

IS UNCONSTITUTIONAL

INSURANCE LAW DECLARED VOID BY SUPREME COURT.

Feature of Tax on Foreign and Domestic Companies is the Objection.

Lincoln, Neb.—(Special.)—By a decision of the supreme court the Weaver insurance law passed at the last legislature has been declared unconstitutional. The Bartley case from the district court was reversed and a new trial of the bondsmen ordered.

The Weaver law was enacted to create a new insurance department and divert the supervision of the insurance business of the state from the auditor to the new department, at the head of which the governor should be placed.

CONSTITUTIONALITY OF BOARDS.

The board upheld the constitutionality of the founding of the new department, which is a point raised in connection with every new board created by the legislature. The judges were unanimous in their decision.

Further, on the same point of constitutionality of these boards, the court rendered a direct decision in the case of the Pacific Express company against Cornell. The opinion was written by Judge Harrison, and the case was affirmed.

The opinion was written by Judge Norval and his syllabus:

First—The judiciary may not declare an act of the legislature unconstitutional unless it is clear that it contravenes some provision of the fundamental law.

Second—By section 1, article 9, of this constitution, the public revenues are required to be imposed by the levying of a tax by valuation "so that every person or corporation shall pay a tax in proportion to the value of his or her property and franchises."

Third—The rule of uniformity prescribed by section 1, article 9, of the constitution, prohibits the legislature from discrimination between taxpayers in any manner whatever.

Fourth—Under section 4, article 9, of the constitution, the legislature is empowered to pass a law releasing or discharging any individual or corporation or property from the payment of any portion of the taxes to be levied for state or municipal purposes.

Fifth—Sections 26 and 27, chapter 47, laws of 1899, insofar as they attempt to exempt the taxation or release or commute the taxes of such companies, are inimical to sections 1 and article 9, of the constitution and void.

Sixth—Where the invalid part of an act is so interwoven with the remainder of the act, that the passage of the residue, the entire act will be declared void.

Seventh—The unconstitutional provisions of sections 26 and 27, chapter 47, laws of 1899, insofar as they attempt to exempt the taxation or release or commute the taxes of such companies, are inimical to sections 1 and article 9, of the constitution and void.

NORVAL'S CONCLUSIONS.

Judge Norval, in writing the opinion on the insurance commission case, closes as follows:

"If the motive inducement which prompted the enactment of said chapter 47 was merely to transfer the insurance department of the state from the auditor to the governor, as suggested by counsel for respondent, it is very evident that the act would most likely have been differently framed.

Among the important cases was one reversing the judgment of the district court of Douglas county holding the Bartley bondsmen liable on the treasurer's default and remanding it for further trial. It was held that the only duty the governor had was to approve the bond, and in effect that he had no right to send it back and demand other sureties.

It is held, however, that the fact that the sureties signed a statement permitting the adding of other names on the bond and afterwards delivered it, binds them.

The opinion in the Bartley bond case was written by Judge Sullivan, concurred in by Chief Justice Harrison, and dissented from in a four-page opinion by Judge Norval.

IN THE BARTLEY CASE.

The syllabus of the decision in the case of the Bartley bondsmen is in part as follows:

"In reviewing a judgment rendered on a verdict given in obedience to a peremptory instruction, it is the duty of the reviewing court to assume the existence of every material fact which the evidence of the complaining party establishes or tends to prove.

GEN. LAWTON'S DEATH

BRAVE SOLDIER KILLED IN THE PHILIPPINES.

Sad Story of How One of America's Foremost Fighters Met His End Fighting Filipinos.

Manila.—(Special.)—Major General Henry W. Lawton has been shot and killed at San Mateo. He was standing in front of his troops, was shot in the breast and died immediately.

General Lawton started from Manila with cavalry under Captain Lockett and battalions of the Twenty-fifth and Twenty-seventh infantry under Lieutenant Colonel Sargent, for the purpose of capturing San Mateo, where Geromino was said to have 300 insurgents.

HOW HE WAS KILLED.

General Lawton left home Monday night and had returned from his northern operations Saturday, to lead an expedition through Marikina valley, which has been an insurgent stronghold throughout the war. The valley has several times been invaded, but never held by the Americans.

