PRESIDENT URGES NEW LEGISLATION IN HOT MESSAGE

BIG CORPORATIONS SCORED BECAUSE OF ATTITUDE TOWARD GOVERNMENT.

EMPLOYERS' LIABILITY LAW

Chief Executive Declares Act Needs Immediate Revision—Righting of Injunction Abuses Is Urged.

To the Senate and House of Representatives: The recent decision of the supreme court in regard to the employers' liability act, the experience of the Interstate Commerce Commission and of the department of justice in enforcing the interstate commerce and antitrust laws, and the gravely significant attitude toward the law and its administration recently adopted by certain heads of great corporations, render it desirable that there should be additional legislation as regards certain of the relations between labor and capital, and between the great corporations and the public.

The supreme court has decided the employers' liability law to be unconstitutional because its terms apply to employes engaged wholly in intrastate commerce as well as to employes engaged in interstate commerce. By a substantial majority the court holds that the congress has power to deal with the question in so far as interstate commerce is concerned.

As regards the employers' liability law, I advocate its immediate reenactment, limiting its scope so that it shall apply only to the class of cases as to which the court says it can constitutionally apply, but strengthening its provisions within this scope. Interstate employment being thus covered by an adequate national law, the field of intrastate employment will be left to the action of the several states. With this clear definition of responsibility the states will undoubtedly give to the performance of their duty within their field the consideration the importance of the subject demands.

Compensation for Employes Hurt in Government Service

I also very urgently advise that a comprehensive act be passed providing for compensation by the government to all employes injured in the government service. Under the present law an injured workman in the employment of the government has no remedy, and the entire burden of the accident falls on the helpless man, his wife, and his young children. This is an outrage. It is a matter of humiliation to the nation that there should not be on our statute books a provision to meet and partially to relieve for cruel misfortune when it comes upon a man through no fault of his own while faithfully serving the public. In no other prominent industrial country in the world could such gross injustice occur; for almost all civilized nations have enacted legislation embodying the complete recognition of the principle which places the entire trade risk of industrial accidents (excluding, of course, accidents due to willful misconduct by the employe), on the industry as represented by the employer, which in this case is the government. In all these countries the principle applies to the government just as much as to the private employer. Under no circumstances should the injured employe or his surviving dependents be required to bring suit against the government, nor should there be the requirement that in order to insure recovery negligence in some form on the part of the government should be shown. The proposition is not to confer a right of action upon the government employe, but to secure him suitable provision against injuries received in the course of his employment. The burden of the trade risk should be placed upon the government. Exactly as the workingman is entitled to his wages, so he should be entitled to indemnity for the injuries sustained in the natural course of his labor. The rates of compensation and the regulations for its payment should be specified in the law, and the machinery for determining the amount to be paid should in each case be provided in such manner that the employe is properly represented without expense to him. In other words, the compensation should be paid automatically, while the application of the law in the first instance should be vested in the department of commerce and labor. The law should apply to all laborers, mechanics, and other civilian employes of the government of the United States, including those in the service of the Panama canal commission and of the insular governments.

The same broad principle which should apply to the government should ultimately be made applicable to all private employers. Where the nation has the power it should enact laws to this effect. Where the states alone have the power they should enact the laws. It is to be observed that an employers' liability law does not really mean mulcting employers in damages. It merely throws upon the employer the burden of accident insurance against injuries which are sure to occur. It requires him either to bear or to distribute through insurance the loss which can readily be borne when distributed, but which, if undistributed, bears with frightful hardship upon the unfortunate victim of accident. In theory, if wages were always freely and fairly adjusted, they would always include an allowance against the risk of injury, just as certainly as the rate of interest for money includes an allowance for insurance against the risk of loss. In theory, if employes were all experienced business men, they would employ that part of their wages which is received because of the risk of injury to secure accident insurance. But as a matter of fact, it is not practical to expect that this will be done by the great body of employes. An employers' liability law makes it certain that it will be done, in effect, by the employer, and it will ultimately impose no real additional burden upon him.

There is a special bill to which I call your attention. Secretary Taft has urgently recommended the immediate passage of a law providing for compensation to employes of the government injured in the work of the Isthmian canal, and that $100,000 be appropriated for this purpose each year. I earnestly hope this will be done; and that a special bill be passed covering the case of Yardmaster Banton, who was injured nearly two years ago while doing his duty. He is now helpless to support his wife and his three little boys.

