

property rights, and yet it never occurred to anybody to so much as ask any court to grant an injunction against them. Injunctions were asked, both in England and America, against libels, and were refused. The first case in which any English court ever granted an injunction against the criminal proceedings of strikers occurred in 1868; and we have not been able to find that another injunction like it has ever since been granted. In the United States we have not been able to find that any such injunction has ever been granted by a State court. But the Federal courts have recently granted and enforced several injunctions of this kind. The Debs case is the most famous as well as the most recent, and that is of course the case which presents the question most clearly.

In the Debs case the United States claimed the right to intervene by injunction, under the provisions of the Anti-Trust Law, referred to by Mr. Smith. The use of that law for this purpose is one of the grievances most bitterly resented by the laboring classes. This statute was passed for the avowed purpose of putting a restraint upon great corporations and monopolies. Not a single corporation has been interfered with under it, nor a single monopoly restrained. The present Attorney-General has never made the slightest effort to put the law in operation against the persons and corporations whom it was intended to restrain. Very possibly his action in this respect has been expedient, as all efforts of the previous Attorney-General in that direction had failed. But to discover in this statute, which was intended solely for the purpose of restricting corporations, a new weapon *in favor* of corporations, however ingenious it may be and however justified in law, was eminently calculated to arouse bitter feelings. This law, at any rate, has emphatically been proved to be one which cannot be enforced against the rich, and which can be enforced against the poor.

Under this law an injunction was issued against Debs, commanding him to refrain from certain acts which, if he committed them, were crimes, upon a charge of which in the ordinary way he would have a right to trial by jury. A single judge, granting this injunction, caused Mr. Debs to be arrested on a charge, not of the act itself, but of a violation of the order prohibiting that act. The same judge sentenced Debs to six months' imprisonment for a violation of the injunction, being substantially the same punishment which would have been inflicted upon him had he been tried in a criminal court and convicted by a jury. Now, the Supreme Court says that this does not in the least deprive Debs of his right to trial by jury, because, if he wants to, he can have himself indicted in a criminal court, tried by a jury, and sentenced to imprisonment for six months more. He has not been imprisoned for his criminal act; he has only been imprisoned for his disobedience of the court's order.

All this brings to mind the famous statement of the philosopher in Scott's "Antiquary." He told his nephew that there was no imprisonment for debt in Scotland. What really happened was that the creditor informed the King of the debt, and thereupon the King wrote his gracious "letters in four forms," commanding the debtor within a given time to pay his debt. The debtor, obstinately refusing to do so, was then denounced as a rebel by three blasts of a horn in Edinburgh. After which he was arrested, not in the least as a debtor, but solely as a rebel against his Most Gracious Majesty the King.

Where is this thing to stop? Embezzlement and shoplifting are plainly injuries to property and nothing else. Shall they be restrained by injunction? Shall the great establishments of New York and Chicago obtain

twice a year injunctions against all their clerks prohibiting embezzlement, and thereupon, when an embezzlement is committed, secure the punishment of the criminal for contempt of court? It is manifest that this would be a most easy and pleasant method for the managers of these establishments. Instead of having to dance attendance upon a District Attorney, a Grand Jury, and finally a trial jury, and subject themselves or their agents to the annoyance of cross-examination, they would have nothing to do but to file affidavits proving the embezzlement, upon which, after hearing counter affidavits from the accused clerk, a single judge would decide, without troubling any jury, that the embezzlement had been committed. Thereupon he would sentence the offender to six months' imprisonment, not at all on account of his theft, but solely on account of his contempt of court. On appeal from such an order the only question is whether the papers stated upon their face sufficient facts to give the judge jurisdiction. All the affidavits may be false—and it is well known that affidavits are very seldom entirely true—but that makes no difference. The accused person may in fact never have committed the offense, but that makes no difference so long as a single judge decides that he has done so.

This was very strikingly illustrated forty years ago in the case of Passmore Williamson, a Quaker, who was commanded by one of the United States judges of that day, a judge just as sincere, upright, and incorruptible as any Federal judge at the present day, to deliver a negro to his master. Failing to do so, he was convicted, by the sole decision of this judge, of the crime of concealing the negro. Everybody who looked into the papers was perfectly well satisfied that Mr. Williamson really did not commit this atrocious crime; but the Federal judge had lost his temper, and, upon the strength of affidavits plainly false, adjudged that Mr. Williamson was responsible for the "nigger." As the slave-driver could not catch the "nigger," the judge shut up the Quaker. It was then decided by the courts that there was no appeal and no redress, and Passmore Williamson actually remained in jail until the judge recovered his temper and became amenable to a sense of decency. It is unlikely that any other judge than the one who issued the order in that case would ever have made a decision so contrary to notorious facts as was then made.

