

Exhibit 196

in the case of:

**People of the Republic of Texas
and the
Sovereign Nation of the Republic of Texas**

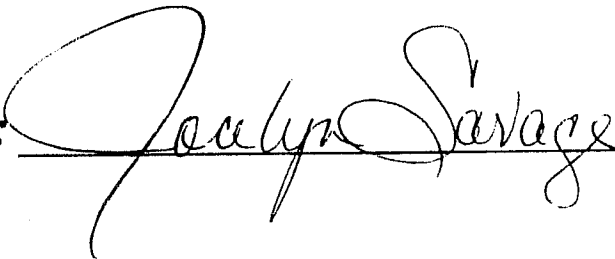
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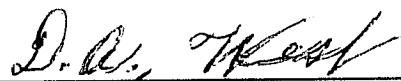
**UNITED NATIONS
(and all it's Political Subdivisions)
and
UNITED STATES
(and all it's Political Subdivisions)**

Under Pains and Penalties of perjury and the laws of the Almighty, and being sworn under a vow and oath, I attest that the attached pages are true and correct reprints of the:

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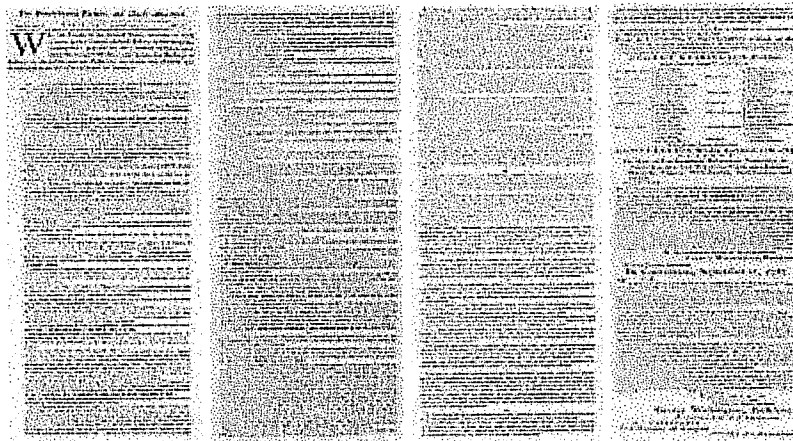
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OUR DISHONEST CONSTITUTION



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Chapter I:

By The Rich For The Rich

EVERY time I go to Philadelphia, I go to the room in which the Constitution was made. I see the chair in which Washington sat. I see the pictured sun with gilded rays on the back of the chair-the pictured sun that, throughout the convention, so puzzled Franklin, because he could not tell whether it was rising or setting. And, as I look about me, I am swept by a feeling of solemnity.

Here I am in the hall of the demi-gods of whom I read when a boy.

Here I am where Washington was, where Franklin was, where Madison was, where Hamilton was.

Here I am where the Constitution was born.

Over and over again these feelings sweep through me, because the clutch of the things that one hears in his youth is a clutch indeed.

But the clutch of the things that one hears in his youth is often a clutch that should be broken. The clutch of everything that is not true should be broken. The clutch of the Constitution is not true.

It is not true, because the Constitution was not made to do what we believe it was made to do, nor was it made by the kind of men whom we believe made it. We believe the Constitution was made by the "wise and the good" of its day to enable the people of the United States to rule themselves-to make a great experiment in democratic government. Yet the fact is that if to-day we were to delegate the task of drafting a national constitution to a select committee of the National Association of Manufacturers and their attorneys we should not have a body differing materially in spirit from the convention of 1787. Nor should we be likely to act a Constitution that in spirit differed materially from

the one that was made in 1787.

The Constitution of 1787, under which we still live, was made by a small class to further the interests of that class. The gentlemen who made the present Constitution did not intend that the people should ever gain control of this government. The people were barred. Not a workingman, or anyone who by the widest stretch of the imagination could be considered a representative of the working class, sat as a delegate in the convention. The people were barred from the slightest knowledge of the proceedings of the convention and after the proceedings were finished, the people were barred from voting upon the Constitution itself.

Never for a moment did it occur to those aristocratic ancestors of ours to let the people pass upon their work. Instead, the Constitution was submitted to state conventions elected by minorities of the people. In those days, only a part of the people could vote. Those who had property could vote. Most of those who had no property could not vote. Most people had no property.

Yet, truthful as these statements are, almost nobody believes them. The public school teacher who gives children their first glimpses of American history does not believe them. The newspaper editor who takes the children, even before they leave school, and talks to them until they die, extols the Constitution almost as if it were a sacred document. Almost anywhere and everywhere can be found only those who believe that the fundamental law of this land was wrought out by great souls wholly devoted to the cause of democracy.

