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Title: Our Benevolent Feudalism

Author: William J. Ghent

Release date: September 15, 2016 [EBook #53052]

Language: English

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OUR BENEVOLENT FEUDALISM



OUR BENEVOLENT FEUDALISM

BY
W. J. GHENT

New York
THE MACMILLAN COMPANY
LONDON: MACMILLAN & CO., LTD.

1902

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Set up and electrotyped October, 1902.

Norwood Press
J. S. Cushing & Co.—Berwick & Smith
Norwood Mass. U.S.A.

The germ of this book was contained in an article published in the *Independent*, April 3, 1902. The wide interest which that article awakened prompted the elaboration and arrangement of its briefly considered and somewhat disjointed parts into the present form.

The chapters on "Our Makers of Law" and "Our Interpreters of Law" have been carefully read by a member of the New York Bar who has made a special study of the matters treated therein. Some of the decisions cited in the latter chapter are admitted to be those of subordinate courts in comparatively unimportant States. The intention, however, was to give a general view of judicial interpretation; and for that reason it became necessary to cite decisions of inferior as well as superior courts, and those from semi-industrial as well as industrial States.

As the book goes to press, the news is published that the anthracite magnates have yielded and made concessions to public sentiment. It is an act in harmony with the wiser forethought of most of the magnates of to-day, and it strengthens the general seigniorial position immeasurably.

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CHAPTER I

UTOPIAS AND OTHER FORECASTS

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"The old order changeth, yielding place to new." But what the new order shall be is a matter of some diversity of opinion. Whoever, blessed with hope, speculates upon the future of society, tends to imagine it in the form of his social ideals. It matters little what the current probabilities may be—the strong influence of the ideal warps the judgment. To Thomas More, though most tendencies of his time made for absolutism, the future was republican and communistic; and to Francis Bacon the present held the promise of a new Atlantis, despite the growing arrogance of the Crown and the submissiveness of the people.

The great diversity of social ideals produces a like diversity of social forecasts. All the soothsayers give different readings of the signs. Even those of the same school, who build the future in the light of the same dogmas, differ in regard to particulars of form and structure. How many forecasts of one sort or another have been given us, it is impossible to say. Mr. H. G. Wells, in a footnote to his "Anticipations," complains of their scarcity. "Of quite serious forecasts and inductions of things to come," he says, "the number is very small indeed; a suggestion or so of Mr. Herbert Spencer's, Mr. Kidd's 'Social Evolution,' some hints from Mr. Archdall Reid, some political forecasts, German for the most part (Hartmann's 'Earth in the Twentieth Century,' *e.g.*), some incidental forecasts by Professor Langley (*Century Magazine*, December, 1884, *e.g.*), and such isolated computations as Professor Crookes's wheat warning and the various estimates of our coal supply, make almost a complete bibliography." But surely the Utopians, from Plato to Edward Bellamy, have given us "quite serious forecasts"; there is something of serious prophecy in both Karl Marx and Friedrich Engels, much more in Tolstoi and Peter Kropotkin; and the "Fabian Essays" are charged with it. Mr. Henry D. Lloyd's "Wealth against Commonwealth" closes with a brilliant and eloquent picture of a regenerated society, and Mr. Edmond Kelly's "Individualism and Collectivism" is in large part prophetic. All the social reformers who write books or articles give us engaging pictures of things as they are to be; and though the Philosophical Anarchists deal rather more largely with polemics than with prophecy, the Socialists are conspicuously definite and serious in their forecasts. Even the popular scientists—the astronomers, biologists, and anthropologists—often run into prediction; and in the pages of Richard A. Proctor, E. D. Cope, and Grant Allen, and of such living men as M. Camille Flammarion, Mr. Alfred Russell Wallace, and Professor W. J. McGee, we have frequent depictions of certain phases of the future.

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Doubtless, any reader can add to this list. Of a surety, we have had no lack of forecasts of one sort or another; and now we have some new contributions,—Mr. Wells's "Anticipations," Mr. Benjamin Kidd's "Principles of Western Civilization," two brief but sententious papers by Professor John B. Clark, on "The Society of the Future" and "A Modified Individualism" (published in the *Independent*), a definite Socialist prediction by Mr. Henry D. Lloyd, and a semi-Socialist one by Mr. Sidney Webb.

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I

Mr. Wells, in his lecture before the Royal Institution last January, put forth the thesis that, just as we can picture the general aspects of the earth in mesozoic times by a study of geology and paleontology, so by a study of the present sociological drift can we picture the society of a hundred years hence. He thereupon gives us "Anticipations" as a result of the more or less rigorous working out of this method. There is much to be said for the method, and its right employment might probably give us something of great value. Unfortunately, Mr. Wells forgets his thesis, and plunges into pure vaticination. He writes with a spirited aggressiveness, and his pictures are often vivid and impressive. But the greater part of his revelation is of a state of things which seems far removed from what would be produced by any current tendencies, actual or latent.

Mr. Kidd's predictions lack somewhat in definiteness of outline, and need not here concern us. Tolstoi, on the other hand, is specific. He dreams of a return to a more primitive manner of production, and a social change toward a status of Anarchist-Communism. He scoffs at the enormous diversity of wants made necessary by the growing intelligence and refinement of the race, and urges mankind to live more simply. "The town must be abandoned, the people must be sent away from the factories and into the country to work with their hands; the aim of every man should be to satisfy all his wants himself." But the counsel falls upon heedless ears. Urged to live more simply, the race, impelled by natural and irresistible laws, yearly increases the sum of its wants. Science, art, and industry constantly pile up new commodities. Mankind finds that through them it secures longer and healthier, if not happier lives. It recognizes that by this increase of wants more human beings are employed, and that by a slight diminution thereof tens of thousands are thrown into idleness. And finally it recognizes that by a division of labor, in which natural aptitude in particular directions is sought to be secured, the greatest and most economical production follows. Under Anarchist-Communism and the performance of labor in the direction of each individual attempting to create the things needful for himself, there would be entailed upon us a productive waste vastly greater than that heretofore compelled by capitalism, diffusing a degree of want and consequent wretchedness at present unknown. There is no present indication that mankind will take this step.

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Something better is to be said for Peter Kropotkin's ideal of a communistic union of shop industry and agriculture. In remote places, outside the current of factory industrialism, there are still

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survivals of this union, though the communistic feature is generally wanting. Doubtless, under any form of society, even a well-regulated State Socialism, this union would to some extent persist. But if there are any present tendencies toward its growth, they are but feeble and isolated. Kropotkin's recent book, "Fields, Factories and Workshops," which was intended to sound the glad timbrel of rejoicing over the expansion of this movement, turns out to be a rather pitiful threnody on the decline and death of petty industries throughout Europe. Moreover, it is one thing to argue the persistence of this manner of production in scattered places, and quite another to argue it the dominant manner of production in a transformed society of the future. Of the coming of such a society the evidences are painfully scant.

We have also the Single-Taxers, the followers of the late Henry George, who are quite as fertile in prophecy as in polemics. They dream of a millennium through the imposition of a tax on the economic value of land, and the abolition of all other taxes and duties of whatsoever kind. Free competition is their shibboleth; and it is no less the shibboleth of the Neo-Jeffersonians, the followers of Mr. Bryan. Except for the fact that these two schools are somewhat Jacobinical, their general notions of the coming society do not differ greatly from the notions of the orthodox economists. All of these desire, or think they desire, free competition. Arising out of an era of competition, Professor Clark sees a coming order wherein the rich "will continually grow richer, and the multi-millionaires will approach the billion-dollar standard; but the poor will be far from growing poorer.... It may be that the wages of a day will take him [the worker] to the mountains, and those of a hundred days will carry him through a European tour."

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The dreadful spectre of monopoly, however, arises to threaten these visions. Most of the orthodox economists acknowledge a possible danger from it, but the Single-Taxers and Jeffersonians are sure it is a real and growing menace. Says Professor Clark, "Between us and the régime of monopoly there ranges itself a whole series of possible measures stopping short of Socialism, and yet efficient enough to preserve our free economic system." It is a "free economic system" which all these are bent on having,—the economists determined on preserving it, the others on establishing it; for the Single-Taxers, with their *bête noir* of private ownership of land, and the Jeffersonians, with their *bêtes noires* of railroads and trusts, deny that our economic system is at present "free." Doubtless they are both right; but if there be one fact in the realm of political economy fairly established, it is that the era of competition, whether free or unfree, is dead, and the means of its resurrection are unknown to political science. With old men the dream of its revival is warrantable, for it springs from that retrospective mood of age which gilds past times, and that attendant mood which recreates and projects them into some imagined future; but with the younger generation visions of free competition are but as children's dreams of wild forests and shaggy animals—the atavistic reminders of experiences unknown to the individual, though knit into the fibre of the race. The subject is one far better suited to the domain of a psychologist like Dr. Stanley Hall than to the scope of this book.

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Finally, we have the Socialists, with their prophecy of the early establishment of a coöperative commonwealth. It is a noble picture, in its best expression based upon the extreme of faith in the coming generations of mankind, however its draughtsmen may criticise the wisdom and justice of the present. There is no doubt that now a ground-swell of Socialist conviction moves like a tide "of waters unwithstood"; everywhere one notes its influences. Even so conservative a scholar as Professor Henry Davies, lecturer on the history of philosophy in Yale University, can write, "There is no doubt that the next form of political activity to claim attention is the socialistic, as it is the most popular and serious of any now before the educated minds of this country." Its propaganda is carried on untiringly, and that its results are feared is evident from the equal aggressiveness of a counter-propaganda maintained by the ingenious defenders of the present régime against the whole form and spirit of Socialism. But though socialist conviction spreads, the substance sought for seems as far away as ever. It would seem, for the most part, to be but a lukewarm conviction, much like that for which the Laodiceans were so widely famed. Present tendencies make for other forms of production, for a vastly different social régime.

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II

The dominant tendencies will be clearly seen only by those who for the time detach themselves from their social ideals. What, then, in this republic of the United States, may Socialist, Individualist, and Conservative alike see, if only they will look with unclouded vision? In brief, an irresistible movement—now almost at its culmination—toward great combinations in specific trades; next toward coalescence of kindred industries, and thus toward the complete integration of capital. Consequent upon these changes, the group of captains and lieutenants of industry attains a daily increasing power, social, industrial, and political, and becomes the ranking order in a vast series of gradations. The State becomes stronger in its relation to the propertyless citizen, weaker in its relation to the man of capital. A growing subordination of classes, and a tremendous increase in the numbers of the lower orders, follow. Factory industry increases, and the petty industries, while still supporting a great number of workers, are in all respects relatively weaker than ever before; they suffer a progressive limitation of scope and function and a decrease of revenues. Defenceless labor—the labor of women and children—increases both absolutely and relatively. Men's wages decline or remain stationary, while the value of the product and the cost of living advance by steady steps. Though land is generally held in somewhat smaller allotments, tenantry on the small holdings, and salaried management on the large, gradually replace the old system of independent farming; and the control of agriculture oscillates between the combinations that determine the prices of its products and the railroads that determine the rate for transportation to the markets.

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In a word, they who desire to live—whether farmers, workmen, middlemen, teachers, or ministers—must make their peace with those who have the disposition of the livings. The result is a renascent Feudalism, which, though it differs in many forms from that of the time of Edward I, is yet based upon the same status of lord, agent, and underling. It is a Feudalism somewhat graced by a sense of ethics and somewhat restrained by a fear of democracy. The new barons seek a public sanction through conspicuous giving, and they avoid a too obvious exercise of their power upon political institutions. Their beneficence, however, though large, is but rarely prodigal. It betokens, as in the case of the careful spouse of John Gilpin, a frugal mind. They demand the full terms nominated in the bond; they exact from the traffic all it will bear. Out of the tremendous revenues that flow to them some of them return a part in benefactions to the public; and these benefactions, whether or not primarily devoted to the easement of conscience, are always shrewdly disposed with an eye to the allayment of pain and the quieting of discontent. They are given to hospitals; to colleges and churches which teach reverence for the existing régime, and to libraries, wherein the enforced leisure of the unemployed may be whiled away in relative contentment. They are never given, even by accident, to any of the movements making for the correction of what reformers term injustice. But not to look too curiously into motives, our new Feudalism is at least considerate. It is a paternal, a Benevolent Feudalism.

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CHAPTER II COMBINATION AND COALESCENCE

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I

We have, first, the enormous growth of industrial, commercial, and financial combinations. A crude idea of the extent to which concentration in manufactures had grown up to May 31, 1900, may be gained from Census Bulletin No. 122. In this report only those aggregations are considered which consisted of "a number of formerly independent mills which have been brought together into one company under a charter obtained for that purpose." Several of the new security-holding stock companies are included, but "many large establishments comprising a number of mills which have grown up, not by combination with other mills, but by erection of new plants or the purchase of old ones," are not considered, nor are gas and electric lighting plants, or pools, and "gentlemen's agreements."

The list contains records of 183 corporations, with 2029 active and 174 idle plants, an average of 11 active plants each. The actual capital invested in these corporations, exclusive of that for 56 of the idle plants, was \$1,458,522,573, and the authorized capitalization was \$3,607,539,200. These combinations employed 24,585 salaried officers and clerks, and an average of 399,192 wage-earners. The 1047 officers received an average of \$6,825.28 yearly and the wage-earners, \$487.32. There were 40 combinations in iron and steel, with 447 plants; 28 in liquor and beverages, with 219 plants; 21 in food and allied products, with 273 plants; 15 in clay, glass, and stone products, with 180 plants, and 14 in chemicals, with 248 plants. The gross value of the manufactured product of these combinations, as given by the census, was \$1,661,295,364. Excluding hand trades, government establishments, educational, eleemosynary, and penal workshops, and shops with a product of less than \$500, this total represented 14 per cent of the value of the manufactured product for the whole country.

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The spring of 1900 was, however, but the mid-morning of the combination movement. Only 63 of these companies had been formed previous to 1897, while more than 50 per cent of them were formed during the eighteen months from January 1, 1899, to June 30, 1900. Since then the movement has swept forward like a great tide. The consolidations of manufacturing companies for the first five months of 1901 alone probably exceeded \$2,000,000,000 in capitalization. The great steel "trust" (to use the popular term), an \$88,000,000 tin-can trust, still other trusts in tobacco machinery, carpets, coal and coke, witch-hazel, glass lamps and electric glass fittings, ship-building, cotton duck, agricultural implements, and watches, had their birth during this period. More recently came the steel-castings trust, subordinate to the steel corporation, a recombination in tobacco, and very lately a new ship-building combination, a \$120,000,000 harvester trust, and a cotton compress trust. The capital invested in manufacturing combinations is now probably two and one-half times what it was in May, 1900; and it is a reasonable guess that nearly one-third of the manufactured product of the country, outside of the petty trades, comes from the combinations.

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Of the magnitude of some of these concerns the average mind can form but an inadequate idea. The figures expressing it are comparable with those of star distances, which must be transmuted into light-years to make them conceivable. A New York newspaper has recently made some computations on the great steel trust, which help to bring home to us a realization of its size and power. Its yearly net profits are now double the amount of the total revenues of the United States Government in the year Lincoln was elected. Its wage-roll carries on an average of the round year over 158,000 names—an army of employees larger by 45,000 than serves the National Government in every branch of its civil service, classified and unclassified, except only fourth-class postmasters. Its wage-payments for last year aggregated nearly \$113,000,000, more by \$13,000,000 than the huge annual city budget of Greater New York. Its annual production of steel is 10,000,000 tons, 67 per cent of the total production of the country; and its freight payments for the year 1901 amounted to more than \$54,000,000.

During the same period financial, commercial, mining, and transportation trusts have also had their splendid inning. We read of an accident-insurance trust with a capitalization of \$50,000,000, the great shipping trust, the \$120,000,000 jobbing hardware trust, the Interurban Street Railway stock-holding combination, the beef trust, a \$50,000,000 lead merger, a recombination in copper, and a universal oil trust. *Moody's Manual of Corporation Securities* for 1902 gives a list of 82 industrial and mercantile consolidations effected between January 1, 1899, and September 1, 1902, each of which is capitalized at \$10,000,000 or more, the whole aggregating a capitalization of \$4,318,005,646. Thirty-nine of these, with \$1,232,947,790 authorized capital, were formed during 1899; 7 with \$186,110,400 capital, in 1900; 20 with \$2,141,197,456 capital in 1901, and 16 with \$757,750,000 capital during the first eight months of 1902. The list is admittedly incomplete. "It embraces only the so-called gigantic combinations which have been forming in the past three and one-half years. A complete list, without regard to date of formation, and including both large and small," says this authority, "would probably aggregate 850 different-going combinations, and would easily foot up over \$9,000,000,000 of capitalization. Including railroad consolidations, such a list would make a total of over \$15,000,000,000 outstanding capitalization." As for the railroads, the formation of the Northern Securities Company, the recent assimilation of the Louisville and Nashville, and the "reorganization" of the Rock Island show the same drift. Five men, according to a recent statement of Interstate Commerce Commissioner J. A. Prouty, control all the railroads of the country; and Mr. John W. Gates, a financier who may be supposed to know something on that

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head, has more recently declared, according to a newspaper interview, that two men are really in control. "I believe that the time is not far distant," declared Professor Francis L. Patton, former head of Princeton University, in a recent address before the Presbyterian Social Union of Chicago, "when there will not be a thing that we eat, drink, or wear that will not be made by a trust." He might have gone farther and fared as well; for the theatrical trust determines what dramas we shall witness; the pulp trust, the typefounders' trust, the news trust, and the school-book trust exert a most direct bearing on what we read and what our reading costs us; and finally the undertakers' trust determines the style and cost of our burial.

II

The tendencies make not only for combination in specific trades, but for unification—for complete integration of all capital which is susceptible of organization. Capitalistic atoms of low valency—to use a term from chemistry,—such as those invested in some of the hand trades, custom and repairing and the like—may continue their course, but those of a high valency are sooner or later brought into association. From this fundamental grouping comes integration, the concentration of the material units which go to make up an aggregate. The lesser gravitates to the larger. It needs no modern Newton to proclaim that in finance, commerce, and industry, as in the physical world, all bodies attract one another in direct proportion to their mass. Distance provides a limitation, it is true, to the action of this law in the physical world; but less so in the economic world, for such is the perfection of our means of communication that they provide a more transmissible medium to capital than is the pervading ether to light and gravitation.

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The separate trade trusts are not sufficient unto themselves, but move steadily toward unification. A glance at the directorates of the leading combinations shows many names repeated through a long list of varied industries. The combinations themselves reach out and acquire new interests, often distinct from their primary interests. In Pennsylvania coal is mined and railroads are operated by practically the same companies, and in Colorado and West Virginia nearly as complete an identity is discovered. The steel corporation owns coal lands, limestone quarries, railroads, and docks; it is allied with the great Atlantic shipping trust; it is related, not distantly, to the Standard Oil Company; and the beginnings of a public opinion trust are indicated, for already its chief magnate has acquired several newspapers and a prominent magazine. Bishop Potter's prediction, it would seem, is in fair way of fulfilment. "We must fully realize," he said to the Yale students last April, "the danger that mind as well as matter will be at some time in the future capitalized, and that the real thinking and planning for the many will be done by a mere handful." Beet and cane sugar are soon to be joined, we read; paper and lumber, if not already wedded, are at least on excellent terms. Oil and gas on the one hand, coal and iron on the other, have a "common understanding," and each of them holds morganatic relations with one or more of the railroads. All the great combinations recognize a growing community of interest; they tend more and more to a potential, if not an actual, coalescence; and in the face of popular agitation, legislative aggressiveness, or the formal demands of labor, they develop a unity of purpose and method. Their support is thrown, in general, to the same candidates for governors, senators, judges, and tax assessors. In brief, they tend to the formation of a state within a state, and their individual members to the creation of an industrial and political hierarchy.

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III

The counter-tendency toward the persistence of small-unit farming and of small-shop production and distribution must not be lost sight of, nor must the great combinations be looked upon as necessarily a proof of individual concentration of wealth. That they generally so result is hardly to be disputed; but primarily, they mean the massing together of separately owned capitals, often small, for a particular use. There is every reason to suppose that the shareholders grow in numbers, and that they increase their holdings. So that while the magnates tend to become Midases, there is a concurrent tendency making for diffused ownership. The small investor is to be found in every stratum of society, and the number of shareholders in some of the great combinations reaches an astonishing figure. The "one touch of nature" which in Shakespeare's eyes made the whole world kin was the love of novelty; in our day it is the passion for investing in shares.

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Petty industries and small-unit farming persist, despite the movement toward combination. The recent census gives the number of manufacturing establishments in the United States as 512,726, an increase of 44.3 per cent. This is a larger percentage of increase than is shown for any other of the fifteen items in the census summary of manufactures, except capital, children's wages, and miscellaneous expenses. Doubtless many of these establishments belong to the trusts; but with all allowances the numerical growth is remarkable. The undeveloped sections show the greatest increase, but even industrially settled States, such as Massachusetts, Connecticut, and Rhode Island, reveal marked gains. Professor Ely has pointed out several branches of industry in which small-shop production is increasing. Some investigations which the present writer made two years ago in two branches confirm this tendency. It is pronounced in the notion trades and in the manufacture of women's ready-made wear. In the latter the industry has been revolutionized, the large houses being menaced with disaster and some of them with extinction. In dry-goods distribution the tendencies are confused and puzzling. While the number of general jobbing houses in New York City has decreased from thirty-five to five in twenty-five years, the remaining ones growing to enormous proportions, the number of smaller houses distributing special lines has either maintained its own or has grown. In Baltimore and St. Louis small jobbing houses

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persist in the face of the larger houses. In the retail trades, even in New York, despite the creation of a number of mammoth general stores, the dullest observer will note the continuance of thousands of small grocery, dry-goods, and furniture stores, confectionery and butcher shops; while custom and repairing work is still done in the little tailoring and shoemaking shops that speak a sort of defiance to the great emporiums. Through convenience of location to the community of customers about them—often, too, by the giving of credit—many of these little shops and stores furnish a social service that cannot be performed by the larger stores, which are mostly to be found massed in the central shopping district.

Something of the same nature is to be found in agriculture. Though the great estates are increasing in size, so also is the number of small holdings increasing. Nearly every State and Territory shows an increase in the number of farms, while the majority show a decrease in average acreage. The great stock-grazing farms of the West and the unproductive “gentlemen’s estates” of the East help to make the census figures misleading. It is probable that in every State real farming is done on a smaller average acreage than ever before.

Even independent capital in trading and manufactures shows an unexpected persistence. An interesting article in a recent issue of the *New York Journal of Commerce* puts the capitalization of the great trusts for the twelve years ending with 1901 at \$6,474,000,000, of which it marks off \$2,000,000,000 as “spurious common stock,” that is, stock not representing real capital in any form. Not more than \$300,000,000 of new capital, it maintains, had been thrown into the consolidations. This would leave \$4,474,000,000 as the sum of values already established by previous investment. On the other hand, it maintains that actual records show that in seventeen months from the beginning of 1901, in the four States of New York, New Jersey, Delaware, and Maine, the aggregate capitalization of newly organized companies with a capital of \$1,000,000 and upwards is \$1,969,650,000; and it calculates that for the whole country, including the large and small corporations, “the national industrial capital (exclusive of that for transportation appliances) must have increased approximately \$5,000,000,000 since the end of 1900.” Several rather obvious demurrers might be made to the conclusions reached, but they need not now concern us. With all possible discounting, strong proof is given of the aggressive persistence of independent capital.

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IV

Such facts, however, do not carry on the surface their real import. Independent capital persists as a force, but the units that compose it melt like bubbles in a stream. These companies are but the raw or “partly manufactured” material out of which the great combinations are made. Formation, growth, and absorption into a trust are generally the three terms in their life-history; or if, through ill environment or spirited warfare waged against them, they fail to get secure footing, they soon slip back into the slough of disaster. The fate of independent tobacco factories, sugar and oil refineries, railroads, independent companies of one kind or another, is constantly before us. If they are worth having, they are more or less benevolently assimilated; and if they are not worth having, they are permitted to struggle onward to the almost inevitable collapse.

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Neither do small holdings in agriculture mean economic independence. As the late census reveals, they mean tenantry. The number of farms operated by owners is decreasing; tenantry is becoming more and more common, and so is salaried management of great estates. Of the 5,739,657 farms of the nation, tenants now operate 2,026,286. Owners operated 74.5 per cent of all farms in 1880, 71.6 per cent in 1890, 64.7 per cent in 1900. The tendency is general, and applies to all sections. Since 1880 tenantry has relatively increased in every State and Territory (no comparative data are given for the Indian Territory) except Arizona, Florida, and New Hampshire. Since 1890 it has increased in Arizona. In twenty years it has increased 49.4 per cent in Florida, though the unloading of “orange groves” and other tropical paradises on the too susceptible Northerner has increased ownership by a slightly greater ratio; while in New Hampshire, where 2857 farms have been given up in the last twenty years, tenantry has decreased by but five-tenths of 1 per cent since 1890, and but six-tenths of 1 per cent since 1880.

So, too, with petty industries and the small retailers. M. Emile Vandervelde, in his sterling work, “Collectivism and Industrial Evolution,” has well shown how “small trade is the special refuge of the cripples of capitalism.” It is the particular refuge “of all who prefer, in place of the hard labor of production, the scanty gleanings of the middleman, or who, no longer finding a sufficient revenue in industry or farming, desire to add a string to their bow by opening a little shop.” But it would be a mistake, he continues, to suppose that these miniature establishments, which the census officials characterize as distinct enterprises, can be generally regarded as the personal property of those who carry them on. “A great number of them, and a number constantly increasing, as capitalism develops, have only a phantom of independence, and are really in the hands of a few great money lenders, manufacturers, or merchants.”

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Though M. Vandervelde argues on the basis of these phenomena as observed in Belgium, France, Germany, and England, the same conclusions are applicable in the United States. Our national census figures are practically useless as illuminators on the subject, and one must get his data from the observation or investigation of himself or others. It is generally known that small industries the product of which is more or less ingenious or artistic manage to survive; that those the product of which is common or usual are sooner or later extinguished; and that the petty retailers represent so many heterogeneous elements that it is impossible to predicate anything of them as a class. Of these latter there is a moderate number who, by furnishing a needful social service, make profits; there is a large and constantly changing number who, through ease of

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credit, manage to obtain stock without capital, and who almost invariably succumb; there is then a larger number whose little shops are run by women and children, the husbands and fathers working at some trade or office job, and hopefully expending their weekly earnings in the vain attempt to "build up a business"; finally, there is a class, the numbers and relative importance of which it is impossible to estimate, whose businesses are owned, directly or indirectly, by other men or by companies.

V

Many of these so-called independent concerns find it possible, and some of them find it fairly profitable, to continue. But the more the large combinations wax in power, the greater is the subordination of the small concerns. An increasing constraint characterizes all their efforts. They are more closely confined to particular activities and to local territories, their bounds being dictated and enforced by the pressure of the combinations. The petty tradesmen and producers are thus an economically dependent class. Equally subordinate—and for the most part subservient—are the owners of small and moderate holdings in the trusts. The larger holdings—often the single largest holding—determine what shall be done. Generally, too, the petty investors are acquiescent to the will of the Big Men. But occasionally, as in the case of the transfer of the Metropolitan Street Railway stock, they rebel, and it becomes necessary to suppress them. At the meeting which determined this action, the protesting minority were emphatically ordered to "shut up"; when they still objected, the presiding officer declared, "We will vote first; you can discuss the matter afterward," and the vote was promptly taken. The head of an American corporation, moreover, is often an absolute ruler, who determines not only the policy of the enterprise, but the personnel of the board of directors. It was a naïve letter which a well-known New York financier recently wrote to his "board of directors" on the occasion of his retirement from the presidency of a great trust company in favor of a retiring Cabinet minister. He had been looking about, he explained, for some time for a competent successor. Now he had found him and had chosen him. Of course the formal action of the board would be a welcome detail; and, equally a matter of course, it was promptly given. One of the copper kings recently testified in a legal action that he "didn't want to call the board of directors together to obtain authority to buy adjacent properties." He went ahead, did what he pleased, and let the board discuss the matter afterward. If there was ever so much as a question about it, it was but a profitless interference.

