

Maurer School of Law: Indiana University
Digital Repository @ Maurer Law

Indiana Law Journal

Volume 2 | Issue 2

Article 1

11-1926

Our Bounty of Constitutional Government

Thomas James Norton
A.T. & S.F. Railway

Follow this and additional works at: <http://www.repository.law.indiana.edu/ilj>

 Part of the [Constitutional Law Commons](#)

Recommended Citation

Norton, Thomas James (1926) "Our Bounty of Constitutional Government," *Indiana Law Journal*: Vol. 2: Iss. 2, Article 1.
Available at: <http://www.repository.law.indiana.edu/ilj/vol2/iss2/1>

This Article is brought to you for free and open access by the Law School Journals at Digital Repository @ Maurer Law. It has been accepted for inclusion in *Indiana Law Journal* by an authorized administrator of Digital Repository @ Maurer Law. For more information, please contact wattn@indiana.edu.


JEROME HALL LAW LIBRARY
INDIANA UNIVERSITY
Maurer School of Law
Bloomington

INDIANA LAW JOURNAL

Vol. II

NOVEMBER, 1926

No. 2

OUR BOUNTY OF CONSTITUTIONAL GOVERNMENT¹

THOMAS JAMES NORTON²

I

In any endeavor to comprehend the Constitution of the United States we must first go back in spirit to the era from which it sprang. In 1776, when the Declaration of Independence was written, the man was the victim of government in every nation of the world. He was supposed to be on earth for the uses and purposes of government and governors. That idea persisted in many countries down to the World War, and in the enlightened and scholarly Germany it found expression in the word *Kultur*, meaning the supreme state instead of the supreme man.

The Declaration of Independence "told the world" that all governments derive their "just powers from the consent of the governed." That is to say, the government is rightly the servant of man and not his master. It exists for his uses. It is his creature. He is supreme. In America, for the first time in all the long and miserable ages of the human race, the idea of man's supremacy to his government was cast in a fixed form, and this fixed form we call the Constitution of the United States.

Immediately after our Revolutionary War came the French Revolution, in considerable part an effect of ours. In Carlyle's history of that bloody period he makes the French people say to the government and governors of France:

1. The substance of the article was contained in address delivered by Mr. Norton at a recent meeting of the Indianapolis Bar Association. The present paper was written and is now published at the earnest appeal of those who heard the address.

2. See biographical note, p. 175.

“This is the feeding and leading we have had of you: Emptiness—of pocket, of stomach, of head and of heart. Behold, there is *nothing in us*—nothing but what Nature gives her wild children of the desert: Ferocity and appetite.”

After all the long centuries the government supreme in France had arrived at that! And it perished in a scene beyond description by the historian except by the words “Reign of Terror.”

Michelet, who was born when the feudal baron was going out of France, wrote of him:

“Everything is his: the oak forest, the bird in the air, the fish in the water, the beast in the thicket, the running stream, the bell whose sound reaches a great way off.”

We who own and enjoy the land and the forest and the stream and the mine and all that they contain too little understand the great value of our inheritance. Our position and our possessions have come to us through our constitutional government.

When Jefferson was our minister to France he wrote:

“Of twenty million people supposed to be in France I am of opinion that there are nineteen millions more wretched, more accursed in every circumstance of human existence, than the most conspicuously wretched individual in the whole United States.”

The man in England at that time was some better off than the Frenchman, but not much. Thackeray’s “Four Georges” gives an intimate view of the miserable condition of the man in that country, victimized by his government. Other historians tell of his life. Feudal England and later, with its steadily enlarging forests taken away from the people for the hunter, may be described by the lines of Tennyson:

“Wherein the beast was ever more and more,
And man was less and less.”

Even now, as I was told by a native of Great Britain two years ago, “a man doesn’t count for much in this country.”

A little while before the first English colony was planted in this country at Jamestown, Virginia, the Earl of Leicester, who had received a vast area of land from the Queen, which the people should have had, entertained Elizabeth and thirty-one barons and a host of retainers at the Castle of Kenilworth for seventeen days at an expense in present-day money of \$50,000 a day. The party ate 10 oxen a day and drank 16 hogshead of wine and 40 hogshead of beer. When earls and the like held all the land and spent their time in warring, hunting, gaming and profligacy one may readily visualize the dreadful plight of the common man and his wife and children.

