

ment has made itself so prominent. Upon this point, however, the Congress finally adopted a resolution to the effect that all future international Congresses should be composed only of representatives of bona-fide labor organizations. In a Congress thus constituted it is believed that comparatively few irresponsible visionaries could be elected. The most important resolutions adopted relative to the condition of wage-earners were a declaration in favor of an eight-hour day, on the ground that it would increase "the health, strength, and intelligence of the workers," and a declaration in favor of an employers' liability act which would make employers responsible for all injuries to working people not caused by the latter's negligence. This last resolution particularly declared that an employee's prior knowledge of a defect in the machinery or any other exceptional peril in his position should not lessen his right to damages, but that the responsibility for such defects and dangers should rest upon those having the power to remove them.



The question of German competition with the trade and manufacturing interests of Great Britain has aroused much exciting controversy in the latter country. Ever since the publication of a book entitled "Made in Germany" a certain class of English manufacturers have been anticipating ruin to their interests, and many statistical returns have been published for the purpose of showing the inroads made on British trade by the cheaper goods of Germany. It is pointed out that there is a brisk demand in England for certain lines of goods in which the home manufacturer was supposed to have an undisputed superiority; while German exports to Switzerland, Russia, South America, and even to some of the British colonies have very largely increased during the past few years. These facts have caused a vigorous restatement of the views of English free traders and fair traders. The party with protectionist sympathies have adopted the latter name, and urge some concession to the English manufacturer in his single-handed struggle against the world. On the other hand, the free-trade disciples of Cobden profess to find cause of congratulation in the increased sale of German products in England, alleging the expensive nature of the export bounty system to the German people, and the resulting cheapness of many lines of imported products. Some of these have been used in building up new English industries of great profit, giving employment to large numbers of workmen, and creating a valuable export trade. Some free-traders are inclined to be alarmed at the prospect; but, generally speaking, there does not seem to be any weakening of the free-trade principles which rule the English commercial world. Much stress has been laid upon German superiority in industrial education; numerous instances are given of factories where trained chemists are employed in securing the best industrial processes. The one immediately practical lesson of the situation seems to be the need of the British manufacturer and trader to adopt improved methods, so as to place himself on the same plane of competition as his more accommodating and better-informed rival.



Mr. Gladstone's marvelous mental activity since his retirement from the Liberal leadership in 1894 has caused a partial revival of discussion as to his return to public life. There is no serious or general opinion that he will do so; but many ask, Where are the evidences of physical and mental decay, of lessened interest in the problems of politics or theology, of less acute discernment in literary and social tendencies? It is doubtful if any two years of Mr. Gladstone's life have been more noted for intellectual

energy and product than the last two; and at eighty-seven his amazing zest continues unabated. His learned studies in the works of Bishop Butler have only recently been published; magazine articles from month to month fall from his prolific pen, and the subjects treated show the same versatility as well as the same alert and virile thought; in capacity for work he seems to be equal to most exacting demands. A short time ago the Armenian atrocities nearly called him back to Parliament, so intense was his sympathy with that suffering people; nor have his convictions on that subject since known any change. In fact, though out of office, he is still the dominant personality in England, the one to whom the thought and conscience of the nation instinctively look as an exemplar of political conduct. Just now there are elements of disunion and discouragement in the Liberal party which urgently call for the strongest leader; and there is no doubt that, if Mr. Gladstone should again dare the vicissitudes of public life, he would be warmly welcomed back to his old place, even if for a very brief term of leadership. He was, at least in matters purely political, the trusted keeper of the Nonconformist conscience, while Lord Rosebery has not been very successful in retaining the confidence of that commanding element in British Liberalism. The common belief as to old age and its disabilities will be set over against the manifestations which, in Mr. Gladstone's case, seem to refute it; but, so long as these manifestations continue, his old friends and former following will inevitably ask, Why are not the energy and zeal, which abound in mental exertions so varied and severe, available for the reinvigoration of the Liberal party?



Arbitration and Workingmen

The question of a permanent tribunal of arbitration between the United States and Great Britain has a deep practical interest to the workingmen of both countries. There is a general indorsement of arbitration by the English and Canadian trade-unions, and a strong sentiment in its favor among our own labor organizations also, particularly in the Eastern States. Shortly after the issue of the President's Venezuela Message, the Central Labor Union of Boston formally protested against war, indorsed arbitration, and appointed a committee to act concurrently with the Parliamentary Committee of Labor Unions in Great Britain. Other American labor unions also took similar action, and the British Parliamentary Committee of Labor Unions has repeatedly done so. On July 26 last the Congress of Trades-Unions of the world officially indorsed international arbitration, and entered its protest against war. The struggle for higher wages is the strongest possible bond of union. National differences are largely obliterated by it, and the resulting solidarity is a great economic feature of the time. As the labor movement has passed from local and national to international proportions, we may justly expect it to become a much stronger preventive of war than it has been in the recent past. Its aims, its methods, and the product for a larger share of which it is struggling so earnestly are all more or less divested of purely local or restricted influences by the interlacings of the world's commerce. The workingmen, or rather their leaders, have not been uninstructed observers of the initial successes of arbitration, and they naturally forecast the influence of still further successes upon their own lot and prospects. They look upon war as the delay or destruction of their hopes, see clearly that those who gain by it are the few favored capitalists, and fear its disorganizing effect upon

