undermining and exploitations. When threatened with too much thinking, or the disposition to think on the part of the masses in matters pertaining to their economic welfare tyranny secretly manufactures pretexts for quelling free speech, free publication and free assembly. Blindly surmising that a cry of spurious patriotism will stave off peaceable discussion, tyranny seeks to arouse the war spirit. Such was a condition preceding the war with Spain. Economic discussion was then getting too ripe. Now, economic discussion is coming to the front again and as Japan war talk seems to be "played out" the old cry of "anarchy", the last resort of the tyrant, comes again into play and the policeman's club is declared to be "bigger than the constitution."

The masses, at least the majority, may not know what ought to be done, but they do know instinctively that the proposals our leading men in power offer for their relief are only makeshifts for keeping the privileged firmly seated upon their backs. Before you call them ungrateful, gentlemen, please get off their backs.

JOSIAH EDSON.

GOVERNMENT BY CONSTRUCTION.*

In an opinion lately rendered by the supreme court of the United States, through Justice Holmes, it was held that E. H. Harriman and banker Kuhn should not be required to answer the interstate commerce commission's questions concerning dealings in stocks between the Union Pacific and other roads to which they refused to make response when the subject was under investigation in New York a short time previously. Justice Day, in constructing the decision of the court in a dissenting opinion, expressed the opinion that "the construction given the interstate commerce law takes from it all power of investigation."

This nullifying of the acts of the Congress of the United States, calls to mind the decision of the Supreme Court in the Legal Tender Act, by which decision the financial policy of the government was invalidated.

Later, and after a change in the personnel of the court, this same act was validated, and then again invalidated. The income tax had for over one hundred years been held constitutional, when by the decision of this court, by a single deciding vote, it was declared unconstitutional, its provisions set at naught, notwithstanding the law had passed congress almost unanimously, after a thorough discussion on the part of both branches of the government, in which were many lawyers more able than members of the court, and especially so than the vacillating judge whose one vote nullified the acts of several hundred representatives of the people.

These decisions of the Supreme Court, together with a score or more of other decisions handed down within a few years, should set the people thinking. They should cause the people to inquire as to whether or not we in the United States, have even a representative form of government.

The earliest form of government adopted in this country, as evidenced by the New England Town Hall plan, was democratic. The people had a voice in the government, each locality governed itself, and where its interests were joined with the interests of other localities, they were cared for by representatives. Of late the congress has not even represented the people, since the Senate is notoriously composed of those who represent special interests, and the House is controlled absolutely by the Speaker and the committee on rules.

This latter feature of government monstrosity, should receive the attention of all thinking citizens, but the immediate object of this article is to discuss the question as to whether or not the Supreme Court itself is constitutional, and a brief review of the history of the court, with reference to this question, may enable the reader to form a correct conclusion.

*The writer of this editorial has been a Single Taxer for many years. Was editor of the Daphne, Alabama, *Standard*, a bright weekly publication until its recent suspension. Was National Committeeman from Alabama in the early days of Single Tax organization. Is a writer whose work is distinguished by calm, logical precision of statement that has made him a formidable advocate of our principles. In this editorial contribution Mr. Norton raises a somewhat novel point.

—Editor SINGLE TAX REVIEW.

When the constitution of the United States was framed in the convention of 1787, it was proposed that judges should pass upon the constitutionality of the acts of congress. This proposition was defeated then and several times afterwards, when proposed. The opinion was universal among men of that day, that the judges ought not to have the authority to declare an act of the congress void. As Madison declared: "The laws ought to be well and cautiously made, and then be incontrovertible."

Prior to this convention, the courts of four states—New Jersey, Rhode Island, Virginia and North Carolina—had, in a tentative way, expressed the opinion that they could hold the acts of legislatures unconstitutional.

The disapproval of the people was so decided that not a state then adopted the doctrine, Rhode Island by an act of its legislature retiring the offending judges. An able writer in an article published in a trade paper in Chicago, says, "The subsequent action of the Supreme Court in assuming the power to declare acts of congress unconstitutional is without a line in the constitution to authorize it. The constitution cited carefully and fully the matters over which the courts should have jurisdiction. There is nothing, and, after the struggle four times repeated, and the persistent refusal to vote jurisdiction, there could be nothing indicating any power to declare an act of congress unconstitutional or void. Had the convention given such power to the courts, it would certainly not have left its exercise final and unreviewable. It gave to Congress power to override the veto of the president, thus showing that in the last analysis the will of the people, speaking through the legislature, should govern. Had the convention supposed the courts would have assumed such power, it would certainly have given Congress some review over judicial action, and not have placed the judges irretrievably beyond "the consent of the governed," as well as further clothing them with the undemocratic prerogative of life tenure and making them appointive. Such power does not exist, and never has existed in any other country. It is non-essential to security. It is not conferred by the constitution, it is contrary to the will of the convention. Judges not only have never exercised such power in England, where there is no written constitution, but they do not exercise it in France, Germany, Austria, Denmark, or any other country which, like them, has a written constitution. A more complete denial of popular control of this government could not have been conceived than the placing of such unreviewable power in the hands of men not elected by the people and holding office for life." That the people should long submit to the dictations of a few men, non-elective and holding their positions for life, is not possible in a land where the democratic spirit is yet alive.

For the condition which confronts the people of this country, prompt and radical action is called for. Two reforms should be adopted. First, making the office elective and not appointive, and second, providing for a judicial examination of and opinion upon acts under consideration by Congress, after which examination and opinion, congressional action thereon should be final and unreviewable by any body other than by Congress itself. We have passed from a democratic form of government to that of a representative one, and from that to one where the people are ruled by the constructive views of a non-elective body of nine men, one of whom may determine, as has often been the case, the most important interests. Such a condition of affairs is simply intolerable, and must work its own destruction, or the destruction of the liberties of the people.

EDWARD QUINCY NORTON.

OUR bright little contemporary, the *Standard*, of Sydney, Australia, reprints from the SINGLE TAX REVIEW the letter of J. Salmon, of Baltimore, whose definition of the Single Tax was given as only "the method of paying for what you get."

THE Wicklow *People*, Wicklow, Ireland, reprints "The Single Tax" by Henry George, and credits it to the Manhattan Single Tax Club, which has circulated this tract in great numbers.