

THE JUDICIARY.

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“Give therefore thy servant an understanding heart to judge thy people that I may discern between good and bad,” was the prayer which King Solomon at the beginning of his reign offered to God. How many judges in the United States to-day have approached the Almighty with the same petition is known to Him alone, but the official acts performed by many of them justify the belief that they mistake the political boss for the Judge of all the earth and pray to him habitually not for understanding hearts “that they may discern between good and bad” but for shrewdness that they may discern between what will please and what will offend the man who has given them a brief authority and upon whose favor they rely for its continuance.

In many of our States judicial offices have become the prey of spoilsmen. They have already degraded the Bench so far that there are few localities where the judicial office maintains in the minds either of its occupants or of those for whose protection it exists, the exalted position it once had and ought always to occupy. The diminutive mental stature of these spoilsmen enables them to inject their poison unobserved, for the mosquitoes which cause yellow fever are not easily detected. But while Gulliver slept Lilliputians bound him in fetters his great strength could not break, and the aim of this paper is to awaken before it is too late the power of reform that may be sleeping in the reader.

A glance at the elected judiciary in our large cities and a slight acquaintance with the administration of law and justice (so-called) in those cities will reveal the grip of machine politics upon many of our courts. Upon police justices it is most conspicuous. These officials decide the majority of criminal cases. They are generally elected for short terms and are for the most part lawyers to whom the salaries, though small enough, are tempting because larger than the incomes they can earn by private practice. The would-be candidate depends for his nomination upon the boss, and for his election upon the “machine,” a combination of men banded together for the purpose of running the government for their personal profit; with the boss as the pilot who directs and controls it. The machine can exist

only by favor of the voters; the constituents know this, and therefore every member of the machine from district committee-man to ruling boss is called upon more or less frequently to help voters in trouble. Lawless men can be made to vote with greater regularity than law-abiding citizens and for that reason are more valuable for machine purposes. Therefore it is that when notified that one of his voters has been arrested for fighting or drunkenness or perhaps a worse crime and brought before a magistrate for trial, the ward-boss interviews the magistrate and, by some occult substitute for justice, the man whose head has been split open and who has charged the voter with assault is reprimanded, while his assailant is discharged. Only four months ago in one of the large cities of Ohio a prisoner who had been tried and committed to jail, when given a new trial by the police justice, was inadvertently asked by him whether she knew why a new trial had been granted her, and replied at once:

"Yes; because Mr. ——— (a ward-boss) told you to."

These malarial influences are not confined to police courts. The anopheles have begun to fly higher wherever the elective system prevails. The boss wishes his servant to wear the ermine that he may be able all unseen to obtain and dispense remunerative appointments for machine supporters and procure decisions in accordance with his interests. Not long ago the local boss in one of the chief cities of Ohio sent a note to a Judge of the Court of Common Pleas, bidding him decide in a certain way the case then being tried before him. The judge, a young man of sterling integrity and courage, incensed by the communication returned it by the bearer with this line subscribed:

"I will decide this case as it ought to be decided."

That reply sealed the writer's fate for renomination. A united bar and powerful State political influence failed to thwart the local boss or shake his determination. He openly declared that the Judge had refused to obey his will and therefore should not be renominated. The will of the boss prevailed. One of his henchmen was nominated and elected. And it is by judges thus chosen that our rights are determined and questions of life and death decided! For this instance of political dictation to the bench illustrates a state of things by no means peculiar to Ohio. The same malaria is at work in New York and it appears wherever the elective system breeds the mosquitoes which diffuse it.

Four years have not passed since a justice in New York City was refused renomination because he declined to dance to the fiddling of Richard Croker. The records of the Bar Association in that city

show many a protest made, and many a battle fought against the machine-controlled and boss-ridden judicial products of the elective system. The bar is coming to feel that there are few upon the bench who are able to withstand political pressure in the performance of their official duties. Rare is the man who can succeed both as an honest lawyer and a machine politician. In the New Jerusalem the lion and the lamb will lie down together, but not even there will the lamb and the hyena become friends.

An honest judiciary is the last defence of the Republic, and this defence will be destroyed if things continue to go as they are going!

What is the remedy? Is it not in a judiciary with all judges from the lowest to the highest court appointed for life during good behavior? The objections which can be urged against that system are those only which inhere in human nature, and can be urged against all systems; but the appointive has stood the test of trial better than any other. It places judges in a position where they can devote their whole energy to their proper work, without wasting a moment in scheming for re-election or planning what they shall do if they lose their places.

A judge usually begins his life on the bench at a time when a lawyer should be winning his clientage. If true to his trust he will do nothing to create a private practice into which he may retire when his term of office expires, but will devote all his time and energy to his official duties. He is thus prevented from making alliances that will secure him business in the future, and ceasing to be judge he is in danger of becoming a nobody. The temptation to truckle to the boss who can keep him in office is too great for average human nature. Judges are human.

Obedience to law is the foundation of our Republic. With it we have government; without it anarchy. Yet within a year a mass meeting assembled in Cooper Institute to denounce a justice of the Court of Appeals of New York State because he had written an opinion which held unconstitutional certain provisions of the State Labor Law which were deemed favorable to the members of the meeting. Not many months ago it was stated in the press that the president of a labor organization, a leader of national reputation, had spoken openly in defiance of an injunction issued against him. In the South, in some parts of the West there is no pretence of reverence for law when crimes which enrage a considerable part of the community are committed. Public officials even in the most orderly sections of our country have ostentatiously refused to carry out the mandates of courts and the stat-

utes. Lawlessness thrives under legal protection. The people will not observe the law where the judges do not, but when it is generally appreciated that "pull" and not desert elects those who preside in our courts, Belshazzar's guests will soon see the handwriting on the wall.

Slavery threatened our national existence until a generation of young men began the agitation which in due time broke the slave's chains and saved the Union.

A judiciary controlled by selfish politicians is more dangerous to our national existence than slavery ever was, because it is more insidious and more secret. The grip of machine politics upon our people is such that our government, though in name democratic, is rapidly becoming the most tyrannical in Christendom.

Upon the young men and especially the young lawyers of our country the duty and privilege of breaking this tyranny are laid. If this duty is appreciated and performed faithfully the judiciary will be freed from political influence; but if not, the democracy will be murdered. "Ye cannot serve God and Mammon."

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