Action Urged to Right Abuses of the Injunction

I again call your attention to the need of some action in connection with the abuse of injunctions in labor cases. As regards the rights and wrongs of labor and capital, from blacklisting to boycotting, the whole subject is covered in admirable fashion by the report of the Anthracite Coal Strike commission, which report should serve as a chart for the guidance of both legislative and executive officers. As regards injunctions, I can do little but repeat what I have said in my last message to the congress. Even though it were possible, I should consider it most unwise to abolish the use of the process of injunction. It is necessary in order that the courts may maintain their own dignity and in order that they may in effective manner check disorder and violence. The judge who uses it cautiously and conservatively, but who, when the need arises, uses it fearlessly, confers the greatest service upon our people, and his preeminent usefulness as a public servant should be heartily recognized. But there is no question in my mind that it has sometimes been used heedlessly and unjustly, and that some of the injunctions issued inflict grave and occasionally irreparable wrong upon those enjoined.

It is all wrong to use the injunction to prevent the entirely proper and legitimate actions of labor organizations in their struggle for industrial betterment, or under the guise of protecting property rights unwarrantably to invade the fundamental rights of the individual. It is futile to concede, as we all do, the right and the necessity of organized effort on the part of wage-earners and yet by injunctive process to forbid peaceable action to accomplish the lawful objects for which they are organized and upon which their success depends. The fact that the punishment for the violation of an injunction must, to make the order effective, necessarily be summary and without the intervention of a jury makes its issuance in doubtful cases a dangerous practice, and in itself furnishes a reason why the process should be surrounded with safeguards to protect individuals against being enjoined from exercising their proper rights. Reasonable notice should be given the adverse party.

This matter is daily becoming of graver importance and I can not too urgently recommend that the congress give careful consideration to the subject. If some way of remedying the abuses is not found the feeling of indignation against them among large numbers of our citizens will tend to grow so extreme as to produce a revolt against the whole use of the process of injunction. The ultra-conservatives who object to cutting out the abuses will do well to remember that if the popular feeling does become strong many of those upon whom they rely to defend them will be the first to turn against them. Men of property can not afford to trust to anything save the spirit of justice and fair play; for those very public men who, while it is to their interest, defend all the abuses committed by capital and pose as the champions of conservatism, will, the moment they think their interest changes, take the lead in just such a matter as this and pander to what they esteem popular feeling by endeavoring, for instance, effectively to destroy the power of the courts in matters of injunction; and will even seek to render nugatory the power to punish for contempt, upon which power the very existence of the orderly administration of justice depends.

It is my purpose as soon as may be to submit some further recommendations in reference to our laws regulating labor conditions within the sphere of federal authority. A very recent decision of the supreme court of the United States rendered since this message was written, in the case of Adair vs. United States, seemingly of far-reaching import and of very serious probable consequences, has modified the previously entertained views on the powers of the congress in the premises to such a degree as to make necessary careful consideration of the opinions given in that case before it is possible definitely to decide in what way to call the matter to your attention.

Asks Federal Supervision of Interstate Carriers

Not only should there be action on certain laws affecting wage-earners; there should also be such action on laws better to secure control over the great business concerns engaged in interstate commerce, and especially over the great common carriers. The Interstate Commerce Commission should be empowered to pass upon any rate or practice on its own initiative. Moreover, it should be provided that whenever the commission has reason to believe that a proposed advance in a rate ought not to be made without investigation, it should have authority to issue an order prohibiting the advance pending examination by the commission.

I would not be understood as expressing an opinion that any or even a majority of these advances are improper. Many of the rates in this country have been abnormally low. The operating expenses of our railroads, notably the wages paid railroad employes, have greatly increased. These and other causes may in any given case justly an advance in rates, and if the advance should be permitted and approved. But there may be, and doubtless are, cases where this is not true; and our law should be so framed that the government, as the representative of the whole people, can protect the individual against unlawful exaction for the use of these public highways. The Interstate Commerce Commission should be provided with the means to make a physical valuation of any road as to which it deems this valuation necessary. In some form the federal government should exercise supervision over the financial operations of our interstate railroads. In no other way can justice be done between the private owners of those properties and the public which pay their charges. When once an inflated capitalization has gone upon the market and has become fixed in value, its existence must be recognized. As a practical matter it is then often absolutely necessary to take account of the thousands of innocent stockholders who have purchased their stock in good faith. The usual result of such inflation is therefore to impose upon the public an unnecessary but everlasting tax, while the innocent purchasers of the stock are also harmed and only a few speculators are benefited. Such wrongs when once accomplished can with difficulty be undone; but they can be prevented with safety and with benefit. When combinations of interstate railways must obtain government sanction; when it is no longer possible for an interstate railway to issue stock or bonds, save in the manner approved by the federal government; when that government makes sure that the proceeds of every stock and bond issue go into the improvement of the property and not the enrichment of some individual or syndicate; when whenever it becomes material for guidance in the regulative action of the government, the physical value of one of these properties is determined and made known—there will be eliminated railroad securities that element of uncertainty which lends to them their speculative quality and which has contributed much to the financial stress of the recent past.

