

Letters to the Tribune's Editor

I wholly disapprove of what you say and will defend to the death your right to say it.—Voltaire to Helvetius.

E. B. O. as Dramatic Critic

Airship C-2's Flight

No Entry in the Log to the Effect That It Cirled Over Manhattan—Air Service Statement

To the Editor of The Tribune.
Sir: The chief of air service has directed this office to invite your attention to the statements contained in an editorial appearing in the July 31 issue of your paper. This editorial is entitled "If the Blimp Had Bumped," and it is evident that its writer was under the impression that the airship C-2 had passed over Manhattan at a low altitude.

You are informed that there is no entry in the airship's log to the effect that the airship "circled over Manhattan," that, as a matter of fact, this airship did not at any time pass over Manhattan Island. The C-2 did come down to a low altitude over Coney Island for only a period of time sufficient to identify its location. At that time it maintained a sufficient altitude to have bumped the Atlantic if it had been necessary to have bumped anything. It then came in and circled the Statue of Liberty. At this time, as during its entire visit to Manhattan, a landing would have been effected in the water if trouble had developed. The inhabitants of Manhattan were at no time in danger from the visit of this airship.

The above statements are based on the official report of the trip of the airship C-2.

There is included in your editorial a further statement that "as a matter of fact, if the version of the trip given by Captain Kepner, in command, is correct, he is guilty of violating the ordinance forbidding low flying over the city." This office referred your editorial to Captain Kepner and I quote from his reply as follows: "I have given out no version of the trip indicating a flight over Manhattan, and did not fly over Manhattan."

It is believed that if this country should be compelled to engage in another war the Army Air Service would be called upon to play a very

important part in the defense of Manhattan. It is the desire of our chief that the army be prepared for such an eventuality. As part of that preparation, it is necessary that our airships and airplanes indulge in night flying. A flight over Manhattan had been planned for the airship C-2 as part of this training. However, this flight was to have been made at such an altitude as would not endanger the life of any of Manhattan's inhabitants. The trip over Manhattan was abandoned because of the weather conditions, which would have required flying at an altitude so low as to be dangerous to Manhattan.

In the present development of aeronautics and in the absence of landing fields, radio communications, meteorological stations, beacons and other aids to air navigation, flying under conditions which our military pilots must be trained to meet is at many times hazardous and often accompanied by unavoidable losses. There does exist a very slight and unavoidable danger to civilians as a result of our necessary military training flights. However, the chief of air service has and will continue to instruct his personnel that at all times must so conduct their flights that the danger to civilians will be so slight as to approach the irreducible minimum.

As the preceding statements represent the facts of this trip and the true attitude of the chief of air service, he greatly regrets that your editorial may have led the inhabitants of Manhattan Island to believe that he or any of his officers was careless of their safety. Especially so, as the trip was undertaken to provide data to be used for their future protection in case of an emergency.

D. S. SEATON,
Acting Chief of Division,
Washington, D. C., Aug. 25, 1922.

Police Field Days

Good Games in a Good Cause—Subscriber Uneasy About Funds

To the Editor of The Tribune:
Sir: Once more we are all invited and very many of us personally solicited by uniformed members of the force to purchase tickets for the games (at Jamaica racetrack this year) to be held on the field days, September 9 and 16, for the benefit of the police relief fund.

I have been, and am now, a firm believer in the cause for whose benefit these games are held annually. From personal experience I can affirm that any one who purchases a ticket and attends the games will reap more than his dollar's worth of enjoyment.

But there are many thousands of people who purchase not one ticket but numerous tickets for these games, from year to year, with no intention of attending. They purchase tickets for the benefit of the police relief fund.

Here is a public solicitation, conducted largely by personal calls at your office or at your home by members of the police force. Large sums of money are taken in and a public accounting should be rendered. A widely published statement of gross receipts and total number of tickets sold should be issued, with a detailed statement of expenses and a final showing of just how much was turned in to the treasury of the fund.

This is not asking too much on the part of the subscribers. Yet I cannot recall that such a public accounting, at least in sufficient detail, has been made as to the results of former field days.

EDWARD S. FIELD,
New York, Aug. 31, 1922.

