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"Without or with offense to friends or foes
I sketch your world exactly as it goes." —BYRON.

Nullification

The courts are nullifying, one by one, the inherent rights of the individual as set forth in the Bill of Rights and its demolition seems only a question of time, Volsteadism and the expansion of government by snoopers.

There is no longer any guarantee against invasion of one's premises or "castle," no guarantee of the sanctity of private property, no guarantee of the rights of speedy trial, no guarantee of rights reserved to the individual states.

The search, seizure and warrant articles of the Constitution are not the only ones the courts have nullified. We have right of trial by jury denied in certain instances; we have double and triple jeopardy for the same offense; we have deprivation of liberty and property without due process of law; we have excessive bail, excessive imprisonment and excessive fines; we padlock and we destroy in violation of the bill of attainer clause and we deny recompense for illegally seized property.

* * * *

If a court by chance upholds the constitution, a rehearing is speedily had, the court sees the light and obligingly reverses itself, as recently happened in the Oregon supreme court in the McDaniels case. Last January, in a majority opinion written by Justice Pipes, the court held:

An officer has the authority to search the person of a man when he holds a search warrant issued to him by a magistrate * * * or he may search a man who is in his custody by virtue of a legal arrest to answer some criminal charge pending or in contemplation. * * * It is admitted here that the officers had no search warrant. If the search was legal, it must come within the authority of the officers to search the prisoner in their legal custody to answer for some crime. If it does not come within that rule, then it comes within the prohibition of the constitution against illegal searches.

And six months later we have a majority opinion in the same case, written by Justice Belt, which reverses the former opinion, holding—

It is immaterial whether the arrest preceded or followed the search if such acts were practically simultaneous, and if, in fact, the defendant was guilty of committing a crime in the presence of the officers for which he might have been arrested. In many instances it is dangerous for an officer to go through the formality of stating that the accused is under arrest, and the law does not require him to do so. It is often times safer to act first and talk afterward.

* * * *

The Pipes opinion held that the fact that a deputy sheriff "smelled whiskey on the defendant's breath; that his overcoat was buttoned awry; that his face was flushed, was not evidence that the man had liquor in his possession," they (the officers) were willing to arrest the defendant to answer for the crime of having liquor in his possession when they could produce no evidence to support it.

The Belt opinion holds "the sense of smell often more unerring than the sense of sight" and that flushed face and wrongly buttoned overcoat were evidences of intoxication and justified search without a warrant and such search on suspicion and seizure without warrant legal and evidence obtained thereby admissible.

If there remain any vestiges of those fundamentals of freedom guaranteed in the Bill of Rights, we can be certain some complaisant court will nullify them, even if the court has to reverse itself to do so, or it becomes necessary to change facts to fit argument.

One Wife on Approval

By Violet Dare

A DECISIVE STEP

Noel Gardner called for Cynthia promptly at ten o'clock the next morning. She had spent a wakeful night, too much worried over her husband's actions to sleep. It seemed so queer that Jim should go off on a long trip without even asking her to go with him.

"Of course, when he left here he didn't know that he was going to Honolulu," she reminded herself. But she couldn't help remembering, also, that there had been plenty of time for her to join him if he wanted her to. And he had said that his trip would be lengthened by the fact that he was to investigate some of the properties in which his mother invested—when her heaviest investments had been made right there in town!

"He's not playing fair with me," she told herself over and over again. "And if our married life doesn't go smoothly now, what hope is there for the future?"

She was glad to see Noel Gardner in the morning; glad to go out with him into the morning sunshine and be driven through the pleasant, sunny streets in his rakish roadster.

"I ought to tell you the truth about this apartment I'm taking you to see, I suppose," he remarked. "It is one which my wife and I took just after we were married, but we never lived in it. She was taken sick shortly after our marriage—had a bad case of influenza that developed into pneumonia—caught cold on our honeymoon, and it nearly turned out fatally. We had been home only a few days when she was taken sick, and as we were having trouble getting servants, she went to her mother's.

"When she was well again, she came home for a short time, and then something happened—things didn't go quite smoothly—and she went home again, and shortly after that went abroad with her parents, and hasn't been back since. I kept the apartment, believing that she would come back to me—to it, that is—but she divorced me just recently in Paris, and of course there's no need to keep a home here any longer."

"Oh, I'm so sorry!" exclaimed Cynthia. She looked up at him sympathetically. He was so good looking, so nice—how could any woman treat him so! Well, Cecile Malcolm had said that the girl's parents had objected to him—but his wife, if she cared enough for him to marry him, certainly should have stuck to him, she told herself.

