

tion to complain, was in danger of eviction. There could be no appeal from a company which surrounded the man with this ring of private rights.

It is true that this state of affairs is perfectly compatible with benevolent intentions on the part of the coal companies. It does not appear that wages in the Colorado mines were lower, and perhaps they were even higher than elsewhere, and the houses in which the men lived, the stores at which they bought, and the schools in which their children were educated do not seem to have been below the general level found in similar communities. But the intolerable factor in the whole Colorado situation is that even where the company was well-meaning, there was the ever present temptation to invade the workman's personal rights. Injustice was inevitable. According to Mr. John A. Fitch, whose careful study of the Colorado situation appears in this week's *Survey*, "the disregard of law, the stern repression of every attempt at collective action, the régime that made it perilous for miners even to hold meetings to discuss their common good, the suspicion of the honesty of weights where the miner had no chance to watch the scale, and finally, the helplessness of their situation, marooned as they were on company property, trespassers when on the highway, and always under the watchful eye of a marshal employed by the company to note and check every move toward collective action—all these combined to create a condition for the miners that was nothing short of intolerable."

The Colorado mining problem thus becomes one of inescapable conflict between uncontrolled property rights and the rights of the people as represented by the State and the nation. Just as the coal operator, ruling over his workmen who live precariously upon his private property, ignored the authority of the State, so now he ignores the well-meant suggestions of the President of the United States. What has the mine-owner to fear? The President cannot take property without due process of law; he cannot legislate the mine-owners out of their possession of the houses and churches and streets of their privately owned towns. What can the President do?

There is surely one thing he can do. He can refuse to withdraw the troops. As long as the soldiers remain the question remains open. The President has been patient. He has presented a plan of peace and it has been rejected by the coal operators. He has offered his good services, and the coal operators have declined them. He is now to be requested to get out. If he submits, if he removes the troops when asked, his whole intervention will have been worse than useless. It will have persuaded the American workmen that their rights lapse when

to help them, even if he wished, so the President of the United States is powerless. Whether the President has the right to close down the mines, or to administer them pending the continuance of the conditions which gave rise to intervention, is a question which we do not seek to answer at this time. But that the President has not yet exhausted his full powers seems clear. The responsibility for the evil already done must be laid where it belongs, and the continued presence of the Federal troops must be used to concentrate the public mind upon the situation. Let the President refuse to withdraw the troops and state openly why he refuses, and let the troops stay there to guard the peace and point the moral, whether they remain six months or six years. If the President is able now or later to do anything to rescue the miners from the intolerable conditions resulting from this latent aggression of the operators, the presence of the soldiers will aid him in doing whatever he proposes to do. If he can do nothing in cases where, like this, mines and houses and workmen are all prisoners of an encircling private property, it is time for the people to know.

## What About France?

NOT the least remarkable aspect of the war of words which makes such a shrill chorus to the din of cannon on the battlefields of Europe is the silence of France. Great Britain and Germany have been vociferously and systematically articulate. The German case, after having been expounded by the professors, is being disseminated with truly German thoroughness by a publicity bureau. All the men of letters and journalists of England are arguing and protesting the righteousness of their national cause. Russia, Austria and France are comparatively dumb. The dumbness of Russia and Austria is readily explicable; but what about France? The contribution made to the literature of belligerent apologetics by the most literate and voluble of modern nations is negligible. What is the explanation of French silence?

For one thing, this is not France's war. She has been necessarily involved in it, but she did not want it. She has far more to lose from defeat than she has to gain from victory, and if she gains anything, it will be only by the consent and assistance of her allies. She could no more hold Alsace-Lorraine unaided against Germany than she could hold Belgium against a coalition of the Powers. An Alsace-Lorraine restored to France would depend as essentially on an international guarantee as a neutral Belgium or Switzerland. In spite of many brave protestations to the contrary, candid French-

never be made or maintained chiefly by the strength of the French army. And an isolated France which was impotent to conquer and hold Alsace-Lorraine would be almost equally impotent to protect her own frontiers.

