

The Nebraska Independent.

The Wealth Makers and Lincoln Independent Consolidated.

VOL. IX.

LINCOLN, NEBR., THURSDAY, JULY 1, 1897.

NO. 6.

GIVEN TWENTY YEARS

Judge Baker Passes a Severe Sentence on ex-Treasurer J. S. Bartley.

SUPREME COURT GRANTS BAIL.

The Defendant Preparing to Carry the Case to the United States Courts.

Motion For New Trial Overruled.

The attorneys for J. S. Bartley are industrious and active in his defense. Last Saturday they filed a motion for a new trial in which they enumerated one hundred and fifty-two cases of error in the trial of the case. They asked the court for the privilege of introducing oral evidence in support of their motion, but as the attorney general objected the request was denied. One of the principal assignments of error upon which the defense expects to get a reversal of the case is the action of County Attorney Baldridge in calling up the matter of jury bribery in the presence of the jury panel. They claim that this influenced and prejudiced some of the jurors against Bartley; that the announcement was unnecessary, as the court was already informed concerning the matter; that it was only intended to operate against the defendant.

Mr. Mahoney said the defense wanted a new trial because the state had special detectives at work following the jury, night and day, eating at the same table, running errands for the jurors and frequently walking with them to and from their meals and at such times holding converse with each other.

He also wished to show misconduct on the part of the bailiffs, who had the jury in charge, the claim being that they invited the detectives to work with them and the jurors.

Among the other points set out are: Accident and surprise which ordinary prudence could not have guarded against; alleged misconduct of the court, jurors, and prosecution; that the verdict is informal and irregular, and therefore, invalid; that the court abused its discretion by examining witnesses for the state and cross-examining witnesses for the defense.

The motion sets up all questions asked of witnesses by the court and says that the prosecutors had too many private consultations with the court during the trial, to which the attorneys for the defense were not invited.

Judge Baker overruled the motion, and held that all the proceedings were regular.

Bartley's attorneys filed several other motions of a technical character calculated to cause delay but they were all overruled by the court. One of the most important of these is one calculated to allow the attorneys to go beyond the supreme court of the state to the United States court. They have set up the claim that the imposition of a fine in addition to imprisonment denies Bartley rights guaranteed him by the constitution of the United States.

Mr. Mahoney offered a motion in arrest of judgment, based on allegations that the verdict is incorrect in form that there was no cause of action, as no offense known to the law was charged, and that the verdict was not sustained by the evidence. This was overruled.

Bartley was called up for sentence. He was informed by the court of the jury's verdict, rendered June 22, and asked if he had anything to say why sentence should not be pronounced.

Mr. Bartley answered: "No sir, I have not." Judge Baker entered the sentence on his docket, during which time Bartley leaned his elbow on a chair on the witness stand and calmly awaited the pronouncement of the sentence.

Judge Baker said: "There is one thing certain, you could never have had a better defense than you have had," and then commented briefly on the evidence. He sentenced Bartley to the penitentiary, at hard labor, for the period of twenty years, and to pay a fine of \$303,768.90, which is double the amount of the embezzlement found by the jury.

The defense then laid a foundation for getting the case into the United States court by bringing up a motion to vacate the judgment of the court as to the fine imposed, claiming that the imposition of the fine denies the defendant rights guaranteed him by the constitution of the United States and of the state of Nebraska.

COURT IN READINESS.

The judges of the supreme court had evidently been watching the progress of the trial closely and were in readiness at the state capitol to grant a hearing in the matter of admitting Bartley to bail. Incidentally while they were together they handed down decisions in the Lincoln and Omaha charter cases. The judges assembled during the afternoon and waited for the arrival of Bartley's attorneys.

About 5 o'clock Whedon and deputy Attorney General Smith were admitted to the consultation room, and the formal application for suspension of sentence and fixing a bail bond was made. Smith submitted that an application to suspend sentence should not be granted until the court had inspected the record and determined that there was probable error. Whedon had his transcript and submitted that, and the question was then on the amount of bond. Whedon suggested \$100,000, and Smith thought \$200,000 was about right. The matter

was left with the judges and the order was finally reached fixing the amount at \$125,000.

