

# The Outlook

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## MUNICIPAL TRANSPORTATION

**F**OR at least a year an acrimonious controversy has been going on in New York over the street and subway transportation system. In the meantime the street railways, the elevated, and the subways have deteriorated both in upkeep and in service. Some of the lines have gone into bankruptcy, some lines have been discontinued, and transfer points have been abolished. The managers of the lines have insisted that the only remedy is an increased fare. The Mayor of the city has fought the proposal for increased fare and in some instances has endeavored to supply the deficiency of transportation by establishing municipal bus lines. The owners of transportation bonds as well as the stockholders have believed that the Mayor and the city government have been trying to force the transportation companies into bankruptcy in order to establish a complete system of municipal ownership and operation.

Suddenly the air has been cleared by a message from the new chief executive of the State, Governor Miller. The main purpose of this rather unusual message is to declare that the only cure for transportation conditions, already inefficient and likely to become disastrous, is to have a complete and unified survey of all the transportation lines to find out exactly what is the cost of maintenance and operation; to co-ordinate and even to consolidate them into one unified whole; to transfer the ownership from private hands (presumably with fair compensation) to the municipal government; and then to have them operated by private enterprise, presumably under a system of rental and under regulation by a central governmental authority. In other words, Governor Miller advocates municipal ownership and private operation with politics eliminated.

If Governor Miller can eliminate politics from any municipal transportation system, he will be performing at this stage of American municipal civilization almost a miracle. And yet the general principles of his message we believe to be right. The only way in which a street or subway transportation system can be operated by a municipality is to have it done at a low rate of fare and the deficit of the operation made up out of the general tax fund. In a city the size of New York such municipal operation would mean the creation of a great body of city employees who would vote for high wages and low fares, thus mak-

ing the draft upon the general tax fund very large. In an ideal city this method, which is the method we pursue in maintaining sidewalks and streets, might be theoretically desirable. In our judgment, we have not yet reached the stage of political evolution where it can be adopted without grave dangers. The Outlook has, however, for many years advocated municipal ownership and private operation under regulation. Perhaps this is the reason why we think Governor Miller's message has a good deal of common sense in it.

## DEBS STAYS PUT

**A**LL law-abiding and patriotic citizens should commend President Wilson for refusing to commute the sentence of Eugene Debs.

Recently Attorney-General Palmer recommended that Debs be released, on the ground that the prisoner's health was poor and that friends had expressed the fear that he would not live out the sentence. The fact that Debs had an excellent record at the Atlanta penitentiary was put forward in his favor, and petitions signed by many thousands of Debs sympathizers were presented.

Debs is now at the Federal prison at Atlanta, Georgia, serving out a sentence of ten years, imposed for violating the Espionage Act. He has been in prison for about two years, and during that time has reiterated his belief in the principles for which he stood and which brought about his arrest and conviction. He attacked the Government's part in the war, and specially assailed the terms of the Selective Service Act, under which the Army was being raised. He was found guilty in September, 1918, and was sentenced. The fight to save him from prison was carried to the United States Supreme Court. In March, 1919, it upheld the conviction. In April of that year Debs was sent to Moundsville Prison, West Virginia, and shortly afterwards was transferred to Atlanta.

While in prison Debs was nominated for President and in the election last autumn polled about a million votes. He has been five times candidate of the Socialist party for President.

President Wilson, it is believed, refused to release him, first, because of the very serious nature of the charges proved against him, and, second, because of the defiant statements since his imprisonment. Such defiance would

seem to accord ill with Debs's widely heralded gentleness. His appeals on behalf of Socialism, both spoken and written, have at times been distinctly ungentle. Nevertheless personal gentleness and fanaticism can occur in the same character.

## VICTOR BERGER ESCAPES PUNISHMENT

**I**N permitting Victor Berger, former member of Congress, convicted of attempting to obstruct the United States in the war, to escape punishment the United States Supreme Court has not said, or even intimated, that he was not guilty. Victor Berger goes free because of what the ordinary man, untrained in law, calls a legal technicality. In his behalf Berger's counsel had submitted an affidavit averring belief that Judge Kenesaw Mountain Landis, the trial judge, was prejudiced against Berger and some of his co-defendants. The Supreme Court has decided that this affidavit was sufficient, under the law, to bar Judge Landis from trying the case. There is nothing in the opinion of the Supreme Court as delivered by Mr. Justice McKenna to indicate that the Supreme Court shared the belief of the defendants that Judge Landis was prejudiced. All that the Court says is that the affidavit complies with the provisions of the law, which defines the circumstances under which the judge in a case "shall proceed no further therein, but another judge shall be designated." Briefly, then, Berger and the others who were charged with disloyalty escaped because they believed the Judge in the case was prejudiced and the Judge nevertheless tried their case.

The law which provided Berger and his associates with a loophole says: "Whenever a party to any action or proceeding, civil or criminal, shall make and file an affidavit that the judge before whom the action or proceeding is to be tried or heard has a personal bias or prejudice either against him or in favor of any opposite party to the suit, such judge shall proceed no further therein." It says, furthermore, that the "affidavit shall state the facts and reasons for the belief that such bias or prejudice exists." The facts alleged in support of this belief consisted of a statement attributed to Judge Landis denouncing Germany, the Germans, and German-Americans. Apparently there was no proof that Judge Landis used

the language attributed to him. In fact, a transcript of Judge Landis's words was offered in evidence, and, to use the words of one of the dissenting opinions, it was "in marked contrast with statements of the affidavit." The words of the Judge were used in pronouncing sentence on a convict, in the course of which the Judge said that one such German-American did more damage to people than thousands of them could overcome by being good and loyal citizens, and that he was an illustration of the occasional American of German birth whose conduct has done so much to damn the whole ten million in America.

