

## JUDGE-MADE LAW

Courts Hold Property More Sacred Than Life.

### MR. ROOSEVELT'S WARNING.

Former President Says That Judicial Decisions Always Favor the Master Against the Man—Do Not Interpret Law, but Make Law.

Writing in the Outlook on the recent decision of the New York court of appeals declaring unconstitutional the law passed last year providing a general scheme for the compensation of injured workmen, ex-President Roosevelt says:

"I have received from one of the most eminent jurists and one of the most genuinely conservative and therefore genuinely progressive men in the United States a comment on this New York decision which puts the case so admirably that I quote it almost in full:

"It is a remarkable example of special pleading, another illustration that in many American courts property is more sacred than life. The point in the decision that 'due process' means the procedure which was enforced when the federal constitution was adopted has been repudiated again and again by the supreme court of the United States. The decision is individualistic. It sees in the enforced payment simply the taking of the money of the defendant and giving it to the plaintiff. The law could have been sustained as a proper exercise of the police power upon either of two grounds—first, society has the right to require any business which directly produces orphans, widows and cripples to provide for their support; second, the most effective method of compelling dangerous employments to safeguard their employees is to make them financially responsible for injuries. In Germany within five years after an absolute liability was imposed the number of accidents was reduced 42 per cent.

"If one wants an argument to prove that in American courts property has been more sacred than life he needs only to point to the existing deplorable law of master and servant. They made that law. They have modified it from time to time, and always in the interest of the master.

"The New York court, admitting that the existing law is cruelly unjust, still says that the remedy which all the rest of the civilized world has found to be best is unavailable to the American people without an amendment of the constitution. That is a fair example of the uses which have been made of American constitutions. I have made a careful study of constitutional decisions since 1890 in the courts of New York, Illinois and California. As a rule, laws which they have declared unconstitutional were adopted to correct admitted industrial or social evils, such evils as every other civilized country in the world has been correcting by legislation. This study raises the question, Are the American people less free than other civilized people? Our constitutions were intended to protect us against tyranny, and they are now most frequently used to protect those who oppress women and children and laborers. When society attempts to redress its wrongs it is told that its measures are unconstitutional. The battle of society is not with wrong, but with the constitution. In our legislatures the debate is not about the wisdom of measures, but their constitutionality. Laws are of-

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ten obscure and indirect in order to 'get round' the constitution. Every enemy of the common good takes his stand on the constitution and is safe.

"Either American courts will make a different use of constitutions or constitutions will become so odious that they will be thrown out of the back window. That will be a serious misfortune to the United States. We need the steady power of written constitutions. But we will not submit to being perpetually frustrated in the accomplishment of those industrial and social reforms which every other free people of the world is free to accomplish."

Continuing, Mr. Roosevelt "earnestly calls the attention of the representatives of the great capitalists to the final words of this statement," and adds:

"I fail to see how any thoughtful man can read what I have above quoted and not see that this decision of the court of appeals of the state of New York is a case not really of interpretation of the law, but of the enactment of judge-made law in defiance of legislative enactment and in defiance of the interpretation of other legislative enactments by the highest courts of this country. Whatever the form, the substance of the action of the court of appeals is not the interpretation of law, but the making of law, and the making of it in a way oppressive, well nigh ruinous to the interests of the wageworkers and, indeed, to society as a whole. Such decisions are profoundly anti-social, are against the interests of humanity and tell for the degradation of a very large portion of our community, and, above all, they seek to establish as an immutable principle the doctrine that the rights of property are supreme over the rights of humanity and that this free people, this American people, is not only forbidden to better the conditions of mankind, but cannot even strive to do the elementary justice that among even the monarchies of the old world has already been done by other great industrial nations."

### THE STRONG LABOR UNION.

The Organization That Stands and Works For Some Vital Truth.

When all men speak well of your organization watch out. It means that you have developed into a flabby, invertebrate, forceless institution, says the Rev. Dr. Charles Stelzle. One of the glories of organized labor is that it has strong enemies as well as strong

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friends. There is danger in too much commendation. There is a letting go of the vital things when prosperity and flattery enter. The man or the movement that lives and moves is bound to make mistakes. He who never makes mistakes never makes anything else. The best men and the greatest movements make stepping stones of past failures. But criticisms and mistakes avail for very little unless the organization has back of it a great purpose. The perfunctory meeting and the platitudinous address never win out. This is true of the labor union as it is true of the church or any other movement.

The social aspects of an organization's life is important. But vaude-

ville shows and smokers and all such affairs have never yet held together a company of earnest men who were supposedly banded together for the purpose of really doing things. When an organization is compelled to resort to such features in order to hold its men it is an indication that somewhere there is a falling down either in leadership or in purpose, and it is destined to fall.

Project a big idea. Make men see that your organization stands for some vital truth and that all who become identified with it must respond to the call, "Come and suffer." This will appeal to all true men. Such men have given power to the greatest movements in the world's history.