

TUESDAY, AUGUST 8, 1911.

A Splendid Utterance.

We print with sincere admiration Senator Borah's remarks in the Senate yesterday on the stability of the Bench. We believe that this speech will take high and permanent rank among the great efforts of philosophical statesmanship, not only for the dignity of its thought and expression but also for the quality of the patriotism shown by the conspicuous leader of the so-called Progressives who dares thus to expose and rebuke the dangerous error of purpose so prevalent among his associates.

It is only a week since another Senator of the United States, likewise classed as Progressive in the new alignment of political ideas, was pleading for the application of the principle of the Recall to the Justices of our Supreme Court, declaring that he would not hesitate to vote for the recall of a Judge who differed with him in opinion, for instance, as regards the income tax.

It is only a few days since there was published a letter written by a citizen who has been President of the United States stating "with all emphasis" that no Judge of the Court of Appeals in this State who entertained ideas opposite to his own concerning certain questions of employers' liability had "any right to be on the bench," and that it was "a misfortune to have him there."

It is only one week ago to-day that there was published in Arizona a letter from the Hon. WOODROW WILSON saying of the Constitution that contains the Recall of the Judiciary: "An admirable Constitution, adapted to the circumstances and conditions they have to deal with; and certainly all the liberal tendencies shown in the Constitution have my warm sympathies."

High time that men like Senator BORAH should do what they can to stay the frenzy that demands a plebiscite on the "satisfactory" or "unsatisfactory" character of judicial decisions.

To Senator OWEN, to Governor WOODROW WILSON, to Colonel ROOSEVELT, to Oklahoma, to California, to every person promoting this insidious movement for the overthrow of the established system, to every State wherein the poison is progressively operating, Senator BORAH says: "We owe it to ourselves and to posterity, to the institutions under which we live, and above all to the common people of this country, to see to it that the Judiciary is placed, as nearly as human ingenuity can do so, above the reach of influence or of any of the things which may cloud the mind with passion or dull the conscience to the highest demands of even handed justice."

Honor to him for saying it so fearlessly and eloquently!

The Bench and the Throne.

The Outlook's remarks this week on the folly of the recall are sound and temperate, if not quite in accord with the personal philosophy of one of the most celebrated of its Contributing Editors. We copy with undisguised approval these sentiments:

"As Senators BORAH and HOOR in their speeches before the Senate last week showed very clearly, the experiment of making Judges depend on the will of the power which creates them was proved foolish by England's experiment in that direction. One of the causes which brought on the English revolution was the insufferable injustice perpetrated by the Judges. Because they were subject to recall by the King they became simply instruments of kingly power. Make the Judges subject to recall by the majority and they will become equally the simple instruments of the power of majorities. * * * Judges, whether appointed or elected, should have terms sufficiently long to make them independent of popular prejudice and popular clamor. Precedents like that of New York State, that a Judge may be removed by legislative action or charge, but without impeachment, may be legitimate. The power is rarely exercised, and has, we believe, inflicted no injury. But this is very different from a provision that on a petition signed by one-fourth of the persons who voted at the last election in a Judge's State the question of a Judge's retention in office shall be submitted to a popular election."

It almost shames the sensitive soul to put into juxtaposition with so admirable a view of the absolute necessity of keeping the judiciary independent of either kingly wrath or street corner indignation the theory of judicial tenure recently advanced by Colonel ROOSEVELT. Not long ago the highest court in New York State declared unconstitutional, on grounds of law deliberately considered and clearly stated, certain statutory provisions which had enjoyed the benefit (until judicially rendered void) of Colonel ROOSEVELT's enthusiastic support. He thereupon denounced in the columns of this same Outlook the decision of the properly constituted tribunal. To a correspondent who ventured to criticize Colonel ROOSEVELT's denunciation of the New York State Court of Appeals he replied in a letter published in the Lyons Republican of August 3, disposing of the question and of the court in this peremptory if not somewhat regal fashion:

"I wish to state with all emphasis that no man who takes the opposite ground to that which I have taken in the article in question has any right to be on the bench, and it is a misfortune to have him there."

Such is the principle of the recall reduced to its simplest terms. Supposing that Colonel ROOSEVELT were Ruler with the power of appointing the Judges of the Court of Appeals and of removing them at his individual pleasure, the court, or a majority of it, renders a decision which puts it in the plight of opposition to Colonel ROOSEVELT's ideas of jurisprudence and public policy. "No man," he states, with all emphasis, "who takes the opposite ground to that which I have taken" in my article in the Outlook "has any right to be on the bench; and it is a misfortune to have him there." If he were in the position of a King or equivalent Ruler, however styled, it would manifestly be Colonel ROOSEVELT's next step after making such an emphatic declaration to remove the public misfortune and to bring the bench into concurrence with the views expressed by him in his Outlook article by yanking forthwith from the bench the offending jurists. Can anybody

doubt that he would do so if he had the power of recall? Why, it would be both his moral duty and his exceeding great pleasure to yank them.

We submit to the Outlook that while the species of recall favored by its eminent Contributing Editor does not belong to the second class it mentions, being recall by sanctum corner opinion rather than by street corner emotion, it does approach very nearly to the sort of recall exercised by kingly whim in the bad old English days—the recall described so accurately and deplored so justly by our esteemed contemporary.

Wm. E. Borah. THE BENCH AND THE PEOPLE.

The Hon. William E. Borah, Senator from Idaho, is a leading member of the progressive wing of the Republican party; he is also a sane citizen who has not permitted his reason to abdicate. His speech in the Senate on Monday in opposition to the Statehood bill, which was passed yesterday by the Senate after favorable action by the House, and more particularly the provision in the Arizona Constitution permitting the recall of Judges, is a masterpiece of logic and common sense.

What is the safeguard of nations and peoples, whether they live in a republic or under some other form of government? Stability. That is the very object and meaning of government. If it were wise to permit the people to decide by popular vote a great issue one way one day and then to change their minds immediately, through some gust of passion or some caprice, all the machinery of constitution, laws, courts, congresses and fixed orderly methods of doing things would have been created in vain. All the checks and balances of law and government are provided

for the express purpose of preventing the people from adopting wild courses and listening to rash and unreasoned advice. If these safeguards are necessary in the general field of government, they are inseparable from the very idea of the judiciary, which is not only valueless unless independent and secure, but a positive menace to the people and to our institutions. Mr. Borah said, with irresistible force:

"The most paltry being who slimes his way through the machinery of government is the Judge who seeks to locate the popular side of a justiciable controversy. The man of small fortune or limited means will always suffer in a contest with influence or wealth in such a court."

It is proposed by the amateur reformers and lawmakers to make of judicial decisions the plaything of popular whim. The absurdity and danger of this idea is heightened when it is considered that the Judge is an expert, trained in the law, and is, therefore, selected and maintained on the bench just because of his superior wisdom and competence to decide matters of which the common run of men know nothing. It is preposterous to suppose that any approach to justice or any reasonable stability in the important affairs of life could be attained if under the rule of gusts of passion or prejudice the vital issues should be decided

whimsically according to the desire of the majority of the hour. But does not the majority rule in this country? Mr. Borah gives answer:

2

Conflicting Counsel

As Senator Borah's argument against the recall of judges has the merit of earnestness, and as it is a substantial contribution to the interesting discussion of that topic, we can consider it profitably with a mind still open to conviction in the hope of illuminating an issue upon which public opinion is sharply divided so far as it is formed—rather more sharply divided, we think, than experience with the recall and popular knowledge of the subject seem to warrant.

In Mr. Borah's scholarly review of the history of the struggle for an independent judiciary, does he prove his case against the recall of judges by the people when he cites the wrongs done under the recall of judges by English kings? All government was corrupt when the monarch could bend judges to his will or break them. If the period when Essex took his life in the Tower rather than face a venal court and Sidney was beheaded by a tyrannical tribunal were taken for other examples of general misgovernment there would be no English throne to-day. If it were certain or even probable that the recall of judges by the people would work as much injustice as the "recall" of judges by a despotic sovereign, the American people would hoot the very suggestion which has been ratified by the voters of Oklahoma and seriously proposed on the floor of Congress.

We do not wish to be understood as favoring the recall of any judges. We are not in favor of the recall of Federal judges, and perhaps shall not favor that even after a few States have tried, as they will, the experiment questioned by Senator Borah and rabidly denounced by the organs of predatory capital. But before we can bring any fervor to a protest against such an experiment we need better reasons than have so far found expression from numerous and influential objectors thereto, including President Taft and ex-President Roosevelt.

For instance, we cannot quite grasp the point sought to be made by Mr. Borah when he says in one breath that for judges to be subject to the recall will make them shape their decisions to the will of the majority, thereby violating the legal rights of the minority; and in the next breath asserts that it is the poor man who will suffer under the recall system, and the rich man who will thrive. How can that be? Surely the poor outnumber the rich. If a judge decide against the poor man continually, instead of only about half the time, as some judges do now, will not the poor men combine and tear him down off the bench? If any injustice can be wrought through substituting the will of the majority for the untrammelled opinion of the court—assuming that such must be the result of the recall system—the injustice hardly will be wrought on the poor majority, which will rule, but on the rich minority, which will be impotent if Senator Borah is right in his first proposition; and he cannot be right in both.

If all our judges were appointed for life terms, as the Federal judges are, we could consider the question more simply than we can under a system where some judges—those of nearly all the States—are not appointed at all, except to fill vacancies, but are elected for terms. The two classes of judges, those appointed for life and those elected for short terms, must be regarded apart in looking at the question of the recall. The life-term Federal judge is, indeed, independent of the people, except in so far as he is susceptible to public criticism or liable to impeachment. But the short-term judge who is elected by the people does not enjoy the independence which the opponents of the recall believe would be taken away from him by that system.

If he desires to remain on the bench does it not seem likely that when he is up as a candidate for election his decisions will be shaped to please the majority, if he is as eager to win public applause as the opponents of the recall imagine? But we do not recall any shocking cases of the kind. There are instances of a different kind, on the other hand, where had judges about to go before the people have continued to be bad judges to the end. The Maynard instance in New York will suffice as an example of this. No judge fit to dispense justice is likely to "pander to public opinion" at the expense of his self-respect or the outrage of sacred principles of law.

The recall means simply that instead of having a judge fill an office for a fixed term he holds office during good behavior at the pleasure of the people within that term. It may be a two-year term or it may be a life term, but it may be shortened if the people so elect. And are the people not far more likely to recall a judge who outrages legal principles in a weak attempt to please the majority than they are to recall a judge who gives the law honestly and wisely even if at the time it may seem unjust to the people? The judge and his defenders have full opportunity to go before the people and justify his acts—and if the voters cannot be trusted to do him justice, then they are unfit for self-government and ought to be ruled by a despot.

Everybody wants an independent judiciary, but nobody believes that the elective judiciary of the States is as independent as the life-term judges of the United States courts. While the voters as a whole are responsible for the character of the State judges there is no reason why they should not be free to assume the full responsibility, and to make their judges subject to more frequent accountability at the polls than they are now under the fixed elective term system. It may be that in the fullness of time and the wisdom of experience we shall come to clearing or appointing all our State judges for life. Perhaps the experiment of the recall will result in adopting such a policy. Perhaps, again, the recall for State judges will get itself liked so well that we shall apply the system to Federal judges, too. At present we are listening to conflicting counsel from the sages to whom we look for guidance, and must grope awhile until the clear path re-

What would life and liberty be worth if the issues affecting them were dependent upon the majority which Mr. McNichols's tight Organization could roll up? What kind of law and justice would that be which depended upon the first expression of opinion by the great mass of people, who possess neither the time, inclination nor the capacity to examine the evidence and to judge of the law?

The proposal is radical: gone mad. It is no argument to say that Arizona may enact such a clause, anyhow, in a subsequent Constitution, even if that proviso were not in the Constitution under consideration, and that, therefore, the Territory should be admitted to Statehood. It was the solemn duty of the Congress of the United States to register emphatically its firm disapproval of a species of frenzy bent upon wanton and reckless changes in our Constitution and laws, which, if not checked, will imperil our institutions and wreck the glorious "American experiment." The President should veto the proposed law.

From WORLD
Address New York City.
Date _____

"Without a free and independent judiciary," said Senator Borah in yesterday's debate on the recall of judges, "popular government will be a taunting, meaningless delusion." It will be a corollary to the delusion that judges will be prevented from legislating when they are subject to recall if they decide legal questions contrary to popular sentiment.

Calling a Halt to a Craze.

It should not be necessary to mislead Senator Borah into further service to behalf of the bench. He was not an insurgent yesterday. Nor was he a Democrat or a Republican or anything in the nature of a politician of any description.

There will be no recall of judges. That will come only when it can be said that the American people want the red flag as a substitute for the Stars and Stripes.

It will come, as another Senator said, when they have lost the self-restraint without which man remains the child, the citizen remains the savage and the community the commonwealth. None the less, the time had come to call a halt to the worst of all the crazes, lest unrebuked, it be too seriously taken. This duty fell to the lot of Senator Borah to perform.

He did it well. Indeed, how it could have been better done is difficult to imagine. Little remained to be said when he had told what a brave and independent judiciary signified to the country.

Fortunately, the matter is one easily reduced to the simplest of terms. Its ultimate solution, the question is what sort of judges shall perform the most solemn and difficult task which government imposes upon men.

If the people prefer "the paltry being who slides his way through the machinery of government," seeking to "locate the popular side of a justiciable controversy," they can have him.

Recall would place him on the bench. And, possibly, locating on the popular side, would keep him there, but even that is doubtful. For slime oozes out.

"There is," said Senator Borah, "a vast amount of practical common sense in the ordinary American citizen. He is not long in error." He may be paroxysmal, but not for long. He will keep the ermine clean.

BORAH ON THE RECALL.

Senator Borah of Idaho is an insurgent and a progressive of the most pronounced type. It would be natural to suppose that he would, like a number of his western colleagues in both parties, favor the new theory of popular government by means of the initiative, referendum and recall. It is refreshing, therefore, to read in the dispatches reporting his reply made in Senator Palmer's office of Washington in defense of these features of the Arizona constitution, a vigorous attack upon the principle underlying the recall of the judiciary. The senator struck straight from the shoulder. Without a free and independent judiciary, he declared, popular government would be a delusion, "a towering, towering delusion."

The senator very truthfully declared that it was not the function of a judicial officer to legislate for the people, and the judge who did so violated his oath of office. It is not for him to say whether the law is a bad one or not, but whether it is constitutional and to interpret its meaning in accordance with the intent and meaning of the Legislature. Senator Borah went even further. He held that a judge who thus violated his oath undermined "the basic principle of our institutions" and opened the door "to injustice and fraud."

It is no doubt true that the first principle of our system of government is the rule of the majority, but the framers of the constitution very clearly indi-

ated that this majority rule was never intended to apply to controversies in art. "There," said the senator, "all men are equal." The rights of the minority are granted to equal protection with those of the majority, and a government which does not provide for the protection of the rights of all is despotic, a matter under what name it goes.

The independence of the judiciary depends upon its freedom from outside influence. The judge who is in constant fear of being recalled will interpret the law not as it is but as popular sentiment decrees, and it will be a sorry day for this country when we destroy the spirit of fearlessness and independence that has made the judiciary the most highly respected and the most incorruptible department of the government.

INTER-OCEAN,

Chicago, Ill.

AUG 11 1911

Senator Borah and the Average Man.

There is a vast amount of practical common sense in the ordinary American citizen. He is never long in error. He loves liberty, but he also is the standard of right and stability. He would not long accept a proposition which would impair the stability and independence of the judicial system for which his ancestors fought for three centuries. From Senator Borah's Speech on the Recall of the Judiciary.

This is certainly a hopeful assumption—that no matter what political leaders and public men may do, the common sense of the average American

citizen can be relied on to save the principles for which his ancestors fought for three centuries.

It tends to mislead public men of a vast responsibility and to make one regard the demagogue with a good deal more of patience and consideration than heretofore he has been supposed to deserve.

But is this beautiful assumption true? Is it a fact that, no matter what wild denials and wretched excuses he may hear from the public men he is accustomed to listen to, no matter how much these public men may blather at the foundations of republican liberty as laid in the distant past, the average American citizen is safe from dangerous infection?

Of course not. The average intelligent American citizen has spent very little of his life in studying the history of his country and the many and slow stages of the progress of constitutional liberty. He sees the results of that long and painful process before him in the laws and institutions under which he lives. But he is not, and could hardly be expected to be, deeply versed in the history and significance of each one.

Living from earliest years in an atmosphere of freedom, he is naturally prone to accept freedom as he accepts air, water and the earth's produce—as a simple fact of nature. Hence institutions seem less important to him than they do to those who have traced freedom from its beginnings, who have marked how it has gone hand in hand with the development and strength of certain institutions.

Such being the case, he naturally looks to and depends on the leaders in public life for the reaffirmation, strengthening, criticism and amplification of the great and fundamental principles for which his ancestors may have fought for an exact interpretation of their significance—in a word, for all the light the past can cast upon the issues of the present.

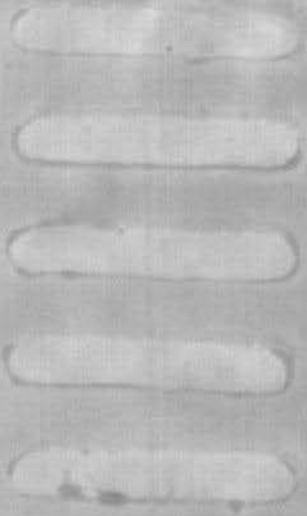
And if he constantly hears from these men in public life—statesmen, orators, officials, lecturers, leaders generally—not those principles for which his ancestors died and on which constitutional liberty has been based, but continuous denials of exactly opposing principles, continuous alighting of the travail and lessons of the past, rebuke and glowing predictions of millenniums to be when everything has been leveled up and scattered, he will most certainly end by "accepting the proposition."

Senator Borah may comfort himself with the reflection that, no matter what he says or does, the good sense of his constituency will save him and them from disagreeable consequences. He may make himself popular with his constituency by assuring them that they are constantly overhauling, re-considering and restudying the principles for which their ancestors died.

But he is leaning upon a broken reed.

If the people of Senator Borah's state, for example, hear revolutionary things from their leaders, they will become weary of them, revolutionary themselves, and possibly outstrip their leaders in this respect. No man in Senator Borah's position can shift his responsibility by taking the position that, whatever he himself may say or do, the men who hear him will know the right and do it anyhow.

Revised by Page Co.



The Recall of Judges ^{Banner Head} _{Aug 4-1911}

4

SENATOR BORAH'S reasons for objecting to the recall of judges may be summarized as follows:

That the recall is a new and dangerous departure from our established policy.

That the recall makes judges timid, weak, obedient, and spineless; and will therefore in the end make them corrupt.

That the recall tends to make decisions "bear the color and drift of majority rule and party domination."

That the recall of judges is despotic.

It does not seem to us that Senator Borah is particularly happy in any of these objections. Let us take them in their order.

The recall of judges may or may not be dangerous; but it is NOT a new departure. It is simply a new device for attaining a very old object. There are just two consistent logical plans of choosing a judiciary. One is to appoint them for life. The other is to elect them for the term of the good pleasure of the electors. Nearly all the states have adopted the latter plan; but up till now in partial indecisive fashion. They have been content with electing judges for certain stated terms. Manifestly the judge who must seek a re-election every so often is to that extent "dependent" on the people for his tenure of office. The recall is a good weapon. The election of judges for certain stated terms is a poor weapon. But both were designed for the same purpose of enabling the people to get rid of an unjust judge.

Mr. Borah says the recall would make judges timid, weak, and spineless. On what practical grounds does he rest this objection? Nine-tenths of all the world's work is done under the recall system, now. The physician and the the surgeon, the engineer, the lawyer, the architect are hired, not for stated terms, and still less for life; but during the good pleasure of their employers. Is it Mr. Borah's experience that the average surgeon, or attorney, or engineer is a weak, timid, cringing creature? Is it not a fact that private employers get a higher average of initiative and energy than has yet been displayed in public life? And if the lawyer before his elevation to the bench maintains dignity and courage, despite the conditions of his employment, why should he lose those characteristics when nothing is changed but his employer?

The trouble with this part of Mr. Borah's reasoning is that it is based on an analogy which does not exist. It was the habit of evil kings of old to use their power to appoint and remove judges in such a way as to secure unjust and outrageous decisions. Passing the obvious retort that the American public cannot properly be likened to Charles First or James Second, we would point out that the olden king had powers which the people do not possess. The king could not merely remove a judge from the bench, but could make it practically impossible for him to earn his livelihood in private. The electors of today have and can have no such power.

Mr. Borah says that the recall of judges will make decisions follow the elections. Would Mr. Borah mind telling us what decisions follow now? Has he never heard of political decisions? To go back far enough to keep out of present controversies, what of the Dred Scot case? Would that have been possible after 1865, even if enough of slavery had been left to make the test? We think not.

Mr. Borah's objection that the recall of judges would make this government despotic seems to us to be based on a misuse of language. But it serves, at least, to get ~~the whole question before us in a~~ lump. At bottom of all the objections to the recall there seems to abide the fear that if the people get the power to change their public servants at pleasure, they will straightway knock off work, and settle down to amusing themselves by continual elections. Where Mr. Borah or anyone else finds warrant for this fear in the histories of democratic peoples, we do not know. From Athens to the United States, there has been nothing so shortlived as demagoguery; nothing that commanded public respect so quickly and so continuously as the courage to defy popular clamor.

The Saturday Evening Post not long ago likened the initiative, referendum and recall to the gun which the farmer of colonial days took with him when he went to plow. He took it, because experience had taught him that Indians were likely to be in the woods and that they respected a gun far more than they did a plow. The citizen of today has found that there are often Mohawks, not to say Ethiopians, concealed in the fuel supply; and has concluded that he will take the recall musket along with him when he goes to work. Straightway from every worshiper of the past rises a cry that if the citizen has this gun, he will neglect plowing for target practice. He will quit business to play politics; and he will leave his common sense behind so thoroughly that he will by preference shoot friends instead of foes.

It is not so that we read our countrymen. We believe the American people admire the courageous, upright, and capable judge. We believe that no judge who is courageous, upright and capable will have much reason to fear the recall. But judges are human; and some of them have accumulated more human faults than virtues. The recall gives the people a chance to correct a mistake without waiting out the full term of years for which an unjust judge is chosen. For that purpose it was designed; and for that purpose it will be used. The present boasted "independence" of judges is too often independence of the public, combined with judicious and judicial subservience to the "interests."

Mr. Borah on the Recall.

Senator BORAH of Idaho, some time insurgent Republican, has won no small credit and applause by his masterful address on Monday last against adoption of the recall for judges. He was speaking on the Arizona constitution, which he objects to in its present form, and his utterances revealed such a careful study of his subject and an intimacy with the history and evolution of the judiciary as to give his utterances rank with the most thoughtful that have been heard on this question. It is interesting, moreover, in this connection, that Senator CAMPBELL of South Dakota, who is among the most radical of the insurgents, took the same position as Mr. BORAH. This indicates a significant division in the ranks of the insurgents, whose solidarity is not as assured, with recall in sight, as it once appeared to be.

Mr. BORAH made an especially striking point when he declared that to establish the recall would be equivalent to placing the power of decision in court cases in the hands of the majority. The effect would be to deprive the minority of its rights, which are now assured of protection as nearly as human ingenuity can safeguard them. Mr. BORAH is not deceived by the broad claim of recall advocates that once the principle is in our laws and constitutions its use as an instrument of reproof will not be necessary. He is persuaded that if the power to discipline or replace judges is conferred the inevitable tendency will be to encourage unscrupulous or ambitious majorities to exercise both their new rights and their authority, if not for actual recall then certainly as a threat or menace by which it will be possible to influence decisions in controverted issues of great importance or interest. This, of course, would be making a mockery of justice and the entire system of our courts would be in danger of falling into disrepute. Passion and prejudice would be employed by desperate manipulators to secure from judges, thus placed at the mercy of popular vote, decisions subversive of law and public policy, and there would be an end to stability and security. We should have no more of the independent judiciary which all parties claim to be striving for and which in many instances has been attained.

JOURNAL OF COMMERCE.

from New York City.

date AUG 9 - 1911

AN INDEPENDENT JUDICIARY.

Senator Borah of Idaho is classed as one of the leading "progressives," but he showed in his powerful speech against the "recall of judges" as embodied in the constitution framed for Arizona, that he does not regard any attack upon the stability and independence of the judiciary as in the line of progress. He declared it to be the duty of a judge in construing the law to "consider nothing but the terms of the law as written." "He has nothing to do," he said, "with its leniency or its harshness, its wisdom or its unwisdom. He is not to consider the effect of its enforcement unless it be when there is doubt as to its terms." Further on in his speech he said, "if the law be a bad law, detrimental to the public welfare, the people may modify or repeal it. But the judge who legislates not only violates his oath but undermines the basic principles of our institutions and opens the door to injustice and fraud."

But the Senator took good care to show that he had no sympathy with some recent criticism of decisions of our Supreme Court. After speaking of the judges who laid "deep and firm the great principles of English law and English justice, principles which still shield and guard the personal rights of every member of the English-speaking race," he said, "no less fruitful of great names and commanding figures has been the system in our country," and enumerated justices of the Supreme Court "down to the distinguished and cultured Chief Justice who now presides" over that tribunal. "The intellect, the character, the best there was in these men, of heart and mind, years of consecration and toil," he declared, "are imbedded in our jurisprudence and constitute to-day the greatest of all the guarantees for the perpetuity of our institutions and the continued happiness and prosperity of the common people."

In closing his speech Senator Borah paid a final tribute to this "steadying, stable, immovable tribunal of justice," without which our Government would "go to pieces in a decade." "Not a court beyond the possibility of error," he said, "not a court whose opinions are deemed above the reach of fair and honest criticism, but a court which, whether viewed as to the reach and scope and power of its jurisdiction or as to its influence and standing, its ability and bearing, its dedication and consecration to the service of mankind, is the greatest tribunal for order and justice yet created among men." In the midst of a too ready and shallow, sometimes almost flippant man-

ner of treating the decisions of our highest courts, it is refreshing to have this kind of sober talk from a Senator of the Far West who represents the "progressive" element in politics. It is a memorable utterance in the debates of the present session of Congress.

NEW YORK EYE SUN

AUGUST 1911

The Recall of Judges

There is nothing so disagreeable to your hasty progressive as the past. It has such an inconvenient way of holding you up for a fool in your brightest and most progressive moments. Hence we suppose there will be few uplifters to read the admirable remarks of Senator BORAH of Idaho, aimed against the radical Oklahoma speech of a few days ago. Senator BORAH is something of an insurgent, but he now refuses to insurge against common sense and the history of centuries.

The Senator, in his speech opposing the recall of judges, did not underrate the value and justice of considered public opinion. In the writing of laws he claimed for "a wellformed and well sustained public opinion" paramount control. But when once the law was written the opinions of the public became as nothing, and the bounden duty of the judge was to administer the law according to its terms. The judge who considered his own interests, or the interests of his friends, or anything save the legal rights of the case, was an unworthy judge, grossly unfaithful to the people.

He must reply to all influences, be they private or public, as the Chief Justice replied to the English King who sent to know if he would assent with that letter regarding his decision: "When the cause is submitted I will decide as becomes the Chief Justice of England." If the law be a bad law, detrimental to the public welfare, the people may modify or repeal it. But the judge who legislates not only violates his oath but undermines the basic principles of our institutions and opens the door to injustice and fraud.

Just how the recall would undermine our institutions and work injustice Mr. BORAH pointed out in detail. It would tend to establish the rule of the majority in matters of judicial controversy. It would make decisions bear the color and drift of majority rule. And how would the rights of the minority be protected under such a system, inquired Senator BORAH. The chief difference between the old republics which perished and ours he found in our methods for protecting the rights of the minority. If our courts were taught to listen to the voice of the majority, a practical despotism would be the consequence.

An independent judiciary was one of the chief of the hard won protections wrung from an unwilling king by the English people. All the great jurists of England and America contributed to the body of principles which "still shield and guard the personal rights of every member of the English speaking race." We should be turning our backs on the

history of all these centuries were we to tamper with the independence of our judges. Not so much the rich and conspicuous man as the poor and insignificant would suffer by such a change, Senator BORAH argued. Said he of the highest tribunal in the land, the Supreme Court of the United States:

There you may take the present, the most in-
 fortunate individual in the land, and he is loved,
 loved, etc., as if he were clothed with all the in-
 fluences which wealth and friends could bestow.
 Though he stands there with every man's hand
 against him and every right denied, that without
 shows about him the protection and protection
 of the Constitution, the fundamental law which
 the people have made for the protection of all,
 and he stands upon an equality with every other
 man in the land.

It is difficult to read Senator Borah's
 temperate and brilliant defence of our
 courts without losing patience with
 the Oklahoman school of radicals. It
 seems but the obvious fact to say that
 without an independent judiciary "the
 will of man never has and never can de-
 vise a popular scheme of government
 that will long protect the rights of the
 ordinary citizen." And it seems but
 an obvious and necessary conclusion
 that "the experience of the past has
 closed the discussion as to the necessity
 of an independent judiciary." That
 this fact and this conclusion are, how-
 ever, opened and contested by the
 Owens of Oklahoma and the Bourne
 of Oregon is a clear commentary upon
 the spirit and ambitions of our latter-
 day radicals.

TIERRE

THEO N. T.
AUG 8 - 1911

The Recall of the Judiciary.

A provision which has been put in the
 Arizona constitution providing for the
 recall of judges was attacked with great
 ability in the United States Senate yester-
 day. Senator Root with his accom-
 panied a witness and power of states-
 rights the proposition and was strongly
 reinforced by Senator Borah of Idaho.
 These able lawyers perceived that the
 law itself will be undermined when the
 independence of its representatives is de-
 stroyed. As Senator Root showed, the
 whole system of American government
 has for an inspiring motive the purpose
 to protect the people against themselves
 by assuring, through its checks and
 counter-checks, the deliberation neces-
 sary to prevent mob passion or impulse
 from getting the advantage of sober de-
 liberation.

It is to be hoped that unless this really
 dangerous and un-American proposition
 shall be eliminated from the Arizona
 constitution admission of the territory
 to statehood will be refused.

The Troy

SENATOR BORAH'S SPEECH

The recall of judges, that two-edged
 plaything of the Western super-Pro-
 gressives, was attacked with logic and
 common sense in the Senate yester-
 day by Senator William E. Borah, of
 Idaho, himself a man of very ad-
 vanced ideas, but yet one with a foot
 planted firmly on the earth. As Sen-
 ator Borah pointed out, the chief dan-
 ger in depriving judges of their pres-
 ent complete independence is not so
 much the danger that they will be
 harassed by outbursts of popular
 emotion as the danger that they will
 be systematically intimidated by the
 professional politicians, and particu-
 larly by those professional politicians
 who serve the great corporations. In
 brief, the recall, once it applies to the
 bench, will open the way for a new
 and peculiarly obnoxious use of docile
 and venal voters. The wealthy cor-
 poration, working through its usual
~~and of political manipulators,~~ will
 find it easy to procure enough signa-
 tures to bring an unobscured judge
 before the people for trial, and though
 the result of that trial may be over-
 whelmingly in his favor, yet the in-
 timidation, the annoyance and, in the
 last analysis, a very real power of in-
 flicting punishment will be there.

Something of that weakness, of
 course, is inherent in the recall idea.
 A Mayor may be attacked as well as a
 judge and a member of the Legisla-
 ture as well as a mayor. But it must
 be apparent that, in the case of those
 other officers, the damage that may
 be done is considerably less than in
 the case of a judge. A mayor, for ex-
 ample, is a mere administrator, whose
 official acts, in the main, follow a
 fixed routine, and in consequence he
 is much less apt than a judge to come
 into conflict with those powerful per-
 sons and corporations whose constant
 effort it is to color the law of the land
 to their liking. And a member of the
 Legislature is protected by the fact
 that he is one of many—that the re-
 call is too expensive a method of at-
 tacking his single vote and that his
 constituents, being his neighbors, will
 stand behind him. But greater than
 this difference is the difference in
 character between the judicial office
 and any other office. If a judge is to
 interpret the law with honesty and
 intelligence, he must be placed above
 all threats and clamor. His mind
 must be clear and serene; he must
 stand apart; he must be able to hear
 the contentions of litigants without
 noting the slightest echo of his own
 private interest in them. Once he be-
 comes, in any sense, a party to litigation
 before him, his fairness vanishes
 and he ceases to work that exact jus-
 tice which the public welfare de-
 mands of him.

RECORD
AUG 10 1911

Statehood and the Recall.

Contrary to certain predictions and
 anticipations, the statehood bill cover-
 ing the admission of New Mexico and
 Arizona was passed in the Senate by a
 large majority in spite of the rejection
 of the Nelson amendment which pro-
 posed the striking out of the Arizona
 constitution the provision for the recall
 of judges. As the measure stands, all
 that Arizona is asked to do is to re-sub-
 mit, as a distinct question, the judicial
 recall to a popular vote, the result of
 the referendum being immaterial.

Doubtless many senators who ear-
 nestly oppose the extension of the recall
 to the judiciary voted for the bill in the
 belief that the people of Arizona, after a
 sober second thought, will eliminate the
 objectionable feature. Other senators,
 taking a literal view of the constitution,
 argued that the people of a territory had
 the right to establish any government
 they liked, provided it was "republican
 in form." The President will doubtless
 veto the bill, but there is talk of over-
 riding his veto. Whatever happens to
 the bill or to the Arizona constitution,
 one thing is clear—that a vigorous, intel-
 ligent campaign must now be made by
 the friends of an independent and fear-
 less judiciary to induce the majority of
 Arizona voters to strike out the judicial
 recall.

The strong speeches of progressive
 and thoughtful men like President TAPPAN,
 Senator Borah and Governor Woodrow
 Wilson, showing the dangers of this in-
 novation and distinguishing between ad-
 ministration of law and interpretation of
 it, should be reprinted and widely circu-
 lated in the territory. In reality, the
 question is a national one. What Arizona
 proposes to-day other "advanced" states
 may propose to-morrow. The matter
 should be fully and searchingly debated.
 Is it necessary, wise, safe to put a pre-
 mium upon judicial time-serving and
 timidity, to tempt the average judge to
 "follow election returns" or mass meet-
 ings and to echo street opinions instead
 of courageously setting forth the law ac-
 cording to sound precedent and fixed
 principle? Is it safe to force the judges
 into politics and politics into their deci-
 sions?

The Senate and the Recall.

The recall as applied to the judiciary is described by some of its opponents as a flag of young men living in new states, who under the spur and dash of four-year periods are willing to try any experiment in the way of governmental regulation. But, notwithstanding the charge, two of the ablest speakers in the Senate against that feature of the Arizona constitution were made by young men from comparatively new states.

Idaho is a new state, and Mr. Borah is only forty-six. His speech was one of great power and beauty. He touched the very heart of the question, and with an argument so sound it should have prevailed. Although he had attained prominence in the Senate debates before this deliverance, he had said nothing so well, and although he may remain in the Senate for years—and he will if his constituents are wise—he is not likely soon to surpass it. It reads well, and those at a distance will enjoy it as much as did those who were fortunate enough to hear it.

Texas is an older state, but still a great empire in course of development, and Mr. Bailey is only forty-eight. His speech was in his best vein; and that is high praise. A lawyer of wide reading, and holding the bench in profound veneration, he examined the question as one of much moment, and acquitted himself admirably.

As both of these senators are soon to appeal to their constituents for indorsement—their terms expire in March, 1911—they have shown the full courage of their convictions. These speeches will enter into their campaigns and their people will gaze upon them.

Two other speeches of note against the recall were those of Mr. Root and Mr. O'Gorman of New York. The one man when transferred to the Senate was at the head of the American bar, and the other a member of the highest court in the Empire state. Mr. Root spoke at some length, Mr. O'Gorman briefly. But the latter in a few words packed a strong opinion, and gave evidence of being a courageous man in politics.

