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## "What is Kentucky's Name?"

Polk South

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The trades union movement of Europe and America numbers over twelve million members in good standing and its tremendous importance as a factor in the advancement of the working-class is now generally recognized.

The liberty of a people and their rights and privileges are real only when they are solidly laid and declared in the constitution and the general laws of their country. It is only when a movement has attained the sanction of the law, that its goodness is fully recognized and its legality acknowledged.

The legislatures and law courts of England and the United States have for nearly a century striven to establish the legal status of the trades union movement in accordance with the general character of the common law. For a long time after the trades union movement was recognized as lawful, attempts were made to place organizations of capital and of labor upon the same level. This tendency is even now manifest in the decision of the United States Supreme Court in the *Hatters* case, in which the Court said, that labor unions are organizations in restraint of trade and therefore subject to the provisions of the Sherman Anti-Trust Law.

But Congress never intended the Sherman Anti-Trust Law to apply to the voluntary organizations of labor, as it applies to combinations of capital entered into for the purpose of pressing greater profits out of the people's necessity, or to stifle competition, or restrain trade.

In England, upon the mandate of the people and in clear and unmistakable terms, the British Parliament has declared the law concerning trades unions, and so will the United States Congress find ways and means to declare the legal status of the trades union movement, and will draw the line of demarkation between combinations of capital for profits and the voluntary associations of labor organized not for profit, but for the advancement of the toiling masses of our people.

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## “WHAT IS KENTUCKY'S NAME?”

BY POLK SOUTH.

As one approaches the Capitol Building at Frankfort, he sees engraved, in large letters, on the front of the building, the words, “Commonwealth of Kentucky.” All through the Kentucky law reports you see criminal action styled *Commonwealth vs. John Doe*, while in most all other States the criminal actions are brought in the name of the State vs. John Doe. The word Commonwealth is a rarity outside the State of Kentucky, and it starts one to thinking, as to just what is the meaning of the term; and where did it originate.

There are only three States in the Union besides Kentucky that are known as Commonwealths. They are Virginia, Pennsylvania and Massachusetts. When we look for the origin of the word, "Commonwealth," we find that it was first used in Rome and the original word was "Commonweal." The first time the word was made prominent by the Anglo Saxon race was during the time of Oliver Cromwell in England.

In the year 1649, after the execution of Charles the First, Cromwell established what was known as the Commonwealth of England. And England remained such until the death of Cromwell's son, Richard, in the year 1659, when Richard Cromwell was beheaded and Charles the Second was restored to the throne. During the Commonwealth of England, the House of Lords was established and the only Legislative body was the House of Commons. The word "Commonwealth" is synonymous with State and means a body politic or a body of people united together by compact under one form of government, and one system of law, just opposite from a government by a King, or a Monarchy, for all power is supposed to be vested in the people. It is an expressive word, and as only four States in the Union are known as Commonwealths, some significance attaches to the term. Virginia, Pennsylvania and Massachusetts, are the only other States in the Union known as Commonwealths. There must be some reason for calling them such. Possibly the reason they are called Commonwealths, is from the fact that they were among the first settled provinces and no doubt many followers of Cromwell came to these provinces about the time of the downfall of Cromwell and the restoration of the line of Kings. At that time so many were dissatisfied with the rule of the aristocracy and so filled with the doctrines and principles of Cromwell, that when they came to this country they were bent on establishing a Commonwealth. This seems to be the way the word Commonwealth came into America, and the way the above named States got the name "Commonwealth."

It appears to the writer that the word Commonwealth is a misnomer for Kentucky. Virginia, Pennsylvania and Massachusetts were members of the Thirteen Original Colonies and were always known as Commonwealth and styled such in all their Constitutions and public documents. While Kentucky was the first State that was admitted into the Union it was not admitted as the Commonwealth of Kentucky, but as the "State of Kentucky." The Act of Congress, February 4, 1791, admitting Kentucky into the Union, was as follows:

"WHEREAS, the Legislature of the Commonwealth of Virginia, by an act entitled 'An Act concerning the erection of the District of Kentucky into an Independent State,' passed the

eighteenth day of December, one thousand seven hundred and eighty nine, have consented that the District of Kentucky, within the jurisdiction of the said Commonwealth, and according to its actual boundaries at the time of passing the act aforesaid, should be formed into a new state; and, whereas, the convention of delegates chosen by the people of the said District of Kentucky, have petitioned Congress to consent that on the first day of June, one thousand seven hundred and ninety-two, the said district should be formed into a new state and received into the Union by the name of the "State of Kentucky."

