

ARE LAW BREAKERS.

State Officers Elected to Enforce Law, Engage in a Gross Violation of Law—How They "Protect the Interests of the State."

VALLEY COUNTY TAXPAYERS INDIGNANT.

A Secret Compromise By Which \$1,247 of State Taxes Were Given Away to Republican Politicians—Why It Was Done.

Here Is the Story.

Indignation runs high amongst the good people of Valley county.

They feel that they have been shamefully treated by three of the state officers at Lincoln.

They did their duty to the state under trying circumstances, and they do not like to see the results of their patriotic action trifled away in direct violation of law by state officers elected to enforce the law.

Hear their case, and judge whether they have a right to be indignant. The following account is condensed from the Ord Journal:

A few years ago one A. D. Robinson a republican, was elected to the office of county treasurer of Valley county. During his term he was found to be a defaulter to the tune of more than \$4,000 taxes due the state.

Mr. E. J. Clements county attorney, was ordered by the county board to begin an action for the recovery of the stolen money. District Judge Tiffany heard the case. Robinson by his attorney filed a demurrer which Judge Tiffany sustained. Thus, Valley county was thrown out of court with the costs to pay. Mr. Clements however, took the case to the supreme court, upon hearing of which, the case was ordered for trial a second time in Valley county, Attorney General Leese having a hand in the case at that time. Attorney Clements by this time was supplanted by Chas. A. Munn, an independent.

The case came into court and after a hard tussle Mr. Munn with Mr. Clements voluntarily assisting, obtained judgment for \$4633 50 against the said A. D. Robinson on his bond. Bear in mind the bond of Mr. Robinson was signed by some of the strongest men in Valley county, such as Fred L. Harris, John Beauchamp, W. D. Ogden, J. B. Miller, W. S. Waters, A. M. Fiale, Waterman, and many others, who are good for twenty times that amount. Fred L. Harris is one of the Ord bankers and a heavy gain dealer in the city of Lincoln, and worth more than a hundred thousand dollars.

Immediately after obtaining judgment as above stated, the attorney of Valley county wrote:

ORD, Neb., April, 4, 1892.

HON. GEO. H. HASTINGS,

DEAR SIR:—In the case of A. D. Robinson and bondsmen, I secured judgment on behalf of plaintiff, on April 1st, for \$4633.50 in favor of the State of Nebraska. Judgment will draw interest at ten per cent from that date.

Yours Truly,

CHAS. A. MUNN.

The same notice under the same date was sent to the State Treasurer, John E. Hill.

Soon after the judgment was rendered the report became current that the

law firm of Robbins & Babcock of Ord had effected

A COMPROMISE

between the bondsmen and the State Treasurer. This report became more and more current, and that Hon. G. H. Hastings, our Attorney General was a party to the compromise, which our people look upon as a steal, the judgment being as good as gold.

Upon hearing this report, County attorney Munn wrote on May 6, to Hastings stating the case and asking to be informed as to the truth of the matter. Mr. Hastings' deputy wrote that the Attorney General was absent, but would attend to the matter soon.

A month elapsed and Mr. Munn heard nothing more. Meanwhile, the interested parties concealed the true situation from the county attorney, although on the sly they secured an entry on the district court records to the effect that the judgment had been satisfied.

Finally attorney Munn wrote the following indignant letter:

ORD, Neb., June 9, 1892.

HON. GEO. H. HASTINGS,
Lincoln, Nebr.,

DEAR SIR:—You will remember that at our last term of the district court, of this county, I obtained a judgment in the case of Valley county vs. A. D. Robinson et. al. for the sum of \$4633.50. On the 12th, day of May as I now learn this judgment was released by the Clerk on a satisfaction executed by the Auditor and State Treasurer. I was in no way informed of this settlement, or the satisfaction of the judgment until I accidentally learned the fact from one of the bondsmen, against whom judgment was rendered. I am informed that this judgment was compromised for \$1800.00 or for less than forty per cent of the amount. I wish you would look into the matter and inform me. The judgment was absolutely good. In fact it was a lien on real estate enough to satisfy six such judgments in full. It seems to me that this has been an unusual proceeding, to settle and dismiss a judgment obtained by a county attorney without giving him the slightest notice. It is at least discourteous and indicates a desire to make an unlawful settlement. This is especially true in this case which has been in court some time and attracted considerable public notice. If it is true then it would seem to be unlawful and fraudulently made, and the tax-payers not only of this county but of the state, have just cause for complaint, and the officers making such a settlement should be held responsible on their official bond for the balance. As I said before this judgment was absolutely good and collectable. Let me hear from you.

Yours Truly, CHAS. A. MUNN.

This letter brought forth the following reply:

LINCOLN, Neb., June 14, 1892.

Chas. A. Munn, Esq., Ord, Neb.

DEAR SIR:—Replying to yours of the 9th inst., permit me to say that I have examined the records of the office of the auditor, and find that in the case you name judgment was rendered April 4th, 1892, for \$4,633.56, and that on the 12th of May, 1892, the auditor and treasurer under the statutes made a settlement of the judgment for \$3,356.28. I find that the judgment was for the interest and the principal.

Yours truly,

GEO. H. HASTINGS,
Attorney General.

There is certainly just CAUSE FOR INDIGNATION

On the part of taxpayers of Valley county and the whole state as well. The editor of THE ALLIANCE-INDEPENDENT has investigated this matter and can vouch for the substantial correctness of the facts recited by the Ord Journal. They accord exactly with the facts shown by the records at the state house.

