The Sun.

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The Return of the Hazers.

General Luke E. Wright, the new Secretary of War, vigorously coached by the President, has learned when a mandatory law is not mandatory. Not being practical like Mr. Roosevelt, the General saw no hope of reprieve or restoration for the eight West Point cadets found guilty of hazing by a board of army officers presided over by the Commandant, Colonel Robert L. Howze, of whom, by the way, Mr. Roosevelt is a great admirer. Colonel Hugh L. Scott, the Superintendent, whom Mr. Roosevelt holds in equal esteem, had dismissed the culprits, deriving his authority, as he supposed, from the law enacted by Congress and approved March 2, 1901, which directed that any cadet found guilty of hazing should be expelled from the Academy, not to be reappointed to the corps or be eligible for appointment as an officer of the army, navy or Marine Corps "until two years after the graduation of the class of which he was a member," and then only by act of Congress.

The law was explicit, the cadets had been duly found guilty and "summarily expelled from the Academy," to use the words of the statute. General Wright told them in an audience at Washington that no appeal would lie. What seemed to make their cases utterly hopeless, if an act of Congress did not, was the fact that the President had officially approved the court-martial findings before the ex-cadets made their call on General Wright.

It is now pointed out that the President exceeded his authority in confirming the court-martial findings, and humbly he acknowledges it, since the Secretary of War had not signed them himself. The President's excesses of authority are sometimes awkward, and this was one of them, for he suddenly decided that the cadets should be reinstated. Secretary Loeb accordingly made the announcement at Oyster Bay. As a strong President Mr. Roosevelt found the way—let sticklers for the Constitution snarl.

In due time the explanation of when a mandatory law is not mandatory may be something like this. The law is explicit, but the Superintendent of the Academy was too impulsive in dismissing the cadets because they were found guilty by a court-martial, just as the President was too impulsive in approving what Colonel Scott had done, thus anticipating the Secretary of War, an officer new to his duties. Section 1326 of the Revised Statutes provides that the Superintendent of the Military Academy shall execute the sentences of courts-martial "except the sentences of suspension and dismission." The Articles of War say, Section 99, that "no officer shall be discharged or dismissed from the service except by order of the President or by sentence of a general court-martial." It is all as plain as a pikestaff to Mr. Roosevelt. The mandatory law of Congress punishing hazing must be read in the light of these statutes, and one statute in the light of the other. The Superintendent in any event cannot execute a sentence of dismissal; only the President can. It is true that the President did approve the findings of the court-martial at West Point, but that was an excess of authority. Secretary Wright now sees that he could have advised the President that the sentence of dismissal was too harsh and ought to be countermanded. The General's mistake was in presuming that the act of Congress was mandatory and paramount. It may be mandatory, but not paramount. He now has a clearer view of the powers of the Commander in Chief.

So back to the Academy the exiled hazers go. The discipline that must be maintained is in this case the discipline enforced by the President. Colonel Scott is not likely to be so precipitate another time. It is a safe rule always to consult Mr. Roosevelt first.

Convict Labor in the South.

In view of the recent revelations in respect of convict labor in Georgia we make bold to renew our suggestion touching the prisoners in all States that farm them out to contractors or speculators for employment of any kind. Things may be worse in Georgia than elsewhere, but it is our profound conviction that they are necessarily bad enough wherever condemned criminals are surrendered to private control to be used in individual enterprises.

Convicts should not be regarded as an asset. They are on the contrary a responsibility. It is no doubt necessary to deprive them of their liberty when they have abused it shamefully to the injury or the peril of society, but the restraint thus imposed should always have in view the betterment if not the rescue of the criminal, and this cannot be when they are transferred from the care of the State to the caprice of taskmasters. That is to consign them not only to a school of brutality and wickedness but to an experience of cruel persecution which, as we have seen, fairly beggars the resources of description.

We still think that road making is the best employment for these prisoners. It is not an arrangement in connection with which the penitentiary authorities can figure out an immediate profit in dollars while they amuse themselves with purely nominal occupations, but it is one which, properly managed, will add vastly to the solid and permanent wealth of the State and contribute to the health, morale and well being of the convict. The argument has been urged that rural communities will object to having penal settlements established in their neighborhood. It is a sufficient reply to this to say that there will be no "settlements," but only movable and temporary adjustments which need harm no one and which will pass on before their presence has made itself felt. There would be nothing whatever in this protest even if the premises were correct, for it is a familiar spectacle in many Southern towns and cities, that of men in stripes working the public thoroughfares, and only very squeamish and impracticable persons have objected to it.

No State can have a better or more enduring basis of prosperity than a complete system of public roads, scientifically constructed and rigidly maintained. No States will have less criminals than those which treat their criminals humanely.

Is a Crisis at Hand in France?

The collisions of the last week between the French Government and the labor unionists bear an ominous likeness to those that preceded the calamitous Days of June, 1848, when the revolt of discontented workmen compelled the newly proclaimed republic to order its agent, General Cavaignac, to make a ruthless use of its military resources.