Thus Frenchmen had good reasons to dread the impending war. For a generation the ghost of it has haunted the French spirit. They knew that it was coming. They knew that they could not avoid it or flinch from it without reducing France to the position of a German satellite. They knew that when it came it would cost them dear. Whether victorious or vanquished, their territory was bound to be violated, and their pride suffer from the insolence and indignity of a ruthless invasion. French lives would have to be sacrificed as freely as they were during the Napoleonic wars, not in the interest of a larger and more glorious France, not in the expectancy of re-establishing her position in Europe, but merely in the hope that France might be allowed to keep her place in the sun. It was a cause for which Frenchmen should certainly be willing to fight, but it was not a cause about which they would want to be garrulous. Only two generations ago a French ruler had boasted that Europe was at peace because France was happy. Modern France has had to abandon the ambition of ascendancy. Her happiness had become no longer indispensable to the peace of Europe.

But although France is not contributing many words to the literature of the war, may she not for that very reason make a peculiarly valuable contribution to the work and to the literature of European peace? Is she not qualified for that work by the loss of the illusion of military preponderance? Great Britain because of her sea power, Russia because of her overwhelming numbers, Germany because of her superior organization, may believe that they can flourish in a predatory Europe, but France is different. As long as national independence depends primarily on the ability to wage a successful war, France will have to play second fiddle to some more efficient military power. The very facts that this is not her war, that a victory for France will be due more to her allies than to her army, and that no possible gain in territory can bring with it a renaissance of the power and the security of the old France—all these make it necessary for her to become particularly clear-sighted and disinterested. She must make no demands which will threaten the permanency of the settlement, and she must use her influence with her allies in favor of a similar moderation. If the peace of Europe no longer depends on the happiness of France, the happiness of France certainly hangs on the peace of Europe. Only in a Europe or

In more ways than one does the happiness of France depend upon the peace of Europe. An unregenerate Europe forms an insuperable obstacle to a regenerate France. She has suffered more than any other country in Europe from a baleful reaction upon her national life of an essentially predatory international system. The contradictions in her foreign policy during the nineteenth century were only the reflection of the contradictions in her domestic life. She cherished generous aspirations for the increasing political freedom of other European peoples; but when she acted on her own aspirations, she became either their oppressor, as under the first Napoleon, or, as under the third Napoleon, she helped to aggrandize other nations at her own expense. Her aspirations have been equally injurious to her own national integrity. They impelled her to seek for popular liberation at home as well as abroad, but her earlier attempts to secure domestic liberty served chiefly to loosen national bonds, to relax moral standards and to impair national discipline. Unity had to be achieved at the price of liberty or liberty at the price of unity. She has needed above all to restore the breach between her aspirations and her traditions, so that French nationalism would not mean clericalism and reaction, and French radicalism would not mean a narrow and intolerant factionalism at home and an anti-national pacifism abroad.

Claims have been made that before the war France was recovering something of her self-possession. A distinguished Frenchman, M. Ernest Dimnet, has just written and published a book for English and American readers, in which France is declared to have regained the unity of her national spirit. Frenchmen are seeking more earnestly and more successfully than ever before to be catholic without being undemocratic, to be traditional without being monarchical or clerical, and to be pacifist and humane without becoming anti-national. They are proposing to make out of the republic a stronger and more responsible government, but one which will avoid reaction and promote social welfare. M. Dimnet exaggerates the extent of this recovery; but although it has not gone very far, it was there, and the war is likely to sustain and to increase it. After the hecatombs of the Aisne and the Yser, Frenchmen are not likely to love France the less, or to seek less patiently and loyally for some political and social method or some new attitude of the spirit which will help France to be herself again. But of one thing her friends may feel assured. She can never be really and sufficiently herself until she helps to create a Europe in which the aspirations born of the Revolution will not be involved in an

## Before the Court

**A**NOTHER test of the American Constitution begins to-day with the filing in the Supreme Court of the brief supporting the Oregon Minimum Wage Law. What is to be decided is the immediate future of an experiment in seven States to prevent the bottom from falling out of the American standard of living. What is really at stake is whether the Constitution is flexible enough to allow American communities freedom in dealing with modern wage conditions.

