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ARE TOO MANY EXECUTIVE OFFICERS ELECTIVE?

WE propose very briefly to call attention to so much of the present constitution of Michigan as has to do with the executive department, and to consider the methods which the people have adopted for selecting those public servants whose official duty it is to enforce the law, to maintain public order and protect private rights.

The people, under our form of government, are the fountain head of all political power. The question is no longer who shall govern, the people must govern, but how shall the people govern? We desire to emphasize that simple fact, that political axiom, for the reason that when the suggestion is made that certain executive officers should be appointed and not elected, it is often met with the statement, that while the suggested change would be wise it will never be adopted for the reason that the people will never consent to surrender their power to govern. No surrender of power in such a case is demanded or required.

There can be no profitable discussion of any question unless the participants stand upon some common ground, hold certain opinions and beliefs in common, as to which, as between themselves there is no question, no controversy. I assume at the outset that we all accept as true:

First: That for the people of this state, a republican form of government is the best. That while we all recognize the beneficent labors of the stork and appreciate the pleasures and blessings which his visits bring to the household and to the state, when it comes to selecting rulers, as between the stork and the ballot box, we all favor the ballot box.

Second: That the people of this state are honest, fair minded, and favor the enactment of just and impartial laws, which will interfere as little as possible with the conduct of individuals, and will at the same time protect the personal and property rights of every citizen.

Third: That the people desire an honest, efficient and impartial enforcement of the law.

Fourth: That the people of Michigan are capable of self-government, and possess the ability to establish and maintain a republican form of government.

Abraham Lincoln, standing upon the battlefield of Gettysburg, surrounded by the graves of the Union dead, declared that the men who fell in that great and decisive battle had sacrificed their lives that "a government of the people, by the people, and for the people,

might not perish from off the face of the earth." Thomas Carlisle, looking at the other side of the same shield, from across the Atlantic, remarked, that this government of ours "was administered by thirty millions of people—mostly fools." The words of Lincoln express a sentiment dear to our hearts. The words of Carlisle grate upon the nerves and are exceedingly bitter; but that bitterness is simply the flavor, the natural flavor, of an unwelcome truth. It is not pleasant to be reminded that if we live in paradise, it is a fool's paradise. That wisdom was never hitherto contagious or infectious, and is not now in America, and that if, perchance, it should ever take on the one form or the other, there are so many cranks, faddists, theorists, dreamers and half baked reformers, all of whom are absolutely immune to an attack of wisdom, that there is no immediate danger of our being exposed to that kind of an epidemic. There is no occasion, however, for us to be made uncomfortable by Mr. Carlisle's remark. A greater than Carlisle, long ago, declared that "all men are fools," a statement broad and comprehensive enough to include Scotchmen as well as Yankees.

Whom did Carlisle have in mind when he declared we were mostly fools? Not the fool in motley with cap and bells, for he belongs to a class far too few in numbers. Their Attic salt makes many a dish of this world's food and drink palatable and enduring. And we doubt if he had in mind the fool described by the preacher, "if you bray a fool in a mortar, his folly will not depart from him," or the fool described by the old adage, "Experience is a dear school, but fools will learn in no other." We think that Carlisle had in mind, perhaps, the fool that we all take such a lively interest in, and with whom we sympathize when he gets out beyond his depth, and the waves break over his head; the fellow with good intentions who is continually making mistakes, in the morning getting out on the wrong side of the bed, and consequently goes blundering all through that day; the unfortunate individual who falls in love with and marries the wrong girl, to his own and her great sorrow; the speculator who, viewing the fields of finance, mistakes a bull for a bear and climbs in on the wrong side of the market, among the lambs. It is fortunate, since we are mostly fools, that this latter class, the well intentioned and honest blunderers, outnumber all the others combined. They are the plain common people.

We must, of course, admit, sub-rosa, that while the people are capable of self-government they are not endowed with infinite wisdom, but wisdom of a finite order often exceedingly finite; that their judgments are fallible, and although controlled by the best intentions, they often make costly mistakes. But notwithstanding the

fact that while some wear motley all the time, and many part of the time, we still hold steadfast to the belief that it is far safer to trust the people to govern themselves than it is to trust some one else to govern them. That we can be reasonably certain that the final judgment of the people upon men and measures will be safe and sound if not absolutely correct and entirely just. The first and foremost question to be answered in considering a republican form of government is this: What means shall you adopt to enable the plain common people to form and express upon public men and public measures their individual and independent judgments, and thus enable them to actually govern? You can not expect the people to see blindfolded.

