

TEST OF BANK LAW

BILL IN EQUITY FILED IN FEDERAL COURT.

RESTRAINING ORDER SOUGHT

Fifty-Two Banks Claim That Law Violates Both Federal and State Constitutions.

A bill in equity was filed in the federal court by fifty-two state banks in the state against Governor Shallenberger, State Auditor Barton, State Treasurer L. G. Brian, Attorney General W. T. Thompson, Ed. Royse, secretary of the banking board, and Sam Patterson. Unless preventive action is taken by the court the guaranty law will go into effect on July 2, and the complainants pray for an immediate restraining order enjoining the defendants from acting as a banking board and from taking possession of the books and papers of the present banking board, from interfering with the plaintiffs or enforcing any of the provisions of the guaranty law, and also that at the final hearing the law be declared unconstitutional. The bill is signed by William V. Allen and John Lee Webster as counsel for the banks.

The bill claims that the guaranty law deprives the private banks of the natural and inherent right to conduct a banking business, and deprives them of the property invested in their banking business without due process of law, and without compensation, therefore being in violation of section 1, article 14 of the amendments to the federal constitution, and deprives them of their contract right under the charters granted to them severally by the existing banking board, thereby impairing the obligation of the contract existing between the banks and the state of Nebraska.

The bill states that the state is without right or authority to require the private bankers to transfer their banking business to a corporation, and that to require the private bankers to discontinue their business, or to have their affairs wound up by a receiver would result in loss and damage to each of the banks. And that at the time the charters were issued there was no provision in them or in the banking act of 1895, or in the state constitution or in any act of the legislature in existence at that time, reserving to the state the right to cancel or terminate the contracts of the banks to continue the transferring of a banking business.

With regard to the constitutional provisions the bill states that the guaranty law is in conflict with both the constitution of the United States and the constitution of Nebraska. It is claimed that it violates the federal provision which provides that "no state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States, nor shall any state deprive any person of life, liberty or property without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws." It is also declared to be in violation of sections 1 and 3 of article 1 of the Nebraska constitution which provides that, "all persons are by nature free and independent, and have certain inherent and inalienable rights, among these are life, liberty and the pursuit of happiness," and that "no person shall be deprived of life, liberty or property without due process of law."

Banking Law Suit.

Judge Vandeventer of the circuit court of appeals has notified Judge T. C. Munger that he will be here this week to listen to the argument in the case wherein the new state banking law is to be attacked.

Report on Manufacturers.

Labor Commissioner Paulin has compiled the reports of the manufacturers of the state and the compilation shows that the value of all the products of all the manufacturing plants in Nebraska for the last year amounted to \$160,232,792, against a total of \$151,286,926 for the year previous. Wages paid for the last year amounted to \$10,157,950, against a total of \$8,371,174 for the year previous. Material used last year amounted to \$97,225,161, against \$81,414,998 for the year before.

The products of the smelting and refining plants for this year amounted to \$34,912,360, against \$47,416,000 for the year before. No reason is given for this decrease.

The slaughter and meat packing products amounted to \$82,243,725 this year, against \$74,277,800 the year previous.

The number of manufacturing plants increased in the year from 494 to 843. This is believed to be due to the fact that many of the manufacturing plants failed to make a report last year rather than to actual increase in the number of plants.

Nebraska Out of Debt.

Nebraska has no state debt. Deputy State Treasurer Frank Brian last week paid off the last cent of the debt running against the general fund, when he took up warrants to the amount of \$76,911.93. This is the first time the books of the treasurer have been in the clear since any one around the state house can remember, though on several occasions bonds have been issued and paid. But there has been a state debt practically ever since the state was organized. In 1907 the state debt was about \$2,900,000.

