

THE BALLOT FRAUD

A Plan Concocted by Silas A. Holcomb and His Political Lieutenants to Steal Two Seats on the Supreme Bench.

The darkest page in the political history of the state of Nebraska is the story of the infamous recount deal which was engineered during the legislative session of 1897. The attempt was made by a crowd made up of state officials and disreputable politicians to so change the ballots cast by the people that two additional judges of the supreme court could be counted in. The details of the plan were arranged at the house of Silas A. Holcomb, on "A" street in the city of Lincoln. The purpose was to place on the supreme bench William Neville, who is now the fusion candidate for congress in the Sixth district, and J. S. Kirkpatrick, the relative and law partner of Governor Holcomb.

RECORD IS OPEN.

The record in this matter can be inspected by everybody. The house and senate journals of 1897 will show the date of the introduction of the first recount bill; they will show how that bill was railroaded through in order that the conspirators might get at their work; they will show how the seats of the republican members from Douglas county were stolen in order to increase the majority of the party that was behind the scheme; they will show how the courts were defied, and how the work of changing the ballots was begun in star chamber sessions, part of the time at the dead of night, and part of the time in daylight, but behind locked doors in the office of a state official.

When the recount of the ballots was first publicly proposed a delegation composed of G. M. Lambertson, George W. Post and others called upon the governor and urged that the ballots be publicly counted, and that none but the most reputable citizens of the state be selected to do the work. They pledged the moral support of all good citizens in case the business was thus transacted.

But Silas A. Holcomb paid no attention to their suggestions. He had other plans, and the proof is now plain that the men who were to perform the work were selected long before the recount law was passed.

BAD CHARACTER OF THE MEN.

It is well that the attention of the people be again called to the class of men selected for this work by Silas A. Holcomb. One was a man who had a case he wanted reversed by the supreme court, and who openly threatened to kill one of the judges if the right kind of a decision was not rendered. One was a roustabout, who had a son serving time in the state penitentiary. One was a political mountebank who was later kicked out of the service of the exposition commission because of questionable dealings. All of the men were men who placed political success before honesty, and who, as future events proved, were promised good places or substantial rewards at the expense of the state treasury. It was a force of men well equipped to perform secretly by night and by day.

The men in the legislature who were assisting in the deal did their part well. They stole seats to gain the necessary majority, and they passed a recount bill which contained no penalty for fraudulent counting. All this is down in black and white in the public records, and is an open page in the minds of the people of Nebraska.

When the public indignation became so strong that the conspirators were compelled to do the balance of the work in the light of day the plan to count in the judges failed, and an attempt was made to destroy the proof of the fraud. The secretary of state, the ink upon whose certificate and oath of office was hardly dry, made way with the original tally sheets, and has never since dared to make them public. All this was done to protect Silas A. Holcomb and his law partner and his political partner and the chairman of his state committee.

Of the men who participated in the recount fraud, all received future rewards except one, and he turned state's evidence on the others. He first confessed to his attorney, who was a man high up in the councils of the populist party, and then to a populist newspaper man, who gave the story to the public. Chairman Edmisten of the state committee at once confessed his own guilt by making an attempt to kidnap the informer and hustle him out of the country before he could testify to a grand jury.

THE INFORMER CORROBORATED.

The man Simons, who gave away the story, was not a reputable man, and he was known to be absolutely without character when Holcomb appointed him to handle the people's ballots. Under ordinary circumstances his testimony would be viewed with much suspicion. But he has told a straight story, both to the newspapers and on the witness stand, and step by step his story has been corroborated by others, until it must be accepted as the truth. Every opportunity has been given for the conspirators to deny or refute the story, and none of them have had the hardihood to appear.

Last July, when the legislative investigating committee was in session, E. L. Simons and Silas A. Holcomb were both called as witnesses to testify as to the counting of the ballots. Holcomb denied the authority of the committee

and hurriedly took the train for Broken Bow. Simons appeared and retold under oath the story which had already been made public. The appearance of the ballots and the evidence of a dozen witnesses from Lincoln and from York corroborated the testimony of the informer, and not a one of Holcomb's cohorts dared to come forward to deny the story. The testimony of the man Simons, in which he gave the details of the fraud and told of Holcomb's connection with it, is given in part below, and will bear the close reading of thoughtful people:

SIMONS'S TESTIMONY.

