"COMMERCIALISM AND MR. BRYAN"

Immediately following will be found an editorial which recently appeared under the above title in the Record-Herald of Chicago. It has been impossible as well as useless to take notice of the many criticisms that have appeared in the more partisan of the republican papers and in those papers which, although calling themselves democratic, have been studiously and continuously attacking all who remain true to democratic principles. But the Record-Herald is one of the fairest of the papers calling themselves independent, and for that reason I call the editor's attention to the facts. If he had said that my connection with the Bennett will case had given political enemies a chance to misrepresent me, I might have answered that it is impossible to escape misrepresentation, for whether I speak or remain silent—whether I travel or remain at home—no matter what I do, my action is made the basis of misrepresentation. I have grown accustomed to this, and it does not disturb me. But the criticism which the Record-Herald makes, if well founded, is a serious one, because I cannot expect to exert an influence in behalf of moral principles if I can rightfully be accused of conduct inconsistent with the doctrines which I advance in speech and through my paper. I cannot complain that "the public conscience has been stupified by commercialism" if I, myself, am guilty of any act which can be criticised from the standpoint of morals. It is not necessary that one shall himself be blameless in order to criticise others, but it is necessary that he shall endeavor to make his life harmonize with his doctrines and be willing to correct his actions whenever he finds them to be at variance with his utterances.

As I desire not now only, but in all the years to come, to throw whatever influence I may possess upon the side of righteousness in individual life as well as upon the side of good government and purity in politics, the reader will pardon me for mentioning here enough of the facts connected with the Bennett case to meet the criticism of the Record-Herald.

While the Record-Herald does not specifically set forth the grounds of its criticism, a careful reading of the editorial indicates that it takes exception to three things—first, to the fact that I drew the will; second, to the fact that the bequest was made in an indirect form, and, third, to the fact that I have taken an appeal to the supreme court. Let me take up these criticisms in the above order. First, as to the drawing of the will. The undisputed facts are that about the 10th of May, 1900, Mr. Bennett made a trip from New York to Nebraska for the purpose of having the will drawn. He brought with him a former will and certain memoranda, which were used in drawing the new will. He did not discuss with me the provision made for any of his relatives except the provision made for his wife—and that was not a discussion, but merely a statement upon his part that he had left her sufficient to cover all possible needs.

He did not consult me as a lawyer, but came to me because he desired to leave some money to me, and desired me to distribute an additional sum for him. I had never been his attorney and never discussed any legal question with him, but I stated in the probate court that I was perfectly willing to have any presumption weighed against me that could be invoked against me had I been his attorney and had I drawn the will for him as his attorney. After making such provision for his family and relatives as he desired to make, he wanted to use certain other sums for the advancement of his political views and for educational and charitable purposes. These purposes were set forth in the will and the sealed letter and they were the only purposes about which he consulted me. The first question is, therefore, should I have declined to assist in drawing the will? Should I have sent him back to New York to have the will drawn by someone else? Was the drawing of the will by me immoral, or did it in any way manifest a "commercial spirit?"

The will was not executed in Nebraska. It was carried back to New York and executed there ten days later. Mr. Bennett was fifteen hundred miles away from me when he summoned the witnesses and executed the will, wrote the sealed letter, and put both away in a safe deposit vault of his own selection where they remained under his control until his death, more than three years afterwards.

The probate judge, a republican, after hearing the testimony, declared that the circumstances of the case fully and completely rebutted any presumption arising from the fact that I am by profession a lawyer.

As to the second question. The sealed letter was excluded by the probate court not because of any undue influence in the making of the will, but on the legal ground that it was not sufficiently identified by the will to be made a part of it. It is my fault that the bequest was not made direct, and I explained in court the reason for suggesting the indirect form. I did not care to accept the gift unconditionally. I preferred to leave the matter to be decided at the time of his death. The will was made just before the opening of the campaign of 1900, and at a time when my renomination was certain. I told him that I did not care to accept the money unless I needed it, and that I would not need it if, as then seemed probable, I should be elected. I did not care to have my name appear in the will if I did not accept the money, and at my suggestion it was made to the wife in trust, and the terms of the trust were set forth in the sealed letter.

Was it immoral to accept the bequest conditionally instead of unconditionally? Did it betray a "commercial spirit" to put the matter in the hands of the wife, instead of making it direct, as in the other cases? Can either Mr. Bennett or I be accused of unfairness to the wife in making the bequest in the form in which it was made? When I objected to receiving it as a direct and unconditional bequest, he stated how he desired it disposed of in case I refused to receive it. The alternative plan was that it should be distributed by me among educational and charitable institutions, and this alternative provision was clearly set forth in the sealed letter, (written with his pen) which was left with the will.

