

**The Shadow On The
Dial &
Other Essays**

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Freeditorial 

THE SHADOW ON THE DIAL

I.

THERE is a deal of confusion and uncertainty in the use of the words "Socialist," "Anarchist," and "Nihilist." Even the 'ist himself commonly knows with as little accuracy what he is as the rest of us know why he is. The Socialist believes that most human affairs should be regulated and managed by the State the Government that is to say, the majority. Our own system has many Socialistic features and the trend of republican government is all that way. The Anarchist is the kind of lunatic who believes that all crime is the effect of laws forbidding it as the pig that breaks into the kitchen garden is created by the dog that chews its ear! The Anarchist favors abolition of all law and frequently belongs to an organization that secures his allegiance by solemn oaths and dreadful penalties. "Nihilism" is a name given by Turgenieff to the general body of Russian discontent which finds expression in antagonizing authority and killing authorities. Constructive politics would seem, as yet, to be a cut above the Nihilist's intelligence; he is essentially a destructionary. He is so diligently engaged in unweeding the soil that he has not given a thought to what he will grow there. Nihilism may be described as a policy of assassination tempered by reflections upon Siberia. American sympathy with it is the offspring of an unholy union between the tongue of a liar and the ear of a dupe.

Upon examination it will be seen that political dissent, when it takes any form more coherent than the mere brute dissatisfaction of a mind that does not know what it wants to want, finds expression in one of but two ways in Socialism or in Anarchism. Whatever methods one may think will best substitute for a system gradually evolved from our needs and our natures a system existing only in the minds of dreamers, one is bound to choose between these two dreams. Yet such is the intellectual delinquency of many who most strenuously denounce the system that we have that we not infrequently find the same man advocating in one breath, Socialism, in the next, Anarchism. Indeed, few of these sons of darkness know that even as coherent dreams the two are incompatible. With Anarchy triumphant the Socialist would be a thousand years further from realization of his hope than he is today. Set up Socialism on a Monday and on Tuesday the country would be en fête, gaily hunting down Anarchists. There would be little difficulty in trailing them, for they have not so much sense as a deer, which, running down the wind, sends its telltale fragrance on before.

Socialism and Anarchism are the two extremes of political thought; they are parts of the same dung, in the sense that the terminal points of a road are parts of the same road. Between them, about midway, lies the system that we have the happiness to endure. It is a "blend" of Socialism and Anarchism in about equal parts: all that is not one is the other. Everything serving the common interest, or looking to the welfare of the whole

people, is socialistic in the strictest sense of the word as understood by the Socialist. Whatever tends to private advantage or advances an individual or class interest at the expense of a public one, is anarchistic. Cooperation is Socialism; competition is Anarchism. Competition carried to its logical conclusion (which only cooperation prevents or can prevent) would leave no law in force no property possible no life secure. Of course the words "cooperation" and "competition" are not here used in a merely industrial and commercial sense; they are intended to cover the whole field of human activity. Two voices singing a duet that is cooperation Socialism. Two voices singing each a different tune and trying to drown each other that is competition Anarchism: each is a law unto itself that is to say, it is lawless. Everything that ought to be done the Socialist hopes to do by associated endeavor, as an army wins battles; Anarchism is socialistic in its means only: by cooperation it tries to render cooperation impossible combines to kill combination. Its method says to its purpose: "Thou fool!"

II.

Everything foretells the doom of authority. The killing of kings is no new industry; it is as ancient as the race. Always and everywhere persons in high place have been the assassin's prey. We have ourselves lost three Presidents by murder, and will doubtless lose many another before the book of American history is closed. If anything is new in this activity of the regicide it is found in the choice of victims. The contemporary "avenger" slays, not the merely great, but the good and the inoffensive American President who had struck the chains from millions of slaves; a Russian Czar who against the will and work of his own powerful nobles had freed their serfs; a French President from whom the French people had received nothing but good; a powerless Austrian Empress, whose weight of sorrows touched the world to tears; a blameless Italian King beloved of his people; such is a part of the recent record of the regicide whose every entry is a tale of infamy unrelieved by one circumstance of justice, decency or good intention.

And the great Brazilian liberator died in exile.

This recent uniformity of malevolence in the choice of victims is not without significance. It points unmistakably to two facts: first, that the selections are made, not by the assassins themselves, but by some central control inaccessible to individual preference and unaffected by the fortunes of its instruments; second, that there is a constant purpose to manifest an antagonism, not to any individual ruler, but to rulers; not to any system of government, but to Government. It is a war, not upon those in authority, but upon Authority. The issue is defined, the alignment made, the battle set: Chaos against Order, Anarchy against Law.

M. Vaillant, the French gentleman who lacked a "good opinion of the law," but was singularly rich in the faith that by means of gunpowder and flying nails humanity could be brought into a nearer relation with reason, righteousness and the will of God, is said to have been nearly devoid of a nose. Of this affliction M. Vaillant made but slight account, as was natural, seeing that but for a brief season did he need even so much of nose as remained to him. Yet before its effacement by premature disruption of his own petard it must have had a certain value to him he would not wantonly have renounced it; and had he foreseen its extinction by the bomb the iron views of that controversial device would probably have been denied expression. Albeit (so say the scientists) doomed to eventual elimination from the scheme of being, and to the Anarchist even now something of an accusing conscience, the nose is indubitably an excellent thing in man.

This brings us to consideration of the human nose as a measure of human happiness not the size of it, but its numbers; its frequent or infrequent occurrence upon the human face. We have grown so accustomed to the presence of this feature that we take it as a matter of course; its absence is one of the most notable phenomena of our observation "an occasion long to be remembered," as the society reporter hath it Yet

"abundant testimony showeth" that but two or three centuries ago noseless men and women were so common all over Europe as to provoke but little comment when seen and (in their disagreeable way) heard. They abounded in all the various walks of life: there were honored burgomasters without noses, wealthy merchants, great scholars, artists, teachers. Amongst the humbler classes nasal destitution was almost as frequent as pecuniary in the humblest of all the most common of all. Writing in the thirteenth century, Salsius mentions the retainers and servants of certain Suabian noblemen as having hardly a whole ear among them for until a comparatively recent period man's tenure of his ears was even more precarious than that of his nose. In 1436, when a Bavarian woman, Agnes Bemaurian, wife of Duke Albert the Pious, was dropped off the bridge at Prague, she persisted in rising to the surface and trying to escape; so the executioner gave himself the trouble to put a long pole into her hair and hold her under. A contemporary account of the matter hints that her disorderly behavior at so solemn a moment was due to the pain caused by removal of her nose; but as her execution was by order of her own father it seems more probable that "the extreme penalty of the law" was not imposed. Without a doubt, though, possession of a nose was an uncommon (and rather barren) distinction in those days among "persons designated to assist the executioner," as the condemned were civilly called. Nor, as already said, was it any too common among persons not as yet consecrated to that service: "Few," says Salsius, "have two noses, and many have none."

Man's firmer grasp upon his nose in this our day and generation is not altogether due to invention of the handkerchief. The genesis and development of his right to his own nose have been accompanied with a corresponding advance in the possessory rights all along the line of his belongings his ears, his fingers and toes, his skin, his bones, his wife and her young, his clothes and his labor everything that is (and that once was not) his. In Europe and America today these things can not be taken away from even the humblest and poorest without somebody wanting to "know the reason why." In every decade the nation that is most powerful upon the seas incurs voluntarily a vast expense of blood and treasure in suppressing a slave trade which in no way is injurious to her interests, nor to the interests of any but the slaves.

So "Freedom broadens slowly down," and today even the lowliest incapable of all Nature's aborted has a nose that he dares to call his own and bite off at his own sweet will. Unfortunately, with an unthinkable fatuity we permit him to be told that but for the very agencies that have put him in possession he could successfully assert a God-given and world-old right to the noses of others. At present the honest fellow is mainly engaged in refreshing himself upon his own nose, consuming that comestible with avidity and precision; but the Vaillants, Ravechols, Mosts and Willeys are pointing his appetite to other snouts than his, and inspiring him with rhinophagic ambition. Meantime the rest of us are using those imperiled organs to snore with.

'Tis a fine, resonant and melodious snore, but it is not going to last: there is to be a rude awakening. We shall one day get our eyes open to the fact that scoundrels like Vaillant

are neither few nor distant. We shall learn that our blind dependence upon the magic of words is a fatuous error; that the fortuitous arrangement of consonants and vowels which we worship as Liberty is of slight efficacy in disarming the lunatic brandishing a bomb. Liberty, indeed! The murderous wretch loves it a deal better than we, and wants more of it. Liberty! one almost sickens of the word, so quick and glib it is on every lip so destitute of meaning.

There is no such thing as abstract liberty; it is not even thinkable. If you ask me, "Do you favor liberty?" I reply, "Liberty for whom to do what? Just now I distinctly favor the liberty of the law to cut off the noses of anarchists caught redhanded or redtongued. If they go in for mutilation let them feel what it is like. If they are not satisfied with the way that things have been going on since the wife of Duke Albert the Pious was held under water with a pole, and since the servitors of the Suabian nobleman cherished their vestigial ears, it is to be presumed that they favor reversion to that happy state. There is grave objection, but if we must we will. Let us begin (with moderation) by reverting them."

I favor mutilation for anarchists convicted of killing or inciting to kill mutilation followed by death. For those who merely deny the right and expediency of law, plain mutilation which might advantageously take the form of removal of the tongue.

Why not? Where is the injustice? Surely he who denies men's right to make laws will not invoke the laws that they have wickedly made! That were to say that they must not protect themselves, yet are bound to protect him. What! if I beat him will he call the useless and mischievous constabulary? If I draw out his tongue shall he (in the signlanguage) demand it back, and failing of restitution (for surely I should cut it clean away) shall he have the law on me the naughty law, instrument of the oppressor? Why? that "goes neare to be fonny!"

Two human beings can not live together in peace without laws laws innumerable. Everything that either, in consideration of the other's wish or welfare, abstains from is inhibited by law, tacit or expressed. If there were in all the world none but they if neither had come with any sense of obligation toward the other, both clean from creation, with nothing but brains to direct their conduct every hour would evolve an understanding, that is to say, a law; every act would suggest one. They would have to agree not to kill nor harm each other. They must arrange their work and all their activities to secure the best advantage. These arrangements, agreements, understandings what are they but laws? To live without law is to live alone. Every family is a miniature State with a complicate system of laws, a supreme authority and subordinate authorities down to the latest babe. And as he who is loudest in demanding liberty for himself is sternest in denying it to others, you may confidently go to the Maison Vaillant, or the Mosthaus, for a flawless example of the iron hand.

Laws of the State are as faulty and as faultily administered as those of the Family. Most of them have to be speedily and repeatedly "amended," many repealed, and of those permitted to stand, the greater number fall into disuse and are forgotten. Those who

have to be entrusted with the duty of administering them have all the limitations of intelligence and defects of character by which the rest of us also are distinguished from the angels. In the wise governor, the just judge, the honest sheriff or the patient constable we have as rare a phenomenon as the faultless father. The good God has not given us a special kind of men upon whom to devolve the duty of seeing to the observance of the understandings that we call laws. Like all else that men do, this work is badly done. The best that we can hope for through all the failures, the injustice, the disheartening damage to individual rights and interests, is a fairly good general result, enabling us to walk abroad among our fellows unafraid, to meet even the tribesmen from another valley without too imminent peril of braining and evisceration. Of that small security the Anarchist would deprive us. But without that nothing is of value and we shall be willing to renounce all. Let us begin by depriving ourselves of the Anarchist.

Our system of civilization being the natural outgrowth of our wretched moral and intellectual natures, is open to criticism and subject to revision. Our laws, being of human origin, are faulty and their application is disappointing. Dissent, dissatisfaction, deprecation, proposals for a better system fortified with better laws more intelligently administered these are permissible and should be welcome. The Socialist (when he is not carried away by zeal to pool issues with the Anarchist) has that in him which it does us good to hear. He may be wrong by all else, yet right in showing us wherein we ourselves are wrong. Anyhow, his mission is amendment, and so long as his paths are peace he has the right to walk therein, exhorting as he goes. The French Communist who does not preach Petroleum and It rectified is to be regarded with more than amusement, more than compassion. There is room for him and his fad; there are hospitable ears for his boast that Jesus Christ would have been a Communist if there had been Communes. They really did not "know everything down in Judee." But for the Anarchist, whose aim is not amendment, but destruction not welfare to the race, but mischief to a part of it not happiness for the future, but revenge for the past for that animal there should be no close season, for that savage, no reservation. Society has not the right to grant life to one who denies the right to live. The protagonist of reversion to the regime of lacking noses should lack a nose.

It is difficult to say if the bombthrower, actual or potential, is greater as scoundrel or fool. Suppose his aim is to compel concession by terror. Can not the brute observe at each of his exploits a tightening of "the reins of power?" Through the necessity of guarding against him the mildest governments are becoming despotic, the most despotic more despotic. Does he suppose that "the rulers of the earth" are silly enough to make concessions that will not insure their safety? Can he give them security?

