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LEGISLATURE TO ACT

Governor Holcomb Sends in a Special Message Concerning the Recount.

IS A MASTERLY DOCUMENT.

Advises the Legislature to Take Charge of the Matter and see To a Recount.

Gross Irregularities Unearthed.

Last Wednesday night a house committee took charge of the ballots in the recount case and had them locked up in the vault of the secretary of state.

The next morning Governor Holcomb sent a special message to the legislature, which is a fair and full statement of the entire matter in controversy. Following is the message in full:

Executive Chamber, Lincoln, Neb., March 18.—To The Legislature: Recent events, of such unusual character, growing out of the act of the present legislature providing for a recount of the ballots cast at the last general election relative to the amendment to the constitution providing for an increase in the number of supreme court judges, seem to require from me a communication respecting this subject.

It was obvious to all who had given the subject consideration that the vote on the constitutional amendments submitted to the people at the last election, as returned and canvassed, in the light of the construction given by the supreme court to the constitutional provision regulating amendments, as to the number of votes necessary to adopt an amendment to the fundamental law, required that there should be a full ascertainment of the truth touching the voice of the people upon these important questions.

Immediately following the action taken by the legislature to determine by a recanvass the number of votes actually cast for and against these several amendments, and the number of votes cast for members of the legislature, a determined opposition arose from certain quarters to any action looking towards an inquiry into the vote cast on these amendments. When, by the action of the legislature provisions were made for a recanvass of the vote of only the one amendment, and that by a commission of six resident freeholders to be appointed by the governor, from three political parties, not more than two of whom should be selected from any one party, this element of opposition seized the opportunity of obstructing further proceedings under the act, which had in all respects been passed and become a law with all the sanctity of any law upon the statute book, by a resort to the courts for the purpose of defeating the objects sought to be accomplished by the measure.

No sooner had the bill become a law than application was made in two different courts and before two different judges to prevent further action by restraining the sending of the ballots to the secretary of state, as required by the terms of the act. These two efforts ended in defeat to those who thus sought to nullify the law and defeat the will of the people as expressed by their duly elected representatives. The ballots, poll books and other information mentioned in the act were by the several county clerks transferred to the custody of the secretary of state, as therein provided, where they have since remained.

A third effort, however, was made to interfere with the work of the commission and prevent a recanvass of the votes, and this time with more apparent success. By an action brought in the name of the people of the state, yet for the purpose of preventing an expression of their will, it is sought to prevent any further inquiry into the subject. The action brought in the last instance involves no private interests or private rights, but affects only the people of the entire state. Notwithstanding the refusal of the county attorney, an officer representing the state to prosecute such an action, he was directed by an order of court, compelling him against his conception of public duty, to institute proceedings in the nature of quo warranto, ostensibly for the purpose of trying the right of the commissioners thus appointed to exercise the duties imposed upon them by law, but in effect by the use of the writ of injunction prohibiting the further counting of the votes as provided for in the act referred to.

Viewing the matter as one of grave public importance, and one in which the constitutional rights of the citizens of the state to have their voices heard and their wishes made known in all elective questions submitted to them, I formally requested the attorney-general to appear in this case on behalf of the state, in order that the law might properly be enforced and justice fairly administered. This authorization was under a plain provision of the statute, the right of which had never before been called in question and which had been asserted by both the executive and former legislatures in different instances and upon all proper occasions. The request of the executive to have the attorney-general appear in the case, involving as it did great public interests, was by the court disregarded and his right to appear on behalf of the state denied to him. Yet at the same time the case seems to have been instigated and was being conducted by private attorneys representing no other than private or partisan interests or influences, rather than the chosen representatives of the people.

The holding of the court in this respect nullifies entirely the provisions of the section of the statute referred to. It prevents the attorney-general from appearing in any case where the public welfare demands his appearance in the courts to take charge of the interests of the people. It establishes a precedent which, perhaps, is but paving the way for wresting from the attorney-general the control of other cases brought, and in contemplation of being brought, in the name of the state for the purpose of recovering moneys due to the sate and of punishing public officials for violation of the law while in public office. By the construction given this section of the statutes, matters of gravest public concern, where the state is a party in interest, must be left under the control of the local authorities or, perhaps, in the hands of private parties with only private interests to subserve who profess, as in this case, to appear pro bono publico.