The only exceptions are those who know the facts. Men who have gone into the history of the Constitution and the histories of those who made it know better. They know that the Constitution was made to prevent the people from ruling themselves rather than to enable them to rule themselves. Also, they know that it is because the Constitution is doing much of what it was intended to do that the people are having great difficulty in ruling themselves.

President Wilson is one of those who know the facts about the Constitution. In a book entitled "Division and Reunion" he gave some of the facts. He said:

"The Federal government was not by intention a democratic government. In plan and structure it had been meant to check the sweep and power of popular majorities. The senate, it was believed, would be a stronghold of conservatism, if not of aristocracy and wealth. The President, it was expected, would be the choice of representative men acting in the electoral college, and not of the people. The Federal judiciary was looked to, with its virtually permanent membership, to hold the entire structure of national politics in nice balance against all disturbing influences, whether of popular impulse or of official overbearance.

Only in the house of representatives were the people to be accorded an immediate audience and a direct means of making their will effective in affairs. The government had, in fact, been originated and organized upon the initiative and primarily in the interest of the mercantile and wealthy classes. Originally conceived as an effort to accommodate commercial disputes between the States, it had been urged to adoption by a minority, under the concerted and aggressive leadership of able men representing a ruling class. The Federalists not only had on their side the power of convincing argument, but also the pressure of a strong and intelligent class, possessed of unity and informed by a conscious solidarity of material interests."

That is good history, but unfortunately it is not the kind of history that is taught in the public schools and perpetuated in the newspapers. Common people are not permitted to know that rich men founded this government for their own purposes. Common people don't fight well in wartime, for a government that they know is neither for them nor was ever intended for them. Nor do common people submit to continuous robbery in times of peace merely because the robbery is committed according to the rules laid down by a government-that they know was founded by the rich for the benefit of the rich.

Therefore, the common people are taught to hold the Constitution in veneration. If a foreigner wishes to become a citizen of the United States he must swear, among other things, that he believes in the principles laid down in the Constitution. If the people of this country knew the real principles and purposes that underlie our Constitution they would not permit a foreigner who believed in it to enter the country. They would regard him either as a fool or a fraud. A foreigner, at least, should be supposed to know something of the sort of government we have here. There is small chance for the average American citizen to know, but the foreigner, so long as he remains in his native land, is not lied to in his schools and by his newspapers about American institutions.

Professor Beard of Columbia University is another man who knows the facts about our Constitution and the men who made it. I commend Professor Beard most heartily to all those who wish to be informed as to these matters. Professor Beard has recently published a book entitled "An Economic Interpretation of the Constitution of the United States" {Published by the Macmillan Company, New York} that is far and away the best book of its kind ever written. Where other men have skimmed the surface, Beard has gone through to the core. He stayed months in Washington to get to the core. In his search for ancient papers and documents in the Treasury Department, he went into vaults that were so filled with dust that it was necessary to excavate the papers with a vacuum cleaner. But when he came back to the surface he had damning evidence against a good many of the " patriot fathers." He then knew why they were so anxious, not only for a new constitution, but for the particular kind of a constitution that was afterward adopted. He knew, because he looked up their investments and read some of their letters. If the patriot fathers were still living and doing business as they did 125 years ago we should call many of them grafters.

Let us look at what Professor Beard terms his "conclusions" which appear at the close of his book. They are presented as the statements of a man who did not obtain his views of the Constitution from public school teachers, newspaper editors or other persons who know little or nothing about the Constitution. Professor Beard says:

"The movement for the Constitution of the United States was originated and carried through principally by four groups of personally interests which had been adversely affected under the articles of confederation: money, public securities, manufactures, trade and shipping

The first firm steps toward the formation of the Constitution were taken by a small and active group of men immediately interested through their personal possessions in the outcome of their labors.

No popular vote was taken directly or indirectly on the proposition to call the convention which drafted the Constitution.

The propertyless masses under the prevailing suffrage qualifications were excluded at the

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outset from participation (through representatives) in the work of framing the Constitution.

The members of the Philadelphia convention which drafted the Constitution were, with a few exceptions, immediately, directly and personally interested in, and derived economic advantages from, the establishment of the new system.

The Constitution was essentially an economic document, based upon the concept that the fundamental private rights of property are anterior to government and morally beyond the reach of popular majorities.

The major portion of the members of the convention are on record as recognizing the claim of property to a special and defensive position in the Constitution.

In the ratification of the Constitution, about threefourths of the adult males failed to vote on the question, having abstained from the elections at which delegates to the state conventions were chosen, either on account of their indifference or their disfranchisement by property qualifications.

The Constitution was ratified by a vote of probably not more than one-sixth of the adult males.

It is questionable whether a majority of the voters participating in the elections for the state conventions in New York, Massachusetts, New Hampshire, Virginia, and South Carolina actually approved the ratification of the Constitution.

