

SOME GOOD IN THE GARFIELD SHOCK

Ex-Judge Lacombe Analyzes the Situation—Workless Days Order May Yield Eventual Benefits in Spite of Almost Unanimous Criticism

By RICHARD BARRY

PROBABLY no executive order in this country ever aroused such a unanimity of expression as Fuel Administrator Garfield's recent five-day closure of industry and business east of the Mississippi River. The dissent was nearly universal; the criticism diverse and vigorous, but almost entirely of one tenor. The harmony of the anvil chorus was astounding.

As one of the eminent officials of the State of New York observed: "You may discover some Diogenes able to shed a ray of light into the gloom, but I doubt it." We were confronted by an unprecedented order, backed by the fiat of a great Government, and none but apologists were ready to defend it. But would not the gain outweigh the loss? Were there any values to be achieved that might obscure the temporary dislocation of industry and the economic discount of trade?

E. Henry Lacombe, jurist and publicist, whose experience of many years on the bench might be supposed to lead him to look at both sides of any question, was sought for an authentic striking of the balance of discord. Only two years ago he retired after twenty-eight continuous years' service as Judge of the United States Circuit Court, with headquarters in New York. This was what he said about the Garfield order and its results:

"I am extremely averse to giving an interview on any subject about which the facts are not fully disclosed, but since you insist that it is a patriotic duty for any one who can say a good word—even a small one—for the recent coal order to speak out, you may record my views. You will accomplish absolutely no result thereby except to fill a column or so of your paper; but that's your affair, not mine. One thing, however, I must insist on, viz., that the date of the interview (Jan. 21) be stated in the record; so much water runs under the bridges these days and it runs so fast that a man who might acquire the reputation of a clever thinker because of some statement he made on Monday, would, if he made the same statement on the ensuing Friday, be considered what our good allies describe as a 'bally ass'.

"First, then, as to the order itself: The deliverances of all the newspapers I have read, including your own, have, largely through their headlines, (which I believe are the product of special literary artists,) given a distorted impression as to its terms. A careful study of its language led me, at least, to the conclusion that there was no intention to interfere, even temporarily, with any industry which was engaged in the production of essentials for our allies or for the equipment and dispatch of our own men. It was apparently directed to calling a halt of a few days in nonessential industries by diverting coal from them or requiring them to save it.

"This, no doubt, was a most drastic thing to do, but certainly I am in no position to condemn its drasticness—if the result expected be accomplished—when the exigency that induced it is not known to me. If it fail to accomplish the desired result, it will be generally considered a deplorable error.

"How important it is for our allies to have the 120 or more ships waiting here for bunker coal started on their way neither you nor myself nor any of your readers know. It has been the curse of the conduct of this war by the several democratic nations, France, Great Britain, and ourselves, that their Administrations have been so loath to take 'the plain people' into their confidence. Past experiences, most unfortunate ones, with war correspondents and their newspapers, have induced overcensoring, and

no intelligent person now kicks (perhaps that is better expressed by the phrase, 'few intelligent persons now kick') over the closest reticence as to military movements. It seems to me that the policy of the British Admiralty, bitterly criticised though it has been, in preserving absolute silence as to details of U-boat destruction was a very wise one. But this policy of reticence may easily be carried too far; it's better in the long run to let the men who are putting their shoulders to the wheel know how deep the mud is before you call on them to heave. Especially so when the enemy, as in this case with his marvelous intelligence system, knows more about what is happening here than nine-tenths of our loyal citizens do.

"Now, as to his order: I have read and reread the colloquy between the Chairman of the committee and the Fuel Administrator. On the one side it is suggested: Why stop the manufacturer during these five days if he has coal enough to keep going without drawing new coal from what is wanted for the stalled ships and the necessities? Why not let his period of abstinence come after he has used up his present supply? The reply was that it seemed better to make these stoppages synchronous instead of trailing them along, thus continuing the resulting irritation. On this point it would seem that Chairman and Administrator break about even; every one will have his own opinion. Mine is that it is wiser to have the interference over and done with as soon as possible.

"Again, it is suggested: Why stop the man who has had the foresight to provide himself with abundant coal? Why not let him manufacture whatever he pleases with it and store it until transportation conditions allow him to move it? Why shut him up in the interest, perhaps, of his competitor who didn't lay in a full supply?