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VI

The tendencies thus make, on the one hand, toward the centralization of vast power in the hands of a few men—the morganization of industry, as it were—and, on the other, toward a vast increase in the number of those who compose the economically dependent classes. The latter number is already stupendous. The laborers and mechanics were long ago brought under the yoke through their divorcement from the land and the application of steam to factory operation. They are economically unfree except in so far as their organizations make possible a collective bargaining for wages and hours. The growth of commerce raised up an enormous class of clerks and helpers, perhaps the most dependent class in the community. The growth and partial diffusion of wealth has in fifty years largely altered the character of our domestic service and increased the number of servants many fold. The professions, too, have felt the change. Behind many of our important newspapers are private commercial interests which dictate their general policy, if not, as is frequently the case, their particular attitude upon every public question; while the race for endowments made by the greater number of the churches and by all colleges except a few State-supported ones, compels a cautious regard on the part of synod and faculty for the wishes, the views, and the prejudices of men of wealth. To this growing deference of preacher, teacher, and editor is added that of two yet more important classes,—the makers and the interpreters of law. The record of legislation and judicial interpretation regarding slavery previous to the Civil War has been paralleled, if not surpassed, in recent years by the record of legislatures and courts in matters relating to the lives and health of manual workers, especially in such matters as employers' liability and factory inspection. Thus, with a great addition to the number of subordinate classes, with a tremendous increase of their individual components, and with a corresponding growth of power in the hands of a few score magnates, there is needed little further to make up a socio-economic status that contains all the essentials of a renescent Feudalism.

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CHAPTER III OUR MAGNATES

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With the rise of the magnates to power comes a growing self-consciousness of their authority and responsibility. "I am a citizen of no mean state," is the reflection of each of them as he looks upon the emergent order of which he is so large a part; and thereupon it becomes his mission to live up to his rank and function. Frequently his benefactions increase, and always he takes on a more Jovian air, and views with a more providential outlook the phenomena passing before and about him. He is a part not only, as Tennyson makes Ulysses say, of all that he has met, but of the primary causes of things. He is at once the loaf-giver to the needy, the regulator of temporal affairs, the lord protector of church and society; and he holds his title directly from the Creator. "The rights and interests of the laboring man," wrote the chief of the anthracite coal magnates last August, "will be protected and cared for, not by the labor agitators, but by the Christian men to whom God in His infinite wisdom has given the control of the property interests of the country." Gradually there comes the renascent development of the seigniorial mind.

I

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"Business" is the main thought, and the apotheosis of "business" the main cult of the new magnates. "Of gods, friends, learnings, of the uncomprehended civilization which they overrun," indignantly writes Mr. Henry D. Lloyd, "they ask but one question: How much? What is a good time to sell? What is a good time to buy?... Their heathen eyes see in the law and its consecrated officers nothing but an intelligence office, and hired men to help them burglarize the treasures accumulated for a thousand years at the altars of liberty and justice, that they may burn their marble for the lime of commerce."

Though a forcible, it is an extreme view, for it leaves out of consideration the high professions of morality, the frequent appeal to Christian ideals, the tender solicitude for honesty, integrity, law and order, with which our new magnates gild their worship of "business." Such of them as have recently invaded literature give edifying glimpses of the new seigniorial attitude. The artistic career, writes Mr. Andrew Carnegie in his entertaining volume, "The Empire of Business," is most narrowing, and produces "petty jealousies, unbounded vanities, and spitefulness"; the learned professions also produce narrowness, albeit often a high specialization of faculty and knowledge. But "business," properly pursued, broadens and develops the whole man. It is a view echoed to greater or less extent by the other literary magnates, particularly Mr. James J. Hill, Mr. Russell Sage, Mr. S. C. T. Dodd, Mr. John D. Rockefeller, Jr., the Hon. Marcus A. Hanna, and Mr. Charles R. Flint.

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A flattering unction that all lay to their souls is the dictum that success in business is a matter of honesty, intelligence, and energy. "There is no line of business," writes Mr. Carnegie, "in which success is not attainable. It is a simple matter of honest work, ability, and concentration." "To rail against the accumulation of wealth," writes Mr. Sage, in the *Independent*, "is to rail against the decrees of justice. Intelligence, industry, honesty, and thrift produce wealth.... So long as some men have more sense and more self-control than others, just so long will such men be wealthy, while others will be poor." Mr. Dodd, in his address to the students of Syracuse University, adds this contribution: "Why is there still so much poverty? One reason is because nature or the devil has made some men weak and imbecile and others lazy and worthless, and neither man nor God can do much for one who will do nothing for himself." Mr. Rockefeller appeals both to evolution and to divine sanction. "The growth of a large business," he is reported as declaring in one of his Sunday-school addresses, "is merely a survival of the fittest.... The American Beauty rose can be produced in the splendor and fragrance which bring cheer to its beholder only by sacrificing the early buds which grow up around it. This is not an evil tendency in business. It is merely the working out of a law of nature and a law of God."

It matters not that many millions of men, tirelessly energetic and reasonably intelligent, can be shown to have toiled all their lives without winning even a competence. Nor does it matter that some of these, in addition to being energetic and intelligent, have been reasonably honest. To be honest, as this world goes, is to be one man picked out of ten thousand; and the fact that most of the greater affairs of the business world sooner or later find their way into the courts, for the testing of the amount and quality of honesty involved therein, might well cause some hesitation in positing this virtue as a necessary qualification for "business." But the notion is not to be argued with; it is a characteristic outcropping of the seigniorial mind.

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The praise of labor is the antiphony to the praise of "business," and the lyres of all the magnates are strung tensely when chanting tributes to toil.

"Round swings the hammer of industry, quickly the sharp chisel rings,
And the heart of the toiler has throbbings that stir not the bosom of kings,"

warbles Mr. Flint in his article on "Combinations and Critics," in "The Trust: Its Book." Toil is the foundation of wealth, they all aver, though the rhapsodical nature of the tributes prevents a clear and definite utterance on the question, Of *whose* wealth is it the foundation? But there is no lack of definiteness regarding their attitude toward those defensive societies, the trade-unions, which the toilers organize to secure a larger part of their product to themselves. Mr. Flint, indeed, somewhat cautiously acknowledges an element for good in the unions, but the general attitude of

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the seigniorial mind is distinctly inimical. The recent interesting correspondence between the coal magnates and President Mitchell is an instance in point; so are the frequent utterances on the subject by the president of the steel trust, and any number of examples could be given of a like character. A crowning example of a distinctly feudal attitude is furnished by a letter from a prominent New York merchant, printed in the issue of June 9, 1902, of a newspaper which makes a considerable to-do about the printing of such of the news as it sees fit to print. The prominent merchant objects very strongly to labor leaders and walking delegates, describing them in almost as temperate and judicial language as that of United States District Judge Jackson. The flower of his contribution is his seigniorial remedy for strikes:—

“The only remedy, in my opinion, for strikes is to get as many men as there are officers in the different [labor] associations admitted to their meetings, where they would have a chance to talk to the men in a businesslike way, explaining matters to them in such a manner as to bring the effects of a strike very plainly before them.”

Moral suasion, however, is not the only method suggested for bringing sense to the workers. A hint of more forcible means is occasionally broached. A New York newspaper, which makes a boast of printing unimpeachable interviews, reports, in its issue of July 31st last, a significant warning from the president of the New York, Ontario and Western Railroad. This is one of the coal-carrying railroads, and the reference is to the anthracite strike. “After the men return to work,” he said, “I believe that legal steps will be taken in the United States courts against those who are responsible for the loss occasioned by the strike.” The Hon. Abram S. Hewitt echoed this interesting suggestion in an interview of August 25th. “The consequences of such strikes,” he says, “are so disastrous, not merely to the parties directly concerned, but to the whole community, that every effort should be made as soon as the existing strike has been called off and the excitement is abated to prevent by appropriate legislation the recurrence of such calamitous conflicts where everybody is injured and no one is benefited.” Criminal codes, it may be said generally, depend largely on the economic conditions of the time and place where they obtain: horse-stealing, in a community girdled by trolley lines, degenerates to petty larceny, while in Wyoming or Arabia it is a capital offence. In the new order, which requires peace and stability for its proper operation, it may readily enough come about that voluntary leaving of work will be severely penalized.

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II

The new seigniorial attitude toward government and public policy is also significant. Often it is paternalistic in a princely degree. The offer of a retired magnate to settle a great national problem by paying to the Government the \$20,000,000 demanded of Spain, on condition that the Filipinos be “set free,” had in it something of the “grand style” which Matthew Arnold so extols. The rallying to the defence of the Government’s gold reserve by certain financiers, several years ago, need not be instanced, since in certain quarters it is gravely suspected that their interest was not entirely platonic. But certainly the recent offer of a wealthy magnate to pay one-third of the cost of repairing all the roads in the vicinity of Lakewood, N.J., showed the true seigniorial spirit. Not different in kind, though somewhat in degree, was the recent action of a Pittsburg magnate, on the rude refusal of the Department of Public Works to pave his street otherwise than with blocks at a cost of 65 cents the square yard, in doing the thing himself at a cost of \$4.50 the square yard.

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Usually, however, the seigniorial attitude toward government is somewhat more in the direction of intervention. The seasonal migration to Washington of representatives of all the great commercial interests has become a salient datum in political zoölogy. Curiosity regarding a proposed parcels post or government telegraph alone draws hundreds of these birds of passage there. The rights of private initiative must be maintained at any cost. In the great West one of the prime necessities for a living is the access to water for irrigation purposes. One may have land; but, if he has not water to irrigate it, the soil is worthless. The prevailing sentiment is for public ownership of waterways, since, in many places, monopoly controls the supply. At the electrical convention held at San Francisco recently, the presiding officer, who is also the president of a public-service corporation, after denouncing organized labor and municipal ownership, added: “For us a far more dangerous agitation is that which now proposes State appropriation of all water rights. The scheme advocated makes the appropriation little less than sheer confiscation.” Luckily the seventy-one mile envelope of air that encases the globe yet eludes monopolization.

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“Hands off!” is the warning to government; and though occasionally government puts hands on, they are not very closely or tenaciously applied. The report of the Interstate Commerce Commission (1901), for instance, employs a rather pessimistic tone regarding government control of traffic rates. “We simply call attention to the fact,” it recites, “that the decision of the United States Supreme Court in the Trans-Missouri case and the Joint Traffic Association case has produced no practical effect upon the railway operations of the country. Such associations, in fact, exist now, as they did before those decisions, and with the same general effect.” “Should the Supreme Court declare the Northern railways consolidation unconstitutional,” one of the interested magnates is reported as saying, “we shall simply do the thing in another way. It is something that must be done.” Cynically frank is Mr. Dodd, in his Syracuse address, regarding the Anti-trust law. “A modern Federal law also exists,” he says, “which, literally interpreted, forbids business of any magnitude; but Federal judges have thus far found it easier to dismiss proceedings under it than to guess at its real meaning.” The president of the Southern Pacific Railroad takes the bull by the horns, and denounces all interference. In an interview given to the press June 2d of the present year, he declares that “the legislation of the future must be pro-

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railroad instead of anti-railroad.... I believe commissions are things of the past. I do not think transportation companies should have to submit to dictation or control by bodies who do not know anything about transportation."

The Contract-labor law is another measure, to the seigniorial mind, unnecessary and obstructive, and its provisions, therefore, are but lightly observed. Known evasions have been numerous; and, were the full truth revealed, it would probably be found that this law has met with about the same degree of observance as have the Interstate Commerce and Anti-trust laws. As recently as July 16th, comes word from Berlin to the *Chicago Daily News* that "agents of American railroads are canvassing the Polish and Slavic districts of Europe for laborers, to whom they offer \$2.50 a day and board, regardless of the Federal Contract-labor law."

Not only do the magnates demand immunity from government interference in their business affairs, but they demand also a more real, if not a more obvious, share in the operations of government. The invasion, during the last ten years, of the National Senate by a number of the magnates or their legates is a part of the process; but something more to the point is their insistence on the right to be consulted in grave affairs by the President and Cabinet. A New York daily newspaper, edited by the distinguished scholar who delivers lectures on journalism before Yale University, published last February an account of a remarkable gathering at Washington. It verges closely upon contumacy to mention the names of the attending magnates, such is their eminence, and they will therefore not be given. Their purpose was to protest to the President against a repetition of his action in the Northern Securities case. "The financiers declare," says this newspaper, "that they should have been notified of the intended Federal action last week, so that they could be prepared to support the stock market, and that their unpreparedness came very near bringing on a panic. Had not the big interests of the street been in possession of the bulk of securities, instead of speculators and small holders, there would have been a panic, the capitalists assert." It is, when considered, a modest claim—the powers of an extra-constitutional cabinet, intrusted with the conservation of the public peace. There is no proof that the claim has been conceded, though some light is thrown on the problem by the newspaper's further declaration that the chief magnate, after an interview with the President, "felt very much better."

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Something of the same nature was revealed in the negotiations last March between the Mayor of New York City and the directors of the New York Central Railroad Company. The company requested the Mayor to secure the withdrawal of the Wainwright bill in the State Assembly, compelling the railroad to abandon steam in the Park Avenue tunnel by a fixed date, and promised to do the required thing in its own time and at its own pleasure. The letter of the Mayor to Assemblyman Bedell records the result: "This letter [of the directors] seems to me to lay a good foundation for the waiving a fixed date to be named in the bill;" and the date was accordingly "waived."

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Of the seigniorial attitude toward the police law, the abundant crop of automobile cases alone furnishes signal testimony. Dickens made a highly dramatic, though perhaps rather unhistorical, use in his "A Tale of Two Cities" of the riding down of a child by a marquis, and the long train of tragic consequences that ensued. We do the thing differently in our day: we acquit, or at most fine the marquis, and the matter rests; we are too deferential to carry it further. Fast driving in the new "machines" has become one of the tests of courage, manliness, and skill,—what jousting in full armor was in the fifteenth century, or duelling with pistols in the early part of the nineteenth,—and if the police law interferes, the exploit is the more hazardous and therefore the more emulatory. The scion of a great house who recently, on being arrested for fast driving and then bailed, subsequently sent his valet to the police court to pay the fine, showed the true seigniorial spirit. Possibly, though, had his identity been known before arrest, he would have escaped the irritating interference of the law; for it happened, about the same time, on the arrest for the same offence of a millionaire attorney, accompanied by a Supreme Court judge, that a too vigilant policeman came to learn his severest lesson—that to know whom not to trouble is the better part of valor.

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At Newport, the summer home of the seigniorial class, the automobile enforces a right of way. This is not sufficient, however, for the automobilists, who would prefer a sole and exclusive way. In the summer of 1901 the resident magnates fixed upon a certain Friday afternoon for their motor races, and demanded exclusive control of Ocean, Harrison, and Carroll avenues between the hours of two and four o'clock. In the "grand style" characterizing the dealings of this class with the public, the magnates offered to pay all the fines if the races led to any prosecutions. This meant, of course, that the ordinance prohibiting a speed greater than ten miles an hour was to be overlooked, since the races would surely have developed speed up to forty, fifty, and sixty miles an hour. The deferential City Council acquiesced. For once, however, the ever serviceable injunction was found to be available against other persons than striking workmen. A few property owners sought refuge in the Supreme Court, a temporary injunction was issued by Judge Wilbur, and, though the magnates hired lawyers to fight it, the order was made permanent. It is but natural that keen resentment should follow this high-handed action of the courts. It is announced that some of the magnates are tiring of Newport, and one of the wealthiest of them has recently threatened to forsake the place entirely.

Laws are like cobwebs, said Anacharsis the Scythian, where the small flies are caught and the great break through. Yet that even the great can sometimes bow to the reign of law, and particularly that the seigniorial mind can on occasion be conciliatory, is well illustrated by the recent action of the governors of the Automobile Club, in suspending two members and disciplining a third, for fast driving. The troublesome restrictions of the law on this point are probably destined, however, to be soon abolished. Already the Board of Freeholders of Essex

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County, N.J., a region much frequented by automobilists, has advanced the speed limit in the country districts to twenty miles per hour. Further changes are expected, and it will probably be but a short time before a man with a "machine" will enjoy the God-given right of "doing what he will with his own."

III

Most of the magnates show a frugal and a discriminating mind in their benefactions; but it is a prodigal mind indeed which governs the expenditures that make for social ostentation. It is probable that no aristocracy—not even that of profligate Rome under the later Cæsars—ever spent such enormous sums in display. Our aristocracy, avoiding the English standards relating to persons engaged in trade, welcomes the industrial magnate, and his vast wealth and love of ostentation have set the pace for lavish expenditure. Trade is the dominant phase of American life,—the divine process by which, according to current opinion, "the whole creation moves,"—and, as it has achieved the conquest of most of our social institutions and of our political powers, that it should also dominate "society" is but a natural sequence. Flaunting and garish consumption becomes the basic canon in fashionable affairs. As Mr. Thorstein Veblen, in his keen satire, "The Theory of the Leisure Class," puts it:—

"Conspicuous consumption of valuable goods is a means of reputability.... As wealth accumulates on his [the magnate's] hands, his own unaided effort will not avail sufficiently to put his opulence in evidence by this method. The aid of friends and competitors is therefore brought in by resorting to the giving of valuable presents and expensive feasts and entertainments. Presents and feasts had probably another origin than that of naïve ostentation, but they acquired their utility for the purpose very early, and they have retained that character to the present."

The conspicuous consumption of other days was, however, as compared with that of the present, but a flickering candle flame to a great cluster of electric lights. Against the few classic examples, such as those of Cleopatra and Lucullus, our present aristocracy can show hundreds; and the daily spectacle of wasteful display might serve to make the earlier Sybarites stare and gasp. Present-day fashionable events come to be distinguished and remembered not so much on the score of their particular features as of their cost. A certain event is known as Mr. A's \$5,000 breakfast, another as the Smith-Jones's \$15,000 dinner, and another as Mrs. C's \$30,000 entertainment and ball.

Conspicuous eating becomes also a feature of seigniorial life. The "society" and the "yellow" journals are crowded with accounts of dinners and luncheons, following one after another with an almost incredible frequency. And not only is the frequency remarkable, but the range and quantity of the viands furnished almost challenge belief. So far, it is believed, the journals which usually deal in that sort of news have neglected to give an authoritative menu for a typical day in the life of a seigniorial family. We have dinner menus, luncheon menus, and so on, but nothing in the way of showing what is consumed by the individual or family during a term of twenty-four hours. Some light on the subject, however, is furnished by Mr. George W. E. Russell, the talented author of "Collections and Recollections," in his recent volume, "An Onlooker's Note-book." Objection may be made to the effect that Mr. Russell is an Englishman, and that he is describing an English royal couple. But the demurrer is irrelevant, since it is well known that our seigniorial class founds its practices and its canons (excepting only the canon regarding persons engaged in trade) upon English precedents, and that English precedents are made by the Royal Family. And not only does our home nobility imitate English models, but it piles Pelion upon Ossa, and seeks constantly to outshine and overdo the actions of its transatlantic cousins. Mrs. George Cornwallis-West (formerly Lady Randolph Churchill) recently stated that the vast sums spent by Americans in England have lifted the standard of living to a scale of magnificence almost unknown before. So for whatever is shown to be English custom, something must be added for American improvement and extension when assuming its transplantation to these shores. Mr. Russell writes:—

"A royal couple arranged to pay a two nights' visit to a country house of which the owners were friends of mine. For reasons of expediency, we will call the visitors the duke and duchess, though that was not their precise rank. When a thousand preparations too elaborate to be described here had been made for the due entertainment of them and their suite and their servants, the private secretary wrote to the lady of the house, enclosing a written memorandum of his royal master's and mistress's requirements in the way of meals. I reproduce the substance of the memorandum—and in these matters my memory never plays tricks. The day began with cups of tea brought to the royal bedroom. While the duke was dressing, an egg beaten up in sherry was served to him, not once, but twice. The duke and duchess breakfasted together in their private sitting room, where the usual English breakfast was served to them. They had their luncheon with their hosts and the house party, and ate and drank like other people. Particular instructions were given that at 5 o'clock tea there must be something substantial in the way of eggs, sandwiches, or potted meat, and this meal the royal couple consumed with special gusto. Dinner was at 8.30, on the limited and abbreviated scale which the Prince of Wales introduced—two soups, two kinds of fish, two entrées, a joint, two sorts of game, a hot and cold sweet, and a savory, with the usual accessories in the way of oysters, cheese, ice, and dessert. This is pretty well for an abbreviated dinner. But let no one suppose that the royal couple went hungry to bed. When they retired, supper was served to them in their private sitting room, and a cold chicken and a bottle of claret were left in their bedroom, as a provision against emergencies."

All the men of great wealth are not men of leisure. Some of them work as hard as do common

laborers. For such as these the tremendous gastronomy recounted by Mr. Russell would be impossible as a daily exercise. When, therefore, it is assumed of any of our seigniorial class, it must be limited to magnates on vacation, to their leisurely sons, nephews, hangers-on, and women, and to those who have retired from active pursuits. But there are other canons of social respectability besides personal leisure and personal wasteful consumption. These are, to quote again from Mr. Veblen, vicarious leisure and vicarious consumption—the leisure and lavishness of wives, sons, and daughters. It is these who, in large part, at New York, Lenox, and Newport, support the social reputation of their seigniorial husbands and fathers. The “dog parties,” wherein the host “puts on a dog collar and barks for the delectation of his guests,” the “vegetable parties,” wherein host and guests, perhaps from some latent sense of inner likeness, make themselves up to represent cabbage heads and other garden products, the “monkey parties,” the various “circuses” and like events, are given and participated in more generally by the vicarious upholders of the magnate’s social reputation than by the seignior himself.

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But in ways more immediate—by means which do not conflict with his daily vocation—the working magnate gives signal example of that virtue of capitalistic “abstinence” which is the foundation of orthodox political economy. The splendors of his town house, his country estate, and his steam yacht, to say nothing of his club, are repeatedly described to us in the columns of popular periodicals. His paintings, decorations, and bric-à-brac, his orchids and roses, his blooded animals and his \$10,000 Panhard, are depicted in terms which make one wonder how paltry and mean must have been the possessions of Midas and how bare the “wealth of Ormus and of Ind.” And when, for a time, he lays down the reins of power, and betakes himself to Saratoga or Newport or Monte Carlo, yet more wonderful accounts are given of his lavish expenditure. The betting at the Saratoga race-tracks last August is reported to have averaged \$2,000,000 a day. “The money does not come,” said that eminent maker of books, Mr. Joe Ullman, “from any great plunger or group of plungers, but from the great assemblage of rich men who are willing to bet from \$100 to \$1,000 on their choices in a race.” On the transatlantic steamers, in London and in Paris, the same prodigality is seen. A king’s ransom—or what is more to the point, the ransom of a hundred families from a year’s suffering—is lost or won in an hour’s play or lightly expended for some momentary satisfaction.

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IV

There remain for brief mention the benefactions of the magnates. Most of these come under the head of “conspicuous giving.” Gifts for educational, religious, and other public purposes last year reached the total of \$107,360,000. In separate amounts they ran all the way from the \$5,000 gift of a soap or lumber magnate to the \$13,000,000 that had their origin in steel. It is an interesting list for study in that it reveals more significantly than some of the instances given the standards and temper of the seigniorial mind. An anonymous writer, evidently of Jacobinical tendencies, some time ago suggested in the columns of a well-known periodical a list of measures for the support of which rich men might honorably and wisely devote a part of their fortunes:—

“He [the rich man] could begin by requiring the assessors to hand him a true bill of his own obligations to the public. He could continue the good work by persuading the collector to accept a check for the whole amount. This would make but a small draft upon his total accumulations. A further considerable sum he could wisely devote to paying the salaries of honorable lobbyists, who should labor with legislative bodies to secure the enactment of just laws, which would relieve hard-working farmers, struggling shopkeepers, mechanics trying to pay for mortgaged houses, and widows who have received a few thousand dollars of life insurance money, from their present obligation to support the courts, the militia, and other organs of government that protect the rich man’s property and enable him to collect his bills receivable. Finally, if these two expenditures did not sufficiently diminish his surplus, he could purchase newspapers and pay editors to educate the public in sound principles of social justice, as applied to taxation and to various other matters.”

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Perhaps it is not singular that no part of the gifts of the great magnates is ever devoted to any of these purposes. Doubtless they see no flaw, or at least no remediable defect, in the present industrial régime. It is the régime under which they have risen to fortune and power, and it is therefore justified by its fruits. Their benefactions are thus always directed to a more or less obvious easement of the conditions of those on whom the social fabric most heavily rests. Hospitals, asylums, and libraries are the objects, though recently a bathing beach for poor children has been added to the list. The propriety of securing learned justification of the existing régime causes also a considerable giving to schools, colleges, and churches. But nowhere can there be found a seigniorial gift which, directly or indirectly, makes for modification of the prevailing economic system.

CHAPTER IV

OUR FARMERS AND WAGE-EARNERS

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The increasing dependence of middleman and petty manufacturer has already been considered. The same pressure which bears upon these bears also upon farmer and wage-earner. The editorials and the oratory of election years, it is true, supply us with recurring pæans over the independence, the self-reliance and the prosperity of these classes, and such graphic tropes as "the full dinner pail" and "the overflowing barn," become the party shibboleths of political campaigns. Plain facts, however, accord but ill with this exultant strain.

I

In most ages the working farmer has been the dupe and prey of the rest of mankind. Now by force and now by cajolery, as social customs and political institutions change, he has been made to produce the food by which the race lives, and the share of his product which he has been permitted to keep for himself has always been pitifully small. Whether Roman slave, Frankish serf, or English villein; whether the so-called "independent" farmer of a free democracy or the *ryot* of a Hindu prince, the general rule holds good. Occasionally, by one means or another, he gains some transitory betterment of condition; the Plague of 1349 and the Peasants' Rebellion of 1381 won for his class advantages which were retained during three generations. But in the long run he is the race's martyr. Under a military autocracy his exploitation was inevitable. There is no reason for it now, for the lives and well-being of the rest of mankind are in his hands: were the working farmers organized as the manufacturers and the skilled artisans are organized, and could they lay by for themselves a year's necessities, they could starve the race into submission to their demands. But the thing is not to be; nor, indeed, is any marked change to their advantage likely to happen, for, so far as current tendencies point, the future is to repeat the past.

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In our day and in our land both force and cajolery conspire to keep the peasant farmer securely in his traces. He cannot break through the cordon which the trusts and the railroads put about him; and even if he could he would not, since the influences showered upon him are specifically directed to the end of keeping him passive and contented. Our statisticians assure him of his prosperity; our politicians and our moulders of opinion warn him of the pernicious influence of unions like the Farmers' Alliance, and further preach to him the comforting doctrine that by "raising more corn and less politics" he will ultimately work out a blissful salvation. Sometimes he must burn his corn for fuel; often he cannot sell his grain for the cost of production, even though many thousands of persons in the great cities may be hungering for it; frequently he cannot afford to send his children to school, and in a steadily increasing number of cases he is forced to abandon his farm and become a tenant or a wanderer. He is puzzled, no doubt, by these things; but they are all carefully and neatly explained to him from the writings and preachments of profound scholars, as "natural" and "inevitable" phenomena. His ethical sense may be somewhat disturbed by the explanations, but he learns that it is useless to protest, and he thereupon acquiesces.

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A sort of symposium on the joys of the farmer is to be found in the September number of the *American Review of Reviews*. Mr. Clarence H. Matson writes of improved conditions due to rural free delivery of mails and a few other reforms; Mr. William R. Draper dilates upon the enormous revenues which have flowed to the farmers during the current year, and Professor Henry C. Adams contributes a symphony on the diffusion of agricultural prosperity. A fourth article, by Mr. Cy Warman, furnishes a rather discordant note to the general harmony, since it shows a large and increasing immigration of our prosperous farmers into Canada. Some 20,000 crossed the border last year, according to Mr. Warman, while during the first four months of 1902, 11,480 followed, and indications pointed to a total of 40,000 emigrants for the present year. The official figures of the Canadian Government, since published, partly confirm these estimates. The number of immigrants from the United States for the year ended June 30, 1902, was 22,000. The number for the current year will probably be larger, for according to a Montreal press despatch of September 17th: "The immigration from the American to the Canadian Northwest has assumed much greater proportions this year than ever before, and land sales to Americans are daily reported. The latest large sale is by the Saskatchewan Valley Land Company, which has sold 100,000 acres in Saskatchewan to an American syndicate for \$500,000."

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"The American farmer," sententiously and truthfully remarks Professor Adams, "does not hoard his cash." He gives no reason for the fact, and the determination must be left to the reader. "The American farmer," he further remarks, "is, as a rule, his own landlord." This statement reveals a very serious misapprehension of the facts. Something more than every third farm in the United States, according to the recent census, is operated by a tenant. Moreover, the proportion of tenants is constantly rising. For the whole country, tenants operated 25.5 per cent of all farms in 1880, 28.4 per cent in 1890, and 35.3 per cent in 1900. Further, the tendency is not confined to particular sections, but is common to the whole country. During the last decade the number of tenant-operated farms increased relatively to the whole number of farms in every State and Territory except Maine, Vermont, and New Hampshire. In Maine tenantry decreased seven-tenths of 1 per cent, in New Hampshire five-tenths of 1 per cent, and in Vermont one-tenth of 1 per cent. For the twenty-year period, as was pointed out in Chapter II, the only exceptions to the general increase are Arizona, Florida, and New Hampshire.

