was impoverished and tyrannized over by a hireling standing army, and the nation stood on the verge of ruin. "The fruits of the toils of millions," runs the platform, "are boldly stolen to build up colossal fortunes for a few, unprecedented

in the history of mankind ; and the possessors of these in turn despise the republic and endanger liberty. From the same prolific womb of governmental injustice we breed two classes of tramps and millionaires." Their demands included the free coinage of silver, a graduated income tax, postal-savings banks, government ownership of railways, telegraph and telephones ; they declared their sympathy with organized labor in its warfare for better conditions and its struggle against "Pinkerton hirelings" ; and they commended the initiative, referendum, and popular election of United States Senators. On this program, the Populists polled over a million votes and captured twenty-two presidential electors. Evidently the indifference of the old parties to such issues could not remain undisturbed much longer.

Fuel was added to the discontent in the spring of 1895, when the Supreme Court declared null and void the income tax law of the previous year.<sup>1</sup> The opponents of the tax, having lost in the Congress, made their last stand in the highest Federal tribunal, and marshaled on their side an array of legal talent seldom seen in an action at law, including Senator Edmunds, Mr. Joseph H. Choate, and other attorneys prominently identified with railway and corporation litigation. No effort was spared in bringing pressure to bear on the Court, and no arguments, legal, political, and social, were neglected in the attempt to impress upon the Court the importance of stopping Populism by a judicial pronouncement. Conservative New York papers, like the

<sup>1</sup> See above, p. 137.

*Herald*, boldly prophesied in the summer of 1894 that "the income tax will be blotted from the statute books before the people are cursed with its inquisitorial enforcement."

No easy victory lay before the opponents of the income tax, for the law seemed to be against them. In 1870, the Supreme Court had upheld the Civil War income tax without a dissenting voice, and had distinctly said: "Our conclusions are that direct taxes, within the meaning of the Constitution, are only capitation taxes as expressed in that instrument and taxes on real estate, and that the tax of which the plaintiff in error complains [the income tax] is within the category of an excise or duty." Of course, the terms of the new law were not identical with those of the Civil War measure, and the Supreme Court had been known to reverse itself.

The attorneys against the tax left no stone unturned. As Professor Seligman remarks, "Some of the important financial interests now engaged a notable array of eminent counsel to essay the arduous task of persuading the Supreme Court that it might declare the income tax a direct tax without reversing its previous decisions. The effort was made with the most astonishing degree of ability and ingenuity, and the briefs and arguments of the opposing counsel fill several large volumes. . . . The counsel's arguments abound in historical errors and economic inaccuracies. . . . Errors and misstatements which might be multiplied pale into insignificance compared with the misinterpretation put upon the origin and purpose of the direct-tax clause — a misinterpretation which like most of the preceding mistakes

was bodily adopted by the majority of the Court, who evidently found no time for an independent investigation of the subject." Having exhausted their ingenuity in the matter of technicalities and imposing historical and economic and legal arguments, the counsel appealed to every class fear and prejudice that might be entertained by the Court.

The introduction of the passions of a social conflict into what purported to be a legal contest was intrusted to Mr. Choate. He threatened the Court with the declaration that if it approved the law, and "the communistic march" went on, a still higher exemption of \$20,000 might be made and a rate of 20 per cent imposed — a highly important statement, but one that had no connection with the question whether an income tax was a direct tax. "There is protection now or never," he exclaimed. The very keystone of civilization, he continued, was the preservation of the rights of private property, and this fundamental principle was scattered to the winds by the champions of the tax. Mr. Choate concluded by warning the Court not to pay any attention to the popular passions enlisted on the side of the law, and urged it not to hesitate in declaring the law unconstitutional, "no matter what the threatened consequences of popular or populist wrath may be."

The Court was evidently moved by the declamation of Mr. Choate, for Justice Field, in his opinion, replied in kind. "The present assault upon capital," he said, "is but the beginning. It will be but the stepping stone to others larger and more sweeping till our political conditions will become a war of the poor against the

rich ; a war growing in intensity and bitterness." If such a law were upheld, he gravely announced, boards of walking delegates would be fixing tax rates in the near future. Mr. Justice Harlan, in his dissenting opinion, however, replied in behalf of the populace by saying : "The practical effect of the decision to-day is to give certain kinds of property a position of favoritism and advantage inconsistent with the fundamental principles of our social organization, and to invest them with power and influence that may be perilous to that portion of the American people upon whom rests the larger part of the burdens of government and who ought not to be subjected to the dominion of aggregated wealth any more than the property of the country should be at the mercy of the lawless."

At the best, the nullification of the income tax law was not an easy task. There were eight justices on the bench when the decision of the Court was handed down on April 8, 1895. All of them agreed that the law was unconstitutional in so far as it laid a tax on revenues derived from state and municipal bonds ; five of them agreed that a tax on rent or income from land was a direct tax and hence unconstitutional unless apportioned among the states on the basis of population — which was obviously impolitic ; and the Court stood four to four on the important point as to the constitutionality of taxes on incomes derived from mortgages, interest, and personal property generally. The decision of the Court was thus inconclusive on the only point that interested capitalists particularly, and it was so regarded by the Eastern press.

On April 9, the day following the decision of the Court, the *New York Sun* declared: "Twice in great national crises the Supreme Court of the United States has failed to meet the expectations of the people or to justify its existence as the ultimate tribunal of right and law. In both instances the potent consideration has been neither right nor law, but the supposed demands of political expediency. . . . Yesterday the failure of the Supreme Court to decide the main question of constitutionality submitted to it was brought about by political considerations. It was not Democracy against Republicanism as before, but Populism and Clevelandism against Democracy, and the vote was four to four." The *Tribune*, on April 10, declared that "the Court reached a finding which is as near an abdication of its power to interpret the Constitution and a confession of its unfitness for that duty as anything well can be."

In view of the unsatisfactory condition created by its decision, the Court consented to a rehearing, and, on May 20, 1895, added its opinion that the tax on incomes from personal property was also a direct tax, thus bringing the whole law to the ground by a vote of five to four. Justice Jackson, who was ill when the first decision was made, had in the meantime returned to the bench, and he was strongly in favor of declaring the law constitutional. Had the Court stood as before, the personal property income tax would have been upheld, but one Justice, who had sustained this particular provision in the first case, was induced to change his views and vote against it on the final count. Thus by a narrow vote of five to four, brought about by a Justice



who changed his mind within the period of a few days, all of the essential parts of the income tax law were declared null and void.

The temper of the country over the affair was well manifested in the press comments on the last decision. The *New York Sun*, which had roundly denounced the Court in the first instance, now joined in a chorus of praise: "In a hundred years the Supreme Court of the United States has not rendered a decision more important in its immediate effect or reaching further in its consequences than that which the *Sun* records this morning. There is life left in the institutions which the founders of this republic devised and constructed. There is a safe future for the national system under which we were all born and have lived and prospered according to individual capacity. The wave of socialistic revolution has gone far, but it breaks at the foot of the ultimate bulwark set up for protection of our liberties. Five to four, the court stands like a rock."

The *Tribune*, on May 24, added: "The more the people study the influences behind this attempt to bring about a communistic revolution in modes of taxation, the more clearly they will realize that it was an essential part of the distinctly un-American and unpatriotic attempt to destroy the American policy of defense for home industries, in the interest of foreigners. . . . Thanks to the Court, our government is not to be dragged into communistic warfare against rights of property and the rewards of industry while the Constitution of its founders remains a bulwark of the rights of states and of individual citizens."

The New York *World*, on the other hand, which had so stoutly championed the tax in behalf of "the masses," represented the decision of the Court as "the triumph of selfishness over patriotism. It is another victory of greed over need. Great and rich corporations, by hiring the ablest lawyers in the land and fighting against a petty tax upon superfluity as other men have fought for their liberties and their lives, have secured the exemption of wealth from paying its just share towards the support of the government that protects it. . . . The people at large will bow to this decision as they habitually do to all the decrees of their highest courts. But they will not accept law as justice. No dictum or decision of any wrong can make wrong right, and it is not right that the entire cost of the Federal government shall rest upon consumption. . . . Equity demands that citizens shall contribute to the support of the government with some regard to benefits received and ability to pay."

Although the conservative elements saw in the annulment of the income tax nothing but a wise and timely exercise of judicial authority in defense of the Constitution and sound policy, the radical elements regarded it as an evidence "that the judicial branch of the government was under the control of the same interests that had mutilated the Wilson tariff bill in the Senate." The local Federal courts augmented this popular feeling by frequently issuing injunctions ordering workmen in time of strikes not to interfere with their employers' business, thus crippling them in the coercion of em-

ployers, by imprisoning without jury trial those who disobeyed judicial orders.

Although the injunction was an ancient legal device, it was not until after the Civil War that it was developed into a powerful instrument in industrial disputes; and it became particularly effective in the hands of Federal judges. They were not popularly elected, but were appointed by the President and the Senate (where corporate influences were ably represented). Under the provisions of the law giving Federal courts jurisdiction in cases involving citizens of different states, they were called upon to intervene with increasing frequency in industrial disputes, for railway and other corporations usually did business in several states, and they could generally invoke Federal protection by showing that they were "non-residents" of the particular states in which strikes were being waged. Moreover, strikers who interfered with interstate commerce were likely to collide with Federal authorities whose aid was invited by the employers affected. Whenever a corporation was in bankruptcy, control over its business fell into the hands of the Federal courts.

The effectiveness of Federal judicial intervention in labor troubles became apparent in the first great strikes of the seventies, when the state authorities proved unable to restrain rioting and disorder by the use of the local militia. During the railway war of 1877 a Federal judge in southern Illinois ordered the workingmen not to interfere with a railway for which he had appointed a receiver, and he then employed Federal troops under the United States marshal to execute his mandate.

About the same time other Federal judges intervened effectively in industrial disputes by the liberal use of the injunction, and the president of the Pennsylvania Railroad Company pointed out in an article published in the *North American Review* for September, 1877, how much more potent Federal authority was in such trying crises to give railway corporations efficient protection.

From that time forward the injunction was steadily employed by Federal and state courts, but it was not until the great railway strike of 1894 in Chicago that it was brought prominently before the country as a distinct political issue. In that strike, the Democratic governor, Mr. Altgeld, believing that the employers had fomented disorder for the purpose of invoking Federal intervention (as was afterward pretty conclusively shown), refused to employ the state militia speedily and effectively, contending that the presence of troops would only make matters worse. The postal authorities, influenced by a variety of motives, of which, it was alleged, a desire to break the strike was one, secured prompt Federal intervention on the part of President Cleveland and the use of Federal troops. Thus the labor unions were quickly checkmated.

This action on the part of President Cleveland was supplemented in July, 1894, by a general blanket injunction issued from the Federal district court in Chicago to all persons concerned, ordering them not to interfere with the transmission of the mails or with interstate commerce in any form. Mr. Debs, president of the American Railway Union, who was directing the strike

which was tying up interstate commerce, was arrested, fined, and imprisoned for refusing to obey this injunction. Mr. Debs, thereupon, through his counsel, claimed the right to jury trial, asserting that the court could not impose a penalty which was not provided by statute, but which depended solely upon the will of the judge. On appeal, the Supreme Court of the United States upheld the lower court and declared that imprisonment for contempt of court did not violate the principle of jury trial.

It was not merely labor leaders who were stirred to wrath by this development in judicial authority. Many eminent lawyers saw in it an attack upon the ancient safeguards of the law which provided for regular proceedings, indictment, the hearing of witnesses, jury trial, and the imposition of only such punishments as could be clearly ascertained in advance. On the other hand others held it to be nothing new at all, but simply the application of the old principle that injunctions could issue in cases where irreparable injury might otherwise ensue. They pointed out that its effectiveness depended upon speedy application, and that the delays usually incident to regular judicial procedure would destroy its usefulness altogether. To workingmen it appeared to be chiefly an instrument for imprisoning their leaders and breaking strikes by the prevention of coercion, peaceful or otherwise. At all events, the decision of the Supreme Court upholding the practice and its doctrines added to the bitterness engendered by the income tax decision — a bitterness manifested at the Democratic convention at Chicago the following year.

The crowning cause of immediate discontent was the financial policy pursued by President Cleveland,<sup>1</sup> which stirred the wrath of the agrarians already agitated over inflation, and gave definiteness to an issue on which both parties had been judiciously ambiguous in their platforms in 1892. The farmers pointed out that, notwithstanding the increased output of corn, the total amount of money received in return was millions less than it had been in the early eighties. They emphasized the fact that more than half of the taxable acreage of Kansas and Nebraska was mortgaged, and that many other western states were nearly as badly off. The falling prices and their inability to meet their indebtedness they attributed to the demonetization of silver and the steady enhancement of gold.

For the disease, as they diagnosed it, they had a remedy. The government, they said, had been generous to Wall Street and financial interests at large by selling bonds at rates which made great fortunes for the narrow group of purchasers, and by distributing its deposits among the banks in need of assistance. The power of the government could also be used for the benefit of another class — namely, themselves. Gold should be brought down and the currency extended by the free coinage of silver on a basis of sixteen to one. The value of crops, when measured in money, would thus mount upwards, and it would be easier to pay the interest on mortgages and discharge their indebtedness. Furthermore, while the government was in the business of accommodating the public it might loan money to the

<sup>1</sup> See above, p. 106.

farmers at a low rate of interest.<sup>1</sup> But the inflation of the currency and the increase of prices of farm products by the free coinage of silver were the leading demands of the discontented agrarians — an old remedy for an old disease.

<sup>1</sup> It is interesting to note that agricultural credit — a subject in which European countries are far advanced — is just now beginning to receive some attention in quarters where the demands of the farmers for better terms on borrowed money were once denounced as mere vagaries.

## CHAPTER VII

### THE CAMPAIGN OF 1896

IT does not require that distant historical perspective, which is supposed to be necessary for final judgments, to warrant the assertion that the campaign of 1896 marks a turning point in the course of American politics. The monetary issue, on which events ostensibly revolved, was, it is true, an ancient one, but the real conflict was not over the remonetization of silver or the gold standard. Deep, underlying class feeling found its expression in the conventions of both parties, and particularly that of the Democrats, and forced upon the attention of the country, in a dramatic manner, a conflict between great wealth and the lower middle and working classes, which had hitherto been recognized only in obscure circles. The sectional or vertical cleavage in American politics was definitely cut by new lines running horizontally through society, and was also crossed at right angles by another line running north and south, representing the western protest against eastern creditors and the objectionable methods of great corporations which had been rapidly unfolded to public view by merciless criticism and many legislative investigations.

Even the Republican party, whose convention had been largely prepared in advance by the vigorous labors



of Mr. Marcus A. Hanna,<sup>1</sup> was not untouched by the divisions which later rent the Democratic party in twain. When the platform was reported to the duly assembled Republican delegates by Mr. Foraker, of Ohio, its firm declaration of opposition to free silver, except by international agreement, was greeted by a divided house, although, as the record runs, there was a "demonstration of approval on the part of a large majority of the delegates which lasted several minutes." When a vote was taken on the financial plank, it was discovered that 110 delegates favored silver as against 812 in support of the proposition submitted by the platform committee. The defeated contingent then withdrew from the convention after having presented a statement in which they declared that "the people cry aloud for relief; they are bending under a burden growing heavier with the passing hours; endeavour no longer brings its just reward . . . and unless the laws of the country and the policies of political parties shall be converted into mediums of redress, the effect of human desperation may sometime be witnessed here as in other lands and in other ages."

This threat was firmly met by the body of the convention which remained. In nominating Mr. Thomas B. Reed, Mr. Lodge, of Massachusetts, declared: "Against the Republican party are arrayed not only that organized failure, the Democratic party, but all the wandering forces of political chaos and social disorder. . . . Such a man we want for our great office in these bitter times when the forces of disorder are loose and the wreckers

<sup>1</sup> See below, p. 239.

with their false lights gather at the shore to lure the ship of state upon the rocks." Mr. Depew, in nominating Mr. Levi P. Morton, decried all of the current criticism of capital. Mr. Foraker, in presenting the name of Mr. McKinley, was more conciliatory: distress and misery were abroad in the land and bond issues and bond syndicates had discredited and scandalized the country; but McKinley was the man to redeem the nation.

This conciliatory attitude was hardly necessary, for there were no radical elements in the Republican assembly after the withdrawal of the silver faction. The proceedings of the convention were in fact then extraordinarily harmonious, brief, and colorless. The platform, apart from the sound money plank, contained no sign of the social conflict which was being waged in the world outside. Tariff, pensions, civil service, temperance, and the usual formalities of party programs were treated after the fashion consecrated by time. Railway and trust problems were overlooked entirely. Even the money plank was not put first, and it was not so phrased as to constitute the significant challenge which it became in the campaign. "The Republican party," it ran, "is unreservedly for sound money. It caused the enactment of the law providing for the resumption of specie payments in 1879; since then every dollar has been good as gold. We are unalterably opposed to every measure calculated to debase our currency or impair the credit of our country. We are, therefore, opposed to the free coinage of silver except by international agreement with the leading commercial nations

of the world, which we pledge ourselves to promote, and until such an agreement can be obtained the existing gold standard must be maintained."

This clear declaration on the financial issue was apparently not a part of the drama as Mr. Hanna and Mr. McKinley had staged it. The former was in favor of the gold standard so far as he understood it, but he was not a student of finance, and he was more interested "in getting what we got," to use his phrase, than in any very fine distinctions in the gold plank. Mr. McKinley, on the other hand, was widely known as a bi-metallist; but his reputation throughout the country rested principally upon his high protective doctrines. He, therefore, wished to avoid the monetary issue by straddling it in such a way as not to alienate the large silver faction in the West. Mr. Hanna's biographer tells us that Mr. Kohlsaas claims to have spent hours on Sunday, June 7, "trying to convince Mr. McKinley of the necessity of inserting the word 'gold' in the platform. The latter argued in opposition that 90 per cent of his mail and his callers were against such decisive action, and he asserted emphatically that thirty days after the convention was over the currency question would drop out of sight and the tariff would become the sole issue. The currency plank, tentatively drawn by Mr. McKinley and his immediate advisers, embodied his resolution to keep the currency issue subordinate and vague."<sup>1</sup> The leaders in the convention, however, refused to accept Mr. McKinley's view and forced him to take the step which he had hoped to avoid.

<sup>1</sup> H. Croly, *M. A. Hanna*, p. 195.

In his speech of acceptance, McKinley deprecated and sought to smooth over the class lines which had been drawn. "It is a cause for painful regret and solicitude," he said, "that an effort is being made by those high in the counsels of the allied parties to divide the people of this country into classes and create distinctions among us which in fact do not exist and are repugnant to our form of government. . . . Every attempt made to array class against class, 'the classes against the masses,' section against section, labor against capital, 'the poor against the rich,' or interest against interest in the United States is in the highest degree reprehensible." In the Populist features of the Democratic platform he saw a grave menace to our institutions, but he accepted the challenge. "We avoid no issues. We meet the sudden, dangerous, and revolutionary assault upon law and order and upon those to whom is confided by the Constitution and laws the authority to uphold and maintain them, which our opponents have made, with the same courage that we have faced every emergency since our organization as a party more than forty years ago."

### *The Democratic Convention*

No doubt the decisive action of the Republican convention helped to consolidate the silver forces in the Democratic party; but even if the Republicans had obscured the silver question by a vague declaration, their opponents would have come out definitely against the gold standard. This was so apparent weeks before

the Democratic national assembly met, that conservatives in the party talked of refusing to participate in the party councils, called at Chicago on July 7. They were aware also that other and deeper sources of discontent were bound to manifest themselves when the proceedings got under way.

The storm which broke over the party had long been gathering. The Grange and Greenback movements did not disappear with the disappearance of the outward signs of organization; they only merged into the Populist movement with cumulative effect. The election of 1892 was ominous, for the agrarian party had polled a million votes. It had elected members of Congress and presidential electors; it was organized and determined. It arose from a mass of discontent which was justified, if misdirected. It was no temporary wave, as superficial observers have imagined. It had elements of solidity which neither of the old parties could ignore or cover up. No one was more conscious of this than the western and southern leaders in the Democratic party. They had been near the base of action, and they thought that what the eastern leaders called a riot was in fact the beginning of a revolution. Unwilling to desert their traditional party, they decided to make the party desert its traditions, and they came to the Democratic convention in Chicago prepared for war to the hilt.

From the opening to the close, the Democratic convention in Chicago in 1896 was vibrant with class feeling. Even in the prayer with which the proceedings began, the clergyman pleaded: "May the hearts of all

be filled with profound respect and sympathy for our toiling multitudes, oppressed with burdens too heavy for them to bear — heavier than we should allow them to bear," — a prayer that might have been an echo of some of the speeches made in behalf of the income tax in Congress.

The struggle began immediately after the prayer, when the presiding officer, on behalf of the retiring national committee, reported as temporary chairman of the convention, David B. Hill, of New York, the unrelenting opponent of the income tax and everything that savored of it. Immediately afterward, Mr. Clayton, speaking in behalf of twenty-three members of the national committee as opposed to twenty-seven, presented a minority report which proposed the Honorable John W. Daniel, of Virginia, as chairman. Pleas were made that the traditions of the party ought not to be violated by a refusal to accept the recommendations of the national committee.

After a stormy debate, the minority report of the national committee, proposing Mr. Daniel for chairman, was carried by a vote of 556 to 349. The states which voted solidly or principally for Mr. Hill were Connecticut, Delaware, Massachusetts, Michigan, Nebraska, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, South Dakota, Vermont, Wisconsin, and Alaska — all of the New England and Central seaboard states, which represented the accumulated wealth of the country. The official proceedings of the convention state, "When the result of this vote was announced, there was a period of nearly

twenty minutes during which no business could be transacted, on account of the applause, cheers, noise and confusion."

In his opening speech as chairman, Mr. Daniel declared that they were witnessing "an uprising of the people for American emancipation from the conspiracies of European kings led by Great Britain, which seek to destroy one half of the money of the world." He declared in favor of bimetallism and devoted most of his speech to the monetary question and to repeated declarations of financial independence in behalf of the United States. He also attacked, however, the tax system which the Democrats inherited from the Republicans in 1893, and in speaking of the deficit which was incurred under the Democratic tariff act he declared that it would have been met by the income tax incorporated in the tariff bill "had not the Supreme Court of the United States reversed its settled doctrines of a hundred years." On the second day of the convention, while the committees were preparing their reports, Governor Hogg, of Texas, Senator Blackburn, of Kentucky, Governor Altgeld, of Illinois, and other gentlemen were invited to address the convention.

The first of these speakers denounced the Republican party as a "great class maker and mass smasher"; he scorned that "farcical practice" which had given governmental protection to the wealthy and left the laborer to protect himself. "This protected class of Republicans," he exclaimed, "proposes now to destroy labor organizations. To that end it has organized syndicates, pools, and trusts, and proposes through the

Federal courts, in the exercise of their unconstitutional powers by the issuance of extraordinary unconstitutional writs, to strike down, to suppress, and to overawe those organizations, backed by the Federal bayonet. . . . Men who lived there in their mansions and rolled in luxuries were the only ones to get the benefit of this Republican [sugar] bounty called protection." Senator Blackburn, of Kentucky, exclaimed that "Christ with a lash drove from the temple a better set of men than those who for twenty years have shaped the financial policy of this country." Governor Altgeld<sup>1</sup> declared: "We have seen the streets of our cities filled with idle men, with hungry women, and with ragged children. The country to-day looks to the deliberations of this convention to promise some form of relief." This relief was to be secured by the remonetization of silver and the emancipation of the country from English capitalists and eastern financiers.

On the third day of the convention, Senator Jones, of Arkansas, chairman of the committee on platform, reported the conclusions of the majority of his committee. In the platform, as reported, there were many expressions of class feeling. It declared that the act of 1873 demonetizing silver caused a fall in the price of commodities produced by the people, a heavy increase in the public taxation and in all debts, public and private, the enrichment of the money-lending class at home and abroad, the prostration of industry, and the impoverishment of the people. The McKinley tariff was denounced as "a prolific breeder of trusts and monop-



lies" which had "enriched the few at the expense of the many."

The platform made the money question, however, the paramount issue, and declared for "the free and unlimited coinage of both silver and gold at the present legal ratio of sixteen to one without waiting for the aid or consent of any other nation." It stated that, until the monetary question was settled, no changes should be made in the tariff laws except for the purpose of meeting the deficit caused by the adverse decision of the Supreme Court in the income tax cases. The platform at this point turned upon the Court and asserted that the income tax law had been passed "by a Democratic Congress in strict pursuance of the uniform decisions of that Court for nearly a hundred years." It then hinted at a reconstruction of the Court, declaring that, "it is the duty of Congress to use all the constitutional power which remains after that decision or which may come from its reversal by the Court, as it may hereafter be constituted, so that the burden of taxation may be equally and impartially laid, to the end that wealth may bear its due proportion of the expense of the government."

The platform contained many expressions of sympathy with labor. "As labor creates the wealth of the country," ran one plank, "we demand the passage of such laws as may be necessary to protect it in all its rights." It favored arbitration for labor conflicts in interstate commerce. Referring to the recent Pullman strike and the labor war in Chicago, it denounced "arbitrary interference by Federal authorities in local affairs as a viola-

tion of the Constitution of the United States and a crime against free institutions, and we specially object to government by injunction as a new and highly dangerous form of oppression by which Federal judges, in contempt of the laws of the states and rights of citizens, become at once legislators, judges, and executioners; and we approve the bill passed by the last session of the United States Senate, and now pending in the House of Representatives, relative to contempt in Federal courts and providing for trials by jury in certain cases of contempt."

The platform did not expressly attack the administration of President Cleveland, but the criticism of the intervention by Federal authorities in local affairs was directed particularly to his interference in the Chicago strike. The departure from the ordinary practice of praising the administration of the party's former leader itself revealed the feeling of the majority of the convention.

A minority of the platform committee composed of sixteen delegates presented objections to the platform as reported by Senator Jones and offered amendments. In their report the minority asserted that many declarations in the majority report were "ill-considered and ambiguously phrased, while others are extreme and revolutionary of the well-recognized principles of the party." The free coinage of silver independently of other nations, the minority claimed, would place the United States at once "upon a silver basis, impair contracts, disturb business, diminish the purchasing powers of the wages of labor, and inflict irreparable evils upon our nation's commerce and industry." The minority,

therefore, proposed the maintenance of the existing gold standard; and concluded by criticizing the report of the majority as "defective in failing to make any recognition of the honesty, economy, courage, and fidelity of the present Democratic administration." This minority report was supplemented by two amendments proposed by Senator Hill, one to the effect that any change in the monetary standard should not apply to existing contracts and the other pledging the party to suspend, within one year from its enactment, the law providing for the independent free coinage of silver, in case that coinage did not realize the expectation of the party to secure a parity between gold and silver at the ratio of sixteen to one.

After the presentation of the platform and the proposed changes, an exciting and disorderly debate followed. The discussion was opened by Mr. Tillman, who exclaimed that the Civil War had emancipated the black slaves and that they were now in convention to head a fight for the emancipation of the white slaves, even if it disrupted the Democratic party as the Civil War had disrupted it. Without any equivocation and amid loud and prolonged hissing, he declared that the new issue like the old one was sectional — a declaration of political war on the part of the hewers of wood and the drawers of water in the southern and western states against the East. He compared the growth of fifteen southern states in wealth and population with the growth of Pennsylvania; he compared Ohio, Indiana, Illinois, Iowa, and Missouri with Massachusetts; to these five western states he added Kentucky, Tennessee,

Kansas, and Nebraska, and compared them all with the state of New York. The upshot of his comparison was that the twenty-five southern and western states were in economic bondage to the East and that we now had a money oligarchy more insolent than the slave oligarchy which the Civil War had overthrown.

Mr. Tillman could scarcely contain his wrath when he came to a consideration of the proposal to indorse Cleveland's administration. He denounced the Democratic President as "a tool of Wall Street"; and declared that they could not indorse him without writing themselves down as "asses and liars." "They ask us to indorse his courage," exclaimed Mr. Tillman. "Well, now, no one disputes the man's boldness and obstinacy, because he had the courage to ignore his oath of office, and redeem, in gold, paper obligations of the government, which were payable in coin — both gold and silver, and, furthermore, he had the courage to override the Constitution of the United States and invaded the state of Illinois with the United States army and undertook to override the rights and liberties of his fellow citizens. They ask us to indorse his fidelity. He has been faithful unto death, or rather unto the death of the Democratic party, so far as he represents it, through the policy of the friends that he had in New York and ignored the entire balance of the Union." Mr. Tillman was dissatisfied with the platform because it did not attack Mr. Cleveland's policies, and, amid great confusion throughout the hall, he proposed that the platform should "denounce the administration of President Cleveland as undemocratic and tyrannical." He warned the convention

that, "If this Democratic ship goes to sea on storm-tossed waves without fumigating itself, without express repudiation of this man who has sought to destroy his party, then the Republican ship goes into port and you go down in disgrace, defeated in November." In his proposed amendment to the platform, he asserted that Cleveland had used the veto power to thwart the will of the people, and the appointive power to subsidize the press and debauch Congress. The issue of bonds to purchase gold, to discharge obligations payable in coin at the option of the government, and the use of the proceeds for ordinary expenses, he denounced as "unlawful and usurpations of authority deserving of impeachment."

After Senator Jones was given the floor for a few moments to repudiate the charge brought by Mr. Tillman that the fight was sectional in character, Senator Hill, of New York, began the real attack upon the platform proposed by the majority. The Senator opened by saying that he was a Democrat, but not a revolutionist, that the question before them was one of business and finance, not of bravery and loyalty, and that the first step toward monetary reform should be a statement in favor of international bimetallism. He followed this by a special criticism of the declaration in favor of the ratio of sixteen to one which was, in his opinion, not only an unwise and unnecessary thing, but destined to return to plague them in the future.

Senator Hill then turned to the income tax which he had so vigorously denounced on the floor of the Senate two years before. "What was the necessity," he asked, "for putting into the platform other questions which

have never been made the tests of Democratic loyalty before? Why revive the disputed question of the policy and constitutionality of an income tax? . . . Why, I say, should it be left to this convention to make as a tenet of Democratic faith belief in the propriety and constitutionality of an income tax law?

“Why was it wise to assail the Supreme Court of your country? Will some one tell what that clause means in this platform? ‘If you meant what you said and said what you meant,’ will some one explain that provision? That provision, if it means anything, means that it is the duty of Congress to reconstruct the Supreme Court of the country. It means, and such purpose was openly avowed, it means the adding of additional members to the Court or the turning out of office and reconstructing the whole Court. I said I will not follow any such revolutionary step as that. Whenever before in the history of this country has devotion to an income tax been made the test of Democratic loyalty? Never! Have you not undertaken enough, my good friends, now without seeking to put in this platform these unnecessary, foolish, and ridiculous things?”

“What further have you done?” continued the Senator. “In this platform you have declared, for the first time in the history of this country, that you are opposed to any life tenure whatever for office. Our fathers before us, our Democratic fathers, whom we revere, in the establishment of this government, gave our Federal judges a life tenure of office. What necessity was there for reviving this question? How foolish and how unnecessary, in my opinion. Democrats, whose

whole lives have been devoted to the service of the party, men whose hopes, whose ambitions, whose aspirations, all lie within party lines, are to be driven out of the party upon this new question of life tenure for the great judges of our Federal courts. No, no; this is a revolutionary step, this is an unwise step, this is an unprecedented step in our party history."

Senator Hill then turned to a defense of President Cleveland's policy, denouncing the attempt to bring in the bond issue as foolish and calculated to put them on the defensive in every school district in the country. He closed by begging the convention not "to drive old Democrats out of the party who have grown gray in the service, to make room for a lot of Republicans and Populists, and political nondescripts."

Senator Hill's protest was supported by Senator Vilas from Wisconsin, who saw in the proposed free coinage of silver no difference, except in degree, between "the confiscation of one half of the credits of the nation for the benefit of debtors," and "a universal distribution of property." In this radical scheme there was nothing short of "the beginning of the overthrow of all law, of all justice, of all security and repose in the social order." He warned the convention that the American people would not tolerate the first steps toward the atrocities of the French Revolution, although "in the vastness of this country there may be some Marat unknown, some Danton or Robespierre." He asked the members of the convention when and where robbery by law had come to be a Democratic doctrine, and with solemn earnestness he pleaded with them not to launch the old party out

on a wild career or to "pull down the pillars of the temple and crush us all beneath the ruins." He declared that the gold standard was not responsible for falling prices; that any stable standard had "no more to do with prices than a yard stick or a pair of scales." He begged them to adopt the proposed amendment which would limit the effect of the change of standards to future contracts and thus deliver the platform from an imputation of a purpose to plunder.

The closing speech for the platform was then made by Mr. William Jennings Bryan, of Nebraska, who clothed his plea in the armor of righteousness, announcing that he had come to speak "in defense of a cause as holy as the cause of liberty — the cause of humanity." The spirit and zeal of a crusader ran through his speech. Indeed, when speaking of the campaign which the Silver Democrats had made to capture the party, he referred to that frenzy which inspired the crusaders under the leadership of Peter the Hermit. He spoke in defense of the wage earner, the lawyer in the country town, the merchant at the crossroads store, the farmer and the miner, — naming them one after the other and ranging himself on their side. "We stand here," he said, "representing people who are the equals before the law of the largest cities in the state of Massachusetts. When you come before us and tell us that we shall disturb your business interests, we reply that you have disturbed our business interests by your action. We say to you that you have made too limited in its application the definition of a business man. The man who is employed for wages is as much a business man as his employer. The attor-



ney in a country town is as much a business man as the corporation counsel in a great metropolis. The merchant at the crossroads store is as much a business man as the merchant of New York. The farmer who goes forth in the morning and toils all day, begins in the spring and toils all summer, and by the application of brain and muscle to the natural resources of this country creates wealth, is as much a business man as the man who goes upon the Board of Trade and bets upon the price of grain. The miners who go a thousand feet into the earth or climb two thousand feet upon the cliffs, and bring forth from their hiding places the precious metals to be poured in the channels of trade, are as much business men as the few financial magnates who, in a back room, corner the money of the world.

“We come to speak for this broader class of business men. Ah, my friends, we say not one word against those who live upon the Atlantic coast; but those hardy pioneers who braved all the dangers of the wilderness, who have made the desert to blossom as the rose — those pioneers away out there, rearing their children near to nature’s heart, where they can mingle their voices with the voices of the birds — out there where they have erected schoolhouses for the education of their children and churches where they praise their Creator, and the cemeteries where sleep the ashes of their dead — are as deserving of the consideration of this party as any people in this country.

“It is for these that we speak. We do not come as aggressors. Our war is not a war of conquest. We are fighting in the defense of our homes, our families, and

posterity. We have petitioned, and our petitions have been scorned. We have entreated, and our entreaties have been disregarded. We have begged, and they have mocked when our calamity came.

