

# THE SURVEY

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WITH INDEX

CHARITY ORGANIZATION SOCIETY

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# THE COMMON WELFARE

## FEDERAL INDUSTRIAL COMMISSION URGED

People of the Atlantic coast struck hands with those of the Pacific when a petition signed by a group of New York social workers was presented this week to President Taft, asking that the federal government create a commission with competence, staff, and resources as great as those of the Interstate Commerce Commission to investigate the larger bearings of the Los Angeles incident. The text of the petition, published on page 1430, urges an immediate inquiry into industrial relations in the structural iron trade, and urges, as its larger task, such fundamental research into the relations of employers and employes generally as will gauge the breakdown of existing laws under the pressure of industrial development, and will form the basis for a constructive public program.

An illustration of the need for such an inquiry is the fact that, while the newspapers have been filled with the McNamara trial, very little information has been brought out as to the structural iron trade, which, rather than Los Angeles, has been the seat of the dynamitings. The industry is widely scattered in its operations, so that an extensive investigation would be necessary to get a clear idea of the situation of which the *Times* Building explosion was an offshoot. Some fragmentary factors in the situation are worth bringing out. Of these two in especial seem to have largely escaped public notice.

One is that the construction of modern steel-framed buildings is an industry that dates back but little over twenty years. It is a new industry, manned on the side both of the employers and the employed by men of the pioneer type—men inclined to disregard the finer aspects of personal safety—aggressive, reckless.

The other thing to remember is that, young as the industry is, it is bound up

closely with an old industry—the industry of blast furnaces, puddle mill, Bessemer converter and roll. In this older industry labor policies have been taking shape for well-nigh a century, and the labor conflict has been on for fifty years. As a result steel making is to-day non-union; and the employers are in absolute control save on the fringes of the industry.

The first steel-frame office building of the modern type was erected in New York, and the first recognition by employers of any union in the structural iron trades in this vicinity occurred in 1898. A National Association of Bridge and Structural Iron Workers had been formed two years earlier, though various house-smiths' unions had existed sporadically for thirty years previous. The movement toward unionism in these trades became strong in 1900, when the International Association of Bridge and Structural Iron Workers was formed. This included Canada, where there are now five locals, as compared with 116 in this country. In Pittsburgh and New York substantial progress was made by the union up to 1905, when there arose a conflict with the American Bridge Company, a subsidiary of the United States Steel Corporation. As a member of the National Erectors' Association, the American Bridge Company was party to an agreement between the eastern district of this association and the union, signed January 1, 1905, and binding for one year. Several articles in this agreement are important. One read that in case the union failed to supply a sufficient number of workmen, "the employer shall be at liberty to employ such other men as may be found by the employer or his representative to be satisfactory as to character and competence."

This was a modified closed-shop plan. Another clause read:

"In case of misunderstanding or dis-

pute arising between an employer and his workmen, the matter in question shall be submitted to arbitration locally, without strikes, lock-outs, or stoppage of work, pending the decision of the arbitrators."

This was modified by a later clause: "None of the definite articles of these rules shall be subject to arbitration."

#### THE BEGINNING OF THE TROUBLE

The American Bridge Company had been employing union labor and in 1905 they furnished a large amount of structural material to the National Tube Company, another subsidiary of the United States Steel Corporation. The tube company was at that time building a new plant in McKeesport, Penn., and was putting up its plant with non-union men. The union insisted that the American Bridge Company persuade or compel the National Tube Company to employ union iron workers upon this work.

This the company refused to do.

A few months prior to this, according to union statements, the American Bridge Company sublet three contracts in New England to the Boston Bridge Company, a firm employing non-union men. The union demanded that the American Bridge Company force the Boston company to use only union men. This was refused, and a strike was called against the American Bridge Company in all parts of the country. The latter contended that this was a violation of the agreement to arbitrate all disputes, but the union for its part cited the clause that no definite articles should be subject to arbitration and insisted that the employment of union men, when they could be furnished, was a definite article within the meaning of this clause.

The National Erectors' Association claims that in the negotiations for settlement after the strike was begun, F. M. Ryan, president of the Structural Iron Workers' Union, demanded that the American Bridge Company and the other members of the United States Steel Corporation manufacturing steel, should, as in the case of the National Tube Company, refuse to deliver any structural steel whatever to any contractor who

did not propose to erect it with union men. This demand closed all attempts at settlement.

The American Bridge Company early in 1906 adopted an anti-union policy.

The National Erectors' Association adopted the same policy in May, 1906.

Since that time the war has been on. Following the walkout against the American Bridge Company in the fall of 1905, an investigating committee appointed at the Philadelphia convention of the Structural Iron Workers' Union (held in September) decided that the New York firm of Post and McCord was a subsidiary of the American Bridge Company, and a strike of its employes was called. The Joint Arbitration Board existing under the agreement of January 1, 1905, determined that the union had no cause for its strike against Post and McCord, and demanded that it return its members to work. The union refused and again declined to recognize any arbitration of the question involved.

The National Erectors' Association claims that during this strike in New York city, which stretched on into the spring of 1906, there occurred "an almost unprecedented series of assaults, destruction of property, intimidation, and other like methods. In two months alone, nearly seventy-five assaults, some of the most serious character, were committed in New York city upon the non-union men."

Since that time, according to the National Erectors' Association, there has been a continuance of this policy. Following the arrest of the McNamara brothers, statements made by Detective Burns in *McClure's* magazine were to the effect that this dynamite

epidemic started in 1905, when attempts were made to destroy several railroad bridges in the neighborhood of Peoria, Ill., which were being constructed by the American Bridge Company. In the year 1906 a policeman was killed in the Plaza Hotel in New York city, an American Bridge Company's watchman was killed near Pittsburgh, and several explosions took place in Newark and Cleveland on work of the Pittsburgh Construction Company. In 1907 there were a large number of similar accidents, and 1908 was virtually a reign of terror among steel constructors. In that year there were twenty big dynamite explosions on different works, besides four that ended unsuccessfully. These accidents

took place in such widely separated places as Cleveland (O.), Elsdon (Ill.), Clinton (Ia.), Perth Amboy (N. J.), Bradshaw (Md.), St. Louis, and Kansas City.

Although the favorite object of attack was the railroad bridge, steel buildings, steamship piers in the city of New York, and structural material in the Pennsylvania Railroad yards at Philadelphia were other things that were dynamited. It was only by the barest chance in many of these outrages that there was not a great loss of human life. Thus, on the night of July 1, a bridge was blown up on the Lehigh Valley Railroad at Buffalo, just a few minutes before a passenger train was stopped within two hundred feet of plunging into the wreck and killing the passengers. In 1909 and down to September, 1910, there were thirty-five destructive explosions, three other unsuccessful attempts, and several assaults on workmen. All these years the employers had been working hard to find out who was committing these crimes. They had spent hundreds of thousands of dollars upon detectives, without result.

#### SOME OF THE DYNAMITINGS

Last week, various newspapers published under an Indianapolis, Ind., date line a list of eighty-seven explosions and attempted explosions said to be under investigation by the Federal Grand Jury in that city and "believed to have been planned and carried out under John J. McNamara's direction." The dispatch stated that

there are many others for which he is believed to be responsible, but which cannot be traced directly to him. In every case there was a reason why organized labor should have a grudge against the sufferer from the dynamiting plot. Usually it was a case of the open shop, the purchase of material made in such a shop, or the employment of men who were not members of a union.

Two days after the McNamaras confessed in Los Angeles, C. E. Cheney, secretary of the National Erectors' Association, gave out the following list of twelve assaults, committed in New York vicinity alone, which he laid to the union:

December 7, 1905—Derrick on the Altman Building, at Fifth avenue and 35th street, under construction by the Post and McCord Company, tampered with so that its use would have meant serious injury to several men.

December 19, 1905—Dynamite bomb thrown in window of Allied Iron Trades Association's offices at No. 7 East 14th street, where strike breakers employed by Post and McCord were meeting. Several injured, and building badly shaken.

January 9, 1906—Dynamite exploded under

derrick on Bliss Building, at No. 304 East 23rd street, under construction by the Post and McCord Company. Derrick wrecked.

July 11, 1906—One special policeman killed and two left for dead after their escape had been cut off by the removal of ladders on the eighth floor of the Plaza Hotel, under construction by the George A. Fuller Construction Company.

March 25, 1908—Bridge of the New York and Long Branch Railroad at Perth Amboy, under construction by the Pennsylvania Steel Company and the McMullen and McDerinott Company, wrecked by dynamite. Damage estimated at \$50,000.

April 6, 1908—Dynamite exploded under hoisting crane on Chelsea Piers, North River, between 16th and 17th streets, under construction by the McClintic-Marshall Company. Crane wrecked.

May 21, 1908—New steel bridge of New York, New Haven, and Hartford Railroad Company, at Baychester, badly damaged by explosion of dynamite.

March 31, 1909—Dynamite exploded under concrete pier of steel viaduct connecting Hoboken with the heights of Jersey City and West Hoboken, under construction by the McClintic-Marshall Company. A score of non-union men injured. Damage to structure estimated at \$1,000 and to neighboring houses at several times that amount.

August 16, 1909—Dynamite exploded under concrete pier of New York, New Haven, and Hartford bridge over Whitlock and Garrison avenues, the Bronx, under construction by the Pittsburgh Construction Company. Damage trifling.

May 24, 1910—Structural material in Interborough storage yards, at 223rd street and Broadway, belonging to the Pennsylvania Steel Company, blown up by clockwork dynamite bomb. The lives of many employees sleeping nearby endangered.

July 8, 1910—Two charges of dynamite exploded under the Lehigh Valley's freight viaduct, east of the Greenville section of Jersey City, under construction by the Phoenix Bridge Company. Two columns wrecked.

September 3, 1911—One pier of the New York, Westchester, and Boston's viaduct, just east of Columbus avenue, Mount Vernon, completely wrecked by an explosion of nitroglycerine. Damage estimated at \$1,000.

As a factor in this conflict, the bitterness existing between the National Erectors' Association and the Structural Iron Workers' Union has been extreme. In New York, for instance, the building at 30 East 20th street, where non-union men apply for jobs to the National Erectors' Association, is commonly known among union iron workers as "Snake Hall." The union men call it "an employment bureau for scabs" and

Walter Drew, counsel for the Erectors' Association, they call the "\$12,000 a year strike-breaker." The fact that practically every other building trade in New York is organized, and the employers treat with the unions, is a factor in the feeling.

#### THE ERECTORS' ASSOCIATION

The National Erectors' Association is an organization including a large number of employers engaged in the business of erecting structural iron and steel all over the United States. The most important of these companies are the American Bridge Company, the Pennsylvania Steel Company, McClintic-Marshall Construction Company, the Fort Pitt Bridge Works, the Pittsburgh Steel Construction Company, the Phoenix Bridge Company, the Hinkle Iron Works, and the Wisconsin Bridge and Iron Company. Representatives of these companies constitute an executive committee which has entire charge of the government of the association: the fixing and collection of its assessments, and the carrying on all business. The executive committee usually holds meetings once a month. The American Bridge Company is its most influential member—a factor of especial importance in view of the well known and long standing warfare between the United States Steel Corporation and unionsm.

The National Erectors' Association, to use its own words, has adopted the open shop

as the fixed and permanent policy of the association. By this is meant that workmen are employed irrespective of membership in any organization, and without discrimination. An effort is always made, however, to give employment to loyal independent workmen who accepted employment during the struggle with the union caused by the open-shop declaration of the association. Any preference in employment is given to these men.

It is to be learned, also, from a booklet put out by the National Erectors' Association, that it maintains employment bureaus in several of the large cities of the United States. During the first few months after the beginning of the fight against the union, it had a large

number of employment bureaus in cities scattered over the country:-

In time of acute trouble, the association has organized and operated a guard service for the members with greater efficiency, and much less cost, than that of the ordinary service of the detective agencies.

The association asks for the co-operation not only of erectors of structural iron and steel but of all those engaged in allied building branches. It

has many times lent material aid in the open-shop movement of other building trades, and stands ready to lend its whole power and influence to the open-shop cause in any of the other building trades.

The National Erectors' Association also urges everybody, producer or consumer, to join a movement against the closed shop. Says the booklet:

*It takes two to close a shop, the employer and the union, and a shop can stay closed only with the tolerance or acquiescence of the general public which consumes its product. The day when the employer had no choice but to grant a closed shop is rapidly passing, if it ever really existed. Do not be a party to a closed-shop agreement, do not ask for closed-shop clauses in your building contracts, and do not patronize a closed-shop builder if there is an open-shop one in your community.*

#### THE IRON WORKERS

The rapid expansion of building operations which have made a great demand for experienced labor in this field is one factor in the continued existence of the Structural Iron Workers' Union in spite of the policy of the Erectors during the past six years to refuse to treat with them as an organized body. While the union is nominally on strike against the Erectors, men carrying union cards are employed on their work. The *Bridgemen's Magazine* for October, 1911, gives 12,230 as the average total membership of its 121 locals in this country and Canada for the year ended July 1, 1911. The total average membership of the nine locals in the New York district is, on the same authority, 3,165. According to officials of the union this is as great a numerical strength as the union has ever known. It is claimed that 95 per cent of the structural iron workers in New York and

vicinity are members of the union. The result is, say the union officials, that union wages and hours are maintained by all firms erecting structural steel and iron in this vicinity, whether these firms employ non-union men or not. As a matter of fact, union officials declare, many firms supposedly following the open-shop policy do not and will not employ non-union men. There is a sort of silent, unwritten agreement between them and the union. It is claimed that two-thirds of the union members are employed on work where no non-union man can get a job. This they attribute to the efficiency of the union organization in the New York district.

Many firms which live up to union schedules in New York, however, pay smaller wages and work their men longer hours in localities where unionism in the structural iron trades is not so strong. It is admitted also by the union officials that there is doubtless a loss of strength to any union which cannot command written agreements with employers in the trades in which it is organized.