The night was one of the worst of the season. A terrific rain had begun. Accompanied by his staff and troop 1, Fourth cavalry under Captain Lockett, he set out at 9 o'clock in advance of the main force, consisting of the Eleventh cavalry and one battalion each of the Twentieth and Twenty-seventh infantry, which started from La Loma at midnight.

With a small escort he led the way through an almost pathless country, a distance of fifteen miles, over hills and through canebrake and deep mud, the horses climbing the rocks and sliding down the hills.

Before daybreak the command had reached the head of the valley. San Mateo was attacked at 8 o'clock and a three hours' fight ensued. This resulted in but few casualties on the American side, apart from the death of General Lawton, but the attack was difficult because of the natural defenses of the town.

General Lawton was walking along the firing line within 300 yards of a small sharpshooter's trench, conspicuous in the big white helmet he always wore and a light yellow raincoat. He was also easily distinguishable because of his commanding stature.

The sharpshooters directed several close shots which clipped the grass nearby. His staff officer called General Lawton's attention to the danger he was in, but he only laughed with his usual contempt for bullets.

Suddenly he exclaimed: "I am shot," clenching his hands in a desperate effort to stand erect, and fell into the arms of a staff officer.

LIFE WAS EXTINCT.

Orderlies rushed about the field for surgeons, who dashed up immediately. But their efforts were useless. The body was taken to a clump of bushes and laid upon a stretcher, the familiar white helmet covering the face of the dead general.

Almost at this moment the cheers of the American troops rushing into San Mateo were mingling with the rifle volleys.

After the fight six stalwart cavalrymen forded the river to the town, carrying the litter on their shoulders, the staff preceding with the colors and a cavalry band playing "The Star-Spangled Banner." The troops filed bareheaded through the building where the body was laid, and many a tear fell from the eyes of men who had long followed the intrepid Lawton. The command was struck dumb as though each man had suffered a personal loss.

MRS. LAWTON IN MANILA.

Mrs. Lawton and the children are living in a government house. San Mateo lies by a big mountain, and a broad and shallow stream in front, with wide sandbars, which the insurgent trenches and buildings command.

The Americans were compelled to ford the river under fire. It was while they were lying in the rice fields and volleying across, preparatory to crossing the stream, that General Lawton was shot. All except the staff officer was wounded about the same time, and one other officer and seven men were wounded.

MARKET IS AFFECTED

South African War Causes Many Failures.

Eastern Concerns the Chief Buffer—London Bank Forced to Close By Financial Stringency.

London.—(Special.)—The failure of the London and Northern bank, limited, a comparatively small concern, was announced today. The directors issued a statement attributing the failure to the alleged libelous assertions regarding the bank which have appeared in the press. The bank's assets, according to the directors, should fully cover the liabilities.

The failure of the bank and the rise in the German rate of discount and interest, the latter from 3 to 4 per cent, did not appear to have any serious effects on the market here. The general feeling on the street was that the conditions were better. This was no little due to the impression, gained from private advices, that an arrangement had been reached in New York to support the market and prevent a recurrence of yesterday's panic.

It is hardly thought that the rise in the German discount rate will cause a corresponding increase of the English rate.

While news from the seat of war is awaited with nervous apprehension, one of the largest operators expressed to a representative of the Associated Press the belief that the feeling was stronger and unless very bad news came from the front there were no signs pointing to a further panic.

The Chronicle, in its financial article, says:

"The fears of a large new issue of consols undoubtedly overhangs the market. The price at which the government could place them is being discussed. On Monday some leading financiers thought the issue might be made at 95. Tuesday 90 seemed more like the figure at which 10,000,000 could be sold, but the government could not put a larger amount just now at any figure."

GERMANY HARD PRESSED.

Berlin.—(Special.)—The Reichsanzeiger publishes the following statement: At the meeting of the central committee of the Bank of Germany, Herr Kock, a director, discussing the question, said the financial position of the bank had never before been so strained at the same period of the year, and that the stock of bullion had become seriously diminished, being 57,000,000 marks less than in 1897.

After giving other figures showing the difficulties of the situation, he said it had been impossible to avoid an increase in the bank rate.