In order that there may be no question respecting the right of the attorney-general to appear in any case when requested by the executive or the legislature, I recommend and urge the necessity upon this body of so amending the section of the statute referred to, being section 1a of article 5, chapter 83, compiled statutes of Nebraska, 1895, that it may be made so explicit and certain that no court would have any pretence of authority under it to refuse the appearance of the attorney-general in any case when properly authorized where the state is one of the parties to the transaction. The attorney-general, with whom I have conferred, shares with me the views just expressed as to the necessity for the amendment of the statute cited.

By combining the extraordinary writ of injunction with the petition of quo warranto, the commissioners appointed to canvass the vote are restrained from proceeding further. This, in effect, suppresses the will of the people as expressed at the polls, and while the action may be clothed in the garments of a proceeding in quo warranto, the object sought, and which is being accomplished, is the stifling of the truth, which is doubtless the desired end of those responsible for the bringing of the action.

It is an incontrovertible maxim of law that every intendment and every presumption is in favor of the validity of all acts of the legislature. This well established principle of law seems to have been entirely ignored, and a solemn act of the legislature set at naught as though trivial in its character with apparent little or no consideration or investigation. The plenary powers of the legislature to enact all needful laws for the protection of the people, circumscribed only by the provisions of the constitution, should be guarded and respected by all. This power cannot rightfully be curtailed or infringed upon by other branches of government without violence to the letter of the constitution and the spirit of our political insitutions.

The supreme court of this state has declared emphatically that an injunction issued to restrain an officer from performing the duties of his office was absolutely void, and condemned in strong language the use of this extraordinary writ for such a purpose. The assumption seems to be, and it is the more surprising, that it should have advocates among men of intelligence, that the legislature may not by suitable law provide for the ascertainment of the truth regarding any matter affecting the rights of the people. There is not, in my judgment, a line, word or syllable in this act which in any wise conflicts with any provisions of the constitution. It is a separate and independent act providing not for the canvass of votes generally at each recurring election, but the recanvass or recount of the votes cast upon a constitutional amendment at the election in November, 1896. There is nothing in the constitution to prohibit this. If any reason exists demanding an inquiry in order to ascertain the exact condition of the vote of the people on any of these questions, the legislature is in duty bound to provide the means whereby it may be accomplished. This they have sought to do by the terms of the act, the operation of which is now suspended by the proceedings referred to.

It is apparent by the count of the ballots thus far made that grave irregularities exist and that full force and effect has not been given to the voice of the people in this instance, and the people have the right and demand to know the truth in regard to the matter. There is no charge nor intimation that anything irregular, or any act other than that which would fully conserve the rights of every citizen of the state, has been taken by the members of this commission. Their integrity and ability are above question by all who are disposed to have due respect for the rights of others and a proper regard for the integrity of mankind. If any of the amendments voted upon by the people have been adopted under the construction of the law given by the supreme court, justice to all demands that this should be ascertained at the earliest practicable date and so declared, and if not the truth should be known and the controversy set at rest.

It would seem that some further action on the part of the legislature might very properly be taken in order to speedily determine the truth regarding the vote cast upon these amendments. If the legislature deems it advisable to so act, I respectfully recommend that by suitable action, in joint session, or by joint resolution or otherwise, a committee be selected and that the legislature take the matter in its own control, where it seems to more properly belong, and determine from an examination and investigation what is the truth respecting the vote of the people upon this subject, and that such committee report to the executive and the legislature the result of the investigation as soon as completed.

(Signed) SILAS A. HOLCOMB, Governor.

HEDLUND CHARGES FRAUD.

Writes a Letter to Governor Holcomb in Which He Claims Rottenness.

LINCOLN, March 19.—The following is self-explanatory:

LINCOLN, March 16, 1897.—Hon. Silas A. Holcomb, Governor—Sir: On the 25th day of February, 1897, I was appointed one of the members of the board of canvassers under the act approved February 20, 1897, providing for the recount and canvass of votes cast for the constitutional amendment relating to the increase of the number of the supreme judges.