Would Permit Pooling of Railroad Interests

In this connection I desire to repeat my recommendation that railways be permitted to form traffic associations for the purpose of conferring about and agreeing upon rates, regulations, and practices affecting interstate business in which the members of the association are mutually interested. This does not mean that they should be given the right to pool their earnings or their traffic. The law requires that rates shall be so adjusted as not to discriminate between individuals, localities, or different species of traffic. Ordinarily rates by all competing lines must be the same. As applied to practical conditions, the railway operations of a country can not be conducted according to law without what is equivalent to conference and agreement. The articles under which such associations operate should be approved by the commission; all their operations should be open to public inspection; and the rates, regulations, and practices upon which they agree should be subject to disapproval by the commission.

I urge this last provision with the same earnestness that I do the others. This country provides its railway facilities by private capital. Those facilities will not be adequate unless the capital employed is assured of just treatment and an adequate return. In fixing the charges of our railroads, I believe that, considering the interests of the public alone, it is better to allow too liberal rather than too scanty earnings, for, otherwise, there is grave danger that our railway development may not keep pace with the demand for transportation. But the fundamental idea that these railways are public highways must be recognized, and they must be open to the whole public upon equal terms and upon reasonable terms.

In reference to the Sherman anti-trust law, I repeat the recommendations made in my message at the opening of the present congress, as well as in my message to the previous congress. The attempt in this law to provide in sweeping terms against all combinations of whatever character, if technically in restraint of trade as such restraint has been defined by the courts, must necessarily be either futile or mischievous, and sometimes both. The present law makes some combinations illegal, although they may be useful to the country. On the other hand, as to some huge combinations which are both noxious and illegal, even if the action undertaken against them under the law by the government is successful, the result may be to work but a minimum benefit to the public. Even though the combination be broken up and a small measure of reform thereby produced, the real good aimed at can not be obtained, for such real good can come only by a thorough and continuing supervision over the acts of the combination in all its parts, so as to prevent stock watering, improper forms of competition, and, in short, wrongdoing generally. The law should correct that portion of the Sherman Act which prohibits all combinations of the character above described, whether they be reasonable or unreasonable; but this should be done only as part of a general scheme to provide for this effective and thoroughgoing supervision by the national government of all the operations of the big interstate business concerns.

I do not know whether it is possible, but if possible, it is certainly desirable, that in connection with measures to restrain stock watering and overcapitalization there should be meacures taken to prevent at least the grosser forms of gambling in securities and commodities, such as making large sales of what men do not possess and "cornering" the market. Legitimate purchases of commodities and of stocks and securities for investment have no connection whatever with purchases of stocks or other securities or commodities on a margin for speculative and gambling purposes. There is no moral difference between gambling at cards or in lotteries or on the race track and gambling in the stock market. One method is just as pernicious to the body politic as the other in kind, and in degree the evil worked is far greater. But it is a far more difficult subject with which to deal. The great bulk of the business transacted on the exchanges is not only legitimate, but is necessary to the working of our modern industrial system, and extreme care would have to be taken not to interfere with this business in doing away with the "bucket shop" type of operation. We should study both the successes and the failures of foreign legislators who, notably in Germany, have worked along this line, so as not to do anything harmful. Moreover, there is a special difficulty in dealing with this matter by the federal government in a federal republic like ours. But if it is possible to devise a way to deal with it the effort should be made, even if only in a cautious and tentative way. It would seem that the federal government could at least act by forbidding the use of the mails, telegraph and telephone wires for mere gambling in stocks and futures, just as it does in lottery transactions.