In the violent demonstration of labor unionists at Vigneaux the other day, which seems to have been provoked by professional labor agitators, barricades were reared and had to be stormed by troops, whose volleys, delivered by way of reprisal, caused the loss of several lives. The suppression of the disturbance at Vigneaux was promptly followed in Paris by the arrest of several leaders of the General Federation of Labor, which replied by issuing a call for a gigantic strike, to take place to-day, in which all affiliated trades unions were urged to participate. The trade unionists of Toulon voted simultaneously to support the Parisian Laborites, a sign that the labor troubles of the capital may possibly spread to the provinces. Meanwhile a great majority of Paris newspapers condemn the Laborites for the Vigneaux riots and for the subsequent demonstrations, and demand immediate and vigorous measures of repression, but Socialist journals reply in a vindictive and defiant spirit, and one of them, Hervé's organ, does not hesitate to declare that the hour has come for a revolutionary conflict between labor and capital.

We have no doubt as to the issue of an armed contest between the labor unionists of Paris and the French Government, so long as this is headed by M. Clemenceau and has such a man as General Picquart in the War Office. It is no longer possible to erect in Paris such formidable barricades as were constructed sixty years ago, and we may therefore assume that the quelling of a proletarian rebellion would be effected much more quickly and it is to be hoped with far less bloodshed. No one, however, who wishes well to the present French republic can fail to deplore the harsh necessity of employing rifles and cannon for the maintenance of peace and order in Paris, because, as experience has shown, the eventual political results may be grave. It is not to be forgotten that not only General Cavaignac but the Second French Republic itself sacrificed popularity in the Days of June, 1848, and that consequently, as Victor Hugo has shown in his "Histoire d'un Crime," the Paris workingmen viewed with apathy Louis Napoleon's establishment of a dictatorship by the coup d'état of December 2, 1851.

Naturally French reactionists and their newspaper mouthpieces recognize in the existing predicament of the Clemenceau Cabinet their opportunity. Of course, the Ministers are in a dilemma. If they put down the rebellious workmen with stern and sanguinary measures they will lose, not only in Paris but possibly all over France, the votes of the urban proletariat; while on the other hand if they evince weakness and hesitation they will forfeit irreparably the confidence of the friends of tranquillity and order. No one who knows Clemenceau, however, can doubt that he will face the former alternative.

Advances in Musical Taste.

The late William Mason mentioned in his memories of a long musical life that he was the first virtuoso to give concerts in the United States and provide the entire programme. Before 1847, when he made his tour, it had been customary for a singer or instrumentalist or both to accompany the pianist on his travels to relieve what would have been called the monotony of a concert given by one person. Taste has improved during the threescore years that have passed since Mr. Mason introduced piano recitals, as such concerts are now called, to the musical public of this country. Now they are the best manner of appearance possible to a dignified musician. The old time mixed concert would be fatal to the claims of any pianist who asked to be taken seriously.

So far has the cultivation of the public advanced in respect to the programmes it demands that everywhere in this country the recital has become as much of a necessity as it is in the larger musical centres. The miscellaneous concert purveyed by a troupe is sure to be resented even in the small towns as an undignified attempt to interest the uncultivated. These communities refuse to be thought any less musical than others, whether it be a recital of a singer or a pianist they are invited to hear.

Evidence of the extent to which Mr. Mason lived to see concert programmes specialized will be found in the so-called one man concert, in which there is not merely one performer, but one composer only. Beethoven and Chopin have occasionally furnished the material for such recitals here, but there have so far been few concerts in New York of such a special character, both the pianists and the public enjoying most the programmes that begin with the classic, proceed to the romantic and end with the modern numbers of piano literature. Yet there are many musicians who believe that the one man programme is just as inevitable in the concert halls of the future as the recital has shown itself. Composers who have written in widely different fields are admittedly more susceptible of successful presentation to audiences in such exclusive form. On the other hand, there are some masters regularly offered on recital programmes who might become wearisome to the flesh were their music alone selected. It seems certain that if these one man concerts become as usual as the most advanced musicians prophesy the programmes of certain composers will be much more welcome than others. Mr. Mason's recitals were considered just as revolutionary in their first days as the one man concert seems now.

The Alligator in the Sound.

We expect to see the whole neighborhood of New London, Conn., depopulated within the next few days, so far at least as bathers are concerned. All along the Niantic River and even down the bay to the very capes thereof both the natives and the summer visitors will tremble on the shore—arrayed of course in the most attractive bathing suits—and not so much as wet their slippers until the ravening alligator which escaped from the Golden Spur recreation park and promptly took to the deep water shall have been captured and caged again.

