

THE MORNING BEE

MORNING—EVENING—SUNDAY

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CONSTITUTION, STATE AND NATION.

In his message to congress the president called attention to the apparent necessity of at least two additional amendments to the Constitution of the United States, at the same time warning against the danger of ill-considered changes in the fundamental law. Let us look at the matter for a moment.

The Constitution of the United States is a foundation as well as a bulwark for human liberty. William Ewart Gladstone, a statesman unsurpassed in judgment and foresight, wrote of it: "The American Constitution is the most wonderful work ever struck off at a given moment by the brain and purpose of man." William Pitt, another eminent statesman, said of it: "It will be the wonder and admiration of all future generations and the model of all future constitutions." Pomeroy, in his introduction to his "Constitutional History of the United States," says: "Our fathers by an almost divine presence, struck the golden mean." Nicholas Murray Butler writes: "The Constitution remains the surest and safest foundation for a free government that the wit of man has yet devised."

Yet the document as originally presented by the convention to the states for adoption has been amended nineteen times! This might suggest that it was not well devised in the beginning and that the praise then bestowed upon it was insincere. Such a conclusion is too hastily drawn. The glory of the Constitution is that it may be amended from time to time, as necessity arises, without violence to the fundamentals of justice and liberty it contains.

John Marshall gave vitality to the written word of the Constitution and made it a living thing, capable of growth and expansion. He held and rightly, that the Constitution was not a straitjacket, rigidly holding a rapidly growing nation in a narrow, formal system of government. Under the Marshall method, the interpretation of the Constitution has permitted its application to the developing needs of the people, aiding in the expansion of national life in all its manifestations, of social, intellectual, industrial, commercial and political growth.

If the people have found it necessary from time to time to add to the structure of the fundamental law, it has been easily accomplished, once the public mind had come to a definite decision, because it was a process of adding to. Nothing has been taken from the Constitution, and only that added to it which the people felt was essential to the great end of our government, that of securing life, liberty and the pursuit of happiness to all.

Mr. Harding had reference to the amendments mooted in connection with child labor and the proposed change in the method of electing the president of the United States. Senator Lodge has already prepared the child labor amendment, and Senator Norris will probably report the other from his committee. How long it will take to bring these to the ultimate vote can not be said. History indicates that it takes about fifteen years from inception to culmination. The mind of the people is fairly well made up on the point of child labor. Discussion on the direct election of the chief magistrate is proceeding rapidly.

States are concerned in these matters, as well as parties. It is a lingering application of the doctrine of state sovereignty that makes the child labor amendment necessary. Also, the sovereignty of the state will require consideration in connection with the Norris plan for electing presidents.

Nebraska is peculiarly interested, because of the nature of its electorate. Here we find the republican party in control, generally charged with the direction of the state's affairs at home and in the congress, but only because in the republican party the seemingly discordant elements can find expression for their views. Here progressive and standpat, the radical and the conservative, and even the reactionary, find some common ground for meeting, and by concerted action move the state along the way of progress. Nothing is permitted to stagnate here, nor does the success of today blind the eyes of any to the possibilities of the future. Out of what might appear to be hopeless discord comes harmony, and in many counsels lies wisdom. Nebraska, under the Constitution, is a government of, for and by the people.

NEBRASKA.

Since Nebraska was admitted to the union in 1867, 4,000 factories have sprung into existence, and certain of these have forged ahead of the world. The metropolis of the state takes the lead as a refining center and the manufacture of butter.

Send, important for building roads, is found in large quantities along the Platte. Superior has a factory for making cement from lime and sandstone, and sapolite is made from volcanic ash found in numerous localities. Brick and tile are made from clay and silt found in the state, while Antioch, in Sheridan county, is the greatest potash-center in the United States.

Yet Nebraska is really an agricultural state; its fertile black soil yields an average per acre of the standard crops far above the average for the United States, and its average for land values is higher than most states. The large corn crops and grassy semi-arid regions in the west give it a high place in beef production, also makes of Grand Island the largest range horse market in the world, and Omaha the largest sheep market, while more wild hay is shipped from Newport than from any other point on the globe.

