

different approach, a spirit strangely contradictory to the campaign theories of the President. It will focus attention not on possibilities, but on performance, not on monopoly, but upon unfair trade methods. Such changes in point of view tell more in the end than anything else, for men easily forget when they do not constantly attend, and a system which always looks at specific instances of misconduct quickly becomes uninterested in abstract questions of economic power.

The first and most important feature of the Trade Commission act is its clear recognition that this is the proper mental attitude toward the trust question. It is not the attitude anyone could have expected to see emerge from the tradition of the Democratic party. But nevertheless it did. A Democratic Congress has actually delegated the broadest kind of personal discretion to a commission of "experts," a commission, mind you, which combines executive, legislative, and judicial functions. Could there be anything more portentous to those who believe in the adequacy of the Logos, as it comes to us from the Fathers; could there be a more impious attack upon the triune separation of powers? The act achieves a very happy but a most amazing delegation of legislative function.

It contains no guide for the limiting of the powers of the Commission and the courts but their general judgment of what is fair in the given case. "Do you think these practices serve the public interests or do you not? You must go over each case and look at the whole problem; there are no major premises for your guidance; yours is the responsibility for a right decision and yours the power; make your own rules for trade, but at your peril make them right." That is in substance the charter of these five Trade Commissioners, and the wonder is that so few have felt it to be a departure from American ideas. The Interstate Commerce Commission and the State Public Service Commissions must indeed have carried us far already. This is fast becoming a government not of laws, but of men, perhaps really a government, after all, no longer a pious treasury of past generalizations.

The procedural features of the scheme are important. At present a small trader with a grievance appeals to the Attorney-General, and if that officer chooses to embark in a dissolution suit, he files a bill and several years are spent in taking testimony. Finally the case comes to a hearing, generally before three of four judges, in from four to twenty large volumes of undigested and unarranged evidence, largely irrelevant. The court, already crowded with constantly growing business, as all Federal Courts are now being

the disputed facts. Then they must face the question of the pertinency under the law of what they can gather from the conflicting assertions of counsel. This new act, on the other hand, provides that the Commission must initiate proceedings, take the proof and find the facts. These findings are conclusive. Upon these facts, which it will be extremely important to have stated separately and clearly, the Commissioners will decide whether or not the defendant has engaged in unfair trade methods; if they decide that the methods are fair, the suit is nearly certain to end. The Attorney-General may begin a dissolution suit *de novo*, if he has the heart to undertake it, though he will not have, and the aggrieved individual may sue for treble damages if he can afford it, and he seldom can. Practically, the matter will stop with the Commissioners' decision. If the Commission finds on the other hand that there has been unfair trade, the defendant may appeal direct to the Appellate Court, which, taking the facts as found, has in turn its own hands free to determine what it regards as unfair trade, laying down the rule for that case and looking only to its sense of the public interest. Thus is preserved the necessary final judgment of a tribunal which has had nothing to do with the prosecution.

In this Trade Commission act is contained the possibility of a radical reversal of many American notions about trusts, legislative power, and legal procedure. It may amount to historic political and constitutional reform. It seems to contradict every principle of the party which enacted it. It seems to strike at the root of ancient American prejudice. But the opposition has been negligible, so negligible that it stirs a little wonder as to whether Congress and the press realized that the quiet phrasing and ingenuity of this bill were another Trojan horse.

## The Shipping Note

OUR note to Great Britain in regard to shipping is a frank and self-respecting performance. A reading of the full text, moreover, must dispel the first impression conveyed by the summary somewhat prematurely given to the newspapers. It seemed at first that this government had acted with curt exasperation and a peremptory desire to have the letter of the law. No sense of this is to be found in the note itself. As state documents go, it is peculiarly lucid, open, and plausible, and no fairminded Englishman should find in it anything to jar his good feeling toward this country.