"In considering these questions we must not forget how far the action of the Government may have operated to leave the competitor without adequate supply. Even one who is not a manufacturer or a coal miner might suppose that ordinarily a person requiring coal for the Winter secures for himself in the Summer or early Fall sufficient for his needs; certainly all provident householders do.

"Let us look back a bit. In June coal was being sold—and bought—at \$6 to \$7 a ton. Secretary Lane had a conference with the coal operators, at which the latter agreed to cut the price to \$3 a ton, a proposition accepted by him. That price gave the poorer mines a small

profit; the better mines a large profit. Any exorbitant profit could be gathered in by an excess profits tax. At that price it may reasonably be supposed that persons wanting coal for future use would have gathered it in. Three days after this arrangement was made it was repudiated by the War Council, (if that be the correct title,) of which one or two other Cabinet officers were members. I was stated by it that the price was exorbitant and that the Government would fix a lower one. Weeks elapsed before that price was finally fixed, during which period naturally the price went up to the old figure, at which it was sold and bought.

"I remember seeing last Summer a cartoon representing two neighbors, one of whom, following his usual custom, had filled his bins in the early Summer at the market price while the other was jollying him because he had held out and now was going to get his coal at Government rates. How much of the existing shortage of coal in homes and factories is due to the way in which the Government handled the coal situation in the early days of last Summer none of us knows; but it is a fair inference that it is by no means a negligible quantity. If the Government realized that it had, to some extent, contributed to inducing a coal user to fail to supply himself in the Summer and early Fall, it might seem fair

to help him out of his scrape, so far as it could.

"As to whether, at this time, when the situation became acute, some other or different order (as to transportation or what not) might have accomplished the desired result equally well and with less friction and turmoil, I have no opinion to express, because I do not know all the facts. Of one thing, however, I am convinced. This order has been described as a smashing blow between the eyes to every one in this country. From what one reads in the papers and hears on all sides, that seems to be a correct statement. But this same blow will awaken every one it hits to appreciation of the fact that this war is not just 'on the side' for us; that it means sacrifice. So far as one can see, the plain people are taking the blow and making the sacrifice.

"There will be other blows, heavier than this, some administered by our enemy; some, no doubt, the recoil from inefficiency of our own; but if we are to win this war we will have to take them, as I believe we will.

"You ask whether our allies will not be disheartened by this stoppage of in-

dustry, inasmuch as they have looked to us as executive administrators par excellence, and may take this as public confession of our incompetence.

"It would be unfortunate if they have some exaggerated notion as to our national efficiency. If they have, possibly you gentlemen of the press are largely responsible therefor. But, as was said before, there seems to be nothing in this order to indicate any stoppage of the industries which are undertaking to supply our allies, or to equip and forward our fighting men.

"Exactly what the situation is we do not know; merely that there are 120 or more ships loaded with supplies for the war zone. Presumably they are needed, perhaps most sorely needed, there just at this time. One might fairly suppose that when our allies learn that these ships have sailed for them and for the cause, such sailing being made possible by the shutting down of all our non-war industries for a time, with much heart burning and vociferation, it is true, but still with acceptance of the order because it is an order, as the plain people seem to be accepting it today, will they not be convinced that we are really in this fight to a finish? And will not such conviction be helpful?

"You ask me what the Germans will think of it—whether it will not encourage them to fight harder and to stick out longer for better terms.

"What they may think about it does not trouble me. If it induce them to stick out longer for better terms than they are now proposing, that insures their being there when we really get into the fight. This war cannot be ended safely for the rest of the world until the military force of Germany has had, as Elihu Root said the other day, 'such a thrashing as it has not had since Jena.' That certainly will not happen this year; it may next year if we get in with both feet and keep moving."

"Q. Do you think that the proposed three-man War Cabinet would be the solution of our present difficulties?"

