

in these days of enormous legal and business complexity. "In an unusually protracted trial," says the decision, "depending upon a wilderness of figures and during which a vast number of complicated transactions were investigated, it is not unnatural that mistakes should have been made. Neither is it surprising that judges removed from the excitement of the forum, who have time to examine the events of the trial as they appear when portrayed in cold type, should have discovered some rulings which may be open to criticism. But we are convinced that no prejudicial error was committed." Only by taking this stand can the administration of criminal justice, when applied to men of wealth or resources, be made a substantial reality, instead of a game of combined skill and chance, with the odds all in favor of the man who is fighting the law.

So far as public opinion is concerned, that appeal to the easy-going sympathy of the American people which is always made in conspicuous cases has here taken rather a curious shape. The very magnitude of the disaster caused, or at least precipitated, by Morse's dishonest operations has been made the basis of the most prominent and probably the most effective pleas in his behalf. Had it not been for the panic, we have been told again and again, Morse would never have been prosecuted so vigorously; he has been made a scapegoat, and it isn't fair to do to him what would not have been done under ordinary circumstances. Such a view of the matter may be creditable to the good-nature of our people, but it is anything but creditable to their sense of justice or of expediency. If it be true that the administration of justice in our country is so defective that a man may systematically violate the laws, endanger the safety of millions of money entrusted to his care under solemn obligations of fidelity, make false entries in his books to cover up his illegal transactions, and yet count upon immunity unless his crimes happen to result in a national calamity—if all this be so, is it rational to conclude that we ought to let the culprit off even in the one case in which we can lay hands upon him? Rather, is it not sounder doctrine and truer consistency to brace up the processes of justice in the ninety-and-nine cases where it fails, and not to nullify them

in the one case where it succeeds?

However, it is only necessary to read the Court's decision in order to see that the conviction of Morse was not the result of undue severity, occasioned by the distress of the panic. The acts charged against him were of a definite and specific character. As a matter of course, those upon which the jury actually passed must have been, in the nature of things, only a little specimen of a multitude of similar transactions; but, at least, the illegal use of the bank's funds and fraudulent entries to conceal such use were fully established. Thus the higher court finds neither any substantial error in the conduct of the case by the court below, nor any reason for upsetting the jury's conclusions as to the facts. Such being the case, nothing remained to consider but the severity of the sentence, and on that head the Circuit Court of Appeals likewise found no just ground of complaint. Nor should the public. If fifteen years' imprisonment is too heavy a penalty for gross and continuous misuse of bank funds for the purpose of deliberately carrying on vast schemes of reckless speculation, then we had better make a radical revolution in our whole scale of punishments. Custom has hardened us to the spectacle of big criminals like Morse getting off with light punishment or none; now let those who are such sticklers for consistency demand that the little criminals—the people who commit petit larceny or pass counterfeit coins, or swindle people in a common confidence game—receive sentences of a few days in jail. The truth is that the glamour of wealth and success blinds us to the true nature of rascalities committed in the high fields of finance; and we have substituted for the benefit of clergy that prevailed in the days when a "clerk" was admired and feared of the people, an unwritten law of benefit of prosperity. Now, however, the signs point to a gradual but ultimately thorough emancipation from its dominion.

MANŒUVRES AND THE MILITIA.

The reported decision of the War Department against further army and militia manœuvres comes as a surprise—even to army officers, as Gen. Wood's interview of Friday morning attests. It was not understood that the hardships of the troops taking part in August were

extreme—certainly they were not so severe as those experienced a year before in the camp at Pine Plains in this State. Lack of food at times there indubitably was. Some men went nearly twenty-four hours without a real meal, and fodder for horses was frequently lacking. This was due to the inexperience of the militia commissaries and quartermasters and to the reliance upon improvised transportation. Instead of taking regular army trains, reliance was placed on the wagons of farmers and on coal trucks secured in New Bedford, with the double purpose of placating the farmers and of teaching the troops what to do when turned adrift in a strange country. This was carrying realism too far, particularly as there were few farmers' carts available for the invading army. Many of these broke down, and frequently soldiers who had "fought" and marched all day, had, on bivouacking, to go to the assistance of disabled wagons and haul them into camp.

So far as the published official reports go, the actual disabilities appear to have been fewer this year than last. But that there were any serious complaints is a reason for taking up anew the whole question of the relationship of militia and regulars in this matter of joint manœuvres. The truth is that, since the war with Spain, the status of the National Guard has undergone a change. It is no longer merely a State body, as originally organized, drilled and trained for emergency duty, but is developing as a reserve to the army. At the present time, however, the militia is neither quite one thing nor the other. The old status and ideals have been abandoned, but the actual position as a reserve to the regular army has not been attained. Nor, in our judgment, can it be attained. If we must have such a reserve, it would be better to create one, according to the plan proposed in Secretary Root's time, when there was suggested a reserve of 100,000 men, honorably discharged from the regulars and paid a small sum to go into camp once every year for several weeks.