Edward L. Simons, being duly sworn testified, as follows:
By Mr. Pount:
Q.—Mr. Simons state your residence and occupation.
A.—I live in Lincoln, Lancaster county and a brick-layer by occupation.
Q.—How long have you lived there?
A.—Fifteen years.
Q.—You lived here the winter of 1897 when the legislature was in session?
A.—Yes, sir.

Q.—Were you employed in any capacity by either of the recount commission about the ballots cast for the constitutional amendment in the election of 1896?
A.—I was employed as a guard to watch the ballots in the vault of the secretary of state's office at the time that the legislature took the ballots from the recount commission.

Q.—You were guard also in the second recount?
A.—I was guard over the ballots during the intermediate time of the two sessions.
Q.—Prior to the time the second commission was appointed did you have anything to do with the ballots or any of them?
A.—Not in the official capacity.

Q.—Did you in any other?
A.—I did.
Q.—Did you have any special interest in the matter of the result of that recount?
A.—I did.

Q.—State what that was?
A.—I had had a suit with a party for 150 acres of land and the rent of it for 13 years—200 acres of land and the rent of it for 13 years.
Q.—Where was that suit pending at that time?
A.—At that time it had been settled by compromise but I was figuring on having the heirs' interest taken to the supreme court.

Q.—Did you think that gave you any interest in the result of that recount?
A.—I think it did or would have.
Q.—In what way?
A.—I thought if I could steal the judges in they would help the boy out.

ARRANGED FOR A STEAL.

Q.—Did you approach any one in authority or office with reference to this, particularly about the time these ballots were to be recounted?
A.—I spoke with the parties manipulating the recount.
Q.—Who did you speak to?
A.—Mr. Edmisten.

Q.—Give his initials.
A.—James H. Edmisten, he was state oil inspector and chairman of the State Central Committee.
Q.—When did you speak about this?
A.—Before the legislature convened.
Q.—What did you tell him?
A.—I told him how I was situated and I wanted to help steal those judges in.

Q.—How many times did you speak to him about that?
A.—After the legislature convened I was there every day.
Q.—Did he have an office in the capitol building?
A.—Yes, sir.

Q.—State where it was situated?
A.—It was situated where General Barry's office is now.
Q.—In pursuance with your talk with him was there anything done and if so what was it and when?
A.—There was a bill passed by the legislature for a recount commission and the commission was appointed by the governor and when they were appointed that organized the next day and the next night we—

Q.—Who were we?
A.—That is Edmisten Blake and myself and several other parties.
Q.—That was the night after the commission was appointed and organized?
A.—Night after the organization.

Q.—Where did you meet?
A.—In Edmisten's private office.
Q.—Who procured you to meet there?
A.—We knew where to go.
Q.—Who told you where to go?
A.—It was mutually understood among all of us.

Q.—What preparation did you make there?
A.—Why we had a talk and Edmisten went into the secretary of state's office and got the first bunch of ballots.
Q.—The secretary of state's office is on the same floor?
A.—Yes, sir; he occupied the corner opposite Edmisten's.

Q.—Where were these ballots at that time?
A.—In the secretary of state's office.
Q.—In what manner?
A.—They were in packages as received by the secretary.
Q.—Was there a guard over them?
A.—Yes, sir.

Q.—Who was it?
A.—Kelsey.
Q.—When Edmisten got the ballots what did he do with them?
A.—Opened the envelopes and got them out.
Q.—What was done with them in the room?
A.—We took them in the vault and opened the envelopes and marked up all the blanks excepting three or four

in each precinct and changed those that were opposed to the amendment.

Q.—State who was doing the marking?
A.—Blake, Edmisten, myself and another party.
Q.—What preparations for secrecy if any were made? What did you do in the way of preventing intrusion?
A.—Why, we had the outside door that leads from the hallway shut up and the door that leads between the private office and the big room closed and we had the vault door pretty near shut and we put paper over the windows so you couldn't see any light in there.

Q.—Was there a light in the outer rooms? Was the gas lighted?
A.—No, sir.
Q.—What did you get the material you used, the ink and so forth?
A.—We used Edmisten's ink, after that there was about four bottles got of black ink.

