

this state of things (even supposing, if you will, that Mooney is guilty), but it is very difficult to suggest the precise remedy. President Wilson received a report on the Mooney case from a Federal Industrial Commission, the substance of which was that gross injustice was being done, and more than once the President urged California to do something; but in vain.

So far as we know, no one doubts the assertion that a man named Oxman offered money by letter to a man named Rigall to give false testimony, and that it was largely on Oxman's own testimony that Mooney was convicted. If the existence of such a state of affairs does not vitiate a criminal trial on which a man's life hangs, then there seems to be to that extent a failure in the primary rule of law that every man, however great a criminal, is entitled to a fair trial.

We repeat what we said the last time this question came up: Mooney may be the worst scoundrel on earth. But that is not the question. The question is, Did he have a fair trial and was he proved guilty of the act for which he was tried? Either the laws of California should be so altered as to make it possible to afford a second trial in a case like this or something more like substantial justice should be substituted for execution than confinement for life.

### A FAMOUS ANTARCTIC EXPLORER

**L**AST week news reached this country from Montevideo in Uruguay of the sudden death of the famous British explorer, Sir Ernest Shackleton. He was carrying on a new Antarctic expedition and died on board his steamship, *The Quest*, on January 5. The *Quest* at the time was off South Georgia Island, and Sir Ernest's body was brought to Montevideo by a Norwegian steamship which happened to be there; it will be forwarded to England, and will there receive the high honors due from Government and people to one of the bravest and most adventurous of England's many Polar heroes.

The Shackleton expedition left London about four months ago. It was to be Sir Ernest's last voyage of exploration, and, singularly enough, he remarked before leaving that this expedition was to be his "swan song." The object of the expedition was not a dash to the South Pole, but a voyage of perhaps thirty thousand miles intended to add to the knowledge of ocean depths and currents, and to be largely one of scientific exploration along the Antarctic coastlines.

All readers of the fascinating literature of exploration remember Shackleton's famous expedition of 1914-16. The



SIR ERNEST SHACKLETON AND ADMIRAL PEARY

expeditions of Scott and Amundsen had settled the feasibility of reaching the South Pole, and to the latter had fallen the honor of being its first "discoverer." Shackleton's expedition of 1914 was planned to cross the South Polar continent from sea to sea. The sufferings and adventures of the party made a romance of adventure. The story is too long to retell. Sir Ernest's own ship, the *Endurance*, was crushed in the ice and abandoned; the party traversed raging seas in small boats, dragging the boats over the ice from time to time, until they reached a tiny bit of land called Elephant Island; thence Shackleton himself and five men in a small boat made their way from Elephant Island to the coast of South Georgia; at once they started efforts to rescue the twenty-two men who had been isolated on Elephant Island; three attempts failed because a properly equipped ship could not be found; finally, Chile lent Shackleton a small Government steamer, and on the fourth attempt the men were rescued after nearly five months' bare existence on the desolate little island.

One London paper puts the feeling of Englishmen concisely and truly when it says: "A brave and lovable soul is quenched. We have lost a great Englishman, simple, courageous, cheerful, of infinite resource."

### THE ISLAND OF HAITI

**T**HREE weeks ago *The Outlook* published a summary of the findings of the Senate committee which recently journeyed to Haiti to investigate conditions in that troublous island. We have received a letter from a correspondent

who has had an opportunity to study and investigate conditions in Haiti. The conclusions of this correspondent closely correspond to and corroborate the findings of the Senatorial committee.

He writes us that in the Republic of Santo Domingo, which occupies the larger part of the island and has the more literate and prosperous people, there is every prospect that the citizens will need our military protection for at least two years more. He says that there is no alternative to such a plan, for the Dominicans have refused to hold elections necessary for the re-establishment of the independent administration of Santo Domingo. The Dominicans have refused to hold elections because of the conditions upon which our Government has made the withdrawal of Marines contingent. One condition against which the Dominicans uniformly protest is that which demands that an American military commission be attached to the native constabulary. The Dominicans assent to other conditions which relate to the collection of customs and the validation of the acts of the Military Government. Our correspondent feels that the most objectionable condition might properly be waived.

Two years from now the state of affairs will probably be more favorable for American withdrawal than at the present time. Then the price of sugar should have advanced enough to result in general prosperity and increased revenue for Santo Domingo, and also highway improvements undertaken by the American military authorities will be practically completed.

Our correspondent sees no hope for early withdrawal from the Republic of Haiti. And it will be necessary, he feels, to keep our garrisons there for some time, even though the total number of Marines may be reduced and our forces confined to Port au Prince and Cap Haitien. At present we have two thousand Marines charged with keeping order among two and one-half million Haitians. This ratio would indicate that the presence of the Marines is not offensive to the average native. In addition to this force there are some twenty-five hundred gendarmes, commanded, in steadily increasing numbers, by native officers.

Under our treaty with Haiti we are co-operating with the Haitian Government, not only in the management of the gendarmerie, but also with the Public Health Service, the Department of Finance, and the Department of Public Works. As in Santo Domingo, our correspondent writes, it is particularly important that the building of roads shall be prosecuted with vigor. Good

roads not only promote trade and communication, but also are an efficient preventive of banditry and revolution. The building of roads in Haiti means something more than the construction of highways for vehicles. It means also the opening up of trails for pack-animals. The number of wheeled vehicles in Haiti is not large.