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The recent census, out of its abundant optimism, does not segregate these facts, and makes no general comment other than that tenantry has increased and that salaried management is

believed to be "constantly increasing." The bulletin on "Agriculture: The United States" does not even furnish a general classified summary of the data on tenantry. But the separate reports give the statistics, and out of them the following table is compiled:—

INCREASE OF FARM TENANTRY

STATES AND TERRITORIES	PER CENT OF FARMS OPERATED BY TENANTS		
	1880	1890	1900
1. Alabama	46.8	48.6	57.7
2. Arizona	13.2	7.9	a. 8.4 ^[1] b. 11.9 ^[2]
3. Arkansas	30.9	32.1	45.4
4. California	19.8	17.8	23.1
5. Colorado	13.0	11.3	22.6
6. Connecticut	10.2	11.5	12.9
7. Delaware	42.4	46.9	50.3
8. District of Columbia	38.2	36.7	43.1
9. Florida	30.9	23.6	26.5
10. Georgia	44.9	53.5	59.9
11. Idaho	4.7	4.6	8.7
12. Illinois	21.4	24.0	29.3
13. Indiana	23.7	25.4	28.6
14. Iowa	23.8	28.1	34.9
15. Kansas	16.3	28.2	33.2
16. Kentucky	26.4	24.9	32.8
17. Louisiana	35.2	44.4	58.0
18. Maine	4.3	5.4	4.7
19. Maryland	31.0	31.0	33.6
20. Massachusetts	8.2	9.3	9.6
21. Michigan	10.0	14.0	15.9
22. Minnesota	9.2	12.9	17.3
23. Mississippi	43.8	52.8	62.4
24. Missouri	27.3	26.8	30.5
25. Montana	5.3	4.8	9.2
26. Nebraska	18.0	24.7	36.9
27. Nevada	9.7	7.5	11.4
28. New Hampshire	8.1	8.0	7.5
29. New Jersey	24.6	27.2	36.9
30. New Mexico	8.1	4.5	9.4
31. New York	16.5	20.2	23.9
32. North Carolina	33.5	34.1	41.4
33. North Dakota	3.9 ^[3]	6.9	8.5
34. Ohio	19.3	22.9	27.5
35. Oklahoma		0.7	21.0
36. Oregon	14.1	12.5	17.8
37. Pennsylvania	21.2	23.3	26.0
38. Rhode Island	19.9	18.7	20.1
39. South Carolina	50.3	55.3	61.0
40. South Dakota	3.9 ^[3]	13.2	21.8
41. Tennessee	34.5	30.8	40.5
42. Texas	37.6	41.9	49.7
43. Utah	4.6	5.2	8.8
44. Vermont	13.4	14.6	14.5
45. Virginia	29.5	26.9	30.7
46. Washington	7.2	8.5	14.4
47. West Virginia	19.1	17.8	21.8
48. Wisconsin	9.1	11.4	13.5
49. Wyoming	2.8	4.2	7.6

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FOOTNOTES:

- [1] Including Indian farms.
- [2] Excluding Indian farms.
- [3] Dakota Territory.

There were 2,026,286 tenants in 1900, an increase in twenty years of 97.7 per cent. There were [53]

3,713,371 owners, part owners, "owners and tenants," and managers, an increase in twenty years of 24.4 per cent. During the twenty-year period owners in Washington increased less than fivefold, tenants tenfold. Utah shows a doubling of the number of owners, and a quadrupling of the number of tenants. South Dakota, compared with Dakota Territory in 1880, reveals an increase of owners of two and one-half times; of tenants, eighteen times. There are 28,669 fewer owners in New York State than in 1880, and 14,331 more tenants. Ownership has declined and tenantry advanced, both absolutely and relatively, in New Jersey. The great farming State of Illinois has 15,044 fewer owners and 23,454 more tenants than in 1880, and even the young Territory of Oklahoma, wherein one might expect to find evidences of increased ownership, reveals, for the ten-year period, a two-hundred-fold increase of tenantry and only a sixfold increase of ownership.

From the foregoing table it will be seen that while during the previous decade relative tenantry declined slightly in several States, the tide has since turned. Though the Southern States generally show the greatest proportion of tenants, the greatest percentage of increase is revealed in the Border, Northern, and Western States. Tenants operate 62.4 per cent of all the farms of Mississippi, 61 per cent of those of South Carolina. But while the former is a growth since 1880 from 43.8 per cent, and the latter from 50.3 per cent, Oklahoma (the comparison in this single instance is with 1890) increased the percentage of its tenant-operated farms from seven-tenths of 1 per cent to 21 per cent. Washington doubled its percentage, Montana and Utah very nearly so. Nearly one-third of the farms of New Jersey are tenant farms, and more than one-third of those of Kansas and Nebraska. Each of these three States doubled its relative percentage of tenant farmers for the twenty-year period. Even in New York the proportion has grown since 1880 from 16.5 to 23.9 per cent. As marked as is the showing, the whole situation is not revealed by the figures, for the term "owners" in the reports includes "farms operated by individuals who own a part of the land and rent the remainder from others," and "farms operated under the joint direction and by the united labor of two or more individuals, one owning the farm or a part of it, and the other or others owning no part but receiving for supervision or labor a share of the products."

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This remarkable growth of tenantry would be considered, in any other than our own complacent days, as an alarming, even an appalling fact. So blithely and for so long a time have the changes been rung upon the alleged fact of independent ownership that everybody, including professors of political economy, assumes its truth. But even when its baselessness is clearly shown we shall hear little of an alarmist nature from our publicists and teachers. Rather it may be expected that their pronouncements will change with the changing times, and that we shall soon hear reiterated congratulations on the development of tenantry. Is not the humble tenant's security greater, are not his troubles less? Need he worry over taxes, foreclosures, and the like? Not at all; and besides—not the least of considerations to our paternalistic moulders of opinion—there is much reason for satisfaction in the fact that, having no land to mortgage, he will not be led into wildly prodigal habits of life by a too ready recourse to the money-lender.

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Considering the growth of tenantry, the increasing migration to Canada, the flocking of rural residents into the cities, and the frequent outright abandonment of farms in several sections of the country, the unsophisticated onlooker may naturally wonder at the tales of agricultural prosperity which from time to time appear in public print. Mr. Draper, in the article previously mentioned, speculates somewhat ingeniously over the financial returns due the farmer for his crop for the present year. The figures are certainly imposing when looked at as totals. The wheat crop will sum up 700,500,000 bushels, and each bushel will sell for 60 cents, making the net value \$580,100,000—a rather curious result, by the way, not obtainable by any of the ordinary processes of mathematics. The corn crop is to bring \$776,985,300, and the remaining crops follow, with large values attached.

But reduced to individual earnings, values of farm products (according to the census, products other than those fed to live stock) reveal a rather meagre diffusion of prosperity. Of the 5,739,657 farms in the United States, 1,319,856 are listed in the census as hay and grain farms, for the reason that hay and grain comprise 40 per cent of their total products. The average size of these hay and grain farms is 159.3 acres, and the average value of this product per acre in 1899 was \$4.77. The number of miscellaneous farms is 1,059,416, with an average acreage of 106.8, and a product value of \$4.12. Live-stock farms number 1,564,714, with an average acreage of 226.9 and a product value of \$3.47. Thus the average productive yield of 70 per cent of all the farms and 80 per cent of all the farm land in the nation ranges from \$3.47 to \$4.77 per acre. Flowers and plants, it may be noted for comparison, yield the comfortable return of \$431.83 per acre; but their effect on the general census is but slight, since the average product value of all farms is but \$4.47 per acre. But let no one suppose that all this munificent sum goes to the farmer. He pays 43 cents per acre for labor and nearly 7 cents per acre for fertilizers. The net income is thus \$3.97 per acre.

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The size of farms is increasing, though actual agriculture is probably confined to smaller holdings. The average was 136.5 acres in 1890; it is now 146.6 acres. The tendency varies in different parts of the country. Nebraska increases her average from 190.1 acres in 1890 to 246.1 acres in 1900. Kansas shows almost identical figures, while the New England States show little change, and the Southern States generally show reduced averages. The relation of size of farm to kind of tenure is, however, the main point, and here one discovers matter for reflection. Farms operated by cash tenants have 102.7 acres apiece, by owners 134.1, by managers 1514.3. The growth of manorial estates is dimly revealed in these figures, and there is no need to doubt the census bulletin's reserved admission that farms operated by managers are believed to be

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constantly increasing.

The subject of the changing status of the farmer—a change which involves his ultimate reduction to a sixteenth-century level—is too large to receive adequate treatment in these pages. By all considerations it deserves the space of a generous volume. For present purposes there remains to be said that even where apparent ownership is retained by the working farmer, effective ownership is determined in other quarters. He is the joint tenant of the farm implement trusts, of the new harvester trust, of the produce trusts which fix the value of his products, of the railroad trusts which fix the rate of transportation to the market, and in the arid West of the water trusts. Thus, even though he boasts the possession of a title-deed to his land, the holding is in reality of the nature of a fief, held at the mercy of several superiors; and the tithes which he pays, though less formally levied and exacted than were the *redevances* of the mediæval peasant, are as many and well-nigh as burdensome. And he must pay or go; for there is no remission from his superiors, as in olden days, on account of drouth, floods, locusts, or murrain.

II

With the decline of the petty trades, the growth of the combinations, and the concentration in fewer hands of the machinery of production, the subordination of the wage-earner becomes more certain and more fixed. If ever he were a free agent,—in the sense and to the degree that any one in human society can be free,—the day is passed. Through agencies constantly augmenting and extending, he is “cabin’d, cribb’d, confin’d, bound in,” to a narrowing circle of possible efforts. Divorced from the land and from the tools of production, he can live only by accepting such wages and conditions as are offered him; and the terms are always such that the kernel of his product goes to some other man, while the husks and the tares remain his own portion. The patronizing orators of Labor Day and of campaign times sometimes delight to symbolize him as a sturdy Gulliver, though it needs little reflection to see that it is the Gulliver of Brobdingnag, and not that of Lilliput, that more correctly figures his present status. The mass of current tendencies tends to fix him as a dependent—a unit of a lower order in a series of gradations running up to the Big Men. “The corporation,” writes Mr. Richmond,^[4] “holds of the State, and its officers hold of the corporation, and their retainers, managers, and servants all hold the tenure of their employment from their superiors in office, from the highest to the lowest.” But whether corporation, or partnership, or individual, employs the laborer’s services, his status is practically the same. Trade-unions and other labor societies tend to modify that dependence; and occasionally social legislation, when it runs the fierce gantlet of the courts, exerts a further modification. But it is coming to be recognized that there is a limit, perhaps now nearly attained, beyond which the labor societies can exert no influence; and as for social legislation, as will be shown farther along, it has certainly reached its culmination. [58] [59]

To the natural causes making for the laborer’s subordination have been added in recent years certain conscious and deliberate forces. There is a collective pressure brought to bear upon his wages; there is a collective antagonism maintained against his unions; there is a growing movement in the direction of holding him for the term of his profitable service to the company or corporation by which he is employed, and there is a judicial tendency to pretend still to regard him, despite his changing status, as an economically free agent, able to do what he wills, and to protect himself from all injustice.

III

The assurance of villedin fidelity is a prime need of a feudal order. The fidelity need not be personal, as in the old days; instead, the altered ceremony of “homage” may take in whole regiments by a single rite. Recent acts of the great employers make strongly for creating inducements for this fidelity. In spite of instances of conduct like that of the coal magnates of Pennsylvania, there is a growing tendency to unite for life-long service the careers of the more faithful workers with the corporations by whom they are employed. “Model workshops,” and even “model villages,” are unquestionably increasing in numbers. Their character is almost pure paternalism—“enlightened absolutism,” Professor Ely calls it. Rarely have the workers themselves the slightest word to say as to their construction or conduct. What is thought to be good for them, what is thought will win their devotion, is given them. Whether at Pullman, Ill., at Dayton or Cleveland, Ohio, or at Pelzer, S.C., the general spirit manifested is the same. The perfervid chapter on “American Liberality to Workmen,” which Mr. Nicholas Paine Gilman gives us in his volume, “A Dividend to Labor,” contains dozens of instances wherein employers have indulged their benevolence by the gift of flower-pots, wash-basins, and other cultural paraphernalia to their employees. Mr. Victor H. Olmsted, in the *Bulletin* of the Department of Labor for November, 1900, gives another, though somewhat duplicated, list; and the Rev. Josiah Strong’s monthly journal, *Social Service*, furnishes a current record of such benevolences. The providences of the Colorado Fuel and Iron Company alone make a remarkable showing. This corporation has even a “sociological department,” and it is at present building a \$10,000 mission at Bessemer, near Pueblo. The plan of the mission, we read, is to have a refuge, with all modern improvements, for “floaters,” or the unemployed. These wayfarers may make a temporary living by working in an attached woodyard. In all its camps in Colorado this company has established kindergartens, libraries, and, in remote places, grade schools for the children of its employees. Its hospital at the Pueblo works is said to be the best equipped in the West. “It is the announced purpose of this corporation,” we read, “to solve the social problem.” [60] [61]

Model workshops and the distribution of relief are but a small part of the tendency. The giving of

old-age pensions, particularly by railroad companies, has recently taken on the dimensions of a national movement. The pension system is not a conspicuously expensive one, for the numbers of workmen who live long enough to avail themselves of its benefits are but scant. The sums paid out for pensions by the Baltimore and Ohio Railroad Relief Department in eighteen years average \$31,185.85 yearly—about the salary of a first vice-president—and the employees themselves have borne a considerable part of the expense. A total of 697 pensions has been granted during this time, but 365 of the beneficiaries have considerably died, and thus reduced the expenses.

The pension system as it obtains among railroads is more or less an outgrowth of the relief association begun by the Baltimore and Ohio Railroad Company on May 1, 1880. Prototypes can possibly be found, but this instance is the first of any consequence. The State of Maryland revoked the charter of the association in 1888. This was an embarrassing interruption, but by no means a fatal one, for the society was immediately reorganized as a department of the company. The plan was to pay accident, sick, and death benefits and old-age pensions, the company contributing \$33,500 yearly, and the employees paying monthly dues based on their wages. Section 100 of the regulations for 1889 declares that "the fund for the payment of pensions will be derived wholly from the contributions of the company," a change from the earlier method in the direction of pure paternalism. The usual age for pensioning is sixty-five years, and the president and directors determine the roll.

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The Pennsylvania Railroad Voluntary Relief Department was begun in 1886. In a number of respects it followed the details of the earlier association. As to pensions, however, it put the matter forward by arranging for the gradual growth of a superannuation fund out of the department's surplus. There were six companies, according to Mr. William Franklin Willoughby's "Workingmen's Insurance," that before 1898 had created regular insurance departments. These were the Baltimore and Ohio, the Pennsylvania, the Pennsylvania west of Pittsburg, the Chicago, Burlington, and Quincy, the Philadelphia and Reading, and the Plant System. Though in two or three instances the plans have been altered, all these companies founded their pension systems on employees' contributions.

The Pennsylvania's fund reached the figure set for it January 1, 1900, and the pension system was proclaimed. On the first day of 1901 the Chicago and Northwestern put in operation a gratuitous pension system, appropriating \$200,000 for the purpose. The beneficiaries, all of whom must have been thirty years with the company, were divided into two classes: first, those seventy years old, who were to be retired and pensioned at once; and second, those from sixty-five to sixty-nine years inclusive, who were to be retired and pensioned at the discretion of the pension board. The rate fixed is one per cent per year of service of the average monthly pay for the preceding ten years. An employee whose average wages were \$55 per month, and who had been with the company for thirty years, would thus receive \$16.50 a month.

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The Illinois Central proclaimed its pension system July 1, 1901. On March 1, 1902, the Delaware, Lackawanna, and Western took the same course, appropriating \$50,000. The terms are somewhat more liberal, in that only twenty-five years' service is required, and that some employees may be retired between the ages of sixty and sixty-five. The Metropolitan Street Railway Company followed on March 6th, and the Philadelphia and Reading Company on May 21. The details, while varying somewhat, are in the main alike for all of these companies.

Though the experiment is a comparatively frugal one, there is no doubt that it brings compensatory returns; for it serves to keep quiescent and faithful large bodies of men, and perhaps to loosen the bonds of the labor-union. It holds in servicemen above thirty-five or forty-five years of age, for they know the difficulty of securing work elsewhere; and it feeds them with a more or less illusory hope of an ultimate pension. Indeed, the motive of inducing a closer dependence of the laborer upon the employer is more or less frankly confessed. "Under it" (the pension system), reads the Lackawanna's advertisement to the public, "the road and its employees are to be more closely knit by substantial ties." The president of the Metropolitan Street Railway Company, however, sounds a more altruistic and benevolent note. "My object in establishing this department," he is quoted as saying, "is to preserve the future welfare of aged and infirm employees and to recognize efficient and loyal service."

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Despite such benevolent professions there are grave grounds for scepticism regarding the tangible benefit of the system to the employees. If Hope lingers with them, it must be because, as Mr. William Watson sings, "airiest cheer suffices for her food." For both the ascertained results of an eighteen years' operation of the system, and a moment's glance at conditions surrounding the new applications of it, point to a most rigorous limitation of its benefits. In the first place, there is a growing disinclination to employ in any industry men past forty-five years of age. The new regulations of the Philadelphia and Reading reduce even this limit ten years, prohibiting the taking on of employees past thirty-five years of age, except by the approval of the board of directors of the company, although in special cases where unusual qualifications are desired the age limit may be waived. So general is this attitude of employers that the Chicago Federation of Labor was recently moved to the passing of a resolution proposing that "every unemployed man forty-five years of age who cannot show what the charity authorities call 'visible means of support' shall be mercifully shot in a lawful and orderly manner." Moreover, the chances of a railroad employee reaching the age of sixty-five or seventy years are about equal to the chances of winning a large sum at policy. Discharges are frequent and arbitrary, and usually there is no appeal. Aside from this, the casualties are enormous. Of the 191,198 railroad workers classed as trainmen employed throughout the country in 1900, 1396 (or one in every 138) were killed, and 17,571 (or one in every 10.8) injured. The corrected figures for 1901 (given to the public in August of the present year) show about the same percentages. Of the 209,043 trainmen, 1537 (or

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one in every 136) were killed, and 16,715 (or one in every 12.5) were injured. Thanks to the new safety appliances, casualties caused by coupling and uncoupling cars declined by 84 killed and 2461 injured; but in other classes of accidents the percentages brought the averages to near the previous figures. At best, the chances of maiming or death constantly increase with every one of the twenty-five or thirty years' service required for the earning of a pension. In the Metropolitan (now Interurban) Street Railway service, where accidents are few but discharges many, the benevolent instincts of the president will prove difficult of realization. This official admitted that discharges had at one time reached an average of 300 a month. An employee informed the author that he knew of but two or three men in the entire service whom the published terms entitled to pensions, while another employee conceded a possible dozen. [66]

IV

The new Feudalism evidently requires a tempering—let us say, a conservative adjustment—of the wage-scale. Those whom the gods dower with plenty may for the present give freely of their store, while those who feel the parsimony of Providence must withhold. The recent increase of 10 per cent in wages given by the steel corporation, and the refusal of the anthracite magnates to increase the average, according to the Pennsylvania Bureau of Mines, of 79 1/2 cents a day which their operatives now receive, are but examples of the contrasts which may be expected during the transition period. The collective feudal policy will avoid both extremes. It will pay something better than that which breeds discontent, something less than that which breeds luxury and pride. It will provide not exactly what the workers desire, but what is good for them.

Already the more or less collective pressure upon the wage-scale shows its effects. Hon. Carroll D. Wright's 250 wage-quotations for 25 selected occupations (*Bulletin* of the Department of Labor, September, 1898) reveal for the years 1895-98 a steady decline from the wages paid in the panic years, 1893-94, to about the same wages as were paid in 1882. The figures in the *Bulletin* for September, 1900, pertain to 148 establishments, representing 26 industries and 192 occupations. They show a slight increase for 1899 and another for 1900. This slight increase, however, is resolved into a marked decrease by the rise in the price of commodities necessary for the average life. From July, 1897, to July, 1901, according to the careful index-figures published in *Dun's Review*, the price of commodities advanced 27 per cent; and from July 1 to December 1, of the latter year, an almost steady advance was recorded. Comparing January 1, 1896, with January 1, 1902, the *Wall Street Journal* finds an increase of 36 per cent. [67]

The wage-quotations used by Col. Wright in his table of 1898 are from the larger cities, and pertain to trades the workmen in which are organized. Here, if anywhere, one would expect evidences of increased wages. Generally, however, the figures for 1897-98 show a parity with the figures for 1881-82. Compositors, for instance, received \$2.81 1/2 daily in 1898, \$2.81 in 1882. Carpenters received \$2.52 3/4 in 1898, \$2.55 in 1882. Often the figures for the latter year show a considerable decline; but the averages are maintained through the advances gained by those affluent mechanics, the plumbers; by the stone-cutters, and by the better-paid wage-earners of the railroads,—conductors, engineers, and firemen. With the increase of railroad traffic the hours of labor have been extended; and the increase of wages follows, at least for the engineers and firemen, as a consequence of longer hours. As for the common laborer, he is being left behind in the race. His wages were less in 1898 than in 1882 in six of the ten cites quoted, and in four of them there was no change. [68]

All wage-statistics are questionable, and particularly the more generalized wage-statements which proceed from Washington, during the fall months of election years. A look into the figures themselves is usually fatal to the optimism voiced in the generalizations. From other sources the conflict of figures is puzzling and irritating. It may be shown by selections from these that wages are rising, that they are falling, or that they are stationary. There is always a disparity between the figures of the State bureaus, the National bureau, and the census, and usually it is a disparity that cannot be harmonized.

The national census figures ought to be, as most persons will declare, a sufficiently correct guide. According to the last census, the number of wage-earners in manufacturing pursuits has increased in ten years 25.2 per cent, wages have increased 23.2 per cent. Despite the acknowledged increase in the country's wealth, wages, if the census is correct, have declined. It is officially explained, however, that these figures are not to be taken too literally. The schedules for 1890 included among wage-earners, "overseers, foremen, and certain superintendents (not general superintendents or managers), while the census of 1900 separates from the wage-earning class such salaried employees as general superintendents, clerks, and salesmen." "It is possible and probable," says each of the reports on manufactures, "that this change in the form of the question has resulted in eliminating from the wage-earners, as reported by the present census, many high-salaried employees included in that group for the census of 1890." [69]

Possibly and probably. But aside from the fact that the elimination of the comparatively few overseers and foremen, with their somewhat higher salaries, could make but slight influence on averages in the tremendous total of 5,321,087 wage-earners, with \$2,330,275,021 of wages, there is another point or two to consider. According to Part I (page 14 *et seq.*) of the Report of Manufacturing Industries for the census of 1890, it appears that wages underwent a considerable inflation in that record. The questions asked in 1880, it would appear, resulted in reporting more wage-earners than there really were. The questions for 1890, it is declared, produced the real number. It is further stated that "the questions for 1890 also tended to obtain a large amount of wages as compared with 1880." It would seem so, indeed, even to a neophyte in the ingenious art

of figuring; for while the wage-increase of the decade 1870-80 could show but 22.2 per cent, that for the following decade revealed the astonishing figure of a fraction less than 100 per cent. When, therefore, one seeks to compare the averages of 1890 with those of 1900 he may not unreasonably infer that the elimination of overseers and foremen in the later census is no more than a set-off to the ample generosity given to the wage-figures in the earlier census. There is no telling for a certainty, but it is not unlikely that the present census figures give a result approximately near the truth.

It is not an extravagant hope that some day we shall have two successive censuses carried out on identical schedules, so that comparisons may be accurately made between two decades. As it is, we must take what the powers give us, and be thankful. We must take it on trust, moreover, for there is no going behind the returns; and any captious questioning of the figures can be met only in the spirit with which Telemachus answered the fair Helen's inquiry if he were a true son of Ulysses. It is a matter of faith—there is no proof.

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In the faith, then, that there is reasonable accuracy in the reports, and a reasonable basis of comparison with previous reports, it is interesting to note what is revealed. First in point of interest is the relation of the value of the manufactured product to the amount of wages paid. A comparison will show whether labor is receiving an increasing or decreasing share of the wealth created. The census totals under the former heading are confessedly crude, since "a constant duplication of products appears, ... owing to the fact that the finished products of many manufacturing establishments become the materials of other establishments, in which they are further utilized and again included in the value of products." The new census has therefore made a separate classification of materials purchased in a partially manufactured form. Nevertheless, the gross total, including products from both raw materials and partly manufactured products, is reached by the same means as were employed in previous censuses, and is therefore comparable with the gross totals of previous decades. Whatever the duplications, they are similar to those of preceding reports.

There are nineteen States wherein the average number of wage-earners in manufacturing pursuits constitutes more than 6 per cent of the population. Rhode Island heads the list with 22.5 per cent. It is followed by Connecticut with 19.5; Massachusetts, 17.7; New Hampshire, 17.1; New Jersey, 12.8; Delaware, 12; New York, 11.7; Pennsylvania, 11.6; Maine, 10.8; Maryland, 9.1; Vermont, 8.6; Ohio, 8.3; Illinois, 8.2; Florida, 7; Wisconsin, 6.9; Michigan, 6.7; Washington, 6.6; Indiana, 6.2; California, 6.1.

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In each of these States the value of the manufactured product has increased, Florida leading with a gain of 109.6 per cent; Washington following with 107.8 per cent; New Jersey with 72.5; Indiana, 66.7; Vermont, 50.4; Wisconsin, 45.2, and so on, Massachusetts showing the slightest increase, 16.6 per cent. The value of the manufactured product is of course affected by the two items, cost of material and miscellaneous expenses, though in turn these are almost invariably reflected to some extent in the increase or decrease of the value of the product. When his material and his expenses increase, the manufacturer, if he can, puts up the price of his product. It would be wholly impossible to find a ratio, for the figures show an astonishing variety. In Massachusetts, for instance,—that classic State for the observation and study of industrial phenomena, the State wherein statistics are gathered with some approach to accuracy,—the increase of miscellaneous expenses is put at 16.1 per cent; of cost of material, at 16.8 per cent; of value of product, 16.6 per cent. But against this reasonable showing New York confesses to an increase of 81.8 per cent in miscellaneous expenses, with an increased product of but 27.1 per cent. Miscellaneous expenses increased 131 per cent in New Jersey, while the product increased but 72.5 per cent, and Pennsylvania and Indiana follow hard in the tracks of the two former States. Perhaps a key to the mystery is furnished in the enormous increase of miscellaneous expenses in certain industries which require favorable legislation. Gas, for instance, which is generally considered the rightful prey of certain kinds of aldermen and legislators, shows a payment of \$8,635,399 for "advertising, interest, insurance, repairs, and other sundry expenses," an increase of 74.8 per cent against an increase in the value of the product of but 32.9 per cent.

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In each of these nineteen factory States the value of the product increased. In all but one it increased more than 25 per cent, in two more than 100 per cent. But in ten of these States total wages have declined, and in three of the remainder the gain is insignificant. Wages of men workers have declined in eleven of these States, with a fractional gain in two States. Florida, which shows the greatest percentage of increase in the number of wage-earners, shows the greatest relative loss in wages. Maine, which gives the smallest percentage of increase in number of wage-earners, gives the largest relative percentage of increase in wages. The four States having the greatest absolute number of wage-earners all show decreases of wages. New York, with 849,092 workers, shows a wage-loss of 2.2 per cent; Pennsylvania, with 733,834 workers, a loss of 2 per cent; Massachusetts, with 497,448, a fractional loss; and Illinois, with 395,110, 5 per cent.

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The specific industries for the whole nation show similar results. Relative wages have increased in refining petroleum, in manufacturing ice and salt, and in a few other industries. But they have decreased in the great majority of the industries so far reported. There is a wage-loss in the making of bicycles, leather gloves and mittens, watches, watch-cases, buttons, gas, oleomargarine, boots and shoes, paper and pulp, coke, needles and pins, cigars and cigarettes, pocket-books, trunks and valises, leather belting and hose, in canning and preserving fruits and vegetables, in the tanning and finishing of leather, the slaughtering and packing of meat, the smelting of zinc, ship-building, car-building, the weaving of flax, hemp, and jute, and cotton products, the brewing of malt liquors, and newspaper publishing. All along the monotonous rows

of figures the same lesson is generally revealed,—the productivity of the laborer increases, the value of the product increases, the wages, except in occasional instances, decline or remain stationary.

The important point of the purchasing power of the dollar in 1890 as compared with 1900 needs also to be considered. According to the exhaustive compilation of wholesale prices published in the *Bulletin* of the Department of Labor for March, 1902, the dollar would purchase in 1890 a greater quantity of beef, bacon, ham, corn meal, beans, cheese, eggs, pepper, American salt, Formosa tea, hard and soft coal, petroleum, earthenware, furniture, and glassware than in 1900. In the latter year it would purchase more butter, Rio coffee, dried fruits (except currants), rice, sugar, onions, potatoes, mutton, and fish. Wheat flour cheapened, but the price of bread remained the same. A comparison of the two lists on the basis of relative quantities consumed in the average family will show the dollar to have had considerably less purchasing power in 1900 than in 1890, though the exact percentage is hardly computable.