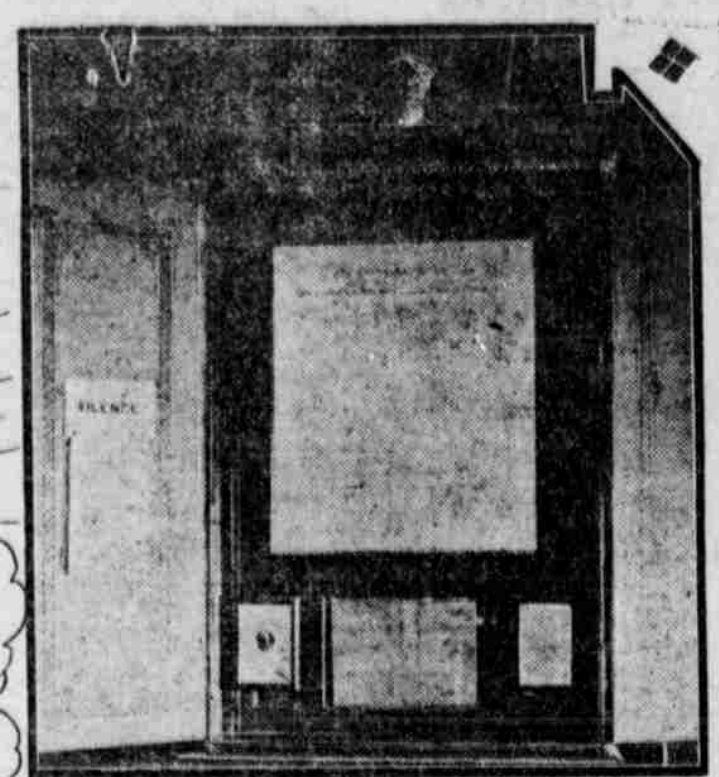
July Fourth, 1776

By EDWARD B. CLARK

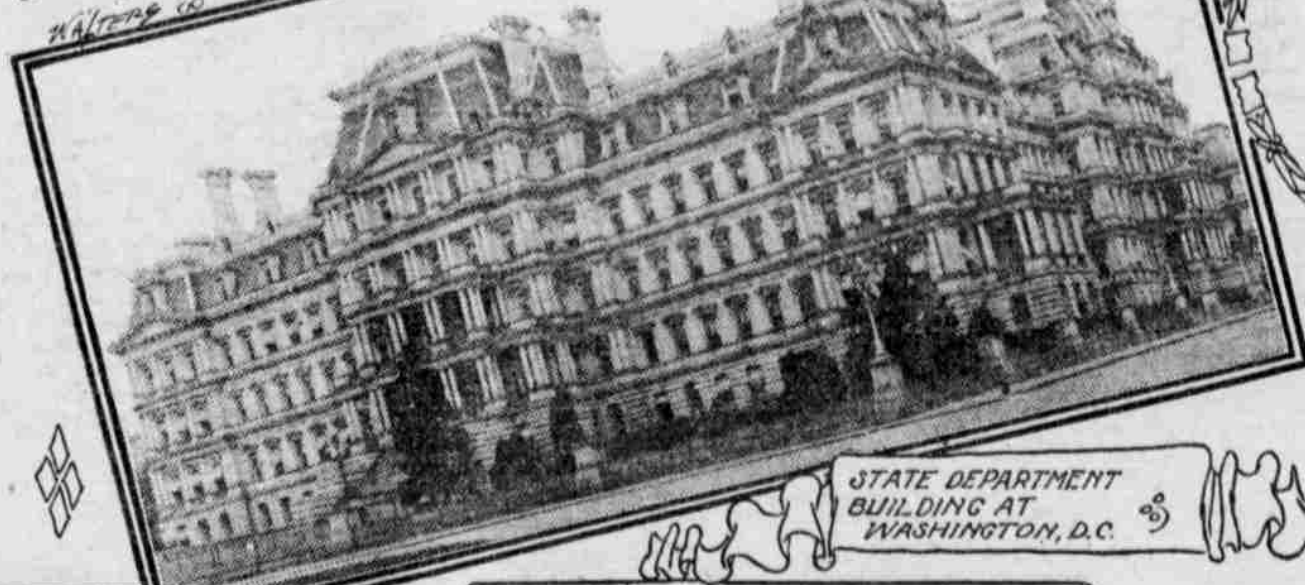
WASHINGTON. — There was unveiled in the nation's capital recently a statue of the Rev. John Witherspoon, one of the signers of the Declaration of Independence. More and more attention is being given throughout the country to the memories of the men who signed the liberty document. Not long ago there was held in Washington a convention of the descendants of the signers. It is expected that as the result of the labors of this hereditary organization there will be gathered together for preservation in one safe place all the things that are attainable which had intimate association with the men who on the 4th of July, 1776, took their lives and their pens in hand.