Santa Fe President Had Guilty Knowledge of Rebating

I inclose herewith a statement issued by the chief of the bureau of corporations (Appendix 1), in answer to certain statements (which I also inclose), made by and on behalf of the agents of the Standard Oil corporation (Appendix 2), and a letter of the attorney-general (Appendix 3), containing an answer to certain statements, also inclosed, made by the president of the Santa Fe Railway Company (Appendix 4). The Standard Oil corporation and the railway company have both been found guilty in the courts of criminal misconduct; both have been sentenced to pay heavy fines; and each has issued and published broadcast these statements, asserting their innocence and denouncing as an improper the action of the courts and juries in convicting them of guilt. These statements are very elaborate, are very ingenious, and are untruthful in important particulars. The following letter and inclosure from Mr. Heney sufficiently illustrate the methods of the high officials of the Santa Fe and show the utter falsity of their plea of ignorance, the similar plea of the Standard Oil being equally without foundation:

"Department of Justice, Office of the United States Attorney, District of Oregon.

"Portland, January 11, 1906.

"The President, Washington, D. C.

"Dear Mr. President: I understand that Mr. Ripley, of the Atchison, Topeka & Santa Fe Railway system, has commented with severe criticism upon your attitude toward the payment of rebates by certain transcontinental railroads and that he has declared that he personally never knew anything about any rebates being granted by his road. I think I can close you herewith copy of a letter from Edward Chambers, general freight traffic manager of the Atchison, Topeka & Santa Fe Railway system, to Mr. G. A. Davidson, auditor of the same company, dated February 27, 1906.

"This letter does not deal with interstate shipments, but the constitution of the state of California makes the payment of rebates a felony, and yet Mr. Ripley has apparently not been above the commission of crime to secure business. You are at liberty to use this inclosure in any way that you think it can be of service to yourself or the public.

"Sincerely yours,
"FRANCIS J. HENEY."

"San Francisco, February 27, 1907.

"Dear Sir: I hand you herewith a file of papers covering the movement of fuel oil shipped by the Associated Oil Company over our line from January 1, 1906, up to and including February 28, 1906.

"We agreed with the Associated Oil Co.'s negotiations with Mr. Ripley, Mr. Wells and myself, that in consideration of their making us a special price on oil for company use, which we agreed by a contract, and the further consideration that we would take a certain quantity, they would in turn ship from Bakersfield over our line to San Francisco Bay points a certain minimum number of barrels of fuel oil at rate of 25 cents per barrel from Bakersfield, exclusive of the switching charge.

"These statements cover the movement except that they have included Stockton, which is not correct, as it is not a bay point and could not be reached as conveniently by water. We have paid them on account of this movement $7,228 which should be deducted from the total oil movement shown in the attached papers.

"I wish you would arrange to make up a statement, check the same, and refund to the Associated Oil Company down to the basis of 25 cents per barrel from Bakersfield where they are the shippers, regardless of who is consignee, as all their fuel oil is sold delivered. The reason for making this allowance in addition to what I have stated is that the Associated Oil Company have their own boats and carry oil from fields controlled by themselves along the coast near San Luis Obispo to San Francisco and wherever it suits them the special rate we have made them and in competition with the Union Oil Company and the Standard Oil Company, it was necessary for them to sell at the San Francisco Bay points on the basis of the cost of water transportation from the coast fields. They figured they could only afford to pay us the 25 cents per barrel if by doing this they sold our company a certain amount of fuel oil, otherwise the business covered by the attached papers would have come in by boat from the coast fields.

"I am writing up this matter up completely so that there may be in the papers a history of the reasons why this arrangement was made. I wish you would go ahead and make the adjustment as soon as possible, as the Associated Oil Company are very anxious to have the matter closed up. The arrangement was canceled on November 15th at a conference between Mr. Ripley, Mr. Wells, Mr. Porter, and myself.

"Yours truly,
"EDWARD CHAMBERS."

"Shipments-Associated Oil Company.

"Mr. G. A. Davidson,
"Auditor, Los Angeles."