In substance it is more than justified in fact and in law. There can be little question that England

rules, to amend international law, and to behave as the inconsiderate autocrat of the high seas. She has steadily encroached upon the rights of neutrals, she who is supposed to be fighting for the sanctity of neutrals. She has stretched the rules of contraband beyond all precedent, has subjected neutral commerce to her own caprice and made it suffer the penalties of her own cumbersome administration. All this Great Britain has justified, as the German Chancellor justified the invasion of Belgium, by proclaiming it a necessity.

If the United States submitted without protest, Germany might well smile at our proclamation of neutrality. In sheer self-respect this country could not afford to allow supreme naval power to destroy its neutral rights. But there is a larger reason than that. It is that the extension of neutral rights as against the "necessities" of nations at war is perhaps the one most immediate and practical step towards a better world organization. In time of war neutral powers alone have a direct interest in the preservation of international law. That interest is based on their desire to trade, to use their neutrality to protect themselves from the ravages of the conflict. Such protection is the common interest of neutrals, and if ever there is to be a league of neutrals its first and most unsentimental basis will be the intention to safeguard commerce.

For English newspapers to complain is for them to assume that we are England's official ally, which we are not. Some British comment, moreover, seems to imply that while it is a crime to use German militarism to destroy neutral rights, there is something to be said for British naval power when it follows the German example. If that were so, England would present the curious spectacle of a people fighting and dying for public law on land while it violated public law at sea.

The affair demonstrates that self-interest is still the real law of nations, that the brilliantly colored moral sentiments of international discourse will not often wash. The first positive action of this country in a world war has been to insure its export trade against stoppage and inconvenience; nothing more glorious than that. The note has chanced to reveal the unrhetorical United States, as British action at sea has revealed England minus her morals. After all the preaching of brotherhood, after all the beating of rusty swords into useless ploughshares, after all Europe's hope and our own vanity, our only utterance on the war is to protect our shipping.

It might have been otherwise. Had we protested when Belgium was violated we should have shown that we care disinterestedly about neutral rights, and our protest now would come with doubled force and heightened grace. Our champion-

a measure of obvious and justified self-interest into a service to the world.

## The Minute-Men Myth

IT is highly ironical that the most bellicose utterances of the armament controversy should have come not from our militarists, but from the lips of our two most ardent advocates of peace. Secretary Bryan's words are already famous:

"The President knows that if this country needed a million men, and needed them in a day, the call would go out at sunrise and the sun would go down on a million men in arms."

An interview in the *New York Times* quotes Mr. Carnegie as follows:

"Our nation is unique in an important respect. Its individuals are the best armed in the world. . . . Most Americans can afford to and do own guns with which to shoot, and furthermore, most Americans, when they shoot, can hit the thing at which they shoot."

In other words, if these two statements are true, we do not have to go in for armament because we are a nation armed to the teeth, ready to spring forth at a moment's notice; we have a natural genius for shooting, and we can "lick anything on the face of the earth." And this from the lips of men who cry for peace because they love it so.

Both statements are of course untrue. Our preparations are utterly inadequate to put even fifty thousand fresh men into the field over night, let alone a million. Even super-militant Germany, after years of preparation, required a fortnight for mobilization. Short of the enemy being at our throat, it would be criminal folly to send our citizen volunteers to the firing line before at least three months' training. Lord Kitchener is at present engaged in breaking all records for training troops, and yet he is asking six months to put his million men into battle shape.

Mr. Carnegie's statement leaves us hardly less astonished. It is news to us that most Americans carry guns. We should have said off-hand that fully three-fourths of our population have no experience whatsoever with high-power rifles. It is true that a good many farmers still keep a shot-gun about the house to knock down a rabbit or put a few buckshots into an occasional deer. But we did not know that they were experts at a thousand yards with a Krag-Jorgensen. If we are to believe Mr. Carnegie, every golf links in the country is really a concealed rifle range. What have we all been shooting at, that we can hit the stem of a wine glass from the hip like any circus sharpshooter? In our innocent, peace-loving way we had gradually forbidden the carrying of revolvers.

Nothing is accomplished in merely exposing a th-