

CORRESPONDENCE

A Reply to Mr. Beck

rich with her door open? Could she have closed her door without a powerful navy behind it?"

"It is not within the scope of the discussion," Japan answers, firmly.

"We think it was the navy," says China. "We are not sure. Perhaps we shall see. You say there is no coercion in trade?"

"There shall be none," the powers reply.

"Each sovereign nation is free to say how it shall employ its own labor?"

"Yes."

"And in what things and on what terms it will trade with other nations?"

"Yes," the powers reply, hesitating. "That is, provided it does not injure the rights of others."

"We perceive," says China, "that we need to develop our natural resources in the modern way; also our skill. Then we shall become rich and powerful. And we comprehend the principle of the open door. We believe in it as you do, not for ourselves, but for others, in order that we may have free markets for our own surplus manufactures when the time shall come that we have any. But first of all we need to have possession of our own door so that we may control the entry of foreign goods which, if they are too cheap, will discourage the beginnings of our industrial life. As it is now we cannot restrict the sale to our people of those foreign manufactures which we must learn to produce for ourselves. We cannot raise tariffs against them without the consent of the powers. Therefore, will the distinguished powers now consent that we shall be free to do as we like with our tariffs, as you do with yours; free, that is, to call China's door its own and say what trade shall pass?"

There is an embarrassed silence. Then the powers speak tactfully. There is much to be considered. Interests of vast importance are involved. The economic structure cannot be made over at a stroke. If China will be so gracious as not to press her proposals to an immediate answer they will be taken up in a helpful spirit later. Meanwhile she will be pleased to receive their most solemn, united assurance that they are deeply concerned in her future and resolved to preserve her sovereign integrity.

"We know how to wait," says China. "But when they come to it will the distinguished powers be pleased to remember that nations great in armament do not wait upon each other's consent to change their tariffs or close their doors?"

The powers bow respectfully, China withdraws, and the Conference on "limitation of armament in connection with which Pacific and Far Eastern questions will be discussed," gets down to hard business.

GARET GARRETT.

SIR: Solicitor General Beck is, of course, right, in his discussion of the Mooney case, to refer to the general truth that it is "futile . . . for a man, through newspaper reports, to pass judgment upon the result of a trial, where the disputed issues were those of fact." So far so good. But when he makes this rule the basis of his "inability to sit in judgment on a result in which twelve jurymen, a trial judge, a Supreme Court, and a Governor of a state alike concurred," he shelters himself behind an unquestionable rule of experience from the responsibility, first, of ascertaining the indisputable facts about a case that has stirred the conscience of the country, and then of acting towards those facts according to the obligation that rests upon leaders of the Bar.

Clearly Mr. Beck is wholly misinformed as to the salient *record* facts in the Mooney case, although those facts (insofar as they had at that time developed) were made the basis of a report by the President's Mediation Commission, which it will take Mr. Beck about ten minutes to read. (Official Bulletin, January 28, 1918, pp. 14-5). Mr. Beck is not asked "to sit in judgment on a result in which twelve jurymen, a trial judge, a Supreme Court, and a Governor of a state alike concurred." So to summarize the situation presented by the Mooney case is flagrantly to pervert the facts. There was no such concurrence; the record is quite otherwise. *After* conviction by the twelve jurymen, the most damaging testimony against Mooney was completely discredited; after this disclosure the trial judge, instead of "concurring in the result," which had been reached by the jury before this disclosure, formally declared that "right and justice demand that a new trial of Mooney should be had," but found himself powerless to grant such a new trial because of a jurisdictional difficulty; the Attorney General of the state, instead of "concurring in the result" basing his action upon the request of the trial judge, petitioned the Supreme Court, to which the case had gone in the mean time, for a return of the case to the trial court for a new trial; the Supreme Court, in its turn, by reason of a technical requirement of the California code, found itself without power to consider the facts which led the trial judge and the Attorney General to urge that "right and justice" demanded a new trial, and, therefore, was compelled "to concur in the result" by shutting its legal eyes to the most important fact about the Mooney case, namely the discrediting of the state's chief witness; finally, the Governor of the state, instead of "concurring in the result" and allowing Mooney to be hanged, commuted Mooney's sentence solely because of the doubts engendered against the conviction by the new evidence although, with amazing illogic, he saw nothing strange in incarcerating a man for a lifetime despite these doubts.

What makes the Mooney case important (and I have restricted myself to the calmest and most barren recital of the facts, unilluminated by more recent disclosures) is not merely that the verdict in a capital case was discredited by the discrediting of the chief witness, but that the chief figure in the case symbolized "labor" both to the bitter opponents of organized labor as well as in the minds of the workers and their sympathizers. It was this aspect which stirred deep feelings about the case at a time when we were fighting for the vindication of "the moral claims of unstained processes of law." It was this aspect which induced the report by the President's Commission that the circumstances of Mooney's prosecution, in the light of his history and the subsequent history of his case, must not be allowed to give ground "to the belief that the terrible and sacred instruments of criminal justice were consciously or unconsciously made use of against labor by its enemies in an industrial conflict."