The management of public affairs does not differ materially from the management of a great public or private enterprise. No one thinks of looking to the stork for a railroad superintendent. The selection of a ruler for a nation may present greater difficulties, but they are of the same nature as those that must be overcome in selecting any important leader. If the nation is threatened by the approach of a plague, there are only a few under whose direction the pestilence can be stayed, and those few are found in the medical profession. If a great engineering work is to be performed, like the construction of the Panama Canal, there are only a small number capable of planning and directing the work, and those few must be sought among the engineers. If an army of a million of men must be organized and led against the enemy, the general to command that host is not easily found, and when discovered he is certain to be a person endowed with rare military talents that have been thoroughly trained and developed by a careful and prolonged study of the military art. In each case the selection must be made by some one in some manner. It does not follow that if a person is not qualified to perform the duties of governor of his state, or to practice medicine, or law, or to preach the gospel, that he may not be able to make a wise choice of a physician, in case of sickness, to retain an able attorney, if an attorney's services are required, and to judge correctly whether a particular sermon is a soporific or a tonic. In other words, it is common knowledge that any plain man possessing good common sense can make a wise choice of a person to perform duties that he himself cannot perform. But every wise selection implies knowledge and the exercise of judgment. The non-professional man selects his banker, his lawyer, his doctor, from among those of whom he has some knowledge. It follows that if the plain common people, Carlisle's fools, can make a wise selection of their own rulers, that such a selection must be made under circum-

stances which give them an opportunity to exercise their best judgment. We must, of course, in the last analysis accept Carlisle's sarcastic remark as literally and absolutely true, and acknowledge the great and imminent danger lurking in the power given the great mass of voters not individually qualified to govern others, to govern themselves through representatives of their own choice. It is interesting to examine and ascertain what precautions we have taken to place the voter in a position in which he can exercise his independent judgment: to note the progress we have made as a people in that direction during the past century: and to consider whether or not the changes that have been made in the methods of selecting executive officers have on the whole proved beneficial or harmful.

At the outbreak of the revolution the people of this country were subjects of Great Britain, and as such were under the common and statute law of that kingdom. The courts held, at an early day, that the British emigrant brought with him to this country as his birth-right, the common law of his native land. The colonists not only named their villages, towns and counties after those from which they came, but they governed them in substantially the same manner. Class distinctions existed only to a limited extent. The spirit of democracy during the whole of the 18th century became more and more the dominating spirit in the colonies, and after the independence of the country was acknowledged, the people were ready to incorporate into the national constitution a provision prohibiting the creation of any order of nobility. They established equality between all white men in the nation. The essential methods of administering the government prior to the revolution were retained, and are embodied in the Constitution of the United States. That method is known as the federal system. The entire executive authority is conferred by the Constitution upon the President. He is the sole executive officer elected by the people. All other executive officers are appointed by him, and the only restraint placed upon his power of appointment is the provision that it must be exercised by and with the advice and consent of the Senate. And this restriction was imposed, not with a view of obtaining a more efficient class of executive officers, but to prevent the executive from usurping power and overthrowing the republic, a danger that was wholly imaginary. Not only did the President appoint all the minor executive officers, but also every person who exercises judicial powers and functions under the national government.

A similar system of government existed in the several states. State governments differed in minor details, but in all of them a governor and lieutenant governor were elected by the whole body

of electors, and the governor appointed all judicial and all executive officers.

None of these governments were administered to the entire satisfaction of all the people. And neighbor asked neighbor how it came to pass that a government established by the people, for the sole benefit of the people and administered by the people could possibly fail to satisfy the people. And the people, then, as now, here and elsewhere, being mostly fools, concluded that the imperfection was due, not to the material out of which the government was necessarily constructed, finite men, but to the mechanism of the government itself, and they concluded that if the people selected directly all judicial and executive officers, that the men so selected, receiving their authority directly from the hands of the people, would be conscious of their responsibility to the people, and therefore could not fail to perform their official duties promptly, efficiently and satisfactorily. Immediately a change and modification of the federal system commenced. The idea of electing a chief executive and holding him responsible personally for the enforcement of the law was abandoned, and the people entered upon the task of electing subordinate executive officials, making each independent in his own sphere and responsible for the faithful performance of his duties to the people. The new system was accepted with enthusiasm, especially in the new states. In 1850 the state of Michigan adopted a constitution, still in force, which provides for the election of every judicial officer from police magistrate to chief justice, and of every executive officer from pathmaster to governor. The constitution expressly prohibits the appointment of any judicial officer. The people having observed that the judge who held office by appointment never succeeded in pleasing each of the litigants and often angered both, concluded that his failure to please everybody was due primarily to the fact that he was appointed and not elected. That if the judge was elected, he would be in sympathy with the people, in touch with them, and could not, unless actuated by malice aforethought, render a decision that would not be entirely satisfactory to both sides. That even the poor fellow who was sentenced to be hung would accept his doom cheerfully as having been decreed by the people, and from the gallows itself would salute the people in the words of the gladiators addressing Caesar, "We who are about to die, salute you."

