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There is something suggestive about the report from Indianapolis of a combination on the part of the window glass trust to corner skilled labor.

Judge Tarvin, of Kentucky, has made a sound decision on the question of government by injunction. Applied to to grant an injunction restraining strikers from committing criminal acts, he refused the injunction on the ground that these offenses should be brought before a criminal court, where the accused could have the benefit of a jury trial. It is not generally understood, but nevertheless it is true, that the prime object and effect of injunctions in labor cases is to give employers an opportunity to try strikers before a judge, upon affidavits, for offenses within the province of criminal courts. In this way strikers charged with crimes are denied jury trials.

The internal struggle in the democratic party in the south is brought to the surface by the return, almost British fashion, of Tillman and McLaurin to the people for a verdict on their democracy. McLaurin represents a large southern element that would be republican but for the traditional bitterness of southern prejudice against the republican party. Almost from the beginning of his term in the senate he has assisted Mr. McKinley against the democracy; and Mr. McKinley has assisted him in turn. In the contest now pending between him and Tillman, Mr. McKinley is reported to be arranging to give him the benefit of federal patronage in the state, as if he were a republican leader. When Tillman threw down the gauntlet to McLaurin he said what is exactly true: "If you are a democrat, I am not." This is the question on trial in the fight which the resignation of these two senators has opened. Plutocratic and imperialistic South Carolina is measuring strength with democratic South Carolina.

The supreme court of Texas is reported to have decided that the franchise of a corporation, without its real estate, is lifeless; and that the taxation of both franchise and real estate is therefore double taxation. As reported in the newspapers, the decision is not stated with sufficient clearness to serve as a basis for economic criticism, either favorable or unfavorable; but it has the ring of a true decision. What gives peculiar value to a corporate franchise are the privileges it confers. These privileges are usually in the nature of powers to assert to some extent the sovereignty of the state over real estate; and substantial and permanent value attaches only when that power is asserted. The relation, therefore, between the real estate and the franchise of a corporation is very close. It is not unlike the relation between a deed and the lot of land it conveys. To tax the lot and also the deed, would be absurd. If this is the drift of the Texas decision with reference to corporations, it is a welcome drift.

On account of a recent decision of the supreme court of Colorado, Leadville is reported to be in a fair way of paying dividends to her citizens instead of taxing them. The decision in question was a determination of street rights. A mining company had been extracting valuable ore from underneath streets and alleys. The city brought suit, claiming that mining rights under public highways are municipal property. In the lower court this contention was defeated. But the supreme court decides that under the original conveyance of streets and alleys to Leadville, the mining company is a trespasser upon public rights. It is estimated that this decision assures the city of Leadville an annual royalty from mining rights in the streets of $2,000,000, and that it will be able not only to furnish free light, free water, free paving and free government, but to declare a public dividend besides of from a quarter to half a million a year. There is something exhilarating about that prospect. Yet Chicago also has silver mines beneath her streets. They are not so valuable, perhaps, as those of Leadville; but they would go a long way toward reducing Chicago taxes if Chicago had a Tom L. Johnson, or any other law-enforcing kind of man, for mayor. We refer to the valuable business places beneath the sidewalks of Chicago. Abutting lot owners who extend their cellars out under the sidewalks are trespassers upon Chicago public property, just as that mining company was a trespasser upon Leadville public property. If they paid their rent, the city treasury would not be so nearly empty.

It is little wonder that the people, and even able lawyers, were perplexed by the supreme court decisions in the Puerto Rico cases. Apparently the second decision reversed the first. Yet it is possible to make the two hang together. The conflict is not so much in the conclusions as in the reasoning by which they were reached. Taking the opinion of Judge Brown as stating the basis of the court's decisions—and this would seem to be the proper thing to do, since he carried the decision by a vote

of 5 to 4 in one direction in one of the cases, and by 5 to 4 in the other direction in another case—the two decisions together seem to establish this principle regarding the acquisition of new territory by the United States: (1) Instantly upon the ratification of a treaty of cession, the ceded territory ceases to be foreign territory; and consequently American revenue statutes which levy duties upon goods imported from foreign countries, cease to operate as to the territory ceded. (2) Yet the ceded territory does not become American territory to such extent as to entitle its inhabitants to the benefit of constitutional safeguards with reference to uniformity of taxation, until congress by affirmative action extends those safeguards to it; but is, meanwhile, with respect to the revenue clauses of the constitution, "a territory appurtenant and belonging to the United States, but not a part of the United States." (3) This unrestrained power of congress over ceded territory with reference to revenue legislation applies to all the territories — New Mexico, Arizona, Alaska and the Philippines, as well as Puerto Rico — and to the withdrawal of revenue privileges as well as to the withholding of them; for the revenue clauses of the constitution are held by the court to relate only to the several states of the union, and not to "the American empire" as a whole.