Dr. von Miquel, Prussian minister of finance, has just submitted to Emperor William a special report regarding Prussia's finances from 1897 to 1899. The report, on the whole, is favorable, showing a diminution of the Prussian debt. The interest on the debt has diminished from 242,000,000 marks to 221,000,000 marks.

The state railroads have, despite the very heavy traffic, made a less profitable showing, the surplus now being 48,000,000 marks, as against 48,000,000 marks in 1897.

DEVRIES' LIABILITIES.

Baltimore, Md.—(Special.)—Christian Devries and Mrs. Minnie A. Devries, his wife, filed a joint deed of trust today, conveying all their property, real and personal, to Henry S. Dulaney, trustee, to be converted into cash and used in the liquidation of the Vogelstein company, of which Mr. Devries is president. Mr. Dulaney filed a bond for \$200,000, which would indicate that the assets are \$150,000. Of this \$150,000 is ready cash of \$75,000 in personal property. The liabilities of the concern are not definitely known, but are estimated at from \$175,000 to \$200,000.

C. Morton Stewart was chosen president of the National bank of Baltimore, to fill out the unexpired term of Phelps, resigned.

Baltimore, Md.—(Special.)—Judge Phelps, in the city circuit court, by consent, appointed Harry A. Parr receiver for the Columbian Iron Works and Dry Dock company, Mr. Parr gave bonds for \$100,000. In the petition, which was filed by Mr. Parr, it is alleged that the company has subjected itself to many obligations, now aggregating between \$375,000 and \$400,000, including about \$175,000 in promissory notes held by Baltimore banks, incurred individually by ex-Mayor William T. Maltzer, president of the company; Christian Devries, president of the Charles A. Vogelstein company, which assigned yesterday, and by the petitioner.

The petition, filed about 11 o'clock, has already matured and others are about to fall due. The company has no available cash to meet its obligations and to prevent the destruction of the company's assets by a scramble of its creditors, a receiver was asked.

PORT JARVIS, N. Y., BANK FAILS.

New York.—(Special.)—The National bank of Port Jarvis, N. Y., did not open its doors for business today. A notice signed by President Francis Marvin and Vice President Sharp was posted saying that temporary suspension was being made by the attorney in the New York money market. The suspension is attributed primarily to the defection of L. E. Goldsmith, the assistant cashier.

SENATE WILL KNOW FACTS.

Calls on President to Produce Suppressed Philippine Facts.

Washington, D. C.—(Special.)—Mr. Harris of Kansas announced his withdrawal from the committee on agriculture. Thereupon Mr. Cockrell of Missouri presented a resolution filling the vacancy on the committee on agriculture, claims, forest reservations, interstate commerce, Philippines and pensions, by the appointment of Mr. Allen of Nebraska. The resolution was adopted.

Mr. Hoar introduced his resolution, which abolished the resolution, at Mr. Hoar's request, was left on the table.

NETTLEWOOD HITS HOME.

Mr. Hawley of Connecticut, chairman of the military affairs committee, drew a sharp speech from Mr. Nettleton by a motion to reconsider a resolution introduced by Mr. Pettigrew and passed, directing the secretary of war to forward to the senate the full report of the commission appointed by the president to investigate the conduct of the Spanish war.

Mr. Nettleton declared that this was a most unusual proceeding and demanded to know whether "it is a part of a studied policy to suppress information."

"It is," he demanded, "along the lines of the suppression of news from Manila, not because it is not proper news, but because of its possible effect on the people of the country? A day or two ago I asked the adoption of a resolution of inquiry that I deemed perfectly proper. It was laid on the table."

"Was the action taken because the resolution indicated that officers of this country had recognized the Philippine republic? Do you think if such a recognition had not been made, that resolution would have been laid on the table?"

"The fact is we did recognize the Philippine republic and it was through the assistance of the Philippine vessels that a Spanish garrison was forced to surrender."

"It now seems that there are many things to be brought to the attention of the people. My belief is that we ought to have another commission to investigate the entire conduct of the Spanish war. We might investigate the purchase of army transports for which we paid two or three times what they were offered for to others. Is this policy of the suppression of news and facts to be followed for the purpose of re-electing the present administration?"

HAWLEY'S EXCUSE.

