

the ice for corrupt negotiations. The railroads give no passes without expecting some kind of advantage or opportunity to secure advantage in return. Even their newspaper passes are made to yield rich returns. Journalistic favor is often useful and when paid for with passes it is marvelously cheap.

Judson Grenell, of Detroit, author of that very lucid book, "Economic Tangles," and who has been for many years intelligently active in editorial work, has undertaken an important mission abroad. Intending to make an extended trip across the water, he is arranging to supply a chain of American newspapers with letters comparing industrial conditions in this country with those in Great Britain, France, Italy and other European countries. Few newspaper men are as well qualified as Mr. Grenell for such a work. Not only is he exceptionally well-equipped by years of reading, observation, investigation and study with reference to industrial subjects, but he has extraordinary ability as a lucid and interesting writer. Mr. Grenell's "Economic Tangles" is a model of clear thinking and verbal simplicity. The work he is now about to do is one that is much needed. Although foreign letters on industrial subjects are not uncommon, they are as a rule dreadful "fakes." Most of them might be written at home with the aid of an encyclopedia and a statistical library, while others are more picturesque than truthful. Mr. Grenell's work may be depended upon for intelligent selection, accuracy of data, and genuine local color.

When Carroll D. Wright declared in a lecture at Buffalo on the 19th that "the decalogue is as good a labor platform as any," he may have been playing to churchly galleries and boxes. Some parts of the decalogue are not exactly industrial. Yet it is quite true that other parts, if divested of paganistic interpretations, would make the best possi-

ble labor platform. "Six days shalt thou labor," would be a good principle to insist upon, unpopular as it would be with the elegant leisure classes. And "thou shalt not steal," would be the best of all for labor purposes. Let stealing cease—stealing of all kinds, institutional and legal plundering as well as petty larceny—and the labor problem would be solved. There would be no chattel slavery, no economic slavery, no monopoly, no interferences of any kind with industry, if the commandment against stealing were faithfully observed.

In the award of The Hague arbitration tribunal in the Venezuelan case there seems to be some sort of echo of Hood's "Haunted House" refrain:

O'er all there hung a shadow and a fear,  
A sense of mystery the spirit daunted,  
And said as plain as whisper in the ear  
The place is haunted.

The award of this peace tribunal is overshadowed by a fateful recognition of that fundamental law of warfare, that "he may take who has the power and he may keep who can." To decide in favor of the nations that resorted to arms, simply because they resorted to arms, and against those that trusted to the methods of peace, certainly suggests "as plain as whisper in the ear," that The Hague tribunal is haunted by the war spectre. There is much force, to be sure, in Wayne MacVeagh's remark that the particular decision is of no importance, the important thing being the fact that eleven nations have come together in arbitration. Nevertheless a precedent has been made not only in favor of arbitration, but also in favor of resorting to war in order to be in good position for securing favorable awards.

"Would you object to stating how you made your first thousand dollars?" said the heart-to-heart interviewer.

"No," answered Senator Sorghum; "but in discussing this matter I want you to draw the line strictly at the first thousand."—Washington Star.

## JUDICIAL USURPATION.

The development of government by injunction\* is as important as the smothering of an incipient blaze in the neighborhood of a powder magazine.

A court of equity could to-day extend its very strong arm to sell at auction the citizen's goods who is arrested and fined for contempt, without giving rise to anything more than the sensation of a surprise party to the conservative portion of the people. At the extremes of the social scale there would be different opinions as to the civic righteousness of the principle involved. Those who sympathize with the man who is overwhelmed by the opening of the flood gates of justice will say it is right to resist such usurpation of the taxing power, linked with imprisonment for debt. Those at the other extreme would commend the exhibition of nerve and dignity on the part of the official; and could with a clear conscience say that the injunctive process, in the language of Lord Bacon concerning the star chamber, is a sage and beneficent institution. The first named conviction spreads the more rapidly because it is natural for a thing to grow from the ground up.

