

income, and used her mind as well, to promote social causes that loomed up before her larger than self. Her death came suddenly. A surgical operation, three weeks in a hospital, another operation, a touch of pneumonia, and she was gone. She died on the 13th; the burial was on the 15th. Well known in dental and radical circles of Chicago, Dr. Lund had sympathetic friends, especially among democratic radicals, in many other American cities from ocean to ocean.

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A SIGNIFICANT PARALLEL.

Many public men oppose the recall of judges, and offer some plausible but fallacious reasons for their opposition, such as that the recall will cause the judge to "pander" to the "mob." This assumes the weakness of the judge, for one thing, and next that the people are generally wrong in their conclusions. As to the weakness of the judge, no one is better qualified, perhaps, to pass on that question than the professional politicians who oppose the recall as applied to judges; for they have hitherto supervised the nominations and appointments of judges, and best know the weaknesses of their own creatures. But that public opinion is generally, or ever, wrong is not to be admitted, provided that it be fully and correctly informed.

President Vail, of the American Telephone & Telegraph Co., has risen from the ranks to his present high position, and he sums it up as follows (Ann. Rep. for 1910):

In all times, in all lands, public opinion has had control at the last word—public opinion is but the concert of individual opinion, and is as much subject to change or to education.

It is based on information and belief. If it is wrong, it is wrong because of wrong information and consequent erroneous belief.

It is not only the right but the obligation of all individuals or aggregations of individuals, who come before the public, to see that the public have full and correct information.

For President Vail, then, the "mob" does not exist; but there does exist for him a safe, sane, just, courageous, conscientious people capable of arriving and ready to arrive at correct conclusions once it is fully and correctly informed.

The laws are not made for honest folk—they are made for rogues; hence, no honest judge, even if reasonably incompetent, has anything to fear from the recall; for, as Mr. Vail tells us, all that has to be done to protect judges is for the public to be fully and correctly informed as to their acts. History bears him out fully. The long-suffering of the people is one of the marvels of history.

Let us examine into the judge's place and functions in the organization of society, and see just what they are.

As the evils of private war forced themselves upon the consciousness of mankind, men, to prevent acts of oppression and worse under the guise of vengeance or revenge, cast about for a means for settling disputes other than private war; that is, public opinion began to assert itself, and in course of time the jury and the judge were evolved.

The laws or customs themselves being merely public opinion, the office of the judge was merely to apply them to the facts in the case and decide accordingly. The first modern writing down of customary laws was at Barcelona, Spain, in 1068 A. D., yet two hundred years previously Nuño Rasuera and Leon Calvo were appointed judges to sit at Leon in the infant kingdom of the Asturias because of the distance litigants would otherwise have to go to get to the King at Oviedo. So it is clear that judges enforced customary laws, which were merely public opinion in action.

Yet this was prior to the time when a writer said (about 950) that "the Spaniards live like savage beasts, entering one another's habitation without asking permission, and washing neither their bodies nor their clothing, which they do not remove till they drop off in tatters."* But the Spaniard had then been living in perpetual warfare for upward of 200 years against the Moors and among themselves, and while his manners may have been poor, he had laws with judges to enforce them.

To-day, the warfare of society is against the predatory classes, whether these come from the slums or from bankers' offices; the weapons of society are not sword and spear, the weapons of the old private wars, but laws and penalties; and the wielders of these modern weapons are the sworn servants of the state, of society as a whole. These same weapon-wielders are, in the case of judges, the arbitrators of the law as between private parties, with juries to ascertain the facts.

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In time of war, nations do not hesitate to relieve (recall) an unsuccessful military or naval commander, and McDowell, McClellan, Pope, Hooker, Meade, of our own great war, are instances. Grant in the army and Farragut in the navy both fought under (and never thought about) a law denouncing the penalty of death upon them if they should fail in certain things. "The punishment of death or such other punishment as a court-martial may adjudge may be inflicted upon any commanding

*Burke: History of Spain, 1. 170. note.

officer who, being in the presence of an enemy, fails to use his utmost endeavors to join in battle." Responsibility is thus put squarely up to the commanding officer; nor do subordinates escape their responsibility, for they are required to give the utmost that is in them under like penalties. If society demands the very life-blood of the military and naval officer if he fail in his duty as a servant of society in time of war, why may it not with equal justice demand a judge's place on the bench when he fails to use his utmost endeavors in the perpetual war against the predatory classes?