"I'd be awfully glad to have you have the little place," he went on. "I've spent a good deal of time in it, and really it's a very pleasant apartment. But tell me—if I'm not too impertinent in asking—why are you giving up your house?"

"Oh, it's too big for me to stay in alone, and Jim expects to be away for some time," she answered trying to speak casually, as if her husband's absence did not matter. "I'm really rather lost in a big house, even when he is home—there's so much responsibility about managing it, you know; I'm not accustomed to looking after things, and even with good servants it's difficult."

"Yes, of course," he replied. She looked at him quickly; there was a hint of something more than mere politeness in his voice, it seemed to her. But his face was grave; to all intents and purposes he was merely watching the road, more intent on threading his way through the traffic than on what she was saying.

She exclaimed delightedly as he unlocked the door of the apartment a few moments later, and stepped aside to let her enter. It was beautifully furnished, everything being well selected and effectively placed. There were many books about, the chairs were wide and comfortable looking, the few pictures exceptionally good. There was a hall, a large living room with an alcove that had been turned into a library, a sun porch, a dining room, two bedrooms, with adjoining baths a tiny boudoir, and a kitchen that was a delight.

"Oh, this is lovely!" Cynthia cried, as they walked back to the living room. "It's one of the prettiest apartments I've ever seen. But I'm afraid I can't afford it—the rent must be awfully high!"

"No—not to you," he answered with a smile. "You see, I own this building, and as you'll want the apartment for just a short time, it will be a convenience to me if you will take it. I could leave a few things here—that is, if you won't mind? Really, you'll be saving me the trouble of having the place put in shape for strangers, and storing some personal belongings that I won't have room for at the club. I'll be greatly indebted to you if you'll just come here to live and not say anything about rent."

"I couldn't do that," Cynthia answered. "You must charge me what you would anyone else, or I can't take it."

"Very well, if you insist,' he replied, rather stiffly. "Shall we put it at one hundred a month?"

"But—oh, that must be far too low," protested Cynthia.

"No indeed. You're accustomed to rents in a much larger city—remember that. And, after all, I'm leaving some things here; that would make a difference if we were utter strangers. I assure you that I'm asking you quite enough."

"All right—and thanks ever and ever so much," she replied, as he locked the front door behind him and handed her the key.

"Would you mind my keeping a key, too?" he asked. "I may have to run up here sometimes to get things that I don't expect to need."

"Oh, keep a key by all means," she answered, though she knew how Madame Leland would have disapproved.

Tomorrow—Defiance.

SCOPES TRIAL AGAIN OPENED WITH PRAYER

(Continued from Page One.)

ing prayer. He hoped, he said, that these prayers would "do some good." They will not hurt anyone and "may help."

Clarence Darrow noted an exception to the remarks of the court.

Attorney General Stewart was recognized to say that he had made a remark in court yesterday that he wishes to withdraw. He had expressed himself in a discourteous manner to Mr. Hays, of defense counsel, he said. "I feel very much ashamed that I have not been courteous to Mr. Hays, and there was nothing back of it but a little ruffled temper," he declared.

Apology Accepted

Mr. Hays rose to say that he was happy to accept the apology of the attorney general.

Hays asked that the state's attorneys avoid reference to the states from which the defense attorneys come, and their religious beliefs.

John R. Neal asked the attorney general to then remove from the record a "sneering remark" alleged to have been made toward defense counsel.

Richard Beamish, chairman of the reportorial committee announced to inquire into the premature publication yesterday of what purported to be the judge's decision on the motion to quash, reported that the correspondent did not get the decision from the court's stenographer, and believed, that the correspondent had received it from the court. Judge Raulston asked the sources of information and was told that it came from the court through deduction. Judge Raulston asked who the correspondent was and Mr. Beamish replied that it was William K. Hutchinson of the International News Service. Mr. Hutchinson was asked to come before the court and Judge Raulston asked if he had a statement to make explaining he need not fear to make a statement.

Correspondents Heard

Mr. Hutchinson said that he would prefer to make a statement to the court in chambers.

Mr. Beamish spoke up to say that Mr. Hutchinson was thoroughly ethical.

The court announced that the newspapermen would be given a private audience.

The committee report was signed by four of the five members, Richard Beamish, Philadelphia Enquirer; Earl Schaub, Universal Service; Forest Davis, New York Herald-Tribune, and Tony Muto, New York Evening Bulletin.

Phillip Kinsley, Chicago Tribune, the fifth member, did not sign the report.