II

How really and generally bad government has been to man is evidenced by the many visions of a better world which great souls have had.

A thousand years before Christ, Solomon, affrighted by the responsibility which his succession to King David's throne had brought, called upon God in a dream (1 Kings 3) to give him "an understanding heart to judge thy people" that he might "discern between good and bad." God was so pleased that he had not asked for long life, nor riches, nor the life of his enemies, that he not only gave him "a wise and understanding heart" beyond any other that should ever exist in the world, but he also gave what Solomon had not asked, both riches and honor above the possessions of any other King. From that we may draw the conclusion that God favors a government just to man. And because our government was ordained, as the Preamble to the Constitution says, to establish justice among men, to have peace at home, to promote the welfare of all, and to secure liberty to us and our posterity—it may be that because of this just regard for man our Republic has been favored by Providence as he favored Solomon. Washington and Lincoln believed that it had been.

About half a century after Solomon, and a little to the west, "The Republic" of Plato was written to show a government which would lift mankind out of their deep wretchedness and make them very happy. But that government never came.

The Roman government stretched its dominions from Scotland to the Euphrates. It promised much and left a rich legacy of law, but all else lies in what Byron called "ruinous perfection."

Shortly after the discovery of America, a great Englishman, Sir Thomas More, wrote (1516) "Utopia" in description of a land lifted by good government from the appalling miseries in which the government of his England and the other governments then held the people.

Shortly after the founding (1607) of the first English Colony in America, at Jamestown, Virginia, there was published in Holland the great work of Grotius on "Peace and War." He concluded this profound study of the mistreatment of the human race in the bloody adventurers of Emperors, Kings, barons and retainers with a prayer to rulers that they would always remember "that you are governors of Man, who is very dear to God."

A century and a half later (1762) Rousseau in France wrote "The Social Contract" to tell a people misgoverned to destitution

and ferocity how they might save themselves. Shortly thereafter the most savage of revolutions was followed by the man on horseback and incessant wars.

These and many other dreams of great thinkers who were touched by the general and deep misery of mankind which bad governments had brought were put forward from century to century. They accomplished little beyond provoking man to think. They are referred to here to illustrate the statement that down to the time of our government the man and his wife and their children never had a show. Long centuries of wretched living in a lovely world! What an awful waste of human life!

III

Then, after countless failures, came the Constitution of the United States with the sublime purpose of Solomon stated in its preamble. The framers of the Constitution were more than 80 per cent college-bred. After a century and a quarter of intensive efforts toward general education we would be hard pressed to get together today as learned a body.

More than that they were very highly experienced under their charters in what was really self-government, distinctly Republican in form. That experience was longer than our experience under the Constitution. The French Revolution failed chiefly for want of such experience. Frenchmen in the mass were wholly untrained in this respect. Someone spoke of their assembling as like the gathering of poultry in the farm yard. No one knew what to do—but talk. Talk was incessant. But in our Constitutional Convention talk was controlled. The Convention sat behind closed doors. Every member of it except one carried to his grave unviolated the secrecy to which he had pledged himself. Of course, there was much discussion, but that was with respect to well-formed plans. It spent only about eighty-eight days on the colossal task. So its efforts were directed toward actual work.

The purpose of our forefathers was to control power. They had seen that power unrestrained had wrecked all the governments that had existed and impoverished and degraded the human family. Through the centuries there had been governments by men, which had failed. They set up a government of laws, which has succeeded even beyond the belief of us who behold it. It has been copied in whole or in great part widely in the world and has succeeded everywhere, as in South America, Canada and Australia.

Seven years before the National Constitution was written Massachusetts had stated in its Constitution the American philosophy of government:

“In the government of this commonwealth the legislative department shall never exercise the executive and judicial powers, or either of them; the executive shall never exercise the legislative and judicial powers, or either of them; the judicial shall never exercise the legislative and executive powers, or either of them—to the end that it may be a government of *laws* and not of *men*.”

The set conviction to which Americans had come through the study of the history of government, and from experience with the British King and Parliament, was cogently stated by Jefferson:

“In question of power then, let no more be heard of confidence in man, but bind him down from mischief by the chains of the Constitution.”

