

TRIUMPHANT PLUTOCRACY

The Story of
American Public Life
from 1870 to 1920

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from South Dakota



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VI. THE TRUSTS

I was in the Senate when the Sherman Anti-Trust Law was passed in 1890. I was there representing a state that was rabidly opposed to trusts in theory and trusts in practice. For twelve years I worked and voted to drive the trusts out of American politics, and yet, as if in ironical comment on the futility of my efforts, the Steel Trust—greatest of them all—was organized during my last year in the Senate (1901).

The people of South Dakota lived on the land and still believed in the necessity for competition. They had grown up under the conviction that our civilization is founded upon the theory of evolution, upon the doctrine of the survival of the fittest, upon the law of competition. The result of this theory in the past was feudalism, or the supremacy of brute strength and physical courage, and its resulting paternalism. But feudalism, by the operation of the law of competition and evolution, destroyed itself by the subjugation of the weaker by the stronger and the creation of monarchical forms of government in its place.

My history had taught me these facts. Coming from a state that was still under the control of farmers, small shop-keepers and professional men, I believed that this theory of competitive life held out the soundest answer to the many public questions then confronting the country. Despite all my efforts, I witnessed the abandonment of the old theory and the adoption of a new practice—the practice of trust organization. Competition, under this theory, ceased to be the life of trade, and became an irksome form of activity that should be dispensed with at the earliest convenient moment.

We, the American people, have abandoned the doctrine we often repeated and so much believed, that competition is the life of trade, and have adopted the doctrine that competition destroys trade. The practice of this new economic theory calls for the organization

of trusts and combinations to restrict production, to maintain and increase prices, until practically all of the important articles manufactured in the country are produced by combinations and trusts. Thus the fundamental principle of the early American civilization is overturned, and those who do not combine—the farmer, the individual proprietor, the professional man and the toilers on the land—are at the mercy of those who do combine.

The rapid growth of trusts in the United States began with demonetization of silver, and the formation of trusts was the means adopted by some of the most far-seeing and shrewdest men, having control and direction of capital invested in manufacturing and transportation, to avert losses to themselves by reason of falling prices, which lead to overproduction and underconsumption. They realized that the first effect of a decline in prices is to stimulate production, because the producers hope to make up the difference in price by larger sales at less expense. They also foresaw what the average producer fails to see, that when the decline of prices is general the purchasing power is less in the whole community, and therefore an increased production can find no market at any price, so that there exists at the same time an overproduction of things which are most needed and an underconsumption of these very things, because of the inability to purchase them.

The organizers of the trusts did not go into the causes of falling prices. In most cases they knew nothing about the natural effects of throwing the entire burden upon one metal constituting the basis of the money of the world, which had formerly rested upon both gold and silver. So they made the common error of mistaking effect for cause, and attributed the decline in prices to overproduction. Therefore they combined and formed trusts to restrict production and keep up prices. The effect of the successful operations of trusts is to compel higher prices to be paid for the finished

product, or for transportation, while they do not check the decline in the value of raw material nor in the rates of wages, nor do their managers wish to do so.

I do not desire to be understood as charging that the trusts are able to withstand the general fall of prices. The ability of the consumer to pay fixes the limit beyond which prices cannot be forced, and that is the only limit upon the powers of a trust to regulate prices when the combination of domestic producers is so perfect as to defy competition at home and the tariff duty upon the imported article excludes the competition in our markets of foreign producers.

Many people, during the nineties, insisted that there were no trusts. Today there are persons who believe that the trusts have been "busted" by our bluff and scholarly chief executives. The trusts were growing into positions of power in the late nineties; they received an immense impetus through the economic and political events surrounding the Spanish-American War. The first fifteen years of the new century has witnessed a rounding out of the trusts and an expansion into wider fields of activity.

My particular attention was attracted to the Sugar Trust because I had come into such intimate contact with its workings in connection with my fight over the annexation of Hawaii.

Prior to August, 1887, there was life and free competition in all branches of the sugar trade. The producers of raw sugars all over the world sought in the ports of the United States a market in which numerous strong buyers were always ready to take their offerings at a price varying with the supply and demand. There was the same healthy competition among the sugar refiners as among the producers and importers of raw sugar. This was manifested by constant efforts to improve the product and to lessen the cost of refining by the introduction of better processes.

The distribution of the raw and refined sugar to the consumer through the usual trade channels from the

importers and the refiner by way of the jobber, the wholesale grocer, and the retail grocer to the family was also untrammelled. Each bought where he could purchase to the best advantage and sold upon terms agreed upon between him and the buyer, and not dictated by any third party.

But in 1887 the enormous profits amassed by the Standard Oil Trust suggested to a few of the leading refiners the possibility of controlling the sugar trade in the same way. It was then claimed for the first time that the individual refineries through competition were unable to make sufficient money to continue in business.

This seems a little strange in view of the fact that most of the refiners who had the misfortune to die or had retired from business before that time are known to have left or still possess large fortunes. Those millions, however, no doubt seemed insignificant in comparison to the potentialities of wealth offered by the adoption of trust methods.

So the sugar trust was formed in the fall of 1887 by a combination between twenty-one corporations, some of which were formed out of existing unincorporated firms for the express purpose of entering the trust, which was called the Sugar Refineries Company.

One of the first acts of the new trust was to close up the North River Sugar Refinery. This led to an action by the attorney-general of New York in behalf of the people for the forfeiture of the charter of the company, at the end of which the Court of Appeals declared the trust illegal, and the charter of the North River Company was forfeited. The trust was thereby compelled to abandon its organization and reorganize under the laws of New Jersey as the American Sugar Refining Company, a single corporation, in which were combined all the parties to the original trust.