Darrow An Agnostic

Mr. Darrow addressed the court in reference to the attorney general's remarks about religious beliefs of members of defense counsel. He said he had no objection to any one referring to him as an agnostic, "for I'm an agnostic." Mr. Darrow objected, however, to reference to creeds and religious beliefs.

Mr. Stewart responded that he was ready to proceed without further reference to religious beliefs of attorneys.

Dayton Sidelights

Dayton, Tenn., July 15.—A.P.)—The story was told in Dayton today how Dudley Field Malone was aped by an ape.

One of the animals, brought to Dayton by publicity seekers, was carried to "the mansion" last night for a visit with the proposed scientific witnesses for the defense, who are making the public house their headquarters here, the story said.

Interested in the animal, the scientists were said to have placed it in Malone's chair at the table around which they were grouped. While they were discussing th ape and subjecting it to various tests, Malone entered the room.

The story was that Mr. Malone, distilling the farce, called an automobile, bundled the ape and his master into it and sent them back to town.

Dayton prepared for a flood and received a shower. The anticipated crowds have failed to materialize. Although hundreds of people have visited the town within the past five days, since the beginning of the trial, the numbers have fallen far beneath the sanguine expectations by Daytonians.

Amplifiers arranged at various places about town, on the court house grounds, in the high school buildings have had scarcely more than a handful of listeners since the beginning of the trial.

Concession stands, which prepared for heavy business during the trial, with the exception of those stationed in the more favorable spots are finding few customers.

Traffic ordinances passed several days ago to aid in preventing congestion about the principal thoroughfares, have had little congestion to relieve. Few times there have been more automobiles on the main street than could move freely.

Newspapermen and women from all parts of the United States have come. Publicity seekers of varied types are here. The cameramen have snapped viciously at everything even remotely connected with the trial of the principals. Several different breeds of fanatics came early. But the thousands of expected spectators are enjoying the trial more comfortably by radio or through the newspapers.

Among the host of publicity seekers are included song writers who have turned their genius to the construction of what they hope will be popular ballads, each with the evolution trial as the predominant theme and the majority with some breed of a "monkey" title.

During a preaching service in one of Dayton churches last night, a vaudeville performance was being conducted in a tent directly across the street.

As the congregation pours its feelings into the song service, a tiny piano banged and the piping voice of a soubrette sounded th words to a jazz song. The conclusion of the hymn across the street was punctuated by the applause given the performers in the tent.

AMERICANS WIN AT PARIS

Paris, July 15,—A.P.)—Charlie Paddock of Los Angeles and Loren Murchison of Newark, N. J., won the 100-meter and 100-yard dashes, respectively, in the University of Paris met at the Paris suburban stadium today. Paddock's time for the 100 meters was 10 4-5 seconds. Murchison made the 100 yards in 10 1-5 seconds.

INDICTMENT OF SCOPES IS HELD VALID

(Continued from Page One)

subjects in the public schools of the state.

"It is true that this provision is rather general in its nature," he said, "and in my conception of the terms employed in the caption and body those used in the caption are broader and more comprehensive than those employed in the body of the act, but in my opinion the caption covers all the legislation provided for in the body and is germane thereto, and in no way obscures the legislation provided for."

Title Held Sufficient

In my judgment the caption * * is sufficient to put any member of the legislature on notice as to what the nature of the proposed legislation is and that the caption is really more comprehensive than the body of the act."

The second point alleging a violation of the constitution provision that the legislature should cherish literature and learning in schools of the state, he passed over with a brief statement of the law, since the point had not been pressed by the defense.

The next, a purely technical point charging the bill had not been read a sufficient number of times in the two houses of the legislature before its enactment, also was dismissed with a simple reading of the constitutional provision.

Religion Not Infringed

Taking up the next phase, which alleged a violation of the constitutional right to worship God, according to the dictates of the individual conscience, he declared he failed to see "how this action in any wise interferes or in the least-wise restrains any person from worshipping God in the manner that pleaseth him. It gives no preference to any particular religion or mode of worship. Our public schools are not maintained as places of worship, but on the other hand, were designed, instead and are maintained for the purpose of mental and moral development and discipline."

He also failed to see how the teachers' rights under the same provision of the state constitution were violated by the act "since there is no law in the state of Tennessee that undertakes to compel this defendant or any other citizen to accept employment in the public schools."

These relations, he said, are purely contractual "and if his conscience constrains him to teach the evolution theory, he can find opportunities elsewhere in other schools of the state * * * and give full expression to his beliefs and convictions upon this and other subjects without any interference from the state of Tennessee or its authorities.

"Neither do I see how the act lays any restraint on his right to worship according to his dictats of his conscience. Under the provisions of this act, this defendant, or any other person can entertain any religious belief which most appeals to their conscience."

