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The Story of the Constitution
·by CALEB JOHNSON·

XII. FEDERAL SUPREMACY ESTABLISHED

For 67 years, from 1798 until 1865, the Constitution of the United States remained unchanged by amendment, although the powers of the Federal Government were immensely expanded during that period by judicial interpretation. And it was a judicial interpretation, the decision of the Supreme Court in the "Dred Scott Case" that indirectly brought about the 13th, 14th and 15th amendments, though not until a Civil War had been fought over the basic issue of states' rights versus Federal rights.

The subject of Negro slavery had been considered in the Constitution from the beginning. Slaves were to be counted as only three-fifths of their number, in apportioning seats in Congress to the states where slavery prevailed. The further importation of slaves after the year of 1808 was forbidden to all states, and the Federal Government was empowered to lay a tax of ten dollars a head upon all shaves imported before the end of that year.

As the new nation began its task of cutting up the western lands into new states, the question whether slavery should be permitted in them became an acute issue. Under the Missouri Compromise of 1820, slave-holding was permitted in the new state of Missouri, but thereafter prohibited in any other state that might be created out of the territory of the Louisiana Purchase, or in any state lying north of Missouri. But in 1854 Congress, in setting up the territories of Kansas and Nebraska, provided that the residents of those territories might vote upon the question of slavery.

This fanned the fire of anti-slavery agitation in the North, which burst into flames after the decision rendered by Chief Justice Taney of the Supreme Court, in 1857, that the Southern owner of a Negro slave, named Dred Scott, had the right to recapture him and bring him back from a free state to which he had fled.

The Court held that slaves were recognized as property, and were not citizens, and that the Missouri Compromise, prohibiting the ownership of slaves north of Missouri, was unconstitutional.

The bitterness between the North and the South which this decision crystallized precipitated the determination of Southern political leaders to withdraw from the Federal Union, which South Carolina first, then ten other Southern states, undertook to do in 1861. The choice of the Federal Government was between recognizing the right to secede, or of preventing the recession by force. The decision was for the latter course.

Four bloody years of war ended with the defeat of the Southern armies, and the downfall of the political theory of state supremacy. The Federal Government had established itself as the supreme power.

Immediately upon the end of the war, the 13th amendment of the Constitution, forever abolishing slavery anywhere in the United States, was submitted to the states and promptly ratified. Three years later, in 1868, the 14th amendment was ratified, giving to Negroes equal citizenship rights with Whites and entitling them to be counted in full in determining state representation. The same amendment repudiated all liability of the Federal Government for debts incurred by the states which had seceded. Two years later, in 1870, came the 15th amendment, guaranteeing the rights of citizens to vote, regardless of race, color, or previous conditions of servitude.

Next Week: Expanding National Powers.

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How America Answers Her Critics

By RAYMOND PITCAIRN
National Chairman Sentinels of the Republic

We have been hearing a lot of criticism lately concerning our American methods and principles.

For a while the detractors were content to sneer at our art, our literature, our simple recreations and pleasures. More recently, however, they have broadened their scope. Today their hardest attacks are directed — often from within — at our democratic form of government, with its effective guaranties of freedom and opportunity for all. They favor, instead, certain European patterns which vest all power in a highly centralized government rather than in the people.

Such criticism has not gone unheeded. It is bearing greater fruit than many of us realize. Its arguments resound from the stump. Its influence appears in much of our recent legislation.

How can we combat it?

One method is to apply the acid test of realism. Why not turn to such critics and ask:

"Under what other form of government have a free people developed the wilderness into a nation as great, as wealthy, as productive as our United States?

"Under what other form of government have citizens attained as high a standard of income, of living, and of general well-being as has been enjoyed by successive generations of Americans?

"What other government has offered to its poorest boys such opportunities to rise to the height of their capacity as are illustrated by the careers of Lincoln and Edison?

"What other government has accorded to all its citizens—to the least as well as to the greatest—the political power guaranteed under our American Constitution?"

And finally:

"How many of these advantages are offered to the average man by the modern European forms of government—with all their planned economy, their regimentation and their strong central authorities dictating to every citizen how he shall labor, how he shall live, how he shall think?"

