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EDITORIAL

The mysterious teamsters' strike.

We should be glad to chronicle this week the end of the teamsters' strike. It seemed to be at an end when the teamsters themselves called it off unconditionally. But the mysterious hand which has made itself felt so often before, has again pulled a mysterious string, and once again this mysteriously begun strike is mysteriously revived. This time, however, there appears to be but little vitality in the revival.

Feminine incapacity.

The ghost of the man who, after demonstrating the intellectual "incapacity" of women, with statistics of the short weight of the feminine brain, died and disclosed to the dissecting anatomists a brain of still shorter weight, must have experienced some mortification. But after the recent exploit of Mrs. Sophie Mayer, of New York, how must those lawyers feel who speak slightingly of the professional abilities of women. She has just been admitted to the bar at the head of nearly 1,000 candidates—at their head. And most of them were men. Not only that, but during her career in the law school she led most of her classes, also mostly men. With such a notable example before us, and any number of minor ones, is it not reasonable to conclude that if women are unsuccessful as lawyers, the incapacity is of the conscience rather than the intellect?

"The Niagara Movement."

We publish in full this week the belated address of "The Niagara Movement," organized at Buffalo during the present month. We do this not only because it is an address of a race which gets but scant hearing for a fair recital of its grievances, its bitter grievances, but also because the document is a self-respecting appeal from oppressed to oppressor, and one of the best expressions of worthy Americanism that has seen the light in many a day. The man of whatever color who reads it without at least a spasm of fraternal sympathy, puts his manhood to a risky test; the American, wherever his domicile and whatever his party politics, who ignores its principles had better question his patriotism. If he is white and has any sense of fair dealing in his soul, he will recoil in utter shame for his race from this dignified indictment of its treatment of the Negro: "The Negro race in America, stolen, ravished and degraded, struggling up through difficulties and oppression, needs sympathy and receives criticism, needs help and is given hindrance, needs protection and is given mob violence, needs justice and is given charity, needs leadership and is given cowardice and apology, needs bread and is given a stone." The sting of it is its truth.

There is just one false note in that address. It is the recognition as legitimate, of discriminations based on poverty. Possibly nothing more is meant than that he who is too poor to pay for a dollar's worth must be content with a discrimination which necessitates his buying less than a dollar's worth. But the context implies that something else is meant, namely, that discrimination as to rights, such as Negroes suffer under, may be legitimately made against the poor of any race. And indeed the Negro race is not without representatives who, though vociferous enough in denouncing discriminations based on color, are indifferent to discriminations based on wealth. It is largely because the Negro race has too many leaders of that type, that the race prejudice among organized workingmen, which was dying down, has revived. Every Negro should clearly understand that the question in connection with which he finds himself "a problem" is at bottom not a Negro question. That is only a form of the real question, which is the man question, and the man question is everywhere and always a question of common rights against special privilege.

Direct legislation in California.

It will be remembered that under the municipal home rule system of California, some of the cities of that State have charters providing for what are known as direct legislation and the recall. Direct legislation is a method, usually the initiative and the referendum, whereby the people may by popular vote command their representatives, as in the initiative, to enact a particular law or laws in execution of a general policy for which the people declare, or may by popular vote, as in the referendum, veto laws which their representatives have enacted. The recall is a method whereby the people may, by popular vote, recall a representative, de-

claring his office vacant and electing a successor. Direct legislation and the recall are features of the charter of Los Angeles, and the latter has been successfully tried—the first time in the United States if not in the world. A member of the City Council having been accused of grafting (vol. vii, p. 412), a petition for his recall was signed by the requisite number of voters and at the election he was ousted from office and a successor chosen. This case was taken to the Supreme Court of the State, which decided early in June last in favor of the grafter; and great pains were taken to notify the newspaper readers of the country that the court had held the recall to be an unconstitutional device. This proved to be a false statement. The court had not passed upon the constitutionality of the device at all. Its decision rested upon a technical defect in the recall petition. But in less than a month thereafter a judge at San Diego walked boldly in where his superior judges had feared to tread, and decided offhand that the direct legislation and recall clause of the San Diego charter (vol. vii, p. 713) is unconstitutional.

