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The Plattsmouth Journal DAILY AND WEEKLY.

C. W. SHERMAN, Editor.

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NOTICE EXTRAORDINARY.

There is no use of disguising the fact that the prevailing business depression has affected THE JOURNAL, making it impossible for us to, for the present, keep the paper up to its usual size and excellence. We are, therefore, compelled to ask the indulgence of our subscribers and friends until collections from our list of subscribers will enable us to do better. It is hoped that this condition will last but a few weeks, at the farthest.

It is but fair for us to state that there is enough due us on subscriptions to pay every dollar we owe, and to put the paper on a fair footing, and while we do not wish to push anybody now, we hope that all who owe us and desire to see correct principles promulgated will strain a point to pay up their scores. A touch of the elbow gives courage to the weak and strength to the courageous in time of battle.

THE PUBLISHER.

The treasury is still losing gold at a rapid rate by the greenback redemption process, \$2,000,000 having gone out Wednesday, and the average rate is over a million a day. A new bond issue is already in sight. The gold is wanted for foreign shipment.

THE PATTERSON APPOINTMENT.

The question whether the appointment of James M. Patterson by the authorities designated by law to fill the vacancy in the board of county commissioners, occasioned by the death of S. W. Dutton, is to hold merely till the first meeting in January next, or until the next annual election, is an interesting one, which may assume some importance in the near future, and in this view of the matter the legal opinion given by County Attorney H. D. Travis, at the request of the appointing board, Messrs. Eickhoff, Ramsey and Dickson, is a document which gives an interpretation of the law in the case, and, in our judgment, settles the question. That opinion is, in substance, as follows:

OPINION OF COUNTY ATTORNEY.

GENTLEMEN:—Having selected the person who shall fill the vacancy occasioned by the death of S. W. Dutton, a question has been asked by you whether the appointment will hold only during the remainder of the term during which the vacancy occurred, or until the next general election? Permit me to direct you to sec. 105, chap. 26, comp. stat., 1893, which provides: "Appointments under the provisions of this chapter shall be in writing and continue until the next election at which the vacancy can be filled, and until a successor is elected and qualified."

Mr. Travis then quotes, with emphasis, sec. 104, comp. stat.: "Every officer elected or appointed for a fixed term shall hold office until his successor is elected or appointed and qualified, unless the statute under which he is elected or appointed expressly declares the contrary."

The vacancy has occurred more than thirty days prior to a general election. As there will be an incumbent in the office at the end of this year who can hold over until his successor is elected and qualified, therefore another appointment is unnecessary.

"Troop on Public Offices" and other recognized authorities are quoted to sustain this holding.

Meachem, on "Public Office," says: "American courts hold that in the absence of any restrictive provisions the officer is entitled to hold until he is superseded by the election of another in his place." Other authorities say: "When power to appoint has once been exercised, any subsequent appointment is void unless the office has become vacant." "If the successor dies after

election, there is no vacancy, and the INCUMBENT holds over." "Where officer elected dies before the new term, person appointed holds till another is elected."

The syllabus of the Michigan case, "People vs. Lord," is quoted, in which it is shown that a judge, appointed by the governor, died after his re-election, and the governor appointed a man to fill out the term. On Jan. 1st, when the new term began, the governor appointed another man for the new term. The court held that this appointment was void, and that the first one appointed would hold the office until his successor was ELECTED and qualified. Also that the governor could not by any provision in the commission limit the first appointment, or make its continuance depend upon his pleasure.

J. M. Patterson will hold over under this appointment until the next general election, unless he shall resign or die.

After he takes the oath of office and files his bond he becomes the INCUMBENT of the office, just as Mr. Dutton was before he died, and on the 3d of next January he will be an incumbent of that office, and entitled to hold over until the next general election. The only question involved is one of law, and not of expediency. The board has no power further than to "appoint to fill the vacancy occasioned by the death of S. W. Dutton, chairman of the board of county commissioners." In other words, they cannot limit or extend the time of that appointment in any respect whatever. Mr. Patterson should re-qualify upon entering on the new term, next January, and file a new bond. The appointment should simply be made to fill the vacancy.

Leaving out many of the legal phrases and citations of authorities, the above is the substance of the legal opinion furnished by County Attorney Travis. This opinion is backed up by that of Judge Maxwell and Attorney General Hastings in its legal conclusions.

CONGRESSMAN BRYAN in his weekly letter to the World-Herald strongly opposes the new banking scheme of Secretary Carlisle, and indicates that he will make as strong a fight as he possibly can against the bill in the house. The bill was reported to the house Monday, the minority of the committee making a report opposing it and predicting a panic if it should become a law. A lively debate is predicted, and THE JOURNAL hopes that the bill will be killed.

THE NEW BANKING SCHEME.