It remains to note what conditions as to hours and wages have governed under the two régimes in these trades. The big advances in labor standards came during the period of union recognition.

When the structural iron workers in New York were first organized, in 1895, they were working ten hours a day for 24 cents an hour. In 1898 they first secured recognition and introduced a scale of \$2.50 for an eight-hour day. In 1905, when the last written agreement was made, it was for \$4.50 and an eight-hour day.

In Pittsburgh, in 1900, skilled workmen were receiving 27½ cents per hour for a ten-hour day. They established a nine-hour day in 1901, and an eight-hour day in 1902. In 1906 they were getting \$4.00 per day, or 50 cents an hour, and were striking for 56½ cents an hour when the employers succeeded in introducing the open shop.

Since 1906 the National Erectors' Association's policy has been one of standing pat. To use their own words, "they have not reduced wages nor lengthened hours."

In the six years of their control in

New York, wages have advanced from \$4.50 to \$5.00 a day. The eight-hour day still stands, but it may be significant that one of the educational pamphlets issued by the National Manufacturers' Association is an attack upon the eight-hour day, on economic grounds, by Walter Drew, counsel for the National Erectors' Association. Further, an official of the association told a representative of THE SURVEY that undoubtedly any employee of the erectors' association who might try to re-organize a union would be discharged.

#### A FREE HAND TO OPERATE

An illuminating transcript of the labor policy of a fighting employers' organization which, like the Erectors' Association, operates in a field subsidiary to iron manufacture was afforded by the fifteenth annual convention of the National Founders' Association. This met in New York November 15 and 16.

"One of the striking features of this meeting," says the *Iron Trade Review*, "was the almost entire absence of the discussion of labor difficulties, notwithstanding the fact that this society was formed for the purpose, primarily, of dealing with the labor troubles of the founders in the United States and Canada."

Since 1906, President Briggs stated, the Molders' Union has lost as much as 60 per cent of its membership; not only that, but, he stated, they are much less aggressive in strikes than they formerly were; have greatly increased their membership dues, and are now devoting themselves with much greater energy to attempts to win back their membership than to win strikes. Secretary Hutchings, in his report, declared that since 1906 it had cost the Founders' Association \$327,937.14 in fighting strikes, while the Molders' Union, on the other hand, had spent \$1,841,000 in the same strikes.

Commissioner A. C. Clinton, in his report, said that "while this association tends to form an uncompromising position for the open shop, it also stands for the making of the open shop a better place to work in than a workman can hope

to obtain by depending on the union." Going on, he declared that he had found, in travelling about the country, that the members of the association were making great progress in the way of light, ventilation, sanitary equipment, and accident prevention. President Briggs is quoted as saying on the one hand that "our employes are our strongest allies," and on the other (referring to a number of strikes for the eight-hour day) "it is a pleasure to report that, from a present viewpoint, these efforts of the union are a failure."

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## EDITORIAL GRIST

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### CONSERVATION AND INDUSTRIAL WAR

PAUL U. KELLOGG

The outcome of the McNamara case threw into relief the fact that the officials of a national group of organized labor, in an industrial field in which the contest between employers and employees has been sharpest, had resorted to dynamiting as a deliberate policy. In an interview given out the day of the confessions, Harrison Gray Otis called on organized labor to "purge its ranks of lawless methods, principles, purposes, and persons," and "act within the limitations of the law." Lincoln Steffens turned the challenge around and asked:

What are we Americans going to do about conditions which are bringing up healthy, good-tempered boys like these McNamara boys to really believe, as they most sincerely do—they and a growing group of labor—that the only recourse they have for improving the conditions of the wage-earner is to use dynamite against property and life?

At a time when the general run of comment has been perhaps naturally enough that of reproach, betrayal, and condemnation, these two obligations, thus stated, growing out of the Los Angeles

incidents, make requisition upon the broadest statesmanship of those who know conditions of life and labor first hand—the group whose experience and outlook THE SURVEY voices. Moreover, the reported action of Los Angeles citizens in considering the outcome a release from an unnatural tension and alignment in American life, and setting about to establish fresh and more hopeful industrial relationships, was a special call upon the country for ways and means to go about it.

In asking a representative group of men and women for constructive suggestions, THE SURVEY put two questions:

What should be demanded of organized labor in putting its house in order?

How should we overhaul the law (or governmental machinery) so that the wage-earner who singly or collectively acts within it shall be strong and not weak in securing for himself substantial justice?

The remarkable symposium presented in this issue is the result. A trend is noticeable, running through the pages, calling for fresh scrutiny of our laws and methods of industrial adjustment, and culminating in the clear recommendations of the petition presented to President Taft asking for a federal commission on the "crucial boundary line between industry and democracy."

The situation is too much freighted with the public well-being to be left to contending forces to keep striking false balances. The responsibility for sovereign and regulative action rests upon the whole people. We must give structure to fair play; reality to justice; and buttressed channels to those economic forces which, when they work at cross-purposes, jam up the currents of our national life. Even in so doing, they illustrate the restless human energies which America as yet fails to conserve for creative purposes. In the same way that we have let our water powers stand neglected, have let our forests of matchless trees crouch down into stumpage, and have let the freshets waste our farm lands, we waste our human strength.

# LARGER BEARINGS OF THE McNAMARA CASE

## CONTRIBUTORS TO SYMPOSIUM

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## FOUR ALTERNATIVES

It is the contention of numbers of citizens that modern industrial society is in a state of war, that capital is arrayed against labor, and that labor is arrayed against capital. They hold that the fight is unequal because all the laws which govern the contest are in the interest of one party and are enforced in the interest of one party; that capital has made the laws, controls their administration, and influences their interpretation. Those men argue from this that when they come to know the origin of the laws they "retain absolutely no respect for the property rights of the profit-takers." By theft, robbery, arson, wilful destruction of property, or similar acts, so the inference may be drawn, though no writer is frank enough to say, the battle must go on. They draw parallels between industrial America and political Russia.

Another group of citizens is contending that, although there is a conflict between capital and labor and although the laws of property are made and enforced by capital, nevertheless the parallel between Russia and America is false and there is no necessity for a resort to lawlessness. Russia has no machinery for the expression of public opinion; it has a political despotism, not a representative government as has England, nor a democracy based on manhood suffrage as has the United States. If the working class is unjustly treated, these men bid the working class go to the polls as a class, capture the machinery of government, and use it in the interest of their class. They are teach-

ing that only through political action can the workers attain their economic freedom.

The third group of people are teaching that the working men are to discard both these positions and choose in their place submission to their employers. They hold that their employers have a right to organize for purposes of profit, but that workmen have no right to organize for purposes of profit. The right of organization on the part of working men is limited to benevolent societies. They hold that a trades union designed to barter with the organization of capital is without justification. Each individual working man is to sell his labor in an open market; he is to submit, and his organizations are to submit, to the laws of the competition of supply and demand.

The fourth alternative before working men of America and advocated by a vast number is the organization of labor on a basis where it can effectively bargain with organized capital. It is held by the advocates of this position that our industrial democracy can be maintained only as organized capital will recognize organized labor. It is further held that if the moral force of good-will, fair play, and mutual consideration shall be added to the recognition of labor organizations, these two forces will work out harmonious co-operation between capital and labor. What is needed now, these advocates affirm, is enlargement and strengthening of the labor organizations with a frank avowal of ethical principle, and on the side of capital a reconsecration to the same ethical standards.

These are the four alternatives which confront the American workingman. I believe that it is possible for the federal government to conduct an investigation which will show the average man that the way out of the condition in which he thinks he is placed is not by way of violence, is not limited to political action, is not submission, but lies through a combination of economic and ethical reorganization of society and political action.

J. HOWARD MELISH.

Brooklyn.

### THE MORES OF THE PEOPLE

The confession of the McNamara brothers has caused both relief and concern to everyone who views with sympathy the efforts of American wage-earners to improve their condition through organization. Since there was no question but that the crimes of which they were accused had been committed, their conviction on their own confession has gone far to clear up a situation tense with even more serious possibilities. Had it been based on any but the most conclusive evidence, millions of well-meaning and law-abiding wage-earners all over the country would have continued to regard them as victims of a capitalistic conspiracy. On the other hand, had the evidence against them proved insufficient for conviction, hundreds of thousands of employers would none the less have deemed them guilty men. Either outcome must have further embittered the strained relations between employers and employees. As regards this aspect of the matter, therefore, their confession, since they were guilty, is the best solution that the situation admitted of. It is not only a vindication from the charge of conspiracy of those concerned in their prosecution, but to some extent evidence that in their criminal operations they had few, if any, confederates outside of their own organization.

The ground for concern is that this last fact may not be conclusively proved by the searching inquiry that is now in progress. Public opinion is wavering in the balance. By declaring their willingness to co-operate in trying to bring about the conviction of the confederates of the McNamaras, if they have confederates, as several organizations have already done, the labor unions of the country can turn the scales in their favor. On the other hand, if they put themselves on the defensive, and continue to make light of the nation-wide demand for the suppression of lawlessness in connection with labor disputes, as some of their leaders seem disposed to do, they will turn the scales the other way and retard the movement for better conditions which it is their purpose to advance.

It is undoubtedly true, as socialists are fond of affirming, that there is going on to-day, as there has been going on in the past, a class struggle. This McNamara incident and the reaction of public opinion which it has called forth bring out the equally indisputable fact that more fundamental than the class strug-

gle are those elementary convictions and habits of thought which are shared by all classes, and which the late Professor Sumner called the *mores* of a people. In the *mores* of the average American there is no place for the dynamiter. Lawlessness of this kind must be suppressed; and, until it is suppressed, efforts to bring about a liberalization of our law with reference to labor organizations, as the English law has been liberalized, or to extend the field of labor legislation, will fail to command that sympathy and support from the average American which they deserve. The best friends of labor in this crisis are, in my judgment, those who urge the labor organizations to place themselves squarely and unequivocally on the side of law and order.

HENRY R. SEAGER.

New York.

### CALL TO THE CITIZENSHIP OF LABOR

The outcome of the McNamara trial points conclusively to the fact that some labor organizations have employed methods in obtaining their ends that are not only condemned by people generally, but must be utterly against the wishes of the great majority of their own members. It is not conceivable that the majority of the members of such unions really desired to commit such crimes. If this is a true analysis of the situation, organized labor should put its house in order by getting possession of its own government. It is, perhaps, a difficult matter to prevent the control of such organizations from falling into the hands of the personally interested and the unscrupulous, since these men are "always on the job," and the average working man is disinclined to burden himself with the politics of his association; but it is incumbent on him, nevertheless, to assume this burden if the management of the association is to be kept fairly representative and to command the respect of the public.

GEO. BURNHAM, JR.

Philadelphia.

### UNLESS

The workers have been driven until at last even they are turned. And now that they have been shown how easy it is, after all, to avenge their wrongs and to attack their masters at the one vulnerable point, property, we shall have more of murder and arson before we shall have less—unless those who control the courts and the legislatures, and warp public opinion as they will, shall come to realize that the American workingman will not stand much longer this our present fashion of turning out "get-rich-quicks" at one end of the scale, and consumptive, poisoned, maimed, and penniless workers at the other.

Whether or not we are to have the industrial revolution in open conflict—our little army of "regulars" and strike-breaking militia defending property on one side, on the other, a vast industrial army fighting for liberty and decency and the right to enjoy the values it has created—rests with the captains of industry and the comfortable and contented men

and women who profit by the ways of modern business. There are signs seeming to show that the forces are getting ready; that the workers of this country, of the stock of Kossuth, of Garibaldi, and of Washington, will not be afraid to take up arms if driven much longer. The wonder is that they have been so long-suffering with all this talk of Christian love of fellow man; that they have listened so patiently to this preaching from the housetops that tuberculosis is preventable, while they have seen it unprevented; that any of them have been content with pretty flower-beds and welfare phonographs.

It is wages which is the crux of the matter, but not minimum wages fixed by those who shall decide how little will keep a man and woman efficient machines. Nor is arbitration, voluntary or compulsory, the panacea. In actual practice the workers find that their representative is more than offset by the more skillful employers' representative, and that the "impartial third person" presiding is one whose whole bringing up and class bent leads him instinctively to a one-sided employing-class view of the merits of each case.

The irrepressible conflict will go on until these, our masters, give up as too dangerous this silly opposition to collective bargaining, and until the wage-earners so unite for political as well as industrial action that a true democracy shall have been established.

New York.

PAUL KENNADAY.

#### EFFICIENT LABOR UNIONS

I suggest the following as a means of replacing our present-day criminal unionism, with its quarter-century record of misdeeds and failures, by unions that shall be among the most powerful organizations of the kind in the world, and of utmost service in advancing the interests of their members—and the happiness and prosperity of the nation:

1: Insistence on the part of every citizen, whether in unions or out, upon the equal and impartial observance and enforcement of the law. Law breaking is now condoned on all sides.

Labor must be organized. The power of the individual in a country as great as ours is incon siderable: men must act in groups. The world has been made by labor; it belongs to labor, not to an excepted and privileged group, but to all who labor, whether by hand or brain, and in their relative proportions. We so believe in labor organizations that we have coddled them, coddled them even in their crimes, as a foolish parent coddles a naughty child. The American public is for this reason *particeps-criminis* in no small degree in the Los Angeles murders.

2: Industrial education, as in Germany, Belgium, France, and Australia; that is, education in the trades and in citizenship.

All who go into the industries do so at the age of fourteen, which is psychologically the time when mechanical pursuits are most inviting. Boys who stay in school after fourteen insist on a white-collar job. One-half of all the children in the United States, (2,500,-

000 each year) leave school in the middle of their courses, mostly at the end of the sixth grade, aimless, mostly discouraged, schooled only in how to fail, wholly uneducated, because they have acquired only the three R's, and the three R's are not education, but only the means whereby real education may be acquired. These children enter the factories and the cursory occupations.