Liberty Not Restricted

The statute, he also held, does not unlawfully deprive Scopes of any of his liberties, privileges or property.

The alleged vagueness in the indictment, he held, did not exist, since it "substantially copies the word of the statute and therefore is sufficiently certain."

Weakness charged in the law in that there was an alleged discrimination against teachers as a class he dismissed with a reading of a ruling by the state supreme court, which it was held "that class legislation which have applied equally to all that are in or that may come into the like situation and circumstances and which makes a reasonable and natural classification, if valid and constitutional."

Discussing the alleged violation of the 14th amendment to the constitution of the United States, Judge Raulston read a portion of the decision of the supreme court in the case of Meyer versus of the state of Nebraska in which it was held a state prohibiting the teaching of any language except English to children was not in conflict with the fourteenth amendment.

He quoted from the ruling of the state supreme court in the Leeper case, generally cited as the outstanding authority in similar cases in the state of Tennessee, in this case it was held that the establishment and control of public schools is a function of the general assembly and if the legislature deems proper it may abandon one plan and try another.

In conclusion he said:

"It is further pertinently said that it is impossible to conceive the existence of an uniform system of public schools without powers lodged somewhere to make them uniform and in the absence of express constitutional provisions the power must necessarily reside in the legislature and hence it has the power to prescribe a course of study as well as the books to be used and how they shall be obtained and distributed.

We find neither reason nor authority that suggests a doubt to the power of the legislature to require a designated series of books to be used in school.

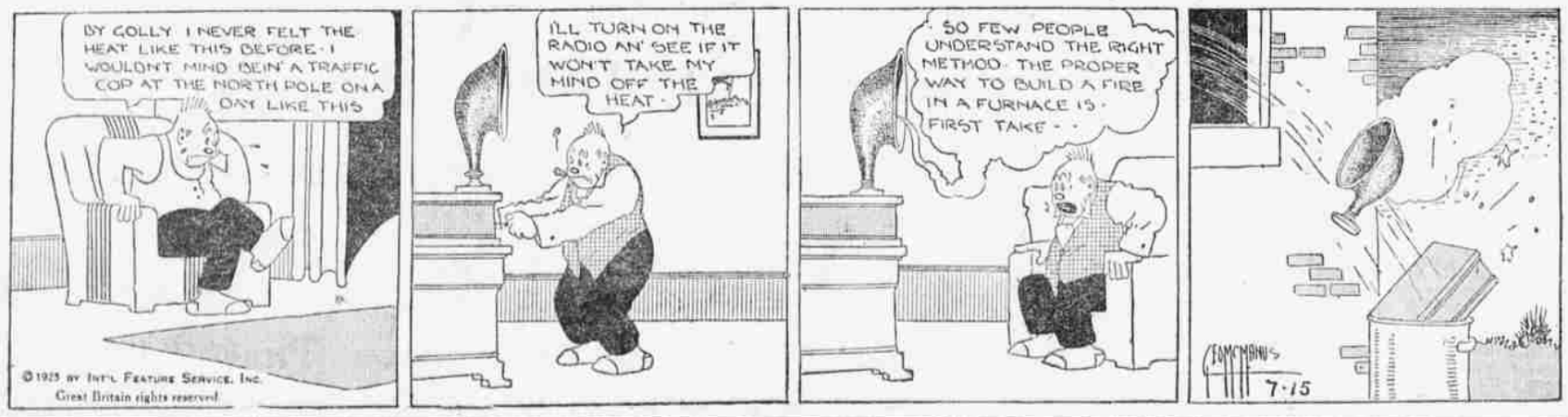
"The rule prevailing in Tennessee by which the courts are governed in passing upon the constitutionality statutes is this: The rule of construction that every intendment and presumption is in favor of the constitutionality of the statute and that every doubt must be solved so as to sustain it; and where it is subject to two constructions that which will sustain its constitutionality must be adopt ed.

"The court having passed on each ground chronologically and given the reasons therefore, is now pleased to overrule the whole action and require the defendant to plead further."

At the conclusion of the reading of the decision, defense counsel noted a exception to the denial of the quashing motion and then filed a demurrer which embodies the same contention of the late motion to quash.

Frank McElwee, Rhea county attorney made his first statement for the defense in noting the exception.

BRINGING UP FATHER — By George McManus



BARNEY GOOGLE AND SPARK PLUG — Barney Is No Heart Breaker — By Billy de Beck

MUTT AND JEFF — Native Son Mutt Feels at Home In Los Angeles — By Bud Fisher