We are soon to hear from the President, and in a message likely to create a deep depression on the country. He, too, is a lawyer of the first class, and will pass upon the question more from the legal than the political point of view. Indeed, in the accepted sense, the President is not a politician at all, and passes upon no question as a trained politician would. But, in his way, he has had much success in politics, and is enjoying a growing popularity as the result of his course. And maybe he will score again in this case.

CRIPPLING THE FEDERAL FABRIC.

Senators Borah and Root in the debate on the Statehood bill vividly pictured the disastrous effect upon judicial decisions and American institutions that would inevitably follow the recall of Judges provided for in the Arizona Constitution. They pointed out that popular clamor instead of legal principles would determine the decisions of courts.

Senator Owen's reckless, sweeping charges against the Federal judiciary—charges that, if the power could be exercised, would be the basis of a wholesale application of the recall to the Federal bench—well illustrated the folly of the propaganda. If even a Senator so passionately denounces Judges for differing with him, what would be the course of the unthinking and ignorant and of the demagogues who live on their favor?

But Senator Borah asked one question which touches an essential principle of our Government:

In we understand how this Government of ours without this steady, stable, immovable tribunal of justice would go to pieces in a decade—a decade, Mr. President? Rather should we say to all practical effect it would depart in a night.

One of the five fundamental factors in the Federal fabric wrought by the framers of our Constitution was a supreme judiciary capable of interpreting Federal and State laws and determining whether they are within constitutional bounds. These five factors—the power to tax, the three governmental departments, the two-chamber Legislature, the power to operate on individuals direct instead of on States alone, and the supreme judiciary—distinguish our Federal Government from previous experiments. They justified, as Hannis Taylor remarked, de Tocqueville's statement that "this Constitution . . . rests in truth upon a novel theory which may be considered a great discovery in modern political science," and which has "produced momentous consequences."

One of the most important of the factors is the judiciary, armed with the power of interpreting laws in the light of the Constitution, independent of all other departments, free from official coercion and the influence of public clamor. It is the bulwark of the constitutional rights of the humblest and the most powerful alike and it holds in check Federal and State aggression. Saving the Government through the enforcement of constitutional safeguards from the assaults of official ambition and popular passion, it has made it stable and has established confidence and content.

The people can amend the Constitution by methods provided in the instrument itself. But if we make its judicial guardians subservient to gusts of popular sentiment and the unregistered majority will, we shall knock one of the main props from under American institutions.

Senator Borah does not exaggerate when he says our Government "would go to pieces in a decade." We should exchange a federation proved by experience to be whole and sound for a crippled federalism moving erratically at the whim of public fancy.

THE STATEHOOD BILL

The decisive majority against the Nelson amendment to the Statehood resolution, and for the resolution itself in the Senate yesterday afternoon, is explained by the fact that many Senators, like Senator Borah, who are determinedly opposed to the recall of the judiciary, believed that it was beyond the power of Congress to dictate to a State in such a matter. It has been said that President Taft has had some questionings in his mind as to the extent of the Federal prerogative, and it has been suggested that he may permit the resolution to become effective without his signature, thus indicating his personal disapproval of the Constitution as adopted.

The recall of the judiciary is now in effect in Oregon. California proposes to amend her constitution by a similar provision at the next election, and the prospect is that the amendment will be adopted. Other States are on the verge of similar action, and none of the opponents of such a recall have discovered any way in which the Federal government can interfere to prevent action on the part of any sovereign State. If existing States may adopt the recall, without effective protest from the Federal government, it certainly is somewhat inconsistent to deny Statehood to an applicant, otherwise deemed worthy, because of this objectionable feature in its constitution.

Mr. Taft and the Recall.

From the Independence News.

The Judge who realized that a politically unpopular decision would in all probability cost him his office would certainly be affected somewhat by that consideration. We have, as the President reminds us, controversies over elections, labor troubles, racial or religious issues, issues involving the construction or constitutionality of liquor laws, criminal trials of popular or unpopular defendants, suits by individuals to maintain their constitutional rights in obstruction of some popular improvement, etc. In few such cases could a decision be rendered that might not antagonize a sufficiently large class to insure the recall of the Judge making it. From every point of view, therefore, the scheme is vicious. Mr. Taft makes short work of a theory that has been propounded by several eminent citizens. He says:

Judicial recall is advanced on the ground that it will bring us more into sympathy with the popular will and the progress of ideas among the people. It is said that new Judges are out of touch with the movement toward a wider democracy and a greater control of governmental agencies in the interest and for the benefit of the people. The righteous and just course for a Judge in power is ordinarily fixed by statute or clear principles of law, and the cases in which his judgment may be affected by his political sympathies or social views are infrequent. But even in such cases Judges are not removed from the people's influence.

We observe that Mr. Bryan is very much wrought up over this vote. All we have to say is that if the Democratic party follows Mr. Bryan's counsel in this matter it will get into serious trouble. The President has performed a great public service in pointing out the danger involved in this "reform." The case could hardly be more strongly or clearly presented.

8 A. J. Commencement A FIELD DAY AGAINST THE RECALL CALL

Perhaps the country can well afford to bear the infliction of a Congress "dragging its slow length along" while the business of the people languishes, if only occasionally the session is marked by such notable speeches as those made by Senators Borah, Crawford, Nelson and Root on the floor of the chamber last Monday against the proposal of the new Arizona constitution to permit the recall of judges by popular vote. Senators Borah and Crawford are both "progressives" and team with the radical Senate "insurgents", and of late Senator Nelson has been found occasionally lending the aid of a vote in that quarter—so their attacks on the judiciary recall had hardly been looked for; while the senior New York senator is a level-headed conservative; but the Idaho senator easily matched him in the logic and the eloquence of his outgiving and went much more deeply into the thorough viciousness of the Arizona proposal.

"No member of either branch of Congress", said the New York senator, "can escape in voting on the admission of the new States the responsibility of expressing an opinion on the proposal that judges shall be liable to recall by popular vote. What we say here is of little consequence. What we do here is of vast importance to the people of our country and to the development of our system of government." And after explaining the possible workings of the system proposed he concluded:

I do not envy the men who prefer the uncontrolled rule of a majority, free from the restraint which we have imposed upon ourselves under the system of orderly government that we have now established. I do not envy the men who would rather have the French constituent convention controlled by Muret and Danton and Robespierre than to have a supreme court presided over by Marshall, who would rather have conclusions on a question of justice reached by a popular election of the basis of newspaper reports than to have the impartial judgment of a great court. I do not envy the men who see nothing in John Adams defending the British soldiers against the protest of his neighbors and friends and countrymen after the Boston massacre. Rather would I feel that my country loves justice and possesses that defined power of self-restraint without which the man remains the child, the citizen remains the savage and the community remains the commune.

It is not alone to the people of Arizona that such a system as the one proposed would come home as an iniquitous instrument of injustice and oppression and the destruction of constitutional rights; for the system would be part and parcel of the general governmental system of the United States and the shame of it all would be the nation's shame. And wild radicalism in every State would demand that the vicious system be extended everywhere throughout the country. Could a more devilish scheme be devised than that that at any time after a period of six months on the bench one-fourth of the persons voting at the last election in a judicial district may, by signing a petition for a new election, deprive any sitting judicial officer of the right to his office? No complaint, no charge, no statement, no explanation would be necessary—merely a

proposal to put one man off the bench and seat another in his place! Suppose the total vote to have been ten thousand, of which six thousand were for and four thousand against the sitting judge? How easy to get two thousand five hundred of the four thousand opposing voters to sign a recall petition! And then, if the judge were to enter the new contest, he would not only have to defend his course but, as Senator Root pointed out, he would also have to stand up and fight against the popularity, merits and claims to recognition of any number of opposing candidates—and all this after he had won his election fairly and had done nothing to warrant his recall!

"No judge of the court of appeals", one Theodore Roosevelt has declared only recently, "who entertains ideas opposite to mine (concerning certain questions of employers' liability) has any right to be on the bench." Had Roosevelt been alive in those days and in Boston, he would no doubt have been found heading a mob for the execution of John Adams as a traitor to his country because he had defended the British soldiers who had obeyed orders.

THE NEW YORK TIMES

BORAH AND ROOT SEE PERIL IN THE RECALL

Independence of the Judiciary Endangered, They Declare, by Arizona's Constitution.

HOUSE BILL LIKELY TO PASS

Senator Nelson's Amendment Striking Out the Recall Provision Seems Sure to be Voted Down.

Special to The New York Times.
WASHINGTON, Aug. 7.—The feature of to-day's debate in the Senate on the Statehood bill was the speech of Mr. Borah of Idaho condemning the provision in the Arizona Constitution for the recall of judges. On legal matters Mr. Borah is the leader of the progressives, but on this occasion he spoke conspicuously with Senator DeCoursey and the other advocates of the initiative and recall and dealt what is considered a heavy blow at their platform.

The progressives showed some inclination to cross-question Mr. Borah at the beginning of his address, but as he advanced they subsided, and he was allowed to conclude uninterrupted in the presence of a constantly increasing number of Senators.

Mr. Root of New York followed Mr. Borah on the same side, as did Mr. Nelson of Minnesota. Mr. Crawford of North Dakota was beginning his attack on the recall provision when recess was taken till to-morrow, when it is hoped that a vote will be reached.

It is expected, however, that the House bill submitting the offensive provisions in a separate vote of the people of the Territory will be passed and that Mr. Nelson's amendment striking out the recall provision as it applies to judges will not be adopted. Democratic Senators who are at heart opposed to the recall have

for the most part been persuaded to support the House bill, and that makes amendment unlikely.

Mr. Borah flatly declared that the advantages of the recall of judges were not following a progressive policy, but that in their eagerness they were seeking to set the judiciary back to the position of subservience it occupied in England before the revolution of 1688. The fact, he said, there had always been a recall of the judiciary in England by the Crown—and it made the greatest blot on the history of England's jurisprudence. It was to free the judiciary from the perilous influence of this recall, he argued, that the framers of the constitution sought for 100 years.

He declared it to be his "deliberate and uncompromising opinion" that without a free and independent judiciary popular government would be a delusion. "A delusion," he said, "is a delusion."

In emphasizing the importance of an absolutely independent judiciary, "who should consider nothing but the merits of the law as written," Senator Borah reiterated his disapproval of judicial legislation.

"If the law be a bad law, detrimental to the public welfare," he said, "the people may modify or repeal it. But the judge who legislates not only violates his oath but undermines the basic principles of our institutions and opens the door to injustice and fraud."

"I am afraid that the principle of the recall as applied to judges will tend to establish the rule of the majority in matters of judicial controversy. It will tend to make decisions bear the color and taint of majority rule or party domination rather than that of a faithful application of the law and the facts."

"We sometimes speak of the chief principle of democratic or republican government is that the majority shall rule. That is true in making laws and determining policies, but it has no place in and will destroy republican government if applied to the courts or to controversies to be determined under the law. If our courts are taught to obey, trained by this subtle process of the recall, to bow to the will of the majority for relief, if the value of the majority counts, if this principle finally comes to be recognized in the United States, to what lower an our Government will be degraded, the authority of the courts, and the door go for relief? Where will these without provision, without wealth of money, go for protection?"

"A judge, a judge, an obedient judiciary has always in the end proved to be an incompetent, a cruel, or a corrupt judiciary," he said in conclusion. "When and wherever in all history you find a dependent judiciary you find that it is the ruin of United States, the ruin of the man who suffers, the man who has put the wealth to purchase impunity or the privilege to command decrees. When the people have written the law, then let us have an independent judge, free from any political fear, to interpret the law as written until the people rewrite it."

Senator Root spoke in favor of the Nelson substitute to the House bill. He declared that in numerous cases upon which courts were called to decide questions of a criminal, political, religious, social, and economic character great popular feeling was aroused. He said that popular recall of judges would mean that while "the judge would be supposed to decide the case by the evidence he himself would be judged by the newspaper reports of the case, necessarily true and partial." Newspapers, he said, were looking for the "sensational and spectacular features" of a trial, and that the people formed their opinions largely from these accounts.

Senator Pendleton of Washington spoke in defense of the initiative, referendum, and recall features of the Arizona Constitution.

"All these arguments against this Constitution," he said, "revolve themselves into this proposition, that the people of the State are given too much power."

He contended that the people could be trusted with full power. He declared it was "a dreamer on self-government to try to compel the people of Arizona to adopt a Constitution which they themselves do not want, and which the people of other States think they should have."

Kansas City, Mo., Tuesday, Aug. 12, 1914

"cool" and must continue to "go."

"LEVEL-HEADED" MOBS.

The news dispatches referred to the Pennsylvania mob which took a wounded man, strapped to his cot, and burned him to death, "cool and level-headed." The designation was a gross misnomer. There was never yet a mob that was either cool or level-headed in the true sense of the words. Those who composed the mob may have been superficially calm; they might have gone about their barbaric work quietly and "grimly," as the news writers are so fond of describing it. But instead of being cool, they were overpowered by the worst passions which can spur on people pretending to be civilized, and those passions deprived them of all the attributes of citizenship worthy of the name. The very dispatches which called the Coatesville mob "cool" described how the people who had brought the victim to jail inspired only with the determination to bring him to a speedy but legal trial, were transformed into a mob of human hounds, lusting for blood, by a mere appeal to race prejudice. What is there about such a lamentable exhibition of primitive passions that can be called "cool"?

What is there about mob law in any form that can be called "level-headed"? "Devil-headed" would be a more fitting designation. "Level-headed" implies judgment, deliberation, caution, a discreet and proper regard for what ought to be. Yet mob law is the unwisest manifestation of passions that can possibly be conceived, for every exhibition of this sort invites others to ill-advised, not sensible, displays of prejudice, to unlawful and not law-abiding action that tends to subvert the very foundations of law.

Well may Senator Borah and others high in ~~official position~~ with the thoughtful people all over the country in denouncing mobs and declaring them a national and not a sectional problem that the whole country must face. It is not by any

means only in cases involving race questions that mobs constitute a serious menace to the maintenance of law and order. The same spirit manifested in strikes and all crises into which class prejudice works the same fell end—the arousing of the latent barbarity in all people who have acquired only a veneer of real civilization, for no man is truly civilized who does not abide by the compact of organized society that means civilization. ~~One~~ compact is the surrender of some of his rights in the interest of the whole body and especially the delegation of the redress of his wrong to the representatives chosen for that purpose—the duly organized tribunals and officials charged with the enforcement of the laws.

From **EVENING POST.**
Address **San Francisco, Cal.**
Date **Aug 12 - 1914**

BORAH PUTS BRAKE ON REFORMERS

"WHOA!" cries Senator Borah to his fellow insurgents in the United States Senate and to reform-run-mad throughout the country, "Whoa!"

He cries to them to stop to consider what they are about, to contemplate the probable effect on the country should their theories of government, particularly that of the recall of the judiciary, be adopted and made operative. Thus he warns them:

It is easy in our zeal to put forward, under the guise of popular government, things which will challenge the sanity or practicability of the entire movement, and thus bring discredit and defeat to great and important measures.

No man in either branch of Congress, not excepting La Follette, has been more consistently insurgent than Borah. He was elected and entered the Senate as a disciple of Roosevelt policies, and at once identified himself with the insurgent clique. For his ability and sincerity of purpose, Borah has been rewarded with nation-wide confidence, being held in much higher regard than any other leader of the insurgents in Congress by his fellow-insurgents and by the nation.

Yet Borah, with masterful force, has attacked one of the very cardinal principles of insurgency—that of the recall of judges. In his speech in the Senate on Monday he held up to the country's gaze a picture of "the most paltry being who abuses his way through the machinery of government, the judge who seeks to locate the popular side of a judicable controversy." He points out the danger of the recall of judges, that it will establish the principle of majority rule in the courts, where the minority could hope for no relief or protection, for the judge, fearing the greater number, would determine causes in a way that gained for him security in the tenure of office, and he declares:

A government which will not protect me in my rights, though I stand alone and against all my neighbors, is a despotic government. If our courts are taught to listen, trained by this subtle process of the years, to hearken to the voice of the majority, to whom will the minority appeal for relief? If the voice of the majority controls, if this principle finally comes to be recognized in the timidity of judges, to what power in our government will the isolated, the unfortunate, the humble and the poor go for relief? Where will those without prestige, without wealth or social rank go for protection?

With dignity, yet without flattering them by appearing to notice their rantings, Borah answers the traitorous attacks on the constitution and the national institutions by the frenzied advocates of all that is labeled "reform." He tells that the practical common-sense of the ordinary American would not long accept a proposition which would imperil the stability and independence of the judicial system for which his ancestors fought for three centuries. And he tells how the fight was waged and won, wresting from the King of England the prerogative which he had exercised of recalling judges who did not decide cases according to royal fancy. The independent tribunal of justice which was gained by the English revolution was bequeathed to the American colonies, and, strengthened, was made secure to the people when this nation was formed.

Only now has this greatest of our institutions been attacked, and by those who profess to be the best friends of liberty.

Senator Borah's warning is bound to be heard and heeded. The common-sense of the ordinary American will be asserted to put a check to "reform-run-mad."

INQUIRER

From Philadelphia, Pa.
Address
Date

SOME TOPICS OF THE WEEK

Passage of the Statehood Bill

WHY is loosely called the Statehood bill, providing for the admission to the Union of the Territories of Arizona and New Mexico, was passed in the Senate last Tuesday evening without amendment.

There had been much opposition to the clause in the Arizona Constitution which applies the principle of the recall to the judiciary and several able speeches, among which that of Senator Borah was especially powerful and noteworthy, were delivered in the course of the debate upon this point. But while most of the Senators are believed to have sympathized with this view and to have deplored the inclusion in the Arizona Constitution of the recall feature, a majority of them felt that if the people of the Territory wanted this innovation it was not the duty or the business of Congress to say that they should not have it, and after an amendment for its elimination offered by Mr. Nelson had been rejected, 29 to 43, the bill or resolution itself was adopted by the decisive vote of 53 to 18.

Once more the Insurgent Republicans lined up on the Democratic side. Mr. Borah, swallowing the principles which he had so ably expounded and sustained, went along with the rest and it was by the votes of the ten Insurgents, Brewster, Borah, Bourne, Brown, Chapp, Cummins, Dixon, LaFollette and Weeks that the Nelson amendment was defeated. Those who voted against the resolution in the final round-up comprised Bailey, Bradley, Brandegee, Briggs, Burnham, Crane, Cuglia, Dillingham, Heyburn, Kenyon, Lippitt, Nelson, O'Gorman, Oliver, Penrose, Root, Snoot and Wetmore. This list it will be observed contains the names of two Democrats, O'Gorman, of New York, and Bailey, of Texas, and it is also worthy of note that the New York Senator was one of those who supported the Nelson amendment.

The bill is now constructively in the hands of the President, although he had left the White House before it reached there. Mr. Taft has not allowed the public to remain in ignorance of his intentions with regard to it. As he is known to be strongly opposed to applying the recall to the judiciary no one had thought that it would receive his approval, but there were some who supposed that he might be content with the protest implied by permitting it to become a law without his signature. This, however, does not accord with the President's direct and downright nature. It is his disposition and his habit to do what he conceives to be the right thing without the least regard to the political or other consequences of his action.

If he were a seeker after popularity he would find a pretext or excuse for failing to disapprove an innovation which has many friends, but as he considers this innovation a menace to our institutions he deems it incumbent on him to give the country the benefit of his judgment in a concrete form and he will veto the Statehood bill in a message which is sure to be edifying and impressive. It is possible, and even not unlikely, that Congress will override his veto, but the President does not care for that. He will have satisfied his conscience, and that to him is the

BORAH SCORES RECALL OF JUDICIARY

Says It Would Result in Despotic Rule of Majority Under Corrupt Judges.

Washington, Aug. 7.—The joint resolution for the admission of Arizona and New Mexico as states was taken up when the Senate met to-day. Senator Nelson, of the committee on territories, promptly offered his substitute for the House measure. This substitute was framed to meet the wishes of the President, and it has been said that it has received the indorsement of a sufficient number of members to insure its passage.

Taft Against Recall of Judges.

The President has taken a determined position against inclusion of judges in the recall provision of the Arizona constitution.

Nelson's substitute requires the electors of Arizona to vote that provision out of the document as a "fundamental condition" of admission.

The House resolution merely provides for the resubmission of this feature to the people.

The debate promises to continue at length. The agreement for a vote to-day is for the "legislative" and not the calendar day, which means that by recessing each evening the Senate can carry the discussion through several calendar days.

Senator Poindexter, of Washington, opened the debate in defense of the constitution as adopted by the people of Arizona.

Senator Borah attacked the principle underlying recall of the judiciary.

Borah for Free Judiciary.

He said that without a free and independent judiciary popular government would be "a insupportable, tormenting delusion." He continued:

I am afraid that the principle of the recall as applied to judges will tend to establish the rule of the majority in matters of judicial controversy.

It will tend to make decisions bear the color and drift of majority rule or party domination rather than that of a faithful rendition of the law and the facts.

We sometimes argue that the first principle of Democratic or Republican government is that the majority shall rule.

That is true in making laws and determining policies, but it has no place in and will destroy Republican government if applied to the courts or in controversies to be determined under the law. There all must be equal.

Must Protect the Minority.

Though the majority must rule, yet a government which has no method for protecting the rights of the minority is a despotic government. I do not care whether you call it a monarchy, an aristocracy or a republic.

If the voice of the majority controls, if this principle finally comes to be recognized in the timidity of judges, to what power in our government will the isolated, the unfortunate, the humble and the poor go for relief?

Where will those without position, without wealth or social rank go for protection?

"A feeble, a timid, an obedient judiciary has always in the end proved to be an incompetent, a cruel or a corrupt judiciary," he said, in conclusion.

PUBLISHED IN

The Troy Times.



Troy, N. Y., Aug. 8, 1911

The Recall of the Judiciary.

A provision which has been put in the Arizona constitution providing for the recall of judges was attacked with great ability in the United States Senate yesterday. Senator Root with his accustomed acuteness and power of analysis riddled the proposition and was strongly reinforced by Senator Borah of Idaho. These able lawyers perceived that the law itself will be undermined when the independence of its representatives is destroyed. As Senator Root showed, the whole system of American government has for an inspiring motive the purpose to protect the people against themselves by assuring through its checks and counter-checks, the deliberation necessary to prevent mob passion or impulse from getting the advantage of sheer deliberation.

It is to be hoped that unless this really dangerous and un-American proposition shall be eliminated from the Arizona constitution admission of the territory to statehood will be refused.

THE RECALL OF JUDGES

THE ROCKY MOUNTAIN NEWS in its issue of yesterday comments on the position taken by Senator Borah against the recall of judges, and dissents editorially from the opinions he advances in support of his theory of exempting the judiciary from the possibility of being recalled.

The Star-Journal is unable to agree with the News on the question of recalling judges, and while it does not countenance all of the reasons advanced by Senator Borah against their recall, yet The Star-Journal is convinced that many reasons exist for exempting the judiciary from this unfair penalty.

First, if it is proper to recall judges, including members of the supreme court of the United States, it is also equally proper to make the office of president of these United States subject to the same authority, but who wants to contemplate either situation?

The president is subject to impeachment by congress and members of the supreme court are subject to the same punishment by the national congress.

Members of the Colorado supreme court may be impeached by an action initiated by the house and passed on by the senate, with the chief justice presiding, providing that official is not the party being tried.

Therefore, does it not seem evident that every reasonable safeguard has already been placed to guard the character and acts of the judiciary? What more serious blunder or crime would it be necessary for a judge to commit than what the national congress or state legislatures now have power to take cognizance of? Surely their authority is sufficient.

Furthermore, what lesser crime might a judge commit than crimes subject to an action by the national congress or by a state legislature, that would warrant his recall by the people who elected him?

When the News, in arguing in favor of the recall, states that "nine-tenths of all the world's work is done under the recall system now; the physician and the surgeon, the engineer, the lawyer, the architect are hired, not for stated terms, and still less for life, but during the good pleasure of their employers," it advances a weak argument in support of that side of the question; and it fails to discern the difference between a man hired to do the one thing his employer demands of him, and a man hired by the people, not to urge or foster any single interest or individual, but to sit in judgment on questions which concern not only the client of the hired attorney, but also questions which just as deeply concern the interests of the client on the other side of the legal fence.

In fact, the argument advanced by the News is just the reason why judges should not be subject to recall, because it is plain they are not hired to champion to the best of their ability the interests of a single client, not hired "during the good pleasure of their employers," but hired by the whole people, if we shall accept the rule of majorities, to sit in judgment on disputes which cannot be settled among various individual interests themselves, but which must resort to a court which knows no interest except to serve the interests of justice to all parties concerned.

If the recall is to be held as a club over judges, the certain outcome would be for a judge to size up each club, its possible result, its effect on his own personal interest, its likelihood of being swung with the result of cutting off his head, and the chances are that the effect of the recall would finally result in most judges rendering a decision against that interest from which they believed would come the least harm after the decision was made.

In other words, court decisions might finally degenerate into "decisions of least resistance," depending entirely on the sensibilities of the judge as to his likelihood of being recalled by either party to the controversy.

The News is capable of putting up a better argument against the recall of judges than the paragraph quoted above, and while The Star-Journal admits that there are many strong arguments in favor of it, yet this paper is unable to arrive at the conclusion that the arguments in favor of recalling judges are strong enough to outweigh the arguments against their recall, which are legion.

The thing to do is not to provide a further means of getting rid of incapable or dishonest judges, but to provide a better means of obtaining judges, if the people are not satisfied with the present arrangement of selecting these officials.

One thing is certain: A judge should not be subject to the favor or disaster of a club, whether it be swung in his interest or against him. He should, of course, be free from "entangling alliances," and at the same time be free to exercise his judgment

from New York City.

Date AUG 1 1911

THE STATEHOOD BILL.

The resolve of the President to veto the bill admitting Arizona to statehood without erasing from her Constitution the provision for the recall of Judges, for Washington reports credit him with that resolve, will give deep satisfaction to persons who are still capable of sound thinking upon the nature of the judicial office and its place in our system of Government. We hope Mr. TAYLOR will stick to his purpose, and will send in a veto message that will serve to give the country a clear understanding of just what it is that the people of the Territory of Arizona are trying to do. It is true that even if the Senate had adopted and the House had concurred in the amendment requiring Arizona to strike out the recall provision as a condition of admission to the United States, when once admitted, the people of the State could have restored the recall and put in any other wild and foolish matter that pleased them. But it is not true that this is a thing that concerns only the people of Arizona. It concerns the people of the whole country. Somewhere there should be an authoritative voice to speak out against this most radical of all the follies of radicalism. Those Senators who weakly abandoned their convictions and voted against the amendment and for the admission of Arizona are censurable for taking a course which no respectable argument can justify. The same opinion of the country should be heard upon this matter, we hope Mr. TAYLOR will make it heard by emphatic utterance.

The idea or notion or fad of the recall of Judges by popular vote, born of LAWRENCE, has grown into pestilent error. It is seriously preached now as a fundamental doctrine of popular Government, as a principle essential to the rule of the people. It is born, we have said, of ignorance. When the Supreme Court has declared a law of Congress to be unconstitutional it has been dinned into the ears of the crowd that the Judges have defied the people and frustrated their will as expressed by their representatives. The crowd does not know, though the demagogues who preach to them know it well enough, that when the Judges of a Federal court declare a law to be unconstitutional they speak with the voice of all the States, with the voice of all the people. They declare the supreme law, the law of the Constitution, which is and must be binding upon the Representatives and Senators. The crowd has been told, too, and we regret to say that it has been told by one of the Justices of the Supreme Court, that that court has presumed to amend a statute of Congress, that it has read into it words not inserted by

the lawmakers. That is not true, and never has been true. That notion springs from a profound misconception of the duty and of the function of Judges, and of a defective understanding of how they perform their duty. But these errors of teaching have misled great numbers of the people, until in some parts of the country the recall has been raised into a fetish, as something that is to deliver the people out of the power of usurping and tyrannical Judges. It was in this confused state of mind that the people of Arizona put the provision for the recall in their proposed Constitution.

To subject Judges to the whims and passions of the people would be to return to those evil times when another sort of sovereign attempted to, or did, in fact, control the decisions of Judges. The people at the polls no more than the King upon the throne are fit to pass upon questions involving the judicial interpretation of the law. In his remarkable speech the other day against the recall, a speech that we hope will be long remembered, Senator BORAH of Idaho used these words in speaking of the imperative necessity that a Judge should be independent:

Though the public welfare, the public interest or public sentiment seem to be on one side, and only the legal rights of a humble, obscure citizen upon the other, his duty is still the same. He is an answering Judge if he considers otherwise. He must reply to all influences, be they private or public, as the Chief Justice replied to Lord English King who sent to know if he would consent with him before settling his decision: "When the crown is agitated I will decide as becomes the Chief Justice of England." If the law be a bad law, detrimental to the public welfare, the people may modify or repeal it. But the Judge who legislates not only violates his oath but undermines the basic principles of our institutions and opens the door to injustice and fraud.

A Judge who must in every important decision heed his ear to the murmurs of the populace is no more fitted for the proper discharge of his duties than one who through fear of removal feels that he must consult the King before deciding. Popular Government, without the checks wisely imposed upon it in our Constitution and in our practice, would be a great part of the time mere mob rule. Without the representative who with care and deliberation considers what statute it is wise to enact, and without the Judge who with even greater care and deliberation has to pass upon the laws and their application, the rule of the people would degenerate into anarchy and revert to despotism as the only way of escape. We hope President TAYLOR will seize this ripe occasion to set forth the fallacies and the follies and to expose the dangers of the recall of Judges.

Philadelphia, Pa.

Date AUG - 8

SOUND TRUTH FROM IDAHO.

Senator Borah's argument against judicial recall in the Senate yesterday was strong, timely and sound. We have not been accustomed to look for conservative utterances from the Idaho Senator. He trains generally with those who go in for novelties in legislation and call them progressive. Judicial recall is a kind of progress that Senator Borah is unwilling to subscribe to, as he deems it progress in the wrong direction, leading not to free government, but to a form of despotism.

"Let the majority rule" is a sound axiom when applied to administration or to legislation. It should never apply to litigation, where justice should control and the individual be protected. Unless the minority are protected in their rights by the Courts they will be unprotected. If Judges are subject to recall at the whim of a majority they will be subservient to the majority. They will not protect the rights of the individual or the minority against the vindictive wrath of the majority and they could not if they wanted to.

Judicial recall says Senator Borah "will tend to make decisions bear the color and drift of majority rule or of the dominant party rather than that of a faithful rendition of the law and the facts. If our Courts are brought to hear to the voice of the majority to whom will the minority turn for relief? If the voice of the majority controls, if this principle finally comes to be recognized in the timidity of Judges, to what power in our government will the isolated, the unfortunate, the humble and the poor go for relief? Where will those without prestige, without wealth or social rank go for protection?"

This is wholesome truth expressed with terse vigor that Senators anxious to admit Arizona regardless of her Constitution will do well to ponder on. If the States of the far West are willing to experiment with this dangerous innovation which humiliates and humbles the bench, the Senators of the United States surely cannot afford to follow such leadership. Its clear duty is to pass no bill that will in any way give countenance to the pernicious principle of the judicial recall.

Incomparable American girl without advising so readily.

Statehood and the Recall.

Contrary to certain predictions and anticipations, the statehood bill covering the admission of New Mexico and Arizona was passed in the Senate by a large majority in spite of the rejection of the Nelson amendment which proposed the striking out of the Arizona constitution the provision for the recall of judges. As the measure stands, all that Arizona is asked to do is to resubmit, as a distinct question, the judicial recall to a popular vote, the result of the referendum being immaterial.

Doubtless many senators who earnestly oppose the extension of the recall to the judiciary voted for the bill in the belief that the people of Arizona, after a sober second thought, will eliminate the objectionable feature. Other senators, taking a literal view of the constitution, argued that the people of a territory had the right to establish any government they liked, provided it was "republican in form." The President will doubtless veto the bill, but there is talk of overriding his veto. Whatever happens to the bill or to the Arizona constitution, one thing is clear—that a vigorous, intelligent campaign must now be made by the friends of an independent and fearless judiciary to induce the majority of Arizona voters to strike out the judicial recall.

The strong speeches of progressive and thoughtful men like President TAFT, Senator BORAH and Governor WOODROW WILSON, showing the dangers of this innovation and distinguishing between administration of law and interpretation of it, should be reprinted and widely circulated in the territory. In reality, the question is a national one. What Arizona proposes to-day other "advanced" states may propose to-morrow. The matter should be fully and searchingly debated. Is it necessary, wise, safe to put a premium upon judicial time-serving and timidity, to tempt the average judge to "follow election returns" or mass meetings and to echo street opinions instead of courageously setting forth the law according to sound precedent and fixed principle? Is it safe to force the judges into politics and politics into their decisions?

THE RECALL OF JUDGES.

The most paltry being who aims his way through the machinery of government is the judge who seeks to locate the popular side of a justiciable controversy," declared Senator Borah, Idaho, in an admirable address in the upper house of congress this week in opposition to the principle of the recall as applied to the judiciary. The means of limited means will always suffer in a contest with wealth and influence in such a court, he argued; instead of a trial, if he has a worthy case, he will get demurrers, postponements, and that delay which in the end constitutes a denial of justice. Senator Borah fears that the principle of the recall of judges will tend to establish the rule of the will of the majority in matters of judicial controversy. "It will tend to make decisions based on the color and drift of majority feeling or party domination rather than that of a faithful rendition of the law and the facts."

Senator Borah recognizes the fact that majority rule is one of the first principles of democratic government, but he argues strongly and convincingly for protection of the rights of the minority. "If the voice of the majority controls, if this principle finally comes to be recognized in the timidly of judges, to what power in our government will the isolated, the unfortunate, the humble and the poor go for relief?" he asks. "Where will those without prestige, without wealth or social rank go for protection?"

The danger of mistaking the mere spirit of reckless change for the faros of progress is pointed out. The intellectual capital of a single decade is considered by the senator as too small a groundwork upon which to change the fundamental basis of government; we must add to it the accumulated experience of all the past. Our ancestors fought for three centuries for our present judiciary system. Formerly judges were subject to recall by kings. One of the main questions settled by the English revolution of 1688 was that the people should have the right of appeal for protection to an independent tribunal of justice. We have had such tribunals ever since, and Senator Borah said: "Years of consecration and toil are imbedded in our jurisprudence, and constitute today the greatest of all guarantees for the perpetuity of our institutions and the continued happiness and prosperity of the common people." Continuing he said:

"A feeble, timid, and obedient judiciary, whether to popular demand or king, has always in the end proved to be incompetent, a cruel or a corrupt judiciary. Such a judiciary leaves human rights uncertain and worthless, unsettles titles, destroys values, leaves the workman and the employer alike without protection or guidance, and has more than once democratized or destroyed governments."

Wherever in all history you find a dependent judiciary you will find that it is the man of limited means, the poor man, who suffers first and suffers

What is the Recall?

most, the man who has not the wealth to purchase immunity, or the influence to command decrees. . . . We owe it to ourselves and to posterity, to the institutions under which we live, and above all to the common people of this country to see to it that our judiciary be placed as nearly as human ingenuity can do, beyond the reach or influence of any of the things which may cloud the mind with passion or fear or dull the conscience to the highest demands of even handed

Justice. . . . While we pursue with unwearied zeal the abstract rights of man, we are at the same time bound to remember man's nature. . . . When the people have written the law then let us have an independent judge, free from any political fear to interpret the law as written until the people rewrite it."

PRESS,

Philadelphia, Pa.

GOES TO THE PRESIDENT.