The proposed new banking scheme is manifestly wrong, because it is unfair and is class legislation of the most pronounced type. The bankers and financiers of the country and world have been denouncing the scheme proposed by the populists of allowing farmers to borrow money from the government at the rate of 2 per cent. on a pledge of receipts for grain deposited in government elevators and warehouses; but here is a scheme to let bankers have government money at the rate of one-half of one per cent, by depositing 30 per cent. in greenbacks of the amount desired with the treasurer of the United States. Why is not the farmer's grain as to the amount of 80 per cent. of its value as good as 30 per cent. of the government loan in greenbacks? Why make fish one and fowl of another? Why is a banker any better than anybody else? Can a free government rest on a foundation of inequality like that? The conflicts and wars of all the ages have been waged over the equality of men before the law. Every aspiration of the human heart and hope for human liberty has been grounded upon the axiom "equal rights to all and special privileges to none." Yet here, in free America, in the twilight of the nineteenth century, a professedly democratic administration proposes to force the passage of a law which gives a special privilege to a class which lives and fattens upon the sweat of others' toil. The scheme is a monstrous outrage upon human equality and no man who really believes in the essential principles of democracy can consent to it, much less approve of it.

The public generally, and the friends of Judge Chapman in particular, will be surprised and mortified at the decision he has made in the Tut-Hawkins aldermanic contest election case. The hope was that Judge Chapman would rise above partizanism and give such a decision as was warranted by a full sense of justice on the facts presented, but in this they have been disappointed. The decision in favor of Hawkins is understood to be based on the statement that the city clerk was to blame for printing the tickets wrong and was arrived at by going behind the ballot and inviting perjury.

In view of the fact, however, that Mr. Hawkins had stated to Mr. Fox that he was entirely justified in printing the tickets in that way, as that was clearly the intention of the ward caucus, the public will hardly accept the dictum of the court as a fair declaration of the equities in the case. Instead of being accepted as a final decision of the matter undoubtedly a large share of the public will form a poorer opinion of the justice of judicial decisions, and have less respect for the dignity and impartiality of the bench.

During the debate on the income tax deficiency appropriation bill the other day Congressman McMillin called attention to the injustice of the old system thus:

"In order to show the flagrant wrong that is done by the system of taxation under which we have been living, I will call your attention to Mr. William Waldorf Astor. This gentleman ran for congress once against the present governor of New York, Mr. Flower, and was defeated. His defeat soured and embittered him against the government and our institutions. He moved abroad, and not content with what he could say against America himself and our American institutions, he purchased one of the ablest journals in Great Britain. He lives there now, and his paper is going its work against our institutions. The income of the man, derived from property in New York, is more than \$5,000,000 a year, and he does not pay—he does pay a state tax, county tax and a municipal tax, it is true—but he does not pay the government of the United States, and has not paid \$10 in 10 years, although he has his colossal finances protected by our army and defended by our navy."

THE Roman republic fell because of the great wealth of the few made them all-powerful, and her civilization went down because the venality and corruption of the rich demoralized the masses. Her people forgot the duties of patriotism and while the people starved the rich revelled in licentious extravagance. It was a conflict of wealth against the commonwealth. There are indications that the wealth of America is repeating the history of Rome.

STORIES of the want and destitution prevailing in the drouth-stricken regions in the western part of the state are to be heard on every hand, and they are such as should impel every person who loves humanity to do as much as possible toward the alleviation of the suffering there.

SEELEY, the defaulting book-keeper of the Shoe and Leather bank, was captured in Chicago the other day, a man named MacFarland, to whom he had confided his secret giving him away for the \$5,000 reward offered.

Repeat These Foolish Duties.

New York Herald.
It is clear that the differential and discriminating duties on sugar ought to be instantly removed. They are notoriously mere tributes of slavery to the sugar trust, making with the ad valorem duty a prohibitory tariff on all foreign refined sugars. The foolish discrimination against German sugar does not violate the letter of our treaty with Germany. But it does not harmonize with the spirit of that treaty. It has already provoked Germany to a realization which may soon cost us the loss of a large slice of our export trade to Germany—exceeding \$90,000,000 a year.

The position Judge Brewer took in the Nebraska maximum freight rate law that the cost of construction and equipment should govern the raising or charging power of the roads, is a good deal like the position of the gold monomaniacs that "the cost of production" of the precious metals governs their value. In the case of gold and silver it is the standard of value fixed by law which regulates the value. If all the commerce-using nations of the world were to change the law regulating the amount of gold to be put in a dollar that would settle its value. With silver it is just the same. The ipse dixit of the law is supreme in that respect. With railways it is different. A railway might be built on the top of the Rocky mountains, which would cost \$100,000 a mile, but its freight charges could not be based on that cost, but they must be fixed on the utility of the traffic, or it would get no business and its stock would be of no value whatever. Judge Brewer or the whole of the U. S. supreme court could not create an equity in favor of such a road charging rates based upon cost of construction and equipment. Neither can he by arbitrary dictum compel Nebraska people to pay rates based on the cost of construction and equipment of Nebraska railways. The judge is a good bible student and Sunday school teacher, and we venture to commend to his attention that passage of the scriptures which says: " whatsoever ye would that men should do to you, do ye even so them." It may give him an idea of equity not found in modern law books.

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