Everybody by this time is aware of the ferocious proclivities of the alligator. Winter tourists in Florida have told us all sorts of tales of its bold and aggressive habits and of the unbridled passion for human flesh which inspires it. The escaped saurian is described as "young," which means that it is anywhere from three to six feet long and in the doubt thus engendered lies the explanation of the terror that has taken possession of the New London vicinity. If it is only three feet long, to be sure a powerful swimmer might venture into the Niantic under cirumstances of the utmost caution. But it may be five or even six feet long, and dangerous and savage in proportion, in which case the boldest may well

> "Hang his clothes on a hickory limb
> But not go near the water."

Alligators of that size have been known, by Northern tourists in Florida of course, to attack steam launches loaded with merrymakers and after chewing up the boat to devour the last one of its inhabitants. We do not wonder that the population, both resident and temporary, has been reduced to sun baths pending the recapture of the alligator.

It is most unfortunate, nevertheless. We understand that a great many persons in the neighborhood have acquired the habit of going into the water almost every day during the heated term and you might say are almost wedded to it. They can still display their swimming costumes, to be sure, and derive a gloomy consolation from that expedient, but with an alligator at large in the local waters no one within five miles will venture in so much as ankle deep. Better wait indefinitely for a bath than make bait for a monster's whetted appetite.

Mr. Taft made the eighteen holes in 92, one under his best previous record.—*Despatch from Hot Springs, Va.*

If the score is authentic Judge Taft as a golfer makes a very respectable figure, considering his age and weight. If every golf player who cannot do eighteen holes in 92 votes for him he will have most of the golf vote.

An infamous lie.—*The Hon.* Samuel Gompers.

Mr. Gompers's style has profited by his intimacy with the Flower of Courtesy.

Mr. Bryan can't keep away from the enemy's country. He has promised to make some speeches here, but New York pines for a stranger voice. Cowboy Jim Dahlman is the vision and desire for which she waits.

Again are the foes of virtue and the Hon. Joseph Wingate Folk baffled. He has just carried a picnic by a safe majority. The Hon. William Joel Stone has no chance at picnics. His habit of sucking the eggs and hiding the shells is thought unsociable.

Chairman Mack showed a great deal of satisfaction yesterday over the receipt of a telegram from Josiah Quincy of Boston. The message said that Mr. Quincy was in line for Bryan and Kern. —*The Tribune.*

Now that Mr. Quincy sees how easy it is to make some folks happy we hope that he will unveil more freely the treasures of his sympathetic but hitherto restrained temperament.

A Western View of the Supreme Court's Function.

To the Editor of The Sun—*Sir:* Talking recently with one of the leading Harvard professors I was somewhat surprised to find him taking the ground that it is an impudent assumption on the part of the United States Supreme Court to review the laws passed by Congress and to declare them unconstitutional; that there are abler lawyers and expounders of law in the Senate than on the Supreme bench, and that no other nation in the world would permit the enactments of its Parliament to be reviewed by another and professedly higher tribunal. He cites England as an example.

He believes that there is far less danger of executive than of judicial usurpation, and that the position of the Western people (he comes from the West) upon the encroachments of the judiciary will be found to be that assumed later in the East.

He looks to the transfer of the centre of culture to the middle West, as the culture of a community follows the establishment of wealth. He further sees the radicalism of the present in the West becoming the conservatism of the future, and he thinks the greater prescience of the West enables its people to see what to our duller vision is withheld for the present.

I am wondering whether we are all mistaken in considering the Supreme Court one of the bulwarks of American liberty instead of a usurper of power, and why a clarity of vision forbidden to us is vouchsafed to our Western fellow citizens. W. P. A.

Cambridge, Mass., August 1.

A Political Note From Paris.

From l'Opinion.

Malgré le vote de confiance de la convention de Chicago on prétend que "Bill Taft" n'est pas encore Président des Etats-Unis.

His Part.

Ethel—Let's play house.

Johnny—All right; you be ma away in the country and I'll be pa.

PRÆSES INDOCTUS.

Mr. Roosevelt Defended on the Ground of Ignorance.

To the Editor of The Sun—*Sir:* I do not think the comments by the President on the unanimous decision by the full bench of appeal (not merely the opinion of Judge Grosscup, be it noted) in the Standard Oil case are alarming, excepting as Roosevelt is always alarming as President. Were he to be in office during another term those comments might be very disturbing, since by repetition they might grow into executive precedents.

Roosevelt, like Bryan, is not a lawyer who has had experience in the trial of important causes in the Federal or any other courts and carrying them by writs of error or by any other methods of technical procedure to appellate tribunals. Neither Roosevelt nor Bryan has the habit of mind or learning of a successful member of the bar or the bench. Therefore, as well as for other reasons, neither of them is fit to be President of the United States.

A great many years ago there was in England such an ignorant prejudice against lawyers that none was in a House of Commons, with the result that the statutes enacted during that Parliament were so worthless that it went into history as the "Parliamentum Indoctum."