III.

Of all the wild asses that roam the plain, the wildest wild ass that roams the plain is indubitably the one that lifts his voice and heel against that socialism known as "public ownership of public utilities," on the ground of "principle." There may be honest, and in some degree intelligent, opposition on the ground of expediency. Many persons whom it is a pleasure to respect believe that a Government railway, for example, would be less efficiently managed than the same railway in private hands, and that political dangers lurk in the proposal so enormously to increase the number of Federal employes as Government ownership of railways would entail. They think, in other words, that the policy is inexpedient. It is a duty to reason with them, which, as a rule, one can do without being insulted. But the chap who greets the proposal with a howl of derision as "Socialism!" is not a respectable opponent. Eyes he has, but he sees not; earsoh! very abundant earsbut he hears not the still, small voice of history nor the still smaller voice of common sense.

Obviously to those who, having eyes, do see, public ownership of anything is a step in the direction of Socialism, for perfect Socialism means public ownership of everything. But "principle" has nothing to do with it. The principle of public ownership is already accepted and established. It has no visible opponents except in the camp of the Anarchists, and fewer of them are visible there than soap and water would reveal. Antagonists of the principle of Socialism lost their fight when the first human government held the dedicatory exercises of a Cave of Legislation. Since then the only question about the matter has been how far the extension of Socialism is expedient. Some would draw the limiting line at one place, some at another; but only a fool thinks there can be government without it, or good government without a great deal of it. (The fact that we have always had a great deal of it yet never had good government affirms nothing that it is worth while to consider.) The wordworn example of our Postal Department is only one of a thousand instances of pure Socialism. If it did not exist how bitter an opposition a proposal to establish it would evoke from Adversaries of the Red Rag! The Government builds and operates bridges with general assent; but as the late General Walker pointed out, it might under some circumstances be more economical, or better otherwise, to build and operate a ferry boat, which is a floating bridge. But that would be opposed as rank Socialism.

The truth is that the men and women of principle are a pretty dangerous class, generally speaking and they are generally speaking. It is they that hamper us in every war. It is they who, preventing concentration and regulation of unabolishable evils, promote their distribution and liberty. Moral principles are pretty good things for the young and those not well grounded in goodness. If one have an impediment in his thought, or is otherwise unequal to emergencies as they arise, it is safest to be provided beforehand with something to refer to in order that a right decision may be made without taking thought. But "spirits of a purer fire" prefer to decide each question as it comes up, and to

act upon the merits of the case, unbound and unpledged. With a quick intelligence, a capable conscience and a habit of doing right automatically one has little need to burden one's mind and memory with a set of solemn principles formulated by owlish philosophers who do not happen to know that what is right is merely what, in the long run and with regard to the greater number of cases, is expedient Principle is not always an infallible guide. For illustration, it is not always expedient that is, for the good of all concerned to tell the truth, to be entirely just or merciful, to pay a debt. I can conceive a case in which it would be right to assassinate one's neighbor. Suppose him to be a desperate scoundrel of a chemist who has devised a means of setting the atmosphere afire. The man who should go through life on an inflexible line of principle would border his path with a havoc of human happiness.

What one may think perfect one may not always think desirable. By "perfect" one may mean merely complete, and the word was so used in my reference to Socialism. I am not myself an advocate of "perfect Socialism," but as to Government ownership of railways, there is doubtless a good deal to be said on both sides. One argument in its favor appears decisive; under a system subject to popular control the law of gravitation would be shorn of its preeminence as a means of removing personal property from the baggage car, and so far as it is applicable to that work might even be repealed.

IV.

When M. Casimir Perier resigned the French Presidency there were those who regarded the act as weak, cowardly, undutiful and otherwise censurable. It seems to me the act, not of a feeble man, but of a strong one not that of a coward, but that of a gentleman. Indeed, I hardly know where to look in history for an act more entirely gratifying to my sense of "the fitness of things" than this dignified notification to mankind that in consenting to serve one's country one does not relinquish the right to decent treatment to immunity from factious opposition and abuse to at least as much civil consideration as is due from the Church to the Devil.

M. Casimir Perier did not seek the Presidency of the French Republic; it was thrust upon him against his protestations by an apparently almost unanimous mandate of the French people in an emergency which it was thought that he was the best man to meet. That he met it with modesty and courage was testified without dissent. That he afterward did anything to forfeit the confidence and respect that he then inspired is not true, and nobody believes it true. Yet in his letter of resignation he said, and said truly:

"For the last six months a campaign of slander and insult has been going on against the army, magistrates. Parliament and hierarchical Chief of State, and this license to disseminate social hatred continues to be called 'the liberty of thought.'"

And with a dignity to which it seems strange that any one could be insensible, he added: "The respect and ambition which I entertain for my country will not allow me to acknowledge that the servants of the country, and he who represents it in the presence of foreign nations, may be insulted every day."

These are noble words. Have we any warrant for demanding or expecting that men of clean life and character will devote themselves to the good of ingrates who pay, and ingrates who permit them to pay, in flung mud? It is hardly credible that among even those persons most infatuated by contemplation of their own merit as pointed out by their thrifty sycophants "the liberty of thought" has been carried to that extreme. The right of the State to demand the sacrifice of the citizen's life is a doctrine as old as the patriotism that concedes it, but the right to require him to forego his good name that is something new under the sun. From nothing but the dunghill of modern democracy could so noxious a plant have sprung.

"Perhaps in laying down my functions," said M. Casimir Perier, "I shall have marked out a path of duty to those who are solicitous for the dignity, power and good name of France in the world."

We may be permitted to hope that the lesson is wider than France and more lasting than the French Republic. It is time that not only France but all other countries with "popular institutions" should learn that if they wish to command the services of men of honor they must accord them honorable treatment; the rule now is for the party to which they belong to give them a halfhearted support while suffering all other parties to slander and insult them. The action of the President of the French Republic in these disgusting

circumstances is exceptional and unusual only in respect of his courage in expressly resenting his wrong. Everywhere the unreasonable complaint is heard that good men will not "go into politics;" everywhere the ignorant and malignant masses and their no less malignant and hardly less ignorant leaders and spokesmen, having sown the wind of reasonless obstruction and partisan vilification, are reaping the whirlwind of misrule. So far as concerns the public service, gentlemen are mostly on a strike against introduction of the mudmachine. This highminded political workman, Casimir Perier, never showed to so noble advantage as in gathering up his tools and walking out.

It may be, and a million times has been, urged that abstention from activity in public affairs by men of brains and character leaves the business of government in the hands of the incapable and the vicious. In whose hands, pray, in a republic does it logically belong? What does the theory of "representative government" affirm? What is the lesson of every netherward extension of the suffrage? What do we mean by permitting it to "broaden slowly down" to lower and lower intelligences and moralities? what but that stupidity and vice, equally with virtue and wisdom, are entitled to a voice in political affairs, a finger in the public pie?

A person that is fit to vote is fit to be voted for. He who is competent for the high and difficult function of choosing an officer of the State is competent to serve the State as an officer. To deny him the right is illogical and unjust. Participation in Government can not be at the same time a privilege and a duty, and he who claims it as a privilege must not speak of another's renunciation (whereby himself is more highly privileged) as "shirking." With every retirement from politics increased power passes to those who remain. Shall they protest? Shall they, also, who have retired? Who else is to protest? The complaint of "incivism" would be more rational if there were some one by whom it could reasonably be made.

My advice to slandered officials has ever been: "Resign." The public officials of this favored country, Heaven be thanked, are infrequently slandered: they are, as a rule, so bad that calumny is a compliment. Our best men, with here and there an exception, have been driven out of public life, or made afraid to enter it. Even our spasmodic efforts at reform fail ludicrously for lack of leaders unaffiliated with "the thing to be reformed." Unless attracted by the salary, why should a gentleman "aspire" to the Presidency of the United States? During his canvass (and he is expected to "run," not merely to "stand") he will have from his own party a support that should make him blush, and from all the others an opposition that will stick at nothing to accomplish his satisfactory defamation. After his election his partition and allotment of the loaves and fishes will estrange an important and thenceforth implacable faction of his following without appeasing the animosity of any one else; and during his entire service his sky will be dark with a flight of dead cats. At the finish of his term the utmost that he can expect in the way of reward not expressible in terms of the national currency is that not much more than onehalf of his countrymen will believe him a scoundrel to the end of their days.

V.

The kind of government that we have seems to me one of the worst kinds extant. A government that does not protect life is a flat failure, no matter what else it may do. Life being almost universally regarded as the most precious possession, its security is the first and highest essential not the life of him who takes life, but the life which is exposed defenceless to his hateful hand. In no country in the world, civilized or savage, is life so insecure as in this. In no country in the world is murder held in so light reprobation. In no battle of modern times have so many lives been taken as are lost annually in the United States through public indifference to the crime of homicide through disregard of law, through bad government. If American selfgovernment, with its ten thousand homicides a year, is good government, there is no such thing as bad. Selfgovernment! What monstrous nonsense! Who governs himself needs no government, has no governor, is not governed. If government has any meaning it means the restraint of the many by the few the subordination of numbers to brains. It means the determined denial to the masses of the right to cut their own throats. It means the grasp and control of all the social forces and material engineering a vigilant censorship of the press, a firm hand upon the church, keen supervision of public meetings and public amusements, command of the railroads, telegraph and all means of communication. It means, in short, the ability to make use of all the beneficent influences of enlightenment for the good of the people, and to array all the powers of civilization against civilization's natural enemy the people. Government like this has a thousand defects, but it has one merit: it is government.

Despotism? Yes. It is the despotisms of the world that have been the conservators of civilization. It is the despot who, most powerful for mischief, is alone powerful for good. It is conceded that government is necessary even by the "fierce democracies" that madly renounce it. But in so far as government is not despotic it is not government. In Europe for the last one hundred years, the tendency of all government has been liberalization. The history of European politics during that period is a history of renunciation by the rulers and assumption by the ruled. Sovereign after sovereign has surrendered prerogative after prerogative; the nobility privilege after privilege. Mark the result: society honeycombed with treason; property menaced with partition; assassination studied as a science and practiced as an art; everywhere powerful secret organizations sworn to demolish the social fabric that the slow centuries have but just erected and unmindful that themselves will perish in the wreck. No heart in Europe can beat tranquilly under clean linen. Such is the gratitude, such is the wisdom, such the virtue of "The Masses." In 1863 Alexander II of Russia freed 25,000,000 serfs. In 1879 they had killed him and all joined the conspirators.

That ancient and various device, "a republican form of government," appears to be too good for all the peoples of the earth excepting one. It is partly successful in Switzerland; in France and America, where the majority is composed of persons having dark

understandings and criminal instincts, it has broken down. In our case, as in every case, the momentum of successful revolution carried us too far. We rebelled against tyranny and having overthrown it, overthrew also the governmental form in which it had happened to be manifest. In their anger and their triumph our good old grandfathers acted somewhat in the spirit of the Irishman who cudgelled the dead snake until nothing was left of it, in order to make it "insensible of its destruction." They meant it all, too, the honest souls! For a long time after the setting up of the republic the republic meant active hatred to kings, nobles, aristocracies. It was held, and rightly held, that a nobleman could not breathe in America that he left his title and his privileges on the ship that brought him over. Do we observe anything of that in this generation? On the landing of a foreign king, prince or nobleman even a miserable "knight" do we not execute sycophantic genuflexions? Are not our newspapers full of flamboyant descriptions and qualifying adulation? Nay, does not our President himself successor to Washington and Jefferson greet and entertain the "nation's guest"? Is not every American young woman crazy to mate with a male of title? Does all this represent no retrogression? is it not the backward movement of the shadow on the dial? Doubtless the republican idea has struck strong roots into the soil of the two Americas, but he who rightly considers the tendencies of events, the causes that bring them about and the consequences that flow from them, will not be hot to affirm the perpetuity of republican institutions in the Western Hemisphere. Between their inception and their present stage of development there is scarcely the beat of a pendulum; and already, by corruption and lawlessness, the people of both continents, with all their diversities of race and character, have shown themselves about equally unfit. To become a nation of scoundrels all that any people needs is opportunity, and what we are pleased to call by the impossible name of "selfgovernment" supplies it.

The capital defect of republican government is inability to repress internal forces tending to disintegration. It does not take long for a "selfgoverned" people to learn that it is not really governed that an agreement enforceable by nobody but the parties to it is not binding. We are learning this very rapidly: we set aside our laws whenever we please. The sovereign power the tribunal of ultimate jurisdiction is a mob. If the mob is large enough (it need not be very large), even if composed of vicious tramps, it may do as it will. It may destroy property and life. It may without proof of guilt inflict upon individuals torments unthinkable by fire and flaying, mutilations that are nameless. It may call men, women and children from their beds and beat them to death with cudgels. In the light of day it may assail the very strongholds of law in the heart of a populous city, and assassinate prisoners of whose guilt it knows nothing. And these things observe, O victims of kings are habitually done. One would as well be at the mercy of one's sovereign as of one's neighbor.