The leaders who supported the Constitution in the ratifying conventions represented the same economic groups as the members of the Philadelphia convention; and, in a large number of instances, they were also directly and personally interested in the outcome of their efforts.

In the ratification, it became manifest that the line of cleavage, for and against the Constitution, was between substantial personally interests on the one hand and the small farming and debtor interests on the other.

The Constitution was not created by 'the whole people' as the jurists have said; neither was it created by 'the States' as Southern nullifiers long contended; but it was the work of a consolidated group whose interests knew no state boundaries, and were truly national in their scope."

Professor J. Allen Smith, of the University of Washington, gives similar testimony in his admirable work, "The Spirit of American Government."

"It is difficult to understand," says he (pages 31-32), "how any one who has read the proceedings of the Federal Convention can believe that it was the intention of that body to establish a democratic government. The evidence is overwhelming that the men who sat in that convention had no faith in the wisdom or political capacity of the people. Their aim and purpose was not to secure a larger measure of democracy, but to eliminate, as far as possible, the direct influence of the people on legislation and public policy. That body,

it is true, contained many illustrious men who were actuated by a desire to further what they conceived to be the welfare of the country. They represented, however, the wealthy and conservative classes, and had, for the most part, but little sympathy with the popular theory of government."

Professor Smith also says:

"In the United States, at the present time, we are trying to make an undemocratic constitution the vehicle of democratic rule. The Constitution was framed for one purpose while we are trying to use it for another."

Students of the Constitution, from Woodrow Wilson down, know such to be the case. Victims of the Constitution, from the lowliest workingman up, know nothing of the sort. They believe in the Constitution. They believe it was made for them.

Gentlemen of this sort should wake up. The Constitution of the United States was made for them in the same sense that sheep shears are made for sheep. The gentlemen who made the Constitution had sheep to shear. They belonged to a class. The class to which they belonged was the wealthy class. The wealthy class was by no means satisfied with the way things were going under the articles of confederation. Some of the sheep were getting away. Worse than that, they were getting away with their fleeces on. Gentlemen who have sheep to shear are always pained at such a spectacle. We have the same sort of gentlemen with us to-day. They talk today-whenver sheep get away-as the rich men talked when the articles of confederation were in force.

By this it is not meant that the articles of confederation which were drafted by the Continental Congress in 1787 and became effective in 1781, were above just criticism. They were not. They were good as far as they went but they did not go far enough. They contained nothing that was bad but they lacked much that was good. They also contained much that was good. They made the congress of the United States the great implement of the government. They put no courts above it. They put nothing above it.

Congress, too, was composed of but one house; no senate was tolerated. And they made every member of congress subject to instant recall at the will of the people. The congressional term was only one year, but that made no difference. Members of congress were intended to be responsive to the will of those who elected them and provision was made for displacing them the moment they should cease to be so.

The chief defect in the articles of confederation was that they gave congress too little power. States were permitted to snap their fingers at congress. States did snap their fingers at congress. Congress could apportion taxes among the several States, but it could not compel the States to pay them. Many of the States did not pay their taxes. That made the government anemic. It also made the government contemptible. In this world of governments, nothing is more ridiculous than a government that cannot govern.

There were other troubles, too. We had a little trade, even in those days. We exported some things and imported others. The blessed tariff had also been discovered. But who applied the tariff? Congress? Not at all. The various States. Each State that had a seaport made its own tariffs. And, unfortunately, no two tariff schedules were alike. Therefore, the cost of imported goods was not the same in any two States. Moreover, the States that had no seaports were held up by the States that had

seaports. James Madison described the situation in picturesque phrase when he said that " New Jersey, placed between Philadelphia and New York, was likened to a cask tapped at both ends; and North Carolina, between Virginia and South Carolina, to a patient bleeding at both arms."

But the saddest feature of the case was that the rich men of the day were bleeding both at the pocket book and at the bank book. They had invested in things that were not turning out. As the patriots of all days do, they had tried to make money out of the activities of the government. They had tried to use inside information to promote outside exploitation. They had sought to relieve the distress of the poor and the needy by buying up, at a few cents on the dollar, the scrip paid to Revolutionary soldiers, in the hope that the scrip would soon go to par. And the scrip had not gone to par. Nor had lands bought at a few cents an acre gone up to a few dollars an acre.

Naturally, these gentlemen could see nothing good in a government under which they could not increase their riches. What was government for if not to increase the riches of those who had riches to increase? So they began to abuse the government. They began to cry out that the government was worthless. Times were represented to be so hard that people arose from their breakfast tables hungry for their suppers. The rich men wailed so loudly about hard times that the echoes of their cries have rung through the centuries down to our times.

Yet, there is just the slightest suspicion that this grief exhibition was a little overdone. There is just a suspicion that while times were indeed bad for the grafters they were not very bad for the rest of the people. Benjamin Franklin, who was alive and about during those years, said times were exceedingly good for the rest of the people. Professor Beard quotes him as saying so.