The substance of Roosevelt's comments on the opinion of the Circuit Court of Appeals, a majority of whose present members were selected and appointed by himself, was written to Congress in his annual message of 1906, in which he made the following absurd recommendations, to which Congress, as was to have been expected, paid no heed:

> I would like to call attention to the very unsatisfactory state of our *criminal* law, resulting in large part from the habit of setting aside the judgments of inferior courts on *technicalities* absolutely unconnected with the merits of the case, and where there is no attempt to show that there has been any failure of substantial justice. It would be well to enact a law providing something to the effect that:
>
> No judgment shall be set aside or new trial granted in any cause, civil or *criminal*, on the ground of misdirection of the jury, or the improper admission or rejection of evidence, or for error as to any matter of pleading or procedure unless in the opinion of the Court to which the application is made, after an examination of the entire cause, it shall affirmatively appear that the error complained of has resulted in *a miscarriage of justice.*

It is probably next to impossible for an American or British lawyer, familiar with the rules of decision in common law trials, either civil or criminal, to think of such advice of Congress by the President, and yet Roosevelt or Bryan might sincerely and honestly give it. From Taft as President such advice is unthinkable. It cannot be that it is one of "my policies" which he intends to "clinch."

Which are "technicalities" and "merits" and what is "justice" in a prosecution by the executive in a Federal Court to deprive the accused of life, liberty or property, for an alleged violation of Federal law? Is "justice" in such a trial different from law?

The Federal Constitution forbids a denial of a jury in such a prosecution. The facts can be tried only by a jury and cannot be reexamined otherwise than according to the common law, which is by a new trial. All that is very technical! And so is the rule in the Federal courts that a Judge cannot order a nonsuit, but must submit every common law case to a jury. How could the Court of Appeals ascertain the "merits" of the Standard Oil case if it appeared that Judge Landis excluded relevant and competent testimony from the cognizance of the jury? How could the President know the "merits"?

When Judge Landis was confronted by the indictment presented by the Federal prosecutor it was his duty to decide first of all whether he had jurisdiction to try the suit. That was a technical question. Then if he had the jurisdiction he was required to ascertain and apply rigid rules of decision by which guilt or innocence was to be reached. Those rules did not permit the exercise of discretion by him. They were for him fixed and immutable. The rules of evidence are of that character. He was not required or permitted to conduct the trial as an arbitrator, or on mere ethical grounds, but according to principles of law and rules of evidence prescribed to him by his superior Judges with the sanction of Congress. Those rules thus made are laws, whether just or unjust, whether technicalities or not. If they were not obeyed by Judge Landis there had not been either Judge or justice. Congress required the appellate court to decide whether those rules of decision had been obeyed.

Judges have not the discretion that the President and Congress have, and for that very reason their action in a "case" is never open to executive or legislative control or influence. The action of a Judge does not proceed from individual discretion, but is regulated by the principles of a science beyond the call of any individual Judge. Citizens and voters may criticise, but it is never permissible for the President to criticise officially. Nisi Prius.

New York, August 1.

Psychology of Broken Jaws.

From a paper by D. B. Breundlich in the New York Medical Journal.

It might be a bit of a strange fact, but you would be astonished to see the broken jaws which are presented at free institutions on St. Patrick's day, election day, New Year's day and the Fourth of July. A great number of fractured jaws are the result of quarrels among the very lowest of classes. It surprises me that the number of broken jaws is not on the increase on account of the heated newspaper discussions that we are constantly having on various topics of the day. It has been said that were it not for the mouth nine-tenths of the gossip and the mischief of the world would be prevented. And very often were it not for the mouth there would be no broken jaws.

Hay on Church Floor.

From the London Standard.

A curious custom was observed at Old Neston Church on Sunday. The church is dedicated to St. Swithin, and on festival day the church is strewn with hay. Many years ago some donor left a field to provide money for bread which is distributed four times a year. The tenant of the field has to supply the hay to strew the church. The custom is supposed to have originated from the fact that on Festival Sunday the parishioners wear new boots, and the idea of the donor was to have the hay laid down to stop the squeaking incidental to new footwear. On Sunday the hay was duly laid down in the church.

Another Republican on the Racetrack Issue.

To the Editor of The Sun—*Sir:* A "Republican" correspondent in yesterday's issue does not seem to like Governor Hughes's racetrack legislation, I suppose. The Republican party can spare those kind of people. I am an old commercial traveller, have been with the boys in all kinds of games, and the biggest curse is the racetrack. It is the most alluring. Its mass of betters can't afford to lose a dollar. I have seen the best of men go to ruin through the racetrack. "Personal liberty" is a good thing in the hands of decent men, but personal pleasure should not be a public curse. H.

New York, July 31.

Naming the Baby for Taft.

He is the heir of ages fell,
He came upon us with a yell,
But naught his dimpled grace can quell,
And so we're naming him for Taft.

His silence puzzles us the while
He seems so free from plot and guile,
His greatest asset is his smile,
And so we're naming him for Taft.

So day by day we fondly wait
To see him grow to man's estate,
Free, independent, fearless, great,
And so we're naming him for Taft.

McLandburgh Wilson.

NATIONAL FREIGHT IN INDIANA HAULED BY STATE TICKET.