In reply Mr. Hawley disclaimed any intention of an endeavor to suppress any fact. He made the motion simply that the matter might be considered by a committee with a view to ascertaining the availability of the matter asked for.

Mr. Cockrell of Missouri believed that the report of the investigating committee should be communicated to the senate, and at his suggestion the resolution was reconsidered and the request was made of the president, if not incompatible with public interests, to communicate the testimony and report to the senate.

Mr. Allison of Iowa, thought, too, that the senate ought to have the testimony and report.

The resolution as amended by Mr. Cockrell was passed without dissent. The senate then at 1:15 p. m. went into executive session.

At 2:50 the senate adjourned until January 3, 1900.

British Yeomanry Called Out.

London.—(Special.)—The government has at last consented to mobilize a force which General Buller is credited with having demanded all along, viz. 16,000 mounted infantry. The war office has issued an order to the effect that the government had decided to raise for South Africa a mounted infantry force to be called "Imperial Yeomanry," and to be recruited from yeomanry, volunteers and civilians possessing the required qualifications. Enrollment will be for one year, or during the continuance of the war. The age will be between 20 and 35 years of age, and of equal physique to the ordinary cavalry soldier, officers and men are to provide their own horses and to wear neutral tint cloth shooting jackets, not necessarily uniform, felt hats, breeches and gaiters. All must be good riders and marksmen. The same order invites every volunteer regiment that is linked with a regular battalion serving at the front, to supply a full company, which will take the place of the mounted infantry of the regiment.

Goebel Still Has Hope.

Frankfort, Ky.—(Special.)—Though notices of contest have been prepared against both Governor Taylor and Lieutenant Governor Marshall they have not been served and probably will not be until Friday. The delay in serving the notices is said to have been planned to prevent taking depositions prior to the meeting of the legislature. The Goebel people preferring to have the whole proceedings conducted by the contest committee of the legislature instead of in part before the court examinees and later by the contest committee.

Louis McQuown of Bowling Green will be the leading counsel for Goebel before the legislature. Taylor's managers say counsel for the republicans will not confine themselves to rebuttal of grounds of contest laid down in Goebel's notice, but will go outside and expect to show flagrant frauds in many of the large democratic counties.

CARNEGIE'S GENEROSITY.

Will Make City of Lincoln a Present of \$75,000.

Washington, D. C., Dec. 26.—Chairman Mercer of the public buildings and grounds committee has received a letter from Andrew Carnegie announcing that he would give \$75,000 to the city of Lincoln for a public library building, the Lincoln library having burnt down in the disastrous fire of several months ago.

The conditions surrounding this gift, Mr. Mercer believes, will be the same as those exacted from other cities, Washington, Fairfield, Ia., Savannah and Pittsburg, that the city must donate a site and guarantee a certain yearly sum for its maintenance, which will probably amount to \$5,000.

This is the most munificent Christmas gift the state of Nebraska has ever received and will be, undoubtedly, accepted by the municipality of Lincoln. Carnegie has given in this way upward of \$2,500,000 for libraries throughout the United States.

Lincoln, Neb.—Members of the Lincoln public library board have been corresponding with Andrew Carnegie for several weeks with a view to securing a donation for the construction of a library building, and although he spoke encouragingly of the plan from the start, it was not known till lately that their effort had met with success. It is supposed that the gift is made conditional on the city of Lincoln making an annual appropriation of a specified sum for the maintenance of the library and purchasing new books and periodicals, and that it shall furnish a suitable site for the building, all of which will undoubtedly be complied with by the city council.

The Lincoln public library was destroyed by fire with the Masonic Temple building three months ago. Since then about 3,000 volumes have been collected for a new library and the available funds remaining in the treasury amount to about \$6,000. The annual levy made by the city council for the library is \$1,000, which brings in a revenue of only \$5,000 a year. Unless the conditions are such that they cannot be complied with by the council, the donation will, of course, be accepted.

GLOBE NATIONAL FAILS.

Great Boston Bank Closed by Order of the Comptroller.