"Early in 1787," says the professor (p.47), "before the convention was called, Franklin declared that the country was, on the whole, so prosperous that there was every reason for profound thanksgiving. He mentioned, it is true, that there were some who complained of hard times, slack trade and scarcity of money, but he was quick to add that there never was an age nor a country in which there were not some people so circumstanced as to find it hard to make a living and that 'it is always in the power of a small number to make a great clamor.' But taking the several classes of the community as a whole, prosperity, contended Franklin, was widespread and obvious. Never was the farmer paid better prices for his products, 'as the published prices current abundantly testify.'"

Thus do we see that history is usually but fable fabricated by one's favorite liar. The gentlemanly patriots who were moving heaven and earth to get a new constitution in 1786 and thereabouts, were unanimous in the statement that times were bad. To this day, they are disputed only by Franklin and the market reports of their day. Yet their word is almost everywhere accepted, chiefly because no other word is often heard. Not many persons ever heard of what Franklin said or of the market reports to which he referred.

Our patriot forefathers were remarkable, however, for other reasons than their ability to see a famine where none existed. They were remarkable for their colossal audacity. What should we say, in our day, for instance, if Mr. Rockefeller and a contingent of great financiers were to call their lawyers around them and tell them to call a convention to meet in Chicago on a certain day to amend the Constitution of the United States? Should we not be likely to say to Mr. Rockefeller and his associates: "You gentlemen are doubtless very kind, but we have already provided the manner in which steps may be taken to alter our Constitution, and the manner you have proposed is not the one we have chosen."

So had the American people, in 1787, laid down the method that should be followed in amending the articles of confederation. The articles specifically provided that no amendment should be made except by congress and the legislatures of all of the States. In other words, a proposed amendment must first be introduced in congress and, if approved, must then be transmitted to the legislatures of all the States. Nor could the amendment succeed if a single state legislature should object. Every legislature in the union must consent or there could be no amendment.

That was fairly plain. No one should have misunderstood. No one did misunderstand. And, at first, the patriot forefathers with the fat purses made an effort to follow the law. They told congress how they should like to have the Constitution amended. They asked congress to pass the required amendments and send them on to the legislatures of the several States. Congress seemed deaf, so the requests were repeated again and again. But congress budged not; not to any great extent, at any rate.

Then the patriot forefathers sought to take the situation into their own hands. They went to the legislature of Virginia. They induced the legislature of Virginia to adopt a resolution inviting the legislatures of the several States to send delegates to meet in Annapolis in 1786. The ostensible reason for the meeting was to "take into consideration the trade of the United States." Virginia appointed as her commissioners, James Madison and Edmund Randolph. The Virginia commissioners were at Annapolis, ready for business, at the appointed time-the first Monday in September, 1786. But only four other States were represented, and the meeting came to nothing.

That is not quite an exact statement of the facts. The meeting did not come to nothing. No business was done, because no quorum was present, but the plans of the rich gentlemen who sought to bring the meeting about were revealed. They disclosed the fact that what they were about was to ignore the method provided by the Constitution for its amendment and force such amendments as they desired by methods of their own.

Close observance will detect the manner in which the patriot forefathers revealed their intentions. It will be noted that the resolution adopted by the Virginia legislature in suggesting the Annapolis conference declared that the meeting was to be held to "consider the trade of the United States." Of course, anybody had a right to meet anybody who would meet him "to consider the trade of the United States." Therefore, it seemed perfectly plain and above-board for the legislature of Virginia to propose that delegates appointed by the legislatures should do what an equal number of nobodies might have done quite as legally.

But when no quorum appeared at Annapolis, the gentlemen who represented the five States that responded came out into the open. They adopted a resolution suggesting that another attempt be made to hold a conference. And they suggested that the conference be held "to devise such further provisions as shall appear to them necessary to render the Constitution of the federal government adequate to the exigencies of the union." In other words, they recommended that a meeting be held to amend the Constitution, though the Constitution itself said that it should not be amended except upon the initiative of congress and the concurrence of all the state legislatures.

In short, it appears to have been the purpose of the energetic gentlemen who brought about the futile attempt at a conference at Annapolis to use it to introduce the actual convention that was held the next year in Philadelphia. James Madison said as much in a letter to Thomas Jefferson, under date of August 12, 1786. "Many gentlemen, both within and without congress," he wrote, "wish to make this meeting subservient to a plenipotentiary convention for amending the confederation." Max Farrand,

professor of History at Yale, goes even further. In "The Framing of the Constitution" (p. 9) Professor Farrand says that "The French representative in this country wrote home to his government, what was evidently whispered among the elect, that there was no expectation and no intention that anything should be done by the convention beyond preparing the way for another meeting, and that the report was hurried through before sufficient States were represented to be embarrassing."