Indianapolis, July 31.—The Democratic situation in Indiana is one that may be easily defined—it is harmony induced by hope. The Democrats, the Taggarts, the anti-Taggarts and the plain or garden variety of Democrats see a chance to win, the first in a sad series of years, and the prospect of the promised land of patronage is good to the hungry, hence this peace. To be sure there is nothing overardent, no superabundance of brotherly love about this affection of Democrat for Democrat; perhaps ardent affection is too much to expect even from Democrats in Mr. Fairbanks's State. It is just a determination, unusual among Democrats anywhere, to vote the ticket. This is the beginning of the Democratic situation in Indiana.

In the second place, Mr. Bryan is only a side issue in the Hoosier circus—a small tent a long way from the "big show." Neither is John W. Kern, "favorite son" though he may be, the centre of attraction. Such hope as the Democrats have in Indiana, and they have a good deal, is based neither upon Bryan nor Kern. The brutal truth is that both promise to be "also rans" in Indiana, and are destined to be pushed still further in the background as the campaign progresses.

Indiana is a doubtful State because of the State campaign, the State issues and the State candidates. If there were no State ticket to be voted upon in November Mr. Bryan would have no more show in Indiana than in Massachusetts. If there were no national campaign the Democratic State ticket would be about as certain of victory here as in Texas. It is this double pull, backward and forward, that makes the Indiana situation real.

To begin with, it may be well to eliminate certain mistaken notions as to this Indiana situation. Mr. Bryan in 1908 is the "same old Bryan" of 1896 in Indiana. His following, so far as it is a personal following, represents a fraction of the party long on whiskers and short on sanity.

"They ain't a lot of damn fools, because Indiana is the kind of State where a lot couldn't last," said one scornful anti-Bryan Democrat. But these "ninety-sixers" in Indiana are like the Aleck Troups and the George Fred Williamses of New England, mere survivals. In the main, with a modification in degree only, Indiana loves its Bryan with all the ardor that New York feels for the Nebraskan, and no more.

"Shows himself to be a twelve years older ass than he was in 1896," was one statement of the case by a Democrat.

Again, as has been suggested in a previous letter, there is no radical wave in Indiana amounting to more than a ruffle. There is no vast concourse of radicals who are standing first on one foot and then on the other trying to decide whether Taft or Bryan is the true prophet of the progressive. So far as the national campaign is concerned it is the New York situation with no suggestion that Bryan has "grown." What is new in the situation and marks it as different from New York's is that the anti-Bryan Democrat says:

"I am going to vote a straight Democratic ticket this year because I don't want to take any chance with the State ticket." In many cases he makes a wry face about it, but tells you frankly that this means a larger Democratic vote for Mr. Bryan than ever before. It is the universal judgment, too, that whatever of hope there is for Mr. Bryan in Indiana rests entirely upon the amount of benefit he may derive from this State situation. To all intents and purposes Mr. Bryan and the thrice estimable Kern are freight, mere dead weight to be hauled by the State ticket. This is the national situation in Indiana.

It is when the State situation is considered, however, that the Republican danger becomes manifest. If the Democrats in New York had nominated for Governor a Democratic Charles E. Hughes and the Republicans had named Tim Woodruff—an utterly impossible hypothesis, of course —New York would then have a situation fairly analogous. At least there would be the same problem for the voter, the same conflicting desire to hit Bryan and to smash the Republican machine. All things considered, the latter is the dominant emotion in Indiana in July.

The Republican party in Indiana has been more or less a stench in the nostrils of decent citizens. One State official has been sent to the penitentiary, others have resigned under fire. There is a similar situation in the Republican administration in Marion county, in which Indianapolis is situated. Accordingly all over Indiana there is to be heard the suggestive sound of the whetting of knives. "Turn the rascals out" sounds as often on the banks of the Wabash as it did once along the Hudson. Republican politicians have seen the storm signals too.

In this posture of affairs the Democrats have nominated for Governor a man satisfactory to all factions of their own party but without the handicap that might come if he were a factional candidate. It is this nominee, T. R. Marshall, and not Mr. Bryan or the home grown Kern, who is actually running in Indiana.

If the Democrats nominated well, the Republicans nominated badly. They named Congressman Watson, a spoke in the Cannon machine in the House of Representatives, who is the unpopular candidate of an unpopular party in Indiana. Watson just slipped in at the last Congressional election. The shave was so close that the Democrats say unkind things about it, and this hurts. But the main difficulty is that although Watson is not associated in any way with the State graft issue, he is associated with the State machine and carries its burden. All in all, Congressman Watson is the Bryan of the Republican situation.

To forestall the danger of a defensive campaign Mr. Watson has seized upon local option as a life saving issue. But this is not an unmixed blessing, for the brewery interests will supply the Democrats with a campaign fund, and the sign of the White Ribbon is likely to irritate the beer loving soul of the German voter.