We are too much inclined to think of the ordinary judge as living in a valley of dry bones. Some talented attorney comes into court and speaks the judge fair: "Breathe me now the breath of life into this long bone, so that my master may become the Samson of society."

All the time the smiling attorney is pleading the cause of abstract justice he has the pass of

\*An injunction was granted by a Boston judge on the 12th of February, 1904, which was thus described by the news dispatches of that date: "Justice Loring, of the Supreme Judicial Court of Massachusetts, has invented a new method of dealing with sympathetic strikes. It is an injunction against the paying of strike benefits by union men in such cases. The injunction, which is a temporary one, was issued to-day against the International Pressmen and Assistants' union. The pressmen have been threatening a sympathetic strike in connection with the contest of the job compositors of this city against members of the United Typothetae of America. By the terms of the injunction they are restrained from bringing about this action. That clause of the injunction referring to strike benefits prohibits their payment to those who have already left their work out of sympathy for the strikers rather than because of any individual grievance against their employers. The striking book and job printers are also enjoined from inciting the pressmen and feeders to leave their present employ."

the corporation he is working for stowed away in his pocket; and ten to one his honor on the bench is in the same fix. The pleader gains his end by concealing as much as he reveals. He aims to apply suggestive treatment. In his genial fashion he would have a Minerva-like idea spring full orbed from the brain of the public servant he addresses to convince him of the possession of surplus power. It must be a comfortable sensation to realize that you are like Robinson Crusoe, monarch of all you survey. Jefferson made the red-headed observation that the less governing we do the better. He had in mind the natural law that the citizen gets stubborn when he is hammered into submission; his adherence to the constitution and the laws ought to be free-will offerings.

The Federal judge, for instance, in swinging round his ample circuit reaches a community afflicted with an industrial boil. Instead of applying Franklin's prudential algebra, and without seeing the patient in consultation, he hears the ex parte complaint of those who stand charged with giving the wrong medicine, and grants the injunction. How much truth and falsehood have been woven together into the woof of persuasion the victim does not know. If he did know he might be prepared to bring a suit for slander. The nurse meets the toiler in the middle of the road and orders him to consent to a bad bargain.

Organized wealth may be seeking to add a cubit to its stature. It manifests no disposition to confess that its gain means labor's loss. The plea is always: "Oh, my Lord, maintain the status quo ante bellum." In the same breath it makes the claim that the splendid new conditions created by combination imply expansive constitutional limitations; whereas strict construction must be used on the rebels in the trenches, shops and herding pens of labor.

Attorney General Knox is on record as saying that the big holding companies have not played the part of alma mater to American prosperity. What they do hold is the big end of the horn of plenty. With equal truth they might be called withholding companies. Their gold mine is the public pocket

book. Sometimes they illustrate a famous line of Browning's:

A man's reach is longer than his grasp.

An injunction does not make the impression of being loaded with the determination to go behind the returns and inquire into the antecedent history of a sore spot. What it actually does is to command the wage worker to look pleasant. Labor disputes never strike a community with splitting suddenness. We ought to be built right to admit, that in the case of a strike involving a few thousands of men, some of the number are honest, God-fearing men, who have a desire to meet obligations. Something has happened to dislocate the hip joint of confidence. The willingness to strike does not imply the desire to strike. Nothing else will fill the bill. The guilty parties do not intend to sever relations with the employer. They know well enough where bread and butter comes from. A striker's offense is rank, it smells to heaven, inasmuch as it seeks to regulate another man's business. Hiring substitutes and resistance thereto are parts of the game. Here is a strategic point both sides undertake to hold against all comers. Persuasion, picketing, mobocracy, agitation, sympathy and money-aid are eagerly sought by the strikers. Employers seek to thrust aside these cobwebs with the new broom called the injunction. It must needs be polyglot for fear it may tackle a tarantula.