Continental countries require these children to leave their work in factories and elsewhere for from five to twelve hours a week and to attend continuation schools (*i.e.*, schools where their education is "continued.") In these schools they are taught the science and art of their trades, and made to be successful, skilled, happy workmen. They are likewise taught citizenship, their rights and obligations to themselves and their fellows, and the way upward through honest effort, skill, and the ordered processes of society and the law. All our American-born mechanics are our uneducated boys grown up, abandoned educationally at fourteen by the state.

Wisconsin has just introduced the European system adapted to our conditions. It will correct in the course of years the ideals and methods of our workmen, and make them twice as efficient in advancing their own interests and the nation's.

A delegation of English moulders, investigating the condition of German laborers, reported: "We have frequently been asked, 'Wherein lies the cause of the better social conditions of the Berlin brass workers?' The answer is summed up in the words, 'Duty, responsibility, discipline, work, order, and method.' These qualities are much in evidence among the officials and employers of labor and the work people." A delegation from the American moulders' union would "fall dead" at a sight like that.

American workmen are naturally as high-minded as any in the world. They are remarkable for their force, intuitive insight, quickness of perception, and speed. They have been robbed of their birth-right in not having received at the hands of the state in youth and early manhood this education that would arm them for most successful accomplishment. Four-fifths of American workmen are outside the unions, and in that sense have all along repudiated the unions because of their lawless methods and inefficiency. We must have the other sort of unions, with most laborers in, not out, and a membership of 6,000,000 or better 10,000,000, instead of its present 1,750,000. No force could resist them; no force will wish to, for whatever is to the interest of our countless millions of working people is to the interest of the nation.

3: Better leadership. The leaders of labor in this country as abroad must be real students and true laboring men before and after election to office. They must study with heart and head, to the utmost of their ability, the great problems of housing, sanitation, better representatives in Congress, accident

compensation and prevention, industrial education, right wages and conditions of labor, etc. They will have the cordial assistance of all good people, and there should be no difficulty in putting our laboring people and our labor laws abreast of those of Germany. We are now infinitely behind, chiefly because labor has been badly and unintelligently led, and, when it has made demands, has usually made unreasonable and short-sighted demands.

H. E. MILES.

Racine, Wis.

### LABOR AND STATESMANSHIP

You ask for my views on certain questions prompted by the McNamara case. I can best illustrate them by the following extracts from an address which I made to the employees of one of the subsidiary companies prior to my resignation from the United States Steel Corporation:

"The question of organized labor is one of the most serious issues confronting the American people. I am not among those who condemn the idea as being inherently vicious. No thoughtful man will question the abstract right of working men to organize for mutual defense against the unfair or tyrannical employer. In fact, the very nature of our modern industrial life would seem to demand such action if the individual working-man is not to be left to measure his puny strength and resources against his giant opponent. Nevertheless, while fully recognizing these facts, we must as practical men remember that, in the words of President Cleveland, it is a condition and not a theory which confronts us.

"To-day, with the exception of some railroad employees, the Steel Corporation has no union labor. Personally, I cannot feel that these conditions are permanent, because they seem to place too much power in the hands of the employer. I do not hesitate to say, however, that we are fully justified in the position which we have taken. Until labor organizations demonstrate beyond question their willingness to abandon their fallacious theories and practices, such as the limitation of output, the dead level of wages regardless of efficiency, the closed shop, the sympathetic strike, and the boycott, to say nothing of their crowning shame, i.e., their readiness to resort to violence on the slightest provocation, we must refuse to be hampered by their arbitrary and unreasonable restrictions.

"Some day a real statesman will arise out of the ranks of labor, who will accept the leadership only on condition that the unions pledge their entire resources, financial and otherwise, to the work of stamping out the anarchistic element which has made the very name of union labor a reproach in the eyes of the American people. When that day comes (as I believe it will, for to think otherwise is to despair of our civilization) nothing on earth can prevent the enactment of legislation preventing any discrimination against employees because of their member-

ship in labor unions; and such a law will be effective for the only reason which makes any legislation effective: because it will be the crystallization of public opinion."

W. B. DICKSON.

New York.

### A LARGE HOUSE TO BE SET IN ORDER

"What should be demanded of organized labor in putting its house in order?" I must say I am not certain that I know how to answer your question, but I do know that there is a larger house and a bigger family than just organized labor that also needs to put itself in order.

If the house-cleaning to which recent events have startled organized labor is to be an efficient job, it must not only put out the men of violence, but it must make it impossible for such men ever again to secure leadership. This is the same problem of democratic management that the nation is wrestling with in politics and corporate affairs. It centers in the shirking of duty by the rank and file. Here as elsewhere, publicity is a vital factor. There must be no more un-itemized expense accounts. On labor books as on corporation books such accounts are indications of improper methods. Behind their scanty cover of assumed ignorance there is not room for any honest man to take refuge. The members of all labor organizations must demand the most detailed accounting for all expenditures. Such details can be made public, in such a manner as to destroy any suspicion of organized violence.

These men have, like many others in America, been fed with the poisonous philosophy of "get ahead" no matter how—any method that will bring results—a belief that has led corporations to buy franchises, steal streets, corrupt legislatures—practices as dangerous to the nation as the dynamiting of buildings by ignorant fanatics. Subtler social sins of omission and commission on the part of the manufacturers' associations need also to be brought to the bar of public opinion. It is a question how far the bitter fight against the right of labor to organize has stirred the brute in labor ranks. Is this to continue? If it does, then the power of the brutish will continue.

America has also the right to ask the manufacturers' associations to stop fighting legislation for the protection of women and children, and that they now lead in securing acts for the benefit of the victims of industry.

If the state does not want the worker to put loyalty to his organization above loyalty to the state, then it must adapt its machinery to modern industrial conditions; it must not leave him with his trade organization as his only defense. Particularly is it dangerous for the state to leave the worker with his trade union as the sole means of enforcing the fundamental demand of life—the bread demand. England had just been emphatically told that the group of toil cares no more for the food supply of the public than the

public has cared for the food supply of the toilers, and is consequently realizing that the state, which requires the worker to consider the public order, health, and comfort in his struggle for life, must provide some means for the enforcement of his just demand for a proper living. The minimum wage is the first step. After that must come such public machinery for the determination and enforcement of just conditions of work and wages as shall convince the workers that the state is a means of protection, without destroying their power of initiative.

The immediate necessity is for such an understanding of the needs of labor by those who control public opinion and action as will cause the industrial workers to feel that their demands are being received by the body politic not with indifference, impatience, nor hostility, but with sympathetic intelligence. Then perhaps the necessary practical measures can be developed out of a common consciousness, on a common ground.

The labor union is the school of democracy; in it the members learn self-government, and to the immigrant this is the only school. To this end trade unions as well as political parties and corporations need a new and practical faith in democracy, and a social consciousness as well as a social conscience. Education is needed within the unions to prevent fanaticism. The narrow policy of craft unions that have little knowledge of other crafts leads to wrong and selfish policies when old tactics are found ineffectual against powerful corporations. In the end all organizations must come before the American public opinion, for that in a democracy must be the governing power. America will not stand for "direct action" nor "sabotage" in Socialists, trade unionists, nor corporations, but she will have to stand for the right of the worker to look after his own interests by association and by political action. Society has a right to demand that labor clean house in every corner and crevice, and labor leaders must realize that nothing should be hidden. Cleaning up by passing resolutions will not do; rascals and fanatics must be put down and sane, intelligent, socially conscious men must come to the top and are now coming fast.

It is not too much to ask that the Socialists quit their academic flights and come down to the plane of the common working man, and give to him a constructive industrial and sane political education. I found the labor headquarters in the German and English cities were civic and social as well as labor centers. The fact that they had their own political party made them alive to civic betterment as well as to state and national questions. They were intelligent on municipal methods because they had their own representatives in the city government. They had a constructive educational program which lifted them from that sordid plane where wages was the all-absorbing issue, for the right to organize was not uppermost as it has been in America for the past few years. In

England the labor representative was acknowledged by the community and had as legitimate a place as had the Liberal and Tory members. We, of course, believe that the machinery of the state must stop violence; but it must also put peaceful weapons in the hands of labor, that they may protect themselves and secure a living wage for those who have not power to help themselves. Only through organization, education, and democracy can we hope in America to down ignorance, fanaticism, and violence.

MARY E. McDOWELL.  
Chicago.

#### REMEDIES FOR VIOLENCE IN LABOR DEMONSTRATIONS

I think that perhaps I can be of more use to the symposium by bearing evidence to the real attitude of the leaders of organized labor toward the matter under discussion than by keeping too closely to the questions you have outlined. At a dinner given to John Mitchell at the Boston City Club on April 27, 1911, at which such labor leaders as James Duncan, John Golden, Henry Sterling, Henry Abrahams, and Arthur M. Huddell were also guests, I said in regard to the dynamite outrages:

"I have been intimately associated, permit me to say, with union leaders for a great many years. I doubt whether there are many men among the employers in Boston who have known the labor leaders here and throughout the country any better than I have. In the Civic Federation, in many meetings, and in arbitration deliberations I have sat with labor leaders, and where we differed we differed as men ought to differ—expressing our regret and trying to agree—and out of it all I have come away with the firm conviction that the labor leaders try just as hard as any other class of men I know anywhere to do what is right and fair. There are devils and renegades in every walk of life, and it may be possible that evidence will bring out the fact that the McNamaras have resorted to this horrible means. The past of labor legislation and of labor evil is not wholly effaced even in heredity. Whenever you meet a balky, vicious horse you know that somewhere—somehow—he has been maltreated; and so with men."

" . . . In this connection I want to tell you something that I was told at first hand by an employer. I never repeated it because it is too horrible, and I sincerely hope there is nothing else like it to relate. A man told me this thing, not realizing what he was telling and telling it laughingly. He said that he had a gang of woodcutters cutting trees down in the forests in the North here and they began to get troublesome, were dissatisfied, and threatened to go out on strike and leave him with his contracts unfinished. He added: 'I got them, however; they did not go out that winter.' I said 'How?' He answered, 'I sent a smallpox patient into camp and then I told all the villagers about it; there was only one

road out of the woods, and after I told the villagers there was smallpox in the encampment in the woods they made a bargain with me agreeing not to let one of those men get out of the woodchoppers' camp that winter.' And then he added, as a saving grace: 'I sent a doctor in and had them all vaccinated.' I tell you that incident to show that there are devils among us employers as well as among the labor men. . . . .

"I am not excusing outrages nor would any of these labor leaders excuse them. The important thing is that if it should turn out that dynamite outrages were committed by labor men, there are no men in this country who will denounce it more than will our labor leaders."

This statement was strongly confirmed by the other speakers in their addresses. Mr. Mitchell, while protesting against the kidnapping of the McNamaras, said:

"If I believed—and in this I speak for every responsible labor official in this country—if I believed that the success of the trade union movement depended in the slightest degree upon the commission of illegal acts, I should not hesitate one moment in severing my connection with it."

Mr. Duncan said:

"I don't believe in force. . . . I am sure that, if deliberation is given, whoever is guilty, if so found, will be given punishment in accordance with his deeds. No labor man will stand for destruction of property of any kind."

Mr. Abrahams said:

"It is very hard for me to believe that any member of a trade union would blow up a building and destroy the lives of his fellows. Hence I came out in the paper and so declared, and I want to say now that I don't believe in the guilt of the accused; but Brother Duncan, the first vice-president of the American Federation of Labor, has voiced the sentiments of organized labor on that matter. If the men are guilty they should be convicted, and, if they are convicted, suffer for the crime; but they should be given a fair trial."

This communication is perhaps already overlong for your purpose, but if there is room to say a word as to the remedy, I would like to say that I do not believe it is so much a matter of law as a matter of education—both on the part of labor and capital. From the beginning labor has had to fight the enemy not only from without but from within as well, and this because from the very nature of its cause it has had to take in all kinds of working people, no matter whether they were fit or not—no matter whether they were newly arrived immigrants with no idea of trade union policies nor the real needs of labor. Capital has made this difficult situation still more difficult by the attitude which it adopted toward the labor organizations. We employers have thought that it was an element of strength for our

own cause to keep the unions weak, and to that end we have kept out of the labor organizations our best and strongest employees. It is my conviction that it will be to the advantage of every employer who wishes to do his share towards solving the issue between capital and labor to encourage the better and stronger class of his employees not only to join the labor organizations but to take active and effective part in their work. From unions so constituted much help will come for the rightful settling in the most lawful way of the great questions involved in the relation of employers to employees.

EDWARD A. FILENE.

Boston.

#### CALL TO CITIZENSHIP OF EMPLOYERS

The irreconcilable employer and the irreconcilable labor leader—each causing and caused by the other—from now on belong to the past. They are each in their way a tragic failure.

Every influence which serves to eliminate the McNamara type, in all its various shadings, will to the same extent eliminate the Otis type. The historic scene is set for employers and trade unionists who shall see their stake in a deliberate and unswerving policy and program of conciliation, as between the two sides of a business bargain.

We are at a national crisis. Such a crisis always calls for its man. That man is the co-operative-minded employer who shall be moved by patriotic and human if not by farsighted business considerations to go a little more than half way to meet the co-operative minded labor leader, who is at this moment in a peculiarly susceptible emotional state. The good sense of the country looks to such employers to enter with such workmen into the common administration of great industrial interests which have been ruthlessly sacrificed by the false leadership of the irreconcilable. A look back, ten years from now, will show that many employers, smaller and larger, will have heard and acted upon this call; and that such action had contributed much to bring forward the day when the organization of capital and the organization of labor shall together constitute the organization of industry.

Meanwhile, could anything make it more clear that every person who, claiming to be building higher the moral structure of society, makes a convenience of any of the great sanctions which hold its deep foundations together, is a traitor to all that is human?

ROBERT A. WOODS.

Boston.

