

overt act; now, the only overt act charged against Blizzard was that he was with the armed forces of the so-called invading union miners in Logan County, the only part of the State under the jurisdiction of the Court which tried Blizzard; the prosecution failed to show this; in fact, the only acts committed by Blizzard in Logan County seem to have been successful attempts to induce the marching miners to surrender to the Federal troops or disperse.

But it also seems certain that the State failed to show that treason had been committed. It is in this matter that the people of the country at large are most interested. Judge Wood, who presided at this trial, remarked:

Treason is an offense that differs from all other offenses in that it is an offense against the sovereignty of the State itself. It is a direct injury, or an attempt to commit a direct injury, to the Government of the State. In no sense is it an offense against an individual. I think the chief character of treason is that it is designed to subvert the government, either wholly or in part. And under our Constitution treason consists only in levying war against the State and in giving aid and comfort to its enemies.

This is undoubtedly sound modern legal doctrine. There was a time, under the old English practice, when charges of treason were sustained for absurdly minor offenses; thus it is said that in the reign of Edward IV an innkeeper whose sign was a crown and who jokingly remarked that he would make his own "heir to the crown" was drawn and quartered for treason. Such absurdities as this led to proper restriction of the legal definition of treason. In this country treason against the State is defined by State constitutions exactly as treason against the United States is defined in the Federal Constitution; that is, treason against the State consists of levying war against the State, adhering to its enemies or giving them aid and comfort. The only cases of trial for treason against a State, so far as we know, have been the prosecution of those engaged in the Shays rebellion in Massachusetts (1786) and the cases that resulted from the Dorr rebellion in Rhode Island (1844). In recent times the only attempt of this sort, we believe, was the indictment, after the Homestead riots of 1892, of men belonging to the miners' Advisory Board on a charge of treason. If we remember rightly, these indictments were never tried. At the time The Outlook pointed out: "The Homestead riot, while a palpable violation of law, did not aim at the overthrow of the sovereignty of the State, and therefore lacked the 'treasonable intent' necessary to constitute treason."

Evidently the same general condition

was held to exist in the West Virginia prosecution. There may possibly be another attempt to sustain the charge of treason in the trial of some of the other men who have been indicted.

NO GOVERNMENT BY PRIVATE INTERESTS

SINCE the charge of treason fell through, the decision cannot be regarded as either upholding or refuting the contention of the defense that the activity of the union coal miners was not only not aimed against the State, but was designed to remedy a state of things in the non-union coal district which amounted to a subversion of the sovereignty of the State by the coal operators, aided by paid guards, hired gunmen, and deputy sheriffs who drew pay from the operators, as was admitted by the operators before and during the trial. What legal value such a contention would have is not certain. That it had some impression on the public is shown by the comments brought out by this trial. The New York "Tribune," for instance, quotes the testimony of Captain Wilson, a Federal officer who commanded the United States troops called out; he said that the so-called invading miners "were obsessed with the thought that the thugs from Logan were bent on destroying their homes and killing their women and children," and that they welcomed the coming of the Federal troops. Another New York journal, the "World," after discussing the acquittal, declares: "It is difficult to blame the union men who attempted to cross the line and restore the right of free speech and assembly in the community. Somebody ought to march on Logan; not a group of miners but the State authorities with power to remove unfit officials and put an end to oligarchy supported by gunmen."

Another, the "Herald," says:

The leaders of the union miners who marched against Logan and Mingo Counties were manifestly trying to take the law into their own hands. But the group of non-union coal operators, controlling the local government in the two counties, had already taken the law into their hands. They had established an embargo on the activities of union organizers and had denied workers in their mines the rights of free speech and free assembly guaranteed to all citizens by the State Constitution.

Apart from the legal aspects of the trial, the general impression made by the whole situation in West Virginia as thus brought out is that, while the mine-owners have the legal right to refuse to employ union men, the conditions of the mining industry in that section of the country are such that the authorities of

the State of West Virginia and of the counties in which the mines are situated should carry on government and enforce the law with respect to the right of free speech as well as the right of contract, and that, beyond all, they should not depute or allow to be deputed legal governmental functions to men paid by one of the parties to the labor controversy.

"THE LAST OF THE GOOD BANDITS"

THE phrase printed above is the title of a practical appraisal of the late Boies Penrose, Republican leader and United States Senator from Pennsylvania, which appeared from the pen of William Hard in a recent number of the "International." This practical estimate attributes the lack of certain moral standards in Penrose to the atmosphere of his time, but gives him credit for powerful virtues and a rugged strength. He took the psychology of his period as it was and adjusted himself to the mental habit of his generation. When he came out of Harvard and chose a career within the organized politics of his day, one of the first things he did was to learn to spit as far and as accurately as any ward heeler with whom he came in contact. He had no use for a professional lobbyist. He knew instinctively that a too influential lobby in legislative halls means a weak party organization. Where party leadership is failing, there the lobbyists drive a coach and four through party orderliness and dominance. Penrose believed in political support for particular business interests, but he wished it to be offered in line with what he regarded as sound party policy. He wanted the party organization to be the ruling force and not to be driven on by the lobby of the special interest. When a change in the charter of Philadelphia was contemplated in 1919, he gave utterance to a political maxim which party leadership everywhere would do well to ponder. He said that party efficiency increases in the exact ratio in which it disentangles itself from municipal affairs. This is an unwelcome view to the long line of political bosses who have made the spoils of the cities the rootage of their rule. But it is a sound view. The political party which in any State depends upon the control of the patronage and the contracts and the perquisites of the cities for its vitality soon falls into unstable equilibrium and ultimately into popular disrepute.