On the first day of March, 1897, the board, consisting of six members, with the secretary of state ex officio, entered upon the duties of inspecting and counting the ballots and canvassing the returns of the votes cast for and against said amendment. J. N. Campbell of Nance county was made chairman of the board.

The principal work done by me has been keeping the tally list. The opening of the ballots and the calling off of the votes for and against the amendment has been performed by other members of the board.

We have canvassed the votes of forty-one counties, consisting of Banner, Blaine, Box Butte, Brown, Cedar, Chase, Cherry, Dakota, Dundy, Frontier, Garfield, Gosper, Grant Hall, Hamilton, Hayes, Hitchcock, Hooker, Keith, Keya Paha, Kimball, Logan, Loup, McPherson, Merrick, Nance, Pawnee, Perkins Phelps, Rock, Sarpy, Scotts' Bluffs, Sherman, Sioux, Stanton,

(Continued on page 3.)

EARLY AT WORK.

Senator Allen Introduces Several Important Measures.

On March 16th, the second day of the session of the 55th congress Senator Allen introduced seven bills as follows:

S. 86, directing the secretary of the interior to make surveys for and determine and report on the cost of erecting reservoirs on certain rivers in the United States and their tributaries, and making appropriation therefor, and for other purposes; and S. 87 to provide for an irrigating survey of the Great Plains and semiarid lands of the United States.

S. 88 a bill to provide for the purchase of sites for public buildings in the cities of Hastings and Norfolk in the state of Nebraska, and for other purposes.

S. 89 to prevent citizens of the United States from soliciting or receiving and accepting titles, patents of nobility, or degrees of honor from foreign nations, S. 90, to amend an act entitled "An act to authorize and encourage the holding of a trans-Mississippi and international exposition at the city of Omaha, in the state of Nebraska, in the year 1898," approved June 10, 1896, to repeal certain portions thereof, and for other purposes which was referred to the select committee on international expositions. To authorize the creditors of insolvent national banks to elect a permanent receiver. S. 92, to protect public forest reservations.

Each of the above bills were read twice and referred to the proper committee.

SPEAKER REED TO RULE.

In the Same Autocratic and Overbearing Manner as Before.

Thomas B. Reed is the same ruler that he was four years ago. His own party dare not oppose him in his decisions. This was well illustrated when the matter of selecting rules came up in the house immediately after convening March 15th.

The attack on him was led by the republicans and was the result of the overbearing, rough-riding system which he began when he was first elected speaker, and which has now grown into a habit. To enable him to smother opposition, to throttle men who cross him, and to rule the house as he pleases, he framed a system of rules which made, the speaker is an absolute autocrat.

To retain this power during this extraordinary session, to avoid the labor of creating a new set of rules, and the friction that this would involve, he had arrange to have the old rules continued. Mr. Henderson of Iowa introduced the necessary resolution, Mr. Hepburn, who is a republican, and also from Iowa moved to restrict the rules to a period of thirty days.

Actuated either by a fine sense of humor, or by a desire to be diplomatic, Mr. Hepburn pretended to believe that the object of his colleague from Iowa was solely to provide for a system of rules until a new set could be created. There was some debate, and then a rising vote was taken. Mr. Reed announced that the vote stood 158 to 157 in favor of the opposition.

A burst of applause greeted this announcement. Suddenly another vote was registered that made a tie and the result was still in doubt when Mr. Henderson demanded a roll call. Now the power of Reed was shown. In the scramble that attends a rising vote, the personality of representatives sometimes escapes notice. But a roll call is different. Then every man is on record and his position is likely to interfere with his progress later on.

On the first vote about thirty republicans opposed the speaker. But on the roll call only fourteen had the courage of their convictions and stood their ground. So the speaker saved his rules, and his reign as absolute boss of congress is indefinitely assured.

During the contest the democrats voted against Reed. They took no action. Their new leader, Mr. Bailey, of Texas, sat stolidly through it all. He made no effort to strengthen the opposition. While Mr. Bailey was striving to secure the minority leadership it was whispered about that Reed was aiding him. Democrats were led to believe that support of Bailey would benefit them when the committees were made up. The statement was made that Reed had promised to consult with him and to take his advice in giving the minority representation.