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V

The new Feudalism involves not only the moderating of the present rates of pay for men workers, but an increase in the quantity of defenceless labor—the labor of women and children. Census Bulletin No. 150 gives the increase in the number of men working in manufacturing pursuits at 23.9 per cent; of women, at 28.4 per cent; of children, at 39.5 per cent. The wages of women have slightly increased; that is, the increase in total wages is 30.8 per cent against an increase in numbers of wage-earners of 28.4 per cent. The figures are better for the children; their wages are stated to have increased 54.4 per cent. There are ample reasons why this should be so. Popular agitation in behalf of the little ones may be guessed to have had some effect in the betterment of their pay; and a still greater effect has been wrought by their vastly increasing productivity. The perfecting of the instruments of production has been carried to such a degree that many a machine may be operated by a nursling; and it is well-nigh inevitable that some part of this increased productivity should be compensated for by increased pay of the operatives.

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The number of women in factory work in the United States is 1,031,747, nearly one-fifth of the total. There are 230,199 in New York, 143,109 in Massachusetts, 126,093 in Pennsylvania, 58,978 in Illinois, 53,711 in Ohio. Eighteen of the nineteen factory States show an increase, Maine being the exception; and in thirteen of these States the percentage of gain is considerably in excess of that of men workers. Washington leads with a gain of 151.8 per cent; Michigan and Illinois show gains of 79 per cent each; Vermont, of 63.1; Indiana, 56.4; California, 46.8; Pennsylvania, 44.9; New Jersey, 39.3. In States outside the factory list still greater increases are shown. The figures for South Carolina are 158.3 percent; for North Carolina, 151.2; West Virginia, 130.2; Alabama, 109.1; Georgia, 82.2.

In specific industries the gains are sometimes enormous. There are no women reported for coke-making, and the number employed in making agricultural implements has declined 25.7 per cent. Car-building, too, shows a decline. But in refining petroleum the 60 women wage-earners represent a gain of 3200 per cent, and in bicycle and tricycle making the 517 women represent a gain of 3346.7 per cent. An increase of 2600 per cent is shown for distilled liquors, although men workers decreased 23.8 per cent. A decrease of men workers and an increase of women workers are also shown for clay products, flouring and grist-mill products, chewing and smoking tobacco and snuff, starch, cheese, butter, and condensed milk, watches, and watch-cases. The percentage of increase is in excess of that of men workers in oleomargarine, pocket-books, trunks and valises, tanned, curried, and finished leather, and needles and pins. There are six and one-half times as many women as men in collar and cuff making, and more than twice as many in the leather glove and mitten industry; in the latter, moreover, the percentage of increase for women is double that for men. There are 37,762 women making cigars and cigarettes, a gain of 56 per cent, against a gain of but 4.6 per cent for men. Malt liquors show an increase of 101.6 per cent of women workers against an increase of 30.2 per cent of men workers. Women have also increased in number in the cotton goods, flax, hemp, and jute, rubber boot and shoe, glass-making, slaughtering, and meat-packing, and boot and shoe industries, and in newspaper publishing.

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VI

There are 168,624 children employed in manufactures throughout the country, a gain of 39.5 per cent. Child labor has increased in twelve of the factory States, remained practically stationary in two (Michigan and New Hampshire), and decreased in five States. The reasons for a decrease, where it is observed, are not hard to find; in certain industries child labor has been demonstrated to be unprofitable. But wherever it has been found profitable it seems to have been increasingly utilized. The increase in Wisconsin is 193.5 per cent; in Washington, 103.8; in Illinois, 92; in New Jersey, 51.4; in Pennsylvania, 47.8; and in Massachusetts, 44.9. In States outside of the foregoing list the same tendency is shown. South Carolina increased its child laborers by 270.7 per cent; Alabama, by 143.8; North Carolina, 119.2; Georgia, 81.

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Children number 17.5 per cent of all the factory wage-earners of South Carolina, and 14.6 per cent of all those of North Carolina. In five other Southern States (including Maryland) the percentages range from 4.3 to 7.6, while among Northern States Rhode Island children form 5.2 per cent of the factory wage-earners, and Pennsylvania and Wisconsin children 4.5 and 4 per cent, respectively. If Pennsylvania is comparatively low in percentage, it is because of the great

mass of its adult workers; for in absolute numbers of child workers it heads the list of commonwealths. No less than 33,135 children are employed in its factories, a figure which puts to shame the puny showing of New York, with 13,199, and of Massachusetts, with 12,556.

In certain industries children form more than one-fourth of all the operatives for a particular locality. In the making of cotton goods in Alabama 29.2 per cent of the workers are children, and in South Carolina 26.8 per cent. The figures for this industry in North Carolina, Georgia, Virginia, and Maryland are nearly identical. In Pennsylvania, for the making of jute goods the figures are 26.2, and for silk and silk goods, 20.2. Slightly more than one-fourth of the hosiery and knit-goods workers of Georgia are children and slightly less than one-fourth of the tobacco workers (chewing, smoking, and snuff) of North Carolina. Massachusetts, with its factory law, can make but the humble showing of 6.4 per cent of children in its cotton-goods factories, and Rhode Island but 10.3 per cent. Glass-making is an industry which has made a most literal adaptation of Jesus' invitation to little children; though, if the words of reputable eye-witnesses are to be accepted, it is not exactly a heaven into which they are welcomed. Of the operatives in Pennsylvania glass works, children number 14 per cent, and of those in New Jersey glass works, 15.7 per cent. [78]

In the cotton-goods industry there are 39,866 children, a gain of 70.1 per cent. It is interesting to learn that there are 1003 children employed in ship-building, and that this number is a gain of 476.4 per cent over 1890. There are 4521 in boot and shoe making, an increase of 85 per cent. There are 2259 in flax, hemp, and jute weaving, nearly twice as many as ten years ago. There are 316 in turpentine and rosin making, a gain of 236.2 per cent. The number has decreased for some reason in the making of clay products, as has also the number of men workers, women having now a growing preference in the potteries. There are also fewer children in petroleum refining, but in button-making an increase of 321.6 per cent, in leather-glove making of 185.7 per cent, and in slaughtering and meat-packing of 138.1 per cent is shown. Watch-making shows a gain of 30 per cent, bicycle-making of 780 per cent. Children have been found comparatively unadaptable in the liquor industry. Only 643 are employed in brewing and 18 in distilling. For all that, these figures represent an increase—in the former case of 24.6 per cent, in the latter of 200 per cent. [79]

Children, according to the census, are persons below the age of sixteen. Testimony outside of the census reports shows the extreme youth of many of these operatives. Investigations among the glass works of southern New Jersey reveal a number of cases of child workers of eight, nine, and ten years of age. Mr. J. W. Sullivan, a careful and accurate observer, who visited this district in July of the present year, confirms these statements. Miss Jane Addams, of Hull House, found a child of five working at night in a South Carolina mill. Mrs. Irene Ashby-Macfadyen, who has carefully studied conditions in the Southern mills, gives many instances of extremely young children working incredibly long hours. Professor George Clinton Edwards, in the *New York Evening Post* for August 13th, gives other instances relating to the mills of Dallas, Tex. In a later communication to the same journal he quotes the statement of a mill superintendent to the effect that of sixty boys and seventy-six girls employed, "there are two in their tenth year, nine in their eleventh year, thirteen in their twelfth year, and seventeen in their fourteenth year." "This list, from the pay-roll," writes Professor Edwards, "does not include the little children, who, with the mills' knowledge, worked at the mills' work, who earned the mills' pay in the 10 or 20 per cent increase received by the relatives they assisted at piece work, and who were, therefore, in fact, the mills' employees." Labor Commissioner Lacey, of North Carolina, reports 7605 children under fourteen in 261 mills. A correspondent of the *Cincinnati Post* estimated 400 of the 1000 children employed in five mills in Columbia, S.C., to be under twelve years of age. Testimony by mill officials before a Southern legislature acknowledged in one instance 30 per cent of child workers under twelve years in a spinning room, and in another 25 per cent. [79]

The census reports bear amiable testimony to the providence of the mill-owners. "Many of the mills," says the South Carolina report, "have reading rooms and libraries for their employees, and nearly all contribute regularly to the support of the local schools." "In the absence of legislation regulating child labor," says the Georgia report, "all the cotton manufacturers in the State have signed an agreement to exclude from the mills children under ten years of age, and those under twelve who cannot show a certificate of four months' attendance at school." In the North Carolina report we find, "In the absence of legislation nearly all the mill-owners have agreed to discontinue the employment of children under twelve years of age." A correspondent of the *New York World* found a like benevolence among the glass employers in southern New Jersey. "I need the boys," said one, "all I can do is to treat the boys as well as I can." The mill-owners, one and all, demand that the State keep its hands off, and trust to their own benevolence for remedies. So far, in the South, despite a three years' agitation, the matter is still left entirely in their control.

Criticism of the mill-owners has been made to the effect that despite their benevolent professions, the children are poorly paid and that they remain uneducated. Some of them work long hours for 10 cents a day, others for 12 1/2, 15, and 18 cents. A newspaper correspondent tells of a certain spinning room in a Southern mill wherein the average daily pay for all children is 23 8/10 cents. "I know of babies," writes Mrs. Macfadyen, "working for 5 and 6 cents a day." The schooling which a child working seventy-two hours a week can get may be roughly guessed at. Mrs. Macfadyen found 567 children under twelve years working in eight mills. Only 122 of these children could read or write. In a school in a mill-town of between 6000 and 8000 persons, the same investigator found an enrolment of 90 pupils divided into two classes. A visit to one of these classes disclosed 22 children, only 12 of whom were mill-workers' children, and 10 had worked in the mills from one to three years. [80]

Criticisms based on these data are, however, generally held to be sentimental and irrelevant.

Glass-blowing or textile-weaving, like anthracite mining, is, in the sententious phrase of President George F. Baer, of the Philadelphia and Reading Railway Company, "a business, and not a religious, sentimental, or academic proposition." It is conducted for the making of money, and not for the spiritual or hygienic welfare of the operatives. It would be well, say the employers, if things could be better. But for the present they are making all the contribution to that end that they feel can conveniently be made. Moreover, they contend—and they are supported generally by the local ministers, who have in charge the spiritual affairs of the populace; by the local editors, lawyers, and solid men of "business"—it is better that children should work in the mills and factories than "run about the streets." As for education, the contributing employers point to the schools, as though to say, "Here are the opportunities; why do you not take advantage of them?" It is quite enough to provide a balky horse with water, without being morally obliged to make him drink.

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FOOTNOTE:

- [4] Since the publication of the *Independent* article the author's attention has been called to an address entitled "The New Feudalism," delivered by Mr. Benjamin A. Richmond, of Cumberland, Md., before the Maryland Bar Association in July, 1898. The author had never seen or heard of this address. It is written from a legal standpoint, and both the matter and the treatment are widely different from the matter and manner of the *Independent* article. But whatever the differences, the same general idea is to be found in both papers, and it is only just that acknowledgment should be made of Mr. Richmond's priority.
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CHAPTER V OUR MAKERS OF LAW

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The dual responsibility which our lawmakers and judges bear, on the one hand to the people, and on the other to the Big Men, produces a chaos of conflicting laws and decisions. For the chartering of business corporations we have the "Delaware theory," which seems to be to give the applicant whatever he asks for; the "New Jersey theory," which is a slight modification of the former; and the "Massachusetts theory," which reserves to the State a certain measure of supervision and control. For the fixing of employers' liability for injuries to workmen we have a wide range of precedents, from States which hold to the common-law doctrine that practically frees the employer from blame, to those which fix a liability in somewhat definite terms. Factory legislation, regulations for the public health, the determination of a legal workday, the restraining of corporate aggressiveness—these and a score of like questions are variously passed upon or deliberately avoided in the several States. Judicial decisions, too, present a spectacle of the widest diversity.

Nevertheless this chaos shows signs of a gradual reduction to order. The insistent challenge, "Under which king, Bezonian, speak or die!" which perpetually assails all of our legislative and judicial functionaries, sooner or later forces a decision, and naturally it is the stronger rival that wins. How effective is this challenge, how strong is the pressure, Mr. John Jay Chapman has strikingly shown in his "Causes and Consequences," and the instances that crop out from time to time, like that of the recent tampering with the Supreme Court of Missouri, reveal only a needless confirmation of a known truth. Legislation in behalf of the general welfare and of the industrially dependent classes becomes less frequent and more guarded; and judicial decisions in matters that involve class antagonisms are more frequently given to the dominant class.

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I

A marked tendency of recent legislation is that toward giving increased powers to municipal officials. Another is that toward the creation of boards charged with administrative, executive, semi-judicial, and even police powers. The institution of these boards means simply a further removal from the people of the conduct of public affairs. Mr. Leonard A. Blue, in the *Annals of the American Academy* for November, 1901, gives an interesting view of the subject. "These boards," he writes, "are practically irresponsible bodies. They are beyond the control of the people, or of any one who is responsible to the people for their actions. Appointed as they are for definite terms of office, they cannot be removed during that term except after an investigation which amounts to an impeachment. The Governor who appoints them in many cases can only appoint a single member, the terms of the others extending beyond his own, so that he can neither mould the policy of the board nor can he be held responsible for it." And he quotes from one of the messages of the Hon. W. E. Russell, Governor of Massachusetts (1891-93), these words: "The people of the State might have a most decided opinion about the management and work of the departments, and give emphatic expression to that opinion, and yet be unable to control their action. The system gives great power without proper responsibility, and tends to remove the people's government from the people's control." Irresponsible to both the people and the people's officials as they are, these boards are yet not wholly unsusceptible to outside pressure; they are, as is well known, peculiarly liable to the influence of the Big Men.

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II

While legislation moves rapidly enough in the direction of detaching political powers from the people, it shows a growing disinclination to meddle with affairs between magnate and minion. Twelve or fifteen years ago, in certain sections, "labor" legislation had a flourishing career. The number of laws so classified, passed in a single three-year period in New York State, made a record for all time. Labor was then rapidly combining, and its lusty organizations made emphatic demands for protective laws. A Democratic Governor, not wholly regardless of hopes of the Presidential succession, for the time allied himself with the movement and secured the passage of many of these measures. With an alacrity much greater than that with which the Constitution follows the flag, judicial decisions in those days tended to follow the general policy of the party in power, and thus but slight trouble was experienced in securing constitutional sanction.

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Other States followed, and for several years the astonishment and indignation of the Big Men were intermittently roused by the spectacle of Jacobinical legislators meddling in affairs outside their province. Mr. F. J. Stimson, in the *Atlantic Monthly* for November, 1897, informs us that in the ten preceding years 1639 laws relating to labor had been passed in the various States and Territories. This is an average of 3.4 a year for each legislature, though the courts had modified the average somewhat by declaring 114 of these measures unconstitutional. Doubtless among those that escaped the "killing decree" of the courts were a number that benefited the worker, though it is doubtful if any of them served to modify his economic status.

However that may be, it is unquestioned that the tendency toward the enactment of this sort of legislation has suffered a decline. It is hard to fix the point of culmination, though probably it lies somewhere about the years 1896-97. In isolated instances, and under peculiar circumstances, it is conceded there is an occasional revival. The Pennsylvania legislature of 1897 showed a remarkable zeal, shortening the workday of women and minors, limiting child labor, establishing a bureau of mines, and making other regulations. Maryland, in 1898, imposed certain mining

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regulations and required seats in stores for women workers. Virginia and Massachusetts, in the same year, interfered slightly, the former with an arbitration act. In the spring of 1899, Kansas, Illinois, Colorado, Indiana, Michigan, Nebraska, Washington, and Wisconsin, all addressed themselves more or less earnestly to the redress of certain grievances; and they were followed by Iowa in 1900, by Massachusetts again in the same year, and by Alabama in 1901. In the present year New York, after five years of agitation, reluctantly granted a moderately expressed employers' liability law.

Most of this legislation, however, was enacted in the newer States, and served only to push them along toward the standard set in the older States in earlier years. Advances of any sort are difficult to discover. As for the year 1901, the record of progressive legislation is almost bare. Congress suppressed the Eight-hour, Anti-injunction, and Prison-labor bills, and mutilated the Chinese bill. A convention of the National Association of Railway Commissioners, comprising representatives from twenty-five State boards and from the Interstate Commerce Commission, petitioned Congress, in June, 1901, to enact a number of measures regarding railway traffic; but our lawmakers appear to have been too busy with other matters. Factory legislation has suffered a relapse in all of the States. "The statutes of 1901," euphemistically writes Mr. Horace G. Wadlin, in the New York State Library's "Review of Legislation, 1901," "which may be classed as protective legislation, intended to safeguard the workman in his employment or to secure to him his wages, are neither very numerous nor very radical." Something better, however, as Mr. Adna F. Weber points out in the same volume, was done in regard to shorter workdays. California passed an Eight-hour law for State work; Minnesota, with certain liberal exceptions, another; while Utah penalized infractions of an existing law. Even Pennsylvania, generally so sensitive in the matter of interfering with the rights of her workers to employ themselves in any manner they are constrained to choose, made the daring innovation of prohibiting a longer workday than twelve hours for women and minors in bakeries. Doubtless the lesson to be learned from this is a growing inclination toward the gospel of relaxation, which Mr. Herbert Spencer so emphatically invoked on his visit here twenty years ago. An industrial Feudalism is not inconsistent with a moderate workday, and it is not unlikely that some further experiments in this line may be made.

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III

An average man, not overlearned in political science, and not too well acquainted with the ways and means of politicians, might naturally suppose that the result of something more than 1639 "labor" laws would be an almost revolutionary change in the conditions of industry. He might suppose a general effect comprising these particulars: the securing of safe places and safe conditions for toil; the utmost safeguarding against accidents; the fixing of liability for injuries or death suffered in the service of a master; the guarantee of the right of workmen to combine, to leave their work for causes sufficient to themselves, and peaceably to persuade others to do so; the guarantee of protection from blacklisting by employers, and the framing of all such laws in a spirit so sincere and in diction so definite that judicial discretion would be reduced to a minimum.

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"Labor" legislation, however, takes on too much a form and pressure due to influences from above to confirm even this temperate supposition. It is somewhat presumptuous, and in a later time will be grossly impious, for a layman not of the seigniorial class to speak querulously on so sacred a subject; yet it needs must be said that the mass of the measures so far framed have proceeded but little beyond the confines of the common law. Many of them, indeed, are mere enactments into statute of that elastic, not to say elusive, body of precedent. The common law comes down to us from distant times, when other conditions prevailed, and throughout all of it which bears on the relations of master and servant there runs a principle based on an unsupported theory. "This theory," writes Mr. George W. Alger, a member of the New York Bar, in the *American Journal of Sociology* for November, 1900, "resolutely closed its eyes to common, obvious, social and economic distinctions between men, either considered as individuals or as classes, and with a self-imposed blindness imagined rather than saw the servant and his master acting upon a plane of absolute and ideal equality in all matters touching their contractual relation; both were free and equal, and the proper function of government was to let them alone. If the servant was dissatisfied with the conditions of his employment; if the dangers created not merely by the necessities of the work, but by the master's indifference to the safety of his men, were in the eyes of the latter too great to be endured with prudence, then, being under this theory a 'free agent' to go or to stay, if he chose to stay he must take the possible consequences of personal injury or death."

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Under the common law, it is true, the employer is presumed to have certain duties toward his workmen. As interpreted by Mr. Stephen D. Fessenden, LL.M., in the *Bulletin* of the Department of Labor, for November, 1900, these obligations are as follows:—

"An employer assumes the duty toward his employee of exercising reasonable care and diligence to provide the employee with a reasonably safe place at which to work; with reasonably safe machinery, tools, and implements to work with; with reasonably safe materials to work upon, and with suitable and competent fellow-servants to work with him; and, in case of a dangerous or complicated business, to make such reasonable rules for its conduct as may be proper to protect the servants employed therein."

This common-law doctrine is, however, very seriously qualified by the doctrine of the workman's assumption of risk, of his contributory negligence, and of negligence on the part of a fellow-servant. Each of the terms in this doctrinal trinity is of expansive elasticity, and even the constituent words of each term may be variously interpreted. So that a workman forced to earn

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his bread where he can, in the face of constant perils, literally takes his life in his hands. If injured, there may be set up and sustained against his claim for damages the plea of free and unconstrained assumption, or of contributory negligence, or of negligence of another workman, even though the latter may be a superior who orders the victim to his dangerous task.

"It is a well-settled principle of common law," writes Mr. Fessenden, "that where ... duties [of employers] are imposed by legislative enactment or municipal ordinance, it is negligence on the part of the employer to fail to comply with [these] requirements." Now it happens that the United States, twenty States, the District of Columbia (by act of Congress), and one Territory have enacted this common-law principle into statute, affixing it to certain regulations of industry. Yet in such manner are the greater number of these statutes drawn that it is often found possible to evade them on the score of one or more of the terms in the common-law theory. The record of decisions on these statutes is at best conflicting and confusing. But enough can be shown to illustrate the frequent futility of the laws to secure either employers' compliance with imposed duties or employers' liability for injuries due to negligence. The Ohio Supreme Court, in 1895, held that "one cannot maintain an action against his employer for an injury following a violation of the act regulating coal mines, unless at the time he was injured he was in the exercise of due care; that one who voluntarily assumes a risk thereby waives the provisions of a statute made for his protection." The Wisconsin Supreme Court decided that the law (1889) requiring the guarding or blocking of railway frogs "does not take away the defence of contributory negligence." The New York Court of Appeals in the case of *Knisley vs. Pratt* (148 N. Y. 372) decided that to hold that the workman could not waive his master's statutory duty by continuing at work was "a new and startling doctrine calculated to establish a measure of liability unknown to the common law."

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Statute law is presumed to replace common law and to redress the inequities resulting from the application of old principles to changed conditions. But the redress of inequities is conspicuously wanting in much of the so-called "protective" legislation. It is impossible to guess whether on the one hand in legislative indifference or unwisdom, or on the other hand in judicial interestedness and overwisdom, lies the greater cause of these statutory failures. Some added speculations on the subject will be found further along. But whatever the attitude of the judges, that of the lawmakers reveals a chronic and now intensifying fear of disturbing the sacred privileges of "business."

The contractual waiving, by the employee, of the employer's negligence, is a subject about which a number of legislatures have concerned themselves. Two States (Georgia and Massachusetts), according to Mr. Fessenden, have forbidden such waivers generally, one State (Ohio) has declared void such contracts when made by employees, and twelve States and one Territory have forbidden such waivers where the liability is imposed by statute. The Ohio law, however, was declared unconstitutional by the United States Circuit Court for the Northern District of Ohio in 1896 on the ground that "in denying to the employees of a railroad corporation the right to make their own contracts concerning their own labor, [it] is depriving them of 'liberty' and of the right to exercise the privileges of manhood, 'without due process of law';" and furthermore that it was class legislation. Each of these laws, moreover, can be practically nullified, as the courts have repeatedly held. An employer may organize a relief organization for the payment of benefits. He may tax his employees for a greater or less part of the expenses of the department. He may then make employment conditional upon the workman's joining the association and signing a pledge agreeing, in consideration of the payment of the regular benefits, to release the employer from all claims for injuries. Such contracts are valid, since, according to the ingenious interpretation of the courts, they do not waive damages, but choose between two sources of compensation. Only one State (Iowa) has had the temerity to declare this practice illegal, and in view of the action of the courts the law will probably be held to be unconstitutional.

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Statutory provisions against accidents to workmen reveal quite as much timidity as do provisions regarding employers' liability. The yearly number of accidents in our industries is unknown, and can be only roughly guessed at. The investigation of the New York Commissioner of Labor, in the spring of 1899, would indicate a yearly average of 14,576 accidents for factory workers alone in one State. In the Pennsylvania anthracite mines more than 400 persons are killed every year, and in the bituminous mines of the same State the yearly average for the period 1895-98 was 171 killed and 421 injured. An official report made to the United States Geological Survey in September gives the record of lives lost in mining coal for the year 1901 as 1467, and the number of workmen injured as 3643. In the anthracite mines of Pennsylvania 513 men were killed and 1243 injured, and in the bituminous fields of the same State 301 were killed and 656 injured. The railroads provide a yearly Gettysburg, with some 40,000 casualties to workmen alone; and many an industry annually furnishes its humble Bull Run or Fort Donelson.

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Regulations, however, proceed cautiously, not to say haltingly; they are generally tame regulations, they are frequently disobeyed, and their effect on the casualty rate is anything but radical. Though for 1901 the increased use of safety appliances lessened the percentage of coupling accidents on railroads, the percentage actually increased for 1898, 1899, and 1900. Since 1898 there has been an increase in the rate of accidents in coal mining, and doubtless, also, if the figures were known, an increase could be shown for factories and workshops.

Although twenty-one States, according to Mr. William F. Willoughby, in the *Bulletin* for January, 1901, provide for an inspection service in factories, only thirteen impose specific provisions making it obligatory upon factory and mill owners to take certain precautions against accidents. Only one of these laws, moreover,—that of Ohio,—may fairly be called an adequate and definitely expressed statute. There are but five States that have enacted laws "the purpose of which is to

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make it obligatory upon directors of building and construction work to take certain precautions against accidents," and only one of these (New York) has given the measure an adequate comprehensiveness. Twenty-three States have more or less elaborate mining regulations; but as compliance with these laws is usually left to the honor and benevolence of the mine owner, and as mining accidents continue at a practically static rate, it is hard to see the beneficial result. Some of the States compel railroads to block or guard frogs, and several have laws independent of the Federal statute of 1893, requiring the use of automatic couplers and power brakes. The former may be evaded, however; and, in the absence of statute imposing liability, the evasion counts for nothing in behalf of an injured workman's claim for damages. The effect on the accident rates has already been mentioned.

Dr. Sarah S. Whittelsey's paper in the *Annals of the American Academy* for July, 1902, summarizes the report of the Industrial Commission on the results of factory legislation in the various States. From this it appears that only about half the States have passed what may be called factory acts, many of which are mere fire-escape provisions, and that there are almost no factory acts in the South, nor in the more distinctly agricultural States of the West. New Hampshire, Vermont, Nebraska, and California generously permit the employment in factories of children ten years old; seven States put the limit at twelve years, two at thirteen, ten at fourteen, and one makes the limit fourteen years for girls and twelve years for boys. Working hours have been more or less regulated for women and minors in fifteen States, and for minors alone in nine States. Courts in three States, however, have declared acts regulating working hours of women unconstitutional. In sixteen States, three Territories, and the District of Columbia there is absolutely no limitation for persons of any age or sex. Aside from certain occasional acts relating to the payment of wages, to inspection, and to employers' liability, this is a complete summary of protective legislation concerning the industries that employ 5,321,087 of the Nation's wage-earners. [96]

Mr. Fessenden gives a summary of the laws for the protection of workmen in their employment, in the *Bulletin* for January, 1900. The most timid conservative may read it with relief, for any fears of an undue lodgment of power in the working classes will be effectually banished by its perusal. Only nine States have gone so far as to enact into statute the supposed common-law principle that combinations of workmen, formed for the purpose of seeking increase of wages and betterment of conditions, are not of themselves unlawful. Four others specify that the provisions of their "anti-trust" acts do not apply to combinations of labor. On the other hand, the anti-conspiracy laws of eleven States are capable of interpretation which would penalize many of the peaceable methods of labor societies, and such interpretations have been frequently made. [97]

Moreover, the wording of Sections 3995 and 5440 of the Federal Revised Statutes, chapters 647 of the Anti-trust act, and 104 of the Interstate Commerce act, and the amendment of 1889 to the latter, are capable of interpretation to the effect that collective quitting of work on railways is illegal. Decisions to that effect have several times been made in the United States courts. "A strike, or a preconcerted quitting of work," reads the decision in *United States vs. Cassidy* (1895) before the District Court of the United States for the Northern District of California, "by a combination of railroad employees, is in itself unlawful, if the concerted action is knowingly and wilfully directed by the parties to it for the purpose of obstructing and retarding the passage of the mails, or in restraint of trade and commerce among the States." "It will be practically impossible hereafter," reads the United States Circuit Court decision in the case of *Waterhouse et al. vs. Cromer* (1893), "for a body of men to combine to hinder and delay the work of the transportation company without becoming amenable to the provisions of these statutes." The indefinite diction of many of the State laws against "intimidation and coercion" also gives wide scope to judicial discretion, and permits the occasional naming of the most innocuous acts as "coercion."