Sharp lines of demarcation are visible in the afflicted community as to the disease and the remedy. Outside the local ring in which the combatants engage in their pitched battle is the greater ring where the public is asked to stand as a disinterested spectator. A hungry bull dog has no choice between a sermon and a spanking. Government does not intervene with a helping hand as it aims to do where money is needed to move crops, or where stringency comes down on the money centers like a wolf on the fold. An injunction has been known to punish the least guilty.

Hatching technicalities is a business of the legal departments of the big corporations. Woe unto

the hired servant who allows his master to be beaten in a court of justice. Either he must find a way or make one to stay the hand of the avenger out of the raw material.

The stepfather of a recent injunction had to pay the penalty for carrying his flag too far ahead of the constitution. He must have heard something drop, or he would not, after the fashion of Saint Peter's dog, have returned to his vomit. It is a self-evident fact that the trusts regard themselves as the fifth wheel of the administration, because they pay the freight on Presidential elections.

Intervention from Washington should not be as a thing done in a corner. To charge organized labor with conspiracy and intent to destroy property, on account of a threatened strike, is throwing sand into the public eye. Organized capital scouts the idea that it is under any obligation to the wage worker for his job; yet it coolly asks for an injunction restraining men from quitting its employ in a pinch. Justice should be the same yesterday, to-day and forever.

In the original injunction applied to labor disputes, which was sued out in the Massachusetts court A. D. 1888, it was contended that carrying a banner constituted intimidation. That was intended to be a warning to trespassers, and presaged a new-fangled interpretation of existing law, liable to have as startling consequences as the opinion of a Pennsylvania judge, that a natural right to do missionary work among non-strikers did not exist. Human beings are not intimidated by something which cannot exercise force. That banner was not the thing aimed at in reality. We might as sensibly argue that the human voice belongs to Balaam's ass. Banners in a political procession are inimical to the success of a party, but they could not be enjoined any more than a flash of lightning. Men could be found to appeal to court, verily believing they did the cause of good government a service.

A disturbance of the peace was in progress. The day of contract, conciliation, profit-sharing and arbitration had not yet dawned with healing in its wings. As a result

of this pulling of injunctions out of courts of equity with forceps, these latter aids to labor's cause have sprung up and borne fruit, some thirty, some sixty and some an hundred fold.

The judge in his chambers understood that mobocracy is a contagious disorder. Extra constitutional power would be seized by the mob or the court, and the question to be settled on short notice was simply this; Which power could make the most merciful and honest use of oppression? Surgeons, in the press of a great battle, amputate more legs than they would under ordinary circumstances. If the judge used a convex lens in his search for authority, and magnified it until it was made to include a piece of virile municipal legislation, he would reflect that he had jurisdiction, and his act was not subject to review. The mob does not have jurisdiction, and it is in the minority; the majority being conservative enough to stay by the stuff in the social organism as long as possible. A banner to-day might incite to riot to-morrow, and to murder and incendiarism the day following. How much better to have a scapegoat than to invite a deluge of criminal business for the courts. "Take no thought for the-morrow" does not apply to courts.

This kind of an injunction is as far removed as the east is from the west, compared with the starvation injunction of a later date, but they are seed and melon to each other. The English precedent of 1868 was counterfeit. Some American investigator found the bones of this prehistoric giant and constructed a Trojan horse.

Interference with fundamental rights must have been deliberately planned where the disbursing officer of an organization of wage workers was enjoined from paying relief money to members on strike. The right to belong to a lodge is as sacred as the right to belong to a church. There is no necessary connection between a man's occupation and his lodge. One is not the train to the body of the other. His job requires that the wage worker spend the best part of the day on the premises of his employer. Capital is not a schoolmaster to exercise su-

perision over an employe outside of working hours. Men who disobey the mandate of a court are treated as legal heretics. They are not exactly plain, unvarnished criminals. Courts would fall into disrepute if they had not the power to compel obedience. If the man with the hoe will not be good he must be punished for something. His guilt must be only constructive, since it is not touched by the right to the committing magistrate, counsel, appeal and jury. The trial by jury of a body of strikers caught in the act of refusing to work would be expensive and tedious. Taxpayers would not suffer such a burden to be loaded upon them for any length of time. "What thou doest do quickly to save the enjoiner's face," is the theory of the injunction. An old dodge is to create a diversion in the opposite direction to the real point of attack.