The passage of the Statehood bill in the Senate with its obnoxious judicial recall in Arizona is not surprising, but the large vote for it was hardly expected. Senator Borah of Idaho, made a very powerful argument against the recall provision. Its objectionable character was very clearly set forth, yet the same Senator voted against the elimination of the recall provision when proposed in the Nelson amendment. By an exact two-thirds vote, 48 to 22, the amendment which would have stricken judicial recall from the Arizona Constitution was defeated. By a more than three-fourths vote of the Senate, 65 to 18, the bill which had already passed the House and which will admit Arizona and New Mexico to Statehood after they have each voted again on certain propositions regardless of the result of that vote, passed the Senate.

President Taft has expressed in the most emphatic terms his disapproval of the judicial recall, to which Arizona has given a place in its Constitution. If he should not veto this bill it would be because of the apparent futility of such a stand in view of the overwhelming vote in its favor cast in both branches of Congress. The President, however, is not stopped by such considerations. He is opposed to the Statehood bill in its present form and it is confidently believed that he will veto it.

It is true that the vote in Congress which passed the bill can easily repeal it over a veto, but the President will keep his skirts clear from this abandonment. He will also have an opportunity in a veto message to marshal his objections to judicial recall in the strongest terms in the enduring form of an official paper. It may affect the vote of some Congressmen, but it will surely help to crystallize public opinion against the dangerous principle which makes the judiciary dependent for their places at all times on the fluctuating opinion of a popular majority.

UNION
RECORDED
MAY 5 1911

Senator Borah on the Recall.

That was in every sense a grand speech that Senator Borah of Idaho made in the Senate Monday on the recall of judges, a question that has come before the Senate in connection with the admission of Arizona to statehood. If Arizona should omit from its proposed constitution the recall of the judiciary in order to obtain favorable action by the Senate there is nothing, of course, to prevent it afterward incorporating that provision, but it is well that the fallacy of this phase of the recall should be thoroughly exposed. Mr. Borah has done his part to make the exposure complete.

Senator Borah is rated as a Progressive, and perhaps it is because he is a Progressive that he sees how fatal would be the recall to progressive government. The recall is one of the pet lems of insurgency, and is supposed to go with the initiative and the referendum as part and parcel of the insurgent propaganda. It is supposed to be popular with the masses, and therefore it makes little difference whether it is right or wrong in principle; at least, that seems to be the reasoning of those that advocate it. When the people see, as they will eventually, that the recall, especially as applied to the judiciary, is a positive danger to our free institutions they will be unsparing in their condemnation of it, and have little respect for those that espouse it.

This is all made very clear by Senator Borah. "The most paltry being who slimes his way through the machinery of government," he says, "is the judge who seeks to locate the popular side of a justiciable controversy. The man of small fortune or limited means will always suffer in a contest with influence or wealth in such a course. It is my deliberate and uncompromising opinion that without a free, untrammelled independent judiciary popular government, the government of the people, by the people, and for the people, will be a delusion, a taunting, tormenting delusion."

If our courts are taught to listen, trained by this subtle process of the years to harken to the voice of the majority, to whom will the minority appeal for relief? If the voice of the majority controls, if this principle finally comes to be recognized in the timidity of judges, to what power in our government will the isolated, the unfortunate, the humble and the poor go for relief? I look upon the independent judiciary as the very keystone to the heart of popular government. Without it the wit of man never has and never can devise a popular scheme of government that will long protect the rights of the ordinary citizen."

Nine tenths of all that is said against the recall of judges applies with equal force to the recall of our other officers. With them, as with the judiciary, courage and independence of

action are essential to the maintenance of orderly and stable government. If their actions are subject to the passions and prejudices of the moment, if they must undergo a recall election whenever acting in accordance with their best judgment and their conception of the right, we shall have not a republican form of government but a government without rule or reason. A man holding public office should not be judged by a single act alone, but by the sum total of all his acts. We have never had and never shall have a public servant free from error, or from what at the time has seemed to be error. But we have had precious few public servants that have not evened things up pretty well. Abraham Lincoln would have been recalled after the battle of Bull Run, if the recall were then in force, and had such been the case the nation would have suffered an irreparable loss. With all the facts before them, with the good and bad deeds of a public officer in clear array, the judgment of the people may be safely trusted to determine whether that officer shall have another term. But to suffer him to go before the electorate on some single act, and to stand or fall on the verdict thus hastily rendered is wrong, and certain to make sound government impossible.

dress

May We Hope?

There is to be derived a degree of reassurance from the fact that Senator Borah, of Idaho, yesterday allied himself with Senator Root, of New York, for strong protest against the recall provision, to be applicable even to the judiciary, in the proposed constitution for Arizona.

Senator Borah spoke as one who has become sobered by the reckless rush of the company that he has been keeping, and has decided that it is high time for someone to turn against the mob with uplifted hand and warning voice. In a speech that was rational and forceful throughout, he said:

It is easy, Mr. President, in our zeal to put forward under the guise of popular government things which will challenge the sanity or practicality of the entire movement, and thus bring discredit and defeat to great and important measures. It is indispensable to the success of all efforts to secure results for the people that we should distinguish at all times in proposed changes between that which experience has proved to be evil and that which experience has proved to be good. We must not mistake the mere spirit of reckless change for the throes of progress."

So there is at least one "progressive" who declares and insists that there must be a limit to the game.

"Change is not necessarily progress," he says in effect.

That is exactly the axiom for which the conservatives have demanded consideration.

May we hope that radicalism shall be suppressed, and reason come into its own again?

THE RECALL OF THE JUDGES.

One of the high aspirations of all Americans is to keep their judges free from the taint of practical politics. To the degree to which they have succeeded in this the judiciary has held the confidence and respect of the people.

Now the recall threatens to overturn all this and compel every judge to descend into the mire of party politics and fight for his official life.

By placing the power to recall a judge from the bench in the hands of a small faction in a community that judge is made the creature of party politics of the worst type. Not only that, but those who opposed his nomination will be encouraged to band together at once for his recall with or without reason, so that there will be no stability whatever to his tenure of office, and the only judge who will be able to retain his seat at all will be the one who listens to popular clamor and renders his decisions accordingly.

A political judiciary governed in all its actions by the shifting whims of the thoughtless must be the inevitable outcome of the recall.

Patriotic citizens in all parties and all classes in Idaho must feel proud of Senator William E. Borah because of the high stand he takes on this issue of vital importance, and because of the clearness and force with which he analyzes the problem and points out the evils that must flow from this innovation. His speech on the subject delivered in the senate on Tuesday is well worth the careful consideration of every citizen.

In the revolutionary drift of the times there is no more dangerous factor than this demand for the recall of judges.

Statesman Borah S. D. C.

SENATOR BORAH AND CONSTITUTIONAL QUESTIONS.

Senator Borah in his speech yesterday inveighs in strong, wise and timely terms against the recall provision as applied to the judiciary in the Arizona constitution, and leaves the impression that, as such provision should have been submitted for adoption and, if adopted, should be nullified by the superior authority in withholding statehood until the people had been coerced into abandoning their untenable position. Broadly speaking, the senator is entirely correct in pointing out the evils of the policy and in resisting its application, by all lawful and proper means. At the same time, we are unable to quite reconcile the senator's position now with what it was less than a year ago when his own state was involved in turmoil and strife over whether to submit an amendment to its constitution involving a provision which a large and responsible part of the state considered quite as subversive and mischievous as the senator now considers the Arizona episode. At that time the senator laid down the rule that regardless of the merit of

Tribune Lewiston S. D. C.

otherwise of the question, or as his own views and interests, he favored submission in order that the people might have the opportunity to pronounce upon what they wanted. The senator even became a trifle caustic and sarcastic in animadverting upon those who did not wholly yield themselves to the "Let the people rule" doctrine. Still, there were those who held their ground and who held now the opinion that it is fallacious and dangerous to submit to popular agitation and impose fundamental principles which are embodied in the constitution, no matter how plausible and insistent the demand might be. The questions of religious freedom, freedom of press and speech, freedom from inevitable searches and seizures, and other instances were cited. The recall of the judiciary and certain other new and strange processes, was not then included because it had not then developed, just as other seductive proposals for relieving the people from the obligations, duties and vigilance of self-government, public and private, will continue to arise and create issues. However, the purpose here is not especially one of reproach at the ill-considered senator for approving submission, regardless of what the question might be, at one time, and disapproving the next time, because, for one thing, consistency is not always a feasible quality and yet consistency can always be pretended, as in this instance, by those whose minds are bent that way. The purpose is rather to sympathize with public men who have to face so many queer and hazardous issues on the frontier that much is to be forgiven them if they occasionally straddle a subject in which they are not interested, if they are thereby enabled to render effective and courageous service along the lines in which they are interested, which latter has been Senator Borah's record in conspicuous instances of late. The ablest men in our public life could be, and in recent cases are, defeated at the polls by means of vain and fanciful propaganda which they are required to decide acceptably, albeit the same men may be entirely sound, reliable and worthy in every public relation that counts for anything. Governmental problems can not be decided offhand, many of them have not been decided throughout all the ages, yet in our politics public men are required to pronounce an instantaneous yes or nay upon vital concerns which a lifetime is somewhat long to give to their enlightened consideration. In view of which and of other circumstances herein mildly touched upon, we should be glad if Senator Borah could see his way clear to not burn all his offerings on that interesting altar of "Vox populi, vox Dei."

THE RECALL OF THE JUDICIARY

Senator Borah of Idaho, one of the orators of the United States Senate, made a spirited attack on the statehood bill in that body on Monday, relative to the judiciary recall provision of the Arizona constitution. He declared it to be his deliberate and uncompromising opinion that without a free and independent judiciary a popular government would be a laughing, tormenting delusion. "I am afraid," he said, "that the principle of the recall as applied to judges, will tend to establish the rule of the majority in matters of judicial controversy. It will tend to make decisions bear the color and drift of majority rule or party domination, rather than that of a faithful rendition of the law and facts. . . . A feeble, a timid, an obedient judiciary, has always in the end, proven to be an incompetent, a cruel or a corrupt judiciary."

In concluding, he said: "Whenever and wherever in all history you find a dependent judiciary, you find that it is the man of limited means, the poor man, who suffers, the man who has not the wealth to purchase immunity or the prestige to command decrees. When the people have written the law, then let us have an independent judge, free from any political fear, to interpret the law as written, until the people rewrite it."

Senator Borah in his speech but expresses the opinion of thousands of citizens who believe the recall of the judiciary feature in the Arizona constitution is a dangerous precedent. The independence of the judiciary has always been considered a bulwark in keeping the judiciary clean. To make judges subservient to political rings is, as Senator Borah says, a danger with far reaching consequences.

President Taft, it is said, will veto the bill if it comes to him containing the recall provision, and in this he has the support of every conservative citizen who believes in a free and untrammelled judiciary.

15
THE CHICAGO RECORD-HERALD
PUBLISHED WEEKLY

W. W. WING & CO., PUBLISHERS

AUG 4 1911

ARIZONA AND THE RECALL.

Quite apart from the desirability or un-desirability of extending the recall to judges, a provision in that end has no place in the constitution of a state, and Arizona's insistence upon this and other extraneous matters in her fundamental act is but another evidence of the prevailing mania for including extraneous provisions of a statutory nature in what should be a simple and unadorned organic law.

The recall as a governmental instrument, entirely apart from its application to judges, is still in its experimental stage in this country. That of course is nothing against it, for all new devices of popular government must first be tried out. But it is something against the embedment of the recall or any similarly untried instrument or policy in what should be the fundamental basis of law and legislation.

Such a basic, common sense tells us, should be made up exclusively of such elements as have stood the test of experiment and experience, as represent the highest consensus of human judgment or to the essentials of a republican form of government dedicated to liberty and justice.

If the people of Arizona really desire the recall as applied to judges it was quite unnecessary to provide for that in their constitution. They could have provided for it just as safely by statutory enactment after attaining to statehood.

Then, if the device did not prove itself meritorious in practice, the repeal of the statute would be a comparatively easy matter, something that cannot be said of constitutional amendment.

The whole trouble with the dominant element in the Arizona constitutional convention appears to have been that it was obsessed with the ignorant and fanatical desire to make the fundamental law a catch-all for every scheme, device, instrument and policy which is fashionable in certain so-called "progressive" circles. The mere fact that anything was supposed to bear the progressive label was sufficient reason for these sons of the desert to chuck it into their constitution.

The Chicago Record-Herald thinks that the only way to save this people from the folly of its leaders in respect to the judicial recall is to flood the state with the utterances on this subject of such real "progressives" as President Taft and Gov. Wilson and such discriminating insurgents as Senator Borah.

That might help some, if, as we believe, there is an average amount of susceptible intelligence in Arizona.

AUG 7 1911

It is like a morning walk with an elderly dog to read what Senator Borah has to say of the recall of Judges—and that it has not been said before and possibly more strongly—but because so many revolutionary doctrines have come from beyond the Mississippi that many New Englanders are inclined still to think of that as a "west of river" section. Speaking in the Senate on the statehood bill, he declared that popular government without a free and independent judiciary would be a "taunting tormenting delusion" and, although naturally agreeing that the majority must rule in making laws and deciding policies, stated that:

The principle of the recall as applied to judges will tend to establish the rule of the majority in matters of judicial controversy. It will tend to make decisions bear the color and drift of majority rule or party domination rather than that of a faithful rendition of the law and the facts. A government which has no means for protecting the rights of the minority is a despotic government. I do not care whether you call it a monarchy, an aristocracy or a republic. Whenever and wherever in all history you find a dependent judiciary you find that it is the man of limited means, the poor man, who suffers, the man who has not the wealth to purchase immunity or the prestige to command decrees.

Good, wholesome doctrine this, from whatever source, and it might be well for persons who attack judges and judicial decisions pretentiously to do Senator Borah the honor of reading his speech carefully.

WILLIAM EDGAR BORAH.

William Edgar Borah, United States Senator from Idaho, who yesterday attacked vigorously the principle underlying the recall of the judiciary, declared "that without a free and independent judiciary, popular government would be a delusion."

Senator Borah is recognized as one of the most fearless debaters in congress. In attacking a public question his methods are said to resemble the famous fighting tactics so characteristic of Senator Plancher Tillman of South Carolina.

Senator Borah is what might be called a rabid Republican. He was born in Illinois and attended the common schools in Wayne county. Later he was graduated from the Kansas State university and practiced law for two years at Lyons, Kan.

Afterward he removed to Boise, Idaho, his present home. He was defeated by four votes for the United States senatorship in 1903. At the following election (1907), however, he succeeded to the senatorship by an overwhelming majority. Senator Borah is also a member of the National Republican committee.

COERCING THE JUDICIARY?

Senator Borah of Idaho, arguing in Congress against the judiciary recall provision in the Arizona constitution made the declaration that during the past few years a quiet scheme was being devised of getting rid of federal judges whose opinions do not suit the department heads at Washington. This method of "recall" the senator properly denounced as more reprehensible than the "recall" under lawful form by the voters at the polls.

Yet it is difficult to believe that the charge is justified. Should there be evidence to support it certainly it should be adduced in formal manner. But how? Judges in the federal courts are appointed for life, or during good behavior, by the president with the consent of the Senate. How would it be possible for the Department of Justice or any other department to be able to force a competent judge into early retirement? Attorneys general may come and they, to say nothing of their deputies and of district attorneys, may go, but the courts sit on through many successive presidential terms.

It is obvious that ambitious judges in the lower federal courts may occasionally be tempted to model their opinions on the supposed wish of the president in the hope of attracting favorable consideration when the next vacancy occurs higher up in the judiciary, but even this is probably of infrequent occurrence since few of our chief executives have sullied their reputations by carrying partisanship into such appointments. Certainly there has been no hint that Mr. Taft would single out any one opinion against the life record of a man he was thinking of elevating to a higher bench.

Even were the contrary true, at most a decision opposed to the presidential will would result only in leaving the judge where he is, which is not such a dreadful fate—surely not to be compared with the possibility of a "recall" by an electorate which could not be expected to understand the course of reasoning which has led up to the rendering of an unpopular opinion.

Moreover, it has not been at all noticeable that the courts low or high have been deciding for the government with any such degree of unanimity as to suggest attempts at coercion.

More Taft Courage.

President Taft again strengthens his aid on the respect and confidence of thoughtful citizens by his veto of the statehood bill for its failure to carry the Nelson amendment striking out the judiciary recall provision of the Arizona Constitution. Of course the bill can easily be passed over the veto and of course, even if the Nelson amendment had been adopted, Arizona could have still the recall provision back into her Constitution as soon as she became a state. So the veto accomplishes nothing beyond giving the President a clear conscience and showing to the people that he has done all he could to prevent this perilous assault upon the very foundations of the republic. But that, surely, is much.

The situation called for an authoritative force to speak out against this most radical of all the follies of radicalism; and the country is fortunate indeed to have a man in the White House who is equal to the emergency, who has the courage to do his duty in the face of certain failure to stop the wrong and with the knowledge that he is losing for himself next year not only Arizona's support in the Republican National Convention but her six electoral votes as well. Presidential elections have turned on narrower margins.

The arguments that made many Republican Senators yield their convictions on this subject were known to the President also. But he would not yield. He would not stop short of the utmost exhaustion of his powers to prevent this monstrous iniquity. For iniquity it certainly is to open the way for the substitution of popular clamor in the place of legal principles in the determination of the decisions of courts. As Senator Borah—a progressive and rather a radical in his way—well said in his speech on the Statehood bill this week, with the general adoption of the recall of judges the "immovable tribunal of justice would go to pieces in a decade"—"in all practical effect would depart in a night."

It cannot be thought, however, that this reckless innovation will spread far beyond the raw States that are now experimenting with it—to their speedy sorrow we may be very sure—and there is the better assurance of protection against it because we have a President who fixes popular thought upon the matter anew by brave and plain speech.

AUG 10 1890

STATEHOOD AND THE "RECALL"

It is said that Mr. Tall was with the bill regarding statehood in Arizona and New Mexico after each territory has taken a referendum vote upon a single item in its respective constitution...

It has been maintained by the Sentinel from the beginning of this discussion, and the collection has apparently been sustained by a recent decision of the United States Supreme Court...

This is by no means to argue in favor of the application of the "recall" to the judiciary in any state. Serious objections to it as applied by any officer, except perhaps under certain circumstances, have previously been pointed out in these columns...

...of the people, and the people are the only ones who can decide upon the application of the law...

In this connection it may not be out of place to add a quotation from a document which at one time would be revised by every American school boy...

"He has made judges dependent on his will alone for the tenure of their offices, and the amount and payment of their salaries."

In this year of grace the majority of the people rule, that it is our boast that in this "land of the free" the majority have fundamental rights...

ARIZONA PUBLIC LEADER

...of the people, and the people are the only ones who can decide upon the application of the law...

THE BENCH AND THE PEOPLE.

The Hon. William E. Borah, Senator from Idaho, is a leading member of the progressive wing of the Republican party; he is a true citizen who has not permitted his reason to abdicate...

What is the safeguard of nations and peoples, whether they live in a republic or under some other form of government? Stability. That is the very object and meaning of government...

for the express purpose of preventing the people from adopting wild courses and listening to rash and unreasoned advice...

they are inseparable from the very idea of the judiciary, which is not only valuable unless independent and secure, but a positive menace to the people and to our institutions...

"The most paltry being who stings his way through the machinery of government is the Judge who seeks to create the popular side of a justiciable controversy. The man of small fortune or limited means will always suffer in a contest with influence or wealth in such a court."

It is proposed by the amateur reformers and lawmakers to make of judicial decisions the plaything of popular whim. The absurdity and danger of this idea is heightened when it is considered that the Judge is an expert, trained in the law, and is, therefore, selected and maintained on the bench just because of his superior wisdom and competence to decide matters of which the common run of men know nothing...

"We sometimes hear that the true principle of democracy or republican government is that the majority shall rule. That is true in making laws and determining policies, but it has no power to and will destroy republican government if applied to the courts or to controversies to be determined under the law. There all men are equal, the rule of the majority is the great principle of equality; the rule, the great principle of free government. The difference between the old democracies or republics which perished and ours is that the ancient republics could deliver us only by which to shield the rights of the minority. Though the majority must rule, yet a government which has no method of protecting the rights of the minority is not a government; it is a despotic government. I do not care whether you call it a monarchy, an aristocracy or a republic. A government which will not protect me in my rights, though I stand alone and against all my neighbors, is a despotic government. If our courts are taught to listen, trained by this subtle process of the years, to hearken to the voice of the majority, to whom will the minority appeal for relief? If the voice of the majority controls, if this principle finally comes to be recognized in the hands of Judges, to what power in our government will the isolated, the unfortunate, the homeless and the poor go for relief?"

What would life and liberty be worth if the issues affecting them were dependent upon the majority which Mr. McNichol's tight Organization could roll up? What kind of law and justice would that be which depended upon the first expression of opinion by the great mass of people, who possess neither the time, inclination nor the capacity to examine the evidence and to judge of the law?

The proposal is radicalism gone mad. It is no argument to say that Arizona may enact such a clause, anyhow, in a subsequent Constitution, even if that provision were not in the Constitution under consideration and that, therefore, the Territory should be admitted to statehood. It was the solemn duty of

the Congress of the United States to register emphatically, its firm disapproval of a species of Treason based upon waffles and fickle changes in our Constitution and laws, which, if not checked, will imperil our institutions and wreck the glorious "American experiment." The President should veto the measure even if he be overruled.

Glens Falls, N. Y.
AUG 11 1911

The Recall of Judges

It is possible that the recall of Senator Borah may be ground down if we had the recall of judges are not well grounded. In legal proceedings the majority would in most cases stand for what they believed to be right whether the person affected was in the majority or minority.

A greater danger than that suggested by Senator Borah in his speech the other day would be that the voters assuming the functions of the courts and kicking summarily from the bench judges whose decisions and rulings failed to coincide with the popular sentiment or hysteria of the hour.

The country is not ready for anything of the sort. Judges are human and liable to err, but if they are to render a service worth having they must be beyond the reach and control of the popular voice, which is far more often in the wrong than the courts are. Mr. Borah was right when he said we should have an absolutely independent judiciary who should not consider anything but the terms of the law as written. "If the law be a bad law, detrimental to the public welfare," he said, "the people may modify or repeal it. But the judge who legislates not only violates his oath, but undermines the basic principles of our institutions and opens the door to injustice and fraud."

That is a clear statement and a fair one. It is not the province of a judge to make law as he goes along and to render decisions to suit the popular fancy. It is his duty to interpret the law as it stands and to render his decisions in accordance with the law and the facts.

To apply the recall to the judges of the country would be an assault upon one of our most important institutions and would undoubtedly lead to most serious complications and difficulties. It is fortunate for the country that there is little danger that such a rash departure will be made, at least until the recall shall have fully demonstrated its practicability and usefulness along other lines.

Sacramento Cal Union
Thursday, Aug. 10, 1911.

PROGRESSIVES OPPOSE IT.

When Senator Borah, brilliant statesman from Idaho, took the floor against the recall of judges during the Senate debate on the statehood bill, he defined, exactly the nature of this political heresy which has been so persistently classed with progressive politics. Moreover, as one of the brainiest of progressive Republicans, he emphasized the fallacy of the cry set up by demagogues that only reactionaries and stand-patters oppose the subjection of the judiciary to the popular will.

When the statehood bill reached the point of a roll call on final passage, after the defeat of the Nelson amendment which proposed to amend a provision of the Arizona constitution to eliminate the provision for the recall of judges, the issue was reduced to the simple right of the territories to admission. A number of the strongest progressives did not feel that they could consistently vote to keep New Mexico and Arizona out of the Union. However, one progressive Senator, Keaven of Iowa, carried his opposition to Arizona's political opposition as far as he went on record against the measure, unopposed.

Woodrow Wilson, progressive in performance, as well as in promise, denounces the proposition as the worst kind of a political neutrum. Senator John D. Works takes advantage of every opportunity to raise his voice against it. Senator Crawford of South Dakota, another progressive, Curtis J. Lindley and ex-Mayor Taylor of San Francisco, Joseph H. Scott of Los Angeles and Judge C. E. McLaughlin of our own city—whose names occur to us at first thought—besides a host of other men prominent in the reform movement, will have nothing to do with it because they know it is wrong. They are big enough to understand, as does Senator Borah, that without a free and independent judiciary, popular government would be a "haunting, tormenting delusion."

Borah for President. (Post, Moscow)

Some weeks ago we expressed the belief that Senator Borah had one chance in a hundred of being nominated for the presidency at Chicago in June. That chance is today much stronger—perhaps one in ten. Should neither Taft nor Roosevelt be nominated on the first ballot, Borah will stand on an equal footing with Hughes, La Follette, Cummins and Beveridge as a compromise candidate. He would stand far above some of these were it not for his geographical position. Idaho cannot afford to over-look that chance. Some day the old precedent, that a president must come from the east, is going to be smashed. Idaho should take a crack at it this year.

TRANSCRIPT
POLYMER, MICHIGAN

AUG 8 - 1911

BOOTH AND BORAH.

No stronger incident in a session replete with strange incidents has come up than the one yesterday when found a strictly conservative republican senator and an ultra-progressive republican senator both attacking a progressive feature in a measure under debate. The two senators were Booth of New York and Borah of Idaho. The subject was the clause in the new state constitution of Arizona, which provided for the recall of state judges. Both the senators are leaders of high standing and both made eloquent pleas against the present day tendency to bring the courts within the control of an uncertain majority of qualified voters. The Arizona recall has been defended by ex-President Roosevelt by Governor Woodrow Wilson and by other men in public life after they have made a careful examination of conditions in the state itself. They have all, however, refused to follow the plan to extend the recall in the federal bench, leaving that to the forces of organized capital and organized labor, who have been made to suffer for their wrong doings by those federal courts and against which they turn with the blind rage that characterizes the wild animal when it would destroy the surgeon striving to save its life.

The constitution of Massachusetts has been a model on which the constitutions of more than half the states of the union admitted to the union in the past century. One of the distinctive features of the Bay State constitution is the complete isolation of the state judiciary from all political influence. The result is a judiciary above reproach. The men elected to it have without exception retained credit on the Massachusetts bench and bar. The feature of the Massachusetts constitution has not been generally copied by new states. They have preferred the New York way with the frequent election of judges by popular vote. The best states have gone one step further and asked for the right to recall the judiciary. It is the progressive idea run wild according to the Massachusetts standard. It is interesting to note that generally speaking, the national bar favors the isolation of the judiciary and the recall finds its strongest support in the popular leaders who hold in the Jeffersonian idea that the people can do no wrong. Speaking of the Arizona recall yesterday, the New York senator said: "It amounts to this, that at any time after a period of six months one-fourth of the persons who voted at the last election in a judicial district may by signing and filing a petition deprive any judicial officer of the right to his office. The mere filing of a petition by one-half of the men who voted against a judge sets at naught his election and deprives him of the right to his office. He is compelled to seek a new life in another election and it that election must defend his source and justify his conduct on the bench, but he has furthermore to enter his contest as against the popularity, merits and claims in recognition not only of one but of any number of opposing candidates."

"I do not envy the men who prefer the uncontrolled rule of a majority, free from the restraint which we have imposed up-

ABLE ADDRESS.
MINE "NEW YORK
The First Established and Most Complete
Newspaper Clipping Bureau in the World

TELEGRAMS
NASHUA N. H.
MAY 1911

HIS SPIRIT AND SENSE

"We ought not to be discouraged. It's the only world we've got and it's the only American republic we've got and so must do the best we can. That is the best spirit and sense that can be upheld today in this country. It was the noble, thoughtful, manly response of the president to the pictured gloom of Senator Borah. He did not contradict or minimize the charge of disrespect of the law by manufacturers of great wealth as well as by the anarchical incendiaries. He joined with all the young Republicans of the progressive club at the Hotel Astor in applauding the masterly speech of the Senator from Idaho and its ringing peroration: 'Give us in this hour leaders with a faith—faith in their own convictions, faith in the efficiency, justice and strength of our institutions, faith that 'right makes might.'"

Senator Borah is of the best type of the so-called radical Republicans of our country. There is no ever present power of reason as well as passion in his speeches. It is impossible to question the sincerity of his expression. There is no keener denouncer of abuses in the Senate and no more forceful maintainer of our constitutional government. The president cannot cope with him in eloquence and personal magnetism.

But what leader today is facing the perplexities of the situation with more sober sense, precision of reasoning and effort, and unselfish patriotism than President Taft? What President before him has advanced more surely progressive proposals, tariff, currency and civil service reform on a rational and enduring basis and the furtherance of international accord, justice and peace? The best hope of the Republican campaign next year is the justice and sense of the people—the same appreciation of sterling capacity and service that was given to Abraham Lincoln, the fulfillment of the only desire which the President uplifts: "I desire clearness of the atmosphere, so that demagoguery may disappear, so that the people may know and understand the issues clearly."

Following a historical review of the English judicial system as which our own is based from the time it was the lonely instrument of kings to rule a subject people until it became the refuge in time of stress of a sovereign people, the Idaho senator turned to our own judicial record and said: "No less fruitful of great names and commanding figures has been the system in our own country. Jay and Marshall, Taney and Kent and Story and Chief Justice Roger Taney, the best there was in these men of heart and mind, years of consideration and full imbued in our jurisprudence and standing today the greatest of all governments for the perpetuity of our institutions and the continued happiness and prosperity of the common people.

"Mr. I needs to me that the experience of the past has closed the discussion as to the necessity of an independent judiciary. A feeling, fixed, an obedient judiciary, whether by popular demand or king, has always in the end proved to be an incompetent, a cruel or a corrupt judiciary. Such a judiciary leaves human rights uncertain and worthless, penalties, fines, detentions useless, leaves the workman and the employer alike without protection or guidance, and has more than once demonstrated or destroyed governments. Trade, commerce or labor have never and will never flourish or prosper under an unstable and unreliable system of courts. Whether you look upon the weak of ancient republics and democracies where the courts yielded their decisions to the triumphant faction or party or to modern monarchies where the miserable instruments of kingly power served well their master, whenever and wherever in all history you find a dependent judiciary you find that it is the mark of limited means, the sign of a nation that has not yet advanced, the mark of a man who has not the wealth to purchase immunity or the prestige to command respect. If there is any man in the world who is interested in having a brave, able, fearless, independent judiciary, judges who will be against influence or power, political or financial, interpret the law as it is written, it is the man of limited or no means. He small holding, the honor of his name, his liberty, even his life, may be in jeopardy. If so, does he want a judge who will listen to wealthy friends or political advisers? Does he want to approach a tribunal above which rests the threat of social humiliation or punishment? I repeat, the man of influence, of money, may contend against such odds, but the humble citizen without prestige or wealth cannot do so. We owe it to ourselves and to posterity, to the institutions under which we live, and above all to the common people of this country to see to it that our judiciary is placed as nearly as human ingenuity can do so beyond the reach of influence or art of the things which may cloud the mind with passion or fear or dull the conscience to the highest demands of even handed justice."

Touch of influence or art of the things which may cloud the mind with passion or fear or dull the conscience to the highest demands of even handed justice."

"I am afraid that the principle of the majority as applied to judges will tend to establish the rule of the majority in matters of judicial controversy. It will tend to make decisions bear the color and drift of majority rule or party domination rather than that of a faithful rendition of the law and the facts. What is the basic principle of democratic or republican government? We sometimes urge that the first principle is that the majority shall rule. That is true in making laws and determining policies, but it has no place in and will destroy republican government if applied to the courts or to controversies to be determined under the law. These all men are equal. Back of the rule of the majority is the great principle of equality, the basic, bedrock principle of free government. The difference between the old democracies or republics which perished and ours is that the ancient republics could derive no way by which to shield the rights of the minority. Though the majority must rule, yet a government which has no method for protecting the rights of the minority, for it has rights, is a despotic government. I do not care whether you call it a monarchy, an aristocracy or a republic. A government which will not protect me against all my neighbors is a despotic government. If our courts are bought or bribed, trained by the subtle process of the years to hearken to the voice of the majority, to whom will the minority appeal for relief? If the voice of the majority controls, if this principle finally comes to be recognized in the fluidity of judges, to what power in our government will the legislator, the unfortunate, the humble and the poor go for relief? Where will those without position, without wealth or social rank go for protection?"

The Utah progressive was even more impressive in his attack on the change in the state constitution. He said: "The distribution of justice is the most solemn and most difficult task which government imposes upon men. Human nature is weak for the task at best. Remembering this, we should not impose upon those who are called to the high service our selfishness, our objections, our prejudices unrestrained by their oath or their obligations, unbridled by their sense of responsibility. We should rather brace and prop them for the work in a way best calculated to inspire courage, confidence and independence. It is my deliberate and unhesitating opinion that without a unimpeded, independent judiciary free, untrammelled, independent judiciary popular government, the government of the people, by the people and for the people, would be a delusion, a taunting, tempting evasion. That is the unbroken record from the disaster of Athens to the proud triumphs of justice which are found today in some of the republics to the south.

I am afraid that the principle of the majority as applied to judges will tend to establish the rule of the majority in matters of judicial controversy. It will tend to make decisions bear the color and drift of majority rule or party domination rather than that of a faithful rendition of the law and the facts. What is the basic principle of democratic or republican government? We sometimes urge that the first principle is that the majority shall rule. That is true in making laws and determining policies, but it has no place in and will destroy republican government if applied to the courts or to controversies to be determined under the law. These all men are equal. Back of the rule of the majority is the great principle of equality, the basic, bedrock principle of free government. The difference between the old democracies or republics which perished and ours is that the ancient republics could derive no way by which to shield the rights of the minority. Though the majority must rule, yet a government which has no method for protecting the rights of the minority, for it has rights, is a despotic government. I do not care whether you call it a monarchy, an aristocracy or a republic. A government which will not protect me against all my neighbors is a despotic government. If our courts are bought or bribed, trained by the subtle process of the years to hearken to the voice of the majority, to whom will the minority appeal for relief? If the voice of the majority controls, if this principle finally comes to be recognized in the fluidity of judges, to what power in our government will the legislator, the unfortunate, the humble and the poor go for relief? Where will those without position, without wealth or social rank go for protection?"

the people for

ing law
and tear

20
ARCHBISHOP FEARS RECALL

Ireland Declares It a Step Toward Social Revolution.

Can Imagine No Greater Peril to Democracy, He Declares, at Grant Celebration.

Galena, Ill., April 27.—The nineteenth anniversary of the birth of Gen. U. S. Grant was celebrated here today. Archbishop John Ireland, of St. Paul, delivered an address. The occasion served as a reunion for survivors of the Forty-seventh Illinois volunteer infantry, and with other societies they held in a parade.

Declaring his confidence in the permanency of American democracy and its ability to overcome the perils which beset it, the archbishop denounced the result of judges and judicial decisions.

On the political problem the archbishop declared that the main question was how are the people to govern, whether directly or through representatives, acting under constitutional limitations. He sketched the framing of the Constitution, and said, in part:

"Stability of constitution and law is the vital condition of social order, of institutions, economic progress. What becomes of this stability when a small percentage of voters may at their caprice suspend or change the laws, call for alterations in existing laws, propose as projects of law their whims and fancies? It is the road to social revolution. Into it we may at any moment be cast by a small minority of the people—often the clerical majority which leads America in the retrogressive land of government.

"The greater peril to the institutions of democracy, to the permanency of social order, could well be imagined than the recalling of the recall of the judiciary."

The archbishop declared the difference between the recall of judges and that of judicial decisions is in one of words and that the judge whose decision was recalled by the popular vote was practically rejected himself.

GOLDEN ADVICE OF JEFFERSON TO THE SUPREME COURT.

49 The Same. A. L. S. 3 pp., 4to. Poplar Forest, Oct. 23, 1821. To Jno. W. Eppes.

An important letter, refers to the sale of his library to the Government and gives his views in very forcible language of the corrupt politics of the Eastern States, the arrogance of the judiciary of the Supreme Court, and advises means for their correction.

