

they are entitled to a jury trial. If convicted by the jury they are liable to punishment. But what for? Not for holding meetings and making speeches. They have a right to do that. They are liable to punishment because a jury has convicted them of abusing the right. But when a judge issues an injunction, the right itself is restrained. Observe that he does not issue the injunction to prevent the defendants from holding meetings upon the complainants' property. That would not be an injunction against meetings and speeches; it would be an injunction against trespass. He issues it to prevent their holding meetings on their own property. It is, therefore, an injunction against meetings and speeches. If, now, the meetings are held, those who participate are not tried by a jury for holding lawless meetings. They are tried by the judge for disobeying his order. The act is identical, but it has acquired a new name; and because it has a new name, the judge decides that under that name he can try it himself, though under the other name he could not.

So the judge decides what kind of meetings are lawful and what are not, what kind of public speaking will be allowed and what shall be prohibited, which persons are guilty and which are not, and what the punishment of the guilty shall be. All this lies within his breast as chancellor. When he comes forward with the king's conscience in his keeping, he legislates and adjudicates, and the constitutional rights of free speech and jury trial sink out of sight.

Though these injunction abuses have so far been connected with labor strikes and used in restraint of labor unions, the question they raise is not alone a labor question. If strikers' meetings upon their own premises can be prohibited and labor speeches forbidden, if this can be done by a judge's order and the same judge can punish as for contempt any person who attends the prohibited labor meeting or makes the prohibited labor speech, then every other kind of meetings and speech is subject to the same arbitrary interference. It will in that case be only a question of occasion and suf-

ficient hostile interest when political meetings and speeches, religious gatherings and exhortations, and race conferences and addresses, may be brought under the judicial ban if they happen to be offensive to a bold judge whose injunction is sought. Free assemblage and free speech would cease to be rights which judges are bound to respect. They would become favors that judges might regulate as they pleased. Given a great propertied interest which demands it, with an irresponsible judge (and Federal judges are practically irresponsible) who personally favors it, and any public meeting could be forbidden, any public speaker could be silenced unless he courageously defied the lawless judge.

## NEWS

The anthracite coal strike (p. 391) has now entangled the Federal administration in its affairs. The President held a special cabinet meeting of half an hour's duration on the 30th to consider the strike situation, and this was immediately followed by an informal conference, lasting an hour and a half, of the cabinet officers who had attended the cabinet meeting. What decisions were reached, if any, is not yet known. But on the 1st the President telegraphed the presidents of all the anthracite carrying roads, together with Mr. Marple, an independent coal producer, and Mr. Mitchell, president of the national coal miners' union, inviting them to meet him at Washington at 11 o'clock on the 3d. The invitations were in the form of a brief request to see the persons invited "in regard to the failure of the coal supply, which has become a matter of vital concern to the whole nation."

Before the cabinet meeting had been called a legal proceeding against the coal trust was instituted in Boston by private parties under the management of Heman W. Chaplin, a lawyer who is described by the dispatches as an expert in the jurisprudence of the trust question. Mr. Chaplin brings the suit in the Supreme Judicial Court of Massachusetts by filing a bill in equity against the anthracite carrying roads. The plaintiffs are a citizens' relief committee of coal consumers, voluntarily organized, and the petition of the

bill in equity is for a receiver, to be appointed for the benefit of all persons affected, for the purpose of operating the idle mines.

Mr. Chaplin submitted to the public, prior to his commencement of this lawsuit, a pamphlet (Millet Co., Boston and New York, publishers, price 15 cents) in which he discussed in popular style the legal aspects of the question. This pamphlet discloses fully not only the character of the law suit subsequently begun, but also the possibilities of other legal proceedings both by private interests and by public officials. It is his fundamental proposition that all real estate is subject in its ownership to legal restriction and regulation, and that the character of the restriction or regulation is not limited to the specific forms of early law but may extend, up to the fullest requirements of their spirit, to new conditions arising in modern society. In support of this contention Mr. Chaplin cites the famous Munn case (94th volume of the United States Supreme Court reports, page 113), as applicable as well to coal mines as to warehouses, the latter being the kind of property involved in that case.

Another movement of possibly far-reaching consequence in connection with the coal strike, is the official call by the mayor and council of Detroit, of a delegate conference, to be held in that city on the 9th. The call was issued on the 29th, telegraphically, one form of message being sent to the governors of all great coal-consuming States, and the other to the mayors of the principal cities. The message to governors is as follows:

Will you appoint a delegation of 20 citizens selected at large from the State to attend conference at Detroit October 9 to devise ways and means for obtaining a reasonable supply of coal from the anthracite districts of Pennsylvania and West Virginia? The governors of all states affected have had like requests for representation. Such a conference must be potent in solving the present difficulties. Answer by telegram at our expense—William C. Maybury, mayor; Fred W. Smith, president common council.

The message to mayors is the same except that it provides for ten instead of 20 delegates, and requests also a representation from the press of the respective cities.

