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years. The public does not desire to do injustice to those connected with corporations. On the contrary, you will find that the public is much more likely to be generous in dealing with what we call the property rights of corporations than corporation managers are to do justice to the public.

TRUSTS

In regulating mercantile and industrial corporations you will have little trouble except with the large ones. By far the greater number of these corporations will do business on a scale so small that competition will prevent any extortion in price or unfairness in method. It is only when a corporation begins to enjoy a monopoly that it becomes a menace. You should, therefore, prescribe such constitutional limitations as will insure competition.

There is no middle ground between competition and government ownership. A private monopoly is indefensible and intolerable. A private monopoly is naturally as prone to injure the public as a ferocious animal is to seek its prey. Private monopolies can not be successfully regulated, **THEY MUST BE PROHIBITED.** The gist of monopoly is in the percentage of control, not in the size of the corporation. A corporation with a capital stock of \$10,000,000 may control one business absolutely, while in another business a corporation of \$100,000,000 may not be able to suspend the law of competition. If a corporation controls, say, five per cent of the thing in which it deals, it can not control either price or the conditions under which the business is done. If, on the other hand, it controls ninety-five per cent of the business, competition is stifled and those who attempt to compete must do so on the terms prescribed by the monopoly. At some point, therefore, between five per cent and ninety-five per cent the control becomes effective in the restriction of trade. This point should be ascertained, as nearly as human wisdom can ascertain it, and should be the limit of growth permitted. **IN CASE OF DOUBT THE DOUBT SHOULD BE RESOLVED ON THE SIDE OF THE PEOPLE.** There should be no hesitation in applying rules sufficiently strict to protect the public. A corporation has no rights except those given to it by law. It can exercise no power except that conferred upon it by the people through legislation, and the people should be as free to withhold as to give—public interest and not private advantage being the end in view.

PROTECTING DEPOSITORS

Your constitution should authorize legislation compelling banks to insure their depositors against possible loss. Bank regulation raises a presumption of security, and, in return for this, the banks should be required to adopt some system of guaranty which will give depositors absolute security.

I will not attempt to urge upon you any particular system for the guaranty of depositors. I am perfectly willing that the banks shall be permitted to select and operate the system themselves but I believe that the government should **COMPEL** them to select **SOME**

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system and to operate it with **SATISFACTION TO THE PUBLIC.** That banks are not secure is proven by the fact that every sub-division of the government requires specific security from the banks before depositing public funds, and, if I were not afraid of using language unparliamentary, I would say that it is cowardly upon the part of the government to protect itself and then leave the average depositor unprotected.

While I believe in the system of insurance which makes all banks liable for the failure of each individual bank, still, I am willing to yield that point if the banks will find some other system that gives absolute security, but when the banker tells me that it is not right that a good bank should be made to pay the debts of a bad bank, I reply that the banker has no hesitation whatever in making a farmer sell his farm to pay the debt of a neighbor for whose indebtedness he has gone security, one who has received no benefit whatever from the loan; and the banker who refuses a loan to a farmer until the farmer gets some other farmer to go his security ought not to be surprised when the farmer, in return, tells him that before he loans his money to the bank the banker ought to get other bankers to go his security.

EDUCATION

Your constitution will deal with the matter of public instruction, and interest in this subject is so widespread that you will of course provide for universal education. In a republic where the authority rests upon the will of the people, popular intelligence is essential to good government, and the state, in self-defense, must reduce to a minimum the area of ignorance and illiteracy. While the presumption can usually be given to the parent in matters connected with the training of a child, still this presumption is not conclusive and may be rebutted by facts. It can generally be assumed that a parent will guard the physical welfare of a child and yet we would not hesitate to punish the father or mother who would deliberately cut off a boy's arm and send him out, thus disabled, to meet the competition of his fellows. No more should a parent be permitted to disable a child intellectually by depriving him of the education necessary for successful competition with those among whom he labors. To condemn a child to ignorance in a land of intelligence is even more cruel than to maim him.

The tendency of the times is to bring education closer to the people and it would be a reflection upon this body to doubt that it will thoroughly investigate methods and equip the educational department of the government with every modern means devised for extending the benefits of education to all, and for the raising of the standard.

If, in any section of the state or community, there are parents who really need the money which their children could earn during the period when the child should be in school, the community can well afford to temporarily supply such parental need rather than have the burden of the family support thrown upon the children to the injury of society in general, as well as to the impairment of the child's abilities, for an injustice done a child flows on through succeeding generations.

