THE FEDERAL COURT

Representative Finis J. Garrett, of Tennessee, introduced in the house at last session of congress two bills (H. R. 15720 and H. R. 15721 respectively) the object of which is to abrogate the jurisdiction of the federal courts over state corporations where the sole ground of such jurisdiction is the diversity of citizenship of the parties to the litigation. Mr. Garrett's idea is that there are two distinct lines of legislation which will bring the result desired—one being by amendment to existing statutes, and the other being a direct and original legislative declaration of the jurisdictional status of state corporations and both ideas are embodied in the two bills.

In a speech made March 14, 1906, he discussed the proposed legislation somewhat elaborately entering into the history of the legislative enactments along this line and also the history of the judicial decisions. The constitution provides that the "judicial power of the United States shall extend to * * * all cases between citizens of different states." The judiciary act of 1789 carrying the various constitutional provisions into effect provided that the circuit courts should have original jurisdiction concurrent with the courts of the several states of all suits at law and equity (of a civil nature) where the amount of dispute exceeded $500, "when the suit is between a citizen of the state where the suit is brought and a citizen of another state." Under this provision it was held by the supreme court of the United States until 1844 that a corporation was not a citizen of the state where its original charter was obtained in the jurisdictional sense so as to entitle it to remove a cause from a state court to a federal court on the grounds of diversity of citizenship. In 1844, however, in the case of Railroad Company vs. Letson this holding of the supreme court was reversed and since that time a corporation chartered by the laws of a state has been held to be a citizen of that state and when suit is brought against it in the courts of another state it can remove the cause to the federal court on the ground that it is a non-resident of the state where sued. Under the act of 1887, however, it is now required that the amount in dispute must exceed $2,000. It is the purpose of the legislation proposed by Mr. Garrett to provide that a corporation shall, for jurisdictional purposes, be deemed a citizen of any state wherein it has an office or an agent or carries on any part of its corporate business, without reference to the state of its incorporation.

In his speech in advocacy of the measure Mr. Garrett insisted that the present condition is responsible for the so-called "tramp corporations" that obtain charters from a state with no intention of doing business there but for the sole purpose of escaping the jurisdiction of the courts in the states where they do intend to do business. He also pointed out that it is an encouragement to corporations to obtain charters in some state where it is not intended to carry on the corporate business; that it gives foreign corporations doing business in a state an advantage over domestic institutions and is confusing to the citizen in that different tribunals are had for determining rights existing or arising under precisely the same state of facts, the tribunal being dependent upon the question whether the corporation is domestic or foreign.

No attack is made by Mr. Garrett on the federal judiciary but evidently he does not think the fact that under the law federal judges hold their positions for life renders them any more honest or conscientious or able than are the state judges who at regular intervals return "to the people for a new lease of power." He says: "For every case where harm has come (by reason of the state judiciary being elective and holding for short periods) I believe I could point to an equally large number where harm has come because of the life tenure of federal judges. But comparisons of wrong doing are needless. The necessity for the legislation rests upon plain business principles—convenience to the citizen, fairness to all corporations, protection from the reckless granting of charters, economy to the individual and to the government."

Mr. Garrett deals with both the constitutional and practical phases of the question, quoting decisions bearing upon the constitutional right of congress to declare the jurisdictional status of corporations and fix the limitations of the extension of judicial power.

To the objection that corporations might suffer on account of local prejudice he answers that, in the first place, his bill does not prevent the removal of causes where it can be alleged that local prejudice will affect the rights, and secondly, that the state courts would certainly give justice to a foreign corporation the same as to a domestic one. Neither court nor jury ever think whether a corporation is foreign or domestic. The passage of this legislation, Mr. Garrett insists, would be a restoration to the states of governmental powers that ought never to have been taken from them, and in this connection the proposition is insisted upon that in such a government as ours "every function of government which can be exercised by state authority as well as it can by federal authority should be left to the state and the federal arm be extended only where the state arm cannot reach."

Hipple's directors had not met for three years, but they held a hurried meeting the other day—when it was no use.

The shades of Messrs. Artemus Ward and Josh Billings will now line up on the White House grounds for their vindication.

DODGING THE ISSUE

In his speech before the Jefferson Club on the evening of Sept. 4, Mr. Bryan referred to the case of Mr. Roger Sullivan, democratic national committeeman from Illinois. His speech on the subject appears on another page of this issue. Mr. Sullivan has replied in a statement quite characteristic of the man and his methods, but he will not be permitted to lower this discussion to the level of a personal controversy. The public is not interested in Mr. Sullivan's views of Mr. Bryan any more than it would be interested in Mr. Bryan's views concerning Mr. Sullivan were Mr. Bryan to deal with Mr. Sullivan's personality. Mr. Sullivan is the democratic national committeeman from Illinois, holding his office by virtue of unfair methods. This matter was presented to the St. Louis convention, and the evidence would have convinced the convention had not the delegates feared the effect of an adverse decision upon the presidential candidate whom they were pledged to support. If Mr. Sullivan disputes the assertion that a considerable majority of the delegates to the Springfield convention were opposed to him, he can fight the question out with the Majority League of Illinois, which will doubtless accommodate him.

