

# POYNTER AGAINST PASS

## New Executive is on Record Against Free Transportation.

### ASKS JUSTICE FOR THE BEET GROWERS

#### Calls Attention of the Legislature to the Needs of the Various State Institutions--Mentions the Great Growth of the Dairy Industry--A Short, Pithy Message

Gentlemen of the Senate and House of Representatives: Having been chosen to the highest office in the state by the votes of the people, in compliance with the provisions of the constitution, before assuming my active duties, I desire to address you briefly. You have had presented to you very fully by his excellency, Governor Holcomb, the condition of our public institutions, and recommendations resulting from his perfect acquaintance with affairs acquired by his term of office as chief executive. Coming as I do from the walks of private life, the observations and recommendations which I now make to you must of necessity be solely of those matters of general public interest with which every well informed citizen in the state is supposed to be familiar.

We recognize that the primary power rests in the hands of the people, and that their will should at all times be considered supreme. Men are so constituted that differences of opinion always have existed. So in a government of the people some rule must be established determining the manner of adjustment of differences and the only means for such determination must rest with the majority. But while the majority must at all times rule, the right of the minority to a free discussion and a candid presentation of its opinions should never in a free government be abridged. The three functions of our state government, as established by our fundamental law, the constitution, are defined to be the legislative, executive and judicial, and neither of these "shall exercise any power properly belonging to either of the others." They are each alike responsible to the people for the manner in which they discharge their duties, and it is impossible to make any difference of political opinion which might exist between those who are the elected representatives of the people in any one of these departments of government a reasonable excuse for any failure of duty to the citizens of the state. Partisanship may be bitter before election, but the will of the people having been expressed, citizenship should rise above partisanship and the welfare of our people, the material advancement of our industries, the good name and fair fame of Nebraska should outweigh all partisan advantages.

It is my most sincere desire that we shall co-operate for the best interests of the state. To you is entrusted the law making power of the state, and the apportioning of the revenues among the various state institutions. In the enactment of wise and beneficial laws and the just and economic apportionment of public funds, I pledge you in advance my sincere and hearty assistance. The welfare of the state shall at all times be my first consideration, and I shall never hesitate to use the power conferred upon me by the constitution to withhold my approval of any measure which you may enact that I consider inimical to the public good. Nor shall I withhold my approval of any measure you may pass in the public interest. If any differences in judgment should arise I am ready to accord to you the same honesty of purpose and desire for the people's welfare that I claim for myself. The interference with, or the usurpation in any way of the power of one branch of the state government by another, which the constitution defines as co-ordinate, is dangerous to the liberties of the people. Hence I deem the veto given by the constitution to the governor a power that should only be used as a last resort to prevent unjust or hurtful legislation. You are the recognized law making power direct from the people, and to them you must render an account of your actions as their representatives. Having done your work carefully and conscientiously, that work should stand until the people express a desire for change. Too often, however, the work of the legislative department is made ineffective by our judiciary. Even the sentiment is gaining in the minds of the people that no act of the legislature is a law until it has the approval of the courts. This, if true, makes the legislature useless. Not only so, but it destroys one of the co-ordinate branches of state government. The nullification of so many laws by our courts, I am led to believe, is not occasioned by the intention of the court to usurp the authority of the legislature, but more on account of the inadequacy of our constitution. This was adopted at a time when our state was new, its resources undeveloped, and its settlements meagre and sparsely distributed. With our splendid development, our state has outgrown many of its constitutional provisions, and the endeavor of the legislature to meet by law existing conditions, is hampered by inadequate constitutional powers. To meet this growing demand, nearly every biennial session submits to the people amendments to the constitution. But in the press of other matters, and in the excitement of political campaigns, they are lost sight of and fail to receive the popular ratification. In my opinion, should you make provisions for the calling of a constitutional convention, such a convention would meet the hearty approval of the people.