Among the republicans who voted against Reed was Lemuel Eli Quigg, one of the brightest representatives from New York. In explaining his action Mr. Quigg said tonight:

"I voted from a conviction that a little more latitude should be given to the members. I have no fault to find with the speaker, for I realize fully that in a great body like the popular branch of congress the treatment must sometimes be of the most drastic character. But severity should not be the rule. I favor a little more liberty."

Reed proposes to keep the the old rules in force until after the new committees are created. There will be no more committees until December. The hope that the failure of the Indian and general deficiency, sundry, civil and agricultural bills would compel him to appoint at least a few of the committees has died. He will secure the passage of these bills by creating a rule. They will not again get into the hands of a committee. So he will have his way, and hold a club over the heads of the members until the tariff bill is passed.

Representative Benton McMillan, a leading democrat said:

"There is an idea abroad that each one of the members of the house represents a constituency. This is a mi

The only constituency represented is that one which sends Reed here. All other constituencies are subordinate to to this one. Not one of us can get any legislation unless we first bend the knee to Reed."

CONSTITUTIONAL AMENDMENTS.

Submitted to a Vote of the People of South Dakota.

The legislature of the state of South Dakota submitted three important constitutional amendments to be voted on at the next general election.

The initiative and referendum. This is a proposition to permit the people to vote on such laws as they ask to have submitted.

Equal suffrage. There was a hard fight over this in the house, but it was carried, and the people of the state will have a chance to say whether an intelligent woman is as competent to vote as an ignorant Indian.

The dispensary. The third amendment gives the people a chance to say if they prefer the plan of state control of the liquor traffic to license or prohibition.

FLORIDA'S SENATOR.

The Credentials are Referred to the Committe on Privileges and Elections.

Speaking in the United States senate on March 16, in favor of his motion to refer the credentials of Mr. Henderson, recently appointed by the governor of Florida to be successor to Senator Call, to the committee on privileges and elections instead of allowing him to take the oath of office, Senator Allen, after reading from the constitution the provision in relation to the appointment of United States senators, said:

"Here is language so plain and unequivocal that no man can misunderstand what it means. If a vacancy happens by resignation or otherwise, says the constitution, then the chief executive or the governor has the power to appoint temporarily to fill the vacancy. A term of office must have been entered upon; some persons must have been selected by the constitutional power of the state government to discharge the duties of a senator, and after he has entered upon the discharge of those duties, a vacancy must occur by resignation or otherwise, "otherwise" embracing death or removal or expatriation or any other unforeseen incident or fact.

Mr. President, it is sought now by the senator from Florida and the senator from Massachusetts, who I understand have come together in their opinions upon this question, to give Florida representation in this chamber, not to fill a vacancy that has happened by resignation or otherwise, but to enter upon a term—a term as the senator from Massachusetts well says, which will never expire if the legislature of the state of Florida decline to elect or if they can be induced to adjourn from time to time without electing.

The power to fill that vacancy for one week or two weeks carries with it by principle the power to fill it for six years or twelve years, unless the legislature shall in the meantime convene and elect according to the provision of the constitution. The element of time has nothing to do with it. It is the injection into our constitution of a new provision that gives the chief executive of the state power to designate a man to fill an office in which no vacancy has occurred in consequence of resignation or any other unforeseen event."

This is a clear statement of the situation in Florida. Senator Allen's motion to refer the matter to the committee on privileges and elections was adopted. This means that the appointed senators will not be allowed seats at the this time. Without them the republicans can not reorganize the senate.

On motion of Senator Chandler the appointed senators were granted the privileges of the floor.

TO PRESERVE NEUTRALITY.

Outgoing Vessels Must Sign an Obligation to that Effect.

At a special meeting of the cabinet attended by President McKinley and Serman, Gage and Long, and Attorney General McKenna, it was determined that hereafter no vessel shall be given clearance papers for Cuba or any of the contiguous islands until its owners enter into a rigid obligation not to violate the neutrality or navigation laws during the ensuing voyage.

The neutrality laws were read and their adequacy discussed. It was agreed that the attorney general should draft such additional provisions as he may consider necessary for the enforcement of the spirit of the laws and submit them to the cabinet.