They feared a popular legislative body as much as they did a king, Jefferson saying that a large number of despots would be worse than one. Madison, pointing out the tendencies and opportunities to grasp power natural to a body feeling that it directly represents the people, said of Congress:

“It is against the enterprising ambition of this department that the people ought to indulge all their jealousy and exhaust all their precautions.”

Many times Congress has shown that Madison was right, and the Judicial Department, by applying constitutional limitations, in cases which citizens have brought for redress, has held the Legislative Department in its place.

IV

The plan of the framers was to leave all power as to local matters in the States. National and international affairs would be dealt with by a government the powers of which should be broken into three parts and vested in separate departments. In that way each department is prevented from exercising more than one power. The union of powers in one hand they called “the very definitive of despotic government.”

No matter what may come of growth and change, sound principles remain applicable. And so the Constitutional philosophy written for thirteen straggling communities operates as nicely

for forty-eight great states of immense population and wealth and of the most diversified interests as though it had been worked out especially for them.

Professor Dicey of Oxford University said that the smoothness and precision of the operation of our Judicial Department and of our governmental machinery in general astounded and perplexed European critics. As before remarked, we have succeeded not only, but all the nations that have patterned after our system have prospered and been at peace.

V

But one of the highest tributes to our constitutional system that I have seen was paid unconsciously by a British journalist as he sailed out of New York harbor after attending the Arms Conference at Washington in 1922. He had been here long enough to see how we live. As our coasts were receding from his view he wrote a "Farewell to America," from which I quote:

"Good-by, most beautiful of modern cities! Good-by to glimmering spires and lighted bastions, dream-like as the castles and cathedrals of a romantic vision! * * * Good-by to heaven-piled offices, so clean, so warm, where lovely stenographers, with silk stockings and powdered faces, sit leisurely at work or converse in charming ease! Good-by New York! I am going home. I am going to an ancient city of mean and moldering streets, of ignoble converts for mankind, extended monotonously over many miles; of grimy smoke clinging closer than a blanket; of smudgy typists who know little of silk or powder, and less of leisure and charming ease. * * * Good-by to central heating and radiators, fit symbols of the hearts they warm! Good-by to frequent and well-appointed bathrooms, glory of the plumber's art! * * * I am going to a land where every man's house is his prison—a land of open fires and chilly rooms, and frozen water pipes, of washing stands and slop pails, and one bath per household at the most. * * * Good-by to the copious meals—the early grape-fruit, the 'cereals,' the eggs broken in a glass! Good-by to oysters, large and small, to celery and olives beside the soup, to 'sea-food,' to sublimated viands, to bleeding duck, to the salad course, to the 'individual pie.' * * * I am going to the land of joints and roasts and solid pudding; the land of ham and eggs and violent tea; the land where oysters are good for suicides alone, and where cream is seldom seen."

In view of the fact that England had been great for half of a thousand years before our Republic was established, it seems to me that he should have written his farewell to comfort, good

living, and abundance when he was leaving Liverpool or London. For centuries English ships had been pouring the wealth of the world into the lap of England. Why, therefore, were the streets "mean and mouldering?" Why were mankind in ignoble coverts, without heat, good food, or even cream?

I take the answers to these questions from Belloc, another English writer:

"Men eager for freedom and dignity of living in the individual rightly demand the separation of the various powers in sovereignty. They insist on an independent Judiciary; on a Legislature uncontrolled by the Executive. But men who are concerned rather with the strength of the State, and especially with its action abroad, men concerned with the homogeneity and quiet continuance of their country, coupled with its expansion in foreign dominion and invincibility against foreign aggression, rejoice to recognize a high and successful centralization of Sovereignty, however masked, or under whatever name. Nowhere had that centralization proceeded to such lengths as it did in the England of the nineteenth century."

The British journalist found us extremely well-to-do and comfortable. Belloc gives the reason why. In our country government has been concerned only with "freedom and dignity of living in the individual." In Great Britain the chief concern has been "the strength of the State, * * * expansion in foreign dominion, and invincibility against foreign aggression." Not often do people realize or appreciate how directly government may promote prosperity and happiness or bring poverty and woe.