Art. I, section 7, of the constitution makes it mandatory upon you to prevent by law "unjust discrimination and extortion in all charges of express, telegraph and railroad companies, and to enforce such laws by adequate penalties to the extent, if necessary for that purpose, of forfeiting their property and franchises." This provision of the constitution which you have taken your oath to support allows you no opportunity to escape responsibility. If the laws which we already have upon our statute books are sufficient and only lack penalties for their enforcement, then your duty is plain. Penalties should be attached to compel compliance. If the existing laws are insufficient and fail to establish justice between the people and the corporations, they should be promptly repealed and others enacted by you which would accomplish that purpose. Other states in dealing with the vexed question of transportation have in a great measure solved it in the election by the people of a commission with adequate power for the regulation of rates and the final adjustment of differences which might arise between the people and the corporations. Our constitution does not permit us to so provide and in the endeavor to overcome this difficulty the legislature of 1883 placed the burden of the responsibilities of a railway commission upon a portion of the executive department, and at the same time relieving the state executive officers designated in that act from the labor by allowing them three secretaries to do the work, and finally gave the secretaries all the power conferred by the act upon the executive officers composing the commission. At various times since 1883, this law has been amended, but I think its most ardent supporters will not claim that it has been either successful or satisfactory. The people for years have asked relief from unjust and extortionate transportation rates. They have asked bread and have been given a stone. It is a question whether power which the constitution places in the legislature can be transferred by it to a commission. Could that be done you might make it mandatory upon the railway commission to fix a just and equitable schedule of transportation rates and confer upon them the power of enforcement which you possess under the constitution. Were the commission an elective office, and its incumbents chosen by the people, then its duties and powers could be defined by legislative enactment. But being created by legislative act in a round about way to avoid the plain provisions of the constitution, and to permit the legislature to shirk its responsibility it can have really no legitimate powers and consequently can only be advisory at best. Whether the work which the commission does in the collection of statistics, the arbitration of difficulties between the corporations and the citizens of the state is of sufficient value to warrant a continuance of the present law is for your wisdom to determine.

The great question of just transportation rates still presses upon you for solution. The law of 1893 has been carried through the highest court in our country. Its weaknesses have been shown by the decision of that court. The enactment of the law of 1893, amending the sections against which the supreme court of the United States pronounced, would meet the wishes of a large majority of our people, and would be a compliance with your plain constitutional duty, should you repeal the present commissioner law and at the same time pass a just and equitable rate law, you would gain the highest commendation of a great majority of Nebraska citizens. While in my opinion this would be a source of temporary relief to our citizens, this great question of transportation and communication between the people cannot be definitely settled by state legislative enactments. The varied interests of the several states in the union are too closely linked in the bonds of commercial union for the state individually to properly adjust the great question arising from transportation and with communication among the people. The national government itself must own and operate the highways of transportation and the electric means of communication as it does now the great postal system, in the interests of all the citizens of our great common country. But until such most desirable end is attained state legislatures are obliged to afford all possible relief to the citizens of the state from unjust freight, passenger, telegraph, telephone and sleeping car charges. Any law which your wisdom directs you to enact upon any of these subjects if in the best interests of the people of Nebraska will receive my most hearty approval.

The constitution places the obligation upon the legislature to apportion the representatives and senators according to population, determined either upon the census of the United States or of Nebraska. It requires that each ten years, beginning with the year 1885, a census of the people shall be made. The United States makes an enumeration of all the people every ten years, so that with the census of the United States and that of our own state we have a certain data for the

determination of the number of Nebraska's people every five years. Upon these two enumerations the constitution requires that the apportionment of senators and representatives shall be made, thus requiring an apportionment to be made each five years. In 1893, when the last apportionment should have been made, we find that there had been no census taken in the state, as required by the constitution, upon which to base such apportionment, and it was argued by some that the legislature had no power to make an apportionment. The language of the constitution is that the legislature shall make this apportionment at its first session after the enumeration and at no other time. As I understand it, that which the constitution requires to be done will be done, and having been done shall not again be done until its provisions again require it. The present apportionment is manifestly unjust to the western half of our state. With more than one-seventh of the population, it has only five representatives out of a hundred, and less than three senators of the thirty-three in our senate. As an act of just a long delayed I recommend you to take up the work of reapportionment which the legislature of 1893 should have made, and give to our western people the representation to which they are entitled.