“We beg no longer ; we entreat no more ; we petition no more. We defy them !”

Mr. Bryan then took up the income tax. He repudiated the idea that the proposed platform contained a criticism of the Supreme Court. He said, “We have simply called attention to what you know. If you want criticisms, read the dissenting opinions of the court.” He denied that the income tax law was unconstitutional when it was passed, or even when it went before the Supreme Court for the first time. “It did not become unconstitutional,” he exclaimed, “until one judge changed his mind ; and we cannot be expected to know when a judge will change his mind.”

The monetary question was the great paramount issue. But Mr. Bryan did not stop to discuss any of the technical points involved in it. Protection had slain its thousands, and the gold standard had slain its tens of thousands ; the people of the United States did not surrender their rights of self-government to foreign potentates and powers. The common people of no land had ever declared in favor of the gold standard, but bondholders had. If the gold standard was a good thing, international bimetallism was wrong ; if the gold standard was a bad thing, the United States ought not to wait for the help of other nations in righting a wrong — this was the line of Mr. Bryan’s attack. And he concluded by saying : “Mr. Carlisle said, in 1878, that this was a

struggle between the idle holders of idle capital and the struggling masses who produce the wealth and pay the taxes of the country; and, my friends, it is simply a question that we shall decide upon which side shall the Democratic party fight? Upon the side of the idle holders of idle capital, or upon the side of the struggling masses? That is the question that the party must answer first; and then it must be answered by each individual hereafter. The sympathies of the Democratic party, as described by the platform, are on the side of the struggling masses, who have ever been the foundation of the Democratic party.

“There are two ideas of government. There are those who believe that if you just legislate to make the well-to-do prosperous, their prosperity will leak through on those below. The Democratic idea has been that if you legislate to make the masses prosperous, their prosperity will find its way up and through every class that rests upon it.

“You come to us and tell us that the great cities are in favor of the gold standard. I tell you that the great cities rest upon these broad and fertile prairies. Burn down your cities and leave our farms, and your cities will spring up again as if by magic. But destroy our farms, and the grass will grow in the streets of every city in this country.

“My friends, we shall declare that this nation is able to legislate for its own people on every question, without waiting for the aid or consent of any other nation on earth, and upon that issue we expect to carry every single State in this Union.

“I shall not slander the fair State of Massachusetts, nor the State of New York, by saying that when its citizens are confronted with the proposition, ‘Is this nation able to attend to its own business?’ — I will not slander either one by saying that the people of those States will declare our helpless impotency as a nation to attend to our own business. It is the issue of 1776 over again. Our ancestors, when but 3,000,000, had the courage to declare their political independence of every other nation upon earth. Shall we, their descendants, when we have grown to 70,000,000, declare that we are less independent than our forefathers? No, my friends, it will never be the judgment of this people. Therefore, we care not upon what lines the battle is fought. If they say bimetallicism is good, but we cannot have it till some nation helps us, we reply that, instead of having a gold standard because England has, we shall restore bimetallicism, and then let England have bimetallicism because the United States have.

“If they dare to come out and in the open defend the gold standard as a good thing, we shall fight them to the uttermost, having behind us the producing masses of the Nation and the world. Having behind us the commercial interests and the laboring interests and all the toiling masses, we shall answer their demands for a gold standard by saying to them, you shall not press down upon the brow of labor this crown of thorns. You shall not crucify mankind upon a cross of gold.”

The record of the convention states that “the conclusion of Mr. Bryan’s speech was the signal for a tremendous outburst of noise, cheers, etc. The standards

f many states were carried from their places and gathered about the Nebraska delegation." Never in the history of convention oratory had a speaker so swayed the passions of his auditors and so quickly made himself unquestionably "the man of the hour."

After some parliamentary skirmishing, Mr. Hill succeeded in securing from the convention a vote on the proposition of the minority in favor of the maintenance of the gold standard, "until international coöperation among the leading nations in the coinage of silver can be secured." For this proposition the eastern states voted almost solidly, with some help from the western states. Connecticut gave her twelve votes for the substitute amendment; Delaware, five of her six votes; Maine, ten out of twelve; Maryland, twelve out of sixteen; Massachusetts, twenty-seven out of thirty; New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, and Vermont gave their entire vote for the gold standard. The eastern states secured a little support in the West and South. Minnesota gave eleven out of seventeen votes for the amendment; Wisconsin voted solidly for it; Florida gave three out of eight votes; Washington gave three out of eight; Alaska voted solidly for it; the District of Columbia and New Mexico each cast two out of the six votes allotted to them in the convention. Out of a total of 929 votes cast, 303 were for the minority amendment and 626 against it.

The minority proposition to commend "the honesty, economy, courage, and fidelity of the present Democratic administration" was then put to the convention and

received a vote of 357 to 564 — nine not voting. The additional support to the eastern states came this time principally from California, Michigan, and Minnesota; but the division between the Northeast and the West and South was sharply maintained. The adoption of the platform as reported by the majority of the committee was then effected by a vote of 628 to 301.

In the evening the convention turned to the selection of candidates. In the nominating speeches, the character of the revolution in American politics came out even more clearly than in the debates on the platform. The enemy had been routed, and the convention was in the hands of the radicals, and they did not have to compromise and pick phrases in the hope of harmony.

Richard Bland, of Missouri, was the first man put before the convention, and he was represented as “the living, breathing embodiment of the silver cause” — a candidate chosen “not from the usurer’s den, nor temple of Mammon where the clink of gold drowns the voice of patriotism; but from the farm, the workshop, the mine — from the hearts and homes of the people.” Mr. Overmeyer, of Kansas, seconded the nomination of Mr. Bland — “that Tiberius Gracchus” — “in the name of the farmers of the United States; in the name of the homeless wanderers who throng your streets in quest of bread; in the name of that mighty army of the unemployed; in the name of that mightier army which has risen in insurrection against every form of despotism.”

Mr. Bryan was presented as that young giant of the West, that friend of the people, that champion of the

lowly, that apostle and prophet of this great crusade for financial reform — a new Cicero to meet the new Catilines of to-day — to lead the Democratic party, the defender of the poor, and the protector of the oppressed, which this day sent forth “tidings of great joy to all the toiling millions of this overburdened land.”

On the first ballot, fourteen candidates were voted for, but Mr. Bland and Mr. Bryan were clearly in the lead. On the fifth ballot, Mr. Bryan was declared nominated by a vote of 652 out of 930. Throughout the balloting, most of the eastern states abstained from voting. Ten delegates from Connecticut, seventeen or eighteen from Massachusetts, a majority from New Jersey, all of the delegates from New York, and a majority of the delegates from Wisconsin refused to take any part at all. Pennsylvania remained loyal throughout to the nominee from that state, Pattison, although it was a forlorn hope. Thus in the balloting for candidates, we discover the same alignment of the East against the West and the South which was evident in the vote on the platform. In the vote on the Vice President which followed, the eastern states refused to participate — from 250 to 260 delegates abstaining during the five ballots which resulted in the nomination of Sewall. New York consistently abstained; so did New Jersey; while a majority of the delegates from Pennsylvania and Massachusetts refused to take part.

In the notification speech delivered by Mr. Stone at Madison Square Garden in New York on August 12, the Democratic party was represented as the champion of the masses and their leader as “a plain man of the

people." He defended the men of the Chicago convention against the charge of being cranks, anarchists, and socialists, declaring them to be the representatives of the industrial and producing classes who constituted "the solid strength and safety of the state" against the combined aggressions of foreign money changers and Anglicized American millionaires — "English toadies and the pampered minions of corporate rapacity." Against the selfish control of the privileged classes, he placed the sovereignty of the people, declaring that within both of the old parties there was a mighty struggle for supremacy between those who stood for the sovereignty of the people and those who believed in "the divinity of pelf." He took pride in the fact that the convention represented "the masses of the people, the great industrial and producing masses of the people. It represented the men who plow and plant, who fatten herds, who toil in shops, who fell forests, and delve in mines. But are these to be regarded with contumely and addressed in terms of contempt? Why, sir, these are the men who feed and clothe the nation; whose products make up the sum of our exports; who produce the wealth of the republic; who bear the heaviest burdens in times of peace; who are ready always to give their lifeblood for their country's flag—in short, these are the men whose sturdy arms and faithful hands uphold the stupendous fabric of our civilization."

Mr. Bryan's speech of acceptance was almost entirely devoted to a discussion of the silver question. But he could not ignore the charge, which had then become widespread throughout the country, that his party



meditated an attack upon the rights of property and was the foe of social order and national honor. He repudiated the idea that his party believed that equality of talents and wealth could be produced by human institutions; he declared his belief in private property as the stimulus to endeavor and compensation for toil; but he took his stand upon the principle that all should be equal before the law. Among his foes he discovered "those who find a pecuniary advantage in advocating the doctrines of non-interference when great aggregations of wealth are trespassing upon the rights of individuals." The government should enforce the laws against all enemies of the public weal, not only the highwayman who robs the unsuspecting traveler, but also the transgressors who "through the more polite and less hazardous means of legislation appropriate to their own use the proceeds of the toil of others."

In his opinion, the Democratic income tax was not based upon hostility to the rich, but was simply designed to apportion the burdens of government more equitably among those who enjoyed its protection. As to the matter of the Supreme Court, there was no suggestion in the platform of a dispute with that tribunal. For a hundred years the Court had upheld the underlying principle of the income tax, and twenty years before "this same Court sustained without a dissenting voice an income tax law almost identical with the one recently overthrown." The platform did not propose an attack on the Supreme Court; some future Court had as much right "to return to the judicial precedents of a century as the present Court had to depart from them. When

Courts allow rehearings they admit that error is possible ; the late decision against the income tax was rendered by a majority of one after a rehearing."

Discussing the monetary question, Mr. Bryan confined his argument to a few principles which he deemed fundamental. He disposed of international bimetallism by questioning the good faith of those who advocated it and declaring that there was an impassable gulf between a universal gold standard and bimetallism, whether independent or international. He rejected the proposition that any metal represented an absolutely just standard of value, but he argued that bimetallism was better than monometallism because it made a nearer approach to stability, honesty, and justice than a gold standard possibly could. Any legislation lessening the stock of standard money increased the purchasing power of money and lowered the monetary value of all other forms of property. He endeavored to show the advantages to be derived from bimetallism by farmers, wage earners, and the professional classes, and asked whether the mass of the people did not have the right to use the ballot to protect themselves from the disastrous consequences of a rising standard, particularly in view of the fact that the relatively few whose wealth consisted largely in fixed investments had not hesitated to use the ballot to enhance the value of their investments.

On the question of the ratio, sixteen to one, Mr. Bryan declared that, because gold and silver were limited in the quantities then in hand and in annual production, legislation could fix the ratio between them, simply

following the law of supply and demand. The charge of repudiation he met with an argument in kind, declaring it to come "with poor grace from those who are seeking to add to the weight of existing debts by legislation which makes money dearer, and who conceal their designs against the general welfare under the euphonious pretense that they are upholding public credit and national honor." He concluded with a warning to his hearers that they could not afford to join the money changers in supporting a financial policy which destroyed the purchasing power of the product of toil and ended with discouraging the creation of wealth.

In a letter of acceptance of September 9, 1896, Mr. Bryan added little to the speeches he had made in the convention and in accepting the nomination. He attacked the bond policy of President Cleveland and declared that to assert that "the government is dependent upon the good will or assistance of any portion of the people other than a constitutional majority is to assert that we have a government in form but without vital force." Capital, he urged, was created by labor, and "since the producers of wealth create the nation's prosperity in time of peace and defend the nation's flag in time of peril, their interests ought at all times to be considered by those who stand in official positions." He criticized the abuses in injunction proceedings and favored the principle of trial by jury in such cases. He declared that it was not necessary to discuss the tariff at that time because the money question was the overshadowing issue, and all minor matters must be laid aside in favor of united action on that moot point.

A few of the advocates of the gold standard in the Democratic party, who could not accept the Chicago platform and were yet unwilling to go over to the Republicans, held a convention at Indianapolis in September, and nominated a ticket, headed by John M. Palmer for President, and Simon Buckner for Vice President. This party, through the address of its executive committee calling the convention, declared that Democrats were absolved from all obligations to support the Chicago platform because the convention had departed from the recognized Democratic faith and had announced doctrines which were "destructive of national honor and private obligation and tend to create sectional and class distinctions and engender discord and strife among the people." The address repudiated the doctrine of majority rule in the party, declaring that when a Democratic convention departed from the principles of the party, no Democrat was under any moral obligation to support its action.

The principles of the party which, the address declared, had been adhered to from Jefferson to Cleveland "without variableness or a shadow of turning" were summed up in a policy of *laissez faire*. A true Democrat, ran the address, "believes, and this is the cardinal doctrine of his political faith, in the ability of every individual unassisted, if unfettered by law, to achieve his own happiness, and therefore that to every citizen there should be secured the right and opportunity peaceably to pursue whatever course of conduct he would, provided such conduct deprived no other individual of the equal enjoyment of the same right and opportunity.

He stood for freedom of speech, freedom of conscience, freedom of trade, and freedom of contract, all of which are implied by the century-old battle cry of the Democratic party 'Individual Liberty!' . . . Every true Democrat . . . profoundly disbelieves in the ability of the government, through paternal legislation, or supervision, to increase the happiness of the nation."

In the platform adopted at the convention, the "National Democratic party" was pledged to the general principles enunciated in the address and went on record as "opposed to all paternalism and all class legislation." It declared that the Chicago convention had attacked "individual freedom, the right of private contract, the independence of the judiciary, and the authority of the President to enforce Federal laws." It denounced protection and the free coinage of silver as two schemes designed for the personal profit of the few at the expense of the masses; it declared in favor of the gold standard, indorsed President Cleveland's administration, and went to the support of the Supreme Court by condemning "all efforts to degrade that tribunal or to impair the confidence and respect which it has deservedly held."

This platform received the support of President Cleveland, who, in response to an invitation to attend the meeting at which the candidates were to be notified, said: "As a Democrat, devoted to the principles and integrity of my party, I should be delighted to be present on an occasion so significant and to mingle with those who are determined that the voice of true Democracy shall not be smothered and who insist that the glorious standard shall be borne aloft as of old in faithful hands."

In their acceptance speeches, Palmer and Buckner devoted more attention to condemning the Chicago platform than to explaining the principles for which they stood. General Buckner said: "The Chicago Convention would wipe virtually out of existence the Supreme Court which interprets the law, forgetting that our ancestors in England fought for hundreds of years to obtain a tribunal of justice which was free from executive control. They would wipe that out of existence and subject it to the control of party leaders to carry out the dictates of the party — they would paralyze the arm of the general government and forbid the powers to protect the lives and property of its citizens. That convention in terms almost placed a lighted torch in the hands of the incendiary and urged the mob to proceed without restraint to pillage and murder at their discretion."

### *The Campaign*

The campaign which followed the conventions was the most remarkable in the long history of our quadrennial spectacles. Terror is always a powerful instrument in politics, and it was never used with greater effect than in the summer and autumn of 1896. Some of Mr. Bryan's utterances, particularly on the income tax, frightened the rich into believing, or pretending to believe, that his election would be the beginning of a wholesale confiscation. The Republicans replied to Mr. Bryan's threats by using the greatest of all terrors, the terror of unemployment, with tremendous effect. Everywhere they

let the country understand that the defeat of Mr. McKinley would close factories and throw thousands of workingmen out of employment, and manufacturers and railways were accused by Mr. Bryan of exercising coercion on a large scale.

To this terror from above, the Democrats responded by creating terror below, by stirring deep-seated class feeling against the Republican candidate and his managers. In a letter given out from the Democratic headquarters in Chicago, on September 12, 1896, Mr. Jones, chairman of the Democratic national committee, said: "Against the people in this campaign are arrayed the consolidated forces of wealth and corporate power. The classes which have grown fat by reason of Federal legislation and the single gold standard have combined to fasten their fetters still more firmly upon the people and are organizing every precinct of every county of every state in the Union with this purpose in view. To meet and defeat this corrupt and unholy alliance the people themselves must organize and be organized. . . . It will minimize the effect of the millions of dollars that are being used against us, and defeat those influences which wealth and corporate power are endeavoring to use to override the will of the people and corrupt the integrity of free institutions."

Owing to the nature of the conflict enormous campaign funds were secured. The silver miners helped to finance Mr. Bryan, but their contributions were trivial compared with the immense sums raised by Mr. Hanna from protected interests, bankers, and financiers. With this great fund, speakers were employed by the thou-

sands, newspapers were subsidized, party literature circulated by the ton, whole states polled in advance, and workers employed to carry the Republican fight into every important precinct in the country. The God of battles was on the side of the heaviest battalions. With all the most powerful engines for creating public sentiment against him, Mr. Bryan, in spite of his tremendous popular appeal, was doomed to defeat.

Undoubtedly, as was said at the time, most of the leading thinkers in finance and politics were against Mr. Bryan, and if there is anything in the verdict of history, the silver issue could not stand the test of logic and understanding. But it must not be presumed that it was merely a battle of wits, and that demagogic appeals to passions which were supposed to be associated with Mr. Bryan's campaign were confined to his partisans. On the contrary, the Republicans employed all of the forms of personal vituperation. For example, that staid journal of Republicanism, the *New York Tribune*, attributed the growth of Bryanism to the "assiduous culture of the basest passions of the least worthy member of the community. . . . Its nominal head was worthy of the cause. Nominal because the wretched, rattle-pated boy, posing in vapid vanity and mouthing resounding rottenness, was not the real leader of that league of hell. He was only a puppet in the blood-imbued hands of Altgeld, the anarchist, and Debs, the revolutionist, and other desperadoes of that stripe. But he was a willing puppet, Bryan was, — willing and eager. None of his masters was more apt than he at lies and forgeries and blasphemies and all the



nameless iniquities of that campaign against the Ten Commandments." That such high talk by those who constituted themselves the guardians of public credit, patriotism, and the Ten Commandments was not calculated to sooth the angry passions of their opponents needs no demonstration here.

Argument, party organization and machinery, the lavish use of money, and terror won the day for the Republicans. The solid East and Middle West overwhelmed Mr. Bryan, giving Mr. McKinley 271 electoral votes and 7,111,607 popular votes, as against 176 electoral and 6,509,052 popular votes cast for the Democratic candidate.

The decisive defeat of Mr. Bryan put an end to the silver issue for practical purposes, although, as we shall see, it was again raised in 1900. The Republicans, however, delayed action for political reasons, and it was not until almost four years had elapsed that they made the gold dollar the standard by an act of Congress approved on March 4, 1900. Thus the war of the standards was closed, but the question of the currency was not settled, and the old issue of inflation and contraction continued to haunt the paths of the politicians. From time to time, the prerogatives of the national banks, organized under the law of 1863 (modified in 1901), were questioned in political circles, and in 1908 an attempt was made by act of Congress to give the currency more elasticity by authorizing the banks to form associations and issue notes on the basis of certain securities. Nevertheless, no serious changes were made in the financial or banking

systems before the close of the year 1912. The attention of the country, shortly after the campaign of 1896, was diverted to the spectacular events of the Spanish War, and for a time appeals to patriotism subdued the passions of the radicals.

## CHAPTER VIII

### IMPERIALISM

THE Republicans triumphed in 1896, but the large vote for Mr. Bryan and his platform and the passions aroused by the campaign made it clear to the far-sighted that, whatever might be the fate of free silver, new social elements had entered American politics. It was fortunate for the conservative interests that the quarrel with Spain came shortly after Mr. McKinley's election, and they were able to employ that ancient political device, "a vigorous foreign policy," to divert the public mind from domestic difficulties. This was particularly acceptable to the populace at the time, for there had been no war for more than thirty years, and, contrary to their assertions on formal occasions, the American people enjoy wars beyond measure, if the plain facts of history are allowed to speak.<sup>1</sup>

Since 1876 there had been no very spectacular foreign affair to fix the attention of the public mind, except the furor worked up over the application of the Monroe Doctrine to Venezuela during President Cleveland's second administration. For a long time that country and Great Britain had been waging a contest over the western boundary of British Guiana; and the United States, on the appeal of Venezuela, had taken a slight

<sup>1</sup> J. B. Moore, *Four Phases of American Development*, p. 195.

interest in the dispute, generally assuming that the attention of the case were on the side of the South American public. In 1895, it became apparent that Great Britain did not intend to yield any points in the case, and nationalism began to clamor again for protection, this time with effect. In July of that year, the Secretary of State, Richard Olney, demanded that Great Britain announce whether she was willing to arbitrate the question. Great Britain announced that the United States was master of the Western Hemisphere by saying: "The United States is practically sovereign on this continent and its fiat is law upon the subjects to which it confines its interposition. Why should it? It is not because of the pure friendship or good will for it. It is not simply by reason of its high character as a civilized state, nor because wisdom and equity are the invariable characteristics of the dealings of the United States. It is because in addition to all other grounds, its infinite resources combined with its isolated position render it master of the situation and practically invulnerable against any or all other powers."

This extraordinary document, to put it mildly, failed to arouse the warlike sentiment in England which its language invited, and Lord Salisbury replied for the British government that this startling extension of the Monroe Doctrine was not acceptable in the present controversy and that the arbitration of the question could not be admitted by his country. This moderate reply brought from President Cleveland a message to Congress on December 17, 1895, which created in the United States at least all the outward and visible signs of the preliminaries to a war over the matter. He asked Congress to

mission to ascertain the true boundary between Venezuela and British Guiana, and then added that it was the duty of the United States "to resist by all means in its power, as a wilful aggression upon its rights and interests, the appropriation by Great Britain of lands or the exercise of governmental jurisdiction over any territory which, after investigation, we have determined of right belongs to Venezuela." He declared that he was conscious of the responsibilities which he had incurred, but intimated that war between Great Britain and the United States, much as it was to be declared, was not comparable to "a supine submission to wrong and injustice and the consequent loss of national self-respect and honor." In other words, we were to decide the dispute ourselves and go to war on Great Britain if we found her in possession of lands which in our opinion did not belong to her.

This defiant attitude on the part of President Cleveland, while it aroused a wave of enthusiasm among those sections of the population moved by bold talk about the unimpeachable integrity of the United States and its daring defense of right everywhere, called forth no little criticism in high places. Contrary to expectation, it was not met by bluster on the part of Great Britain, but it was rather deplored there as threatening a breach between the two countries over an insignificant matter. Moreover, when the commission created by Congress set to work on the boundary dispute, the British government courteously replied favorably to a request for assistance in the search for evidence. Finally, Great Britain yielded and agreed to the earlier proposition on

the part of the United States that the issue be submitted to arbitration; and this happy outcome of the matter contributed not a little to Mr. Cleveland's reputation as "a sterling representative of the true American spirit." This was not diminished by the later discovery that Great Britain was wholly right in her claims in South America.

The Venezuelan controversy was an echo of the time-honored Monroe Doctrine and was without any deeper economic significance. There were not wanting, however, signs that the United States was prepared economically to accept that type of imperialism that had long been dominant in British politics and had sprung into prominence in Germany, France, and Italy during the generation following the Franco-Prussian War. This newer imperialism does not rest primarily upon a desire for more territory, but rather upon the necessity for markets in which to sell manufactured goods and for opportunities to invest surplus accumulations of capital. It begins in a search for trade, advances to intervention on behalf of the interests involved, thence to protectorates, and finally to annexation. By the inexorable necessity of the present economic system, markets and safe investment opportunities must be found for surplus products and accumulated capital. All the older countries being overstocked and also forced into this new form of international rivalry, the drift is inevitably in the direction of the economically backward countries: Africa, Asia, Mexico, and South America. Economic necessity thus overrides American

isolation and drives the United States into world politics.

Although the United States had not neglected the protection of its interests from the days when it thrashed the Barbary pirates, sent Caleb Cushing to demand an open door in China, and dispatched Commodore Perry to batter down Japanese exclusiveness, the relative importance of its world operations was slight until manufacturing and commerce gained their ascendancy over agriculture.

The pressure of the newer interests on American foreign policy had already been felt when the demand for the war with Spain came. In 1889, the United States joined with Great Britain and Germany in a protectorate over the Samoan Islands, thus departing, according to Secretary Gresham, from our "traditional and well-established policy of avoiding entangling alliances with foreign powers in relation to objects remote from this hemisphere."<sup>1</sup> Preparations had been made under Harrison's administration for the annexation of the Hawaiian Islands, after a revolution, largely fomented by American interests there, had overthrown the established government; but this movement was blocked for the time being by President Cleveland, who learned through a special commissioner, sent to investigate the affair, that the upheaval had been due principally to American disgust for the weak and vacillating government of the Queen. It was not until the middle of the Spanish War that Congress, recognizing the importance

<sup>1</sup> In 1899, the tripartite arrangement was dissolved and the United States obtained outright possession of Tutuila.

of the Hawaiian Islands in view of the probable developments resulting from Admiral Dewey's victory in the Philippines, annexed them to the United States by joint resolution on July 6, 1898.<sup>1</sup>

### *The Spanish War*

It required, however, the Spanish War and the acquisition of the insular dependencies to bring imperialism directly into politics as an overshadowing issue and to secure the frank acknowledgment of the new emphasis on world policy which economic interests demanded. It is true that Cuba had long been an object of solicitude on the part of the United States. Before the Civil War, the slave power was anxious to secure its annexation as a state to help offset the growing predominance of the North; and during the ten years' insurrection from 1868 to 1878, when a cruel guerilla warfare made all life and property in Cuba unsafe, intervention was again suggested. But it was not until the renewal of the insurrection in 1895 that American economic interests in Cuba were strong enough to induce interference. Slavery was gone, but capital, still more dominant, had taken its place.

In 1895, Americans had more than fifty million dollars invested in Cuban business, and our commerce with the Island had risen to one hundred millions annually. The effect of the Cuban revolt against Spain was not

<sup>1</sup> The Hawaiian Islands are ruled by a governor appointed by the President and Senate and by a legislature of two houses elected by popular vote.



only to diminish trade, but also to destroy American property. The contest between the rebels and Spanish troops was characterized by extreme cruelty and a total disregard for life and property. Gomez, the leader of the revolt, resorted to the policy made famous by Sherman on his march to the sea. He laid waste the land to starve the Spaniards and compel American interference if possible. By a proclamation of November 6, 1895, he ordered that plantation buildings and railway connections should be destroyed and sugar factories closed everywhere; what he left undone was finished by the Spanish general, Weyler, who concentrated the inhabitants of the rural districts in the centers occupied by the troops. Under such a policy, business was simply paralyzed; and within less than two years Americans had filed against Spain claims amounting to sixteen million dollars for property destroyed in the revolution.

The atrocities connected with the insurrection attracted the sympathy of the American people at once. Sermons were preached against Spanish barbarism; orators demanded that the Cuban people be "succored in their heroic struggle for the rights of men and of citizens"; Mr. Hearst's newspapers appealed daily to the people to compel governmental action at once, and denounced the tedious methods of negotiation, in view of an inevitable war. Cuban juntas formed in American cities raised money and supplied arms for the insurrectionists. All the enormous American property interests at stake in the Island, with their widespread and influential ramifications in the United States, demanded

action. The war fever, always quick to be kindled, rose all over the country.

Even amid the exciting campaign of 1896, the Democrats found time to express sympathy with the Cubans, and the Republicans significantly remarked that inasmuch as Spain was "unable to protect the property or lives of resident American citizens," the good offices of the United States should be tendered with a view to pacification and independence. Perhaps, not unaware of the impending crisis, the Republicans also favored a continued enlargement of the navy to help maintain the "rightful influence" of the United States among the nations of the earth.

President Cleveland, repudiated by his own party and having no desire to "play the game of politics," assumed an attitude of neutrality in the conflict and denied to the Cubans the rights of belligerents. He offered to Spain the good offices of the United States in mediation with the insurgents — a tender which was rejected by Spain with the suggestion that the United States might more vigorously suppress the unlawful assistance which some of its citizens were lending to the revolutionists. Mr. Cleveland's second administration closed without any positive action on the Cuban question.

Within four months after his inauguration, President McKinley protested strongly to Spain against her policy in Cuba, and during the summer and autumn and winter he conducted a running fire of negotiations with Spain. Congress was impatient for armed intervention and fretted at the tedious methods of diplomacy.

Spain shrewdly made counter thrusts to every demand advanced by the United States, but made no outward sign of improvement in the affairs of Cuba, even after the recall of General Weyler. In February, 1898, a private letter, written by De Lôme, the Spanish minister at Washington, showing contempt for Mr. McKinley and some shifty ideas of diplomacy, was acquired by the *New York Journal* and published. This stirred the country and led to the recall of the minister by his home government. Meanwhile the battleship *Maine* was sent to Havana, officially to resume friendly relations at Cuban ports, but not without an ulterior regard for the necessity of protecting the lives and property of Americans in jeopardy. The incident of the Spanish minister's letter had hardly been closed before the *Maine* was blown up and sunk on the evening of February 15, 1898. The death of two officers and two hundred and fifty-eight of the crew was a tragedy which moved the nation beyond measure, and with the cry "Remember the *Maine*" public opinion was worked up to a point of frenzy.

A commission was appointed at once to inquire into the cause of the disaster, and on March 21 it reported that the *Maine* had been destroyed by an explosion of a submarine mine which set off some of the ship's magazines. Within a week, negotiations with Spain were resumed, and that country made generous promises to restore peace in the Island and permit a Cuban parliament to be established in the interests of local autonomy. None of Spain's promises were regarded as satisfactory by the administration, and on April 4,

General Woodford, the American representative in that country, was instructed to warn the ministry that no effective armistice had been offered the Cubans and that President McKinley would shortly lay the matter before Congress — which meant war. After some delay, during which representatives of the European powers and the Pope were at work in the interests of peace, Spain promised to suspend hostilities, call a Cuban parliament, and restore a reasonable autonomy.

On the day after the receipt of this promise, President McKinley sent his war message to Congress without explaining fully the latest concessions made by Spain. It was claimed by the Spanish government that it had yielded absolutely everything short of independence and that all of the demands of the United States had been met. Some eminent editors and publicists in the United States have since accepted this view of the affair and sharply criticized the President for not making public the full text of Spain's last concession on the day that he sent his war message to Congress. Those who take this view hold that President McKinley believed war to be inevitable and desirable all along, but merely wished to bring public opinion to the breaking point before shifting the responsibility to Congress. The President's defenders, however, claim that no credence could be placed in the good faith of Spain and that the intolerable conditions in Cuba would never have been removed under Spanish administration, no matter what promises might have been made.

In his war message of April 11, 1898, Mr. McKinley brought under review the conditions in Cuba and the

history of the controversy, coming to the conclusion that the dictates of humanity, the necessity of protecting American lives and property in Cuba, and the chronic disorders in the Island warranted armed intervention. Congress responded by an overwhelming vote on April 19, in favor of a resolution declaring that Cuba should be free, that Spain's withdrawal should be demanded, and the President be authorized to use the military and naval forces of the country to carry the decree into effect. In the enthusiasm of the hour, Congress also specifically disclaimed any intention of exercising "sovereignty, jurisdiction, or control over said Island except for the pacification thereof." Thus war was declared on the anniversary of the battle of Lexington.

In the armed conflict which followed, the most striking and effective operations were on the sea. In anticipation of the war, Commodore Dewey, in command of the Asiatic station, had been instructed as early as February to keep his squadron at Hongkong, coaled, and ready, in event of a declaration of hostilities, to begin offensive operations in the Philippine Islands. The battleship *Oregon*, then off the coast of Washington, was ordered to make the long voyage around the Horn, which has now become famous in the annals of the sea. At the outbreak of the war, Rear Admiral Sampson, in charge of the main squadron at Key West, was instructed to blockade important stretches of the coast of Cuba and to keep watch for the arrival of the Spanish fleet, under Admiral Cervera, which was then on the high seas, presumably bound for Cuba.

The first naval blow was struck by Admiral Dewey,

who had left Chinese waters on receiving news of the declaration of war and had reached Manila Bay on the evening of April 30. Early the following morning he opened fire on the inferior Spanish fleet under the guns of Cavité and Manila, and within a few hours he had destroyed the enemy's ships, killed nearly four hundred men, and silenced the shore batteries without sustaining the loss of a single man or suffering any injuries to his own ships worthy of mention. News of this extraordinary exploit reached the United States by way of Hong-kong on May 6, and the hero of the day was, by popular acclaim, placed among the immortals of our naval history.

While celebrating the victory off Manila, the government was anxiously awaiting the arrival of the Spanish fleet in American waters which were being carefully patrolled. In spite of the precautions of Admiral Sampson, Cervera was able to slip into the harbor of Santiago on May 19, where he was immediately blockaded by the American naval forces. An attempt was made to stop up the mouth of the harbor by sending Lieutenant Richmond P. Hobson to sink a collier at the narrow entrance, but this spectacular move, carried out under a galling fire, failed to accomplish the purpose of the projectors, and Hobson and his men fell into the hands of the Spaniards.

The time had now come for bringing the land forces into coöperation with the navy for a combined attack on Santiago, and on June 14 a large body of troops, principally regulars, embarked from Tampa, where men and supplies had been concentrating for weeks.

The management of the army was in every respect inferior to the administration of the navy. Secretary Alger, of the War Department, was a politician of the old school, who could not allow efficiency to interfere with the "proper" distribution of patronage; and as a result of his dilatory methods (to put it mildly) and the general unpreparedness of the army, the camp at Tampa was grossly mismanaged. Sanitary conveniences were indescribably bad, supply contractors sold decayed meat and wretched food to the government, heavy winter clothing was furnished to men about to fight in the summer time in a tropical climate, and, to cap the climax of blundering, inadequate provisions were made for landing the troops when they reached Cuba on June 22.

The forces dispatched to Cuba were placed under the command of General Shafter, but owing to his illness the fighting was principally carried on under Generals Lawton and Wheeler. The most serious conflicts in the land campaign occurred at El Caney and San Juan Hill, both strategic points near Santiago. At the second of these places the famous "Rough Riders" under Colonel Roosevelt distinguished themselves by a charge up the hill under heavy fire and by being the first to reach the enemy's intrenchments. In spite of several engagements, in which the fortunes of the day were generally on the side of the Americans, sickness among the soldiers and lack of supplies caused General Shafter to cable, on July 3, that without additional support he could not undertake a successful storming of Santiago.

At this critical juncture, the naval forces once more

distinguished themselves, and made further bloody fighting on land unnecessary, by destroying Cervera's fleet which attempted to make its escape from the Santiago harbor on the morning of July 3. The American ships were then in charge of Commodore Schley, for Admiral Sampson had left watch early that morning for a conference with General Shafter; and the sailors acquitted themselves with the same skill that marked Dewey's victory at Manila. Within less than four hours' fighting all the Spanish ships were destroyed or captured with a loss of about six hundred killed and wounded, while the Americans sustained a loss of only one man killed and one wounded. This victory, of course, marked the doom of Santiago, although it did not surrender formally until July 17, after two days' bombardment by the American ships.