Professor Beard takes the same view. On page 62 of his work on "An Economic Interpretation of the Constitution of the United States," he says that "Although the Annapolis convention was ostensibly concerned with commercial regulation primarily, there is no doubt that it was the creation of the men who had been working in congress and out for a general revision of the whole system."

What should we think to-day if Mr. Rockefeller and some of his friends were to call a meeting, through a friendly state legislature, for a convention to revise the Constitution of the United States? And what should we think if the convention, instead of merely revising the Constitution, were to draft a new one?

Of course, the situation in 1787 was not quite so bad as that. The appointment of delegates by state legislatures gave an official coloring to the Philadelphia convention. Yet it is a bald fact that the legislatures themselves had violated the spirit of the Constitution in sending delegates to a convention that, it was intended, should bring about amendments by extra-constitutional methods. That congress trailed along in February, 1787, by inviting the States to send delegates to the Philadelphia convention that was to be held in May, is of little importance Congress felt that it had to trail along. The fact that the States were going ahead without either the approval or consent of congress was bringing the national law-making body into contempt. On February 21, when congress issued the invitation to the States to join in the Philadelphia convention, Virginia, Pennsylvania, New Jersey, North Carolina, Delaware and Georgia had already appointed delegates. The six other States that afterward appointed delegates were already preparing to do so. So congress was compelled to move or be run over-to recognize the coming convention or be humiliated.

Who were the gentlemen who were so fearful lest the United States should not speedily become the possessor of a properly amended constitution? Professor Beard says that four kinds of rich men brought about the Philadelphia convention.

Gentlemen who had money at interest or capital seeking investment come first on his list. He says their interests "were being positively attacked by the makers of paper money, stay laws, pine barren acts and other devices for depreciating the currency or delaying the collection of debts."

Next came the gentlemen who had investments in public securities. They were really the largest toads in the puddle. They owned paper that had a face value of \$60,000,000. They had not paid \$60,000,000 for it, however. More than half of them had paid only one-sixth or one-twentieth of its face value. They had paid only a little because the value of public securities had shrunken because of the inability of congress to compel the States to contribute money with which to pay the interest upon the public debt. But the gentlemen who bought the paper at low figures were good gamblers. They did not know what was going to happen, but they were willing to take a chance. Moreover, they were determined to try to make things happen that they wanted to happen. They were determined to try to bring about a new government under a new constitution-a government that would bring the paper to par.

"It seems safe to hazard a guess," says Professor Beard (p. 35), "that at least \$40,000,000 gain came

to the holders of securities through the adoption of the Constitution and the sound financial system which it made possible. This leaves out of account the large fortunes won by the manipulation of stocks after the government was established and particularly after the founding of the New York Stock Exchange in 1792."

Capitalists engaged in manufacturing clamored for a new constitution because they wanted a national government that would have the power to put a protective tariff wall around them. Also, the gentlemen who were engaged in land speculation wanted a new constitution. Most of the patriot fathers were land speculators. Professor Beard mentions as land speculators " Washington, Franklin, Gallatin, Patrick Henry, Robert Morris and James Wilson, as well as many less well known." Timothy Pickering, who helped ratify the Constitution on behalf of Pennsylvania, frankly admitted that "All I am now worth was gained by speculation in land."

"The situation," says Professor Beard, "was this: Congress, under the articles of confederation, adopted a policy of accepting certificates (of public indebtedness) in part payment for lands; and it was hoped by some that the entire national debt might be extinguished in this way. However, the weakness of the confederation, the lack of proper military forces, the uncertainty as to the frontiers kept the values of the large section held for appreciation at an abnormally low price. Those who had invested their funds in these lands or taken stocks in the companies felt the adverse effects of the prevailing public policy, and foresaw the benefits which might be expected from a new and stable government."

In other words, gentlemen who had bought public paper at one-sixth or one-twentieth of its face value and then exchanged it for public land became aggrieved because the rise in the price of their property did not meet both their expectations and their cupidity. The lack of "proper military forces," for one thing, kept their property from increasing in price. Therefore, it became as plain as day that a new government should be installed to put in the field "proper military forces" and do the other things that were required to make their investments pan out. Wherefore, it appears that the question of whether one is a "patriot father" or a land grafter largely depends upon whether he grafted in the eighteenth century or in the twentieth.

Such are the causes that led up to the creation of our present Constitution. They are not the causes that are told to school children, but they are the causes. Anybody who believes that a constitution framed in such circumstances was made especially for the common people is an optimist.

Anyone who believes that what these men did 126 years ago has nothing to do with present-day problems does not know much either about the cause or the cure of present-day problems. The prices of everything you consume are powerfully influenced by the decisions of the Federal courts-particularly of the supreme court of the United States-yet the gentlemen who decreed that the supreme court should forever be beyond your reach were the gentlemen who made the Constitution 126 years ago.