Bavaria's Stuart

To the Editor of The Tribune:
Sir: Some one once said that Darwin's idea of a tragedy was a beautiful theory killed by an ugly fact. (I may have the name wrong, as I am relying on a very hazy memory.) Perhaps a beautiful joke or sarcasm which meets a like fate may be equally tragic.

The beautiful joke of which this is apropos is that one quoted in The Tribune from "The Kansas City Star" to the effect that with all the monarchical planning going on in Europe "we wonder we don't hear of the Stuarts showing themselves again." The ugly fact which kills the joke is that we do. There is no man of the name now alive, but their heir and present-day representative is Rupert of Bavaria, of whom we hear a good deal.

M. A. HOWARD,
Aurora-on-Cayuga, N. Y., Aug. 28, 1922.

The Supreme Court's Power

Volstead Act So Framed That It Could Not Be Wholly Invalidated—The People's Recourse

To the Editor of The Tribune.

Sir: "Does the Supreme Court get the power to declare any statute that in its judgment is in violation of the Constitution unconstitutional from the Constitution?" A recent letter of Lee J. Vance to The Tribune included this question, and charged that the argument of Hamilton in "The Federalist" was based upon "assumption" from which, elaborated by Chief Justice Marshall, had been deduced the doctrine that "this power belongs to them, that is, to the courts." It requires examination.

Hamilton in "The Federalist," No. 78, distinctly admitted the lack of direct words in the Constitution granting judicial power to pass upon the validity of acts of Congress. But he considered the lack was covered by the general vesting of sole judicial power of appellate jurisdiction in the Supreme Court over all cases, both as to law and fact, of Federal cognizance, "with such exceptions and under such regulations as the Congress shall make." He contended that every court in the country in the exercise of its judicial power could construe legislation in the spirit of the Constitution, and that the Supreme Court's power was vested in the Constitution.

Hamilton pointed out that the judiciary in this country, unlike that of England, has no voice in making legislation; conversely, that Congress and the President have no judicial powers to construe laws; that Congress cannot be permitted to declare the constitutionality of its own acts; that the function of the President is to execute, not make laws and that the Supreme Court is vested with judicial power of original or appellate jurisdiction over all cases arising under Federal laws and also those of concurrent state and national legislation.

Neither Hamilton, Marshall, nor Dr. Nicholas Murray Butler, who was also cited by Mr. Vance, claimed a power in Supreme Court decisions to invade state jurisdiction except upon specific subjects of Federal cognizance. That claim is a nationalist doctrine, not Federalist. They agreed that the court had sole appellate jurisdiction in all cases arising under Federal legislation. Any other view would deprive the Supreme Court of its power to protect by its decisions the rights of the states and the people against tyranny by act of Congress.

Hamilton also pointed out that the Supreme Court was vested with appel-

late jurisdiction to safeguard public and private rights of the people against the enactment by a majority in Congress of laws upon subjects prohibited to Congress in Federal legislation. That power to construe laws in the spirit of the Constitution is the only curb to the exercise of arbitrary powers where imposed upon the Executive by an act of Congress. Where the court finds and declares that an act is unconstitutional, it stops automatically the execution of the law, for a President could not without defiance of the Constitution continue to execute it. The evidence follows:

Article VI of the Constitution supports the Federalist contention in the following words: "The Constitution and the laws of the United States, which shall be made in pursuance thereof, and all treaties made or which shall be made under the authority of the United States shall be the supreme law of the land, and the judges in every state shall be bound thereby, anything in the constitution and laws of any state to the contrary notwithstanding."

The power of appellate jurisdiction was vested in the Supreme Court particularly to protect or appeal the reserved rights of any state and any of their people, not merely of the states. The prohibition amendment was ratified by the legislatures under the political pressure of clamorous partisans who demanded ratification to support the war acts of the Democratic majority in the Congress of 1917. This amendment, never submitted to the people, abolished by its prohibition of the manufacture, sale or gift of intoxicating beverages a 300-year-old right of Americans, guaranteed as private property and business enterprise, in the Constitution and prior amendments. Where did the legislatures find authority for ratification of this surrender of an independent right of American citizens, specifically exempted by direct words in the Constitution from such surrender by the states?