"I am weaned from Politics and know so little of what passes in that field, as to be incapable of judging whether matters there are going on soundly or sorely. I hear indeed from others of things I did not expect, of the adoption by republicans of the federal doctrine that the powers of Congress go to everything which is for the general welfare of the states and that all the special limitations meant nothing, of banks and bankrupt laws, of a navy roaming over the ocean to pick quarrels and engender war, of ordinary expenses exceeding the ordinary revenues, and of prospect of a perpetuation of the public debt, errors however which proceed from Congress or Presidents do not alarm me much, because subject to election at short periods, when they get far enough away to arouse the people, the floors of the Capitol and Government house will be swept and floored, and re-peopled with other tenants, of correcter principles, it is the Judiciary I fear, independent as they feel themselves of the nation and all its authorities, they already openly avow the daring and impudent principle of consolidation & arrogate to themselves the authority of ultimately construing the constitution for all the other departments and for the nation itself, it is that body which is to sap the independence of the state, to generalize first and then to monarchize the federal authorities the Colonus de-

cision, that insult to human reason goes fully to consolidation, let them be appointed for the Senatorial term of 6 years, reappointed by the President with the approbation of both houses, their official doctrines will be reviewed every six years, their conduct undergo the ordeal of debate and if they pass examination they will have heard strictures and criticisms warning them to keep straight, but who are we to have next, if these things have grown up under the administration of Presidents whose every fibre was honor & republicanism what are we to expect from the selfish morals and jobbery policies of the East? for the exclusion of all South of the Potomack and Ohio was sealed by the Missouri Confederacy of which this was the real object, it was a project of federalism, which finding its resurrection with the same body desperate, devised this decoy to draw off the weak and wicked from the republican ranks, they have succeeded, the East is replaced in the saddle of government, and the Middle States are to be the cattle yoked to their car, these important states, who hold the balance of the Union, from being the head of an honest majority, make themselves the tail of a government of Egoism, of which place and plunder will be the ruling principle, my hope and confidence however is that the good sense of their people will soon perceive that they have been duped to become the cetspaw of cunninger associates, and that they will retrace their steps back to those honest brethren of the South and West.

I am too old to begin any serious work. It had always been my intention to commit to writing some notes and explanations of particular and leading transactions, which history should know, but in parting with my library to Congress, I parted with my whole collection of newspapers, journals, state papers, documents, &c., without the aid of which I have been afraid to trust my memory. If you can loan me the collection mentioned in your letter for a winter or two, I will immediately proceed to do what I think most material. If you can spare them, I will send a cart for them, and return them in the same way, but with an injunction that the knowledge of this shall remain with you and myself only, not willing to be understood as writing anything."

A Warning From the Mighty Dead.

You and I may differ in our opinions, but we will agree in our conclusions. A government, resting immediately on the caprice of a people is too unstable to last. The will of the people is the ultimate appeal, but the Constitution, laws of Congress and regulations of the executive departments, subject to the decisions of the Supreme court, are the laws which all must obey. * * * If this is our government it is "the best on earth," but if the people of legislation can blow and twist the law or the execution of it to suit their local prejudices then our government is the worst on earth.

The foregoing is from a letter from General W. E. Sherman to his brother, Senator John Sherman. The time and place of writing are significant. The letter is dated "Camp on Big Rock, Eighteen Miles From Vicksburg, Aug. 3, 1862." When it was written the nation was engaged in a great war, fought to establish the principle that the solar thought of the whole nation, and not caprice and local prejudice, must rule the nation.

The people of a section, under the impulse of prejudice and passion, had undertaken to "recall" the national government. The method they adopted was, however, franker and honest than that proposed by our modern recallers. They did not insist on staying in the Republic while substituting the rule of mobs for the reign of law. They endeavored to get out from it. They risked their fortunes and lives on the attempt.

The question then was whether the nation should be divided as the result of the prejudices and caprices of a part of its people. The question now is whether the nation shall be subdivided by changing its form of government from that which rests on the decisions of sober second thought and careful inquiry to that which rests on first impulses and popular caprices, scornful of careful inquiry and acting not on ascertained facts, but on immediate impressions certain to be distorted because of ignorance of all the facts.

The will of the people—the deliberate judgment of the people, given with full knowledge and with careful consideration of effects and consequences—must, of course, be the final rule of action. Whatever it may bet when given in accordance with the laws of the people and with deliberation, all must obey it. That is the fundamental condition of the existence of popular government.

But "a government resting immediately on the caprice of a people"—a government without those checks and restraints on basing wrath and caprice which all prudent men impose on themselves in their daily lives—such a government can no more endure in the twentieth century than in the nineteenth. Just as the end of secession was destruction of the Union, so the end of the innovation now proposed is anarchy or despotism.

Were William Tecumseh Sherman living today he would say of the direct, unchecked, unbalanced government now proposed what he said of government which in his time permitted its laws to be twisted to suit local prejudices. He would say, and rightly: "It is too unstable to last."

BORAH AND THE SUPREME JUDGESHIP.

Should the president decide to appoint Senator Borah to the vacant seat on the supreme bench, he would accomplish several ends besides giving the nation a judge who is recognized as a lawyer of the highest ability and integrity, and in harmony with the spirit of the age. He would conciliate the insurgents, of whom Mr. Borah is a leader without being an extremist, and he would pay a compliment to the Pacific northwest, which would be very gratifying to this section of the country. He would, however, remove from the senate a man who is in a better position than any to heal the breach in the Republican party, for Mr. Borah, while possessing the confidence of the insurgents, stands high in the opinion of the regulars. He would thus be an admirable mediator.—Portland Oregonian.

Payette, Ida.

INDEPENDENT

The people of Idaho would be glad to have any honor conferred upon Senator Borah, but the Senator would bring as much honor to the Supreme court as it could confer upon him should he accept an appointment to the bench.

Whatever the wishes of Mr. Borah may be—and it is not for us to stand between him and his wishes—the people of Idaho can ill afford to have him leave the Senate at the present time. He is a young man who has made good. He has passed the period of silence which custom prescribes for the new senators. He has risen to power and influence and understands the needs of the West, and the West trusts in him.

He is a man of action and in touch with the great questions that are before the people. He has poise and judgment that commands respect, and when he speaks the Senate listens to what he has to say.

Invaluable to the state of Idaho, he is also invaluable to the nation as a lawmaker. Why should a man of this character be taken from active life and shelved among a lot of political has-beens? Borah can get what he wants from the people for a long time yet.

IDAHO STATESMAN.

CONSERVATISM DEMANDED BY A PERTURBED PEOPLE.

The Salt Lake Telegram, whose editorial policy is dictated by that class of writers, C. C. Goodwin, has the following to say respecting the suggestion that Senator Borah be made a member of the United States supreme court:

A rumor comes west that President Taft is considering Senator Borah as a successor of the late Justice Harlan of the supreme bench. If the offer of the place is made to him, we hope the senator will decline; not that he has not all the qualifications for the place, but why appoint a general who is needed in the field to the place of quartermaster? Senator Borah has perfectly clear ideas of the needs of the republic; not of the north, the south, the east or west, but of the whole republic, and we are waiting for the day when he will assert himself and call upon his country to support him. He has not yet hopes of accomplishing what he believes should be done within the Republican party, but if he would assert himself and proclaim the sins of omission and commission which both parties are guilty of, and demand a change of present schedules, he would be astonished and the response he would receive from every section would be gratifying. He could do it with a better grace than possibly any other man, for while he is a strong partisan, he has never been an offensive one; his aims are clear, his ability and judgment are unquestioned; he is young, alert and fair; a cry from him for a new financial system, for sweeping obstructions from the path of honest endeavor, at home and abroad; for a change in taxation to equalize it; for other things needed which he perfectly understands, would be heeded. In that way he could serve his country and his countrymen more than he could on the supreme bench.

We believe that he feels that way and knows in advance that he would chafe in the enforced routine that holds a justice of the supreme court in partial thralldom, and he constantly longing for a different field.

He is yet young. Ten years from now will be soon enough for him to consider that honor; in the meantime a greater honor is within his grasp.

Any public man of force may best serve his country at points where he battles rage. In the formulation of policies such a man may leave his impress far more beneficially than in the precincts of the court where initiative is rare and review of the action of others the province.

It all depends upon how the man of action and of high grounded ideas conducts his fight as to the measure of benefit he may confer upon those he serves. The constructive statesman may not construct, but may, on the contrary, obstruct if he shall not confine his efforts within the bounds of conservatism.

The call for reform is too often attempted to be met, and by well-meaning lawmakers, in a spirit of rant and tear. There can be no vital prob-

lem solved in a fever unless it be the deplorable solution of the sword.

There must be calm deliberation, and there must be enough consideration given to the viewpoint of the opposition to encourage co-operation to the hope of an adjustment that will stand the test and not rest upon the shifting sands of the force of immediate numbers. The temptation to fly into the arms of radicalism is always presented to those who are deeply moved by the knowledge of public ills; but in the end conservatism, real or pretended, usually prevails, and it should be regarded as essential that the real friends of reform guide the hand of conservative action and not permit further evils in the name of a false conservatism by reason of the exercise of an un-

yielding, embittered or irrational spirit.

Senator Borah and others who, it has been suggested, leave the forum of legislation to enter upon a judicial career, are confronted with a grave responsibility in the working out of public problems; and it is a question if they will have done their duty if they shall abandon the fight to seek the seclusion and the restfulness of judicial place; but all of them might better don the armor and don the arms unless they shall be determined to withhold the stroke when it would produce a greater havoc. The public is sick and tired of turmoil. It is turning unmistakably from radicalism and to the conservative solution of all these questions. It seeks those men who are capable of bringing about a settlement for the benefit of the people to not burn the barn in order to get rid of the rats.

The TUCSON CITIZEN

The Supreme Court Vacancy

BOBATH FOR JUSTICE

President Taft has not yet made an appointment to the Supreme Bench to fill the vacancy created by the death of Justice Harlan. The Washington opinion seems to be that Secretary Nagel will be nominated by the President to the Senate for that vacancy; but there is a good deal of pressure for the appointment of a Western man, and that pressure is now directed (Altogether) to the support of Senator Borah of Idaho. Senator Sutherland of Utah has been named; but we could hardly imagine that President Taft would consider him at all seriously for such an important office as this. Senator Borah, however, has both energy and influence, and we certainly believe that the President could strengthen himself and also the Republican party, if he would nominate Senator Borah to succeed Justice Harlan. The following concludes the presentation of the case we find in the Portland Oregonian, and are decidedly disposed to agree with it.

Should the President decide to appoint Senator Borah to the vacant seat on the Supreme bench, he would accomplish several ends besides giving the Nation a judge who is recognized as a lawyer of the highest ability and integrity, and in harmony with the spirit of the age. He would contribute the strengthening of which Mr. Borah is a maker without being an opponent, and he would give a compensation to the Pacific Northwest, which would be very gratifying to this section of the country. He would, however, improve from the Senate a man who is in a better position than any to lead the breach in the Republican party for Mr. Borah, while preserving the confidence of the insurgents, stands high in the opinion of the regulars. He would thus be an admirable mediator.

The talk of making Senator Borah a justice of the U. S. supreme court, and the many flattering remarks complimentary to Idaho's junior senator which are being brought out in the discussion of the same, is most acceptable to the people of Idaho, who fully recognize the honesty and truthfulness of the utterances, but that is as far as they want it to go. They are too sensible of Senator Borah's true worth to his state and the nation at large to be willing to have him taken out of leadership in constructive activities at his time of life, to become simply an interpreter of the work of other less capable men. Our country today is passing through a transition period, a readjustment of itself, as it were, constitutionally and fundamentally, to newly arising political and economic conditions, and men with the best brains, the cleanest lives, the most unswerving and unwavering honesty and exalted ideals and patriotism are needed in the battle that is being waged. Such men as Senator Borah cannot be spared at this time from the conflict which is

PRESIDENT TAFT will not fill the vacancy on the United States supreme court caused by the death of Associate Justice Harlan until congress convenes, as tradition is against a supreme court nominee taking the oath of office until he has been confirmed by the senate. The interim will give the president an opportunity to give to this appointment that same searching scrutiny and almost prayerful consideration that have characterized each of the four nominations to the great tribunal which he has been called upon to make since he entered the White House, less than three years ago. The president's supreme court appointments constitute one of the strongest phases of his administration, and there is every reason to predict that his fifth appointment to that court will measure up to the standard of the four preceding.

There is ground for the statement that the president would not be averse to making the fifth appointment representative of the progressive west, not for political purposes, but in order that the personnel of the court might be representative of the nation as a whole. Eastern progressives felt that in the appointment of Justice Hughes the awakened civic conscience of the east was recognized, by the placing upon the court of a man who had proved himself an effective crusader and a true progressive when governor of New York. The progressive west would see in the appointment of a man of the type of William B. Borah, junior United States senator from Idaho, a similar sympathetic recognition of true progressive west of the Mississippi. Such an appointment would do more to restore the judicial system of the country to that popular confidence which it must retain if it is to remain the bulwark of the people's liberty than a volume of speeches in defense of the judiciary.

It is not a reflection upon the character of those members of the supreme court who were appointed from the west to point to the fact that the progressive west is without a real representative upon that court today. Justice McKenna was appointed by President McKinley before the progressive movement was born, and Justice Van de Venter, although he showed himself in thorough accord with the Roosevelt policies looking to the regulation of corporations, while federal judge in Wyoming, had been too long a member of the judiciary to be hailed by western progressives with that sympathetic approval at the time President Taft named him an associate justice that greeted the nomination of Justice Hughes throughout the east.

It is easy to understand why President Taft should be strongly inclined to the appointment of a jurist of the proven ability and experience of Frederick W. Lehman, solicitor general of the United States, or one of the several men in his cabinet who are rightly regarded supreme court timber, but President Taft does not act upon impulse in the filling of vacancies on the great tribunal of justice, and in the consideration of the many factors that properly enter into his final conclusion with respect to

Robert [unclear]

...of Justice Harlan's successor it is not to
...the name of William F. Borah of Idaho
...among those which are turning over to his
...in connection.

...that Senator Borah has opposed the
...upon the floor of the senate, not once, but
...during the last three years, would make his
...to the supreme court more the less probable at
...of President Taft, and would give it added
...with the people, because it would emphasize that
...of the judiciary for which President Taft
...unflinchingly at all times, regardless of political
...personal or party.

IMPORTANT--AND PLEASING--IF TRUE.

Several astonishing items of news, red hot and smoking,
...out from Boise, among them being the following:

That Senator Borah is the appointed agent to line up the
...north western states to stampede the republican national
...to Roosevelt. *Richfield Recorder*

That a straw-vote contest in Idaho, with 1300 republican
...and, gave Taft 100 first choice votes, LaFollette 490,
...and hundreds vote for a democrat--mostly
...or Wilson--as their choice if Taft were nominated.

That, if Senator Borah were put upon the supreme bench,
...that he should resign as senator, leaving it for the govern-
...or to appoint a senator--necessarily a democrat--for the un-
...term. Governor Hawley would like to resign and be
...appointed to the senate by the lieutenant-governor.

Now, you can't get an argument out of the Recorder on
...any one of those propositions. Senator Borah would make
...a national ten-strike if he did the first; the second is the
...Recorder's "I-told-you-so" put into figures; and there isn't an-
...other democrat more capable of being a good senator, nor a
...lieutenant-governor more worthy of first place than Sweetser.

Here's luck to the rumormonger who starts these stories. We
...like to hear--whether they're true or not!

MORE BOUQUETS FOR BORAH

Eastern Papers Continue to Say Nice
...Things of Idaho Senator.

Eastern papers will soon mail the
...to Idaho's junior senator.
...The Springfield Free Union of De-
...cember 11, says:

"Massachusetts men around the
...circle have a great deal of interest
...being shown by citizens from home
...in Senator Borah of Idaho. In the
...senate gallery he is one of those they
...wish to have pointed out.

"It is evident that there is a feeling
...growing that he is one of the promising
...big leaders of the party, and he is
...the man most likely to develop into
...a great figure of all the younger
...members of the senate.

"Watch for him in 1914," is now
...a common prediction to be heard
...here, an indication of the confidence
...that he will grow in fame as fast in
...the next four years as he has in the
...last four.

"The explanation of the interest
...displayed by easterners in the politi-
...cal future of a senator from so far
...west as Idaho is simple. The eastern
...Republicans have less of a quarrel
...with him than with any other pro-
...gressive Republican from the west.

"Thus far he has fully succeeded
...in the difficult course of which Sen-
...ator Townsend at Michigan, for in-
...stance, made a mess, that of being an
...emergent and yet not antagonistic
...to regulars, and above all not being
...himself open to the suspicion of try-
...ing to ride two horses. The eastern-
...ers, who have progressive Republican
...members are naturally looking on
...at the man who has come near
...to a safe middle course between
...extremes and the old regular
...type."

OUR LAWLESSNESS

WHEN Senator Borah a few
...nights ago said that we were
...the most lawless of any of the great
...civilized Nations he uttered no new
...truth, but simply what has
...been said again and again and what
...can be proved by census returns
...and by court statistics.

This has gone about through our
...boasted independence of action. We
...want that we want when we want
...it, and usually we get it and settle
...with the dignity of the framed
...wealth's statutes afterward. Lawyers
...are retained twice to enable a client
...to evade a law or escape the conse-
...quences of violating it, where they
...are engaged once as counselmen to
...advise what the law is.

As a people we are given to taking
...chances with the law. There is al-
...ways the possibility that prosecution
...will not follow, or, if the arm of the
...law reaches out, that the case can
...be placed on file or not proceed.
...There is a feeling by men of wealth
...that the worst that can happen to
...them is a fine, and the fine can come
...out of the pocket and the public
...This is the atmosphere in which we
...become the most lawless of the great
...civilized Nations.

When will it stop? Who knows.
...Perhaps more jail sentences, dead-
...weight to flagrant offenders would have
...a good moral effect.

It is too soon to choose Senator
...Borah. When his gambling hand and
...balls are no longer needed in help-
...ing to guide the destinies of the na-
...tion will be time to talk about putting
...him on the supreme bench of the na-
...tion. His own state and the west, if
...not the nation, will heartily endorse
...this view, we are sure. On the
...strength of the rumor of President
...Taft considering the appointment of
...Senator Borah to the supreme bench
...as a successor of the late Justice
...Harlan, the Salt Lake Telegram makes
...the following statement:

"If the offer of the place is made
...to him, we hope the senator will de-
...cline, not that he has not all the
...qualifications for the place, but why
...appoint a general who is needed in the
...field to the place of quartermaster?
...Senator Borah has perfectly clear ideas
...of the needs of the republic, not of
...the north, the south, the east or west,
...but of the whole republic, and we are
...waiting for the day when he will as-
...sert himself and call upon his coun-
...try to support him. He has yet hopes
...of accomplishing what he believes
...should be done within the republican
...party, but if he would assert him-

Idaho Register

self and promote the step of conse-
...quence and commission which both par-
...ties are guilty of, and demand a
...change of present schedules, he would
...be astonished and the response he
...would receive from every section
...would be gratifying. He could do it
...with a better grace than possibly any
...other man, for while he is a strong
...partisan, he has never been an offen-
...sive one; his vote is clean, his ability
...and judgment are unquestioned; he is
...square, alert and fast; a cry from him
...for a new financial system, for sweep-
...ing obstructions from the path of busi-
...ness endeavor, at home and abroad, for
...a change in taxation to equalize it,
...for other things needed which he per-
...fectly understands, would be heeded.
...In that way he could serve his coun-
...trymen more than he could on the
...supreme bench.

We believe that he feels that way
...and knows in advance that he would
...share in the endorsed routine that
...keeps a justice of the supreme court
...in general threadwork, and be constantly
...preparing for a different field.

He is not young. Ten years from
...now will be soon enough for him to
...consider that honor; in the meantime
...a greater honor is within his grasp.

DEC 2 1911

BORAH IN LIMELIGHT.

Senator Borah of Idaho is one of the most talked-of men in congress. Just now he is being mentioned for three big offices. One of his friends are urging him for the republican vice presidential nomination next year; his name has been strongly presented to the president for appointment on the supreme bench to succeed the late Justice Harlan, and in the senate he is being discussed as a reliable man for the presidential position of that body, to succeed the late Senator Frye of Maine. It is notable that Senator Borah is not a candidate for any of the three offices named, but is perfectly content to discharge his duties as senator from Idaho. The fact that he is being mentioned for these three big offices, however, is indication of his high standing in the senate and in the country at large. Being rated an insurgent, while, as a matter of fact, he is the most independent man in congress, Senator Borah is a strong figure in national politics, and it is figured out that as running mate for the next republican presidential nominee he would add great strength to the ticket. His well-recognized legal ability has brought to his support more and stronger endorsements than have been given any other one man whose name has been considered for the supreme bench, and it is notable that his backing comes from democrats as well as from republicans, both regular and insurgent. In so far as the office of presidential pro tem, of the senate is concerned, Senator Borah is regarded as a man upon whom all factions might agree for being independent; he is not a dyed-in-the-wool member of either republican faction, and his friends in both senate galleries who may have failed of election because he had enemies among the large set. Senator Borah probably could win out if his name should be presented later in the session.

THE EVENING POST:

A QUESTION OF FUNDAMENTALS.

The resolutions adopted by the Union League Club last night, condemning the recall of judges and the Roosevelt plan of "reviewing at the polls the decisions of our highest courts upon Constitutional questions," are couched in strong language. They denounce these projects as "dangerous and revolutionary proposals which threaten to overthrow in a common ruin both justice and freedom." Yet these resolutions were offered as the result of careful deliberation by the club's committee on political reform, were accompanied by an elaborate report, and were adopted without a dissenting voice at the meeting of the club, at which the attendance was of unusual magnitude.

A favorite method of belittling the opposition to radical proposals like that launched by Mr. Roosevelt is to charge the objectors with extravagance of language. They, it is said, talk of chaos,

and anarchy, and the mob, whereas it is quite plain that no such convulsion would be precipitated by the adoption of the proposal. But in a case which involves the fundamentals of government, it matters little whether the language employed by the opponents of an innovation is overstrained or not. The real question is whether they are right or wrong in their conviction that the proposal does actually strike at a vital part of the organization of our Government. If they are wrong in this belief, there is nothing more to say; but if they are right, then it is of extremely little pertinence to point out that they might have put their condemnation in more carefully guarded language. When the members of the Union League Club speak of "proposals which threaten to overthrow in a common ruin both justice and freedom," they are not talking about things likely to happen in the next six months, or the next four years; they are expressing, with the energy and emphasis which are natural in such a case, the conviction that to preserve "justice and freedom" permanently, we must have a judiciary independent of popular clamor, and judicial decisions unreviewable by popular vote. Not those are shallow and superficial who point to the danger that these changes threaten in the future, but those who, grasping at the first convenient instrument for hastening their immediate ends, ignore the larger elements on which depend the permanent safety and welfare of the country. The sentiment expressed by the Union League Club resolution, by Mr. Taft in his Toledo speech, by Judge Stafford in the admirable address reprinted a day or two ago in this paper, is, we are convinced, the sentiment of sober Americans generally.

There is in Mr. Roosevelt's proposal a certain wrongheadedness which would make its adoption peculiarly dangerous. In actual operation, it could hardly fail to be far more destructive of the idea of Constitutional restraint than would a proposal to take away altogether from the courts the power of passing on the constitutionality of legislative acts. If the Legislature were expressly made the final judge in the matter, it would be a solemn matter of conscience, with such of the members as had a full sense of their responsibility, to let no bill pass which, in their judgment, was not in keeping with the Constitution; and indeed it has often been objected to the present system that this sense of responsibility is weakened by the knowledge that the final word is not with the Legislature, but with the courts. But under the Roosevelt plan there would be an express acknowledgment that the real criterion of constitutionality was not that furnished by a judicial study of the statute and a comparison of it with the fundamental law, but by the will of the people as it is to be declared in a popular election. A legislator might think in his own heart that a bill was unconstitutional; he might be confident that the courts would so declare; but he might well say to himself that, after

all, it is for the people to say whether that was their view of the Constitution or not, and it was not for him to interfere. Can it be doubted that this would soon become the normal attitude of Legislatures, when a majority vote of the people had become established as the final arbiter of Constitutional issues?

Now, the wrongheadedness to which we have referred consists in nothing less than forgetting what Constitutions are for. Their paramount object is to prevent the powers that be at a given time from doing what they are inclined to do at that time, if the deliberate judgment recorded in the fundamental law forbids it. The very time that that restraint becomes of importance is the time when the people are strongly bent upon doing the forbidden or questionable thing. Mr. Roosevelt's proposed plebiscite could do nothing more than record this desire once more, as it had already been recorded by the Legislature. Congress, by an overwhelming vote, passed the Civil Rights bill in Andrew Johnson's time; it was passed over the President's veto by a two-thirds vote of both houses. The Supreme Court pronounced it void; but there cannot be a moment's doubt that a popular vote would have triumphantly endorsed the action of Congress. The nation bowed to the Court's decision; and if the question were to come up to-day, after a lapse of more than four decades, the popular vote would be ten to one in favor of the Court and against Congress.

But, whether right or wrong, the Court, by its construction of the Constitution, on a matter of immeasurable public importance, squarely blocked a policy which an overwhelming majority of the people were bent upon pursuing. There is no telling when a situation equally grave, and fraught with equally lasting consequences, may arise in the Union at large, or in any State; and, under the principle embodied in the Roosevelt scheme, the Constitutional barrier would be as though it were not. Under the principle of it, we say; since it is not only the mechanism of the particular scheme, but still more the principle manifestly underlying it, that would work the mischief. For, however much it may be disavowed, that principle is in fact nothing less than the principle that a Constitutional restraint shall operate only with the consent of the majority for the time being; in other words, that the restraint shall be removed at the very time when it is most sorely needed.

Appointive Judges.

TO THE EDITOR OF THE EVENING POST.

Sir: Your recent editorial on "Improving the Judiciary" emphasized the importance of selecting a suitable judiciary in the first instance. Of what avail is the recall if the method of choosing judges permits inexperienced and untried attainments to stalk towards the bench as the beneficiary of politics? It comes about in many cases that the lawyer who has worked for political organizations, meanwhile tending to politicians great and small, may find himself upon the bench. Much of the time is spent in pursuit of things which do not tend to train men for the bench. Nevertheless, in time he may develop into a capable judge, as many do.

Mr. Bryce, in his chapter on "The Bench," in his work on the "American Commonwealth," says:

The causes which have lowered the quality of the State judges have been referred to in previous chapters. Shortly stated, they are: The smallness of the salaries paid, the limited tenure of office, often for seven years only, and the method of appointment, nominally by popular election, practically by the agency of party wire-pullers. The first two causes have prevented the ablest lawyers, the last often prevents the most honorable men, from seeking the post.

Prior to 1848, in this State we had an excellent bench, but the Constitutional Convention of 1848 felt that the power of the people was not sufficiently recognized. The limited tenure of office, often for seven years only, and the method of appointment, nominally by popular election, practically by the agency of party wire-pullers, the last often prevents the most honorable men, from seeking the post.

A writer upon the philosophy of politics more than one hundred years ago, in discussing the principles of Government, says:

The principle of democracy is corrupted, not only when the spirit of equality is extinct, but likewise when men fall into a spirit of extreme equality, and when each citizen would fain be upon a level with those whom he has chosen to command him. Then the people, incapable of bearing the very power they have delegated, want to manage everything themselves, to debate for the Senate, to execute for the Magistrate, and to decide for the judges.

Would it not tend to improve the judiciary if the power to appoint judges subject to some form of check should be lodged in some responsible executive or body of men, the officers making such appointments to be held to a high degree of responsibility therefor to the people? To be sure, the system would not be perfect, but so finite plan ever is.

HENRY GANESVOGHT SANFORD.
New York, March 1.

AS SEEN BY AN ENGLISHMAN.

It is desirable not only to see ourselves as others see us, but to see our political leaders as men of other nations see them. For this reason an article in the English Fortnightly Review is interesting.

This writer, discussing Roosevelt, says:

The failure of his New York State campaign broke his influence over the greater part of the country. The West is still faithful, but elsewhere he is believed by most people to be politically dead. They do not realize what vital force there is in him. He does not grieve, neither is he proud. He thinks he has escaped the worst of the wave and is now sinking in the trough. But he has often thought this before. Unless the American ship of state should unexpectedly give him calm waters, Theodore Roosevelt will be forced again to her helm. In the meantime Woodrow Wilson is probably the man to wield most gladly the oars.

This leads him to contrast Roosevelt with Wilson, whom he describes as "analytical, aridistic, a keen knife-edge sort of a man," and to quote Wilson as making fun of Roosevelt's knack of rushing in with a big stick before he quite knows whose head he ought to break with it, and as saying that "as soon as Mr. Roosevelt thinks he talks a simultaneous miracle that is not, according to our education, the customary way of forming an opinion." He says that neither Roosevelt nor Wilson is a man of ideas, but that they assimilate and give forth promptly other people's ideas. He continues:

The difference between them in this matter is that Mr. Roosevelt takes up an idea upon his own judgment of its merits. The test for him is, does it appeal to me? Mr. Wilson is more cautious. He asks, does it seem to be going well? He is both good lawyers and proved a workable proposition.

This characterization fits what we know of Wilson certainly. Before he had engaged in political strife and when he took a purely academic interest in political questions, he condemned the initiative, referendum and recall. After he had been elected Governor and had conceived an ambition to be President, he found that these political ideas were going well, so far as their popularity went with the elements he hoped to win. Wilson, the cautious, opportunist politician, then threw overboard the opinions of Wilson the college president, and became the apostle of direct legislation.

That Mr. Roosevelt takes up an idea on his own judgment of its merits is true, but he could not have gained his reputation as a past master in politics had he not also considered whether the idea would go well. Yet he has repeatedly taken up ideas on their merits and vehemently forced them on public attention, though he must have known they would prove unpopular. An example is his recommendation that railroad traffic pools be legalized, a measure which, when taken up by Taft, aroused the insurgents—those insurgents who are now fondly turning to Roosevelt as their leader—to frenzy.

Nor is it true that Roosevelt talks as soon as he begins to think, though, when he does begin to talk on any subject, he talks so fearfully and continuously as to create that impression in the casual observer. There were several occasions during his presidency when the Washington correspondents could not get a word from him on certain momentous questions then pending, though he was certainly thinking deeply on them. At that time it was said that Roosevelt, far from being impulsive, deliberated long without uttering a word, but that his decision once reached, he announced it clearly and with emphasis and new

needed to carry it out with that tremendous driving force which led people to suppose that he was acting upon impulse.

The cruelest thrust of the Fortnightly writer is reserved for Governor Harrison. He says the Ohio candidate is "not an illuminating person," "rather puzzled by modern ideas," "anything but a leader," "a thoroughly good sort," and completes the operation of damning with faint praise by saying:

He ought to be a British Colonel or equine race for his views, very movement and the

WASHINGTON POST:

WILSON SCORES JUDICIARY

Controlled by Party Interests in Many States, He Says.

Declares Democratic Party Should Tolerate No Man Who Introduces Bitterness Into Its Own Debates.

Springfield, Mass., April 21.—Gov. Wilson of New Jersey, wound up a day of campaigning in Massachusetts with speeches here and at Holyoke tonight. At both meetings he was accorded an enthusiastic reception. Speaking of the recall of judges, Mr. Wilson said:

"I am absolutely opposed to the recall of judges, but I am not surprised that the question has become a vital one, because if you will face the facts you will find that in many Commonwealths of this nation the judiciary is controlled by party interests, that they do not administer justice according to law, but safeguard special interests. If you go to one of our States, you will find that one person selected all of the judges on the supreme bench."

Worcester, Mass., April 21.—Gov. Wilson waged his campaign in this city today. He was met by a delegation of prominent Worcester Democrats at the station, went to Holy Cross College, where he addressed the students, received some of the leading business men and educators at a hotel, and in the afternoon delivered his principal address in Mechanics Hall before an enthusiastic crowd.

"The field of politics is strangely broken and confused," said Gov. Wilson, in Mechanics Hall. "It is absolutely necessary to draw the scattered and disorganized forces of intelligent public spirit together into a single, efficient, cooperative organization. It is too late to unite the warring elements of the Republican party, but the Democratic party can make itself the center and instrument of all these about forces."

"The Democratic party ought to tolerate no man who introduces the bitterness into its own debates."

WILSON SCORES JUDICIARY

How It Would Work.

To THE EDITOR OF THE EVENING POST:

Sir: In the criticisms that have appeared of Mr. Roosevelt's proposal that the people shall recall judicial decisions that hinge on constitutional points, I have not yet seen stated the objection that seems to me most vital. The general argument has been that Mr. Roosevelt is radical, that he wishes to destroy representative government, that the people cannot be trusted to decide constitutional questions, and so on. This line of criticism puts the initiative, the referendum, the recall of judges, and the recall of decisions all in the same class, and condemns them all indiscriminately. Such a line of criticism is altogether too favorable to Mr. Roosevelt, and puts his new proposal of the recall of decisions into a class of proposals whose reasonableness and respectability it does not share.

If it be radical to believe in the initiative and referendum, and, with proper limitations, in the recall of judges, then the writer must confess himself a radical. He has confidence enough in the people of most American States to believe that they will use such powers conservatively and wisely, as an occasional resource, rather than a regular practice. He feels that the "due process of law" clause of the Fourteenth Amendment to the Federal Constitution, for example, would never have been so misinterpreted by the mass of the people as it has been by the Federal courts. On the other hand, as an advocate of direct popular action in cases where a clean-cut issue can be presented to the people, he is opposed to a scheme which in practice would result in a travesty of popular action.

An illustration will make clear the distinction. Bill Jones has a calf killed by a train at a grade crossing. He sues the railroad, receiving in the lower court \$10,000 damages, \$4,992 of which are actual damages and \$5,008.02 punitive damages. The punitive damages are based on an act of the Legislature forbidding grade crossings. On appeal, the damages are reduced to \$4,992, the Supreme Court holding that the law on the subject of grade crossings is unconstitutional. William is distressed in spirit, but not defeated. He sees \$10,000 still in prospect, mortgages his farm for a campaign fund, gets a petition recalling the decision properly signed, has the issue placed on the ballot, and starts out to get his verdict from the people. The railroad, seeing its interests—to wit, \$10,000 and costs—also at stake, starts a counter campaign. At the cross-roads store and the corner saloon the momentous issues are discussed. Should Bill Jones get \$10,000, or only \$4,992? Is real wholesome meat, anyhow? Isn't it true, as the railroad enterprise affirms, that Bill put the calf on the track to be killed, and that Bill voted the Prohibition ticket at the last election? And so, in a calm and judicial spirit, unswayed by distracting questions of fact, the voters settle a constitutional question.

Mr. Roosevelt apparently doesn't see that every practical end he has in view is adequately covered by the initiative, changing the Constitution of the State, and, if necessary, repealing the grade-crossing law, and that in that case the people would have a simple question of general policy to decide, without being concerned with the collateral issues growing out of the death-agony of the ill-fated calf. The experi-

ence of our States has long since made evident the danger of special legislation, legislation dealing with particular cases. It has been demonstrated again and again that the particular interests involved in the concrete cases are apt to overshadow the general principle involved. And so we have as a prevailing policy in our States restrictions—often too stringent—limiting the power of State legislatures to the enactment of general laws. Private legislation, special legislation, is one of the recognized evils of our Federal Congress. But these bodies, when they have occasion to pass special laws, can at least appoint committees to take testimony as to the concrete facts involved, and can make some effort to apply the rules of evidence to their determination. General principles are not hard to decide upon. A yes or no answer is comparatively easy to give. But the ascertainment of a state of facts is exceedingly difficult, even under the careful procedure of the courtroom (a procedure often so careful, it must be admitted, as to shut out the pertinent facts). But how expect the people to settle questions of fact? And how expect them to ignore questions of fact, when you present them a concrete case instead of a general principle?