But you may say that ours is a new country, rich beyond calculation in all that nature gives, and that therefore it should have been expected to outstrip England. Not so. For proof I quote another English authority, the *London Spectator*. In an article in 1924 it said that the British Empire has an effective output of not half that of the United States. It showed that the Empire is four times the extent of the United States, and that the self-governing dominions are twice the extent. For the development of the United States both capital and population were drawn from abroad. In 100 years the United States built up a population of 100 millions on what the *Spectator* called "a higher average level of prosperity than exists anywhere else in the world."

The white population of the Empire increased less than 50 millions, and half of that increase was at home. The *Spectator* emphasized that the Dominion of Canada, lying alongside the

United States, had increased only 8 millions, while Australia, which the historian Froude said forty years ago would now have a population of 30 millions, has not reached six. The Spectator concluded that "an inferiority of resources" in the United States "had been so treated as to produce an amazing superiority over the British Empire."

In other words, as Belloc stated, it is a question whether the government is concerned with the strength of the State or the welfare of the man.

VI

Yet, for all of the facts which I have gone over and scores of others of like sort which might be mentioned, a large and increasing number of Americans are suffering of an inferiority complex respecting their country. Their country is generally if not always wrong. Things are done better in other countries. They sit in open-mouthed admiration listening to European "philosophers" who visit our shores. Only recently some of the leading newspapers were very much exercised because our Department of State refused to allow Countess Karolyi, an Austrian radical who had been driven out of her own country and Italy, to come to the United States and tell us how to correct all our shortcomings and prevent our repeating in the future our gross mistakes of the past. As the Constitution never has been taught in our schools and colleges, we all—including the able editor—come to maturity in the completest ignorance of what it is about. Were this not so, everyone would be aware that no constitutional provision protects anyone not properly in the United States, and no one has a right to come to the United States without our permission. So there was no violation of the freedom-of-speech clause. Moreover, the United States is not a public park for radical speakers from Europe.

What surpasses my comprehension is that so many well-fed, well-clad, well-housed Americans, who would not buy the cheapest automobile in the market or any complex piece of farm machinery without a demonstration of its workability and efficiency, will swallow without question discredited nostrums of government from a land of black bread and blood pudding, or from a country of wooden shoes, or from a people in a rich land unable to feed themselves. Why do we, who have demonstrated our Government through a century and a third, which demonstration has caused it to be widely copied, in whole or in part, listen to theories from all the European realms of governmental failure?

This inferiority complex shows itself socially through native Americans who get out of their country as soon as they have money enough to live without working. None of them ever thought, however, of going to Europe to make the money.

Our inferiority complex also shows itself in the field of government. In the last presidential campaign one of the candidates, who ran on a platform for the destruction of our constitutional judicial system, contended that as Great Britain gets along without a supreme court to pass on the validity of acts of Parliament, why should the acts of our Congress be set aside by the Supreme Court for conflict with the Constitution? That is a stock argument today and it is supposed to be very deep. It is deep to those who use it because they do not understand what they say. As Dean Swift said, to some people, "whatever is dark is deep—stir a puddle and it is deeper than a well."

A complete answer to that supposedly profound question is that our forefathers had tried the British system and were compelled by it to write the Declaration of Independence. Then they set up a government which would prevent the legislative body from ever wronging the people as Parliament had wronged them. As William Pitt, Edmund Burke, Charles James Fox and others said in the House of Commons that the acts of Parliament were illegal, it follows that had there been a supreme court those laws never would have gone into operation. It is very significant that Canada and Australia, the two greatest states of the Empire, followed our Constitution instead of that of the mother country when they established their governments, and that each set up a supreme court like ours. But the superficially educated American doesn't know these things. He gets most of his ideas from cheap if not vicious periodicals.

This lack of information pervades Congress. As members are educated in the public schools and universities, they necessarily arrive at Washington generally unable to determine whether a proposed measure would violate the Constitution which they are under oath to uphold. Of recent years Congress has sat at the wheel and driven according to dictation from organized propagandists and others in the back seat. It has made proposals to amend the Constitution destructively, and it has passed laws for which there existed not a shadow of authority. I am not blaming congressmen, for they got the same inadequate education that we all did. My question is whether another uneducated generation will be allowed to grow up.

This inferiority complex is being cultivated in universities, women's colleges, high schools, in periodicals, on the platform, and in pink parlors. In an address before the American Bar

Association at Washington in the first year of the World War the late Chief Justice White related what had been said to a man celebrated in our national life who had delivered at a great university in the east a course of lectures on our constitutional government. A young man near the end of his course came forward, thanked the lecturer for the enlightenment which he had given, and added:

“Yours are the first good words for the government of the United States that I have heard since the commencement of my university career.”

