

ered the validity of the indictment as judicially established and empanelled a jury to try it. Judge Chetlain was under no obligation, of course, to regard Judge Tuthill's decision as binding; he had the legal right to reverse that decision. But when the consequences are considered, his doing so affords an excuse at least for questioning the integrity of his purpose. Had he accepted Judge Tuthill's decision as the law of the case until reversed by a higher court, the case would have gone to the jury. If a verdict of "not guilty" had been rendered all errors of law would have been cured and the accused would have been exonerated. If the verdict had been "guilty," Judge Tuthill's error, if an error, could have been corrected by the higher courts. But Judge Chetlain chose to reverse Judge Tuthill, and consequently to order the jury to acquit. By doing that, he prevented all possibility of rectifying errors, and allowed men apparently criminal to escape. The higher courts are prevented from deciding whether Tuthill or Chetlain is right, and the accused are shielded from the danger of a trial on another indictment for the same offense. This has every appearance of a miscarriage of justice for which the intricacies of the law are less responsible than the inclinations of a judge.

#### Postal censorship in the United States.

An address issued from New York by the Free Speech League (Dr. E. B. Foote, treasurer, 120 Lexington avenue), calls attention to the development in this country of a usurpation of power of the most threatening character—censorship of the press. The particular instance referred to is the case of a Chicago publication named "Lucifer," edited by Moses Harman, and charged with publishing something obscene; but neither the particular paper or its editor, nor the particular charge, is important, in view of the arbitrary method of suppression. The vital issue raised by this case is not whether obscene publications

shall be suppressed; it is whether the postal department shall be permitted to pass judgment, *ex parte*, on the question of obscenity, and, without due process of law, to destroy newspaper properties upon the ipse dixit of postal clerks.

This is what appears to have been done in Harman's case. Having deposited a regular edition of his paper in the mails, he supposed it had been distributed to his subscribers; but he learned later that, instead of being distributed, it had been sent to the dead letter office and confiscated upon a charge of containing obscene matter. Whether the matter was obscene we are in no position to judge, for the paper is not before us; but every intelligent citizen is in a position to judge of the importance of the right of a newspaper publisher to a fair trial on any accusation, even of indecency, before being deprived of his property. If postal clerks may at will suppress and confiscate any edition of any periodical which they are ordered or are pleased to regard as obscene, then no periodical which in any respect offends the powers that be, is quite safe from censorial malice.

It is easy to convict of crime when the accuser is also prosecutor, judge and jury, and the accused is given neither opportunity to be heard nor notice of the accusation. Especially is this true when the same authorities who thus confiscate property without due process of law, refuse to disclose in advance of publication what their judgment as to the legitimacy of printed matter may be. For illustration: The editor of a perfectly clean periodical, feeling called upon to discuss in a decent manner some question relating to the philosophy of sex relationships, might in good faith submit his article to the proper postal authorities with a view to avoiding the penalties of censorship. But the authorities would refuse to advise him, although, as their functions are ex-

ecutive and not judicial, there is no reason for such refusal. Yet, after the article had been published, and the edition of the periodical deposited in the mails, the same executive bureau which had refused to disclose its attitude toward the article in advance of publication, would promptly confiscate the edition without allowing the editor any opportunity to be heard. This is precisely what is said to have occurred in Harman's case. It is precisely what the postal authorities assert the right to do in any case. It is absolutely in contravention of American principles of jurisprudence, and it is a most dangerous usurpation of censorial power.

#### THE MEMORY OF JOHN HAY.

Now that the papers are full of John Hay's services and his fame, it is well to recall what past experience has to say of the fame that waits on human deeds. If his name survives in the memory of man for a century, will it be by his statesmanship, or by his verse? Will it be from the events that have put his name in great headlines of the daily press, or from the corners of columns where stray verses are found?

Very few "statesmen" live long on common fame. Statecraft is temporary, and built on expediency. It has rarely been constructive, or based on any great original principle that would set the world forward. Such principles alone can make abiding fame in real statesmanship, and they have usually come from the outside and been adopted slowly and grudgingly by professional statesmen.

Officers of government have their reward in their own day, which means generally that they have done little to merit the reward of future fame and gratitude.

Who knows anything of the statesmen of Europe when Dante was struggling with his *Inferno*? John Milton was a conspicuous and efficient secretary of state, but would he be remembered for this alone? How many great officers of state were flourishing in London when Wordsworth stood unknown on Westminster bridge and wrote his immortal sonnet? Who were the great ones in Scot-

land when Bobbie Burns was throwing off chance songs to his Nancys and Jeans and Marys? How little do contemporaries know of that which from their midst is destined for the memory of future times! But if we may judge anything from the past, we may be sure John Hay will be remembered not from aught he did as secretary of state, but from the verses he wrote long before he dreamt of being the cabinet officer of a government.