those laws of production and exchange whose operation must be both general and regular if labor is to reap enduring benefits. War breaks in upon the tenor and consistency of these laws. Even the wildness of Anarchistic labor unions is moderated by the perception of this. The Socialist who wishes to see government the exclusive regulator of industry is deeply concerned in securing international arbitration, for war by or against a government thus constituted would be most disastrous to his hopes. The position and influence gained by labor organization thus far cannot, it seems to us, retrograde, because they have not been secured by blind experiment or abstract theory. They have fought their way through progressive stages, each of which presented an issue acutely practical, thereby affording a tested leverage for further advancement. We do not anticipate that extreme opinions will rule in the councils of labor. During the past twenty-five years the instances of such control have been only temporary. And the present support of international arbitration is a proof of sanity and intelligent self-interest reassuring to the hopes of mankind.



The Commonwealth

VII.—The Lawyer

Law has been defined as the expressed will of a superior in terms applicable to classes of individuals and classes of actions. It thus differs from a command, which is the expressed will of a superior to an individual person and respecting an individual act. But this distinction is no longer adequate in democratic America. For in democratic America we have, not the will of a superior enforced over an inferior, but the will of the people enforced over themselves. Thus with us Law is the expressed will of the community acting as an individual. If we accept a figure as old at least as Plato, and compare the State to an individual, and accept an analysis not less ancient and divide the faculties of this community, as of the individual, into intellect, sensibilities, and will, then we may say that the teachers express the intellect or thoughts of the community, the poets and prophets its sensibilities and imaginations, or emotions and ideals, and the lawyers, including the lawmakers in legislative assemblies, its will or resolves.

It is true that, politically, the majority is superior to the minority, and that law in democratic America is the expression of the will of the majority. But it is more than that. For when the election has taken place and the decision is reached, it becomes the decision of the entire community. The law is not merely the will of the majority, to be enforced over and against a minority. This is too frequently the case in the Spanish-American Republics, and it is for this reason that revolutions or attempted revolutions are nearly as frequent as elections in those unfortunate States. But in the United States, when a Republican majority enacts a McKinley tariff, the Democratic minority does not merely submit to the will of a superior. The law becomes the will of the entire country, unless by regularly constituted and orderly methods it can be changed. When, even by the "indecision of the Supreme Court," the Income Tax Law is declared constitutional, the result, bitterly as it has been resisted by nearly if not quite half the people, is accepted as the will of the Nation, and opponents and advocates alike prepare to pay the tax, until, by the change of a single judge, it is determined to be unconstitutional, when again the whole Nation accepts the decision as the will of the Nation, and we proceed to

borrow money and incur a debt for interest amounting to millions of dollars—not, indeed, without a murmur, but without a thought of resistance. The Nation is a unit; and when the discussion is over and the decision is reached, whether that decision is expressed by Congress or by the Court, that decision is regarded by all classes as the expressed will of the Nation.

Law, then, in a democratic community is the expression of the will of the community, and the function of the lawyer is to formulate that will, and then to apply it in all the complicated transactions of modern life.

This will of the Nation is expressed by two methods—legislative enactment and court decision. The Populists complain that there are too many lawyers in our legislatures; and if the legislative bodies determined the will of the people, there would be some reason in this complaint. But this is totally to misapprehend the function of a legislative body in a modern democracy. The legislative body does not determine what the law shall be, it simply formulates in law the decision reached by the people in informal discussions and debates. It stands in much the same relation to the people that a committee of a Legislative Assembly stands to the Assembly. The House of Representatives resolves on a certain course of legislative action and sends the matter to a committee which discusses details, formulates a measure, and submits it to the House for final action. In a somewhat similar manner, in the pending election the people will decide in favor of or against a protective tariff, and will then leave the House—as a kind of larger committee—to determine the details of the tariff. The will emanates from the people; the form only is left to the legislative body. And it is quite right that a majority, and even an overwhelming majority, of the legislature should be men familiar with law and with the legal effect of phraseology, and thus able to put into legal form the resolve which the people have reached but cannot in mass-meeting formulate. As a man, having determined how he will leave his property, employs a lawyer to draft a will, so the people, having determined on a given course of action, employ a legislature to draft the necessary measures to carry their determination into effect. Probably a considerable proportion of legal infelicities grow out of ignorance of law in the legislatures, and it is a question whether the community would not do well to employ in legislative action more lawyers rather than fewer—whether, for example, it would not be well to add to our present legislative machinery a permanent body, composed wholly of lawyers, to whom all bills should be submitted, and who should be empowered to return them to the legislature, pointing out defects and suggesting amendments to make them more rational and more effective.

But the will of the community is expressed quite as effectively by decisions of the courts as by acts of legislature, and such expressions are quite as important and far-reaching. The decision of the Supreme Court of the United States, in the early part of this century, that no State could grant a monopoly of navigating tidal waters within its boundaries to any person, that the navigable waters belong to the people of the whole country, and must be forever free, probably has exerted as great and as beneficent an influence on the destinies of the Nation as any single piece of Congressional action, and the influence of Daniel Webster in securing that decision was probably more influential on the destinies of this country than anything he ever did as Secretary of State. The decisions of the courts constitute what the lawyers well call "a body of doctrine," which is modified almost from day to day, and which as truly, though not as directly and immediately,