As an estimate of the wealth, production and commerce of Nebraska, consider one small county of 692 square miles, with a population of 14,146. Records show the real valuation of property to be \$65,000,000, enough to cover all land purchases made by the United States prior to 1898. Last year \$6,000,000 in live stock was shipped out, \$2,000,000 in grain, while \$500,000 was received for eggs, cream and poultry. The latter is only a side line with farmers and no account is taken of that consumed within the county. Four months ago there was \$4,000,000 cash in banks subject to check. The county seat ranks sixteenth in the state in volume of business. Remember the county mentioned is only one out of ninety-three, and this county can boast, with the glorious state of which it is a unit, of being free of bonded indebtedness.

WHAT OF THE LANGUAGE LAW?

The decision of the United States supreme court on the Nebraska and Iowa laws prohibiting the use of foreign languages in the grade schools will be awaited with considerable interest. The supreme courts of both states upheld these measures, although the opinion of the judges in each instance was divided. The question of constitutionality is now before the highest court in the land.

Whatever the decision may be on abstract points of law involved, there is room for questioning whether or not majority sentiment in Nebraska now approves such severe legislation. Under the Reed-Norval law that is attacked, no child who has not passed the eighth grade can receive school instruction in the use of any foreign tongue. Even after the regular subjects have been taught, it is declared illegal for a teacher to add even the shortest course in a foreign language. Though the children have throughout the day used and studied the English language, and even though they have a solid grounding in this tongue, their teacher is not allowed so much as to read them a Bible story in another language.

This bears mainly on schools maintained by churches in communities where there is a large settlement of European immigrants. The children, of course, should be protected in their right to learn the language of America, and the instances in which such training was neglected in the days before the war are regrettable. Yet when they have become proficient in the use of English, why should they not be allowed to learn the native speech of their forefathers?

As the situation now lies, these children can only pick up their secondary language in the home, or on the Sabbath day. A correspondent of The Omaha Bee recently wrote in this connection:

"All children should be so educated that they will become good American citizens, loyal to the country, its laws and its flag, and this means they must know its language well. But should that limit them to one language? Let us have a language law that will protect our schools and our citizenship, but not one that puts a bar on a child's opportunity to obtain a complete education, and to learn more than a single language, especially when that bar may be lifted without doing any harm or weakening the law that wisely seeks to make all acquainted with the official language of the state in which they live."

There has been much heated argument on both sides of the question, but the time has come for cooler consideration. The fact that the task of testing the constitutionality of the law has been placed in hands that make it the occasion for bitter denunciations should not be allowed to prejudice public opinion. There are considerations of tolerance, culture and reason that the legal arguments do not touch, yet which must be taken into consideration.

In all probability the state legislature of Nebraska will be in session before the slow-moving mill of the supreme court reaches a decision on the Reed-Norval act. The session quite properly may take up the discussion of amending and softening this law with the aim of ending dissension and liberalizing the educational facilities of the state.

CAN WE SAVE OUR FUEL?

One of the first facts reported by the coal commission of inquiry is merely confirmation of what already as well established. Too many coal mines call for the employment of too many men and too much capital. The commission reports that mines open have a theoretical productive capacity of 1,000,000,000 tons per annum against a theoretical requirement for consumption of 500,000,000 tons.

In other words, to bring the business of bituminous coal mining to a basis of efficiency, with steady employment for men and money, it is necessary to reduce one-half.

How to accomplish this is not explained, but that may be outlined for the public later. What is more to the point is the fact that not only the waste of effort by reason of the uneconomical use of labor and capital menaces the present as well as the future, but the prodigal use of the fuel itself, when brought to the surface, is an indictment of our boasted capacity for management. Until better ways of using bituminous coal are put into practice, a large part of the nation's fuel bill will be represented by money going up in smoke.