J. H. DILLARD.

#### THOMAS W. LAWSON—HIS SINCERITY AND HIS ECONOMIC PHILOSOPHY.

Lawson's tour of the West has had a useful effect,—even if in no other way, yet in dissipating that general feeling of uncertainty regarding his good faith, which the "System" has industriously and somewhat successfully fostered.

The newspaper reports of his speeches have been so farcical that if it had been necessary to depend upon them Lawson would have gained nothing by his trip. But thousands who met him and listened to him are now in a state of mind to respect his motives as well as to welcome his revelations; and, slowly no doubt, but inevitably, their assurances among their friends will counteract the work of garbled and colored press dispatches, with a people with whom the news reporting system of this country is already thoroughly discredited. A comparison, for instance, of his speech at the Jefferson Club in Chicago with the newspaper reports of it could hardly fail to shock the most unsophisticated apologist for the "System." At any rate, those who heard the speech realize, as never before, the usefulness of Lawson's work, and acknowledge, though never before, the genuineness of his purpose.

Lawson's personality is agreeably disappointing. Although one would readily recognize him from his printed portraits, the "sportiness" of most of those reproductions is lacking. His face and natural pose are those of a man who could go through all he has described in his magazine articles, and who would grit his teeth and do it if challenged by circumstances, yet who could afterward de-

scribe it and denounce it not only with the appearance of candor and sincerity which has characterized his Everybody's articles, but with candor and sincerity in fact.

His Chicago speech was excellent both in matter and form. Without any affectation of oratory, or strain after momentary effect of any sort, it was a talk rather than a speech; and it held a large audience for two hours at midnight. Like his magazine articles, his speech revealed but little, compared with its length, of the rascalities of the "System;" but, also like his magazine articles, it wove what he did reveal into the web of a general story of high finance so fittingly as to make the whole recital intensely interesting, and so conspicuously as to emphasize the dangerous criminality of the "System." And it disclosed better than his magazine articles have done, the thread of a true economic philosophy, the end of which he may or may not see; while, even more than either his magazine articles or his personality, it has left behind an impression of profound sincerity.

In our school-boy days, as many of us will remember, the meaning of "sincere" was impressed upon us with interesting stories regarding the etymology of the term. It was compounded, we were told, of two Latin words, "sine," meaning "without," and "cera," meaning "wax." "Without wax," then, as we were instructed, had been the ancient slang out of which our honest word "sincere" had come.

This etymology is now repudiated, it seems; but the repudiation sacrifices picturesque suggestiveness to uncertain truth. For, as one of the "sine cera" stories ran, the old Romans had business grafters among them even as we have at this very day. These business grafters were accustomed in certain lines of trade to make the worse appear the better goods by waxing defects out of sight. In later times putty has been found to be more economical than wax and equally fraudulent. But wax was common then. In due time the waxing frauds and analogous ones generated suspicion against the business classes of Rome—even against men who were pun-

tual in the performance of religious rites,—somewhat as the sanding of sugar, raised suspicion once in our own time against grocers, even against grocers who were deacons; and the honester (possibly the shrewder) ones among those old Roman grafters, learning that genuine goods were better for business purposes than such as had been fraudulently waxed, began to advertise their brands of goods as "sine cera," or something that sounded like that, and the Romans understood them to mean, literally, "without wax," or, as we should say now, and more intelligibly, perhaps, "without graft."

Now, if this story were true, and we should judge the Romans by ourselves, wouldn't it be a fair inference that the pious business men of Rome who continued to use wax fraudulently, sneered at the goods of their honest fellows, saying, "Sine cera non!" or something like it? Wouldn't they have protested in some such language as this: "That lying freedman who says I use wax is unworthy a reply. He uses wax himself. What's his wax?" That would have been the ancient Roman equivalent of the modern American question, "What's his graft?" or, "Is he sincere?"

And we may be sure that the greater the waxer and the worse his exposure, the more vociferously would he have denounced the person exposing him as being himself a waxer. Is it not so in our day?

Whom are the men that we are most vociferously invited, by what Lawson calls "the votaries of the System," to regard as insincere? It is not those who serve the System; it is those, who threaten its existence.

When a Supreme Court judge "changes his opinion over night," in order to serve the System by nullifying the income tax law, who asks what his wax is? When a judge serves votaries of the System by deciding that for the purposes of a criminal prosecution a forgery is not a forgery when it doesn't convey the property it has conveyed, who asks what his wax is? When another judge shall decide, as some judge probably will—and rightly for aught we know—that the prop-