For generations we have been charming ourselves with the magic of words. When menaced by some exceptionally monstrous form of the tyranny of numbers we have closed our eyes and murmured, "Liberty." When armed Anarchists threaten to quench

the fires of civilization in a sea of blood we prate of the protective power of "free speech."
If,

"Girt about by friends or foes,

A man may speak the thing he will,"

we fondly fancy that the thing he will speak is harmless that immunity disarms his tongue of its poison, his thought of its infection. With a fatuity that would be incredible without the testimony of observation, we hold that an Anarchist free to go about making proselytes, free to purchase arms, free to drill and parade and encourage his dupes with a demonstration of their numbers and power, is less mischievous than an Anarchist with a shut mouth, a weaponless hand and under surveillance of the police. The Anarchist himself is persuaded of the superiority of our plan of dealing with him; he likes it and comes over in quantity, inesting the political atmosphere with the "sweltered venom" engendered by centuries of oppression comes over here, where he is not oppressed, and sets up as oppressor. His preferred field of malefaction is the country that is most nearly anarchical. He comes here, partly to better himself under our milder institutions, partly to secure immunity while conspiring to destroy them. There is thunder in Europe, but if the storm ever break it is in America that the lightning will fall, for here is a great vortex into which the decivilizing agencies are pouring without obstruction. Here gather the eagles to the feast, for the quarry is defenceless. Here is no power in government, no government. Here an enemy of order is thought to be least dangerous when suffered to preach and arm in peace. And here is nothing between him and his task of supervision no pampered soldiery to repress his rising, no iron authority to lay him by the heels. The militia is fraternal, the magistracy elective. Europe may hold out a little longer. The Great Powers may make what stageplay they will, but they are not maintaining their incalculable armaments for aggression upon one another, for protection from one another, nor for fun. These vast forces are purely constabular creatures and creators of discontent phenomena of decivilization. Eventually they will fraternize with Disorder or become themselves Praetorian Guards more dangerous than the perils that have called them into existence.

It is easy to forecast the first stages of the End's approach: Rioting. Disaffection of constabulary and troops. Subversion of the Government A policy of decapitation. Upthrust of the serviceable Anarchist. His prompt effacement by his victorious ally and natural enemy, the Socialist. Free minting and printing of money to every citizen a shoulderload of the latter, to the printers a ton each. Divided counsels. Pandemonium. The man on horseback. Gusts of grape. ?

Formerly the bearer of evil tidings was only slain; he is now ignored. The gods kept their secrets by telling them to Cassandra, whom no one would believe. I do not expect to be heeded. The crust of a volcano is electric the fumes are narcotic; the combined sensation is delightful no end. I have looked at the dial of civilization; I tell you the shadow is going back. That is of small importance to men of leisure, with wine-dipped wreaths upon their heads. They do not care to know.

CIVILIZATION

I.

THE question "Does civilization civilize?" is a fine example of *petitio principii*. and decides itself in the affirmative; for civilization must needs do that from the doing of which it has its name. But it is not necessary to suppose that he who propounds is either unconscious of his lapse in logic or desirous of digging a pitfall for the feet of those who discuss; I take it he simply wishes to put the matter in an impressive way, and relies upon a certain degree of intelligence in the interpretation.

Concerning uncivilized peoples we know but little except what we are told by travelers who, speaking generally, can know very little but the fact of uncivilization as shown in externals and irrelevances, and are moreover, greatly given to lying. From the savages we hear very little. Judging them in all things by our own standards, in default of a knowledge of theirs, we necessarily condemn, disparage and belittle. One thing that civilization certainly has not done is to make us intelligent enough to understand that the opposite of a virtue is not necessarily a vice. Because we do not like the taste of one another it does not follow that the cannibal is a person of depraved appetite. Because, as a rule, we have but one wife and several mistresses each it is not certain that polygamy is everywhere nor, for that matter, anywhere either wrong or inexpedient. Our habit of wearing clothes does not prove that conscience of the body, the sense of shame, is charged with a divine mandate; for like the conscience of the spirit it is the creature of what it seems to create: it comes to the habit of wearing clothes. And for those who hold that the purpose of civilization is morality it may be said that peoples which are the most nearly naked are, in our sense, the most nearly moral. Because the brutality of the civilized slave owners and dealers created a conquering sentiment against slavery it is not intelligent to assume that slavery is a maleficent thing amongst Oriental peoples (for example) where the slave is not oppressed.

Some of these same Orientals whom we are pleased to term half-civilized have no regard for truth. "Takest thou me for a Christian dog," said one of them, "that I should be the slave of my word?" So far as I can perceive the "Christian dog" is no more the slave of his word than the True Believer, and I think the savage allowing for the fact that his inaccuracy has dominion over fewer things as great a liar as either of them. For my part, I do not know what, in all circumstances, is right or wrong; but I know, if right, it is at least stupid to judge an uncivilized people by the standards of morality and intelligence set up by civilized ones. An infinitesimal proportion of civilized men do not, and there is much to be said for civilization if they are the product of it.

Life in civilized countries is so complex that men there have more ways to be good than savages have, and more to be bad; more to be happy, and more to be miserable. And in each way to be good or bad, their generally superior knowledge of more things enables them to commit greater excesses than the savage could with the same opportunity. The civilized philanthropist wreaks upon his fellow creatures a ranker philanthropy, the civilized scoundrel a sturdier rascality. And splendid triumph of enlightenment! the two characters are, in civilisation, commonly combined in one person.

I know of no savage custom or habit of thought which has not its mate in civilized countries. For every mischievous or absurd practice of the natural man I can name you a dozen of the unnatural which are essentially the same. And nearly every custom of our barbarian ancestors in historic times survives in some form today. We make ourselves look formidable in battle for that matter, we fight. Our women paint their faces. We feel it obligatory to dress more or less alike, inventing the most ingenious reasons for it and actually despising and persecuting those who do not care to conform. Within the memory of living persons bearded men were stoned in the streets; and a clergyman in New York who wore his beard as Christ wore his, was put into jail and variously persecuted till he died. We bury our dead instead of burning them, yet every cemetery is set thick with urns. As there are no ashes for the urns we do not trouble ourselves to make them hollow, and we say their use is "emblematic." When, following the bent of our ancestral instincts, we go on, age after age, in the performance of some senseless act which once had a use and meaning we excuse ourselves by calling it symbolism. Our "symbols" are merely survivals. We have theology and patriotism. We have all the savage's superstition. We propitiate and ingratiate by means of gifts. We shake hands. All these and hundreds of others of our practices are distinctly, in their nature and by their origin, savage.

Civilization does not, I think, make the race any better. It makes men know more: and if knowledge makes them happy it is useful and desirable. The one purpose of every sane human being is to be happy. No one can have any other motive than that. There is no such thing as unselfishness. We perform the most "generous" and "self-sacrificing" acts because we should be unhappy if we did not. We move on lines of least reluctance. Whatever tends to increase the beggarly sum of human happiness is worth having; nothing else has any value.

The cant of civilization fatigues. Civilization is a fine and beautiful structure. It is as picturesque as a Gothic cathedral. But it is built upon the bones and cemented with the blood of those whose part in all its pomp is that and nothing more. It cannot be reared in the generous tropics, for there the people will not contribute their blood and bones. The proposition that the average American workingman or European peasant is "better off" than the South Sea Islander, lolling under a palm and drunk with overeating, will not bear a moment's examination.

It is we scholars and gentlemen that are better off.

It is admitted that the South Sea Islander in a state of nature is overmuch addicted to the practice of eating human flesh; but concerning that I submit: first, that he likes it; second, that those who supply it are mostly dead. It is upon his enemies that he feeds, and these he would kill anyhow, as we do ours. In civilized, enlightened and Christian countries, where cannibalism has not yet established itself, wars are as frequent and destructive as among the man-eaters. The untitled savage knows at least why he goes killing, whereas the private soldier is commonly in black ignorance of the apparent cause of quarrel of the actual cause, always. Their shares in the fruits of victory are about equal: the Chief takes all the dead, the General all the glory. Moreover it costs more human life to supply a Christian gentleman with food than it does a cannibal with food alone: "board;" if you could figure out the number of lives that his lodging, clothing, amusements and accomplishment cost the sum would startle. Happily he does not pay it. Considering human lives as having value, cannibalism is undoubtedly the more economical system.

II.

Transplanted institutions grow but slowly; and civilization can not be put into a ship and carried across an ocean. The history of this country is a sequence of illustrations of these truths. It was settled by civilized men and women from civilized countries, yet after two and a half centuries with unbroken communication with the mother systems, it is still imperfectly civilized. In learning and letters, in art and the science of government, America is but a faint and stammering echo of England.

For nearly all that is good in our American civilization we are indebted to England; the errors and mischiefs are of our own creation. We have originated little, because there is little to originate, but we have unconsciously reproduced many of the discredited and abandoned systems of former ages and other countries receiving them at second hand, but making them ours by the sheer strength and immobility of the national belief in their newness. Newness! Why, it is not possible to make an experiment in government, in art, in literature, in sociology, or in morals, that has not been made over, and over, and over again. Fools talk of clear and simple remedies for this and that evil afflicting the commonwealth. If a proposed remedy is obvious and easily intelligible, it is condemned in the naming, for it is morally certain to have been tried a thousand times in the history of the world, and had it been effective men ere now would have forgotten, from mere disuse, how to produce the evil it cured.

There are clear and simple remedies for nothing. In medicine there has been discovered but a single specific; in politics not one. The interests, moral and natural, of a community in our highly differentiated civilization are so complex, intricate, delicate and interdependent, that you can not touch one without affecting all. It is a familiar truth that no law was ever passed that did not have unforeseen results; but of these results, by far the greater number are never recognized as of its creation. The best that can be said of any "measure" is, that the sum of its perceptible benefits seems so to exceed the sum of its perceptible evils as to constitute a balance of advantage. Yet the magnificent innocence of the statesman or philosopher to whose understanding "the whole matter lies in a nutshell" who thinks he can formulate a practical political or social policy within the four corners of an epigram who fears nothing because he knows nothing is constantly to the fore with a simple specific for ills whose causes are complex, constant and inscrutable. To the understanding of this creature a difficulty well ignored is half overcome; so he buttons up his eyes and assails the problems of life with the divine confidence of a blind pig traversing a labyrinth.

The glories of England are our glories. She can achieve nothing that our fathers did not help to make possible to her. The learning, the power, the refinement of a great nation, are not the growth of a century, but of many centuries; each generation builds upon the work of the preceding. For untold ages our ancestors wrought to rear that "revered pile," the civilization of England. And shall we now try to belittle the mighty structure because other though kindred hands are laying the top courses while we have elected to found a

new tower in another land? The American eulogist of civilization who is not proud of his heritage in England's glory is unworthy to enjoy his lesser heritage in the lesser glory of his own country.

The English are undoubtedly our intellectual superiors; and as the virtues are solely the product of education a rogue being only a dunce considered from another point of view they are our moral superiors likewise. Why should they not be? It is a land not of log and pineboard schoolhouses grudgingly erected and containing schools supported by such niggardly tax levies as a sparse and hardhanded population will consent to pay, but of ancient institutions splendidly endowed by the State and by centuries of private benefaction. As a means of dispensing formulated ignorance our boasted public school system is not without merit; it spreads it out sufficiently thin to give everyone enough to make him a more competent fool than he would have been without it; but to compare it with that which is not the creature of legislation acting with malice aforethought, but the unnoted outgrowth of ages, is to be ridiculous. It is like comparing the laidout town of a western prairie, its rightangled streets, prim cottages, "built on the installment plan," and its wooden abc shops, with the grand old town of Oxford, topped with the clustered domes and towers of its twentyodd great colleges; the very names of many of whose founders have perished from human record as have all the chronicles of the times in which they lived.

It is not alone that we have had to "subdue the wilderness;" our educational conditions are otherwise adverse. Our political system is unfavorable. Our fortunes, accumulated in one generation, are dispersed in the next. If it takes three generations to make a gentleman one will not make a thinker. Instruction is acquired, but capacity for instruction is transmitted. The brain that is to contain a trained intellect is not the result of a haphazard marriage between a clown and a wench, nor does it get its tractable tissues from a hardheaded farmer and a softheaded milliner. If you confess the importance of race and pedigree in a race horse and a bird dog how dare you deny it in a man?

I do not claim that the political and social system that creates an aristocracy of leisure, and consequently of intellect, is the best possible kind of human organization; I perceive its disadvantages clearly enough. But I do not hold that a system under which all important public trusts, political and professional, civil and military, ecclesiastical and secular, are held by educated men that is, men of trained faculties and disciplined judgment is not an altogether faulty system.