It is clear that the Supreme Court exercised vested judicial power in its decision validating, as to the reserved rights of the people to hold undisturbed any form of private property, the Volstead act. The responsibility rests upon the coalition members of nationalists of both parties who rammed the act through in spite of the veto of President Wilson, and also regulated its terms of judicial review in such manner that the court, if it found any specified violation of private

right in any one or more points, was rebuffed by the act from invalidating the whole Volstead act.

It was repetition of the political cunning of hybrid members responsible for the fugitive slave act. And Abraham Lincoln was one of the first to demand reversal of the validation of the act by the Supreme Court, rendered after the election of President Buchanan. He declared as follows:

"We do not propose that when Dred Scott has been decided to be a slave by the court we, as a mob, will decide him to be free. . . . But we nevertheless do oppose that decision as a political rule which shall be binding on the voters to vote for nobody who thinks it wrong, which shall be binding on the members of Congress, or the President to favor no measure that does not actually concur with the principles of that decision. We propose so resisting it as to have it reversed if we can and a new judicial rule established upon this subject."

We may call this a right of the people to change every department of both Federal and state governments when deprived of common rights by Congress or any state legislature. Is there reason for a change of legislators who bind in acts of Congress the sole judicial power able to invalidate their acts?

For the second time in American history the Supreme Court upheld in the Volstead act its authority from Congress granting Federal marshals tyrannical powers to invade any state; to

suppress the manufacture, sale or gift of alcohol and alcoholic beverages in any state; to arrest on suspicion, without accusation, warrant or trial, any one found in possession of beverages alleged to be alcoholic, or for the sale of commercial alcohol; to search any papers of owners, even of suspected owners, and to search for and seize in any building or plant and confiscate both stocks and buildings; to treat as criminals rich and poor suspects. So far the enforcement of the act has stopped or wiped out several domestic industries to furnish an exclusive market to moonshiners and smuggled liquors of foreign manufacture, to the profits principally of people of the British dominions. The remedy rests with the people.

RAYMOND E. DODGE SR.,
Weehawken, N. J., Aug. 29, 1922.

The Public's Voice

To the Editor of The Tribune.
Sir: Your correspondent James A. Blaine asks in to-day's issue: "What Can the Public Do?"

The public, if less "long suffering," could months ago by letters to the President, Governors and Congressmen have made it so plain that protection is needed for those who will work for property and travelers, that protective action would have been forced. That is all that is needed in the case of both big strikes.

Isn't there precedent enough in Grover Cleveland's action closing a Chicago strike and rioting? It cer-

tainly looks that way to an old Tribune reader.
FRANK E. EMERY,
New York, Aug. 31, 1922.

To the Editor of The Tribune.
Sir: If "A Young Tribune Reader" is a young man I would like him to consider quietly what public opinion really is. Its power is irresistible when it is the opinion of the people. It does not need the medium of a ballot to produce an effect; the knowledge of its existence is enough. I have not seen indications of any strong sentiment in the anthracite strike. I am of the opinion that if Mr. Lewis knew the public—I mean the people as a body—were against it he never would have dared act and talk as he did.

In 1902 public opinion was back of the President, and the President's suggestions prevailed; in 1922 no such thing existed, and the President's almost alone. Public opinion compelled the taking of proceedings against the Herrin murderers—all over the country there was an outcry against the horror. But not so with the anthracite strike. Not a chamber of commerce, not a board of trade, two of the commonest mouthpieces of public opinion, spoke. Not a prominent man backed the President in or out of political circles.

Is there any reason why he should have been left almost alone, except that the people did not care? The politicians were afraid.
AN OLD TRIBUNE READER,
New York, Aug. 31, 1922.

E. B. O. as Dramatic Critic

Upon Electro-Barometric Oscillations the Play's Success Depends—The Higher the Better

To the Editor of The Tribune.
Sir: A number of letters have appeared in the last few weeks on the apparent lack of applause on the part of the audience in the theaters, some of them blaming the actors, some the audience.

There is a good scientific reason for poor acting, and poor appreciation on the part of the audience. Electro-barometric oscillations has a great effect upon both actors and audience. The amount of free electricity in the atmosphere and high or low barometer both contribute to the condition.