The fall of Santiago ended military operations in Cuba, and General Miles, who had come to the front in time to assist General Shafter in arranging the terms of the surrender of Santiago, proceeded at once to Porto Rico. He was rapidly gaining possession of that Island in an almost bloodless campaign when news came of the signing of the peace protocol on August 12. Unfortunately it required longer to convey the information to the Philippines that the war was at an end, and on the day after the signature of the protocol, that is, August 13, General Merritt and Admiral Dewey carried Manila by storm.

As early as July 26, 1898, the Spanish government approached President McKinley through M. Cambon, the French ambassador at Washington, and asked for



a preliminary statement of the terms on which the war could be brought to a close. After some skirmishing, in which Spain reluctantly yielded to the American ultimatum, a peace protocol was signed on August 12, to the effect that Cuba should be independent, Porto Rico ceded to the United States, and Manila occupied pending the final negotiations, which were opened at Paris by special commissioners on October 1.

When the commissioners met according to arrangements, the government of the United States apparently had not come to a conclusion as to the final disposition of the Philippines. The administration was anxious not to go too far in advance of public opinion, at least so far as official pronouncement was concerned, although powerful commercial interests were busy impressing the public mind with the advantages to be derived from the retention of the distant Pacific Islands. In his instructions to the peace commissioners, on the eve of their departure, Mr. McKinley, while denying that there had originally been any intention of conquest in the Pacific, declared that the march of events had imposed new duties upon us, and added: "Incidental to our tenure in the Philippines is the commercial opportunity to which American statesmanship cannot be indifferent. It is just to use every legitimate means for the enlargement of American trade." While stating that the possession of territory was less important than an "open door" for trade purposes, he concluded by instructing the commissioners that the United States could not "accept less than the cession in full right and sovereignty of the Island of Luzon."

The peace commissioners were divided among themselves as to the policy to be pursued with regard to the Philippines; but in the latter part of October they received definite instructions from the Secretary of State, Mr. John Hay, that the cession of Luzon alone could not be justified "on political, commercial, or humanitarian grounds," and that the entire archipelago must be surrendered by Spain. The Spanish commissioners protested vigorously against this demand, on the theory that it was outside of the terms of the peace protocol, but they were forced to yield, receiving as a sort of consolation prize the payment of twenty million dollars in compensation for the loss.

The final treaty, as signed on December 10, 1898, embodied the following terms: the independence of Cuba, the cession of Porto Rico, Guam, and the Philippines to the United States, the cancellation of the claims of the citizens of the two countries against each other, the United States undertaking to settle the claims of its citizens against Spain, the payment of twenty million dollars for the Philippines by the United States, and the determination of the civil and political status of the inhabitants of the ceded territories by Congress.

When the treaty of peace was published, the contest over the retention of the Philippines took on new bitterness — at least in public speeches and editorials. The contentions on both sides were so vehement that it was almost impossible to secure any frank discussion of the main issue: "Does the United States want a foothold in the Pacific in order to secure the trade of the Philippines and afford American capital an opportunity

to develop the dormant natural resources, and in order also to have a station from which to give American trade and capital a better chance in the awakening Orient?" Democrats demanded self-government for the Philippines, "in recognition of the principles of the immortal Declaration of Independence." Republicans talked in lofty strains about "the mysterious hand of Providence which laid this burden upon the Anglo-Saxon race."

The proposal to retain the Philippines, in fact, gave the southern statesmen just the opportunity they had long wanted to taunt the Republicans with insincerity on the race question. "Republican leaders," said Senator Tillman, "do not longer dare to call into question the justice or necessity of limiting negro suffrage in the South." And on another occasion he exclaimed in querulous accents: "I want to call your attention to the remarkable change that has come over the spirit of the dream of the Republicans. Your slogans of the past — brotherhood of man and fatherhood of God — have gone glimmering down through the ages. The brotherhood of man exists no longer." To such assertions, Republicans of the old school, like Senator Hoar, opposed to imperialism, replied sadly, "The statements of Mr. Tillman have never been challenged and never can be." But Republicans of the new school, unvexed by charges of inconsistency, replied that high talk about the rights of man and of self-government came with poor grace from southern Democrats who had disfranchised millions of negroes that were just as capable of self-government as the bulk of the natives in the Philippines.

Senator Vest, on December 6, introduced in the Senate

a resolution to the effect "that under the Constitution of the United States, no power is given to the Federal Government to acquire territory to be held and governed permanently as colonies." He was ably supported by Senator Hoar, from Massachusetts, who took his stand upon the proposition that "governments derive their just powers from the consent of the governed." On the other side, Senator O. H. Platt, of Connecticut, expounded the gospel of manifest destiny: "Every expansion of our territory has been in accordance with the irresistible law of growth. We could no more resist the successive expansions by which we have grown to be the strongest nation on earth than a tree can resist its growth. The history of territorial expansion is the history of our nation's progress and glory. It is a matter to be proud of, not to lament. We should rejoice that Providence has given us the opportunity to extend our influence, our institutions, and our civilization into regions hitherto closed to us, rather than contrive how we can thwart its designs."

At length on February 6, 1899, the treaty was ratified by the Senate, but it must not be assumed that all of the Senators who voted for the ratification of the treaty favored embarking upon a policy of "imperialism." Indeed, at the time of the approval of the treaty, a resolution was passed by the Senate to the effect that the policy to be adopted in the Philippines was still an open question; but the outbreak of an insurrection there led to an immediate employment of military rule in the Islands and criticism was silenced by the cry that our national honor was at stake.

The revolt against American dominion might have been foreseen, for the conduct of Generals Anderson and Merritt at Manila had invited trouble. For a long time before the War, native Filipinos had openly resisted Spanish rule, and particularly the dominance of the monks and priests, who held an enormous amount of land and managed civil as well as ecclesiastical affairs. Just before the outbreak of the Spanish War, there had been a revolt under the leadership of Aguinaldo which had been brought to an end by the promise to pay a large sum to the revolutionary leaders and to introduce extensive administrative reforms. The promises, however, had not been carried out, and Admiral Dewey had invited the coöperation of Aguinaldo and his insurgents in the attack on Manila. When the land assault was made on the city, in August, Aguinaldo joined with a large insurgent army under the banner of the Filipino republic which had been proclaimed in July, but he was compelled to take a subordinate position, and received scant respect from the American commanders, who gave him to understand that he had no status in the war or the settlement of the terms of capitulation.

As may be imagined, Aguinaldo was in no happy frame of mind when the news came in January, 1899, that the United States had assumed sovereignty over the islands; but it is not clear that some satisfactory adjustment might not have been made then, if the United States had been willing to accept a sort of protectorate and allow the revolutionaries to establish a local government of their own. However, little or nothing was done to reach a peaceful adjustment, and on February

4, some Filipino soldiers were shot by American troops for refusing to obey an order to halt, on approaching the American lines. This untoward incident precipitated the conflict which began with some serious regular fighting and dwindled into a vexatious guerilla warfare, lasting three years and costing the United States heavily in men and money. Inhuman atrocities were committed on both sides, resembling in brutality the cruel deeds which had marked frontier warfare with the Indians. Reports of these gruesome barbarities reached the United States and aroused the most severe criticism of the administration, not only from the opponents of imperialism, but also from those supporters of the policy, who imagined that it could be carried out with rose water.

The acquisition of the insular dependencies raised again the old problem as to the power of Congress over territories, which had been so extensively debated during the slavery conflict. The question now took the form: "Does the Constitution restrict Congress in the government of the Islands as if they were physically and politically a part of the United States, and particularly, do the limitations in behalf of private rights, freedom of press, trial by jury, and the like, embodied in the first ten Amendments, control the power of Congress?" Strict constitutionalists answered this question in the affirmative without hesitation, citing the long line of constitutional decisions which had repeatedly affirmed the doctrine that Congress is limited everywhere, even in the territories by the Amendments

providing for the protection of personal and property rights; but practical politicians, supporting the McKinley administration, frankly asserted that the Constitution and laws of the United States did not of their own force apply in the territories and could not apply until Congress had expressly extended them to the insular possessions.

The abstract question was given concrete form in several decisions by the Supreme Court, known as "the Insular Cases." The question was speedily raised whether importers of commodities from Porto Rico should be compelled to pay the duties prescribed by the Dingley act, and the Court answered in the case of *De Lima v. Bidwell* in 1901 that the Island was "domestic" within the meaning of the tariff act and that the duties could not be collected. In the course of his remarks, the Justice, who wrote the opinion, said that territory was either domestic or foreign, and that the Constitution did not recognize any halfway position. Four Justices dissented, however; and American interests, fearing this new competition, had dissented in advance, — so vigorously, in fact, that Congress during the previous year had passed the Foraker act imposing a tariff on goods coming into the United States from Porto Rico and *vice versa*.

This concession to the protected interests placed the Supreme Court in a dilemma. If Porto Rico was domestic territory, — a part of the United States, — was not the Foraker act a violation of the constitutional provision that duties, imposts, and excises shall be uniform throughout the United States? This question

was judicially answered by the Court in the case of *Downes v. Bidwell*, decided on May 27, 1901, which upheld the Foraker act on grounds so various that the only real point made by the Court was that the law was constitutional. None of the four justices who concurred with Justice Brown in the opinion agreed with his reasoning, and the four judges, who dissented entirely from the decision and the opinion, vigorously denied that there could be any territory under the flag of the United States which was not subject to the limitations of the Constitution.

In other cases involving freedom of the press in the Philippines and trial by jury in the Hawaiian Islands, the Supreme Court upheld the doctrine that Congress, in legislating for the new dependencies, was not bound by all those constitutional limitations which had been hitherto applied in the continental territories of the United States. The upshot of all these insular decisions is that the Constitution may be divided into two parts, "fundamental" and "formal"; that only the fundamental parts control the Federal authorities in the government of the dependencies; and that the Supreme Court will decide, from time to time as specific cases arise, what parts of the Federal Constitution are "fundamental" and what parts are merely "formal." In two cases, the Court has gone so far as to hold that indictment by grand jury and trial by petit jury with unanimous verdict are not "fundamental" parts of the Constitution, "but merely concern a method of procedure." In other words, the practical necessities of governing subject races of different origins and legal traditions



forced that eminent tribunal to resort to painful reasoning in an effort not to hamper unduly the power of Congress by constitutional limitations.

In the settlement which followed the Spanish War, three general problems were presented. In the first place, our relations to Cuba required definition. It is true that in the declaration of war on Spain Congress had disclaimed "any disposition or intention to exercise sovereignty, jurisdiction, or control over said Island except for the pacification thereof, and asserts its determination when that is accomplished to leave the government and control of the Island to its people"; but American economic interests in the Island were too great to admit of the actual fulfillment of this promise. Consequently, Cuba was forced to accept, as a part of her constitution, several provisions, known as the Platt amendment, adopted by the Congress of the United States on March 2, 1901, restricting her relations with foreign countries, limiting her debt-creating power, securing the right of the United States to intervene whenever necessary to protect life and property, and reserving to the United States the right to acquire coaling stations at certain points on the Island to be agreed upon.

Under the constitution, to which the Platt reservations on behalf of the United States were attached, the Cubans held a general election in December, 1901, choosing a president and legislature; and in the spring of the following year American troops were withdrawn, leaving the administration in the hands of the natives.

It was not long, however, before domestic difficulties began to disturb the peace of the Island, and in the summer of 1906 it was reported that the government of President Palma was about to be overthrown by an insurrection. Under the circumstances, Palma resigned, and the Cuban congress was unable to secure a quorum for the transaction of business. After due warning, President Roosevelt intervened, under the provisions of the Platt amendment, and instituted a temporary government supported by American troops. American occupation of the Island continued for a few months, but finally the soldiers were withdrawn and native government was once more put on trial.

The second problem was presented by Porto Rico, where military rule was put into force after the occupation in 1898. At length, on May 1, 1900, an "organic act," instituting civil government in that Island, was approved by the President. This law did not confer citizenship on the Porto Ricans, but assured them of the protection of the United States. It set up a government embracing a governor, appointed by the President and Senate of the United States, six executive secretaries appointed in the same manner as the governor, and a legislature of two houses — one composed of the six secretaries and five other persons selected by the President and Senate, acting as the upper house, and a lower house elected by popular vote. Under this act, the practice of appointing Americans to the chief executive offices took the final control of legislative matters out of the hands of the natives, leaving them only an initiatory power. This produced a friction between

the appointive and elective branches of the government, which became so troublesome that the dispute had to be carried to Washington in 1909, and Congress enacted a measure providing that, in case the lower house of the Porto Rican legislature refused to pass the budget, the financial arrangements of the previous year should continue.

The problem of governing the Philippines was infinitely more complicated than that of governing Porto Rico, because the archipelago embraced more than three thousand islands and about thirty different tribes and dialects. The evolution of American control there falls into three stages. At first, they were governed by the President of the United States under his military authority. In 1901, a civil commission, with Mr. W. H. Taft at the head, took over the civil administration of all the pacified provinces. In 1902, Congress passed an "organic act" for the Islands, providing that, after their pacification, a legislative assembly should be erected. At length, in 1907, this assembly was duly instituted, and the government now consists of the governor, a commission appointed by the President and Senate, and a legislature composed of the commission and a lower house of representatives elected by popular vote.

Important as are the problems of governing dependencies, they are not the sole or even the most significant aspects of imperialism. The possession of territories gives a larger control over the development of their trade and resources; but capital and enterprise

seeking an outlet flow to those countries where the advantages offered are the greatest, no matter whoever may exercise political dominion there. The acquisition of the Philippines was simply an episode in the development of American commercial interests in the Orient.

It was those interests which led the United States to send Caleb Cushing to China in 1844 to negotiate a treaty with that country securing for Americans rights of trade in the ports which had recently been blown open by British guns in the famous "Opium War." It was those interests which induced the United States government to send Commodore Perry to Japan in 1853 and led to the opening of that nation — long closed to the outside world — to American trade and enterprise. After 1844 in China, and 1854 in Japan, American trade steadily increased, and American capital seeking investments soon began to flow into Chinese business and railway undertakings. Although the United States did not attempt to follow the example of Great Britain, Russia, France, and Germany in seizing Chinese territory, it did obtain a sufficient economic interest in that Empire to warrant the employment of American soldiers in coöperation with Russian, English, French, Japanese, and other contingents at the time of the Boxer insurrection at Peking in the summer of 1900.

The policy of the United States at the time won no little praise from the Chinese government. Having no territorial ambitions in the Empire, the administration at Washington, through Mr. John Hay, Secretary of State, was able to announce that the United States

avored an "open door" for trade and the maintenance of the territorial integrity of China. "The policy of the Government of the United States," said Mr. Hay to the Powers, in the summer of 1900, "is to seek a solution which may bring about permanent safety and peace to China, preserve Chinese territorial and administrative entity, protect all rights guaranteed to friendly powers by treaty and international law, and safeguard for the world the principle of equal and impartial trade with all parts of the Chinese empire." This friendly word, which was much appreciated by China, was later supplemented by the generous action of the United States government in returning to that country a large sum of money which had been collected as an indemnity for the injury to American rights in the Boxer uprising, and was discovered to be an overcharge due to excessive American claims.

While thus developing American interests in the Orient, the United States government was much embarrassed by the legislation of some of the western states against Orientals. Chinese and Japanese laborers were excluded from the country by law or agreements, but in spite of this fact there were large numbers of Orientals on the coast. This was resented by many whites, particularly trade unionists with whom the cheap labor came into competition, and from time to time laws were enacted by state legislatures that were alleged to violate the rights which the United States had guaranteed to the Chinese or Japanese by treaties with their respective countries.

Such a dispute occurred a few years ago over an at-

tempt to exclude Japanese children from the regular public schools in San Francisco, and again in 1912 in connection with a law of California relative to the acquisition of lands by aliens — the naturalization of Orientals being forbidden by Federal law. These legal disputes arose from the fact that the Federal government has the power to make treaties with foreign countries relative to matters which are entirely within the control of state legislatures. The discriminations against the Orientals, coupled with the pressure of American interests in the Far East and the presence of American dominion in the Philippines, caused no little friction between certain sections of the United States and of Japan; and there were some who began, shortly after the Spanish War, to speak of the “impending conflict” in the Orient.

### *The Campaign of 1900*

It was inevitable that the new issues, raised by the Spanish War, the acquisition of the insular possessions, and the insurrection against American rule in the Philippines, should find their way almost immediately into national politics. By the logic of their situation, the Republicans were compelled to defend their imperialist policy, although it was distasteful to many of the old leaders; and at their national convention, at Philadelphia in June, 1900, they renominated President McKinley by acclamation, justified their methods in the dependencies, approved the new commercial advances in the Orient, advocated government aid to the merchant

marine, and commended the acquisition of the Hawaiian Islands. The trust plank, couched in vague and uncertain terms, was, interestingly enough, drafted by Mr. Hanna, who appropriately levied the campaign collections for his party in Wall Street.<sup>1</sup> Mr. Roosevelt, then governor of New York, was nominated for Vice President, although he had refused to agree to accept the office. The desire of Senator Platt, the Republican "boss" in New York, to put him out of the state threw the "machine" in his favor, and this, combined with enthusiasm for him in the West, gave him every vote in the convention save his own. Under the circumstances he was forced to accept the nomination.

The Democrats took up the challenge on "imperialism"; but Mr. Bryan was determined not to allow the silver question to sink into an early grave, and he accordingly forced the adoption of a free silver plank, as the price of his accepting the nomination. The platform was strong in its denunciation of Republican "imperialist" policy, in general and in detail. It favored promising the Filipinos stable government, independence, and, finally, protection from outside interference. It was also more positive on the trust question, and it advocated an increase in the powers of the interstate commerce commission, enabling it "to protect individuals and communities from discriminations and the people from unjust and unfair transportation rates." An effort was made to placate the conservative section of the party by offering the nomination to the Vice Presidency to David B. Hill, of New York, and on his

<sup>1</sup> Croly, *Life of Marcus Hanna*, p. 307.

refusal of the honor it was given to Adlai Stevenson, who had held that office during Cleveland's second administration.

Although many Republicans supported Mr. Bryan on account of their dislike of imperialism and its works, the result of the campaign was a second victory for Mr. McKinley, even greater than that of 1896. He received a larger popular vote and Mr. Bryan a smaller vote than in that year. Of the 447 electors, Mr. McKinley received 292. This happy outcome he naturally regarded as a vindication of his policies, and he was evidently turning toward the future with renewed confidence (as his Buffalo speech on reciprocity indicated) when on September 6, 1901, he was shot by an anarchist at the Buffalo exposition and died eight days later.

Mr. Roosevelt immediately took the oath of office, and promised to continue "absolutely unbroken" the policy of his predecessor.



## CHAPTER IX

### THE DEVELOPMENT OF CAPITALISM

THE years immediately following the War with Spain were marked by extraordinary prosperity in business. The country recovered from the collapse of the nineties and entered with full swing into another era of inflation and promotion. The Dingley tariff law, enacted July 24, 1897, had incidentally aided in the process by raising the protection principle to its highest point since the Civil War, but the causes of the upward movement lay deeper. The Spanish War, of course, stimulated trade, for destruction on such a large scale always creates a heavy demand for commodities and capital — a demand which was partially met, as usual, by huge drafts on the future in the form of an increased national debt. But the real cause lay in the nature of the economic processes which had produced the periodical cycles of inflation and collapse during the nineteenth century. Having recovered from a collapse previous to the War, inflation and capitalization on a gigantic scale set in and did not run their course until a débâcle in 1907.

The formation of trusts and the consolidation of older combinations in this period were commensurate in scale with the gigantic financial power created by capitalist accumulations. The period of the later seventies and eighties, as has been shown, was a period of hot competition followed by pools, combinations, and trusts. The

era which followed the Spanish War differed in degree rather than in kind, but it was marked by financial operations on a scale which would have staggered earlier promoters. Perhaps it would be best to say that the older school merely found its real strength at the close of the century, for the new financing was done by the Vanderbilt, Astor, Gould, Morgan, and Rockefeller interests, the basis of which had been laid earlier. There was, in fact, no break in the process, save that which was made by the contraction of the early nineties. But the operations of the new era were truly grand in their conception and execution.

A few examples will serve to illustrate the process. In 1900, the National Sugar Refining Company of New Jersey was formed with a capital of \$90,000,000, and "from its inception it adopted the policy of issuing no public statements to its stockholders regarding earnings or financial conditions. The only statement . . . is simply an annual balance sheet, showing the assets and liabilities of the corporation in a greatly condensed form." In 1904, the total capital of parent and affiliated concerns was approximately \$145,000,000. The Copper Trust was incorporated under New Jersey laws in 1899, and in 1904 its par value capital was \$175,000,000. In 1899, the Smelters' Trust with an authorized capital of about \$65,000,000 was formed. In the same year the Standard Oil Company, as the successor to the Trust, was organized with \$102,233,700 capital.

The process of consolidation may best be shown by turning from generalities to a brief study of the United States Steel Corporation, a great portion of whose busi-

ness was laid bare in 1911-12 by a Federal investigation. It appears that until about 1898 there was a large number of steel concerns actively engaged in a competition which was modified at times by pools and price agreements; and that each of them was vigorously reaching out, not only for more trade, but for control over the chief source of strength—supply of ore. Finally, in the closing days of the nineties, this competition and stress for control became so great that the steel men and the associated financial interests began to fear that the increased facilities for production would result in flooding the market and in ruining a number of concerns. The rough steel manufacturers began to push into the field of finished products, and the wire, nail, plate, and tube concerns were crowding into the rough steel manufacturing. All were scrambling for ore beds. In this “struggle of the giants” the leading steel makers saw nothing but disaster, and they set to work to consolidate a dozen or more companies. Their labors were crowned with success on April 1, 1901, when the new corporation with a capital of a little more than \$1,400,000,000 began business.

In the consolidation of the several concerns an increase of more than \$400,000,000 was made in the total capital; and a stock commission of the cash value of \$62,500,000 was given to the Morgan underwriting syndicate for financing the enterprise. It is, of course, impossible to discover now the physical value of the properties consolidated, many of which were already heavily “watered.” Of the Carnegie concern, a Federal report says, “The evidence on the whole tends to show

that bonds were issued substantially up to the full amount of the physical assets acquired and that the stock was issued merely against good will and other intangible considerations." How much of the total capital was "water" is impossible to determine, but the Bureau of Corporations estimates "that more than \$150,000,000 of the stock of the Steel Corporation (this including more than \$41,000,000 of preferred stock and \$109,000,000 of common stock) was issued, either directly or indirectly (through exchange) for mere promotion or underwriting services. This total, moreover, as noted does not include anything for the American Sheet Steel Company . . . nor is anything added in the case of the Shelby Steel Tube Company. It should be repeated that this enormous total of over \$150,000,000 does not include common stock issued as bonus with preferred for property or for cash, but simply what may be termed the promotion and organization commissions in the strict sense. In other words, nearly one seventh of the total capital stock of the Steel Corporation appears to have been issued, either directly or indirectly, to promoters for their services." How much more of the \$440,000,000 additional capital represented something other than physical values is partially a matter of guesswork. The Bureau of Corporations valued the tangible property of the corporation at \$682,000,000 in 1901, as against \$1,400,000,000 issued securities; and computed the rate of profit from 1901 to 1910 on the actual investment at 12 per cent. It should be noted, also, that shortly after the formation of the concern the common stock which had been issued fell with a crash, and the

outsiders who risked their fortunes in the concern were ruined.<sup>1</sup>

All of the leading trusts and railways were, even at their inception, intimately connected through cross investments and interlocking directorates. Writing in 1904, Mr. Moody, an eminent financial authority, said: "Around these two groups [the Morgan-Rockefeller interests], or what must ultimately become one greater group, all other smaller groups of capitalists congregate. They are all allied and intertwined by their various mutual interests. For instance, the Pennsylvania Railroad interests are on the one hand allied with the Vanderbilts and on the other with the Rockefellers. The Vanderbilts are closely allied with the Morgan group, and both the Pennsylvania and Vanderbilt interests have recently become the dominating factors in the Reading system, a former Morgan road and the most important part of the anthracite coal combine which has always been dominated by the Morgan people. . . . Viewed as a whole, we find the dominating influences in the trusts to be made up of an intricate network of large and small capitalists, many allied to another by ties of more or less importance, but all being appendages to or parts of the greater groups which are themselves dependent on and allied with the two mammoth, or Rockefeller and Morgan, groups. These two mammoth groups jointly . . . constitute the heart of the business and commercial life of the nation."<sup>2</sup>

<sup>1</sup> *Report of the Commissioner of Corporations on the Steel Industry*, July 1, 1911.

<sup>2</sup> Moody, *The Truth about the Trusts*, p. 493.

How tremendous is this corporate control over business, output, and wage earners is indicated by the census of 1909. Of the total number of establishments reported as engaged in manufacturing in 1904, 23.6 per cent were under corporate ownership, while in 1909 the percentage had increased to 25.9. Although they controlled only about one fourth of the total number of establishments, corporations employed 70.6 per cent of all the wage earners reported in 1904 and 75.6 per cent in 1909. Still more significant are the figures relative to the output of corporations. Of the total value of the product of all establishments, 73.7 per cent was turned out by corporations in 1904 and 79 per cent in 1909. "In most of the states," runs the Census Report, "between three fifths and nine tenths of the total value of manufactured products in 1909 was reported by establishments under corporate ownership." Of the 268,491 establishments reported in 1909, there were 3061 which produced 43.8 per cent of the total value of all products and employed 30.5 per cent of the wage earners. It is, in fact, this absorption of business by a small number of concerns which marks the great concentration of modern industry. The mere number of corporations is not of much significance, for most of them are petty.

In addition to gaining control of the leading manufacturing concerns and the chief natural resources of the country, the great capitalist interests seized upon social values to the amount of billions of dollars through stock watering and manipulations of one kind or another. "Between 1868 and 1872, for example, the share

capital of the Erie was increased from \$17,000,000 to \$78,000,000, largely for the purpose of stock-market manipulation. . . . The original Central Pacific Railroad, for instance, actually cost only \$58,000,000; it is a matter of record that \$120,000,000 was paid a construction company for the work. The syndicate which financed the road received \$62,500,000 par value in securities as profits, a sum greater than it actually cost to build the property. The 80 per cent stock dividend of the New York Central in 1868; scrip dividends on the Reading in the seventies; the 50 per cent dividend of the Atchison in 1881; the 100 per cent stock dividends of the Louisville and Nashville in 1880, by a pen stroke adding \$20,000,000 to 'cost of road' upon the balance sheet; the notorious 100 per cent dividend of the Boston and Albany in 1882 [are further examples]. . . . Recent inflations of capitalization in connection with railroad consolidation are headed by the case of the Rock Island Company. In 1902 this purely financial corporation bought up the old Chicago, Rock Island, and Pacific Railway, capitalized at \$75,000,000 and substituted therefor its own stock to the amount of \$117,000,000, together with \$75,000,000 of collateral trust bonds, secured by the stock of the property acquired. The entire history of the New York traction companies is studded with similar occurrences. One instance may suffice. In 1906 the Interborough-Metropolitan Company purchased \$105,540,000 in securities of the merged lines, and issued in place thereof \$138,309,000 of its own stock and \$70,000,000 in bonds. . . . E. H. Harriman and three associates . . . expanded the total capitaliza-

tion of the [Alton] road from \$33,950,000 to \$114,600,000, an increase of over \$80,000,000. In improvements and additions to the property out of this augmented capitalization, their own accounts showed only about \$18,000,000 expended. It thus appears that securities aggregating \$62,600,000 were put forth during this time [seven years, beginning in 1898], without one dollar of consideration. This sum is equal to about \$66,000 per mile of line owned — a figure considerably in excess of the average net capitalization of the railroads of the country.”<sup>1</sup>

It is not necessary to cite further evidence to show that billions of dollars of fictitious values were saddled upon the country between the end of the Civil War and the close of the century. A considerable portion of the amount of stocks and bonds issued was doubtless based on the dividend-paying power of the concerns in question. In many instances the stock was not purchased in large quantities by the investing public, but was simply issued to promoters, and when values collapsed they only lost so much worthless paper. It is apparent, therefore, that all the stock watering is not of the same character or effect; but nevertheless it remains a fact that the buying public and the working class are paying millions in annual tribute to the holders of paper which represents no economic service whatever. If the water were all squeezed out of railway, franchise, and industrial stocks and bonds and the mineral and other resources which have been actually secured at a nominal value, or fraudulently were returned to the government, there

<sup>1</sup> Professor W. Z. Ripley, *Political Science Quarterly*, March, 1911.



would be a shrinkage in the necessary dividends paid out that would startle the world.

Those who followed the literature of political economy during this period of gigantic consolidation and high finance could not help discovering a decided change in the views of leading men about the nature of industrial evolution. The old practice of indiscriminate abuse of all trusts began to undergo a decided modification; only persons from the backward industrial regions of the West and South continued the inordinate clamor for the immediate and unconditional dissolution of all of them, on the theory that they were "artificial" products, brought forth and nourished by malicious men bent solely upon enhancing their personal fortunes. The socialist contention (set forth by Marx and Engels in 1848) that competition destroyed itself, and that the whole movement of industry was inevitably toward consolidation, began to receive attention, although the socialist solution of the problem was not accepted.

This change in attitude was the result partly of the testimony of practical business men before the Industrial Commission in 1900, which was summarized in the following manner by the Commission: "Among the causes which have led to the formation of industrial combinations, most of the witnesses were of the opinion that competition, so vigorous that profits of nearly all competing establishments were destroyed, is to be given the first place. Even Mr. Havemeyer said this, though, as he believed that in many cases competition was brought about by the fact that the too high protective tariff had

tempted too many rivals into the field, he named the customs tariff law as the primal cause. Many of the witnesses say that their organization was formed to make economies, to lessen competition, and to get higher profits — another way of saying that competition is the cause without conceding that the separate plants were forced to combine.”

In a careful and thoughtful analysis of the problem, published in 1900 by Professor J. W. Jenks, then of Cornell University, the wastes of competition and the economies of combination (within limits) were pointed out with clarity and precision. The Industrial Commission had reported that rebates and discriminations by railways had been declared to be a leading cause of combination by several witnesses appearing before it; but Professor Jenks at the close of his survey came to the positive conclusion “that, whenever the nature of the industry is one which is peculiarly adapted for organization on a large scale, these peculiarities will so strengthen the tendency toward a virtual monopoly that, without legal aid and special discriminations or advantages being granted by either the State or any other influence, a combination will be made, and if shrewdly managed can and, after more experience in this line has been gained, probably will practically control permanently the market, unless special legal efforts better directed than any so far attempted shall prevent.”<sup>1</sup> The logical result of this conclusion is at least government supervision, and this Mr. Jenks advocated.

Whether some special privileges beyond the owner-

<sup>1</sup> *The Trust Problem* (1900 ed.), p. 210.

ship of basic natural resources was necessary to bring about combinations on a large scale, the leaders in such combinations seem to have engaged extensively in politics, contributing to the campaign funds of both parties, helping to select their candidates, and maintaining expensive lobbies at Washington and at the capitals of the several states. Mr. Havemeyer admitted before a Senate committee in 1893 that the Sugar Trust was "a Democrat in a Democratic state and a Republican in a Republican state"; and added that in his opinion all other large corporations made contributions to the two leading parties as a matter of course, for "protection." The testimony taken by the New York insurance investigating committee in 1905 and by the Clapp committee of the United States Senate in 1912 revealed the fact that during the period between 1896 and 1912 millions of dollars had been contributed to the Republican party by the men who had been most active in organizing the great industrial combinations, and that representatives of the same group had also given aid and comfort to the Democratic party,<sup>1</sup> although the latter, being out of power at Washington, could not levy tribute with the same effectiveness.

The statesman of the new capitalism was Mr. Marcus A. Hanna. Mr. Hanna was born in 1837 of pioneer stock of the second or third generation, after the roughness of the earlier days was somewhat smoothed away without injury to the virility of the fiber. He entered business in Cleveland in 1858 at a time when a remarkable group of business men, including Mr. John D.

<sup>1</sup> See the Parker episode, below, p. 268.

Rockefeller, were laying the foundation of their fortunes. Endowed with hard, practical, economic sense, he refused to be carried away by the enthusiasm that was sweeping thousands of young men of his age into the Union army, and he accordingly remained at his post of business.<sup>1</sup> It was fortunate for his career that he did not lose those four years, for it was then that he made the beginnings of his great estate in coal, iron, oil, and merchandising.

Mr. Hanna, like most of the new generation of northern business men, was an ardent Republican. "He went into politics as a citizen," remarks his biographer. "The motive, in so far as it was conscious, was undoubtedly patriotic. That he should wish to serve his country as well as himself and his family was rooted in his make-up. If he proposed to serve his country, a man of his disposition and training could only do so by active work in party politics. Patriotism meant to him Republicanism. Good government meant chiefly Republican government. Hence the extreme necessity of getting good Republicans elected and the absolute identity in his mind and in the minds of most of his generation between public and party service."<sup>2</sup> In his early days, therefore, he participated in politics in a small way, but it was not until 1891, during the candidacy of Mr. McKinley for governor of Ohio, and Mr. Sherman for the Senate, that he began to serve his party in a large way by raising campaign funds.<sup>3</sup>

In 1895 Mr. Hanna retired from active business and

<sup>1</sup> Mr. Hanna was drafted in 1864, but saw no actual service. Croly, *Marcus A. Hanna*, p. 44.

<sup>2</sup> Croly, p. 113.

<sup>3</sup> *Ibid.*, p. 160.

set about the task of elevating Mr. McKinley to the Presidency. He spent a great deal of time at first in the South securing Republican delegates from the states where the Republican party was a shadow, and other than party considerations entered largely into selection of delegates to the Republican convention. While laying a solid foundation in the South, Mr. Hanna bent every effort in capturing the delegates in northern states. According to Mr. Croly, "Almost the whole cost of the campaign for Mr. McKinley's nomination was paid by Mr. Hanna. . . . He did receive some help from Mr. McKinley's personal friends in Ohio and elsewhere, but its amount was small compared to the total expenses. First and last Mr. Hanna contributed something over \$100,000 toward the expense of the canvass."<sup>1</sup>

Mr. Hanna firmly believed, and quite naturally too, that the large business concerns which had prospered under the policies of the Republican party should contribute generously to its support. As early as 1888, when the tariff scare seized certain sections of the country, he was selected as financial auxiliary to the Republican national committee, and raised about \$100,000 in Cleveland, Toledo, Mahoning Valley, and adjacent territory.<sup>2</sup>

But Mr. Hanna's greatest exploits in financing politics were in connection with Mr. McKinley's campaigns. In 1896 he at first encountered some difficulties because of his middle western connections and the predilection of Wall Street for Mr. Levi P. Morton in preference to Mr. McKinley. "Mr. James J. Hill states that on

<sup>1</sup> Croly, p. 183.