While my amendment to the tariff act, providing that trust-made products should be admitted free of duty, was under consideration in the Senate, Senator

Sewell of New Jersey entered the debate with a remarkable question. Said he (55th Cong., 1st Session, p. 1740):

Mr. SEWELL: "How does the Senator know that there is a sugar trust? The American Sugar Refining Company is a corporation of my state, with a very large capital and doing a large business. It is not in a trust with anybody, as I understand it. They surrendered everything of that kind three or four years ago."

Mr. PETTIGREW: "Mr. President, that is a strange question and a remarkable proposition. The American Sugar Refining Company was formerly a combination of twenty-one refineries. They closed the North River Refinery. The courts of New York declared that combination to be a trust. Then these same people formed a corporation under the laws of New Jersey.

"I notice that almost every rotten corporation in this country is organized under the laws of New Jersey. I do not know whether the laws need fixing or not; but something is the matter. At any rate, all such corporations go there whenever they want to get up a combination to get away with somebody and to be sure that they will not be troubled. They formed a combination there of all these refineries, and then they proceeded to close refineries, raised the price to the limit of the tariff, and took from the people of this country untold millions. Under this amendment any combination or corporation for this purpose, to control production and increase the price, is a trust, and therefore the American Sugar Refining Company is a trust, and the courts can so decide.

"What is more, Mr. President, the president of the American Sugar Refining Company testified that they controlled the price of sugar—I read his testimony yesterday—that they fixed the price for their customers, and that they fixed it for everybody else. I also showed yesterday that the American Sugar Refining Company controlled every refinery in this country but four, and then I showed by the testimony of a St. Louis

grocer that they controlled those four; for when this St. Louis grocer refused to sign a contract by which he was to bind himself to buy no other than sugar made by the trust at a price fixed by them—when he refused to sign that contract to take their refined sugar on commission—they refused to sell any sugar at all; and when he applied to the four independent refineries, he could not buy a pound of sugar from them. So that, after all, the combination embraces not only all the refineries in the trust, but all the others.”

After we passed the McKinley law, which was particularly favorable to the trust, Mr. Havemeyer was called before the Senatorial investigating committee, and he gave this testimony:

Mr. HAVEMEYER: “We undertake to control the price of refined sugar in the United States. That must be distinctly understood.”

Senator ALLEN: “And the price of refined sugar in the United States is higher to the American people in consequence of the existence of the American Sugar Refining Company than it would be if the different companies in your organization were distinct and independent companies?”

Mr. HAVEMEYER: “For a short time it is.

Senator ALLEN: “And what difference does it make for the consumers in this country in a year in your judgment?”

Mr. HAVEMEYER: “It has been in three years past three-eighths of a cent more on every pound they ate, as against doing business at a loss.”

In other words, the fact that they were in a trust and that they controlled the price, according to his own statement, added three-eighths of a cent to every pound of sugar consumed in this country.

Senator ALLEN: “And that would be about how much in round numbers?”

Mr. HAVEMEYER: “It is a large sum in the aggregate.”

Senator ALLEN: “How many millions?”

Mr. HAVEMEYER: "I should say it was close to \$25,000,000 in three years."

How did I know there is a trust in sugar? It has been told to everybody, until there is not a boy six years old who can read and write who does not know there is a sugar trust.

Senator ALLEN: "And you intend to keep your hold upon the American people as long as you can?"

Mr. HAVEMEYER: "As long as the McKinley bill is there we will exact that profit."

"We will exact that profit. Is there competition? Is there any show for competition? They say they fix the price and that they are going to continue to do it so long as you keep the duty on; and yet the Senator wants to know how I know there is a sugar trust. It would be astonishing if I did not know it."

That discussion took place at a time (1897) when it was still possible to feign surprise at the mention of "trusts" in the United States. After 1901, when the Steel Trust was organized, the matter was decided for good. After that everybody recognized the fact that there were trusts; that these trusts were managed by corporations; that the object of their management and manipulation was to increase the profits and the power in the hands of the business interests.

During the twelve years that I was a member of the United States Senate Congress did nothing effective for the control of the trusts. The Anti-Trust Act was passed in 1890, but no effective means were ever provided for its enforcement. The act of 1890 was passed by outraged farmers as a protest against the exploitation under which they were suffering. By the time I introduced my amendment to the Tariff Act in 1897, it was taken for granted that combinations of capital should exist, and that these combinations should get what they could.

A careful review of all legislation from the passage of the Sherman Anti-Trust Law in 1890 to the present time convinces me that it was the consistent policy of

Congress to protect rather than to destroy the trusts and to build up and foster the trusts and thus create these great combinations to exploit the American people. Before I left the Senate they were talking about them as "benevolent institutions" and today they regard them as one of the bulwarks of our civilization.

Whatever possibilities there may have been in the act of 1890 disappeared with the "rule of reason" introduced by the Supreme Court. Not "restraint of trade" but "unreasonable restraint of trade" was the meaning of those who framed this law. Finally, in 1920, came the decision in favor of the continuance of the Steel Trust on the ground that public policy demanded it. I know of no better comment on the situation than the interview given out by Judge Gary after the Court's decision was announced:

"The decision as made will immeasurably add to the general feeling of confidence in the value of property and in the opportunities of business enterprise." (Boston "Globe," March 2, 1920.)

Judge Gary summarizes the entire policy of the Federal Government with regard to combinations and trusts. They were organized to protect property, and Congress has done everything in its power, during the last thirty years, to make trust organizers feel secure and happy.