#### SOME PERTINENT QUERIES

In the explosion of many voices how many have uttered the one clear call of first importance—the call for the truth, the whole truth regarding both sides, the truth without fear and without favor? If labor leaders have committed acts of violence, the trail

of blood-guiltiness should be followed wherever it leads, and the guilty should be punished by the firm but not vindictive hand of the law. Physical violence is a war measure, and resort to it is destructive of the best interests of all classes, and most of all of those of the laboring class.

But what about the other side in this conflict? Has the violence of the McNamaras and perhaps of others been the blind striking back of labor against the provocation of capital? Has there been violence of capital—only more secretly directed, and better hidden? Has the vindictiveness of labor to any extent been justified as natural retaliation for the ruthlessness of capital? If labor has been indifferent to the loss of life from bomb explosion, has capital been indifferent to the loss of life through reckless exposure to accident and death? Have private detectives and strike-breakers also their death-roll of blood-guiltiness?

Have both sides in the long conflict between employers and workmen in the structural iron industry acted in disregard of the constitutional rights and personal liberty of the other? Until there has been a searching inquiry as to the provocation given for the 113 (more or less) dynamite explosions laid to the door of the iron workers, no one can answer these questions fairly or justly. Let us have the whole truth about both sides in this struggle before we pass final judgment upon either.

I doubt if either employers or workmen are looking for advice just now; but it would be well if both sides were told that intelligent, fair-minded people abhor equally reckless sacrifice of life by workmen and the ruthless crushing of rights of organization and of self-protection by employers. Let us have a fair, complete view of the conflict of the last five years between the structural iron workers and their employers. I do not know who is the more guilty during the whole period—who does? "Ye shall know the truth and the truth shall make you free" seems to me the wisest thought to be offered for all parties at this moment.

JAMES BRONSON REYNOLDS.

New York.

#### THE REACTIONARY AND THE RADICAL FANATIC

There are two obvious lessons to be learned from the occurrences of the last two weeks. The first is that no civilized community will tolerate destruction of life as a method of securing an improvement of economic status. No end, however desirable in itself, will warrant such an infringement of the fundamentals of civilization. Until our labor leaders not only realize but emphasize this fact, not much can be hoped for in the way of solving the labor problem.

On the other hand, it is equally obvious that the self-confessed criminals who have sought to justify their violence on the score of principle represent a type of mind that

has begun in this country to despair of equality of economic opportunity, and that is being driven into violence because of the conviction that no other kind of action is possible. For this state of mind two classes in the community are responsible—the extreme conservatives in the capitalist class who push their individualism to the point of opposing labor unions as such, and who are endeavoring wholly to eliminate organized labor from the industrial field; and, on the other hand, the extremists in the labor ranks, like the Socialists, who incessantly preach the inevitability of class conflict and the coming of the social revolution. Both extremists are sincere and enthusiastic. The Socialists think that they have discovered a constructive program with which to regenerate society; the extremists in the capitalist ranks think that they alone are in a position to preserve the dearly bought achievements of the human race during the long struggle toward civilization. What is needed is a realization of the fact that both sides have something to learn; that, while we must strongly repress the violence that leads to anarchy, we must not less vigorously object to the other causes that are creating the anarchistic spirit. We must realize that the path of progress lies in the direction of mutual understanding rather than of mutual recrimination, and that this understanding must be found on the part of the "haves" as well as on that of the "have-nots."

When the reactionary ceases his intolerant opposition and learns to recognize the wisdom of sane social reform, the radical fanatic will preach to deaf ears and violence will be as rare as progress will be sure.

EDWIN R. A. SELIGMAN.

New York.

#### JUSTICE THE ONLY PREVENTIVE

No light can be shed upon the present situation by treating it as an isolated episode. It is an integral part of the whole texture of our national life, and any constructive action in regard to it must, in order to serve a helpful purpose, be based on recognition of this fact.

In a modern, industrial democracy, the only preventive of violence is justice—political, social, industrial. As a people we do not practise justice, and we pay the penalty in recurring violence in diverse forms.

We deny justice to wage-earners, as we exemplify in the case of the Triangle factory fire. What penalty has attended the taking of the lives of 146 young workers in that fire? What indemnity reaches the dependent members of their families, deprived of bread-winners? All legal provision for assured indemnity had been rendered impossible in advance by the decision of the Court of Appeals of the state of New York. Death by fire is death by violence. But when inflicted upon wage-earners in the course of their work, it is so far countenanced that systematic, statutory provision for charging a

share, even of the mere financial loss, upon the employers is debarred on the ground that it would constitute a "taking of property without due process of law." Young life may be taken by fire—that is, by violence—but property may not be required for compensation, not even the meagrest allowance and with careful statutory safeguards; and this is by the recent decision of the court of last resort of the greatest state in the Union.

The life of the poor is lightly held in America. Tenement-house owners destroy it by wholesale sordidly. Railroads and mine-owners sacrifice the lives of workingmen as a recurring incident of their business. Food manufacturers sell poisonous candy to children, and milk dealers kill babies by thousands every summer in the way of trade. The public acquiesces decade after decade.

Long experience of this acquiescence and a long series of judicial decisions adverse to wage-earning men, women, and children have convinced numbers of men that justice is to-day in the United States unattainable by the economically weak. Occasionally, therefore, some of these men are guilty of violence, as the cornered rat bites—not according to reasoned theory, but in the wrath and despair of baffled effort and vain struggle. When certain wage-earners, disheartened by the failure of century-long peaceful effort, yield to temptation, and do—in a limited number of cases—what the great life-destroying industries do cynically as an incident of business, when they for their own purposes taken human life, the nation, horror-stricken, discerns that *this* form of violence is crime, and the press cries aloud for an instant remedy. But there is no remedy save justice.

In all of our states except six, women are disfranchised; and Negroes are disfranchised increasingly in recent years, in law and in fact. Accompaniments of this injustice are white slavery, lynch law, and peonage—three horrifying forms of violence incidental to our national life.

If women, Negroes, and alien immigrants were safeguarded in their human rights; if the owners of the Asch building, and every employer the doors of whose workrooms are locked, paid (in money, not with their lives) for the men and women burned in their buildings; if the miners now entombed—death by entombment is death by violence—had been made safe in life and limb by their employers under laws established by a just people; if lynchers found certain retribution; if no white slavers were pardoned by the president in the rare cases in which they are convicted; if justice prevailed in our daily life—the outcry and the surprise at the action of the McNamaras might be explained rationally.

The real cause for surprise, the root of the evil, is the infinite, supine, dogged resignation of the masses of working people under prevailing injustice.

To arouse wage-earning voters out of their acquiescence and political apathy, patiently to

teach them to use their ballots to select legislators and judges in the interest of justice to the workers and the weak is, therefore, the great constructive task of the present time. This can be done only by nation-wide, continuing, wise, peaceful effort. As eternal vigilance is the price of liberty, so eternal insistence upon the rights of the weak is the price of justice. And there is no preventive of violence save justice.

FLORENCE KELLEY.

New York.

#### MURDER FOR GREED AND DOMINATION

The horror and repugnance that have swept like a tidal wave over the country since it has faced the knowledge of the crime committed in Los Angeles in 1910; the universal demand for just punishment of the criminals; and the intense outcry at the mere notion of condoning their offense under the guise of principle or ardor for a cause should make us sure that our people cannot be led off from the real issue by poses.

There is only one danger: that because this revolting deed was done under the banner of labor, the real divisions between men and men shown by such a crime may be lost. The danger is that the separating chasm may seem to be between labor and capital—and that capital will seem to be calling across from another side on labor to deal death to the death-dealing spirit of its own rearing. This alignment is false.

It is only the white heat of a true issue that can bring forth a sword out of such a furnace.

The issue is not capital or labor. The issue is murder for greed and domination. Men in the name of labor have committed this crime. Men in the name of capital have committed this crime.

Labor and capital should close in together on this common foe within the ranks of both, so that the cleavage made by murder may find a solid army on the fighting side. While labor is grappling with its foe now flaunted in the open, of no uncertain mien, recognizable by all as murder, capital may draw deep breaths of deeper determination to grapple with its own like foe more fiercely than ever: its own foe more difficult to find, because hidden among a complex variety of possible other interpretations—no less deadly, rather more, because more difficult to discover.

The destruction of life by capital may truly be from shades and degrees of carelessness, ignorance, or inability. But if it is not from these, if deliberate omissions and commissions are at the door of capital in industry trampling on the sacredness of life in order to obtain larger profits, is this not murder in the first degree of responsibility?

Greed for power through organization, whether or no lives are taken to attain it, on the one side: greed for power through profits, whether or no lives are taken to attain it, on the other side—murder both,

and both must be damned alike. When the forces of murder on either so-called side join for selfish gain in coalition, they must find labor and capital, arm in arm, a solid wall against them. And those legislators who are the tools of both—refusing to make legislation defining and requiring the protection of life in industry, and refusing to inflict just penalties for the taking of life—those legislators must be drowned by the flood of purpose in the fields where capital and labor unite to crush the class that kills.

ANITA MCCORMICK BLAINE.

Chicago, Ill.

### CONFESION

The court has disposed of the McNamaras. Their case is now before the American people, and it will now be tried upon its merits.

For six years (let us, for once, believe a detective) an important labor organization has carried on a campaign of economic terror in its efforts to improve the condition of the workers. Brute physical force was one of its weapons, and perhaps one of its most effective ones.

What were the methods used by the other side? The blacklist, the injunction, hired ruffians invested with a policeman's badge and club, and, above all, the whip of hunger. Capitalism said: "Accept my terms, or starve." Labor's reply was: "Give me a chance to live, or I will destroy you."

Which of the two was more gentle in its methods? And who is to blame? And what is the remedy?

And we hear the church say: "Let us have a religious revival"; and we hear detective agencies proclaimed the saviors of the republic; and the demand is made that all labor leaders resign, and the commercial soul heretofore money-mad has become blood-mad and cries for revenge, for more revelations, more confessions, more indictments, more victims, more blood.

What a good thing it would be, now that two labor leaders have confessed, for capital to come forward and confess; and how horrifying that confession would be, and how shocking would be the revelation of crimes of omission and commission, of the crushing of the weak and helpless, of the bribing of voter, legislator, and judge, of the subsidizing of a venal press, of thousands upon thousands crippled, mutilated, and murdered through negligence and indifference, through avarice and greed! But capital will not confess. Capital stands for "Law and Order."

The American people must awake to the fact that a bitter, merciless class war divides society. It is a war between those who have and those who have not, between property and its interests on one hand and life and its rights on the other. It is a war with all war's fury, with all its injustice, with all its crime-breeding hatreds.

Where are the seers and prophets of America? Where are the teachers and guides? Where are her intellectual and moral forces?

Can the contending classes be compelled to adopt civilized methods of warfare?

Not until the reality of the class struggle is recognized can a solution be found. Not until the principle that every human being who wants to work is entitled to an opportunity to work shall have become the very basis of all our laws and constitutions can society be regenerated. All laws, written and unwritten, which place property above the rights of man must give way. Society owes every man an opportunity to live by working. It should be the inalienable right of man to have access to the means of production. Our moral code must be revised. The intellectual elements of America should assert themselves. Meanness and selfishness must not be permitted to play havoc with our civilization.

MEYER LONDON.

New York.

### THE BALLOT A WAY OUT

The trial of the McNamara brothers at Los Angeles has unveiled a most deplorable state of affairs. America has come to be considered the country where the conflict between labor and capital would be settled to the mutual benefit of both; but, if this hope is to be realized, lawlessness must cease. When labor resorts to violence, it forfeits the good-will of the American public, and without that support no struggle can succeed. Let the leaders who advised the use of dynamite be removed from office; they are destroying the very forces they seek to strengthen. The funds that yet remain of the McNamara defense fund could not be better used in the cause of real labor than to rid its ranks of such unscrupulous leaders and guides.

How, then, can the workingmen fight against the overwhelming power of capital? The reply is: With the ballot. Surely 22,000,000 workingmen control the votes of this country, and they can right all wrongs through the ballot box. The government bows to the will of the majority, and a nation that protects birds, fishes, forests, and wild animals will also stretch its paternal hand to safeguard its citizens. The government demanded better protection for the railroad man and the miner, and immediately the rate of death by such accidents was lessened. Let the same rule be greatly enlarged, so that no employer be allowed to hire men until the government has inspected his premises, and certified that all needed precaution has been taken. We have fixed the hours in certain states beyond which no woman or child may labor. Next, let a law be framed to declare a minimum wage and hours for all workers. Also, make a compulsory arbitration law. In every establishment, capital and labor should have a representative, the two selecting a third.

But lasting peace between labor and capital is only possible where the true spirit of religion holds sway. Better than forcing a man by law to respect his workingman is the

teaching of religion which emphasizes brother-love. The Old Testament, the New Testament, Socialism, and all forms of religion preach this doctrine; yet how little is it practised! This failure must be charged to the church and synagogue, whose duty it should have been to teach the capitalist that the workingman is his brother, and to explain to the laborer the true respect for honestly acquired wealth. The Bible offers inspiration enough to the clergymen, and bids them champion the cause of the needy. But the church in the past has not seen its duty to do this. Let the ministers of all denominations preach real religion, to care for the day laborer, and live it by standing together, regardless of their creeds, in opposition to the modern form of slavery, and see how quickly the forces of evil will vanish. Then will the capitalist see mutual benefit through aiding labor, and the workingman will respect the just claims of capital. Both will realize that neither is independent, each needs the help of the other.

RUDOLPH I. COFFEE.

Pittsburgh.

#### SOCIALISM VS. SABOTAGE

QUESTION: What should be demanded of organized labor in putting its house in order?

ANSWER: There can be no doubt that trade unionism and organized labor as such cannot be held responsible for the McNamara case. On the other hand, there can be no doubt that the tactics of the old-line trade union leaders will sometimes lead to catastrophes of that type—even against the will of these leaders.

And in view of the fact that some old-line labor leaders are trying to divert attention to themselves by attacking the Socialists, we must point to the fact that the McNamaras belong to the ultra-conservative wing of the trade union movement and have been the devout followers of these labor leaders.