Washington, D. C., Dec. 25.—Comptroller Dawes has appointed Special Examiner Daniel G. Wing temporary receiver of the Globe National bank of Boston, Mass. In connection with his action the comptroller said:

"Some time ago Mr. Wing, who is one of the experts employed in the system of special bank examinations, recently inaugurated, discovered a serious condition of affairs in the Globe National bank, which he immediately brought to the attention of the comptroller, and under his direction, the directors of the bank. It was very laudably agreed and undertaken to make good the doubtful and bad assets found, and the directors have greatly improved under the law to appoint a receiver. A considerable cash dividend can be paid to creditors at once."

The condition of the bank was discovered by Special Examiner Wing in time to secure such action on the part of the directors as will probably prevent the failure from inflicting heavy losses upon the depositors, but the directors and stockholders will lose heavily.

The bank, it is understood, was involved in the Squire failure and in mining stocks. The following is a condensed statement of the condition of the bank, as reported to the comptroller December 2, 1899:

Liabilities—Capital stock, \$1,000,000; surplus, \$125,000; undivided profits, \$147,750; circulation, \$381,100; deposits, \$5,069,665; bills payable, \$275,000. Total, \$10,529,365.

Resources—Loans and discounts, \$5,573,104; United States bonds to secure circulation, \$1,600,000; United States bonds to secure United States deposits, \$190,000; premiums on bonds, \$139,350; stocks and securities, \$1,092,292; cash on hand and due from banks, \$235,237. Total, \$10,529,365.

TWO OTHER FAILURES.

Baltimore, Md., Dec. 26.—William A. Wilson, Jr., & Co., lumber dealers, made an assignment for the benefit of creditors. The liabilities, \$480,000, are in a serious condition at a hospital from the effects of a bullet wound accidentally self-inflicted last Monday.

Max Juhn, formerly of the firm of Juhn & Adler, filed a petition in bankruptcy. Liabilities, \$484,900, no assets.

LOAN ASSOCIATION ASSIGNS.

St. Louis, Mo., Dec. 26.—The Mulhally Building and Loan Association has assigned to C. E. A. Muller for the benefit of creditors. The liabilities, represented in loans, amount to \$40,000. The resources aggregate \$45,500. The operation of the association was impeded by the condition of the real estate market and it was thought best to assign.

Increase in Freight Rates.

Lincoln, Neb., Dec. 26.—On December 1 the various railroads doing business in Nebraska put into operation for the second time during the past three years the system of charging for the transportation of all kinds of freight by the 100 pounds instead of by the car lot. It is claimed by shippers that this is an increase in rates and the State Board of Transportation came to this conclusion, after a thorough investigation in 1897.

After the change was announced by the railroads several weeks ago the matter was taken up by the board of transportation, but no action was taken at the time for the reason, it is asserted, that the new tariff sheets had not been published and that there was no way of ascertaining whether the adoption of the new system would increase rates. A few days later the tariff sheets were issued and an examination showed that the rates were similar, in most instances, to those charged under the 100-pound system in 1897.

HUGH BONNER'S FIRE COMPANY.

New York Fire Protective Company, Incorporated under the Laws of New Jersey, with an Office in this City, has Formed an Assignment.

New York.—(Special.)—The Greater New York Fire Protective company, incorporated under the laws of New Jersey, with an office in this city, has formed an assignment. Hugh Bonner, former chief of the New York fire department, in the name of the company, which was organized in June, 1898, for the purpose of installing fire alarm systems connected with the city fire departments in buildings, as well as furnishing a patrol for guarding property during and after fires. The capital stock was \$30,000. A similar scheme has been in successful operation in Boston, but in New York the system did not take so well. For that reason the company has not earned sufficient to carry it over the present general stringency, and a general assignment was made. The liabilities could not be learned.

BIG BOSTON FIRM ASSIGNS.

Boston, Mass.—(Special.)—Dillaway & Starr, bankers and brokers of this city, have assigned. The firm is one of the most prominent of the kind in the city and is composed of Charles F. W. Dillaway, George H. Flint and A. W. Lawrence.

Springfield, Ill.—The strike of the employees of the Consolidated Street Railway company, which was settled by agreement yesterday morning, is on again. The men, who had started to work, were called off this evening by order of the Federation of Labor, on the ground that Manager Minary had violated an agreement by refusing to reinstate two of the men and by placing new men on cars ahead of strikers.