The court then adjourned sine die and will not meet again until next Fall unless the Hon. Eugene Moore or some other defaulting republican state official should send for them. The Nebraska court cannot be induced to remain in session, or be called in extra session to decide an important railroad or bank case nor to pass upon the rights of a citizen of Nebraska charged with horse or log stealing, but it is easily enough convened if there is any likelihood that a defaulting ex-republican official may be required to put up at the jail or penitentiary for a few weeks waiting for the regular session of the court.

Attorney General Smyth has filed objection to admitting of Bartley to bail. He objects for the reason that the record does not disclose probable error calling for the reversal of the judgment of the court below, because the supreme court is not in session and a judge thereof has no power to grant a supersedeas in a criminal case or suspend sentence in a criminal case; because the defendant has not presented to the court or a judge thereof a record of said case; because said case is not now pending in said court; and because this court or a judge thereof has no jurisdiction of said case.

SENATOR ALLEN'S REPLY.

To L. C. Bateman's Press Report Concerning the \$1500 Contribution.

In the senate last Wednesday Senator Allen took the floor to refute the charges made by L. C. Bateman and the malicious insinuations of the Associated Press concerning the \$1500 contribution made by Mr. Bryan from the royalty received from the sale of his book to the advancement of the cause of bimetallicism. Senator Allen said:

"Mr. President, in yesterday morning's Washington Post I observed the following press dispatch sent from Lewistown, Me.:

BATEMAN'S SHOT AT BRYAN—HE DECLARES THE SENATE CANDIDATE GUILTY OF BRIBERY AND FORGERY.

Lewistown, Me., June 21.

Prof. L. C. Bateman of Auburn, who was the candidate of the people's party of Maine for governor last year, and who is a leader of the middle of the road forces in this state, today published an attack on William J. Bryan. Prof. Bateman says that Congressman Freeman Knowles of South Dakota, while on his recent trip to his old home in Skowhegan, Me., gave out the information that Mr. Bryan's recent gift of \$1500 to the populist national committee was made with the distinct understanding that no action against fusion should be taken by the people's party before the next national convention.

This, Professor Bateman says is nothing more than direct bribery. Professor Bateman also says that Bryan has appended his (Bateman's) name to Senator Allen's letter of notification given out last September. Bateman was secretary of the notification committee, but did not sign the letter in question. He says that Bryan's action in printing his name on the letter in his new book is an act of political forgery. Professor Bateman is a delegate to the middle-of-the-road national conference at Nashville, Tenn., July 4. He says he will bring these matters before that body.

Perhaps I should notice the contents of this dispatch in a public way, and I would not but for the fact that a distinct charge is made that Hon. William Jennings Bryan, of Nebraska, late a candidate for the presidency of the United States, is charged by an irresponsible individual with having given me \$1,500 "with the distinct understanding that no action against fusion should be taken by the people's party before the next national convention."

Bateman is also reported as having said that "Mr. Bryan appended his (Bateman's) name to Senator Allen's letter of notification given out last September. Each of these charges is false.

Some months ago Mr. Bryan conceived the idea that it was his duty to divide the royalty of his recently published book, the First Battle, to be used in support of the cause of bimetallicism, and in doing so he allotted \$1,500 to the populist party. I did not desire that this money should be accepted by the party, and so advised the national chairman, who, I am informed, declined to receive it. Before I knew, however, of his declination, I received a dispatch from Mr. Bryan saying that a draft had been sent me for \$1,500. The draft reached me almost concurrently with the message. I did not think it good manners to peremptorily return it, and I did not until he came to Washington. When he did come, which was within a few days, I understood to him should be kept by him, but this he declined.