We defended the McNamaras because we believed them innocent—as we will defend other workingmen again under similar circumstances. A man who is accused has the right to be considered innocent until proved guilty either by the court or by his own confession.

But the truth is that a "pure and simple" trade union leader is often only a step removed from syndicalism, sabotage, slugging, and violence. With the conservative labor union the result of a strike is everything. The members of such a union know no other weapon than the strike or the boycott. If they lose a big strike, then the existence of the organization is in danger. In order to avoid this danger, the leaders must sometimes go to extremes.

The Socialist view of the class struggle is different. With the Socialist, a strike or a boycott is simply a little incident in the great struggle for the emancipation of labor. And the lost strike is often much more useful strike that was won by foul means.

It will in every instance arouse the dormant class-consciousness. It naturally points to the law-making machinery as a means to better the condition of labor. It shows that brains are more effective than brick-bats, especially in a political democracy.

In Germanic countries, thanks to Socialism, the anarchist tactics never got a foothold. And even in the Latin and Slavic countries the anarchists are held down by the Socialists.

In this respect the McNamara case may, after all, help to clarify and enlighten the labor movement.

But organized labor must put its house in order by dispensing with such leaders as still adhere to the old tactics, which readily lead to terrorism whenever the strike is in danger of being lost. Organized labor must learn that the scene of the battle has very largely shifted from the economic field to the political field, and that the workingman must also resort to the ballot in order to improve his condition.

QUESTION: How should we overhaul the law (or governmental machinery) so that the wage-earner who singly or collectively acts within it shall be strong and not weak in securing for himself substantial justice?

ANSWER: This is a difficult question for a man who is not a lawyer to answer. Before anything practical can be done, the working class must have at least some hold on the law-making machinery. The workingman cannot reasonably expect laws in their favor from their opponents, nor from the men who represent their enemies, the capitalist class, in the legislatures.

VICTOR L. BERGER.

Washington.

#### ONE ANSWER

For a Socialist, there can be hardly more than one answer to the questions proposed by THE SURVEY as to the labor movement after the McNamara case: the wage-workers can serve themselves and the country best by uniting in a political party that defines their group interests and through which they can make their demands effective at the polls.

Their only alternative is the strike, supplemented on the one hand by lobbying either at the doors of legislatures in which they are unrepresented or at the insidious banquets spread for them by their masters, and on the other by such unsocial and ineffective guerilla warfare as has just flared to a sensational climax in the confession of the McNamaras.

The strike, indispensable in the past and still often indispensable, is at best a crude instrument in a democracy; it bears heavily and wastefully upon the workers themselves and upon the community at large, and as a sole reliance is incapable of reaching the underlying causes of industrial hostility.

The only effective instrument for the attainment of substantial justice in a democracy is the political party. The strength of the manufacturers has been in their control

of political parties, the strength of the merchant traders has been in their control of these same parties; the weakness of the wage-workers, including the rapidly growing group of salaried employees, has been and is in their failure to develop a political party through which they might have adequate representation in the councils of the nation.

So long as the wage-workers acquiesce in political and therefore in economic dependency, so long as they are content to rely for the advancement of their interests upon their ability to appeal to "the good-will of the wealthy" or upon intimidation, so long as they fail to assume their full responsibilities as citizens in a democracy and hold aloof from the political party which represents their cause and which they should develop and control, their prospects of securing social and political justice will be very little greater than those possessed by the chattel slaves before the Civil War.

ROBERT W. BRUÈRE.

New York.

#### THE HOUSE DIVIDED

The vital and arresting point in this affair is its disclosure of a state of internecine war in our civilization. In America there is not one nation but two, as in every other country where modern industrialism has brought forth its perfect work—roughly, a mudsill nation at the bottom, with a privileged, a leisure nation at the top. And this lower nation of America feels more closely at one with its mudsill comrades of Europe than with the upper nation here. A class struggle exists—a fact glaringly obvious except to them whose eyes are bleared by self-interests. An idle class is more effectually sundered in its mental and moral outfittings from a worker class than are two diverse nationalities. And this discrepancy is being augmented daily by economic laws at work, ruthless and impersonal as a force of nature. Political democracy, married to an industrialism owned by the few, is illegitimate union, basely unnatural, and will have none but a bastard progeny. To-day some live without working, while others work without living—a posture of affairs grotesquely impracticable in a state whose corner-stone flares forth the affirmation that all men are born free to become equal. In an echo of words spoken by one of our country's wisest, America cannot exist part idle and part industrial; for all idleness is at the expense of industry, and this the industrious are beginning to discover.

BOUCK WHITE.

Brooklyn.

#### THE PUBLIC AND INDUSTRY

It is fortunate when dynamiters are forced to confess by irresistible evidence so that other men who would plot to destroy property and life in the dark may know that they cannot expect to escape detection. But had as dynamiting is, it is a comparatively small

feature of our present-day history. We must not allow it to divert attention from the continuous processes and methods that are daily depressing our vitality and standards. The responsibility does not rest merely on employers and employees. The general public seeking to get the most for their money, satisfied with a narrow passive righteousness, and carelessly lacking in interest in their neighbors except when stirred by direct attack on their own supposed rights, only dimly realize the extent of growing evils which threaten national life.

Labor questions must be dealt with in an intelligent and practical way or our national vitality, physical and moral, will be sapped. They affect every one of us; we all must share in the responsibility for the harm that is being done; no one of us can shift the burden by pleading ignorance. The startling sins of the wicked few are as nothing in comparison with the sins of omission of the many who think themselves righteous.

The first step toward any improvement is knowledge of facts. Those who know what is happening must persistently work to get the whole truth and nothing but the truth widely spread in simple form and in a way that will command attention. At this time there is no department of government that is of greater importance than that which deals with labor questions. Only government can get at the whole truth through its power to compel testimony and enter private premises. All who want improvement in labor conditions on a basis that will be fair to all concerned—to employers and employees and the general public—should concentrate effort on the establishment of departments in every state that will thoroughly and impartially study labor conditions, inform the public, enforce the laws. These departments must be under the direction of commissions, in order that a fairly all-round point of view may be insured, and the public must insist that they shall be manned by fearless, fair-minded, sensible, unselfish leaders. With a single head such a department is likely to be controlled by partisan or political influence. Liberal appropriations must be made so that these commissions may have adequate and efficient staffs for law enforcement, investigation, and publicity. Without adequate equipment they will merely encourage in the public a sense of security; we are too easily satisfied with putting good laws on the statute book and not providing the means for proper enforcement. I believe that only by commissions shall we learn comprehensively the real truth as to labor conditions and lay a foundation for discovering proper remedies.

Wisconsin has set a good example in establishing her industrial commission with three commissioners. If it is boldly supported and keenly watched by the whole people, whom it is created to serve, it will be one of the most powerful agents in the state's spiritual growth.

JOHN M. GLENN.

New York.

### THE PREFERENTIAL SHOP

The crime of the McNamaras vividly illustrates the distorted view and the perpetrate extreme to which some of the union labor men have felt themselves driven. While it for the time discredits the unions, it certainly raises the question as to whether the wisest policy of the employers is not to recognize the rights of their employes with a sympathy born of knowledge of their wants.

In any large industry, dealing with the workmen must be done collectively, and it is to the interest of employers to encourage the formation of unions and then closely co-operate with them, as is now being done in the cloak-making industry of New York. The plan under which they are operating, known as the preferential shop, concedes the right of the men to organize and to ask for union hours, union rates of wages, and union sanitary conditions; moreover, the employers, recognizing the necessity of a strong union, agree to prefer union labor when engaging workers, and to urge those who do not belong to the union to join the union. On the other hand, the rights of the non-union man are recognized in that he may be employed in the shops where union labor is preferred, and that when so employed he is to receive the same pay and to work under the same conditions and the same hours as the union man. This plan, which was suggested by Louis D. Brandeis, and which has been in successful operation for over a year, has made good feeling take the place of distrust and hatred. It has led to a great improvement in the sanitary conditions and the safety of the workmen, and has produced a stability of the utmost value to the industry.

May the tragedy at Los Angeles turn our minds to this kind of a solution of the labor question, humane and brotherly, and economically sound.

W.M. JAY SCHIEFFELIN.

New York.

### THE LAW AND THE COURTS

Only on THE SURVEY's second question have I any first-hand knowledge and therefore any opinion to express. That opinion is as follows:

Lincoln Steffens's assertion that "conditions are bringing healthy good-tempered boys to believe that the only recourse for improving the conditions of the wage-earner is to use dynamite against property and life" is incorrect so far as concerns conditions of the law and the courts—and so incorrect as to be grotesque. Such supposed conditions might be due either to the state of the law or to the personnel of the courts. (1) As for the law, there is today in no field a discrimination against the laborer, the employe, or the labor-union. The one exception is the law of employers' liability for industrial injuries; and this injustice, inherited from a past generation, is being cured by legislation as rapidly

as careful thinking will permit. Another exception might have been found, twenty years ago, in the boycott law; but it has now disappeared substantially everywhere, under the peaceful "light of reason." Legislation on factory hygiene is still needed; but so is other hygiene legislation. There is no discrimination in the law of arrest; the outcry about the Indianapolis "kidnapping" was baseless; the same law and method of arrest applies and is proper in all cases. (2) As to the courts, there were once many and are still a few judges who have strong prejudices against union labor. But there are also judges with prejudices against capitalists and employers. Judges Sanborn and Caldwell, of the federal bench, are types of these opposite extremes. For the judges as a whole, no such assertion can be made.

But our justice is defective at countless points? Assuredly, and many of us in the legal profession are working night and day to cure those defects. But those defects do not discriminate against labor, or union labor, as such. They bear as hard on others, and on everybody. All honest men have equal reason to be zealous in removing them.

THE SURVEY's second question is therefore to be answered thus: Except for legislation on industrial insurance and perhaps factory hygiene, the overhauling which is needed by the law and its machinery to secure substantial justice for all is not due to any present discrimination against the wage-earner.

JOHN H. WIGMORE.

Evanston, Ill.

### THE OLD ERROR

The announcement that the McNamaras have confessed their guilt is a sickening moral shock to those who had believed in their innocence. There is much that one is tempted to say, but I have time now only to point out that their desperate and cruel crime was based on an old error, the fundamental error of thinking that there are circumstances which justify force and brutality and violence.

All the brutality, all the violence in civilization are based on that error, including official brutality and violence; and no cause can succeed, no people can become really great until they learn that, as Tolstoy says, there are no such circumstances.

There is no more good in dynamite than there is in Pinkerton bullets, for instance; no more good in assassination than there is in hanging, and no difference between them; they are all the same.

It is another betrayal of the cause of labor, and labor's enemies will take advantage of it, despite the protestations some of them made at the opening of the drama that it involved only the guilt or innocence of individuals, and not the justice of a cause.

In that, of course, they were correct, al-

though the vast background was always there, and against it the mighty protagonists could be seen in their struggle.

But the fact that its leaders have committed awful crimes does not prove that the cause of labor is unjust. It has been betrayed over and over again in its history; it must have learned that so much more is expected of it morally than is expected of privilege, in whose name so many crimes have been committed down the centuries; and it will do now what it has done on so many pitiful, on so many tragic occasions, before this; it will get up and go on towards justice and the light.

BRAND WHITLOCK.

Toledo, O.

#### THEIR QUESTION AND OURS

Otis and Steffens both are right. It is impossible to tolerate lawlessness, for along that line lies ruin both for American democracy and for the cause of labor. Organized labor must pitilessly rid itself of the terrorists. On the other hand, how laborers fare in their dealings with employers is not *their* question only; it is *our* question. For no system is a success if under it the great body of workingmen are not sharing proportionately in the gains of economic progress—if they are dropping toward the rear of the social procession. I believe in focusing the intelligence and conscience of organized society upon the labor question, and I believe in the free use of rational laws to better the lot of labor. We do not yet know how far law may be used to the advantage of labor, but at least we can adopt the labor legislation which has proved itself successful and salutary in other parts of the world. And we can limit this vast influx of immigrants, which obliges American workingmen to sell their labor in an open market, while the rest of us dispose of our services in a naturally protected market.

EDWARD A. ROSS.

Madison, Wis.

#### UNIONISM AND UNIONISM

The dynamiting of the Los Angeles *Times* building was not merely the isolated act of an irresponsible pervert, but was the outcome of conditions which inhere in the American industrial and social situation. No solution of the problem which it presents, therefore, can be founded on sentiment or passion. We must seek the remedy, if there be one, through a better understanding of the general situation and causes which were responsible for the act.

The first step in this direction is to discriminate clearly between unionism and unionism. These McNamara outrages are commonly attributed to "American unionism," and as a result of them "organized labor" is called upon "to put its house in order." Such statements simply blind men to the real nature of the case. There is no such thing as "Ameri-

can unionism," meaning by that phrase a common type or organic entity. What we have instead is a series of union types almost as distinct in their character, ideals, and methods as the various types of business units, and with little more mutual responsibility. The McNamara brothers and their ilk are not the representatives of unionism as such, but of a *predatory type of unionism*, and the key to the problem which their acts present is to be found in the character of this peculiar union type and the causes which have developed it.

The predatory union is the analogue of predatory capital. It is led by men who have fought and schemed their way to a dominating position with little regard for the rights and welfare of their fellows or the legitimacy of their methods. Its rank and file have commonly been driven into it by cut-throat competition. Its sole purpose is more, more, more now for its members, and the devil take the public. Its higher officers are irresponsible bosses who have no respect for law, and whose followers know little and care nothing about the methods used, so long as the bosses "deliver the goods." It has no principles, it seeks combination now with the employers and now with labor. Its sole guide is immediate expediency. It wars not on capital but on society. Its minor weapons are the bribe and the black-jack. Its "heroes" persuade with the gun and the infernal machine.