Mr. Roosevelt, also, seems to miss the main function of courts. The primary function of courts is not to settle controversies justly—important though justice is—but to settle controversies. The courts come into being in the interest, not of private rights but of the public peace. They are a substitute for fighting, in the interest of social tranquillity. Now while it is also vital and essential that they should work justice as far as may be in the concrete case, it is surely even more vital that they perform their primary and original function. Would not Mr. Roosevelt's proposal be a step backward here? Would it not mean the possibility of reopening controversies, settled forever under our present system, whenever any lawyer felt he could make a colorable plea that a constitutional issue was involved? And would it transfer the concrete case to a tribunal which would be more likely to do careful and exact justice on the basis of the facts and the law? If we don't like the court's reading of the Constitution, let us change the Constitution by amendment through the instrumentality of the initiative. But let not that change

be or post facts, reopening an adjudicated controversy. The vital objection to Mr. Roosevelt's plan is, not its radicalism, but its crudeness. H. W. ANTHONY, JR., *Concord University, March 9.*

self has, on a number of occasions, made more striking utterances on the same general subject. But there are two objects that he evidently set before himself in making the speech, both of which he was entirely successful in achieving. One was to embody in a few brief passages of the speech the gist of the argument against the proposed innovations; the other was to avoid not merely outright personalities, but that kind of offensiveness of language which, though ostensibly addressed to the subject-matter of discussion, is essentially of the nature of a personal attack. And we suspect that to the restraint he put upon himself in this regard must in large measure be ascribed a certain want of fire in the speech as a whole. His state of mind appears to be clearly indicated when he says, speaking of the proposed recall of constitutional decisions, "This is a remarkable suggestion, and one which is so contrary to anything in government hitherto proposed that it is hard to give it the serious consideration which it deserves because of its advocates and of the conditions under which it is advanced."

We have said that the speech is not a great speech. But there are several things in it that could hardly be improved upon. In the first place, there is the opening paragraph, a backward glance at the story of the Union under the system established by the Constitution—a story upon which it has been the habit of Americans to dwell with patriotic pride. The attack that is being made on the judicial system of the country is largely a matter of psychology, we feel tempted to say of morbid psychology. The state of mind underlying it is not by any means unlike that which prevailed before and during the campaign of 1896 among the hysterical silverites; they saw in everything the malign results of the gold standard, everywhere the blight of low prices, on all sides the devilish machinations of the "creditor class." It was the part then of sober men to try to counteract this pathological mental condition by calling attention to certain simple facts; and what was true in 1896 of the silver crisis is true to-day of the anti-judiciary crisis. As a matter of fact, there was no creditor class crucifying mankind on a cross of gold; as a matter of fact, there is no desperate condition of judicial oppression under which the people of these United States are laboring. To read the opening sentences of Mr. Taft's speech, quiet, dignified, patriotic, free from extravagance, after listening to the queer rantings of the "Progressives," is like turning from a confused and nebulous dream to a solid reality.

One more passage may be singled out for special notice. It is that in which the President, with the utmost simplicity and directness, disposes of the fantastic notion that when a disputed question of Constitutionality is placed before the people, as a final court of appeal it will be decided as the result of prolonged deliberation as to the true

THE EVENING POST

TAFT ON THE JUDICIARY.

The President's speech at Toledo last night was not a great speech. There are many men in the country who could have presented with more telling force the case against those "radical methods of changing the judiciary system," the proposal of which formed the occasion of his address. Mr. Taft him-

Interpretation of the Constitution. 100 8078

What the court decides is that the enacted law violates the fundamental law and is beyond the power of the Legislature to enact. But when this issue is presented to the electorate, what will be the question uppermost in the minds of most of them and forced upon them by the advocates of the law? Will it not necessarily be whether the law is on its merits a good law rather than whether it conflicts with the Constitution? What this recall of decisions will amount to if applied to constitutional questions is that there will be a suspension of the Constitution to enable a temporary majority of the electorate to enforce a popular but invalid act.

Can any man in his sober senses doubt the correctness of this statement? Were it not that the name of Lincoln has been so cheapened by constant and indiscriminate use in the hands of a man typifying the diametrical opposite of Lincoln's temperament and methods, we should feel tempted to say that Mr. Taft has exposed the false pretence of this precious scheme of judicial interpretation by popular vote just as Lincoln would have done it—by applying to it the touchstone of simple truth, and common sense, and common honesty.

To the sanity and simplicity of Mr. Taft's speech, a greater contrast could hardly be imagined than that presented by Mr. Roosevelt's latest Outlook article. How he has lashed himself into a state of blind frenzy on this subject of the recall of judicial decisions is illustrated by the almost incredible blunder which he not only commits, but which forms the very backbone of the article. "I preach no new doctrine," he says:

"the proposal that I make for the several States was in actual practice acted upon by the people of this whole nation but a very short time after the Constitution was adopted." And he proceeds to tell at length of the adoption of the Eleventh Amendment to the Constitution of the United States, which had the effect of reversing the result of a previous Supreme Court decision. "All I ask," he then goes on to say, "is that what the people of the nation have actually done the people of each State shall actually be allowed to do." It is almost inconceivable that a man who has been President of the United States could be guilty of such ludicrous confusion. The Eleventh Amendment was adopted by the regular process laid down by the Constitution of the United States; and nothing is more familiar to everybody than that State Constitutions are infinitely easier to amend than is that of the United States.

Thus the Colonel is foaming at the mouth for something that, according to his own statement, the people have already got. How account for this queer phenomenon? A remark he makes in this same article furnishes the key. "I am not," he says, "primarily concerned with methods." Evidently not; and he

feels absolved from the ordinary responsibility of rational men in talking about methods. He tells us that his method is the same as one that is already in existence—regardless alike of the fact that the method is wholly different, and of the fact that if it were the same there would be no need of agitating for it. But to deal thus with great questions of government is to plunge into the confusion of Babelian. And to put the last touch of grotesqueness on the situation, he actually asks us to look upon this haphazard campaigning of his, for dimly imagined ends and by confused and chaotic means, as the present-day parallel to the sober, patient, sagacious, careful work of Abraham Lincoln.

Borah Deserves Credit.

(Chicago Record-Herald)

Senator Borah of Idaho, now serving his first term, took the lead in the direct elections fight from the start of his congressional career, having a point of vantage by reason of his position on the judiciary committee. Senator Bristow of Kansas, another new member, also carries off high honors, and is receiving particular praise in progressive circles tonight over having won the incidental fight to keep the control of elections with the federal government.

This was the rock on which the whole thing seemed likely to split more than once.

Two years ago the first real test came in the open senate, when Mr. Borah sought to have the resolution made the order of unfinished business. The old guard had it all arranged to sidetrack the proposition in the good old style in which so many other obnoxious "isms" had been shunted aside. Former Senator Hale, past master in the art of avoiding reform legislation, manipulated affairs for the standpatners. When Senator Borah arose to make his motion, Senator Nelson, who is slower in leg movement and not so quick on saying "Mr. President," was a few seconds behind him. But it had been all arranged in advance. Senator Nelson was recognized, and the Alaska coal bill was made the order of unfinished business. A few minutes later, however, Senator Borah moved to take up the direct elections resolution and the motion went through kiting. From then on until a vote was had the progressives pressed the proposition. The resolution met defeat finally by a margin of only two or three votes. The next day Senator Borah reintroduced the resolution, a new report came from the committee and then the fight was centered on the defense of the Bristow amendment which had been voted down the time before. The senate kept at it, and adopted the resolution as it is sent to the states today, on June 12, 1911, just 11 months ago.

Direct Election of Senators.

(Chicago Post)

Senators Borah and Bristow share with Senator Lorimer the responsibility for the final passage by the house of representatives of the bill for direct election of United States senators. Borah and Bristow have the glory of it; Lorimer the reverse.

The gentlemen from Idaho and Kansas have made this fight their fight year in and year out. Borah especially has never let go. He has started in

from the beginning each time the "old guard" beat him. And each time senatorial election scandals like those in Illinois, Wisconsin and Colorado have given new force to the urgency of his arguments.

We hope that there will be no trouble in getting the required ratifications from the state legislatures. It is worth noting as an omen that there are now 14 states in which the people select the party candidates for United States senator, and in three of these they practically elect the senator under the Oregon plan.

THE COMING CONFLICT.

Senator Borah will have the fight of his life to be re-elected to the senate. His open avowal of Roosevelt's candidacy for the presidency has alienated the support of the Republican machine in the state, or in other words the corporate interests of the state. Our junior senator is a man of remarkable attainments and on account of his great ability as a lawyer he was employed by the big interests of the state as their attorney prior to his election to the senate. In his campaign for the election six years ago he had considerable support from those who seek special privileges in the United States senate. The political highwaymen of the state figured that they had previously employed Borah as their attorney and that such employment would continue when he took his seat as a United States senator. The interests never made a bigger mistake. They had not properly gauged the man. As soon as Senator Borah took his seat he aligned himself with a bunch of Progressives in the United States senate, and has never wavered or faltered in his advocacy of just laws and has refused to wear the corporate collar on every occasion. He is looked upon as a heretic by the big corporations of the state, but by the people he is considered as the champion of human rights. If we could elect our senator by popular vote there would be no question whatever of his re-election. A standpat Democrat would be much more preferable to the corporations of the state than Borah and those who have been watching the political game in Idaho can plainly see the conspiracy to defeat the people's choice. The election of a Democratic legislature or sufficient members of that faith together with what Republican members the corporations can control will accomplish their purpose. Every loyal citizen of the state, regardless of party, should stand by Borah and they will if the cause is clearly presented and understood.

1911

DEC 22 1911

LAWLESSNESS.

Senator Borah's striking address of Wednesday night is full of admonition to the country. American lawlessness is a familiar theme, but seldom have the extent of this lawlessness and its significance been so effectively pointed out.

When the public thinks of lawlessness it thinks of the habitual contempt of city ordinances, the common violation of Sunday laws, the disregard of the statutes exhibited by juries when they resort to the "unwritten law," the prevalence of crimes of violence. McNamaraism impresses it for the most part as an isolated fact, significant perhaps only of the increasing danger from the bad leadership of organized labor. Even the apologies for McNamaraism, like that of the Rev. Mr. Holmes, that the slaughter was "war" and that those who did it were "soldiers in a cause," or were actuated by a "principle," probably strike the public as the vagaries of sentimentalists rather than as a characteristic symptom of a general American disregard for the sanctity of law.

But Senator Borah grouped them all together as examples of public lawlessness, of that habit which he well described as carrying "with us a mental reservation in our professed loyalty to the government that we will obey only such laws as in our individual judgment seem wise—which, of course, is the essence of anarchy—the fearful disease of permissiveness." With these other examples of lawlessness he classes also deliberate violations of the Sherman act by great business combinations. His parallel between the lawlessness of the McNamaras and their plea that they were acting for a principle and the lawlessness of the monopolists and their plea that they were doing the economically inevitable was impressive, and so far as the violations of the laws protecting trade were intentional it was not a whit too severe. When persons who owe so much to a government of law and order as those who control the great business interests of the country employ counsel to get around and violate the spirit of one of the country's laws, defeating its purpose and rendering it worthless, they are setting an example of lawlessness dangerous to the country and dangerous to the property interests which they themselves represent. The plea that business prosperity requires what is done is, as Senator Borah indicated, no better, no more tolerable, than the plea of the McNamaras that "labor's" interests compelled a resort to dynamite. To concede that the laws may be violated for any purpose which in the indi-

vidual judgment of the violator seems good is anarchy.

Are Americans Lawless?

Senator Borah's indictment of the American people as being the most lawless on earth is liable to be a live topic for a long time to come. The reason is that it was so near the truth. It struck home. The only criticism of it is that it was too sweeping. Yet a little overstatement will do no harm if it succeeds in challenging public attention to an undoubted abuse and danger. Among other things Senator Borah said:

There is no place where life is so insecure against bomb or bullet, criminal laws so ineffectually enforced, corruption so little condemned by public opinion and defiance of law by the highest business so prevalent as in the United States.

As we have already said, the statement is too sweeping. There are places, and many of them, where life is more insecure than in the United States. There are lands in which the laws are more laxly enforced, where all the evils complained of by the senator are worse than they are in America.

The evils are bad enough without the superlatives. It is not necessary to slander the country and to condemn a whole people. Yet the overemphasis can be forgiven because of the laudable purpose behind it. Law should be more respected by our people and should be more rigidly enforced by our officials.

Our courts are partly to blame, the lawyers partly to blame and the public at large partly to blame. We have so placed the emphasis on individuality and self government that we have thought too little of any other kind of government. We are so independent that we forget the duty and the gratitude we owe to society.

It has required thousands of years for mankind to build up the institutions now in existence. These institutions came as the result of the experience and wisdom of all lands and all ages. They are often inadequate, often fall to fit changed conditions and often need developing or readjusting. Yet they are intended for our benefit, and in the main they do benefit us immeasurably. They were achieved as the result of long thought and labor, of sacrifices and martyrdoms, of blood and tears. The progress, comfort, security and happiness we now enjoy are chiefly due to them. The debt of gratitude we owe to society is infinite.

We lack a keen sense of individual responsibility and social obligation. Perhaps our fault is due chiefly to thoughtlessness. We are a young nation and share the defects of youth. Yet we must learn our lesson—the observance and enforcement of the law.

DEC 27 1911

The Gospel of Hate.

In his speech before the Young Republican club in New York city last Wednesday night Senator Borah, of Idaho, deplored the growing disrespect for the law, offering as evidence the oil and tobacco companies on the one side and the McNamara conspiracy on the other side, and advocated a return to the fundamentals of the country's forefathers as the remedy for the present tendency.

President Taft took the remarks of Senator Borah as the basis of his comments. He deplored the conditions as they exist, yet saw that the way to clear the air was for all right-minded men to get together and work in harmony, "so that demagogues may disappear, so that the people may know and understand the issues clearly." The keynote of better conditions is the enforcement of the law.

That enforcement was revealed in the trust cases and in the dynamite cases. And it was gratifying to find that the confessions of the McNamaras was followed by a hearty and unanimous demand throughout the country for the punishment of the conspirators.

All offenders against the law—no matter in what shape they are revealed—must be treated in the same way. The great combination of capital, which violates the law, are being held down to the letter of the law.

The conspiracy of dynamite is being run down. But it must not be forgotten that the instigators of much of the unrest are the so-called "reformers," designated by President Roosevelt as the "muck-rakers." They have revealed in the magnifying of conditions, and they have distorted and misrepresented so much that the minds of some of their readers have been warped.

The educated demagogue is the one who is responsible. Instead of preaching the gospel of love and respect for mankind, there has been preached the gospel of hate.

The Globe

Published Every Thursday by
GLOBE PRINTING CO., LTD.
Successor to Standard-News

Thursday, May 2, 1912.

BORAH AND ROOSEVELT.

Bathrum Tribune: Some of the friends of President Taft profess not to understand why Senator Borah should have declared for Roosevelt; because, says these friends of the president, Roosevelt is an "enemy of Idaho," while Taft and Borah are "friends of Idaho." All this on account of the national forest policy of Roosevelt and Pinchet. But there can be no doubt the senator knows why he, a friend of the people, who trusts the people and wants no office unless he can get it directly from the people, should support Roosevelt. Senator Borah is, and always has been, intensely loyal to Idaho and has always done his best to advance the interests and promote the welfare of the state. It is not likely that he would support Roosevelt if he thought Roosevelt an "enemy of Idaho." But he does not consider Roosevelt an enemy of Idaho just because Roosevelt, while president, set aside areas of the public domain for national forests, and some of those forests happen to be in Idaho. Senator Borah is a deep student of national affairs. He knows that corporate wealth has acquired too much power in this country and he knew that if something had not been done the few remaining forests would inevitably have passed forever into the possession of private corporations. No true friend of the people, understanding the situation, could oppose the national conservation policy, but Senator Borah has been indefatigable in his efforts to remove every restriction about the national forests that is detrimental to the people, without destroying the benefits to the people that this policy is intended to conserve. In these efforts he has still further proven his loyalty to Idaho. But there is no reason to believe that Roosevelt, himself, had he remained president, would not have done the same; and there can be no reason now why Roosevelt should be considered an enemy of Idaho; there is no reason, so far as national conservation is concerned, why Senator Borah should not support Roosevelt now and still be an absolutely loyal and consistent friend of Idaho.

LEWISTON TRIBUNE

DYNAMITERS OF LOW AND OF HIGH ESTATE.

Senator Borah made a fine speech last night—fine and high and wise. The lawlessness of labor agitators finds a fit parallel in the lawlessness of finance, and wherein suffering society has tolerated both, for reasons not far to seek. We think, however, Senator Borah has stopped short of the truth, the vital underlying truth to which can be traced the main cause of the evils he so strongly sets forth. Back of the dynamiter, behind the depredations of frenzied finance, can—or rather, could—be found the candidate for votes, the party organizers and whips, who have winked at the lawlessness of the mob and taken campaign funds from the representatives of the interests, and been sustained at the polls over and over again by the special pleaders for party regularity and party solidarity. The fat placeman in public office or in party power is sometimes the real dynamiter, and the half-witted or drunken fellow who actually handles the explosive may be merely the pitiful dupe of a treacherable—loyalty, preached alike in behalf of a vicious partyism as well as of a labor unionism.

"We do not need a new faith," says Senator Borah; "we do not need a new gospel; we need rather to preach the creed of Washington and Jefferson and Jackson and Lincoln with a tongue of fire throughout the land." And that is true, in its broadest sense. We certainly do not want to repudiate and destroy the form of government organized and developed by them, merely as a means of escaping from the cowardice and trickeries of a handful of shabby politicians flourishing under the excuse of party loyalty and regularity. If we can escape by no other way we cannot escape at all and ought not to escape.

The Tribune, for itself, has no difficulty in understanding the origin and fruitage of the treasonable party spirit that has brought the country to its present state of dissatisfaction and demoralization, and sees therein no cause whatever for discouragement or political revolutionism. The majority party is less to blame than the minority party, and neither is so much to blame as an exaggerated prosperity which has never yet failed, since the world began, to bring on serious and similar penalties. We are that sort of a people and this is that sort of a world. We will be paying the same penalties under similar circumstances a thousand years hence, and as long as human nature lasts.

It is, of course, useless in a narrow sense to inveigh against bad politics or incite partyism and all that, because each man thinks his own politics and partyism better than the other sort. Still, those things merely have to run their course and until they do, artificial cures are worse than foolish. They have practically run their course now, and a better day has been ushered in. We are not going to have perfect rulers or perfect business or perfect wisdom at the ballot box. But we are going to have a very good average all around, and meanwhile we would advise men and women to proceed cautiously in abolishing the processes that have endured the stress and strain of their most critical periods, since the reformations proposed are largely of most immature and suspicious origin, besides failing to stand the test of reason or experience.

FRIDAY, DECEMBER 23, 1911.

BORAH SCORES THEM PROPERLY.

According to press reports, Senator William E. Borah of Idaho, in a speech in New York, recently, severely arraigned the McNamara dynamiters for their heinous, inhuman and murderous deed; at the same time Senator Borah also arraigned the trust magnates and monopolists for their outrageous violations of the law, placing them in the same class as lawbreakers with the McNamara dynamiters.

In a sense the trust magnates are more dangerous to society and government than the dynamiters, for, while the dynamiters may kill and destroy a few people by their violent methods, the trust magnates, by CORRUPTING and CONTROLLING the NECESSITIES OF LIFE, KILL AND DESTROY THOUSANDS OF PEOPLE by bringing HUNGER, STARVATION AND DEATH TO THEM.

The trust magnate is SOLELY RESPONSIBLE FOR THE UNIVERSAL UNREST AND DISCONTENT IN THE UNITED STATES TODAY. His monopolistic methods and manipulations and depredations have brought DISTRESS, DISASTER and RUIN to MILLIONS OF PEOPLE in the land.

It is gratifying to note the fact that there are such fearless men like Senator Borah, who are brave and outspoken enough to condemn evils in public speech, where such condemnation is needed. The trouble in the past has been that too many public men have had padlocks on their mouths. They were too cowardly to condemn existing evils, preferring to pursue the "even tenor of their way," while the monopolist fastened his grip upon the Nation's resources.

If the press and the public men had, in years ago, courageously condemned and denounced the evils of monopoly at their very inception, this Nation today would not be suffering from its blighting curse.

The fearless man today who arraigns the trust and monopoly evils as abuses, "shines like a good deed in a naughty world." He is, indeed, a "bright particular star" in the present, a veritable sentinel watch-tower of the people.

If this Nation is saved from the rock which has destroyed all other Republican Nations in the past, it must be saved by those who are oppressed and burdened; the monopolists and powerful special privilege class do not feel the need of any change—in short, they have secured their wealth, as a rule, by forming trusts and combinations to plunder and rob the masses.

There must be a great awakening on the part of the "great plain people" of the United States, in order to put down the monopolist lawbreakers on the one hand and the dynamiters on the other. Just how nearly related is the one class of anarchists to the other we can not say. But the time has come to destroy both classes of lawbreakers and dynamiters in order that the masses may have peace, justice and a square deal.

PATTERSON, N. J.
DEC 21 1911

BORAH LIFTS THE VEIL.

Before the New York Republican club and in the presence of President Taft, Senator Borah, one of the Progressive Republican leaders, handed over, last night about conditions in a way that made President Taft and the other guests sit up and take notice.

"I am in full sympathy with those who are at war with existing conditions," said Senator Borah.

"I am not one of those who believe that our present institutions are not vulnerable to the same sapping and destructive influences which have undermined and destroyed other republics. But I believe we are yet too young to die and ought to be too young to be discouraged.

"Even if I were going as a party to continue to yield to the cupidity of self and compromise with the selfishness of others, I would at least recognize the demands of those who still place their country above the dollar and regard the enforcement of equal and effective laws for all as above every other blessing which government can bestow.

"What shall it profit that we devise plans and enact statutes for the protection of human life or property or the regulation and guidance of our vast business interests, if every man is to be a law unto himself? The bedrock, the granite formation upon which great civilizations and powerful governments are built, is obedience to the law.

There are thousands and thousands of people, with the number daily increasing, who would like to feel that justice can be administered alike to the rich and the poor, and that we have not one government for the honest business man trying to be right, and another for those who are ruthlessly preying upon the rights of others and of the public.

"In the archives of our highest judicial tribunal you will find the full record of two of the late trust decisions. It is a tale twice told of selfishness and greed, of extortion and lawlessness. The plea of justification is not unlike the plea of the plotters of dynamite, for although the acts are clearly and manifestly in violation of the law and the rights of the public, it is claimed, nevertheless, that it was all done in the interests of business growth and industrial progress.

"I do not exaggerate and I do not misstate or overstate the unwelcome and accusing data at hand when I declare to you tonight that we are even now in our youth the most lawless of any of the great civilized nations. There is no country of first importance where there is so little respect for the law.

"It is not alone the things which are condemned by the rule of reason, but also by the dictates of conscience and common honesty, of which the public justly complains. I do not enter upon a defense of our anti-trust laws; I am frank to say I doubt both its efficiency and completeness. But it is the law, and if half the energy and ingenuity of our business men had been put forth to perfect it that has been expended in an effort to successfully violate it and render it worthless, we would long ago have had a law which would protect legitimate business and would have made all business legitimate."

PORTLAND TUESDAY, JANUARY 3, 1912.

Oregonian
NATIONAL SIN.

"There is no place," said Senator Borah, in his recent remarkable address before the Young Republican Club of New York, "where life is so insecure against the bomb or the bullet, where criminal laws are so ineffectually enforced, where corruption is so little condemned by public opinion, where defiance of law in the highest walks of business so generally prevails." The severe indictment of the eloquent Idaho Senator was against the entire people of the United States. The impotence of law-enforcement and the shameful indifference of the public toward the law he declared to be "our National sin, pervading all classes and fastening its demoralizing hold upon all our institutions."

The justifiable words of Senator Borah were recalled to The Oregonian by an article in The Oregonian Sunday about the course of justice in Multnomah County. Statistics were printed to show that 379 persons had been indicted for various offenses in the first eleven months of 1911. Of the 372, twenty-one—about 5 per cent—were sent to the penitentiary. Ninety-nine of the 329—or less than one-third

—were found guilty, but fifty-three of the ninety-nine escaped the penalty of their crimes by being released on parole by the court.

It is not the purpose of The Oregonian to fasten primary responsibility for this lamentable situation upon the courts, but to hold directly accountable the spirit of lawlessness of the people—or rather their light and unconcerned attitude toward the law and their capricious and indignant view of crime and criminals. It is easy to understand that a judge may be impetioned to show leniency toward every culprit who may happen to have sympathetic friends or a dependent family; and it is also easy to see why he should be influenced toward a modification of the law's severe judgment in individual cases when the laws are purposely framed so that the way of the transgressor shall not be hard. The path of the criminal nowadays is strewn with the persuasive tears of appealing relatives or the potent pleadings of meddling humanitarians, so that the exact course of justice is diverted into coddling evasion and downright defeat.

A foul murder is committed, and the instrumentalities of the law through the ingenious devices of lawyers are invoked to secure immunity from punishment. But if perchance the assassin is convicted, and jury and judge decree that he shall pay the full penalty, the scaffold is wrecked by a Governor, the hangman's rope is cut into bits and distributed as souvenirs among weeping spectators and admiring fellow-concretists, and the lucky murderer is showered with flowers and congratulations.

If perchance a villainous LeCharte, after a long career of debauchery and list, is brought to book for the ruin of young girls and is found guilty, the jury and judge think their duty ends when they turn the accused's loose with a hypothetical but invisible scarlet letter pinned to his breast.

If a criminal is perchance sent to the penitentiary, he is, or is likely to be, paroled or "honored" by the Governor; if he is freed by the court, or escapes through quibble, or trick, or neglect, or collusion, he is a smart fellow, and the public regards him with a feeling almost akin to respect. The criminal, in or out of prison, the public ought to despise, and the law ought always to punish.

The cure for this deplorable condition is not more law, as the public appears to fancy, but more rigid law enforcement. We have law enough—far more than enough. But we have not enough regard for law, and because we have not, we fancy that the remedy for our own weakness or laxity is more and more law.

When we take care to elect law officers who we know will enforce the law, and when we insist that the law is the law and must be obeyed, then shall we find corporations under just and proper restraint and individuals under correct discipline. When society does its duty to itself through its stern insistence upon law observance, there will be less crime and fewer, far fewer, criminals.

THE CRY OF THE WRETCHED.

It was a striking address that was made by Senator Borah last evening at New York, and printed on another page. It gave utterance to that innate sense of the people that something must be wrong in a nation as wealthy as this, where many go hungry while others revel, and where those who revel are generally far from the most deserving, while those who go hungry are not always the lazy and the shiftless. There is the source, which Senator Borah says, makes this the most lawless nation in the world, the nation where—despite civilization and highly organized law protection, life is most insecure from assassin, from bomb throwers, from wealthy manufacturers, from perverted labor conspirators. It is a terrific arraignment, but is it not well once in a while to turn aside from self-felicitation to look into the abyss, which it seems yawns straight ahead?

As writes a recent Denver poet:
"Almighty God!

Hearst Thou not the groans of the
oppressed?
Seest Thou not the hopeless tears
that fall
From eyes grown dim with weeping
and with work?
Hearst Thou not the prayers that
from the whole
Wide world the wretched daily raise
to Thee?
"How long, O Lord, how long!" they
cry, and wait
Thine answer, which so long has
been delayed.
Wouldst thou mightiest speak to men
from out high Heaven.
As in the days of old 'tis said Thou
didst;
So that the ears, fast closed unto
the prayers
Of the afflicted, needs must hear Thy
voice.
Speak, then, we pray that all the
world may hear;
Strike down the heavy hand of
grasping greed;
Strike off the chains that millions
wear today;
Life up the struggling bondman of
the world;
Say to each crushed and hopeless son
of toil,
"Stand up, oh Man, and claim thy
heritage—
Freedom, and goodly share of all the
wealth
Thy labor doth create! It is thy
due."
Speak out, O God, that thoughtless
ones may think;
That careless ones may note the
harm they do;
That hearts with selfishness encrust-
ed now
May beat with sympathy, and all the
world
Own and proclaim the Brotherhood of
Man!"

DEC 23 1911

The Law We Flee.

The lawlessness of America is perhaps our gravest sin, and it is certainly the most popular with critics, friendly and unfriendly. A dozen years ago it was Mr. RICHARD KIPLING who described the "American Spirit":

That bids him flout the law he makes,
That bids him make the law he flouts.

Recently, when Mr. KIPLING helped to persuade the Canadians into their gigantic blunder, he picked out the appalling murder statistics of our country as evidence of our undesirability as neighbors. Nor was he one who more severe than was Senator BORAH of Idaho, for example, in addressing the Young Republican Club in this city the other night. "A national disease," this Western insurgent rated our contempt for law.

I do not exaggerate and I do not mistake or appropriate the anonymous and sounding data at hand when I declare to you tonight that we are even now in our youth the most lawless of any of the great civilized nations. There is no country of that importance which there is in this respect. Not the law because it is the last—the last vestige, the last remnant of the sovereign power, as they in our own regard.

Some aver that this class and some that. Some aver that the courts and some whom the way, with justice; but the fact is that it is our national sin, pervading all classes and forming the dominating hold upon all our institutions.

Now the facts are unquestionably with their critics, and we have no wish to underestimate the evil which they lament. But, inasmuch as the dark side of the picture has been painted so frequently, it seems worth while to point out some considerations which at least give us a ray of hope in our wanderings. The first is suggested by Senator BORAH's own language to the effect that "even now in our youth" we are the most lawless. The implication seems to be that having fallen so far in our childhood we are certain to perform worse horrors as we reach maturity. As a matter of fact, the analogy points in a quite contrary direction. The lawlessness of a young community is as explicable as the lawlessness of a growing boy. Our frontier communities have necessarily developed in an atmosphere of lawbreaking wherein the only certain law was a six-shooter. The transition from vigilance committees to grand and petit juries is a slow business, even where the individuals inherit an instinct for law and order. Of course, the bulk of our communities have now reached manhood, and the necessities of the past form no continuing excuse for the future. But the past is certainly worth recurring to as a partial explanation of the present and a foundation of some hope in the face of despondent criticism.

There is, too, the significant fact that law has, to some extent at least, been brought into disrepute, not unjustly for its virtues, but justly for reason of its vices. The efforts of our

reformers to transform law from the common law institution of a rule expressing a well-nigh universal custom to a rule flatterly thwarting the habits of many, have had an obvious consequence. The influence of such legislation upon normal human nature was pointed out in these columns yesterday. And we are inclined to think that far more of the current attitude toward law than is commonly supposed must be laid at the door of the futile efforts to legislate morality into fainthearted human nature. One of the great sources of the Anglo-Saxon respect for law was the fact that the law was but a codification of public custom and never endeavored to go counter to the instincts of the mass of the people. Here in America of late years law has too often been turned from its course of regulating public conduct into a machine for manufacturing private morals. The consequence has been the frequent, habitual breaking of petty, liberty restricting statutes, followed by a general contempt for law as an unavoidable consequence.

Such encouragement as may be drawn from the foregoing point of view flows from the nature of the public attitude depicted. To take Senator BORAH's metaphor, the disease in question is not so much constitutional as the product of unsanitary conditions. The removal of these conditions, however, will be no easy task. The habit of legislating has taken hold of our country and is an ingrained habit. No matter what public or private ill comes into the limelight, the effort to remove it by a batch of laws is swift to appear. It promises to be a long, slow road back to the sound view that law cannot perfect morals beyond the will and habit of the bulk of the people.

And, it seems safe to assert, so long as the law is an ass there will be men to flout it.

Calliente, Nev.
Prospector.

W. E. Borah, U. S. Senator from Idaho, in commenting on present conditions, before a young men's organization in New York, said: "I sympathize sincerely with the man who is hungry or his disappointment, in discouragement or despair, thinks he can better conditions by taking the law into his own hands. In the hour in which order shall be driven from its high place in the temple of liberty, in the fearful struggle to follow, the first man to go to the bottom to remain there will be the man who toils."

"But how shall we excuse or long sympathize with the man of influence and position, of wealth and prestige, who still by word and deed teaches disrespect for or defiance of the law? Does he not know that it is useless to long expect law and order in the common walks of life when lawlessness reigns supreme in the upper air?"

TAFT PLEADS FOR REPUBLICAN UNITY

President Speaks in His Best
Vein at New York Club
Dinner

Senator Borah Gives Fiery Denun-
ciation of Lawlessness and
Wives Approval of Executive

NEW YORK, Dec. 20.—President Taft left New York at midnight to return to the White House after thirty busy hours in New York, declaring in the last several addresses which he made that one of the chief faults of this age is that people are living too fast.

In his visit here the President spoke at five dinners. His last speech was before the New York Young Republican Club at a dinner given in his honor. He appeared just as Senator Borah, of Idaho, was scheduled to speak and listened attentively to a stirring address by the Western Senator. With language which the President later described as having great force, imagery and poetry, Senator Borah stated "lawless big business" in a way that brought demonstrations of applause. The President, in his speech, agreed with Senator Borah that the country had defects and that it was the business of the people to overcome them.

"The chief of its defects," he said, "is the loss somewhat of that respect for law which we inherited from across the sea. We have struggled with conditions and in prosperity have met harder tests than the Puritan met. His time do not hold the law as sacred as we should. I don't believe we hold anything quite as sacred as we should."

Reform Criminal Procedure

The President pointed to the tendency of the age toward faster living and pleasure, and from this turned to the necessity of improvement of criminal procedure. "Whatever the machinery is, it does not have the backing of public opinion," he said. "So long as we have headlines that make heroes of murderers, we are not going to have the improvement we need."

Speaking in optimistic strain, the President continued:

"I am a profound believer in party. Nothing has come in the way of real improvement in the history of our country that cannot be placed to party organization. Effective reform can be made but in two ways: either inside the party or by the breaking up of the old party and the founding of a new one. The question for every man is—has the party to which he is attached the material in it to carry out his ideas for reform, or is it necessary for him to join a new party to gain them? As I look into your faces I still have hope for the redemption of the Republican Party."

"We have a curious condition in Washington which I hope will work itself out in such a manner that when the national issues come up next November things will have shaped themselves so clearly that everyone will know the principle which he can support, unclouded by demagoguery or misrepresentation. So the sound of one party will

be put against the sound of the party which seeks to supplant it.

"That issue," he concluded, "will be decided by the votes of the sovereignty of this country."

Compared to Dynamiters

In the address of Senator Borah, the President declared it had delighted him to listen. It pleased him in every word for "lawless big business" and little violators of the law as well. He drew a significant comparison between the McNamara, the confessed dynamiter, and the old Standard Oil and Tobacco companies.

"To save their worthless lives," he said, referring to the dynamiters, "they entered pleas of guilty, insisting that they did it all for profit and expect an astonished world to accept their whining apologies."

There is another court record which we will in passing note also. Bound up in many volumes you will find the full record of two of the late noted decisions. It is a tale twice told, of selfishness and greed, extortion and lawlessness. The plea of justification is not unlike the plea of the planters of dynamite, for although the acts are clearly in violation of law and the rights of the public, it is claimed, nevertheless, that it was all done in the interest of business growth and industrial progress.

Obedience to the law, Senator Borah said, was the bedrock on which powerful governments are built, and he believed this a time when a political party could afford to make it a cardinal tenet of its faith. In no other first rate nation, he said, is law so disregarded as in the United States.

August T. S. Trappett, Journalist

The Spokesman-Review

ESTABLISHED MAY 12, 1884.
Published Daily at
SPOKANE, WASH.

Senator Borah's Sweeping Indictment of the American People.

There is no place where life is so insecure against bomb or bullet, criminal laws so ineffectually enforced, corruption so little condemned by public opinion and defiance of law by the highest business so prevalent as in the United States.

This is a tremendous indictment of an entire people. Its force and weight chiefly depend on the man heeded it.

Is the speaker a foreigner or an American? Is he an irresponsible agitator or a person of consequence and of standing with chiefly sober-minded folk?

It is no less a personage than Senator Borah of Idaho; and he stung states facts that every honest-minded and well-informed person in this country knows to be the sad truth.