In the year 1776 lived a woman who was fond of giving curtain lectures to her husband. She was the original Mrs. Caudle, though her name was Mrs. Dickenson, the wife of John Dickenson of Pennsylvania, whose "Letters of a Pennsylvania Farmer" had done much to arouse a spirit of liberty among the people. One night several weeks before the meeting of the continental congress, of which Dickenson was a member, his spouse, speaking from beneath the shadow of her nightcap, said: "Johnny, if you have anything to do with this independence business you'll be hanged, and leave a most excellent widow." John Dickenson spoke against the resolution declaring the colonies to be free and independent.

The great independence debate was held within closed doors, and no record of the speeches was kept, because it was felt that in case of



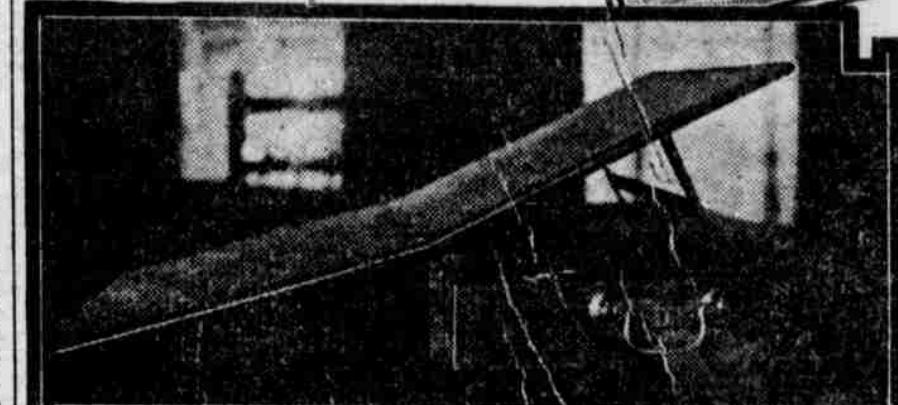
WHERE THE ORIGINAL DRAFT OF THE DECLARATION OF INDEPENDENCE IS PRESERVED



STATE DEPARTMENT BUILDING AT WASHINGTON, D.C.



WILLIAM McNEIR, CUSTODIAN



HISTORIC DESK ON WHICH JEFFERSON WROTE THE DECLARATION OF INDEPENDENCE

the capture of any one of the members of the body that King George would have him strung up speedily should there be written evidence that he had spoken against the supremacy of the crown. When the Brunswick monarch, however, had been forced to relinquish his grip on the united colonies, some of the delegates told what they had said or what others had said. These fragmentary speeches had never before been gathered together, it is believed. Bits of them appear here and there in revolutionary-day stories. Others are to be found in the correspondence of some of the fathers of the Republic, and two others have had their spirit, but not their letter, preserved through one of the almost matchless orations of Webster.

It is a well-known fact that the declaring of the colonies independent was not thought of seriously before the convening of the memorable congress of the spring of 1776. Washington was bitterly opposed to any such declaration until it became a military and civil necessity. Patrick Henry was perhaps the only outspoken advocate of the year when the cutting was actually accomplished, though Benjamin Franklin and Timothy Dwight thought, and sometimes said, that the yoke should be removed. Henry, by the way, in one of his speeches, undoubtedly gave the keynote to which Robert Emmet afterward attuned the last sentence of his speech when condemned to die. As early as 1773 Patrick Henry declared that the colonies should strike for independence, and prophesied that France would not be backward in coming to their aid. The last words of his speech were almost literally a part of the concluding words of Robert Emmet's speech: "Then our country shall take her place among the nations of the earth."

The original declaration of independence, was a local affair. Mecklenburg county, North Carolina, at a public meeting held in the town of Charlotte, in August, 1775, declared that "it threw off forever all allegiance to the British crown." It was not long after this that North Carolina instructed its delegates to the continental congress to vote "first, last and always" for the independence of the united colonies. It must be said that many historians doubt the authenticity of the Mecklenburg declaration.