What we claim is that the judge who issues the order and who feels his sense of dignity wounded by disobedience to that order should not be the sole judge of the question whether it has been disobeyed or not. And where such disobedience necessarily involves the commission of a crime, we think that the question should be left to the decision of a jury, precisely as the question whether a crime had been committed, without any injunction, would have to be left, under the Constitution of the United States and of every State in the Union.

## The Advent Season

The Episcopal Church offers a most helpful suggestion to its sister churches by its setting apart four Sundays, besides Christmas Day, for commemoration of the Advent of Jesus Christ. The incoming into the world of that life which is to pervade the life of the world with its regenerating spirit is a fact of so many-sided significance that the observance only of its natal day gives scant opportunity to the mind and conscience that would apprehend the full import of that Divine Fact. Fitting as the effort is for all days, some days more than others incite to it. For the

study and exhibition of those fundamental principles which distinguish the world with Christ from the world without Christ—the only principles from which we can look for better men and better institutions to proceed—the weeks of the Advent season seem specially opportune.



## The Church Congress

The meeting of the Church Congress at Norfolk, Va., last week, a report of which appears in another column, was significant in several ways. It brings to mind afresh the vital movement in the Episcopal Church which has of late years brought it into closer touch with American life and given it an influence out of proportion to its numbers, for it is certainly true that in dealing with practical methods of religious work and with sociological and religious questions this great communion stands in the forefront, while in numbers it ranks seventh. The Church Congress is a body which discusses but never votes; this does not mean, however, that it never decides. On the contrary, many questions are practically settled by preliminary discussion before they reach the General Convention, which is the legislative body of the Episcopal Church. The Church Congress has consequently no small influence in shaping the policy of the Church and in giving it ultimate direction. It serves also as a place of escape for those ideas and schemes which in escaping melt into thin air and leave even their originators at peace. This does not mean that it offers a free platform for cranks; on the contrary, it has from the start been remarkably free from eccentricity. But it does make room for men to free their minds on a great variety of questions, and it is therefore one of the preservers of peace and order in the Church. The freedom of speech which it permits is a thousand-fold more effective in this direction than the most rigid ecclesiastical repression. The liberty is used generously, but it is not abused.

The Congress is of great importance also because it brings the clergy and the laity together on the same platform; and the Episcopal Church has always been strong in men of commanding ability and influence outside the pulpit. In fact, the opinion long prevailed among people in other Churches that the Episcopal laity were intellectually superior to the clergy. However that may have been during the decades when the life of the Church was less vital and its preaching less vigorous and searching, it is certainly true no longer. A Church which has given the country thinkers like Mulford, preachers like Brooks, scholars like Allen, men of combined intellectual and administrative force like Bishop Potter, priests of such consistent courage and devotion as Dr. Dix, has no need to apologize for the quality of its clergy. In this city, for instance, the prominent Episcopal pulpits are all places of notable personal and spiritual authority, and men like Drs. Huntington, Rainsford, Greer, Grant, Shipman, Dix, and Bishop Potter stand in the front rank of contemporary preachers.

The Church Congress, representing as it does the progressive element in the Church and the free movement of ideas, has been mainly in the hands of the liberal, progressive men in the Church. The men of extreme views, either with regard to the sacraments or the authority of the Church, have, as a rule, held aloof from it; but moderate men of all schools are heard on its platform, and the views of the two main wings of the Church are brought out with entire frankness but also with entire good spirit. There is thus afforded a prime opportunity for men of these two wings to meet each other and hear directly from each other instead of through intermediaries; and it need hardly be