It is only in our own country that an exacting literary taste is believed to disqualify a man for purveying to the literary needs of a taste less exacting a proposition obviously absurd, for an exacting taste is nothing but the intelligent discrimination of a judgment instructed by comparison and observation. There is, in fact, no pursuit or occupation, from that of a man who blows up a balloon to that of the man who bores out the stove pipes, in which he that has talent and education is not a better worker than he that has either, and he than he that has neither. It is a universal human weakness to disparage

the knowledge that we do not ourselves possess, but it is only my own beloved country that can justly boast herself the last refuge and asylum of the impotents and incapables who deny the advantage of all knowledge whatsoever. It was an American Senator (Logan) who declared that he had devoted a couple of weeks to the study of finance, and found the accepted authorities all wrong. It was another American Senator (Morton) who, confronted with certain ugly facts in the history of another country, proposed "to brush away all facts, and argue the question on considerations of plain common sense."

Republican institutions have this disadvantage: by incessant changes in the personnel of government to say nothing of the manner of men that ignorant constituencies elect; and all constituencies are ignorant we attain to no fixed principles and standards. There is no such thing here as a science of politics, because it is not to any one's interest to make politics the study of his life. Nothing is settled; no truth finds general acceptance. What we do one year we undo the next, and do over again the year following. Our energy is wasted in, and our prosperity suffers from, experiments endlessly repeated.

One of the disadvantages of our social system, which is the child of our political, is the tyranny of public opinion, forbidding the utterance of wholesome but unpalatable truth. In a republic we are so accustomed to the rule of majorities that it seldom occurs to us to examine their title to dominion; and as the ideas of might and right are, by our innate sense of justice, linked together, we come to consider public opinion infallible and almost sacred. Now, majorities rule, not because they are right, but because they are able to rule. In event of collision they would conquer, so it is expedient for minorities to submit beforehand to save trouble. In fact, majorities, embracing, as they do the most ignorant, seldom think rightly; public opinion, being the opinion of mediocrity, is commonly a mistake and a mischief. But it is to nobody's interest it is against the interest of most to dispute with it. Public writer and public speaker alike find their account in confirming "the plain people" in their brainless errors and brutish prejudices in glutting their omnivorous vanity and inflaming their implacable racial and national hatreds.

I have long held the opinion that patriotism is one of the most abominable vices affecting the human understanding. Every patriot in this world believes his country better than any other country. Now, they cannot all be the best; indeed, only one can be the best, and it follows that the patriots of all the others have suffered themselves to be misled by a mere sentiment into blind unreason. In its active manifestation it is fond of shooting patriotism would be well enough if it were simply defensive; but it is also aggressive, and the same feeling that prompts us to strike for our altars and our fires impels us likewise to go over the border to quench the fires and overturn the altars of our neighbors. It is all very pretty and spirited, what the poets tell us about Thermopylae, but there was as much patriotism at one end of that pass as there was at the other. Patriotism deliberately and with folly aforethought subordinates the interests of a whole to the interests of a part. Worse still, the fraction so favored is determined by an accident of birth or residence. Patriotism is like a dog which, having entered at random one of a row of kennels, suffers more in combats with the dogs in the other

kennels than it would have done by sleeping in the open air. The hoodlum who cuts the tail from a Chinamen's nowl, and would cut the nowl from the body if he dared, is simply a patriot with a logical mind, having the courage of his opinions. Patriotism is fierce as a fever, pitiless as the grave, blind as a stone and irrational as a headless hen.

There are two ways of clarifying liquidsebullition and precipitation; one forces the impurities to the surface as scum, the other sends them to the bottom as dregs. The former is the more offensive, and that seems to be our way; but neither is useful if the impurities are merely separated but not removed. We are told with tiresome iteration that our social and political systems are clarifying; but when is the skimmer to appear? If the purpose of free institutions is good government where is the good government?when may it be expected to begin?how is it to come about? Systems of government have no sanctity; they are practical means to a simple endthe public welfare; worthy of no respect if they fail of its accomplishment. The tree is known by its fruit. Ours, is bearing crabapples.

If the body politic is constitutionally diseased, as I verily believe; if the disorder inheres in the system; there is no remedy. The fever must burn itself out, and then Nature will do the rest. One does not prescribe what time alone can administer. We have put our criminal class in power; do we suppose they will efface themselves? Will they restore to us the power of governing them? They must have their way and go their length. The natural and immemorial sequence is: tyranny, insurrection, combat. In combat everything that wears a sword has a chanceeven the right. History does not forbid us to hope. But it forbids us to rely upon numbers; they will be against us. If history teaches anything worth learning it teaches that the majority of mankind is neither good nor wise. Where government is founded upon the public conscience and the public intelligence the stability of States is a dream. Nor have we any warrant for the Tennysonian faith that

"Freedom broadens slowly down
From precedent to precedent."

In that moment of time that is covered by historical records we have abundant evidence that each generation has believed itself wiser and better than any of its predecessors; that each people has believed itself to have the secret of national perpetuity. In support of this universal delusion there is nothing to be said; the desolate places of the earth cry out against it. Vestiges of obliterated civilizations cover the earth; no savage but has camped upon the sites of proud and populous cities; no desert but has heard the statesman's boast of national stability. Our nation, our laws, our historyall shall go down to everlasting oblivion with the others, and by the same road. But I submit that we are traveling it with needless haste.

But it is all right and righteous. It can be sparedthis Jonah's gourd civilization of ours. We have hardly the rudiments of a true civilization; compared with the splendors of which we catch dim glimpses in the fading past, ours are as an illumination of tallow candles. We know no more than the ancients; we only know other things, but nothing in

which is an assurance of perpetuity, and little that is truly wisdom. Our vaunted elixir vito is the art of printing with moveable types. What good will those do when posterity, struck by the inevitable intellectual blight, shall have ceased to read what is printed? Our libraries will become its stables, our books its fuel.

Ours is a civilization that might be heard from afar in space as a scolding and a riot; a civilization in which the race has so differentiated as to have no longer a community of interest and feeling; which shows as a ripe result of the principles underlying it a reasonless and rascally feud between rich and poor; in which one is offered a choice (if one have the means to take it) between American plutocracy and European militocracy, with an imminent chance of renouncing either for a stultocratic republic with a headsman in the presidential chair and every laundress in exile.

I have not a "solution" to the "labor problem." I have only a story. Many and many years ago lived a man who was so good and wise that none in all the world was so good and wise as he. He was one of those few whose goodness and wisdom are such that after some time has passed their fellowmen begin to think them gods and treasure their words as divine law; and by millions they are worshiped through centuries of time. Amongst the utterances of this man was one command not a new nor perfect one which has seemed to his adorers so preeminently wise that they have given it a name by which it is known over half the world. One of the sovereign virtues of this famous law is its simplicity, which is such that all hearing must understand; and obedience is so easy that any nation refusing is unfit to exist except in the turbulence and adversity that will surely come to it. When a people would avert want and strife, or having them, would restore plenty and peace, this noble commandment offers the only means all other plans for safety or relief are as vain as dreams, and as empty as the crooning of fools. And behold, here it is: "All things whatsoever ye would that men should do to you, do ye even so to them."

What! you unappeasable rich, coining the sweat and blood of your workmen into drachmas, understanding the law of supply and demand as mandatory and justifying your cruel greed by the senseless dictum that "business is business;" you lazy workman, railing at the capitalist by whose desertion, when you have frightened away his capital, you starve rioting and shedding blood and torturing and poisoning by way of answer to exaction and by way of exaction; you foul anarchists, applauding with indelicate palms when one of your coward kind hurls a bomb amongst powerless and helpless women and children; you imbecile politicians with a plague of remedial legislation for the irremediable; you writers and thinkers unread in history, with as many "solutions to the labor problem" as there are dunces among you who can not coherently define it do you really think yourself wiser than Jesus of Nazareth? Do you seriously suppose yourselves competent to amend his plan for dealing with all the evils besetting states and souls? Have you the effrontery to believe that those who spurn his Golden Rule you can bind to obedience of an act entitled an act to amend an act? Bah! you fatigue the spirit. Go get ye to your scoundrel lockouts, your villain strikes, your blacklisting, your boycotting, your

speaking, marching and maundering; but if ye do not to others as ye would that they do to you it shall occur, and that right soon, that ye be drowned in your own blood and your pickpocket civilization quenched as a star that falls into the sea.

SOME FEATURES OF THE LAW

I.

THERE is a difference between religion and the amazing circumstructure which, under the name of theology, the priesthoods have builded round about it, which for centuries they made the world believe was the true temple, and which, after incalculable mischiefs wrought, immeasurable blood spilled in its extension and consolidation, is only now beginning to crumble at the touch of reason. There is the same difference between the laws and the lawthe naked statutes (bad enough, God knows) and the incomputable additions made to them by lawyers. This immense body of superingenious writings it is that we all are responsible to in person and property. It is unquestionable authority for setting aside any statute that any legislative body ever passed or can pass. In it are dictates of recognized validity for turning topsyturvy every principle of justice and reversing every decree of reason. There is no fallacy so monstrous, no deduction so hideously unrelated to common sense, as not to receive, somewhere in the myriad pages of this awful compilation, a support that any judge in the land would be proud to recognize with a decision if ably persuaded. I do not say that the lawyers are altogether responsible for the existence of this mass of disastrous rubbish, nor for its domination of the laws. They only create and thrust it down our throats; we are guilty of contributory negligence in not biting the spoon.

As long as there exists the right of appeal there is a chance of acquittal. Otherwise the right of appeal would be a sham and an insult more intolerable, even, than that of the man convicted of murder to say why he should not receive the sentence which nothing he may say will avert. So long as acquittal may ensue guilt is not established. Why, then are men sentenced before they are proved guilty? Why are they punished in the middle of proceedings against them? A lawyer can reply to these questions in a thousand ingenious ways; there is but one answer. It is because we are a barbarous race, submitting to laws made by lawyers for lawyers. Let the "legal fraternity" reflect that a lawyer is one whose profession it is to circumvent the law; that it is a part of his business to mislead and befog the court of which he is an officer; that it is considered right and reasonable for him to live by a division of the spoils of crime and misdemeanor; that the utmost atonement he ever makes for acquitting a man whom he knows to be guilty is to convict a man whom he knows to be innocent. I have looked into this thing a bit and it is my judgment that all the methods of our courts, and the traditions of bench and bar exist and are perpetuated, altered and improved, for the one purpose of enabling the lawyers as a class to exact the greatest amount of money from the rest of mankind. The laws are mostly made by lawyers, and so made as to encourage and compel litigation. By lawyers they are interpreted and by lawyers enforced for their own profit and advantage.

The whole intricate and interminable machinery of precedent, rulings, decisions, objections, writs of error, motions for new trials, appeals, reversals, affirmations and the rest of it, is a transparent and iniquitous systems of "cinching." What remedy would I propose? None. There is none to propose. The lawyers have "got us" and they mean to keep us. But if thoughtless children of the frontier sometimes rise to tar and feather the legal pelt may God's grace go with them and amen. I do not believe there is a lawyer in Heaven, but by a bath of tar and a coating of hen'sdown they can be made to resemble angels more nearly than by any other process.

The matchless villainy of making men suffer for crimes of which they may eventually be acquitted is consistent with our entire system of laws a system so complicated and contradictory that a judge simply does as he pleases, subject only to the custom of giving for his action reasons that at his option may or may not be derived from the statute. He may sternly affirm that he sits there to interpret the law as he finds it, not to make it accord with his personal notions of right and justice. Or he may declare that it could never have been the Legislature's intention to do wrong, and so, shielded by the useful phrase *contra bonos mores*, pronounce that illegal which he chooses to consider inexpedient. Or he may be guided by either of any two inconsistent precedents, as best suits his purpose. Or he may throw aside both statute and precedent, disregard good morals, and justify the judgment that he wishes to deliver by what other lawyers have written in books, and still others, without anybody's authority, have chosen to accept as a part of the law. I have in mind judges whom I have observed to do all these things in a single term of court, and could mention one who has done them all in a single decision, and that not a very long one. The amazing feature of the matter is that all these methods are lawfully made so, not by legislative enactment, but by the judges. Language can not be used with sufficient lucidity and positiveness to land them.

The legal purpose of a preliminary examination is not the discovery of a criminal; it is the ascertaining of the probable guilt or innocence of the person already charged. To permit that person's counsel to insult and madden the various assisting witnesses in the hope of making them seem to incriminate themselves instead of him by statements that may afterward be used to confuse a jury that is perversion of law to defeat justice. The outrageous character of the practice is seen to better advantage what contrasted with the tender consideration enjoyed by the person actually accused and presumably guilty the presumption of his innocence being as futile a fiction as that a sheep's tail is a leg when called so. Actually, the prisoner in a criminal trial is the only person supposed to have a knowledge of the facts who is not compelled to testify! And this amazing exemption is given him by way of immunity from the snares and pitfalls with which the paths of all witnesses are wantonly beset! To a visiting Lunarian it would seem strange indeed that in a Terrestrial court of justice it is not deemed desirable for an accused person to incriminate himself, and that it is deemed desirable for a subpoena to be more dreaded than a warrant.

When a child, a wife, a servant, a student any one under personal authority or bound by obligation of honor is accused or suspected an explanation is demanded, and refusal to testify is held, and rightly held, a confession of guilt. To question the accused rigorously and sharply to examine him on all matters relating to the offense, and even trap him if he seem to be lying that is Nature's method of criminal procedure; why in our public trials do we forego its advantages? It may annoy; a person arrested for crime must expect annoyance. It can not make an innocent man incriminate himself, not even a witness, but it can make a rogue do so, and therein lies its value. Any pressure short of physical torture or the threat of it, that can be put upon a rogue to make him assist in his own undoing is just and therefore expedient.