The congress that was to declare America free convened in Philadelphia, and in a general way discussed the matter of throwing off the yoke. Richard Henry Lee of Virginia introduced this resolution: "Moved, That these united colonies are, and of right ought to be, free and independent states, and that all political connection between us and Great Britain is, and ought to be, dissolved."

John Adams of Massachusetts seconded the motion, but the names of both mover and seconder were omitted from the record, because it was the belief that if the British authorities got hold of them as prisoners they would stretch hemp without a trial. Before the discussion of the resolution congress adjourned and came together again in June, when began the debate, perhaps the most momentous in history, the details of which, save in detached

form, were never preserved. During a part of the proceedings Benjamin Franklin presided. In a letter written 20 years after the debate one of the delegates said that when Benjamin Franklin, after the signing, said: "Now, we must all hang together or we'll all hang separately," Harrison, who had a ready wit, looking at his ample proportions, said: "If they drop us off at a rope's end some of you lightweights will be kicking and suffering long after I'm done for."

During the time of the adjournment, the committee which had been appointed to prepare the declaration of independence chose Jefferson, the youngest of their members, to write the document, on the ground that he was "the best penman" in the lot. Now, the word penman in those days was sometimes used to denote a man who expressed himself well on paper, and not necessarily a man who wrote a good hand. The English of the declaration perhaps shows that the word was used with the former significance, though some of Jefferson's detractors have insisted that Tom Paine wrote the famous document.

The Declaration of Independence was read paragraph by paragraph to the assembled members. As a matter of fact, the most brilliant speakers were opposed to the resolution. Among those so opposed were Dickenson, Robert R. Livingston, James Wilson and Edward Rutledge. It leaked out afterward that most of these men made speeches opposing the severing of the British bonds. Of three of those who spoke in favor of independence it was afterward said: "Jefferson was no speaker; George Wyeth was sensible, but not clear, and Witherspoon was clear, but heavy."

It has always been believed that Richard Henry Lee said, in standing for the absolute independence of his country: "Why still deliberate? Why, sir, do you longer delay? Let this happy day give birth to an American republic. Let her arise, not to devastate and conquer, but to re-establish the reign of peace and law. The eyes of Europe are fixed upon us; she demands of us a living example of freedom that may exhibit a contrast in the felicity of the citizen to the ever-increasing tyranny which desolates her polluted shores. If we are not this day wanting in our duty to our country the names of the American legislators of 1776 will be placed by posterity at the side of Theseus, of Lycurgus, of Romulus, of Numa, of the three Williams of Nassau, and of all those whose memories have been and forever will be dear to virtuous men and good citizens."

Just how Lee's speech leaked out was not known, but it led to a somewhat remarkable scene in the English school of St. Bees. Lee had a son, a mere boy, a pupil in St. Bees. A member of a board of visitors to the institution asked the head master who the boy was. "He is the son of Richard Henry Lee of America," was the answer.

of resistance to tyranny, spoke forcibly against the adoption of the declaration. It may be that his wife's, "Johnny, you'll be hanged," was still on his mind. He was one of the best speakers in the congress, and the friends of liberty feared the effect of his arguments. The gist of what he said was years afterwards made public, and while Dickenson feared simply that the time had not yet come for the declaring of the country's independence, and was in reality a patriot at heart, his memory has suffered for the stand he then took.

When Daniel Webster delivered his panegyric of Thomas Jefferson and John Adams he drew a verbal picture of that scene in the continental congress when the Declaration of Independence was under discussion. He knew the thread of Dickenson's discourse as it had been imputed to him, and though Webster mentioned no name, his amplification of Dickenson's words will probably stand forever as containing the essence of the opposition of the colonial legislator to the taking of a firm stand for his country's freedom.

Dickenson's speech, as it has come down, runs in part as follows: "Let us pause. This step, once taken, cannot be retraced. This resolution, once passed, will cut off all hope of reconciliation. If success attend the arms of England we shall then be no longer colonies, with charters and with privileges; these will all be forfeited by this act, and we shall be in the condition of other conquered people—at the mercy of the conquerors. For ourselves, we may be ready to run the hazard, but are we ready to carry the country to that length? Is success so probable as to justify us? Where is the military, where the naval power, by which we are to resist the whole strength of the arms of England, for she will exert that strength to the utmost? Can we rely on the constancy and perseverance of the people, or will they not act as the people of other countries have acted, and wearied with a long war, submit in the end to a worse oppression?"

