

## IN CANADIAN PRAIRIELAND.

Ceylon, Saskatchewan.

Western Canada is an acute sufferer from the high cost of living. Added to this, the congestion and demoralization of her freight traffic has well-nigh produced a crisis. Only Anglo-Saxon staying power, combined with the well known Western adaptability and dauntless optimism, prevents a crisis.

Canned goods sell at almost prohibitive prices; even dried fruits are a near-luxury. Home-produced meats, butter and eggs, depending on the local market, vary in price, from nothing to the utmost limit of the pocketbook. Cotton goods are said to be higher than in any other civilized country, and lumber is as high and farm machinery 30 per cent higher than across the border. The price of draught horses takes your breath, and freight rates make you dizzy.

Now, don't take it from this that the back trail is lined with disheartened settlers. The toe marks all point westward and northward, and the procession still continues. But this terrible drain has caused Western optimism to pause and consider. Some of our troubles will disappear with a more symmetrical development that is bound to come later, but inefficient service and greedy monopolies are problems that call for special treatment. And the lines that self help has taken in these matters are both interesting and instructive.

The first fight—some dozen years ago—and the perennial struggle ever since have centered about the grain trade. The elevators and flour mills are the basis of Winnipeg's aristocracy. In the grain trade we have seen individualism rampant (on a monopoly foundation), government supervision, co-operation, and now we have the promise of government ownership. The signs point to a union of these last two as the final solution.

In the early days of robbing-elevators and irresponsible commission men a happy genius proposed a commission firm of farmers. The Grain Growers' Grain Company was the result, and now it is one of the largest dealers on the Winnipeg Exchange; its stock is held all over the prairie Provinces, and it is planning an entry into the lumber and other industries.

The Manitoba government has established a system of government (local) elevators, but these merely store and ship grain; they do not buy. Last year, in Saskatchewan, a co-operative company, backed by a 20-year government loan of 85 per cent of its capital stock, started business with 48 elevators, buying about a million bushels and shipping another million for the farmers. This year they hope to build a hundred more, and do a much larger proportionate business.

The Alberta farmers, after watching the two systems, have decided in favor of the co-operative system with government aid.

The present Federal ministry went into power last fall with a promise to acquire and operate as a public utility the great terminal elevators. That was conceded to be the only efficient preventive

of the mixing of low-grade wheat with higher, which is so profitable to the mixer but injures the wheat's reputation abroad and depresses the market at home. Now the Borden ministry find either that the job is too big or that the pressure of elevator interests is too great; for they have announced their intention to acquire some of the terminal elevators, a plan that the farmers assure him is perfectly unsatisfactory.

The Hudson Bay Railway, the long-cherished if somewhat dubious outlet to the sea, still claims our attention, but the West has steadfastly demanded that it be government built, owned and operated.

The Alberta farmers have long wanted to secure chilled meat plants to enable them to get their beef, pork and mutton to foreign markets. Private enterprise has neglected it, co-operation has not risen to it, and the Provincial government has fought shy of it. Last fall this was included in Borden's election promises. He hasn't got to it yet on the docket.

The three prairie Provinces have bought out the great Bell telephone system, and are operating the lines, for the most part successfully. Rural lines, groups of ten farmers, are encouraged to form co-operative units, leasing the poles of other groups to connect their wires with the long-distance.

A bill is now before the Saskatchewan legislature (a similar one has been asked by the farmers of Alberta) to provide government hail-insurance. The local governing divisions (rural municipalities) are to decide, each for itself, whether they shall take advantage of the protection afforded.

The Provincial governments have been very successful in their employment bureaus, by which every summer they distribute immense numbers of transient laborers to the harvest fields where they are needed. They have also undertaken to import farm laborers and domestics for permanent employment.

It is only a question of time when the general and bitter complaints of railway inefficiency and extortion, whether merited or not, shall crystallize in a demand for government railways. I believe a general acquaintance with the Australian system would bring about that consummation in five years.

Many of these problems, and at least one other, that of retail distribution, could be solved in a better way by co-operation—co-operation, so much talked of and so little practiced—but co-operators, impatient or discouraged at their slow progress, take the short cut and appeal to the government.

This is the Western way.

GEO. W. ATKINSON.

## JUDGE-MADE LAW—BRITISH AND AMERICAN.

Pembroke College,  
Oxford University, England.