First the injunction was used to protect the private right in civil property. That was accepted as an edible mushroom. Later, organized wealth applied the principle to the preservation of public peace. People may have been astonished at the doctrine, but it worked. Now it has become a pons asinorum to enforce political powers.

Combinations of capital have picketed every avenue of approach to political power. Insistence that it is conspiracy to use the machinery of organized labor to strike ignores the twin fact that it is treason to usurp the functions of government.

Where the occupant of the bench shows the unmistakable proofs of concentrated mental energy by interfering with some of the alleged privileges of capital, he becomes at once persona non grata. It is imperative that he come to his task thoroughly furnished unto every good work, from a biased standpoint. Washington's test for high office is not enough, namely, "ability, integrity and conspicuousness." Industrial conspiracy is proven by a combination which stands a pyramid of money on its apex. An injunction does not often demonstrate its right to existence by removing such a heart clot from the national vitals. Earning capacity and buying capacity for producer

and consumer are measured by the yard-stick of capital. The wage worker has the narrower interest in industry, perhaps, but, such as it is, it represents all that makes life worth living. The few cents which capital seeks to shear off the labor cost of a product per capita can ill be spared. More of this amount in the aggregate will find its way into the channels of trade if it goes into the poor man's pocket than if it goes into the stockholder's private bank account. Over capitalization is heightened robbery of the plain people. Commodity handlers have a lively interest in the continuous activity of the industrial giants. Upon the steady employment of wage workers depends the turning of society on its axis. Fat pocketbooks incline toward big heads. Workingmen have a cast-iron conviction that capital is trying to put the cart before the horse. Those who force industry to the front have to carry a swarm of drones along. It is a granite boulder fact that \$1,100 is required to-day to do the work of \$700 four years ago. One-third of labor's purchasing power has disappeared as mysteriously as Captain Kidd's treasure, or the booty of Ananias and Sapphira. To steal outright amounts to the same thing as to destroy something beyond the hope of recovery which the wage worker needs in his business.

Injunctions have advantages which employers are slow to speak of in public. They put the government in the position of the insurance company. Defense with military power is the alternative to a suit for damages. Either way the cost comes out of the tax payers of the nation, and it is hinted that it will pay in dollars and cents to stand by the government, no matter how severe its repressive measures may seem. The love of money in such a case may be a root of evil.

Strikers are irresponsible, and the court does its best to put the foundation for responsibility somewhere. Monopoly, which squeezes the price of what it buys and inflates the price of what it sells, will practice its system of organized loot in any direction. As an example of how the people are exploited study the coal strike. Say the estimated output for the

current year will be 60,000,000 tons. One dollar per ton increase would make several men multi-millionaires. These men, of course, saw the end from the beginning, and initiated an ordered sequence of events as logical as the tale of The House That Jack Built. Where the graft was faulty was in overlooking the tendency of the unexpected to happen. Proposals for government ownership of coal mines and the strike commission have boosted the cause of organized labor.

The people were careful to lodge the taxing power where it would be under the best control. Courts have power to find that the value of stocks and bonds is a fair basis for taxation, but organized wealth finds it easy to rob this wasp of its sting. Violation of equity in this point is presumptive evidence of conspiracy, to the same extent as the determination to strike on the part of organized labor. The court shows a disposition to treat everybody alike in the same way as the Almighty, who does not do for us what we can do for ourselves.

A commission to study government by injunction would be as sensible as a tariff or finance commission.