Q.—After the ballots were marked as you described, what was done with them?
A.—Wrapped up and packed to the secretary's office.
Q.—Would you go back and forwards several times during the evening or only once?
A.—As soon as we got one bunch finished, we would go and get some more.

Q.—Describe how the ballots were marked?
A.—The blanks were marked for the amendment and those voted against amendment we would put a cross for the amendment at the top and one below.
Q.—That would leave a mark for the amendment and still another for the Supreme Judge creating the impression that the voter had voted for those two and against the others?
A.—No; the commission had passed a resolution to give the benefit of all the doubtful votes for the amendment and we would make two crosses for the one as against the other.

Q.—So the object was to change them so as to create the impression in favor of the amendment?
A.—Yes, sir.
Q.—How long were you engaged in this work?
A.—We worked until about midnight.

Q.—You say the commission passed a resolution to give the benefit of the doubt in favor of the amendment; how do you know? Were you present?
A.—I wasn't present, I was informed by the commission.
Q.—By the commission themselves?
A.—Yes, sir.

Q.—What number informed you?
A.—Blake.
Q.—He was one of the gentlemen present altering the ballots?
A.—Yes, sir.
Q.—George W. Blake?
A.—Yes, sir.

Q.—First night's work.
Q.—Did you have any counties marked the first night?
A.—The first two counties were Blaine and Banner. Edmisten carried one and I carried the other.
Q.—When the ballots were marked, how were they returned?
A.—They were put back in the envelope and the package wrapped up and taken back to the secretary's office.

Q.—Restored to their former appearance as near as possible?
A.—Yes, sir.
Q.—In taking the ballots to and from the secretary's office describe the manner in which you did it.
A.—The first two nights I had a large overcoat that I threw over my shoulders and I had the package under that.

Q.—Did you go through the main hall?
A.—Yes, sir.
Q.—Was there any secret way in the way of knowing so the guard would know who it was?
A.—Yes, sir, we had a private rap.

Q.—Describe what that was?
A.—Three single raps.
Q.—When you gave that rap he opened the door?
A.—Yes, sir.
Q.—Did you make any change after the first night?
A.—Yes, sir.

Q.—Describe that.
A.—We were getting along to the big packages. I couldn't carry them under my coat any more and it was dangerous to go through the hall with them and we found a way from the hall in the basement, into the basement room under Edmisten's office, which had a place leading to the upstairs. By opening a trap door we could get through into the private office.

Q.—Did you carry them through the basement after the first night?
A.—Yes, sir.
Q.—AFRAID OF GETTING CAUGHT.
Q.—Describe to the committee the reasons that led you to do that. Was it in fear of any interruption?
A.—Well, there was. A person was liable to be caught with the package in his possession.

Q.—Was there any sign of interruptions?
A.—The second night we were there Mr. Norval was in the hall.
Q.—Judge Norval of the Supreme court?
A.—Yes, sir, he was looking around and we were afraid of being caught. His wife was down there to a meeting of the ladies of some institution and he was waiting for her and walking up and down the hall and didn't know but somebody was watching us.

Q.—How many nights in all were you engaged in this matter you described?
A.—Four nights.
Q.—Tell about the date of this?
A.—The first night of the day after the commission was organized. It was the four nights following that.

Q.—I wish you would tell the manner in which the ballots were kept in the secretary's office. Were they in a vault?
A.—No, sir, they were in the big room.
Q.—Piled up were they?
A.—Yes, sir, on the east side of the room leading to the main hall from the secretary's office.

Q.—Was that one of the rooms used by the secretary of state in his ordinary business?
A.—Yes, sir. Well, it wasn't used at the time of the recount at all. There wasn't anybody else in there excepting the recount commission.

When the legislature meets they generally use that for an investigating room or to give audience for the committees to work in.
Q.—Were the same parties present each of the four nights that you have mentioned?
A.—Yes, they were all there.
Q.—Do you know who occupied the room where those ballots were kept. Isn't it a fact that Mr. Starrist of the secretary of state's office occupied that room?
A.—No, I wouldn't be positive. He might have had a desk there to work an hour a day or so.