Abraham Lincoln, about 50 years ago, warned his countrymen that the spirit of lawlessness was the greatest danger menacing ahead of American society. His keen and prescient forecast has been verified by the anarchist and the trust, by the tycoon and the corrupt public official, by the capitalist who steals or purchases franchises and by the dynamiter, who deceives himself into believing that he serves labor by committing crimes of violence.

This lawlessness is the positive and backward action of the want of reverence and love for law. This want is

the real disease that lawlessness is the symptom. No enforcement of law, however fearless, impartial and thorough, can achieve more than partial results in bringing about reverence for law. Such remedies, though indispensable, do not remove the disease.

The trouble at bottom is a moral trouble. Modern men, especially Americans, think too much of their rights and too little of their duties, especially of obedience to human authority—individuals and society—and the state needs a rational return in regard for the principles of authority.

The moral law within us and the sense of responsibility to that power not ourselves who makes for righteousness supply the sole authority that inspires reverence for law and exercises the spirit of lawlessness.

Spokane, Dec. 20, 1917

LAWLESSNESS BIG BUSINESS.

Senator Borah, in his speech before the United States senate a few days ago declared that "lawless big business" and "little violators of the law" were alike to blame for present conditions. He drew significant comparison between the McNamaras, the confessed dynamiters, and the old Standard Oil and Tobacco companies. He spoke of the confession of the McNamaras and said:

"There is another court record which we will in passing note also. Bound up in many volumes you will find the full record of two of the late noted decisions. It is a tale twice told, of selfishness and greed, extortion and lawlessness. The plea of justification is not unlike the plea of the planters of dynamite, for although the acts are clearly in violation of law and the rights of the public, it is nevertheless asserted that it was done in the interest of business growth and industrial progress."

Senator Borah continued with a fine passage referring to the enforcement of law:

"There is no nation where life is so insecure against bomb or bullet, where criminal laws are so ineffectually enforced, where corruption is so little condemned in public opinion, and where defiance of law in the highest circles of business life so generally prevails. To leave law unenforced, to cultivate a disregard for its obligations is to follow the ground so that in after years there may be one law for the poor and another for the rich.

If such a condition continues to exist the senator feared a revolution. Well-nigh all students of our times fear such revolution. As the average of education increases the likelihood of a deep-seated dissatisfaction at the injustices of government becomes more apparent.

Wilmington, N.C. Free Press
Tuesday, Dec. 28, 1911

BORAH ON LAWLESSNESS.

We hope that Senator Borah will see to it that his address before the New York Young Republican club last week will receive wider and fuller currency than the public prints were able to give.

American lawlessness is a little enough there, but the manner in which the Idaho statesman presented it was fresh and especially vigorous.

The habitual contempt for city ordinances, the common violation of Sunday laws, the disregard of statutes by juries for sentimental and other reasons, the persistence of crimes of violence, the lawlessness of labor and the lawlessness of capital were all grouped by Senator Borah under one head as examples of the characteristic and increasing American disregard for law; and he had no more apt examples for one than for another.

"We have come," he said, "to carry with us the mental reservation in our professed loyalty to the government that we will obey only such laws as in our individual judgment seem wise—which, of course, is the essence of anarchy, the fearful disease of republics."

Particularly impressive was Senator Borah's parallel between the crimes of the McNamara's and their plea that they were acting for a principle and the crimes of the deliberate violators of the Sherman law and their plea that they were doing the economically inevitable.

When citizens, like the trust magnates, who owe so much to the protection of the government, on its enforcement of law and order, "sit down in their offices with trained lawyers and plan how they may violate the law and still evade its penal provisions," a procedure definitely calculated to discredit and defeat the law, they are setting an example in lawlessness, dangerous alike to the country and to their own interests.

The plea that business prosperity demands such anarchy is, as Senator Borah says, no more to be tolerated than the plea of the McNamara's that the interests of labor compelled the use of dynamite.

The senator pleaded for stricter enforcement of the law all along the line, whether the offense be small or great. He asked for less law making and more law enforcement. "What shall it profit," he asked, "to devise plans and enact statutes if every man is to be a law unto himself?"

Few thinking men and women who appreciate our national course of lawlessness will refuse to disagree with Senator Borah when he concludes that a greater respect for the law's sanctity is prerequisite to any far-reaching and enduring progress of the nation.

From _____
Address _____
Date _____

ELIZABETH
DEC 28 1911

OUR RESPECT FOR LAW.

Senator Borah's arraignment of Americans for their lack of respect for law was doubtless in a large measure merited. There is, as the Senator said, too much evidence of an indifference on the part of business to do what they wish done without regard to either law or morals, and at the other end of the line, there is a disposition on the part of men like the McNamaras to become a law unto themselves. The one is just as dangerous as the other.

There can be little question that in some respects, at least, they do these things better in European countries than on this side of the Atlantic. In most civilized countries the masses of people are trained to have an instinctive respect for the law. Yet peculiarly enough, our prison records show that the same peoples when they come to this country depart from the ways their feet have been taught to follow.

Statistics just made public by those in charge of the State prison at Trenton show, for example, that out of a prison population of 1,120 on November 1, but 255 were born in the State of New Jersey, although about three fifths were born in the country. The proportion of foreign-born in Trenton prison is, however, out of all proportion to the foreign-born in the State, which falls far short of two-fifths.

Especially startling is the showing that 229 of the total number of inmates are Italians, as compared to 314 from all other countries. This is again out of all proportion to the number of persons of that nationality in the State.

It would appear that it is the American air rather than the American blood which is responsible for American lawlessness, and that the longer the families have been in this country the better able they are to resist the criminal tendency which, judging from the figures, must exist here. It will, of course, take several generations after our great flood of immigration has ceased to create a stable and distinctive Americanism similar to the nationality of some of the European countries.

WELFARE SOCIETY
INDEPENDENT
DEC 22 1911

Senator Borah's Call to
His Retreating Party

Senator Borah, of Idaho, is one of

the strong men of the republican party, one of the few members in that party who having climbed to power and power, did not immediately barter his influence to the interests. His words, spoken the other night before the Young Men's Republican club of New York are interesting. This rings true:

We do not need a new faith; we need the simplicity, the directness and self-surrender of the old. We do not need a new gospel; we need rather to preach the creed of Washington and Jefferson and Jackson and Lincoln with a tongue of fire throughout the land. We need to have constitutional morality declared as was the gospel of old to the rich and the poor.

Choose ye this day whom you will serve, the few, the selfish, the lawless, and see our party positions broken in fact and deserted by thousands of the rank and file, or the interests of the countless thousands, whose hopes and happiness lie in the direction of equal opportunities, of just and equal laws, and see our party take on the strength of the days when it defied the arrogant power of slavery and appealed to man's common sense of justice—now, as then, however, to deal not in malice and revenge, in hatred or destruction, but in equity and justice, in protection and security alike for all, rich and poor.

It is, however, rather late for Senator Borah to advise the republican party to choose whom it shall serve. The choice was made long ago, and the alliance of that party with what Senator Borah cites as "the few, the selfish and the lawless," has been both defensive and offensive. In negotiating for support in campaign times, the republican party has trafficked in privileges, and, the election won, it has consistently paid its debts to the corrupt and greedy interests with whom the deal was made.

"The interests of the countless thousands, whose hopes and happiness lie in the direction of equal opportunities," have had scant consideration at the hands of the party of which Senator Borah is a distinguished and an unusually outspoken member. Those whom the immortal Lincoln loved to refer to as the common people have had deaf ears turned to their requests and have been mercilessly exploited in

the interests of those who have made the present republican party a successful political machine.

Throughout the nation there are countless thousands of republicans

Who are wondering even now why they have so long been slaves to a party game.

Real service can be rendered the people in the next campaign. After Taft shall have been again nominated by the republican machine, if the Borahs, the LaFollettes, the Murdock and the other so-called progressives have no longer in the fetish of a party label, and with a "tongue of fire" preach throughout the land the simple doctrine of business and political honesty.

COVINGTON
BOSTON MASS
JAN 20 1911

RESPECT FOR LAW.

In recent public addresses, some prominent officials of the United States, notably the President and Senator Borah, have been quoted as saying that one of the greatest evils in the country today is the prevailing disregard for law.

There has always been disregard of law among the criminal class and that class bears no higher proportion to the total population today than it has for years past. It probably was not this class that the speakers referred to. It was probably intended to cover what is known as "big business," which is considered by some to be a greater offender against law than the man who commits theft or murder, because the latter in many cases is a moral degenerate while the former has no such excuse.

It is idle to deny that there have been those among corporate officials who have committed acts which have transgressed the law, just as there are bank officials, clergymen and politicians who have done so and are now temporarily living in involuntary retirement, but President Taft and Senator Borah did not mean to say anything about such lawless and dishonest offenders, though they are no less numerous than dishonest corporate officials.

The fact is that there are numerous laws which are so differently construed by various legal minds and so interpreted by the supreme court even as to leave their application in doubt, and further that there has been such a disregard for law in high places, that the ordinary man is either unable to ascertain when he is violating the law or has any high precedent for so doing.

It was only a few years ago that a President of the United States made a great play about the railroads giving rebates. Instances were given and indictments were obtained, but when the trail led to the door of a personal friend of the President, they were quashed.

This same President through a personal friend ignored the laws governing public lands and when frightened at the train of destruction he was causing authorized one large corporation to absorb another in what is now claimed to be a direct violation of the Sherman law.

When a President of the United States shows as little respect for the law as Theodore Roosevelt did, something can be said for individuals who have not taken an oath to uphold the constitution of the United States.

We have recited before the case of United States Steel and Mr. Wickersham. In private practice, he assured the corporation that it did not violate the Sherman law but in office he brings suit for its dissolution under that law.

Is the Steel corporation to be blamed if it no longer has any respect for either the Sherman law or for Mr. Wickersham?

President Taft must be given credit for a strict and impartial even if too zealous enforcement of the law. If his friends have been drawn into the net, he has not allowed personal friendship to influence him in any way. We are witnessing today the peculiar spectacle of public sentiment being aroused against him because of his impartial enforcement of the law and centering around his predecessor who did more than any other President in years, at least, to breed a disregard for law.

Violation of law should not be condoned in any respect; but when it is disregarded by high officials, they should be held responsible as much as the officials of any private corporation and when a law is so incomprehensible that it cannot easily be construed, it should either be amended or repealed.

If President Taft would bring as much energy to bear on the amendment of existing laws of doubtful construction as he is devoting to their enforcement, there would be less disregard for law and no excuse for its violation.

SPRINGFIELD, N.
BUSINESS AND THE LAW.

Senator Borah is quite right in saying that the powerful corporations, no less than the planters of dynamite in supposed furtherance of the interest of labor, must be made to respect and obey the law. He denounces the class of business men "who sit in their offices with trained lawyers and plan how they may evade the law and its penalties," and declares of the Sherman law that "if half the energy and ingenuity of our business men had been expended to successfully violate it and make it worthless, we would long ago have had a law which would protect all legitimate business and make all business legitimate." He thinks that men of wealth and influence who teach disrespect of law are more dangerous than those who, occasionally, as

a result of disappointment, discouragement and despair, take the law into their own hands, and doubtless he is correct.

But the senator's advice is a little misleading when he says: "We do not need a new faith; we need the simplicity, the directness and the self-surrender of the old. We do not need a new gospel; we need rather to preach the creed of Washington and Jefferson and Jackson and Lincoln with a tongue of fire throughout the land." Where should be, as he says, only one brand of morality for rich and poor, and the elemental principles of justice are as binding today as they were. Not the application of these principles varies with each epoch. The problems of today are different from those of the past. We cannot cure present ills by restoring past conditions; we must establish new conditions to fit the needs of the time. We can get inspiration from the statesman Senator Borah refers to, but after all, it is to the statesmen of today and tomorrow that we must look for the satisfaction of our needs.

The past can afford us no ready-made prescription that we can apply and thereby be rid of the troubles that beset and vex us. This fact is a part of the very law of progress, and it is best that it should be so. Great men of the past should receive due credit for wisdom and foresight in shaping the affairs of the republic, and they are actually entitled to a good deal more credit than many politicians of today—the advocates of the initiative, referendum and recall, for instance—are willing to accord them, but they could not undertake to solve all the problems of coming generations, and the policies that were good for their times are not always best for our own. Regard for the institutions of the past ought at times to give way to self-initiative, and it is a situation of that kind that confronts men of today who aim to deal wisely and scientifically with problems of business. Recent changes in this regard have been so tremendous that legislators are thrown to an exceptional extent upon their own resources.

IDAHO FALLS, IDA.
DEC 29 1911

TREMENDOUS INDICTMENT

Our justice United States senator Borah, has been extensively reported as having given expression to the following sweeping indictment of the American people:

"There is no place where life is insecure against bomb or bullet, criminal laws so ineffectually enforced, corruption so little condemned by public opinion and defiance of law by the highest business so prevalent as in the United States."

In editorial comment upon the above quoted utterance of Senator Borah, the Spokane Spokesman Review makes the following forceful statement:

"This is a tremendous indictment of an entire people. Its force and weight chiefly depend on the man behind it.

"Is the speaker a foreigner or an American? Is he an irresponsible agitator or a person of consequence and of standing with thrifty, sober-minded folk?

"It is no less a personage than Senator Borah of Idaho; and he simply states facts that every honest-minded and well-informed person in this country knows to be the sad truth.

"Abraham Lincoln, about 60 years ago, warned his countrymen that the spirit of unlawfulness was the greatest danger looming ahead of American society. His keen and prescient forecast has been verified by the anarchist and the trust, by the lyncher and the corrupt public official, by the capitalist who steals or purchases franchises and by the dynamiter, who deceives himself into believing that he serves labor by committing crimes of violence.

"This lawlessness is the positive and outward action of the want of reverence and love for law. This want is the real disease, that lawlessness the symptom. No enforcement of law, however fearless, impartial and thorough, can achieve more than partial results in bringing about reverence for law. Such remedies, though indispensable, do not remove the disease.

"The trouble at bottom is a moral trouble. Modern men, especially Americans, think too much of their rights and too little of their duties, especially of obedience to human authority. Individuals and society and the state need a rational return to regard for the principles of authority.

The moral law within us and the sense of responsibility to that Power not ourselves who makes for righteousness supply the sole authority that inspires reverence for law and quenches the spirit of lawlessness."

TRIBUNE.

305

New York City.

Address

to

DEC 23 1911

THE LAWLESS AMERICAN.

It is a pity that Senator Borah had not read the inaugural address of the new Mayor of Charleston, S. C., when he expressed himself the other night in this city on the subject of American lawlessness. That worthy's ideas of his responsibility as a public official sworn to execute the laws would have furnished another piquant illustration of the notion prevalent among the guardians as well as among the disturbers of order that there is no moral compulsion on any one to respect or enforce a law which he does not personally like.

"The Columbia State" quotes this interesting excerpt from the Mayor's oration: "My attitude in reference to the 'blind tigers' will apply also to all other 'forms of lawbreaking, whenever I conceive the law to spring from unwarrantable interference with the habits 'of the people.' In Charleston winking at the existence and operation of 'blind tigers' has become a 'habit of the people.' Charleston has never taken kindly to the dispensary or local prohibition laws of South Carolina, and the local liquor dealers have never had any difficulty in keeping their places open, even in spite of the former state dispensary police. The Mayor and the city are now so accustomed to the illicit saloons that they look upon them as venerable and deserving local institutions, to interfere with which would upset ancient usages and acquired rights. Perish the thought that any one in Charleston should take the prohibitions against the unlicensed sale of liquor too seriously! That would be challenging a comfortable habit for the purpose of setting up an uncomfortable one.

The new Mayor is at least perfectly straightforward and logical in planning to use his discretion in enforcing other laws than the liquor law. Any statute which he condemns as "springing from 'an unwarrantable interference with the 'habits of the people' is to be *ipso facto* nullified so far as his responsibilities as Mayor are concerned. The criminal code will cease to be an objective reality and become a mere set of suggestions in the consciousness of the administrator, to be acted upon or discarded according to his whims. Charleston's new chief magistrate will carry the law as well as the majesty thereof around under his hat.

Consciously or unconsciously this South Carolina burgomaster has merely proclaimed the spirit of lawlessness which others worship obliquely in secret. He is for the law which suits him and for no other, and has no qualms about letting the whole world know where he stands. As an advanced type of the lawless American he would have graced the gallery of exhibits unveiled by Senator Borah the other night.

LAWLESSNESS THE NATIONAL SIN.

That was a thrilling and wholesome preaching of Senator Borah of Idaho before the Young Republican Club in which he compared the dastardly crime of the McNamaras and "their whining apologies" and the two-fold tide of "selfishness and greed, of extortion and lawlessness" of two great trusts, with their idea of justification "that it was all done in the interest of business growth and industrial progress." From these and other events of the kind the Senator drew the conclusion that "there is no country of first importance where there is so little respect for the law because it is the law, the last expression of the sovereign power, as in this republic." "There is no place," he said, "where life is so insecure against the bomb or the bullet, where criminal laws are so ineffectually enforced, where corruption is so little condemned by public opinion, where defiance of law in the highest value of business so generally prevails." He declared that it was not the fault of any one class, but "our national sin, pervading all classes and fastening its demoralizing hold upon all our institutions."

This is a rather strong "indictment of a whole people," and contains the element of exaggeration so characteristic of fervid oratory; but there is much truth to give it force as a timely utterance. But there is more than one side to the case as in other sweeping indictments. This is a country of too much law as well as too much lawlessness, too much hasty and conflicting legislation, too many statutes and judgments which are not calculated to command respect. Where laws are too lightly and carelessly made a disrespect for them will inevitably be nurtured. Laws which curtail liberty more than the sentiment of a community will endure, like some of our prohibition laws and Sunday laws, invite evasion and lax enforcement and breed the spirit of disrespect for law. Our tariff laws with their exactions and espionage, their interference with what to many seem like natural and inalienable rights, have done much to demoralize the sense of reverence and obedience to government authority.

Many influences have been at work on both sides that of lawmakers and that of subjects of the law, to bring about the state of things which is so much deplored. That does not justify or excuse defiance or disobedience of "human statute" meant to "purge the common weal," but it should impress the lesson of responsibility for public order and the law-abiding spirit upon those who make and administer the law. It is a prominent sign that the perilous condition has awakened a general consciousness of the evils and a study of their causes. There was more danger when these were growing up almost unheeded. Practice is no worse than it long has been, but its iniquity is more keenly realized and more generally condemned. There are more earnest appeals for its correction and the remedy of its causes. There is an awakening which gives hope of speedy amendment. The unrest of the time is more promising than squalid.

OREGONIAN
PORTLAND, OREGON

LAWLESSNESS AT BOTH EXTREMES.

The Commercial and Financial Chronicle is always ready with approval for any denunciation of the criminal poor, the labor dynamiter and slagger, but it grows virtuously indignant when Senator Borah extends his condemnation to the criminal rich. Mr. Borah truly said that law is defied in the highest walks of business. Lawlessness in that quarter provokes it at the other extreme of the social scale, for the delusion that two blacks make a white still prevails. Only a minority of rich men may be lawless, and Mr. Borah did not charge that contempt for law was general among them, but it is practiced and voiced by enough to furnish a plausible excuse for such men as the McNamaras.

The Chronicle also charges ex-President Roosevelt with exploiting crime "when he denounced wealth and great fortunes and large business combinations." Neither Mr. Borah nor Mr. Roosevelt denounced all wealth; they denounced only ill-gotten wealth. Neither of them denounced all large business combinations; they denounced only business combinations formed and continued in defiance of law. Mr. Roosevelt with equal vehemence denounced crimes committed in the name of labor and he carefully discriminated between the law-abiding and the lawless among rich and poor alike.

The fault Mr. president is supposed to charge the Chronicle is "not with the public, but with the lawmakers," whom it accuses of being controlled by "pettles, pure and simple." But who except the public makes the lawmakers?

Then the public is responsible for lawlessness. The remedy lies in a deeper sense of responsibility on the part of the individual voter. Let each citizen cast his vote for the man who will make a good public servant, not for the "good fellow," "one of our crowd," or one who "belongs to my lodge"; let him scrupulously observe the law himself and back up the public servant in enforcement of the law, even against his own crowd and his own lodge members. Then lawlessness will soon be reduced to a minimum. We repeat, the responsibility for lawlessness comes back to the individual citizen.

CLIPPING FROM

Manistowic Record
Jackson, Mich., Patriot
THURSDAY, DECEMBER 24, 1914

BORAH ON LAWLESSNESS.

We hope that Senator Borah will see to it that his address be

fore the New York Young Republican club last week will receive wider and fuller currency than the public prints were able to give.

American lawlessness is a trite enough theme, but the manner in which the Idaho state man presented it was fresh and superbly vigorous.

The habitual contempt for city ordinances, the common violation of Sunday laws, the disregard of statutes by juries for sentimental and other reasons, the prevalence of crimes of violence, the lawlessness of labor and the lawlessness of capital were all grouped by Senator Borah under one head as examples of the characteristic and increasing American disregard for law; and he had no more extenuation for one than for another.

"We have come," he said, "to carry with us the mental reservation in our professed loyalty to the government that we will obey only such laws as in our individual judgment seem wise—which of course, is the essence of anarchy the fearful disease of republicans.

Particularly impressive was Senator Borah's parallel between the crimes of the McNamaras and their plea that they were acting for a principle and the crimes of the Sherran law and their plea that they were doing the economically inevitable.

When citizens, like the trust magnates who owe so much to the protection of the government of its enforcement law and order, "sit down in their offices with trained lawyers and plan how they may violate the law and still evade its penal provisions, a procedure definitely calculated to discredit and defeat the law, they are setting an example in

lawlessness, dangerous alike to the country and to their own interests.

The plea that business prosperity demands such anarchy is, as Senator Borah says, no more to be tolerated than the plea of the McNamaras that the interests of labor compelled the use of dynamite.

The Senator plead for stricter enforcement of the law all along the line, whether the offense be small or great. He asked for less lawmaking and more law enforcement. "What shall it profit," he asked, "to devise plans and enact statutes if every man is to be a law unto himself?"

Few thinking men and women who appreciate our national curse of lawlessness will refuse to disagree with Senator Borah when he concludes that a greater respect for the law's sanctity is prerequisite to any far-reaching and lasting progress of the nation.

STOCK MARKET WA...
dress

le

Senator Borah's Sweeping Indictment of the American People.

There is no place where life is so insecure against being ruined as in this country. The law is enforced or not as it is defined by public opinion and defiance of law by the highest business is prevalent as in the United States.

This is a tremendous indictment of an entire people. Its force and weight chiefly depend on the man behind it.

Is the speaker a "foreigner or an American?" Is he an irresponsible agitator or a person of consequence and of standing with thrifty, sober-minded folk?

It is no less a personage than Senator Borah of Idaho; and he simply states facts that every honest-minded and well-informed person in this country knows to be the sad truth.

Abraham Lincoln, about 50 years ago warned his countrymen that the spirit of lawlessness was the greatest danger looming ahead of American society. It has been and presently foremost has been verified by the anarchist and the trust, by the lawyer and the corrupt public official, by the

capitalist who steals or purchases
dishonest and by the dynamiter, who
denies himself into believing that
he serves labor by committing crimes
of violence.

This lawlessness is the positive and
outward action of the want of rever-
ence and love for law. This want is
the real disease, that lawlessness the
symptom. No enforcement of law,
however feeble, impartial and thor-
ough, can achieve more than partial
results in bringing about reverence
for law. Such impediments though in-
dispensable, do not remove the dis-
ease.

The trouble at bottom is a moral
weakness. Masters—men, especially
Americans, think too much of their
rights and too little of their duties,
especially of obedience to human au-
thority. Individuals and society and
the state need a rational return to
regard for the principles of authority.

The moral law within us and the
sense of responsibility to that Power
not ourselves who makes for right-
nesses supply the sole authority
that inspires reverence for law and
abolishes the spirit of lawlessness.

WILMINGTON, DE.
Address _____
Date DEC 22 1911

RESPECT FOR LAW.

In his speech before the Young Re-
publican Club in New York city on
Wednesday night, Senator Borah
deplord the growing disre-
spect for the law, offering as evi-
dence the oil and tobacco companies
on the one side and the McNamara
conspiracy on the other side, and ad-
vocated a return to the fundamental
of the country's forefathers as the
remedy for the present tendency.

President Taft took the remarks of
Senator Borah as the basis of his
comments. He deplored the condi-
tions as they exist, yet saw that the
way to clear the air was for all right-
minded men to get together and work
in harmony "so that demagoguery may
disappear, so that the people may
know and understand the issues
clearly." The keynote of better con-
ditions is the enforcement of the law.
That enforcement was revealed in the
trust cases and in the dynamite cases.
And it was gratifying to find that the
confessions of the McNamara was
followed by a hearty and unanimous
demand throughout the country for
the punishment of the conspirators.

All offenders against the law—no
matter in what shape they are re-
vealed—must be treated in the same
way. The great combinations of cap-
ital, which violate the law, are being
held down to the letter of the law.
The conspiracy of dynamite is being

run down. But it must not be for-
gotten that the instigators of much of
the unrest are the so-called "re-
formers," designated by President
Roosevelt as the "muck-rakers." They
have resorted to the magnifying of
conditions and they have distorted
and misrepresented so much that the
minds of some of their readers have
been warped.

The educated demagogue is the one
who is responsible. Instead of preach-
ing the gospel of love and respect for
law, there has been preached the
gospel of hate. Even a minister now
and then seeks to secure temporary
popularity by appealing to passion in-
stead of to reason. Political animosi-
ties are responsible for much of the
unrest upon the part of the unthink-
ing. But the conditions are being
bettered by reason of the confessions
of the McNamara, by recent deci-
sions of the Supreme Court, and the
evident desire of other offending cor-
porations to adjust their affairs.

Most of the ills complained of are
the making of the people themselves.
They need to cultivate the spirit of
Christian charity and good will, par-
ticularly at this season. They need
to cease magnifying that which may
seem wrong, and to lay more stress
on what is good. The good out-
balances the bad, and when it is found
that there is an increasing demand
for a cessation of wrong doing, and
more respect for the recognition of
the law and the rights of others, the
outlook is good. Without respect for
the law happiness cannot come. What
President Taft had to say on Wednes-
day, and what Senator Borah had to
say are to be commended. They re-
alize that there is something wrong,
but they both have faith—as every-
body ought to have—in what is known
as "the saving remnant."

On the Year Book
Friday, Dec. 22, 1911.

Crime is Crime.

Senator Borah's address on re-
spect for law and enforcement of law is
one of the most trenchant arraigment's
high-toned outlavery ever
heard beneath. He undertook to
show that long-studied violation of
law by predatory interests was just
as heinous as deliberate violence by
obscure individuals. He proved his
case conclusively. There is nothing
especially new in what the Idaho
senator said, but his pungent gives
a keenness to old truths which must
cut deep into the convictions of the
people and make them think more
seriously upon this, one of the most
important subjects demanding their
attention.

Some of Senator Borah's state-
ments are shocking, as, for instance,
that crimes committed by big busi-
ness, that sits in the quiet of its

office with trained lawyers and
studies how to violate the law, are
as bad as those done by the planters
of dynamite. It takes the truck in
its most shocking forms sometimes
to force it upon people. Dynamiting
he condemns with fierce invective,
but a thousand dynamitings would
not condemn these other industrial
evils this country has complacently
put up with for so many years. The
dynamiters whined out the excuse
that they acted in the interest of
business growth and industrial pro-
gress. "This is the best and only
plan of the other outlaws," says Sen-
ator Borah.

More is expected, and rightly so,
of the man in high place than of the
one who goes about to do violent
deeds. When, therefore, this one
of whom more is expected devotes
himself, by the aid of keen lawyers,
to devise ways of doing what the
law says he shall not do, how is it
possible to say that he is not as bad
as the invasive criminal? His in-
fluence is more far-reaching. And
would there be so much of the other
sort of crime but for this high-toned
outlaw? This very thing, this pro-
fessional crime in the garb of re-
spectability, has brought on us most
of the graver problems of the day.
These interests have got to come to
a direct obedience of the law or more
serious consequences will ensue.
And it is arrant nonsense to say
that they, who can devise so many
ways of beating the law, cannot find
one way to obey it. The anti-trust
law is not all it should be, but if the
trusts had labored as hard to dis-
cover how they might conform to it,
as they have how they might not
conform to it, we would have little
need now to complain of this law.

Senator Borah is right—we do not
so much need new laws and new
principles as we need the old ones
enforced and practiced. If the
trusts cannot be now see that they
have, by their defiant ignoring of
statutes, created violent public senti-
ment, then their vision needs re-
pairing. Railing against legitimate
wealth and industry has no place in
the sanity of this country, but the
law has got to come down hard upon
illegitimate wealth and industry or,
as Senator Borah puts it, "the sol-
dier called into the street to protect
property fraternize with the
mob."

38

From **ROCHESTER**
Address _____
Date **DEC 23 1911**

Lawlessness and the Way Out.

The remark of Senator Borah in the course of his brilliant speech at the Young Men's Republican club in New York that "we are the most lawless of any of the great civilized nations" is perhaps the sweeping but unhappy American judgement, based on those deplorable facts which it would be futile to deny. Indeed, President Taft who was one of the guests, did not attempt to deny it, though with characteristic moderation he qualified what he called Senator Borah's "impassioned poetry," by saying that "this country has its defects" and that probably "our chief defect is a lack of respect for the law."

It is not difficult to determine the conditions which have created a widespread disregard for the law and a spirit which, if it were allowed to go unchecked, would bring anarchy into American life. First of all a false code of ethics has of recent years

been insidiously instilled into the minds of many people in this great republic, which was founded by men who would have readily laid down their lives in defense of the principles of liberty and justice. The popular notion that the individual who by shrewd practice, if not by positive dishonesty, can outwit his fellows, is a "smart man" expressed an ill-disguised contempt for integrity, which might well make our ancestors turn in their graves. Today America is exhibiting to the whole world a spectacle of almost unparalleled national prosperity. Even the working class can enjoy luxuries which were unknown to the wealthier portion of the early community. Success has begotten self-indulgence. We no longer believe in the abstinence, the self-denial, the simplicity of an older day. Even the doctrine of equality has been falsely and dangerously misinterpreted. Instead of equality before the law, it is equality in material possessions, in endorsements or irresponsibility that some persons desire. Another reason for the state of affairs on which Senator Borah dwelt so vehemently is the lax administration of the criminal law in this country. Murderers have been acquitted by indifferent jurymen when the evidence justifying conviction was overwhelming. Political corruption also is a cause of lawlessness. The politicians who depend on disreputable characters for the advancement of their schemes must shield their minions if they fall into the meshes of the law.

What is needed is a reawakening of the national conscience. Men must be made to feel the shame and the disgrace of dishonesty. The law must be respected. The corrupt politician must be driven out of public life, and the country must be represented by clean men. This is the only way out.

From _____
Address **BIRMINGHAM, ALA.**
Date _____

No Room for Pessimism

In a large general sense, conditions in this country, political, social and commercial, are improving. The period of business depression which followed the financial panic of 1907, is less and less in evidence. In New York, the great banking center, pessimists were numerous up to a few months ago, but optimism is now making itself felt there, and throughout the country generally.

There is a much better feeling as the year draws to a close than there was 12 months ago. The United States Steel corporation has more orders on its books than at any time since 1909. Although 1912 will be a presidential campaign year, there is reason to expect a fair degree of prosperity; and there is a widespread belief that beginning with 1913 the industrial world will witness a succession of new high records.

Men who have failed repeatedly in their worldly undertakings sometimes become cynical. Politicians often form the demagogic habit. But any men trained to view life in its larger aspects give utterance to pessimistic ideas is not easily explained. Dr. Jacob G. Schurman, president of Cornell university, educator and man of affairs, delivered an address recently in which he used these words: "We are living in an age of unrest and discontent. Never before has there been anything like it in this country. We are like men moving about under a pall which stretches to the horizon and which cannot be broken through."

Dr. Schurman happened to be in Birmingham on the night of the Underwood banquet. He was a greatly esteemed guest and on being called upon for a speech was singularly felicitous in all he said. No one who heard him on that occasion would have set him down as a pessimist. On the contrary, his speech was that of a high minded gentleman, a patriot and a hopeful prophet. In his more recent talk Dr. Schurman must have been suffering from indigestion.

At a dinner given by the New York Young Republican club last Wednesday Senator Borah of Idaho, insurgent republican, was the principal speaker. President Taft was among

the guests. The senator talked in an extremely pessimistic vein. He gave a dire warning. He seemed to think the country was going to smash. In referring to the McNamara he condemned with much bitterness labor dynamiters, just as all good citizens have done. He was strong in his appreciation of organized labor and of honest labor leaders. But he inveighed strongly against large business interests, corporate wealth and the like. He criticized the courts and saw nothing encouraging in the future.

This country has gone through many periods of stress and strain, but no depression or social or industrial unrest has ever warranted such gloomy views as Dr. Schurman's or Senator Borah's.

If conditions are not what they should be, they will not be remedied by pessimists or heavy hearted men. In political circles one hears more sound talk today than in 70 years past. No matter which party triumphs at the polls next November, it is safe to say that the platforms of the two great parties will be more conservative and freer from demagogic phrases than usual. There is as much patriotism as in other days, and patriotic men are asserting themselves in a way that will be felt. Ours is the best government under the sun, and so long as party leaders keep reasonably close to the old landmarks this republic is not going to be wrecked. Let Dr. Schurman and Senator Borah cheer up in this joyous Christmas-tide, and let them take another look and see sunshine that others see.

RECORDED
ATLANTA, GA.
DEC 21 1911

AMERICAN LAWLESSNESS.

Senator Borah of Idaho delivered a thoughtful address in New York the other day on American lawlessness, of which he has seen some instances in his own state in the excesses of the dynamitards of the McNamara grip. As examples of lawlessness there are the habitual contempt of city ordinances, the common violation of Sunday laws, the preference of the "unwritten law" to the statute law, the prevalence of crimes of violence, the lawlessness of capital as well as labor as seen in violation of the contract law, the responsibility, the resort to violence, the effort to be "law honest" which is to observe the letter while killing the spirit of the law, and so forth and so forth. These things he grouped as examples of the deplorable habit of carrying "with us a mental reservation in our professed loyalty to the government that we will obey only

such laws as by our individual judgment may seem wise—which, of course, is the essence of anarchy, the fearful disease of republics." It is remarkable that right upon the heels of the senator's deliberation should have come new and startling examples of this same habit of lawlessness. On the very next night W. D. Hayward made an incendiary speech in Cooper institute, in which he expressed sympathy with the McNamara's and declared that he despised the law and believed in the dynamite policy. "I am not a law-abiding citizen," he said, and he advised his hearers not to respect it either. This is the same Hayward who was secretary of the Western Federation of Miners and was tried for complicity in the murder of Gov. Steenburgh of Idaho—the man who was implicated by the confession of Harry Orchard, but who was acquitted for lack of corroborative evidence. Evidently Hayward is as lawless and unconvinced as ever. He is going to an extreme in denunciation of speech, and the Federation of Labor ought to disavow his utterances. Another example of the spirit of lawlessness is afforded in the inaugural address of the mayor of Charleston, S. C., in which he declared in effect that he was for enforcing laws which suited him and without enforcing others. He said he would not enforce the law against the "blind drunk," as the illicit liquor saloons are called, and that his attitude with reference to those "will apply also to all other forms of law-breaking, whenever I consider the law to spring from unwarrantable interference with the habits of the people." How like a mayor and a sheriff, and even a Governor, with a venal judge of Portland, who might be named! The Charleston Mayor has taken the law into his own hands and made himself the judge of whether it should be respected or ignored. It is absolute lawlessness, but it is less surprising coming from Charleston, the original home of nullification, than coming from a Maine executive. The difference between these official nullifiers and Hayward is simply of degree rather than of kind. One is less violent than the other. Hayward publicly sets on the law, on all laws, the others pick and choose and repudiate such laws as they do not like. What is this but anarchy?