It was practically decided that the president should in the near future issue a proclamation urging all citizens to strictly observe the neutrality and navigation laws and warning them of vigorous prosecution in the event of violations.

HARD TIMES NO BARRIER.

Celebrate Their Growing Business by Enlarging and Remodeling Their Big Furnishing House.

A concern that has come rapidly to the front in the past few years in the face of hard times and business depression is the Rudge & Morris Co., of this city. Starting in with a small stock of hardware only a few years ago they have grown and enlarged until they are now one of the strong business institutions of the west.

These facts are called to mind by the extensive improvements just completed in their store. A reporter in quest of the elusive item happened in at their establishment and was amazed at the changes that have taken place. A handsome plate glass front has succeeded the old windows and elegant offices have been fitted up near the front for the counting department, numerous new windows and skylights lighten the interior of the building. Electric passenger and freight elevators communicate with the different floors, giving the house a thoroughly metropolitan air.

The concern now occupies three floors and basement 75x142 feet except the first floor which is 50 feet in width. The first floor contains a complete hardware and stove store, the business offices and heavier class of furniture such as folding and iron beds, combination cases, secretarys, baby cabs, etc. On the second floor is displayed in bewildering array fancy rockers, chamber suits and parlor goods. The front part of this floor contains the carpet and drapery department. The arrangement for light and convenience is excellent. The different lines of carpets, rugs, matting, oil cloth, draperies etc., are separated, each having a department. On the third floor one sees dining tables, parlor tables, side boards, couches, chiffoniers, wardrobes, library goods, office furniture etc., in great quantities and elegant designs.

A visit to this store is a treat to one who admires elegance in house furnishing goods. Everything new and modern. A traveling man remarked that they showed the handsomest line of furniture and carpets he had seen west of Chicago. The carpet and drapery departments are models of elegance. Ingrains, brussels, velvets, moquets, axminsters and savon areas are shown in newest and richest designs. A display of draperies including a handsome line of China silks, denims, tapestries, silkolines, etc., lend an artistic effect to this department.

Mr. Rudge, when questioned by the reporter remarked! "Yes, we have about the most complete establishment of the kind in this section of the country. We buy almost everything in car load lots direct from the manufacturer. We do this in order to get lowest prices. When we buy a car load of tables or a car load of beds for instance, we save enough to pay the freight, and that's quite an item in furniture. We discount our bills and in this way we can sell our goods for about what the average dealer pays for them. That's the secret of our success. We buy the best goods and sell them as cheap as the inferior grades are usually sold. And I wish, by the way, you would extend a cordial invitation to the public to call and look through our establishment since we have remodeled it. They won't have to climb the stairs as they used to and we will show them some things in furnishings they will not expect to see west of Chicago.

CHARGES OF BRIBERY.

The Speaker of the House of Representatives in Iowa Resigns

Representative Lambert of the Iowa legislature produced a great commotion in that body by reading from letters sent out by the building and loan associations over the state making charges of wholesale bribery and corruption, involving the speaker of the house and many of the members. Upon the reading of the letter Speaker Byers demanded an investigation and tendered his resignation as speaker to take effect at once. Many of his friedns insisted that he consider his statement and continue in office but Byers declined and insisted on the acceptance of his resignation.

Sub-soil Plowing.

Subsoil plowing is usually done by a plow of suitable construction that follows in the furrow made by a turning plow. The better plan, however, is for the subsoil to be properly attached to the stock of the turning plow, operating when thus constructed immediately behind the plow. This plan will save a hand and has other important advantages.

If ground be thoroughly broken to a proper depth it will absorb and retain a sufficiency of rain water to virtually render it drouth proof; provided that a thorough system of cultivation be employed in connection therewith. Experiments with steam plowing in England have shown that ground can be advantageously broken to the depth of from 3 to 4 feet. Corn roots have been traced by Professor Mapes to the depth of 5 feet. But 16 inches may be regarded as a suitable depth for ordinary practical plowing.

MOSHER IS RELEASED.

Appeared in the Federal Court and Gave Bond for Appearance.