The necessity of peace in an industrial society is everywhere recognized; and it is, therefore, not surprising that really earnest efforts have been made in behalf of arbitration. It obtained, in a measure, during the older Feudalism, through the "courts baron," which considered tenantry and wage-questions; and it is becoming more common day by day. Within sixteen years twenty-one States and the United States have passed more or less effective measures looking to its use in labor disputes. Political coercion is also a matter that has won a large share of legislative attention; twenty-nine States and two Territories have enacted laws regarding it. There is, however, an important distinction to be made. In an ordinary conflict of political issues, when the magnates and their retainers are to be found in both parties, it is obvious confusion and the unsettling of political conditions for the employers to dictate how their workmen shall vote. But when political issues suggest a class conflict, as in 1896, some of the provisions of these laws are by common consent waived. The humble toiler may vote as he likes on the immaterial questions of ordinary campaigns; but on questions having to do with the salvation of society and the preservation of the hallowed code of "business," instruction and even gentle pressure become the solemn duty of his social betters. There are fewer laws, it may be observed, regarding another kind of coercion. Discharges on account of membership in a labor union are forbidden in but fifteen states; and in two of these (Illinois and Missouri) such provisions have been found, after much painstaking study, to be unconstitutional. The discovery is considered a most happy one; and according to the injunction of the Federal Constitution, that "full faith and credit shall be given in each State to the public acts, records, and judicial proceedings of every other State," the ruling will no doubt be found applicable in a number of the other commonwealths. [98]

Our lawmakers are not to be blamed for decisions of unconstitutionality. Rather, they are to be congratulated. For the recent tendency of the judges to determine for themselves what shall be enacted into law has developed new refuges for the lawmakers. We have now Solon, the legislator, and Rhadamanthus, the judge, in new rôles—the rôles of the good and bad partner of Dickens's novel. To the humble voter, when the pressure from below conflicts with the pressure from above, Solon is now able to stand as the supporter of popular measures, and to throw upon the less responsible Rhadamanthus the onus of declaring them bad law. The fury of the magnate at Solon's demagoguery is mitigated, if not extinguished, when he considers the difficulties of the lawmaker's position, and especially by the further consideration that Rhadamanthus has the final word to say. Solon has other refuges, it is true; and sometimes these must be availed of, for it is not always certain that a projected popular measure can be declared unconstitutional. For several years it had been considered possible, for instance, that an employers' liability act, if passed in New York, would stand the test of the courts. It became the custom, therefore, when an adequate measure on this subject was introduced, for the adverse interests to introduce a conflicting bill. The ingenious lawmaker thereupon regretfully found a divided public sentiment, and as a consequence no bill was passed. There are no reasons at hand for accounting for the fact that at the last session of the Albany legislature such a measure was actually enacted.

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How far our legislators are enabled to withstand public sentiment, no matter how strongly based in reason and how definite in objective, may be instanced in the attitude of Congress regarding the Safety-appliance act of 1893. Agitation for this measure had grown to such an extent that action could no longer be delayed. But though action on the bill could not be delayed, the terms of fulfilment of the bill could be postponed to a comparatively remote period. The number of railway employees killed in the year ended June 30, 1893, was 2727, a number exceeding the Union death roll in every battle of the Civil War except Gettysburg, and within 243 of that record. In the same year the number of wounded (31,729) was more than three times as great as the number of Union wounded at either Antietam or Chancellorsville, and more than double that at Gettysburg. Yet despite this tremendous carnage, the legislators, wavering between the public demands and the demands of the magnates, though they passed the bill, generously granted five years for its complete observance, and then gave the Interstate Commerce Commission the power to grant further delays—in effect giving seven years for its fulfilment. In those seven years 13,906 employees were killed—a loss exceeding the Union death roll at Gettysburg, Spottsylvania, the Wilderness, Antietam, Chancellorsville and Chickamauga combined—and approximately 220,000 were wounded, or more than three times the number of Union wounded in those six battles. That a great part of this casualty record was avoidable is evidenced in the August report of the Interstate Commerce Commission, which shows that the number of employees killed in coupling accidents in the year ended June 30, 1901, declined from 282 to 198, and the number injured from 5229 to 2768. It was in 1893 that this generous latitude was granted the magnates. Were the occasion to arise now, it is probable that the term of grace would number fourteen years instead of seven.

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CHAPTER VI

OUR INTERPRETERS OF LAW

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The attitude of the judiciary in matters involving class antagonisms is a subject upon which only the most restrained language is tolerable. Even general inferences which suggest such a thing as judicial bias must be avoided. Faith in the rectitude and wisdom of our judges is a virtue sedulously preached,—perhaps most insistently by those who do most toward their corruption,—and though the virtue as we know it is rather vocal than immanent, it is sufficiently deep-seated to be intolerant of spoken heresy. Were it openly questioned by any considerable body of citizens, the foolhardy persons would soon bring down upon themselves the rallying onslaught of those heterogeneous elements which Karl Marx somewhat extravagantly pictured, “landlords and capitalists, stock-exchange wolves and shopkeepers, protectionists and free-traders, government and opposition, priests and freethinkers, young street-walkers and old nuns—under the common cry for the salvation of property, religion, the family, and society.” Such heretics might have all the certainty of Paul, “that the law is good, if a man use it lawfully,” and yet it would be a parlous thing to be openly sceptical of the assumption that it is always lawfully used.

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But at least one may, without attainder of anarchy, assemble and classify certain instances, and point out their coincidences and their contrarities. There is, for example, a notable sameness in kind of the laws which are declared unconstitutional. There is, to utter it mildly, a vast preponderance in the number of injunctions against striking, boycotting, and agitating over the number against locking-out, blacklisting, and the employment of armed mercenaries. There is a practical, though not an entire, unanimity against the awarding of damages to injured employees, whether the decision be based on common or statute law; and, finally, there is a considerable diversity between the decisions usually rendered by judges elected for short terms, and therefore directly responsible to the people, and those rendered by the less responsible judges, elected for long terms or appointed.

I

The legislative aspects of employers' liability have already been considered. Certain judicial aspects of the matter need also to be touched upon. The question is one of grave social import. The worker no longer owns his tools, but must use the machinery provided for him. A certain element of danger inheres in the operation of probably all machinery; but when old, defective, or with its dangerous parts unguarded, injuries to its operatives are well-nigh certain. Yet for such injuries, with their awful consequences to the operative and his dependent ones, there is generally no redress, except in a few States where statutes have fixed the matter of liability in set terms which leave no room for judicial discretion.

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Under the common law the workman is held to assume the risk attending his employment. He is a free agent—so the legal fiction runs—and if afraid of injury need not work. Common law also presupposes the providing of a “reasonably safe” place and “reasonably safe” machinery by the employer. It would be difficult to determine, however, from the mass of decisions under the common law, what is meant by “reasonably safe.” A Colorado lower court gave damages to the mother of a miner killed by falling rock while removing debris from one of the mines of the Moon-Anchor Consolidated Gold Mines, Limited. The case came finally to the United States Circuit Court of Appeals for the Eighth District, and the judgment was reversed, Judges Sanborn and Adams concurring and Judge Thayer dissenting. The work was admittedly hazardous; in the opinion of Judge Thayer “the place was needlessly made unsafe by the master's negligence.” The concurring judges, however, decided that the company's negligence was not responsible, and that “the deceased of his own free will determined to cope with these risks and hazards.... In this, his own voluntary conduct, is found the intervening, proximate, and responsible cause of his injury.” (111 Federal Reporter, 298.)

Even when the employer assures the workman of the safety of a machine, the risk is still, according to many decisions, the workman's. The Circuit Court of Shiawassee County, Michigan, refused to award damages to a workman for injuries sustained from a defective machine which he was operating for his employer. The case went to the Supreme Court on a writ of error, and on December 15, 1900, that court affirmed the previous judgment. It had been shown that the plaintiff warned his employer of the danger of the machine, and that the employer gave assurances to the contrary. Nevertheless, in the words of Judge Moon (Moore?), “one cannot continue to operate a machine which he knows is dangerous simply upon the assurance of his employer that it is not, if he has just as much knowledge of the danger arising from the operation of the machine as the principal has [without assuming the risk].” (82 N. W. Reporter, 1797.)

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The decision, read by Judge McLennan, in the recent case of *Rice vs. the Eureka Paper Company* (76 App. Div. 336) before the Fourth Appellate Division of New York State, would seem to indicate that the burden of risk is not to be shifted from the workman even when his employer acknowledges a defect in machinery and promises to remedy it. There is some doubt, however, if such a decision, though valid in many States, will stand in the State where it was given; for the Court of Appeals has several times decided that liability follows from an acknowledgment of defective machinery. On the other hand, this highest court of New York State has won the distinction of carrying the doctrine of assumption of risk to an extreme degree. The case of *Gabrielson vs. Waydell* (135 N. Y. 1) involved the question of the liability of the owners of a maritime vessel for injuries suffered by a sailor in their employ. The captain of the vessel had committed a confessedly unprovoked and particularly brutal assault upon the sailor, who had

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subsequently sued the owner for damages. The court decided that the sailor had no redress; that "the misconduct of the captain was a risk assumed by the seaman, for the consequences of which the owners are not responsible."

A fact more curious yet to the unlegal mind is the judicial contention, instanced in the previous chapter, that statutory provisions for the safeguarding of machinery may be waived by the workman. Evidently his burden of risk, like the Hindu's caste, is born with him, and cannot be laid aside or escaped. The case of the *E. S. Higgins Carpet Company vs. O'Keefe* (79 Federal Reporter, 900) is an illustration. Damages for an injury received from an unguarded machine had been given a fifteen-year-old boy in the United States Circuit Court for the Southern District of New York. The United States Circuit Court of Appeals for the Second Circuit, however, reversed the judgment. The plaintiff was a minor, but this fact was held to have no bearing. "We think the circumstance that he was a minor of no importance," read the decision of Judge Wallace. "The rules which govern actions for negligence in the case of children of tender years do not apply to minors who have attained years of discretion." The New York factory act required guards for this particular kind of machine. But that, also, was immaterial. "The provisions of the statute ... requiring cogs to be properly guarded, have no application to the case, except as regards the question of the negligence of the defendant. As construed by the highest courts of the State, the statute does not impose any liability upon an employer for injuries received by a minor in his service in consequence of the fault of the employee, or arising from the obvious risks of the service he has undertaken to perform." To clinch the matter, Judge Wallace cited the then recent case of *Graves vs. Brewer* before the Fourth Appellate Division of New York State, wherein the court held that "the liability of the employer was not changed by reason of the factory act requiring cog-wheels to be covered, because such protection could be waived and was waived by a person accepting employment upon the machine with the cogs in an unguarded condition, as the danger was apparent, and one of the obvious risks of the employment." The case of *Knisley vs. Pratt* (148 N. Y. 372) before the New York Court of Appeals was decided in the same way, and also the case of *White vs. Witteman Lithographic Company*. In the latter case the plaintiff was a child of fourteen.

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Such decisions are common in more States than one. Another case which may prove of some interest to the lay mind is that of *Gillen vs. the Patten and Sherman Railroad Company* (44 Atlantic Reporter, 361). The plaintiff, while uncoupling cars, had his foot crushed in an unfilled frog, and had been awarded damages. A motion for a new trial was argued before the Supreme Judicial Court of Maine, and was granted. The decision, delivered by Judge Lucilius A. Emery, acknowledged the existence of a statute (chapter 216 of 1889) requiring the filling or blocking of guard rails or frogs on all railways before January 1, 1890. It held, however, that such filling and blocking was not immediately mandatory upon a railroad constructed after that date. "Such company is entitled to a reasonable time for compliance with that statute." It was at a crossing of such a railway that the trainman lost his foot. He had no right to assume that the rails were blocked, merely because a statute said they should be. The brakeman, therefore, assumed the risk, and he also furnished contributory negligence, since "to move about over frogs and switches while coupling and uncoupling cars, even in moving trains, without taking any thought of the frogs and guard rails, or as to where he may be stepping, is negligence on his part contributing to the catching his foot in them."

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When the doctrine of assumption of risk is inapplicable, when personal negligence cannot be shown, and when there has been no waiving of statutory provisions by the workman, there is yet, in judicial eyes, one last resort for the defendant company—the common-law plea of negligence on the part of a fellow-workman. There is some diversity of opinion among eminent judges as to who are strictly fellow-servants. "The courts of the majority of the States hold, however," writes Mr. Stephen D. Fessenden, in the *Bulletin* of the Department of Labor for November, 1900, "that the mere difference in grades of employment, or in authority, with respect to each other, does not remove them from the class of fellow-servants as regards the liability of the employer for injuries to the one caused by the negligence of the other." Thus it has happened that a workman acting in the capacity of agent for his employer, and ordering other workmen to do tasks at which injuries have resulted, has been held to be a fellow-servant—a judgment relieving his employer of liability. To the lay mind it would seem that workmen in different departments could hardly be classed as fellow-servants; and the United States Supreme Court has rendered a decision which makes possible, under certain circumstances, such a discrimination. Since then, however, the Federal courts have suffered a reaction on the question, and current decisions tend the other way.

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A case before a State tribunal—the Supreme Court of Georgia (35 Southeastern Reporter, 365)—illustrates the possibilities which lie in this doctrine. A lineman, while repairing a wire for the Brush Electric Light and Power Company, at Savannah, Ga., was killed through the act of the engineer in turning on the current. The city court of Savannah gave damages to his widow. The case was taken to the State Supreme Court, and decision rendered March 3, 1900. The counsel for the plaintiff contended that the fellow-servant doctrine could not apply, on account of the lineman and engineer working in different departments, "so that there was no opportunity for the exertion of a mutual influence upon each other's carefulness." The court, however, reversed the verdict.

The disparity of opinion between inferior judges and superior judges in cases of this kind is remarkable. The monthly *Bulletins* of the Department of Labor give a fairly excellent summary of court decisions on labor questions. He who reads them will find the expression, "judgment of the lower court reversed," recurring with a rather painful iteration; unless, indeed, the decision of

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the lower court has rebuked the plaintiff, when the expression, "judgment of the lower court affirmed," is usually found. Mr. George W. Alger, in an article on "The Courts and Factory Legislation," in the *American Journal of Sociology* for November, 1900, gives the following careful and temperately worded summary of recent reversals in employers' liability cases in New York State:—

"The percentage of reversals on appeal in master-and-servant cases of this kind, when the verdict of the juries in the courts below had been in plaintiff's favor, is perhaps larger than in any other branch of litigation. In New York, for example, an examination of twenty volumes of the Court of Appeals reports (126 N. Y.-156 N. Y.) shows written opinions in thirty-seven such cases. Of these: (1) in three cases the juries in the lower court had found for defendant, and plaintiff was the appellant; (2) in four cases the court below had dismissed plaintiff's case as insufficient, without requiring defendant to introduce any testimony; (3) in thirty cases the juries below had found for plaintiff with substantial damages. The Court of Appeals in class (1) affirmed all of the cases where plaintiff was defeated below. In class (2) it reversed the four cases where plaintiff had been summarily non-suited and sent the cases back to trial courts to hear defendant's testimony: a partial victory at most for plaintiff. In class (3), where plaintiff had actually received a verdict, of the thirty cases twenty-eight were reversed. These statistics are interesting as showing how complete is the lack of harmony between the courts, at least in New York, and the moral sense of the people by whom the courts were created, in regard to these cases. Twice in thirty times do the opinions of the learned judges of New York's highest court coincide with the opinions of juries of citizens as to the requirements of justice."

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The tendency, which is most clearly indicated by the mass of decisions in cases demanding damages for injuries or death, is the growing disposition to make property paramount and life subordinate. It is a common practice to set aside verdicts of damages on the score that they are excessive. It is no less a common practice to instruct the jury to decide for the defendant in order to rebuke litigation. The language of the leading work on one phase of this subject—Shearman and Redfield's "A Treatise on the Law of Negligence"—sums up the matter in a few words:—

"It has become quite common for judges to state as the ground of decisions the necessity of restricting litigation. Reduced to plain English, this means the necessity of compelling the great majority of men and women to submit to injustice in order to relieve judges from the labor of awarding justice.... The stubborn resistance of business corporations, common carriers, and mill-owners, to the enforcement of the most moderate laws for the protection of human beings from injury, and their utter failure to provide such protection of their own accord, ought to satisfy any impartial judge that true justice demands a constant expansion of the law in the direction of increased responsibility for negligence."

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II

"Law," wrote Sir Edward Coke, "is the perfection of reason." This may be true; but, if so, it tends to throw mankind over to the position of the Catholics, that the reason itself needs considerable perfecting. This is not only the disposition of the lay mind, but, evidently, also of the supreme judicial mind; for a large part of the higher judicial activity during recent years has been expended in declaring null and void laws passed by two houses of the people's representatives and signed by an elected Governor or President. Mr. Stimson, in his summary of labor legislation for the years 1887-97, found that only 114 out of the 1639 laws passed had been declared unconstitutional. But these 114 comprised examples from 19 out of the 35 classes of legislation passed, and must therefore have reacted upon a very considerable number of the remainder. It is a coincidence which has been noted before, and need not be specially insisted upon here, that the overwhelming majority of laws which fail to reach the constitutional standards set by our judges are those intended to safeguard the interests of the industrially subordinate and to set some limitation to the powers of the industrially mighty.

The judicial mind, however, affects to know no difference between high and low, between weak and strong; and thus its decisions, ignoring actual conditions, tend more and more to strengthen the powers of one class and to weaken the powers of another. "Liberty" is the shibboleth; the citizen must be free to act as he wills. Somewhat curiously, though, liberty of speech, press, and assemblage is not so strenuously insisted upon; and, indeed, by injunctions and other judicial determinations is at times rather severely limited: the miners of West Virginia have been recently enjoined from holding meetings on their own grounds. But economic liberty—the liberty of the dependent classes to do acts which, in the nature of things, they cannot possibly do—is held for a sacred principle. The doctrine of the extension of the State's police power, limiting the foregoing doctrine, has gained some headway since the Utah decision confirmed a State's right to limit the hours of work for men in dangerous trades; but the determination of how far it is to be applied rests largely with the forty-eight State and Territorial courts; and it is a safe guess that it will meet with stiff resistance if incarnated in further "advanced" legislation.

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"No discrimination," which in effect means much discrimination, follows the judicial shibboleth of "liberty." Especially zealous for the protection of liberty and keenly watchful of proposed discrimination is that eminent tribunal, the Supreme Court of Illinois. Some six years ago it discovered that the statute regulating the hours of women workers in the factories contravened the Federal and State constitutional guarantees of "life, liberty, and property." A woman's labor was her property, and any limitation of it was a deprivation "without due process of law." On December 20, 1900, it fell to the lot of this tribunal to pass upon two labor laws,—to the lay mind entirely different in principle,—and, by a somewhat difficult struggling along parallel lines of

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argument, triumphantly to reach conclusions adverse to both of them. One was the Chicago ordinance requiring union labor and an eight-hour day on all public work contracted for; the other the State statute prohibiting discharge of an employee for belonging to a labor union. Regarding the ordinance, the union requirement, in the words of Associate Justice Magruder, "amounts to a discrimination between different classes of citizens." It is therefore void, and the eight-hour provision is also void, because it "infringes upon the freedom of contract, to which every citizen is entitled under the law.... Any statute providing that the employer and laborer may not agree with each other as to what time shall constitute a day's work is an invalid act." (58 Northeastern Reporter, 985.)

Without venturing to discuss this ruling, one may at least compare it with the ruling on the State statute. The latter was a law intended to prevent discrimination against union men. But, curiously to the unlegal mind, it is discovered to be discrimination in *favor* of the union man. "The act certainly does grant to that class of laborers who belong to union labor organizations a special privilege." (58 Northeastern Reporter, 1007.) The act was also found to "contravene those provisions of the State and Federal constitutions which guarantee that no person shall be deprived of 'life, liberty, or property without due process of law.'" "That strain again," as Orsino, in "Twelfth Night," exclaims. It has not, however, a "dying fall," for it has been taken up and echoed in other quarters since.

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The liberty of the employer to pay his employees in brass checks or store orders was affirmed by the Kansas Supreme Court on December 9, 1896, and the act requiring payment in lawful money was declared invalid. "To say that a free citizen can contract for or agree to receive in return for his labor one kind of property only, and that which represents the smallest part of the aggregate wealth of the country, is a clear restriction of the right to bargain and trade, a suppression of individual effort, a denial of inalienable rights." Anti-truck acts were also declared unconstitutional by the courts of Pennsylvania, Ohio, Illinois, and West Virginia. The Kentucky Supreme Court, however, nine months after the Kansas decision, found that liberty and the compulsory payment of wages in lawful money were compatible, so that the question is at least open. Decisions like that of the Kansas court, and the somewhat similar decisions rendered in Pennsylvania, Illinois, and Tennessee, of course fasten the laborer to the company store; but of this the courts usually take no cognizance. Actual liberty may be restrained, but theoretical liberty must not be tampered with.

Weekly payment laws are found to conflict with liberty in Pennsylvania, Illinois, Missouri, West Virginia, and Indiana. Moreover, the liberty of a legislature to determine that prevailing wages shall be paid to employees of city and State must not be confused by the lay mind with the liberty of the wage-earner to work under what conditions he must. For the former is clearly unconstitutional, as decided in New York by the Court of Appeals in February, 1901. "The effect of this statute [the Prevailing Rate of Wages act]," reads the decision of Judge Denis O'Brien, "was to make the city [of New York] a trustee or instrument for the enforcement of the law in the interests of the persons for whose benefit it was enacted, and thus the powers and functions of the municipality are employed for purposes foreign to those for which they were created and exist under the Constitution." The eight-hour laws passed in several of the States have generally suffered the Illinois fate, although Kansas proved an exception. Regulation of the working hours of women was nullified not only in Illinois, but in Nebraska and California. The police-power doctrine, as voiced in the Utah decision, may justify a limitation of the working day in dangerous trades, but otherwise such a limitation appears to be an infringement of the right of contract, or a deprivation of "property" without "due process of law." Even the National Eight-hour law of 1868, while not strictly unconstitutional, is held to be merely advisory. "We regard the statute," says the Supreme Court (94 U. S. 404), "chiefly as in the nature of a direction from the principal to his agent that eight hours is deemed to be a proper length of time for a day's labor, and that his contract shall be based upon that theory."

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Anti-trust laws may be quite as lacking in constitutional decorum as are eight-hour and prevailing-wages laws; and the judiciary reserves to itself the right to determine what are the standards. The Texas Anti-trust law of 1889, for instance, overleapt judicial sanction. "It is not every restriction of competition or trade," reads the decision of District Judge Charles Swayne (February 22, 1897), "that is illegal or against public policy, or that will justify police regulation, but only such as are unwarrantable or oppressive; and a State statute which prohibits combinations formed for the purpose of reasonably restricting competition violates the rights of contracts guaranteed by the Federal Constitution." (79 Federal Reporter, 627.) Another legislature, with this lesson before it, will know better where to set bounds to its attempt at interference.

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One cannot pass this phase of the general subject without recurring to the pertinent advice of the wise Sir Francis Bacon. "Judges," he wrote in his essay, "Of Judicature," "ought to remember that their office is *jus dicere*, and not *jus dare*, to interpret law, and not to make law.... Judges ought to be more learned than witty, more reverend than plausible, and more advised than confident.... A judge ought to prepare his way to a just sentence, as God useth to prepare his way, by raising valleys and taking down hills; so when there appeareth on either side a high hand, ... cunning advantages taken, combination, power, great counsel, then is the virtue of a judge seen to make inequality equal; that he may paint his judgment as upon an even ground." Wise counsel! though it seems to have lacked something in observance two hundred and seventy-five years ago, and may be suspected, even yet, of not always and everywhere reaching entire fulfilment.

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We have the testimony of no less eminent an authority than United States District Judge John J. Jackson, of the Northern District of West Virginia, that in all his experience on the bench he could not recall a single occasion when any court, either Federal or State, ever abused the writ of injunction in strike questions. It is a definite and authoritative pronouncement; and the restrained and careful language accompanying it, wherein the officials of labor unions are described as "a professional set of agitators," and "vampires that fatten on the honest labor of the coal miners," certainly proves that it cannot be an *ex parte* statement. Yet, for all that, there is a widely diffused sentiment that the writ of injunction has occasionally been abused in strike questions. In the same locality, at about the same time, an injunction issued by United States District Judge B. F. Keller, of the Southern District of West Virginia, declared, among a multitude of other prohibitions, that the strikers "are further inhibited, enjoined, and restrained from assembling in camp or otherwise," even on grounds leased by them for their meetings.

A pamphlet, prepared by five members of the New York Bar and issued by the Social Reform Club, of New York City, in the summer of 1900, gives the substance of a number of injunctions that have been issued against striking workmen. "In the case of the Sun Printing and Publishing Company vs. Delaney and others in December (1899)," says the pamphlet:—

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"The Supreme Court of New York, among other things, enjoined the defendants from the exercise of their right to give the public their side of the controversy with the *Sun* as an argument against advertising in a paper which they claimed had treated them unjustly; it also forbade them from attempting to persuade newsdealers from selling the paper; and finally wound up with a sweeping restraint 'from in any other manner or by any other means interfering with the property, property rights, or business of the plaintiff.' It should be added that, on appeal, the Appellate Division struck out these commands; but they were so plainly subversive of fundamental rights that it is difficult to see how they could have been granted in the first instance.

"In still another case last year—The Wheeling Railway Company vs. John Smith and others (so runs the title of the action without naming the others)—in the United States Circuit Court, West Virginia, two men not parties to the action, nor found to be agents of 'John Smith and others,' whoever they may have been, were punished for contempt of court, for, among other things, 'reviling' and 'cursing' the court? not at all, but for 'reviling' and 'cursing' employees of the railroad company. If these men had not actually served out an imprisonment in jail for thirty days as a punishment for contempt of corporation, it might be thought that your committee had taken this example from opera bouffe. The legality of this punishment was never passed on by the Supreme Court, for the reason, as your committee understand, that the parties were unable to bear the expense of taking it there, and so served their term in jail.

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"During the final drafting of our report a temporary injunction has been granted by a Justice of the Supreme Court in New York City.... This injunction forbids the defendants [certain members of the Cigar Makers' International Union] even from approaching their former employers for the laudable purpose of reaching an amicable result; it forbids them from making their case known to the public if the tendency of that is to vex the plaintiffs or make them uneasy; it forbids them from trying in a perfectly peaceable way in any place in the city, even in the privacy of a man's own home, to persuade a new employee that justice is on their side, and that he ought to sympathize with them sufficiently not to work for unjust employers; and, finally, it forbids the union from paying money to the strikers to support their families during the strike."

Such instances, as the pamphlet states, can be multiplied. Perhaps they do not wholly controvert Judge Jackson's declaration. But, at least, they illustrate an unbridgeable disparity between the definitions of justice held on the one hand by our interpreters of law, and on the other by the overwhelming majority of the citizenship. That disparity has been great in all recent times; but weekly and daily it grows greater. The stronger inclination of the judiciary to make property the paramount interest is everywhere observed; and the magnates, with an exultant recognition of the fact, make haste to enjoy the fruits of the new dispensation.

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IV

From judgeship to attorneyship of a great corporation has recently become a common promotion. The number of ex-judges who have been thus translated to higher sees is notable: one finds or hears of them in many places. Republics may be ungrateful, as the adage runs, but not so the magnates. The gratitude of the latter may not be wholly platonic; it includes, no doubt, a lively sense of favors to come. But whether prospective or retrospective, it expresses itself in deeds of recompense, and that is the main test. It is a discriminating gratitude, moreover. Keenly enough, it recognizes the comparative value of service. Other servitors of the magnates may toil faithfully, and receive but moderate reward. The moulders of opinion, such, for instance, as the newspaper men, may ask for preferment, and be met by the impatient retort of Richard III to Buckingham, "I am not in the giving vein to-day." But for one who can interpret the law as it should be interpreted, there are glory and riches to be had for the asking.

CHAPTER VII

OUR MOULDERS OF OPINION

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"There never was a time," says Justice Brewer, in the concluding lecture of a series recently delivered by him at Yale University, "when public opinion was more potent." Possibly the saying is true; but whatever force it may have lies in the application. Public opinion may make for a general passivity—an acquiescence in things as they are—quite as much as for a general strenuousness. Nowhere, for instance, among civilized peoples, is public opinion more powerful than in a quiet and isolated community, held fast to certain habitual modes of speech and action. Only a brave man, or a desperate woman, so environed, would dare defy the tribal customs.

Public opinion in these United States may be more potent than ever before, but the personal attitude which it supports and encourages becomes more and more one of acquiescence in the existing régime. A legislative reaction and a judicial reaction are manifested; and a growing irritation is expressed, as from time to time those rude disturbers of the public peace, the social reformers, come forward with plans for curing imputed evils. Social and political quietism becomes our everyday philosophy. An "air of contentment and enthusiastic cheerfulness ... characterizes our society," writes Professor William G. Sumner, of Yale, in a recent number of the *Independent*; and though the judgment might be somewhat more accurately worded, he is not far wrong. A keen-eyed observer from Italy,—Professor Angelo Mosso, of Turin,—who visited us a few years ago, gives somewhat similar testimony. The fact astonishes him, as he confesses, since he saw much of political and industrial evil which he could not comprehend a democracy enduring; yet for all that the evidence was convincing.