said that nothing is more provocative of division and bitterness than the failure of those who hold divergent views to come into personal contact and to get impressions of each other at first hand. It is one of the noblest characteristics of the Episcopal Church that it has been large enough to afford room for differences of opinion on ecclesiastical questions and on questions of philosophical interpretation of the facts of Christianity, while holding to the facts with unusual tenacity and giving them the first place in worship and teaching. There will always be these two parties in the Church; or, rather, to be more exact, there will always be an active and coherent party holding advancing views of doctrine and sacraments, and there will always be the spirit which makes for breadth, freedom, and true catholicity—the spirit which reacts against excess in ritual, against undue emphasis on symbols and sacraments, and which holds to the spiritual vitality and power of the Church as the true basis of its authority. This spirit is not the less influential in the long run because it does not foster close and aggressive party organization. At this moment, in this country as in England, there is a strong reactionary movement in the Church. This movement has not yet reached its height; it may go still further and become still more powerful, but it will not finally stamp itself on the Church. There are elements of weakness in it which will impair its influence and check its advance. These influences are already showing themselves plainly in England; they will presently show themselves here. Sacerdotalism and sectarianism, in their extreme forms, will not finally establish themselves in this country; that which is true and sound in this movement will remain; that which is artificial, mechanical, and purely ecclesiastical will pass away.

The Church Congress has had no small influence in developing true catholicity of spirit in the Episcopal Church—a clear recognition of the fact that a real church must find room for men who, agreeing sincerely on the great facts of Christian revelation and history and accepting them heartily, differ in their philosophical and ecclesiastical interpretation of these facts. The men of broader mind have come to see clearly that certain questions between the two wings must be, to quote the phrase of a leader of the Church, neutralized; that certain differences of opinion of these questions must be recognized and accepted. There is to be, therefore, no final triumph of either wing; and the Church is never to become, as some extremists would like to have it become, a small sect holding identical theological views and practicing a uniform ritual—a monotonous uniformity of thought and worship. This was what befell the Roman Church when the Ultramontanes captured it and destroyed the old national freedom and enthusiasm of the German, French, Spanish, and English Churches, and put in their places the dreary monotony of the Italian Church; this is what will befall the Roman Church in this country if American Catholics like Archbishop Ireland and Bishop Keane are finally crushed. That is precisely what would happen in the Episcopal Church if a small body of advanced sacramentarians and sacerdotalists could have their way. But they will not have their way, because the genius of the country, of the Church, and of spiritual Christianity is striving against them; and the Episcopal Church in this country, in spite of reactionary movements, will remain free, spacious, and fundamentally religious instead of becoming repressed, narrow, and rigidly ecclesiastical. To this result the Church Congress has contributed not a little; and in so doing has rendered a lasting service to the religious life of the country.



## Three Scots Worthies in America

By James MacArthur

Co-Editor of "The Bookman"

IF the shade of the venerable chronicler of the sufferings of the Scottish martyrs in his "Book of Scots Worthies" were to witness the use I have made of his noble title testifying to the undying religious worth of those who lived and died "for Christ and his Church," he would stand aghast at its sacrilegious application to those who follow so remote and alien an avocation as the writing of what one of our grandfathers called "lying tales." Life to the Scottish Puritan, the Puritanism of the Covenant, was an austere, self-denying ordinance. He stood with his back to the wall fighting, not for dear life, but for what was dearer still to him, his faith; and thus he conquered for Scotland her ecclesiastical freedom. But if the austere spirit we have evoked from the strenuous past were to ponder the literary product of these writers who have succeeded to his title, and were he to trace the stream back to its source, he would cease to be shocked, and a wondering smile of admiration would gather about his wan features as he saw in these men, and their work the natural outcome of the period of stress and storm during the long struggle for religious freedom in Scotland. The echoes of that great religious and intellectual war resound in their writings. Their spirits have sprung from the soil sown with the blood of the martyrs. They are the lineal descendants of the old Scots Worthies.

In 1866 a young journalist who had descended from the bleak hills of northern Scotland to London saw the possibilities which existed in the fertile and fond imagination to capture the life of this people and crystallize it in undying forms of art, and with a foreseeing eye wrote this singularly prophetic passage in a letter to a friend: "In Scottish life, political, social, and religious, you have a rich and almost unworked mine, a mine from which I have no doubt you will dig valuable ore and beat it into shapes that will attract even the southerner's eye." This was the hope which beat in another young Scotchman's breast when, twenty years later, he also went to London from

the historic pulpit of Dr. Horatius Bonar, in Kelso, to enter the ranks of journalism. It was then—in 1887—that Dr. Nicoll inaugurated the "British Weekly." It had been established about six months, when one day the editor was reflecting gloomily on whether it was possible to find a man who could write in a lively way on Scottish ecclesiastical affairs. He took up the Edinburgh "Evening Dispatch" and found in it a burlesque account of the Inverness Assembly of the Free Church then in session. He lost no time in putting himself in communication with the writer, and on July 1, 1887, an article appeared on the front page of the "British Weekly" on "The Rev. Dr. Whyte, By an Outsider." It was signed "Gavin Ogilvy," and in Scotland immediately drew attention to the writer. Before many months had passed his name and style were well known north and south. But