<sup>2</sup> *Ibid.*, p. 149.

August 15, just when the strenuous work of the campaign was beginning, he met Mr. Hanna by accident in New York and found the chairman very much discouraged. Mr. Hanna described the kind of work which was planned by the Committee and its necessarily heavy expense. He had been trying to raise the needed money, but with only small success. The financiers of New York would not contribute. It looked as if he might have to curtail his plan of campaign, and he was so disheartened that he talked about quitting. Mr. Hill immediately offered to accompany Mr. Hanna on a tour through the high places of Wall Street, and during the next five days they succeeded in collecting as much money as was immediately necessary. Thereafter Mr. Hanna did not need any further personal introduction to the leading American financiers.”<sup>1</sup>

Many grave charges were brought against Mr. Hanna to the effect that he had no scruples in the use of money for corrupt purposes, but such charges have never been substantiated to the satisfaction of his friends. That in earlier days he employed the methods which were common among public service corporations, is admitted by his biographer, but condoned on the ground that practically every other street railway company in the country was confronted with the alternative of buying votes or influence. Mr. Hanna's Cleveland company “the West Side Street Railway Company and its successors were no exception to this rule. It was confronted by its competitors, who had no scruples about employing customary methods, and if it had been more scrupulous

<sup>1</sup> Croly, p. 219.

than they, its competitors would have carried off all the prizes. Mr. Hanna had, as I have said, a way of making straight for his goal. . . . He and his company did what was necessary to obtain the additional franchises needed for the development of the system. The railroad contributed to local campaign committees and the election expenses of particular councilmen; and it did so for the purpose of exercising an effective influence over the action of the council in street railway matters."<sup>1</sup>

Grave charges were also made at the time of Mr. Hanna's candidacy for the United States Senate that he employed the methods which he had found so advantageous in public-service-corporation politics, but his biographer, Mr. Croly, indignantly denies the allegation, showing very conclusively that Mr. Hanna won his nomination squarely on the issue put before the Republican voters and was under the rules of politics entitled to the election by the legislature. Mr. Hanna's career, says Mr. Croly, "demanded an honorable victory. Like every honest man he had conscientious scruples about buying votes for his own political benefit, and his conscience when aroused was dictatorial. . . . It does not follow that no money was corruptly used for Mr. Hanna's benefit. Columbus [Ohio] was full of rich friends less scrupulous than he. . . . They may have been willing to spend money in Mr. Hanna's interest and without his knowledge. Whether as a matter of fact any such money was spent I do not know, but under the circumstances the possibility thereof should be frankly admitted."<sup>2</sup>

<sup>1</sup> Croly, p. 81.

<sup>2</sup> *Ibid.*, p. 264.

In his political science as well as his business of politics, Mr. Hanna looked to the instant need of things. He does not seem to have been a student of history or of the experience of his own or other countries in the field of social legislation. As United States Senator he made practically no speeches, if we except his remarks in favor of ship subsidies and liberal treatment of armor plate manufacturers. On the stump, for in later years he developed some facility in popular addresses, he confined his reflections to the customary generalizations about prosperity and his chief contribution to political phraseology was the slogan, "Stand pat."<sup>1</sup> When not engaged in actual labor of partisan contests, Mr. Hanna seems to have enjoyed the pleasure of the table and good company rather than the arduous researches of the student of politics. He had an immense amount of ~~the~~ <sup>an</sup> ~~un~~ <sup>un</sup> ~~er~~ <sup>er</sup> ~~aw~~ <sup>aw</sup> ~~rd~~ <sup>rd</sup> practical sense, and he divined a good deal more by his native powers of quick perception than many a statesman of the old school, celebrated for his profundity as a "constitutional lawyer and jurist."

The complete clew to Mr. Hanna's philosophy of politics is thus summed up by his penetrating and sympathetic biographer, Mr. Croly: "We must bear in mind that (1) he was an industrial pioneer and instinctively took to politics as well as to business; (2) that in politics as in business he wanted to accomplish results; (3) that politics meant to him active party service; (4) that successful party service meant to him the acceptance of prevailing political methods and abuses;

<sup>1</sup> Croly, p. 417.



and (5) finally that he was bound by the instinctive consistency of his nature to represent in politics, not merely his other dominant interest, but the essential harmony between the interests of business and that of the whole community." In other words, Mr. Hanna believed consistently and honestly in the superior fitness of business men to conduct the politics of a country which was predominantly commercial in character. He was not unaware of the existence of a working class; in fact he was said to be a generous and sympathetic employer of labor; but he could not conceive the use of government instrumentalities frankly in behalf of that class. Indeed, he thought that the chief function of the government was to help business and not to inquire into its methods or interfere with its processes.

An illustration of Mr. Hanna's theory of government impotence in the presence of the dominant private interests was afforded in the debate in the Senate over the price to be paid for armor plate, in the summer of 1900. The Senate proposed that not more than a stipulated price should be paid to the two steel companies, Carnegie and Bethlehem, which were not competing with each other; and that, in case they failed to accept, a government manufacturing plant should be erected. Mr. Hanna's proposition was that the price of steel should be left, as the House had proposed, with the Secretary of the Navy, and he warmly resisted all government interference. When it was brought out in debate that the steel companies had refused the government officers the data upon which to determine whether the price

charged was too high, Mr. Hanna declared: "They did perfectly right in not disclosing those facts. That is their business; and if they chose not to give the information to the public, that was their business also." In short, he took the position that the government should provide ample protection to the steel interests against foreign competition, and pay substantially whatever the steel companies might charge for armor plate (for without proper data the Secretary of the Navy could not know when prices were reasonable), and then ask them no questions whatever. Here we have both *laissez faire* and capitalism in their simplest form.

Mr. Hanna, however, had none of the arts of the demagogue, not even the minor and least objectional arts. His bluntness and directness in labor conflicts won for him the respect of large numbers of his employees. His frank and open advocacy of ship subsidies and similar devices commanded the regard, if not the esteem, of his political enemies. His chief faults, as viewed by his colleagues as well as his enemies, were in many instances his leading virtues. If some of the policies and tactics which he resorted to are now discredited in politics, it must be admitted that he did not invent them, and that it was his open and clean-cut advocacy of them that first made them clearly intelligible to the public. When all the minor and incidental details and personalities of the conflicts in which he was engaged are forgotten, Mr. Hanna will stand out in history as the most resourceful and typical representative of the new capitalism which closed the nineteenth century and opened the new.

*The Development of the Urban Population*

The rapid advance of business enterprise which followed the Spanish War made more striking than ever the social results of the industrial revolution.<sup>1</sup> In the first place, there was a notable growth in the urban as contrasted with the rural population. At the close of the century more than one third of the population had become city dwellers. The census of 1910 classified as urban all thickly populated areas of more than 2500 inhabitants, including New England towns which are in part rural in character, and on this basis reported 46.3 per cent of the population of the United States as urban and 53.7 rural. On this basis, 92.8 per cent of the population of Massachusetts was reported as urban, 78.8 per cent in New York, and 60.4 per cent in Pennsylvania. That census also reported that "the rate of increase for the population of urban areas was over three times that for the population living in rural territory."

The industrial section of this urban population was largely composed of non-home owners. The census of 1900 reported "that the largest proportion of hired homes, 87.9 per cent, is found in New York City. In Manhattan and Bronx boroughs the proportion is even higher, 94.1 per cent, as compared with 82 per cent for Brooklyn. . . . There is also a very large proportion of hired homes in Boston, Fall River, Jersey City, and Memphis, constituting in each of them four fifths of all the homes in 1900." Of the great cities having a large proportion of home owners, Detroit stood at the

<sup>1</sup>See above, Chap. II.

head, with 22.5 per cent of the population owning homes free of mortgage.

Another feature of the evolution of the working class was the influx of foreign labor, and the change in its racial character. The total alien immigration between 1880 and 1900 amounted to about 9,000,000; and in 1905 the immigration for the fiscal year reached 1,026,449. For the fiscal year 1910 it reached 1,198,037. During this period the racial composition of the immigration changed decidedly. Before 1880 Celtic and Teutonic nations furnished three fourths of the immigrants; but in 1905 the proportions were reversed and Slavic and Iberian nations, Italy leading, sent three fourths of the immigrants.

This alien population drifted naturally to the industrial cities, and the census of 1910 reported that of the 229 cities having 25,000 inhabitants and more, the native whites of native parentage furnished only 35.6 per cent, and that the foreign-born whites constituted 44.5 per cent in Perth Amboy, New Jersey, 40.4 per cent in New York City, and 35.7 per cent in Chicago. From the standpoint of politics, a significant feature of this development is the manning of American industries largely by foreign laborers who as aliens possess no share in the government.

A third important aspect of this transformation in the mass of the population is the extensive employment of women in industries. The census of 1910 reported that 19.5 per cent of the industrial wage earners were women, and that the proportion of women breadwinners was steadily increasing. The proportion of females who

were engaged in gainful pursuits was 14.7 per cent in 1870, 16 per cent in 1880, 19 per cent in 1890, and 20.6 per cent in 1900. At the last date, about one third of the females over ten years of age in Philadelphia were engaged in gainful pursuits, and one eighth were employed in industries. At the same time about 15,000 out of 42,000 women at Fall River, Massachusetts, were in industries.

### *The Labor Movement*

The centralization of capital and the development of the new statesmen of Mr. Hanna's school were accompanied by a consolidation of the laboring classes and the evolution of a more definite political program for labor. As has been pointed out above, the economic revolution which followed the Civil War was attended by the formation of unions in certain trades and by the establishment of the Knights of Labor. This national organization was based on the principle that all of the working class could be brought together in a great society, equipped for waging strikes in the field of industry and advancing a program of labor legislation at the same time. This society, like a similar one promoted by Robert Owen in England half a century before, fell to pieces on account of its inherent weaknesses, particularly the inability of the leaders to overcome the indifference of the workingmen in prosperous trades to the struggles of their less fortunate brethren.

Following the experience of England also, the labor leaders began to build on a more secure foundation;

namely, the organization of the members of specific trades into local unions followed by their amalgamation into larger societies. Having failed to stir a class consciousness, they fell back upon the trade or group consciousness of identical interests. In 1881, ninety-five trade-unions were federated on a national scale, and in 1886 this society was reorganized as the American Federation of Labor. The more radical labor men went on with the Knights, but the foundations of that society were sapped by the more solidly organized rival, which, in spite of many defeats and reverses, steadily increased in its membership and strength. In 1910 the Federation reported that its affiliations included 120 international unions, 39 state federations, 632 city central bodies, 431 local trade-unions, and 216 Federal labor unions, with a membership totaling 1,744,444 persons.

Unlike German and English trade-unionists, the American Federation of Labor steadily refused to go into politics as a separate party contesting at the polls for the election of "labor" representatives. This abstention from direct political action was a matter of expediency, it seems, rather than of set principle. Mr. John Mitchell, the eminent former leader of the miners, declared that "wage earners should in proportion to their strength secure the nomination and election of a number of representatives to the governing bodies of city, state, and nation"; but he added that "a third Labor Party is not for the present desirable, because it could not obtain a majority and could not therefore force its will upon the community at large." This view, Mr. Mitch-

ell admitted, was merely temporary and due to circumstances, for he frankly said: "Should it come to pass that the two great American political parties oppose labor legislation as they now favor it, it would be the imperative duty of unionists to form a third party to secure some measure of reform." This was also substantially the position taken by the President of the American Federation, Mr. Gompers.

But it is not to be supposed that the American Federation of Labor refused to consider the question of labor in politics. Its prominent leaders were affiliated with the American Civic Federation, composed largely of employers of labor, professional men, and philanthropists, and known as one of the most powerful anti-socialist organizations in the United States. Not only were Mr. Gompers and other labor leaders associated with this society which strongly opposed the formation of a class party in the United States, but they steadily waged war on the socialists who were attempting to organize the working class politically. The leaders in the American Federation, with a few exceptions, were thus definitely anti-socialist and were on record on this political issue. Moreover, while warning workingmen against political action, Mr. Gompers and Mr. Mitchell openly identified themselves with the Democratic party and endeavored to swing the working class vote to that party. Mr. Gompers was especially active in the support of Mr. Bryan in 1908, and boasted that 80 per cent of the voting members of the Federation cast their ballots for the Democratic candidate.

In fact, a study of the writings and speeches of the

leaders in the American Federation of Labor shows that they had a fairly definite politico-economic program, although they did not admit it. They favored in general municipal and government ownership of what are called "natural" monopolies, and they sympathized with the smaller business men in their attempt to break up the great industrial corporations against which organized labor had been able to make little headway. They supported all kinds of labor legislation, such as a minimum wage, workmen's compensation, sanitary laws for factories, the shortening of hours, prohibition of child labor, insurance against accidents, sickness and old age pensions, and industrial education. They were also on record in favor of such political reforms as the initiative, referendum, and recall, and they were especially vigorous in their efforts to curtail the power of the courts to issue injunctions against strikers. In other words, they leaned decidedly toward "state socialism" and expected to secure their ends by supporting the Democratic party, historically the party of individualism, and *laissez faire*. This apparent anomaly is explained by the fact that state socialism does not imply the political triumph of the working class, but rather the strengthening of the petty bourgeoisie against great capitalists.

It would be a mistake, however, to conclude that the American Federation of Labor was solidly in support of Mr. Gompers' program. On the contrary, at each national convention of the Federation the socialist members attempted to carry the organization over into direct political action. These attempts were defeated each year, but close observers of the labor movement dis-



covered that the socialists were electing a large number of local and state trade-union officials, and those who hope to keep the organization in the old paths are anxious about the outcome at the end of Mr. Gompers' long service.

## CHAPTER X

### THE ADMINISTRATIONS OF THEODORE ROOSEVELT

THE administrations of Mr. Roosevelt cannot be characterized by a general phrase, although they will doubtless be regarded by historians as marking an epoch in the political history of the United States. If we search for great and significant social and economic legislation during that period, we shall hardly find it, nor can we discover in his numerous and voluminous messages much that is concrete in spite of their immense suggestiveness. The adoption of the income tax amendment, the passage of the amendment for popular election of Senators, the establishment of parcel post and postal savings banks, and the successful prosecution of trusts and combinations, — all these achievements belong in time to the administration of Mr. Taft, although it will be claimed by some that they were but a fruition of plans laid or policies advocated by Mr. Roosevelt.

One who attempts to estimate and evaluate those eight years of multifarious activity will find it difficult to separate the transient and spectacular from the permanent and fundamental. In the foreground stand the interference in the coal strike, the acquisition of the Panama Canal strip, voluminous messages discussing every aspect of our complex social and political life, vigorous and spirited interference with state elections, as

in the case of Mr. Hearst's campaign in New York, and in city politics, as in the case of Mr. Burton's contest in Cleveland, Ohio, the pressing of the idea of conserving natural resources upon the public mind, acrimonious disputes with private citizens like Mr. Harriman, and, finally, the closing days of bitter hostilities with Congress over the Tennessee Coal and Iron affair and appropriations for special detectives to be at executive disposal.

### *Mr. Roosevelt's Doctrines*

During those years the country was much torn with the scandals arising from investigations, such as the life insurance inquest in New York, which revealed grave lapses from the paths of rectitude on the part of men high in public esteem, and gross and vulgar use of money in campaigns. No little of the discredit connected with these affairs fell upon the Republican party, not because its methods were shown to be worse in general than those of the Democrats, but because it happened to be in power. The great task of counteracting this discontent fell upon Mr. Roosevelt, who smote with many a message the money changers in the temple of his own party, and convinced a large portion of the country that he had not only driven them out but had refused all association with them.

Mr. Roosevelt was thus quick to catch the prevailing public temper. "It makes not a particle of difference," he said in 1907, "whether these crimes are committed by a capitalist or by a laborer, by a leading banker or

manufacturer or railroad man, or by a leading representative of a labor union. Swindling in stocks, corrupting legislatures, making fortunes by the inflation of securities, by wrecking railroads, by destroying competitors through rebates, — these forms of wrongdoing in the capitalist are far more infamous than any ordinary form of embezzlement or forgery. . . . The business man who condones such conduct stands on a level with the labor man who deliberately supports a corrupt demagogue and agitator.”

Any one who takes the trouble to examine with care Mr. Roosevelt's messages and other public utterances during the period of his administration will discover the elements of many of his policies which later took more precise form.

In his first message to Congress, on December 3, 1901, Mr. Roosevelt gave considerable attention to trusts and collateral economic problems. He refused to concede the oft-repeated claim that great fortunes were the product of special legal privileges. “The creation of these great corporate fortunes,” he said, “has not been due to the tariff nor to any other governmental action, but to natural causes in the business world, operating in other countries as they operate in our own. The process has aroused much antagonism, a great part of which is wholly without warrant. It is not true that as the rich have grown richer, the poor have grown poorer. On the contrary, never before has the average man, the wage worker, the farmer, the small trader, been so well off as in this country at the present time. There have been

abuses connected with the accumulation of wealth; yet it remains true that a fortune accumulated in legitimate business can be accumulated by the person specially benefited only on condition of conferring immense incidental benefits upon others."

While thus contending that large fortunes in the main were the product of "natural economic forces," Mr. Roosevelt admitted that some grave evils had arisen in connection with combinations and trusts, and foreshadowed in his proposed remedial legislation the policy of regulation and new nationalism. "When the Constitution was adopted, at the end of the eighteenth century, no human wisdom could foretell the sweeping changes, alike in industrial and political conditions, which were to take place by the beginning of the twentieth century. At that time it was accepted as a matter of course that the several states were the proper authorities to regulate . . . the comparatively insignificant and strictly localized corporate bodies of the day. The conditions are now wholly different, and a wholly different action is called for." The remedy he proposed was publicity for corporate affairs, the regulation, not the prohibition, of great combinations, the elimination of specific abuses such as overcapitalization, and government supervision. If the powers of Congress, under the Constitution, were inadequate, then a constitutional amendment should be submitted conferring the proper power. The Interstate Commerce Act should likewise be amended. "The railway is a public servant. Its rates should be just to and open to all shippers alike. The Government should see to it that within its juris-

diction this is so." Conservation of natural resources, irrigation plans, the creation of a department of Commerce and Labor, army and navy reform, and the construction of the Panama Canal were also recommended at the same time (1901).

In this message, nearly all of Mr. Roosevelt's later policies as President are presaged, and in it also are marked the spirit and phraseology which have done so much to make him the idol of the American middle class, and particularly of the social reformer. There are, for instance, many little aphorisms which appeal to the moral sentiments. "When all is said and done," he says, "the rule of brotherhood remains as the indispensable prerequisite to success in the kind of national life for which we are to strive. Each man must work for himself, and unless he so works no outside help can avail him; but each man must remember also that he is indeed his brother's keeper, and that, while no man who refuses to walk can be carried with advantage to himself or any one else, yet each at times stumbles or halts, each at times needs to have the helping hand outstretched to him." The "reckless agitator" and anarchist are dealt with in a summary fashion, and emphasis is laid on the primitive virtues of honesty, sobriety, industry, and self-restraint. The new phrases of the social reformer also appear side by side with the exclamations of virtuous indignation: "social betterment," "sociological law," "rule of brotherhood," "high aims," "foolish visionary," "equity between man and man" — in fact the whole range of the terminology of social "uplift."

None of Mr. Roosevelt's later messages added any-

thing new by way of economic doctrine or moral principle. The same notions recurred again and again, often in almost identical language and frequently in the form of long quotations from previous messages. But there appeared from time to time different concrete proposals, elaborating those already suggested to Congress. The tariff he occasionally touched upon, but never at great length or with much emphasis. He frequently reiterated the doctrine that the country was committed to protection, that the tariff was not responsible for the growth of combinations and trusts, and that no economic question of moment could be solved by its revision or abandonment.

As to the trusts, Mr. Roosevelt consistently maintained the position which he had taken as governor of New York and had stated in his first message; namely, that most of the legislation against trusts was futile and that publicity and governmental supervision were the only methods of approaching the question which the logic of events admitted. In his message of December, 1907, he said: "The anti-trust law should not be repealed; but it should be made more efficient and more in harmony with actual conditions. It should be so amended as to forbid only the kind of combination which does harm to the general public, such amendment to be accompanied by, or to be an incident of, a grant of supervisory power to the Government over these big concerns engaged in interstate business. This should be accompanied by provision for the compulsory publication of accounts and the subjection of books and papers to the inspection of the Government officials. . . . The Con-

gress has the power to charter corporations to engage in interstate and foreign commerce, and a general law can be enacted under the provisions of which existing corporations could take out federal charters and new federal corporations could be created. An essential provision of such a law should be a method of predetermining by some federal board or commission whether the applicant for a federal charter was an association or combination within the restrictions of the federal law. Provision should also be made for complete publicity in all matters affecting the public, and complete protection to the investing public and the shareholders in the matter of issuing corporate securities. If an incorporation law is not deemed advisable, a license act for big interstate corporations might be enacted; or a combination of the two might be tried. The supervision established might be analogous to that now exercised over national banks. At least, the anti-trust act should be supplemented by specific prohibitions of the methods which experience has shown have been of most service in enabling monopolistic combinations to crush out competition. The real owners of a corporation should be compelled to do business in their own name. The right to hold stock in other corporations should be denied to interstate corporations, unless on approval by the proper Government officials, and a prerequisite to such approval should be the listing with the Government of all owners and stockholders, both by the corporation owning such stock and by the corporation in which such stock is owned."

With that prescience which characterized his political career from his entrance into politics, Mr. Roosevelt



foresaw that it was impossible for capitalists in the United States to postpone those milder reforms, such as employers' liability, which had been accepted in the enlightened countries of Europe long before the close of the nineteenth century. In his message of December 3, 1907, he pointed out that "the number of accidents to wage-workers, including those that are preventable and those that are not, has become appalling in the mechanical, manufacturing and transportation operations of the day. It works grim hardship to the ordinary wage-worker and his family to have the effect of such an accident fall solely upon him." Mr. Roosevelt thereupon recommended the strengthening of the employers' liability law which had been recently passed by Congress, and urged upon that body "the enactment of a law which will . . . bring federal legislation up to the standard already established by all European countries, and which will serve as a stimulus to the various states to perfect their legislation in this regard."

As has been pointed out above, Mr. Roosevelt, in all of his recommendations, took the ground that the prevailing system of production and distribution of wealth was essentially sound, that substantial justice was now being worked out between man and man, and that only a few painful excrescences needed to be lopped off. Only on one occasion, it seems, did he advise the adoption of any measures affecting directly the distribution of acquired wealth. In his message of December 3, 1907, he declared that when our tax laws were revised, the question of inheritance and income taxes should be carefully considered. He spoke with diffidence of the

latter because of the difficulties of evasion involved, and the decision of the Supreme Court in 1895. "Nevertheless," he said, "a graduated income tax of the proper type would be a desirable feature of federal taxation, and it is to be hoped that one may be devised which the Supreme Court will declare constitutional." The inheritance tax was, in his opinion, however, preferable; such a tax had been upheld by the Court and was "far more important for the purpose of having the fortunes of the country bear in proportion to their increase in size a corresponding increase and burden of taxation." He accordingly approved the principle of a progressive inheritance tax, increasing to perhaps 25 per cent in the case of distant relatives.

While advocating social reforms and castigating wrongdoers at home, Mr. Roosevelt was equally severe in dealing with Latin-American states which failed to discharge their obligations to other countries faithfully. In his message of December, 1905, he said: "We must make it evident that we do not intend to permit the Monroe doctrine to be used by any nation on this continent as a shield to protect it from the consequences of its own misdeeds against foreign nations. If a republic to the south of us commits a tort against a foreign nation; such as an outrage against a citizen of that nation, then the Monroe doctrine does not force us to interfere to prevent the punishment of the tort, save to see that the punishment does not assume the form of territorial occupation in any shape. The case is more difficult when it refers to a contractual obligation. . . . The country would certainly decline to go to war to

prevent a foreign government from collecting a just debt; on the other hand it is very inadvisable to permit any foreign power to take possession, even temporarily, of the custom houses of an American republic in order to enforce the payment of its obligations; for such a temporary occupation might turn into a permanent occupation. The only escape from these alternatives may at any time be that we must ourselves undertake to bring about some arrangement by which so much as possible of a just obligation shall be paid."

Mr. Roosevelt's messages and various activities while he was serving the unexpired term of President McKinley upset all of the conservative traditions of the executive office. He intervened, without power, in the anthracite coal strike of 1902, and had the satisfaction of seeing the miners make substantial gains at the hands of a commission appointed by himself, to which the contestants had agreed to submit the issues. He began a prosecution of the Northern Securities Company at a time when such actions against great combinations of capital were unfashionable. He forced an investigation of the post-office administration in 1903, which revealed frauds of huge dimensions; and he gave the administration of public lands a turning over which led to the successful criminal prosecution of two United States Senators. Citizens acquired the habit of looking to the headlines of the morning paper for some new and startling activity on the part of the President. Politicians of the old school in both parties, who had been used to settling difficulties by quiet conferences within the "organiza-

tion," stood aghast. They did not like Mr. Roosevelt's methods which they characterized as "erratic"; but the death of Mr. Hanna in February, 1904, took away the only forceful leader who might have consolidated the opposition within Republican ranks.

### *The Campaign of 1904*

Nevertheless the rumor was vigorously circulated that Mr. Roosevelt was violently opposed by "Wall Street and the Trusts." Whatever may have been the source of this rumor it only enhanced the President's popularity. In December, 1903, Senator O. H. Platt wrote: "I do not know how much importance to attach to the current opposition to Roosevelt by what are called the 'corporate and money influences' in New York. . . . There is a great deal said about it, as if it were widespread and violent. I know that it does not include the whole of that class of people, because I know many bankers and capitalists, railroad and business men who are his strong, good friends, and they are not among the smaller and weaker parties, either. . . . Now it is a great mistake for capitalistic interests to oppose Roosevelt. . . . I think he will be nominated by acclamation, so what is to be gained by the Wall Street contingent and the railroad interests in this seeming opposition to him? . . . There is no Republican in the United States who can be elected except Roosevelt. . . . He is going to be the people's candidate, not the candidate of the trusts or of the hoodlums, but of the conservative elements."

The Republican convention in 1904 was uneventful beyond measure. Though Mr. Roosevelt was disliked by many members of his party, his nomination was unavoidable, and even his opponents abstained from any word or deed that might have disturbed the concord of the occasion. The management of the convention was principally in the hands of the men from whom Mr. Roosevelt afterward broke and stigmatized as "reactionary." Mr. Elihu Root was temporary chairman, Mr. Joseph G. Cannon was permanent chairman, Mr. Henry Cabot Lodge was chairman of the committee on resolutions which reported the platform, Mr. W. M. Crane and Mr. Boies Penrose were selected as members of the national committee from their respective states, and Mr. Frank S. Black, of New York, made the speech nominating Mr. Roosevelt. Throughout, the proceedings were harmonious; the platform and the nomination were accepted vociferously without a dissenting vote.

The Republican platform of 1904 gave no recognition of any of the newer social and economic problems which were soon to rend that party in twain. After the fashion of announcements made by parties already in power, it laid great emphasis upon Republican achievements since the great victory of 1896. A protective tariff under which all industries had revived and prospered had been enacted; public credit was now restored, Cuban independence established, peace, freedom, order, and prosperity given to Porto Rico, the Philippine Islands endowed with the largest civil liberty ever enjoyed there, the laws against unjust discriminations by

vast aggregations of capital fearlessly enforced, and the gold standard upheld. The program of positive action included nothing new: extension of foreign markets, encouragement of American shipping, enforcement of the Fourteenth Amendment wherever the suffrage had been curtailed, and indorsement of civil service, international arbitration, and liberal pensions. The trust plank was noncommittal as to concrete policy: "Combinations of capital and of labor are the results of the economic movement of the age, but neither must be permitted to infringe the rights and interests of the people. Such combinations, when lawfully formed for lawful purposes, are alike entitled to the protection of the laws, but both are subject to the laws and neither can be permitted to break them."

In their campaign book for 1904, the Republican leaders exhibited Mr. Roosevelt as the ideal American in a superlative degree. "Theodore Roosevelt's character," runs the eulogy, "is no topic for difference of opinion or for party controversy. It is without mystery or concealment. It has the primary qualities that in all ages have been admired and respected: physical prowess, great energy and vitality, straightforwardness and moral courage, promptness in action, talent for leadership. . . . Theodore Roosevelt, as a typical personality, has won the hearty confidence of the American people; and he has not shrunk from recognizing and using his influence as an advocate of the best standards of personal, domestic, and civic life in the country. He has made these things relating to life and conduct a favorite theme in speech and essay and he has diligently

practiced what he preached. Thus he has become a power for wholesomeness in every department of our life as a people."

The Democratic nominee, Mr. Alton B. Parker, failed to elicit any enthusiasm in the rank and file of the party. He had supported the Democratic candidate at a time when many of his conservative friends had repudiated Mr. Bryan altogether, and thus he could not be branded as a "bolter." But Mr. Parker's long term of service as judge of the highest court of New York, his remoteness from actual partisan controversies, his refusal to plunge into a whirlwind stumping campaign, and his dignified reserve, all combined to prevent his getting a grip upon the popular imagination. His weakness was further increased by the half-hearted support given by Mr. Bryan who openly declared the party to be under the control of the "Wall Street element," but confessed that he intended to give his vote to Mr. Parker, although the latter, in a telegram to the nominating convention at St. Louis, had announced his unflinching adherence to the gold standard.

The Democratic platform, except in its denunciation of the Republican administration, was as indefinite as the occasion demanded. Independence should be promised to the Filipinos at the proper time and under proper circumstances; there should be a revision and gradual reduction of the tariff by "the friends of the masses"; United States Senators should be elected by popular vote; combinations and trusts which restrict competition, control production, or fix prices and wages

should be forbidden and punished by law. The administration of Mr. Roosevelt was denounced as "spasmodic, erratic, sensational, spectacular, and arbitrary," and the proposal of the Republican platform to enforce the Fourteenth Amendment was condemned as "Bourbon-like, selfish, and narrow," and designed to kindle anew the embers of racial and sectional strife. Constitutional, simple, and orderly government was promised, affording no sensations, offering no organic changes in the political or economic structure, and making no departures from the government "as framed and established by the fathers of the Republic."

The only extraordinary incident in the campaign of 1904 occurred toward the closing days, when Mr. Parker repeatedly charged that the Republican party was being financed by contributions from corporations and trust magnates. The Democratic candidate also declared that Mr. Cortelyou, as Secretary of Commerce and Labor, had acquired through the use of official inquisitorial powers inside information as to the practices of trusts, and that as chairman of the Republican national committee, he had used his special knowledge to extort contributions from corporations. These corrupt and debasing methods had, in the opinion of Mr. Parker, threatened the integrity of the republic and transformed the government of the people into "a government whose officers are practically chosen by a handful of corporate managers, who levy upon the assets of the stockholders whom they represent such sums of money as they deem requisite to place the conduct of the Government in



such hands as they consider best for their private interests."

These grave charges were made as early as October 24, and it was expected that Mr. Cortelyou would reply immediately, particularly as Mr. Parker was repeating and amplifying them. However, no formal answer came until November 5, three days before the election, when a countercharge was impossible. On that date Mr. Roosevelt issued a signed statement, analyzing the charges of his opponent, and closing with the positive declaration that "the statements made by Mr. Parker are unqualifiedly and atrociously false."

No doubt it would have been difficult for Mr. Parker to have substantiated many of the details in his charges, but the general truth of his contention that the Republican campaign was financed by railway and trust magnates was later established by the life insurance investigation in New York in 1905, by the exposures of trust methods by Mr. Hearst in the publication of Standard Oil Letters, and by the revelations made before the Clapp committee of the Senate in 1912. It is true, Mr. Roosevelt asserted that he knew nothing personally about the corporation contributions, particularly the Standard Oil gifts, and although he convinced his friends of his entire innocence in the matter, seasoned politicians could hardly understand a naïveté so far outside the range of their experience.

The Democratic candidate and his friends took open pleasure in the discomfiture produced in Republican ranks by these unpleasant revelations, but no little bitterness was added to their cup of joy by the other side

of the story. During the life insurance investigation one of the life insurance officers declared: "My life was made weary by the Democratic candidates chasing for money in that campaign. Some of the very men who to-day are being interviewed in the papers as denouncing the men who contribute to campaigns, — their shadows were crossing my path every step I took." Later, before the Clapp committee in 1912, Mr. August Belmont and Mr. T. F. Ryan, corporation magnates with wide-reaching financial interests, — the latter particularly famous for his Tobacco Trust affiliations, — testified that they had underwritten Mr. Parker's campaign to the amount of several hundred thousand dollars. Independent newspapers remarked that it seemed to be another case of the kettle and the pot.

That the conservative interests looked to the Republican party, if not to Mr. Roosevelt, for the preservation of good order in politics and the prevention of radical legislation, is shown by the campaign contributions on the part of those who had earlier financed Mr. Hanna. In 1907 a letter from the railroad magnate, Mr. E. H. Harriman, was made public, in which the writer declared that Mr. Roosevelt had invited him to Washington in the autumn of 1904, just before the election, that at the President's request he had raised \$250,000 to help carry New York state, and that he had paid the money over to the Republican treasurer, Mr. Bliss. Mr. Roosevelt indignantly denied that he had requested Mr. Harriman to raise a dollar for "the Presidential campaign of 1904." It will be noted that Mr. Roosevelt here made a distinction between the state and national campaign.

This distinction he again drew during the United States Senate investigation in 1912, when it became apparent that the Standard Oil Trust had made a large contribution to the Republican politicians in 1904. From his testimony, it would appear that Mr. Roosevelt was unaware of the economic forces which carried him to victory in 1904. Indeed, from the election returns, he was justified in regarding his victory as a foregone conclusion, even if the financiers of the party had not taken such extensive precautions.

The election returns in 1904 showed that the Democratic candidate had failed to engage the enthusiasm of his party, for the vote cast for him was more than a million and a quarter short of that cast for Mr. Bryan in 1900. The personal popularity of Mr. Roosevelt was fully evidenced in the electoral and popular votes. Of the former he secured 336 against 140 cast for his opponent, and of the latter he polled nearly 400,000 more than Mr. McKinley. Nevertheless the total vote throughout the country was nearly half a million under that of 1900, showing an undoubted apathy or a dissatisfaction with the two old parties. This dissatisfaction was further demonstrated in a startling way by the heavy increase in the socialist ranks, a jump from about 95,000 in 1900 to more than 400,000.