The prices of many commodities are also made high by reason of the fact that public service corporations and other gentlemen have bribed legislative bodies to give them franchises and other public property. In everything else, the law holds that fraud vitiates a contract. But in the matter of bribing a legislative body, the United States supreme court long ago held that under the Constitution the act of a legislative body could not be set aside even if bribery were proved.

That seems strange, but it is the law as the supreme court has handed it down to us and grafters have profited by it to the extent of hundreds of millions. Moreover, they are profiting by it now as they

never did before, and this grafting must go legally on either until such time as the present Constitution shall give way to another, or until the United States supreme court shall be flogged by public opinion into reversing itself.

Because of what these forefathers did in 1787 we now have a perplexing absurdity in the senate. So long as senators were elected by state legislators, it was intended that the senators should represent the States. But now that United States senators are elected by the people it is intended that they shall represent the people. If senators represent people, it is manifestly absurd that the handful of people in Nevada should have the same representation in the senate that is accorded to many millions in New York. This is particularly absurd when the fact is considered that the Nevada senators may have it in their power to block a measure that has been endorsed by the house of representatives, containing more than 400 members. Yet the Constitution declares that "no State, without its consent, shall be deprived of equal representation in the senate." In other words, it is a question whether a constitutional amendment providing for representation in the senate upon the basis of population would be "constitutional," even if three-fourths of the States were to ratify it. Probably it would be. But the fact remains that the Constitution says that no State shall be coerced by others in the matter of equal representation in the senate.

Chapter IV:

Divide and Govern

SOME men say we have outgrown our eighteenth-century Constitution. This observation is precisely as accurate as it would be to say that a dog suffering from fleas had outgrown its fleas. Fleas never fit dogs. The Constitution never fitted us. It never fitted us because it conflicts with the fundamental American ideal of majority rule. The history of the government of the United States under the present Constitution is a long history of rule by minorities. The Constitution by no means makes majority rule impossible, but it makes rule by a compact, energetic minority exceedingly easy. It was meant to make minority rule easy. The men who made the Constitution did not believe that majorities should rule. The men who made the Constitution were thoroughly imbued with the old political maxim: "Divide and govern." That has ever been the maxim of the small, compact, well organized, intelligent but unscrupulous ruling class. Trump up fake issues! Fill the air with a din! Divide the majority into parties— "*and govern!*"

Almost all Americans believe otherwise. Almost all Americans believe that the Constitution provides for rule by majority. Almost all Americans believe that in spirit and substance, the Constitution and the Declaration of Independence are alike. Almost all Americans believe that the men who made the Constitution believed in government by the people. Opposite views are held only by those who know the facts.

James Madison probably had more to do than did any other man with the making of the Constitution. Madison is known as the "Father of the Constitution." His memory is kept verdant by those who revere the Constitution. Yet, in the matter of majority rule, Mr. Madison, when he was urging the adoption of the Constitution, talked and wrote precisely as Mr. Taft talks and writes to-day. Mr. Taft has much to say about the "tyranny of majorities." So had Mr. Madison. Mr. Taft has much to say as to the necessity of maintaining the Constitution to the end that the rights of minorities shall not be denied by majorities. So had Mr. Madison. Mr. Taft can never sleep quite well at night lest a "temporary majority," inflamed by "popular passion," shall trample upon the sacred rights of the minority. Neither could Mr. Madison. Mr. Taft's views, when they became sufficiently known, helped

to send him into political bankruptcy. People who believe in majority rule would have no more regard for the Constitution and James Madison than they have for Mr. Taft if they knew the Constitution and James Madison as well as they know Mr. Taft.

Nobody need be in any doubt as to where James Madison stood. He told where he stood and left a record of what he said. In Paper No. 10 of *The Federalist*, which was written by Madison, he said:

"Among the numerous advantages promised by a well-constructed union, none deserves to be more accurately developed than its tendency to break and control the violence of faction. * * * When a majority is included in a faction, the form of popular government, on the other hand, enables it to sacrifice to its ruling passion or interest, both the public good and the rights of other citizens. To secure the public good and private rights against the danger of such a faction, and at the same time to preserve the spirit and the form of popular government, is then the great object to which our inquiries are directed."

In the convention that framed the Constitution, Mr. Madison was even more explicit. Mr. Madison kept a *Journal* of the convention. In this *Journal* he quoted himself as well as others. On Wednesday, June 6, 1787, he quoted himself as having spoken as follows:

"Where a majority are united by a common sentiment, and have an opportunity, the rights of the minor party become insecure. In a republican government the majority, if united, have *always an opportunity*. The only remedy is to enlarge the sphere" (that is, unite all the States under a federal government) "and thereby divide the community into so great a number of interests and parties that, in the first place, a majority will not be likely, at the same moment, to have a common interest separate from that of the whole, or of the minority; and, in the second place, that, in case they should have such an interest, *they may not be so apt to unite in the pursuit of it.*" {Elliot's Debates, Vol. V, p. 163}

In other words, Mr. Madison did not believe in government by the people. If "government by the people" means anything it means government by a majority of the people. Mr. Madison believed the majority of the people should have their way only at such times as they desired to perform acts which were not opposed by the minority.