The variations of the barometer follow very closely the oscillations of the atmospheric electricity. The electricity precedes the air pressure in both the rise and the fall. I will speak of the two as the electro-barometric oscillations, or variations, with the letters E. B. O. for the combination of the two.

In fifty years of active practice of medicine I found that with a rising or high E. B. O. all my patients would be feeling better, after a good night's rest. If the E. B. O. was falling, or low, I would find all my patients had passed a poor night and did not feel so well.

In a low or falling E. B. O. we find it difficult to write or dictate a letter. If the E. B. O. is rising or high, writing and dictating come easy.

With a falling or low E. B. O. I have gone before my students with a well prepared lecture, but found that I had to consult my notes every few minutes and had to force myself all the time to find words to express my ideas, and closed my lecture exhausted and annoyed by the snapping of the students' watch cases. With a rising or high E. B. O. I would ignore my notes, could speak easily and freely with plenty of words to express myself. Neither the students nor myself were tired and exhausted, and not a watch case snapped.

Proofreaders inform me that during a period of E. B. O. depression when the galley proof leaves their hands the proof sheet is black with corrections, and that during a period of high E. B. O. the galley proof is clean, with hardly a correction to be made.

The barometer is always high when the atmosphere is heavily charged with electricity. The barometer is low when the atmosphere contains little electricity or when it is absent. If the atmospheric conditions affect the individual, and it is evident that it would affect the actors and the audience in the same way, it would be easy to explain why there is spontaneous applause in some cases and lack of applause at other times.

In the speaking theaters with a high E. B. O. the actors appear upon the stage in a better state of mind and perform their parts with more force and vigor. Every one does his best and the show passes off to the satisfaction of all. The audience feels comfortable—its mind is at ease. It is in a receptive and appreciative state of mind. It applauds readily and leaves the theater rested, refreshed and ready to praise the play.

If the E. B. O. is low the actors' minds are sluggish, they forget their lines and act with less force and vigor than usual. The audience feels tired and critical. It loses the good points in the play, is inclined to criticize and find fault, does not applaud and leaves the theater with a poor opinion of both the actors and the play. The E. B. O. is responsible in both cases, not the actors and the audience.

In the motion picture theaters it is

only the audience that is affected by E. B. O. conditions. The picture is the same at all times. The picture is good or bad, depending upon the E. B. O. state of mind of the audience. The reporters are affected in the same way, and praise or condemn it for the same reason as the audience.

There is an annual rise and fall of the E. B. O. It is lowest in May, June and July. In August it commences to rise, and reaches its highest in November, December and January. In February it begins to decline, until May.

JOHN NORTH, M. D.,
New Rochelle, N. Y., Aug. 29, 1922.

What Causes War?

Not Division Into States—Philip Kerr Contradicted

To the Editor of The Tribune.
Sir: Philip Kerr states his belief that the fundamental cause of war is the division of humanity into separate independent states. His opinion is no more than an echo of the peace conference. Being close to the principals in that affair, his ears still ring with their long drawn babble.

His statement is controverted by the unbroken peace between ourselves and Canada and the thousands of miles of unfortified boundary between us. It is further controverted by the war between our North and South, some sixty years ago, fought for the very reason that they did not constitute separate states.

Peaceably disposed nations have long since found and practiced the way to settle their differences in friendly fashion.

Mr. Kerr assumes that war is always bad. On the contrary, in a world of evil it is not infrequently an alternative to other things that are worse. It is inevitable when selfishness gains the upper hand; and selfishness is not an indefinite thing to be ascribed to a nation. It is a concrete evil thing in the hearts of the individuals who make up the nation. The source of war is to be found in the evil character of man and nowhere else.

Mr. Kerr is in error in stating that the best that separate states have been able to do is to look with indifference on their neighbors.

We fought Spain to set Cuba free. Our temporary control of Cuba was with a view to the benefit of Cuba only; so our control of the Philippine Islands is temporary and based on what we can give and not on what we can get. It was not the fault of our people that we did not go to the aid of France until we were ignominiously kicked into the World War by Germany. And to-day there is considerable sentiment among us that duty points us to a war on the unpeppable Turk for the rescue of our Armenian ally.