### *The Achievements of Mr. Roosevelt's Administrations*

Doubtless the most significant of all the laws enacted during Mr. Roosevelt's administrations was the Hepburn Act passed in 1906. This law increased the number of

the Interstate Commerce Commission<sup>1</sup> to seven, extended the law to cover pipe lines, express companies, and sleeping car companies, and bridges, ferries, and railway terminals. It gave the Interstate Commerce Commission the power to reduce a rate found to be unreasonable or discriminatory in cases in which complaints were filed by shippers adversely affected; it abolished "midnight tariffs" under which favored shippers had been given special rates, by requiring proper notice of all changes in schedules; and it forbade common carriers to engage in the transportation of commodities owned by themselves, except for their own proper uses.

The Hepburn bill, however, did not confer upon the Interstate Commerce Commission that power over rates which the Commission had long been urging as necessary to give shippers the relief they expected. Senator La Follette, fresh from a fight with the railways in Wisconsin, proposed several radical amendments in the Senate, and endeavored without avail to secure the open support of President Roosevelt.<sup>2</sup> The Senator insisted that it would be possible under the Hepburn bill "for the commission to determine whether rates were *relatively reasonable*, but not that they were *reasonable per se*; that one rate could be compared with another, but that the Commission had no means of determining whether either rate so compared was itself a reasonable rate." No one can tell, urged the Senator, whether a rate is reasonable until the railway in question has been evaluated. This point he pressed with great insistence, and though defeated at the time, he had the consolation of having the

<sup>1</sup> See above, p. 133.

<sup>2</sup> La Follette, *Autobiography*, 399 ff.

principle of physical valuation enacted into law in 1913.<sup>1</sup> At all events, the railways found little or no fault with the Hepburn law, and shortly afterward began to raise their rates in the face of strong opposition from shippers.

Two laws relative to foodstuffs, the meat inspection act and the pure food act, were passed in 1906 in response to the popular demand for protection against diseased meats and deleterious foods and drugs — a demand created largely by the revelation of shocking conditions in the Chicago stockyards and of nefarious practices on the part of a large number of manufacturers. The first of the measures was intended to guarantee that the meat shipped in interstate commerce should be derived from animals which were sound at the time of slaughter, prepared under sanitary conditions in the packing houses, and adequately inspected by Federal employees. The second measure covered foods and drugs, and provided that such articles "must not contain any injurious or deleterious drug, chemical or preservative, and that the label on each package must state the exact facts and not be misleading or false in any particular." The effect of the last of these measures was felt in the extinction of a large number of patent medicine and other quasi-fraudulent concerns engaged in interstate trade.

The social legislation enacted during Mr. Roosevelt's administrations is not very extensive, although it was accompanied by much discussion at the time. The most

<sup>1</sup>The law ordered the Interstate Commerce Commission to ascertain the cost of the construction of all interstate railways, the cost of their reconstruction at the present time, and also the amount of land and money contributed to railways by national, state, and local governments.

significant piece of labor legislation was the employers' liability law enacted in 1906, which imposed a liability upon common carriers engaged in interstate commerce for injuries sustained by employees in their service. On January 6, 1908, the Supreme Court declared the act unconstitutional on the ground that it interblended the exercise of legitimate powers over interstate commerce and interference with matters outside the scope of such commerce. The act was again taken up in Congress, and in April of that year a second law, omitting the objectionable features pointed out by the Court, was enacted.

A second piece of Federal legislation which is commonly called a labor measure was the law which went into effect on March 4, 1908, limiting the hours of railway employees engaged as trainmen or telegraph operators. As a matter of fact, however, it was not so much the long hours of trainmen which disturbed Congress as the appalling number of railway disasters from which the traveling public suffered. At least it was so stated by the Republican leaders in their campaign of 1908, for they then declared that "although the great object of the Act is to promote the safety of travellers upon railroads, by limiting the hours of service of employees within reasonable bounds, it is none the less true that in actual operation it enforces humane and considerate treatment to employees as well as greater safety to the public."<sup>1</sup>

That public policy with which Mr. Roosevelt's administrations will be most closely associated is unques-

<sup>1</sup> *Campaign Textbook*, 1908, p. 45.

tionably the conservation of natural resources. It is true that he did not originate it or secure the enactment of any significant legislation on the subject. The matter had been taken up in Congress and out as early as Mr. Cleveland's first administration, and the first important law on conservation was the act of March 3, 1891, which authorized the President to reserve permanently as forest lands such areas as he deemed expedient. Under this law successive Presidents withdrew from entry enormous areas of forest lands. This beginning Mr. Roosevelt enlarged, and by his messages and speeches, he brought before the country in an impressive and enduring manner the urgent necessity of abandoning the old policy of drift and of withholding from the clutches of grasping corporations the meager domain still left to the people. Without inquiring into what may be the wisest final policy in the matter of our natural resources, all citizens will doubtless agree that Mr. Roosevelt's service in this cause was valuable beyond calculation.

Among the proudest achievements of Mr. Roosevelt's administration was the beginning of the actual construction of the Panama Canal. A short route between the two oceans had long been considered by the leading commercial nations of the world. In 1850, by the Clayton-Bulwer treaty, the United States and Great Britain had agreed upon the construction of a canal by a private corporation, under the supervision of the two countries and other states, which might join the combination, on a basis of neutralization. The complete failure of the French company organized by De Lesseps,

the hero of the Suez Canal, discouraged all practical attempts for a time, but the naval advantages of such a waterway was forced upon public attention in a dramatic manner during the Spanish War when the battleship *Oregon* made her historical voyage around the Horn.<sup>1</sup>

After the Spanish War was over, Mr. John Hay, Secretary of State, began the negotiation of a new treaty with Great Britain, which, after many hitches in the process of coming to terms, was finally ratified by the Senate in December, 1901. This agreement, known as the Hay-Pauncefote treaty, set aside the old Clayton-Bulwer convention, and provided that a canal might be constructed under the supervision of the United States, either at its own cost or by private enterprise subject to the stipulated provisions. The United States agreed to adopt certain rules as the basis of the neutralization of the canal, and expressly declared that "the canal shall be free and open to the vessels of commerce and of war of all nations, observing these Rules, on terms of entire equality, so that there shall be no discrimination against any such nation, or its citizens or subjects, in respect of the conditions or charges of traffic or otherwise."<sup>2</sup> A proposal to forbid the fortification of the canal was omitted from the final draft, and provision was made for "policing" the district by the United States. The canal was thus neutralized under a guarantee of the United States, and certain promises were made in behalf of that country.

<sup>1</sup> See above, p. 209.

<sup>2</sup> Notwithstanding this arrangement, Congress in 1912 enacted a law exempting American coastwise vessels from canal tolls.



The exact effect of this treaty was a subject of dispute from the outset. On the one side, it was said by Mr. Latané that "a unilateral guarantee amounts to nothing; the effect of the Hay-Pauncefote treaty, therefore, is to place the canal politically as well as commercially under the absolute control of the United States."<sup>1</sup> On the other hand, it was contended that this treaty superseded a mutually binding convention, and that, although it was unilateral in character, the rules provided in it were solemn obligations binding upon the conscience of the American nation. Whatever may be the merits of this controversy, it is certain that the Hay-Pauncefote agreement cleared the way for speedy and positive action on the part of the United States with regard to the canal.

The great question then confronting the country was where and how should the canal be built. One party favored cutting the channel through Nicaragua, and in fact two national commissions had reported in favor of this route. Another party advocated taking over the old French concern and the construction of the waterway through Panama, a district then forming a part of Colombia. As many influential Americans had become interested in the rights of the French company, they began a campaign in the lobbies of Congress to secure the adoption of that route. At length in June, 1902, the merits of the Panama case or the persistency of the lobby, or both, carried through a law providing for the purchase of the French company's claims at a cost of not more than \$40,000,000 and the acquisition

<sup>1</sup> *America as a World Power*, p. 207.

of a canal strip from the republic of Colombia — and failing this arrangement, the selection of the Nicaragua route.

On the basis of this law, which was signed June 28, 1902, negotiations were begun with Colombia, but they ended in failure because that country expected to secure better terms than those offered by the United States. The Americans who were interested in the French concern and expected to make millions out of the purchase of property that was substantially worthless, were greatly distressed by the refusal of Colombia to ratify the treaty which had been negotiated. Residents of Panama were likewise disturbed at this delay in an enterprise which meant great prosperity for them, and with the sympathy if not the support of the American administration, a revolt was instigated at the Isthmus and carried out under the protection of American arms on November 3, 1903. Three days later, President Roosevelt recognized the independence of the new revolutionary government. In his message in December, Mr. Roosevelt explained the great necessity under which he labored, and convinced his friends of the wisdom and justice of his course.

By a treaty proclaimed on February 26, 1904, between Panama and the United States, provision was made for the construction of the canal. The independence of the former country was guaranteed, and the latter obtained "in perpetuity the use, occupation, and control" of a canal zone, and the right to construct, maintain, and operate the canal and other means of transportation through the strip. Panama was paid \$10,000,000 for her concession and promised \$250,000 a

year after the lapse of nine years. The full \$40,000,000 was paid over to the French concern and its American underwriters; the lock type instead of the sea-level canal was agreed upon in 1906; construction by private contractors was rejected in favor of public direct employment under official engineers; and the work was pushed forward with great rapidity in the hope that it might be completed before 1915.

The country had not settled down after the Panama affair before popular interest was again engaged in a diplomatic tangle with Santo Domingo. That petty republic, on account of its many revolutions, had become deeply involved in debt, and European creditors, through their diplomatic agents, had practically threatened the use of armed force in collecting arrears, unless the United States would undertake the supervision of the Dominican customs and divide the revenues in a suitable manner. In an agreement signed in February, 1905, between the United States and Santo Domingo, provisions were made for carrying such an arrangement into effect. The Senate, having failed to sanction the treaty, Mr. Roosevelt practically carried out the program unofficially and gave it substantial support in the form of American battleships.

Against this independent executive action there was a strong protest in the Senate. The spirit of this opposition was fully expressed by Mr. Rayner in a speech in that chamber, in which he said: "This policy may be all right — perhaps the American people are in favor of this new doctrine; it may be a wonderful accomplish-

ment — Central America may profit by it; it may be a great benefit to us commercially and it may be in the interest of civilization, but as a student and follower of the Constitution, I deprecate the methods that have been adopted, and I appeal to you to know whether we propose to sit silently by, and by our indifference or tacit acquiescence submit to a scheme that ignores the privileges of this body; that is not authorized by statute; that does not array itself within any of the functions of the Executive; that vests the treaty-making power exclusively in the President, to whom it does not belong; that overrides the organic law of the land, and that virtually proclaims to the country that, while the other branches of the Government are controlled by the Constitution, the Executive is above and beyond it, and whenever his own views or policies conflict with it, he will find some way to effectuate his purposes uncontrolled by its limitations.”

Notwithstanding such attacks on his authority, the President had not in fact exceeded his constitutional rights, and the boldness and directness of his policy found plenty of popular support. The Senate was forced to accept the situation with as good grace as possible, and a compromise was arranged in a revised treaty in February, 1907, in which Mr. Roosevelt's action on material points received official sanction from that authority. The wisdom of the policy of using the American navy to assist European and other creditors in collecting their debts in Latin-American countries was thoroughly thrashed out, as well as the constitutional points; and a new stage in the development of the Monroe Doctrine

was thus reached. Those who opposed the policy pointed to another solution of the perennial difficulties arising in the countries to the southward; that is, the submission of pecuniary claims to the Hague Court or special tribunals for arbitration.<sup>1</sup>

Another very dramatic feature of Mr. Roosevelt's administration was his action in bringing Russia and Japan together in 1905 and thus helping to terminate the terrible war between these two powers. Among the achievements of the Hague conference, called by the Tsar in 1899, was the adoption of "A Convention for the Peaceful Adjustment of International Differences" which provided for a permanent Court of Arbitration, for international commissions of inquiry in disputes arising from differences of opinion on facts, and for the tendering of good offices and mediation. "The right to offer good offices or mediation," runs the convention, "belongs to Powers who are strangers to the dispute, even during the course of hostilities. The exercise of this right shall never be considered by one or the other parties to the contest as an unfriendly act."

It was under this last provision that President Roosevelt dispatched on June 8, 1905, after making proper inquiries, identical notes to Russia and Japan, urging them to open direct negotiations for peace with each other. The fact that the great European financiers had already substantially agreed that the war must end and that both combatants were in sore straits for money, clearly facilitated the rapidity with which the Presi-

<sup>1</sup> Latané, *America as a World Power*, pp. 282 ff.

dent's invitation was accepted. In his identical note, Mr. Roosevelt tendered his services "in arranging the preliminaries as to the time and place of meeting," and after some delay Portsmouth, New Hampshire, was determined upon. The President's part in the opening civilities of the conference between the representatives of the two powers, and the successful outcome of the negotiations, combined to make the affair, in the popular mind, one of the most brilliant achievements of his administration.

## CHAPTER XI

### THE REVIVAL OF DISSENT

ON the morning of March 4, 1901, when Mr. McKinley took the oath of office to succeed himself as President, it appeared to the superficial observer that the Populist movement had spent its strength and disappeared. Such was the common remark of the time. To discredit a new proposition it was only necessary to observe that it was as dead as Populism. Twice had the country repudiated Mr. Bryan and his works, the second time even more emphatically than the first; and the radical ideas which had been associated with his name, often quite erroneously, seemed to be permanently laid to rest. The country was prosperous; it congratulated itself on the successful outcome of the war with Spain and accepted the imperialist policies which followed with evident satisfaction. Industries under the protection of the Dingley Act and undisturbed by threats of legislative interference went forward with renewed vigor. Capital began to reach out for foreign markets and investments as never before. Statesmen of Mr. Hanna's school looked upon their work and pronounced it good.

But Populism was not dead. Defeated in the field of national politics, it began to work from the ground upward, attacking one piece of political machinery after

another and pressing upon unwilling state legislatures new forms of agrarian legislation. The People's party, at its convention in 1896, had declared in favor of "a system of direct legislation through the initiative and referendum, under proper constitutional safeguards"; and Mr. Bryan two years later announced his belief in the system, saying: "The principle of the initiative and referendum is democratic. It will not be opposed by any Democrat who indorses the declaration of Jefferson that the people are capable of self-government; nor will it be opposed by any Republican who holds to Lincoln's idea that this should be a government of the people, by the people, and for the people."<sup>1</sup>

The first victory of "direct democracy" came in the very year of Mr. Bryan's memorable defeat. In 1896, the legislature of South Dakota was captured by a Democratic-Populist majority, and at the session beginning in the following January, it passed an amendment to the state constitution, establishing a system of initiative and referendum. Some leaders of the old Knights of Labor and the president of the Farmers' Alliance were prominently identified with the campaign for this innovation. The resolution was "passed by a strict party vote, and to the Populists is due the credit of passing it," reported "The Direct Legislation Record" in June, 1897. In the contest over ratification at the polls a party divi-

<sup>1</sup> The political history of the initiative and referendum has never been written. Some valuable materials are to be found in *Direct Legislation*, Senate Document No. 340, 55th Cong., 2d Sess. (1898); and in "The Direct Legislation Record," founded in May, 1894; and in the "Equity Series," now published at Philadelphia. See also Oberholtzer, *The Initiative, Referendum, and Recall in America*, ed. 1911.



sion ensued. The Democratic state convention in 1898 adopted a plank favoring direct legislation, on "the principle that the people should rule"; and the Republicans contented themselves with urging party members "to study the legislative initiative and referendum." At the ensuing election the amendment was carried by a vote of 23,876 to 16,483; but ten years elapsed before any use was made of the new device.<sup>1</sup>

A cloud no bigger than a man's hand had appeared on the horizon of representative government. East, West, North, and South, advocates of direct government were busy with their propaganda, Populists and Democrats taking the lead, with Republican politicians not far in the rear. The year following the adoption of the South Dakota amendment a combination of Democrats and Populists carried a similar provision through the state legislature of Utah and obtained its ratification in 1900. This victory was a short-lived triumph, for the Republicans soon regained their ascendancy and stopped the progress of direct legislation by refusing to enact the enabling law putting the amendment into force. But this check in Utah did not dampen the ardor of reformers in other commonwealths. In 1902, Oregon adopted the new system; four years later Montana followed; in 1907, Oklahoma came into the Union with the device embodied in the Constitution; and then the progress of the movement became remarkably rapid. It was adopted by Missouri and Maine in 1908, Arkansas and Colorado in 1910, Arizona and

<sup>1</sup> *The Initiative, Referendum, and Recall*, Annals of the American Academy of Political and Social Science, September, 1912, pp. 84 ff.

California in 1911, Washington, Nebraska, Idaho, and Ohio in 1912. By this time Populists and Democrats had ceased to monopolize the agitation for direct government; it had become respectable, even in somewhat conservative Republican circles.

It should be pointed out, however, that there is a conservative and a radical system of initiative and referendum: one which fixes the percentage necessary to initiate and adopt a measure at a point so high as to prevent its actual operation, and another which places it so low as to make its frequent use feasible. The older and more radical group of propagandists, finding their general scheme so widely taken up in practical politics, soon began to devote their attention rather to attacking the stricter safeguards thrown up by those who gave their support to direct government in theory only.

In its simple form of initiation by five per cent of the voters and adoption by a majority of those voting on the measure submitted, this new device was undoubtedly a revolutionary change from the American system of government as conceived by the framers of the Constitution of the United States — with its checks and balances, indirect elections, and judicial control over legislation. The more radical of the advocates of direct government frankly admitted that this was true, and they sought to strengthen this very feature of their system by the addition of another device, known as the recall, which, when applied to judges as well as other elective officers, reduced judicial control over legislation to a practical nullity. Where judges are elected for short terms by popular vote and made subject to the recall,

and where laws are made by popular vote of the same electors who choose the judges, it is obvious that the very foundations of judicial supremacy are undermined.

The recall, like direct democracy, was not new to American politics. Both were understood, at least in principle, by the framers of the Federal Constitution and rejected decisively. The recall seems to have made its appearance first in local form, — in the charter of Los Angeles, adopted in 1903. From there it went to the Seattle charter of 1906, and two years later it was adopted as a state-wide system applicable to all elective officers by Oregon. Its progress was swiftest in municipal affairs, for it quite generally accompanied "the commission form" of city government as a check on the commissioners in their exercise of enlarged powers.

The state-wide recall, however, received a remarkable impetus in 1911 from the controversy over the admission of Arizona, which attracted the attention of the nation. That territory had framed a constitution containing a radical form of the recall based on the Oregon plan, and in August, 1911, Congress passed a resolution admitting the applicant, on condition that the provision relating to the recall should be specifically submitted to the voters for their approval or rejection. President Taft was at once stirred to action, and on August 15 he sent Congress a ringing message, displaying unwonted vigor and determination, vetoing the resolution and denouncing the recall of judges in unmeasured terms. "Constitutions," he said, "are checks upon the hasty action of the majority. They are the self-imposed restraints of a whole people upon

a majority of them to secure sober action and a respect for the rights of the minority. . . . In order to maintain the rights of the minority and the individual and to preserve our constitutional balance we must have judges with courage to decide against the majority when justice and law require. . . . As the possibilities of such a system [as the recall] pass in review, is it too much to characterize it as one which will destroy the judiciary, its standing, and its usefulness?"

Acting upon the recommendation of President Taft, Congress passed a substitute resolution for admitting Arizona only on condition that the obnoxious recall of judges be stricken from the constitution of the state.<sup>1</sup> The debates in Congress over the admission of Arizona covered the whole subject of direct government in all its aspects, and these, coupled with the President's veto message, brought the issue prominently to the front throughout the country. Voters to whom it had previously been an obscure western device now began to take a deep interest in it; the press took it up; and one more test for "progressive" and "reactionary" was put in the popular program.

The movement for direct popular participation in state and local government was inevitably accompanied by a demand for more direct government within the political party; in other words, by a demand for the abandonment of the representative convention in favor of

<sup>1</sup> Arizona was admitted without the judicial recall provision, but immediately set to work and reinserted it in the constitution, and devised a plan for the recall of Federal district judges as well.

the selection of candidates by direct primary. During the decade of the great Populist upheaval, legislation relative to political parties was largely confined to the introduction of the Australian ballot and the establishment of safeguards around the primaries at which delegates to party conventions were chosen. The direct primary, like the initiative and referendum, grew out of a discontent with social and economic conditions, which led to an attack on the political machinery that was alleged to be responsible for them. Like the initiative and referendum, also, it was not an altogether new device, for it had been used for a long time in some of the states as a local institution established by party custom; but when it was taken up by the state legislatures, it made a far more rapid advance.

It was not, however, until the opening of the new century that primary legislation began to engross a large share of legislative activities. In 1903, "the first state-wide primary law with fairly complete provisions for legal supervision was enacted by the state of Wisconsin"; Oregon, making use of the new initiative system, enacted a thoroughgoing primary law in 1904; and the following year Illinois adopted a state-wide measure. Other states, hesitating at such an extensive application of the principle, contented themselves at first with laws instituting local primaries, such, for example, as the Nebraska law of 1905 covering cities of over 125,000, or the earlier law of Minnesota covering only Hennepin county. "So rapid was the progress of public opinion and legislation," says Mr. Merriam, "that in many instances a compromise law of one session

of the legislature was followed by a thoroughgoing law in the next. For example, the North Dakota law of 1905 authorized direct primaries for all district nominations, but did not include state offices; but in 1907, a sweeping act was passed covering practically all offices."

The vogue of the direct primary was confined largely to the West at first, but it steadily gained in favor in the East. Governor Hughes, of New York, in his contest with the old organization of the Republican party, became a staunch advocate of the system, recommended it to the legislature in his messages, campaigned through the state to create public sentiment in favor of the reform, and labored unsuccessfully to secure the passage of a primary law, until he closed his term to accept an appointment to the Supreme Court of the United States. In 1911, the Democratic party, which had carried New York state at the preceding election, enacted a primary law applicable to local, but not to state, offices. About the same time Massachusetts, Maine, and New Jersey joined the long list of direct primary states. Within almost ten years the principle in its state-wide form had been accepted in two thirds of the states, and in some local form in nearly all of the other commonwealths.

Meanwhile, the theory and practice of direct government made their way upward into the Federal government. As early as 1826, Mr. Storrs, a representative from New York, introduced in the House a constitutional amendment providing for the popular election of United States Senators, and from time to time thereafter the proposal was urged upon Congress. President Johnson,

who had long been an advocate of this change in the Federal government, made it the subject of a special message to Congress in 1868; but in his contest with that body the proposed measure was lost to sight. Not long afterward it appeared again in the House and the Senate, and at length the lower house in 1893 passed an amendment providing for popular election by the requisite two-thirds vote, but the Senate refused to act. Again in 1894, in 1898 (by a vote of 185 to 11), in 1900 (240 to 15), and in 1902 by practically a unanimous vote, there being no division, the House passed the amendment; still the Senate resisted the change.

In the Senate itself were found occasional champions of popular election, principally from the West and South. Mitchell, of Oregon, Turpie, of Indiana, Perkins, of California, Berry, of Arkansas, and Bailey, of Texas, took the leadership in this contest for reform. Chandler, of New Hampshire, Depew, of New York, Penrose, of Pennsylvania, Hoar, of Massachusetts, Foraker, of Ohio, and Spooner, of Wisconsin, leveled their batteries against it. State after state legislature passed resolutions demanding the change, until at length three fourths had signified their demand for popular election.

The Senate as a whole remained obdurate. When in the Fifty-third Congress the resolution of the House came before that body, Mr. Hoar, of Massachusetts, made, on April 6 and 7, 1893, one of his most eloquent and impassioned pleas for resisting this new proposal to the uttermost. He declared that it would transfer the seat of power to the "great cities and masses of

population," that it would create new temptations to fraud and corrupt practices, that it implied that the Senate had been untrue to its trust, that it would lead to the election of the President and the judiciary by popular majorities, and that it would "result in the overthrow of the whole scheme of the Senate and in the end of the whole scheme of the national Constitution as designed and established by the framers of the Constitution and the people who adopted it." With impatience, he refused to listen to the general indictment which had been brought against the Senate as then constituted. "The greatest victories of constitutional liberty since the world began," he concluded, "are those whose battle ground has been the American Senate, and whose champions have been the Senators who for a hundred years, while they have resisted the popular passions of the House, have led, represented, guided, obeyed, and made effective the deliberate will of a free people."

Having failed to make an impression on the Senate by a frontal attack, the advocates of popular election set to work to capture that citadel by a rear assault. They began to apply the principle of the direct primary in the nomination of candidates for the Senate, and this development at length culminated in the Oregon scheme for binding the legislature to accept the "people's choice." This movement gained rapid headway in the South, where the real contest was over nomination, not election, on account of the absence of party divisions. As early as 1875, the Nebraska constitution had provided for taking a popular preferential vote on candidates for



the Senate; but no considerable interest seems to have been taken in it at the time. In 1899, Nevada passed a law entitled "an act to secure the election of United States Senators in accordance with the will of the people and the choice of the electors of the state." Shortly afterward, Oregon enacted her famous statute which attempted to compel the legislature to accept the popular nominee; and from that time forward the new system spread rapidly. By 1910, at least three fourths of the states nominated candidates for the Senate by some kind of a popular primary.

It was not until 1911 that the Senate yielded to the overwhelming popular demand for a change in the methods of election provided in the Constitution. In December, 1909, Senator Bristow, of Kansas, introduced a resolution designed to effect this reform, and after a hot debate it was defeated on February 28, 1911, by a vote of 54 to 33, four short of the requisite two thirds. In the next Congress, which convened on April 4, ten Senators who had voted against the amendment had been retired, and the champions of the measure, taking it up again with renewed energy, were able to force it through the upper house on June 12, 1911, by a margin of five more than the two thirds. The resolution went to the House and a deadlock arose between the two chambers for a time over Federal control of elections, provided in the Senate resolution, which was obnoxious to many southern representatives. At length, however, on May 13, 1912, the opponents in the House gave way, and the resolution passed by an overwhelming vote. Within a year, the resolution was ratified by the requisite

three fourths of the state legislatures, and it was proclaimed on May 31, 1913.

The advance of direct democracy in the West was accompanied by a revival of the question of woman suffrage. That subject had been earnestly agitated about the time of the Civil War; and under the leadership of Elizabeth Cady Stanton, Susan B. Anthony, and others it made considerable headway among those sections of the population which had favored the emancipation of the slaves. Indeed, it was inevitably linked with the discussion of "natural rights," extensively carried on during the days when attempts were being made to give political rights to the newly emancipated bondmen. Woman suffrage was warmly urged before the New York state constitutional convention in 1867 by Mr. George William Curtis, in a speech which has become a classic among the arguments for that cause. During the seventies suffrage petitions bearing the signatures of thousands of men and women were laid before Congress, and an attempt was made to secure from the Supreme Court an interpretation of the Fourteenth Amendment which would force the states to grant the ballot to women.

At length the movement began to subside, and writers who passed for keen observers declared it to be at an end. The nineteenth century closed with victories for the women in only four states, Wyoming, Colorado, Utah, and Idaho. The first of these states had granted the vote to women while yet a territory, and on its admission to the Union in 1890, it became the

first state with full political equality. Three years later, Colorado enfranchised women, and in 1896 Utah and Idaho joined the equal suffrage commonwealths. Meanwhile, a very large number of northern and eastern states had given women the right to vote in local or school elections, Minnesota and Michigan in 1875 and other states in quick succession. Nevertheless, these gains were, relatively speaking, small, and there seemed to be little widespread enthusiasm about the further extension of the right.

Of course, the agitation continued, but in somewhat obscure circles, under a running fire of ridicule whenever it appeared in public. At length it broke out with unprecedented vigor, shortly after the tactics adopted by militant English women startled the world. Within a short time new and substantial victories gave the movement a standing which could not be ignored either by its positive opponents or the indifferent politicians. In 1910, the suffragists carried the state of Washington; in 1911, they carried California; in 1912, they won in Arizona, Kansas, and Oregon; but lost Ohio, Michigan, and Wisconsin. These victories gave them nine states and of course a considerable influence in the House of Representatives and the right to participate in the election of eighteen out of ninety-six Senators. But the defeat in the three middle states led the opponents of woman suffrage to believe that the movement could be confined to the far West. This hope was, however, dashed in 1913 when the legislature of Illinois gave women the right to vote for all statutory officers, including electors for President of the United States. Determined to

make use of the political power thus obtained, the suffragists, under the leadership of Alice Paul, renewed with great vigor the agitation at Washington for a national amendment forbidding states to disqualify women from voting merely on account of sex.

### *The Rise and Growth of Socialism*

With the spread of direct elections and the initiative and referendum, and the adoption of the two amendments to the Federal Constitution authorizing an income tax<sup>1</sup> and the popular election of Senators, the milder demands of Populism were secured. At the same time, the prosperity of the farmers and the enormous rise in ground values which accompanied the economic advance of the country removed some of the most potent causes of the discontent on which Populism thrived. Organized Populism died a natural death. Those Populists who advocated only political reforms went over to the Republican and Democratic parties; the advocates of radical economic changes, on the other hand, entered the Socialist ranks.

Socialism, as an organized movement in the United States, runs back to the foundation of the Social-Democratic Workingmen's party in New York City, in 1874, which was changed into the Socialist Labor party three years later, — a party that still survives. This group did not enter into national politics until 1892, although its branches occasionally made nominations for local offices or fused with other labor groups, as in the New

<sup>1</sup> See below, p. 325.

York mayoralty campaign of 1886. In its vigorous propaganda against capitalism, this party soon came into collision with the American Federation of Labor, established in 1886, and definitely broke with it four years later when the latter withheld a charter from the New York Central Federation for the alleged reason that the Socialist Labor party of that city was an affiliated organization. After the break with the American Federation, this Socialist group turned for a time to the more radical Knights of Labor, but this new flirtation with labor was no more successful than the first, and in time the Socialist Labor party declared war on all the methods of American trades-unionism. Its gains numerically were not very significant; it polled something over twenty thousand votes in 1892 and over eighty thousand in 1896 — the high-water mark in its political career. Its history has been a stormy one, marked by dissensions, personal controversies, and splits, but the party is still maintained by a decreasing band of loyal adherents.

The growth of interest in socialism, however, was by no means confined to the membership of the Socialist Labor party. External events were stirring a consciousness that grave labor problems had arisen within the American Commonwealth. The bloody strikes at Homestead, Cœur d'Alene, Buffalo, and Pullman in the eighties and early nineties moved the country as no preachments of abstract socialist philosophy could ever have done. That such social conflicts were full of serious portent was recognized even by such a remote and conservative thinker as President Cleveland in

his message of 1886 to Congress. In that very year, the Society of Christian Socialists was formed, with Professor R. T. Ely and Professor G. D. Herron among its members, and about the same time "Nationalist" clubs were springing up all over the country as a result of the propaganda created by Bellamy's *Looking Backward*, published in 1887. The decline of the Populist party, which had indorsed most of the socialistic proposals that appealed to Americans tinged with radicalism, the formation of local labor and socialist societies of one kind or another, and the creation of dissatisfaction with the methods and program of the Socialist Labor party finally led to the establishment of a new national political organization.

This was effected in 1900 when a general fusion was attempted under the name of the Social Democratic party, which nominated Mr. Eugene V. Debs for President at a convention held in Indianapolis. The Socialist Labor party, however, declined to join the organization and went on its own way. The vote of the new party, ninety-six thousand, induced the leaders in the movement to believe that they were on the right track, for this was considerably larger than the rival group had ever secured. Steps were immediately taken to put the party on a permanent basis; the name Socialist party was assumed in 1901; local branches were established in all sections of the country with astonishing rapidity; and a vigorous propaganda was undertaken. In the national election of 1904 over four hundred thousand votes were polled; in 1908, when Mr. Bryan and Mr. Roosevelt gave a radical tinge to the older parties, a

gain of only about twenty-five thousand was made; but in 1912, despite Mr. Wilson's flirtation with western democracy and the candidacy of Mr. Roosevelt on a socialistic platform, the Socialist party more than doubled its vote.

During these years of growth the party began to pass from the stage of propaganda to that of action. In 1910, the Socialists of Milwaukee carried the city, secured twelve members of the lower house of the state legislature, elected two state Senators, and returned Mr. Victor Berger to Congress. This victory, which was hailed as a turning point in the march of socialism, was largely due, however, to the divided condition of the opposition, and thus the Socialists really went in as a plurality, not a majority party. The closing of the Republican and Democratic ranks in 1912 resulted in the ousting of the Socialist city administration, although the party polled a vote considerably larger than that cast two years previously. In other parts of the country numerous municipal and local officers were elected by the Socialists, and in 1912 they could boast of several hundred public offices.<sup>1</sup>

While there was no little difference of opinion among the Socialists as to the precise character of their principles and tactics, — a condition not peculiar to that party, — there were certain general ideas running through their propaganda and platforms. Modern industry, they all held, creates necessarily a division of society into a relatively few capitalists, on the one hand, who own, control, and manipulate the machinery of produc-

<sup>1</sup> See list in the *National Municipal Review* for July, 1912.

tion and the natural resources of the country, and on the other hand, a great mass of landless, toolless, and homeless working people dependent upon the sale of their labor for a livelihood. There is an inherent antagonism between these two classes, for each seeks to secure all that it can from the annual output of wealth; this antagonism is manifest in labor organizations, strikes, and industrial disputes of every kind. Out of this contest, the former class gains wealth, luxury, safety, and the latter, poverty, slums, and misery. Finally, if the annual toll levied upon industry by the exploiters and the frightful wastes due to competition and maladjustment were eliminated, all who labor with hand or brain could enjoy reasonable comfort and security, and also leisure for the cultivation of the nobler arts of civilization.

At the present time, runs the Socialist platform of 1912, "the capitalist class, though few in numbers, absolutely controls the government — legislative, executive, and judicial. This class owns the machinery of gathering and disseminating news through its organized press. It subsidizes seats of learning, — the colleges and the schools, — even religious and moral agencies. It has also the added prestige which established customs give to any order of society, right or wrong." But the working class is becoming more and more discontented with its lot; it is becoming consolidated by coöperation, political and economic, and in the future it will become the ruling class of the country, taking possession, through the machinery of the government, of the great instrumentalities of production and distribution. This final



achievement of socialism is being prepared by the swift and inevitable consolidation of the great industries into corporations, managed by paid agents for the owners of the stocks and bonds. The transition from the present order will take the form of municipal, state, and national assumption of the various instrumentalities of production and distribution — with or without compensation to the present owners, as circumstances may dictate.<sup>1</sup> Such are the general presuppositions of socialism.

The Socialist party had scarcely got under way before it was attacked from an unexpected quarter by revolutionary trade-unionists, known as the Industrial Workers of the World, who revived in part the old principle of class solidarity (as opposed to trade solidarity) which lay at the basis of the Knights of Labor. The leaders of this new unionism, among whom Mr. W. D. Haywood was prominent, did not repudiate altogether the Socialist labors to secure control of the organs of government by the ballot, but they minimized their importance and pressed to the front the doctrine that by vigorous and uncompromising mass strikes a revolutionary spirit might be roused in the working class and the actual control of business wrested from the capitalists, perhaps without the intervention of the government at all.