When he was twenty-six years old, Penrose laid down a principle of political philosophy which the country has not yet outgrown. "In formulating a government," said he, "we must calculate on the indifferent watchfulness of

the ordinary citizen in ordinary times." This was the corner-stone of the Penrose philosophy of government, and is still to be reckoned with by all men in public affairs. The practice of the direct primary and such other devices for the encouragement of popular action have, at divers times and in divers places, aroused greater watchfulness, but they have not by any means eliminated the indifference of the average citizen. There has been change enough, however, so that it is no longer safe for the party organization or the party leaders to lean towards the special-interest philosophy in public affairs, as Penrose did so long in Pennsylvania. We think Penrose himself recognized the change in his later *sub rosa* espousal of the Roosevelt leadership for the country. It is well known that if Roosevelt had lived Penrose would undoubtedly have supported him for President in 1920.

The Penrose philosophy of the need of a strong party organization and leadership to stabilize the alternating watchfulness and indifference of the average citizen is still sound. Politics and government are, and probably ever will be, the center of clashing interests. If party organization is weak, the more able and powerful of the clashing interests will occupy the driver's seat. If party organization is strong but corrupt or leaning towards a special-interest philosophy, the general welfare is sacrificed. But if party organization is strong and at the same time bent upon the public welfare, it can hold clashing interests in check and serve the common weal better than the vacillating indifference and watchfulness of the average citizen.

The Penrose philosophy and practice were half right and half wrong, but "the last of the good bandits" was headed towards the right when Roosevelt died, and was still headed in that direction at the time of his own death. This change in a typical Republican boss of the old school throws some light on the change in popular sentiment which led the Republicans of Pennsylvania to nominate Gifford Pinchot for Governor.

BIG PAY OR STEADY WORK?

WE have more than once referred to the remarkable success of what is known as the Cleveland Plan in bringing into fair relations work people and employers in the great garment industry of Cleveland, Ohio. A novel extension of the activity of those who are carrying out the plan has developed. It is an attempt to answer the question, How much does the assurance of steady employment mean to the average workman? Does he prefer a large pay envelope at the price of an uncertain work-

ing period, or a smaller envelope with the assurance of year-round employment?

Inquiry led to the belief that the best results in every way both for worker and employer should be obtained when steadiness of employment was assured. A proposal was therefore made to firms in the women's garment industry in Cleveland that they should be allowed to reduce wages by ten per cent, provided they would give assurance of forty-one weeks' employment during the year or its equivalent in wages. It is expected that the flow of labor during the next year will indicate whether it is the weekly wage or the annual earnings which the average worker takes most into consideration. The manufacturers who accept this idea must deposit in a guaranty fund twenty-five per cent of their total labor pay-roll each week. If they provide forty-one weeks' work, the fund reverts to the firm at the end of the year; otherwise, the workers can draw on it during the weeks of unemployment.

This plan of assurance of work or pay drawn from a centrally held fund has now been in operation for some time and is believed to be the only unemployment fund of the kind either in this country or abroad. It is notorious that the seasonal character of employment in the garment trade is the greatest cause of dispute between capitalists and workers. The new arrangement is a modification of something which has existed for a year.

Under the general provisions of the Cleveland Plan, the union and the manufacturers have not only done away with strikes by submitting their disputes to a board of impartial referees representing the public, but they are installing week work and scientific methods of manufacture. The union is co-operating, financially and otherwise, in this industrial experiment. In return for the increased production which has resulted, the manufacturers recognize it as their responsibility to give steady employment.

The problem as to seasonal work is of vital importance in other industries than that of the manufacture of clothing. Especially is this true of the coal-mining industry. One of the most serious issues in the present strike is the complaint of the miners that they cannot tell what any sum fixed for a day's work or week's work means unless there is some kind of probability as to the number of days or weeks they will actually have work provided for them during a year. The same thing is true as regards the building industry, and some other forms of employment. It is possible that this Cleveland experiment

may suggest a general remedy in this direction.

THE ORATORIO SOCIETY OF NEW YORK

AMONG the many "drives" for public financial support that have been carried on in the city of New York recently, one of the most deserving and yet one which is, we are afraid, likely to attract little public attention is that of the Oratorio Society. This old and respectable organization does not cure anybody of physical ills, nor feed the physically starving, nor promote scientific and industrial education, nor adopt orphans, nor send slum children on country vacations. But it has given joy and comfort and inspiration to thousands, and it is an important factor in furnishing that aesthetic nourishment of the mind without which no nation, however many factories and railways and mines it may possess, can develop a well-rounded and useful national life.

The Oratorio Society was founded in 1873 by Dr. Leopold Damrosch, the father of Walter Damrosch and of Frank Damrosch, whose great achievements in behalf of music are too well known to require any record here. It has had a remarkable musical history, as the distinguished critic Mr. H. E. Krehbiel has pointed out in a very interesting article on American choral music published in the New York "Tribune." Its fine chorus is composed, not only of accomplished amateurs, but also of professional church singers, and it has therefore contributed much to the fostering of a high quality of church music. Its programmes have been made, not merely of ecclesiastical music of the English oratorio type, but of modern pieces of such composers as Brahms, Richard Strauss, Gabriel Pierné, Wolf-Farrari, and Debussy. Although the society is fifty years old, it is the product of a still earlier musical development in America. In the "Tribune" article already referred to Mr. Krehbiel makes the following significant observation:

Music in all its forms, instrumental and vocal, choral and orchestral, has been intelligently cultivated in America much longer than is popularly supposed. The misconception is largely due to the attitude assumed by historical writers, which would seem to indicate that the first American colonists as well as the first citizens of the American Republic were barbarians in art, when as a matter of fact the founders of America were men of the finest culture, as appreciative of beauty as were the people from whose loins they sprang.

Mr. Krehbiel notes the interesting historical fact that on May 4, 1786, there was given in Philadelphia a concert at which two hundred and thirty singers