As Mr. Bryan has not asked for a nomination and has not announced that he will be a candidate, he will not submit the question whether he should be a candidate to Mr. Sullivan or to any body of persons less numerous than the members of the democratic party of the United States. Neither can the question as to whether Mr. Sullivan should be re-elected to the national committee be submitted to the members of a convention already adjourned. Such a decision would have no binding force. The question must be submitted to the democrats of Illinois when they meet to select delegates to the next national convention, and Mr. Sullivan will not be permitted to dodge the issue that is raised against him. He is officially connected with a favor-seeking, franchise-holding corporation, and the question is whether the democratic organization should be paralyzed by the influence of men whos private interests make it impossible for them to be guardians of the public.

In speaking of the Sullivan case at Chicago, Mr. Bryan said: "I hold that no man who is officially connected with a corporation that is seeking privileges ought to act as a member of a political organization, because he cannot represent his corporation and the people at the same time. He cannot serve the public while he is seeking to promote the financial interests of the corporation with which he is connected."

This is the issue. Before the trust question became the dominant one, it was not so important what a man's corporate connections were, but when this question is the supreme question of the hour, the party organization must be above suspicion, and the democrats of Illinois and all other states are invited to inspect the connections of those who aspire to the position of party managers. The people cannot be fooled, and the party that attempts to fool them is sure to learn of its mistake when the votes are counted.

The Commoner will urge the democratic party to put itself in a position where it can fight boldly and persistently for the regulation of such corporations as are not monopolistic and for the prevention of any private monopoly whatever. To this end, the organization must be composed of men who are free to act for the public and not tied by personal interests to corporations which are seeking favor at the public's expense.

IN NEBRASKA

As soon as I return from a three weeks' trip through the south I shall enter the campaign in Nebraska and several other states from which invitations have been received. I feel deeply interested in the result in this state. The republicans have nominated an excellent man for governor. Mr. Sheldon was a captain in my regiment, and I learned to admire him during our association in Florida and Georgia. If it were purely a personal matter I might rejoice in his election, but our candidate, Mr. Shallenberger, is his equal in character and ability and has had larger experience in public affairs. In addition to this, Mr. Shallenberger is running on a better platform and would, if elected, be more free to carry out needed reforms. I have known Mr. Shallenberger for many years, have confidence in his integrity and am proud of the record which he made in congress. He was one of the best congressmen this state ever sent to Washington and he will, I believe, make one of the best governors this state has had. He is not only in favor of the rigid enforcement of railroad regulation and the two cent passenger fare, but he advocated the government ownership of railroads before I did.

The election in Nebraska is not only important because of its bearing upon state matters, but it is also important because of its influence upon the next national campaign. The vote this year will be taken as an indication of the trend of public sentiment. We are entering upon a great fight for the extermination of the trusts and for the protection of the public from exploitation at the hands of the railroads. The republican party has shown its inability to deal effectively with these and kindred subjects. Wherever the president has attempted to do anything he has been compelled to follow the democratic rather than the republican platform and the republicans in the house and senate have not supported him. The republican senate emasculated his rate bill, and a republican congress opposed his meat inspection bill.

The best way to stand by the president is to elect democrats to congress and the senate, for the democrats have stood by him better than the republicans upon the most important questions.

Even the president, while prosecuting some trusts, has not aimed a blow at the principle of private monopoly and so far he has not dared to oppose the protected industries even when they are selling abroad cheaper than they sell at home. A democratic victory in Nebraska would show the republican leaders that something must be done; a republican victory would simply reassure them and delay remedial legislation. Our democratic candidates for congress stand much nearer the people than the republican candidates and their election would have a wholesome influence at this time. Mr. Green, the candidate for lieutenant governor, and nearly all the other candidates on the fusion state ticket, are old time personal and political friends and I shall be glad to give them any assistance I can upon my return.

Hon. W. H. Thompson, our candidate for the United States senate, is admirably qualified for the position to which he aspires, and he has earned the honor by faithful service during nearly two decades. We need him in the United States senate at this time to secure the election of United States senators by the people—a reform which nine-tenths of the people, republicans as well as democrats, favor, but which a republican senate delays. I am glad that the democrats and populists are working together and our ticket ought to have the earnest support of all the members of these parties and a large republican vote besides.

W. J. BRYAN.

DON'T WORRY

The New York Tribune commenting upon the Roosevelt-Carnegie spelling reform order says: "Should the next occupant of the White House reverse his predecessor's action and restore, so far as his jurisdiction extended, the familiar and generally accredited forms of English words, there would then be in existence a set of executive documents preserving to future use a variety of orthographical eccentricities which had been officially current during only a brief period of time."

The Tribune need not worry. It is more than probable that Mr. Roosevelt will conclude that it may be just as well, after all, to adhere to the old rules so far as documents coming under public inspection are concerned.