This is the European plan, and such reserves might be either in separate organizations or utilized as additional battalions of existing regiments. At present, we ask the physically impossible. Our militiamen are intelligent and thinking bayonets, of better physique and better officered than ever before. But in

New York, at least, they are required to drill only once a week for twenty-four weeks and to go into camp only every other year. The great bulk of them lead sedentary lives; many of them do not walk two miles a day. Yet at these long intervals they are thrown into camp with regulars, generally in the hottest period of the summer, and are driven to exercises that tax the endurance of men trained to service. Since the manœuvre period lasts for only eight days, it is packed with problems and drills. No opportunity is given to the militia to break themselves in gradually, and the only wonder is that a great deal more physical injury is not inflicted than is actually the case. Obviously, if these manœuvres are really to be of value, some way must be found to lighten the burdens, to extend the drill period, and to work the militia up to them so that they may meet the tests in an approximately adequate physical condition.

So far as the militiaman of the ranks is concerned, we have no hesitation in affirming that he will learn more if the joint manœuvres are abandoned and he is put into brigade camps, together with a regiment or battalion of regulars as an example to pattern after. A week's leisurely marching and camping in a pleasant country, with moderate battle exercises toward the end of the period, would send the men home better trained, happier, and in an improved instead of an exhausted physical condition. The main object in the training of the private soldier is that he shall learn to camp, to take care of himself in the open, to protect his bivouac, and march, and also that he shall acquire some knowledge of extended-order drill.

The real *raison d'être* of manœuvres on a large scale is not, of course, the training of the private soldier, but of the higher officers—the generals, and the staff officers who must feed and supply the troops. Militia quartermasters ought surely to be drilled in provisioning brigades before they tackle divisions or armies; and if still larger forces are needed for the sake of experience, it is a question whether the regular army is not a great deal better fitted to experiment on than thousands of callow youths, large numbers of whom break down—as they did in Massachusetts in August—because they have not been supplied with the right

kind of footwear. Much is heard, nowadays, about the usefulness of militia as coast artillery reserves. This is ridiculous. Highly trained, technical troops are not made by one drill a week for six or seven months and by going to camp every other year. If militia are to be used as infantry guards to coast artillery forts, then, again, they can learn everything needful in brigade camps such as we have suggested. But they cannot be both fish and fowl. A militia and a reserve to a regular army on European lines are two wholly distinct things. Only the marine, who is a professional warrior, can be both soldier and sailor too. The National Guardsman cannot be a breadwinner 358 days in the year, and on a par with regulars, for manœuvre purposes, on the other seven.

HOW FAR WE ARE GERMAN.

The writer in the Berlin *Tägliche Rundschau* who has just transferred these United States from the Anglo-Saxon to the Teutonic firmament yields to a common disease among German students of things American. Pretty nearly every traveller from the Fatherland is under the duty of pointing out that we are not as English as we appear. The rest content themselves with pointing out that we are not as German as we ought to be. Professor Lamprecht was neither the first nor the last visitor from east of the Rhine to deplore the failure of the German element among us to impress themselves duly upon our civilization and our institutions. It is an old complaint that the Kaiser's subjects, under new skies, abandon too readily the ancestral language and culture. Excellent raw material for nation-building, they seem content to play the part of brick and mortar without attempting to shape the builder's designs or the architect's scheme of ornamentation. Thus runs the usual complaint. It makes way now and then for the more complacent "Well, bricks and mortar constitute a mighty useful part in building operations, and, anyhow, see what might have happened if things had fallen thus and so." Such a critic is the *Rundschau* writer when he asserts (1) that we are really a Germanic nation embracing 30,000,000 souls of Teuton descent, and (2) that if Muhlenberg of Pennsylvania, Speaker of the first

House of Representatives, had not been recreant to his fathers' language, Mr. Taft and Mr. Bryan would now be speaking in German periods.

Why should Muhlenberg have insisted on conducting the debates of the first Congress in German? There is no reason why. A volume fresh from the Census Bureau, "A Century of Population Growth, 1790-1900," comes pat to the subject. The first Census did not concern itself with registering the place of birth or the place of parents' birth. But taking the names of the heads of families as a basis for determining nationality, the experts at Washington distribute the white population in 1790 into English, 83.5 per cent.; Scotch, 6.7 per cent.; Irish, 1.6 per cent.; Dutch, 2 per cent., and Germans, 5.6 per cent. North of New Jersey, the German element was almost non-existent. It was one-half of 1 per cent. in Maine, less than one-tenth of 1 per cent. in the rest of New England, and four-tenths of 1 per cent. in New York. With New Jersey's 9 per cent., we strike ore. In Pennsylvania, the Germans were 26 per cent. of the population, in Maryland 5.9 per cent., in Virginia 4.9 per cent., in South Carolina 1.7 per cent., in Georgia, Kentucky, and Tennessee, 2.8 per cent. Take the German population by itself, and no less than 70 per cent. was concentrated in Pennsylvania, while Virginia had 13 per cent., Maryland 8 per cent., and North Carolina 5 per cent. In only four States, therefore, did the German stock form more than one-twentieth of the population, and in only one, Pennsylvania, did it reach a point where it attained the least probability of influencing the language of the State as a whole.

As to the strength of German culture in 1790, the Census Bureau's volume supplies us with a single index. In that year the number of newspapers and periodicals published in the United States was 103. Of these there were six in the German language, corresponding almost exactly to the German ratio of population. All six were published in Pennsylvania, one at Germantown, *Die Germantäuner Zeitung*, one at Lancaster, one at Reading, and three in Philadelphia, among the last, *Die Chestnuthiller Wochenschrift*. Pennsylvania's publications in all languages numbered 23, so that here, where the Germans were planted in solid bulk and where, if anywhere, they might exercise a cul-