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**People's Independent State Ticket.**
For Supreme Judge,
SAMUEL MAXWELL.
Regents State University,
JAS. H. BAYSTON,
ELIA W. PEATTIE.

**The People's Independent County Ticket.**
For District Judge:
A. S. TIBBETTS.
H. F. ROSE.
J. C. McNERNEY.
For Clerk of District Court:
ELIAS BAKER.
For Sheriff:
FRED MILLER.
For Treasurer:
HIRAM POLLEY.
For County Clerk-
GEORGE H. WALTERS.
For County Judge:
GEORGE W. BERGE.
For County Superintendent:
JOHN G. SEIDELL.
For Coroner:
L. W. LOWRY.
For County Commissioner:
R. E. RICHARDSON
Assessors:
First Ward,
T. E. CONNELLY.
Third Ward,
C. G. BULLOCK.
Fourth Ward:
C. A. COOK
Fifth Ward,
A. C. SHERICK
Sixth Ward,
J. W. EMBERSON.
Seventh Ward,
W. T. ROLOFSON
For Constables:
JOHN MEANOR.
J. V. TRAVIS.
WILLIAM CHINN.
For Justice of the Peace:
S. B. IAMS.
GEORGE W. BLAKE.

TURN the rascals out.

Remember the asylum steals and vote the populist ticket.

IF you vote the republican ticket this year you are voting to endorse the Capital National bank thieves who were the life and head of the party.

OMAHA is going for the citizens ticket and good government at the coming election. Ring rule and corrupt politics have awakened the people of that city to their real conditions.

Remember the penitentiary frauds and vote the populist ticket.

CAN we wonder that the people are poor, cannot pay their debts or buy goods with corn at 15 cents, oats 10 cents and wheat 40 cents? A little more gold standard and the whole country will be bankrupt.

THE farmers and merchants can now see what gold standard, or "sound money" is doing for them—wheat 40 cents, corn 15 cents and oats 10 cents. Is it any wonder business is dull?

WHEN money is scarce, like the present gold standard, prices are always low, times hard and business dull. More money makes better prices, better wages and better business.

Remember the Capital bank steals and vote the populist ticket.

THE republicans have become very independent: do not care whether they carry any of the free silver western states or not in the next presidential election. They expect to carry enough of the eastern and middle states to throw the election into the house at least and thus secure the next chief executive. Nebraska will give her vote to the populist ticket but her delegation in congress will succumb to the party lash and vote to seat a minority president as will every other delegation, no matter what the sentiment of a majority of the voters in their respective states may be. Thus Wall street hopes to gain another victory over the people through the republican party in seating a president who represents a very small per cent of the voters of this country. The electoral college, like many other American institutions, is a farce and until it is abolished will the people be properly represented in the selection of a chief national executive.

# HOW THEY SQUIRM!

## Republican State Committee on the Defensive.

## Cannot Stand the Official Record.

## Get a Sore-head Populist Office-seeker to do their Writing.

## Railroad Ring on the Run.

## Depend on Villification, abuse, and the Party Whip to Save their Corporation Candidate.

The Republican State Central Committee has issued a large batch of circulars entitled an "Appeal for Fair Play," purporting to be an answer for the official record, as shown up by the supplements sent out by the Populist State Committee several weeks ago. In this they depend on villification and misrepresentation instead of argument. In the first place they seem to be very much worried about the origin of the supplements. There is not now, and never has been, any secret about this matter. The supplements were gotten out by the Populist State Committee, assisted by Lincoln attorneys. It is simply a compilation of cases taken from the Nebraska Supreme Court reports. In every instance the number of the volume, page, etc., is given, that whosoever would might read for himself. This fact was well known to the Republican State Committee as early as the 15th of October. But they delay their answer until the last week of the campaign in the hopes that there will be no time to reply and then pretend that they do not know the origin of the document.

The first half column of their circular amounts to nothing.

The statement that "Judge Maxwell himself supported and voted for Judges Norval and Post when they were elected to the supreme court" is at least a supposition. The fact is Maxwell did not support Post, and if he did support Norval, which is problematic, it was because he was not so well acquainted with him then as he is now. Norval had not then established his reputation.

NORVAL HAD BEEN ATTORNEY FOR THE B. & M.

Concerning the next statement, that Judge Norval was never a B. & M. attorney; the facts are that the firm of Norval Brothers, at Seward, of which T. L. Norval was a member, was for many years the attorneys for the B. & M. road at that place, and the remaining member of the firm, Dick Norval, still holds the business. Another lie nailed.

