gime is simply to preserve the public peace; and they are not making this a pretense, according to the usual custom, for taking sides with one of the parties to the strike. Their admirable spirit is disclosed in the mayor's letter to the police department. A demand upon that department had been made by one of the street car companies, for permits to employ "special armed deputies" to guard its cars, and in advising the police department Mr. Schmitz wrote:

As mayor of this city I am taking part with neither side to the controversy, but what will not be permitted to the striking employes will certainly not be allowed to the employer. All violence must be discouraged and suppressed and all action on either side tending to riot and bloodshed must be stopped. It is well known that the employment of armed men to represent either side of the present difficulty would naturally result in producing conditions of violence and disorder. I therefore request and direct that during the continuance of this strike no permit to carry weapons be issued by your board and that no private detective agency be granted the right to employ and arm special private detectives for the purposes indicated. The regular municipal authorities and the regular police department are amply able to handle the situation and to do their full duty to the people in the premises. If armed men be permitted to convey cars it will naturally follow that armed men will shortly thereafter be found also among the men on strike and the result is not difficult to prophesy. Conditions are now peaceful and orderly and they must remain so.

Pierpont Morgan is reported to have set up the doctrine, while testifying last month in a lawsuit in New York in connection with the consolidation into the Northern Securities company of New Jersey, of the northwestern railroads, known as the "Northwestern merger," that men who own property may do what they like with it. To any person with a well-balanced intellect and reasonably sensitive conscience this would appear to depend upon how they own the property. If it is justly and wholly their property, unincumbered by other interests, it is true that they may do as they like with it, provided, of course, they do not use it to the prejudice of the rights of other people. If a man owns a sulphur match, for instance, he may not use it to fire his neighbor's barn. He may use it, however, to light his own cigar with, even if somebody else wishes him to devote it to an altruistic purpose. But when a man's property is charged with a trust, he is bound to execute the trust. Consequently the question of whether a man may do what he likes with his own property depends upon whether or not a trust encumbers it. And a trust does encumber the ownership of the northwestern railroads. The highway privileges which constitute a part of those properties, are gifts from the people in trust; and one of the conditions of the trust is that there shall be no combination by or between lines traversing the same territory.

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This is conceded. But a Wall street organ of high standing in its way, The Commercial and Financial Chronicle, insists that in the case under consideration—

there is and was no combination intended or made either direct or indirect.

That is an astounding assertion, since the object of organizing the New Jersey corporation is to centralize in it the control of these competing roads. But listen to the explanation of the journalistic attorney for Mr. Morgan already quoted:

Certainly no combination can be inferred from the circumstance that a purchaser buys the stock of two competing roads in large amount, or that he sells the stock in large amounts of roads so situated to a single individual or a single company. The law is the same to all—when one sells a hundred shares or when his neighbor sells a million shares.

That is to say, though the ownership of these public highways is in trust upon condition that competition between them shall not be strangled by their combination, yet they may be lawfully combined and the trust set at naught by the simple process of selling a majority interest in all to a corporation organized for that express purpose! If courts of equity cannot grapple with such a plain evasion of their obligations by owners in trust, those courts had better limit their jurisdiction hereafter altogether to labor strikes.

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Of course the law applies alike to the purchase of a hundred shares or a million—as to beneficial ownership. But as to the due execution of the trust, it might be very different in the one case from what it might be in the other. If from a purchase of a hundred shares no combination would result, with its consequent throttling of competition, the public would have no rights in the matter for the law to operate upon. But if from the purchase of a million, or even of a hundred, or only one, the combination would result and the obligations of the trust be thereby evaded, then the public would have rights in the matter to be protected. And the latter is precisely the case in the merger transaction. When the New Jersey company buys a majority of stock in each of these competing roads it thereby effects an unlawful combination in breach of the trust with which the property is charged. The case, therefore, is not one in which the owners "may do what they please with their own." They must in good faith execute the trust.