As to any new elements in this year's campaign in Indiana there are only two, and they are minor. There is the problem of the unemployed and that of the labor vote. Both will, in the judgment of impartial observers, bring some votes to Mr. Bryan. But neither the Democrats nor the Republicans accept Mr. Gompers's estimates of the number of labor votes that can be delivered. In truth this latter element represents vague hope for the Democrats and shadowy apprehension for the Republicans, nothing more.

The situation in Indiana then is poised about these oddly conflicting and accommodating forces. The State is normally Republican by about 30,000, but this is a very slight margin when there are disturbances abroad such as that provoked by the local Republican situation. In truth, in their private talk the Republicans are inclined to concede that Marshall would be elected if a vote were had to-day, and will have the better chance to the end. Mr. Bryan of course is the pendant tail to this kite. His real danger lies in the fact that nobody loves him much. His party would compromise on Taft and Marshall to-morrow. The bulk of the Democrats are going to vote for him merely because this is a condition prerequisite to local victory. It is a case of the "White Man's Burden," this Bryan job in Indiana.

Will Bryan drag the Democratic State ticket down, or will the Democratic State ticket pull Bryan through? These are the Indiana interrogations of July. All Mr. Bryan's advantage is accidental. Indiana may be Democratic this year, but it is not for Bryan. It is as reactionary as Wall Street and takes its Bryan—even with the sugar coating of Kern—not joyfully, not even gracefully, but with profane resignation. The more Bryan there is in the campaign the worse it will be for the Democratic State and national tickets. This is not a Republican or partisan view of the situation, not in the least; it represents the poignant feeling of real Democrats, who expect to "hold their noses and swallow Bryan." Bryan's chances, moreover, seem to depend on the success of this olfactory operation.

SOCIALISM.

It Is Not Communistic, Nor Does It Mean Equal Pay for Unequal Work.

To the Editor of The Sun—*Sir:* In his recent speech at the Underhill monument President Roosevelt based his criticism of socialism upon the claims of "some Socialists." Mrs. Martha Moore Avery, whose letter you print in The Sun of July 22 as the defence of a "competent woman," identifies the Socialists by name. Quoting isolated passages from a number of these Socialists, she seems to make plausible the claim that socialism contemplates "equal pay for unequal work." But one swallow does not make a summer, and although the authorities may include men who have written Socialist platforms none of them has ever succeeded in getting a declaration for equality of remuneration into any official declaration of any delegated body of recognized Socialists, much less a declaration for the abolition of private property or for "baby farms" and other bogies and hobgoblins conjured up in the fertile brain of this "competent woman" who so courteously credits women like Rose Pastor Stokes with "degenerate taste."

It may be in vain to appeal in the name of fairness to such writers, but it will be obvious to intelligent readers of The Sun that those who wish to state correctly the Socialist position should take the official declarations just referred to, and not isolated and disconnected statements of individuals.

As to the question of private property the Socialist platform adopted in Chicago last May calls for the collective ownership of those things which under private ownership are used for the exploitation of labor. As a matter of course all else would be private property. As to equality of remuneration and "the freedom of women who are to be neither maids, wives nor widows," I will give Mrs. Avery five hundred dollars if she will point out anything in this platform or the previous one from which such preposterous inferences can be drawn.

As individuals some of us may hold with Mr. Spargo that "the ideal to be aimed at ultimately must be approximate equality of income"; but ultimate ideals are very different from present proposals and do not always take into account individual qualities. If we ever have "approximate equality of incomes" it can be only when we have approximate equality of ability and willingness as individuals. It certainly does not leave out of consideration the frailties of human nature to say that equality of opportunity such as socialism would afford would have a tendency in the direction of equality of ability and willingness, but it is silly to say that socialism expects or needs this equality for its inauguration or its perfect working. The same Mr. Spargo says in another part of his book entitled "Socialism," page 232: "Not human equality but equality of opportunity is the essence of socialism."

Mrs. Avery offers to quote from Gronlund and other Socialist authorities in support of her argument, but very discreetly omits to do so. In conclusion I will therefore gallantly supply the omission for the benefit of the readers of The Sun, and will supply any quantity of similar omissions upon application from inquirers. In the "Cooperative Commonwealth," by Laurence Gronlund, page 107-8, occurs the following:

"Socialism is in no way communistic. Communism requires every one to do his equal share of labor and allows him to consume as he needs. Socialism makes his consumption exactly commensurate with his performances." W. W. Passage.

Brooklyn, August 1.

Objects to Dictation.

To the Editor of The Sun—*Sir:* From the news in column five, first page of to-day's Sun, and numerous reports in the general press, I infer that Roosevelt can dictate who shall be the Republican candidate for Governor of New York as well as he has already dictated the Presidential candidate of his party.

Every fairly well informed man knows that either of these powers of dictation must spring from a condition that is all wrong and that the power of making both dictations is doubly wrong.

Governor Hughes is a preeminently satisfactory illustration of the idea of "the office seeking the man." He would do more than any other one man can do to reprove Rooseveltism by declining to run.

