ber of reputable and honorable men who down at bottom distrust popular government and when they must accept it accept it with reluctance and hedge around it with every species of restriction and check and balance so as to make the power of the people as limited and as ineffective as possible. Mr. Taft fairly defines the issue when he says that our government is and should be a government of all the people by a representative part of the people. This is an excellent and moderate description of an oligarchy. It defines our government as a government of all of the people by a few of the people.

I am not speaking jokingly nor do I mean to be unkind, for I repeat that many honorable and well meaning men of high character take this view and have taken it from the time of the formation of the nation. Essentially this view is that the constitution is a straitjacket to be used for the control of an unruly patient—the people. Now, I hold that this view is not only false, but mischievous, that our constitutions are instruments designed to secure justice by securing the deliberate but effective expression of the popular will, that the checks and balances are valuable as far and only so far as they accomplish that deliberation and that it is a warped and unworthy and improper construction of our form of government to see in it only a means of thwarting the popular will and of preventing justice. Mr. Taft says that "every class" should have a "voice" in the government. That seems to me a very serious misconception of the American political situation. The real trouble with us is that some classes have had too much voice. One of the most important of all the lessons to be taught and to be learned is that a man should vote not as a representative of a class, but merely as a good citizen, whose prime interests are the same as those of all other good citizens.

Taft's "Disbelief In the People."

Mr. Taft again and again, in quotations I have given and elsewhere through his speech, expresses his disbelief in the people when they vote at the polls. In one sentence he says that the proposition gives "powerful effect to the momentary impulse of a majority of an electorate and prepares the way for the possible exercise of the grossest tyranny." Elsewhere he speaks of the "feverish uncertainty" and "unstable determination" of laws by "temporary and changing majorities," and again he says that the system I propose "would result in suspension or application of constitutional guarantees according to popular whim," which would destroy "all possible consistency" in constitutional interpretation. I should much like to know the exact distinction that is to be made between what Mr. Taft calls "the fitful impulse of a temporary majority" when applied to a question such as that I raise and any other question. Remember that under my proposal to review a rule of decision by popular vote, amending or construing to that extent the constitution, would certainly take at least two years from the time of the election of the legislature which passed the act. Now, only four months elapse between the nomination and the election of a man as president, to fill for four years the most important office in the land. In one of Mr. Taft's speeches he speaks of "the voice of the people as coming next to the voice of God." Apparently, then, the decision of the people about the presidency, after four months' deliberation, is to be treated as "next to the voice of God," but if after two years of sober thought they decide that women and children shall be protected in industry, or men protected from excessive hours of labor under unhygienic conditions, or wage workers compensated when they lose life or limb in the service of others, then their decision forthwith becomes a "whim" and "feverish" and "unstable" and an exercise of "the grossest tyranny" and the "laying of the ax to the foot of the tree of freedom." That is the old, old doctrine which has been acted upon for thousands of years abroad and which here in America has been acted upon sometimes openly, sometimes secretly, for forty years by many men in public and in private life, and I am sorry to say by many judges; a doctrine which has in fact tended to create a bulwark for privilege, a bulwark unjustly protecting special interests against the rights of the people as a whole. This doctrine is to me a dreadful doctrine, for its effect is, and can only be, to make the courts the shield of privilege against popular rights. Naturally, every upholder and beneficiary of crooked privilege loudly applauds the doctrine. It is behind the shield of that doctrine that crooked clauses creep into laws, that men of wealth control legislation.

"Just Judges Safe."

Remember I am not discussing the recall of judges—although I wish it distinctly understood that the recall is a mere piece of machinery to take the place of the unworkable impeachment which Mr. Taft in effect defends and that if the days of Maynard ever came back again in the state of New York I should favor it. I have no wish to come to it, but our opponents when they object to all efforts to secure real justice from the courts are strengthening the hands of those who demand the recall. In a great many states there has been for many years a real recall of judges as regards appointments, promotions, reappointments and re-elections, and this recall was through the turn of a thumbscrew at the end of a long distance rod in the hands of great interests. I believe that a just judge would feel far safer in the hands of the people than in the hands of those interests.