This ancient and efficient safeguard to rascality, the right of a witness to refuse to testify when his testimony would tend to convict him of crime, has been strengthened by a decision of the United States Supreme Court. That will probably add another century or two to its mischievous existence, and possibly prove the first act in such an extension of it that eventually a witness can not be compelled to testify at all. In fact it is difficult to see how he can be compelled to now if he has the hardihood to exercise his constitutional right without shame and with an intelligent consciousness of its limitless application.

The case in which the Supreme Court made the decision was one in which a witness refused to say whether he had received from a defendant railway company a rate on grain shipments lower than the rate open to all shippers. The trial was in the United States District Court for the Northern District of Illinois, and Judge Gresham chucked the scoundrel into jail. He naturally applied to the Supreme Court for relief, and that high tribunal gave joy to every known or secret malefactor in the country by deciding according to law, no doubt that witnesses in a criminal case can not be compelled to testify to anything that "might tend to criminate them in any way, or subject them to possible prosecution." The italics are my own and seem to me to indicate, about as clearly as extended comment could, the absolutely boundless nature of the immunity that the decision confirms or confers. It is to be hoped that some public spirited gentleman called to the stand in some celebrated case may point the country's attention to the state of the law by refusing to tell his name, age or occupation, or answer any question whatever. And it would be a fitting finale to the farce if he would threaten the too curious attorney with an action for damages for compelling a disclosure of character.

Most lawyers have made so profound a study of human nature as to think that if they have shown a man to be of loose life with regard to women they have shown him to be one that would tell needless lies to a jury a conviction unsupported by the familiar facts of life and character. Different men have different vices, and addiction to one kind of "upsetting sin" does not imply addiction to an unrelated kind. Doubtless a rake is a liar in so far as is needful to concealment, but it does not follow that he will commit perjury to save a horse thief from the penitentiary or send a good man to the gallows. As to lying,

generally, he is not conspicuously worse than the mere lover, male or female; for lovers have been liars from the beginning of time. They deceive when it is necessary and when it is not. Schopenhauer says that it is because of a sense of guilt they contemplate the commission of a crime and, like other criminals, cover their tracks. I am not prepared to say if that is the true explanation, but to the fact to be explained I am ready to testify with lifted arms. Yet no cross-examining attorney tries to break the credibility of a witness by showing that he is in love.

An habitual liar, if disinterested, makes about as good a witness as anybody. There is really no such thing as "the lust of lying;" falsehoods are told for advantage commonly a shadowy and illusory advantage, but one distinctly enough had in mind. Discerning no opportunity to promote his interest, tickle his vanity or feed a grudge, the habitual liar will tell the truth. If lawyers would study human nature with half the assiduity that they give to resolution of hairs into their longitudinal elements they would be better fitted for service of the devil than they have now the usefulness to be.

I have always asserted the right and expediency of cross-examining attorneys in court with a view to testing their credibility. An attorney's relation to the trial is closer and more important than that of a witness. He has more to say and more opportunities to deceive the jury, not only by naked lying, but by both *suppressio veri* and *suggestio falsi*. Why is it not important to ascertain his credibility; and if an inquiry into his private life and public reputation will assist, as himself avers, why should he not be put upon the grill and compelled to sweat out the desired incrimination? I should think it might give good results, for example, to compel him to answer a few questions touching, not his private life, but his professional. Somewhat like this:

"Did you ever defend a client, knowing him to be guilty?"

"What was your motive in doing so?"

"But in addition to your love of fair play had you not also the hope and assurance of a fee?"

"In defending your guilty client did you declare your belief in his innocence?"

"Yes, I understand, but necessary as it may have been (in that it helped to defeat justice and earn your fee) was not your declaration a lie?"

"Do you believe it right to lie for the purpose of circumventing justice? yes or no?"

"Do you believe it right to lie for personal gain? yes or no?"

"Then why did you do both?"

"A man who lies to beat the laws and fill his purse is what?"

"In defending a murderer did you ever misrepresent the character, acts, motives and intentions of the man that he murdered? never mind the purpose and effect of such misrepresentation? yes or no?"

"That is what we call slander of the dead, is it not?"

"What is the most accurate name you can think of for one who slanders the dead to defeat justice and promote his own fortune?"

"Yes, I know such practices are allowed by the 'ethics' of your profession, but can you point to any evidence that they are allowed by Jesus Christ?"

"If in former trials you have obstructed justice by slander of the dead, by falsely affirming the innocence of the guilty, by cheating in argument, by deceiving the court whom you are sworn to serve and assist, and have done all this for personal gain, do you expect, and is it reasonable for you to expect, the jury in this case to believe you?"

"One moment more, please. Did you ever accept an annual, or other fee conditioned on your not taking any action against a corporation?"

"While in receipt of such refrainer I beg you pardon, retainer did you ever prosecute a blackmailer?"

It will be seen that in testing the credibility of a lawyer it is needless to go into his private life and his character as a man and a citizen: his professional practices are an ample field in which to search for offenses against man and God. Indeed, it is sufficient simply to ask him: "What is your view of 'the ethics of your profession' as a suitable standard of conduct for a pirate of the Spanish Main?"

The moral sense of the laymen is dimly conscious of something wrong in the ethics of the noble profession; the lawyers affirming, rightly enough, a public necessity for them and their mercenary services, permit their thrift to construe it vaguely as personal justification. But nobody has blown away from the matter its brumous encompassment and let in the light upon it. It is very simple.

Is it honorable for a lawyer to try to clear a man that he knows deserves conviction? That is not the entire question by much. Is it honorable to pretend to believe what you do not believe? Is it honorable to lie? I submit that these questions are not answered affirmatively by showing the disadvantage to the public and to civilization of a lawyer refusing to serve a known offender. The popular interest, like any other good cause, can be and commonly is, served by foul means. Justice itself may be promoted by acts essentially unjust. In serving a sordid ambition a powerful scoundrel may by acts in themselves wicked augment the prosperity of a whole nation. I have not the right to deceive and lie in order to advantage my fellowmen, any more than I have the right to steal or murder to advantage them, nor have my fellowmen the power to grant me that indulgence.

The question of a lawyer's right to clear a known criminal (with the several questions involved) is not answered affirmatively by showing that the law forbids him to decline a case for reasons personal to himself not even if we admit the statute's moral authority. Preservation of conscience and character is a civic duty, as well as a personal; one's fellowmen have a distinct interest in it. That, I admit, is an argument rather in the manner of an attorney; clearly enough the intent of this statute is to compel an attorney to cheat and lie for any rascal that wants him to. In that sense it may be regarded as a law softening the rigor of all laws; it does not mitigate punishments, but mitigates the chance of incurring them. The infamy of it lies in forbidding an attorney to be a gentleman. Like all laws it falls something short of its intent: many attorneys, even some

who defend that law, are as honorable as is consistent with the practice of deceit to serve crime.

It will not do to say that an attorney in defending a client is not compelled to cheat and lie. What kind of defense could be made by any one who did not profess belief in the innocence of his client? did not affirm it in the most serious and impressive way? did not lie? How would it profit the defense to be conducted by one who would not meet the prosecution's grave asseverations of belief in the prisoner's guilt by equally grave assurances of faith in his innocence? And in point of fact, when was counsel for the defense ever known to forego the advantage of that solemn falsehood? If I am asked what would become of accused persons if they had to prove their innocence to the lawyers before making a defense in court, I reply that I do not know; and in my turn I ask: What would become of Humpty Dumpty if all the king's horses and all the king's men were an isosceles triangle?

It all amounts to this, that lawyers want clients and are not particular about the kind of clients that they get. All this is very ugly work, and a public interest that can not be served without it would better be unserved.

I grant, in short, 'tis better all around
That ambidextrous consciences abound
In courts of law to do the dirty work
That selfrespecting scavengers would shirk.
What then? Who serves however clean a plan
By doing dirty work, he is a dirty man.

But in point of fact I do not "grant" any such thing. It is not for the public interest that a rogue have the same freedom of defense as an honest man; it should be a good deal harder for him. His troubles should begin, not when he seeks acquittal, but when he seeks counsel. It would be better for the community if he could not obtain the services of a reputable attorney, or any attorney at all. A defense that can not be made without his attorney's actual knowledge of his guilt should be impossible to him. Nor should he be permitted to remain off the witness stand lest he incriminate himself. It ought to be the aim of the court to let him incriminate himself to make him do so if his testimony will. In our courts that natural method would serve the ends of justice greatly better than the one that we have. Testimony of the guilty would assist in conviction; that of the innocent would not.

As to the general question of a judge's right to inflict arbitrary punishment for words that he may be pleased to hold disrespectful to himself or another judge, I do not myself believe that any such right exists; the practice seems to be merely a survival a heritage from the dark days of irresponsible power, when the scope of judicial authority had no other bounds than fear of the royal gout or indigestion. If in these modern days the same right is to exist it may be necessary to revive the old checks upon it by restoring the throne. In freeing us from the monarchial chain, the coalition of European Powers

commonly known in American history as "the valor of our forefathers" stripped us starker than they knew.

Suppose an attorney should find his client's interests imperiled by a prejudiced or corrupt judge what is he to do? If he may not make representations to that effect, supporting them with evidence, where evidence is possible and by inference where it is not, what means of protection shall he venture to adopt? If it be urged in objection that judges are never prejudiced nor corrupt I confess that I shall have no answer: the proposition will deprive me of breath.

If contempt is not a crime it should not be punished; if a crime it should be punished as other crimes are punished by indictment or information, trial by jury if a jury is demanded, with all the safeguards that secure an accused person against judicial blunders and judicial bias. The necessity for these safeguards is even greater in cases of contempt than in others particularly if the prosecuting witness is to sit in judgment on his own grievance. That should, of course, not be permitted: the trial should take place before another judge.

Why should twelve able-bodied jurymen, with their oaths to guide them and the law to back, submit to the dictation of one small judge armed with nothing better than an insolent assumption of authority? A judge has not the moral right to order a jury to acquit, the utmost that he can rightly do is to point out what state of the law or facts may seem to him unfavorable to conviction. If the jurors, holding a different view, persist in conviction the accused will have grounds, doubtless, for a new trial. But under no circumstances is a judge justified in requiring a responsible human being to disregard the solemn obligation of an oath.

The public ear is dowered with rather more than just enough of clotted nonsense about "attacks upon the dignity of the Bench," "bringing the judiciary into disrepute" and the rueful rest of it. I crave leave to remind the solicitudinarians sounding these loud alarms on their several larynges that by persons of understanding men are respected, not for what they do, but for what they are, and that one public functionary will stand as high in their esteem as another if as high in character. The dignity of a wise and righteous judge needs not the artificial safeguarding which is a heritage of the old days when if dissent found a tongue the public executioner cut it out. The Bench will be sufficiently respected when it is no longer a place where dullards dream and rogues rob when its personnel is no longer chosen in the backrooms of tippleshops, forced upon yawning conventions and confirmed by the votes of men who neither know what the candidates are nor what they should be. With the gang that we have and under our system must continue to have, respect is out of the question and ought to be. They are entitled to just as much of its forms and observances as are needful to maintenance of order in their courts and fortification of their lawful power no more. As to their silence under criticism, that is as they please. No body but themselves is holding their tongues.

II.

A law under which the unsuccessful respondent in a divorce proceeding may be forbidden to marry again during the life of the successful complainant, the latter being subject to no such disability, is infamous infinitely. If the disability is intended as a punishment it is exceptional among legal punishments in that it is inflicted without conviction, trial or arraignment, the divorce proceedings being quite another and different matter. It is exceptional in that the period of its continuance, and therefore the degree of its severity, are indeterminate; they are dependent on no limiting statute, and on neither the will of the power inflicting nor the conduct of the person suffering.

To sentence a person to a punishment that is to be mild or severe according to chance or which is even worse circumstance, which but one person, and that person not officially connected with administration of justice, can but partly control, is a monstrous perversion of the main principles that are supposed to underlie the laws.

In "the case at bar" it can be nothing to the woman possibly herself remarried whether the man remarries or not; that is, can affect only her feelings, and only such of them as are least creditable to her. Yet her self-interest is enlisted against him to do him incessant disservice. By merely caring for her health she increases the sharpness of his punishment for punishment it is if he feels it such; every hour that she wrests from death is added to his "term." The expediency of preventing a man from marrying, without having the power to prevent him from making his marriage desirable in the interest of the public and vital to that of some woman, is not discussable here. If a man is ever justified in poisoning a woman who is no longer his wife it is when, by way of making him miserable, the State has given him, or he supposes it to have given him, a direct and distinct interest in her death.

III.