In this case there were two dissenting opinions—one by Mr. Justice Day, in which Mr. Justice Pitney concurred, and one by Mr. Justice McReynolds. Mr. Justice Day said that it did not seem to him that the conclusion of the Court comported with the requirements of the statute that reasons and facts must be set forth; and that it was fraught with danger to the independent discharge of duties by Federal judges. Mr. Justice McReynolds declared that the affidavit disclosed no adequate grounds for believing that personal feeling existed against any of the defendants; that the indicated prejudice was against "malevolents from Germany, a country then engaged in hunnish warfare;" that the words of the Judge showed "only deep detestation for all persons of German extraction who were at that time wickedly abusing privileges granted by our indulgent laws;" that "a public officer who entertained no aversion towards disloyal German immigrants during the late war was simply unfit for his place;" and that "while 'an over-speaking judge is no well-tuned cymbal' neither is an amorphous dummy unspotted by human emotions a becoming receptacle for judicial power."

Apparently, if Americans do not want defendants in the future to escape as Berger and his associates have escaped they will have to see that Congress changes the wording of the law that has been interpreted in this case.

### INVADING CHILDREN'S RIGHTS

**C**HILDREN throughout the country should tell their parents to be on their guard against the invasion of playgrounds either by the local or the Federal government. Two cases which give point to this warning have occurred recently in New York City.

A few years ago the children of the upper part of the city became the richer by the acquirement of a playground in East 101st Street. It is the only playground in the neighborhood. It serves the five or six schools within accessible distance. It has a large daily attend-

ance. It is open the year round. The Board of Education needed a site for a new schoolhouse. It was proposed to use this playground. The Parks and Playgrounds Association instantly opposed the project, and the Association's efforts, so it informs us, have met with such success that the Board of Education has now withdrawn from its willingness to accept the playground as a school site.

But the United States Government has not withdrawn its request to use part of the Jacob Riis Park at Rockaway Point, the only public park on the ocean frontage. Readers of *The Outlook* will remember the strenuous efforts of Mr. Riis and others to secure this property, which was appropriately named for him—the Jacob Riis Park. It comprises over 260 acres and cost \$1,343,000. During the war the Navy, in the defense of the approaches to New York City, put up some buildings at one end of the park and later applied for the use of 190 acres for a naval air station. The request has now been reduced to 94 acres, which includes the property on which the navy buildings are located. The naval officials argue that the use of this property is necessary for the defense of New York City. There seems to be no reason, however, why the city's defense could not be equally well served by the acquirement of other property at Rockaway Point or even by the acquirement of property on Staten Island. The proposition appears to be an encroachment on the rights of the people. Not only is the Jacob Riis Park a present necessity, but twenty years hence, when the population of Greater New York will presumably have doubled, it will be a necessity to the Borough of Queens alone. It is to be hoped that the city will not surrender an inch of the property which belongs to its children. If the children were organized in such a Junior Municipality as has been recommended by "Daddy" George, they would have a chance to protect themselves and to make their just protests felt.

### A CONSERVATION CREED FOR BOYS AND GIRLS

**T**HE New York State Conservation Commission, under the leadership of Mr. George D. Pratt, Commissioner, has started a campaign among the young people of the State for the conservation of wild life and the preservation of all natural resources. It issues the following creed:

I BELIEVE that "God has lent us the earth for our life. It is a great entail. It belongs as much to those who are to come after us as to us, and we have no right, by anything we do or neglect, to involve them in any unnecessary penalties, or to deprive them

of the benefit which was in our power to bequeath." (Ruskin.)

That, in a great democracy of free people, the protection of wild life and the preservation of all other natural resources, which underlie national prosperity and happiness, must depend finally, as does the stability of the government itself, upon the support and willing service of every citizen.

I therefore declare my adherence to these principles, and enroll myself as an active Conservationist of the Empire State.

If this pledge is signed, with name and address, and mailed to the Conservation Commission, Albany, New York, the Commission will immediately return, postpaid and without charge, a rose gold-finished pin, which will identify the wearer as a Conservationist of the Empire State. With the pin will also be sent a Conservationist card containing the principles of the creed, designed for permanent keeping.

The Commission has already distributed about 10,000 of these emblems to people all over the State, and is at present especially interested in getting boys and girls enlisted in the cause. The instilling of the principles of conservation in this element of the State's population will no doubt prove an invaluable help to the movement in the future. Boy Scout organizations may appropriately take action in this matter and help the movement.

### ATHLETIC SCULPTURE

**N**OT every man's career is equally distinguished in science and art, as is the career of Dr. R. Tait McKenzie. He is a Canadian. He was educated at McGill University, Montreal. He was an honor man in athletics. He became a lecturer on anatomy in the Medical School. He also lectured on anatomy and art before the Montreal Art Association, at Harvard University, and at the St. Louis Exposition in connection with the Olympic lecture course there.

Seventeen years ago he accepted a call to the chair of Physical Education at the University of Pennsylvania. There he organized the medical examinations and developed courses in physical training.

In 1915 he volunteered for military service in the war. He rose to the rank of major in the R. A. M. C. His efforts for the reconstruction of disabled men established through his ingenious appliances for muscular re-education, became widely known.

Meanwhile he had been busy on the art side as well. Inspired by the examples of the nude constantly passing before him, he began to express himself in sculpture—in statuettes, in larger figures, in medallions, masks, plaques, medals. He exhibited at the Royal Acad