What shall the harvest be from that kind of seed?

A year ago two soldiers in the barracks at Honolulu were sentenced to the penitentiary, one for twenty years and one for forty for trying to establish in the army a branch of the Third Internationale of Russia, on account of the teachings and objects of which our government refused to recognize the government of that country. The soldier who received the longer sentence was a university graduate and a Red.

In a magazine article last year the professor of history in a leading university said that our Monroe Doctrine “ranks among the foremost of the fetishes of these fetish-worshipping United States.” President Monroe’s head was muddled, he declared. Of course it would be too much to believe that Monroe could have been as deep as some present-day college professors.

The professors of historical sociology in a college for women, and an *ad interim* professor of economics in a college for men, published last year an article entitled “A Glance at the Fathers,” which was a string of sneers at the Founders of our Republic. For example, he stated that while Washington was a poor boy, “he died the richest man in North America.” The implication is that he was dishonest in money-making. It seems to have been unknown to the learned teacher of your daughters that by the English law of primogeniture which obtained in Virginia, George Washington, a second son, took nothing when his father died. The great landed estate went to his elder brother. Later the brother died and George became the owner of a wide domain. Still later he married a woman very rich in lands and by the law the title to her property vested in him. Thus he became rich according to the law of the land, not by crookedness. Why could not this teacher of your daughters have said something good about Washington, such as that he served more than eight years as head of the army without pay, during which time his property ran down so that he declared himself short of money when he was asked to be a delegate from Virginia to the Consti-

tutional Convention. But he managed to go. Had he not gone the Constitution under which we live never would have come to pass. Further, he served as the first President of the new Republic eight years without pay. There was plenty of good to say about Washington, and the professor's inuendo was baseless. This professor of history called John Hancock and his associates "smugglers." But the very principle on which the Revolution was fought was that the revenue acts of Parliament which the colonists ignored were in conflict with the British Constitution and therefore void, a proposition conceded by Fox, Burke and others in Parliament.

Another college professor has thought it important to tell that Washington manufactured whiskey on his estate. My retort is that Jesus made wine. Washington lived in his time.

The book committee of a public library recently threw out two books by a professor in an eastern university and another by a professor in a leading university because many of the leading patriots of the country were held up to scorn and the achievements of the Revolutionary army belittled. The volumes were considered hindrances to education in the American spirit.

Of recent years many books have been put out by professors in universities to show that as a legal question our forefathers were wrong in the Revolution and that the British government was right. Thus a state university, supported by the taxpayers, employs a professor of history who brought out in 1922 a book entitled "New Viewpoints in American History," in which he says (p. 179) :

"At best, an exposition of the political theories of the anti-Parliamentary party is an account of their retreat from one strategic position to another. * * * Without discounting in any way the propagandist value attaching to popular shibboleths as such, it may as well be admitted that the colonists would have lost their case if the decision had turned upon an impartial consideration of the legal principles involved."

Briefly, their patriotism was shibboleth, noise. They were wrong. The United States rests on a foundation of illegality. What an education for the American taxpayer to provide for his children!

But not all of the educators are of that sort, though too many of them are. Professor McIlwain of Harvard put out in 1923 a book entitled "The American Revolution," in which he reviews the legal question of that time raised by other professors and shows that the claims of the colonists were sound. For my part

I never considered the question open for debate after reading Edmund Burke, the greatest mind of his age, and Pitt, both of whom took the part of the colonists. In an address in Parliament this language was used by Burke:

“Every step that we have taken in this business has been made by trampling on some maxim of justice or some capital principle of wise government.”

In an address to the King in protest of what he had done in the colonies Burke wrote:

“The subversion of solemn fundamental charters, on a suggestion of abuse, without citation, evidence, or hearing: The total suspension of the commerce of a great maritime city, the capital of a great maritime province, during the pleasure of the Crown; the establishment of a military force, not accountable to the ordinary tribunals of the country in which it was kept up—these and other proceedings at that time, if no previous cause of dissension had subsisted, were sufficient to produce great troubles; unjust at all times, they were then irrational.”