The next statement, that all the "opinions" were not written by Norval, but some of them by the Court Commissioners, is answered in a letter to Mr. Conley in another column. As shown there, they were all agreed to and concurred in by Norval. The next statement, that Norval has written between five and six hundred opinions is untrue. By actual count he has written but four hundred and fifty-seven (457). Maxwell wrote nearly twice as many in the same length of time. Another lie nailed.

It is sought to magnify Norval's work by comparing it with that of Maxwell from 1876-'81, when there were not sufficient cases in the court to keep the judges busy one-half the time. This is so manifestly unfair that it requires no comment. The fact is that the last two years Maxwell was on the bench when there were plenty of cases to work on, he wrote 209 opinions Norval wrote 163, and Post 129. Figures don't lie.

Regarding the next statement, that in the last four years that Maxwell was on the bench sixty-two railroad cases were decided, of which only twenty-nine were in favor of the corporations, we submit that this is a much better showing in favor of the people than has been made since Maxwell left the bench, and even then Maxwell dissented from four of those twenty-nine decisions. The statement that he dissented from two of these after he had concurred, is plainly false. When a judge makes a decision the record is the only evidence of what that decision was. This is further commented on in the letter to Conley.

Following this are a mass of insinuations, wholly irrelevant to the matter under discussion. Concerning the eight hour law reference to the case of Lowe vs. The Reese Printing Co., see letter to Conley. Judge Maxwell voted to advance this case. The other two voted against him. It was Maxwell's duty as Chief Justice to enter the order of the majority on the docket. He did so. The statement in the circular that "Judge Maxwell agreed with his associates that in the circumstances the case was not entitled to advancement" is false. See the records. Another lie nailed.

MAXWELL'S PERSONALITY.

The circular then says it would be easy to attack Judge Maxwell personally. It then proceeded in a cowardly and disgraceful manner to attack him by inuendo. They dare not particularize. This portion of the sheet will have little effect on fair minded persons.

All this preface in their circular was merely introductory to a letter prepared by someone unknown, possibly interested in this campaign, and signed by one Conley, a nonentity of Pawnee City who professes to be a populist, who was only two months ago turned down in a populist convention where he sought to be nominated for district judge. The letter appeared in a weak-kneed, half-hearted, non-partisan paper, the editor of which took no time to investigate the matter, but allowed himself to be bamboozeled by this sore-head, Conley, because they happened to live in the same town. It might be remarked, by the way, that had we desired the signatures of cheap republican attorneys, to the matter sent out by us, we could doubtless have secured a number for about the same or a less consideration than was necessary in this case.

Before seeing this circular we had seen the Pawnee paper containing the Conley letter and had sent to the editor the following reply for publication.

THE REPLY TO THE CONLEY LETTER.

EDITOR PAWNEE CITY *Independent:*

A letter appeared in last weeks issue of the Pawnee City Independent purporting to have been written by H. T. Conley, a professed populist of Pawnee City. I am surprised that any man claiming to be a populist should write such a letter, upholding and defending the corporations and moneyed interests in their corrupt methods of defeating the claims of honest and deserving persons injured through neglect of such corporations. He gives as an excuse that he is an intimate friend of Judge T. L. Norval.

Beginning at the first of the letter that is signed by Mr. Conley, the case of the C. B. & Q. vs. Wymore, it is true that the "opinion" was written by Com. Irvine, but it was subsequently agreed to, concurred in, by the court, composed of Judge Norval, Post and Harrison, as the following will show. First, compiled statutes of the State of Nebraska 1895, Sec. 2414, 22f (Duties) provides that "It shall be the duty of said commissioners under such rules and regulations as the Supreme Court may adopt, to aid and assist the court in the performance of its duties in the disposition of the numerous cases now pending in said court, or that shall be brought into said court during the term of office of such commissioners." From this provision of the statute it will be seen that the commissioners do not make the decisions, but only "aid and assist the court" in arriving at their decisions. That all decisions of the Supreme Court are the decisions of the Judges of that court appears plainly in the case of Randall vs National Building, Loan and Protective Union of Minneapolis (62 NW 252) where the court composed of Norval, Post and Harrison say "The fact that the opinions are prepared by the commissioner of this court is no indication that such cases have not been examined by the Judges. All questions of law and so far as practicable questions of fact, are considered by each of the judges and commissioners, and opinions are invariably submitted for examination and criticism by the entire membership of the court." This is the exact language of the court and Norval, or his assistant Conley, cannot well say that the decisions in the Wymore case was not his opinion in the matter.