In the recent discussion over the recall of judges, several correspondents, and perhaps the editor of The Public, made one statement not quite strictly true. In commenting upon the relative satisfaction

with judges in England as compared to the United States, it was stated that here judges do not make law. On the contrary they do make law and perhaps even more than the American courts. There is, however, a vital difference. When an American court makes an obnoxious ruling, there is no remedy for it; when an English court makes a ruling that meets with popular disfavor, a bill is introduced in Parliament enacting the contrary, and that stands as the Supreme law.

Englishmen point out that Parliament is already swamped with business; that in legal matters judges are the best qualified to make laws anyhow, and that in nine cases out of ten this extra-Parliamentarian law is most satisfactory. The same might be said of America. The rub comes in the tenth case where the British have a remedy and we have none.

In England, Parliament, under the people is supreme. Historically, it is the descendant of the folk-moot and, actually, it is today regarded as the legal gathering of the entire people of the land. Naturally, then, it is supreme, for even the worst Tories seem to realize that in the last analysis government does derive its just powers from the consent of the governed. It took the American Revolution to teach them that.

In America, the people chose, for good or ill, to repose the supreme power not in a body of men but in an instrument. In England, Parliament is the embodiment of the voice of the people; in the United States, it is the Constitution.

That Constitution provided that the three great divisions of government—executive, legislative, judicial—should be equal. How then do we get the spectacle of the judicial branch overriding and setting aside the work of the legislative? Nothing could really be more simple. If the Congress pass a law which the Constitution does not permit it to pass, Congress is not a law-making body but a set of men illegally representing themselves as such, and any man, if he believe such to be the case, is perfectly justified in refusing assent to such a law.

He is, therefore, arrested and brought before a court. His defense is that Congress has exceeded its authority in passing such an act and that that act is not law. The court examines the case and sustains the defense. There its authority ends. Even tho this court were the Supreme Court, it cannot take the bill off the statute books. It can only say that all executive action under it is unauthorized.

Nothing could be more natural than this process, or more inevitable. Since the people set up a Constitution and made Congress subject to it, some one must decide when and how far Congress has exceeded its Constitutional powers. The courts are indeed well fitted for this, in general. It has been assumed in the past that something partaking of the nature of a court must exist where such matters can be adjudicated, and all remedies proposed for the excessive and overweening power of the courts have been aimed at their appointment, term of office, etc.

There is, however, another tribunal before which Constitutional disputes may come for settlement—a power superior not only to Congress and the Federal judiciary but to the Constitution—the people of the United States.

If the Constitution really is the living voice of the sovereign people, who, better than the people, can say what that voice means?

The method of procedure is a matter of detail once the principle is accepted. As an example of how it might be managed, consider this: If Congress in two successive sessions pass a bill which the Supreme Court holds unconstitutional, a deadlock exists between two equal powers. Recourse must, therefore, be had to their common master—the people.

I believe that this stupendous and far-reaching change in our government is possible by a mere act of Congress. The Ninth Amendment to the Constitution declares, "The enumeration in the Constitution of certain rights, shall not be construed to deny or disparage others retained by the people." The Tenth declares: "The powers not delegated to the United States by the Constitution nor prohibited by it to the States, are reserved to the States respectively, or to the people."

Clearly the power to interpret the Constitution was not "delegated to the United States." Clearly also, this is evidently not a matter for State action, for we should have forty-eight separate interpretations possible. The only logical result seems to be that the power of interpreting the Constitution is reserved to the people.

It only remains to set up the machinery for this interpretation.

HORACE B. ENGLISH.  
(Junior Rhodes Scholar from Nebraska.)

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## NEWS NARRATIVE

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The figures in brackets at the ends of paragraphs refer to volumes and pages of *The Public* for earlier information on the same subject.

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Week ending Tuesday, April 9, 1912.

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### End of British Miners' Strike.

Subsequent to the cable dispatches noted last week, there came dispatches reporting an adverse referendum vote by the rank and file of the strikers, those published on the 3rd putting the vote then heard from at 123,000 for returning to work under the terms of the Parliamentary minimum-wage bill, and 135,000 in the negative. This adverse majority of 12,000 was reported on the 4th as having risen to 43,000. Nevertheless, the executive committee of the Miners' Federation recommended resumption of work, and its recommendation was adopted on the 6th by the Federation by a vote of 440 to 125. The controversy at the conference of the Federation was bitter, but the moderates won because 60,000 striking miners had already returned to work and as many more were expected to do so within the next two or three days. [See current volume, page 323.]