This new unionism was launched at a conference of radical labor leaders in 1904, at which the following

<sup>1</sup> The Socialist party does not at present contemplate public ownership of petty properties or of farm lands tilled by their possessors. This is one part of its program not yet definitely worked out.

program was adopted: "The working class and the employing class have nothing in common. Between these two classes a struggle must go on until the workers of the world organize as a class, take possession of the earth and machinery of production and abolish the wage system. We find that the centering of the management of industries into fewer and fewer hands makes the trade unions unable to cope with the ever growing power of the employing class. The trade unions foster a state of affairs which allows one set of workers to be pitted against another set of workers in the same industry. . . . Moreover the trade unions aid the employing class to mislead the workers into the belief that the working class have interests in common with their employers. These conditions can be changed and the interest of the working class upheld only by an organization formed in such a way that all its members in any one industry, or in all industries if necessary, cease work whenever a strike or a lockout is on in any department thereof. . . . We must inscribe on our banner the revolutionary watchword, 'Abolish the wage system.'"

This new society made a disturbance in labor circles entirely out of proportion to its numerical strength. Its leaders managed strikes at McKees Rocks, Pennsylvania, at Lawrence, Massachusetts, in 1912, and at other points, laying emphasis on the united action of all the working people of all the trades involved in the particular industry. The "new unionism" appealed particularly to the great mass of foreign laborers who had no vote and therefore perhaps turned with more

zeal to "direct" action. It appeared, however, that the membership of the Industrial Workers was not over 70,000 in 1912, and that it had little of the stability of the membership of the old unions.

What the effect of this new unionism will be on the Socialist party remains to be seen. That party at its convention in 1912 went on record against the violent tactics of revolutionary unionism, and by a party vote "recalled" Mr. Haywood from his membership on the executive committee. The appearance of this more menacing type of working-class action and the refusal of the Socialist party to accept it with open arms gave a new turn to the attitude of the conservative press toward regular political socialism of the strict Marxian school.

### *The Counter-Reformation*

Just as the Protestant Revolt during the sixteenth century was followed by a counter-reformation in the Catholic Church which swept away many abuses, while retaining and fortifying the essential principles of the faith, so the widespread and radical discontent of the working classes with the capitalist system hitherto obtaining produced a counter-reformation on the part of those who wish to preserve its essentials while curtailing some of its excesses. This counter-reformation made a deep impress upon American political thinking and legislation at the turning of the new century. More than once during his presidency Mr. Roosevelt warned the capitalists that a reform of abuses was the price which

they would have to pay in order to save themselves from a socialist revolution. Eminent economists turned aside from free trade and *laissez faire* to consider some of the grievances of the working class, and many abandoned the time-honored discussions of "economic theories," in favor of legislative programs embracing the principles of state socialism, to which countries like Germany and Great Britain were already committed.

Charity workers whose function had been hitherto to gather up the wrecks of civilization and smooth their dying days began to talk of "a war for the prevention of poverty," and an examination of their concrete legislation proposals revealed the acceptance of some of the principles of state socialism. Unrestricted competition and private property had produced a mass of poverty and wretchedness in the great cities which constituted a growing menace to society, and furnished themes for socialist orators. Social workers of every kind began the detailed analysis of the causes of specific cases of poverty and arrived at the conclusion that elaborate programs of "social legislation" were necessary to the elimination of a vast mass of undeserved poverty.

Under the stimulus of these and other forces, state legislatures in the more industrially advanced commonwealths began to pour out a stream of laws dealing with social problems. These measures included employers' liability and workmen's compensation laws, the prohibition of child labor, minimum hours for dangerous trades like mining and railroading, minimum wages for women and girls, employment bureaus, and pensions for widows with children to support. While none of the states

went so far as to establish old-age pensions and general sickness and accident insurance, it was apparent from an examination of the legislation of the first decade of the twentieth century that they were well in the paths of nations like Germany, England, and Australia.

### *Criticism of the Federal System*

All this unsettlement in economics and politics could not fail to bring about a reconsideration of the fundamentals in the American constitutional system — particularly the distribution of powers between the Federal and state governments, which is made by a constitution drafted when economic conditions were totally different from what they are to-day. In fact, during the closing years of the nineteenth century there appeared, here and there in American political literature, evidence of a discontent with the Federal system scarcely less keen and critical than that which was manifested with the Articles of Confederation during those years of our history which John Fiske has denominated “The Critical Period.”

Manufacturing interests which, at the time the Federal Constitution was framed, were so local in character as to be excluded entirely from the control of the Federal government had now become national or at all events sectional, having absolutely no relation to state lines. As Professor Leacock remarks, “The central fact of the situation is that economically and industrially the United States is one country or at best one country with four or five great subdivisions, while politically it is

broken into a division of jurisdictions holding sway to a great extent over its economic life, but corresponding to no real division either of race, of history, of unity, of settlement, or of commercial interest.”<sup>1</sup> For example, in 1900 the boot and shoe industry, instead of being liberally distributed among the several states, was so concentrated, that out of the total product 44.9 per cent was produced by Massachusetts; nearly one half of the agricultural implements for that year were made in Illinois; two thirds of the glass of the whole country was made in Pennsylvania and Indiana; while Pennsylvania alone produced 54 per cent of the iron and steel manufactured. The political significance of this situation was simply this: the nation on which each of these specialized industries depended for its existence had practically no power through the national government to legislate relative to them; but in each case a single legislature representing a small fraction of the people connected with the industry in question possesses the power of control.

The tendency of manufacturers to centralize was accompanied, as has been pointed out above, by a similar centralization in railways. At the close of the nineteenth century, the Vanderbilt system operated “some 20,000 miles reaching from New York City to Casper, Wyoming, and covering the lake states and the area of the upper Mississippi; the Pennsylvania system with 14,000 miles covers a portion of the same territory, centering particularly in Ohio and Indiana; the Morgan

<sup>1</sup> *Proceedings of the American Political Science Association*, 1908, Vol. V, p. 42.

system, operating 12,000 miles, covers the Atlantic seaboard and the interior of the Southern States from New York to New Orleans; the Morgan-Hill system operates 20,000 miles from Chicago and St. Louis to the state of Washington; the Harriman system with 19,000 miles runs from Chicago southward to the Gulf and westward to San Francisco, including a Southern route from New Orleans to Los Angeles; the Gould system with 14,000 miles operates chiefly in the center of the middle west extending southward to the Gulf; in addition to these great systems are a group of minor combinations such as the Atchinson with 7,500 or the Boston and Maine with 3,300 miles of road."

Corresponding to this centralization in industries and railways there was, as we have pointed out, a centralization in the control of capital, particularly in two large groups, the Standard Oil and the Morgan interests. As an expert financier, Mr. Moody wrote in 1904: "Viewed as a whole, we find the dominating influence in the trusts to be made up of an intricate network of large and small groups of capitalists, many allied to one another by ties of more or less importance, but all being appendages to, or parties of the greater groups which are themselves dependent on and allied with the two mammoth or Rockefeller and Morgan groups."

Facing this centralized national economy was a Federal system made for wholly different conditions — a national system of manufacturing, transportation, capital, and organized labor, with a national government empowered, expressly, at least, to regulate only

one of those interests, transportation — the other fundamental national interests being referred to the mercy of forty-six separate and independent state legislatures. But it is to be noted, these several legislatures were by no means free to work out their own program of legislation; all of them were, at every point, subjected to Federal judicial control under the general phrases of the Fourteenth Amendment relative to due process of law and the equal protection of the laws.<sup>1</sup> To state it in another way, the national government was powerless to act freely with regard to nearly all of the great national interests, but it was all powerful through its judiciary in striking down state legislation.

A few concrete illustrations<sup>2</sup> will show the lack of correspondence between the political system and the economic system. Each state bids against the others to increase the number of factories which adds to its wealth and increases the value of property within its borders, although it makes no difference to the total wealth of the nation and the happiness of the whole people whether a particular concern is located in New Jersey or in Pennsylvania. As the national government enjoys no power to regulate industries — even those which are national in character — the states use their respective powers under the pressure which comes from those who are interested in increasing the industry of the commonwealth. For example, it is stated “the glass workers of New Jersey oppose any attempt to prohibit

<sup>1</sup> See above, p. 54.

<sup>2</sup> Taken from Professor Leacock's paper in the *Proceedings of the American Political Science Association*, 1908, pp. 37 ff.



night work for boys under sixteen years of age on the ground that such work is permitted in the neighboring state of Pennsylvania." In 1907, in South Carolina, Georgia, and Alabama, a ten year old child could, under the law, work for twelve hours a day; North Carolina had sixty-six mills where twelve year old children could do twelve hours' night work under the law. Although this situation was somewhat remedied later, the advocates of reform were resisted at every point by the interested parties who contended that in competing with New England, the southern states had to take advantage of every opportunity, even at the expense of the children.

The situation may be described in the language of the chief factory inspector of Ohio: "Industrially as well as geographically we of the Ohio Valley are one people and our laws should be uniform, not only that they may be the easier enforced, but in justice to the manufacturers who pursue the same industry in the several states and therefore come into close competition with one another." Moreover, if a state enacts an important industrial law, it may find its work in vain as the result of a decision of the national Supreme Court, or of the state courts, interpreting the Fourteenth Amendment.

Another example of a national interest which is wholly beyond the reach of the Federal government, under a judicial decision reached in the case of *Paul v. Virginia* in 1868, is that of insurance. Although Hamilton and earlier writers on the Constitution believed that the insurance business was a branch of interstate commerce whose regulation was vested in Congress, the Supreme

Court in this case dealing with fire insurance declared that the act of issuing a policy of insurance was not a transaction of commerce. "The policies," said the Court, "are simple contracts of indemnity against loss by fire, entered into between the corporations and the assured for a consideration paid by the latter. These contracts are not articles of commerce in any proper meaning of the word; they are not subjects of trade and barter offered in the market as something having an existence and value independent of the parties to them. . . . Such contracts are not interstate transactions, though the parties may be domiciled in different states. . . . They are then local transactions and are governed by the local laws. They do not constitute a part of the commerce between the states any more than a contract for the purchase and sale of goods in Virginia by a citizen of New York whilst in Virginia would constitute a portion of such commerce."

As a result of this narrow interpretation of the commerce clause, the vast insurance business of the country, national in character, was put beyond the reach of Congress, and at the mercy of the legislatures of the several commonwealths. Under these circumstances, the insurance laws of the United States were in splendid chaos. "If a compilation of these laws were attempted," says Mr. Huebner, "a most curious spectacle would result. It would be found that fifty-two states and territories are all acting along independent lines and that each, as has been correctly said, possessed its own schedule of taxations, fees, fines, penalties, obligations and prohibitions, and a retaliatory or reciprocal

provision enabled it to meet the highest charges any other state may require of the companies of any other states."

A still better example of confusion in our system is offered by the corporation laws of the several states. Great industrial corporations are formed under state laws. While many contend that Congress has the power to compel the Federal incorporation of all concerns doing an interstate business and thus to occupy the whole domain of corporation law involving interstate commerce, this radical step has not yet been taken. Congress has confined itself to the more or less fruitless task of forbidding combinations in restraint of interstate trade.

Under these circumstances, there appeared the anomalous condition of states actually advertising in the newspapers and bidding against each other in offering the corporations special opportunities and low fees for the privilege of incorporating. If the conscience of one state became enlightened and a strict corporation law was enacted, the result was simply to drive the irregular concerns into some other state which was willing to sell its privileges for the small fee of incorporation, and ask no questions. As might have been expected, every variety of practice existed in the forty-eight jurisdictions in which corporations might be located.

Not only was there the greatest diversity in these practices, but special discriminations were often made in particular states against concerns incorporated in other states; and on top of all this there was a vast mass of antitrust legislation, frequently drastic in character or loose and futile. Often it was the product of a popular clamor against large business undertakings,

and often it was the result of the effort of legislators to "strike" at corporations. Whatever the underlying motive, it was generally characterized at the outset by lack of uniformity and absence of any large view of public policy, and then it was glossed over by judicial decisions, state and Federal, until it was a fortunate corporation official, indeed, who knew either his rights or his duties under the law. Moreover, it was a particularly obtuse attorney who could not lead his client unscathed through this wonderland of legal confusion.

The position of railway corporations, if possible, was more anomalous still. Their interstate business was subject to the regulations of Congress and their intrastate business to the control of the state legislatures. Although there existed, in theory, a dividing line between these two classes of business, there were always arising concrete cases where it was difficult to say on which side of the line they would fall in the opinion of the Supreme Court. States were constantly being enjoined on the application of the railways for their "interference with interstate commerce"; and when far-reaching legislation was proposed in Congress, the cry went up that the rights of states were being trampled upon. If X shipped a carload of goods to Y within the borders of his state, he paid one rate; if he shipped it to Z, two miles farther on in another state, he paid a different rate, perhaps less than in the first instance. In a number of states companies owning parallel lines might consolidate; in others, consolidation was forbidden. According to a report of the Interstate Commerce Commission in 1902, the states were equally di-

vided on this proposition as to the consolidation of competing lines. According to the same report, if a railway company was guilty of unjust discrimination in one state, it paid a fine of \$50, and in other states it was mulcted to the tune of \$25,000. At the same time, whoever obstructed a railway track in Mississippi was liable to three months in jail; for the same offense in New York he might get three years; if, perchance, after serving three years and three months in these two commonwealths, he tried the experiment again in Wyoming, he might in the mercy of the court be sentenced to death.

A further element of confusion was added by the intervention of the Federal judiciary in declaring state laws invalid, not merely when they conflicted clearly with the execution of Federal law, but on constitutional grounds which meant, for practical purposes, whenever the said laws were not in harmony with the ideas of public policy entertained by the courts at the time. The Federal judiciary in regard to state legislation relative to corporations was, therefore, a destructive, not a constructive, body. To use the language of the street, state legislation was simply "shot to pieces" by judicial decisions. That which was chaotic, disjointed, and founded upon no uniformity of purpose or policy to begin with was riddled and torn by a body which had no power for positive action.

As the Interstate Commerce Commission declared in 1903, "One of the chief embarrassments in the exercise of adequate government control over the organization, the construction, and the administration of railways in

the United States is found in the many sources of statutory authority recognized by our form of government. The Federal Constitution provides for uniformity in statutory control, so far as interstate commerce is concerned, but it does not touch commerce within the states, nor, as at present interpreted, does it cover the organization of railroad corporations or the construction of railroad properties. These matters, as well as the larger part of that class of activities included under the police jurisdiction, are left to the states. Such being the case, the development of an harmonious and uniform railroad system must be attained, if at all, by one of two methods. The states must relinquish to the Federal government their reserved rights over internal commerce, or having first agreed upon fundamental principles, they must, through comity and convention, work out an harmonious system of statutory regulation."

This was the situation that called forth the demand for the national regulation of large corporate enterprises, and brought about the demand for a strengthening of the Federal government, either by a constitutional amendment or judicial interpretation, which received the name of "New Nationalism." Wide currency was given to this term by Mr. Roosevelt, in his speech delivered at Ossawatimie on August 31, 1910. After outlining a legislative policy which he deemed to be demanded by the changed economic conditions of our time, Mr. Roosevelt attacked the idea of "a neutral zone between the national and state legislatures," guarded only by the Federal judiciary; and pleaded for

the strengthening of the Federal government so as to make it competent for every national purpose.

“There must remain no neutral ground,” he said, “to serve as a refuge for lawbreakers, and especially for lawbreakers of great wealth, who can hire the vulpine legal cunning which will teach them how to avoid both jurisdictions. It is a misfortune when the national legislature fails to do its duty in providing a national remedy so that the only national activity is the purely negative activity of the judiciary in forbidding the state to exercise the power in the premises.

“I do not ask for overcentralization; but I do ask that we work in a spirit of broad and far-reaching nationalism when we work for what concerns our people as a whole. We are all Americans. Our common interests are as broad as the continent. I speak to you here exactly as I would speak in New York or Georgia, for the most vital problems are those which affect us all alike. The national government belongs to the whole American people, and where the whole American people are interested, that interest can be guarded effectively only by the national government. The betterment which we seek must be accomplished, I believe, mainly through the national government.

“The American people are right in demanding that New Nationalism without which we cannot hope to deal with new problems. The New Nationalism puts the national need before sectional or personal advantages. It is impatient of the utter confusion that results from local legislatures attempting to treat national issues as local issues. It is still more impatient of the impotence

which springs from overdivision of government powers, the impotence which makes it impossible for local selfishness or for legal cunning, hired by wealthy special interests, to bring national activities to a deadlock. This New Nationalism regards the executive power as the steward of the public welfare. It demands of the judiciary that it shall be interested primarily in human welfare rather than in property, just as it demands that the representative body shall represent all the people rather than any one class or section of the people."



## CHAPTER XII

### MR. TAFT AND REPUBLICAN DISINTEGRATION

IN spite of the stirring of new economic and political forces which marked Mr. Roosevelt's administration and his somewhat radical utterances upon occasion, there was no prominent leader in the Republican party in 1908, except Mr. La Follette of Wisconsin, who was identified with policies which later came to be known as "progressive." Although Mr. Hughes, as governor of New York, had enlisted national interest in his "fight with the bosses," he was, by temperament, conservative rather than radical, and his doctrines were not primarily economic in character. Other Republican aspirants were also of a conservative cast of mind, Mr. Fairbanks, of Indiana, Mr. Knox, of Pennsylvania, Mr. Cannon, of Illinois, all of whom were indorsed for the presidency by their respective states. The radical element among the Republicans hoped that Mr. Roosevelt would consent to accept a "second elective term"; but his flat refusal put an end to their plans for re-nomination.

Very early in his second administration, Mr. Roosevelt made it clear that he wanted to see Mr. W. H. Taft, then Secretary of War, designated as his successor; and by the judicious employment of publicity and the proper management of the Federal patronage and the

southern Republican delegates, he materially aided in the nomination of Mr. Taft at Chicago, in June, 1908. The Republican platform of that year advocated a revision of the tariff, not necessarily downward, but with a due regard to difference between the cost of production at home and abroad; it favored an amendment of the Sherman anti-trust law in such a manner as to give more publicity and the Federal government more supervision and control; it advocated the regulation of the issuance of injunctions by the Federal courts; it indorsed conservation and pledged the party to "unfailing adherence" to Mr. Roosevelt's policies. This somewhat noncommittal platform was elaborated by Mr. Taft in his speech, after a conference with Mr. Roosevelt; the popular election of Senators was favored, an income tax of some kind indorsed, and a faintly radical tinge given to the party document.

The nomination of Mr. Bryan by the Democrats was a foregone conclusion. The débâcle of 1904 had demonstrated that the breach of 1896 could not be healed by what the western contingent called "the Wall Street crowd"; and Mr. Bryan had secured complete control of the party organization. The convention at Denver was a personal triumph from beginning to end. Mr. Bryan mastered the proceedings and wrote the platform, and received the most telling ovation ever given to a party leader by a national convention.

Having complete control, Mr. Bryan attempted what the politicians who talked most aggressively about the trusts had consistently refused to do — he attempted to define and precisely state the remedies for objection-

able combinations. Other leaders had discussed "good and "bad" trusts, but they had not attempted the mathematics of the problem. In the platform of his party, Mr. Bryan wrote: "A private monopoly is indefensible and intolerable. We therefore favor the vigorous enforcement of the criminal law against guilty trust magnates and officials and demand the enactment of such additional legislation as may be necessary to make it impossible for private monopoly to exist in the United States. In this paragraph, there is of course nothing new; but it continues: "Among the additional remedies we specify three: first, a law preventing the duplication of directors among competing corporations; second, a license system which will, without abridging the rights of each state to create corporations or its right to regulate as will foreign corporations doing business within its limits, make it necessary for a manufacturing or trading corporation engaged in interstate commerce to take out a federal license before it shall be permitted to control as much as 25 per cent of the product in which it deals, a license to protect the public from watered stock and to prohibit the control by such corporation of more than 50 per cent of the total amount of any product consumed in the United States; and third, a law compelling such licensed corporations to sell to all purchasers in all parts of the country on the same terms after making due allowance for cost of transportation."

In dealing with railway corporations, the Democratic platform proposed concretely the valuation of railway property taking into consideration the physical as well as other elements; an increase in the power of the Interstate

Commerce Commission, giving it the initiative with reference to rates and transportation charges and the power to declare any rate illegal on its own motion, and to inspect railway tariffs before permitting them to go into effect; and finally an efficient supervision and regulation of railroads engaged in interstate commerce.

Mr. Bryan's proposals, particularly with regard to trusts, were greeted with no little derision on the part of many practical men of affairs, but they had, at least, the merit of being more definite in character than any statement of anti-trust policy which had been made hitherto, except by the Socialists in advocating public ownership. The Republicans, for example, contented themselves with simply proposing the amendment of the Sherman law in such a manner as to "give to the federal government greater supervision and control over and secure greater publicity in the management of that class of corporations engaged in interstate commerce having power and opportunity to effect monopolies."

The campaign of 1908 was without any specially dramatic incidents. The long stumping tours by all candidates did not seem to elicit the old-time enthusiasm. The corporation interests that had long financed the Republican party once more poured out treasure like water (as the Clapp investigation afterward revealed in 1912); and Mr. Bryan attempted a counter-movement by asking for small contributions from each member of his party, but he was sadly disappointed by the results. The Democratic national committee announced that it would receive no contributions from corporations, that it would accept no more than \$10,000 from any indi-

vidual, and that it would make public, before the election all contributions above \$100. Mr. Bryan also challenged Mr. Taft to make public the names of the contributors to his fund and the amount received from each. The Republican managers replied that they would make known their contributors in due time as required by the law of the state of New York where the headquarters were located, and Mr. Taft added that he would urge upon Congress the enactment of a law compelling full publicity of campaign contributions.<sup>1</sup>

In the election which followed, Mr. Bryan was defeated for the third time. His vote was somewhat larger than it was in 1900, and nearly a million and a half above that cast for Mr. Parker in 1904. But Mr. Taft more than held the strength of his predecessor as measured by the popular vote, and he received 32 electoral votes against 162 cast for his opponent. Once more, the conservative press announced, the country had repudiated Populism and demonstrated its sound conservative instincts.

When Mr. Taft took the oath of office on March 4, 1909, he fell heir, on his own admission, to more troublesome problems than had been the lot of any President since Lincoln's day. His predecessor had kept the country interested and entertained by the variety of his speeches and recommendations and by his versatility in dealing with all the social questions which were press-

<sup>1</sup> Congress by an act of 1907 forbade campaign contributions by corporations, in connection with Federal elections, and in 1910 and 1911 enacted laws providing for the publicity of expenses in connection with elections to Congress.

ing to the front during his administration. Mr. Roosevelt was brilliant in his political operations, although he had been careful about attempting to bring too many things to concrete issue. Mr. Taft was matter-of-fact in his outlook and his expectations. The country had been undergoing a process of education, as he put it, and now the time had come for taking stock. The time had come for putting the house in order and settling down to a period of rest. If there were signs on the horizon which warned Mr. Taft against this comfortable view, his spoken utterances gave no sign of recognition.

### *Legislative Measures*

The first task which confronted him was the thorny problem of the tariff. His predecessor had given the matter little attention during his administration, apparently for the reason that it was, in his opinion, of little consequence as compared with the questions of railways, trusts, great riches, and labor. But action could not be indefinitely postponed. Undoubtedly there was a demand in many parts of the country for a tariff revision. How widespread it was, how much it was the creation of the politicians, how intelligent and deep-seated it was, no one could tell. Nevertheless, more than ten years had elapsed since the enactment of the Dingley law of 1897, and many who did not entertain radical views on the subject at all joined in demanding a revision on the ground that conditions had materially changed. The Republican platform had promised revision on the basis that the true principle of protec-

tion was best maintained by the imposition of such duties "as will equal the difference between the cost of production at home and abroad, together with a reasonable profit to American industries." Mr. Taft in his speech of acceptance had promised revision, on the theory that some schedules were too high and others too low; and his language during the campaign had been interpreted to mean a more severe downward revision than he had doubtless contemplated.

In accordance with party pledges Mr. Taft called Congress in a special session on March 11, 1909, and after a hotly contested battle the Payne-Aldrich tariff act was passed. The President made no considerable effort to force the hand of Congress one way or the other, and he accepted the measure on the theory that it was the best tariff law that could be got at the time. Indeed, it was pointed out by members of his party that the bill contained "654 decreases in duty, 22 increases, and 1150 items of the dutiable list in which the rates were unchanged." It was also stated that the bill was framed in accordance with the spirit of the party platform which had made no promise of a general sweeping reduction. It was admitted, however, that precise information upon the difference between the cost of production at home and abroad could not have been obtained in time for this revision, but a tariff board was created by law for the purpose of obtaining the desired information, on the basis of which readjustment in schedules could be made from time to time.

On April 9, 1909, the Payne tariff act passed the House, one Republican voting against it and four Democ

crats from Louisiana voting in favor of it. This vote, however, was of no significance; the real test was the vote on the several amendments proposed from time to time to the original bill, and on these occasions the Democratic lines were badly broken. On April 12, Mr. Aldrich introduced in the Senate a tariff bill which had been carefully prepared by the finance committee of which he was chairman. This measure followed more closely the Dingley law, making no recommendations concerning some of the commodities which the House had placed on the free list, and passing over the subject of income and inheritance taxes without remark. The Aldrich measure was bitterly attacked by insurgent Republicans from the West, — Senators Dolliver and Cummins, of Iowa, La Follette, of Wisconsin, Beveridge, of Indiana, and Bristow, of Kansas, — who held out to the last and voted against the bill, even as amended, on its final passage, July 8. The conference committee of the two Houses settled their differences by July 30, and on August 5 the tariff bill became a law.

There were several features of the transaction which deserve special notice. Very early in the Senate proceedings on the bill, an income tax provision was introduced by Senators Cummins and Bailey, and it looked as if enough support could be secured from the two parties to enact it into law. Although President Taft, in his acceptance speech, had expressed an opinion to the effect that an income tax could be constitutionally enacted notwithstanding the decision of the Supreme Court in the Income Tax cases, he blocked the proposal to couple an income tax measure with the tariff bill,



by sending a special message on June 16, recommending the passage of a constitutional amendment empowering Congress to levy a general income tax, and advising a tax on the earnings of corporations. His suggestions were accepted by Congress. The proposed amendment to the Constitution was passed unanimously by the Senate, and by an overwhelming majority in the House,<sup>1</sup> and a tax on the net incomes of corporations was also adopted. A customs court to be composed of five judges to hear appeals in customs cases was set up, and a tariff commission to study all aspects of the question, particularly the differences between cost of production in the United States and abroad, was created.

Revision of the tariff had always been a thankless task for any party. The Democrats had found it such in 1894 when their bill had failed to please any one, including President Cleveland, and when for collateral or independent reasons a period of industrial depression had set in. The McKinley bill of 1890 had aroused a storm of protest which had swept the Republicans out of power, and it is probable that the Dingley tariff of 1897 would have created similar opposition if it could have been disentangled from the other overshadowing issues growing out of the Spanish War. The Payne-Aldrich tariff likewise failed to please; but its failure was all the more significant because its passage was opposed by such a large number of prominent party members. The Democrats, as was naturally to be expected, made all they could out of the situation, and

<sup>1</sup>The Sixteenth Amendment was proclaimed in force on February 25 1913.

cried "Treason." Even what appeared to be a concession to the radicals, the adoption of a resolution providing for an amendment to the Constitution authorizing the imposition of an income tax, was not accepted as a consolation, but was looked upon as a subterfuge to escape the probable dilemma of having an income tax law passed immediately and submitted to the Supreme Court again.

Notwithstanding the dissensions within his party, Mr. Taft continued steadily to press a legislative policy which he had marked out. In a special message on January 7, 1910, he recommended the creation of a court of commerce to have jurisdiction, among other things, over appeals from the Interstate Commerce Commission. This proposal was enacted into law on June 18, 1910; and the appointments were duly made by the President. The career of the tribunal was not, however, particularly happy. Some of its decisions against the rulings of the Commission were popularly regarded as too favorable to railway interests; one of the judges, Mr. Archbald, of Pennsylvania, was impeached and removed on the ground that his private relations with certain railway corporations were highly questionable; and at length Congress in 1913 terminated its short life.

Acting upon a recommendation of the President, Congress, in June, 1910, passed a law providing for the establishment of a postal savings system in connection with the post offices. The law authorized the payment of two per cent interest on money deposited at the designated post offices and the distribution of all such

deposits among state and national banks under the protection of bonds placed with the Treasurer of the United States. The scheme was applied experimentally at a few offices and then rapidly extended, until within two years it was in operation at more than 12,000 offices and over \$20,000,000 was on deposit. The plan which had been branded as "socialistic" a few years before when advocated by the Populists was now hailed as an enlightened reform, even by the banks as well as business men, for they discovered that it brought out secret hoardings and gave the banks the benefit at a low rate of interest — lower than that paid by ordinary savings concerns.

The postal savings system was shortly supplemented by a system of parcels post. Mr. Taft strongly advocated the establishment of such a system, and it had been urged in Congress for many years, but had been blocked by the opposition of the express companies, for obvious reasons, and by country merchants who feared that they would be injured by the increased competition of the mail order departments of city stores. Finally, by a law approved on August 24, 1912, Congress made provision for the establishment of this long-delayed service, and it was put into effect on January 1, 1913, thus enabling the United States to catch up with the postal systems of other enlightened nations. Although the measure was sharply criticized for its rates and classifications, it was generally approved and regarded as the promising beginning of an institution long desired.

While helping to add these new burdens to the post-office administration, Mr. Taft directed his attention to

the urgent necessity for more businesslike methods on the part of the national administration in general, and, on his recommendation, Congress appropriated in 1910 \$100,000 "to enable the President to inquire into the methods of transacting the public business of the Executive Department and other government establishments, and to recommend to Congress such legislation as may be necessary." A board of experts, known as the Economy and Efficiency Commission, was thereupon appointed, and it set to work examining the several branches of administration with a view to discovering wasteful and obsolete methods in use and recommending changes and practices which would result in saving money and producing better results. Among other things, the Commission undertook an examination of the problem of a national budget along lines followed by the best European governments, and it suggested the abandonment of the time-honored "log-rolling" process of making appropriations, in favor of a consistent, consolidated, and businesslike budget based upon national needs and not the demands of localities for Federal "improvements," regardless of their utility.

Although he was sharply attacked by the advocates of conservation for appointing and supporting as Secretary of the Interior, Mr. R. A. Ballinger, who was charged with favoring certain large corporations seeking public land grants, Mr. Taft devoted no little attention to the problem of conserving the natural resources. In 1910, Congress enacted two important laws bearing on the subject. By a measure approved June 22, it provided for agricultural entries on coal lands and the

separation of the surface from the mineral rights in such lands. By another law, approved three days later, Congress made provision for the withdrawal of certain lands for water-power sites, irrigation, classification of lands, and other public purposes. These laws settled some questions of legality which had been raised with reference to earlier executive action in withdrawing lands from entry and gave the President definite authority to control important aspects of conservation.

From the opening of his administration Mr. Taft used his influence in every legitimate way to assist in the development of the movement for international peace. In his acceptance speech, at the opening of his campaign for election, he had remarked upon the significance and importance of the arbitration treaties which had been signed between nations and upon the contribution of Mr. Roosevelt's administration to the cause of world peace. Following out his principles, Mr. Taft signed with France and England in August, 1911, general arbitration treaties expanding the range of the older agreements so as to include all controversies which were "justiciable" in character, even though they might involve questions of "vital interest and national honor." The treaties, which were hailed by the peace advocates with great acclaim, met a cold reception in the Senate which ratified them on March 7, 1912, only after making important amendments that led to their abandonment.

Among the most significant of Mr. Taft's acts were his appointments of the Supreme Court judges. On the death of Chief Justice Fuller, in 1910, he selected for that

high post Associate Justice White. In the course of his administration, Mr. Taft also had occasion to select five associate justices, and he appointed Mr. Horace H. Lurton, of Tennessee, Charles E. Hughes, governor of New York, Mr. Willis Van Devanter, of Wyoming, Mr. Joseph R. Lamar, of Georgia, and Mr. Mahlon Pitney, of New Jersey. Thus within four years the President was able to designate a majority of the judges of the most powerful court in the world, and to select the Chief Justice who presided over it.

It was hardly to be expected that the exercise of such a significant power would escape criticism, particularly in view of the nature of the cases which are passed upon by that Court. Mr. Bryan was particularly severe in his attacks, charging the President with deliberately packing the Court. "You appointed to the Chief Justiceship of the Supreme Court," he said, "Justice White who thirteen years ago took the trusts' side of the trust question.<sup>1</sup> . . . You appointed Governor Hughes to the Supreme Court bench after he had interpreted your platform to suit the trusts." Mr. Bryan also demanded that Mr. Taft let the people know "the influences" that dictated his appointments. Mr. Bryan attacked particularly the selection of Mr. Van Devanter, declaring that the latter, by his decisions in the lower court, was a notorious favorite of corporation interests. Mr. Taft looked upon these attacks as insults to himself and the judges, and treated them with the scant courtesy which, in his opinion, they deserved. The episode, however, was of no little significance in stirring up pub-

<sup>1</sup> See below, p. 332.

lic interest in the constitution of a tribunal that was traditionally supposed to be "non-political" in its character.

### *The Anti-Trust Cases*

Mr. Taft approached the trust problem with the preconceptions of the lawyer who believes that the indefinite dissolution of combinations is possible under the law. His predecessor had, it is true, instituted many proceedings against trusts, but there was a certain lack of sharpness in his tone, which was doubtless due to the fact that he believed and openly declared that indiscriminate prosecutions under the Sherman law (which was, in his opinion, unsound in many features) were highly undesirable. Mr. Taft, on the other hand, apparently looked at the law and not the economics of the problem. During Harrison's administration there had been four bills in equity and three indictments under the Sherman law; during Cleveland's administration, four bills in equity, two indictments, two informations for contempt; during McKinley's administration, three bills in equity. Mr. Roosevelt had to his record, eighteen bills in equity, twenty-five indictments, and one forfeiture proceeding. Within three years, Mr. Taft had twenty-two bills in equity and forty-five indictments to his credit.