I say this notwithstanding the fact that I believe that the non-reelection of Hughes would be (independent of reproof of Rooseveltism) a distinct loss to New York and to the Union. Frank Chambers.

Brooklyn, August 1.

Bruno Again.

To the Editor of The Sun—*Sir:* It may be due to a doubting frame of mind, but I am as far as ever from being convinced by your correspondent that Giordano Bruno deserved the stake for the indecency of his writings. The satirical comedy "Il Candelajo" is mentioned both by the Encyclopædia Britannica and Appleton's Cyclopædia without a word of criticism; and while comedy of the age of Shakespeare was often coarse, judged by present day standards, I fancy exceptional grossness would have induced mention by his biographers.

Your correspondent says, "*Ex uno, disce omnes.*" That judgment proves too much. When I read that Bruno was offered a chair of philosophy at Paris, that at Oxford he was permitted to hold a disputation with learned men on the merits of the Copernican system of the universe, that he "was disgusted with the brutality of the English manners" and painted them in no flattering colors; that in 1584 he printed "two great metaphysical works"; that in 1591—two years before he fell into the hands of the Inquisition—he published three other "important metaphysical works"—I cannot believe that his works would have earned for their author the slightest consideration of scholars if they were all marred by the salacity of a degenerate, or that they would be mentioned without criticism by some of the most distinguished of literary authorities.

Bruno's heresy was undoubted. His speculations were probably no worse than those of Michael Servetus, whom Calvin caused to be burned at Geneva, half a century before. A. L.

Aurora, August 1.

General Banks's Anachronistic Trouser Creases.

From the Boston Record.

The queerest thing about the new statue of General Banks will be the creased trousers, barely known when the General was living, certainly not common with veterans.

Happytown.

"Thank heaven," I cry as I lie down
To silken sleep in Happytown,
"No hen may squawk, no ass may bray,
In Happytown, N. J.

"No mice or boots presume to squeak,
No door or axle dares to creak,
No baby squalls, no horses neigh
In Happytown, N. J.

"Honks neither goose nor devil cart,
No politicians b'ow or blart,
Barks, yaps not Blanche, Sweetheart or Tray,
In Happytown, N. J.

"The muffled clock must softly tick,
The billiard ball forgets to click,
A 'still' wears he who wets his clay
In Happytown, N. J.

"Hushed are the cornet's restless toots,
Bassoons are played by nines of mutes,
Each burgher's feet are swathed in hay
In Happytown, N. J.

"At night, a clothespin to my nose,
All snoreless let me dream and doze;
Not even money dares to say
A thing in Happytown, N. J."

In the Words of "Jimmy."

To the Editor of The Sun—*Sir:* So Mr. James Butler of Oak Bluffs, Mass., pretends he doesn't know where Happytown, N. J., is. In the words of Mr. James A. McN. Whistler, Ha, ha! Amazing! Does Mr. Butler know where Paris is?

Montclair, N. J., August 1. Optimus.

THE NEW CODE OF LEGAL ETHICS.

What Is the Duty of the Lawyer Who Becomes Lawmaker?

To the Editor of The Sun—*Sir:* Admirably as the proposed code of legal ethics seems to have been drawn, there still appears to be a grave omission regarding the duty of a lawyer in a legislative capacity. The proposed code expressly provides that the enumeration of particular duties should not be construed as a denial of the existence of others equally imperative, but the absence of any canon pertinent to this important subject as a guide to a profession having to do so largely with the framing and enactment of legislation cannot fail to pass unnoted. Does a lawyer, once elected to the State Legislature or to the national Congress, divest himself *ipso facto* of the duties imposed by the code in other relations? Does his oath of office contemplate only those duties owing to individual and corporate clients? May not his constituency, the people of the State, claim at his hands his highest professional knowledge and skill?

When the candidate for admission swears to support the Constitution of the United States and the State, does the code imply that so long as no individual or corporate interest is involved the lawyer's duty as a legislator requires no protest from him against a flagrantly unconstitutional measure? Assume such a measure to be pending in either branch of the Legislature or the Congress, has the lawyer done his whole duty in voting against it?

Again, assume a measure to be pending concerning which there is an honest doubt as to its constitutionality; does the lawyer comply with the letter or spirit of the code when he allows the bill to pass for the sole purpose of having its constitutionality tested later by the judicial branch of Government, or rather is he not bound to bring to bear upon the discussion of the bill all the learning available to him on the subject of comparative legislation as applied to the matter in hand?

In many States it has long been the practice to submit proposed bills to the members of the court of last resort for a preliminary opinion as to their constitutionality; however open to criticism this course may be otherwise, at least it reflects an honest endeavor to run straight and to obviate unnecessary labor and expense to the people.

The occupation of lawmaker is no longer a hit or miss job, presupposing no knowledge whatever of legislation as a science; but the laymen so engaged are largely dependent, and necessarily so, upon the lawyers in the particular body who presumably have the special knowledge and skill requisite. In these circumstances, what duty is owing by the lawyer to the lay member? Like inquiry might be made as to the duty of the lawyer legislator regarding the extremely delicate subject of special privileges; and so the inquiries might be multiplied.