Let us now consider the structure of our government, as it is laid down by the Constitution, and see how remarkably it is adapted to the carrying out of Mr. Madison's ideas. Our government consists, as everybody knows, of three departments, the legislative, the executive and the judicial. As the Constitution came from the hands of Mr. Madison and his associates, the people were to elect only the lower house of congress, while other gentlemen were to choose the Senators, the President and the justices of the Supreme Court. Congress was given power to enact laws over the veto of the President, but a minority of one-fourth, in either house of congress, could block the majority and sustain the veto. The presidential veto has proved to be, as it was intended to be, all but insurmountable. And, while the Constitution neither authorizes nor forbids the supreme court to declare acts of congress unconstitutional, the court has usurped the power to do so, thus adding another factor to legislation.

This system is called the "system of checks and balances," because each department of the government is supposed to be a check upon each of the others. To persons who do not know much about the Constitution, it is doubtless comforting to feel that they live under a government of "checks and balances." Checks and balances suggest scales, and scales suggest justice. But this comfortable feeling

does not last long when one learns whence came this system, how it originated and what it means.

It did not come from America. It came from England. The king of England used to be an absolute monarch. His will was the only law. The rich, titled gentlemen of his day did not always like his laws. They yearned to place a check upon him. They knew of no way to place a check upon him except by taking a hand in the making of laws. So, to put a brake upon the king, they established a house of lords, composed of some of their own number. They could not make the king enact any law they wanted, but they could prevent him from enacting any law they did not want.

That helped some. It helped the aristocratic persons so much that the common people took notice. They, too, had grievances. The king and the lords sometimes passed laws that the common people did not want. So the common people decided to put a check upon both the king and the lords by establishing a house of commons. Thereafter no law could be enacted without the consent of the commons.

Thus do we see how naturally this two-headed legislative body came into existence, neither of which could do anything without the consent, not only of the other, but of the head of the State. Nor was it inconsistent upon the part of Mr. Madison and other gentlemen who were opposed to majority rule, to transplant this system to America. But what shall we say of Americans of the present day, who, believing in majority rule, nevertheless perpetuate this system? The British house of lords was created to check the king, but whom do we wish to check with our senate? The British house of commons was created to check both the king and the lords, but whom do we wish to check with our house of representatives? The British king and the lords both acted as a check upon the commons, but why should we wish the President and the senate to act as a check upon the house of representatives? The British people no longer have any "checks and balances" in their government. They put the king on the shelf, a long while ago, and the lords are now upon another shelf. The whole legislative power of the empire is vested in the house of commons. What the house of commons proclaims as the law of England *is* the law of England. The king dare not peep and the lords dare do no more than peep. Nor does the highest court of England dare add to or subtract a comma from what the house of commons has declared to be the law.

The wealthy men of America are indeed fortunate that America still clings to this ancient form of government. The wealthy men of America, like wealthy men everywhere else, are not so much interested in obtaining better laws for grafting as they are in keeping the good grafting laws that exist. The grafter's ideal of "good government" is therefore a government that "stands pat" and does nothing. If the government will "let well enough alone," the grafter will endeavor to take care of himself-handsomely. Like any other marauder, he will attend to his victims if the police will only keep their hands off.

But the prolonged cries of the victims frequently compel the governmental police to draw near. Bills are introduced in congress to prevent the particular kind of garroting that, for the moment, is disturbing the peace. It is then that the American system of "checks and balances" stands the grafters in good stead. The distribution of legislative responsibility between two houses of congress, the President and the supreme court invites almost interminable delay and obscures responsibility. What the house agrees to, the senate objects to. What the senate agrees to, the house objects to. What they both agree to, the President may object to. What the President and both houses of congress agree to, the supreme court may object to, or may "construe" in such fashion that it is made lifeless. These facts constitute some of the reasons why, in this country, a generation is required to bring about the enactment of a law that everybody wants. There are other reasons, but these are some of the reasons.

The division of legislative responsibility does more. It makes both houses of congress houses of hypocrisy. There is and long has been, we will say, a great popular outcry against something, with a demand that congress shall enact remedial legislation. For a time, the outcry is ignored. It eventually becomes so loud that it seems best to pay some attention to it. In one house or the other-usually in the lower house-a bill is introduced to remedy the evil. The sponsor for the bill, not infrequently, is a man of doubtful reputation who needs the favorable publicity that the bill will give him. Whoever he is, he lauds the bill in a speech. The newspapers all over the land publish the speech. The people read the speech and are filled with gratitude that congress at last has heeded their cries. Particularly are the constituents of those congressmen who speak-particularly are these simple people filled with gratitude and pride. *Their* congressmen are in action. *They* are doing the people's work. Good news. The house passes the bill and it goes to the senate, where it is permitted to die.