With a view, possibly, to promoting respect for law by making the statutes so conform to public sentiment that none will fall into disesteem and disuse, it has been advocated that there be a formal recognition of sex in the penal code, by making a difference in the punishment of men and of women for the same crimes and misdemeanors. The argument is that if women were "provided" with milder punishment juries would sometimes convict them, whereas they now commonly get off altogether.

The plan is not so new as might be thought. Many of the nations of antiquity of whose laws we have knowledge, and nearly all the European nations until within a comparatively recent time, punished women differently from men for the same offenses. And as recently as the period of the Early Puritan in New England women were punished for some offenses which men might commit without fear if not without reproach. The duckingstool, for example, was an appliance for softening the female temper only. In England women used to be burned at the stake for crimes for which men were hanged, roasting being regarded as the milder punishment. In point of fact, it was not punishment at all, the victim being carefully strangled before the fire touched her. Burning was simply a method of disposing of the body so expeditiously as to give no occasion and opportunity for the unseemly social rites commonly performed about the scaffold of the erring male by the jocular populace. As lately as 1763 a woman named Margaret Biddingfield was burned in Suffolk as an accomplice in the crime of "petty treason." She had assisted in the murder of her husband, the actual killing being done by a man; and he was hanged, as no doubt he richly deserved. For "coining," too (which was "treason"), men were hanged and women burned. This distinction between the sexes was maintained until the year of grace 1790, after which female offenders ceased to have "a stake in the country," and like Hood's martial hero, "enlisted in the line."

In still earlier days, before the advantages of fire were understood, our good grandmothers who sinned were admonished by water they were drowned; but in the reign of Henry III a woman was hanged without strangulation, apparently, for after a whole day of it she was cut down and pardoned. Sorceresses and unfaithful wives were smothered in mud, as also were unfaithful wives among the ancient Burgundians. The punishment of unfaithful husbands is not of record; we only know that there were no austere virtuous editors to direct the finger of public scorn their way.

Among the AngloSaxons, women who had the bad luck to be detected in theft were drowned, while men meeting with the same mischance died a dry death by hanging. By the early Danish laws female thieves were buried alive, whether or not from motives of humanity is not now known. This seems to have been the fashion in France also, for in 1331 a woman named Duplas was scourged and buried alive at Abbeville, and in 1460 Perotte Mager, a receiver of stolen goods, was inhumed by order of the Provost of Paris in front of the public gibbet. In Germany in the good old days certain kinds of female

criminals were "impaled," a punishment too grotesquely horrible for description, but likely enough considered by the simple German of the period conspicuously merciful. It is, in short, only recently that the civilized nations have placed the sexes on an equality in the matter of the death penalty for crime, and the new system is not yet by any means universal. That it is a better system than the old, or would be if enforced, is a natural presumption from human progress, out of which it is evolved. But coincidentally with its evolution has evolved also a sentiment adverse to punishment of women at all. But this sentiment appears to be of independent growth and in no way a reaction against that which caused the change. To mitigate the severity of the death penalty for women to some pleasant form of euthanasia, such as drowning in rosewater, or in their case to abolish the death penalty altogether and make their capital punishment consist in a brief interment in a jail with a softened name, would probably do no good, for whatever form it might take, it would be, so far as woman is concerned, the "extreme penalty" and crowning disgrace, and jurors would be as reluctant to inflict it as they now are to inflict hanging.

IV.

Testators should not, from the snug security of the grave, utter a perpetual threat of disinheritance or any other uncomfortable fate to deter an American citizen, even one of his own legatees, from applying to the courts of his country for redress of any wrong from which he might consider himself as suffering. The courts of law ought to be open to any one conceiving himself a victim of injustice, and it should be unlawful to abridge the right of complaint by making its exercise more hazardous than it naturally is. Doubtless the contesting of wills is a nuisance, generally speaking, the contestant conspicuously devoid of moral worth and the verdict singularly unrighteous; but as long as some testators really are daft, or subject to interested suasion, or wantonly sinful, they should be denied the power to stifle dissent by fining the luckless dissenter. The dead have too much to say in this world at the best, and it is monstrous and intolerable tyranny for them to stand at the door of the Temple of Justice to drive away the suitors that themselves have made.

Obedience to the commands of the dead should be conditional upon their good behavior, and it is not good behavior to set up a censure of actions at law among the living. If our courts are not competent to say what actions are proper to be brought and what are unfit to be entertained let us improve them until they are competent, or abolish them altogether and resort to the mild and humane arbitrament of the dice. But while courts have the civility to exist they should refuse to surrender any part of their duties and responsibilities to such exceedingly private persons as those under six feet of earth, or sealed up in habitations of hewn stone. Persons no longer affectible by human events should be denied a voice in determining the character and trend of them. Respect for the wishes of the dead is a tender and beautiful sentiment, certainly. Unfortunately, it can not be ascertained that they have any wishes. What commonly go by that name are wishes once entertained by living persons who are now dead, and who in dying renounced them, along with everything else. Like those who entertained them, the wishes are no longer in existence. "The wishes of the dead," therefore, are not wishes, and are not of the dead. Why they should have anything more than a sentimental influence upon those still in the flesh, and be a factor to be reckoned with in the practical affairs of the supergrainous world, is a question to which the merely human understanding can find no answer, and it must be referred to the lawyers. When "from the tombs a doleful sound" is vented, and "thine ear" is invited to "attend the cry," an intelligent forethought will suggest that you inquire if it is anything about property. If so pass on that is no sacred spot.

V.

Much of the testimony in French courts, civil and martial, appears to consist of personal impressions and opinions of the witnesses. All very improper and mischievous, no doubt, if it were what? Why, obviously, if the judges are unfit to sit in judgment. By designating them to sit the designating power assumes their fitness assumes that they know enough to take such things for what they are worth, to make the necessary allowances; if needful, to disregard a witness's opinion altogether. I do not know if they are fit. I do not know that they do make the needful allowances. It is by no means clear to me that any judge or juror, French, American or Patagonian, is competent to ascertain the truth when lying witnesses are trying to conceal it under the direction of skilled and conscientiousless attorneys licensed to deceive. But his competence is a basic assumption of the law vesting him with the duty of deciding. Having chosen him for that duty the French law very logically lets him alone to decide for himself what is evidence and what is not. It does not trust him a little but altogether. It puts him under conditions familiar to him makes him accessible to just such influences and suasions as he is accustomed to when making conscious and unconscious decisions in his personal affairs.

There may be a distinct gain to justice in permitting a witness to say whatever he wants to say. If he is telling the truth he will not contradict himself; if he is lying the more rope he is given the more surely he will entangle himself. To the service of that end defendants and prisoners should, I think, be compelled to testify and denied the advantage of declining to answer, for silence is the refuge of guilt. In endeavoring by austere means to make an accused person incriminate himself the French judge logically applies the same principle that a parent uses with a suspected child. When the Grandfather of His Country arraigned the wee George Washington for arboricide the accused was not carefully instructed that he need not answer if a truthful answer would tend to convict him. If he had refused to answer he would indubitably have been lambasted until he did answer, as right richly he would have deserved to be.

The custom of permitting a witness to wander at will over the entire field of knowledge, hearsay, surmise and opinion has several distinct advantages over our practice. In giving hearsay evidence, for example, he may suggest a new and important witness of whom the counsel for the other side would not otherwise have heard, and who can then be brought into court. On some unguarded and apparently irrelevant statement he may open an entirely new line of inquiry, or throw upon the case a flood of light. Everyone knows what revelations are sometimes evoked by apparently the most insignificant remarks. Why should justice be denied a chance to profit that way?

There is a still greater advantage in the French "method." By giving a witness free rein in expression of his personal opinions and feelings we should be able to calculate his frame of mind, his good or ill will to the prosecution or defense and, therefore, to a certain extent his credibility. In our courts he is able by a little solemn perjury to conceal all

this, even from himself, and pose as an impartial witness, when in truth, with regard to the accused, he is full of rancor or reeking with compassion.

In theory our system is perfect. The accused is prosecuted by a public officer, who having no interest in his conviction, will serve the State without mischievous zeal and perform his disagreeable task with fairness and consideration. He is permitted to entrust his defense to another officer, whose duty it is to make a rigidly truthful and candid presentation of his case in order to assist the court to a just decision. The jurors, if there are jurors, are neither friendly nor hostile, are openminded, intelligent and conscientious. As to the witnesses, are they not sworn to tell the truth, the whole truth (in so far as they are permitted) and nothing but the truth? What could be finer and better than all this? what could more certainly assure justice? How close the resemblance is between this ideal picture and what actually occurs all know, or should know. The judge is commonly an ignoramus incapable of logical thought and with little sense of the dread and awful nature of his responsibility. The prosecuting attorney thinks it due to his reputation to "make a record" and tries to convict by hook or crook, even when he is himself persuaded of the defendant's innocence. Counsel for the defense is equally unscrupulous for acquittal, and both, having industriously coached their witnesses, contend against each other in deceiving the court by every artifice of which they are masters. Witnesses on both sides perjure themselves freely and with almost perfect immunity if detected. At the close of it all the poor weary jurors, hopelessly bewildered and dumbly resentful of their duping, render a random or compromise verdict, or one which best expresses their secret animosity to the lawyer they like least or their faith in the newspapers which they have diligently and disobediently read every night. Commenting upon Rabelais' old judge who, when impeached for an outrageous decision, pleaded his defective eyesight which made him miscount the spots on the dice, the most distinguished lawyer of my acquaintance seriously assured me that if all the cases with which he had been connected had been decided with the dice substantial justice would have been done more frequently than it was done. If that is true, or nearly true, and I believe it, the American's right to sneer at the Frenchman's "judicial methods" is still an open question.

It is urged that the corrupt practices in our courts of law be uncovered to public view, whenever that is possible, by dial impeccable censor, the press. Exposure of rascality is very good better, apparently for rascals than for anybody else, for it usually suggests something rascally which they had overlooked, and so familiarizes the public with crime that crime no longer begets loathing. If the newspapers of the country are really concerned about corrupter practices than their own and willing to bring our courts up to the English standard there is something better than exposure which fatigues. Let the newspapers set about creating a public opinion favorable to nonelective judges, well paid, powerful to command respect and holding office for life or good behavior. That is the only way to get good men and great lawyers on the Bench. As matters are, we stand and cry for what the English have and rail at the way they get it. Our boss made,

pressridden and mobfearing paupers and ignoramuses of the Bench give us as good a quality of justice as we merit A better quality awaits us whenever the will to have it is attended by the sense to take it.

ARBITRATION

THE universal cry for arbitration is either dishonest or unwise. For every evil there are quack remedies galore especially for every evil that is irremediable. Of this order of remedies is arbitration, for of this order of evils is the inadequate wage of manual labor. Since the beginning of authentic history everything has been tried in the hope of divorcing poverty and labor, but nothing has parted them. It is not conceivable that anything ever will; success of arbitration, antecedently improbable, is demonstrably impossible. Most of the work of the world is hard, disagreeable work, requiring little intelligence. Most of the people of the world are unintelligent unfit to do any other work. If it were not done by them it would not be done, and it is the basic work. Withdraw them from it and the whole superstructure would topple and fall. Yet there is too little of the work, and there are so many incapable of doing anything else that adequate return is out of the question. For the laboring class there is no hope of an existence that is comfortable in comparison with that of the other class; the hope of an individual laborer lies in the possibility of fitting himself for higher employment employment of the head; not manual but cerebral labor. While selfishness remains the main ingredient of human nature (and a survey of the centuries accessible to examination shows but a slow and intermittent decrease) the cerebral workers, being the wiser and no better, will manage to take the greater profit. In justice it must be said of them that they extend a warm and sincere invitation to their ranks, and take "apprentices;" every chance of education that the other class enjoys is proof of that.

All this is perhaps a trifle abstruse; let us, then, look at arbitration more nearly; in our time it is, in form at least something new. It began as "international arbitration," which already, in settling a few disputes of no great importance, has shown itself a dangerous remedy. In the necessary negotiation to determine exactly what points to submit to whom, and how, and where, and when to submit them, and how to carry out the arbitrator's decision, scores of questions are raised, upon each of which it is as easy to disagree and fight as upon the original issue. International arbitration may be defined as the substitution of many burning questions for a smouldering one; for disputes that have reached a really acute stage are not submitted. The animosities that it has kindled have been hotter than those it has quenched.

Industrial arbitration is no better; it is manifestly worse, and any law enforcing it and enforcing compliance with its decisions, is absurd and mischievous. "Compulsory arbitration" is not arbitration, the essence whereof is voluntary submission of differences and voluntary submission to judgment. If either reference or obedience is enforced the arbitrators are simply a court with no powers to do anything but apply the law. Proponents of the fad would do well to consider this: If a party to a labor dispute is compelled to invoke and obey a decision of arbitrators that decision must follow strictly the line of law; the smallest invasion of any constitutional, statutory or commonlaw right will enable him to upset the whole judgment No legislative body can establish a

tribunal empowered to make and enforce illegal or extra legal decisions; for making and enforcing legal ones the tribunals that we already have are sufficient This talk of "compulsory arbitration" is the maddest nonsense that the industrial situation has yet evolved. Doubtless it is sent upon us for our sins; but had we not already a plague of inveracity?

