

The Commoner.

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It's Up to You, Mr. President

Well, it is up to you now, Mr. President. You have been challenging Mr. Bryan to name a case that can not be prosecuted just as well under the new construction as under the anti-trust law as formerly construed. Mr. Bryan has named five cases, the Standard Oil Case, the Tobacco case, the Steel Trust case, the Traffic case and the Merger case. You would not discuss these but we now have a case which YOU MUST ACT UPON. The packers asked for a writ of habeas corpus on the ground that a law which prohibits ONLY UNREASONABLE RESTRAINT of trade can not be enforced criminally because no one can tell what a court or jury would declare to be unreasonable. The packers say:

"The alleged criminality of the alleged transactions complained of in the indictments will depend entirely upon a particular jury's view of the REASONABLENESS or UNREASONABLENESS of the particular case; it will depend not on any standard erected by the law which may be known in advance, but on one that may be created by the whim, prejudice or arbitrary views of a jury.

"There is no set standard fixed or attempted to be fixed to

guide the citizen to a knowledge of his guilt or innocence of an offense charged before it has been adjudicated.

"The act violates the sixth amendment to the constitution of the United States, which requires that petitioners severally shall be informed of the nature and cause of the accusations."

The supreme court has already held substantially as the packers claim and Justice Harlan and the judiciary committee of the senate took the same position in opposing the insertion of the word UNREASONABLE in the law. You have contended, Mr. President, that the law was IMPROVED by the insertion of the word UNREASONABLE; now that the matter will sooner or later get before the supreme court on this point we shall see what the law is worth as a criminal statute. The only trouble is that the final decision may not be rendered until after the next election. Can you hurry this case up and get a decision at once? Push the prosecution and let us know whether a man can be punished for doing an unreasonable thing with criminal intent when there is no definition of unreasonableness.

A Leader Wanted

There is a progressive majority in congress, but it lacks leadership. Speaker Clark is the one of whom leadership was expected but his usefulness in that capacity is being impaired, partly by fear that he will be accused of imitating Cannon, and partly by the mistaken idea that it is his special mission to preserve harmony among the democrats in the house. In both cases he errs. Cannon was not a moral leader—he was the master of a machine. The appointment of committees enabled him to coerce republicans and corrupt democrats. When the democrats changed the rules they did not intend to deprive the speaker of any power that legitimately belongs to a democratic leader. On the contrary, a democratic leader ought to be the stronger because his leadership rests upon his ability to persuade rather than upon fear.

The second error into which Speaker Clark has fallen is still more dangerous. The first error tends to make him a negative quantity but the second may convert him into a positive force for harm. If he conceives his highest duty to be to preserve harmony he will exert his influence to prevent the consideration of any measure upon which democrats are divided—the trust question, for instance. Progress is more important than harmony. The men who oppose

reforms are always quick to threaten a bolt if remedial legislation is attempted.

The democratic party is a progressive party—nine-tenths of the rank and file are progressive, but the one-tenth is powerful because it is made up of men with large corporate connections and of politicians whom they intimidate.

The progressive element in the party must have leadership in the house. If, for any reason, the speaker refuses to lead, some one should be selected to marshal the reform forces and lead the fight. Mr. Underwood has gained undue prominence because he has been allowed to speak for the democratic majority. He has led the party into surrenders which embarrass it; he is the head of the reactionary element of the party—the man whom the progressive leaders will have to oppose.

Who will lead? Mr. Clark is, so far as is known, right on all public questions. Will he step forward and order a charge? Or will he act as umpire and watch the fight. He won his spurs as a fighter and he can not hope to retain the confidence of his friends if he turns the leadership over to another.

If Mr. Clark had exhibited as speaker the qualities of leadership that made him speaker he would now be without a rival in the race for the presidential nomination. He has time yet to make himself a formidable candidate, but to do so he must LEAD.

There are several planks of the democratic platform which have not yet been taken up; are they going to be carried out or repudiated? We have fought for nineteen years for the election of senators by the people—is it to be killed in conference?

The people need a champion in the house—to whom will the honor go?

Is Judge Landis being considered for Justice Harlan's place? Or has he, by his fine against the Standard Oil company, shut himself of the distinguished company of those fitted by judicial temperament for the supreme bench?

Mr. Perkins told us why Governor Hughes was "put over." Now will he tell us whom his former partner, J. Pierpont Morgan, has recommended for Justice Harlan's place?

Do you hear of any one being discussed for Justice Harlan's place who resembles him in any respect?

If big business will name their choice for Justice Harlan's place the public can quit guessing.

Appeal to Prejudice

The Irish World is scolding Mr. Bryan again. Under a heading, "Duped Again," it has an editorial of a column and a half complaining that Mr. Bryan has fallen a victim to English wiles. It charges that Mr. Bryan was deceived "by his English entertainers" and returned from Great Britain "enthusiastic for a pro-British treaty," etc. The World is wrong again. The idea of investigation before war was carried to Great Britain by Mr. Bryan over five years ago. He first urged the plan upon President Roosevelt, pointing out that investigation would in almost every case prevent war by leading to reconciliation. When he visited Asia in the fall of 1905 he presented the plan at a banquet given him at Tokio. When he reached London in July of 1906 he laid the plan before Sir Henry Campbell-Bannerman and secured his support for it, and was then successful in obtaining a unanimous indorsement by the peace congress during the same month. Twenty-six nations were represented at this congress, and there was not a dissenting vote. He afterwards secured an indorsement for the plan by a peace congress at New York and later at Edinburgh, Scotland. Instead of being "misled by English entertainers" he has been an ardent advocate of the plan here and abroad. He brought it to the attention of the president a year ago last July, and again last April, and is very much gratified to see the plan embodied in the treaty. He has no apologies to offer to the World or to any other paper or individual for being in favor of the promotion of peace. He believes that no difference between nations is important enough to justify shooting before the facts are ascertained, and he believes that investigation will in almost all cases make arbitration unnecessary. If the Irish World is opposed to Mr. Bryan's plan it ought to attack the plan and not attempt to create prejudice against it by misrepresentation.

The World, not content with the criticism of Mr. Bryan's advocacy of investigation as a means of preserving peace, revamps its criticism of his defense of the treaty with Spain. Mr. Bryan has never seen any reason to change his mind on that treaty. The country was at war and there was no reason for prolonging the war with its expense and dangers when the same end could be reached by this nation without the concurrence of any other nation. No one, not even the Irish World, has yet attempted to

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