From twenty to thirty gallons of tarry oils, phenol, benzol and the like may be taken from every ton of soft coal by low temperature distillation. After this extraction from 10 to 12 per cent of volatiles remain in the coal, making a more acceptable fuel than the raw coal. If some portion of the surplus capital now employed in production were to be devoted to the better preparation of fuel, a double benefit would be enjoyed.

Perhaps the fuel commission will have the effect of bringing light to more things than the disconnected labor conditions involved in coal digging.

While waiting for the jury to come in, we may be excused for suggesting to the British officials that one good way to avoid poisoning is not to eat any candy that comes through the mail without the sender's identity being known.

With "Ike" Miner owning up that he is 75, and Mayor "Jim" telling the world that he is 66, some of the real veterans may yet be induced to come up for air and tell the truth.

Turkey is behaving very nicely at Lausanne, but what will happen when Ismet gets back to Constantinople?

A magazine writer discusses a lot of possible successors to Lenin, but we thought the bolshevik did their own picking.

Difference of opinion, it is said, makes horse races, and it also keeps parsons going strong.

The thermometer is also having its ups and downs.

A Stuffed Constitution

From the St. Paul Dispatch. Illinois voters have rejected the proposed new constitution for the state, as might have been expected. It contained too much controversial matters, such as limiting the representation of Cook county in the state senate, relating to Bible reading in the public schools, and details as to local government, organization of courts, court procedure and other particulars that should have been left to the legislature, instead of cluttering up a constitution. The more general legislation is put into a constitution the more need there will be of amendments later, as conditions change. When an abuse becomes entrenched in a constitution it is difficult to reform it. The temptation is strong for temporary majorities to nail down a victory by putting it into a state or the federal constitution. It is not democracy or republicanism to make it hard for a future majority to have its way about some question that does not relate to the nature of the government or the original compact by which citizens agree to have a government. Why should a constitution state the exact number of members there shall be in the legislature or define the districts from which judges shall be elected or the amount of money that may be spent for waterways?

"From State and Nation"

Editorials from other newspapers—

Out of the Legal Jungle.

From the St. Louis Post-Dispatch. American law—our entire court system—is founded upon the English common law.

In England, the English common law has been abolished. There are over 3,000 judges in the United States.

There are only twenty-three judges in all of England and Wales. In the past two years, American lawyers and jurists of the highest rank have been inquiring into the reasons why English law has so far ahead of ours in the administration of justice. Neither Joseph H. Choate, who made inquiry in 1920, nor Chief Justice Taft, who recently returned from England, has succeeded in making the difference plain to the American people. The fundamental, far-reaching nature of the English reforms has not been stressed.

However, the matter is coming before the people of this country in a message they can understand. A book is just off the press, entitled "The Law and Its Sorrows," written by a former Michigan lawyer now living in Florida, J. Hannibal Clancey, which will sink indelibly into the mind of every man who reads it. It says that when the English system might have said—in fact, all there is to say on the side of judicial reform. Mr. Clancey has written for the people at large, not for the members of his own profession. He does not expect most lawyers to cooperate in real reform, for he points out that the present English system was fostered by the English law reformer, Jeremy Bentham, died at the age of 84 without seeing one of his suggestions adopted, although they are the basis of our law today. He is appropriate that Mr. Clancey's book should be sponsored by "The Bentham Institute," its name indicating a purpose to work in an organized way for what it advocates. He says much as the question of law reform was one of the most vital subjects before the English government from 1828 to 1870, when the English system was passed, the extent of its probable debate in American may be appreciated. It is generally conceded that the American judicial system is worse today than the English system was in 1828. It can be made better than the English system is today. The subject, therefore, is both big and vital.

It should be understood, first, what was accomplished by the 1875 act of judicature. Mr. Clancey enumerates its provisions as follows:

- 1. It abolishes the common law.
2. It abolishes all difference between law and equity.
3. It abolishes all technical objections.
4. It abolishes forms of actions.
5. It abolishes demurrers.
6. It abolishes terms of court.
7. It created the originating summons, which is very largely done away with by pleading in a single matter in the hands of a "master."
8. It establishes a rules committee.
9. It consolidated fifteen varieties of courts.