The third question relates to the appeal. The will and the sealed letter taken together set forth the testator's purpose clearly and unequivocally, and no one who knows the facts in the case can doubt for a moment that I am endeavoring to carry out the will of the testator. I stated both in the probate court and in the circuit court that not a dollar of this money will be used by myself or by my family without the consent of the widow. The case can be disposed of any moment if the widow and heirs will agree that the $50,000 shall be distributed among educational and charitable institutions. I know, and everybody knows who understands the facts in the case, that Mr. Bennett wanted this money distributed in this way if I did not receive it for myself and family. The trial judge excluded the sealed letter and all testimony in regard to the testator's purpose in making the will. If I were considering mercly my own convenience I would not contest the case at all, for in contesting it I am spending time and money without any probability of pecuniary return to myself. I am doing it because I could not do less and be true to the trust imposed upon me by a friend. The question is not a settled one in Connecticut, and there is no way to settle it except to obtain an adjudication of the point by the supreme court.

Is there anything immoral in leaving the question to the supreme court? Do I show a commercial spirit in refusing to consult my own convenience in this matter?

But the Record-Herald overlooks the questions which are really of greatest importance. The question of the making of the will, since it involved no undue influence, was at most a matter of propriety and not a matter of morals, and the same is true of the form of the bequest if—as it was, in fact—the desire of the testator to make the bequest. Likewise in regard to the appeal. It cannot be said to be immoral for a contestant to take a question upon appeal to the highest court, especially when, as in this case, I have tried in vain to consolidate the cases so as to occupy as little time and incur as little expense as possible. There are two questions, however, which involves moral principles, and if these could be decided against me my conduct would be subject to just criticism. First, did the testator with my consent do injustice to his wife? It is not sufficient to say that he was the person to decide that question. If, as a matter of fact, he did not make suitable provision for her, I could not throw the blame upon him if I should seek to carry out an unfair provision. But the facts in the case show that the provisions not only express his own wishes, but that in making the disposition he did, he was within his moral as well as his legal rights. In the sealed letter he told his wife that he estimated her bequest at $100,000, and this, he said, would give her an income larger than she could spend, and enable her to make provision for those whom she desired to remember. The amount left to his wife will enable her to live in the the same style as during his life without exhausting her annual income. The income from $100,000 at 3 per cent will give her more than half the salary paid to senators, members of congress and many other public officials. She has no children to provide for, and the sum left to her will enable her to leave to each of her brothers $50,000, which is more than Mr. Bennett thought it necessary or wise to leave either to his sister or to his half-brother. He gave to his sister about $30,000 and to his half-brother (including his half-brother's family) about $28,000, besides remembering other relatives. If it is true, as stated by him in the sealed letter, that her income will be more than sufficient for her needs, then any additional sum left to her would have been left not to her, but to her relatives, unless she should dispose of it by will. Is there any reason why her relatives should receive more? Or has she any better right to dispose of it by will than he had?

The amount left to me conditionally would not have gone to his wife or to his relatives had I refused it at the time. It would have been distributed among educational and charitable institutions, but even this fact would not excuse me if I had accepted, even conditionally, money which in morals belonged to some one else.

Can it be said, after full consideration of the circumstances in this case, that I was culpable from a moral standpoint in not insisting when the will was made that the amount proposed for me or to be distributed by me should have been given to his wife or to his or her relatives?

But the questions which I have considered before have not, altogether, given me as much concern as the last, and to my mind the most vital of all the questions in this case, namely, Should I have consented to this bequest under any consideration, not as a matter of expediency, but as a matter of morals? That "it is more blessed to give than to receive" is recognized by all who have tried both. Instead of refusing the bequest absolutely it was at my request put in a form where the decision could be postponed until the time of his death. In thus postponing to a future time the decision of the question I acted upon what I believed to be satisfactory reasons. The campaign of 1896 had given me a prominence which, while it greatly increased my earning power, imposed upon me a large additional expense. For years I had been interested in matters of government, and the campaign of 1896 placed me in a position where I could not lay down the work without what seemed to me a betrayal of trust. I could not return to the practice of the law without abandoning political work and ignoring a large correspondence. The field that seemed most suitable for the work I wanted to do was the lecture field, because in it I could earn what I needed and still have a large part of my time for public work. I found, however, that the fact that I received pay for lectures was misrepresented and distorted, and I not only reached a smaller number through my lectures than I could reach through public addresses, but the fact that I received money for lectures was made the basis of the accusation (entirely false) that I received pay for political speeches.

Mr. Bennett's purpose, as he expressed it in the sealed letter, was to make such a provision for me that I could more freely devote myself to public work—so that I could do without compensation work for which I was then compelled to charge.

During the period between 1896 and the making of the will, I devoted more time to work which brought no remuneration than I did to remunerative work. There was not a year between the two campaigns that I could not have made $50,000 had I devoted myself entirely to money making. As it was I had up to May, 1900, saved only about $25,000 or $30,000, and of this about $6,000 was accumulated before the campaign of 1896 opened. If at that time my health had failed under the stress of my work, I would have had an income of less than a thousand dollars—a sum not half equal to the annual expense of my correspondence between 1896 and 1900.

When Mr. Bennett unexpectedly made this propositon I considered it carefully, and felt that under the circumstances I was justified in accepting it conditionally. I regarded it as an insurance against financial embarrassment, in case of a possible break-down in health, and as an afterthought we added it was to be payable to my heirs in case of my death, it being to that extent a life insurance policy and saved me the annual premiums on that amount. Since the making of

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