



## A PEON IN WISCONSIN?

[by James Kilpatrick]

Sometime in the winter of 1997 — the record is not clear — snow fell upon Racine County, Wis. This was not unusual. Snow has a way of falling in Wisconsin. The unusual thing is that this particular snow contributed to an accusation of “peonage” now pending in the U.S. Supreme Court on a petition for review.

Peonage? Come now! Peonage usually is defined as “involuntary servitude in satisfaction of a debt.” It has been forbidden in the United States since Dec. 6, 1865. That was when 27 of the 36 states, including Wisconsin, completed ratification of the 13th Amendment. It forbids “involuntary servitude” except as punishment for a crime.

Pursuant to that historic amendment, the Reconstruction Congress swiftly adopted what is now 42 U.S.C. Sect 1994. It forbids the states and their subdivisions from enforcing the involuntary labor of “peons” in liquidation of their debts.

Somehow word of the amendment’s ratification never got back to Judge Robert S. Michelson in Racine’s Municipal Court. Six years ago he ran out of patience with Gerard N. “Jed” Haas Jr., a local dealer in building products. A fair inference from the record is that Haas also ran out of patience with Judge Michelson. They simply Did Not Get Along.

Between August 1997 and September 1998, Haas rolled up 10 municipal citations, including one for failure to remove snow before it melted. Other civil charges involved traffic violations and the abatement of lead paint in his rental properties. The record mentions his failure to pay certain “civil debts.” Once he was arrested for buying liquor after midnight. It turned out that it wasn’t liquor, it was orange juice. Whatever.

In any event, he refused to respond to any of the charges. In May 1998 he was briefly jailed for his intractability. His younger brother Matt paid off three of these “municipal commitments,” amounting to \$604, but Gerard ran

up another seven citations. These amounted to \$3,110.

This time the judge ordered Haas to pay up or suffer 91 days in jail “at hard labor.” On Feb. 10, 2000, he was arrested and again imprisoned. A month later the exasperated judge decided to treat every unpaid day as a separate offense. He served Haas with a “demand letter” charging contempt of court. The letter ordered him to pay \$76,080 or face five years in the Racine County jail. This time brother Matt posted bond.

Haas petitioned the Racine County Circuit Court for a writ of habeas corpus, but the judge termed his petition “frivolous” and threw it out. In April 2002, the Wisconsin Supreme Court gave it another heave-ho. Meanwhile, in January 2002, Haas went into U.S. District Court. There District Judge Lynn Adelman gave him still another hard time. He appealed to the U.S. Court of Appeals for the 7th Circuit, and there received yet another rebuff. A three-judge panel ruled without dissent that the “Rooker-Feldman doctrine” controlled the case. And down he went for the fourth or fifth time.

And what, pray, is the controlling Rooker-Feldman doctrine? This aging court reporter had never met it. It is a jurisdictional rule. It precludes “lower federal court jurisdiction over claims seeking review of state court judgments ... [because] no matter how erroneous or unconstitutional the state court judgment may be, the Supreme Court of the United States is the only court that could have jurisdiction to review a state court judgment.”

In the case of Gerard Haas, his injuries resulted directly from state court judgments. The U.S. District Court and the 7th Circuit had no jurisdiction. The circuit judges added a comment that Judge Michelson is “absolutely immune” from the plaintiff’s suit; if he erred, it was “a minor procedural error.” All the other defendants similarly may claim at least quasi-judicial immunity.

I would be astonished if the Supreme Court agrees to hear Haas’s appeal from the 7th Circuit’s dismissal. The case doesn’t have a high court feel. All the same, I would regret a denial. It would be a pleasure, in a painful kind of way, to see Justice David Souter expounding the old English laws of peonage in a taut 10,000 words. We could anticipate a scholarly concurrence from Justice Clarence Thomas. Perhaps Justice Antonin Scalia would file a snappy dissent, simply to annoy.

Meanwhile, my thanks to Gerard Haas, his brother Matt, Judge Michelson, and the rest. At a lean time of Yuletide holidays, they gave me a column.

[Letters to Mr. Kilpatrick should be sent by e-mail to [kilpatjj@aol.com](mailto:kilpatjj@aol.com).]

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