

The Forum

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"Let us make our education brave and preventive. Politics is an after-work, a poor patching. We are always a little late. The evil is done, the law is passed, and we begin the uphill agitation for repeal of that of which we ought to have opposed the enacting. We shall one day learn to supersede politics by education."—Ralph Waldo Emerson, "Culture."

Direct Legislation.

Alderman Robert Ryan, of Three Rivers, a fundamental democrat (may the tribe increase), sends to *The Forum* an editorial from the New York Evening Journal, on "Public Ownership, the Recall, the Initiative and Referendum." The concluding paragraphs are striking and true:

"We must make up our minds to face the after-war problems. We cannot escape facing them if we were lazy enough and cowardly enough to want to escape facing them."

And it is not a bit too soon to begin to consider those problems thoughtfully, to discuss them thoroughly and reasonably, and to put in operation as soon as can be done some of the fundamental changes which it is clearly apparent are bound to come. We must adapt **THE RECALL** in order to make officials, including judges, **AFRAID** to do wrong, **AFRAID** to betray their trusts.

We must adapt the **INITIATIVE** and **REFERENDUM** in order to **COMPELL** legislatures and congresses to pass such laws as the people want, and to make is **USELESS** for legislatures and congresses to pass bad laws at the behest of corrupt interests.

And we must adapt public ownership of public utilities. These are the three great fundamental reforms which are bound to come.

THE EVER PRESENT LAND PROBLEM.

Litigation Large and Small.

It is said that the most trivial lawsuit ever brought to trial was heard in Scotland and involved a halfpenny tramway fare, the canny Scot recovering the "bawbee" which the tram car company had exacted for a return trip after carrying him past his destination. Undoubtedly the largest lawsuit on record is now pending before the judicial committee of the British Privy Council, involving a claim of seventy-two million acres of land in Rhodesia, asserted by the Charter Company organized by Cecil Rhodes. The case is the more interesting because the claim involves not only the realty but rights feudal in their nature over a native population estimated at nearly one million. A London newspaper says:

"The land adequately populated by natives is much more valuable than vacant lands. A purchaser can at once impose upon the occupants of such lands a tribute in the form of rent of approximately \$5 a head. Thus an investor in London purchasing 5,000 acres, inhabited by 500 or 600 natives, can draw from his investment \$2,500 to \$3,500 a year. The natives will gladly pay him for the privilege of living upon the lands of their forefathers."

No comment can be made on the merits of the situation until the legal proceeding has developed them. It would seem, however, that a grant of land inhabited by so great a number of persons and brought to a state of cultivation where ten acres will support a person will stand looking into in these days when we are discussing the right of self determination for small peoples. The Privy Council may be relied on for fairness and justice, and it is to be hoped that the legal rights of the inhabitants are as substantial as their equities.

CITY MANAGER PLAN.

(From Short Ballot Bulletin.)

There is no instance on record where the manager plan has failed to justify itself by results, although in some places it has not accomplished all of which it is capable. That was to be expected. The plan sets up conditions under which the body politic can function normally and healthfully. It will naturally require time to get all of the old political virus out of the civic system.

ALMOST TOO GOOD TO BE TRUE.

Municipal Ownership of a Coal Mine.

(From Short Ballot Bulletin.)

In order to forestall a possible fuel shortage next winter the city of Jackson, Mich., has bought a coal mine located five miles from the city. Twenty-five years ago there was a considerable coal mining industry near Jackson. The coal veins, however, are only about 3 feet thick and with the development of railroad transportation it was not found possible to compete with low priced coal from the thicker veins in Ohio. For that reason Michigan mines were abandoned. Under changed conditions they can now be operated profitably. Jackson purchased one of these abandoned mines and also secured mining rights on 45 acres in addition. Mining was started by the city about the middle of February. A good quality of bituminous coal for industrial purposes is being produced and promises to become a paying investment and also a reliable source of supply for a considerable quantity of fuel.

DRAINAGE OF SURFACE WATERS.

The drainage of surface waters is one of those legal problems the solution of which apparently must work hardship. Both the civil law and common law rules bring injury in their application. The quotation is: Which is the lesser evil? The common law doctrine grew up through decisions involving city lots, where the adoption of the civil law rule would have prevented development and been contrary to sound public policy. On the other hand, the common law rule is essentially selfish, permitting landowners to cast surface water about as a "common enemy" to be gotten rid of regardless of injury to others. Such a practice is inconsistent with the spirit of the modern social order. Water must flow; it seems therefore that here the natural law may most profitably be followed, with such reasonable limitations as will not impose on either upper or lower proprietors too onerous a burden.

MUNICIPAL OWNERSHIP.

The increased cost of production of practically everything is naturally leading to the desire that municipalities should engage in business if it is clearly in the interest of the citizens.

The following recent cases decided in the U.S.A. may later be of service to us when considering this problem.

(From Cornell Law Review.)

CONSTITUTIONAL LAW: TAXATION: ESTABLISHMENT OF A MUNICIPAL FUEL YARD.—In *James v. City of Portland*, 38 Sup. Ct. Rep. 112 (1917), the Supreme Court of the United States dismissed an action brought by certain citizens and taxpayers of the City of Portland, Maine, to enjoin the creation of a municipal fuel yard in that city. The legislature of the state had given the authority to the city to establish the yard if it so desired. The City had voted to carry out the project and had appropriated one thousand dollars for the purpose. The court held that the taxation for this project was for a public purpose and not a violation of the due process clause of the fourteenth amendment, and was therefore constitutional.

Previous to this decision the authorities on this question were very scan. The matter of the establishment of public fuel yards and the constitutionality of state laws and municipal ordinances authorizing the construction of such yards and appropriating money therefor, had come up in three states: Massachusetts, Michigan, and Maine. In 1892 and again in 1903, the justices of the highest court of Massachusetts advised the legislature of that state that the establishment of public fuel yards, with the idea that they should be at all permanent, would be constitutional. The remarks of the Michigan court in *Baker v. City of Grand Rapids*, while they were largely obiter and not a necessary or controlling factor in the case, were, nevertheless, in accord with the opinion of the Massachusetts court. The Maine court, in *Laughlin v. City of Portland*, took the opposite view and held that the establishment of these fuel yards was in every way constitutional.

The view of the Supreme Court of the United States and of the Maine court would seem to be the one which is more in accord with modern economic ideas and tendencies and with sound public policy. The deviation in the prin-