In the strictly legal sense, these decisions determine nothing more than the power of congress over territories with reference to the regulation of revenues. They establish nothing further, as matter of legal precedent, than that whereas congress must make its revenue laws uniform in so far as they apply to the states, it may make as many different kinds of revenue laws as it pleases for territories. By saying that this is the full scope of the decisions as legal precedents, we mean that in future cases the court would be under no obligation, even upon the strictest rules of deciding in accordance with past decisions, to extend the force of the decisions to any other clauses of the constitution than the revenue clauses, nor to any other question than revenue questions. It can be truly said, therefore, that these decisions do not sanction a crown colony system, except as to revenue legislation. But the spirit of the decisions goes much further than that. And it is hardly to be hoped that the court as at present constituted, or as likely to be affected by new appointments in the case of vacancies, would be governed by a different spirit in deciding such other constitutional questions as the crown colony policy may give rise to. Very distinctly a majority of the court, 5 to 4, stands for the doctrine that congress may govern the inhabitants of any part of the "empire," except the states, without other restraint than such as is affirmatively imposed by express constitutional inhibition upon that body. So far as territories are concerned, these cases reverse the long cherished American doctrine that congress has no power except what the constitution confers upon it. The new doctrine is that congress has unlimited power with reference to the territories and their inhabitants, except as the constitution expressly denies it. This is no longer a government of powers limited to the powers conferred; it is now, as to territories, a government of powers limited only by the powers denied.

The supreme court, therefore, has in effect decided by a majority of one judge, that the federal government may enter into competition with autocratic governments of Europe in maintaining crown colonies in different parts of the world, and that scattered over the earth it may have bodies of subjects of whom it demands a dumb allegiance. At this turning point in the history of our "government of the people, by the people, and for the people," one looks back instinctively, and not without encouragement, to the Dred Scott case. With what vividness that musty decision recalls how a majority of this same court, bowing obsequiously then to the slave power as a majority of it bows obsequiously to-day to the power of an imperial plutocracy, brought ruin unconsciously upon the very cause they consciously sought to protect.

The respect which a decision of the highest court of the country should command is necessarily weakened in this case by the fact that two republican and two democratic judges sturdily dissent. These four, moreover, are all men upon whom no suspicion rests. One of the majority judges—the only democrat among them—is chiefly distinguished as a representative of the protected sugar interests of Louisiana, which might have been injured by a different decision; and another fell under a cloud, a few years ago, by his sudden conversion to the plutocratic side of the income tax cases just when one vote on that side was needed. It is, indeed, a remarkable thing that in the two great supreme court decisions of this generation which bear upon the gathering conflict between democracy and plutocracy, the cause of the latter should have been sustained by a vote of 5 to 4; that in one case an act of congress was nullified, while in the other it is sanctioned; and that in each, the majority overruled long settled precedents of the court in order to reach their conclusions. Yet such is the fact. The income tax law was held to be unconstitutional by a vote of 5 to 4, the majority overruling a series of contrary decisions; and now the crown colony act is held, on the other hand, to be constitutional, by a vote of 5 to 4, the majority overruling a decision of the court which had been undisturbed for more than three-quarters of a century.

Were it not for this readiness to juggle with precedents, one might find in the Puerto Rico decision cause for great satisfaction, by inferring that in leaving the question of territorial government so completely under the control of congress, the court curtails its own earlier assumption of power to override the legislative department. But this might prove to be a poor

source of satisfaction. There is no assurance that when congress legislates less to the liking of the majority of the judges they will not again sway the court, and by thin "distinctions" overrule the democratic principle of this later precedent. Therein lies the danger of the judicial system that Marshall built up. Since the court sits in review of the legislative department upon the constitutionality of legislation, congress is less careful to legislate constitutionally than if the responsibility rested wholly with it. Thus it comes about that unconstitutional legislation is frequent, and the court picks and chooses, holding that to be unconstitutional which a majority of the judges dislike, and sanctioning that which they like. As to some of the most vital questions of public policy, therefore, the court may, as in the income tax law and the crown colony law they actually did, become final legislators. This crown colony decision makes it clearer than ever that the principle of the judicial plank of the Chicago platform of 1896 was sound. If we are to have a democratic as distinguished from a plutocratic and imperialistic government, we must have a democratic as distinguished from a plutocratic and imperialistic supreme court.