More admirable is the course of the new mayor of Philadelphia. In Pennsylvania the sale of liquor is licensed. To sell lawfully a man must not only pay the required tax, but observe certain rules and regulations. In Philadelphia, it seems, under the loose and rotten government which has prevailed there for a long time, the rules have been disregarded, especially as to Sunday selling. An always and naturally, the saloon is essentially lawless, and when it sees that it can safely break the law and make a dollar it does so. But they had an overturn in Philadelphia last month and put in a mayor who believes that public order is a public trust and that the laws, including the liquor laws, were made to be enforced. And so for several Sundays he has had the police at work checking the "week-enders," seizing the liquors and arresting the proprietors. Mayor Wanamaker at least has no scruples about enforcing laws on the score of "unwarrantable interference with the habits of the people."

OF NORTHERN NEVADA

VOLUME 44, NO. 133.

BORAH'S IRRIGATED HOMESTEAD BILL

The provisions of the Borah irrigated homestead bill are so reasonable and fair, both to the government and the settlers, that there should be no obstacle to its passage. The bill places the government lien for the cost of reclamation on the same footing as the city places a lien on a lot for the cost of street improvements. The difference consists in the fact that the government is the owner of the irrigated land, while an individual owns the city lot, says the Portland Oregonian.

By providing that patent shall not be given the settler until he has paid 40 per cent of the charge for building irrigation works nor until the settler has put half the land under cultivation, the bill gives the government ample security for the remaining 60 per cent. This consists not only in the settler's equity represented by the 40 per cent he has paid, but in the increased value of land due to building and cultivation. At the same time the settler is enabled to borrow money on mortgage, subject to the government lien, with which to complete his improvements and buy implements for economical farming. The investment of this borrowed money adds further value to the farm and proportionately increases the government's security, at the same time adding to the settler's means of payment.

The passage of this bill, together with that of the three-year homestead bill, should do much to increase the number of settlers coming to the west and divert the flood of settlers which is being attracted to Canada by the liberal land laws of that country. Promoting the full settlement of land irrigated by the government will also increase the sums returned annually to the reclamation fund and will thus provide funds for further irrigation projects.—Malheur Enterprise.

When asked for an opinion as to the merits of the Borah irrigation homestead bill, Col. E. R. Place, who is considered an authority on irrigation matters, had the following to say of "Bill" Borah and his bills:

"The Borah bill extends a helping hand to the homesteader who is doing his utmost to provide a home for himself and family. One not familiar with the situation has little idea of what this bill means. Heretofore the settler with nothing but his hands and head as an asset was required by the law of the government to move onto the piece of land he had chosen, stay there, wait for the water to make it of any value, which in thousands of instances did not appear until long after his 5-year tenancy had expired—still he was no nearer the home base than he was when he first went to bed. He couldn't dispose of any portion of his land, couldn't mortgage it, couldn't give or get any kind of a title to the

water of the land until all the requirements of the government had been met, which included the 10 years he had to pay for the water. He might possess a valuable piece of land but it was not a commercial asset—was not a security for credit worth a "fisher's dam." Borah is a sagebrusher himself. He knows what is needed in this western country to bring about a decided change for the betterment of the settler and those dependent upon his success. Two years ago he secured \$25,000,000 from Uncle Sam for irrigation purposes. He will get \$25,000,000 more and then some. Why, his hearers believe what he says. There isn't a crooked hair in his head. Croakers and pessimists may yell their heads off about "money wasted" to attempt the reclamation of what they term the great American desert. It doesn't discourage Bill Borah—he knows he has the goods to deliver—keeps eternally sawing wood, and the people of this vast western country will wake up some day and realize that every stick in his woodpile is a bill for the betterment of every man, woman and child in the west."

St. Joseph, Mo., News and Times, Thursday, Dec. 28, 1911.

GREATER RESPECT FOR LAW.

"What shall it profit to devise plans and enact statutes if every man is to be a law unto himself?" was the pertinent question put by Senator Borah in a speech before the United States Today Republican Club recently. Answered shall it profit? Few thinking men and women who appreciate our national form of government will fail to

rise to disagree with Senator Borah when he concludes that a greater respect for the law's sanctity is prerogative to our government and our citizens during progress of the nation.

"We have come," said Senator Borah, "to carry with us the mental reservation in our professed loyalty to the government that we will obey our laws as in our individual judgment seem wise—which, of course, is the essence of anarchy, the fearful disease of republics."

True. And particularly impressive was Senator Borah's parallel between the crimes of the McNamara's and their plea that they were acting for a principle and the crimes of the deliberate violators of the Sherman law and their plea that they were doing the economically inevitable. On the other hand when citizens, like the trust magnates who owe so much to the protection of the government, on its enforcement of law and order, "sit down in their offices with trained lawyers and plan how they may violate the law and still evade its penal provisions" a procedure definitely calculated to discredit and defeat the law, they are setting an example in lawlessness, dangerous alike to the country and to their own interests.

The plea that business prosperity demands such anarchy is, as Senator Borah says, no more to be tolerated than the plea of the McNamara's that the interests of labor compelled the use of dynamite. Stricter enforcement of the law all along the line, whether the offender be small or great, is the demand of the times.

Platitudes May Amuse, but They Solve No Problems

SOME one really ought to comfort Senator Borah. His outpouring before the Young Men's Republican club in New York shows that he is indeed a man of softness and acquainted with grief; his great heart is full almost to bursting over the agonizing situation of the poor men and his frame shivers as the poignant sorrow of his bosom finds vent in sobs that make strong men shudder. The predatory rich, the manufacturers of great wealth, the erstwhile captains of finance, will do well to seek their cyclone collars for Borah is after them. Ancient Dives raised up his eyes in hell, being in torment; if Borah had his Idaho way, the modern rich men will earn very little whither he eventually gravitates in the great scheme of retribution. He will have had so much purgatory on this earth he will be accustomed to it.

Mr. Borah might with profit study the life and career of William J. Bryan. The cheerless leader has dealt in platitudes for twenty years, and what has it gotten him! Frowning at the heavens, Borah declares "we must be honest," with the carefully rehearsed gesture of denunciation, he calls down the wrath of blindfold justice upon those who are wealthy. Stern implacability hardens the lines of that rough-brown visage as he crucifies the filthy rich, and a tender smile wreathes his mobile mouth as he discusses in pathetic platitudes the sad condition of the toiler.

Platitudes are the valued ally of wrong of the politician with a lust for office and a cheerful disregard of the method by which it is achieved. Of course we must all be honest; the rich man must extend a helping hand to his less fortunate brother. The laws must be obeyed and a Christian spirit of tolerance must guide the earth. These are the basic principles of plitudinous ponderosity and the versatile demagogue can ring the changes on them ad infinitum, ad libitum, ad nauseam. Imperial Caesar won to power by arming the masses against the classes and every self-seeker has followed his example through the ages that have intervened. The fact that demagogism is less successful than formerly does not affect the argument of the logic; the people are more sophisticated, that is all.

Mr. Borah should cheer up; God waits and the government at Washington still lives. "Proclaim liberty throughout the land and to all the inhabitants thereof" was engraven on the Liberty bell and that glorious injunction has been obeyed to the spirit of American institutions ever since. As a nation we may wander from the strict path of freedom and tolerance at times, but we always return and always will. Excoriation of existing conditions without pointing the remedy avails nothing. He is a poor physician who merely diagnoses the ailment but offers no cure.

Publicists of the Borah kind add nothing to the sum total of human intelligence; they deal in self-evident truths. They stand in the marketplace and cry to all and sundry "come and hear how truly honest I am." They use the scalpel of oratory to lay bare the cancer sore that festers below the surface, but they must, perforce, turn the operation over to some more experienced surgeon who removes the effect by applying the healing lotions to the cause. America and Americans have been sufficed with advice to be good, with apologetics that ring with trite truth. We should surely by this time understand the economic malady that affects our national life; what we now need is the physician with the cure. President Taft is a good example of the latter; Senator Borah may well pose for a composite picture of the former.

LAW VIOLATION

SENATOR BORAH OF IDAHO hit the nail exactly on the head when he said the other evening in a speech delivered in New York:

"There is no place where life is so insecure against bomb and bullet; where criminal laws are so ineffectually enforced, where corruption is so little condemned in public opinion, and where defiance of law in the highest walks of business life so generally prevails."

This is a very strong impeachment of the American people and American government but it is true, nevertheless.

In no other country are the laws held in such contempt as they are here in America. This is not true of any one class, it is true of all classes. In no other country are the laws so openly, deliberately and continuously violated as they are here.

This is due, unquestionably, to two facts; one that the laws are not properly enforced and the other that there is such a multiplicity of laws that it is almost impossible to enforce them.

Let the laws be strictly enforced and let the violators be promptly and thoroughly punished and it will be found that there will be ample respect for the law. And what is more important yet, let the laws be equally enforced, and let there be no discrimination in the punishment of violators.

While deliberate law violation is culpable in any citizen it is particularly so when done by those occupying important positions. The example they set is more far reaching in its effect. This is where the big financial and business interests have much to answer for. The big trusts and combinations openly, knowingly and deliberately violated the Sherman anti-trust law and persisted in their violation until the last recourse of delay had been exhausted. For years they defied the law and now that it is being enforced they are striving to evade it.

The railroads, when the anti-rebate law was passed, deliberately

defied it and continued to violate its provisions as if they were above the law. They were aided and abetted in this by the big business interests until prison sentences stared them in the face and they were brought into obedience.

One could go on innumrating many instances where big men in business have ignored laws, and refused to submit to their regulation until forced to do so.

The example these men set of the spirit of revolt against legal regulation and control and their evident determination to place themselves above the law when it interferes with their personal desires and interests must necessarily have a bad effect on the morals of the average citizen.

SENATOR BORAH'S SPEECH.

The speech of Senator Borah a short time ago to the Young Men's Republican club in New York City has been printed and is being distributed in pamphlet form. Whether or not it is being sent out promiscuously we do not know, but it is the most forceful exposition of the civil status in this country that has been uttered in this generation. It deserves to be read by every citizen of the land and it deserves to be made the subject matter of lessons in political economy in every high school in the land.

Senator Borah uses strong language and many citizens will be slow to accept the statements of the senator on account of the serious accusations against. He says that this is the most law defying nation in the world today. Our laws are less respected because they are the laws that is characteristic of any nation in the world.

He says this disrespect of law, because it is law, is our national plague and that defiance of law in "big business" is the most flagrant of all.

There is little doubt in the minds of most citizens that there are men in the financial world who do not spend any wakeful hours in an effort to keep within the bounds of law but they do spend wakeful hours in a study to evade the law. That they are more or less successful is evident and their success creates in the minds of others a general distrust for all business.

The senator does not offer a remedy for the existing evils but his speech suggests a dire necessity of a most careful and systematic education of the coming generation for a more wholesome respect for law.

There is a significant need of a more acute understanding that if a law is bad its enforcement is as necessary as if it were good. The truly patriotic citizen is that one who is willing to abide by the laws and use his best endeavors to correct whatever evils he believes are extant.

BIG VIOLATORS, LITTLE VIOLATORS, AND OTHERS.

Senator Borah undertook the other evening to deliver a lesson which will be a very hard one for many eastern hearers to learn.

It is a strange fact that all people will applaud at eloquent appeals for the enforcement of the laws, but many will howl when such enforcement happens to fall on them. Borah struck the leaders in Big Business pretty hard when he told them that it is just as much their duty to observe the laws relative to the prohibition against restraint of trade as it is the business of labor leaders to observe the laws against destruction of property by violence.

Such specific applications of the principles of law as this will not greatly appeal to men engaged in Big Business, who spend millions of dollars in engaging the best legal talent the country possesses to find out how they may violate the laws with impunity.

This is no crazy, senseless attack upon men of wealth, or men engaged in the conduct of the larger affairs of life; it is simply a straight statement of fact with which most people are perfectly cognizant. Whether this reflects credit upon the legal profession or not, is for the members of that profession to determine. To most of us it looks as if the attorney who spends his time and talents trying to find a means whereby some rich and powerful client can successfully evade a law whose intent and purpose is perfectly plain, and who succeeds in discovering a loophole whereby such client may in reality violate the law but escape its penalties through some technicality, is just as much a law violator as is his criminal client. But we realize that we have plenty to contend with in getting after the client without inviting a fight with his attorney, so we will leave that phase of the matter for the bar associations to discuss along with their interesting advice on how to conduct a newspaper—without unduly interfering with the aims of the lawyers.

The men in charge of Big Business know that what the people want and what the laws are drafted for is a return to a reasonably free competition in trade, and they know that when they attempt to see how close they can come to preventing competition without violating such laws, they are just as much criminal at heart as are those labor leaders who try to destroy as much property of the capitalist with whom they are at war as they can without being caught at it. The difference in the crimes is one of degree rather than of intent.

The two big congressional stories of the week are right a point. In one of them we find that the interstate commerce commission, which has thoroughly investigated the subject and which is in position to know whereof it speaks, assures us that railroad rates are made with a deliberate purpose to rob us who live in the intermountain country, and that the tariff board reports, and its report is adopted and approved by the president of the United States, that we have been for years robbed by the tariff on wool which is enforced against us prohibitive rates which have worked to the benefit of the manufacturer of coarse clothing material while our foreign brethren, whom we are so prone to sympathize with, has had the finer stuffs at a less price than we have paid for the coarser.

It all shows that the people, to use a slang expression which is readily understood, "get it in the neck," merely

because the "higher-ups" are given such concessions and because they take so much which the laws have said do not belong to them.

More strength to Senator Borah and those like him who so eloquently give the people courage to fight for their rights. But still greater strength to him and to them to vote as they talk. And more and greater strength to us all, the rank and file, that we also may vote as we talk and believe and less according to the political manipulations of these same men of Big Business who work through the party organizations.

LAWLESS AND DISCOURAGED.

In the course of a speech before the New York Young Republican Club the other night, Senator Borah, of Idaho, showed as never before the vein of pessimism that is inherent in the insurgent, the so-called "progressive" Republican, who is really the greatest reactionary the United States has ever produced, says the Rochester Democrat and Chronicle. Whenever an insurgent opens his mouth he has some fault to find with existing conditions, especially with the government and the people of the United States. He sees no sunshine—naught but darkness everywhere. "I believe we are too young to die," Senator Borah said, "and ought to be too young to be discouraged."

The fundamental mistake of these insurgents is that they persistently overlook the fact that on October 20, 1907, when the panic of that year "broke loose," an era closed. They discuss matters of history as if they were still existent, and speak of certain men and conditions that have passed their zenith as if they were still in the ascendant. For example, Senator Borah said that "we are even now, in our youth, the most lawless of any of the great civilized nations."

No civilized nation, great or small, is as law-abiding as the United States. Moreover, never before in the history of the United States have the people been so powerfully moved by a knowledge of and respect for the law as now, dating apparently from the panic of 1907, but actually from the handing down of the decision in the Northern Securities case ten years ago.

The United States, in comparison with what it will be, is to-day still in its swaddling clothes. And as children make mistakes and from them learn the lessons that make them really useful when manhood and womanhood come, so the United States, full of health and vigor, the lustiest youngster the world has seen, is learning, and as it learns it is putting its lessons into effect.

Too young to be discouraged! The man who utters the word thereby shows how little he appreciates the history that is being made in these eventful months. In assimilating and using the ideas, elements and factors that are coming into play the United States is leading the world. Never before was the element of hope and the factor of courage in political life, in industry, commerce, finance and the home, so strong in the United States as they are to-day.

And the most dangerous element is what? The so-called "progressive," who is so pessimistic and blind that he sees nothing in the recent and current history of the United States and mankind, who does not see that from what he calls the selfishness and greed, the extortion and lawlessness of the people, there is emerging a nation greater than it has ever seen and the most potential on the earth. He is the most dangerous.

No more entries of consequence are likely to be made in the Republican primary race for governor of this state and the Republican voters will have to choose between Mr. Tweedy of Lewiston, Mr. Clagstone of Clagstone and Mr. Morrison and Mr. Haines, both of Boise.

The choice of each voter should be based solely upon what he considers for the good of the entire state and not upon prejudice, flimsy bias, or the desire for some special advantage for some special object which may be in view, the accomplishment of which is desired, regardless of the best interests of the people as a whole or of the state at large.

Approaching the subject from this view and considering it in that light, it seems to the Capital News that there is but one conclusion to reach and that is that Mr. Morrison stands pre-eminently as the man for the Republicans of this state to select.

Mr. Morrison as a citizen is above criticism; as a former chief executive of the state he left a record for cleanliness and economy of administration that has not been excelled. He was deprived of the usual second term at that time merely through political manipulation of the worst kind. On that alone he is entitled to a renomination at the hands of the good Republicans of the state.

This question of economy in public administration is one that has been a vital one with the taxpayers ever since Mr. Morrison's defeat at the Moscow state convention by the political bosses, who thereupon entered upon the era of extravagance which has come near bankrupting the taxpayers. If they are wise they will declare in favor of a right-about face and a return to the former methods. Mr. Morrison stands pledged to do this and we firmly believe he will keep that pledge as no other candidate could or would. With honesty and economy as the watchwords, we believe it is a sufficient platform for Idaho taxpayers just at this time, and because we are convinced that Mr. Morrison means to give the state an honest and an economical administration, we shall take pleasure in asking Republicans to give him support.

Good Republicans will not forget that one of the things which they will be expected to accomplish in the coming election that is regarded by all the people of the state as the most important thing they will have to do, is to reelect Senator Borah to the United States Senate, provided he does not secure a position on the national ticket. Mr. Morrison is a supporter of Senator Borah and his selection to head the state ticket will add greatly to the likelihood of the election of a Republican legislature. There are so-called Republicans in the state who are almost open in their wish that the party may meet with defeat this year. It will, therefore, be all the more necessary for those whose only desire is good government and proper welfare of the people, to be all the more on their guard and to select none but the strongest men upon their ticket. They can do no better than to start out with Senator Borah, Congressman French and Mr. Morrison.

BORAH FOR PRESIDENT.

The Ohio State Journal says: "The Republican unknown is not likely to be Justice Charles E. Hughes if the tip that Ohioans have received is correct. Justice Hughes is understood to have told President Taft that he will not be a candidate under any conceivable circumstances. Senator Cummins has been eliminated by the action of the Iowa convention, and today the most promising pacer in the Republican stables is Senator Borah of Idaho."

It would have been eminently fitting if the Idaho Republicans had endorsed Borah for president. It would given him that much prestige, but the delegates are uninstructed and all friends of Borah. A president nowadays is not chosen from a large state, but, on the contrary, is chosen because he is strong with the people generally. It is doubtful if Roosevelt can carry New York; at least he did not get the delegates from his own state. It is doubtful if Taft can carry Ohio. Borah can carry the entire West because the people know him and he can make such a campaign in the East that he will appeal to the progressive elements of both parties. There is no doubt that "Bill" Borah is a most logical candidate for the republicans, and his nomination is more than a possibility. It is certainly a consummation devoutly to be wished.

Leading Ohio Republican Paper Says That Borah Leads Pace

The Ohio State Journal, published at Columbus, the chief Republican paper of that great state, places Senator Borah of Idaho at the lead among all the men of the Republican party of the nation as the most likely presidential candidate.

In addition to this, report comes from Washington that Republican leaders are explaining that Idaho is no further west now than Illinois was fifty years ago, or Tennessee fifteen years prior to that, when modern transportation methods, business conditions and other elements are considered, and that there is no more reason why the nation should not go to Idaho for a president, provided Idaho has the man available, than there is that it should not look to any other state. The Ohio State Journal analyzes the situation as follows:

"The Republican unknown is not likely to be Justice Charles E. Hughes if the tip that Ohioans have received is correct. Justice Hughes is understood to have told President Taft that he will not be a candidate under any conceivable circumstances. Senator Cummins has been eliminated by the action of the Iowa convention, and today the most promising pacer in the Republican presidential stables is Senator Borah of Idaho."

BORAH'S TRIUMPH.

The resolution to amend the federal constitution in the manner of electing U. S. senators has passed both houses. It is now up to the president. Surely this slow world of ours does more. The passage of the resolution is certainly a great triumph for our junior senator, W. E. Borah. For decades men hoped for the resolution to pass, but the Senate, which has heretofore been a mocker at popular will, blocked the resolution. But the people have sent a new type of men to that august body; men like Borah, Bristow and LaFollette. They have retired men like Heyburn and Aldrich. This resolution will give the people a direct opportunity to choose their men and do away with the scandals of the past. The popular election of senators is not an ideal system, but the people want it and will have it. Vox populi.

BARTLETT COMES OUT FOR BORAH

Says Neither Roosevelt Nor Taft Can Get Republican Nomination.

COMPROMISE CANDIDATE IMPERATIVE FOR VICTORY.

"The Republican party can only win at the presidential election through a compromise candidate. The breach between the Taft and Roosevelt forces is too wide to be quickly healed. It seems to me that Senator Borah could unite the opposing factions. He appears to have the confidence of the progressives and his conservatism on the leading issues sought to satisfy the Taft men. He is thoroughly opposed to the recall."—Lewis H. Bartlett, treasurer Lynn Republican Club.

Lewis H. Bartlett, one of the most prominent Republican leaders in this city, today declared that neither President Taft or Theodore Roosevelt can be elected president.

He declared that a compromise candidate must be nominated if victory is to come to the Republican party

at the great political battle to be waged at the polls next fall.

Senator Borah, in Mr. Bartlett's opinion, would be the best compromise candidate. The western senator, Mr. Bartlett said, could unite both factions in the Republican party and win the election.

Mr. Bartlett's choice as the Republican standard bearer in the presidential fight is one of the most powerful men in the Republican party. He is one of the most prominent men in the United States senate, stands strongly with the party leaders, and is an able statesman and politician.

Senator Borah will be remembered as the principal speaker at the Lincoln day banquet at Casino hall, in 1909. He impressed the Republicans who heard him then as being a very able man, well fitted to hold any office within the gift of the nation.

Although many of the Republican leaders were of the opinion that a compromise candidate would have to be named yet none came out strongly for any third candidate with the exception of Mr. Bartlett.

SENATOR BORAH'S CHANCES GROWING.

Whereas, when the Capital News first began to call attention and to urge the possibility of the nomination of Senator Borah for president on the Republican ticket, there were those who scoffed at the idea and declared that it was not put forth in good faith, now there is a tumbling over each other in this state to get into line with the idea inasmuch as it has proven a popular suggestion all over the nation, due to the early movement that was begun here and sent out through the telegraphic news service of the country.

The latest paper to devote considerable attention to this subject which has been called to our attention, is the Anaconda Standard, which for years has been the big paper of Montana and of the northwest. That paper in its issue of last Sunday has a first page feature story for its second section giving cuts of men prominently mentioned as dark horse candidates. Like nearly all papers over the country Senator Borah is the only dark horse candidate considered for the Republican nomination and his picture alone of all Republicans holds a prominent place on the page, while there are some half a dozen Democratic dark horse possibilities featured. This story used by the Anaconda paper, is a copyrighted feature story which doubtless has likewise been used by hundreds of other papers over the nation.

This is but one of the many straws which show which way the wind is blowing in this regard, and even if Idaho shall not be fortunate enough to land for her favorite son this cherished honor, it will be those who scoffed at the suggestion who will feel the chagrin, not the Capital News which will always feel proud of its part in bringing so able a compromise candidate to the attention of the Republicans of the nation and at the favorable consideration that suggestion has received everywhere.

We feel, however, as the days go by and as the fight in the Republican ranks grows more bitter, just as we prophesied it would, that neither Roosevelt nor Taft will be the nominee of the party, but that there will be a balance of power between them held by La Follette and Cummins and by uninstructed delegates which will, for the sake of the party, force the nomination of some one else, and why not Borah? Who is better fitted? Who can command the confidence of the people of the nation to a higher degree?

Idaho Republicans will never recover from the blow to their intelligence and patriotism if they fail to send a delegation to Chicago ready and willing to advance the interests of Senator Borah there.

BORAH'S NAME PROPOSED

Move Started in Oregon to Nominate Idahoan Vice-President.

Admirers of United States Senator Borah, of Idaho, among the Republican voters of this state have started a movement to write his name on their ballots as the party's nominee for Vice-President. Friends of Thomas McCusker, who is managing Senator La Follette's campaign in this state, have launched a similar movement in his behalf and will strive to secure for him the popular endorsement as the candidate for Vice-Presidential honors on the Republican ticket.

Senator Borah is recognized as one of the foremost men in the United States senate, and his record at Washington shows that he has supported all legislation in the interest of the entire Pacific Northwest. Mrs. Borah is a daughter of W. J. McDonnell, formerly state senator from Yamhill County and President of the Oregon State Senate in 1888. He afterward moved to Idaho, where, by appointment, he served as United States Senator for a portion of a term. Subsequently he served two terms as Governor.

Senator Borah is a progressive Republican, and is known as a fearless and brilliant orator. Although he is not an active candidate for Vice-President, his name has frequently been mentioned as a possible nominee. Friends of Mr. Borah urge that an unwarranted endorsement of the Idaho man at the hands of Oregon Republicans in the primary election would not only be a fitting tribute to his worth and standing and the esteem in which he is held by the people of this state, but also a splendid compliment to Oregon's sister state.

Republicans who favor Senator Borah's nomination for Vice-President may vote for him in Friday's primary election by writing "X—Borah, William E., of Idaho," at the proper place on the primary ballot.

BURLEY BULLETIN

WORTHY OF CONSIDERATION

The possibility of Senator Borah's being nominated for president at the Republican convention at Chicago on June 18 is worthy of consideration. The fight between Taft and Roosevelt has become so bitter that there is little hope of uniting the party with either of them as a candidate, and without unity defeat is certain. Party leaders on both sides are endeavoring to realize the situation and to look about for a desirable compromise. Senator Borah fills the bill as a compromise candidate probably better than any other man in the party today, and when it is remembered that he possesses that eloquence of thought and language which won for Bryan his first nomination, it is not hard to imagine Borah's leaving the Chicago convention as the nominee of his party.

43

43

Senator William E. Borah of Idaho For Republican Nominee For President of the United States



Roosevelt has broken the solid south and has thereby made uncertain the nomination of Taft, just as the Capital News predicted would be done several days ago.

There never was any certainty that Taft could be nominated, even against LaFollette, without the solid south, which has always been the stronghold of a president seeking to re-nominate himself. With the 350 delegates to the Republican convention, which has always been so easily controlled through patronage in the southern states, it was only necessary for the president to get some 200 more delegates from the north, east and west to nominate himself.

Roosevelt has taken Oklahoma from this list; he has a majority, if not all the New Mexico delegates, and already has a number of the Missouri district delegates and will soon have the rest of them. There is no disputing this. It leads to the conclusion that he will divide the southern delegations with Taft; he will also divide the New England delegations, and by the aid of the states holding primaries he will more than break even in the west and central portion. New York will go mainly to Taft, but Roosevelt will have more votes from Pennsylvania than Taft will have, and will even get a portion of the district delegates from Ohio, the president's own state.

LaFollette will have the support of Wisconsin, and Cummins will have most of the delegates, at least, from Iowa. LaFollette will have occasional delegates from other states, possibly all of North Dakota.

There is no unprejudiced observer but recognizes the great likelihood of a deadlock as between Roosevelt and Taft in the national convention, necessitating the selection of some dark horse, even though it should be forgotten by the Republicans that because of the intense

Meadows, Ida.

Eagle.

APR 25 1912

MASSACHUSETTS REPUBLICAN LEADER FOR SENATOR BORAH

The Lynn, Mass., News in a story run under a large headline, states that Lewis H. Bartlett, one of the most prominent republicans of that state, announces that Senator William E. Borah of Idaho is the logical candidate for the Republican party to nominate under the conditions existing at the present time, declaring that the fight in the party has reached such a state that neither Roosevelt nor Taft can be successful at the polls if nominated and that preservation of the party demands the nomination of Borah who, he says, can unite all elements of the party and lead it to success.

The article, which is printed on the front page of the Massachusetts paper is as follows:

Lewis H. Bratlett, one of the most prominent republican leaders in this city, declared that neither President Taft nor Theodore Roosevelt can be elected president.

He declared that a compromise candidate must be nominated if victory is to come to the Republican party at the great political battle to be waged at the polls next fall.

Senator Borah, in Mr. Bartlett's opinion, would be the best compromise candidate. The western senator, Mr. Bartlett said, could unite both factions in the Republican party and win the election.

Mr. Bartlett's choice as the Republican standard bearer in the presidential fight is one of the most powerful men in the Republican party. He is one of the most prominent men in the United States Senate, stands strong with the party leaders, and is an astute statesman and politician.

Senator Borah will be remembered as the principal speaker at the Lincoln day banquet at the Casino hall in 1909. He impressed the Republicans who heard him then as being a very able man, well fitted to hold any office within the gift of the nation.

Although many of the Republican leaders were of the opinion that a compromise candidate would have to be named yet none came out strongly for any third candidate with the exception of Mr. Bartlett.

bitterness engendered between these two warring elements, the good of the party demands the selection of some new man.

What better man is there for the party than Senator Borah of this state?

It is not an absurd proposal, nor is it impossible of accomplishment to bring about his nomination.

There is an antipathy toward LaFollette, both upon the part of a large element of the Roosevelt people and on the part of the Taft people. Moreover, LaFollette was the original opponent of Taft and would, therefore, be objectionable to the Taft people all over the nation. Cummins can gain no strength outside his own state and may not even have a united delegation from there, and would thus be eliminated. Hughes, by reason of his appointment to the supreme bench, owes such fealty to Taft as to preclude his consideration as a candidate at any rate without express consent of the president, who, owing to his own candidacy, could not give consent to any such movement.

Senator Borah has received frequent commendation from eastern newspapers, statesmen and politicians; he has gained a reputation for brilliance in statecraft second to none of those mentioned; he is sufficient of a progressive to be acceptable to that wing of the party, yet not so progressive as to antagonize the Taft wing; he would command the confidence of the whole country and receive the support of his party everywhere. Our country has grown so big that locality cuts but little figure. Moreover, Idaho today is not so far west as was Illinois at the time Lincoln was elected president.

In view of this outlook, which is not imaginary—in view of the great possibility that Senator Borah may receive this nomination, which in his case would undoubtedly mean triumphant election, it is clearly the duty, as it should be the pleasure, of Idaho Republicans to elect a delegation, unpledged, perhaps, but decidedly friendly toward Senator Borah.

It is above all the duty of the Ada county Republicans to lead in this movement by a united and harmonious primary action followed by a harmonious and united convention declaration of the purpose and intention to hold Idaho in readiness to receive for one of its sons this great honor.

Piqua, Ohio, Leader-Times,
January, Feb. 12, 1914.

TRUSTS.

If Wilson and Roosevelt are the nominees, there will be apparently enough difference between them on the trust problem to result in an interesting debate. There is agreement, however, among most independent observers today, that certain proceedings ought to be clearly decided to be illegal and firmly punished. Senator Borah spoke an opinion, which will generally be accepted, when he said that he did not desire to punish business men for breaches of law which were unintentional, but that theoretical ignorance was not to be used as an ambush for obviously intended breaches. "If a man lies in wait and falls upon his unwarmed adversary and slays him," he said, "will it be any defense for his lawyer to say to the court that his client has always had difficulty in distinguishing between voluntary and involuntary manslaughter? If a corporation lowers the price of an article in order to destroy its competitor; if it by express agreement limits the output of a product; if it foments strikes in competing mills; if it seeks favors in rebates or divides territory; if it puts millions into competing plants, covers the investment with stock and then dismantles them; if it does

this and similar things, will it be heard to say that the boundary line between restraint and open competition in trade is sometimes difficult to define?" Mr. Brandeis, addressing the senate committee in favor of the La Follette bill, pointed out that the issue was not between unrestricted competition and regulated monopoly, but between regulated competition and regulated monopoly. Progress, as he said, demands that we remove the obstacles in the path of progress, and private monopoly is the most serious obstacle to the best development in business. He put the true issue with accuracy when he defined his theory as being not that traders be compelled to compete, but that they be prevented from killing competition. Mr. Brandeis knows

much about business, and he realizes, as all the efficiency experts realize, the immense wastes of monopoly and the delusive quality of much of its apparent economy. We do not believe that any business scare that may be worked up for campaign purposes will be able to remove the deep-seated conviction of the people. They will not be satisfied with regulating monopoly; they are determined to preserve a reasonable degree of competition.—Collier's.

40

libra

THE WEEKLY SIGNAL

Successor to
WEBSTER SEMI-WEEKLY SIGNAL

WHY NOT OUR 'BILL'?

The Signal has supported the candidacy of Theodore Roosevelt for the reason that we believed him to be the most available man in the race and the one most likely to lead the Republican hosts to victory. We are still of the opinion that he can poll more votes on election day than either Taft or LaFollette, but we do not believe he could come as near getting the entire party vote as William E. Borah, Idaho's favorite son, and we would certainly welcome an opportunity to support the brilliant and courageous leader of the party in this state. There is not a greater man in public life in this country today than Senator Borah. This is not said because he is from Idaho, or in the way of fulsome flattery, but because it is literally true. He is the Webster, the Clay, the Stevens, the Blaine and the Ingalls of the early twentieth century. Not since the passing of the last of these great leaders has any man commanded so exalted a position in the senate, and attracted the attention of the entire nation. When Borah speaks ninety millions of people listen. The intrenched rich respect him as a foe worthy their best efforts, and the poor worship him as the greatest champion of their cause. His worst enemies do not accuse him of being a demagogue and his friends point with pride at his superior statesmanship and brilliancy. He is the embodiment of progressiveness without being dangerous. He effectively preaches the gospel of reform without alarming those engaged in legitimate pursuits. He is the relentless foe of the industrial crook and the best champion of the squabbling. His name has become the synonym of legislative honor and political decency, and the Republican party can go before the nation with unified head with him as our standard bearer.

That William H. Taft is an impossibility has become apparent to his warmest supporters. The Willy Barnes was the first to indicate faint-heartedness and others are preparing to follow the example of New York and look for a compromise candidate. They have abandoned the president, but will fight to the last ditch to encompass the defeat of Roosevelt. They may bolt if he is nominated, especially if some conservative heads the Democratic ticket, and while he may be elected without their support it means a bitter fight and an element

of uncertainty from the opening of the campaign. With Borah it is different. They may not like his progressiveness any more than Roosevelt's, but they have no excuse to oppose him. The personal element would not enter into the campaign with him at the head of the ticket, and Republicans would enter the contest with old-time enthusiasm, and sweep on to a triumphant victory in November.

The Signal is for Roosevelt before it is for Taft, but it will swap him for William E. Borah at any time.

*The First Enclosure was from
Newspaper Clipping Bureau in the World*

NEWS
ST. JOSEPH, MO
DEC 28 1912

GREATER RESPECT FOR LAW.

"What shall it profit to devise plans and enact statutes if every man is to be a law unto himself?" was the pertinent question put by Senator Borah in a speech before the New York Young Republican Club recently. Are what shall it profit? Few thinking men will deny that the upholding of national laws of justice will re-

sult in disagree with Senator Borah when he concludes that a greater respect for the law's sanctity is prerequisite to any far-reaching and enduring progress of the nation.

"We have come," said Senator Borah, "to carry with us the mental reservation in our professed loyalty to the government that we will obey only such laws as in our individual judgment seem wise—which, of course, is the essence of anarchy, the fearful disease of republics."

True. And particularly impressive was Senator Borah's parallel between the crimes of the McNamara's and their plea that they were acting for a principle and the crimes of the deliberate violators of the Sherman law and their plea that they were doing the economically inevitable. On the other hand, when citizens, like the trust magnates, who owe to the protection of the government, on its enforcement of law and order, "sit down in their offices with trained lawyers and plan how they may violate the law and still evade its penal provisions," a procedure definitely calculated to discredit and defeat the law, they are setting an example in lawlessness, dangerous like to the country and its own interests.

