

MAJORITY RULE AND THE JUDICIARY

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Majority Rule and The Judiciary by William L. Ransom

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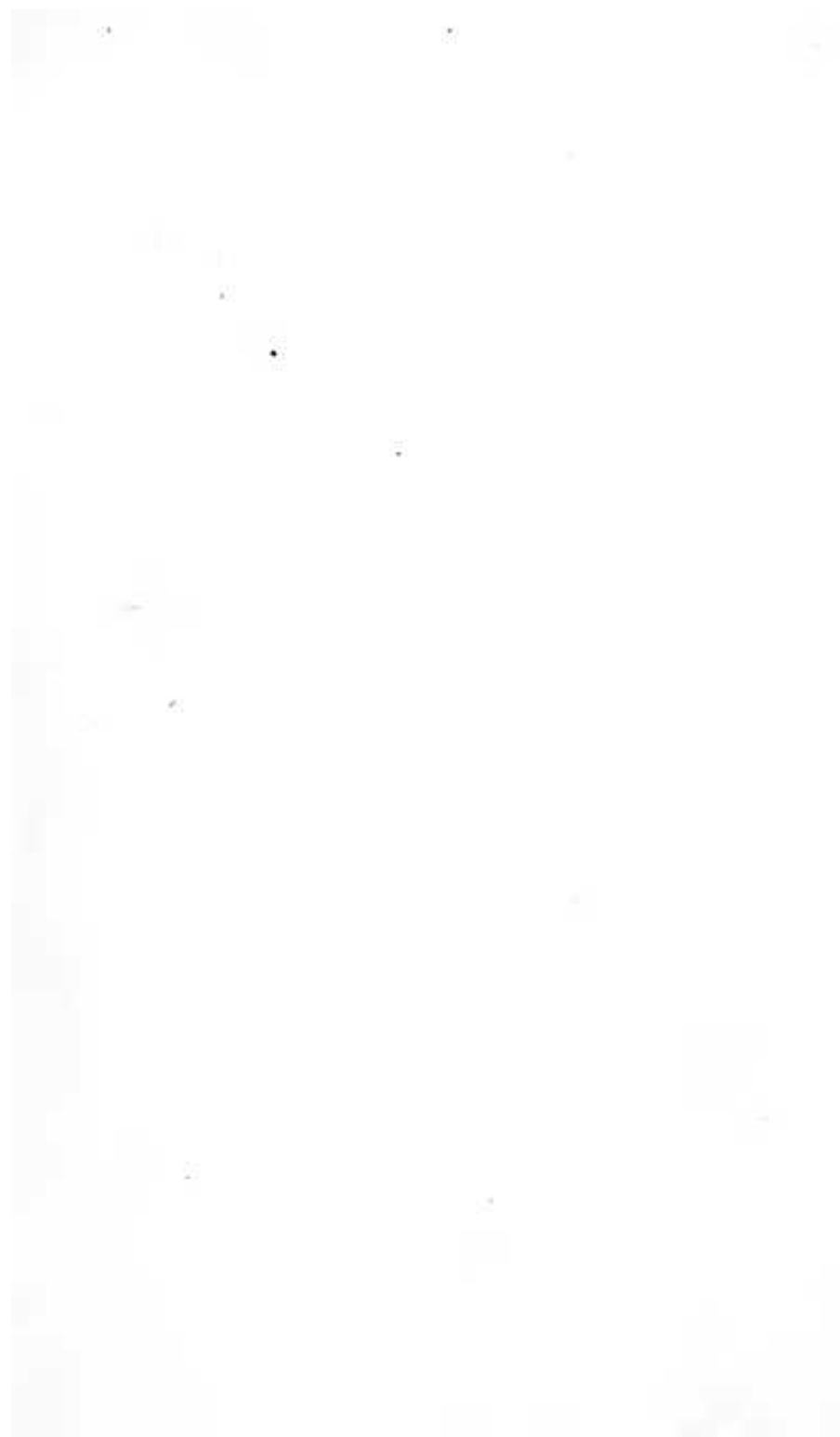
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WILLIAM L. RANSOM

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AND THE
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MAJORITY RULE AND THE JUDICIARY

AN EXAMINATION OF CURRENT PROPOSALS FOR
CONSTITUTIONAL CHANGE AFFECTING
THE RELATION OF COURTS
TO LEGISLATION

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WITH AN INTRODUCTION BY
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TO THE LAMENTED
WILLIAM HENRY MOODY

WHOSE BRIEF SPAN OF SERVICE
IN THE SUPREME COURT OF THE UNITED STATES, ENDED BY MOST UNTIMELY
DISABILITY AND DEATH, GAVE PROMISE OF A PUBLIC USEFULNESS
ENTITLING HIS NAME TO RANK WITH THAT OF JOHN MARSHALL AS EXPONENT OF A
VIRILE AND PROGRESSIVE INTERPRETATION OF THE CONSTITUTION
WHOSE "UNCHANGING PROVISIONS" HE CONCEIVED THEREBY TO BE "ADAPTABLE
TO THE INFINITE VARIETY OF THE
CHANGING CONDITIONS OF OUR NATIONAL LIFE"

PREFACE

THE attitude of some State courts toward what is generically spoken of as "welfare" or "regulative" legislation has led, chiefly in those States, to several proposals of constitutional change affecting the relation of courts to legislation. The people have been most reluctant to admit that either their constitutions or any instrumentality of government created by their constitutions should bar them permanently from any pathway of progress and justice which is pointed out by the experience, and called for by the conscience, of this and other civilized nations. The electorate has to no small degree lost patience with public men and political parties, who, like Dr. Nicholas Murray Butler at the New York Republican State Convention at Rochester in April, 1912, "urge" that a Workingmen's Compensation Law be enacted in this State, but suggest no way and support no plan for bringing that about, especially when so zealous a ten-word advocacy of such legislation is preceded and followed by a thousand-word plea for the resolute maintenance, evidently "without amendment,"¹

¹ "It is said the constitution was made in the eighteenth century by men who lived under conditions long since passed away. Therefore, the constitution is outgrown. It must be adjusted, the phrase