When one thinks of the average American lawsuit, he thinks pretty largely of the very things that have been abolished in England. What is left when all these are abolished? Nothing but justice.

Over half of the work of the American courts is taken up with proceedings which have been abolished in England. Over half of our lawsuits are decided on points of procedure that have been abolished in England. Three-fourths of the fees of our lawyers are based on work that has been abolished in England.

"Pleadings," says Clancey, "are but childish, senseless quibbling; not one honest word can be said in their defense. A client with a bad case and a good lawyer can win over anybody with a good case and a poor lawyer, because if either lawyer makes a technical error in the pleadings, his case is thrown out of court without reference to justice. It is the poor lawyer who makes the blunder."

In place of the pleadings Mr. Clancey would have the originating summons, a simple statement of the issue between two parties to a lawsuit, made by a court "master" with the intent of avoiding error.

Under the system of pleadings, a lawyer takes a sentence of fifty words and contorts it into an allegation 20,000 words long, in which the same thing is said in a dozen different ways. If he fails to put down the right word at the right time, out he goes through the window. A case is cited from Michigan, in which five children were disinherited through a forged will. The case was dismissed because the lawyer, in his pleadings, did not make "an averment that the complainant had been defrauded." The children had been reduced to beggary, the forgery was set forth, they were asking for relief, but the judge, supported by the supreme court, could not presume that their beggary had harmed them, unless at a particular place in the pleadings that was "averred." That case was not extraordinary; it is typical of American justice.

These points of practice and procedure represent a game played between lawyers, with the judge as umpire, in which the clients pay the bills. The litigant with a just claim must win the game, through his lawyer beating the other lawyer, before the right or wrong of his case can be passed upon. If his lawyer loses the game with the other lawyer, the client is regretfully told that he can't get justice.

The originating summons would do away with all of this common law buncombe. Two litigants, or their lawyers, would go before a "master," state their cases directly to him, and the "master" would write out a statement of the issue for the guidance of the judge. He would do all the work that is done by lawyers in their huge and roundabout pleadings, and he would do it in the interest of justice, not to give one side an advantage.

Where to Look for Leaders. From the Philadelphia Record. If Mr. Harding undertakes to select the leaders for the new congress, he would do well to break away from the Atlantic coast, where the people of the great cities look out upon and across the ocean toward Europe's aristocracy and plutocracy, and from the radical labor element, which looks eastward to Europe's socialism, the former element being unable to see anything west of the Hudson river.

NET AVERAGE CIRCULATION for NOVEMBER, 1922, of THE OMAHA BEE Daily 78,843 Sunday 78,105

B. BREWER, Gen. Mgr. ELMER S. ROOD, Cir. Mgr. Sworn to and subscribed before me this 5th day of December, 1922. W. H. QUIVEY, Notary Public (Seal)

CONSIDERATE INSTITUTIONS. From the Tokamah Herald. Taxpayers' leagues are being organized in different parts of the state, meetings are being held at which methods are discussed and resolution adopted aiming at the reduction of taxes. Our view of the situation is, that the way was paved several years ago for an excessive state tax when the people demanded and voted for scattering their public institutions over the state. It is an expensive luxury to maintain separate normal schools. Why should the state maintain three separate asylums for the insane? One at Lincoln with sufficient capacity could be maintained at less than half the cost of the present three. It is the same with the agricultural experiment farms, also fish hatcheries and other state owned institutions, located to form an asset or to boom certain localities. Some legislation in the near future will have the courage to use the ax at the roots of the gross. Extravagance in the maintenance of public institutions for the comfort and convenience of certain localities. Economy and common sense would dictate that most of all these should be at the state capital. The taxpayers' league would move in the right direction if they would advocate the consolidation of all duplicate institutions and concentrate them at Lincoln under one management.

Christmas Gold. From the Rocky Mountain News. From Washington comes the news that opposition has been withdrawn to the distribution by banks of gold coins to be used as Christmas presents, for which let us all be truly grateful for a generous government.