The very vigor with which Mr. Taft pressed the cases against the trusts did more, perhaps, to force a consideration of the whole question by the public than did Mr. Roosevelt's extended messages. As has been pointed out, the members of Congress who enacted the Sherman

law were very much confused in their notions as to what trusts really were and what combinations and practices were in fact to be considered in restraint of trade.<sup>1</sup> And it must be confessed that the decisions and opinions of the courts, up to the beginning of Mr. Taft's administration, had not done much to clarify the law. In the *Trans-Missouri* case, decided in 1897, the Supreme Court had declared in effect that all combinations in restraint of trade, whether reasonable or unreasonable, were in fact forbidden by the law, Justice White dissenting.<sup>2</sup>

This was not done by the Court inadvertently. Mr. Justice Peckham, speaking for the majority of the Court, distinctly marked the fact that arguments had been directed to that tribunal, "against the inclusion of all contracts in restraint of trade, as provided for by the language of the act . . . upon the alleged presumption that Congress, notwithstanding the language of the act, could not have intended to embrace all contracts, but only such as were in unreasonable restraint of trade. Under these circumstances we are, therefore, asked to hold that the act of Congress excepts contracts which are not in unreasonable restraint of trade, and which only keep rates up to a reasonable price, notwithstanding the language of the act makes no such exception. In other words, we are asked to read into the act by way of judicial legislation an exception that is not placed there by the lawmaking branch of the government. . . . It may be that the policy evidenced by the passage of the act itself will, if carried out, result in disaster to the

<sup>1</sup> See above, p. 135.

<sup>2</sup> *United States v. Trans-Missouri Freight Assn.*, 166 U. S. 290.



roads. . . . Whether that will be the result or not we do not know and cannot predict. These considerations are, however, not for us. If the act ought to read as contended for by the defendants, Congress is the body to amend it, and not this Court by a process of judicial legislation wholly unjustifiable."

It was no doubt fortunate for the business interests of the country that no earlier administration undertook a searching and drastic prosecution of combinations under the Sherman law; for in the view of the language of the Court it is difficult to imagine any kind of important interconcern agreement which would not be illegal. This very delay in the vigorous enforcement of the law enabled the country at large to take a new view of the trusts and to throw aside much of the prejudice which had characterized politics in the eighties and early nineties. The lawless practices of the great combinations and their corrupting influence were extensively discovered and understood; but it became increasingly difficult for demagogues to convince the public that any good could accrue to anybody from the ruthless attempts to disintegrate all large combinations in business. The more radical sections, which had formerly applauded the platform orator in his tirades against trusts, were turning away from indiscriminate abuse and listening more attentively than ever to the Socialists who held, and had held for half a century, to the doctrine that the trusts were a natural product of economic evolution and were merely paving the way to national ownership on a large scale.

Consequently, between the two forces, the represent-

atives of corporate interests on the one hand and the spokesmen for socialistic doctrines on the other, the old demand for the immediate and unconditional destruction of the trusts was sharply modified. Corporations came to see that undesirable as "government regulation" might be, it was still more desirable than destruction. They, therefore, drew to themselves a large support from sections of the population which did not share socialistic ideas, and still could see nothing but folly in attempting to resist what seemed to have the force of nature. Many working-class representatives ceased to wage war on the trusts as such, for they did not expect to get into the oil, copper, or steel business for themselves; and the farmers, on account of rising prices and a large appreciation in land values, listened with less gladness to the "war-to-the-hilt" orator. Nevertheless, a large section of the population, composed particularly of business men and manufacturers of the lesser industries, hoped to "reëstablish" what they called "fair conditions of competition" by dissolving into smaller units the huge corporations that dominated industry.

In response to this demand, Mr. Taft pushed through the cases against the Standard Oil Company and the American Tobacco Company; and in May, 1911, the Supreme Court handed down decisions dissolving these combinations. In the course of his opinions, Chief Justice White, who had dissented in the *Trans-Missouri* case mentioned above, gave an interpretation of the Sherman Act which was regarded quite generally as an abandonment of the principles enunciated by the Court in that case. He said: "The statute, under this

view, evidenced the intent not to restrain the right to make and enforce contracts, whether resulting from combinations or otherwise, which did not *unduly restrain* interstate and foreign commerce, but to protect the commerce from being restrained by methods, whether new or old, which would constitute an interference that is an *undue restraint*." Thus the Chief Justice restated the doctrine of "reasonableness" which he had formulated in his dissenting opinion in the earlier case, but this time as the spokesman of the Court. It is true, he attempted with great dialectic skill to reconcile the old and the new opinions, and make it appear that there had been no change in the theories of the Court; but his attempt was not convincing to every one, for many shared the view expressed by Justice Harlan, to the effect that the attempt at reconciliation partook of the nature of a statement that black is white and white is black.

The effect of these decisions was the dissolution of the two concerns into certain constituent parts which were supposed to reestablish competition; but no marvelously beneficial economic results seem to have accrued. The inner circles of the two combinations made huge sums from the appreciation of stocks; the prices of gasoline and some other oil products mounted with astonishing speed to a higher rate than ever before; and smaller would-be competitors declared that the constituent companies were so large that competition with them was next to impossible. No one showed any great enthusiasm about the results of the prosecution and decisions, except perhaps some eminent leaders in the business world, who shared the opinion of Mr. J. P.

Morgan that the doctrines of the Court were "entirely satisfactory," and to be taken as meaning that indiscriminate assaults on large concerns, merely because of their size, would not be tolerated by the Court. Radical "trust-breakers" cried aloud that they had been betrayed by the eminent tribunal, and a very large section of the population which had come to regard trusts as a "natural evolution" looked upon the whole affair as an anticlimax. Mr. Taft, in a speech shortly after the decisions of the Court, expressed his pleasure at the outcome of the action and invited the confidence of the country in the policy announced. He had carried a great legal battle to its conclusion, only to find those who cheered the loudest in the beginning, indifferent at the finish.

### *The Overthrow of Speaker Cannon*

From the beginning of his administration, it was apparent that Mr. Taft's party in Congress was not in that state of harmony which presaged an uneventful legislative career. The vote on the tariff bill, both in the Senate and the House, showed no little dissatisfaction with the way in which the affairs of the party were being managed. The acrimony in the tariff debate had been disturbing, and the attacks on Speaker Cannon from his own party colleagues increased in frequency and virulence inside and outside of Congress.

Under this astute politician and keen parliamentary manager, a system of legislative procedure had grown up in the House, which concentrated the management of

business in the hands of a few members, while preserving the outward signs of democracy within the party. The Speaker enjoyed the power of appointing all of the committees of the House and of designating the chairmen thereof. Under his power to object to a request for "unanimous consent," he could refuse to recognize members asking for the ear of the chamber under that privilege. He, furthermore, exercised his general right of recognition in such a manner as to favor those members who were in the good graces of the inner circle, which had naturally risen to power through long service.

In addition, there had been created a powerful engine, known as the "rules committee" which could, substantially at any time, set aside the regular operations of the House, fix the limits of debate, and force the consideration of any particular bill. This committee was composed of the Speaker and two colleagues selected by himself, for, although there were two Democratic representatives on the committee, they did not enjoy any influence in its deliberations. The outward signs of propriety were given to this enginery by the election of the Speaker by the party caucus, but the older members and shrewd managers had turned the caucus into a mere ratifying machine.

Under this system, which was perfected through the long tenure of power enjoyed by the Republicans, a small group of managers, including Mr. Cannon, came to a substantial control over all the business of the House. A member could not secure recognition for a measure without "seeing" the Speaker in advance; the older members monopolized the important committees;

and a measure introduced by a private member had no chance for consideration, to say nothing of passage, unless its sponsor made his peace with the party managers. This system was by no means without its advantages. It concentrated authority in a few eminent party spokesmen and the country came to understand that some one was at last responsible for what happened in the House. The obvious disadvantage was the use of power to perpetuate a machine and policies which did not in fact represent the country or the party. Furthermore, the new and younger members could not expect to achieve anything until they had submitted to the proper "party discipline."

If anything went wrong, it soon became popular to attribute the evil to "Cannon and his system." Attacks upon them became especially bitter in the campaign of 1908 and particularly venomous after the passage of the Aldrich-Payne tariff act. At length, in March, 1910, by a clever piece of parliamentary manipulation, some "insurgent" Republicans were able to present an amendment to the rules ousting the Speaker from membership in the rules committee, increasing the number, and providing for election by the House. Mr. Cannon was forced to rule on the regularity of this amendment, and he decided against it. On appeal from the decision of the chair, the Speaker was defeated by a combination of Democrats and insurgent Republicans, and the committee on rules was reconstructed. A motion to declare the Speakership vacant was defeated, however, because only eight insurgents supported it, and accordingly Mr. Cannon was permitted to serve

out his term. Although this was heralded as "a great victory," it was of no consequence in altering the management of business in that session; but it was a solemn portent of the defeat for the Republican party which lay ahead in the autumn.

### *Dissensions*

The second half of Mr. Taft's administration was marked by the failure to accomplish many results on which he had set his mind. The election of 1910 showed that the country was swinging back to the Democratic party once more. In that year, the Democrats elected governors in Massachusetts, Connecticut, New York, New Jersey, Indiana, and some other states which had long been regarded as Republican. The Democrats also carried the House of Representatives, securing 227 members to 163 Republicans and 1 Socialist, Mr. Berger, of Wisconsin. Although many conservative Republican leaders, like Mr. Cannon, Mr. Payne, and Mr. Dalzell, were returned, their position in the minority was seriously impaired by the election of many "insurgent" Republicans from the West, who were out of harmony with the old methods of the party.

In view of this Democratic victory, it was inevitable that Mr. Taft should have trouble over the tariff. In accordance with the declarations of the Republican platform, he had recommended and secured the creation, in 1909, of a tariff board designed to obtain precise information on the relation of the tariff to production and labor at home and abroad. The work of this board fell

into three main divisions. It was, in the first place, instructed to take each article in the tariff schedule and "secure concise information regarding the nature of the article, the chief sources of supply at home and abroad, the methods of its production, its chief uses, statistics of production, imports and exports, with an estimate of the ad valorem equivalent for all specific duties." In the second place, it was ordered to compile statistics on the cost of production at home and abroad so that some real information might be available as to the difference, with a view to discovering the amount of protection necessary to accomplish the real purposes of a "scientific" tariff. Finally, the board was instructed to secure accurate information as to prices at home and abroad and as to the general conditions of competition in the several industries affected by the tariff.

If there was to be any protection at all, it was obvious that an immense amount of precise information was necessary to the adjustment of schedules in such a manner as not to give undue advantages to American manufacturers and thus encourage sloth and obsolete methods on their part. Such was the view taken by Mr. Taft and the friends of the tariff board; but the Democratic Congress elected in 1910 gave the outward signs of a determination to undertake a speedy and considerable "downward revision," regardless of any "scientific" information that might be collected by the administration. There was doubtless some demand in the country for such a revision, and furthermore it was "good politics" for the leaders of the new House to embarrass the Republican President as much as



possible. The opportunity was too inviting to be disregarded, particularly with a presidential election approaching.

Consequently, the House, in 1911, passed three important tariff measures: a farmers' free list bill placing agricultural implements, boots and shoes, wire fence, meat, flour, lumber, and other commodities on the free list; a measure revising the famous "Schedule K," embracing wool and woolen manufactures; and a law reducing the duties on cotton manufactures, chemicals, paints, metals, and other commodities. With the support of the "insurgent" Republicans in the Senate these measures were passed with more speed than was expected by their sponsors, and Mr. Taft promptly vetoed them on the ground that some of them were loosely drawn and all of them were based upon inadequate information. The following year, an iron and steel measure and a woolens bill were again presented to the President and as decisively vetoed. In his veto messages, Mr. Taft pointed out that the concise information collected by the tariff board was now at the disposal of Congress and that it was possible to undertake a revision of many schedules which would allow a considerable reduction without "destroying any established industry or throwing any wage earners out of employment." These last veto messages, sent in August, 1912, received scant consideration from members of Congress already engaged in a hot political campaign.

Mr. Taft was equally unfortunate in his attempt to secure reciprocity with Canada. In January, 1911, through the Secretary of State, he concluded a reciprocity

agreement with that country by the exchange of notes, providing for a free list of more than one hundred articles and a reduction of the tariff on more than four hundred articles. The agreement was submitted to the legislatures of the two countries. A bill embodying it passed the House, in February by a Democratic vote, the insurgent Republicans standing almost solidly against it, on the ground that it discriminated against the farmers by introducing Canadian competition, while benefiting the manufacturers who had no considerable competition from that source. The Senate failed to act on the bill until the next session of the new Congress when it was passed in July with twelve insurgent and twelve regular Republicans against it. After having wrought this serious breach in his own party in Congress, Mr. Taft was sorely disappointed by seeing the whole matter fall to the ground through the overthrow of the Liberals in Canada at the election in September, 1911, and the rejection by that country of the measure for which he had so laboriously contended.

During the closing days of his administration, Mr. Taft was seriously beset by troubles with Mexico. Under the long and severe rule of General Porfirio Diaz in that country, order had been set up there (at whatever cost to humanity) and American capital had streamed into Mexican mines, railways, plantations, and other enterprises. In 1911, Diaz was overthrown by Francisco Madero and the latter was hardly installed in power before he was assassinated and a dictatorship set up under General Huerta, in February, 1913. After the overthrow of Diaz in 1911, Mexico was filled with

revolutionary turmoil, and American lives and property were gravely menaced. In April, 1912, Mr. Taft solemnly warned the Mexican government that the United States would hold it responsible for the destruction of American property and the taking of American life, but this warning was treated with scant courtesy by President Madero. The disorder continued to increase, and demands for intervention on the part of the United States were heard from innumerable interested quarters, but Mr. Taft refused to be drawn into an armed conflict. The Mexican trouble he bequeathed to his successor.

## CHAPTER XIII

### THE CAMPAIGN OF 1912

LONG before the opening of the campaign of 1912, the dissenters in the Republican party who had added the prefix of "Progressive" to the old title, began to draw together for the purpose of resisting the renomination of Mr. Taft and putting forward a candidate more nearly in accord with their principles. As early as January 21, 1911, a National Progressive Republican League was formed at the residence of Senator La Follette in Washington and a program set forth embracing the indorsement of direct primaries, direct elections, and direct government generally and a criticism of the recent failures to secure satisfactory legislation on the tariff, trusts, banking, and conservation. Only on the changes in our machinery of government did the League take a definite stand; on the deeper issues of political economy it was silent, at least as to positive proposals. Mr. Roosevelt was invited to join the new organization, but he declined to identify himself with it.

For a time the Progressives centered their attacks upon Mr. Taft's administration. Their bill of indictment may be best stated in the language of Senator La Follette: "In his campaign for election, he [Mr. Taft] had interpreted the platform as a pledge for tariff revi-

sion downward. Five months after he was inaugurated he signed a bill that revised the tariff upward. . . . The President started on a tour across the country in September, 1909. At the outset in an address at Boston he lauded Aldrich as the greatest statesman of his time. Then followed his Winona speech, in which he declared the Payne-Aldrich bill to be the best tariff ever enacted, and in effect challenged the Progressives in Congress who had voted against the measure. . . . During the succeeding sessions of Congress, President Taft's sponsorship for the administration railroad bill, with its commerce court, its repeal of the anti-trust act in its application to railroads, its legalizing of all watered railroad capitalization; his course regarding the Ballinger and Cunningham claims, and the subterfuges resorted to by his administration in defense of Ballinger; his attempt to foist upon the country a sham reciprocity measure; his complete surrender to the legislative reactionary program of Aldrich and Cannon and the discredited representatives of special interests who had so long managed congressional legislation, rendered it utterly impossible for the Progressive Republicans of the country to support him for reëlection." <sup>1</sup>

A second positive step in the organization of the Progressive Republicans was taken in April, 1911, at a conference held in the committee room of Senator Bourne, of Oregon, at the Capitol. At this meeting a number of Republican Senators, Representatives, newspaper men, and private citizens were present, and it was there agreed that the Progressives must unite upon some can-

<sup>1</sup> *Autobiography*, p. 476.

didate in opposition to Mr. Taft. The most available man at the time was Senator La Follette, who had been an uncompromising and vigorous exponent of progressive doctrines since his entrance to the Senate in 1906; and the members of this conference, or at least most of them, assured him of their support in case he would consent to become a candidate for nomination. The Senator was informed by men very close to Mr. Roosevelt that the latter would, under no circumstances, enter the field; and he was afforded the financial assistance necessary to open headquarters for the purpose of advancing his candidacy. No formal announcement of the adherence of the group to Mr. La Follette was then made, for the reason that Senator Cummins, of Iowa, and some other prominent Republicans declined to sign the call to arms.<sup>1</sup>

In July, 1911, Senator La Follette began his active campaign for nomination as an avowed Progressive Republican, and within a few months he had developed an unexpected strength, particularly in the Middle West, which indicated the depth of the popular dissatisfaction with Mr. Taft's administration. In October of that year a national conference of Progressive Republicans assembled at Chicago, on the call of Mr. La Follette's campaign manager, and indorsed the Senator in unmistakable language, declaring him to be "the logical Republican candidate for President of the United States," and urging the formation of organizations in all states to promote his nomination. In spite of these outward signs of prosperity, however, Mr. La Follette

<sup>1</sup> La Follette, *Autobiography*, pp. 516 ff.

was by no means sure of his supporters, for several of the most prominent, including Mr. Gifford Pinchot and Mr. James R. Garfield, were not whole-hearted in their advocacy of his cause and were evidently unwilling to relinquish the hope that Mr. Roosevelt might become their leader after all.

Indeed, Senator La Follette came to believe that many of his supporters, who afterward went over to Mr. Roosevelt, never intended to push his own candidacy to the end, but employed him as a sort of "stalking horse" to interest and measure progressive sentiment for the purpose of putting the ex-President into the field at the opportune moment, if the signs proved auspicious. This was regarded by Mr. La Follette not merely as treachery to himself, but also as treason to genuine progressive principles. In his opinion, Mr. Roosevelt's long administration of seven years had failed to produce many material results. He admitted that the ex-President had done something to promote conservation of natural resources, but called attention to the fact that the movement for conservation had been begun even as early as Harrison's administration.<sup>1</sup> He pointed out that Mr. Roosevelt had vigorously indorsed the Payne-Aldrich tariff in the New York state campaign of 1910; and that during his administration the formation and overcapitalization of gigantic combinations had gone forward with unprecedented speed, in spite of the denunciation of "bad trusts" in executive messages. Furthermore, the Senator directly charged Mr. Roosevelt with having used the power of the Federal patron-

<sup>1</sup> *Autobiography*, pp. 480 ff., 543 f., 551, 700, 740.

age against him in his fight for progressive reforms in Wisconsin.

So decided was Senator La Follette's distrust of Mr. Roosevelt's new "progressivism," that nothing short of a lengthy quotation can convey the spirit of it. "While Mr. Roosevelt was President," says the Senator, "his public utterances through state papers, addresses, and the press were highly colored with rhetorical radicalism. His administrative policies as set forth in his recommendations to Congress were vigorously and picturesquely presented, but characterized by an absence of definite economic conception. One trait was always pronounced. His most savage assault upon special interests was invariably offset with an equally drastic attack upon those who were seeking to reform abuses. These were indiscriminately classed as demagogues and dangerous persons. In this way he sought to win approval, both from the radicals and the conservatives. This cannonading, first in one direction and then in another, filled the air with noise and smoke, which confused and obscured the line of action, but when the battle cloud drifted by and quiet was restored, it was always a matter of surprise that so little had really been accomplished. . . . He smeared the issue, but caught the imagination of the younger men of the country by his dash and mock heroics. Taft coöperated with Cannon and Aldrich on legislation. Roosevelt coöperated with Aldrich and Cannon on legislation. Neither President took issue with the reactionary bosses of the Senate upon any legislation of national importance. Taft's talk was generally in line with his legis-



lative policy. Roosevelt's talk was generally at right angles to his legislative policy. Taft's messages were the more directly reactionary; Roosevelt's the more 'progressive.' But adhering to his conception of a 'square deal,' his strongest declarations in the public interest were invariably offset with something comforting for Privilege; every phrase denouncing 'bad' trusts was deftly balanced with praise for 'good' trusts." It is obvious that a man so deeply convinced of Mr. Roosevelt's insincerity of purposes and instability of conviction could not think of withdrawing in his favor or of lending any countenance to his candidacy for nomination. To Senator La Follette the "directly reactionary" policy of Mr. Taft was far preferable to the "mock heroics" of Mr. Roosevelt.

Nevertheless, at the opening of the presidential year, 1912, all speculations turned upon the movements of Mr. Roosevelt. His long trip to Africa and Europe and his brief abstention from politics on his return in June, 1910, led many, who did not know him, to suppose that he might emulate the example set by Mr. Cleveland in retiring from active affairs. If he entertained any such notions, it was obvious that the exigencies of affairs in his party were different from those in the Democratic party after 1897. Indeed, during the very summer after his return, the cleavage between the reformist Hughes wing of the Republicans in New York and the "regular" group headed by Mr. William Barnes had developed into an open breach; and at the earnest entreaty of the representatives of the former faction, Mr. Roosevelt plunged into the state contest, defeated Vice President

Sherman in a hot fight for chairmanship of the state convention, and secured the nomination of Mr. H. A. Stimson as the Republican candidate for governor. The platform which was adopted by the convention was colorless enough for the most conservative party member and gave no indication of the radical drift manifested two years later at Chicago. The defeat of Mr. Stimson gave no little satisfaction to the ex-President's opponents, particularly to those who hoped that he had at last been "eliminated."

They had not, however, counted on their man. During the New York gubernatorial campaign, he made a tour of the West, and in a series of remarkable speeches, he stirred that region by the enunciation of radical doctrines which were listened to gladly by the multitude. In an address at Ossawatimie, Kansas, on August 31, 1910, he expounded his principles under the title of "the New Nationalism." He there advocated Federal regulation of trusts, a graduated income tax, tariff revision schedule by schedule, conservation, labor legislation, the direct primary, recall of elective officers, and the adjustment of state and Federal relations in such a form that there might be no neutral ground to serve as the refuge for lawbreakers.<sup>1</sup> In editorials in the *Outlook*, of which he was the contributing editor, and in his speeches, Mr. Roosevelt continued to discuss Mr. Taft's policies and the current issues of popular government. At length, in February, 1912, in an address before the constitutional convention of Ohio, he came out for a complete program of "direct" government, the initia-

<sup>1</sup> See above, p. 314.

tive, referendum, and recall; but with such careful qualifications that the more radical progressives were still unconvinced.<sup>1</sup>

Notwithstanding his extensive discussion of current issues and his great popularity with a large section of the Progressive group, Mr. Roosevelt steadily put away all suggestions that he should become a candidate in 1912. In a letter to the *Pittsburgh Leader*, of August 22, 1911, he said: "I must ask not only you, but every friend I have, to see to it that no movement whatever is made to bring me forward for nomination in 1912. . . . I should esteem it a genuine calamity if such a movement were undertaken." Nevertheless, all along, men who were very close to him believed that he would not refuse the nomination if it were offered to him under proper circumstances. As time went on his utterances became more pronounced, particularly in his western speeches, and friendly as well as unfriendly newspapers insisted on viewing his conduct as a distinct appeal for popular support for the Republican nomination.

The climax came in February, 1912, when seven Republican Governors, Glasscock, of West Virginia, Aldrich, of Nebraska, Bass, of New Hampshire, Carey, of Wyoming, Stubbs, of Kansas, Osborn, of Michigan, and Hadley, of Missouri, issued a statement that the requirements of good government demanded his candidature, that the great majority of Republican voters desired it, that he stood for the principles and policies most conducive to public happiness and prosperity, and

<sup>1</sup> La Follette, *Autobiography*, p. 616.

finally that it was his plain duty to accept regardless of his personal interests or preferences. To this open challenge, he replied on February 24 by saying that he would accept the nomination if tendered and abide by this decision until the convention had expressed its preference. The only political doctrine which he enunciated was belief "in the rule of the people," and on this principle he expressed a desire for direct primaries to ascertain the will of the party members.

### *The Nomination of Candidates in 1912*

A new and unexpected turn was given to the campaign for nomination by the adoption of the preferential primary in a number of states, East as well as West. As we have seen, the direct primary<sup>1</sup> was brought into action by men who found themselves outside of the old party intrenchments. La Follette, in Wisconsin, Stubbs, in Kansas, Hughes, in New York, and the other advocates of the system, having failed to capture the old strongholds, determined to blow them up; the time had now come for an attack on the national convention. President Taft and the regular Republican organization were in possession of the enormous Federal patronage, and they knew how to use it just as well as had Mr. Roosevelt in 1908 when he forced the nomination of Mr. Taft. True to their ancient traditions, the Republican provinces in the South began, early in 1912, to return "representatives" instructed to vote for a second term for President Taft. But the Progressives were forearmed as well as forewarned.

<sup>1</sup> Above, p. 288.

As early as February 27, 1912, Senator Bourne had warned the country that the overthrow of "the good old ways" of nominating presidential candidates was at hand. In a speech on that date, he roundly denounced the convention and described the new Oregon system. He declared that nominations in national conventions were made by the politicians, and that the "electorate of the whole United States is permitted only to witness in gaping expectancy, and to ratify at the polls in the succeeding November." The flagrancy of this abuse, however, paled into insignificance, added Mr. Bourne, "in the presence of that other abuse against partisan conscience and outrage upon the representative system which is wrought by the Republican politician in hopelessly Democratic states and by the Democratic politician in hopelessly Republican states in dominating the national conventions with the presence of these unrepresentative delegations that represent neither party, people, nor principle."

The speaker then elaborated these generalities by reference to details. He pointed out that the southern states and territories which (except Maryland) gave no electoral votes to Mr. Taft had 338 delegates in the convention, only 153 less than a majority of the entire party assembly, four more than the combined votes of New York, Pennsylvania, Illinois, Ohio, Massachusetts, Indiana, and Iowa with 334 delegates. Moreover, equal representation of states and territories on the national committee and on the committee on credentials — the two bodies which, in the first instance, pass upon the rights of delegates to their seats — gave undue weight

to the very states where wrongs were most likely to be committed. As to the power of the Republican President of the United States to control these delegates from the South, the Senator was in no doubt.

To the anomalous southern delegates were added the delegates selected in northern states by the power of patronage. Mr. Bourne was specific: "Three years ago," he said, "we had a convincing exhibition of the power of a President to dictate the selection of his successor. At that time, three fourths of the Republican voters of my state were in favor of the renomination of Mr. Roosevelt, and believing that their wishes should be observed, I endeavored to secure a delegation from that state favorable to his nomination for a second elective term. But through the tremendous power of the Chief Executive and of the Federal machine the delegates selected by our state convention were instructed for Mr. Taft. After all the delegates were elected and instructed, a poll was taken by one of the leading newspapers in Portland, which city contains nearly one third of the entire population of the state. The result indicated that the preference of the people of the state was 11 to 1 in favor of Mr. Roosevelt as against Mr. Taft." It was this personal experience with the power of Federal patronage that induced Mr. Bourne to draft the Oregon presidential primary law which was enacted by the use of the initiative and referendum in 1910.

The provisions of the Oregon law follow :

(1) At the regular primary held on the forty-fifth day before the first Monday in June of the presidential year, each voter is given an opportunity to express his

preference for one candidate for the office of President and one for that of Vice President, either by writing the names or by making crosses before the printed names on the ballot.

(2) The names of candidates for the two offices are placed on the ballot without their consent, if necessary, by petitions filed by their supporters, just as in the case of candidates for governor and United States Senator.

(3) The committee or organization which places a presidential aspirant on the primary ballot is provided, on payment therefor, four pages in the campaign book issued by the state, and electors who oppose or approve of any such aspirant for nomination are likewise given space in the campaign book.

(4) Delegates to national conventions and presidential electors must be nominated at large at the primary.

(5) Every delegate is paid his expenses to the national convention; in no case, however, more than \$200.

(6) Every delegate must take an oath to the effect that he will "to the best of his judgment and ability faithfully carry out the wishes of his political party as expressed by its voters at the time of his election."

The initial move of Oregon to secure a preferential vote on candidates and the instruction of delegates was followed in 1911 by New Jersey, Nebraska, California, North Dakota, and Wisconsin, and in 1912 by Massachusetts, Illinois, and Maryland.

The other presidential primary laws show some varia-

tions on the Oregon plan although they agree in affording the voter an opportunity to express his preference. Nebraska, for example, refused to disregard the Republican system of district representation, and provided that "four delegates shall be elected by the voters of the state at large; the remainder of the delegates shall be equally divided between the various congressional districts in the state and district delegates shall be elected by the voters of the various congressional districts in the state." Massachusetts follows Nebraska in this rule, but California prefers the Oregon plan of election at large. It was this provision in the law of California that caused the controversy over the seating of two district delegates at Chicago in June, 1912. Although Mr. Roosevelt carried the state, one of the districts went for Mr. Taft, and the convention seated the delegates from this district, on the ground that the rules of the party override a state statute.

The Illinois law does not attempt to bind the delegates to a strict observance of the results of the primary. On the contrary it expressly states "that the vote for President of the United States as herein provided for shall be for the sole purpose of securing an expression of the sentiment and will of the party voters with respect to the candidate for nomination for said office, and the vote of the state at large shall be taken and considered as advisory to the delegates and alternates at large to the national conventions of the respective political parties; and the vote of the respective congressional districts shall be taken and considered as advisory to the delegates and alternates of the said congressional



districts to the national convention of the respective political parties.”

The existence of these laws in several strategic states made it necessary for the Republican and Democratic candidates to go directly before the voters to discuss party issues. The country witnessed the unhappy spectacle of two former friends, Mr. Taft and Mr. Roosevelt, waging bitter war upon each other on the hustings. The former denounced the Progressives as “political emotionalists or neurotics.” The latter referred to his candidacy in the words, “My hat is in the ring”; and during his campaign fiercely turned upon Mr. Taft. He gave to the public a private letter in which Mr. Taft acknowledged that Mr. Roosevelt had voluntarily transferred to him the presidential office, and added the comment, “It is a bad trait to bite the hand that feeds you.”

Mr. Roosevelt’s candidature was lavishly supported by Mr. G. W. Perkins, of the Steel and Harvester Trusts, and by other gentlemen of great wealth who had formerly indorsed Mr. Hanna’s methods; and all of the old engines of politics were brought into play. While making the popular appeal in the North, Mr. Roosevelt’s managers succeeded in securing a large quota of “representatives” from the southern Republican provinces to contest those already secured by Mr. Taft. As the matter was put by the *Washington Times*, a paper owned by Mr. Munsey, one of Mr. Roosevelt’s ardent supporters: “For psychological effect, as a move in practical politics, it was necessary for the Roosevelt people to start contests on these early Taft selections, in order

that a tabulation of strength could be put out that would show Roosevelt holding a good hand in the game. A table showing 'Taft, 150, Roosevelt, 19; contested none,' would not be likely to inspire confidence. Whereas one showing 'Taft, 23, Roosevelt, 19; contested, 127,' looked very different."

The results of the Republican presidential primaries were astounding. Mr. Roosevelt carried Illinois by a majority of 100,000; he obtained 67 of the 76 delegates from Pennsylvania; the state convention in Michigan broke up in a riot; he carried California by a vote of two to one as against Mr. Taft; he swept New Jersey and South Dakota; and he secured the eight delegates at large in Massachusetts, although Mr. Taft carried the preferential vote by a small majority. Connecticut and New York were strongly for Mr. Taft, and Mr. La Follette carried Wisconsin and North Dakota. Mr. Taft's supporters called attention to the fact that a very large number of Republicans had failed to vote at all in the preferential primaries, but they were speedily informed by the opposition that they would see the shallowness of this contention if they inquired into the number who voted for delegates to the conventions which indorsed Mr. Taft.

When the Republican convention assembled in Chicago, 252 of the 1078 seats were contested; 238 of these were held by Mr. Taft's delegates and 14 by Mr. Roosevelt's supporters. The national committee, after the usual hearings, decided the contests in such a manner as to give Mr. Taft a safe majority. No little ingenuity was expended on both sides to show the legality or the

illegality of the several decisions. Mr. Taft's friends pointed out that they had been made in a constitutional manner by the proper authority, the national committee "chosen in 1908 when Roosevelt was the leader of the party, at a time when his influence dominated the convention." Mr. Roosevelt's champions replied by cries of "fraud." Independent newspapers remarked that there was no more "regularity" about one set of southern delegates than another; that the national committee had followed the example set by Mr. Roosevelt when he forced Mr. Taft's nomination in 1908 by using southern delegations against the real Republican states which had instructed for other candidates; and that what was sauce for the goose was sauce for the gander. Whatever may be the merits of the technical claims made on both sides, it seems fair to say that Mr. Roosevelt, according to all available signs, particularly the vote in the primaries in the strategic states, was the real choice of the Republican party.

• The struggle over the contested seats was carried into the convention, and after a hot fight, Mr. Taft's forces were victorious. When at length, as Mr. Bryan put it, "the credentials committee made its last report and the committee-made majority had voted itself the convention," Mr. Roosevelt's supporters on Saturday, June 22, after a week's desperate maneuvering, broke with the Republican assembly. A statement prepared by Mr. Roosevelt was read as a parting shot. "The convention," he said, "has now declined to purge the roll of the fraudulent delegates placed thereon by the defunct national committee, and the majority which has thus

indorsed the fraud was made a majority only because it included the fraudulent delegates themselves who all sat as judges on one another's cases. . . . The convention as now composed has no claim to represent the voters of the Republican party. . . . Any man nominated by the convention as now constituted would merely be the beneficiary of this successful fraud; it would be deeply discreditable to any man to accept the convention's nomination under these circumstances; and any man thus accepting it would have no claim to the support of any Republican on party grounds and would have forfeited the right to ask the support of any honest man of any party on moral grounds."

Mr. Roosevelt's severe arraignment of men who had been his bosom friends and chief political advisers and supporters filled with astonishment many thoughtful observers in all parties who found it difficult to account for his conduct. In Mr. Roosevelt's bitter speech at the Auditorium mass meeting on the evening of June 17, 1912, a sharp line was drawn between the "treason" of the Republican "Old Guard" and the "purity" of his supporters. Of this, Mr. Bryan said, with much irony: "He carried me back to the day when I first learned of this world-wide, never-ending contest between the beneficiaries of privilege and the unorganized masses; and I can appreciate the amazement which he must feel that so many honest and well-meaning people seem blind or indifferent to what is going on. I passed through the same period of amazement when I first began to run for President. My only regret is that we have not had the benefit of his powerful assistance during the campaigns

in which we have protested against the domination of politics by predatory corporations. He probably feels more strongly stirred to action to-day because he was so long unconscious of the forces at work thwarting the popular will. The fact, too, that he has won prestige and position for himself and friends through the support of the very influences which he now so righteously denounces must still further increase the sense of responsibility which he feels at this time. . . . He ought to find encouragement in my experience. I have seen several campaigns end in a most provoking way, and yet I have lived to see a Republican ex-President cheered by a Republican audience for denouncing men who, only a few years ago, were thought to be the custodians of the nation's honor." <sup>1</sup>

When Mr. Roosevelt definitely broke with the Republican convention, most of his followers left that assembly, and the few that stayed behind there refused to vote on roll call. The substantial "rump" which remained proceeded with the business as if nothing had happened, and renominated Mr. Taft and Mr. Sherman as the candidates of the Republican party. The regulars retained the battle field, but they could not fail to recognize how forlorn was the hope that led them on.