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I

Among the causes making for this acquiescence in existing social conditions, there are three which may be considered here. The first is the one which so strongly impressed Professor Mosso. It is the rage for individual exploitation. The imaginations of most men are fired by the spectacle of the few achieving great fortunes; each believes that a like fortune lies somewhere within his own reach, and with blind fatuity he tolerates conditions which he instinctively feels to be inequitable, simply because he expects himself to master them. "I believe," writes Professor Mosso, "that the desire to become wealthy is so strong and powerful in every American that, in order to reserve the opportunity of realizing such desire, Americans willingly submit to the continuance of laws which allow such accumulations." It is the petty gambler's faith, the conviction that, though everything be against him, he will somehow "beat the game." And just as the petty gambler's faith is fostered by the runners and "cappers" for faro, policy, roulette, and keno, so the faith of the industrial underling is fostered by a tremendous trumpeting of the ways and means to worldly "success." The preaching of "success" has become, in these last five years, a distinct profession, honored and well recompensed.

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A second cause of the prevailing acquiescence in the present régime applies more particularly to social reformers, and to those who, while not actively enlisted as "come-outers," do yet sympathize with the activities of their more aggressive brethren. It is a feeling, born of years of experience in promoting some collective good, of the hopelessness of achievement. Opposed at all points, frustrated at many, there comes a time, sooner or later, when all but the most resolute reformers are forced to admit that little or nothing can be done. Many thereupon fall back into the ranks of the do-nothings and the care-nothings; while others, in whom the fire of purpose is not entirely quenched, reluctantly exchange their radical and comprehensive plans of social changes for more narrow and immediate purposes,—the giving of small charities, the doing of near-at-hand services, and the occasional support of a particular public measure.

II

A third, and perhaps the most important, cause is the continual output from pulpit, sanctum, forum, and college chair, of our professional moulders of opinion. Now not all of this output, it is freely conceded, makes for acquiescence; but the overwhelming mass of it unquestionably does. From these instructors of the people we learn that conditions, while not perfect, either are reasonably near to perfection, or, if evil, are not to be corrected except by individual regeneration. We learn of the irrationality or the moral obliquity of discontent; the viciousness or fanaticism of impertinent persons who seek to change things; the virtues of obedience; the obligation of toil (specifically directed to those who are doing most of the world's work, for the profit of others), and of the worth, benevolence, and indispensability of our magnates.

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The denunciation of discontent becomes more common and more emphatic. A plentiful crop of instances is always forthcoming to any one who cares to look for them. The generation of Rousseau and the following generation of Jefferson set high hopes for mankind on the faculty of discontent. The past generation, compromising between theology and evolution, found in discontent a perpetual factor making for the creation of a better environment. But our present reaction takes us back to the days of the Stuarts. The magnificent invectives of Dryden, voiced in that—

"full resounding line,
The long majestic march and energy divine,"

against the sedition and discontent frequently manifested during the reign of Charles II, might serve for a thousand texts for present-day sermons, lectures, and editorials. The thought, common these last hundred years, that discontent is usually the result of privation, wrong, or oppression, is given over; and our modern moulders of opinion revert to the notion that it is fostered by ease and comfort.

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“To what would he on quail and pheasant swell
That even on tripe and carrion could rebel?”

asks “Glorious John” in satirizing his rival Shadwell. Tripe and carrion did not form the usual nourishment for rebellion. We find the same idea constantly echoed in very recent days; and the demands of organized workmen for better pay are almost invariably regarded in certain intellectual circles as evidences, not of need, but of the pride and rebelliousness engendered by an already attained competency.

Honors are even between churchmen and lay publicists, when it comes to the denunciation of discontent. The pulpit, the stump, the college chair, and the editorial sanctum are alike busied with its condemnation. Perhaps a typical protagonist in the work was the late E. L. Godkin. The thought recurs again and again in his writings. “I must frankly say,” he avers in his essay, “Social Classes in the Republic,” “that I know of no more mischievous person than the man who, in free America, seeks to spread among them [the workers] the idea that they are wronged and kept down by somebody; that somebody is to blame because they are not better lodged, better dressed, better educated, and have not easier access to balls, concerts, or dinner parties.” Whereupon, to make clear his contention, he tells of the following pathetic little episode:—

“Two years ago I was in one of the University Settlements in New York, and was walking through the rooms of the society with one of the members. They were plain and neat and suitable, and he explained to me that the purpose in furnishing and fitting them up was to show the workingmen the kind of rooms they ought to have ‘if justice were done.’ To tell this to a workingman, without telling him in what the injustice consisted and who worked it if he had not such rooms, was, I held, to be most mischievous.”

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Even President Roosevelt, doubtless impressed by the modern reiteration of the notion, felt called upon, in his Providence speech (August 23d), to rebuke discontent, and incidentally to identify it with envy. “Not only do the wicked flourish,” he says, “when the times are such that most men flourish, but what is worse, the spirit of envy and jealousy and hatred springs up in the breasts of those who, though they may be doing fairly well themselves, yet see others, who are no more deserving, doing far better.”

Education, in the modern view, is largely responsible for discontent, and should be restricted. Judge Simeon A. Baldwin, of the Connecticut Supreme Court, and lecturer in the Yale Law School, is quite certain upon this point. His “signed editorial,” in the April 9th issue of a New York newspaper published by the Yale lecturer on journalism, expresses a view which is coming to be widely held. Our young men, he notes with great complacency, are obliged to leave school early, in order to go to work; and he thereupon urges that young women also should clip their education at an early age. “Girls would make better wives and mothers and housekeepers,” he writes, “if they finished school at from fourteen to sixteen years of age. As it is, they obtain a smattering of many studies, which in my opinion cannot do them much good. They are possessed by a spirit of unrest to-day, and develop ambitions not compatible with the happiest homes.”

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Professor Harry Thurston Peck expresses the modern view more succinctly. Professor Peck, it may be stated for the benefit of the unenlightened, is an instructor of Latin in Columbia University. No pent-up Utica, however, contracts his powers; he has courageously sallied forth from his particular domain and has taken all knowledge for his province. Over this province he ranges with unconstrained freedom, noting what he will, and, with something of the “large utterance of the early gods,” making known to a waiting world his impressions and beliefs. What a great lexicographer said of an amiable poet may be repeated in present praise: He touches nothing that he does not adorn. Some intellectual limitations it is possible he may have; but as a reflector of certain current views obtaining in high places he is probably without a peer. In his article, “Some Phases of American Education,” in the *Cosmopolitan* magazine a few years ago, he put the matter in this way:—

“Linked closely with many other very serious educational mistakes, and from many points of view by far the most profoundly serious of them all, is that curious fancy, which is almost universal among our people, that education in itself and for all human beings is a good and thoroughly desirable possession.... There is probably in our whole system to-day no principle so fundamentally untrue as this, and there is certainly none that is fraught with so much social and political peril for the future. For education means ambition, and ambition means discontent.”

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But, as Shakespeare’s Fluellen remarks, “the phrase is a little variations.” All discontent is not the same, and that which stirs in the bosom of Professor Peck must be carefully discriminated from the sort nurtured by plain John Smith. “Nothing so dainty sweet as lovely melancholy,” sang Sir John Fletcher; but what is meet for an Elizabethan poet or a present-day philosopher may be most unmeet for a common plebeian. “Now discontent,” continues this pharos of the unenlightened, “is in itself a divine thing. When it springs up in a strong, creative intellect, capable of translating it into actual achievement, it is the mother of all progress; but when it germinates in a limited and feeble brain, it is the mother of unhappiness alone.”

Dr. Arthur Twining Hadley, president of Yale University, also has doubts. His recent book, “The

Education of the American Citizen," might be supposed, from its title, to be a plea for the popular diffusion of knowledge. Such it is, in fact, only the author draws the line at "sociology and politics and civics and finance." "When the plea is urged, as it so often is," he writes, "that they constitute a necessary and valuable training for citizenship, we are justified in making a distinct protest. Except within the narrowest limits, they do harm rather than good. As ordinarily taught, ... they tend to prepare the minds of the next generation to look to superficial remedies for political evils, instead of seeing that the only true remedy lies in the creation of a sound public sentiment."

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The term, "superficial remedies for political evils," means, in plain words, social legislation; and it brings up a second matter upon which our moulders of opinion have made a considerable approach to unanimity. We hear legislation flouted on all sides, and appeals made for individual regeneration. The matter-of-fact persons who hold that sixty years of factory acts have had more to do with establishing humane conditions in certain quarters of the planet than nineteen hundred years of hortatory appeals to the individual man, are dismissed with a smile of contempt; and the declaration is made that most legislation is mischievous, and that nothing but character counts. Mr. Godkin was "far from denying that legislation and political changes have been the direct means of great good," though he held that "every good change in legislation or in government has been preceded or brought about by an increase of intelligence, of reasonableness, or of brotherly kindness on the part of the people at large." A conclusion, to say the least, not overfreighted with historical learning, since many and perhaps most reformatory laws have been passed by an earnest minority against the active opposition of many, and despite the stolid passivity of most, and what mankind has heretofore called social progress has been largely due to the reaction of such laws and like institutions upon individual character.

President Hadley differs somewhat from Mr. Godkin. Too much stress, he believes, is laid upon the mechanism of government and of industry, and too little upon the force by which this mechanism is kept at work.

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"Not by the axioms of metaphysics on the one hand, nor by the machinery of legislation on the other," he writes, "can we deal with the questions which vex human society.... Conscious of its honesty of purpose, it [democracy] is impatient of opposition, and contemptuous of difficulties, however real. It undertakes a vast amount of regulation of economic and social life in fields where two generations ago a free government would scarce have dared to enter. In these new regulations there are many instances of failure, and relatively few of success. We have had much infringement of personal liberty, with little or no corresponding benefit to the community."

In Justice Brewer's recent volume of Yale lectures, also, there is much regard for character, and much even for associated work in bettering the life of the nation. But as to legislation as a means of achieving this betterment, there is a cautious silence. There is the declaration that each man in free America is a ruler—glad tidings to the persons ignorant thereof. There are some original lines,—

"The moulds of fate
That shape the State
And make or mar the commonweal,"

which, though somewhat reminiscent of the good-natured Bottom's lines,—

"And Phibbus' car
Shall shine from far
And make and mar
The foolish fates,"

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do yet body forth the noble summation:—

"The crowning fact,
The kingliest act
Of Freedom is the Freeman's vote!"

But though the freeman's vote is a kingly prerogative, there is no suggestion that he shall use it in initiating or passing upon legislation for the collective good. Rather the plea is for obedience; and the warning is of those violators of the public peace, the labor organizations.

So, too, Mr. Stimson. "The unexpected weakness of democratic government," he writes, "is its belief that statutes can amend both nature and human nature." And he rejoices that the judiciary, convinced, no doubt, that neither human nature nor its manifestations can be amended by statutes, have actively intervened by declaring many laws unconstitutional. He finds, moreover, that the general principle which has caused the adverse action of the courts, is that these statutes have been "restrictive of private liberty, of the right of a free citizen to use his own property, and his own personal powers in such a way as he will, if so be that he do not injure others." A perspicuous and conclusive judgment, no doubt, considering that the very point at issue is the matter of injury to others. He is not satisfied with condemning legislation, moreover, but proceeds further to a gentle remonstrance with the classes of persons who have urged certain regulative laws. Labor leaders, he discovers, distrust experience, and Socialists detest lucidity—a brace of acute judgments in the face of the fact that the thing actually rated highest in

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trade-union circles is experience, and that whatever the defects of Socialists or of their system may be, the signal contributions of the best Socialist writers to the study of political economy have been lucidity of thought and definiteness of expression.

So, too, Professor Sumner, Professor Walter A. Wyckoff, the entertaining author of "The Workers," and a host of other instructors of the public, the mere roster of whose names would require several pages of fine print. Of the only two safeguards of the dependent classes against complete exploitation—social legislation and the labor society—our moulders of opinion would seem to have taken the job of demolishing the former, leaving to the magnates themselves the task of attending to the latter.

With many if not most of these publicists the criticism is delivered not only at protective laws, but at the force behind them—democracy. "Every age," writes Professor Sumner, "is befooled by the notions which are in fashion in it. Our age is befooled by 'democracy.' We hear arguments about the industrial organization which are deductions from democratic dogmas, or which appeal to prejudice by using analogies drawn from democracy to affect sentiment about industrial relations." Many of our moulders of opinion elaborate the argument often made in the writings of our literary magnates, that only men who are themselves possessed of property should have any voice in the disposition of wealth or the regulation of property rights. To justify this view recourse is had to several recently imported dogmas, fashioned by Mr. W. H. Mallock, author of "Aristocracy and Evolution." All increase of wealth, all advance in knowledge and virtue, contends Mr. Mallock, come from an aristocracy—a word which he defines as meaning the "exceptionally gifted and efficient minority, no matter what the position in which its members may have been born, or what the sphere of social progress in which their efficiency shows itself." Therefore, since the efficient have produced everything above the maximum which the ignorant and unskilled workman can produce without this higher aid, it follows that the efficient should be left in untroubled possession of their holdings. The large assumption among others in Mr. Mallock's argument—that those who efficiently sow and those who richly reap are the same persons—need not concern us here. It is sufficient to point out that his argument has been eagerly taken up by a number of our own moulders of opinion, fostered and even developed to further conclusions.

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Professor Peck, for instance, rather heroically improving on the spirit, and not infrequently following the text, of Mr. Mallock, puts the matter in this way:—

"Every really great thing that has been accomplished in the history of man has been accomplished by an aristocracy. It may have called itself a sacerdotal aristocracy, or a military aristocracy, or an aristocracy based on birth and blood, yet these distinctions were but superficial; for in reality it always meant one thing alone—the community of interest and effort in those whose intellectual force and innate gift of government enabled them to dominate and control the destinies of States, driving in harness the hewers of wood and drawers of water who constitute the vast majority of the human race, and whose happiness is greater and whose welfare is more thoroughly conserved when governed than when governing."

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The argument that the gifted produce all, and the assumption that the wealthy and the gifted are the same persons lead up to the fervid praise of inequality of condition which in recent years is so often heard. Our literary magnates began the strain, doubtless with the motive of self-justification. Since then it has been taken up by our professional instructors—from what motive is not precisely known—and the result is a mighty chorus of many voices. Says Professor Sumner:—

"If we could get rid of some of our notions about liberty and equality, and could lay aside this eighteenth-century philosophy, according to which human society is to be brought into a state of blessedness, we might get some insight into the might of the societal organization: what it does for us and what it makes us do.... If we are willing to be taught by the facts, then the phenomena of the concentration of wealth which we see about us will convince us that they are just what the situation calls for. They ought to be because they are, and because nothing else would serve the interests of society.... I often see statements published in which the objectors lay stress upon the great inequalities of fortune, and having set forth the contrast between rich and poor, they rest their case. What law of nature, religion, ethics, or the State is violated by inequalities of fortune? The inequalities prove nothing."

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Professor John B. Clark, of Columbia University, also sees in vast inequalities of fortune the basis of a happy state. Aristotle taught differently, it is true. "In human societies," he wrote, "extremes of wealth and poverty are the main sources of evil. The one brings arrogance and a lack of capacity to obey; the other brings slavishness and a lack of capacity to command. Where a population is divided into the two classes of very rich and very poor, there can be no real state; for there can be no real friendship between the classes, and friendship is the essential principle of all association." But Professor Clark, touched by prophetic fire, pictures a new society in which inequality is the great blessing. "The world of the near future," he writes in his recent article on "The Society of the Future," "will not be one with inequalities levelled out of it; and to any persons to whom inequality of possessions seems inherently evil, this world will not be satisfactory. It will present a condition of vast and ever growing inequality. With a democracy that depends on a likeness of material possessions it will have nothing in common. The rich will continually grow richer, and the multi-millionnaires will approach the billion-dollar standard.... If an earthly Eden is to come through competition, it will come not in spite of, but by means of, an enormous increase of inequality of outward possessions."

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We must hear from Professor Peck again—and for the last time. "When men by temper and training," he writes in his recent paper on "The Social Advantages of the Concentration of

Wealth," "come to possess the ability to do large things in this direct and simple way [*i.e.*, the characteristic way, of the magnates], they have an immense advantage over those who can work only in committees, or boards, or companies, and they will inevitably dominate them and use them quite at will.... This [concentration] means, in the first place and as a first result, the aggrandizement of individuals; but in the end it means the wide diffusion of a golden stream through every artery and vein of our national and individual life. America has already been enormously enriched; yet the actualities of the present are nothing when compared with the potentialities of the future. Timid minds which are appalled rather than inspired by the vastness and magnificence of the whole thing shrink back and croak out puling prophecies of evil. They cannot rise to the greatness of it all because they lack the dauntless courage of the typical American, who, in Kipling's vivid phrase, can always—

"Turn a keen, untroubled face
Home to the instant need of things."

III

So much for a consensus of some of our notable instructors of the public on things political and social. That these opinions produce a powerful influence on the mass, no one will deny. The wide respect in which our teachers—particularly our commissioned teachers—are held; the general recognition of their learning, their profundity, their unquestioned liberty to speak what they will, their insulated freedom from the influences arising out of seigniorial endowments, compel a popular deference to their judgments. It is, therefore, with pained surprise that an American reads an uncharitable comment on their ability and learning. Such a comment is that which appeared last February in the conservative and ably edited Paris *Temps*. "It is true," writes its editor, "that American universities pay great attention to social and political sciences. It is no less true that they have at their disposal considerable financial resources for the publication of reviews. But the question is to know what the reviews and teachings are worth.... I believe myself sufficiently conversant with the matter. By professional duty I read, not everything which is printed on the other side of the Atlantic concerning these subjects, but a notable part of the work which is considered the most weighty. With a few honorable exceptions—honorable, but rare—I must venture to say that these publications are, for the most part, without originality and without any real value.

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"I imagine American professors will be the first to feel surprise at the great honor [the establishment of a French school in America] which it is proposed to do them. They have a very keen feeling of what they owe to European culture. They keep in close touch with all that is published in their respective specialties in France, Germany, England, and Italy. They profit by such publications, of which their own are sometimes—let us say things as they are—only adaptations or reflections. Many of them have had their intellectual training in old Europe, and had, at their start, no other ambition than to model themselves on their masters and repeat them. The development of social and political studies is immense—on the surface—in the United States. In depth it is not quite the same."

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The *Temps*, it may be remarked, is not, on the one hand, radical, nor on the other, anti-democratic or anti-American; and so the reasons for its illiberal and discourteous judgment must be left undiscerned. Its startling declaration, that the sociological pronouncements of our distinguished teachers "are, for the most part, without originality and without any real value," rises to the dignity of a national affront, and rightly calls for emphatic action from our strenuous State Department.

IV

It may be doubted if our commissioned teachers exert so great an influence upon opinion as do our newspapers. "The newspaper to-day," said Archbishop Ireland recently before the National Educational Association, "is preëminently the mentor of the people; it is read by all; it is believed by nearly all. Its influence is paramount; its responsibility is tremendous." There is much truth in this dictum, though something of qualification is needed. The newspaper, though not "read by all," nor "believed by nearly all," is indeed more widely read than ever before. If the census is to be believed, the circulation per issue of all daily, tri-weekly, semi-weekly, and weekly publications has grown in the last ten years from 38,000,000 to 58,000,000 copies. This is certainly a tremendous showing; but it is doubtful if the newspapers exert the direct sway over men's minds which was exerted in earlier years. The influence effected is due less to the formal expression of opinion than to the color habitually given by them to the news. The eager question, "What does old Greeley say?" which was once so often heard, was a tribute to the power of an individual in whose rectitude and wisdom many thousands put a rarely wavering faith. Many a lesser editor had also his reverent disciples, who believed as he taught and voted as he urged.

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But in our day the direct appeal of the newspaper is more hesitatingly obeyed. Frequently it has happened, in municipal elections, that a candidate or candidates have been elected in the face of an almost solid opposition of the press. A newspaper may be patronized for this or that special feature by persons who pay no attention to its editorials, by others who read them merely to learn an opposing view of things, and by others still—a far larger class—who, reading between the lines, choose for themselves what to rely upon and what to doubt. All the larger cities, and perhaps most of the smaller, have instances of newspapers which, appealing to some special

interest, secure a considerable number of readers antipathetic to the political views expressed. It happens that radicals often read conservative publications, and that conservatives sometimes look upon radical print. The faithful devotees of a certain mercurial New York newspaper probably read it as eagerly in 1884, when it supported General Butler for the Presidency, as in 1892, when it supported Mr. Cleveland, or in 1896, when it went over to Major McKinley. But reliance upon editorial opinions is a wavering faith. A wiser discrimination is employed, a more cynical scepticism is maintained. When the New York newspaper which boasts of printing all the fit news publishes in its editorial columns the dictum that "the oversupply of labor in the anthracite region is due to the great attractiveness of the wages and the conditions of work," none but the willing are convinced; and so for all the misjudgments, ignorant or deliberate, that are daily put forth by newspapers of all classes there are scoffers and sceptics as well as credulous believers. [141]

For the recognition has become general that the average newspaper is owned and operated as a commercial property. As Mr. Brooke Fisher, in a recent number of the *Atlantic*, writes, the days when the editor hired the publisher are gone; it is now the publisher who hires the editor, and the counting-room determines the policy. Advertising is the material mainstay, and the merchants and magnates who have largesse to distribute must be humored. "Publishers," says the interesting census bulletin on "Printing and Publishing," "are depending more on advertising and less on subscriptions and sales for financial return." Whether it be the sensational "yellows," or the less sensational but characterless "pinks," or the staid and ponderous "grays" of the press, the same rule holds. Even the religious journals make a like appeal. "A superfluity of religious weeklies," says the best-known publication of that class, giving itself a left-handed pat on the shoulder, "with no other basis for existence than sectional or partisan pride, will not be tolerated nor supported by the laity; nor will advertisers much longer fail to discriminate between religious journals that are progressive [meaning, for example, itself] and are reaching well-to-do and intelligent people, and those which are not." Statements of enormous sales, of vast subscription lists, are published in glaring type, and the phrase "greatest circulation in the city," or State, or nation, or world, is trumpeted to the ears of the buyers of advertising space. There is still an appeal to the giver of largesse even when a publication cannot honestly boast of great circulation; the argument is then one of a "select" patronage—of "fit audience, though few," but inferentially of great purchasing power. [142]

The pressure upon editorial policy of this deference to the advertiser is constant and effective, and the result is apparent to most readers. Even the more rampant of the "yellows," which daily shriek against political and social injustice, are affected by it. As mournful a philosopher as Heraclitus might have found food for humor in the manoeuvres of the metropolitan newspapers some six years ago during the agitation for the passage of the Andrews bill. This measure required seats for women workers in all mercantile establishments. Now it happened that the heads of the department stores were in nearly every instance violently opposed to the bill, and it also happened that the amount of advertising from the great stores cut a very pretty figure in the income of the average metropolitan newspaper. To complete the dilemma the bill won great favor from the public. How the masterful purveyors of news and opinions to the people managed to extricate themselves from the difficulty, would make too long a story in the telling. But that they triumphantly surmounted it, is a matter of history. [143]

With the advertiser in so commanding a position, it is not needed that a newspaper shall be owned by a magnate in order that it shall faithfully reflect the special interests of "business." Yet that seigniorial funds are back of many of our important newspapers is a fact which to a person of intelligence needs no proof. The census bulletin, revealing the characteristic optimism of the compilers of the Twelfth Census, will have it that individual ownership is still the rule. The proportion of individually owned and operated publications is given as 63.3 per cent, of partnership concerns as 19.7 per cent, and of corporate concerns as 17 per cent. "These figures indicate," we are told, "the complete absence of the extended combinations and consolidations so frequently encountered in other industries." Yet there are combinations, whether individually or jointly owned,—the Hearst newspapers in San Francisco, Chicago, and New York, the Ochs newspapers of Chattanooga, New York, and Philadelphia, the Belo newspapers of Texas, and those of the Scripps-McRae concern in the middle West. Only this last summer public announcement was made of a projected combination—under the control of Mr. P. F. Collier, and with a capital of \$1,000,000—of a large number of country newspapers in the State of New York. The project has for the time been given up, but others of a like nature may fairly be expected for the future. Moreover, some of the features of the industrial combinations—identity of product, for instance—are discoverable in the so-called coöperative newspapers, which make use of plate matter or "patent-insides." More than half of all the periodicals of the country are in this class. Finally, the chief commodity of newspapers of all classes—the news—is a trust product, a commodity in which the Associated Press serves the function of gatherer of raw material and manufacturer, and the periodical the function of assorter and retailer. [144]

But the census figures reveal little or nothing to the point. Seigniorial backing, when actually given, is not usually made visible in the form of investment in newspaper stock. It is not to the best interests of the purveyor of news and opinions that it should be; for the public, with a fine sense of its own independence of judgment, requires that seigniorial influence shall be less obviously shown. The odor of Standard oil, the fumes of American tobacco, have proved fatal to more than one newspaper enterprise, and even the taint of railroad support has been shown to be harmful. There is thus the greatest need of discretion in arranging the nominal ownership; and the result is, that in many cases it is easier to discover the actual ownership of a policy game than the actual ownership of a newspaper. The curious can but surmise and wonder. When a [145]

chaste and well-ordered daily publication gives to a particular magnate's house-warming the space of a column and a half, while its rivals—even the "yellows," which deal in that sort of thing—consider the event worth no more than a half-column; or when another magnate is persistently "boomed" for a high office, or when for another a franchise grant is skilfully proposed, one may put two and two together, and apply the natural inferences. Inferences, however, are not proof, and the conclusion must remain doubtful.

But whether through the influence of potential advertising or of secret ownership, the magnate, or the magnate class, exercises a large measure of control, and the matter which appears is that which, on the whole, is agreeable to seigniorial minds. The coal magnates may be criticised, but it is not so much on account of their refusal to grant concessions to their men as for their failure to operate in defiance of their men. So, too, the trusts come in for occasional rough handling; but it is the abstract trust that is at fault: the individual trust usually goes scathless. Certain of the "yellows" furnish some exception to the general rule, though here, too, the influence of the great advertiser is shown, and one may vainly read the columns of the most radical of the anti-monopoly dailies for a suggestion that the great department stores are other than abodes of comfort and joy for all the souls employed therein. [146]

Such is the newspaper bias, and the product of the hired writer must conform. Whether editing news or writing opinions, he must recognize the divinity that hedges in the magnate class. It was a savage, and in some respects extravagant, picture of the function of the hired newspaper worker which a brilliant journalist, now deceased, gave to the world a few years ago:—

"There is no such thing in America as an independent press, unless it is out in the country towns. I am paid for keeping honest opinions out of the paper I am connected with. Other editors are paid similar salaries for doing similar things. If I should allow honest opinions to be printed in one issue of my paper, before twenty-four hours my occupation, like Othello's, would be gone. The man who would be so foolish as to write honest opinions would be out on the street hunting for another job. The business of a New York journalist is to distort the truth, lie outright, to pervert, to vilify, to fawn at the feet of mammon, and to sell his country and his race for his daily bread, or for about the same thing, his salary. We are the tools of vassals of the rich men behind the scenes. We are jumping-jacks. They pull the strings, and we dance. Our time, our talents, our lives, our possibilities, are all the property of other men. We are intellectual prostitutes."

But though in certain respects extravagant, it has yet faithful and accurate touches which are recognizable by every undeluded person who earns his living in the employment of the daily press. Perhaps, indeed, there are not many of the undeluded; for the recoil upon themselves of the character of their tasks does not, to say the least, sharpen the edge of conscience, and the service of a few years is generally believed to be effective in indurating the finest sensibilities. [147]

It is not, as has been said, so much through their editorial expressions as through their coloring of the news that the weeklies and dailies mould the opinions of the mass. A growing scepticism averts the former influence; but against the latter there is no prophylactic. News is assorted, pruned, improved, to accord with a predetermined policy. From an anti-imperialist publication one gets small notion of other happenings in the Philippines than devastations, rapes, battle, murder, and sudden death; and from an administration organ one may learn only of Peace piping her "languid note," of the diffusion of education, and the progress of industry, varied only now and then by slight outbreaks from a few ladrones. In the far more important matter of the irrepressible class conflict here at home, like influences color the news; and as ninety-nine out of every one hundred periodicals support, in greater or less degree, the existing régime, the impress upon the public mind is overwhelming. Some of the "yellows" set up a bar to the universal pervasion of this influence; and the activities of the social reformers, through their weekly journals, their tracts, and their public discussions, somewhat affect it. But, on the whole, these effects are but a ripple on the deep and powerful stream that fertilizes the opinions of the public. [148]

V

Our laudatory stump orators have their measure of influence on social thought, no doubt; but it is one that surely declines, and the subject may be passed with but scant mention. Likewise, the heterogeneous small fry of seigniorial retainers in the various walks of life, whose business it is, in season and out, to glorify the prevailing régime, may be noticed and dismissed in a sentence. The influence of the pulpit, however, is a subject that requires some attention. This influence, while greater than that of either of the groups just mentioned, is unquestionably less than that of either the editors or the professional lay publicists. Among practical men in the upper orders there is a widespread prejudice against pastoral interference in social and political matters, unless it be directed solely to seigniorial justification. The shoemaker should stick to his last, runs the adage; and no less it is urged that the pastor should stick to his text. He should, furthermore, discriminate and sort his texts, making careful avoidance of the ethical precepts of Jesus. For these are needlessly disturbing to the code that prevails in commerce and politics, and both politicians and magnates resent their citation. A future "popular" version of the Bible may eliminate them, and thus do away with a fertile cause of discord; but until that is done the better part of pastoral valor will continue to lie in discretion.