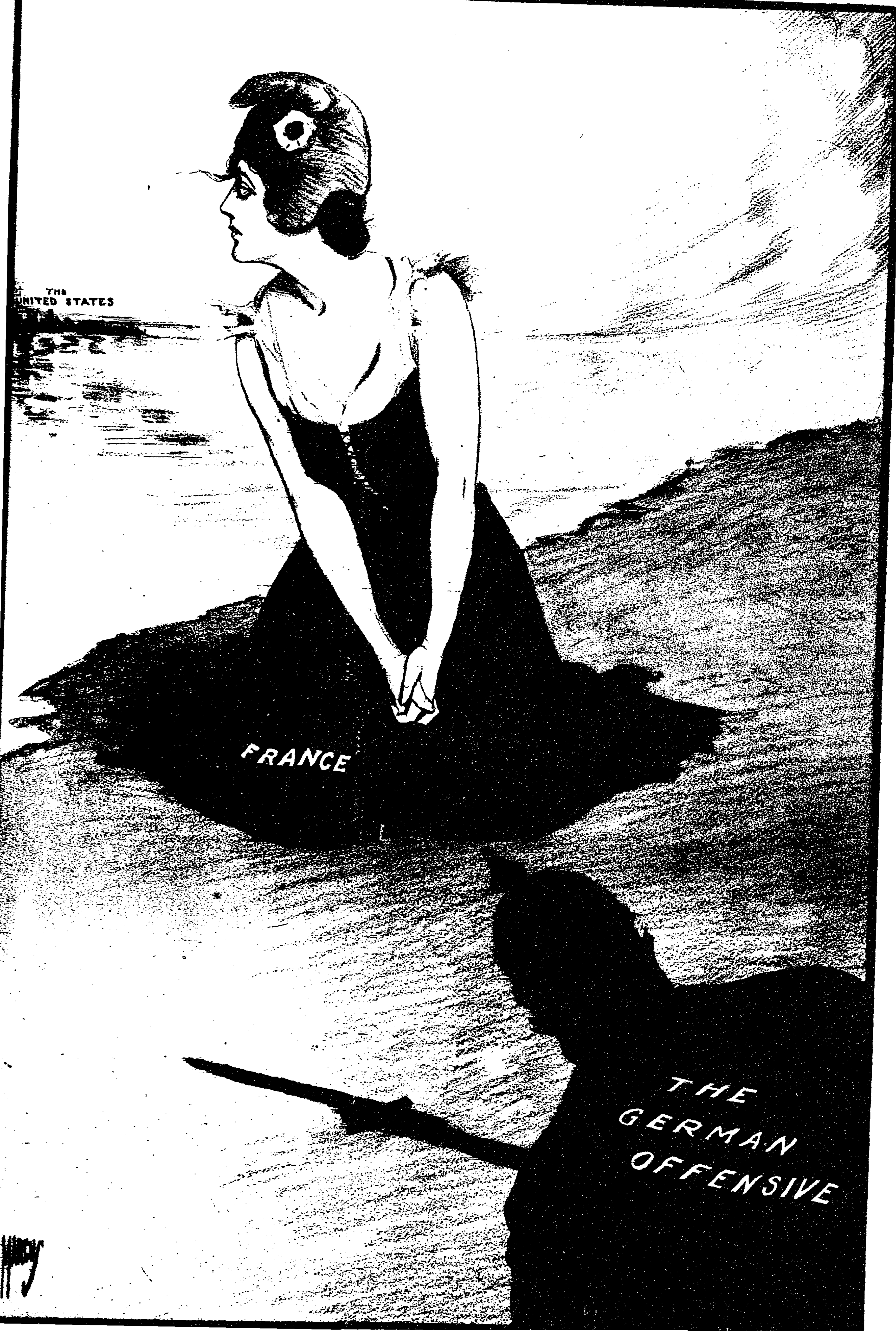
"A. It might, and it might not; that would depend largely on who the three men were. The mere thing itself is not *ex vi termini* a panacea. If President and Senate were in accord about it, it might improve the present organization, although the reports of the investigation of the Navy Department by the Senate committee seem to indicate that that department is already exceptionally efficient. But if the three-man Cabinet is created as the result of a conflict, its personnel may be compromise nominees, and one might doubt whether they would improve existing conditions.

"The solution would seem to rest with the appointing power. If a man believed to be efficient when appointed turns out to be inadequate for his task, there seems no reason why the appointing power which selected should not scrap him. No one expects the President to be omniscient; no one could fairly criticize him for making an unfortunate appointment, if, when the appointee's inefficiency appears, he removes him and tries some one else. All the European countries on both sides have been obliged to go through the process of elimination in the ordeal of finding the most competent men. Such was Lincoln's experience during the civil war.

"The President has the power and the responsibility. He need not shrink from making changes; changes have been made in the past and will have to be made in the future. If he will be as courageous in changing the personnel of his executive officers, when occasion calls for it, as he was in taking the responsibility for the drastic order of the Fuel Administrator, our country will find itself and will make good."



Ex-Judge E. Henry Lacombe, Who Retired from U. S. Circuit Court in 1916 After Twenty-Eight Years on the Bench.



While the Shadow Lengthens