BE IT ENACTED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE UNITED STATES OF AMERICA, IN CONGRESS ASSEMBLED, AND IT IS HEREBY ENACTED AND DECLARED, That Congress doth consent that the said District of Kentucky, within the jurisdiction of the Commonwealth of Virginia, and according to its actual boundaries on the eighteenth day of December, one thousand seven hundred and eighty-nine, shall, upon the first day of June, one thousand seven hundred and ninety-two, be formed into a new state, separate from and independent of the said Commonwealth of Virginia.

AND BE IT FURTHER ENACTED AND DECLARED, That upon the aforesaid first day of June, one thousand seven hundred and ninety-two, the said new state by the name and style of the State of Kentucky, shall be received and admitted into this Union as a new and entire member of the United States of America."

One can see from reading of this Act that the real name of Kentucky is: "State of Kentucky." Up to the time that Kentucky was admitted into the Union it was called the "District of Kentucky," and was known as such to Virginia and other States, as one can see from the reading of the above Act.

In reading the preamble of all the Constitutions of Kentucky, except the last one of 1890, we see they read as follows:

"First—1792, We the representatives of the people of the 'State of Kentucky,' in convention assembled do ordain and establish this Constitution for its government."

"Second—1799, We the Representatives of the people of the 'State of Kentucky,' in convention assembled, etc."

In the same Constitution in defining the distribution of power it says:

"The powers of government of the 'State of Kentucky' shall be, etc."

"Third—1849, We the Representatives of the 'State of Kentucky' in convention assembled, etc."

And in defining the distribution of powers, uses the words "State of Kentucky," although all the Constitutions of Kentucky say: "That all writs and processes shall run in the name and by the authority of the Commonwealth of Kentucky," also they all say that the Government shall be known and called the "Government of the Commonwealth of Kentucky."

But as we come to the last Constitution of 1890 the preamble reads as follows:

"We the people of the Commonwealth of Kentucky, grateful to the Almighty God for the religious, political and civil liberty we now enjoy, etc."

While there is no doubt about a State having the right to say how and in what its writs and public documents shall run, it is only known by its corporate name, under which it was admitted into the Union. Take a simple example, suppose a requisition is asked on some fugitive in another State and the requisition papers run in and by the authority of the Governor of the Commonwealth of Kentucky. The Governor of the proposed State not knowing anything about Kentucky, would go to the records and find the name "State of Kentucky." Would he be bound to honor the requisition?

In examination of the debates of the last Constitutional Convention the writer has never been able to find but one discussion on the question and that was another part of the Constitution and not the preamble; some gentleman offered a resolution to change the word "Commonwealth" to "State" in another part of the Constitution, and another member of the Convention who was opposed to the resolution said: "That he did not think it made much difference which word was used, but he thought that the word "Commonwealth" was more expressive than "State." Another gentleman who was in favor of the word "State" because he said: "That 'State' was a word of one syllable and consequently easier to write and as it would necessarily have to be written many times; and for that reason he would vote for the word 'State.'" The resolution was lost.

It is not the purpose of this writer to criticise nor to rob Kentucky of any of her traditions or her history or her true name. He agrees that it is all right for writs and processes to run in the name of the Commonwealth of Kentucky, for the people have a right to say how its writs and action shall be styled, but surely Kentucky has but one name and that its corporate name under which it was admitted into the Union. It seems as if we have appropriated a name that is not Kentucky's at all and her true name is the "State of Kentucky."

The grim reaper, Death, has invaded our ranks and taken from our midst our most lovable compatriot, friend and business manager. We, the staff, sad and meditative, are in a bereaved condition, while the Kentucky Law Journal like a ship at sea with a broken sail, moves slowly on. In paying the last sad tribute to our honored dead we publish these lines in order to express our tenderest sympathy and feelings for the friends and relatives of this remarkable man, Samuel Gruell, in whose death we, the staff of the Kentucky Law Journal, have realized the loss of an inspiring companion and half the motor-power that has pushed and guided the Journal's finances.

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### RESOLUTIONS OF RESPECT.

The Students and Faculty of the Law Department of the State University of Kentucky, assembled in meeting, adopt the following resolutions:

WHEREAS, In the loss of our classmate—Samuel Gruell—Our Father has seen fit to reclaim to himself one of our most worthy and faithful fellow students and friends, one who was an ideal in character and deportment; a man whom all knew, and to know was to be a friend, and as a friend, one whom many might profit by following.

THEREFORE, be it resolved that, tho we bow before the will of the All Powerful, yet we cannot but express our sorrow and regret at the loss of the companionship of one so faithful in his work, and a true friend to all he knew.

And we further extend to his bereaved family and friends our sincerest sympathy.

Be it further resolved that a copy of these resolutions be sent to the family, also be published in the Idea, and a copy be presented to the Henry Clay Law Society to be there spread upon the minutes, and a copy be given to the Lexington paper.

Signed in behalf of all the students,

T. B. KELLEY.