On examining the vote on Mr. Root and Mr. McGovern, as candidates for temporary chairman, it becomes apparent that the real strength of the party was with Mr. Roosevelt. The former candidate, representing the conservative wing, received the overwhelming majority of the votes of the southern states, like Alabama, Georgia,

<sup>1</sup> *A Tale of Two Conventions*, p. 27.

Louisiana, Mississippi, and Virginia, where the Republican organization was a political sham; he did not carry the majority of the delegates of a single one of the strategic Republican states of the North except Indiana, Iowa, Michigan, and New York. Massachusetts and Wisconsin were evenly divided; but the other great Republican states were against him. Minnesota, Nebraska, New Jersey, North and South Dakota were solid for McGovern. Ohio gave thirty-four of her thirty-eight votes for him; Illinois, forty-nine out of fifty-eight; California, twenty-four out of twenty-six; Kansas, eighteen out of twenty; Oregon, six out of nine; Pennsylvania, sixty-four out of seventy-six. In nearly every state where there had been a preferential primary Mr. Roosevelt had carried the day. Mr. Root won by a vote of 558 to 501 for Mr. McGovern. It was a victory, but it bore the sting of death. When he stepped forward to deliver his address, the applause that greeted him was broken by cries of "Receiver of stolen goods."

If the supporters of Mr. Taft in the convention had any doubts as to the character of the methods employed to secure his nomination or the conduct of the convention itself, they were more than repaid for their labors by what they believed to be the salvation of the party in the hour of a great crisis. To them, the attacks on the judiciary, representative institutions, and the established order generally were so serious and so menacing that if high-handed measures were ever justified they were on that occasion. The instruments which they employed were precisely those which had been developed in party usage and had been wielded with kindred results in 1908

by the eminent gentleman who created so much disturbance when he fell a victim to them. Mr. Taft's supporters must have foreseen defeat from the hour when the break came, but they preferred defeat in November to the surrender of all that the party had stood for since the Civil War.

The Republican platform was not prolix or very specific, but on general principles it took a positive stand. It adhered to the traditional American doctrine of individual liberty, protected by constitutional safeguards and enforced by the courts; and it declared the recall of judges to be "unnecessary and unwise." It announced the purpose of the party to go forward with a program of social legislation, but it did not go into great detail on this point. President Taft's policy of submitting justiciable controversies between nations to arbitration was indorsed. The amendment of the Sherman law in such a manner as to make the illegal practices of trusts and corporations more specific was favored, and the creation of a Federal trade commission to deal with interstate business affected with public use was recommended. The historic views of the party on the tariff were restated and sound currency and banking legislation promised. The insinuation that the party was reactionary was repudiated by a declaration that it had always been a genuinely progressive party, never stationary or reactionary, but always going from the fulfillment of one pledge to another in response to public need and popular will.

In his acceptance speech, Mr. Taft took issue with all the radical tendencies of the time and expressed his pro-

found gratitude for the righteous victory at Chicago, where they had been saved from the man "whose recently avowed political views would have committed the party to radical proposals involving dangerous changes in our present constitutional form of representative government and our independent judiciary." The widespread popular unrest which forced itself upon the attention of even the most indifferent spectators, Mr. Taft attributed to the sensational journals, muckraking, and demagogues, and he declared that the equality of opportunity preached by the apostles of social justice "involves a forced division of property and that means socialism." In fact, in his opinion, the real contest was at bottom one over private property, and the Democratic and Progressive parties were merely aiding the Socialists in their attack upon this institution. He challenged his opponents to show how the initiative, referendum, and recall would effect significant economic changes: "Votes are not bread, constitutional amendments are not work, referendums do not pay rent or furnish houses, recalls do not furnish clothes, initiatives do not supply employment, or relieve inequalities of condition or of opportunity." In other words he took a firm stand against the whole range of "radical propositions" advanced by "demagogues" to "satisfy what is supposed to be popular clamor."

The Democrats looked upon the Republican dissensions with evident satisfaction. When the time for sifting candidates for 1912 arrived, there was unwonted bustle in their ranks, for they now saw a greater proba-



bility of victory than at any time in the preceding sixteen years. The congressional elections of 1910, the division in the Republican party, and discontent with the prevailing order of things manifest throughout the country, all pointed to a possibility of a chance to return to the promised land from which they had been driven in 1897. And there was no lack of strong presidential "timber." Two of the recently elected Democratic governors, Harmon, of Ohio, and Wilson, of New Jersey, were assiduously "boomed" by their respective contingents of supporters. Mr. Bryan, though not an avowed candidate, was still available and strong in his western battalions. Mr. Champ Clark, Speaker of the House of Representatives, and Mr. Oscar Underwood, chairman of the ways and means committee, likewise loomed large on the horizon as possibilities.

In the primaries at which delegates to the convention were chosen a great division of opinion was manifested, although there was a considerable drift toward Mr. Clark. No one had anything like a majority of the delegates, but the Speaker's popular vote in such significant states as Illinois showed him to be a formidable contestant. But Mr. Clark soon alienated Mr. Bryan by refusing to join him in a movement to prevent the nomination of a conservative Democrat, Mr. Alton B. Parker, as temporary chairman of the convention which met at Baltimore on June 25. Although at one time Mr. Clark received more than one half of the votes (two thirds being necessary to nominate) his doom was sealed by Mr. Bryan's potent opposition.

Mr. Wilson, on the other hand, gained immensely by

this predicament in which the Speaker found himself. He was easily the second candidate in the race, as the balloting showed, and his availability was in many respects superb. He was new to politics, and thus had few enemies. He had long been known as a staunch conservative of the old school; and although he apparently had not broken with his party in the stormy days of 1896, it was publicly known that he had wished Mr. Bryan to be "knocked into a cocked hat." In his printed utterances he was on record against the newer devices, such as the initiative and referendum, and he therefore commanded the respect and confidence of eastern Democrats. As governor of New Jersey, however, his policies had appealed to the progressive sections of his party, without seriously alienating the other wing. He had pushed through an elaborate system of direct primary legislation, a public utilities bill after the fashion of the Wisconsin system, and a workmen's compensation law. On a western tour he met Mr. Bryan on such happy terms that their cordiality seemed to be more than ostensible, and at about the same time he declared himself in favor of the initiative and referendum. His friends held that the conservative scholar had been made "progressive" by practical experience; his enemies contended that he was playing the political game; and his managers were able to make use of one record effectively in the West and another effectively in the East. Having the confidence, if not the cordial support, of the conservatives and the great weight of Mr. Bryan's influence on his side, he was able to win the nomination on the forty-sixth ballot taken on the seventh day of the convention.

The Democratic platform adopted at Baltimore naturally opened with a consideration of the tariff question, reiterating the ancient principle that the government "under the Constitution has no right or power to impose or collect tariff duties except for the purpose of revenue." President Taft's action in vetoing the tariff bills was denounced, and an immediate, downward revision was demanded. Recognizing the intimate connection between the tariff and business, the Democrats proposed to reach their ultimate ideal by "legislation that will not injure or destroy legitimate industry." On the trust question, the platform took a positive stand, demanding the enforcement of the criminal provisions of the law against trust officials and the enactment of additional legislation to make it "impossible for a private monopoly to exist in the United States." The action of the Republican administration in "compromising with the Standard Oil Company and the Tobacco Trust" was condemned, and the judicial construction of the Sherman law criticized. The valuation of railways was favored; likewise a single term for the President of the United States, anti-injunction laws, currency legislation, presidential primaries, and the declaration of the nation's purpose to establish Philippine independence at the earliest practicable moment.

Mr. Wilson's speech of acceptance partook of the character of an essay in political science rather than of a precise definition of party policies. He spoke of an awakened nation, impatient of partisan make-believe, hindered in its development by circumstances of privilege and private advantage, and determined to undertake great

things in the name of right and justice. Departing from traditions, he refused to discuss the terms of the Baltimore platform, which he dismissed with the short notice that "the platform is not a program." He devoted no little attention to the spirit of "the rule of the people" as opposed to the rule by an inner coterie of the privileged, but he abstained from discussing directly such matters as the initiative, referendum, and recall. He announced his clear conviction that the only safe and legitimate object of a tariff was to raise duties, but he cautioned his party against radical and sudden legislation. He promised to support legislation against the unfair practices of corporations in destroying competition; but he gave no solace to those who expected a vigorous assault on trusts as such.

Indeed, Mr. Wilson refused to commit himself to the old concept of unrestricted competition and petty business. "I am not," he said, "one of those who think that competition can be established by law against the drift of a world-wide economic tendency. . . . I am not afraid of anything that is normal. I dare say we shall never return to the old order of individual competition and that the organization of business upon a great scale of coöperation is, up to a certain point, itself normal and inevitable." Nevertheless, he hoped to see "our old free, coöperative life restored," and individual opportunity widened. To the working class he addressed a word of assurance and confidence: "The working people of America . . . are of course the backbone of the Nation. No law that safeguards their lives, that improves the physical and moral conditions under which

they live, that makes their hours of labor rational and tolerable, that gives them freedom to act in their own interest, and that protects them where they cannot protect themselves, can properly be regarded as class legislation." As to the Philippines, he simply said that we were under obligations to make any arrangement that would be serviceable to their freedom and development. The whole address was characterized by a note of sympathy and interest in the common lot of the common people, and by an absence of any concrete proposals that might discourage or alarm the business interests of the country. It was a call to arms, but it did not indicate the weapons.

Mr. Wilson's speech had that delightful quality of pleasing all sections of his party. The *New York Times* saw in it a remarkable address, in spite of what seemed to be a certain remoteness from concrete issues, and congratulated the country that its tone and argument indicated a determination on the part of the candidate to ignore the Baltimore platform. Mr. Bryan, on the other hand, appeared to be immensely pleased with it. "Governor Wilson's speech accepting the Democratic nomination," he said, "is original in its method of dealing with the issues of the campaign. Instead of taking up the platform plank by plank, he takes the central idea of the Denver platform [of 1908, Mr. Bryan's own, more radical still] — an idea repeated and emphasized in the Baltimore platform — and elaborates it, using the various questions under consideration to illustrate the application of the principle. . . . Without assuming to formulate a detailed plan for dealing with every condition

which may arise, he lifts into a position of extreme importance the dominating thought of the Baltimore platform and appeals to the country for its coöperation in making popular government a reality throughout the land.”<sup>1</sup>

While the Republicans and Democrats were bringing their machinery into action, the supporters of Mr. Roosevelt were busy forming the organization of a new party. At a conference held shortly after the break with the Republican convention, a provisional committee had been appointed, and on July 8, a call was issued for the “Progressive” convention, which duly assembled on August 5 at Chicago. This party assembly was sharply marked by the prominence assigned to women for the first time in a political convention. Eighteen of the delegates were women, and Miss Jane Addams, of the Hull House, made one of the “keynote” speeches of the occasion. Even hostile newspapers were forced to admit that no other convention in our history, except possibly the first Republican convention of 1856, rivaled it in the enthusiasm and devotion of the delegates. The typical politician was conspicuous by his absence, and a spirit of religious fervor rather than of manipulation characterized the proceedings. Mr. Roosevelt made a long address, his “Confession of Faith,” in which he took a positive stand on many questions which he had hitherto met in evasive language, and a platform was adopted which marked a departure from the old party pronouncements, in that it stated the principles with clarity and in great detail.

<sup>1</sup>W. J. Bryan, *A Tale of Two Conventions*, p. 228.

The Progressive platform fell into three parts: political reforms, labor and social measures, and control of trusts and combinations. The first embraced declarations in favor of direct primaries, including preferential presidential primaries, popular election of United States Senators, the short ballot, the initiative, referendum, and recall, an easier method of amending the Federal Constitution, woman suffrage, limitation and publicity of campaign expenditures, and the recall of judicial decisions in the form of a popular review of any decision annulling a law passed under the police power of the state. The program of labor and social legislation included the limitation of the use of the injunction in labor disputes, prohibition of child labor, minimum wage standards for women, the establishment of minimum standards as to health and safety of employees and conditions of labor generally, the creation of a labor department at Washington, and the improvement of country life.

The Progressives took a decided stand against indiscriminate trust dissolutions, declaring that great combinations were in some degree inevitable and necessary for national and international efficiency. The evils of stock watering and unfair competitive methods should be eliminated and the advantages and economies of concentration conserved. To this end, they urged the establishment of a Federal commission to maintain a supervision over corporations engaged in interstate commerce, analogous to that exercised by the Interstate Commerce Commission. As to railway corporations, they favored physical valuation. They demanded the

retention of the natural resources, except agricultural lands, by the governments, state and national, and their utilization for public benefit. They favored a downward revision of the tariff on a protective basis, income and inheritance taxes, the protection of the public against stock gamblers and promoters and public ownership of railways in Alaska.

In spite of the exciting contests over nomination in both of the old parties, the campaign which followed was extraordinarily quiet.<sup>1</sup> The popular vote shows that the issues failed to enlist confidence or enthusiasm. Mr. Roosevelt polled about 700,000 more votes than Mr. Taft, but their combined vote was less than that polled by the latter in 1908, and slightly less than that received by the former in 1904. Mr. Wilson's vote was more than 100,000 less than that received by Mr. Bryan in 1896 or 1908. The combined Progressive and Republican vote was 1,300,000 greater than the Democratic vote. If we add the votes cast for Mr. Debs, the Socialist candidate, and the vote received by the other minor candidates to the Progressive and Republican vote we have a majority of nearly two and one half millions against Mr. Wilson. Yet Mr. Wilson, owing to the division of the opposition, secured 435 of the 531 electoral votes. The Democrats retained possession of the House of Representatives and secured control of the Senate. The surprise of the election was the large increase in the Socialist vote, from 420,000 in 1908 to 898,000, and this in spite of the

<sup>1</sup> The most startling incident was the attempt of a maniac at Milwaukee to assassinate Mr. Roosevelt.



socialistic planks in the Progressive platform which were expected to capture a large share of the voters who had formerly gone with the Socialists by way of protest against the existing parties.

These figures should not be taken to imply that had either Mr. Taft or Mr. Roosevelt been eliminated the Democrats would have been defeated. On the contrary, Mr. Wilson would have doubtless been elected if the Republicans had nominated Mr. Roosevelt or if the Progressives had remained out of the field. Nevertheless, the vote would seem to indicate that the Democratic party had no very clear and positive majority mandate on any great issue. However that may be, the policy of the party as outlined by its leader and victorious candidate deserves the most careful analysis.

In the course of the campaign, Mr. Wilson discussed in general terms all of the larger issues of the hour, emphasizing particularly the fact that an economic revolution had changed the questions of earlier years, but always speaking of "restoration" and a "recurrence" to older liberties.<sup>1</sup> "Our life has broken away from the past. The life of America is not the life that it was twenty years ago; it is not the life that it was ten years ago. We have changed our economic conditions, absolutely, from top to bottom; and with our economic society, the organization of our life. The old political formulas do not fit present problems; they read like documents taken out of a forgotten age. The older cries sound as if they be-

<sup>1</sup>These speeches were reprinted in *The New Freedom* after the election.

longed to a past which men have almost forgotten. . . . Society is looking itself over, in our day, from top to bottom; is making fresh and critical analysis of its very elements; is questioning its oldest practices as freely as its newest, scrutinizing every arrangement and motive of its life; and it stands ready to attempt nothing less than a radical reconstruction which only frank and honest counsels and the forces of generous coöperation can hold back from becoming a revolution."

One of the most significant of the many changes which constituted this new order was, in Mr. Wilson's opinion, the mastery of the government by the great business interests. "Suppose you go to Washington and try to get at your government. You will always find that while you are politely listened to, the men really consulted are the men who have the biggest stake — the big bankers, the big manufacturers, the big masters of commerce, the heads of railroad corporations and of steamship corporations. . . . The government of the United States at present is a foster-child of the special interests. It is not allowed to have a will of its own. . . . The government of the United States in recent years has not been administered by the common people of the United States."

Nevertheless, while deploring the control of the government by "big business," Mr. Wilson made no assault on that type of economic enterprise as such. On the contrary, he differentiated between big business and the trust very sharply in general terms. "A trust is an arrangement to get rid of competition, and a big business is a business that has survived competition

conquering in the field of intelligence and economy. Trust does not bring efficiency to the aid of business; it buys efficiency out of business. I am for big business and I am against the trusts. Any man who can survive by his brains, any man who can put the others out of the business by making the thing cheaper to the consumer at the same time that he is increasing its intrinsic value and quality, I take off my hat to, and I say: 'You are the man who can build up the United States, and I wish there were more of you.'” Whether any big business in the staple industries had been built up by this process, he did not indicate; neither did he discuss the question as to whether monopoly might not result from the destruction of competitors as well as from the fusion of competitors into a trust.

On this distinction between big business and trusts Mr. Wilson built up his theory of governmental policy. The trust, he said, was not a product of competition at all, but of the unwillingness of business men to meet — a distinction which some were inclined to regard as academic. Because the formation of no great trusts had been unaccompanied by unfair practices, Mr. Wilson seemed to hold that no such concern would have been built up had unfair practices been prohibited. Obviously, therefore, the problem is a simple one — dissolve the trusts and prevent their being reestablished by prohibiting unfair practices and the arts of high finance.

Indeed, such was Mr. Wilson's program. “Our purpose,” he says, “is the restoration of freedom. We propose to prevent private monopoly by law, to see to

it that the methods by which monopolies have been built up are made impossible." Mr. Wilson's central idea was to clear the field for the restoration of competition as it existed in the early days of mechanical industry. "American industry is not free, as it once was free; American enterprise is not free; the man with only a little capital is finding it harder to get into the field, more and more impossible to compete with the big fellow. Why? Because the laws of this country do not prevent the strong from crushing the weak."

"Absolutely free enterprise" was Mr. Wilson's leading phrase. "We design that the limitations on private enterprise shall be removed, so that the next generation of youngsters, as they come along, will not have to become protégés of benevolent trusts, but will be free to go about making their own lives what they will; so that we shall taste again the full cup, not of charity, but of liberty." The restoration of freedom for every person to go into business for himself was the burden of his appeal: "Are you not eager for the time when the genius and initiative of all the people shall be called into the service of business? . . . when your sons shall be able to look forward to becoming not employees, but heads of some small, it may be, but hopeful business, where their best energies shall be inspired by the knowledge that they are their own masters with the paths of the world before them . . . and every avenue of commercial and industrial activity leveled for the feet of all who would tread it?"

Mr. Wilson's economic system seems to be susceptible of the following summary. The great trusts are "un-

natural products," not of competition, but of the unwillingness of men to face competition and of unfair practices. Big business is the product of genuine services to the community, and it should be allowed to destroy whom it can by fairly underselling honest goods. The enemy is, therefore, the trust; it is the trust which prevents everybody who would from becoming his own master in some small business; it is the trust that has taken away the "freedom" which we once had in the United States. The remedy is inevitably the dissolution of the trusts, the prohibition of unfair practices in competition — then will follow as night the day that perfect freedom which is as new wine to a sick nation. With competition "restored" and maintained by government prosecution of offenders, no one need have a master unless he chooses.

Mr. Wilson's opponents saw in this simple industrial program nothing more than the old gospel of Adam Smith and Ricardo — the gospel of *laissez faire* and individualism. They asked him to specify, for example, into how many concerns the Steel Trust should be dissolved in order to permit the man with brains and a few thousand dollars capital to get into the steel business. They asked him to name a catalogue of "unfair practices" which were to be prohibited in order to put competition on a "free and natural" basis. They asked him to state just how, with the present accumulation of great capitals in the hands of a relatively few, the poor but industrious person with small capital could meet the advantages afforded by large capitals. They inquired whether England in the middle of the nineteenth

century, with this perfect industrial ideal and free trade besides, presented the picture of utopian liberty which the new freedom promised.

To this demand for more particulars, Mr. Wilson replied that he was not discussing "measures or programs," but was merely attempting "to express the new spirit of our politics and to set forth, in large terms, which may stick in the imagination, what it is that must be done if we are to restore our politics to their full spiritual vigor again, and our national life whether in trade, in industry, or in what concerns us only as families and individuals, to its purity, its self-respect, and its pristine strength and freedom."

For the concrete manifestation of his general principles Mr. Wilson referred to his practical achievements in New Jersey, although at the time of the campaign he had not yet put through his program of trust legislation — a fact which was not overlooked by his opponents. He referred to his public service commission law, modeled on that which had been in effect for some time in Wisconsin. "A year or two ago we got our ideas on the subject enacted into legislation. The corporations involved opposed the legislation with all their might. They talked about ruin, — and I really believe they did think they would be somewhat injured. But they have not been. And I hear I cannot tell you how many men in New Jersey say: 'Governor, we were opposed to you; we did not believe in the things you wanted to do, but now that you have done them, we take off our hats. That was the thing to do, it did not hurt us a bit; it just put us on a normal footing; it took away

suspicion from our business.' New Jersey, having taken the cold plunge, cries out to the rest of the states, 'Come on in! The water's fine.'"

In another place, Mr. Wilson summed up his program of redemption in New Jersey: a workman's compensation act, a public service corporations law, and a corrupt practices act. This program of legislation was viewed by Mr. Wilson as an extraordinary achievement. "What was accomplished?" he asked. "Mere justice to classes that had not been treated justly before. . . . When the people had taken over the control of the government, a curious change was wrought in the souls of a great many men; a sudden moral awakening took place, and we simply could not find culprits against whom to bring indictments; it was like a Sunday School, the way they obeyed the laws."

It was on his theory of the trusts that Mr. Wilson based his opposition to all attempts at government regulation. Under the plan of regulation, put forward by the Progressives, said Mr. Wilson, "there will be an avowed partnership between the government and the trusts. I take it the firm will be ostensibly controlled by the senior member. For I take it that the government of the United States is at least the senior member, though the younger member has all along been running the business. . . . There is no hope to be seen for the people of the United States until the partnership is dissolved. And the business of the party now intrusted with power is to dissolve it." In other words, the government was, in his opinion, too weak to force the trusts to obey certain rules and regulations, but it was strong

enough to take their business away from them and prevent their ever getting together again. Apparently, Mr. Wilson did not expect to find that cordial coöperation from the national trust magnates which he found on the part of New Jersey public service corporations when he undertook to regulate them.

Mr. Wilson's political program was more definite. His short experience in New Jersey politics had evidently wrought great changes in his earlier academic views. In 1907, he thought that the United States Senate, "represents the country as distinct from the accumulated populations of the country, much more fully and much more truly than the House of Representatives does." In the presidential campaign, he advocated popular election of United States Senators, principally on the ground "that a little group of Senators holding the balance of power has again and again been able to defeat programs of reform upon which the whole country has set its heart." He did not attack the Senate as a body, but he thought sinister influences had often been at work there. However, Mr. Wilson declared that the popular election of Senators was not inconsistent with "either the spirit or the essential form of the American government."

As to those other devices of direct democracy, the initiative, referendum, and recall, Mr. Wilson admitted that there were some states where it was premature to discuss them, and added that in some states it might never be necessary to discuss them. The initiative and referendum, he approved as a sort of "gun behind the door," to be used rarely when representative in-



stitutions failed; and as to the recall he remarked, "I don't see how any man grounded in the traditions of American affairs can find any valid objection to the recall of administrative officers." The recall of judges, however, he opposed positively and without qualification, pointing out that the remedy for evils in the judicial system lay in methods of nomination and election.

Such was the economic and political philosophy of the new Democratic President inaugurated on March 4, 1913.

## APPENDIX

PRESIDENTIAL ELECTIONS, 1876-1912

| YEAR OF ELECTION | CANDIDATES FOR PRESIDENT | STATES  | POLITICAL PARTY | POPULAR VOTE | PLURALITY | ELECTORAL VOTE         | CANDIDATES FOR VICE PRESIDENT | STATES  | POLITICAL PARTY | ELECTORAL VOTE |
|------------------|--------------------------|---------|-----------------|--------------|-----------|------------------------|-------------------------------|---------|-----------------|----------------|
| 1876             | Samuel J. Tilden.....    | N. Y.   | Dem.            | 4,284,885    | 290,935   | 184                    | T. A. Hendricks.....          | Ind.    | Dem.            | 184            |
|                  | Rutherford B. Hayes* ..  | O.      | Rep.            | 4,033,950    | ..        | 185                    | William A. Wheeler* ..        | N. Y.   | Rep.            | 185            |
|                  | Peter Cooper.....        | N. Y.   | Gre'n'b.        | 81,740       | ..        | ..                     | Samuel F. Cary.....           | O.      | Gre'n'b.        | ..             |
|                  | Green Clay Smith.....    | Ky.     | Pro.            | 9,522        | ..        | ..                     | Gideon T. Stewart.....        | N. Y.   | Pro.            | ..             |
|                  | James B. Walker.....     | Ill.    | Amer.           | 2,636        | ..        | ..                     | D. Kirkpatrick.....           | N. Y.   | Amer.           | ..             |
| 1880             | James A. Garfield* ..    | O.      | Rep.            | 4,449,053    | 7,018     | 214                    | Chester A. Arthur* ..         | N. Y.   | Rep.            | 214            |
|                  | W. S. Hancock.....       | Pa.     | Dem.            | 4,442,035    | ..        | 155                    | William H. English..          | Ind.    | Dem.            | 155            |
|                  | James B. Weaver.....     | Iowa    | Gre'n'b.        | 397,306      | ..        | ..                     | B. J. Chambers.....           | Tex.    | Gre'n'b.        | ..             |
|                  | Neal Dow.....            | Me.     | Pro.            | 10,305       | ..        | ..                     | H. A. Thompson.....           | O.      | Pro.            | ..             |
|                  | John W. Phelps.....      | Vt.     | Amer.           | 707          | ..        | ..                     | S. C. Pomeroy.....            | Kan.    | Amer.           | ..             |
| 1884             | Grover Cleveland* ..     | N. Y.   | Dem.            | 4,911,017    | 62,683    | 219                    | T. A. Hendricks* ..           | Ind.    | Dem.            | 219            |
|                  | James G. Blaine.....     | Me.     | Rep.            | 4,848,334    | ..        | 182                    | John A. Logan.....            | Ill.    | Rep.            | 182            |
|                  | John P. St. John.....    | Kan.    | Pro.            | 151,809      | ..        | ..                     | William Daniel.....           | Md.     | Pro.            | ..             |
|                  | Benjamin F. Butler ..    | Mass.   | Gre'n'b.        | 133,825      | ..        | ..                     | A. M. West.....               | Miss.   | Gre'n'b.        | ..             |
|                  | P. D. Wigginton.....     | Cal.    | Amer.           | ..           | ..        | ..                     | ..                            | ..      | ..              | ..             |
| 1888             | Grover Cleveland.....    | N. Y.   | Dem.            | 5,440,216    | ..        | 168                    | Allen G. Thurman.....         | O.      | Dem.            | 168            |
|                  | Benjamin Harrison* ..    | Ind.    | Rep.            | 5,538,233    | 98,017    | 233                    | Levi P. Morton.....           | N. Y.   | Rep.            | 233            |
|                  | Clinton B. Fisk.....     | N. J.   | Pro.            | 240,907      | ..        | ..                     | John A. Brooks.....           | Mo.     | Pro.            | ..             |
|                  | Alson J. Streeter.....   | Ill.    | U. L.           | 148,105      | ..        | ..                     | C. E. Canningham.....         | Ark.    | U. L.           | ..             |
|                  | R. H. Cowdry.....        | Ill.    | U'd L.          | 2,808        | ..        | ..                     | W. H. T. Wakefield ..         | Kan.    | U'd L.          | ..             |
| 1892             | James L. Curtis.....     | N. Y.   | Amer.           | 1,591        | ..        | ..                     | James B. Greer.....           | Tenn.   | Amer.           | ..             |
|                  | Grover Cleveland* ..     | N. Y.   | Dem.            | 5,550,918    | 380,810   | 277                    | Adlai E. Stevenson* ..        | Ill.    | Dem.            | 277            |
|                  | Benjamin Harrison.....   | Ind.    | Rep.            | 5,176,708    | ..        | 145                    | Whitelaw Reid.....            | N. Y.   | Rep.            | 145            |
|                  | James B. Weaver.....     | Iowa    | Peop.           | 1,041,028    | ..        | 22                     | James G. Field.....           | Va.     | Peop.           | 22             |
|                  | John Bidwell.....        | Cal.    | Pro.            | 264,133      | ..        | ..                     | James B. Cranfill.....        | Tex.    | Pro.            | ..             |
| Simon Wing.....  | Mass.                    | Soc. L. | 21,104          | ..           | ..        | Charles H. Matchett .. | N. Y.                         | Soc. L. | ..              |                |

\* The candidates starred were elected. This table is from the *World Almanac*, those used in the text, which are taken from Stanwood, *History of the Presidency*.

The figures are in some cases slightly different from

| YEAR OF ELECTION    | CANDIDATES FOR PRESIDENT | STATES  | POLITICAL PARTY | POPULAR VOTE | PLURALITY | ELECTORAL VOTE    | CANDIDATES FOR VICE PRESIDENT | STATES  | POLITICAL PARTY | ELECTORAL VOTE |
|---------------------|--------------------------|---------|-----------------|--------------|-----------|-------------------|-------------------------------|---------|-----------------|----------------|
| 1896                | William McKinley*        | O.      | Rep.            | 7,104,779    | 601,854   | 271               | Garret A. Hobart*             | N. J.   | Rep.            | 271            |
|                     | William J. Bryan         | Neb.    | Dem.            | 6,503,925    |           | 176               | Arthur Sewall                 | Me.     | Dem.            | 149            |
|                     | William J. Bryan         | Neb.    | Peop.           |              |           |                   | Thomas E. Watson              | Ga.     | Peop.           | 27             |
|                     | Joshua Levering          | Md.     | Pro.            | 132,007      |           |                   | Hale Johnson                  | Ill.    | Pro.            |                |
|                     | John M. Palmer           | Ill.    | N. Dem.         | 133,148      |           |                   | Simon B. Buckner              | N. Ky.  | N. Dem.         |                |
|                     | Charles H. Matchett      | N. Y.   | Soc. L.         | 36,274       |           |                   | Matthew Maguire               | N. J.   | Soc. L.         |                |
|                     | Charles E. Bentley       | Neb.    | Nat.            | 13,969       |           |                   | James H. Southgate            | N. C.   | Nat.            |                |
| 1900                | William McKinley*        | O.      | Rep.            | 7,207,923    | 849,790   | 292               | Theodore Roosevelt*           | N. Y.   | Rep.            | 292            |
|                     | William J. Bryan         | Neb.    | Dem. P.         | 6,358,133    |           | 155               | Adlai E. Stevenson            | Ill.    | Dem. P.         | 155            |
|                     | John G. Woolley          | Ill.    | Pro.            | 268,914      |           |                   | Henry B. Metcalf              | O.      | Pro.            |                |
|                     | Wharton Barker           | Pa.     | MP              | 50,373       |           |                   | Ignatius Donnelly             | Minn.   | MP              |                |
|                     | Eugene V. Debs           | Ind.    | Soc. D.         | 87,814       |           |                   | Job Harriman                  | Cal.    | Soc. D.         |                |
|                     | Jos. F. Malloney         | Mass.   | Soc. L.         | 39,739       |           |                   | Valentine Rimmel              | Pa.     | Soc. L.         |                |
|                     | Y. F. Leonard            | La.     | U. C.           | 1,959        |           |                   | John G. Woolley               | Ill.    | U. C.           |                |
|                     | Seth H. Ellis            | O.      | U. R.           | 5,098        |           |                   | Samuel T. Nicholson           | Pa.     | U. R.           |                |
|                     | Theodore Roosevelt*      | N. Y.   | Rep.            | 7,623,486    | 2,545,515 | 336               | Charles W. Fairbanks*         | Ind.    | Rep.            | 336            |
|                     | Alton B. Parker          | N. Y.   | Dem.            | 5,077,911    |           | 140               | Henry G. Davis                | W. Va.  | Dem.            | 140            |
| Eugene V. Debs      | Ind.                     | Soc.    | 403,283         |              |           | Benjamin Hanford  | N. Y.                         | Soc.    |                 |                |
| Silas C. Swallow    | Pa.                      | Pro.    | 258,536         |              |           | George W. Carroll | Tex.                          | Pro.    |                 |                |
| Thomas E. Watson    | Ga.                      | Peop.   | 117,183         |              |           | Thomas H. Tibbles | Neb.                          | Peop.   |                 |                |
| Charles H. Corrigan | N. Y.                    | Soc. L. | 31,249          |              |           | William W. Cox    | Ill.                          | Soc. L. |                 |                |
| 1908                | William H. Taft*         | O.      | Rep.            | 7,678,908    | 1,269,804 | 321               | James S. Sherman*             | N. Y.   | Rep.            | 321            |
|                     | William J. Bryan         | Neb.    | Dem.            | 6,409,104    |           | 162               | John W. Kern                  | Ind.    | Dem.            | 162            |
|                     | Eugene V. Debs           | Ind.    | Soc.            | 420,793      |           |                   | Benjamin Hanford              | N. Y.   | Soc.            |                |
|                     | Eugene W. Chafin         | Ariz.   | Pro.            | 253,840      |           |                   | Aaron S. Watkins              | O.      | Pro.            |                |
|                     | Thos. E. Watson          | Ga.     | Peo.            | 29,100       |           |                   | Samuel Williams               | Ind.    | Peo.            |                |
|                     | August Gillhaus          | N. Y.   | Soc. L.         | 13,825       |           |                   | Donald L. Munro               | Va.     | Soc. L.         |                |
|                     | Thos. L. Hisgen          | Mass.   | Ind.            | 82,872       |           |                   | John Temple Graves            | Ga.     | Ind.            |                |
|                     | Woodrow Wilson*          | N. J.   | Dem.            | 6,292,718    | 2,235,289 | 435               | Thomas R. Marshall            | Ind.    | Dem.            | 435            |
|                     | William H. Taft          | O.      | Rep.            | 3,369,221    |           | 15                | Herbert S. Hadley             | Me.     | Rep.            | 15             |
|                     | Theodore Roosevelt       | N. Y.   | Prog.           | 4,057,429    |           | 81                | Hiram W. Johnson              | Cal.    | Prog.           | 81             |
| Eugene V. Debs      | Ind.                     | Soc.    | 812,731         |              |           | Emil Seidel       | Wis.                          | Soc.    |                 |                |
| Eugene W. Chafin    | Ariz.                    | Pro.    | 170,626         |              |           | Aaron S. Watkins  | O.                            | Pro.    |                 |                |
| Arthur E. Reimer    | Mass.                    | Soc. L. | 17,312          |              |           | August Gillhaus   | N. Y.                         | Soc. L. |                 |                |

\* The candidates starred were elected. This table is from the *World Almanac*, those used in the text, which are taken from Stanwood, *History of the Presidency*. The figures are in some cases slightly different from



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