Back of the bill, however, is so much public sentiment that pressure is brought to bear upon congress at its next session. If possible, this pressure is resisted by trumping up other issues that, for the moment, fill the public eye and cause the people to lose sight of their purpose. Otherwise, another bill is introduced in the house. It may, like the first one, be introduced by a hypocrite who is secretly in the service of the interests at whom the bill is aimed, or it may be introduced by an honest man. In any event, there is more patriotic speech-making by both honest and dishonest men, all of which is faithfully reported in the newspapers, and again the house passes the bill.

The practice in Washington among the representatives of the great grafters is never to make a fight against a bill in both houses. The wisdom of this policy is plain. One house is thereby always permitted to appear to be the friend of the people, while the killing of a measure in one house is all that is necessary. Every Washington newspaper correspondent knows this. Any one may confirm the statement by watching the course of legislation for a few years. In the past, it has been the custom to introduce these fake bills in the house, pass them to appease public clamor, and impose upon the senate the duty of killing them. Perhaps the senators, now that they are elected by the people, will demand the right to pass a few fake bills themselves and let the representatives bear the odium of killing them.

In any event, after a bill has finally been driven into the senate the second or third time, it may have behind it so much backing that it becomes necessary to make a fight against it. The usual way, when it cannot be killed in committee, is to extend the debate upon it as many months as possible, in the hope that something else may develop that will overshadow it and make it safe to permit the session to close with nothing done. If nothing larger comes along, the bill may be permitted to come to a vote and be beaten or it may be hamstrung with amendments and passed. The course, in any given case, is dependent upon the strength of the opposition and what seems, in the circumstances, to be the most politic.

Is this not a fine example of "government by the people"? The picture is not overdrawn. The effort to establish a parcel post was attended with far more difficulties, and was prolonged over a greater period. A bill to establish a parcel post eventually became a law, it is true; but it was a sick bill when it came through. It established just as poor a parcel post as congress dared to establish in the face of a thirty years' demand for an honest parcel post.

Here we see Mr. Madison "dividing and governing" on a scale more stupendous, perhaps, than he ever dreamed. Congress, which should be a reflex of popular opinion, is the place where popular opinion most often goes down to defeat. Not down to unconstitutional defeat; down to constitutional defeat.

Public rights are outraged, but outraged according to the highest law of the land.

Let us, then, examine even a little more closely the highest law of this land. Let us see how representatives in congress are elected. In a republic we should expect to see the vote of one man count for as much as the vote of any other. We should not expect to see the votes of some men count for more than the votes of other men. But in this make-believe republic of ours, in which majorities are divided in order that minorities may govern, the votes of some men count for much more than the votes of some others. Let us look into this absurdity,

The Constitution, as Mr. Madison and his associates left it to us, provided that representatives in congress should be residents of the States which elected them. Now that the union is composed of forty-eight States, that provision in itself would have divided the people into forty-eight times as many groups as there are political parties. But we have outdone even Mr. Madison. We have enacted an unwritten law that requires each representative to be a resident of the district by which he is nominated. There are now, in the United States, 435 congressional districts. As there are four political parties of importance-the Democratic, Progressive, Republican and Socialist-the people are divided, in congressional elections, into four times 435 groups, or 1,740 groups. If all the members of each political party were to vote for all of their respective party's candidates throughout the nation, the people would be divided into but four groups, but we are divided into 1,740 groups.

Kindly behold what this division does to us.

In the State of New York, at the election held in 1912, only 21,500 votes were required to elect a Democratic member of congress. That is to say, the Democrats cast approximately 650,000 votes and elected thirty members of congress.

If a man happened to be a Republican, however, his vote did not count for so much. The votes of 41,000 Republicans were required to elect a Republican to congress. The citizens of New York who joined the Progressive party fared even worse. One hundred and ninety-one thousand votes were required to elect a Progressive to the national house of representatives. And the 75,000 citizens of New York who voted the Socialist ticket were denied any representation, though, if they had been Democrats, they would have been given three representatives. Thus we see that in the State of New York, in congressional elections, a Democrat's vote counts for twice as much as a Republican's, nine times as much as a Progressive's, and as many times more than a Socialist's as thirty is more than nothing.

Every State affords a similar illustration; but let us take Iowa as an example. The Republicans of Iowa cast 24 per cent. of the vote and elected 72 per cent. of the State's representatives in congress. The Democrats cast 38 per cent. of the vote and elected 28 per cent. of the representatives. The Progressives cast 33 per cent....

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