I desire to call your attention to an evil which has grown with the growth of the state, and one for the eradication of which the best thought of our best minds have been engaged. I refer to free railway transportation. The pass system has grown to such proportions that it has become a burden to the managers of the railways of the state, a scandal in state politics and disgusting to thoughtful citizens. Profits made by business enterprises. Profits made by business enterprises should be carried free, profits must be made from some other branch of the business, and it is fair to presume that under such circumstances it would be necessary to advance freight rates. If one half those traveling should do so upon free transportation, all the profits of the business must be collected from the other half who pay fare. Now if the business were remunerative with only one-half those traveling paying fare, if all should be made to pay alike the same profits would accrue to the railways if only one-half as much was charged for the service. It has been estimated that our railways in Nebraska receive less than two cents a mile for the passenger service in the state, when account is made of the free transportation given those to whom, under one pretext or another, they think it necessary to give passes. As a business proposition it is unjust to the railways of the state that custom should place this burden upon them, and they should be protected by law, with adequate penalties for its enforcement. If they protect themselves against loss by charging increased rates to those who pay for transportation, then as a business proposition it is unjust to those who pay fare and they should be protected by law with adequate penalties for its enforcement. Such a law would relieve the railways from practicing an injustice upon a part of their patrons and secure to them the same profits upon investments which they now have and at the same time admit of a material reduction in passenger rates. The passage of a law against the issuance of any free passes, except to employees of the railways, and making the one accepting a free pass a participant criminal (participating criminal), both alike subject to penalties attached adequate for its enforcement, with a reduction in passenger rates equivalent to the profits derived by the abolishment of passes would be alike just to the railways and the traveling public.

In the matter of appropriations I would earnestly recommend the most rigid economy consistent with the public welfare. The amount of an appropriation does not always indicate its character. What would seem a large sum appropriated for a specific purpose may be in reality an economical expenditure of public money, while a small amount set apart for the same purposes would be extravagant. The appropriation of an amount for any purpose obviously too meager for its accomplishment, while at the time it would give color to the claim for economy by the legislature making it, the following biennial would show its true character, either in deficiencies to be met or in poor service to the state, either of which would demonstrate clearly the dishonesty or incompetency of the legislature making it. Our state institutions for the care of our defective are constantly growing and would naturally require an increased amount for their maintenance. The people have a right to demand economical management for them, and at the same time that these wards of the state should receive most careful and conscientious care. The legislature which succeeds in exercising business judgment of such high character that our state institutions are amply cared for without profligacy, that appropriates funds in an amount sufficient to meet their demands without a deficiency, would receive the approbation of all right thinking people of the state. The appropriations for the maintenance of our public institutions is purely a matter of business and should be so regarded by you.

It is to be regretted on some accounts that our public institutions are not all located at one place. It has been too often the case in times past that a system of log rolling has prevailed in making appropriations for their care, each locality where one of them is situated using every endeavor to make the appropriation for its institution just as large as possible regardless of its requirements, and before the biennial appropriations are finally made a combination of all the localities having state institutions become very evident, each agreeing with the others to support all demands which any one locality might make for appropriations. In this way our legislature has too often forsaken the broad highway of statesmanship and trodden the footpath of ward politics. I confidently rely upon your honesty, integrity and business judgment to make appropriations economical but not parsimonious, liberal but not extravagant. Let me urge upon you that you bring forward the appropriation bills as early in your session as

possible in order that they may receive the careful and conscientious consideration their importance demands.