The statement in the supplement to which Mr. Conley is taking exception does not say that the opinion was written by Judge Norval. It says the "Company appealed to the supreme court and had the case reversed—by Norval," meaning, of course, that Norval concurred in the decision of the other members of the court. It matters little which of the judges writes the opinion, as it must be submitted to all of them and receive the approval of at least two judges before it becomes a lawful decision. Judge Norval decided in this case in favor of the railroad company, exactly as stated in the supplement.

Mr. Conley says "The court did not hold that because the widow received the $500 from the relief association neither she nor her children could recover." The language of the court on this point is "Disregarding the replication of duress as not now presented to us, we must *take it* that after the cause of action accrued *she voluntarily accepted* a sum of money in discharge and satisfaction of the company's liability.' In other words the court refused to consider the duress (whether she was compelled to sign the receipt to keep from being ousted from her home) and *took it* that she voluntarily accepted the sum regardless of the evidence, and such was the decision of the court that reversed the case.

Mr. Conley goes on to say that the evidence concerning duress had been excluded in the court below. This is practically true, but as stated in the supplement, the "questions excluded are there presented and sufficient is shown to show the nature of the evidence offered and excluded, and it was the duty of the court to say whether those were proper inquiries."

This case is well known over the state, especially among railroad men, who are acquainted with the operations of the so-called Burlington Voluntary Relief Association, which is not voluntary upon the part of the employes, and never has been known to afford them any relief. It is a Burlington association.

In the case referred to by Mr. Conley of the C. B. & Q. vs White, White was taken sick the next day after he joined the association and the questions in issue relate largely as to whether he had ever become a member of the association or not, and in which it was held by the court that White was a member of the association, in as much as the company had deducted $4.10 from White's time check for dues to the Burlington Voluntary Relief Association. While White was sick, the company sent to him a "time check" for $4.10, the amount which had been withheld as dues to the association. White refused to accept this time check. A few hours later White died. As any one will admit, White by the payment of the $4.10 had become a member of the association. Had White been killed in a railroad accident, through neglect of the employes of the railroad company, thereby making the company liable for damages, it is certain that the company would not have been trying to show that White was not a member of the association, but as the cause of White's death was sickness for which the company could in no way be held liable for damages they made an effort to escape the payment of the death benefit which they had contracted to pay. The case has nothing in common with the Wymore case.

The case of the C. B. & Q. vs. Howard, about which Conley says so much, depended entirely upon the facts in the case as to whether or not Howard had made the threats and was negligent himself or not. A jury in the case had decided that Howard was not negligent and that the company was liable. It is our opining that the jury, having seen all the witnesses and heard the testimony in the case, could give a better verdict as to whether Howard was negligent than could a court that had seen none of the witnesses and heard none of the testimony and had for reference only a written report of the proceedings of the trial. Conley says Howard was negligent. Twelve men, under oath, had given it as their judgment that Howard was not negligent. The voters of this state may believe which they choose.

In the C. B. & Q. case vs. Landauer, the case is reported at length in the Supplement, and as in the Howard case, twelve men had decided that the conductor and brakemen, employees of the railroad company, were careless and negligent; had not stopped the train a sufficient length of time (considering all the circumstances, the crowded condition of the car, etc.,) to allow Miss Landauer to leave the train in safety. They, as above, saw the witnesses, heard the testimony, and gave their sworn verdict. This again was reversed by Norval and Post,—Judge Maxwell writing a dissenting opinion, part of which appears in the Supplement. It is easy for Mr Conley to state that "the undisputed evidence is that the usual stop was made; that the other passengers for the station had alighted, etc.", but when thinking people consider that Conley's statement, made six years after the accident, might not be as accurate as the opinion of twelve men, recorded shortly after, with a full knowledge of all the circumstances in the case, further remarks will be unnecessary. This reversal saved the company $5,000.00.

WROTE ONE WAY—DECIDED ANOTHER.

The facts in the case of the C., B. & Q. vs. Grablin, 38 Neb., 90, are quite fully set out in the Supplement. The court reversed the case, because the court below had admitted testimony to show "that if the engineer in charge of the locomotive had been observing a proper and careful look-out ahead, he could have seen the boy in time to have brought the train to a stop before it reached the point where the boy was." If testimony of the character referred to could not be admitted to the jury, how would it be possible to show that the engineer was asleep as referred to in the Supplement? If such testimony cannot be admitted, there is no way to show that the accident was the result of neglect of the engineer. Later on in the opinion appears the statement quoted by Mr. Conley. It seems that the court had become ashamed of what they had done and tried to manufacture a hypothetical case where a railroad might be guilty of neglect. Suffice it to say, such a case never appeared in the courts yet!