While you provide for free education, so that there will be a school door open to every child, you, I doubt not, will find it consistent with your own views, as well as advantageous to the state, not to discourage the private schools and colleges where religious instructions can be entwined with intellectual training; for, after all, the mind is directed by the heart and it would be of more than doubtful advantage to increase the power of the brain—power to do harm as well as to do good—if we could feel sure that back of the brain there would be a conception of life and an ideal that would direct the larger powers to the advancement of the public welfare.

COURTS

In providing for courts I venture to suggest that you give careful consideration to the manner of selection. Different plans have been adopted in different states. In most of the states the judges are elected by popular vote for a definite term; in some, they are appointed for a definite term by the executive or by the legislature and, I believe, in some they are appointed during good behavior. Our federal judges are appointed for life. I am of the opinion that popular election is more in accordance with our institutions and is the system toward which we shall approach as confidence in the stability of popular government increases.

The judge, like every other officer, is the servant of the people and there is no reason why he should be made independent of a permanent

public opinion upon questions fundamental in character. The distrust of the people, manifested in the disposition of some to deprive them of the right to select the judiciary, is unfounded. Unless the sense of justice inherent in the people can be trusted in such matters we may well fear for popular government; but that sense of justice CAN be relied upon; **THE PEOPLE ARE MUCH MORE APT TO DEAL JUSTLY WITH JUDGES THAN THEY ARE TO RECEIVE JUSTICE AT THE HANDS OF JUDGES WHO DISTRUST THE INTELLIGENCE AND THE GOOD INTENT OF THE MASSES.**

GOVERNMENT BY INJUNCTION

The jurisdiction of the various courts is a matter entirely in your hands and in conferring sufficient authority to insure the enforcement of law and the preservation of order, you should be careful that even the judiciary shall not encroach upon the rights of litigants. What is known as "government by injunction"—a system under which the judge combines in himself the duty of legislator, prosecutor and judge—is obnoxious to our institutions and to the idea of justice that prevails among us. While the court must have power to enforce respect and to fine for **CONTEMPT COMMITTED IN HIS PRESENCE**, he should not be permitted to deprive the accused of a trial jury when the alleged contempt is committed beyond the precincts of the court room and **WHEN GUILT MUST BE ESTABLISHED BY WITNESSES**, as in ordinary criminal prosecutions. In such cases the right of trial by jury should not be denied.

SIMPLIFYING COURT PROCEDURE

You are invited to consider, also, whether the processes of the court may not be simplified and whether restriction may not be imposed that will prevent the setting aside of verdicts and judgments upon technicalities which do not go to the merits of the case. The administration of justice becomes farcical when errors, trivial in character and effect, are allowed to prolong cases and wear out litigants.

And, I may add, in these days when all intelligent men read the newspapers, knowledge of the details of a case, gained from a newspaper, should not excuse one from jury service if he is a man of good character and fair-minded.

MAJORITY VERDICTS

There is a growing tendency to substitute a majority verdict in civil cases for the unanimous verdict now generally required. While, in a criminal case, a divided jury raises a doubt, the benefit of which should be given the accused, no such situation is created by a division in a civil case. Here, the plaintiff is only required to establish his claim by a preponderance of the testimony and too large an advantage is given to the defendant if a unanimous verdict is required. While, in ordinary cases, this requirement does not often prevent a prompt settlement of the dispute, experience has shown that in suits against influential corporations the hung-jury is frequently relied upon to force a settlement. I submit to your consideration the wisdom of permitting a verdict in such cases by a majority, two-thirds or three-fourths vote of the jury.

ON CONSTITUTIONAL QUESTIONS

Some advocate a constitutional provision limiting the power of the court to declare a law unconstitutional to cases in which **ALL** the judges concur in the opinion. I am persuaded that the law-makers are entitled to this presumption.

LABOR

In dealing with matters affecting labor, you can hardly avoid the conclusion that the government has erred on the side of tardiness in responding to the demands made by the wage-earners for the amelioration of the conditions under which they work. The fellow servant law, for instance, has far outgrown the conditions that originally justified it, if any conditions could justify it, and there ought to be no delay in safeguarding the right of an employe to compensation for injury due to the negligence of another employe over whose movements he has no control. The constitution should also leave the amount of recovery, in case of death or injury, to be determined by the circumstances of the case. It is a one-sided law that puts the maximum price upon a human life and then leaves the minimum to be reduced to nothing.

The constitution should authorize employers' liability and employes' compensation laws and make the authority so specific that such laws can not be declared unconstitutional.

In the matter of hours, the legislature should be authorized to prescribe what shall be regarded as a working day and the conditions