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This San Diego precedent is interesting, though neither authoritiative nor respectable. It was made without the aid of forensic argument or any appearance of judicial consideration, by Judge Torrance, who is said to have been once impeached and to have been saved from conviction by corporation influence. A petition had been filed calling for a special election to vote upon the establishment of the grade of a particular street. The city authorities refused to call the election, on the ground that the direct legislation clause of the charter applied only to matters of general municipal interest, and also because legislation as to streets was otherwise provided for in the charter. A mandamus was thereupon applied for, and to the petition for this writ the city authorities demurred. When the demurrer came up for argument before Judge Torrance, neither side argued on the constitutionality of the law. As the local newspaper report has it, "neither seemed to care to argue that the referendum clause was good law," but "one seemed to argue that whether it was good law or not it did not apply to the case in court, while the other contended that if it was good law in any case, it was in the one under consideration." It will be observed, therefore, that the constitutionality of the referendum was not argued at all. Probably both parties wished it killed. Possibly the proceedings in question, in no wise calculated to arouse general public interest, were instituted for that very purpose. At any rate Judge Torrance went out of his way to sustain the demurrer for constitutional reasons, notwithstanding that the question of constitutionality had not been raised. He said he had given the subject much consideration. But this must have been as a hostile partisan and not as an impartial judge; for he decided the case immediately at the close of arguments which did not touch the point. As a judge he had had no opportunity to consider the question; and his opinion indicates that he had given but little consideration to it even as a partisan. His main contention is that the people, when they elect a legislative body, are, under our system of government, not only bound by the acts of that body, but so effectually bound that they can neither direct nor veto legislation by it nor recall its members, although the law expressly provides this protection. Such a law is regarded by Judge Torrance as unconstitutional unless the constitution not merely allows it but permits it expressly. If the finger of the corporations did not direct that decision, it has never directed any. The referendum, which until recently seemed to corporations as "a jolly joke on the populace," has begun to impress them very seriously.

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Majority rule in Texas.

The legislature of Texas has tried an experiment along the general lines of direct legislation which corporation judges may not be able to circumvent. Instead of operating upon office holders directly, it is intended to operate indirectly but effectually upon them through the nominating conventions of political parties. The originator of this reform is A. M. Kennedy, of Mart, who introduced the bill in the lower house of the last Texas legislature, of which he was a member. He writes of it that "three years from now it will be invoked against the delivery of the Texas Democrats to our friends Belmont, McCarren, et al." This bill, as enacted, provides that—

> whenever delegates are to be selected by any political party to any State or county convention by primary election or primary convention, or candidates are instructed for or nominated, it shall be the duty of the chairman of the county or precinct executive committee of said political party, upon the application of ten per cent. of the members of said party (who are legally qualified voters in said county or precinct), to submit at the time and place of selecting said delegates any proposition desired to be voted upon by said voters, and the delegates selected at that time shall be considered instructed for which ever proposition for which a majority of the votes are cast; provided, that the number of voters belonging to said political party shall be determined by the votes cast for the party nominee for governor at the preceding election; and provided further, that said application is filed with the county or precinct chairman at least five days before the tickets are to be printed, and the chairman may require a sworn statement that the names of said applicants are genuine; provided, further, that all additional expense of printing any proposition on the official primary ballot shall be paid for by the parties requesting the same.

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This Texas law is described by Geo. H. Shibley, writing in behalf of the People's Sovereignty League (Bliss Building, Washington), as "a veritable Gibraltar against the ruling few." He regards the Democratic voters of Texas as now the ruling power in the State, "if they care to exert themselves," and asks: "Why shouldn't the Texas system be installed in every Democratic State?" In furtherance of the

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