"based on those technical points of legal procedure which seem so trivial to the lay mind." The Attorney General of the State calls the decision "a grave judicial blunder." The greatest property-rights paper of the State calls it "a staggering blow to the cause of justice," and asserts that "in its technical, hair-splitting exaggeration of the importance of trivial things, foreign to the body of the crime, it is a sickening shock to justice." Another thinks there is nothing for the lynching judge and attorney general to do in this case "but to resume the trial doggedly and exhaust all lawful resources to give the Reelfoot Lake murderers their just deserts"; and as it regrets the Supreme Court's decision, it may be regarded in its use of the phrase "lawful resources," as placing the emphasis on the noun.

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There are, indeed, some papers, to their credit be it said, that support the Supreme Court and deplore the tendency of courts of justice, so markedly exhibited in the Reelfoot trial, to become mere agencies for the administration of lynch law. But what a devilish exaltation of conventional property rights above natural human rights the other papers exhibit. Observe how calmly they describe the reversal of a hanging verdict rendered by twelve men lawlessly acting as a petit jury, and the quashing of an indictment found for murder by twenty-three men lawlessly acting as a grand jury, as a "hair-splitting exaggeration of the importance of trivial things." The men who lynched Rankin could justify their own act by the same reasoning. But they did not represent property rights—not Big Property rights—and Rankin did.

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Judges in Contempt of Court.

Judges who take it upon themselves to lecture juries for finding verdicts different from what the judges themselves would have found had it been in their province instead of the jury's, have come in for a deserved lecture from the New York Sun of July 29th, which says: "It is not any more proper for a judge to criticise a jury for rendering a verdict of not guilty in a criminal case than it would be for the jurors to criticise the rulings of the judge made in the course of the trial. It is the constitutional right and duty of the jury to pass upon the questions of fact. With these the judge in a criminal prosecution has nothing to do. He may be convinced that the verdict of the jury ought to have been the other way; he may feel that if a determination of the questions of fact had been confided to him he would have decided them otherwise; indeed he may regard the acquittal as an absolute miscarriage of justice; nevertheless in the absence of any evidence tending to show that the jurors have acted corruptly, he cannot properly in the exercise of his judicial functions criticise their conduct." This is a sound statement. Sometime, it may be, a juror who knows his rights and dares maintain them, will reply on the spot to the judge who presumes in this lawless manner to insult jurors in open court. For a judge to criticize a jury in open court for finding a verdict of "not guilty," is as truly contempt of court—of which the jury is as much a part as the judge—as it would be for the jury to criticise the judge. There is danger in this tendency of judges to usurp the functions of the jury.

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Tom L. Johnson's Defeat.

It is said that Mayor Johnson of Cleveland has sustained another, and this time a crushing defeat (p. 755). Some say it in joy, for they wish it so. Others say it in sorrow, for they wish it otherwise but have never read the story of the Jews in the wilderness as a lesson of life. Let us take an account of stock, then, and see how crushing this "crushing defeat" really is.

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Imprimis: Mayor Johnson is fighting for 3-cent fares for street car service, with a limitation of profits for street car companies to six per cent of actual capital employed. Yet that is not the whole of what he is fighting for. It is only a means to an end, a stage on a journey, a milestone toward a goal, an outpost to a citadel. And it is because of this that the fight has been so long, so wearisome, so fluctuating, and that every repulse has to Johnson's sympathizers seemed a disaster, and to his enemies a "crushing defeat." This bottom fact must be kept in mind, for it is his objective and the effect upon it of his immediate demand, and not the demand itself, that bestirs the plutocrats of Cleveland.