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Minnesota is in a queer state of helplessness before the law with reference to this "merger" matter, one which seems completely to discredit the old legal maxim that in the law "there is no right without a remedy." In behalf of competition her domestic policy forbids the consolidation of railroad interests. But her principal railroads have evaded that policy, expressed distinctly in the Minnesota statutes, by organizing in New Jersey the Northern Securities company, a stockholding corporation, which takes up the stock of the Minnesota roads in exchange for its own, thereby consolidating the ownership of those roads as effectually as if they were made into one by the Minnesota legislature. The purpose is obvious; the evasion is manifest. Yet the in-

jured state is without legal redress. Her own courts cannot get jurisdiction of the New Jersey corporation, for its domicile is in New Jersey. She might go into the New Jersey courts; but that would be futile, for they would doubtless decide in harmony with the New Jersey policy, which favors monopolization, and not with that of Minnesota, which favors competition. The Supreme Court of the United States, invested with jurisdiction to try precisely such cases—issues between a state and citizens of another state—refused, following an absurd decision of its own, made for the protection of the Southern Pacific Railroad company in a suit brought by the state of California a few years ago against that artificial product of Kentucky legislation, to take jurisdiction. "So there you are!" Minnesota has no judicial redress for this palpable defiance of her domestic policy, by the owners of a corporation of her own creation. Even though the state of Washington be admitted as it has been to prosecute the question in the Supreme Court, her claims rest upon different and possibly weaker grounds. Minnesota is without a remedy. If a labor question instead of a railroad corporation question were involved, it would probably be different. Some remedy would doubtless be found. But as it is there appears to be none, unless the legislature of Minnesota shall decide to "take the bull by the horns" and withdraw the Minnesota privileges of the corporations in question, on the ground that they are being abused in defiance of the laws of the state.

A few weeks ago (vol. iv., p. 801) we quoted Gen. Miles as having testified before a Senate committee that the Root army bill, now before Congress, "would seem to Germanize and Russianize the small army of the United States," and to throw "the door wide open for a future autocrat or a military despot." That Gen. Miles was right will appear upon considering one feature of the Root bill, that which provides for a general staff. Under the present plan the technical head of the army—the major general or lieutenant general in command—rises to his position regularly through the organization of which he is part; and although he is subject to the general direction of the president as commander-in-chief, he is not subject to arbitrary appointment and removal by the president or at the behest of a political party. But that would all be changed by the Root army bill, which aims to enable the president to appoint and remove the technical head of the army at will. Instead of being a civil magistrate, with incidental military powers as commander-in-chief, the president could make himself commander-in-chief with incidental civil powers. The technical head of the army would no longer be merely his military subordinate, charged with the proper execution of lawful orders; he would be his personal puppet, able and willing to further his designs, whether lawful or unlawful, so far as the military organization could be made to operate to that end. Professional success in the army would depend altogether upon pleasing the president and his party; and every change of administration would be followed by a change in the technical head of the military machine. Perhaps there is no real danger in the bill. Possibly no president would be disposed to avail himself of the enormous power it would confer upon him to execute a coup d'etat. But if by any chance a strenuous president so disposed should come into office, what a tempting opportunity would confront him!

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The true adjustment of this matter lies in the direction of the bill introduced in the senate on the 22d by Senator Hawley. This bill would place the technical direction and control of the army under a military head, subject to the general orders of the president, but not subject to his arbitrary control. It quite properly puts the president, as commander-in-chief in the same relation to the general in command that the latter is in to his subordinates. Arbitrary dictation, obeyed in fear of removal or in hopes of retention or promotion, would be prevented; yet the president, so long as he acted within the law, would remain supreme. His lawful orders would have to be obeyed; his secret wishes would not. He could remove the general in command upon conviction of misconduct; he could not remove him at his own unbridled will. If this system places a wholesome check upon military officers of lower grade with reference to their subordinates—as colonels to captains—as it certainly does, it would not be an unwholesome check upon the president with reference to the general in command.

A man sits under the shadow of the gallows in Chicago who may be guilty of a brutal murder, but whose execution will nevertheless itself be murder if carried out. For this man has not had a fair trial. He was convicted under circumstances which raise a strong presumption that the jury that convicted him was intimidated.

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It would be bad enough if a possibly innocent man were hanged. But that is not the worst of it. Human justice being necessarily fallible, innocent men may now and then suffer under the best possible conditions. But when human justice has been poisoned at the source, the integrity of society itself is menaced. In these circumstances not merely may an occasional sad mistake be made, but constant perversions of justice are possible, and all confidence in the law must perish.

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Society should try to prevent crime, and in doing so may punish criminals. It is impossible, however, for society to ascertain guilt, except through agencies adapted to that purpose. Hence courts of criminal justice are established, with judges, prosecutors and juries. In these institutions the juries are the final arbitrators. They are relied upon by society to sift and weigh the facts and