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# Result of Our Referendum

the above mentioned provision of the Bill of Rights which declares that "no State shall pass any bill of attainder or ex post facto law" and, thereby, make unlawful what had not been unlawful when done.

One may wonder what would have happened if constitutional guaranties were dependent for their vindication upon a political or servile court, in the era of hysteria that followed the World War when attempts were made, in various States, to regiment the children of the country, to compel their education in State schools conforming to State standards, and to substitute the guardianship of the State for the guardianship of the parent. Fortunately, however, the Supreme Court was neither political nor servile, but fearless and independent, and it thwarted these attempts in the foreign language cases (**Meyer v. Nebraska,** 262, U. S. 390; **Bartels v. Iowa,** 262 U. S. 404), and in the Oregon School Law case (**Pierce v. Society of Sisters,** 268 U. S. 510.)

What has happened before may well happen again. Governor Pierce of Oregon, who was responsible for the Oregon School Law, is now a member of the House of Representatives. Who is to say that his views have changed, or that he would not advocate a similar measure if there were a public clamor for its enactment, and he were aided and abetted by a sufficient number of Senators and Representatives who entertained similar views?

The plight of the Church in Mexico should be an object lesson to all Americans. That plight is due to a lack of constitutional government, a bill of rights and a free and courageous court to make both effective.

Let us in America learn from the sufferings of our neighbors in Mexico, and cling tenaciously to our time honored and oft proven bulwark of constitutional liberty—the Supreme Court of the United States.

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## RESULT OF OUR REFERENDUM

The referendum of our members on the President's proposals resulted in the following vote:

QUESTION ONE: **a.** With respect to appointive power of President to the Supreme Court of the United States... Yes, 79, No. 347; **b.** With respect to appointive power of President to the United States Circuit Courts of Appeals, District Courts and other Federal Courts. Yes 116, No 301.

QUESTION TWO: On empowering Chief Justice to assign Circuit Court Judges and District Court Judges outside of their districts. Yes 224, No 189.

QUESTION THREE: On apportionment of administrative assistant by Supreme Court. Yes 225, No 191.

QUESTION FOUR: On notice to Attorney-General of pendency of constitutional questions. Yes 245, No 166.

QUESTION FIVE: On authority of Attorney-General to appeal directly to Supreme Court. Yes 255, No 161.

QUESTION SIX: On retirement of Judges — privilege. Yes 324, No 107.

## ON COURT REORGANIZATION

The argument, about a year ago, was: that the constitution of the United States was written and adopted by an outmoded people; that it was obsolete and now largely useless. Some of us do not agree with this view, of course, but, at any rate, any needed changes, must necessarily be made by amendment. This it is claimed now, takes too long, and it is now claimed that the members of the Supreme Court are too old to properly interpret the language and meaning of the constitution. That a set of younger men on the bench will interpret it so that amendment will not be needed.

Now will any one please tell us how plain English can mean one thing to an old man, and the reverse to a younger one? True the justices do not always agree, but this is not due to difference in the age of the judges.

Is it not plain then that this court reorganization is nothing less than an attempt to destroy the constitution by forcing a false construction of its provisions? That after all, it is the constitution which is under fire and not the court or the Judges? Is this "supporting and defending the constitution against all enemies foreign and domestic?"

M. C. FREDRICKS.

## ON CONTRIBUTIONS TO THE BAR BRIEFS

Bar Briefs is not the property of any individual, or any group of individuals, but on the contrary is the property of all the members of the association which pays the bills. Its pages are open to all who desire to express themselves on matters of interest to the Bar. That contributions of this class are infrequent is a source of regret to the editor. Articles from members of the association would unquestionably enhance both the general interest and the value of Bar Briefs.

The proposal to increase the membership of the Supreme Court of the United States is so uppermost in the public mind that it deserves the widest possible discussion from all points of view. The forceful and sincere presentation of the opinions of the minority of the members in this state merits consideration the same as that of the majority.

## OUR SUPREME COURT HOLDS

In State of North Dakota, vs. Harold Osen, doing business as the Wahpeton Floral Company,

That under the provisions of chapter 315 of the Session Laws of 1931, when an employer is alleged to be in default in the payment of premiums, the bureau is required to "cause suit to be brought" in the courts of Burleigh County or of the county in