The fight between Mayor Johnson, of Cleveland, and the Ohio railroads, which is stirring public sentiment throughout the state and attracting marked attention all over the country, becomes fiercer every day, and of greater general interest. The fight turns, as we have already explained, upon the refusal of the county auditors to assess railroad property at as large a proportion of market value as residence and farm property is assessed at. The usual assessment of the latter is 60 per cent. of actual value, whereas railroad property is kept down to the neighborhood of 10 or 15 per cent. Mayor Johnson has proved by the market value of railroad stock and bonds that the railroad property they represent is worth many times the amount for which it is assessed, but the county auditors have stolidly ignored this proof. He has demanded that they bring in the railroad officials to disclose the real value of their respective roads, but the auditors stolidly ignore the demands. Finally he has instituted mandamus proceedings to compel them to examine the railroad officials. We told briefly of the first of these legal proceedings last week, but our information on that point was limited to what had come over the wires in press dispatches, which was somewhat defective. Quoting now from the full reports of the Cleveland Plain Dealer, we are able to explain the matter more correctly.

The case of the Cleveland, Lorain & Wheeling railroad was before the board of county auditors for assessment. The mayor tried to examine the auditor of the road with reference to the accuracy of his tax return. The railroad auditor would not answer, and the board refused to grant the mayor's demand that they compel him to. The railroad auditor finally explained that he could not testify as to his return, because he had to rely upon figures given him by others. The mayor then demanded the names of those others, and that they be required to appear and testify. The board of county auditors ignored the demand. At this point the director of law of the city applied to one of the judges for a mandamus to compel the board of auditors to investigate the truth of the railroad's return. While he was gone, Prof. Bemis and the mayor argued the matter with the board until the latter, apparently suspecting that these speeches were made to secure delay for some purpose, abruptly refused to listen any longer, and were about to fix the assessment, when a messenger informed the mayor that the mandamus had been granted. We quote now from the Plain Dealer:

The mayor jumped to his feet.

"Gentlemen," he cried, "a writ of mandamus has just been granted ordering you to call in the auditors of the road and examine them as to the true value of this property."

For a moment the auditors sat as though stunned, and then Auditor Laws, of Harrison county, growled: "Let's go ahead with the assessment."

"This notice I have given you, before you have taken a vote, is as binding on you as though the sheriff had served the writ," the mayor interposed. "It has the effect of nullifying any action you may take."

No answer was made and the auditors proceeded. They finished before Deputy Sheriff Jack Maney arrived. He served the writ on Auditor Craig as chairman of the board. Craig said he would consult with County Solicitor Kaiser before certifying the appraisement to the state board. The auditors—George H. Lewis, of Lorain; W. H. Hobart, of Medina; A. B. Peckinbaugh, of Wayne; L. E. Sisler, of Summit; W. M. Reed, of Stark; C. C. Fernsell, of Tuscarawas; H. B. Laws, of Harrison; M. Aldredge, of Belmont, and W. E. Craig, of Cuyahoga—raised the appraisement of the road from $2,203,149, the company's return, to $2,367,000. This was equal to an increase of 11.6 per cent. over the return of last year, or from 15.5 per cent. of the true value of the road to 17 per cent.

The mayor claimed that the real market value of the road was $13,000,000 as shown by its bonds and stocks. The physical property of the road, he said, applying the rule observed by the railroad company in making its return, was several times more valuable than given by the road. Much of its property was omitted, he said.

According to the mayor's figures the road should be assessed at $71,058 a mile instead of $11,028 a mile, which was the figure it returned. The auditor of the road and its general counsel, J. M. Lessick, refused to make any attempt to refute the mayor's statements.

"We stand on our return," they said.

One of the criticisms that Johnson makes of the county auditors is that they not only grossly discriminate in favor of the railroads and against farmers, city home owners and other small tax payers, but that they do this while receiving favors from the railroad companies. He brought this matter pointedly before the board, when, in defiance of notice of the mandamus mentioned above, it proceeded to appraise arbitrarily. He asked the railroad's auditor whether his road issued passes to county auditors. The railroad auditor blushingly said