Arbitration of labor disputes means compromise with the unions. It can, in this country, mean nothing else, for the law would not survive a halfdozen failures to concede some part of their demands, however reasonless. By repeated strikes they would eventually get all their original demand and as much more as on second thought they might choose to ask for. Each concession would be, as it is now, followed by a new demand, and the first arbitrators might as well allow them all that they demand and all that they mean to demand hereafter.

Would not employers be equally unscrupulous. They would not. They could not afford the disturbance, the stoppage of the business, the risk of unfair decisions in a country where it is "popular" to favor and encourage, not the just, but the poor. The labor leaders have nothing to lose, not even their jobs, for their work is labor leading. Their dupes, by the way, would be dupes no longer, for with enforced arbitration the game of "follow my leader" would pay until there should be nothing to follow him to but empty treasuries of dead industries in an extinct civilization. If there must be enforced arbitration it should at least not apply to that sum of all impudent rascalities, the "sympathetic strike."

As to the men who have set up the monstrous claim asserted by the "sympathetic strike," I shall refer to the affair of 1904. If it was creditable in them to feel so much concern about a few hundred aliens in Illinois, how about the grievances of the whole body of their countrymen in California? When their employers, who they confess were good to them, were plundering the Californians, they did not strike, sympathetically nor otherwise. Year after year the railway companies picked the pockets of the Californians; corrupted their courts and legislatures; laid its Briarean hands in exaction upon every industry and interest; filled the land with lies and false reasoning; threw honest men into prisons and locked the gates of them against thieves and assassins; by open defiance of the tax collector denied to children of the poor the advantages of education; did all this and more, and these honest working men stood loyally by it, sharing in wages its dishonest gains, receivers, in one sense, of stolen goods. The groans of their neighbors were nothing to them; even the wrongs of themselves, their wives and their children did not stir them to revolt. On every breeze that blew, this great chorus of cries and curses was borne past their ears unheeded. Why did they not strike then? Where then were their fiery altruists and stormpetrels of industrial disorder? No! the ingenious gods who have invented the Debses and Gomperses, and humorously branded them with names that would make a cat laugh, have never put it into their cold selfish hearts to order out their misguided followers to redress a public wrong, but only to

inflict one to avenge a personal humiliation, gratify an appetite for notoriety, slake a thirst for the intoxicating cup of power, or punish the crime of prosperity.

It is a practical, an illogical, a turbulent time, yes; it always is. The age of Jesus Christ was a practical age, yet Jesus Christ was sweetly impractical. In an illogical period Socrates reasoned clearly, and logically died for it. Nero's time was a time of turbulence, yet Seneca's mind was not disturbed, nor his conscience perverted. Compare their fame with the everlasting infamy that time has fixed upon the names of the Jack Cades, the Robespierres, the Tomaso Nielosguides and gods of the "fierce democracies" which rise with a sickening periodicity to defile the page of history with a quickly fading mark of blood and fire, their own awful example their sole contribution to the good of mankind. To be a child of your time, imbued with its spirit and endowed with its aim that is to petition Posterity for a niche in the Temple of Shame.

No strike of any prominence ever takes place in this country without the concomitants of violence and destruction of property, and usually murder. These cheerful incidents one who does not personally suffer them can endure with considerable fortitude, but the sniveling, hypocritical condemnation of them by the press that has instigated them and the strikers who have planned and executed them, and who invariably ascribe them to those whom they most injure; the solemn offers of the leaders to assist in protecting the imperiled property and avenging the dead, while openly employing counsel for every incendiary and assassin arrested in spite of them these are pretty hard to bear. A strike means (for it includes as its main method) violence, lawlessness, destruction of the property of others than the strikers, riot and if necessary bloodshed. Even when the strikers themselves have no hand in these crimes they are morally liable for the foreknown consequences of their act. Nay, they are morally liable for all the consequences all the inconveniences and losses to the community, all the sufferings of the poor entailed by interruptions of trade, all the privations of other workingmen whom a selfish attention to their own supposed advantage throws out of the closed industries. They are liable in morals and should be made so in law only that strikes are needless. It is not worth while to create a multitude of complex criminal responsibilities for acts which can easily be prevented by a single and simple one. How?

First, I should like to point out that we are hearing a deal too much about a man's inalienable right to work or play, at his own sovereign will. In so far as that means and it is always used to mean his right to quit any kind of work at any moment, without notice and regardless of consequences to others, it is false; there is no such moral right, and the law should have at least a speaking acquaintance with morality. What is mischievous should be illegal. The various interests of civilization are so complex, delicate, intertangled and interdependent that no man, and no set of men, should have power to throw the entire scheme into confusion and disorder for promotion of a trumpety principle or a class advantage. In dealing with corporations we recognize that. If for any selfish purpose the trade union of railway managers had done what their sacred brakemen and divine firemen did had decreed that "no wheel should turn," until Mr.

Pullman's men should return to work they would have found themselves all in jail the second day. Their right to quit work was not conceded: they lacked that authenticating credential of moral and legal irresponsibility, an indurated palm. In a small lockout affecting a mill or two the offender finds a halfhearted support in the law if he is willing to pay enough deputy sheriffs; but even then he is mounted by the hobnailed populace, at its back the daily newspapers, clamoring and spitting like cats. But let the manager of a great railway discharge all its men without warning and "kill" its own engines! Then see what you will see. To commit a wrong so gigantic with impunity a man must wear overalls.

How prevent anybody from committing it? How break up this régime of strikes and boycotts and lockouts, more disastrous to others than to those at whom the blows are aimed than to those, even, who deliver them. How make all those concerned in the management and operation of great industries, about which have grown up tangles of related and dependent interests, conduct them with some regard to the welfare of others? Before committing ourselves to the dubious and irretraceable course of "Government ownership," or to the infectious expedient of a "pension system," is there anything of promise yet untried? anything of superior simplicity and easier application? I think so. Make a breach of labor contract by either party to it a criminal offense punishable by imprisonment "Fine or imprisonment" will not do the employee, unable to pay the fine, would commonly go to jail, the employer seldom. That would not be fair.

The purpose of such a law is apparent: Labor contracts would then be drawn for a certain time, securing both employer and employee and (which is more important) helpless persons in related and dependent industries the whole public, in fact against sudden and disastrous action by either "capital" or "labor" for accomplishment of a purely selfish or frankly impudent end. A strike or lockout compelled to announce itself thirty days in advance would be innocuous to the public, whilst securing to the party of initiation all the advantages that anybody professes to want all but the advantage of ruining others and of successfully defying the laws.

Under the present régime labor contracts are useless; either party can violate them with impunity. They offer redress only through a civil suit for damages, and the employee commonly has nothing with which to conduct an action or satisfy a judgment. The consequence is seen in the incessant and increasing industrial disturbances, with their ever attendant crimes against property, life and liberty disturbances which by driving capital to investments in which it needs employ no labor, do more than all the other causes so glibly enumerated by every newspaper and politician, though by no two alike, to bring about the "hard times" which in their turn cause further and worse disturbances.

INDUSTRIAL DISCONTENT

I.

THE time seems to have come when the two antagonistic elements of American society should, and could afford to, throw off their disguise and frankly declare their principles and purposes. But what, it may be asked, are the two antagonistic elements? Dividing lines parting the population into two camps more or less hostile may be drawn variously; for example, one may be run between the lawabiding and the criminal class. But the elements to which reference is here made are those immemorable and implacable foes which the slang of modern economics roughly and loosely distinguishes as "Capital" and "Labor." A more accurate classification as accurate a one as it is possible to make would designate them as those who do muscular labor and those who do not. The distinction between rich and poor does not serve: to the laborer the rich man who works with his hands is not objectionable; the poor man who does not, is. Consciously or unconsciously, and alike by those whose necessities compel them to perform it and those whose better fortune enables them to avoid it, manual labor is considered the most insufferable of human pursuits. It is a pill that the Tolstois, the "communities" and the "Knights" of Labor can not sugarcoat. We may prate of the dignity of labor; emblazon its praise upon banners; set apart a day on which to stop work and celebrate it; shout our teeth loose in its glorification and, God help our fool souls to better sense, we think we mean it all!

If labor is so good and great a thing let all be thankful, for all can have as much of it as may be desired. The eighthour law is not mandatory to the laborer, nor does possession of leisure entail idleness. It is permitted to the clerk, the shopman, the street peddler to all who live by the light employment of keeping the wolf from the door without eating him to abandon their ignoble callings, seize the shovel, the axe and the sledgehammer and lay about them right sturdily, to the ample gratification of their desire. And those who are engaged in more profitable vocations will find that with a part of their incomes they can purchase from their employers the right to work as hard as they like in even the dullest times.

Manual labor has nothing of dignity, nothing of beauty. It is a hard, imperious and dispiriting necessity. He who is condemned to it feels that it sets upon his brow the brand of intellectual inferiority. And that brand of servitude never ceases to burn. In no country and at no time has the laborer had a kindly feeling for the rest of us, for everywhere and always has he heard in our patronising platitudes the note of contempt. In his repression, in the denying him the opportunity to avenge his real and imaginary wrongs, government finds its main usefulness, activity and justification. Jefferson's dictum that governments are instituted among men in order to secure them in "life,

liberty and the pursuit of happiness" is luminous nonsense. Governments are not instituted; they grow. They are evolved out of the necessity of protecting from the handworker the life and property of the brain worker and the idler. The first is the most dangerous because the most numerous and the least content. Take from the science and the art of government, and from its methods, whatever has had its origin in the consciousness of his illwill and the fear of his power and what have you left? A pure republic that is to say, no government.

I should like it understood that, if not absolutely devoid of preferences and prejudices, I at least believe myself to be; that except as to result I think no more of one form of government than of another; and that with reference to results all forms seem to me bad, but bad in different degrees. If asked my opinion as to the results of our own, I should point to Homestead, to Wardner, to Buffalo, to Coal Creek, to the interminable tale of unpunished murders by individuals and by mobs, to legislatures and courts unspeakably corrupt and executives of criminal cowardice, to the prevalence and immunity of plundering trusts and corporations and the monstrous multiplication of millionaires. I should invite attention to the pension roll, to the similar and incredible extravagance of Republican and Democratic "Houses" a plague o' them both! If addressing Democrats only, I should mention the protective tariff; if Republicans, the hilltribe clamor for free coinage of silver. I should call to mind the existence of prosperous activity of a thousand lying secret societies having for their sole object mitigation of republican simplicity by means of pageantry and costumes grotesquely resembling those of kings and courtiers, and titles of address and courtesy exalted enough to draw laughter from an ox.

In contemplation of these and a hundred other "results," no less shameful in themselves than significant of the deeper shame beneath and prophetic of the blacker shame to come, I should say: "Behold the outcome of hardly more than a century of government by the people! Behold the superstructure whose foundations our forefathers laid upon the unstable overgrowth of popular caprice surfacing the unplummeted abyss of human depravity! Behold the reality behind our dream of the efficacy of forms, the saving grace of principles, the magic of words! We have believed in the wisdom of majorities and are fooled; trusted to the good honor of numbers, and are betrayed. Our touching faith in the liberty of the rascal, our strange conviction that anarchy making proselytes and bombs is less dangerous than anarchy with a shut mouth and a watched handlo, this is the beginning of the aid of the dream!"

Our Government has broken down at every point, and the two irreconcilable elements whose suspensions of hostilities are mistaken for peace are about to try their hands at each other's tempting display of throats. There is no longer so much as a pretense of amity; apparently there will not much longer be a pretense of regard for mercy and morals. Already "industrial discontent" has attained to the magnitude of war. It is important, then, that there be an understanding of principles and purposes. As the combatants will not define their positions truthfully by words, let us see if it can be

inferred from the actions which are said to speak more plainly. If one of the really able men who now "direct the destinies" of the labor organizations in this country, could be enticed into the Palace of Truth and "examined" by a skilful catechist he would indubitably say something like this:

"Our ultimate purpose is abolition of the distinction between employer and employee, which is but a modification of that between master and slave.

"We propose that the laborer shall be chief owner of all the property and profits of the enterprise in which he is engaged, and have through his union a controlling voice in all its affairs.

"We propose to overthrow the system under which a man can grow richer by working with his head than with his hands, and prevent the man who works with neither from having anything at all.

"In the attainment of these ends any means is to be judged, as to its fitness for our use, with sole regard to its efficacy. We shall punish the innocent for the sins of the guilty. We shall destroy property and life under such circumstances and to such an extent as may seem to us expedient. Falsehood, treachery, arson, assassination, all these we look upon as legitimate if effective.

"The rules of 'civilized warfare' we shall not observe, but shall put prisoners to death or torture them, as we please.

"We do not recognize a nonunion man's right to labor, nor to live. The right to strike includes the right to strike him."