there was an allusion in this article which the alert editor was not slow to observe. In it Mr. Barrie spoke of Thrums, and said that its inhabitants would discuss any topic with you, from the ontology of being to Robert Louis Stevenson's style, but for choice give them the Rev. Dr. Whyte. Here was perhaps the man for whom Dr. Nicoll was looking. Almost immediately, in the autumn of the same year, Mr. Barrie's story, "When a Man's Single," began to appear serially in the "British Weekly," and there followed subsequently nearly all the chapters that compose "A Window in Thrums." It was at this juncture that Dr. Nicoll's influence and insight swayed Mr. Barrie and caused that immense difference which divides the "Auld Licht Idylls" from "A Window in Thrums," and gave to the latter that quality which brings every reader of its pages to his knees. "I urged Mr. Barrie," Dr. Nicoll said once

to me, "to represent the deeper and nobler elements in the life of the Scotch people—the profound sentiment and real heroism, as well as what is eccentric, grotesque, humorous."

Mr. Crockett, also, tells us how "a great London editor [Dr. Nicoll] wrote some years ago to a young and perfectly unknown writer [Mr. Crockett], and advised him to collect and print his tales, which had been appearing in a local paper and were being copied into various colonial papers. He prophesied a future for them such as even the fond heart of their parent could not believe in. No kinder or more chivalrous thing was ever done to an unknown author." The book when published was "The Stickit Minister and Some Common Men." The English edition of Mr. Crockett's last book, "The Gray Man," bears this dedication:

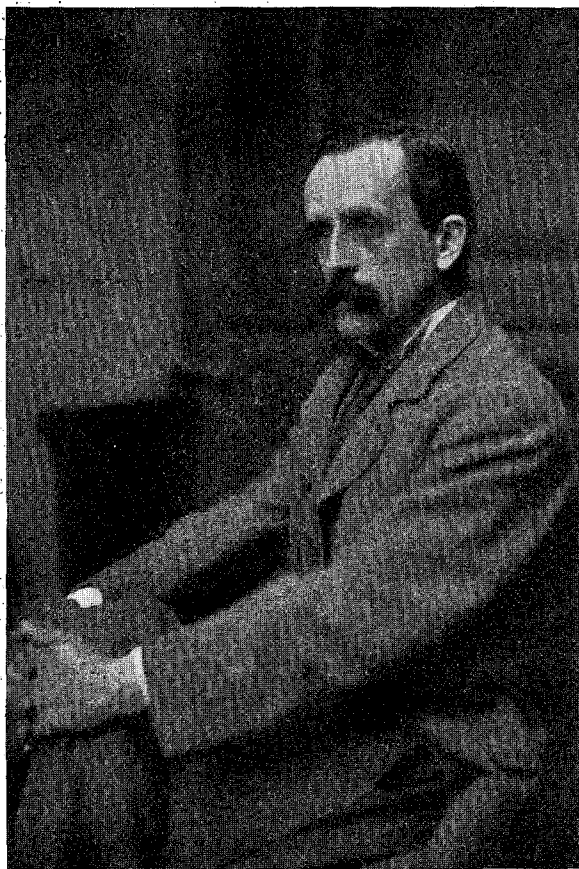
To  
W. R. Nicoll  
are affectionately inscribed  
these Chronicles of a Stormy Time  
in Memory of  
Unforgotten Days of Peace and  
Quietness  
Spent with him and his.

Mr. Barrie's "When a Man's Single" was dedicated to Dr. Nicoll, and one of the latter's numerous literary treasures is

the closely written manuscript of the "Little Minister" in two volumes, handsomely bound, with an inscription from the author to Dr. Nicoll. I may also say here that another of his treasures is a calf-bound copy of "Beside the Bonnie Brier-Bush" inscribed to

Dr. W. R. Nicoll,  
without whose suggestion this book had not been written,  
October, 1894,  
from the author.

In the introduction to the "Auld Licht Idylls" in the new Thistle Edition of his works (Scribner's), Mr. Barrie says that "they were written mainly to please one woman now dead." In the beautiful biography of his mother, "Margaret Ogilvy," just published, he speaks of "the mute blue eyes in which I have read all I know and would ever care to write; for when you looked into my mother's eyes you



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*Robert  
Whyte  
J. M. Barrie*