The sentiments of the politicians and the magnates toward the pulpit filter down to the common mass of the laity, and still further weaken pastoral influence. But weakened as it has been, it is yet felt by the magnates to be an instrument of social control which by proper use can be made to perform a needed service. A constant pressure is, therefore, brought to bear upon pastoral [149]

utterances. It is the "safe" men who are in most request to fill pulpits; and it is the "safe" men who draw to their churches the largest endowments. Under the influence of this pressure there has gradually been developed a code of pulpit ethics, outside the limits of which no prudent minister will dare range. The minister may be "long" on spirituality, but he must be "short" on social precepts. He may preach faith, hope, and charity, and also the future punishment of the unregenerate, so long as unregeneracy is depicted in general terms; but he must avoid, with the nicest delicacy, the mention of tax-dodging and stock-watering as punishable sins. He may denounce violence, and for a modern instance he may cite the occasional riotous conduct of striking workmen; but let him at his peril cite such venial backslidings from grace as the blowing up of a competitor's refinery, the seizure of a street for track-laying, or the employment of armed mercenaries for a private purpose. Political evils may be denounced in the abstract, and the bribery of voters in the concrete. The latter is an offence usually committed by irreverent ward politicians, and may justly receive, without injury to the State and to society, the scathing anathemas of the pulpit. But he that in a moment of inadvertence miscalls by the name bribes the "gentle rewards," the "gratuities," as they were known in Bacon's time, which magnates frequently bestow upon legislators and judges, had best resign his pastorate and seek some other field. Nor must any slight be thrown upon any of the conventional practices in the ordinary daily conduct of "business." These are hallowed by custom, and are beyond criticism. Such a declaration as that of a certain minister in a recent number of the *Christian Endeavor World*—"What we call Napoleonic genius in business is sometimes simply whitewashed highway robbery on a gigantic scale"—verges closely upon contumacy. It is relieved slightly by the qualifying "sometimes,"—much virtue in your "sometimes," as the immortal bard would remark,—but for all that, it is a dangerous utterance, and one apt to cause its enunciator grave trouble.

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But pastoral pronouncements on social questions are permitted—nay, welcomed—if only they properly rebuke the occasional discontent and unquiet of the masses and the aggression of those foes of order, the labor unions. Such a pronouncement, for instance, is that of the Rev. Lyman Abbott, put forth in his recent philosophical disquisition, "The Rights of Man." "Trades-unions ... are ruled over generally," he declares, "by a directory scarcely less absolute than that which governed the revolutionists in the day of Mirabeau." This is unexceptionably decorous, and runs no risk whatever of seigniorial censorship. The recent coal strike brought forth a large number of pastoral utterances of a like character, which must ultimately redound to the great glory of the declaimers. The good Bishop Potter, in his address before the Diocesan convention in New York City, September 24, felt called upon to rebuke envy and hatred and to deny the existence of social classes in the republic: "Wealth is unequally distributed, we are told, and the sophistries that are born of envy and hatred are hawked about the streets to influence, in a land which refuses to enthrone one class above another, the passions of the less clever or thrifty or industrious against those who are more so." The eminent Dr. Ethelbert Talbot, Bishop of the Episcopal Church in Central Pennsylvania, according to his public letter of September 28, saw in the coal strike only a demand upon the part of the miners "that the operators shall no longer manage their own business." "How can the question of whether a man has a right to conduct his own business," he asks, with painfully defective forethought for what subsequently happened, "be submitted to arbitration?" The no less eminent Rev. Dr. Newell Dwight Hillis, in his recent address before the Chicago Society of New York, demanded a wall of bayonets from Washington to Wilkesbarre. The Rev. Dr. Minot J. Savage of the Church of the Messiah also called for arms instead of arbitration, and the Rev. Dr. W. R. Huntington of Grace Church echoed the good Bishop Talbot's opinion, and "from the point of view of simple justice" could not see "that we have any reason to blame the mine-owners for refusing to allow the management of their own business to be taken out of their hands." From Calvary, too,—or at least from the Calvary Baptist Church of New York,—came a further demand for soldiery. "These labor leaders," declared the Rev. Dr. R. S. MacArthur, "with their large salaries, are forcing the men to be idle. They are more tyrannical than the Czar of Russia." These are but samples of the "safe" utterances on social questions—the kind that involve no penalties, but on the contrary, reap sure harvests of glory and recompense.

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Occasionally from too close and exclusive reading of the synoptic gospels, with their recital of Jesus' specific teachings on social matters, a young and ardent minister loses his perspective, and seeing over-large the industrial and social evils of his time, seeks to remedy them. Usually, however, the mood is but transitory, and a few months, or at most a few years, witness the reaction. Renunciation of heretical doctrines follows, and ultimately the errant is restored to the fold of the "safe." But let no one imagine that in seigniorial halls his sins are remembered against him. On the contrary, there is more joy over the recovery of one strayed sheep than over ninety and nine that remain faithful.

Sometimes, it must be conceded, there are to be found those who refuse to be forced or cajoled, and who hold their intrepid way in defiance of power. The World assails them, in the words of Matthew Arnold, with its perpetual challenge and warning:—

"Behold,' she cries, 'so many rages lulled;
So many fiery spirits quite cooled down.
Look how so many valors, long undulled,
After short commerce with me fear my frown.'"

But they fear not her frown; and they teach the social precepts of their Master regardless of material consequences. What those consequences are, the average man knows full well. They are ostracism, a reduction, sooner or later, to the poorest livings; a hemming in and constraining to

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the narrowest fields of effort and influence—in a word, the full sum of the forceful rebuke which it is possible for the magnate class and its retainers, in the present state of society, to deliver. In the more developed state of the future the rebuke will be yet more emphatic; for the influence of the pulpit, whatever it may be in degree, must in kind be confirmatory of the right of the magnate class to rule.

CHAPTER VIII GENERAL SOCIAL CHANGES

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The historic props of class rule, according to Professor Edward A. Ross, in his recent volume, "Social Control," have been force, superstition, fraud, pomp, and prescription. Our present seigniorial class makes use, with fine discrimination as time and occasion require, of each of these means of support, though unquestionably it sets the greatest value upon the last named. Force is employed less openly, less obviously; decreasingly by the direct imposition of the magnates, increasingly through their ingenious manipulation of the powers of the State. The superstition latent in most minds proves now, as ever, a means of ready recourse; but though supernatural sanction to the acts and authority of the magnates is cunningly deduced and volubly preached from a thousand pulpits, the prop fails somewhat as a constant and sure reliance. Even testimony so authoritative as that of President Baer to the effect that the Great First Cause had intrusted to himself and his co-magnates the control of the business interests of the country, has been flouted in a number of places. The notion of supernatural sanctions, as most people know, and as Professor Goldwin Smith has repeatedly taken pains to point out, is losing its hold upon the reason of mankind; and though it still has, and will ever have, a certain potency, its best days are passed.

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As for fraud, both of class against class, and individual against individual, attempts to practise it no doubt increase; but the tooth-and-claw struggle of the last generation has developed and sharpened the wits of the combatants, so that it tends to become a less profitable game. He would be a sharper indeed, according to the proverb, who among the Turks of the Negro-pont, the Jews of Salonika, or the Greeks of Athens could cheat his fellow: each knows by heart all the tricks and devices of which the others are capable. Matters are not yet at such a stage in free America: great frauds, both of the group and of the individual, are still practised. But the almost infinite possibilities of other days have been sadly restricted by the operation of those natural laws which tend to fit beings to their environment. Pomp, too, is less a factor of control than in past times. It has a powerful grip on the imaginations of the poor, as the columns of our "yellow" journals, which devote so large a space to the ceremonies of the great, amply attest; but though it charms the more, it deceives the less. It interests, it delights; but it does not overawe or subdue.

I

It is by prescription—by a constant appeal to the sanctity of custom, a constant preaching of the validity of vested rights, and of the beauty, order, inevitability, and righteousness of things as they are—that the magnate class wins to its support the suffrages of the people. Other influences aid, but this one is dominant. As Professor Ross pertinently writes:—

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"Those who have the sunny rooms in the social edifice have ... a powerful ally in the suggestion of Things-as-they-are. With the aid of a little narcotizing teaching and preaching, the denizens of the cellar may be brought to find their lot proper and right, to look upon escape as an outrage upon the rights of other classes, and to spurn with moral indignation the agitator who would stir them to protest. Great is the magic of precedent, and like the rebellious Helots, who cowered at the sight of their masters' whips, those who are used to dragging the social chariot will meekly open their calloused mouths whenever the bit is offered them."

The magnates, as has been shown, brook small interference with prevailing customs. Their near dependents, retainers, and "poor relations" think as they think, and feel as they feel; and the great majority of the professional moulders of opinion, drawing their inspiration from above, preach and teach as the magnates would have them. The general social passivity following the pressure of all these influences upon the public mind is as certain and inescapable as a mathematical conclusion.

II

A powerful auxiliary to the preaching of the sanctity of custom is the extolling of individual "success." At the very time when socio-industrial processes are settling to a fixed routine and socio-industrial forms to a fixed status,—when day by day there is found less room at the top and more room at the bottom,—the chorus of exhortation to the men of the land to bestir themselves reaches its highest pitch. Meddle not with custom and the law, is the injunction; leave those to abler and wiser heads—meaning, of course, the present formulators and manipulators thereof. Meddle not with things as they are, but while your companions sleep, "toil upward in the night," and carve out a career for yourself among the stars. Put no faith in general social changes, except such as result from the combined effect of each unit concerning himself solely with his own material salvation. There is no social betterment without precedent individual betterment, it is urged. "You cannot make a bad man good by legislation," is the admonitory adage, and "You cannot make a poor man rich by legislation" is its twin. If certain persons hold to the theory that corrective laws have a definite reaction upon character, and that in every civilization worthy the name there are social institutions, founded in law, which are immeasurably in advance of the general average of sanity, sobriety, and honesty of the citizenship, such persons are but dreamers, and are not to be taken too seriously. So, too, with the dictum regarding the statutory enhancement of riches. There are those who insinuate that it is heard most often from the lips of the industrial magnates, the majority of whom are living examples of the fact that riches may be

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garnered by means of tariffs and other privilege-giving laws; and from the *laissez-faire* tariff reformers, whose reiterated argument against protective duties is that they are law-given privileges by which the few gain wealth at the expense of the many. But persons who question this profound adage are unsophisticated. They fail to discriminate properly. The adage is one which, like a simile or metaphor, should not be stretched too far. It has its true and legitimate bearing only when it is applied to the very poor. [158]

Personal endeavor toward the goal of "success" is the urgent exhortation. Scarcely one of the magnates who have recently entered literature, or who, avoiding that province, have on occasion unbosomed themselves to the interviewer, but takes pains to declare how numerous and how mighty are the possibilities in the path of the energetic. All that is needed, according to most of the seigniorial recipes, are brains and health; honesty, it is true, is often included as an ingredient in the compound, but its mention is possibly ironical, and need not concern us. Brains and health are thus the two things needful; and though pursuing Satan may gather in, with his drag-net, a vast army of the hindmost, the fortunate possessors of these two boons will inevitably forge to the front in the headlong race.

It is by no accident that this particular counsel from the magnates is heard now more frequently than any other. It is one that of course has been given in all times; but it has never been given with such frequency and unctiousness as now. Consciously or subconsciously, it is an expression of class feeling—a revelation of the community of interests and purposes of a particular division of our society. In whatever cases its utterance is prompted by a general social motive, that motive is the defence of class control. It is counsel that makes for the acquiescence of the lower orders and the increased security of the upper. "The heaving and straining of the wretches pent up in the hold of the slaver is less," writes Professor Ross again, "if now and then a few of the most redoubtable are let up on deck. Likewise the admitting of a few brave, talented, or successful commoners into the charmed circle above has a wonderful effect in calming the rage and envy of the exploited, and thereby prolonging the life of the parasitic system." This counsel of endeavor, promulgated by the few who have striven and "succeeded," is thus a social sedative of great efficacy. [159]

The professional moulders of opinion take their cue from these exhortations of the magnates, improve, elaborate, and redistribute them. The professors, the editors, and the orators lead, and the hortatory pronouncements of the pulpit follow closely. The Carpenter of Nazareth, it is true, held other views of "success"; but his precepts would seem to have gone out of fashion in the fanes and tabernacles ostensibly devoted to his worship. With all ranks and conditions Success becomes the great god; and as though there were not already priests and votaries enough for his proper worship, a special class of publications has recently arisen, which serve as his vowed and consecrated ministers. These teach to the devout but unsophisticated followers of the great god the particular means best adapted to win his grace; how his frown may be averted; or, if his anger be kindled, by what penances and other rites he is to be propitiated. They chant the praises and recite the life-incidents of those who have been most conspicuously blessed, and to all the rest of mankind they shout, "Follow our counsel, and some day you shall be even like unto these." It is a glittering lure, and it is eagerly pursued. Sometimes, indeed, not without doubts and misgivings; for a recognition that "all the gates are thronged with suitors," that "all the markets overflow," and that the settling and hardening of socio-industrial processes has already begun, becomes more general, and leads many to essay the trial of fortune's pathway only as a desperate and forlorn adventure. But these are the exceptions; the majority are still to be caught by limed twigs. The gods denied mankind many gifts, and attached hard conditions to most of those which they granted. But for all their withholding of certain gifts and their tainting of others, they sought to compensate by giving an extra allowance of credulity. [160]

III

Not only by the showering of precepts, by the encouragement of individual effort, and by the dangling of more or less illusory prizes before the wistful multitude does the ruling class maintain its hold. It invites, to some extent, a participation in the harvest. The growth of the shareholding class, of which mention has already been made, is by no means wholly fortuitous. New companies of small initial capital, and with somewhat dubious chances in the great struggle, may be glad enough to market their shares wheresoever they can; but something of seigniorial grace and condescension, though not entirely unmixed with calculating foresight, is apparent in the opening of opportunities for small investment in the larger and more stable corporations. Mr. John B. C. Kershaw, in the *Fortnightly Review* for May, 1900, gives an interesting account of this fostering of share-investment in England. The industrial magnates, he says, saw that the best policy for preventing the growth of a public sentiment favoring the encroachments of labor would be to increase the number of *bourgeoisie* interested in industrial affairs. Accordingly they encouraged popular share-buying, with the result that "a large and increasing proportion of the general public is now financially involved in all industrial struggles, and our manufacturers feel assured that the danger lest the workers should be backed by a solid and enthusiastic public opinion in their demands for shorter hours or increased pay no longer exists." [161]

As in England, so also here. The movement toward corporate ownership is probably more pronounced in the United States than in the older country, and it has been equally encouraged from above. Joint-stock concerns increased in England from 9344 in 1885 to 25,267 in 1898. In Massachusetts, the State in which the preparation of statistics most nearly approaches the methods of science, corporations are reported to have increased during the years 1885-95 by more than 77 per cent. As for shareholders, the nine principal manufacturing industries of [162]

Massachusetts for the same period show percentages of increase ranging from 13.87 in tapestry to 637.74 in leather, saddles, and harness. The entire country has shown a marked growth in the number of this class, and it would seem that no one is too poor to hold a share in some corporation. Indeed, to read the arguments of the legal retainers of the magnates in the Income Tax case, and in the various trust cases that from time to time arise, one would think that the main body of the shareholders of the nation was composed of workingmen, widows, and orphans. In no time since the prophet Ezekiel's day have there been uttered words of such tender consideration for the poor and needy, the widow and the orphan, and of such bitter denunciation for their would-be despoilers as were tearfully put forth in opposing the income tax.

A great number of shareholders in a particular company would seem, on first thought, to be something of a nuisance. Unquestionably they would represent a wide range of conflicting views and antagonistic purposes, all bearing upon the one problem of the proper operation of the company's property; and would thus give salient instances of that unwisdom which is too often found in a multitude of counsellors. At least this is the seigniorial argument against national collectivism—an argument which one might naturally suppose to be quite as applicable to the particular collectivism of the stock company. But it does not so apply; the solid advantages of diffused shareholding in assuring general public sanction to the acts of the magnates outweigh the confusion and danger which are alleged to lie in public ownership. [163]

The social and political effect of this general participation in the ownership of industries may be readily observed by all but the blind. "If the truth were known," wrote that keen-witted financier, Mr. Russell Sage, in a magazine article published last May, "concentration of wealth is popular with the masses." Partners in the great enterprises, the multitude of petty shareholders are led more and more to consider economic questions from the employers' standpoint. In the controversies between labor and capital ten years ago the average citizen was but an onlooker, sometimes a weak partisan of capital, but very often a neutral, with a strong latent sympathy for the "under dog." To-day, thanks to his holding of a single share in the steel corporation or of two or three shares in some street railway company, he is an employer, one of the men "to whom God, in His infinite wisdom, has given the control of the property interests of the country." He sees, thinks, and feels as a member, however humble, of the employing class; and what the magnates think and do is to him all the law and the prophets. "Bound by gold chains about the feet" of his feudatory lords, he is at the same time a sharer in their responsibilities and a faithful retainer in their service.

IV

It would be idle to declare that all the tendencies make toward acquiescence. Just as in the atmosphere a prevailing drift of the wind is accompanied by cross currents, flurries, and rotatory motions, so the dominant tendency discoverable in social industry is qualified by many complex processes. Of the cross currents here to be briefly noted, some are but trifling, while others undoubtedly reveal a certain force and constancy. A small part of the public is ever in a state of ferment over imputed social evils, and at rare times this ferment becomes general. Recurring labor troubles indicate that the spirit of resistance, if it really be dying, dies hard. Strikes of the magnitude of those at Homestead and in the Tennessee mines in 1892, at Chicago and other railroad centres in 1894, the several anthracite coal strikes of 1897, 1900, and 1902, and the steel strike of 1901 prove that organized labor has not wholly succumbed to the encompassing forces about it. The remarkable growth in numbers, these last two years, of the unions composing the American Federation of Labor, is confirmatory testimony. Radical political movements, furthermore, have not been wanting. The Socialists have increased their voting strength in the nation from some 2000 ballots in 1888 to upward of 130,000 in 1900. The Farmers' Alliance made tremendous headway in the election of 1890, and its political successor, the People's party, secured by fusion more than 1,000,000 votes in 1892 and nearly 2,000,000 in 1894. "Labor" mayors and even Socialist mayors have been elected in several cities, and the polling of 106,721 votes for Samuel M. Jones for Governor of Ohio in 1899 was a truly remarkable showing of the residual independence of the citizenship. There are also general social movements to chronicle. [164] Reform societies and clubs are occasionally heard of; arbitration movements have met with some favor; there has been a considerable growth in the number of university and college settlements; and anti-trust conferences and things of that sort have frequently met, talked, and dispersed. [165] Indeed, all of us at times grumble and find fault with general conditions. Even Mr. Russell Sage, in the face of his exultant panegyric on the beneficence of combination, has very recently given to the press a statement denouncing the further consolidation of industry, and predicting, in case his words are not heeded, "widespread revolt of the people and subsequent financial ruin unequalled in the history of the world." Though only a few of us are irreconcilable at all times, all of us are disaffected sometimes—especially when our particular interests are pinched. We talk threateningly of instituting referendums to curb excessive power, of levying income taxes, or of compelling the Government to acquire the railroads and the telegraphs. We subscribe to newspapers and other publications which criticise the acts of the great corporations, and we hail as a new Gracchus the ardent reformer who occasionally comes forth for a season to do battle for the popular cause.

V

It must be confessed, however, that this revolt is, for the most part, sentimental; it is a mental attitude only occasionally transmutable into terms of action. It is, moreover, sporadic and [166]

flickering; it dies out, after a time, and we revert to our usual moods, concerning ourselves with our particular interests, and letting the rest of the world wag as it will. The specific social reaction of the last few years has been especially marked. It has shown itself in the weakening or disruption of radical political movements, in the more hesitant attitude of the trade-unionists, in the decline of factory legislation,—in fact, of all legislation tending to the protection of the weaker and the regulation of the stronger,—and in a general feeling of the futility of social effort. The Anti-imperialists will have it that this admitted reaction is due to the South African and Philippine wars, to a lust of empire and a contempt for the rights of weaker peoples. It is a pretty theory, but unfortunately it has small basis in chronology. For the reaction had already become apparent before either war was waged. The date of its beginning may be variously guessed at; but it is probable that the time assigned to it in Chapter V—somewhere within the two years 1896-97—is not far wrong. Before that time a very large part of the public could occasionally be interested in social measures and movements, and in social literature. Thousands of even the most hardened philistines read Mr. George's "Progress and Poverty," Mr. Bellamy's "Looking Backward," and Mr. Kidd's "Social Evolution." And as for that minor section of the public, the social reformers, there was then to be found among them a radicalism of belief, a definiteness of aim, an ardency and determination of spirit that are sadly wanting now. Doubtless to every one of these, as he ruefully compares the two periods, there recurs the sentiment of the Wordsworthian recollection,—

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"Bliss was it in that dawn to be alive,
But to be young was very heaven."

While in the bosom of every devotee of Things-as-they-are there rises the sentiment of thankfulness that the mass of the people have learned the wisdom of letting well enough alone.

Political radicalism reached its culminating point in the election of 1896. Despite certain foolish and mischievous notions embodied in the two radical platforms of that year, the combined movement was yet a consistent and unified attack upon class rule. The elections of the next two years revealed a waning of Populist and Democratic strength, and in 1900 a fine sense of caution prompted the Fusionists to subordinate the industrial demands of their platforms to the issue of Imperialism. The Socialists, it is true, usually increase their vote; but the admitted fact of a great growth of Socialist conviction throughout the land makes these slight increases at the polls appear but trivial, and only further confirms the view that such radicalism is sentimental rather than potential. Anti-trust conferences are not without an element of humor; at least, they are the cause of much humor in outsiders; and the widely heralded arbitration court of the National Civic Federation breaks down on the very occasion when most is expected of it—that of the anthracite coal strike. Organized labor, despite its greater numerical strength, is far less aggressive than of old; and except in isolated instances, it observes a caution which would have further distinguished Fabius. As for the growth of college settlements, the fact is only an added proof of reaction. They do a great good, unquestionably; but their basis is philanthropy and not social adjustment.

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As a people, we have heard enough, for the time, about social problems, and prefer to interest ourselves in other matters. Professor Walter A. Wyckoff, who has recently changed the scene of his optimistic observances from America to England, has an article in the September *Scribner's* on the English social situation. "The condition-of-the-people problem," he writes, "lacks vitality for the moment because, as one shrewd observer remarked, 'the public has grown tired of the poor.'" We are feeling the same weariness here. Our benevolence somewhat increases, and we are willing to give, and more than willing that the magnates shall give freely; but we want to be troubled no more with remedial schemes. Rather, we are disposed to trust to seigniorial wisdom and virtue to set things right. Some of us will perhaps decline to go so far in our trust as a certain prominent Massachusetts lady who proposed to abolish working-class suffrage. "I think," said this lady in an address to a club of working girls, "many of the troubles between employer and men might be swept away if the men could not vote. If he felt that they did not stand on just the same footing as himself, that they had not quite so many privileges as he, the employer might have a chivalric feeling toward them." Some of us may hesitate at this project, but withal we are willing to trust largely to seigniorial guidance.

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Instead of the personal fidelity that characterized the older Feudalism, we are rapidly developing a class fidelity. History may repeat itself, as the adage runs; but not by identical forms and events. It is not likely that personal fidelity, as once known, can ever be restored: the long period of dislodgment from the land, the diffusion of learning, the exercise of the franchise, and the training in individual effort have left a seemingly unbridgeable chasm between the past and the present forms. But though personal fidelity, in the old sense, is improbable, group fidelity, founded upon the conscious dependence of a class, is already observable, and it grows apace. Out of the sense of class dependence arises the extreme deference which we yield, the rapt homage which we pay—not as individuals, but as units of a class—to the men of wealth. We do not know them personally, and we have no sense of personal attachment. But in most things we grant them priority. We send them or their legates to the Senate to make our laws; we permit them to name our administrators and our judiciary; we listen with eager attention to their utterances, and we abide by their judgment. When the venerable Mr. Hewitt, brought forth like the holy man Onias, in the Judean civil war between Aristobulus and Hyrcanus, to denounce the opposing faction, utters his anathema against the minions of Mr. Mitchell, we listen in awe and are convinced. A three-line interview with the chief of the magnates is read with an eagerness wholly wanting in our perusal of an official pronunciamiento by the most strenuous of Presidents. Our racial sense

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of humor, it must be confessed, saves us from the more slavish forms of deference; we jest about solemn themes and take in vain the names of great beings. Even the name of the great magnate is more or less humorously played upon; and our latest national pastime of "trust-busting" reveals a like levity, though an innocent one. It shows, moreover, how far we have reacted from our Puritan forefathers. For it is pursued not on account of the pain it gives the trusts, but for the harmless pleasure it gives both participants and spectators. But our subserviency, though less formal than that of old, is withal more real and fundamental.

VI

Current passivity has, however, a reverse side. To many persons a recognition of the changing conditions brings demoralization or despair. All are not won by the lure of "success." To an increasing number the dangling prize in the distance is but a mirage, and oppressed by a sense of the bankruptcy of life they seek an oblivious relief. There is a drift toward the twin dissipations of drink and gambling, and there is an increase of suicide. The greater drink consumption is a matter of common observation, and it is amply attested by statistics. Mr. J. Holt Schooling's figures in a recent issue of the *Fortnightly Review* show an increased consumption in the United States of 20 per cent for the years 1896-1900, as against the years 1886-90. The percentage of increase is slightly less than that of those industrially exploited nations, Germany and France, but considerably more than that of Great Britain and Ireland. The annual figures published in the *World Almanac* for 1902 give more pertinent lessons. The unsettled and troublous year, 1893, witnessed an enormous increase in drink consumption; but the succeeding hard times of 1894 and 1895, when drink-money was increasingly hard to obtain, induced a greater sobriety. With 1896 drinking became more general, or at least more energetic; and except for a slight falling off in 1899, the consumption of liquors and wines has risen steadily, reaching the enormous total of 1,349,176,033 gallons in 1900. Much of this gain is confined to beer, the cheapest of alcoholic beverages; but there has also been a phenomenal increase in the consumption of spirits. From 71,051,877 gallons consumed in 1896 there has been a steady annual rise to the total of 97,248,382 gallons in 1900, a gain of 36.8 per cent. [171]

The recent increase of petty gambling is still more noticeable. Playing for high stakes, a custom common enough in the late years of the eighteenth century and the early years of the nineteenth, has long been given over or transferred to the domain of "business." But what is colloquially known as "tin-horn" gambling has advanced, these last five years, by leaps and bounds. Doubtless the high precedent of our national Monte Carlos, the stock exchanges, is ample cause for much of it; but other causes are also in operation. With those persons that hearken to, but heed not, the seigniorial exhortation to bestir themselves and conquer "success," petty gambling is an expression of unbelief. They know that the prizes advertised in the great industrial game are not to be won; they see nothing ahead but a dull routine of poorly remunerated labor, and they turn to gambling partly for recreation and partly for profit. With those, on the other hand, who not only hearken but heed, gambling is merely the application of their ambitious plans to the branch of industry which promises, however vainly, the most immediate returns. [172]

Faro, keno, and roulette may have suffered some decline in favor. If so, statutes and the police, instead of a growing aversion to gambling, must be held responsible. It is one of those conventional puzzles which none can explain, that it is possible in our cities to restrict table and wheel gambling, but seemingly impossible to restrict certain other forms. Poker, for instance, maintains its hold, unawed by statute and unhampered by authority; while policy and race-betting, the special refuges of the desperately poor and the desperately fatuous, win new and lasting converts day by day. Indeed, the growth of race-betting is one of the striking phenomena of our time. It has become a habit, a disease; and its confirmed victims are held in as slavish a thralldom as are the victims of opium and hasheesh. One need not penetrate to a pool-room or journey to a race-track to discover evidences of its general diffusion. He may hear of it on every side, and he may find definitive proof in the daily journals. In nearly all of these the space given to the reports of races, the lists of betting odds and accounts of great winnings, is generous; and in some three or four of the metropolitan dailies the subject rises to the rank of a specialty. The flaunting advertisements of the "tipsters" in one of these newspapers rival in extent of space used and opulence of bargains offered, the announcements of the dry-goods merchants. The glittering lures dangled before the multitude by the seigniors seem trivial by comparison. Uncertain, and at best remote, they prove no match for the near-at-hand prizes to be won in gambling; and as a consequence tens of thousands pin their hope of "success" in this world to a series of fortunate winnings. [173]

The meaning of the increase of suicide is clouded by a number of factors, and it is impossible to ascribe the tendency to one cause alone. Were we to accept the explanation of the pulpit, we should see in it the awful consequences of the decline of faith. Pathologists, however, while not denying this influence, enumerate many others. Racial and temperamental factors, drink and vice, are all concerned in the matter, and even climates and seasons are influential. But whatever the effect of these may be, the intensifying struggle for life these last few years, and what appears to many minds a darkening outlook for the future, must be acknowledged as powerful agents in increasing the rate of self-destruction. The rate is highest in the great industrial centres, where the struggle is fiercest, where the richest stakes are won and lost, where luxury is most flaunting and poverty most galling; and it is least where the struggle is in some measure relaxed. The recent census shows for the decade an increased rate per 100,000 of population from 8.8 to 9.9 in the States where registration of deaths is required, from 11 to 12.7 in registration cities, and from 10.3 to 11.8 for the entire registration record. There are a few [174]

anomalies in the figures which are difficult of explanation; the workaday cities of Fall River and Allegheny have low rates of suicide, the residence city of Los Angeles a high rate, while San Francisco reveals the abnormal rate of 49 per 100,000. With all allowances, however, the rule holds good: the more distinctly industrial and commercial cities have remarkably high rates, the less distinctly industrial and commercial cities remarkably low rates. In the first group are Chicago, with a rate of 21.8; Milwaukee, 21; St. Louis, 19.1; Boston, 14.4; Cincinnati, 13.5; New York, 13.1; Philadelphia, 12.2; Baltimore, 12; Pittsburg, 9.3. In the second group may be instanced Atlanta, with a rate of 6.6; Denver, 6; Albany, 3.2; Hartford, 1.3; Richmond, 1.2. These suicides are the unfit, say the complacent philosophers of the day, and are quite as well off dead as alive; but they prove at least that some slight qualification is needed to Professor Sumner's optimistic generalization that "an air of contentment and enthusiastic cheerfulness ... characterizes our society." The winners in the race are doubtless enthusiastically cheerful, and the great mass that keeps steadily on, fed by the delusion of ultimate "success," are at least cheerful without enthusiasm; but back of these are the losers and the many who have seen the hollowness of the world's promise, whose outlook upon life is one of intensifying despair.