Pitt said that if he were an American he never would lay down his arms.

Charles James Fox said in the House of Commons in May, 1774 two years before the Declaration of Independence:

“I never could conceive that the Americans ought to be taxed without their consent. . . . There is not an American but who must reject and resist the principle and right of our taxing them.”

Opposing a bill to change the charter and government of Massachusetts Bay Colony in punishment of the people, Fox said:

“I look upon this measure to be in effect taking away their charter. If their charter is to be taken away, for God’s sake let it be taken away by law and not by legislative coercion. . . . I consider this bill as a bill of pains and penalties, for it begins with a crime and ends with a punishment.”

Yet the taxpayers of Iowa maintain a university with educators who say that their forefathers acted in violation of law when they brought forth the United States! As McIlwain points out, this view “now seems current among American historians.” Showing what perverted education can accomplish.

Three years ago Mrs. B. L. Robinson of the Massachusetts Public Interest League stated in an address which was widely mentioned in the press that un-American teaching is done in women’s colleges, that she had found one of them “a veritable

hotbed of socialism" and that "it is an established fact that radicalism has long flourished at" another which she named. She stated that another women's college is recommended by "The Trade Union League," well known as an instrument of soviet Russia.

A bolshevik who had been driven out of Russia went to England to teach. Driven out of there, he of course found hospitality on our shores. After lecturing all over the United States he had a change of opinion. He discovered that what he believed was not so—in this country. He wrote a very able article as to why the European radical erroneously advocated radicalism in a land so fundamentally different from the Europe which makes radicals, in the course of which he said:

"If you knew the number of speakers, booklets, pamphlets, etc., that in this country are daily arguing for the destruction of the American government and of every one in an industrial position of responsibility, you would gasp."

In an article by ex-Senator Beveridge in the Saturday Evening Post not very long ago he told of receiving letters from high school students whose letter-heads had this un-American theory, "Resolved, that the Supreme Court of the United States should not have power to declare an act of Congress unconstitutional." That is making them anti-American at a very early age.

" 'Tis education forms the common mind:
Just as the twig is bent the tree's inclined."

How much this twig-bending in schools and colleges and periodicals has resulted in producing trees inclined from the American perpendicular is shown by the fact that in the last Presidential election 4,800,000 men and women voted for the destruction of our judicial system, which means the destruction of the Republic. For Lord Bryce, Professor Dicey of Oxford and other competent judges have declared the American judicial system to be the greatest invention ever devised for stability and justice in government.

In the light of this success in un-American teaching in the schools it was not a surprise to find in the Chicago Tribune recently a dispatch from Russia that the government there "has decided to plant three trained agitators in every large university and college in the United States." The plan is to force recognition of Soviet Russia by our government. The dispatch said that many of these agitators were already enrolled here as students, and that hundreds of others, fully equipped at Moscow

with money, documents, and other material, had been applying at Riga for visas on their passports to the United States.

Formerly the radicals in this country were noisy and advocated what "Big Bill" Haywood and his followers called "direct action," that is force, such as the bombing of the Los Angeles Times. But when Judge Landis sent a regiment of them to the penitentiary and "Big Bill" fled to Russia, where he misses the comforts of his former home, they decided to silence the horns and make use of our educational establishments, which they found very handy and in many places willing.

VII

Well, what are we going to do about it? Nearly seventy years ago Macaulay, the English historian, wrote an American that while the Roman Empire was broken down and ravaged by invaders, "your Huns and Vandals will have been engendered within your own country by your own institutions."

We have a large number of them now, and among the worst are natives educated in the United States.

There is a proverb that "Whatsoever you should have appear in the life of a nation must be put into the schools."

We must begin as early as possible with youth and put an understanding of our constitutional theory and practice in the minds of the masses. When they reach the college or the university they will be able to protect themselves against any educators who, like those mentioned by Chief Justice White, never have a good word for the government of the United States. Nothing else can do so much toward making proud and militant Americans as a working knowledge of our constitutional history. Then they will cease to listen to propagandists from other lands or to oblique-minded "philosophers" at home.

The right to a thorough knowledge of the principles of the government which has blessed mankind, and in which they are to participate that the blessing may go on to generations following, is a birthright of the young. The elders who have failed to provide that education have not only defrauded young people of that birthright, but they have also endangered the Republic.