* * *

When — and only when — the critics can answer these questions to our satisfaction should we take their proposals seriously.

When — and only when — they can prove that the men who work and earn are better off in other lands than in our own, should we consider scrapping our constitutional guaranties for their un-American theories and projects.

Our heritage of freedom and opportunity is far too precious to swap for a mess of foreign pottage.

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The American System Undermined by the New Deal

By Nicholas Roosevelt
For the National Republican Builders, Inc.

When Senator Carter Glass, Lewis Douglas, Herbert Hoover and the Supreme Court of the United States are all in accord that the New Deal is trying to effect drastic changes in the American form of government it is futile to pretend that this is not so.

It is therefore pertinent to inquire what these changes are and whether they are desirable—let alone whether they are constitutional. What should the Republican policy be with respect to them?

Underlying most of the New Deal acts is the theory of a paternalistic central government.

Under this theory power is to be concentrated in the hands of the President at the expense not only of the States but of Congress. In so far as the Supreme Court can nullify this process many New Dealers wish to see the Court's right to interpret the Constitution curtailed.

In short, New Dealers are seeking to discard the carefully developed system of checks and balances which is the product of 150 years of American political experience based on centuries of Anglo-Saxon background. They want a strongly centralized government in place of the loosely knit Federal system which we have developed.

"Why not make such a change?" say many people in good faith. New economic and social conditions, they tell us, demand new political methods.

The answer is, in the first place, that the mere assertion of the premise that new conditions demand new political machinery does not necessarily mean that our pre-1932 political system is outmoded. Even were it to be proved that new machinery is needed it is essential to examine what the New Deal's program offers in place of what we had and then to see what we would have to give up in exchange for the supposed benefits of the new system.

If a paternalistic government is to be established in the United States the American people will be expected to give back to the sovereign (who for the moment happens to be a well-meaning President) those rights of the individual which were so hard won from kings and rulers of old.

If the principles underlying the New Deal are carried to their inevitable conclusion the sovereign will have the right of planning for the economic activities of the whole nation. This means that individuals and corporations will have to take orders from Washington as to how they may engage in farming, manufacture, commerce and transportation. It means, in short, the re-establishment of an all-powerful and potentially arbitrary government of the very sort against which generations of Americans and northern Europeans rebelled and from which the Americans at last won independence.

"Why not?" is the insidious comment of the New Dealers. "The country is so tightly knit together that a strongly centralized government is indispensable."

The answer to this is doubly "No." The size of the population alone makes centralization impractical and undesirable.

Furthermore, the recent history of Europe clearly shows that the road of dictatorship leads to disaster.

If followed in this country the American people will no longer be citizens but subjects. The government will not exist for them but they for the government. They will surrender a large measure of their political freedom.

This is not progress, but reaction of the most dangerous sort.

The fact that these dangers are inherent in the New Deal does not mean that the constitution cannot and should not be amended. It was last amended only two years ago. But it does mean that before embarking on a new amendment it is well to bear in mind Franklin D. Roosevelt's own description of that document as "the most marvellously elastic compilation of the rules of government ever written," and then ask specifically just what the amendment should be.

For the Republicans this implies that they must turn their faces resolutely against New Deal sniping at the American form of government. It does not follow that they must oppose any and all amendments to the constitution. But they must—and will—oppose any amendment which would, in effect, weaken the present balance of power between the three branches of the Federal govenment and between the Federal and the State governments.

There is particular danger, for example, in the loosely worded amendment which Representative Keller has proposed, to the effect that "The Congress shall have power to make all laws which in its judgment shall be necessary to provide for the general welfare of the people."

Under these carefree and innocent words lurks the power to destroy the whole framework of the American form of government.

Congress might, under this amendment, surrender to the President virtually all of its powers and create a dictatorship within the framework of the Constitution. It was much in this manner that Caesar Augustus effected the final transformation of the Roman Republic into an Empire.

Why make it easy for some possible future adventurer or self-seeker in the White House to wreck this last stronghold of Democratic government in the world? Germany has its Hitler and Italy its Mussolini. Is America immune from this madness?

Next week Mr. Roosevelt will discuss the dangers of Planned Economy.

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