In 1895 the legislature passed an act offering a bounty of one dollar per ton to be paid to the growers of sugar beets upon the theory of encouraging the development of the sugar industry in our state. For some reason best known to itself the legislature failed to make provision for the payment of claims which might arise from the passage of such an act. The sugar company acting under the provisions of the bounty act made their contracts with the growers to pay them one dollar per ton extra for the beets grown and delivered them, and in the beet harvest of 1895 the company did pay the growers the extra dollar per ton for beets. The company presented its claims for the bounty to the auditor and some of them were allowed by him, but finally he refused to allow further claims under the act, and in the suit following his refusal our supreme court decided that the claims could not be paid, there having been made no appropriation to meet them. In the harvest of 1896 the contracts of the company with the growers were made provisional, agreeing to pay them \$1 per ton extra provided the court sustained the payment of the claims. The court deciding against the payment of the claims, holding that the legislature creating the law failed to make an appropriation in compliance with its provisions, the company not only refused to pay the extra dollar, but actually kept back \$1 per ton from payments in the latter part of the season to reimburse themselves for the amount already paid on the 1896 crop, thereby giving the growers but \$4 per ton for beets instead of \$5 as they contracted to do should they be sustained by the court. Now these claims for bounty under the act of 1895 are in the hands of the sugar companies and those for 1896 in the hands of the actual growers of beets. The sugar companies have sought relief in the highest court in the state and that court has decided against them. These farmers made their contracts and raised the beets in good faith, making their estimates for profits in the business upon the promise of the extra dollar per ton which they should receive as bounty from the state. I am individually, and the party of which I am a member, is opposed absolutely to the protective policy of taxing one industry for the upbuilding or advancement of another, but my party a not now, nor has it ever been at any time, either in theory or practice, in favor of repudiation in the smallest degree. The legislature having made a bad bargain for the state should not seek to be relieved of that bargain by a subterfuge or upon technicalities. The sugar bounty act of 1895 has created a number of just claims against the state, which are now in the hands of the farmers who grew sugar beets. I recommend that you make provisions for the payment of all claims arising from the act of 1895 which may be presented by the actual growers of sugar beets in the state, whenever such claims are properly attested by certificates of weights from the proper authorities.

Taxation is generally spoken of as a burden. It should not be so regarded in a well regulated state, but rather as a sacred obligation of citizenship to be discharged with alacrity. It is only when inequalities exist, when some are overtaxed, paying more than their share, and others are relieved through the operation of law, that taxation becomes unjust and a burden. Our revenue system contains a large number of defects which should be remedied. I trust you will give your best thought to a thorough revision of our revenue system to the end that every kind of property in the state shall contribute its just share towards the expenses of state government. I would especially ask your earnest consideration of some plan of equalization of assessments in all parts of the state. Under our present plan the same kind of property varies in valuation in different counties from ten to thirty per cent. This is grossly unfair, but for its remedy no means at present exists. There is no broader field for the exercise of true statesmanship than in the creation of a just and equitable system of revenue and taxation. It is a matter that affects every citizen individually and the material interests of the entire state.

A prominent industry of our state and one which is destined to become more and more a leading factor in wealth production to our people is the dairy. There is nothing in which the farmers of the state have engaged which has assisted them more to be independent by keeping them free of debt by furnishing them regularly throughout the entire year with a steady cash income. Yet in its infancy the dairy industry in Nebraska has made wonderful growth. Last year it assisted the material interests of the state by the distribution of nearly ten millions of dollars among the citizens of Nebraska. This industry asks no special protection as a struggling infant industry, but is perfectly willing to stand or fall upon its own merits. What it asks is as a matter of right that other industries be required to do the same. The laws now upon our statute books are probably adequate with proper enforcement. In my judgment an industry of such vast importance to the agricultural interests of this great agricultural state should receive your most careful and candid consideration. The creation by you of a department charged with the interests of the dairy industry, presided over by a commissioner whose duty would be to enforce the laws against imitations of dairy products and such other duties as your wisdom would dictate as proper for him to perform in the interests of the dairy industry, would meet the approval of the majority of the wealth producers in the state.

I shall be pleased to communicate with you from time to time by special message as occasion may require and I bespeak from each of you that cordial relationship that should characterize the association of our state legislators with her chief executive to the end that harmony may prevail in all our efforts for the common weal.

With a firm reliance upon all wise providence, may we each be guided in our duties by wisdom and in all our actions by integrity.

W. A. POYNTER.

## CRIED FRAUD FOR DREYFUS.

### The President of a Part of the Court of Appeals is Out.

### LOOKS BRIGHT FOR DREYFUS.

#### When Charges of a Conspiracy to Exonerate Dreyfus Were Ignored by the Minister, de Beaurepaire Resigned--A Cabinet Crisis Possible.