Robinson had failed to pay over to the state treasurer state taxes to the amount of \$4,196 20 as shown by the records in the auditor's office. This

sum had been drawing interest at 10 per cent. till principal and interest amounted to \$4,633.56. In cases of this kind the statutes make it the duty of the auditor immediately "to commence suit against the county treasurer and his sureties and take all such proceedings as may be necessary to protect the interests of the state." Instead of doing this, it appears that Auditor Benton left Valley county to shoulder the trouble and expense of a long and severe legal struggle to secure the payment of the taxes due the state. Then after the struggle was over, the victory won, judgment entered, and nothing was left to be done but to collect the money from the bondsmen who were well able to pay twenty times the amount, Auditor Benton, Treasurer Hill, and Attorney General Hastings suddenly stepped in and made a private settlement for \$3,356 28 or \$1,277.28 less than judgment had been entered for. This is the way the state officers "protect the interests of the state."

And the only explanation offered by Mr. Hastings is that "the auditor and treasurer, under the statutes made a settlement."

The statute referred to read as follows:

The auditor, state treasurer and attorney general, shall form a board, and as such are hereby authorized and empowered to make all settlements for moneys due the state from any county treasurer or his bondsmen against whom judgment has been rendered in any court of this state, in such manner as in their judgment shall be to the best interests of the state. [Compiled statutes of 1891, Sec. 4,284.]

It should be observed that this statute only grants power to this board so far as the manner of settlement is concerned. It grants no authority to compromise, or remit any amount due. The legislature has no power to authorize any board to do such a thing as will be seen from the following article:

The legislature shall have no power to release or discharge any county, city township, town or district whatever, or the inhabitants thereof, or any corporation, or the property therein, from their or its proportionate share of taxes to be levied for state purpose, or due any municipal corporation, NOR SHALL COMMUTATION FOR SUCH TAXES BE AUTHORIZED IN ANY FORM. (Art. IX, Sec. 4, Const. of Nebr.)

Whatever settlement this board is empowered to make must of course be in accord with all other statutes.

Now let us go a little further and see WHAT THE STATUTES REQUIRE.

Attorney General Hastings seems sadly in need of instructions: Section 4071 Revised statutes of 1891 says that the bondsmen of a county treasurer are responsible for "all taxes" that may be collected by him.

Section 4072 requires the auditor to sue the county treasurer and his bondsmen whenever state taxes are not promptly turned over.

Section 4073 prescribes the manner of prosecution etc., and says: "The court may upon hearing, give judgment for such sum or sums of money as such officer or person is liable in law to pay.

Section 4066 requires any county treasurer who fails to pay over state taxes at the proper time to pay ten per cent interest on the amount due till it is finally paid. The law says: "In no case shall the auditor be permitted to remit such interest, unless satisfactory evidence is presented to him, showing, by official action taken by the county board lawful cause why the collector could not pay over the amount due on such treasurer's account with the state."

Nowhere in the statutes is there a single line or a word authorizing any

state officer to make any compromise with any defaulting treasurer or his bondsmen. On the contrary, no such compromise can be made without violating the law and constitution of the state.

If these facts are known to Attorney General Hastings, he is a deliberate law breaker. If they are not known to him, he should resign at once as a man too grossly ignorant to fill such an office.

The facts then are these: After Valley county officials, with great expense and trouble, had secured a judgment for \$4633.50 due the state, the officers of state without warrant of law, and in direct violation of law, secretly compromised with the bondsmen of the defaulting treasurer for \$3356.28, giving the bondsmen \$1277.28 of the state's money.

Now let us inquire what may have been

THE MOTIVE

For such an outrageous abuse of power by the men who took a solemn oath to support the constitution and laws of the state.

The people of Valley county freely express the opinion that the state officers have pocketed a considerable sum of money somewhere in the deal. But a much more plausible theory and one which the people of the state are much more likely to accept, is that this compromise was made to secure political influence in favor of the re-nomination of the present state officers.

This compromise was made last spring when several members of the the present state house ring were very anxious for a re-nomination, particularly Hastings, and Deputy Auditor Bowerman, Benton's brother-in-law, who was slated as Benton's successor.

Several prominent republican politicians of Valley county, "old-time machine men" as Ed. Roggen would say, had a finger in the pie. Among them were Harris, the banker and grain dealer, Lawyers Robbins and Babcock, and ex-Judge Coffin. How easy it would be for these men to say: "Make this compromise and Valley county shall be solid for the nomination of certain men."

Probably no direct evidence on this point is obtainable. But there is strong presumption in favor of the correctness of this view. There is no other reasonable explanation.

If this is the true theory, these men are unworthy the confidence or respect of a single voter in the state. They have used the state's money to purchase political support. They might just as well have taken the cash from the vault, and used it to purchase a nomination.

Unless these men come speedily to the front with an explanation of this outrageous deal, the people of Nebraska will be fully justified in believing this most plausible explanation of their conduct.

A CORRECTION.

Our thanks are due to that staunch independent of Gage county, Dan Althen, for calling attention to an error in the editorial "A Full Vote and a Fair Count" which appeared in our last issue. It was there stated that the names of the thirty-two presidential electors nominated by the four parties in this state would be arranged in alphabetical order. The statement is incorrect. The law contains an exception, which had escaped our notice, providing that the eight electors named by each party shall be grouped together. This will be a great convenience to voters, and a safeguard against mistakes in marking.