expenditure for this system down to March 31, 1908, as shown by the Birmingham "blue book" for 1907-08, was about $6,000,000 all told. Against this capital obligation there were already accumulations for extinguishment amounting to above $485,000. But the most notable of Birmingham's recent acquisitions of public utility service is the traction service.

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The traction service has been municipal property for many years. Under Chamberlain's influence the right of operation was leased, he always having strenuously opposed franchises. When some of the leases expired in 1896, attempts were made to secure renewals in private interest, but after long negotiations the City Council decided to operate the lines directly as the existing leases fell in. Along in 1906 or 1907, therefore, the principal lines were subjected to municipal operation. According to the Birmingham "blue book" for 1907-08, the excess of income over expenses for the year ending March 31, 1908, amounted to about $600,000. After deducting from this gross profit the item of interest and debt redemption and passing about $185,000 to the reserve fund, there remained a net profit of $175,000. When it is considered that Birmingham has not yet acquired all its traction lines, that it has operated those it has for but a short time, and that its fares are low, this net profit of $175,000 for one year is significant of the advantages of municipal operation. To be sure, private companies might be willing to pay more than that by way of tax; but they would either require higher fares or would resort to "strap-hanging." Whatever a city gets from traction companies, the passengers have to pay. The importance of the profit made by the Birmingham system is to be measured not by the size of net profits—the less they are the better,—but by the fact that this item proves the financial feasibility of municipal operation.

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Construction Cost and Monopoly Graft.

An interesting example of construction cost and monopoly graft in railroad enterprises is disclosed by a broker's circular of recent date. It is the circular of E. H. Rollins of Boston, Chicago, Denver and San Francisco. Mr. Rollins offers first mortgage 5 per cent gold bonds of the Western Pacific Company—a long branch-line of the Denver & Rio Grande. "The actual physical cost of the road with its equipment when completed," so this circular reads, "is stated to be over 25 per cent greater than the face value of its first mortgage bonds;" and "this equity has been provided from the proceeds of general mortgage bonds of the Denver & Rio Grande Railroad, which bonds have been sold."

✤

The foregoing statement, and other information afforded by Mr. Rollins's investment circular, disclose the financial facts which we now tabulate:

Investment Possibilities.

Common stock (two-thirds owned by D. & R. G. R. R. Co.)	$ 75,000,000
First mortgage bonds issued	50,000,000
Second mortgage bonds issued	17,130,000
Second mortgage bonds not issued	25,000,000
Total	$167,130,000

Actual Cost.

First mortgage bonds plus 25%	$ 62,500,000
Investment possibilities over cost	104,630,000
Deduct bonds not yet issued	25,000,000
Present excess of stock and bonds over actual cost	$ 79,630,000

When, therefore, the stocks and bonds of this road are at par, the holders will get a "rake-off," over and above construction cost, of at least $79,630,000 for a construction worth at cost only $62,500,000. Or, to put it in another way, the patrons of this road will have to pay enough more for service than the service is worth, to give the investors dividends on more than two dollars for every dollar the road has cost them. If this instance is not quite typical, it is because the "rake-off" is unusually light.

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It will be observed that the bonds about represent construction cost, while the stock about represents monopoly value. This is approximately the rule. The market value of railroad stock usually expresses the community value as distinguished from the construction value of railroads.

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Injunctions Against Libels.

Apropos of our comments on the Gompers case (p. 1), a Kansas farmer puts his criticism in this form:

> I raise and sell horses, hogs and cattle. Suppose someone publishes in a paper a statement that my horses are vicious, my cattle and hogs diseased (when it is false), and thus obstructs my market and perhaps ruins my business. Would you compel me to wait till in the slow process of the common law I could sue for damages or prosecute criminally? The damages could never restore my business; the confinement of the libeller in jail would never wholly restore my good name.

That statement seems to us to present with ex-

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ceptional lucidity and accuracy the notions of those who in good faith favor government by injunction. They think that criminal prosecutions do not prevent the publication of libels, but injunctions do. That this misapprehension influences our correspondent is evident from his supplementary question:

In all fairness, is not your position that of the boy whose mother shut him up in the house to prevent his going in swimming; and who urged her to release him, declaring that he would go in swimming and would cheerfully take a licking afterwards?

Evidently the idea that injunctions are literally preventive is the controlling element in this criticism of our position—which, by the way, is in effect a criticism also of the bill of rights of the Federal Constitution and of the bill of rights of every State Constitution.

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But injunctions are no more preventive than statutes or the common law. All that an injunction could do for this farmer, would be to forbid certain persons from maliciously misrepresenting his horses, cattle and hogs to the injury of his business. But statutes and the common law do that and more. They not only forbid the doing of this by certain persons, but by all persons. If they do not *prevent*, neither does the injunction. Thus far, the injunction has no advantages over the statutes or the common law. In terms all are preventive; in fact none are preventive.

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The essential difference arises only when the question of giving "the licking"—to use our critic's phrase—arises. Several facts have to be decided then, whether it be the law or the injunction that has been disobeyed. It must be decided whether anybody has made any publication at all about our critic's horses, cattle and hogs. It must then be decided whether this person was the identical person accused. After that it must be decided whether the publication really states that the horses are vicious, or the cattle and hogs diseased. And then it must be decided whether or not this is true. Now, somebody must decide these questions, before anybody can be punished for criminal libel under criminal procedure, or for contempt of court under injunction procedure. Who shall decide those facts? That is the real question involved.