The attacks by these great corporations on the administration's actions have been given a wide circulation throughout the country, in the newspapers and otherwise, by those writers and speakers who, consciously or unconsciously, act as the representatives of predatory wealth—of the wealth accumulated on a giant scale by all forms of iniquity, ranging from the oppression of wageworkers to unfair and unwholesome methods of crushing out competition, and to defrauding the public by stock jobbing and the manipulation of securities. Certain wealthy men of this stamp, whose conduct should be abhorrent to every man of ordinarily decent conscience, and who commit the hideous wrong of teaching our young men that phenomenal business success must ordinarily be based on dishonesty, have during the last few months made it apparent that they have banded together to work for a reaction. Their endeavor is to overthrow and discredit all who honestly administer the law, to prevent any additional legislation which would check and restrain them, and to secure if possible a freedom from all restraint which will permit every unscrupulous wrongdoer to do what he wishes unchecked provided he has enough money. The only way to counteract the movement in which these men are engaged is to make clear to the public just what they have done in the past and just what they are seeking to accomplish in the present.

The administration and those who support its views are not only not engaged in an assault on property, but are strenuous upholders of the rights of property.

Under no circumstances would we countenance attacks upon law-abiding property, or do aught but condemn those who hold up rich men as being evil men because of their riches. On the contrary, our whole effort is to insist upon conduct, and neither wealth nor property nor any other class distinction, as being the proper standard by which to judge the actions of men. For the honest man of great wealth we have a hearty regard, just as we have a hearty regard for the honest politician and honest newspaper. But part of the movement to uphold honesty must be a movement to frown on dishonesty. We attack only the corrupt men of wealth, who find in the purchased politician the most efficient instrument of corruption and in the purchased newspaper the most efficient defender of corruption. Our main quarrel is not with these agents and representatives of the interests. They derive their chief power from the great sinister offenders who stand behind them, they are but puppets who move as the strings are pulled. It is not the puppets, but the strong cunning men and the mighty forces working for evil behind and through the puppets, with whom we have to deal. We seek to control law-defying wealth; in the first place to prevent its doing dire evil to the republic, and in the next place to avoid the vindictive and dreadful radicalism which it will undoubtedly tend certain in the end to arouse. Sweeping attacks upon all property, upon all men of means, without regard to whether they do well or ill, would sound the deathknell of the republic; and such attacks become inevitable if decent citizens permit those rich men whose lives are corrupt and evil to domineer in swollen pride, unchecked and unhindered, over the destinies of the country. We act in no vindictive spirit, and we are no respecters of persons. If a labor union does wrong, we oppose it as firmly as we oppose a corporation which does wrong; and we act equally squarely for the rights of the man of wealth and for the rights of the wage-worker. We seek to protect the property of every man who acts honestly, of every corporation that represents wealth honestly accumulated and honestly used. We seek to stop wrongdoing, and we desire to punish the wrong doers only so far as is necessary to achieve this end.

Campaign of Lawbreakers Against Government's Policy

There are ample material rewards for those who serve with fidelity the mammon of unrighteousness; but there are dearly paid for by the people who permit their representatives, whether in public life, in the press, or in the colleges where their young men are taught, to preach and to practice that there is one law for the rich and another for the poor. The amount of money the representatives of certain great moneyed interests are willing to spend can be gauged by their recent publication broadcast throughout the papers of this country, from the Atlantic to the Pacific, of huge advertisements attacking with envenomed bitterness the administration's policy of warring against successful dishonesty, and by their circulation of pamphlets and books prepared with the same object; while they likewise push the circulation of the writings and speeches of men who, whether because they are misled, or because, seeing the light, they yet are willing to sin against the light, serve these their masters of great wealth to the cost of the plain people. The books and pamphlets, the controlled newspapers, the speeches by public or private men to which I refer, are usually and especially in the interest of the Standard Oil Trust and of certain notorious railroad combinations, but they also defend other individuals and corporations of great wealth that have been guilty of wrongdoing. It is only rarely that the men responsible for the wrongdoing themselves speak or write. Normally they hire others to do their bidding, or find others who will do it without hire. From the railroad-rate law to the pure-food law, every measure for honesty in business that has been passed during the last six years has been opposed by these men on its passage and in its administration with every resource that bitter and unscrupulous craft could suggest and the command of almost unlimited money secure. But for the last year the attack has been made with most bitterness upon the actual administration of the law, especially through the department of justice, but also through the Interstate Commerce Commission and the bureau of corporations. The extraordinary violence of the assaults upon our policy contained in these speeches, editorials, articles, advertisements, and pamphlets, and the enormous sums of money spent in these various ways, give a fairly accurate measure of the anger and terror which our public servants have begun to inspire in the minds of