The injunction having issued against a body of strikers the latter are in contempt if they dare to violate the judge's ipse dixit. It affects others as well as the strikers, who happen to be driven into the industrial whirligig. Suppose the judge who brings forth the injunction could be an eye witness to a head-end collision between the contending forces, in which a striker commits murder. Would the striker be punished for contempt, or would he be reserved for the criminal court to make a horrible example of? It cannot be a doctrine of American jurisprudence that a man must commit murder in order to be entitled to trial by jury.

JAMES E. FREE.

## NEWS

Week ending Thursday, Feb. 25.

Russia has made reply to the American diplomatic note (p 729) with reference to limiting the sphere of hostilities in the war be-

tween Japan and Russia in China. The reply was made public on the 19th. It acquiesces in the American suggestion, but definitely insists that Manchuria must not be considered as excluded from the field of military operations.

Regarding hostilities in Manchuria China has addressed both Russia and Japan. She reiterates her intention to maintain strict neutrality, but warns the combatants that they must respect the sanctity of the royal tombs in Manchuria.

Although the American newspapers have been full of "headline news" of the war (p. 727) during the week there has been no trustworthy war news of importance. That important events have occurred at the seat of the war is not improbable, but the military censorship on both sides is so rigorous that no correspondent can forward really reliable information.

Complaint was formally made on the 23d by Russia to the other Powers, respecting Japan's manner of conducting the war. Russia charges Japan with violating the fundamental rules of international law in five particulars, as follows:

(1). Before the opening of hostilities against Russia Japan landed her troops in the independent empire of Corea, which had declared its neutrality.

(2). With a division of her fleet she made a sudden attack on February 8, that is, three days prior to the declaration of war, on two Russian war ships in the neutral port of Chemulpo. The commanders of these ships had not been notified of the severance of diplomatic relations, as the Japanese maliciously stopped the delivery of Russia's telegrams by the Danish cable, and destroyed telegraphic communication of the Corean government.

(3). Shortly before the opening of hostilities the Japanese captured as prizes of war certain Russian merchant ships in neutral ports of Corea.

(4). Japan declared to the Emperor of Corea through the Japanese minister at Seoul, that Corea would henceforth be under Japanese administration, and she warned the Emperor that in case of his noncompliance Japanese troops would occupy the palace.

(5). Through the French minister at Seoul Japan summoned the Russian representative at the Corean court to leave

the country, with the staffs of the Russian legation and consulate.

Accompanying the foregoing statement is a protest in these terms:

Recognizing that all the above facts constitute a flagrant breach of international law, the Russian government considers it its duty to lodge a protest with all the powers against this procedure of the Japanese government; and it is firmly convinced that all the Powers, valuing the principles which guarantee their relations, will agree with the Russian attitude. At the same time the Russian government considers it necessary to issue a timely warning that, owing to Japan's illegal assumption of power in Corea, the government declares all orders and declarations which may be issued on the part of the Corean government to be invalid.

Since this protest it has been announced that Japan and Corea have made an alliance under which Japan guarantees the independence and integrity of Corea, and Corea in return gives to Japan the right to operate her military forces at will in Corean territory.

The first important decision of the international arbitration tribunal at The Hague (p. 417) was announced on the 22d. It adjusted the priority of claims made against Venezuela (vol. v, p. 728), by 11 nations—Great Britain, Germany, Italy, Spain, the United States and six others. The first three had jointly attacked Venezuela to enforce payment in behalf of their subjects. In consequence Venezuela made a treaty setting aside 30 per cent. of her customs receipts for the benefit of all foreign claimants. A question of priority of payment thereupon arose, the three belligerent nations asserting their right to full payment before any payment to the nations that had asserted their claims peacefully. This is the question that was submitted to arbitration at The Hague. The arbitration tribunal has by its decision of the 22d awarded the priority to the allied assailants—Great Britain, Germany and Italy,—doing so upon the theory that the preliminary negotiations between Venezuela on the one hand, and Great Britain, Germany and Italy on the other, for raising the British-German-Italian blockade, gave the blockading Powers a preference