The recall of judges is merely a means for making them realize and live up to their responsibilities as commanders in the warfare against the predatory classes of society; and when that fact is as fully realized and lived up to as our army and navy officers live up to the Articles of War, the judicial recall will rarely be alluded to by the public, but will hang there ready for use.

Moreover, the navy Articles of War, quoted from above, open with this: "Every commander of a fleet, squadron, or vessel acting singly is required to show in himself a good example of honor, virtue and patriotism." When our judges show in themselves good examples of faithful service to the public weal, the public will see to it that they stay on the bench irrespective of party. Just such a case happened in a strong Republican county in New York, where, during Tilden's campaign for the Governorship, the Democrats unexpectedly elected their candidate for judge, and so good a judge did he make that he was never seriously opposed thereafter, and was re-elected time and again until he died, though the county went back to the Republicans on all other offices. This case confirms President Vail, for he practically says that "mob rule" will be unknown where public opinion is based upon full and correct information, because public opinion is always right in such cases.

No one hears any complaint from army or navy officers because the law provides the penalty of death for certain kinds of failure; they are not petitioning Congress to repeal such laws because they reflect on the "honor, virtue or patriotism" of the officers. If any officer neglects his duty, and there are such from time to time—civilian (political) appointments in the army giving a disproportionate number of such cases,—a court-martial sits and judges him. So with the recall as applied to the judiciary: If any judge gets to be negligent of his duties, or leans too much to one side where valuable rights or privileges are concerned, the recall will set him straight or remove him as the people

may decide; but if he attends to his duties, does substantial justice as a judge, and enforces laws instead of trying to make them, no attempt to recall him will be successful.

What, then, is the reason for opposition to the recall of judges? In many cases, it is due to inherent fear of change, or to ignorance; but in other cases it is a fair inference that the "fears" expressed are but covers for ulterior, unavowed and unavowable motives. It takes but little reflection upon present-day conditions in nation, State, county and municipality to perceive what the unavowed reasons may be.

R. W. BARKLEY.

EDITORIAL CORRESPONDENCE

THE MASSACHUSETTS CAMPAIGN.

Boston, Mass.

Unless the mass of voters in Massachusetts are easily deceived and frightened by the reckless assertions of Republican campaign orators the Democrats should win hands down. I do not recall ever having been more impressed with the impudent mendacity and threatening insolence of stump orators and a superserviceable press than I have been thus far in the conduct of the Republican campaign throughout Massachusetts. It is a loathsome exhibition. Time was, before the concentration of industry in few hands, when this or that beneficiary of the protective tariff intimated to his two or three hundred employes that a vote for the Democratic candidate would be construed as a vote for shortening production, and that naturally those who voted thus would be the first to go when the time for reducing the force arrived. Sometimes, as we know, the matter was put more bluntly in a note tucked away in the pay envelope some day before election, and there were a dozen other methods of bringing it home to the workman that his employer demanded his vote for the party of Protection. No such crude methods are now necessary, though doubtless they are resorted to in particular instances. The supposed direct relation of a State election to the immediate future of the workingman's fortunes is set forth with sufficient point and pith by campaign orators who address meetings in communities where nine families out of ten are directly dependent for bread upon the prosperity of factories turning out cotton goods, shoes or what not, and prophesy the wreck of business as a certain and early result of re-electing Gov. Foss. Reckless untruth distinguishes the tone of the Republican speakers in the current campaign, and there is an implied threat directed immediately at the workingman in every breath of the men who are now seeking to make the tariff the sole issue in the State election. Of course there are honest men who believe that the election of Mr. Foss means the eventual closing of the mills and the impoverishment of wage earners. As a systematic campaign cry, however, the tariff issue is absolutely insincere, and nothing better proves its insincerity