Q.—He was not in there in the day time?
A.—No, sir, he had an office at another place.
Q.—The room that I was speaking of. You may state whether or not the same persons were present on all of these occasions.
A.—Yes, sir.

Q.—Take Mr. Edmisten for instance. Was he present the whole length of time?
A.—No, he used to go and open the door and start the work, and when we started he would leave.
Q.—How long would he stay there?
A.—About an hour or so.

Q.—Did he take part in the marking?
A.—Yes, sir.
Q.—Did you have anything to do with the ballot boxes in any other precinct?
A.—The first night we opened the poll books to see how many votes were cast, and we found out it didn't do any good and we didn't have the ballots to mark up and we didn't open the poll books any more.

Q.—Just describe what kind of mark you would make and how?
A.—Well, if the ballot was blank entirely we would just mark opposite the amendment.
Q.—Was there any effort made in the marking of the ballots to make them appear differently as though marked by different hands?
A.—What I marked I changed the form of the mark and the other fellows as much as I took notice of just went right ahead and had the same cross all the way through.

Q.—How long on the average would you be engaged in this on the four nights you have mentioned?
A.—FIXED YORK COUNTY.
Q.—The first three nights. One night we worked until 2 o'clock. The last night when we fixed the York county ballots we worked until half past 1 o'clock, and then two of us, I got York county, and two of us stayed until morning.

Q.—Can you name any of the counties the ballots of which were marked in this manner?
A.—Yes, sir.
Q.—Name some of them?
A.—Blaine, Banner, Chase, Dodge, Brown, Keya Paha, Dawson, Gosper, Keith, Wayne, Box Butte, McPherson, Scotts Bluff, Cherry.

Q.—How about Harlan county?
A.—Harlan county.
Q.—How about Dundy county?
A.—Yes, sir.
Q.—And Sioux?
A.—Yes, sir.

Q.—And York county?
A.—York county was the last.
Q.—And Dodge county?
A.—That was fixed afterwards.
Q.—You did fix Dodge county?
A.—The way we fixed that we laid one precinct on another and counted them.

Q.—Explain that again please?
A.—After the legislative committee took the ballots I got on first as one of the clerks and it was my place to open the packages of ballots and the envelopes and then I would give the counters the ballots and they would hand them back to me and I would take half of those and lay them on the next precinct and send them back as much as I thought the package would stand.

Q.—In other words you would count them over several times?
A.—Yes, sir.
Q.—That was done during the session of the recount committee?
A.—And the legislative committee, yes.

Q.—The committee was all present?
A.—They didn't know anything of it.
Q.—Who did know of it besides you?
A.—The man we was counting for.

Q.—Who was he?
A.—OBERFELTER A BALLOT FIXER.
A.—I think it was Oberfelter.
Q.—He was a member of the committee?
A.—He was a member of the governor's commission, and after the legislature started the count the commission was all employed as clerks helping to count them except Hedlund.

Q.—Do you recognize any of those exhibits lying before you on the table?
A.—Yes, sir.
Q.—If you were to look at any of those could you identify them as the ballots you had marked?
A.—This package of ballots were blanks that had not been used at the polls and we got them down there and we just marked them for the amendment and we put them in.

Q.—Can you explain how they come to be separate in this matter?
A.—They were put in different wards.
Q.—In other words you distributed those uncast ballots?
A.—Yes, sir. They were distributed and rejected by the recount people.

Q.—Was there anything done by way of trying to affect the signature of the judges on any of those ballots?
A.—There was in one precinct.
Q.—What precinct?
A.—At the precinct in which McCool Junction is in.

Q.—Could you identify any of those if you could see them?
A.—Yes, sir.
Q.—At the time that you opened the envelopes containing the ballots on this amendment in the several precincts in York county, or they were opened by you and others, were there any uncast ballots in any of the packages?
A.—In the large package there was a big roll of unused ballots.

Q.—Not signed by any particular person?
A.—They were signed by nobody they were blank.
Q.—What was done with those?
A.—We marked them up with crosses and scattered them in.

Q.—Was the names of the judges purported to be signed or written on any of them?
A.—They were in one or two places.
BALLOTS IDENTIFIED.
(The envelope marked Exhibit "11" was opened by the committee and the ballots marked with the initial letter "F" at the top and are counted by the committee and found to contain 202 ballots.)