PARIS, Jan. 11.—M. Quesnay de Beaurepaire, president of the civil section of the court of cassation, has resigned his position in consequence of the refusal of the minister of justice to take any action on his report of alleged flagrant irregularities committed by the criminal section of the court of cassation in the Dreyfus case. The minister of justice is believed to have taken into consideration the character of Judge de Beaurepaire in refusing to grant his request. The judge's record is not of the best; he was implicated in the Panama scandals.

In a long document he virtually protests against what he suggests is a conspiracy on the part of the court of cassation to exonerate Dreyfus. But he practically admits his partiality by declaring that his resignation was intended to avenge the army and its generals for the sufferings they have had to endure in silence.

The resignation on the eve of the meeting of the national legislature, which reassembled to-day, gives rise to the inference that the criminal court of appeal is far nearer to the rendering of judgment in the Dreyfus case than most people believe, and that, having failed to induce the minister of justice to order an investigation which would discredit the supreme criminal tribunal of France, he is anxious, with the object of averting a decision favorable to Dreyfus, to provoke a ministerial defeat and a political crisis in the chamber to-day, where M. Lasies, one of the most fiery members of the anti-Dreyfus party, after numerous consultations with Beaurepaire, is to interrogate the minister of justice on the subject of the charges brought by Beaurepaire against the criminal court of appeal, and, if necessary, to invite a vote of censure and of want of confidence to be brought against the cabinet.

## CRISIS IS NEAR AT ILOILO.

### Philippine Situation Rapidly Approaching a Climax.

MANILA, Jan. 11.—The situation is rapidly approaching a climax, and it is just possible that to-morrow will see a peaceable solution.

Meanwhile all sorts of alarmist rumors are in circulation. The United States authorities are taking every precaution; the troops in quarters are under arms and the Californians have disembarked from the transports.

The natives, it is reported, have been ordered not to work for the Americans, and the employes in the commissary department have gone on strike. Natives are leaving the city.

Major General Otis, however, has the whole situation thoroughly in hand.

A second proclamation by Aguinaldo, bearing the same date as the one which immediately followed the proclamation of Major General Otis, based upon President McKinley's instructions, first appeared on the streets to-day, but it is alleged to have been recalled. Its terms are much more vehement than those used in the first proclamation. Aguinaldo threatens to drive the Americans from the islands, calls the Deity to witness that their blood will be on their own heads if it is shed, and details at great length the promises he claims were made by the Americans as to the part of the insurgents in the campaign.

It is believed that the second proclamation is the original draft which was not adopted by the Filipino congress at Malolos.

## CIVIL SERVICE REFORM WINS.

### House Reverses its Decision on Striking Out the Annual Appropriation.

WASHINGTON, Jan. 11.—The House yesterday reversed the decision of the committee of the whole last Friday, when the appropriation for the support of the civil service commission was stricken out of the legislative, executive and judicial appropriation bill. In committee, where members do not go on record, the appropriation was stricken out by a vote of 67 to 61. Yesterday when the roll was called the motion to strike out being defeated, 95 to 110.

The House, by special order, decided to proceed with the consideration of the naval personnel bill as soon as the bill for the codification of the laws of Alaska was out of the way.

## Hanged Herself in a Hotel Room.

SAN FRANCISCO, Jan. 11.—Mrs. George McQueen was found dead in her room at the Renton hotel here. She had hanged herself. Mrs. McQueen came to this city a few weeks ago from Grand Rapids, Mich., where her husband is a prominent business man. Her father is Judge Miner, well known in Utah.

## A New York Hair Dresser Received Chocolate Drops Containing Arsenic.

NEW YORK, Jan. 11.—Another box of poisoned candy has been sent through the mails. Marie Appell, who supports herself by working as a hair dresser among Harlem families, spent the whole of Saturday night in agony, fighting off death, after eating one chocolate drop out of a box that had been sent to her, ostensibly as a New Year's gift.

Hasty analysis by a druggist shows the candy was heavily impregnated with arsenic.

## HORRIBLE RAILROAD WRECK.

### Eighteen Persons Killed in a New Jersey Smash-Up.

NEW YORK, Jan. 11.—By a head-on collision between two passenger trains on the Lehigh Valley railroad at West Dunellen, N. J., at 12:47 p. m. yesterday, eighteen persons were killed and over twenty were injured.