"While we stand on our old ground and insist on redress of grievances we know we are right, and are not answerable for consequences. Nothing, then, can be imputed to us. But if we now change our object, carry our pretensions farther and set up for absolute independence, we shall lose the sympathy of mankind. We shall no longer be defending what we possess, and which we have solemnly and uniformly disclaimed all intention of pursuing from the very outset of the troubles. Abandoning thus our old grounds of resistance only to arbitrary acts of oppression, the nations will believe the whole to have been mere pretense, and they will look on us not as in-

fured, but as ambitious, subjects. "I shudder before this responsibility. It will be on us if, relinquishing the ground on which we have stood so long, and stood so safely, we now proclaim independence and carry on war for that object, while these cities burn, these pleasant fields whiten and bleach with the bones of their owners, and these streams run blood. It will be upon us; it will be upon us if, falling to maintain this unreasonable and ill-judged declaration, a sterner despotism, maintained by military power, shall be established over our posterity, when we ourselves, given up by an exhausted, a harassed and misled people shall have expiated our rashness and atoned for our presumption on the scaffold."

It is a fairly well established fact that one of the delegates, lacking a prepared speech of his own, quoted from Tom Paine's pamphlet, "Common Sense," which some months before had created a sensation. Tom Paine, as it well known, was an atheist, but that made little difference to the delegate, who was said to be a pious Puritan, when he had a chance to let his feelings go ripping through sentences like these: "It matters very little now what the king of England either says or does; he hath wickedly broken through every moral and human obligation, trampled nature and conscience beneath his feet, and by a steady and constitutional spirit of insolence and cruelty procured for himself a universal hatred. . . . It has been reported that John Witherspoon of Princeton, staunch orthodox Presbyterian, was the man who quoted thus liberally from Tom Paine, atheist. Some years afterward the Scotch dominie, it is said, was taken to task for quoting Paine, and reverend John said, 'his tradition may be believed, that the devil's pitchfork was none too bad a weapon to use in prodding John Bull out of the country.'"

It was left, however, for John Adams to make the great speech that brought to the side of those favoring independence all the wavering ones, and strengthened in their position those who stood for the signing of the declaration. What Adams said was given substance to the world when there was no longer any danger of his being hanged for his utterances. Daniel Webster lent his own eloquence and something of his diction to his interpretation of Adams' discourse, which, on the eventful day, it may be truly said won for the country the declaration of independence.

Adams' powerful and electrifying speech was in part as follows: "It is true, indeed, that in the beginning we aimed not at independence. But there's a divinity which shapes our ends. The injustice of England has driven us to arms, and, blinded to her own interest for our good, she has obstinately persisted till independence is now within our grasp. We have but to reach forth to it and it is ours. Why, then, should we defer the declaration? Is any man so weak as now to hope for a reconciliation with England, which shall leave either safety to the country and its liberties or safety to his own life and his own honor?"

"I know there is not a man here who would not rather see a general conflagration sweep over the land or an earthquake sink it than one jot or tittle of that plighted faith fall to the ground. For myself, having 12 months ago in this place moved you that George Washington be appointed commander of the forces raised or to be raised for defense of American liberty, may my right hand forget her cunning and my tongue cleave to the roof of my mouth if I hesitate or waver in the support I give him. . . ."

"My judgment approves this measure and my whole heart is in it. All that I have and all that I am, and all that I hope in this life, I am now ready here to stake upon it. . . . I am for the declaration. It is my living sentiment, and, by the grace of God, it shall be my dying sentiment, independence now and independence forever."

The 2d of July is in reality Independence day, for on this date in the year 1776 a majority of the delegates from each colony voted for the declaration. Two days later the document was signed and went into effect, and from that day to this, in fulfillment of John Adams' prophecy, the day has been celebrated "with pomp, parade, games, sports, guns, bells, bonfires, and illumination from one end of the continent to the other."