For one brief period in a twelve-month the west that was so accustomed to the use of hard money will be at the state capital. The taxpayers' league would move in the right direction if they would advocate the consolidation of all duplicate institutions and concentrate them at Lincoln under one management.

A Different Opinion of Wilson. Omaha—To the Editor of The Omaha Bee: Speaking of Mr. J. R. Dewey's "The Man of the Ages," ex-President Wilson, I cannot be so charitable towards him as the editor of The Bee nor so worshipful of him as Mr. Dewey. My estimation of him is more in keeping with that of Henry Watterson when he spoke of Mr. Wilson's "mediocre mind and colossal vanity."

I have tried to see wherein Mr. Wilson was great, and the more I study his acts the more I am convinced that he was sponsor for more milk-and-water theories that found expression in laws than any other of our public men. The harm he did by foisting upon us such obnoxious gold? Look at the returns for the federal reserve system—more than \$3,000,000,000 in gold "in reserve." But why in reserve? The United States has more gold in its coffines than was ever dreamed of. The proportion of gold compared to the holdings of other great powers is becoming a menace. Some day the public mind will be rational combine formed to demonetize gold to get even with the hoarder. Every month there is an increase in the amount of gold being poured into this country from everywhere that American bankers can find it. And much would come anyway on account of the balance of trade, and with us. There is at work also "Gresham's law" that is driving gold out of the countries, like Germany, that are using the printing presses to maintain an artificial credit and bringing it to this one. Citizens and corporations in the countries referred to are making the United States their safety deposit vaults.

But what is all this gold for over here if it is not for circulation? To hoard in banks and treasury vaults? To hoard in the hands of Federal bankers must get rid of the fear-thought and loosen up. Do not let us become a nation of misers, worshipping the hidden store of gold.

The Railroad Mix-Up. From the Lincoln State Journal. Chairman Hooper of the railroad labor board tells us that the unions of railway employes are bent on disrupting private management as a means of furthering public ownership of the railroads. At the same time, Senator-elect Howell of Nebraska warns the country against being rushed into public ownership of the railroads at the instance of railroad owners. The railroad unions want government ownership because they think this will mean better wages. Mr. Howell expects the railroad owners to seek government ownership as soon as they decide that government bonds would be better property than railroad stocks. Both comments illustrate the cross purposes which have come to dominate and confuse the railroad situation.

"The People's Voice"

Editorials from readers of The Morning Bee. Readers of The Morning Bee are invited to use this column freely for expression on matters of public interest.

A North and South Railroad. Omaha—To the Editor of The Omaha Bee: In your morning issue of December 12, an editorial appeared entitled "Southward to the Tidewater," which overlooks one of the principal north and south railroads and, as a result, caused you to make the erroneous statement: "The whole situation is dominated by groups whose chief interest is to have western farm products move to the Atlantic seaboard."

The Missouri Pacific Railroad company, as reorganized in 1917, extends from Omaha to New Orleans. Aside from this fact, and which seems to have been overlooked in your editorial consideration of the north and south roads, the more important factor obtains that the Missouri Pacific Railroad company is primarily and in fact literally a north and south railroad. In other words, it is neither an east nor a west railroad, and it has not any affiliations "whose chief interest is to have western farm products move to the Atlantic seaboard."

In fact, one of the principal sources of tonnage for the Missouri Pacific is the grain products of Nebraska and the states contiguous to Nebraska, and which grain is moved to the seaboard at New Orleans.

As indicative of the present north and south grain movements over the Missouri Pacific, it might be interesting to note that on the 7,000 main line miles of the Missouri Pacific system, Omaha is the third producing point, and clearly the bulk of the Omaha tonnage is coal, abundant and cheap, and which is packed in grain, household and livestock supplementing the outbound tonnage.