The elimination of this type of unionism is the real problem that confronts us. To solve this problem we must get back of the thing itself to the causes which produce it. What is it, then, that gives rise to predatory unionism in American society? To answer this question fully would require a careful overhauling of our whole system of industry, of rights, and of morals. The following, however, are obviously significant causes:

1. The attitude of the radical employers and of a good part of the public toward labor and labor's "rights." The radical employer is unconsciously the most class-conscious member of society. He naively identifies his interest with the interest of society as a whole. He has a definite viewpoint, and the property rights, the rules of the industrial and social game, which the employing class has built up and crystallized into law and custom, represent to him absolute right and justice. It does not seem possible for him to conceive that there may be other legitimate viewpoints besides his own, and other legitimate standards, therefore, of right and justice. So, when the workers make demands which run counter to the rights and rules which his class has established, he is nonplussed. He can only set it down to knavery or foolishness. To him, therefore, the workers are fools and their leaders knaves, and he uncompromisingly resists their demands as violations of the sacred rights of the employer and of property. Thus he fosters class feeling, and forces labor organizations constantly towards non-peaceful and illegal attitudes and methods. For example, because he can not understand that a "group standard of living" may be as legitimate a matter for protection as a normal rate of profit, he and his fellows enact for Los Angeles an anti-picketing law, and thus take from the workers the main legal weapon which they have for use against cut-throat wage competition.
2. The organization and conduct of industry which penalizes the worker for increase of out-

put and effort, and forces him to suffer positive loss for every gain of society through industrial improvements. The worker is informed on every hand that the only way in which he can increase his income is by increasing his efficiency and output. But bitter experience has taught him that spelling up means a lowering of the piece rate, and that increased output by the members of his group means either increased profits which may be invested in other lines of enterprise as a demand for outside labor, or a fall of prices which results not in a raising of his wages but of the real wages and profits of outside labor and consumers. He knows by experience also that improved methods, new processes and machinery which increase output and profits, usually do not add to his wages, but on the contrary threaten the displacement of his labor, the loss of his job, and an enforced search for work on a lower plane of competition. Under these circumstances, is it any wonder that a type of unionism is developed that has little regard for industrial progress, and that seeks its own immediate well-being regardless of the interests of that society which has only penalties to offer for serving its interests?

3. The example of predatory capital. And when the worker, thus condemned as a fool, thus convinced that increased effort and industrial improvements recoil in penalties upon him, sees predatory capital growing beyond the power of his organization to engage in equal combat by legitimate methods, fattening upon monopoly, defying the law, and escaping its penalties by influence and technical delays, surely the ideal conditions have been amply created for the development of predatory capital's counterpart, the predatory union.

Respect, indeed, is due under such circumstances to the great body of labor organizations which look to the welfare of their fellows, which maintain a temperate spirit, which condemn violence, and seek their ends by peaceful and law-abiding methods.

If there is any virtue in this fragmentary analysis, certain conclusions looking toward the avoidance of violent union acts, such as those committed by the McNamara brothers, follow almost as a matter of course.

The first remedial measure is to identify and isolate this type of predatory unionism, that it may be proceeded against with all the force which is in the law and public opinion. How can this be done? Not by imputing such acts to unionism as such; not by calling on "organized labor to put its house in order." Such crude and undiscriminating talk can have but this effect: to blur the distinction between legitimate and predatory unionism in the minds of the workers, to drive the legitimate types of unionism i. to the attitude of half-identifying their interests with those of the predatory type—as was actually done in this McNamara affair. It is a case which demands understanding, and education both of the worker and of the employer. The worker must be taught to distinguish between unionism and unionism, so that he may not be led to feel that his union and his interests are attacked when society proceeds against the degenerate labor organizations and men.

On the other hand, the employer must be wrenched loose from his narrow feudalistic absolutism. He must be taught the modern theory of rights. He must be made to alter his scale of values with respect to human life and property. Above all he must be made to see that right and wrong, good and bad, are largely matters of viewpoint; that

the worker's viewpoint, like his own, is the inevitable outcome of working and living conditions, and that from the worker's viewpoint the aims, demands, and methods of organized labor are just as well thought out, just as legitimate, just as true, just as important, as are the aims and methods of capitalistic enterprise to the employer. He must learn that if he would change labor's attitude he must go behind the men and change the conditions which make them what they are.

Without this broader understanding, this more reasonable attitude, this study of causes, on the part of the employer and the public, it is futile to talk about "overhauling the law or the governmental machinery so that the worker may be strong and not weak in securing for himself substantial justice."

Just one further suggestion. The push toward predatory unionism comes in large part from the lack of effective machinery for the redress of labor's legitimate grievances through political action. The remedy for anarchy and "direct action" is the use of the ballot. What this country needs is a real and a strong labor party which can be depended upon to voice labor's attitude and to work effectively for remedial legislation in its interests. We should therefore welcome the present beginnings of such a movement, or at least grant it a fair hearing and a fair opportunity to demonstrate what it can do.

ROBERT L. HOXIE,  
Chicago.

#### JOINT BOARDS OF CONTROL THE WAY OUT

Within the past sixty years the United States has changed from an agricultural and trading nation into an industrial one. This change has been so rapid and the development in industry so tremendous that there has been neither time nor opportunity for the men who have taken part in it to become properly trained for their duties. The result has been the application of crude methods of organization and management, which worked only when accompanied by severe means of enforcement. Force generates resistance, and those who had to put up with these conditions naturally resented their treatment and used such means as circumstances offered to alleviate it.

Such a situation usually develops a serious crisis before concerted and intelligent action is taken to ameliorate it. It has been a perfectly natural and logical development in this industrial war that dynamite should have become the ultimate weapon, when all others had failed. To those who have been participants in or students of the strife, its character has been well understood. Out of this situation has arisen a type of leader who thrives through the existence of acute warfare, and who sees that it is maintained in order that he may make good, and hold his job. This is true in the armies of both an-

tagonists in the strife. It could not be otherwise.

The only good that can now come from a complete disclosure of such methods is in the enlightenment of the public to the true situation. If this can be done, so as to show the defects of the present system, and point out more effective ways by which employer and employee may come to a better working basis, much may be accomplished. As we are learning that it is a waste of time and money to support an army and navy to enforce the fallacious principle that "might makes right" between nations, so we must apply the substitute that "nothing is settled until it is settled right" in industry, and that it requires conference, and the consideration by each of the other side's point of view, in order to determine what is right for all concerned.

The education of the employer in the fundamental economic principles of organization and management is one of the prime necessities of the day in this new industrial era. The colleges fortunately are becoming alive to this necessity. The press, by giving space to the utterances of the students of the problems involved, is educating the general public in the same direction.

Only by taking into account the experiences of the past, where each of the two parties to the issue considered only his own interest, and readjusting conditions so that these parties can come together to consider each other's rights, can the ultimate solution of the trouble be obtained.

In the arrangement now reached in the cloakmakers' industry in New York city, where there has been formed a joint board of control, composed of representatives of the employer, employee, and the public, I think I see the nucleus of a movement which, if properly directed and intelligently managed, is destined to be a pioneer in the right direction.

H. F. J. PORTER.

New York.

#### STRIKE IS CIVIL USAGE

The vindication of the law is, of course, a necessary consequence of the crimes that have been committed in connection with the McNamara case; but I regard the mere prosecution of these men and their associates as of small importance compared with the good that must result from the concentration of the public mind upon the iniquities of the leadership of a large section of organized labor throughout the world. It is time that the public realized that it has wasted too much sympathy on labor movements and that steps were taken to make labor organizations conform to the same rules of conduct as other associations.

The strike has been regarded by a very large proportion of the public as a legitimate weapon, to be used by the laboring classes at any time that any grievance, real or imaginary, arose. To my mind no man has the right to strike; that is, to leave the work of his employer before the expiration of the time

for which he has engaged himself to serve. I can not understand why the buying and selling of labor is in any way different from the buying and selling of any commodity; and, to my mind, the failure of one party to live up to his bargain should be as actionable in the case of labor agreements as of any other kind of contracts. As chairman of the executive committee of the General Arbitration Board of the New York Building Trades, I was engaged for more than five years in the adjustment of nearly all of the disputes that arose in inter-trade relations between the thirty or more trade unions affiliated with that board and the employers' association of the same board; and I may say that my experience there teaches me beyond peradventure that there is no dispute than can arise between employer and employed, or between union and union, that cannot be settled by fair-minded men without recourse to forcible measures of any kind.

The strike is an unnecessary and should be by statute an illegal weapon. It is just as possible to adjust labor disputes and differences through civil courts of one kind or another as it is to adjust any other type of dispute or difference. Why not? What a spectacle our civilization would make of itself if we resorted to force to bring about an adjustment of breaches of contract! But we go along day by day and permit the laboring classes to use forcible methods in the settlement of their grievances, and we put up with any amount of inconvenience and loss of time and even money when a labor organization "ties up" the railway service, or the express service, or the street cleaning service. Can anyone tell why? It is because it has become axiomatic that laboring people have the right to strike; and they have no such right, where we measure "right" as the moral attitude that one man should hold to another. Society has established these "rights" pretty thoroughly in all human relations except those between employer and employed. Society has set up courts and provided rules whereby the rights of individuals and co-operation of every kind may be maintained, excepting the rights of the individuals and co-operation of the labor world. These have been permitted to make their own rules and carry out their own ideas by any method they see fit, regardless of the convenience or loss of the employer or of the public, yea, even to the use of dynamite.

No one in his senses denies the working-man the right to organize and maintain unions or any other association he sees fit; but he should be amenable to the rules that govern all other civil relations; and if the way has not been provided for his relief the way should be made, that his grievance may be promptly heard and his rights fully maintained, whether he petitions as an individual or through an association to which he may belong.

The public has been too patient and too long-suffering, but perhaps the public has reaped only as it has sown. It has failed

to take hold of this problem and find a solution for it. But the problem is no longer academic. If the intricate and complicated disputes of the thirty-three unions of the New York building trades can be settled without resort to strike, and that fact has been conclusively proved, the way can be found for the settlement of all labor disputes. It will be said that there have been strikes in spite of the arbitration board. That is true, but for every strike that has been called, a score of disputes have been adjusted without such recourse, and there has been no justification even for the strikes that have been called. The restraining power has not been sufficient, although the court itself has been competent enough.

Perhaps, therefore, these outrages on the part of organized labor that find their culmination in the McNamara confession will produce lasting good—not, however, as they have hoped, by giving labor a larger scope, but by confining labor to the definite and fixed lines of civil usage and by the establishment of provisions for their regulation and conduct and relief.

ROSS FRANCIS TUCKER,

New York.

#### ASCERTAIN THE UNDERLYING CAUSE

In the midst of our indignation over the unpardonable crimes of trade union leaders disclosed at Los Angeles, should not our statesmen and thinkers seek to ascertain the underlying causes of this widespread, deliberate outburst of crimes of violence?

What was it that led men like the McNamaras really to believe that the only recourse they had for improving the condition of the wage-earner was to use dynamite against property and life? Certainly it was not individual depravity.

Was it not because they, and men like them, believed that the wage-earner, acting singly or collectively, is not strong enough to secure substantial justice?

Is there not a causal connection between the development of these huge, indomitable trusts and the horrible crimes now under investigation?

Are not these huge trusts large contributing causes to these crimes—unintelligent expressions of social unrest? Is it not irony to speak of the equality of opportunity in a country cursed with their bigness?

LOUIS D. BRANDEIS.

Boston.

#### FIRST: A HOUSE

The radical tendency in the present-day labor movement is the direct result of the unreasonable and unreasoning attitude of some employer's associations with reference to trades unionism.

Organized labor has made many mistakes, but it is not peculiar in this regard. Organized capital has sinned ever more deeply and with less excuse. Organized labor represents men—organized capital represents

money. Labor represents flesh and blood—and demands a living. Capital represents vested interests—and demands dividends. Labor has always been more important than capital and entitled to greater consideration. This is not the doctrine of an "agitator." It was taught by Abraham Lincoln, who regarded such problems from an eminently sane viewpoint.

Let it be admitted that organized labor shall "put its house in order." But, first of all, let it be conceded that organized labor shall have a house. The almost fanatical attempt to put organized labor out of business has resulted in bitterness of the kind which must inevitably result in Los Angeles tragedies. Let it be frankly admitted that most employers' associations are organized to exterminate trades unions—not only bad trades unions, but all trades unions. The lawyer-secretaries of manufacturers' associations and citizens' alliances are fattening on the unholy propaganda which they are conducting, most of them making mountains of evil-trades-union mole-hills, saying never a word about the moral and ethical value of organized labor.

It's all right to demand that organized labor shall "purge its ranks of lawless methods, principles, purposes, and persons," but, by the same token, let employers in their associations set their workingmen a better example. The greatest anarchists in America today are not the men in the ranks of organized labor. The most dangerous anarchists in this country are high in the councils of commerce and finance.

The moral responsibility of the solution of the industrial problem rests as squarely upon the shoulders of the employers as it rests upon the working men. A merely negative policy will not suffice. Employers of labor must present a constructive program which involves an absolutely square deal to every man.

If they decline to give justice to the worker; if they decline to recognize the men in the organizations which they themselves have constituted; if they insist upon exterminating these organizations: then there is only one alternative—Socialism.

If the interests of the employer and the employee are identical, then workingmen should be persuaded of it. If their interests are not identical, the sooner we find it out, the better; for this knowledge will clear the atmosphere of some very vague and cloudy thinking.

New York.

CHARLES STELZLE.