In this case twelve men had given their sealed verdict that the employees of the railroad company were negligent. Mr. Conley assumes that they were all wrong.

WAS THE DELAY MATERIAL?

In the case of Morrisy vs. C. B. & Q. railroad company 38 Neb. 403 great stress is laid by Mr. Conley upon the fact that Judge Maxwell's dissenting opinion was not filed until some time after the regular opinion of the court. Perhaps the judge was sick. Perhaps he was busy at other business. Many things might arise to cause this delay. His dissenting opinion was not material to the decision of the court, as two of them had agreed and made the decision, and it is allowed to judges only as a matter of record, that they may refuse to be parties to such diabolical acts as those in this case. The opinion is of record and will be there as long as time.

The case was where the railroad company had built an embankment without opening and allowed water to dam up and flow across a man's crops and destroyed the crops, without paying him any damages. See the supplement under title of "Railroads Can Destroy Crops."

WITH AND WITHOUT MAXWELL.

The case of the Omaha and Republican Valley Railroad Company vs. Clark (35 Neb. 869 and 39 Neb. 65) was decided while Maxwell was a member of the court and the opinion written by Maxwell awarded Clark $4,835. After Maxwell had left the bench a rehearing was allowed and the case reversed. Conley or his assistants make a grave mistake in saying that the rehearing was allowed while Maxwell was himself a member of the court. This is not correct. Had Maxwell been a member of the court at the time of the last decision he would have written a dissenting opinion.

A BIG VERDICT SET ASIDE.

In Conley's letter it is stated that in the case of Erb vs Eggleston 41 Neb. 860, that the facts were that the brakeman "gave no signal after he fell" etc. The brakeman himself at the trial had testified that he had given such a signal. Conley was not present and how he knows there was no such signal given is a little difficult to understand. The testimony in the case was long, many witnesses, cross-examination severe, and at the end of this examination it was submitted to twelve men to say whether Eggleston gave a signal or whether he had been negligent or not. By their sworn verdict they found practically that he had been guilty of no negligence. That he had been a faithful employee of the company, and estimated the value of both the brakeman's arms at $16000, and brought in a verdict for that amount against the company, but their verdict amounted to nothing for the court set it aside. This much Conley nor any other man can deny.

THE EIGHT HOUR LAW.

Concerning the eight hour law, case of Low vs. Rees Printing Co., great stress is laid upon the fact that the refusal to advance the case on the dobket for hearing is entered there in Judge Maxwell's hand-writing. Any person familiar with the court well understands that it makes no difference who enters the verdict of the court upon the docket or whose handwriting it may be in. The question was, shall the case be advanced? Maxwell voted to advance it. The other two voted not to advance it. It then became Judge Maxwell's duty, as Chief Justice, to enter upon the docket that the case was not advanced (the majority of the court having so decided.) He did so and it stands today, but it was over his objection.

The case of the C. B. & Q. vs. Cochran (42 Neb. 531), where Mr. Bignell wrote a letter, was simply a matter of evidence as to whether or not the letter was posted in sufficient time to reach Cochran to allow him to report for duty Monday morning. The evidence in the case showed, according to the verdict of the jury, that the letter was not delivered until twenty-seven hours after he was required to report, and since he did not know that he was wanted Monday morning it was not negligence on his part not to report for duty, as required in the letter which he had not yet received. This is plain to everyone.

Concerning the number of cases that have been decided in favor of the railroad company and against the people, we think sufficient has been said in the supplement. This is merely a matter of numerical calculation. Take the reports and count the cases there decided—count the number in favor of the company and the number decided for the people. We have given the figures in the supplement; have examined them and find them to be correct. We publish in the supplement a clipping from the Lincoln Evening News, a Republican paper, under the title of "Appalling Figures," showing the success of the railroad company during five years, from 1889 to 1894. This list was prepared by one of the ablest and most popular republican attorneys in the city of Lincoln and published more than a year ago, when there was no judicial election before the people. We refer Mr. Conley and his assistants to this article and ask them to count and figure for themselves the percentage of cases won by the company and the percentage of victories for the people and also calculate the amount of damages awarded against the company and the amount saved to the company by the decisions in the supreme court. They will find that in five years, twenty-one cases, the C. B. & Q. paid $41 in damages! Every statement in the official record or supplement, barring typographical errors, such, for instance, as referring to Judge Hamer as Judge Hainer, we are ready to defend.