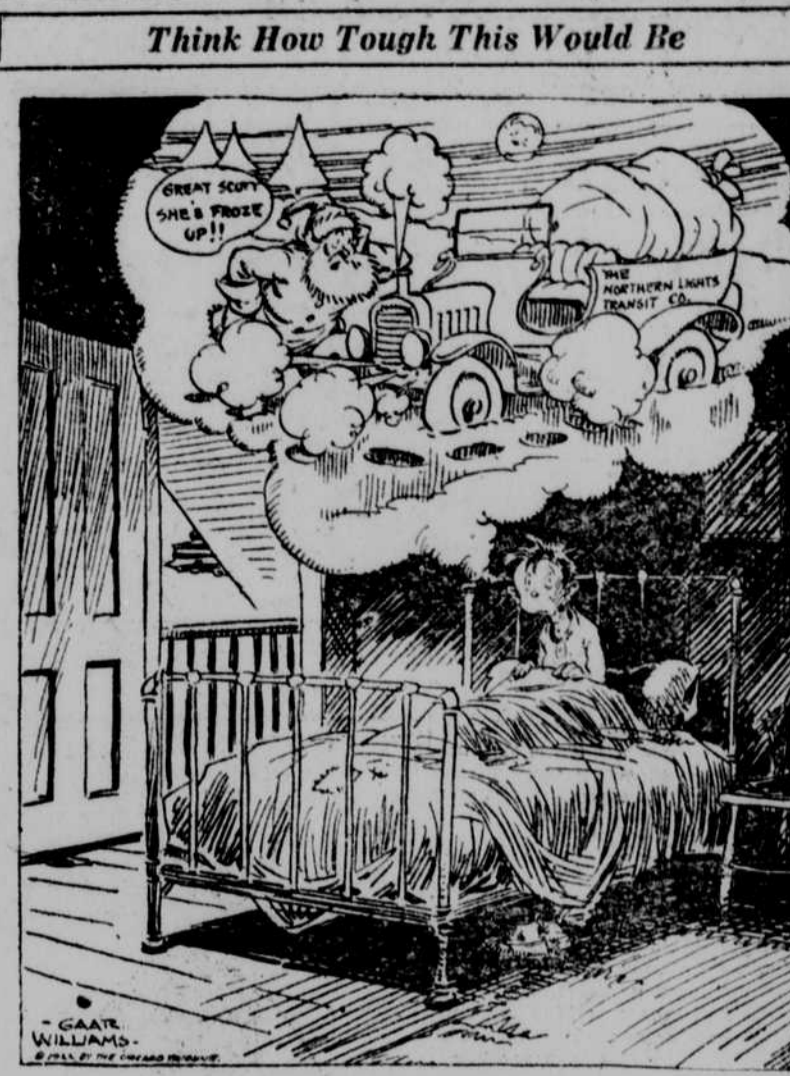
Under the consolidation tentative plan started by the committee of the Interstate Commerce commission, the Chicago & Eastern Illinois railroad is grouped with the Missouri Pacific railroad system. This arrangement, if ultimately accomplished, emphasizes all the more the north and south line characteristic of the Missouri Pacific system. J. A. C. KENNEDY.

CENTER SHOTS. A police commissioner who would catch candy mailed anonymously would blow out the gas.—Philadelphia Record.

Bachelor: A male person who thinks every single lady of his acquaintance would like to land him.—Memphis News Scimitar.

It is estimated the handshaking from one election would pump 2,000,000 gallons of water.—Worcester Post.

Hattie, the Central Park elephant who died from the effects of a stroke, was probably classified related to the G. O. P. beast.—Columbia Record.



THE OLD WAY AND THE NEW.

The Old Way. Train up your children, parents. And teach them to obey. And when they've grown to manhood They will respect your way. Train up your children, parents. In ways of love and truth. And teach them of religion While they are in their youth. And teach them self-reliance. That they may see the day When life's disturbing troubles Are borne from them away. Train up your children, parents. And teach them never to shirk Their duty unto others In all their life of work. The Modern Way. Train up your parents, children. To follow in your way. And when they've heard your pleadings They never can say no. Train up your parents, children. From love and fond affection Entwined about your heart. They never will depart from The training that you give. When you have told them plainly The way that you should live. So, train your parents, children. And then it will be easy To guide them day by day. —H. M. Hopewell, Tokamah, Neb.

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