The plea that business prosperity demands such anarchy is, as Senator Borah says, no more to be tolerated than the plea of the McNamara's that the interests of labor compelled the use of dynamite. Stricter enforcement of the law all along the line, whether the offense be small or great, is the demand of the times.

TRIN FALLS, IDA.

TIMES

DEC 28 1912

Senator Borah of Idaho is one of the most talked of men in congress. Just now he is being mentioned for three big offices. Some of his friends are urging him for the Republican vice presidential nomination next year. His name has been strongly presented to the president for appointment on the supreme bench to succeed the late Justice Harlan, and in the senate he is being discussed as a suitable man for president pro tem of that body, to succeed the late Senator Erye of Maine. It is notable that Senator Borah is not a candidate for any of the three offices named, but is perfectly content to discharge his duties as senator from Idaho. The fact that he is being mentioned for these three big places, however, is indication of his high standing in the senate and in the country at large.

The following from The Salt Lake Telegram indicates the esteem in which Senator Borah is held outside of his own state:

A rumor comes west that President Taft is considering Senator Borah as a successor of the late Justice Harlan of the supreme bench. If the offer of the place is made to him, we hope the senator will decline; not that he has not all the qualifications for the place, but why appoint a general who is needed in the field to the place of quartermaster? Senator Borah has perfectly clear ideas of the needs of the republic; not of the north, the south, the east or the west, but of the whole republic, and we are waiting for the day when he will assert himself and sell upon his country to support him. He has yet hopes of accomplishing what he believes should be done within the Republican party, but if he would assert himself and proclaim the sins of omission and commission which both parties are guilty of, and demand a change of present schedules, he would be astonished and the response he would receive from every section would be gratifying. He could do it with a better grace than possibly any other man, for while he is a strong partisan, he has never been an offensive one; his slate is clean, his ability and judgment are unquestioned; he is young, alert and fair; a cry from him for a new financial system, for sweeping obstructions from the path of honest endeavors, at home and abroad; for a change in taxation to equalize it; for other things needed which he perfectly understands, would be heeded. In that way he could serve his country and his countrymen more than he could on the supreme bench.

We believe that he feels that way and knows in advance that he would chafe in the enforced routine that holds a justice of the supreme court in partial thralldom, and be constantly longing for a different field.

He is yet young. Ten years from now will be soon enough for him to consider that honor; in the meantime a greater honor is within his grasp.

ONE SIX-YEAR TERM ENOUGH.

With approximate unanimity the Judiciary Committee of the Senate has voted in favor of reporting a Constitutional amendment making six years the limit of the term of office of the President and providing that he shall be ineligible for re-election. It is an incident noteworthy if not significant that the only Republican members of the Committee voting adversely to the majority were the two Roosevelt leaders, Brown and Borah. As a majority of the members of both branches of Congress are known to favor such an amendment of the Constitution it is practically certain that it will be submitted to the several States for the action of their voters and there is reasonable ground to anticipate its ratification.

The framers of the Constitution came near limiting the tenure of the office to a single term and perhaps it would have been for the welfare of the nation had this been done. Had it had no other beneficial effect it would at least have ~~assured~~ ^{assured} the humiliating spectacle of a former President shamelessly violating his repeated specific pledge and in flagrant defiance of established precedent and of a principle which has become virtually the unwritten law campaigning the country in the frantic endeavor to grasp a third term.

There is no sound reason beyond that of custom why a man once elected to the Presidency should be allowed a second term while there are many and substantial ones why he should not. As the situation at present stands the failure to re-nominate and re-elect a President to a second term is regarded as tantamount to a popular repudiation of his administration. Were he constitutionally ineligible this stigma would be removed, as would all temptation to improper action in furtherance of a re-nomination. Even though a President should be above all suspicion of questionable conduct in pursuit of a re-nomination his party friends without his consent, even without his knowledge, may resort to questionable expedients to advance his interests.

It is a notorious fact that enormous sums of money are now being spent to secure the nomination of one of the candidates for the Republican Presidential nomination and that he is going to an extreme in this direction which would make him unquestionably liable under the Corrupt Practices law of the State of New Jersey. It is of

course improbable that such equivalent methods would be stopped to by the ordinary self-respecting Presidential candidate but with a second term a possibility the temptation would always be present.

For his own honor and for the welfare of the country one term for a faithful, capable and patriotic President is all-sufficient and one of any other character should be barred by the Constitution from the possibility of succeeding himself in office.

AT THE OFFICE OF THE
PUBLISHER
PHILADELPHIA, PA.
MAY 17 1912

POLITICS AND THE JUDICIARY.

When the Democratic platform of 1896 denounced "arbitrary interference by Federal authorities in local affairs as a violation of the Constitution of the United States and a crime against free institutions" the reference was, of course, to the use of troops by President Cleveland to put down the riots and incipient revolution in Illinois which had been brought to the verge of anarchy through the acquiescence and sympathy of the Anarchist Governor, John P. Altgeld. Mr. Bryan, in his then callow youth, was so indiscreet as to endorse the hideous view that the Executive of the nation must stand idle and permit the Government to go to pieces, and his crude notion was that the President had no power or right to enforce the laws. Defeat, long years of campaigning, better knowledge of the Government followed and a juster and wiser view has prevailed; patriotism has asserted itself and even Mr. Bryan has been modified.

If Mr. Cleveland's act, which was of the most tremendous importance to the well-being of the country in its results and as a precedent for weaker men, had been submitted to a referendum just after the event—say in the 1896 campaign—it is likely that it would have been condemned by the electorate of Illinois, at that time attuned to the spirit of Altgeldism, and it is possible that all concerned in upholding the authority of the nation would have been "recalled." But there have been a good many second thoughts on that subject, and now Cleveland, who is beginning to be recognized as a great and strong man, is given just commendation for his courage and sense.

The spirit of reckless radicalism is not, however, dead; by the curious, perverse law which seems to control the phenomena of folly, it merely takes different forms, and at the present moment the more reckless of the radicals in the West propose that the Supreme Court of the United States shall be perverted to the uses of the most headless.

The campaign that has started in opposition to the appointment of Judge Hook, of Kansas, who has been favorably mentioned even by the President for the seat on the Supreme bench in place of the late Justice Harlan, is nothing more nor less than an attempt to drag the Court into politics and to determine its real and spiral movement.

stance with the crude political ideas and elements in public life.

Judge Hook is opposed by the Oklahomans because he adjudged that the two-cent railroad rate proposed was confiscatory at that time. Judge Hook joined in a notable concurring opinion in condemning the Standard Oil Trust as an illegal conspiracy to restraint of trade, and, according to the views of a few years ago, would have been accounted a progressive Judge; but the real radical forgets the Standard decision and demands that the man chosen must be "above suspicion," which means that all his decisions must meet the radical view. The viciousness and insincerity of this attitude is simply an echo of the energetic campaign which a former President of the United States began against the judiciary because the Judges "would not" all the time gallop over the law and the Constitution and the decided cases with enough rapidity to suit his idea of the political exigencies of the hour.

In the midst of this din there is, nevertheless, one sober voice from the progressives, Senator Borah, of Idaho, is easily the ablest of the progressive Senators, but he is also a sound lawyer. His opinion as a member of the Senate Judiciary Committee was asked as to the probable action of that body, and he replied:

"Judge Hook decided one or more railroad cases, one in particular in Oklahoma, in which he held a two-cent law to be confiscatory. This decision of itself ought not to be ground for challenging his eligibility for the Supreme bench. The facts may have justified such a decision."

If Senator Borah is not careful he will be thrust from the progressive group. He has the wrong idea. The real insurgent and recall fanatic wants the people to act first and then look at the facts if they cannot be eradicated.

Cincinnati, Ohio.

FEB 27 1911

Roosevelt and Some Progressives

A short time ago the most pronounced supporter of Theodore Roosevelt among the insurgents in the Senate was William J. Borah of Idaho. When it was plain that LaFollette intended to test the Republican nomination with Taft, but when few people believed that Roosevelt would try for the Presidency in 1912, it was the opinion of men well informed in politics that Idaho would be for the President.

"Borah would do anything in his power for Roosevelt and he might be able to swing the State," it was said, "but LaFollette is a different proposition."

When Senator Borah was asked his opinion as to Roosevelt's Columbus speech the other day, he at first refused to discuss it. Finally he said:

"There are parts of the speech which I think very strong and present in a powerful way the questions treated. But you know I utterly disagree with the proposition for the recall of judges and I utterly disagree with the proposition as presented by Colonel Roosevelt as to the recall of judicial decisions."

It has been made plain that Mr. Borah is not alone among the insurgents in Washington in his opinion of the Columbus address. On many a "progressive" in the Senate and House, the Columbus speech had a most chilling effect. They are "progressives" well enough—but the "recall of constitutions" is a little too much for them!

ANDOGONIA, MONT.

Standard.

BORAH'S PERSISTENCE WINS.

Attention has several times been called in the Standard's Washington correspondence to the successful efforts of Senator Borah of Idaho in securing legislation by persistently sticking to the job and demanding action. A recent example of his success was the passage through the senate of the "children's bureau bill," creating such a bureau in the department of commerce and labor for the study of problems affecting the proper rearing of children in the United States. Of course, it is proposed to gather data on child labor conditions in the slums, and the like, with a view to influencing legislation, both national and state, that will stamp out many of the criminal practices of today that result in large death rates among children.

Viewed in its broad sense, the bill is a good one, designed to serve a good purpose, though it was open to technical objection. Employers of children opposed it; Theorists opposed it, owners of tenement houses and unsanitary storerooms and shops opposed it, and a did other interests, and when the bill was before the senate it was met with very violent attacks.

But Senator Borah had made up his mind to force the bill through, and he met all attacks, countered all arguments, defended the measure in very direct language, with the result that when the bill came to a final vote it passed by overwhelming majority. A man determined senator would have abandoned the fight. It was the same spirit that in the last congress forced through the senate the income tax amendment resolution.

Wool Tariff Reduced and Adequate Protection for Home Industries.

The tariff board's report on the wool and woollen industries and the duties on imports of wool and woollens appears to be exactly what the public had hoped.

It bears the hall-marks of distinctiveness and competence on the part of the board and of comprehensiveness and thoroughness in the presentation of its difficult and complicated subject.

It gives the industry, congress and the president the trustworthy and exhaustive data they need for safe and intelligent revision of the wool and woollen schedules.

It makes possible a reform of schedule K that will enable us to forecast the probable effect on the industries involved, on the prosperity of the laborers engaged in them and on the welfare of the public.

The commission report confirms and justifies the universal belief that the duties on American imports of wools and woollens are unreasonable and may be considerably lowered without hurt to the American industry and with positive benefit to the manufacturers. For example, President Taft says:

The duties on many classes of manufactures are prohibitory and create in excess of the difference in the costs of production here and abroad. Though these duties do not increase prices of domestic goods by anything like their full amount, such prohibitive duties eliminate the possibility of foreign competition, form a temptation to monopoly and conspiracy to control domestic prices, and should be reduced to a point which accords with this principle.

The principle to which the president refers is the republican principle of such protection to American industries—labor and standards of cost—as will equal the difference between American and foreign costs of production, and also provide a fair profit to the producer and manufacturer.

All parties and the president and congress have repeatedly proclaimed their desire and determination for reform of the tariff, specifying the wool and woollen schedules with several others as especially calling for revision. The president recommends immediate reduction of the duties on wools and woollens in accord with the protective principle. Both in recommending revision downward and in standing firmly for protection Mr. Taft is working for the greatest benefit to the greatest number. His position is so strong that he can not be "put in the box." If congress passes a bill reducing the duties of schedule K otherwise than as the president recommends it will become his duty to veto such a bill.

Cincinnati, L. Republican-Democrat
Monday, Dec. 13, 1911.

BOORAH AFTER THEM.

Senator Borah fails to see much difference between the arguments advanced formerly in behalf of the McNamara and the lawless trusts. In the course of a recent speech he made the observation:

"To save their worthless lives," he said, referring to the dynamiters, "they entered places of guilty, insisting that they did it for principle, and expect an astonished world to accept their whitening apologies."

"There is another edict record which we will be passing none also. Bound up in many volumes you will find the full record of two of the late noted criminals. It is a tale twice told, of selfishness and greed, extortion and lawlessness."

"The plea of justification is not unlike the plea of the planters of dynamite, for although the acts are clearly in violation of law and the rights of the public, it is asserted nevertheless that it was done in the interest of business growth and industrial progress."

"There is no nation where life is so insecure against bomb or bullet, where criminal laws are so ineffectually enforced, where corruption is so little condemned in public opinion, and where defiance of law is the highest walks of business life so generally prevail," said Mr. Borah. "To leave law unenforced, to cultivate a disregard for its obligations is to follow the ground so that in after years there may be one law for the poor and another for the rich."

From _____

Address _____

Date _____

United States as Lawless Nation.

THAT was a terrible indictment against the people of the United States which Senator Borah presented at the dinner given by the New York Young Republican Club.

"We are even now, in our youth, the most lawless of any of the great civilized nations. There is no country of first importance where there is so little respect for law because it is the law." Those were his words.

Edmund Burke once declared that he had never learned how to draw up an indictment against a whole people. Senator Borah has, and, having drawn it, he offered it at the bar of public opinion with an air of perfect confidence that it was both justified and sound. His presentation had an added impressiveness from the fact that it was made in the presence of the President of the United States.

In view of the 8,975 deaths from murderous assault and of the meting out of capital punishment to but two of those 8,975 slayers; in consideration of the extensive and awful crimes to which the McNamaras have just pleaded guilty; in the light of all the prosecutions now on against big and little business men for persistent and audacious infractions of the anti-trust law, who can say, with honesty, that the indictment drawn by Senator Borah is not a true bill?

President Taft himself is on record as declaring a few years ago that "our administration of the criminal law is a disgrace to civilization." And, in following Senator Borah at the dinner of the New York Young Republican Club, he remarked, with evident sadness over the fact, "I believe it is true that we do not hold the law as sacred as we should."

What a subject here for the preachers of the nation! Why should any of them feel the need of entering the realm of politics for a topic when such widespread and wanton violation of the laws of God and man calls in tones of thunder for their eloquence and their zeal?

From EVENING MAIL

Address New York City

Date _____

The "Most Lawless" of People.

We doubt Senator Borah's theory that this is the land of disrespect for law. Go into the small towns, cities of 20,000 inhabitants, big villages of 3,000 people, and countless pretty hamlets of 1,000 dwellers. The neat cottage street, where thrift produces charming ornamentation, from the neat lawn and flower beds to the vine-covered veranda—look at these. The people who live here demand social order for their streets, that children may pass safely—and they get what they insist on, from sea to sea.

It is nonsense to tell us that we are inferior, in such communities, to Austria, Italy, France, Germany or even England. In fact, the sun does not shine on any group of human dwellings comparable for safety and good behavior with these American groups.

Private property is safe everywhere. Front doors are left unlocked. There is a mere sprinkling of police—often no police at all. The petty offenses of a "lawless" people are all lacking. Assaults are few and far between.

Rural highways, by the hundred thousand miles,

44
have no police, yet are safe by night. Public opinion is strong, and "the best people" literally make it. The thriftless and bad-named are spotted. The church is well filled on Sunday. Note the pride these people take in their schoolhouses! And could these signs be, if the community were honeycombed with that dry rot of lawlessness which the senator depicted?

How far, Senator Borah, would you say America is from the graphic picture which Dickens drew in the beginning of the "Tale of Two Cities"? Do you think there are lots of laborers, over this fair land, who, like that mender of roads, are likely to curl up under the millionaire's carriage? Are there soon to be thousands of dead millionaires, like the marquis at the French chateau, to-morrow morning? Are the fountains a mockery, and the chateaux on fire?

Not for a thousand years, senator. It does not run in American blood. Not with a schoolhouse on every hilltop and a church in every valley. Our people, in their daily lives, abide by their own law with a fidelity that is a pattern for the world.

Newspaper Clipping Bureau in the World

From _____

Address _____

Date _____

Established: London, 1881; New York, 1884

Tuesday, Feb. 14, 1912

may expect great and beneficial results.

FUNCTIONS OF THE CHILDREN'S BUREAU.

MR. BORAH'S BILL, authorizing the establishment of a children's bureau within the Department of Commerce and Labor, has passed the Senate, and there is little doubt that finally the same measure, substantially, will pass the House and become the law. There is a great deal of misunderstanding concerning the contemplated scope of that law and the functions of the bureau that will be established under its provisions.

Much of the debate, as conducted by opponents of the measure, was misleading in these regards; and, strange to relate, that phase of the debate was given publicity above the affirmative side. Senators Gallinger, Herburn, Bailey and others protested vigorously that the bureau, in the exercise of its functions, would interfere with the rights of the state and of the individual, and incidentally there was much talk of an ultra-paternalistic government which would invade the home and interfere with the family right of the management of children according to the individual father's view. Unquestionably these gentlemen knew that all this was sophistry, the mere setting up of a straw man; but very many people who read what they had to say on the subject did not know that.

There are certain very sad facts disclosed by child statistics in this country. As an instance, it is shown that 20 per cent of the deaths of all ages are children under one year; that one quarter of all the blind children are unnecessarily blind; that factory and general labor conditions under which the greater number of

children are employed are conditions that tend to increase the mortality, the incapacity and general weakness of the little tots who are compelled to labor. It is shown in a general way that the lack of regard for children who work is so manifest that it would cause a decent man to blush with shame if he were to be responsible for it.

The purpose of the bureau that is in contemplation is to make a more careful and specific inquiry into all the facts concerning the children than it is now possible to make. To insure the children treatment commensurate with the importance and the value of their lives, commensurate with what the value of their future citizenship ought to be, it is held that the American people should know all the facts about the little ones, about their conditions at work and their conditions at home and at school, and regarding every phase of the child life of the Nation.

The large hearted, Christian charity behind this law does not believe that the American people are doing their whole duty toward the children so long as 20 per cent of the mortality is recorded before they reach the age of one year, or so long as one quarter of the blindness among them may be prevented with a little knowledge and a little thought based thereon.

The bureau has the indorsement of every eminent worker for the betterment of children in the country. It eventually will have the indorsement of all the people except those who are sordidly indifferent to the rights of childhood.

The "Most Lawless" of People.

We doubt Senator Borah's theory that this is the land of disrespect for law. Go into the small towns, cities of 30,000 inhabitants, big villages of 3,000 people, and countless pretty hamlets of 1,000 dwellers. The neat cottage street, where thrift produces charming ornamentation, from the neat lawn and flower beds to the vine-covered veranda—look at these. The people who live here demand social order for their streets, that children may pass safely—and they get what they insist on, from sea to sea.

It is nonsense to tell us that we are inferior, in such communities, to Austria, Italy, France, Germany or even England. In fact, the sun does not shine on any group of human dwellings comparable for safety and good behavior with these American groups.

Private property is safe everywhere. Front doors are left unlocked. There is a mere sprinkling of police—often no police at all. The petty offenses of a "lawless" people are all lacking. Assaults are few and far between.

Rural highways, by the hundred thousand miles, have no police, yet are safe by night. Public opinion is strong, and "the best people" literally make it. The thriftless and bad-named are spotted. The church is well filled on Sunday. Note the pride these people take in their schoolhouses! And could these signs be, if the community were honeycombed with that dry rot of lawlessness which the senator depicted?

How far, Senator Borah, would you say America is from the graphic picture which Dickens drew in the beginning of the "Tale of Two Cities"? Do you think there are lots of laborers, over this fair land, who, like that mender of roads, are likely to stuff up under the millionaire's carriage? Are there soon to be thousands of dead millionaires, like the marquis at the French chateau, to-morrow morning? Are the fountains a mockery, and the chateaux on fire?

Not for a thousand years, senator. It does not run in American blood. Not with a schoolhouse on every hilltop and a church in every valley. Our people, in their daily lives, abide by their own law with a fidelity that is a pattern for the world.

our Closing Bureau in the World
TENNESSEAN
NASHVILLE, TENN.
DEC 20 1911

From TENNESSEAN
Address NASHVILLE, TENN.
Date DEC 24 1911

TWO KINDS OF LAWBREAKERS.

Millions have derided the lawlessness of the McNamara's. From noon to sunset a protest has gone up from press, pulpit, and public against the awful dynamiting schemes these arch-criminals fathered.

But Senator Borah, in denouncing the McNamara's in New York, was not content with having other law-breakers escape criticism.

He paid his compliments to the Steel Trust in these words:

There is another court room which we will, in passing, notice also. It is a tale twice told of selfishness and greed, extortion and lawlessness. The plea of justification is not unlike the plea of the plotters of dynamite, for although the acts are clearly in violation of the law and the rights of the public, it is claimed, nevertheless, that it was all done in the interest of business growth and industrial progress.

Discussing corporation evasion of law he said, further:

I declare to you tonight that we are even now in our youth the most lawless of any of the great civilized nations. There is no country of great importance where there is so little respect for the law because it is the law—the last expression of the sovereign power—as here in our own republic.

I refer alone to that class who sit down in their offices with trained lawyers and plan how they may violate the law and still evade its penal provisions.

With such examples of lawbreaking flaunted before the public by the great commercial magnates, can the McNamara's be expected to have a high regard for the law?

Reformation must begin at the top of the social scale.

WHY HAS LAWLESSNESS INCREASED?

This serious and pertinent question is often asked, but it is seldom satisfactorily answered.

Day after day public men and newspapers bewail the widespread lawlessness that prevails in this country. They point to the fact that law is held in contempt by those of all classes, and that it is a problem why those who get no profit out of their law-breaking should run the risk. It can be understood why people defy the law for profit, but why should those who get nothing but misery out of their misdeeds persist in such practice, and why should there now be increased lawlessness among such people?

Senator Borah, before the New York Young Republican club, and in the presence of President Taft, said that it exists in the poor and rich alike, the laborers and the monopolies, and that those of one side are no worse than those of the other, that the same cause produced the same effect in each. He treated the spirit of lawlessness as a common malady without drawing the distinction between law defiance for profit by the rich exploiters of the people and the increased state of lawlessness among those people who get nothing out of it.

Where there is a systematic plan to defy the law that thrill may follow such violation, there is always evidence that influence which reaches far beyond such violators. When an objectionable law is nullified by being persistently violated the example thus set in contempt for the law is generally followed by other people seemingly without any excuse. When law-breakers become so powerful as to dominate a community and openly and flagrantly violate the law, the spirit of lawlessness spreads. One class imitates it from another, on the principle that crime breeds crime.

Since the triumph of Big Business and the riotous reign of the trusts there has been a carnival of crime among people who have no connection with any of those enterprises. Imbued with the spirit of getting rich easily and quickly, like so many glorious examples, a larger number than usual of those occupying positions of trust have become embezzlers. The disease is infectious. The glare of the big plunderers has turned a multiplicity of little ones in their ruin. The vulgar display of unearned wealth and ill-gotten gain has tended to cloud or dull the moral sensibilities of many in all classes. The fault lies with the big plunderers. The moral atmosphere needs cleansing.

A writer in criticizing Senator Borah's attitude on this matter says that everyone who can be called a thinker knows that the lawlessness of the monopolies whom no government trap can catch and whom probably no government trap wants to catch, has caused the lawlessness of the poor and driven respect for the law out of the people; that when the mice saw the rats eating forbidden cheese, the mice began to eat it, too; that the process was accelerated when the common people began to see that the hirelings of the monopolies were preaching law-abidingness to them in order that the monopolists might have greater freedom and safety in breaking the laws in their pursuit of plunder.

Contempt for the law which is now widespread throughout the land is due to these conspicuous and alluring examples which have been set by a class of people who are the very first in time of need to cry out for the protection of the law.

52-2

SIOUX CITY IN NEW YORK.

The Journal of Commerce and Commercial Bulletin, is distinctly the strongest financial authority in the press of the country. In the issue of that paper for December 13, on its editorial page, appears from a Sioux City business man the following well written letter:

Big Business and Competition.

Sioux City, Ia., Dec. 8, 1911.—Editor of the Journal of Commerce and Commercial Bulletin.—Sir: As a subscriber of long standing I beg to express to your journal my sincere appreciation of the highly intelligent and fearless stand which you have taken in dealing with the subject of big business, etc. I refer more particularly at this time to your article in issue of the 18th ult., entitled "Big Business and Competition." The pertinence of the public's mind in agitation of this particular subject suggests an importance in its discussion the like of which has not occurred in America since the civil war. The failure of the preaching of such men as George W. Perkins and Chancellor Day is as thoroughly apparent to the people at large as to me, a commoner, a further displeasure on their part rather than to be taken as the business they would offer for conditions at hand.

The energy, intelligence and initiative of Americans has been born in the field of strife, whereas a spirit of desire to outdo one another has led us into a position of undisputed leadership the world over. The trust organizations have not even developed an ability to market a new brand under the unwieldy management of combines. I refer particularly to the regime of the American Tobacco company. Every form of public good will held as an asset by that interest was developed by individual enterprises previous to the formation of the tobacco trust. They made numerous efforts to place brands of their own creation upon the market, and to my personal knowledge every effort proved a failure.

My observations in dealing with combines have been such as to impress the immediate & monopoly is developed in a certain line the attention and energy of those in control turns from the development of a better intelligence in the science of production of their goods to that of selection of people depending wholly upon them for the commodity. In other words, differentiation sets in, arrogance of position, indifference toward trade, friendship, co-operation and real education.

The far west has had its land grabbers and herd thieves and the labor element its dynamiters. The middle west has had its cattle rustlers, horse thieves, bank robbers and fur men. They all operated for money. The same impulse actuated all. Early history found the middle west people uncertain but what their prosperity depended upon so-called "open gambling." It was held the gambling element served as a means of keeping money in circulation. In time, however, such delusion ceased. The rank and file came to realize that the operations of a "get-rich-quick" class were not conducive to moral balance or social rest.

Land and range grabbers were put in the penitentiary, lumber thieves were laid hands on by the law; horse and cattle rustlers were run down and hanged; bank robbing gangs were shot in the fields of their operations, and the celebrated Burns is delivering over to the authorities the criminals in dynamite. They all operated for money.

The east now holds in bewildered embarrassment her criminal trust operators. A small coterie of men hold in defying array the reins of our largest affairs—railroads, trust companies, coal mines, mineral fields, life insurance companies, banks and manufacturing interests. During a spell of approximately a quarter of a century the honest businesses of our country have been set upon, monopolized, exploited and appropriated. Unwanted neglect of duty on the part of our government officials has accompanied all these exploitations until at this late time we have in witness a condition of nationwide complaint, all centered on trust domination of our enterprises and high cost of living.

The furtherance of such high-handed violation of law has involved the reputation of the republican party and domination of the United States Senate to an extent almost, if not wholly, disastrous to both.

An honest effort on the part of Mr. Taft to render the law operative is being witnessed with results proving an alarming inefficiency of government control. The lower courts and Mr. Wickham's see-

tion of the tobacco trust's reorganization plan is adopted gives evidence ample of one of two things—either a lack of the comprehension of the provisions of the plan or a flagrant indifference in the discharge of their duty to the people, the results of either of such shortcomings being very much the same. The tobacco trust stands as having been presented and found guilty. We have had a display of the skill of our public servants and the workings of our courts versus the will of the representative of the trust and the power of their influence.

The curb stock of American Tobacco was quoted as low as 25 previous to the verdict and soon after the verdict of the lower court the stock on the 4th last soared to 52. Their weakened stock is still weakened; their price on tobacco are as high as before; there is no more competition today than there was before the attack of the government. The 14 babies are to be guided by the same parentage that so skillfully nursed the rest. What a travesty of justice! What presumption of public ignorance! What confidence in human fallibility! What substitution of dignity of government to money, lust and power, while trust magnates parade in purple robes of selfish patriotism, clamoring for right of further pillage! They are all working for money.

The recently much referred to without competition and sharp resentment, imposed from the large majority of the people who always have been obliged to deal on a competitive basis and who see no show of ever doing anything else.

These big men are not wholly bad men. They have made large contributions toward the world's progress. They are generals in commercialism as Julius Caesar and Napoleon Bonaparte were generals in militaryism. Have our great men of this time reached their zenith? Are they now declining their strength? Are they to be restrained, or have they gotten beyond restraint? Is our social system disintegrating? Present said "Our republic is still an experiment. Alas for humanity if the experiment fails." A Subscriber.

NOT LINCOLN VIEWS

Roosevelt "Perverts" Words,
Says Martyr's Son.

WAS NOWISE A RADICAL

Would Abhor New Doctrines If Alive,
Mr. Taft Is Told.

Robert T. Lincoln Writes to the President Protesting Against the Colonel's Alleged Distortion of His Father's Speeches to Sustain His Policies—Declares the People Do Not Want Gettysburg Speech Rewritten.

DOCTRINES HE WOULD ABHOR.

My personal feelings are unimportant, but I am not only impatient, but indignant, that President Lincoln's words and plain views should be perverted and misapplied before trusting people into support of doctrines which I believe he would abhor, living.

These often quoted words of

President Lincoln are now deliberately altered, and arguments founded on their altered form.

If I may be permitted to say it, I do not think the public wishes the Gettysburg speech to be rewritten and its words changed by any one, however distinguished, for our purpose, least of all in order to support a proposition that President Lincoln would not possibly have had in mind.

On board President Taft's train, Newark, N. J., April 28.—On his way North to carry the fight into Massachusetts, President Taft tonight made public a letter from Robert T. Lincoln, son of President Lincoln, in which Col. Theodore Roosevelt is criticized and condemned for what Mr. Lincoln declares is perversion of what Mr. Lincoln declares is perversion of the truth.

"My personal feelings," the letter read, "are unimportant, but I am not only impatient, but indignant, that President Lincoln's words and plain views should be perverted and misapplied before trusting people into support of doctrines which I believe he would abhor, living."

Mr. Lincoln's letter was written, he says, in answer to a request for an opinion of "reputed assertions by Mr. Roosevelt that his attitude on certain radical doctrines is supported by the recorded views" of the martyred President.

Mr. Lincoln's Letter.

The letter, in part, follows:

"The government under which my father lived was as it is now, a republic, or representative democracy, checked by the Constitution, which can be changed by the people, but only when acting by methods which ensure deliberation and exclude so far as is possible the effect of passion and short-sighted impulse. A government in which the checks of an established constitution are actually, or practically, omitted—see in which the people act in a mass directly on all questions and not through their chosen representatives—is an unbounded democracy, a form of government so full of danger as shown by history that it has ceased to exist except in communities small and unconfined as to space. A New England town meeting may be good, but such a government in a large city or State would be chaos.

"As I understand it, the essence of Mr. Roosevelt's proposal is that we shall adopt the latter form of government in place of the existing form. This, in simple words, is a proposed revolution, peaceful, perhaps, but a revolution. In respect of these revolutionary doctrines, which, if successful, would abolish the form and the spirit of our existing government and surely, I think, lead to attempted dictatorship, resort is had to what is claimed to be the words and teachings of President Lincoln.

Never Censured Government.

"President Lincoln wrote many letters, made many public addresses, and was the author of many documents. I do not know of the existence in any of them of a word of censure, or of complaint of our government, or of the methods by which it was carried on. He was unwavering and faithfully obedient to our Constitution. In the single act for which he is most remembered—the issuance of the emancipation proclamation—he expressly stipulated it as an act warranted by the Constitution upon military necessity.

"On one public occasion he described the effect of the counting of slaves in

congressional and electoral representation. In comment, he said:

"Now, all this is manifestly unfair; yet I do not mention it to complain of it in so far as it is already settled. It is in the Constitution, and I do not for that reason, or any other reason, propose to destroy, or alter, or disregard the Constitution. I stand to it fairly, fully, and firmly."

Reversed the Law.

"He hated slavery, but his reverence for the Constitution and law was such that he said publicly again and again that if a member of Congress he would faithfully support a fugitive slave law."

"His attitude toward the Dred Scott decision is traced as in support of the parallel project for the recall by popular vote of judges and of judicial decisions. He thought it an erroneous decision, but its chief point in reference to it was not its error, but that it indicated a scheme, and was a part of it, for the nationalization of human slavery. He never suggested a change in our government under which the judges who made it should be recalled, but said that he would resist it politically by voting, if in his power, for an act prohibiting slavery in United States territory, and then endeavor to have the act sustained in a new proceeding by the same court reversing itself."

"Is there to be found here, or anywhere, any support for a proposal to abolish the essential elements, or any elements, of our Constitution? And yet he is cited in support of such action."

"He loved the government under which he lived, and when at Gettysburg he praised it I may use that word that 'government of the people, by the people, and for the people may not perish from the earth' he meant, and could only mean, that government under which he lived a representative government; of but, upon executive, legislative, and judicial parts, and one something entirely different was intended democracy."

"These often quoted words of President Lincoln are now deliberately altered, and argument founded on their altered form."

"I may be permitted to say that I do not think the public wishes the Gettysburg speech to be rewritten and its words changed by any one, however distinguished, for any purpose, least of all in order to support a proposition that President Lincoln could not possibly have had in mind."

BAOBB
WICHITA, KAN.

FEB 27 1912

United States as a Lawless Nation

That was a terrible indictment against the people of the United States which Senator Borah presented at the dinner given by the New York Young Republican Club.

"We are even now, in our youth, the most lawless of any of the great civilized nations. There is no country of first importance where there is so little respect for law because it is the law." Those were his words.

Edmund Burke once declared that he had never learned how to draw up an indictment against a whole people. Senator Borah has, and, having drawn it, he offered it at the bar of public opinion with an air of perfect confidence that it was both justified and sound. His presentation had an added impressiveness from the fact that it was made in the presence of the president of the United States.

In view of the 3,375 deaths from murderous assault and of the meting out of capital punishment to but 100 of these 3,375 slayers; in consideration of the extensive and

awful crimes to which the McNamaras have just pleaded guilty; in the light of all the prosecutions now on against big and little business men for persistent and audacious infractions of the anti-trust law, who can say, with honesty, that the indictment drawn by Senator Borah is not a true bill?

President Taft himself is on record as declaring a few years ago that "our administration of the criminal law is a disgrace to civilization." And, in following Senator Borah at the dinner of the New York Young Republican Club, he remarked, with evident sadness over the fact, "I believe it is true that we do not hold the law as sacred as we should."

What a subject here for the preachers of the nation! Why should any of them feel the need of entering the realm of politics for a topic when such widespread and wanton violation of the laws of God and man calls in tones of thunder for their eloquence and their zeal?—New York American.

from VIRGINIA
Address RICHMOND, VA
Date DEC 28 1911 53 53

A TERRIBLE INDICTMENT.

Senator Borah at the dinner of the New York Young Republican Club brought an awful indictment against the people of the United States. This is it: "We are even now, in our youth, the most lawless of any of the great civilized nations."

There is no country of first importance where there is so little respect for law because it is the law."

This indictment was presented in the presence of the President, who is quoted by the New York American as having said a few years ago that "our administration of the criminal law is a disgrace to civilization," and who said, in following Senator Borah's speech, "I believe it is true that we do not hold the law as sacred as we should."

No better substantiation of the truth can be given than in the American's succinct comment upon the situation, "In view of the 3,375 deaths from murderous assault and of the meting out of capital punishment to but 100 of these 3,375 slayers; in consideration of the extensive and awful crimes to which the McNamaras have just pleaded guilty; in the light of all the prosecutions now on against big and little business men for persistent and audacious infractions of the anti-trust law, who can say, with honesty, that the indictment drawn by Senator Borah is not a true bill?"

Two remedies appear upon the surface. The one is a sweeping reform in the criminal procedure of the courts, whereby technicalities and legal delays may not void the operation of the law and the infliction of penalties. The other is that representative men of wealth and influence should not consider themselves beyond the pale of the law's operation and should not be so considered by the courts. When the fact that the law seems unable to reach influential persons is considered it is but natural that a widespread disgust with the inequalities and injustice of the law should result.