#### ECONOMIC TRIBUNALS NEEDED

Organized labor should do its utmost to entrust leadership only to men of sound character, sober judgment, and capacity for self-effacement. Conditions in labor circles—this goes without saying—are not different from those prevailing in the circles of the employers of labor. In both camps the conviction prevails that the interests of the one

factor and force in the industrial world are opposed to those of the other. As yet the crude social theory of the early British economists that selfishness is the natural and therefore always most efficient method of obtaining success and getting results is the creed which, more blindly accepted than ever was dogma of church, inspires action and attitude on both sides of the imagined industrial boundary. It is assumed that a state of war exists. Practically such state of war does exist. And the theory which is in vogue in both camps is that such state is unavoidable and necessarily involved in the very constitution of things. War always inflames passion. It engenders bitterness. As bitterness increases, brutality—the original sin transmitted to man from his prehuman ancestors—pushes to the front. In war everything is fair. Even noble impulses under the pall of this misconception inspire actions that conflict with the well-being of society as a whole. Faith always and everywhere had its fanatics and its martyrs. The faith that the cause of the downtrodden is just, the suspicion that its justice is denied by the mightier—the men who are regarded as the beneficiaries of the injustice under which the weaker suffer—cannot but engender a state of mind among enthusiasts first, and then a code of conduct among fanatics, that if not checked in time will induce resort to violence and suggest recourse to explosives without the least regard for the life and the property of others, even though these be innocent bystanders, as it were. Psychologists know that conscience is neither uniform nor of one universal language. Conscience is the speech of the society in which we move and have our being. Prophets of the truth as yet unborn, but about to be born tomorrow, are the chosen spokesmen of a new conscience lifted to new declarations as yet not incorporated in social feeling and conduct. In our day of social warfare conscience is under the dominancy of class interest and class sentiment and class solidarity. What men care for is the approval of their fellows. But fellowship is circumscribed by class lines. To serve his set is the ruling ambition of the devoted fanatic. He courts even the martyr's crown and finds his reward in the approval of his class associates. This explains the motives of men who do not hesitate to steep their hands in blood when the cause of their class seems to their thinking to justify the deed which society at large cannot but detest as dastardly. Our conditions have produced one-sided thinking on social relations. For these conditions the responsibility is not exclusively with the sellers of labor. The purchaser of this precious commodity has done his part in producing the mental and moral atmosphere of the pernicious compositions of which we are oblivious until the flash of dynamite reveals to our frightened eye the horrible inhumanity with which it is surcharged. War is the ultimate ratio. Neglect

and obstinacy have occupied the seat of power altogether too unconcernedly in these days. Small wonder that fanatics of class interest despair of securing justice and under this bitter sentiment come to cherish the belief that only one way is left to get a hearing, namely, the resort to arms. This has been the temper and the motive of the propagandist of practical anarchy. It has been the plan of action of the revolutionist. It goes without saying that organized society cannot pact with this mood. It must repress it by all the means at its command which the law provides. Labor cannot hope to retain the sympathies of the nation unless its leaders do their part in curbing the fanaticism and the misguided zeal of its impatient propagandists. Even in speech it must cultivate self-restraint. Reason, not passion, must dominate its declarations. Justice never needs the words that consume, even if its cause cannot be presented without warmth of feeling and earnestness of conviction.

But this brings up the corresponding duty of the other army. Let employers cultivate the virtues which they expect laborers to manifest. Let them learn to lay aside the perilous notion that their relations with labor are those indigenous to a state of permanent and relentless warfare. War is the condition of primitive society. Slowly other agencies have evolved for the decision of disputes. Private warfare is now everywhere replaced by public and peaceful machinery of judicial decision and arbitration. Even nations have begun to understand the desirability of activating similar agencies for the settling of national controversies. Why not capital and labor? They are brothers, and brothers at that totally unlike Esau and Jacob. Arbitration is the solution of the vexed perplexity. It is the preventive of such deplorable occurrences as have stirred the nation recently. The law must provide the machinery for arbitration. Now, private agreement failing, disputants may go into court. Their case is heard and adjudicated by the people through the trained expert chosen for this task. His decision rests on wide experience incorporated in the law. Courts of arbitration to which both parties shall be legally bound to submit their grievances and their controversy should be called into being. The customary jury may be replaced by a body of experts and additional representatives of the public at large, men in whom all parties to the dispute could have confidence. A decision rendered by a tribunal of this composition would never fail of doing justice to all concerned. Its decision should be final. Unless in this wise war be changed to peaceful and human and rational methods of settling industrial disputes, we must be prepared for periodical outbreaks, horrible though they are, of the spirit of fanatical class devotion and violence.

Chicago.

EMIL G. HIRSCH.

# PETITION TO THE PRESIDENT FOR A FEDERAL COMMISSION ON INDUSTRIAL RELATIONS

(PRESENTED TO MR. TAFT DECEMBER 30)

*To the President of the United States:—*

The case of the State of California *vs.* the McNamaras is legally closed.

By confession of their guilt, the trial has been brought to a conclusion swift and indisputable. In all subsequent criminal proceedings involving industrial relations, we trust that the outcome as to guilt or innocence will be as clear and decisive.

But what happens from now on to the McNamaras in San Quentin prison does not concern the American people so profoundly as what happened, is happening, and may happen to workmen who did not and would not use dynamite as a method to secure their ends.

Their case has not been before the tribunal of the law. It comes before a larger tribunal—the social conscience of the nation, of which the law is only a partial expression. The courts accept and interpret the progress which society has made; but progress in a democracy implies the people's freedom to criticise and develop the very civilization which the courts conserve.

With our stupendous manufacturing development, the industrial workers assembled in many cities exceed by thousands the entire populations of whole states a generation ago. Our statutes in the main were originally enacted for the different conditions existing before these industrial changes, and naturally such evolution as there has been has been dominated by the readily mobilized forces and influences controlled by capital. Here, in part, lies the explanation of that serious distrust which has come to be felt by great masses of workers toward the fabric of our law and the structure and control of the machinery through which we apply it.

In order to arrive at the worker's point of view, it is necessary only to review the long list of occupational diseases, the failure of both employers and the state to prevent them or mitigate their effects, the lack of employers' liability laws, the failure to provide adequate safeguards against accidents in danger-

ous vocations, the attacks upon the constitutionality of laws to shorten the hours of women and of workers in certain trades, the reluctance of legislatures to abolish child labor—it is necessary only to contrast this dead center of the social machinery with the speed at which it acts to prevent picketing and rioting during strikes. The workingman sees the club of the officer, the bayonet of the militia directed against him in the defense of property, and he believes that the hand of the law, strong in the protection of property, often drops listless whenever measures are proposed to lighten labor's heavy burden. Occasional and imperfect expressions of this underlying feeling reach the surface. Those who dismiss them as sporadic assaults upon the judiciary have no appreciation of the depth and breadth of the social situation. There is profound restlessness among large groups of labor who feel that there are no organic ways open through which they can act collectively with respect to the things that most concern them—that they are thwarted when they get together for common strength and when, not as mutual benefit societies, but as aggregations of men, they set out to mind their business.

Thinking men and women of the nation must ask themselves: What channels are open to American workmen who, through collective effort, seek to better their conditions?

Are the American people prepared to counsel violence as the method to be employed—force, dynamite, intimidation? The answer has been given at Los Angeles: No, and the country affirms the judgment.

Is the channel of political action open? The answer of the spirit and institutions of the American democracy is—Yes; and, in increasing numbers, the workmen of the United States are each year turning to the ballot as a way out.

But are there not channels open for economic action to secure industrial justice? The answer made by great groups of em-

ployers and employees who jointly, year in and year out, adjust their interests without disturbance, and settle their differences without bitterness, is—Yes. The answer made by equally powerful industrial groups, of which the structural iron trade is in part a sobering example, is—No.

No: in terms of the labor policy which unrestricted capital has deemed itself justified to employ on grounds of self-protection.

No: in terms of discharge of those workmen who, refusing to rely for fair play and security upon the good-nature of foremen and superintendents, have attempted organized action.

No: in terms of spy systems and strike breaking organizations equipped to man a job and break the backs of local strikes, whether or no their cause be just.

No: in terms of evictions, injunctions, the very instruments of our self-government turned to root out the simplest forms of democratic action.

No: in terms of the economic disfranchisement of vast groups of American wage-earners.

#### Who is right?

The American people as a whole must think these things through. Too much hangs on them for mere individual conviction to be the last word. We need more light. Mindful, as the undersigned are, of the important duty which the department of justice has before it, we hold that the criminal court is not a sufficient instrument through which the democracy can address itself to the economic struggle. The federal grand juries may well concern themselves with those who have carried dynamite across state boundaries. We want light along a more crucial boundary line—the borderland between industry and democracy. We want light on that larger lawlessness which is beyond the view of the criminal court. This is a matter of public defence in which we, as a people, should if necessary invest as much money as we put into a battleship. We appeal to the federal government to create a commission, with as great scientific competence, staff, resources, and power to compel testimony as the Interstate Commerce Commission:

1.—To investigate (and on this point make a preliminary report within six months) conditions of labor during the last six years in the structural iron trade, including in the study the organizations of employers and employees, the methods and purposes of each, and the relations of each to the other.

2.—To gauge the break-down of our machinery of industrial government by tracing the trend of law and judicial decision through state and federal courts with respect to labor causes (the boycott, the picket, the injunction, the strike); and to examine the exact economic and legal status of the union, the union member, the non-union man, the strike-breaker, the tenant of a company house.

3.—To investigate the economic and social cost of strikes to employers, to workmen, and to the public.

4.—To examine and review the rules and records of trade unions and employers' associations in their relations to each other; the conditions of the trades in which unions are strong and those in which no unions exist.

Nor should such a commission's work be limited to these negative lines. It should be commissioned:

5.—To study and make report on the scope and methods and resources of federal and state bureaus of labor to the end that they may meet permanently those responsibilities which through the work of such a commission would be more adequately defined.

6.—To make special and exhaustive study into the practicability and working principles of schemes of economic government such as the trade legislature in the cloak, suit, and skirt industry, the joint arbitration board which for seven years controlled the New York building trades, the Wisconsin Industrial Commission, the Canadian Industrial disputes acts, the minimum wage boards long established in Australia and recently introduced in England.

Today, as fifty years ago, a house divided against itself cannot stand. We have yet to solve the problems of democracy in its industrial relationships and to solve them along democratic lines. On the same vitality, the same idealism, the same constructive justice of the people which stood the stress of Lincoln's time, we ground our confidence in petitioning the President and Congress of the United States to appoint a commission to investigate, study, and consider the grave problems of internal statesmanship herein set forth.

WILLIAM J. SCHIFFELIN	JOHN A. FITCH
HENRY MORGENTHAU	PAUL KENNADAY
LILLIAN D. WALD	FLORENCE KELLEY
OWEN R. LOVEJOY	JOHN A. KINGSBURY
SAMUEL McCUNE LINDSAY	E. R. A. SELIGMAN
J. HOWARD MELISH	PAUL U. KELLOGG
HENRY MOSKOWITZ	JOHN COLLIER
ARTHUR P. KELLOGG	ROBERT EWSKINE ELY
STEPHEN S. WISE	GEORGE FOSTER PEABODY
JOHN HAYNES HOLMES	LOUIS D. BRANDEIS
FRANK OLIVER HALL	FRANK MASON NORTH
JOHN P. PETERS	JAMES BRONSON REYNOLDS
EDWARD T. DEVINE	LYMAN ABBOTT
JOHN M. GLENN	CHARLES S. McFARLAND

## ORGANIZED LABOR AND THE LAW

### SAMUEL McCUNE LINDSAY

The McNamaras are plain, ordinary criminals, who acted with self-confessed brutal disregard of the rights of society. They said that their action was necessary to make effective the principles for which they and their associates were lawfully organized. All who believe that law rather than the appeal to force is sufficient to guarantee the right to liberty as well as property deny any such necessity. Americans almost without exception, including the thousands who belong to labor organizations, deny any such necessity. The McNamaras may well be left to their fate.

This is the reasoning of the average man who has not time to consider more than the superficial facts of this case and the concrete results of the trial at Los Angeles that ended so dramatically. It is to be hoped, however, that there will be some among those who in divers capacities help to mould public opinion—teachers, preachers, publicists, or by whatever name they may be called—who will ponder over these things and find for us their hidden significance. The profound shock to the finer sensibilities of countless thousands in the ranks of organized labor alone who responded so readily with their hard-earned savings to the traitorous call for help from those who at first plead not guilty of the grievous wrongs which they later admitted surely calls for some compensating lesson from this trial.

Only a few months before the tragedy enacted at Los Angeles, the Supreme Court of the United States handed down decisions in the Standard Oil and Tobacco Trust cases which impartially and judicially sifted volumes of evidence and certified to an equally shocking array of facts, according to which the paid representatives of organized capital and business were guilty of equally ruinous and brutal disregard of the rights of society. The only difference in the havoc wrought by the dynamite which the McNamaras planted in Los Angeles and elsewhere and the financial ruin accomplished by the agents of the Standard Oil and the Tobacco Trusts was that in the first case the lives lost numbered a few score and the property destroyed a few hundred thousand dollars, and in the second the property loss must be counted by the millions, and homes were broken up and innocent women and children included in the thousands of lives which unfair business competition crushed out by slower and more painful methods than dynamite. The same plea of necessity for the effective realization of principles was entered. Again Americans almost without exception will deny the necessity.

As one who believes in organized labor and equally in organized capital as necessary economic factors in progress, I am interested not merely in denying the necessity for the condemned methods of the McNamaras, the Standard Oil and Tobacco Trusts, and all the

other labor leaders and trust lawyers in order to make the "principles" of organized labor or organized capital effective, but far more in asking what the legal methods are which they ought to have employed and why they did not use them. We must not forget that the substitute for war—industrial or any other kind—and the savagery it involves is an appeal to law; and an appeal to law means an appeal to the courts which interpret and enforce law. If we would teach respect for law we must be able to teach respect for courts. Faith in law means faith in courts. If our courts are not worthy of respect, we will never succeed in persuading men that the appeal to law is their highest duty to themselves and to society.