Doubtless all that (and "the half is not told") sounds to the unobservant like a harsh exaggeration, an imaginative travesty of the principles of labor organizations. It is not a travesty; it has no element of exaggeration. Not in the last twentyfive years has a great strike or lockout occurred in this country without supplying facts, notorious and undisputed, upon which some of these confessions of faith are founded. The war is practically a servile insurrection, and servile insurrections are today what they ever were: the most cruel and ferocious of all manifestations of human hate. Emancipation is rough work; when he who would be free, himself strikes the blow, he can not consider too curiously with what he strikes it nor upon whom it falls. It will profit you to understand, my fine gentleman with the soft hands, the character of that which is confronting you. You are not threatened with a bombardment of roses.

Let us look into the other camp, where General Hardhead is so engrossed with his own greatness and power as not clearly to hear the shots on his picket line. Suppose we hypnotize him and make him open his "shut soul" to our searching. He will say something like this:

"In the first place, I claim the right to own and enclose for my own use or disuse as much of the earth's surface as I am desirous and able to procure. I and my kind have made laws confirming us in the occupancy of the entire habitable and arable area as fast as we can get it. To the objection that this must eventually here, as it has actually done elsewhere, deprive the rest of you places upon which legally to be born, and exclude you

after surreptitious birth as trespassers from all chance to procure directly the fruits of the earth, I reply that you can be born at sea and eat fish.

"I claim the right to induce you, by offer of employment, to colonize yourselves and families about my factories, and then arbitrarily, by withdrawing the employment, break up in a day the homes that you have been years in acquiring where it is no longer possible for you to procure work.

"In determining your rate of wages when I employ you, I claim the right to make your necessities a factor in the problem, thus making your misfortunes cumulative. By the law of supply and demand (God bless its expounder!) the less you have and the less chance to get more, the more I have the right to take from you in labor and the less I am bound to give you in wages.

"I claim the right to ignore the officers of the peace and maintain a private army to subdue you when you rise.

"I claim the right to make you suffer, by creating for my advantage an artificial scarcity of the necessities of life.

"I claim the right to employ the large powers of the government in advancing my private welfare.

"As to falsehood, treachery and the other military virtues with which you threaten me, I shall go, in them, as far as you; but from arson and assassination I recoil with horror. You see you have very little to burn, and you are not more than half alive anyhow."

That, I submit, is a pretty fair definition of the position of the wealthy man who works with his head. It seems worth while to put it on record while he is extant to challenge or verify; for the probability is that unless he mend his ways he will not much longer be wealthy, work, nor have a head.

II.

In discussion of the misdoings at Homestead and Coeur d' Alene it is amusing to observe all the champions of law and order gravely prating of "principles" and declaring with all the solemnity of owls that these sacred things have been violated. On that ground they have the argument all their own way. Indubitably there is hardly a fundamental principle of law and morals that the rioting laborers have not footballed out of the field of consideration. Indubitably, too, in doing so they have forfeited as they must have expected to forfeit, all the "moral support" for which they did not care a tinker's imprecation. If there were any question of their culpability this solemn insistence upon it would lack something of the humor with which it is now invested and which saves the observer from death by dejection.

It is not only in discussions of the "labor situation" that we hear this eternal babble of "principles." It is never out of ear, and in politics is especially clamant. Every success in an election is yawped of as "a triumph of Republican (or Democratic) principles." But neither in politics nor in the quarrels of laborers and their employers have principles a place as "factors in the problem." Their use is to supply to both combatants a vocabulary of accusation and appeal. All the fierce talk of an antagonist's violation of those eternal principles upon which organized society is founded and the rest of it what is it but the cry of the dog with the chewed ear? The dog that is chewing foregoes the advantage of song. Human contests engaging any number of contestants are not struggles of principles but struggles of interests; and this is no less true of those decided by the ballot than of those in which the franker bullet gives judgment. Nor, but from considerations of prudence and expediency, will either party hesitate to transgress the limits of the law and outrage the sense of right. At Homestead and Wardner the laborers committed robbery, pillage and murder, as striking workmen invariably do when they dare, and as cowardly newspapers and scoundrel politicians encourage them in doing. But what would you have? They conceive it to be to their interest to do these things. If capitalists conceive it to be to theirs they too would do them. They do not do them for their interest lies in the supremacy of the law under which they can suffer loss but do not suffer hunger.

"But they do murder," say the labor unions; "they bring in gangs of armed mercenaries who shoot down honest workmen striving for their rights." This is the baldest nonsense, as they know very well who utter it. The Pinkerton men are mere mercenaries and have no right place in our system, but there have been no instances of their attacking men not engaged in some unlawful prank. In the fight at Homestead the workmen were actually intrenched on premises belonging to the other side, where they had not the ghost of a legal right to be. American working men are not fools; they know well enough when they are rogues. But confession is not among the military virtues, and the question. Is roguery expedient? is not so simple that it can be determined by asking the first preacher you meet.

It would be very nice and fine all round if idle workmen would not riot nor idle employers meet force with force, but invoke the impossible Sheriff. When the Dragon has been chained in the Bottomless Pit and we are living under the rule of the saints, things will be so ordered, but in these rascal times "revolutions are not made with rosewater," and this is a revolution. What is being revolutionized is the relation between our old friends. Capital and Labor. The relation has already been altered many times, doubtless; once, we know, within the period covered by history, at least in the countries that we call civilized. The relation was formerly a severely simple one the capitalist owned the laborer. Of the difficulty and the cost of abolishing that system it is needless to speak at length. Through centuries of time and with an appalling sacrifice of life the effort has gone on, a continuous war characterized by monstrous infractions of law and morals, by incalculable cruelty and crime. Our own generation has witnessed the culminating triumphs of this revolution, and of its three mightiest leaders the assassination of two, the death in exile of the third. And now, while still the clank of the falling chains is echoing through the world, and still a mighty multitude of the world's workers is in bondage under the old system, the others, for whose liberation was all this "expense of spirit in a waste of shame," are sharply challenging the advantage of the new. The new is, in truth, breaking down at every point. The relation of employer and employee is giving but little better satisfaction than that of master and slave. The difference between the two is, indeed, not nearly so broad as we persuade ourselves to think it. In many of the industries there is practically no difference at all, and the tendency is more and more to effacement of the difference where it exists.

Labor unions, strikes and rioting are no new remedies for this insidious disorder; they were common in ancient Rome and still more ancient Egypt. In the twentieth year of Rameses III a deputation of workmen employed in the Theban necropolis met the superintendent and the priests with a statement of their grievances. "Behold," said the spokesman, "we are brought to the verge of famine. We have neither food, nor oil, nor clothing; we have no fish; we have no vegetables. Already we have sent up a petition to our sovereign lord the Pharaoh, praying that he will give us these things and we are going to appeal to the Governor that we may have the wherewithal to live." The response to this complaint was one day's rations of corn. This appears to have been enough only while it lasted, for a few weeks later the workmen were in open revolt. Thrice they broke out of their quarter, rioting like mad and defying the police. Whether they were finally shot full of arrows by the Pinkerton men of the period the record does not state.

"Organized discontent" in the laboring population is no new thing under the sun, but in this century and country it has a new opportunity and Omniscience alone can forecast the outcome. Of one thing we may be very sure, and the sooner the "capitalist" can persuade himself to discern it the sooner will his eyes guard his neck: the relations between those who are able to live without physical toil and those who are not are a long way from final adjustment, but are about to undergo a profound and essential alteration. That this is to come by peaceful evolution is a hope which has nothing in history to

sustain it. There are to be bloody noses and cracked crowns, and the good people who suffer themselves to be shocked by such things in others will have a chance to try them for themselves. The working man is not troubling himself greatly about a just allotment of these blessings; so that the greater part go to those who do not work with their hands he will not consider too curiously any person's claim to exemption. It would perhaps better harmonize with his sense of the fitness of things (as it would, no doubt, with that of the angels) if the advantages of the transitional period fell mostly to the share of such starspangled impostors as Andrew Carnegie; but almost any distribution that is sufficiently objectionable as a whole to the other side will be acceptable to the distributor. In the mean time it is to be wished that the moralize, and homilizers who prate of "principles" may have a little damnation dealt out to them on account. The head that is unable to entertain a philosophical view of the situation would be notably advantaged by removal.

III.

It is the immigration of "the oppressed of all nations" that has made this country one of the worst on the face of the earth. The change from good to bad took place within a generation so quickly that few of us have had the nimbleness of apprehension to "get it through our heads." We go on screaming our eagle in the selfsame note of triumph that we were taught at our fathers' knees before the eagle became a buzzard. America is still "an asylum for the oppressed;" and still, as always and everywhere, the oppressed are unworthy of asylum, avenging upon those who give them sanctuary the wrongs from which they fled. The saddest thing about oppression is that it makes its victims unfit for anything but to be oppressed makes them dangerous alike to their tyrants, their saviors and themselves. In the end they turn out to be fairly energetic oppressors. The gentleman in the cesspool invites compassion, certainly, but we may be very well assured, before undertaking his relief without a pole, that his conception of a prosperous life is merely to have his nose above the surface with another gentleman underfoot.

All languages are spoken in Hell, but chiefly those of Southeastern Europe. I do not say that a man fresh from the fields or the factories of Europe even of Southeastern Europe may not be a good man; I say only that, as a matter of fact, he commonly is not. In nine instances in ten he is a brute whom it would be God's mercy to drown on his arrival, for he is constitutionally unhappy.

Let us not deny him his grievance: he works when he works for men no better than himself. He is required, in many instances, to take a part of his pay in "truck" at prices of breathless altitude; and the pay itself is inadequate hardly more than double what he could get in his own country. Against all this his howl is justified; but his rioting and assassination are not even when directed against the property and persons of his employers. When directed against the persons of other laborers, who choose to exercise the fundamental human right to work for whom and for what pay they please when he denies this right, and with it the right of organized society to exist, the necessity of shooting him is not only apparent; it is conspicuous and imperative. That he and his horrible kind, of whatever nationality, are usually forgiven this just debt of nature, and suffered to execute, like rivers, their annual spring rise, constitutes the most valid of the many indictments that decent Americans by birth or adoption find against the feeble form of government under which their country groans, A nation that will not enforce its laws has no claim to the respect and allegiance of its people.

This "citizen soldiery" business is a ghastly failure. The National Guard is not worth the price of its uniforms. It is intended to be a Greater Constabulary: its purpose is to suppress disorders with which the civil authorities are too feeble to cope. How often does it do so? Nine times in ten it fraternizes with, or is cowed or beaten by the savage mobs which it is called upon to kill. In a country with a competent militia and competent men to use it there would be crime enough and some to spare, but no rioting. Rioting in a Republic is without a shadow of excuse. If we have bad laws, or if our good

laws are not enforced; if corporations and capital are "tyrannous and strong;" if white men murder one another and black men outrage white women, all this is our own fault the fault of those, among others, who seek redress or revenge by rioting and lynching. The people have always as good government, as good industrial conditions, as effective protection of person, property and liberty, as they deserve. They can have what ever they have the honesty to desire and the sense to set about getting in the right way. If as citizens of a Republic we lack the virtue and intelligence rightly to use the supreme power of the ballot so that it

"Executes a freeman's will

As lightning does the will of God"

we are unfit to be citizens of a Republic, undeserving of peace, prosperity and liberty, and have no right to rise against conditions due to our own moral and intellectual delinquency. There is a simple way, Messieurs the Masses to correct public evils: put wise and good men into power. If you can not do that for you are not yourselves wise, or will not for you are not yourselves good, you deserve to be oppressed when you submit and shot when you rise.

To shoot a rioter or lyncher is a high kind of mercy. Suppose that twentyfive years ago (the longer ago the better) two or three criminal mobs in succession had been exterminated in that way, "as the law provides." Suppose that several scores of lives had been so taken, including even those of "innocent spectators" though that kind of angel does not abound in the vicinity of mobs. Suppose that no demagogue judges had permitted officers in command of the "firing lines" to be persecuted in the courts. Suppose that these events had writ themselves large and red in the public memory. How many lives would this have saved? Just as many as since have been taken and lost by rioters, plus those that for a long time to come will be taken, and minus those that were taken at that time. Make your own computation from your own data; I insist only that a rioter shot in time saves nine.

You know you, the People that all this is true. You know that in a Republic lawlessness is villainy entailing greater evils than it cures that it cures none. You know that even the "money power" is powerful only through your own dishonesty and cowardice. You know that nobody can bribe or intimidate a voter who will not take a bribe or suffer himself to be intimidated that there can be no "money power" in a nation of honorable and courageous men. You know that "bosses" and "machines" can not control you if you will not suffer then to divide you into "parties" by playing upon your credulity and senseless passions. You know all this, and know it all the time. Yet not a man has the courage to stand forth and say to your faces what you know in your hearts. Well, Messieurs the Masses, I don't consider you dangerous not very. I have not observed that you want to tear anybody to pieces for confessing your sins, even if at the same time he confesses his own. From a considerable experience in that sort of thing I judge that you rather like it, and that he whom, secretly, you most despise is he who echoes back to you what he is pleased to think you think and flatters you for gain. Anyhow, for some reason, I never

hear you speak well of newspaper men and politicians, though in the shadow of your disesteem they get an occasional gleam of consolation by speaking fairly well of one another.

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