My remedy is not the result of a library study of constitutional law, but of actual and long continued experience in the use of governmental power to redress social and industrial evils. Again and again earnest workers for social justice have said to me that the most serious obstacles that they have encountered during the many years that they have been trying to save American women and children from destruction in American industry have been the courts. That is the judgment of almost all the social workers I know and of dozens of parish priests and clergymen and of every executive and legislator who has been seriously attempting to use government as an agency for social and industrial betterment. What is the result of this system of judicial nullification? It was accurately stated by the court of appeals of New York in the employers' liability case, where it was calmly and judicially declared that the people under our republican government are less free to correct the evils that oppress them than are the people of the monarchies of Europe. To any man with vision, to any man with broad and real social sympathies, to any man who believes with all his heart in this great democratic republic of ours, such a condition is intolerable. It is not government by the people, but mere sham government in which the will of the people is constantly defeated. It is out of this experience that my remedy has come, and let it be tried in this field. When as the result of years of education and debate a majority of the people have decided upon a remedy for an evil from which they suffer and have chosen a legislature and executive pledged to embody that remedy in law and the law has been finally passed and approved I regard it as monstrous that a bench of judges shall then say to the people: "*You must begin all over again.* First, amend your constitution [which will take four years]; second, secure the passage of a new law [which will take two years more]; third, carry that new law over the weary course of litigation [which will take no human being knows how long]; fourth, submit the whole matter over again to the very same judges who have rendered the decision to which you object. Then, if your patience holds out and you finally prevail, the will of the majority of the people may have its way." Such a system is not popular government, but a mere mockery of popular government.

People Will Define "Liberty."

The decisions of which we complain are, as a rule, based upon the constitutional provision that no person shall be deprived of life, liberty or property without due process of law. The terms "life, liberty and property" have been used in the constitutions of the English speaking peoples since Magna Charta. Until within the last sixty years they were treated as having specific meanings—"property" meant tangible property; "liberty" meant freedom from personal restraint, or, in other words, from imprisonment in its largest definition. About 1870 our court began to attach to these terms new meanings. Now "property" has come to mean every right of value which a person could enjoy, and "liberty" has been made to include the right to make contracts. As a result, when the state limits the hours for which women may labor, it is told by the courts that this law deprives them of their "liberty," and when it restricts the manufacture of tobacco in a tenement it is told that the law deprives the landlord of his "property." Now, I do not believe that any people, and especially our free American people, will long consent that the term "liberty" shall be defined for them by a bench of judges. Every people has defined that term for itself in the course of its development.

Task Is to Strive For Justice.

Friends, our task as Americans is to strive for social and industrial justice, achieved through the genuine rule of the people. This is our end, our purpose. The methods for achieving the end are merely expedients to be finally accepted or rejected according as actual experience shows that they work well or ill. But in our hearts we must have this lofty purpose, and we must strive for it in all earnestness and sincerity or our work will come to nothing. In order to succeed we need leaders of inspired idealism, leaders to whom are granted great visions, who dream greatly and strive to make their dreams come true; who can kindle the people with the fire from their own burning souls. The leader for the time being, whoever he may be, is but an instrument to be used until broken and then to be cast aside, and if he is worth his salt he will care no more when he is broken than a soldier cares when he is sent where his life is forfeit in order that the victory may be won. In the long fight for righteousness the watchword for all of us is spend and be spent. It is of little matter whether any one man fails or succeeds, but the cause shall not fail, for it is the cause of mankind. We, here in America, hold in our hands the hope of the world, the fate of the coming years, and shame and disgrace will be ours if in our eyes the light of high resolve is dimmed, if we trail in the dust the golden hopes of men. If on this new continent we merely build another country of great but unjustly divided material prosperity we shall have done nothing, and we shall do as little if we merely set the greed of envy against the greed of arrogance and thereby destroy the material well being of all of us. To turn this government either into government by plutocracy or government by a mob would be to repeat on a larger scale the lamentable failures of the world that is dead. We stand against all tyranny, by the few or by the many. We stand for the rule of the many in the interest of all of us, for the rule of the many in a spirit of courage, of common sense, of high purpose, above all in a spirit of kindly justice toward every man and every woman.

Football Item.

He stood on the bridge at twilight as the game drew near its close. 'Twas a pensive mood in which he stood on the bridge of the halfback's nose.—Washington Herald.

He Knew the Girl.

Son (trying to persuade his sire)—Don't you think, sir, I've money enough to get married on?

Father—Yes, but not enough to stay married on.

Well Protected.

Mother (putting child to bed)—You're getting such a big brave boy now; you don't mind the dark. "No, mummy; 'cause I've two angels at my head and a hot-water bottle at my feet."—Punch.

Unequally Divided.

Sometimes A gets credit for saying what B may have felt and thought and what C had lived for years with courage and self-denial.—Miss Thackeray.



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