West Dunellen is three miles from Boundbrook and about thirty miles from New York city. At the spot where the disaster occurred, there is a sharp curve in the Lehigh Valley tracks and a steep cutting, but the accident was due in the first place to some terrible mistake in train orders and in the second place to another accident that occurred at Boundbrook earlier in the day.

The scenes which accompanied the collision, the sufferings of the injured and the panic that reigned among the 400 passengers were well nigh indescribable. The blood-stained wreck of tangled and twisted iron and wood bore witness to the truth of the general verdict of railroad men that this was one of the worst collisions in recent years.

A head-on collision on a double track road was made possible only by a freight wreck which occurred at Boundbrook at 6 o'clock in the morning when the axle of a freight car broke and nine cars were piled on top of each other. This completely blocked the east bound track, and all through the morning Lehigh Valley trains bound for New York switched from their own track to the west bound track, going over these rails from Boundbrook to Newmarket, a distance of six miles, and changing at the latter place back to their right side of the road. To permit this mode of traffic, all west bound trains were held at South Plainfield until their own line was clear of trains going in the opposite direction.

Train No. 20, which left Shamokin, Pa., at 7 a. m., was so heavy with human freight that it had to be broken into three sections. The first two sections arrived at Boundbrook, switched over to the other track, switched back at Newmarket and reached New York in safety. The third section of this train was almost an hour late. Its seven cars were crowded with 400 excursionists, most of them from Mount Carmel and Shamokin, Mahoney City, Hazelton, Ashland and Pottsville, Pa. The party was traveling under the auspices of the business men's excursion, an annual event which many patronize for a three days' visit to New York. Not a few of the excursionists were coming to witness the McCoy-Sharkey fight. Their train switched over at Boundbrook and proceeded, like the preceding sections, on the west bound track.

Meanwhile, there had been waiting at Newmarket a local train that plies regularly between New York and Boundbrook. Its number on the schedule is 71 and it is due in Boundbrook at 11:59 a. m. Owing to the traffic all going on one track, it was almost an hour late. At last the train dispatcher at South Plainfield gave it permission to go. Just before reaching West Dunellen, Engineer Rick slowed his train down, because he stops for passengers if there are any. Martin Brennan, the signal man, threw up his arms and waved them, as if to say there were no passengers, so the local put on steam and headed round the curve, going at about twenty-five miles an hour. There were only four passengers on the local.

In the cab of the excursion train was James Prendergast, the engineer, with his fireman, George Cheshire. They saw the local as it started on the curve. With shrieking whistle and brakes grinding sparks from the wheels, the excursion train bore down to what seemed certain destruction. The passengers, alarmed at the continued whistling, opened the windows; mothers snatched their children in their arms, men started from their seats, but before they had time to find out what was the matter they were hurled headlong, knocked senseless and many killed outright.

## FIRE IN CRUISER'S BUNKERS.

### Two Japanese Sailors Burned to Death as a Result of Their Bravery.

SEATTLE, Wash., Jan. 11.—News by steamer from Japan says that the second class Japanese cruiser Kaimon Kan has reached Amoy a partial wreck as the result of a fire that broke out during a storm at sea. Several of the crew of the cruiser were burned to death any many others injured. The Kaimon Kan was a wooden vessel of the old style and had on board a number of soldiers besides her regular crew. When a few days out and in the midst of a gale fire was found in one of the bunkers.

The Japanese crew behaved with great bravery and streams of water were soon playing on the flames. At this juncture an accident to the machinery made it necessary for some one to go down the alley. It was a case of almost sure death. Two men volunteered to go down. Before they got to the machinery in need of repair the smoke overcame them. No one would go in after them and the fire soon consumed their bodies. The engines were kept running or the vessel would surely have foundered. The vessel is repairing at Amoy.

## MANY CONVICTS SET FREE.

### Last Official Act of Leedy Was to Grant a Big Batch of Pardons.

TOPEKA, Kan., Jan. 11.—The last official act of Governor Leedy was to grant fourteen pardons and commutations.

The sentence of James R. Colean, sent up from Bourbon county in 1895 for wrecking the State bank of Fort Scott, was commuted to four years. His original sentence was for five years. He will now be released June 1, 1899.