The framers of the proposed code of ethics will doubtless agree that in the so-called code States the aim of the Legislature is "to make the law more definite and certain"; how nearly this has been accomplished may be gathered from the constant and fervent objurgations of those lawyers and Judges who, no less than the laymen, are victims of the system.

Could not the lawyer members of the Legislature of New York have prevented the enactment or amendment, for example, in its present form of section 829 of the Code of Civil Procedure? What was their duty to the people of the State, themselves as professional men, their brother lawyers and the bench? Is retaliation open only to the courts in numerous and lengthy opinions?

In this monstrous section there are upward of 266 words, or approximately nineteen lines of fourteen words each; bear in mind that the aim of this section, like that of the other sections of the code, is to render the law more definite and certain, yet the number of decisions cited construing this section by the courts of appellate jurisdiction is 251! (Parsons Ann. Code, 1908, 1581 g.)

Well may the graybeard in the profession recall the rhyme of his childhood and pervert it to read:

Codification is vexation,
Precision is a fad;
Eight twenty-nine
Courts can't define,
Its practice drives one mad!

New York, August 1. Papinius.

Bishop Potter and Dr. Nott.

To the Editor of The Sun—*Sir:* The last sentence in "R. R. R.'s" recent letter in The Sun on Bishop Potter's character and works should be written in letters of gold and repeated: "The few who condemn would find more to praise if their soft and idle hands were at the plough, if they saw more and knew more of the work and life of men in a real world."

Bishop Potter's all around devoted life was but the reflection of the instinct, training and sturdy development of character so signally shown in that great man Dr. Eliphalet Nott, grandparent of the Bishop. No man was a wiser, nobler and worthy "man of the world" than this illustrious educator.

Bishop Potter could not sink to the level of the effeminate priest or rigid ecclesiastic with such a forebear. Justice.

Schenectady, N. Y., July 31.

Sociological Observations in The Bronx.

To the Editor of The Sun—*Sir:* I am not a modern Vergil. I wish I were. Still

"Arms and the woman I sing!"

That most women possessed lovely arms had until recently the ring of a truism to me. Now I know better. Judging from the display seen on the subway each morning as one travels from The Bronx a becoming female arm is a rarity indeed. One lady—she certainly might have been a washer lady, though she didn't look the part in a great many respects—whom I noticed lately was a vision! She was presumably on a shopping tour. She had doffed her hat, for which we all tacitly gave much thanks. Her hair was tousled despite the clinging hairpins. Her sleeves were rolled up above her elbows, showing two red masses that had surely been guilty of the family wash the day before, while you could play peekaboo with her waist. A sheath skirt was the only thing needed to place her among the most fashionable devotees of this northern region. And yet with all this scant attire she was fanning herself vigorously until she made every one else feel wilted. The major portion of her conversation was, of course, "Oh, ain't it sultry, Mabel?" or words to that effect.

"Eheu, labuntur anni!" quoth I to myself, quoth I, and translated very literally, "Alas, how the Annies slip away!"—those Annies of my far off youth.

While on the subject of women's attire a word on noise. Maybe Commissioner Bingham's edict has stayed some of the din downtown. Up here we are as noisy as ever. The dog at the back still regales me with its discordant barking every evening. The mandolin still twiddles deliriously for hours. Nay, on the left a diminutive puppy has been installed, which squeals from daylight until the lady of the house chooses to arise. In the words of the old comic song:

"We are a noisy neighborhood,
We are, we are, we are!"

Move? It isn't possible. I have a lease and am fixed till May 1, though when I signed there was nary a dog, a mandolin or a puppy. There are and were organs, but as the grinder is merely trying to earn enough money to enable him to return to his native land that is a charity to which I am quite ready to subscribe. Old Fogy.

The Bronx, August 1.

A Puritan View of Hay Fever.

To the Editor of The Sun—*Sir:* In The Sun I find a column and a half headed "The Hay Fever Cult Is Busy." It is enough to make a horse laugh to read from time to time the various items on or from "The United States Hay Fever Association."

It has been the association's great scheme, as appears from the article referred to, to "seek out places that have no hay fever," which really means places where it is cold enough to permit the wearing of two suits of clothes (a flannel suit concealed beneath the conventional outer rig which alone is excessive for an animal that is by nature naked) and indulge in a diet that is bad enough in winter but particularly mischievous in summer.

If the people were all well informed as to the nature of the animal organism and "run the machine" in a rational way there would never be a case of "hay fever" in a thousand years, and there would be no extraordinary amount of sneezing unless they took snuff or got some particularly irritating dust up the nostrils, and then it would only be a transient affair. Charles E. Page, M. D.

Boston, August 1.

No Peace.

Knicker—An expensive summer.

Booker—Yes, either Bryan or my wife is asking for more money all the time.