The Legislature of Oregon has declared it a misdemeanor to pay women wages which are "inadequate to supply the necessary cost of living and to maintain them in health." An Industrial Welfare Commission was created to carry out this principle. It called a conference in Portland of nine people—three manufacturers, three employees, and three members-at-large representing the public. This conference discussed wages and hours and conditions, and reported unanimously to the Industrial Welfare Commission, which then made the report into an order. No manufacturer was allowed to employ a woman more than nine hours a day or fifty hours a week, to fix a lunch period of less than forty-five minutes, or give to any experienced adult woman worker, paid by time rates, a weekly wage of less than \$8.64. The order was appealed to the courts of Oregon by a paper-box manufacturer. But the Oregon Supreme Court upheld the law. The appeal is now being made to Washington, and the Supreme Court will have to declare whether the Constitution permits a state like Oregon to make the compulsory minimum wage experiment.

The decision hangs first of all upon the meaning of "liberty" under the Fourteenth Amendment. But "liberty" has already been restricted by the court in *Lochner vs. New York*, and *Muller vs. Oregon*, so that the right to purchase or sell labor now means that the right must not be exercised in a way dangerous to health, safety, morals, and general welfare. What has to be proved to the Supreme Court is that women's wages in many trades are so low as to be dangerous. The argument is not so much over legal principle as over actual fact. On this account the brief which Mr. Brandeis and Miss Goldmark have prepared is not an array of precedents, but an overwhelming indictment of the chaos and the cruelty and the stupidity by which women's wages are fixed. The human being who can read this brief and not be shaken by it may with perfect justice regard himself as invincible. Without one touch of rhetoric it piles fact upon fact until the total effect is crushing, and if nothing else were accomplished by the case, the recognition that

tific argument over legal pedantry. It is an example of democracy become clear-sighted—intrusion of reality into the law.

The Court's decision will be awaited with anxiety by men and women all over the country who think that the minimum wage law is the most serious effort yet made to deal with an intolerable condition. No one is certain that this legislation will do all that one could wish it to do; but it is being tried in England and in Australia, and it seems to have worked fairly well; with time and experience it may be made to work better. But if the experiment is cut off now, we shall not know where to turn. For whatever may be said against the legislation, this at least must be said for it: nothing else is proposed which shows the least promise.

On human grounds, therefore, the burden of proof is with those who object. These opponents may be divided into those who object on theoretical grounds to State interference with wages, and those who use these theoretical objections to protect their profits. The sincere theorist hallows many a bad cause. If only he can be detached, the selfish opposition will be drawn into the open and revealed.

The first sincere argument is that we must not interfere with the laws of supply and demand, that women are paid what they are worth, and that no government should compel people to receive more than they earn. Now the fact is that there are more women than jobs, that women are unorganized and have no bargaining power, that women must eat every day and pay board every day. They are not like cotton which can be stored in warehouses until the price goes up. A day's work lost is lost utterly. You cannot sell yesterday's labor even at reduced rates. The supply of unskilled or semi-skilled women's labor is practically at the mercy of the demand. And the result is just what one would expect it to be. Women's wages in most trades are fixed by the fear of starvation and the caprice of the employer.

If we study the wages paid for the same work under the same conditions, we find the most extraordinary variation. In six Boston department stores the number of women who were paid four dollars or less a week varied from one per cent to twenty-four per cent. In thirteen laundries the four-dollar women varied from about two per cent to twenty-nine per cent. These figures are taken from the report of the Massachusetts Commission. In one factory practically every woman earns at least six dollars, in another doing the same kind of work six dollars is an aspiration. There is, in short, no such thing as a standardized wage for women. One employer pays one wage, his competitor pays a different one. What does it mean? It means that