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At one time in our history the judges claimed the right of the defendant to have a jury decide the right of the defendant to have a jury to decide whether or not he had published the statement. But they insisted that the judge alone, over and above the jury, should decide whether the published statement was libelous. They would have claimed the right, for example, to decide whether the statement about our critic did actually describe his horses as vicious and his cattle and hogs diseased, and whether or not this statement was true or false. This method didn't work well. The people found that the judges could not use this power fairly. They used it oppressively. They got to deciding that any injurious publications, whether true or not, and whether published with good or bad motives, and no matter juries thought about it, were criminal libels. So our Constitutions limited the power of judges in respect to freedom of the press.

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But now comes our correspondent with a somewhat piteous plea for a return to the old despotic way. He would lodge even greater power in the judges than they used to claim. He would empower them to decide all the facts, including the question of the publication and of the responsibility of the accused; and upon affidavits and without the cross-examination of witnesses at that, or even the personal appearance of the witnesses in court. For this is the practice in injunction contempt cases. Possibly it would be gratifying to our critic, if his live stock were misrepresented, to have some one punished summarily, for contempt of court, by a judge without a jury—whether the real offender or an innocent person. Possibly it would gratify him to have the publisher so punished even if his publication were true and had been made in good faith to protect our critic's customers. But if he himself were the innocent person in the one case, or the well meaning exposer of a fraudulent stock raiser in the other, he might think as much of a jury trial for libel as our Revolutionary fathers did.

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As to prevention, we repeat that an injunction is no more preventive than a statute. The differences are that the injunction is a prohibition by a judge, whereas the statute is a prohibition by the legislature; that guilt or innocence for violation of a statute is determined by a jury upon the evidence of witnesses given under cross-examination, whereas for violation of the injunction, guilt or innocence is determined by a judge without witnesses. Another difference is this, that the statute prescribes a limitation to the penalty beyond which the sentencing judge cannot go, whereas

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for violation of an injunction the length of sentence is in the discretion of the judge. There are other differences, but they all relate to conviction and punishment. There is no difference whatever between an injunction and a statute with reference to *prevention* of crime. Both forbid; neither of them does or can prevent. But under regular criminal proceedings innocence may be protected by juries, whereas, under injunction proceedings the judge is as absolute as the kings to whose despotic prerogatives he traces his un-American authority.

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THE INDIVIDUAL AND THE SOCIAL LIFE — A WORKING HYPOTHESIS.

If a theory accounts for every phenomenon within its field, it is our duty to accept it as a working hypothesis, until such time as it may be proved erroneous by the discovery of phenomena within its field to which it does not apply, or until a more basic theory is developed which includes it as a part.

The hypothesis presented below will, I think, explain the reason for every personal or social maladjustment; and it offers a rational reason why our individual aspirations usually are incapable of realization.

Further, it provides a rational plan for human development to eternity, and conforms in whole and in part to the injunctions and teachings of the Galilean.

This is the hypothesis: The human race constitutes an organic unit, which is not apparent to the senses of the individual.

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In respect of the opposition between reality and sense testimony, that unit may be compared to our solar system.

The senses tell us that the earth is the center of the solar system; but rational considerations demonstrate that in reality the earth is but a minor planet and depends for its existence upon the complete system. If it were possible to think of one of the other planets as changing its orbit or being destroyed, we could with certainty predict that the earth would thereby be changed or destroyed, because its present equilibrium depends upon the present status of the entire system.

In like manner, the senses tell each individual that he is the center of things, around which all else revolves and for which all else exists. Hence, from the senses we learn self-interest. This appearance is never to be changed, so far as sense testimony is concerned. But rational considerations, based upon individual experience, show that self-interest cannot be truly realized so long as such appearances are used as a guide. Since self-interest as a dominant motive is created by these appearances, and since the aspirations of self, as opposed to others, are incapable of realization, we are warranted in discrediting this sense testimony.

Enlightened self-interest, however, discovers that health and the well-being of the individual depend, in human life as in planetary movement, upon the health and well-being of the whole.

So aspirations of a selfish nature which do not coincide with the interests of all humanity must be discarded in the interests of health and well being.

This shows that humanity has an influence on the individual which can be disregarded only at the peril of the latter; and this in turn would indicate a closer relationship between the individual and humanity than is offered by sense testimony.

The unitary hypothesis thereupon suggests itself, and at once explains why enlightened individual self-interest finds its highest realization in harmony with the interests of all humanity. It also explains why anything that is injurious to humanity as a whole is injurious to the individual, and why anything that is injurious to the individual is injurious to humanity.

When all the individuals that constitute humanity adopt this hypothesis, the external face of the world will be changed and moral life will reach its highest development.

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But the moral life, in itself, is under bondage to the senses, and makes concessions to the unitary theory of man only through reasons of necessity and expediency.

The birth of the spiritual in man as distinguished from the moral does not take place when the unitary theory of life is adopted, consciously or unconsciously; nor when man as a consequence has reached the fullest realization of self-interest as a motive. It is accomplished only when the center of consciousness shifts, and his primary motive is no longer to realize his own selfish interests, but, on the contrary, when such motive is made subordinate to the desire to serve.

The desire to serve others is then the dominating influence of his life, and the returns he receives for such service are subordinate. They have

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