President Mitchell has meanwhile issued a full statement, dated the 29th, which is intended especially as a reply to the criticisms of Mr. Baer, president of the Reading railroad, and ex-Mayor Hewitt of New York. Charging these men with attempting to confuse and befog the issue, he restates the demands of the strikers as follows:

(1) An increase in wages for men employed on piece work; (2) a reduction in the hours of labor for men employed by the day; (3) payment for a legal ton of coal; (4) that the coal we mine shall be honestly weighed and correctly recorded; (5) we favor incorporating in the form of an agreement the wages that shall be paid and the conditions of employment that shall obtain for a specific period. As to the reasonableness of these demands we have proposed to submit to and abide the award of an impartial board of arbitration.

By way of refuting Mr. Baer's assertion that anthracite wages are "fair and just," Mr. Mitchell compares them with the wages in bituminous coal mining, showing that wages at the latter work, where hours are shorter and danger less, are from 20 to 40 per cent. higher than in the anthracite fields. In this connection he asserts that—

the minimum wage received by any class of adult mine workers in the soft coal mines is 26½ cents an hour, while the minimum wage paid to boys is 12½ cents an hour; in the anthracite coal mines men performing precisely the same labor receive from 13 to 20 cents an hour, while boys are paid as low as five cents an hour and rarely receive to exceed eight cents an hour.

Disorder and violence in connection with the strike are also considered by Mr. Mitchell. On this point he says:

Despite all our precautions we regret that occasional violence has resulted, but it would be as logical to charge any one of the religious, social or political organizations or even the United States government with being an unlawful organization because some of its members violate the law. The officers of the union are as severe as the operators in their earnest condemnation of any and every act of violence on the part of a striker, and no attempt has been made or will be made to condone any offense of this sort. The public should be made aware, however, that the operators and a certain section

of the press are by no means discriminating in the fixing of responsibility, and that crimes of violence are laid at the doors of strikers when the imported guardians of law and order, the armed coal and iron police, are clearly and unmistakably at fault; and I challenge the operators or their friends to point to one single utterance on their part in disapproval of the lawless actions of their hired guards.

Still another part of Mr. Mitchell's address is of special public interest. It relates to Mr. Baer's reference to the increase of wages in 1900 and his assertion that 40 per cent of the coal produced is sold in the market below the cost of mining. To this Mr. Mitchell replies that Mr. Baer—fails to say that the larger portion of this 40 per cent. is made up of grades of coal for which the miners received no compensation whatever. Indeed, up to a few years ago, or before the installation of washeries, the miners were docked for loading this very coal which brings small prices now in the market; and according to Mr. Baer's process of reasoning the miners would receive less wages for the larger grades because they mine the small sizes gratuitously. I shall not enter elaborately into the question of cost, but shall merely say that Mr. Baer's statements are utterly misleading. The rise in wages in 1900 was more than counterbalanced by an increase in the cost of living, which left the miners worse off than before. Mr. Baer claims that this advance of ten per cent. which was paid the miners in 1900 cost the companies more than ten cents a ton; but this is at least problematical. In March, 1902, the Engineering and Mining Journal (see issue of March 29) made a careful calculation in order "to show what effect the increase in wages last year had upon the cost of coal." As a result of this computation, based upon the figures of the Delaware & Hudson, the Delaware, Lackawanna & Western and the Lehigh Valley Coal & Navigation company, the Engineering and Mining Journal, which cannot be accused of being either friendly or fair to us, states that "the conclusion to be drawn is that the resulting increase in cost was not large; in all probability not over five cents a ton at the outside." Mr. Baer claims that the average pay per working day in his mines is \$1.89. Admitting, for the sake of argument, the correctness of his figures, this would make upon the average number of days in 1901 a grand total of \$368 per employe, or an average of \$7.05 per week; thus, as a result of the strenuously opposed and bitterly

regretted advance wrung from the operators by the strike of 1900, the average adult employe of the Reading Coal & Iron company is permitted to spend upon himself, his wife and his children the munificent sum of \$1.01 per day.

Reports of disorder in the field of the strike continue, and on the 28th Gov. Stone ordered out an additional troop of horse—the Sheridan troop of Tyrone—to reinforce the 13th regiment. But upon good authority it is denied that there is any serious violence. Bishop Fallows, of Chicago, who has been investigating the situation in person reported on the 30th that although he had "visited every important town and spent much time at Mahonoy City, the storm center of the strike," he had not seen "a single act of violence or disorder" nor met a striker who was "disposed toward any unlawful act."

Wall street conditions, which were unsteady last week (p. 392), have since experienced a further and more disturbing shock, which the Secretary of the Treasury has relieved. Money had been very high, when, on the 25th, the Secretary published a statement which quickly reduced the rate. The statement explained that while money once paid into the treasury or any subtreasury cannot lawfully be withdrawn and deposited in banks, yet internal revenue and miscellaneous receipts, amounting to about half a million a day, are available for bank deposits before they actually get into the treasury, and have been steadfastly deposited to their fullest extent since the stringency arose. Then followed an assurance that—this policy will be continued for 30 or 60 days if needed, and longer if necessary.

The statement made also the further assurance that the national bank circulation had been increased about \$7,000,000 and would certainly be increased \$8,000,000 more, and promised that—

"the treasury department, to the extent of its ability will stand by the banks, east and west, north and south, and it is hoped also that the banks will stand by every business and every interest that is worth protecting.

Finally it pledged the department to the following offer:

It now offers to anticipate all interest maturing between October 1 and the end of the fiscal year, if present-