On March 18th Charles W. Mosher was released from the Sioux Falls prison. Mr. Magoon of Lincoln had gone to Sioux Falls to be present when Mosher was released and accompanied him to Omaha to appear in the U. S. district court to answer the remaining indictments filed against him in connection with the Outcalt trial. He waved arraignment and gave bond in the sum of $5000 signed by Messrs Whedon and Magoon, attorneys in Lincoln. From Omaha Mosher went to Chicago where he will meet his wife and boys. He claims to be penniless and does not know what he will do in the future.

In reply to a question as to whether he expected to locate in Lincoln he said: "No I shall not go back to Lincoln. I could not bear to go back there now. That's pretty tough to think that I must stay away from the place where I spent the best fifteen years of my life."

RAILROADS DEFEATED

The Recent Decision in the Supreme Court Unexpected by Most Everybody.

STOPS TRAFFIC ASSOCIATIONS

The Roads Rapidly Withdrawing from Membership in Various Associations.

The Probable Effect.

The supreme court has decided the case of the United States against the trans-Missouri freight association against the railroads. The opinion was read by Justice Peckham, and reverses the decision of the court below and holds the anti-trust law of 1890 to be applicable to railroad transportation, and the traffic agreement of the pool illegal.

Summing up on the point of applicability to railroads, the court says: "While the statute prohibits all combinations in the form of trusts or otherwise, the limitation is not confined to that alone. All combinations which are in restraint of trade or commerce are prohibited, whether in the form of trusts or any form whatever. We think, after a careful examination, that the act covers and was intended to cover common carriers by rail."

Taking up the case on its merits, he said the court had reached the conclusion that the Sherman act does cover the question of railroad transportation and that the agreement between the various roads is within the prohibition of the act. Hence the decision of the lower court, which was favorable to the contention of the railroad companies, was reversed and the case remanded.

Justices, Field, Gray, Shiras and White dissented, Justice White delivering the dissenting opinion.

The Burlington has given a sweeping order withdrawing from all the traffic associations of which it was a member. It has also withdrawn from all joint rate agreements and will operate solely on its own responsibility. All of the officers of the different associations have been retained in other capacities by the different roads and an effort will be made to avoid an internecine war.

This is a far reaching decision and will compel the disolution of all freight and passenger traffic associations. It is not known what the effect on rates will be, but in all probability it will result in some fierce competition among the roads and a consequent reduction in rates. Many of the roads have already withdrawn from the association. Mr. Chappel, of the Chicago and Alton, says: "I think all traffic associations will have to go by the board. From a railroad standpoint I think the decision is all wrong. It was rendered without expert testimony." President Morton of the Santa Fe has said: "I dont believe the railroads will cut each other's throats during the emergency. We look for relief from congress, but to be on the safe side we annulled our membership." Of course no one can predict the action of congress. It may declare combinations to be lawful, and uphold the trusts and railroads in their organizations, but in the face of existing public sentiment in favor of free and open competition in these lines of industry as well as in others, it will hardly dare to do so.

LINCOLN ELECTRIC LIGHTS.

Comparison of Expenses in Lincoln With Other Cities.

Never has there been a more dishonerable contract with or for the city of Lincoln than the present street lighting contract. It is dishonorable and fraundulent on both sides. The electric light company get nearly double pay for what they do and the city authority that entered into the contract must get a part of the unearned money or else they were idiotic managers of public business.

The uncalled for haste in which the contract was made is evidence enough of rascality. The old contract had not yet expired by several months but secretly the plans had been laid, every official sworn to secrecy, had been assigned his duty and without doubt his share of the boodle. The tax payers were not looking for the question to come up till near the expiration of the old contract. The parties interested did not want the taxpayers to look that way, for serious opposition was anticipated to any such contract as was to be made. So when the appointed time arrived the matter was brought up in council, regular meeting all rules of proscedure, honesty and honor were suspended and the ordinance passed. Signed by the major and published in the Morning Journal. It was made for five years. We had just no good reason to expect the present contract would be taken up and one made for ten years so we favored the new charter to block such games.

Compare what we pay with what other cities pay. Lewiston, Maine, only pays $51.10 a year for all night.

Madison, Indiada, pays $52.00.

Bay City, Michigan, $42.00.

The city of Lincoln pays D. E. Thompson ninety-six dollars for half night service and when the moon shines the light is turned off, but the pay goes on.