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At the recent traction referendum, Johnson's enemies were able to run up a vote giving them a majority of 3,763. But how foolish to regard that contest as anything worse than a lost battle in the irrepressible conflict between democracy and plutocracy may be seen by considering all the figures. Supporting Mayor Johnson, there were 31,022 votes. As the contest was made under circumstances extraordinarily unfavorable to him, this

may be reasonably regarded as an irreducible minimum. Then there were about 15,000 registered who did not vote. What the result of their voting would have been, no one can tell, and it must be left out of the account. Now for the other side. Those who fought Johnson, polled 34,785 votes. But how were they got? By the most complete union ever established in Cleveland between Big Business, its little business dupes, "Alameda citizens," labor "skates," newspapers edited in the counting room, the crooked politicians of both parties (reputable and disreputable), all the pharisee chaplains of the wickedly wealthy, and the entire banking ring. For this contest, if it had gone Johnson's way, would have been an irretrievable defeat for Big Business, and Big Business knew it. Under those circumstances, can the 34,785 votes which Big Business rallied to the cause of the traction ring be regarded as an irreducible minimum? Does this majority against Johnson imply "crushing defeat"?

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If it does, then democracy had better capitulate with plutocracy at once and save useless friction. But plutocracy does not stay down when it is knocked down, and why should democracy? Plutocracy does not capitulate for the sake of peace, and why should democracy? Are we told that this defeat of the Schmidt ordinance forebodes the defeat of Johnson for Mayor next November? In the estimation of his enemies, to whom the wish is father to the thought, it doubtless does. So it may also in the estimation of friends to whom pride in his election is stronger than devotion to his cause. Confidence springs from victory and discouragement from defeat. But there is no more real reason to doubt Johnson's re-election now, than there was a year ago when nobody doubted it. Loss of prestige? Yes, that may have an ill influence; but loyalty and enthusiasm can seize upon it as an advantage. When plutocracy divests a democratic servant of prestige, the hour has come for the most ringing appeal to democracy. And what of it, should Johnson be defeated for re-election? He has never sought his office for the sake of the office. He has sought it always for the cause in which he enlisted long ago. The office! Why he could have that for life, and a certificate of good conduct into the bargain from all the "best people" of Cleveland, if he would give up his cause.

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As to the civic work in which Mayor Johnson has been engaged for ten years as Mayor of Cleveland, his work in the direction of releasing the city from the deadly grip of Big Business interests and making it a people's city, this has not been checked by the referendum vote last week. The traction ring is in no better position. Johnson is in no worse position; indeed it looks as if it were better for him to have fought that fight and lost than not to have fought it at all. At the worst, one plan for rescuing the city from its Big Business thraldom has been defeated. It is now up to the other side to propose a better one, and the referendum campaign has forced them into a position which makes the demands of the "head centers" of the traction ring impossible. Tom L. Johnson is not knocked out. He is one of the foes of plutocracy who does not stay down even when knocked down, and as yet he has not been even knocked down. With at least 31,022 voters of Cleveland loyally supporting him against the most complete combination of the financial interests and their natural allies that has been or is likely to be made in Cleveland, he can, as he doubtless will, go on with his courageous fight to loosen the strangle hold of Big Business upon his city. If the Interests can turn him out of the point of vantage he holds as mayor, which is not so probable as their allies and organs try to make it appear, they may forthwith find him in a still stronger position on a broader field of action. This at any rate is the lesson that history displays so plainly that even the wayfarer though a plutocrat may read it if he will.

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St. Gaudens.

A collection of works of the greatest sculptor of this country and among the great of all countries in all past times, is on exhibition at the Art Institute, Chicago, and will continue to be for nearly two months to come. Augustus St. Gaudens was a truth-teller. He told the truth in his work because he wanted to, and knew how. It requires skill as well as purpose to tell the truth. That is the reason so few artists tell it in their work, and it is the principal reason so few witnesses tell it on the stand. An honest purpose prevents perjury on the witness stand, for perjury with good motive there cannot be; but good motive alone cannot prevent misstatement or inadequate statement. So with sculpture. Here the sculptor is the witness. A liar he may not be, but if he is deficient in skill necessary to bring out the truth, the truth will not come out. This is the skill that St. Gaudens added to sincerity. Look at that wonderful figure at the