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VII

All of our general institutions reflect the changes in public thought, taste, and feeling consequent upon the changing conditions of the social régime. But on none of them are these changes writ more clearly or in larger characters than on the institution of letters. Along with the morganization of industry steadily proceeds the munseyization of literature. We are a free people, our politicians tell us, and are strenuously resolved to remain so. But if we are to be judged by our popular literature, the verdict can hardly be other than that we have reached an advanced stage of subserviency, and that the normal mood of the overwhelming majority is one of complacency with its lot. Our popular magazines regularly keep before us a justification, actual or inferential, of things as they are; and though it is couched in less argumentative phrasing than that of the newspapers, it is, no doubt, for that very reason, a more plausible and effective expression of the plea. There are panegyrics on our captains of industry, tales of their exploits in the great industrial battle, descriptions of their town-houses and country-seats,—all, in fact, that makes for the emulation of their wisdom and virtues, and particularly of their faculty of acquisitiveness,—with a multitude of recipes for the winning of "success." Along with this is provided a vaudeville of idle entertainment: wonder tales, short stories, a gallery of pictures of stage-folk, who, whatever their merits may be, bear but a problematic relation to literature; and finally an amorphous compound of sedative miscellany that not only charms the mind from serious thinking, but in time paralyzes the very power of thought.

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Such of these publications as indulge in the gentle art of reviewing give further evidence of changing conditions. Reviewing, as now practised, studies the amenities of life, with a particular regard for the counting office, "wherein doth sit the dread and fear" of the publisher who has advertising to distribute. With a few notable exceptions the reviewing journals make it their business to be "nice." They do not damn, not even with faint praise; they commend or extol. It is not that they praise insincerely a bad book—reviewing is too highly developed a craft for such crudity. But in a bad book all that the widest exercise of charity can pronounce even passably good comes in for praise; and what is weak or poor, or inclusive under old John Dennis's favorite term of "clotted nonsense," is mercifully omitted from mention. So it is when the advertising publisher is a factor in the game. But a reviewing journal must uphold a reputation for impartial judgment, and must thus mingle blame with praise. Its opportunity comes when some inglorious Milton of Penobscot or Butte prints his verses at home at his own expense. A copy drifts into the reviewing office and effects a transformation. The angelic temper upon which so many and such large drafts are made becomes exhausted, and the humble poet is treated to the sort of thing which Gifford used to deal out to the Della Cruscans and the ireful Dennis to the poetasters of Queen Anne's time. It was perhaps the last regret of the late J. Gordon Coogler, of Columbia, S.C., that instead of printing his amiable verses on his own press, he had not guaranteed the cost of their production, and secured their publication by a metropolitan firm.

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The literary distinction of former days has taken wings. Whether or not Wordsworth was right in his lament over the state of England in 1803 may be questioned; but a like lament uttered for our own land and time would be in large part justified. We have the two extremes of exceedingly plain living and of wildly extravagant living; but high thinking seems to be the accompaniment of neither. For several years the only really salable books have been novels, and among these popular favor has centred almost wholly on the kind called historical—called so not because the stories bear any relation to history, but because in them the action is put in a past time. Lately, it is true, there have been signs of a reaction; but let none imagine that it is due to a growing taste for stronger meat. Rather it is an evidence that in our love of novelty we have tired of one trifle and now demand another in its stead.

For the recent indications of declining favor for the historical novel are accompanied by no signs of reviving favor for more serious works. The Huxley Memoirs, it is true, unexpectedly achieved the degree of favor usually given to a fifth-rate novel; but the work, despite its science, philosophy, and religious controversy, was yet an entertaining story, and won its way for that reason. No more in fiction than in other branches of literature is there promise of better things. Even the "problem" novel, which, though often crude or hysterical, was yet an attempt to deal with some of the deeper facts of life, has been banished, and is not to be permitted to return. "Our publishers," says the well-known literary supplement of a New York daily newspaper, "are seeking on all sides for wholesome stories, dealing optimistically with life, and reaching happy

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conclusions." It is a true judgment, and reveals most clearly the present standards of public taste. Our popular magazines most accurately reflect the public mind. Pictures and stories are the substance of its childish delight. Among periodicals we have nothing in any way comparable to the *Edinburgh*, the *Quarterly*, the *Nineteenth Century*, the *Fortnightly*, the *Contemporary*, the *Athenæum*, the *Spectator*, the *Saturday Review*, or even the *Academy*. Whatever tendencies of late have seemed to indicate the future planting of such reviews on these shores, have very recently been extinguished. Of three publications in which articles of some thought and some importance were occasionally printed, two have recently found a monthly issue more frequent than the public taste required, and have accordingly transformed themselves into quarterlies, while the third has been forced to make concessions to the general demand for "lightness and brightness." For these are the qualities which pay. "Make it light and bright," is the order which the literary contributor hears in the editorial offices when he submits his wares; and though the terms may be variously interpreted, he understands what is meant: he must write down to the level of childish minds and complacent natures. Accordingly, he writes so, to the best of his ability, and so, to that limit, do all his fellows. The collective result is seen in the character of the greater number of our books, our magazines, our Saturday and Sunday supplements. On all sides is poured forth a flood of print which deludes the hope or flatters the vanity of the mass, and which insures a state of mental subserviency,—the necessary requisite of the economic subserviency imposed by the ruling class.

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CHAPTER IX TRANSITION AND FULFILMENT

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Upon all the heterogeneous but coalescing units of the social mass the group of magnates imposes its collective will. There are still disputes and rivalries among the rulers, and may ever be; but these are for the most part minor differences, to be settled among themselves and their mutual arbitrators, the judges, and qualify in no way the facts of a recognized community of interests and of collective purposes and plans. Whatever the individual rivalries, they result in no deliberate betrayal of class interest; practically every magnate maintains, at all hazards, his fidelity to the group. A sense of group honor may in most instances prompt this fidelity, but a lively sense of apprehension is also influential. For should any magnate become possessed of heretical notions, and thereupon make common cause with the public against a particular interest of his class, he would by that act banish himself from communion with his fellows, and jeopard his possessions to the last dime. There is, as every one knows, a definite seigniorial resolve that no strike of workmen on transportation lines or in public utilities shall succeed; and when such a strike occurs, every resource of the magnate class is brought to bear to resist and defeat it. Often there are attendant circumstances which might tempt a rival, for his own interests, to interfere on behalf of the workers. But the thing is never done; and he who should do it would declass himself as effectually as a mediæval nobleman would have done by enlisting in a peasants' rebellion. There is, furthermore, a definite seigniorial determination to withstand to the utmost the agitation for public ownership; every magnate, with his intellectual retainers behind him, makes of himself a modern Stonewall Jackson in resistance to this movement. Here, again, industrial rivalry might at times prompt a desertion to the public cause. But there is no such case; here, as elsewhere, the ruling class maintains its integrity. As is known, great strikes are sometimes won; and occasionally, in isolated places, an advance is made in the direction of public ownership. But neither is accomplished through desertions in the seigniorial group, and the instances prove only that its rule has not yet become supreme.

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I

The new Feudalism will be but an orderly outgrowth of present tendencies and conditions. All societies evolve naturally out of their predecessors. In sociology, as in biology, there is no cell without a parent cell. The society of each generation develops a multitude of spontaneous and acquired variations, and out of these, by a blending process of natural and conscious selection, the succeeding society is evolved. The new order will differ in no important respects from the present, except in the completer development of its more salient features. The visitor from another planet who had known the old and should see the new would note but few changes. *Alter et idem*—another yet the same—he would say. From magnate to baron, from workman to villein, from publicist to court agent and retainer, will be changes of state and function so slight as to elude all but the keenest eyes.

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An increased power, a more concentrated control, will be seen. But these have their limitations, which must not be disregarded. A sense of the latent strength of democracy will restrain the full exercise of baronial powers, and a growing sense of ethics will guide baronial activities somewhat toward the channels of social betterment. For democracy will endure, in spite of the new order. "Like death," said Disraeli, "it gives back nothing." Something of its substance it gives back, it must be confessed; but of its outer forms it yields nothing, and thus it retains the potentiality of exerting its will in whatever direction it may see fit. And this fact, though now but feebly recognized, will be better understood as time runs on, and the barons will bear in mind the limit of popular patience. It is an elastic limit, of a truth; for the mass of mankind are more ready to endure known ills than to fly to others that they know not. It is a limit which, to be heeded, needs only to be carefully studied. Macaulay's famous dictum, that the privileged classes, when their rule is threatened, always bring about their own ruin by making further exactions, is likely, in this case, to prove untrue. A wiser forethought begins to prevail among the autocrats of to-day—a forethought destined to grow and expand and to prove of inestimable value when bequeathed to their successors. Our nobility will thus temper their exactions to an endurable limit; and they will distribute benefits to a degree that makes a tolerant, if not a satisfied, people. They may even make a working principle of Bentham's maxim, and after, of course, appropriating the first and choicest fruits of industry to themselves, may seek to promote the "greatest happiness of the greatest number." For therein will lie their greater security.

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The Positivists, in their prediction of social changes, give us the phrase, "the moralization of capital," and some of the more hopeful theologians, not to be outdone, have prophesied "the Christianization of capital." So far there is not much to be said confirmatory of either expectation. Yet it is not to be denied that the faint stirrings of an ethical sense are observable among the men of millions, and that the principle of the "trusteeship of great wealth" has won a number of adherents. The enormous benefactions for social purposes, the construction of "model workshops" and "model villages," though in many cases prompted by self-interest and in others by a love of ostentation, are at least sometimes due to a new sense of social responsibility. A duty to society has been apprehended, and these are its first fruits. It is a duty, true enough, which is but dimly seen and imperfectly fulfilled. The greater part of these benefactions, as has already been pointed out, is directed to purposes which have but a slight or indirect bearing upon the relief of social distress, the restraint of injustice, or the mitigation of remediable hardships. The giving is even often economically false, and if carried to an extreme would prove disastrous to the

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community; for in many cases it is a transmutation of wealth from a status of active capital, wherein it makes possible a greater diffusion of comfort, to a status of comparative sterility. But, though often mistaken as is the conception and futile the fulfilment of this duty, the fact that it is apprehended at all is one of considerable importance, and one that carries the promise of baronial security in the days to come.

II

Bondage to the land was the basis of villeinage in the old régime; bondage to the job will be the basis of villeinage in the new. The new régime, absolving itself from all general responsibility to its workers, extends a measure of protection, solely as an act of grace, only to those who are faithful and obedient; and it holds the entire mass of its employed underlings to the terms of day-by-day service. The growth of industries has overshadowed the importance of agriculture, which is ever being pushed back into the West and into other and remote countries; and the new order finds its larger interests and its greater measure of control in the workshops rather than on the farms. The oil wells, the mines, the grain fields, the forests, and the great thoroughfares of the land are its ultimate sources of revenue; but its strongholds are in the cities. It is in these centres of activity, with their warehouses, where the harvests are hoarded; their workshops, where the metals and woods are fashioned into articles of use; their great distributing houses; their exchanges; their enormously valuable franchises to be had for the asking or the seizing, and their pressure of population, which forces an hourly increase in the exorbitant value of land, that the new Feudalism finds the field best adapted for its main operations. [185]

Bondage to the job will be the basis of the new villeinage. The wage-system will endure, for it is a simpler and more effective means of determining the baron's volume of profits than were the "boon-works," the "week-works," and the *corvées* of old. But with increasing concentration on the one hand, and the fiercer competition for employment on the other, the secured job will become the laborer's fortress, which he will hardly dare to evacuate. The hope of bettering his condition by surrendering one place in the expectation of getting another will be qualified by a restraining prudence. He will no longer trust his individual strength, but when he protests against ill conditions, or, in the last resort, strikes, it will be only in company with a formidable host of his fellows. And even the collective assertion of his demands will be restrained more and more as he considers the constantly recurring failures of his efforts. Moreover, concentration gives opportunity for an almost indefinite extension of the black-list: a person of offensive activity may be denied work in every feudal shop and on every feudal farm from one end of the country to the other. He will be a hardy and reckless industrial villein indeed who will dare incur the enmity of the Duke of the Oil Trust when he knows that his actions will be promptly communicated to the banded autocracy of dukes, earls, and marquises of the steel, coal, iron, window glass, lumber, and traffic industries. [186]

There were three under-classes in the old Feudalism,—free tenants, villeins, and cotters. The number of tenants on the farms has approximately doubled in the last twenty years, while in the great cities nearly the whole population are tenants. The cotters, with their little huts and small holdings in isolated places about the margin of cultivation, are also in process of restoration. The villeins are an already existent class, more numerous proportionately than ever before, though the exact status of their villeinage is yet to be fixed. But modern society is characterized by complexities unknown in any of its predecessors, and the specialization of functions requires a greater number of subordinate classes. It is a difficult task properly to differentiate them. They shade off almost imperceptibly into one another; and the dynamic processes of modern industry often hurl, in one mighty convulsion, great bodies of individuals from a higher to a lower class, blurring or obscuring the lines of demarcation. Nevertheless, to take a figure from geology, these convulsions become less and less frequent as the substratum of industrial processes becomes more fixed and regular; the classes become more stable and show more distinct differences, and they will tend, under the new régime, to the formal institution of graded caste. At the bottom are the wastrels, at the top the barons; and the gradation, when the new régime shall have become fully developed, whole and perfect in its parts, will be about as follows:— [187]

I. The barons, graded on the basis of possessions.

II. The court agents and retainers.

III. The workers in pure and applied science, artists and physicians.

IV. The entrepreneurs, the managers of the great industries, transformed into a salaried class.

V. The foremen and superintendents. This class has heretofore been recruited largely from the skilled workers, but with the growth of technical education in schools and colleges, and the development of fixed caste, it is likely to become entirely differentiated.

VI. The villeins of the cities and towns, more or less regularly employed, who do skilled work and are partially protected by organization.

VII. The villeins of the cities and towns who do unskilled work and are unprotected by organization. They will comprise the laborers, domestics, and clerks.

VIII. The villeins of the manorial estates, of the great farms, the mines, and the forests.

IX. The small-unit farmers (land owning), the petty tradesmen, and manufacturers.

X. The subtenants on the manorial estates and great farms (corresponding to the class of "free tenants" in the old Feudalism).

XI. The cotters.

XII. The tramps, the occasionally employed, the unemployed—the wastrels of city and country.

The principle of gradation is the only one that can properly be applied. It is the relative degree of comfort—material, moral, and intellectual—which each class directly contributes to the nobility. The wastrels contribute least, and they are the lowest. The under-classes who do the hard work lay the basis of all wealth, but their contribution to the barons is indirect, and comes to its final goal through intermediate hands. The foremen and superintendents rightly hold a more elevated rank, and the entrepreneurs, who directly contribute most of the purely material comfort, will be found well up toward the top. Farther up in the social scale, partly from æsthetic and partly from utilitarian considerations, will be the scientists and artists. The new Feudalism, like most autocracies, will foster not only the arts, but also certain kinds of learning—particularly the kinds which are unlikely to disturb the minds of the multitude. A future Marsh or Cope or Le Conte will be liberally patronized and left free to discover what he will; and so, too, an Edison or a Marconi. Only they must not meddle with anything relating to social science. For obvious reasons, also, physicians will occupy a position of honor and comparative freedom under the new régime. [188]

But higher yet is the rank of the court agents and retainers. This class will include the editors of “respectable” and “safe” newspapers, the pastors of “conservative” and “wealthy” churches, the professors and teachers in endowed colleges and schools, lawyers generally, and most judges and politicians. During the transition period there will be a gradual elimination of the more unserviceable of these persons, with the result that in the end this class will be largely transformed. The individual security of place and livelihood of its members will then depend on the harmony of their utterances and acts with the wishes of the great nobles. Theirs, in a sense, will be the most important function in the State—“to justify the ways of God [and the nobility] to man.” They will be the safeguards of the realm, the assuagers of popular suspicion and discontent. So long as they rightly fulfil their functions, their recompense will be generous; but such of them as have not the tact or fidelity to do or say what is expected of them will be promptly forced into class XI or XII, or, in extreme cases, banished from all classes, to become the wretched pariahs of society. At times two divisions of this class will find life rather a burdensome travail. They are the judges and the politicians. Holding their places at once by popular election and by the grace of the barons, they will be fated to a constant see-saw of conflicting obligations. They must, in some measure, satisfy the demands of the multitude, and yet, on the other hand, they must obey the commands from above. [189]

III

Through all the various activities of these classes (except the wastrels and the cotters) our Benevolent Feudalism will carry on the Nation’s work. The full measure of profit is its aim; and having the substance of its desire, it shows a utilitarian scorn of the mummeries and ceremonials by which the overlordship of other days was formally acknowledged. The ancient ceremony of “homage,” the swearing of personal fidelity to the lord, is relaxed into the mere beseeching of the foreman for work. Directness and efficacy characterize its methods. The wage-system, with its mechanical simplicity, continuing in force, there is an absence of the old exactions of special work. A mere altering of the wage-scale appropriates to the noble whatever share of the product he feels he may safely demand for himself. Thus “week-work,” the three or four days’ toil in each week which the villein had to give unrecompensed to the lord, and “boon-work,” the several days of extra toil three or four times a year, will never be revived. Even the company store, the modern form of feudal exaction, will in time be given up, for at best it is but a clumsy and offensive makeshift, and defter and less irritating means are at hand for reaching the same result. There will hardly be a restoration of “relief,” the payment of a year’s dues on inheriting an allotment of land, or of “heriot,” the payment of a valuable gift from the possessions of a deceased relative. Indeed, these tithes may not be worth the bother of collecting; for the villein’s inheritance will probably be but moderate, as befits his state and the place which God and the nobility have ordained for him. [190]

Practically all industry will be regulated in terms of wages, and the entrepreneurs, who will then have become the chief salaried officers of the nobles, will calculate to a hair the needful production for each year. Waste and other losses will thus be reduced to a minimum. A vast scheme of exact systematization will have taken the place of the old competitive chaos, and industry will be carried on as by clock-work. The workshops will be conducted practically as now. Only they will be very much larger, the individual and total output will be greater, the unit cost of production will be lessened. Wages and hours will for a time continue on something like the present level; but, despite the persistence of the unions, no considerable gains in behalf of labor are to be expected, except such as are freely given as acts of baronial grace and benevolence. The owners of all industry worth owning, the barons will laugh at threats of striking and boycotting. No competitor will be permitted to make capital out of the labor disputes of another. There may or may not be competitors. A gigantic merger of all interests, governed by a council of ten, may supplant the individual dukedoms and baronies in the different industries, or these may continue as now, the sovereign units of a federated whole. But in neither case can labor carry its point against them. Nevertheless, dissatisfaction must be guarded against as a possible menace to the régime. Wages and dividends will be nicely balanced with a watchful regard for the fostering of content; workshops and villages of yet more approved models than any of the present will be built, and a thousand Pelzers and Pullmans will arise. Old-age pensions, or at least the promise of them, will be extended to new groups, and by all possible means the lesson that protection and security are due only to faithfulness and obedience will be made plain to the [191]

entire villein class.

Gradually a change will take place in the aspirations and conduct of the younger generations. Heretofore there has been at least some degree of freedom of choice in determining one's occupation, however much that freedom has been curtailed by actual economic conditions. But with the settling of industrial processes comes more and more constraint. The dream of the children of the farms to escape from their drudgery by migrating to the city, and from the stepping-stone of a clerkly place at three dollars a week to rise to affluence, will be given over, and they will follow the footsteps of their fathers. A like fixity of condition will be observed in the cities, and the sons of clerks and of mechanics and of day laborers will tend to accept their environment of birth and training and abide by it. It is a phenomenon observable in all countries where the economic pressure is severe, and it is yet more certain to obtain in feudal America. [192]

IV

The outlines of the present State loom but feebly through the intricate network of the new system. The nobles will have attained to complete power, and the motive and operation of government will have become simply the registering and administering of their collective will. And yet the State will continue very much as now, just as the form and name of the Roman Republic continued under Augustus. The present State machinery is admirably adapted for the subtle and extra-legal exertion of power by an autocracy; and while improvements to that end might unquestionably be made, the barons will hesitate to take action which will needlessly arouse popular suspicions. From petty constable to Supreme Court Justice the officials will understand, or be made to understand, the golden mean of their duties; and except for an occasional rascally Jacobin, whom it may for a time be difficult to suppress, they will be faithful and obey. [193]

The manorial courts, with powers exercised by the local lords, will not, as a rule, be restored. Probably the "court baron," for determining tenantry and wage-questions, will be revived. It may even come as a natural outgrowth of the present conciliation boards, with a successor of the Committee of Thirty-six of the National Civic Federation as a sort of general court baron for the nation. But the "court leet," the manorial institution for punishing misdemeanors, wherein the baron holds his powers by special grant from the central authority of the State, we shall never know again. It is far simpler and will be less disturbing to the popular mind to leave in existence the present courts so long as the baron can dictate the general policy of justice.

Armed force will, of course, be employed to overawe the discontented and to quiet unnecessary turbulence. Unlike the armed forces of the old Feudalism, the nominal control will be that of the State; the soldiery will be regular, and not irregular. Not again will the barons risk the general indignation arising from the employment of Pinkertons and other private armies. The worker has unmistakably shown his preference, when he is to be subdued, for the militia and the Federal army. It is not an unreasonable attitude, and it is hardly to be doubted that it will be respected. The militia of our Benevolent Feudalism will be recruited, as now, mostly from the clerkly class; and it will be officered largely by the sons and nephews of the barons. But its actions will be tempered by a saner policy. Governed by those who have most to fear from popular exasperation, it will show a finer restraint. [194]

V

Peace will be the main desideratum, and its cultivation will be the most honored science of the age. A happy blending of generosity and firmness will characterize all dealings with open discontent; but the prevention of discontent will be the prior study, to which the intellect and the energies of the nobles and their legates will be ever bent. To that end the teachings of the schools and colleges, the sermons, the editorials, the stump orations, and even the plays at the theatres will be skilfully moulded; and the questioning heart of the poor, which perpetually seeks some answer to the painful riddle of the earth, will meet with a multitude of mollifying responses. These will be: from the churches, that discontent is the fruit of atheism, and that religion alone is a solace for earthly woe; from the colleges, that discontent is ignorant and irrational, since conditions have certainly bettered in the last one hundred years; from the newspapers, that discontent is anarchy; and from the stump orators that it is unpatriotic, since this nation is the greatest and most glorious that ever the sun shone upon. As of old, these reasons will for the time suffice; and against the possibility of recurrent questionings new apologetics will be skilfully formulated, to be put forth as occasion requires. [195]

Crises will come, as in the life of all nations and societies; but these will be happily surmounted, and the régime will continue, the stronger for its trial. A crisis of some moment will follow upon the large displacements of labor soon to result from the shutting up of needless factories and the concentration of production in the larger workshops. Discontent will spread, and it will be fomented, to some extent, by agitation. But the agitation will be guarded in expression and action, and it will be relatively barren of result. For most ills there is somewhere a remedy, if only it can be discovered and made known. The disease of sedition is one whose every symptom and indication will be known by rote to our social pathologists of to-morrow, and the possible dangers of an epidemic will, in all cases, be provided against. In such a crisis as that following upon the displacement of labor a host of economists, preachers, and editors will be ready to show indisputably that the evolution taking place is for the best interests of all; that it follows a "natural and inevitable law"; that those who have been thrown out of work have only their own

incompetency to blame; that all who really want work can get it, and that any interference with the prevailing régime will be sure to bring on a panic, which will only make matters worse. Hearing this, the multitude will hesitatingly acquiesce and thereupon subside; and though occasionally a radical journal or a radical agitator will counsel revolt, the mass will remain quiescent. Gradually, too, by one method or another, sometimes by the direct action of the nobility, the greater part of the displaced workers will find some means of getting bread, while those who cannot will be eliminated from the struggle and cease to be a potential factor for trouble. Crises of other kinds and from other causes will arise, only to be checkmated and overcome. What the barons will most dread will be the collective assertion of the villeins at the polls; but this, too, from experience, they will know to be something which, while dangerous, may yet be thwarted. By the putting forward of a hundred irrelevant issues they can hopelessly divide the voters at each election; or, that failing, there is always to be trusted as a last resort the cry of impending panic. [196]

VI

Gradually the various processes in the social life merge, like the confluents of some mighty Amazon, into a definite and confined stream of tendency. A more perfect, a better coördinated unity develops in the baronial class, and the measure of its control is heightened and extended to a golden mean which insures supremacy with peace. The under-classes settle in their appointed grooves, and the professional intermediaries definitely and openly assume their dual function of advisers to the barons and of interpreters to the people of the baronial will and ways. Laws, customs, the arts,—all the institutions and social forces,—change with the industrial transformation, and attain a finer harmony with the actual facts of life. All except literature, be it said, for this has outdistanced its fellows in the great current and already reflects the conditions, the moods, and ideals of the society of to-morrow. Here, at least, the force of nature can no farther go, and no change is to be anticipated for the present. But the other institutions and social forces are gradually transformed, and when the full coalescence of all the factors is attained, our Benevolent Feudalism, without a shock, without so much variance as will enable any man to say, "It is here," passes to its ascendancy, and the millennium of peace and order begins. [197]

Peace and stability it will maintain at all hazards; and the mass, remembering the chaos, the turmoil, the insecurity of the past, will bless its reign. Peace and stability will be its arguments of defence against all criticism, domestic or foreign. An observant visitor from some foreign State may pick a defect here and there; but the eloquent defender of the régime will answer: Look upon the tranquillity that everywhere prevails, and reflect upon the inquietude and anarchy of the past. The disturbances of labor have ceased, and sedition, though occasionally encountered, is easily thwarted and put down. The crudities and barbarities of other days have given way to ordered regularities. Efficiency—the faculty of getting things—is at last rewarded as it should be, for the efficient have inherited the earth and its fulness. The lowly, "whose happiness is greater and whose welfare is more thoroughly conserved when governed than when governing," as a twentieth-century philosopher said of them, are settled and happy in the state which reason and experience teach is their God-appointed lot. They are comfortable, too; and if the patriarchal ideal of a vine and fig tree for each is not yet attained, at least each has his rented patch in the country or his rented cell in a city building. Bread and the circus are freely given to the deserving, and as for the undeserving, they are merely reaping the rightful rewards of their contumacy and pride. Order reigns, each has his justly appointed share, and the State rests in security, "lapt in universal law." [198]

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