### PRICE-FIXING AND THE SHERMAN ANTI-TRUST LAW

UNDER the principle established by the Sherman Anti-Trust Law that "combinations in restraint of trade" are illegal the United States Supreme Court has recently rendered two decisions of more than passing interest. The first was in what is known as the Hardwood Case. An association of manufacturers of hardwood lumber was organized for the purpose of keeping its members mutually informed as to sales, invoices, production, stocks on hand, price lists, etc. The directors of the association contended that it was a purely mutual benefit organization whose proceedings were open alike to buyer and seller, and that, although privately managed, it was comparable to the bureaus conducted by the Government itself for the benefit of the producers and consumers of wheat and cotton. The Federal Trade Commission issued an order restraining the association from further activities, on the ground that its function was to maintain artificial or monopolistic prices in restraint of trade. The Supreme Court, by a divided bench, has sustained the contention of the Trade Commission.

The minority opinion is notable because it comes from Justices Brandeis, Holmes, and McKenna, who are not generally supposed to consider trusts or combinations as favorable developments of American industry. Their view of the case is that combinations of sellers for information and trade development, provided their activities are open to the public, are not necessarily in unreasonable restraint of trade under the meaning of the Sherman Law, and, in their opinion, the Hardwood Association was not proved to exert unreasonable pressure in restraint of trade.

Popular opinion, we think, will approve the decision of the majority of the Court. Such an association as that of the hardwood manufacturers, even if organized with the best of intentions, could very easily develop into a monopolistic and anti-social combination.

Such information as the association gathered, however, if collected in a way to avoid abuse would be of public value. Possibly the Department of Commerce, in spite of the expense involved, might direct the collection and distribution of

such information. The decision, while settling a legal question, has raised a practical one.

We are very doubtful about the equity of the second price-fixing case—that of the Beechnut Packing Company. This company had endeavored to maintain a uniform retail price for its special brands of prepared foods—a well-known brand of bacon is one of them—by a system of contracts, agreements, and supervision under which it refused to sell to wholesalers, jobbers, or retailers who cut or connived at cutting the published retail price. The Supreme Court has decided that this attempt of the Beechnut Company to fix the retail price of its products is illegal. But, as in the Hardwood Case, the decision was not unanimous. Justices Holmes, Brandeis, McKenna, and McReynolds dissented. The last said: "Having the undoubted right to sell to whom it will, why should the respondent be enjoined from writing down the names of dealers regarded as undesirable customers?"

To form a combination to fix the price to consumers of all the hog meat butchered in America would undoubtedly be an anti-social monopoly. To fix the price of a special brand of bacon cannot be a monopoly because the consumer can always turn to many other competing brands if the maker of the special brand charges an unfair or even undesirable price. Moreover, there is a real element of social justice in a uniform price to all purchasers of an article with a special or individual brand. The price of a copy of *The Outlook*, plainly marked upon it, is fifteen cents. Would it be fair to the mass of purchasers if a favored few could obtain it from price-cutting newsdealers at ten cents a copy?

### FACING THE FACTS OF THE BONUS

SECRETARY MELLON has sent to the Chairman of the House Ways and Means Committee a statement of the financial condition of the Treasury, which should provide food for thought for those who are arguing for the immediate granting of a soldiers' bonus. Quite properly the Secretary's letter is not an argument for or against the bonus. It is merely a statement of what the country must face frankly if it passes bonus legislation.

The Secretary points out that Congress, if it votes for a bonus unprovided for by the budget, must provide also for additional taxation, and that the moneys raised by such taxation would have to amount to not less than \$850,000,000 in the first two years of the operation of the Bonus Law. The Secretary's estimate is based on the legislation which

Congress has been recently considering. The Secretary shows clearly how futile is the hope that the bonus might be paid from either the interest or the principal of the debt owed us by foreign governments. The money owed us by foreign governments is still in the form of demand obligations, and is therefore not in the negotiable form of foreign securities which can be sold to the public. Moreover, the Secretary points out that to sell such obligations, backed by the guaranty of our own Government, would seriously interfere with our own refunding operations and in the long run prove more expensive to the United States than the sale of its own National bonds.

Since August 31, 1919, when the gross debt of the United States reached its peak, there has been a gradual but steady retirement of our National debt. The Treasury has been floating a constantly decreasing total volume of securities, and its borrowings have accordingly not taken new money that would otherwise go into business. The increase in the public debt required by a bonus law might, as the Secretary shows, turn back the gradually swelling tide of business improvement. The ex-soldier by the passage of a bonus law might actually in the end lose more than he would gain.

### THE WASHINGTON DISASTER

THERE have been many theater calamities caused by fire and panic—such as the recent inexcusable disaster at New Haven—but that at the Knickerbocker Theater in Washington, which caused the loss of 108 lives and left 140 persons seriously injured, is almost unique in that it was caused, directly or indirectly, by snow. Whether bad construction was the ultimate cause is a question now under investigation by three or four committees. The facts should be searched out relentlessly and widely published, so that other cities may find out whether they have like dangers in their theaters and moving-picture houses.

Even the phenomenal fall of snow which tied up Washington's traffic and made it seem like a Canadian city, but unprepared to handle blizzards as northern cities do, should not have made this terrible tragedy possible. The fault may have been in lack of proper margin for roof weight in the city's building laws; it may have been in improper use of truss construction to avoid the upright posts so undesirable in theaters; or it may have been due to imperfect or corrupt work by building inspectors. Secretary Hoover and Colonel Keller, the Engineer Commissioner for the District, believe the construction was faulty; others say that the