Q.—Handing you a bunch of ballots taken from the envelope containing the ballots cast for the constitutional amendment of McFadden township I will ask you if you can identify any of the ballots altered by you or those with you and will ask you if you can identify any of the ballots and the names of the judges written by you on them or any of those with you?
A.—I identify some of the ballots as ballots changed by myself and also identify some of the ballots there that never went through the ballot box.

Q.—Handing you this ballot exhibit 37 I will ask you to point out any alterations you discover on them?
A.—That ballot was voted no at the top of the page that was not for all the amendments and it was changed by putting one yes at the head and one cross opposite the head for the judges and one cross opposite the yes down below for another amendment.

Q.—Was that your usual method?
A.—That is the method that was adopted for the ballot that had a no voted in at the head of the ticket.
Q.—What was your procedure in case the ballot was blank?
A.—In case the ballot was blank the cross was put opposite the upper yes.

Q.—Suppose you found a ballot with the no, opposite the proposition for the supreme judges, what did you do then?
A.—We would put a cross opposite the yes and a cross opposite the upper yes, that is, voting two yeses for the amendment.

Q.—Then how would you count it?
A.—The commission gave the amendment the benefit of the doubt.
Q.—The two yeses overcame the one no?
A.—Yes, sir.

Q.—And you were there to create a reasonable doubt for the committee?
A.—Yes, sir.
Q.—In case of a ballot in which there was a no cross, opposite each of the proposed amendments, what was your procedure in such a case?
A.—Make a yes opposite the amendment and a yes at the end of it.

Q.—Handing you exhibit 38 I will ask you whether you recognize that as an altered ballot?
A.—Yes, sir, it is.
Q.—This ballot identified as exhibit 38 shows a cross after the word no, after each of the amendments, at the top it also shows a cross after the yes, and it shows a cross after the yes on the amendment increasing the number of judges, how would a ballot of that kind be counted?
A.—For the amendment.

Q.—And was that the rule you followed right along?
A.—Yes, sir, we counted the yes for the amendment for the judges and the no for all the balance.
Q.—To you remember how many ballots were changed or altered in any way?
A.—No, sir, I do not, we just altered them as we got to them, we kept no track of them, we had no time for that.

Q.—Can you make an estimate?
A.—Why there was in the 21 counties I think there were something like seven thousand. Harlan county had something over a thousand.

Q.—Do you remember how many York county had?
A.—Twelve hundred.
Q.—Mr. Simons, when was it that Mr. Edmisten first spoke to you in relation to those ballots?
A.—Way, when Edmisten spoke to me it was about the beginning of the session, others spoke to me prior to that.

Q.—Who had spoken to you before that?
A.—Some of the rest that was helping count.
Q.—What was said?
A.—THE SCHEME OUTLINED.
Q.—They said they were going to have a recount of the judges and they would find enough ballots to show that they were elected.

Q.—When did you first talk with Edmisten?
A.—That was prior to the beginning of the legislative session.
Q.—He told you did he help you would be one of the parties to help do it?
A.—Yes, sir.

Q.—And engaged you to, that is told you what was to be done?
A.—No, sir, he didn't say we were to do any marking, only we would steal the judges in.
Q.—Where were you when this conversation took place?
A.—In his office.

Q.—Did you talk over your affairs or operations?
A.—Not until the commission was appointed.
Q.—What was said when you started if anything. Give the conversation that was had as to what should be done?
A.—I don't know only to mark them that is all.

Q.—Did Edmisten mark any?
A.—Yes, sir.
Q.—He set the example for you, did he show you what he wanted done?
A.—Yes, sir. He started off showing where to change the ballots and where to mark no, and to mark the yes and that would count. I learned the next day they had passed a resolution by the commission to give the benefit of the doubtful ballots to the amendment, two yeses and one no was counted for the amendment so that was the way it was carried on all the way through.

Q.—What compensation or reward were you to receive?
A.—I was to receive any except the consideration of my case before the courts.
Q.—That was the understanding was it, your case should be decided in your favor?
A.—Yes, sir, among the parties interested in the ballots.

Q.—Who gave you the assurance that would be done?
A.—Edmisten and Blake.
Q.—Was Blake a member of the legislature?
A.—No, sir, one of the commission.