Just here, unfortunately, is where society—social organization as it exists in the United States to-day—has its turn at confession. Within and without the ranks of the legal profession, the special guardians of the law, we find ample expression of doubt and misgiving. The recall of judges on the one hand is the political and radical expression of this feeling, and the reform of criminal procedure at the other extreme voices an equally loud protest from the most conservative members of the bar. Suppose the McNamaras had been very much more intelligent and philosophical in the business of driving out competition and creating artificial monopoly in their business, and had had much more ample capital back of them, and had retained the most expert counsel that money could obtain and that the lawless trusts had not already secured: what would their counsel have told them after studying all the cases decided bearing on what labor organizations may do lawfully?

Prof. George G. Groat of Ohio Wesleyan University has in some measure furnished the basis for an answer to this question in a most valuable and timely volume, entitled, the *Attitude of American Courts in Labor Cases*, just published by Columbia University.<sup>1</sup> No one can read this record, chiefly given in the exact words of the judicial decisions of the past decade, without receiving a profound impression that if capitalistic organizations have any grievance as to the uncertainties of the law and the variableness of court decisions as a guide to what they may do lawfully, organizations of labor are in a thousandfold greater uncertainty. We shall indeed expect the weaker shoulders to carry the greater load if we are content to remain idle and indifferent in the matter of whether our courts catch up with industrial and economic changes.

Decisions which interpret the principles of

<sup>1</sup>THE ATTITUDE OF AMERICAN COURTS IN LABOR CASES. By George G. Groat. Studies in History, Economics, and Public Law, Vol. XLII. Edited by the Faculty of Political Science, Columbia University. Longmans, Green, and Company. 1910. \$2.50 by mail of THE SURVEY.

law in harmony with the real economic problems and conditions of a century ago represent about the best we find the average court able to do. This is indeed too great a span for conservatism to ask the wisest and most patient classes in society to bridge, and, with all its other struggles, the wage-earning class is not likely to develop the supreme patience and self-control needed for placing its reliance in an appeal to law under such conditions.

If the significance of the McNamara outrages shall be to direct our attention to the reform of the law and legal procedure, to the enlightenment of courts in the plainest economic truths, and to the development of legal principles to make them contribute to the ends of substantial social justice, we can afford to bear the shame of the recent exhibitions of lawlessness in the ranks of both capital and labor with which we have astonished the entire civilized world; and organized labor, which seems to have suffered most because it showed greater human sympathy with the misfortunes of its representatives than organized capital has ever revealed for the prosecuted trusts, will have some compensation for its misdirected philanthropy.

The task of reforming courts and legal procedure so as to give wage-earners, whether organized in unions to promote their own welfare or whether they choose to work individually to that end, a more reasonable hope in the efficacy of appeals to law rather than to lawlessness will not be so difficult a one if the disinterested members of society will set themselves to it and recognize its urgency. Substantial steps have already been taken by the foremost jurists in Europe and America in securing on the one hand a wide recognition of the utter futility and practical sonphistry of the old view that law is based on principles of justice that are immutable and eternal, and on the other the growing acceptance of the new view that law is based on principles of justice that change as every other factor in the evolutionary process changes, and require constant re-formulation and manifold adaptations in their applications to the problems of a world of change to remain principles of justice at all. Thus the way is being prepared for the economist and the social worker to furnish the jurist with the facts of change in the industrial world, and to ask him to formulate principles of justice that will harmonize with the world in which we live and not with that in which our grandfathers had chiefly to do.

"Twentieth-century liberty, property, and happiness are not those of two centuries ago. . . . We neither want nor need the kind of rights our great-grandfathers had any more than we want or need the kind of stage coach they traveled in, or the kind of tools they worked with. To the extent that courts continue to insist upon our having such rights, society will be as seriously handi-

capped as it would be if stage coaches and hand sickles were forced upon us."

A few more decisions—as little in harmony with the trend of modern jurisprudence as with the unanimous findings of economic science—like the Ives case, in which the New York Court of Appeals declared the workmen's compensation law unconstitutional, will suffice to educate an effective public opinion that will make the courts see the necessity for change—as witnessed already by the refusal of the courts of other states to follow the reasoning in the Ives case.

A more fundamental conflict presents itself in the simultaneous development of legal principles sound in themselves but irreconcilable when appealed to by both parties in a conflict. In such cases the courts have failed to find any way out, except to decide in favor of one of the parties, and that has usually been the employer, whose rights seem to the courts to approximate more nearly to property rights which have more precedents in their favor. Given the unequal bargaining power of employers and employees, freedom of contract may be for one party a substantial right and for the other an empty meaningless thing. As Dr. Groat very well says<sup>1</sup>:

"In such a situation—one in which each party claims to be acting within its right in preventing the other from exercising the same right—it certainly cannot be said that the course of development of legal rights has reached a final stage.

"When such an issue comes before a court three courses seem to be open:

"The court may direct the parties to settle their differences among themselves by some sort of compromise, in the meantime keeping within their legal rights in making the adjustment. This might and very frequently does lead to an industrial deadlock.

"Again, the court may fall back on some former interpretation of the principle and accept it as a precedent for the present case. This might and frequently does lead to a decision favoring one of the parties against the other. Such a course very probably leads to the interpretation in favor of the employer, as has so often happened in the past.

"Or, finally, if the judge be one who is inclined to recognize the disadvantage of the employee in his rivalry with the employer, he might favor the employee at the expense of the employer's equal right.

"Any one of these courses may result in an injustice. The court may recognize this and seek a fourth course. It may endeavor to reduce the right to terms that will allow of a different interpretation, to find some superior right that will change in some way the nature of the contention. While this last would be the one altogether most desirable, it might very probably require a

<sup>1</sup>Attitude of American Courts in Labor Cases, p. 377.

<sup>2</sup>Op. Cit. p. 242.

boldness in departing from precedent which most courts would not dare to exercise; a far step in the evolution of legal principles that judges are seldom willing to take. However great the difficulty of this procedure, it is certain that along this line alone will real progress be made."

Constitutions no less than the principles of the common law require a recognition of the actual and changing economic conditions in their interpretation and judicial determination. To quote again from Dr. Groat<sup>1</sup>:

"If judges are to give an interpretation to the phrases of our constitution such that

these phrases shall be adapted to modern society, if they are to be able to see the reasonableness of legislation for social welfare, if they are to adjust the law to society, it is not enough that they shall know the law. They must know society. If society changes from decade to decade, then judges must keep pace with such changes. Changing society must be accompanied by changing adjustment in the law. No jurist can lay claim to real greatness who holds the view that constitutional law is an unchanging rule of action for society to which society must forever conform. Law is for society, not society for law."

## "AN EXPERIMENT IN GOOD WILL"

*In his Shame of the Cities Lincoln Steffens ripped the husks off municipal misrule here in America, and helped men see, for example, the essential fraud in a local political campaign in which both parties are tools of the same business interests.*

*The civic embarrassments he brought to light were not so important as the fact that he gave men fresh eyes to look out upon accepted things and understand their relations. Graft became less a sporadic case of moral turpitude when it was shown going through the same evolution in city after city, accompanying the same stages in political and commercial development. Men could, thereafter, as Henry expressed it after sending the big land thieves to jail with Burne's help, go after the law-makers more than the law-breakers.*

This fall Mr. Steffens returned to active newspaper work and under a commission of the New York Globe, the Kansas City Star, and about twenty other papers went to Los Angeles three weeks before the abrupt end of the McNamara trial. Here he soon entering a new field, that of industrial relations. He found the trial hanging on a lie and his instincts were to help bring it out into the open, and get rid of it, so that conditions could be faced squarely. His participation in the variously judged events which brought the case to a close has perhaps obscured Mr. Steffens's work as interpreter; and moreover the events themselves gave a dramatic setting to the point of view of the McNamaras which, in the minds of people close to the labor movement, has produced an altogether exaggerated notion of the extent to which the philosophy of "direct action" has spread among American workers.

It is, however, as an attempt to lead the people and especially the employing interests of an American community to look across the industrial cleavage and try to understand what is on the other side that he engaged in a piece of public service which his friends feel may in the end size up with his old work in interpreting those conditions which underlie the struggles of the cities towards self-government. In this aspect, his story of the Los Angeles incident becomes a page in the documentary history of the industrial cities of the United States. Only parts can be published here:

"Los Angeles, Dec. 2:—Labor and Capital both stand convicted here to-day, the one of direct crime, the other of inciting labor to crime. Innocent workingmen and innocent business men may protest this interpretation of the conclusion of the McNamara and all other labor propositions in this country yesterday afternoon.

"But I was a participant from the beginning nearly two weeks ago in the negotiations which led up to that result, and I know not only the facts and considerations which weighed with both parties, but I caught also the spirit of it all. And it was fine.

"Los Angeles has done something which, if the people here and in the country at large will understand it aright, must put the ancient controversy between labor and capital on a new and a clearer basis forever. This city had labor down. She could have wreaked vengeance on its agents and leaders, and excepting Job Harriman the attorneys of labor know it.

"But the commanding men in this community didn't do that. They let labor up.

<sup>1</sup>Op. Cit. p. 395.

And one reason why these capitalists did that was that they knew they also were at fault. And, having done this thing, in this spirit, they propose now to go on and do more.

"They will cross the class line. They promised me, some twenty of them, that they would meet with some of the labor leaders here and consider afresh the problem of labor.

"The beginning of the story was at Miramar, the ranch of E. W. Scripps, near San Diego, on Sunday, November 19. I went down there with Clarence F. Darrow, chief counsel for the defense, to visit for a day and we talked, all three of us, about everything under the sun, and finally about the McNamara case.

"We all three regretted that it couldn't be tried out on its merits, that it would be good for the world to know that there was a group of labor men which not only blew up buildings, but killed human beings. And something was said about this fact being an indictment against society. Mr. Scripps read a letter he had in his possession, which was a

complete statement of the philosophy of direct action. I shall write something about this phrase in a later letter.

"All the readers need to know at the present is that it covers the belief that force and violence are the only weapons labor has to fight with. We could all see that if this case could be tried so as to develop that theory as a defense, this terrible, true fact could be brought out into the light and dealt with.

"Some one else suggested that another way to accomplish the same end was to settle the McNamara cases on the basis of a plea of guilty. Such a plea would give us all a chance to assume that a part of organized labor had actually adopted the policy of force.

"This idea worked in my mind and the next day, on Monday, I decided to see if any men on the capitalist side in Los Angeles would consider a settlement of the cases.

"I called first on Meyer Lissner, a man who is one of the leaders in southern California of the Progressive Republican party. He was astonished at the suggestion, but I went on to remind him of the class line and the wound left in San Francisco by the prosecution of business criminals up there. Then I referred to the condition of European cities, where the class line has been drawn so hard and sharp that the class war is the personal trade in life of a people.

"'You have it here,' I said. 'You have Socialists and labor men lined up against the other class, you have hate all through your system. That's bad. It may be that the class fight is never to end, but why not try some other way than fighting it out? . . .

"Mr. Lissner suggested calling on Thomas E. Gibbons. Mr. Gibbons balked like everybody else at first, but he saw it, and seeing it he thought he could make anybody else see it. He went out and saw first, I believe, Harry Chandler, who first said we were all crazy, but then he changed his mind and went crazy himself, so to speak.

"And I want to say right here that in all the interviews with all the men we all saw there was not one that took a small or a narrow view of it. It was the big idea in getting out the city that appealed to them all. . . .

"When it appeared that men on that side were willing to make concessions, I went to Darrow. The question I put to him was whether he would consider a proposition to compromise. Like everybody else he decided it was impossible and meant that it was impossible both from his side and from the other side. But when I told him how generously the opposition regarded the proposition, he said that it might be a way out and he thought that both his clients, the McNamaras, and organized labor, could be made to see it.

"When the negotiations were apparently settled it was deemed advisable to take the matter up with a larger body of representative business men. Some twenty or more were hurriedly invited to Mr. Lissner's office Wednesday, November 20. Those who responded were:

Stoddard Jess, the leading financier of Los Angeles; J. O. Koepfli, former president of the Municipal League, and a large employer of labor; R. W. Burnham, local manager for R. G. Dun & Co.; Edward T. Earl, proprietor of two newspapers; Fred Baker, of the Baker Iron Works; M. T. Snyder, banker, former mayor of Los Angeles; T. E. Gibbon, leading lawyer and member of the Harbor Commission; Paul Shop, vice-president and general manager of the Southern Pacific Electric lines in southern California; James Slauson, president of the Chamber of Commerce; H. W. Frank, a prominent merchant; former United States Senator Frank P. Flint; W. J. Washburn, prominent banker and member of the city council.

"Here again the same comedy was gone through with, only in an exaggerated degree. It was comparatively easy to take one man by himself and show him, but to put the case to a group with many divergent views was more difficult.

"The first statement fell like a pall upon them. They saw the matter plainly enough. They grasped it in one statement, but Fred Baker raised the real question. He expressed for the rest of them his resentment of the troubles labor had caused him, and his predication is real enough. Some of his friends were sore about it and they expressed feelings which are not unlike those that drive labor into the use of force. But as the conversation went along, it was represented to them that they also were guilty of wrongs to labor. . . .

"And there was no denial of it. This was the spirit which gives an outsider the sense that if Los Angeles really goes at a job it can really do something. Certainly no other city could do more than these men here can toward having at least an understanding if not with, at least of, the needs and feelings and thoughts of labor. And that is what Mr. Baker's mind drove at. He wanted to know 'What next?' And that was the proposition, of course, and it was taken up there and it was acceded to on the experiment of a meeting with some labor leaders.

"In other words, at the conclusion the decision was to back quietly any action the district attorney should decide to take, and if a compromise was arranged not to rest content with that, but to go on and have a conference with labor upon the labor situation in Los Angeles. . . .

"The day after meeting in Mr. Lissner's office, Thanksgiving Day, some eight or ten other leading citizens of the city were sought and four were found: William Mulholland, chief engineer of the Los Angeles aqueduct; J. B. Lippincott, assistant engineer of the aqueduct; W. B. Matthews, attorney for the Aqueduct Department, and Charles D. Willard, the man who, more than any other in this city represents and personifies the many years of fighting that has been done here for good government.

"All these men agreed that the compromise was just the thing to do. . . .