There is an old adage that "the test of the pudding is in the eating." This constitution of ours has been in operation for more than half a century. What has it accomplished?

First: Towards aiding and assisting the people to make a wise and an intelligent choice of their rulers.

Second: In obtaining a satisfactory enforcement of the law.

Third: In giving the people a satisfactory supervision and control over the administration of public affairs.

We do not have to go far afield for an answer to the first query. We may unquestionably assume that every reader of this article possesses the ability and intelligence of the average elector. Which of you who are residents of Michigan and voted at the last state election can answer the following questions:

1. Who were the candidates of the Democratic and Republican parties for state officers at the last state election?
2. What are the official duties of these several state officers?
3. What were the special qualifications of each of those several candidates for the office for which he was nominated?

Not one elector in five hundred ever took the trouble to ask himself either one of these questions. Consequently not one elector in five hundred exercised any judgment whatever in voting for four-fifths of the state officers. The truth is that for more than thirty years the people of this state have in fact had as little to do with the election of state officers as the Electoral College has had to do with the election of President and Vice-President. In theory the people still elect state officers, as in theory the Electoral College still elects the President and Vice-President. As a matter of fact, however, under our system of electing everybody, the people have ceased to elect anybody, except per forma. It having been made impossible for the elector to make an intelligent choice, without a previous expenditure of time which the busy man can not command, the real labor of making an actual selection of rulers has been assumed by a body of men unknown to the constitution—the machine. Now when a man ceases to be his own master, he becomes the puppet, or the slave of another. The ballot necessarily represents intelligence and deliberate judgment exercised by someone. If the elector himself does not possess that intelligence, or, possessing it, does not or cannot exercise his judgment, the intelligence, deliberation and judgment will be found with the man at the other end of the string. The political machine, now and for years past, has governed this state. There are two machines ostensibly. But one has been in the repair shop most of the time since 1896. The machine nominates, and the electors make a great ado shouting, cheering and clamoring under the leadership of trained yell masters, but the prudent and the wise are scrambling for seats on the band wagon attached to the commissary department.

All that is common knowledge. The conduct of the machine has become so arrogant, so insolent, and so outrageously mercenary that for some time reformers have been trying to devise some scheme which will compel the bosses, those political hyenas, to preserve at least a semblance of honesty in their division and distribution of the public carcass. Their amazing effrontery is appalling to all friends of popular government. A year and often two years before an election they openly and ostentatiously parcel out and cast lots for the public offices and the public plunder. To curb their power, laws have been enacted regulating the party caucus. Those laws having proven wholly inefficient, we are now to try the experiment of primary elections, of nominating candidates by a party ballot. It will prove burdensome to the people, expensive and useless. You cannot make a rotten old hulk a safe passenger boat by loading her down to the water's edge with life preservers.

Let us pass to the next query. What has been the effect of our wholesale election of independent executive officers upon the enforcement of the law? How does the enforcement of state laws compare with the enforcement of United States laws? And in considering this question we are to bear in mind that the enforcement of the laws of the national and state governments within our borders is confided wholly to citizens of Michigan. Every United States judge, marshal and district attorney is a citizen of Michigan. It is an open secret that the United States laws are enforced without fear, favor or affection, and it is equally well known that the state laws are scarcely enforced at all. For instance, take the laws regulating the sale of intoxicating liquors. There is not a man in the entire state of Michigan engaged in the liquor traffic who would dare sell a glass of grog without having first paid in full his United States license tax and having complied with all the provisions of the United States statutes. We have not all the facts before us, but, from what we know, we venture to assert that not twenty-five per cent of those same men pay their state license in advance. The reason why the same men treat the United States authority with respect and that of the state with contempt, is on the surface. Every United States marshal and district attorney knows that if the United States laws are not enforced he will be removed from office in disgrace. Each enforces the law that he may remain in office. Many of the sheriffs and prosecuting attorneys believe that if they enforce the state law they cannot be re-elected, and they act accordingly. We need not elaborate that argument. The bare statement of the situation is sufficient. Now, no evil can be corrected by a statute unless the statute is enforced. No statute has any innate

strength and power which makes for virtue. We are aware that there are cranks who think differently, who actually believe that you can make drunkenness impossible by enacting a law prohibiting the sale of intoxicating liquors; that you can fix the value of money by regulating the rate of interest; that you can make sixteen ounces of silver worth intrinsically an ounce of gold by statute. It is unfortunate that their dreams are merely dreams, the visions of a disordered brain. If by act of Congress or the State Legislature we could make every dry crust quail on toast, and every glass of hydrant water sparkling champagne, the holiday season would continue perpetually, and every year would be a year of jubilee. What a happy consummation it would be, if we could by statute eliminate for a short season merely, sin and sorrow, Satan and his allies. New Year's resolutions and statutes are both harmful unless kept. If a statute is not enforced the evil it sought to remedy is given renewed strength because the whole administration of the law falls into contempt. If a good New Year's resolve is broken, the maker's self-respect is diminished, his powers of self-control are weakened and the second state of that man is worse than the first.