When we became involved in the war so many of the homebred Huns and Vandals mentioned by Macaulay showed up that the ordinary American stood aghast. He never knew that he was carrying a viper in his bosom. He concluded that education is necessary. Since the war thirty states have enacted laws mak-

ing compulsory the teaching of the Constitution. Altogether thirty-eight states have such laws.

A like activity followed the Civil War, many of the States then requiring by statute the teaching of government, a very vague command. In such States a conglomeration of township government, city government, school government, state government and the like have been taught under the name of Civics.

A student might study Civics for a lifetime without being able to have any sound opinion on the validity of the proposed child-labor amendment, on the question whether the Prohibitory Amendment was in consonance with or contrary to our constitutional theory, on how far the Nation should proceed with search and seizure, on how spendthrift Congress can constitutionally be with money which it raises by taxation and whether it may use it to bribe States or to act as a Santa Claus to all the world, on the power of Congress to look after labor and fix wages, or on its constitutional authority to be Don Quixote to women in distress.

Live questions and dangerous policies are before us all the time, but a graduate in civics would never recognize one. This I know from an examination of text books used in Chicago and books studied in many states. My judgment is supported by the highest expert opinion. In a letter dated January 15, 1925, addressed to the President of the University of Washington, a Judge of the Superior Court of that State, urging support of a pending bill to make the teaching of the Constitution (not something else) compulsory, said:

“I took the usual course of civics taught at the Normal School at Plattville, Wisconsin. Afterwards I taught this course of study for three years in the high schools of Minnesota. A few years after having been admitted to the Bar I began to realize what a vague idea I had as an instructor in civics of the constitutional principles of my government and the duties of a citizen to his government.

The text book that was used was of little or no value and I as instructor was unable to improve upon it. Why those provisions were ever placed in the constitution, what abuses of past governments they were intended to guard against, I could not answer.”

The young people had a right to answer to their questions. No teacher deserving of the name should be unable to answer them.

When a man who took a teacher's course in civics and then had the experience of teaching in high schools for three years

pronounces the study useless he helps us to a comprehension of the fact that 4,800,000 men and women were so lacking in knowledge of our government as to vote for the destruction of our judicial system.

Another expert, an editorial writer on the Chicago Tribune, said in an editorial last month, based on the report that thirty-seven states now require the teaching of the Constitution, that he wished for "as gratifying a report on the work in terms of quality as in terms of quantity." Then he went on to tell of his high school days and the "dry bones" of civics which they gave him when he should have had the real human life with which the clauses of the Constitution are saturated.

Evidently the thirty states which have, since the World War, commanded the teaching of the Constitution itself realized that former methods had not secured the right results. But my information from several states is that the educators are not obeying the legislatures. That is, instead of taking the Constitution in hand and teaching that, they are clinging to civics or preparing some nostrum as a substitute. Of course, the teacher does not understand the Constitution and naturally has a dislike to grapple with it. I did not know anything about it when I taught in the country district and in the high school. I am therefore not making any captious criticism of the educator. But since leaving school I have learned something about the Constitution and found its history an intensely human study and its principles very easy to understand. I believe that every teacher should be required to pass an examination in it and that it should be taught to all youth in absolutely unadulterated form, without any trimmings by alien theorists or domestic propagandists.

My ideas in this relation, which I have long held, have been fully justified by the showings of the high school pupils participating in the National Oratorical Contests conducted for the last three years by some of the great newspapers of the country. The showing was very fine indeed. While the orations were not so deep as was Webster's reply to Hayne or as one of Marshall's decisions, they were yet very creditable to the orators. They were proof that the young people are capable of studying the Constitution and thereby learning a respect for it. Last year the newspapers brought 1,500,000 youths to the study of the Constitution. Almost as many prepared and delivered orations the year before. Those young people are on the way—and they know where they are going, too.

These contests in Indiana, I am told, have been carried on under the supervision of The Indiana State Bar Association,

through its Committee on American Citizenship, in conjunction with a leading newspaper, and I am told that more than fifty thousand pupils engaged in the 1926 contest. Lawyers everywhere should see to it that every command of a Legislature to teach the Constitution is literally and vigorously followed up. Such intellectual preparedness, and that alone, will drive out and then keep out Macaulay's Huns.