Q.—What connection if any did he have with the democratic or populist party?
A.—He was treasurer of the Populist Central committee.
Q.—And Edmisten was chairman?
A.—Yes, sir.

Q.—How did you know you could help yourself by helping them count the ballots, who told you or where did you get your information from if anybody told you?
A.—Blake and Edmisten knew I had a case ready for the supreme court and if I would steal those two judges in I had two of them favorable to me.

AT WAS A REFORMER.
Q.—He that time what particular party did you affiliate with?
A.—I affiliated with the populists.
Q.—Now with reference to those ballots before from those precincts in York county, McFadden precinct, have you examined all those ballots to-day?
A.—Mostly.

Q.—Did you find any ballots there that are ballots that were marked by yourself or anyone else for this recount commission?
A.—Yes, sir.
Q.—While you were in the vault the first night you were changing the ballots who did the marking first?
A.—Edmisten got the first county and took it in, and when I came in with the second county they were marking, Edmisten, and Blake and another party. Edmisten got the first package of ballots from the secretary's room.

Q.—Where did he get it?
A.—Out of the secretary's room.
Q.—How did you get in the Secretary's room?
A.—There was a guard there let us in.

Q.—About what time was that?
A.—Eight o'clock.
Q.—Did you see anything when he came in?
A.—It was under his coat.
Q.—How do you know if you couldn't see it?
A.—I did see it.

Q.—Who told you to go to the secretary's office?
A.—Edmisten.
Q.—What for?
A.—To get the ballots.

Q.—And what did he say if anything about what he wanted with the ballots?
A.—We understood what was wanted.
Q.—You learned that in a private conversation?
A.—Yes, sir.

Q.—How did you understand they were to mark two yeses to overcome a "no"?
A.—They were doing it and Edmisten said, the commission would count those for the amendment.
Q.—Did he say that was the way to mark them?
A.—Yes, sir.

Q.—Did you commence marking on the package you took in.
A.—I started to mark on the package they had there.
Q.—And continued to mark until they got through that package?
A.—Yes, sir.

Q.—How many were marking altogether?
A.—Seven.
Q.—How long did you continue at it that night?
A.—Until half past eleven or twelve.

Q.—How did you get the ballots out of the package?
A.—Untied the string and broke the seal open.
Q.—What did you do with the ballots after you got through?
A.—Wrapped them up in a package again.

Q.—And put a seal on them?
A.—Yes, sir.
Q.—Couldn't anyone tell the seal had been opened?
A.—A HANDY MAN.

Q.—Sir but the man that opened them in the morning was helping fix them at night.
Q.—That man was whom?
A.—Blake.
Q.—Did you see the commission at work in the morning?
A.—Yes, sir; I saw them there.

Q.—Who was opening the packages?
A.—Blake.
Q.—After they told you that this marking ballots had to be stopped did Mr. Blake or Edmisten ever talk with you about what had been done. Did either of them ever talk with you about it? Ever say anything to you about secrecy?
A.—Well, at the last election—

Q.—No, right at this time after you stopped marking ballots?
A.—No, they didn't say anything then.
Q.—Did you know it was a crime and there was a penalty attached to it?
A.—I knew there was a law to that effect but I knew it was no good.

Q.—How did you know it was no good?
A.—We all knew it up there.
Q.—How did you find it out, you are not a lawyer?
A.—I am no lawyer, but I knew the way they passed the bill it wasn't any good.
Q.—Did you get any information from any source?
A.—Only what we talked over there.
Q.—Did you have any assurance from anybody that they would stand by you if you would take the chances?
A.—Nothing only that I wouldn't be imprisoned long.

Q.—Who told you that?
A.—Edmisten.
THE GOVERNOR WOULD FIX THINGS.
Q.—What did he tell you he would do if you were tried and convicted?
A.—He said if they should catch us and send us up as long as we had the governor with us we wouldn't stay in prison long.
Q.—The governor would pardon you?
A.—Yes, sir.
Q.—Are you positive Edmisten told you that?
A.—Yes, sir.
Q.—Did Blake tell you that?
A.—We were all in the room while the talk was going on.
Q.—Did you have any communication with the secretary of state?
A.—Not until after it was all over with.