Let us examine this constitution from the business man's point of view, in answer to our third query.

There was a time, not long past, when there was a fierce struggle, a bitter contest, between the government on the one side and the people on the other. A contest that involved the personal liberty of the individual, a free press, free speech and freedom to worship God. There are a few countries like Russia where that contest is still raging. But all those questions have been settled here with us for all time, in our judgment. The old battle cry is still repeated that "Eternal vigilance is the price of liberty." It is true, since eternal vigilance is the price of every good thing, of every earthly blessing, honor, integrity, business standing, a pure and blameless life, even the joys of friendship and the sweet ties that bind together family and kindred. We must all stand guard over those precious jewels, night and day. But what have the people to fear at the hands of the state. The people are the state. Who has the slightest, the most remote fear, that he will be deprived of the freedom of speech, the freedom of the press, freedom to worship God? Who fears that if he is charged with a crime he will be denied a speedy trial before an unprejudiced court by an impartial jury of his peers? Not a single public or private right is withheld by the state from the humblest citizen. The danger today comes from our associates, our fellow citizens, our competitors in business and in the struggle of life. There is danger that a square deal will be denied us and

that in the commercial war that is fast involving the entire civilized world that non-combatants, the consumers, will be pillaged and robbed. And so it has come to pass that the crying need at the beginning of the twentieth century in this state and nation is a comprehensive scheme which will enable all of us to live and let others live: which will secure to the wage earner, the capitalist, the employer, the professional and business man, to every individual in every walk of life his own, and will protect every man from the oppression and the rascality of his fellow-citizens. The great problems of government today are largely problems of administration, questions pertaining to business pure and simple. The danger that confronts us is not the danger that the government will rob us, but that she will permit others to rob us.

What we wish finally is to call your attention to the fact that the conduct of public affairs under our present constitution violates these fundamental principles of business which govern and control the management of every successful private enterprise. It is a fundamental business proposition, never denied, never questioned, that every business venture, simple or complicated, limited or of vast proportions, must have a responsible head, a foreman, manager, superintendent, boss, whose powers shall be co-extensive with his responsibilities.

How is the business of the state of Michigan conducted? There is no superintendent, no manager, no boss, no one having charge of and supervision over the management of state affairs.

The governor is styled the chief executive, and he is chief in the sense of being first. But what are his duties? What his responsibilities? He has precious little to do with the enforcement of the general laws. Less to do with general administrative affairs which devolve upon the several state officers. He fills vacancies when they occur in the boards of control of our penal and insane institutions, appoints notaries public and surrounds himself with the members of a gorgeous and resplendant military family. He is merely one of a vast multitude of executive officers elected at the same time, each independent of the others.

What would one think of the wisdom of conducting the business of a great railroad in the same manner? If the stockholders should hold annual meetings, or meetings once in two years and elect a general superintendent, a manager of the passenger traffic, a manager of the freight traffic, all the necessary conductors, engineers, brakemen, baggagemen, trackmen, train dispatchers, etc., assigning to each separate duties and making each independent of all the others? Just a duplicate of the plan by which the citizens of

Michigan manage and conduct state affairs. No one would ship a dead dog over that line without having taken the precaution to skin the animal and save his hide.

Listen to the conclusion of the whole matter. Give the people an opportunity to govern the state. Amend the constitution and provide for the election of just two state executive officers, a governor and a lieutenant governor. Give the governor power to appoint by and with the advice and consent of the senate, the other state officers now elected, with power to remove at will: such officers to constitute his counsel or cabinet. Give him power also to appoint for the same term as the governor holds office, one sheriff and one prosecuting attorney in each organized county of the state. Clothe him with all the power necessary to enable him to enforce the law and hold him responsible for the faithful performance of his duties.

We hold fast to the faith of the fathers, their belief in the ability of the people to govern themselves; that they are honest, true and just; loving righteousness and hating iniquity. We believe if you will permit the people to conduct public business upon business principles, giving them an opportunity to elect the boss and to rid themselves of self-constituted bosses, that they will establish and maintain in Michigan a government of the people, by the people and for the people.

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