As long as Mooney is not afforded a new trial whereby his guilt or innocence may be "put to the test of unquestionable justice," so long will the Mooney case continue not merely an ordinary criminal case, involving "disputed issues of fact," but an incident in a long and bitter industrial conflict. Lawlessness is certainly not abating in this country. It is equally certain that confidence in the rule of law is powerfully undermined by appeal to force, by disregard of law or by indifference to its abuses by the powerful, and especially by those in authority. The claim of the legal profession to be the special guardians of ordered liberty must be freshly won by each generation. The response and the respect that will come to lawyers whenever they do take the lead for law, however unpopular the cause, was amply illustrated when Charles E. Hughes led the fight against the expulsion of the

Socialist assemblymen. Surely the Solicitor General of the United States, when seeking the causes of contemporary lawlessness, should find it incumbent to add his voice of protest against the failure to vindicate the adequacy of Anglo-American law from the distrust which is being sown by a case which, more than any other, symbolizes to millions the perversion of legal machinery as a partisan in the industrial conflict. Noblesse oblige. But at least the Solicitor General of the United States should not add to the injustice to law wrought by the Mooney case by lending the authority of his high office to a reckless misrepresentation of the facts of the case.

FELIX FRANKFURTER.

Cambridge, Massachusetts.

The Disarmament Conference

SIR: The following letter to the secretary of the forthcoming Washington Conference was drawn up by a representative committee of residents in China, and is being circulated for signature, as far as time allows, in all the larger cities, in this country and in Japan. The canvassers are meeting with great success, as there can not be a thoughtful resident in the Far East who does not realize how much depends on the deliberations at Washington.

K. E. PHELPS,
for the Committee.

Anking, China.

To the Honorable Charles E. Hughes,
Secretary of State of the United States of America,
Washington, D. C.

Sir: It is with great satisfaction that we have learned of the Conference that has been called to discuss the question of the limitation of armaments and other matters affecting the peace of the world, and especially of the countries bordering on the Pacific Ocean. We, the undersigned, representatives of many countries, residing in China, are profoundly interested in all questions touching the welfare of the Far East. With the fearful picture before us of suffering, devastation and death caused by past wars, and with grave apprehension of future wars yet more terrible than those that are past, we write to assure you of our whole hearted sympathy with you in your momentous undertaking, realizing how disastrous would be a war in the Far East upon every constructive religious, educational, and commercial movement in China. We earnestly hope that this Conference may bring about such mutual understanding among nations as shall remove suspicion and distrust, lead to the limitation of armaments, and set forward the Christian ideals of justice and goodwill.

The Aaland Islands

SIR: I cannot help feeling that your mentioning the decision of the League of Nations about the Aaland Islands as successful is rather an unfortunate expression, since you really do not mean that the decision is successful except for the fact that both parties have abided by it. There was nothing else except for both parties to abide by the decision, as it was agreed by both parties that they would do so whatever it might be.

Consequently, whether the decision had been in favor of the desire of the people of the Aaland Islands or whether adverse, as it was in this case, to the desire of the people of these Islands, according to your interpretation of it the decision should be called "successful."

As you know, the people of the Aaland Islands have protested against the decision and I suppose they are trying by whatever legal means they can to get the decision changed. You no doubt also know that Mr. Branting who spoke for Sweden before the League of Nations also protested against the decision. Of course, my viewpoint in this matter may not have much bearing with you, but I cannot but feel that a great injustice has been done the inhabitants of the Aaland Islands and further that the confidence in the ability of the League of Nations to settle justly disputes like the Aaland Islands controversy has been greatly shaken.

I certainly wish, that you would find time to study this matter and later to give your opinion about it in your paper. If I can be of any assistance to you I shall be glad to help if you will call on me.

HERMAN ASPEGREN.

Portsmouth, Virginia.

The Bandwagon

SELL ALL AND GIVE TO THE POOR

"Calvary Church under my leadership has paid out of debt and does not owe a dollar for the first time in ten years. There is no mortgage on our magnificent property, worth at least \$1,500,000, nor is there any outstanding obligation against our endowment funds."—*Rev. John Roach Straton in the New York World.*

"WHAT'S WRONG IN THIS PICTURE?"

In France such men as Briand, Loucheur, Anatole France, Henry Barbusse and other intellectuals are employing all their might and influence to second the energetic efforts of Germans like Wirth and Ebert and Stinnes, and Englishmen like Shaw and Wells and Keynes, and Italians like Nitti and Tittoni and Giolitti to do away with the hatreds born of war and to lead the nations into the paths of tolerance, forgiveness, friendship and mutual helpfulness.

Such men are the true peacemakers.—*New York American.*

LOST IN TIMES SQUARE

In his design for the Times Building Mr. Eidlitz found his inspiration in Giotto's campanile in Florence.—*New York Times.*

WOMAN'S PLACE IS IN THE HOME

"Of the gainful workers of New York City in 1920, 693,096, or 27.4 per cent, were females.—*The U. S. Census Bureau Report.*

AND THE RENTS INCREASED AS WELL

"There isn't a building in New York whose owner cannot present logical, economical reasons why the assessed valuation should not be reduced."—*Stewart Browne, president of the United Real Estate Owners' Association.*

THE UPHILL FIGHT IN TEXAS

"As director of the Young Ladies' Sodality here, I find it hard at times to get new ideas for the entertainment of the young ladies. We know and realize that the Sodality is a religious organization to promote devotion, but I have found that there must also be some social activity or the members will lose some of their interest."—*From a Texas letter to a religious monthly.*

LOVE ME, LOVE MY BOOK

"There is no other course left for me, therefore, than to appeal to the fair play of the English public in this attempt to hold me up to public ridicule and fasten upon me an instance of trickery and dishonesty which I denounced in my book. I deeply regret that this should have happened at a time when every effort is being made to create friendly feelings between the peoples of the United States and Great Britain."—*Edward W. Bok in a paid advertisement in the London Times.*

WHY LUG IN FRANCE AND GERMANY?

"Obviously, the foremost nations in the world at the present day are Britain and the regions of the British Empire in which the white race predominates; the United States; France; and Germany . . ."—*Sir Harry Johnston.*