In the meantime we may regard with something like contempt that spineless thing, the League of Nations, which takes no step to hinder France from selling arms to the Turkish butcher and in which no English or Italian voice is raised to compel action to rescue the surviving Armenians and to avenge the 600,000 slain since the armistice. The prophet Amos sums up the matter: "Can two walk together, except they be agreed?" The United States thinks not.

CHARLES E. MANIERRE,
New York, Aug. 28, 1922.



Back to School!

Let your boys and girls begin their school and college year with the

World-Famous

Waterman's (Ideal) Fountain Pen

"The Daddy of Them All"

Pride of possession and its matchless reliability excite an ambition to do more and better work daily.

For Boys & Girls

No. 52

Self-Filling Type with clip cap

\$2.75

Also for Girls

No. 42½ V Safety Type with ribbon guard (cannot leak in any position)

\$4.25

Both these pens are fitted with Waterman's standard No. 2 hand-tempered 14k gold nibs, pointed with everlasting iridium.

We especially recommend these two Numbers as perfectly adapted for the work intended of them.

Other styles and sizes \$2.50 and up.

Selection and Service at Best Dealers the World Over

L. E. Waterman Company

191 Broadway, New York

24 School St. Boston

129 So. State St. Chicago

17 Stockton St. San Francisco



Morristown and the First Telegraph

MORRISTOWN, N. J., on the Lackawanna Railroad, may properly be spoken of as the birthplace of the electric telegraph. The basic idea came to Morse on the Atlantic Ocean and he made his first crude machines in New York, but it was at the old Speedwell Iron Works at Morristown that the first practical apparatus was perfected.

Here in January 1838, in association with Stephen and Alfred Vail, Morse gave public exhibitions that convinced a doubting world that another epoch-making invention had been made. "What Hath God Wrought,"

(--- --- ---) the historic message flashed from Washington to Baltimore, May 24th, 1844, was but a confirmation and fulfillment of the Morristown experiments.

The railroad and the telegraph have grown up together. Without the magic of the electric key, the complicated despatching and control of trains, as we know them today, would not be possible.

The Lackawanna Railroad, which has always been particularly interested in this phase of transportation work, in recent years has obtained many important results in connection with wireless communications to and from moving trains. The first trains in the world to carry wireless telegraph and wireless telephone facilities have been on the Lackawanna. Radio concerts are now a regular feature on the Buffalo Limited and the New York Limited. These and other major pioneer developments help to make the Lackawanna "Mile for mile the most highly developed railroad in America."

LACKAWANNA LIMITED	CHICAGO LIMITED	WESTERN EXPRESS	BUFFALO LIMITED
Lv. New York 10.00 A.M.	Lv. New York 2.00 P.M.	Lv. New York 6.30 P.M.	Lv. New York 8.30 P.M.
Lv. Hoboken 10.20 A.M.	Lv. Hoboken 2.20 P.M.	Lv. Hoboken 6.55 P.M.	Lv. Hoboken 8.55 P.M.
Ar. Syracuse 5.48 P.M.	Ar. Detroit 7.30 A.M.	Lv. Scranton 11.59 P.M.	Ar. Syracuse 7.00 A.M.
Ar. Ithaca 5.20 P.M.	Ar. Cleveland 7.03 A.M.	Ar. Cleveland 12.30 P.M.	Ar. Ithaca 6.00 A.M.
Ar. Buffalo 7.55 P.M.	Ar. Chicago 4.50 P.M.	Ar. Chicago 9.30 P.M.	Ar. Buffalo 7.30 A.M.
Ar. Chicago 8.25 A.M.			

These trains, except the Western Express, stop at Newark, East Orange and Morristown on notice to agent. Hudson Tubes run direct to Lackawanna Terminal at Hoboken from 33rd Street and Broadway, New York, in 17 minutes, and from Hudson Terminal, New York, in 9 minutes.

For detailed information telephone BRYANT 2052

*Via Nickel Plate R. R. †Via Wabash Railway

TIME SHOW ABOVE IS STANDARD TIME

LACKAWANNA

WENDELL P. COLTON ADVERTISING AGENCY, NEW YORK

