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## The Story of the Constitution

by CALEB JOHNSON

### XIII. EXPANDING NATIONAL POWERS

While the war between the states was in progress, almost dictatorial powers had been exercised by the Executive. The President, under the Constitution, was Commander-in-Chief of the Army and Navy, and the whole nation was involved in the war. Many things were done under the stress of the war emergencies for which there was no specific warrant in the Constitution. Among these, for example, was the imposition of a national income tax. This, like the other war emergency measures, was abandoned at the close of hostilities. After the turmoil of the Reconstruction period had subsided, there was general satisfaction with the demonstration that had been given of the flexibility of the Constitution. It had been stretched to cover the emergencies of war and reconstruction; now it had shrunk back to its peace-time functions.

But those functions had become far greater than they were, and were to keep on expanding. A new spirit of nationalism had taken possession of the Government, and in the 20 years from 1878 to 1898 Congress and the Executive, some-

times together and sometimes in opposition to each other, undertook to enlarge Federal powers while the powers of the states were constantly being diminished.

The whole social and economic picture of the nation began, in the 1870's, to change from a system based almost exclusively on agriculture, forestry and mining, to one based primarily on industry. Revolutionary new inventions began to appear. Lines of communications multiplied, the great industrial centers began to develop and their products to be distributed throughout the nation. For the first time the United States began to be an exporter of manufactured goods as well as of agricultural raw products.

Just as new ideas of Government had been developed by the pioneer settlers on the Atlantic Coast in colonial days, so new ideas of the relation of the government to the people began to develop in the pioneer West. As the population of the newly created states grew, their influence in national affairs naturally increased. Before long, pressure from the agricultural West induced the Federal Government to assume authority to regulate railroad communications between the states. There was serious doubt of the Constitutionality of the interstate commerce act, in the minds of many, but the Supreme Court upheld it as coming within the purview of the commerce clause of the Constitution.

But when, in 1893, Congress undertook to enact a new income tax law, the Court held it to be unconstitutional. The West, however, was insistent upon an income tax, and after 20 years of agitation the sixteenth amendment to the Constitution, authorizing Congress to impose a tax, was submitted and ratified in 1913.

Out of the agrarian West also came demands which gradually became irresistible, for other changes in the Constitution. The Spanish war of 1898 put the finishing touch to the antagonisms between the North and South and launched the United States upon a broader nationalistic career. So completely dominant was Federal supremacy that President Theodore Roosevelt, in 1906, did not hesitate to advance the idea that state lines should be wiped out.

The power and authority of the Federal Government spread in directions and to distances which the framers of the Constitution could never have foreseen. We annexed Hawaii under President Cleveland. We took possession of the Philippine Islands, 7,000 miles away across the Pacific, and of Porto Rico; almost at the end of the Civil War we had purchased Alaska from Russia and under the leadership of Theodore Roosevelt we embarked upon the gigantic enterprise of the Panama Canal. Probably not one of the men who sat in the convention of 1787 would have called those imperialistic expansion constitutional, but under the clauses authorizing Congress to regulate com-

merce with foreign nations and between the states and to provide for the common defense and the general welfare, the Supreme Court held that the documentary basic law of the land was sufficiently flexible to warrant these acts.

### XIV. THE WEST INITIATES MORE AMENDMENTS

The two-party political system under which the nation had grown from its earliest days was threatened in 1892, when the so-called Populist movement, originating in the wheat-growing states, swept the Western country and parts of the South. This new People's Party elected many members of Congress, and its candidate for President, General James B. Weaver, received 22 electoral votes. This had a profound effect upon the Constitution of the United States, for the demands for Constitutional changes, made by so large a group of voters, could not be ignored.

One of these demands was the income tax, which, as has been pointed out, was later adopted.

Another demand of the People's Party was for a change in the Constitutional method of electing United States Senators; they should be chosen by direct popular vote instead of by state legislatures. The new states that had been carved out of the public domain had little of the tradition of state independence which prevailed in the older East. They were creatures of the Federal Government, with no previous independent existence. To the people of the West, there was nothing especially sacred in the original plan of the Constitution, which regarded the State Governments, as represented in their legislatures, as somehow superior to the people. The West had no especial reverence for its own legislatures; its people were mainly farmers, with all of the farmer tradition of personal liberty and "rugged individualism."

Another of the demands made by the People's Party for a Constitutional change was equal suffrage rights for women. The Democratic Party, in 1896, captured the People's Party by adopting most of its tenets. These, therefore, became partisan political issues, so it was not until the Democratic Party had obtained control of Congress that these People's Party amendments to the Constitution could be submitted to the states for ratification. Like the income tax amendment, it took 20 years and more of public discussion to bring about the 17th amendment for direct election of Senators, which was ratified in 1913.

The 19th amendment, giving nation-wide suffrage to women, in 1920. Prior to 1920 women had been granted the right to vote in 22 states, beginning with Wyoming. This was another great popular movement, which, like Prohibition, had its origin in the East but its strength in the West. When the United States entered

the World War the majority of the states had already voted themselves dry. As a wartime emergency measure Congress enacted a temporary national Prohibition act. The opportunity was seized upon for the submission of a Constitutional amendment for the perpetuation of national Prohibition. This, the 18th amendment, was ratified in January, 1919. After 14 years of unsuccessful efforts to enforce prohibition, this 18th amendment was repealed by the 21st amendment, ratified in 1933. This is the only instance of a Constitutional amendment being repealed by another amendment.

It has been pointed out that Supreme Court decisions have rarely resulted directly or indirectly in amendments to the Constitution. One Supreme Court decision, however, holding a law of Congress unconstitutional, brought about the submission of an amendment which has been awaiting ratifications for 11 years. It would prohibit interstate commerce in the products of child labor.

The 66th Congress enacted a law which had intended to prevent the exploitation of children in industry, but before its provisions became effective the Supreme Court held that this was an invasion of the rights of the states and therefore beyond the power of Congress. The 68th Congress, in 1924, submitted an amendment removing that restriction upon Congressional authority. Only 21 of the 48 states have as yet ratified the child labor amendment, which must be ratified by 36 states before it becomes a part of the Constitution.

### NEXT WEEK: BRINGING THE CONSTITUTION UP TO DATE

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These thoughts are the basis of a series of thumb-nail sketches entitled, "Milestones of American Genius," which will begin in the Carolina Watchman soon and continue once a week for an indefinite period. Each article will review briefly a distinguished American career. The series will include writers, artists and inventors as well as statesmen, generals and captains of industry. The list includes:

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