We invite comparisons with the court reports and honest verdicts from the people.

It would seem that men who have been candidates before judicial conventions and been defeated have their sense of right and justice decidedly blunted. Perhaps if Mr. Conley had read the letter before signing it and taken a few minutes to compare it with the official reports he would not have been guilty of such a presumptious act.

He would have known that the people of the state of Nebraska are too intelligent and well posted to be deceived in such a manner.

Yours truly,
FRANK D. EAGER.
Secretary Populist State Central Committee.

Following the Conley letter in their circular appears a certificate (mere statement) of the clerk of the supreme court, who would probably have lost his position if he had not made it. This certificate, while technically correct, is very misleading. It makes a statement concerning the opinions *filed* by Norval, but does not include those decisions that he *concurred* in which were just as much his decisions as though actually penned by himself.

As explained above, in letter to *Independent*, before an opinion becomes a decision of the court it must be submitted for correction and criticism to each and every one of the judges.

Following this is a wishy-washy editorial from the Pawnee *Independent*, which being paid for, is not germane to this discussion.

In closing we wish to say that we also ask for fair play. *Tell the truth.* Judge Maxwell was two years ago turned down in a convention packed by the railroad companies to defeat him, because he was too honest and too great to be used by them. The people of the state should right that wrong. This is not a partisan fight, but an effort to rescue our courts from railroad domination.

The enemy cannot attack our candidate. They are forced to defend their own. The record is against them and they cannot deceive the people, either by circulars or by sending out articles signed by small-bore attorneys. We ask all voters of the state to uphold honest government by placing back on the supreme bench the able, famous and fearless jurist, Samuel Maxwell. Our motto: *Equality before the law.*

J. A. EDGERTON, Chairman.
FRANK D. EAGER, Secretary.

## A Few Things They Forgot.

To explain why the railroad authorities are so anxious to have Norval elected.

To state that Norval's opinion in the case of Boyd vs. Thayer was reversed in the U. S. Supreme Court, and that Maxwell's dissenting opinion was sustained. Which is the abler jurist? Was Maxwell "honest" or dishonest in this decision against his own party?

To explain the robbing at the penitentiary and asylum, where Norval held that such acts were "not a misdemeanor in office."

To explain who it was that defeated the maximum freight rate law in the Supreme Court in the interests of the railroad corporations.

To explain the case entitled "A Farmers Experience."

To explain the article from the Evening News (republican daily) entitled "Appalling Figures," published more than a year ago.

To explain that Hilton, the ex-oil inspector, is still $500 short in his accounts.

To furnish a few figures on the appropriations made by the last legislature, and many other and sundry things too numerous to mention.

## IS HE A TRAITOR?

(A Letter from His own Home)

The following letter comes from Pawnee County, the home of Mr. H. T. Conley. It is self-explanatory and shows the feeling of the Populists towards him in his own district.

EDITOR INDEPENDENT.

Dear sir: You doubtless have seen the letter of H. H. Conley of Pawnee City regarding state supreme court decisions.

It may not be called unfair to say that Mr. Conley, while claiming to be an indpendent, takes undue interest in his friend, Judge Norval, and while defending him uses some argument that he condemns in the Maxwell supplement.

For instance, Mr. Conley was a candidate for district judge before the populist convention of this, the First district, and might we not as well say that his support of Norval was caused by his failure to receive the nomination, as for him to charge Judge Maxwell of changing his court opinions because he failed to secure a nomination?

A careful study of Mr. Conley's letter will show it full of cases for Judge Norval's opinions when they were against a common citizen, while cases of the state are overlooked, and it makes the whole appear to have been carefully prepared with a hope of its acceptability on grounds that it emanated from a populist, who of course, on such occasions is to be considered honorable and truthful.

Mr. Conley has been a resident of our county about one year. Is respected and is building up a good law practice, yet while all give him the right to support for office any one he may choose none but corporation tools consider his letter a simon pure individual production. When corporations see their chances of success becoming slim they usually find some one's friend through whom they can turn the current, thus furnishing all necessary matter for such cases.

As a publisher you will detect the flimsy defense set forth, yet through your valuable paper the masses will be led to see plainly the object. One thing: all well know that the masses are for Maxwell, while the corporations are for Norval.

Hoping for the success of a judge who is just as between people an corporations, I am for Maxwell, and many who have witnessed similar documents will make it a boomerang for corporation judges.

W. C. STARKEY, Violet, Neb.