In the conversation with me, however, Mr. Bryan said that as a friend and to some extent, a representative of the populist party, I ought to hold the money and use it at the proper time and under proper circumstances to promote the cause of bimetallicism. I finally consented to do so on the condition that before it should be used he should say the intended use was a proper one and that I would disburse the money only when he consented. Under the circumstances I asked the Hon. R. B. Nixon, financial clerk of the United States Senate, to invest the money in interest-bearing convertible securities, to the end that the money might accumulate and be used at a time when some great emergency in the cause of bimetallicism should arise. That I did so is manifest from the following letter from Mr. Nixon on which I will read:

UNITED STATES SENATE, OFFICE OF THE SECRETARY.

WASHINGTON, June 22, 1897.

Sir: In answer to your verbal inquiry of this date, I have to say that the sum of \$1,500 placed in your hands by Hon. W. J. Bryan some time ago, was at his and your request invested by me in interest-bearing convertible securities, and they are now in my safe chest for safety. From a conversation had with

me at the time, I understood that it was your purpose to hold these securities and the accumulating interest until some emergency in the cause of bimetallicism might make its use desirable and necessary. Respectfully,

HON. W. V. ALLEN, R. B. NIXON.

United States Senator.

Bateman's statement that there is or ever has been the slightest conversation or communication, direct or indirect, between Mr. Bryan and myself, or any other person or persons, for that matter on the subject of fusion of the populist or democratic parties, is an absolute and unqualified falsehood. No conversation, agreement or understanding has ever been had with me on the subject, nor has there ever been to my knowledge, an attempt to fuse the parties, either nationally or locally.

The statement of Bateman that Mr. Bryan forged his name to the list of names appended to the letter of notification is equally false. The committee consisted of a member from every state and territory of the union. It was a cumbersome affair at best and impossible to get together. It became apparent to me that it could not be done, and the presidents of the party in this respect being to notify the candidate by letter and not in person, I took it on myself at the suggestion of several prominent members of the committee, to write the letter of notification. I wrote each member of the committee for his consent to issue the letter, and I asked for his advice as to the tenor and drift of the letter of notification should take. I received, I think, letters from all, or substantially all.

I received several from Bateman who was perniciouly conspicuous in the affair, although he was not secretary of the notification committee as he asserts. I have never known of the letter being condemned by anyone except by Bateman and possibly one or two others whose action he can control. I signed Bateman's name to the letter of notification at his express request.

Perhaps I ought to stop here with this bare statement of facts, but I may be permitted, without trespassing, on the time of the Senate, to express my utter contempt for a rabid, irrational person, occupying no place of consequence in the party, who rushes into print and makes charges the truthfulness of which he knows nothing, thus creating the impression that something is radically and inextricably wrong in populist circles. To put it mildly and admit that he is a good citizen, which I presume he is, as a politician he would wreck any party of which he was a member if his advice were to be followed. Impulsive to a high degree, irrational, excitable and inconsiderate, he crazily seeks self-notoriety by assailing a man whom the people love. He has made himself conspicuous only in the small segment of the party to be found in Maine.

This assault on Mr. Bryan is inexcusable. There are no circumstances under which any honorable man could make it, for, whatever may be said of him and the cause he advocates, he is a superior man in every conceivable respect, and one acting from a high and lofty sense of public duty, and not from a selfish motive or a motive of self-aggrandizement.

I may also say within the bounds of propriety that I am not afflicted in the slightest degree with Bateman's kind of populism. If his opinions, policies and "isms" were adopted and acted on by the party, I would find it necessary myself to retire from active connection with the organization. The Batemans, irrational, impracticable, and inconsiderate dreamers and fanatics, are the men who cling to the skirts of a new party like a night moth to a lighted taper, and becoming disappointed because they cannot shape its course, desert it usually for its good.

Mr. President, the cause of bimetallicism is the cause of the people, and the cause of the people is the cause of God; and no treachery in the ranks of the party will check its growth or mar the good name of its greatest advocate and leader.

Mr. Bryan in discussing the matter corroborates what Senator Allen said. Mr. Bryan says:

"No conditions were attached to the money turned over to Senator Allen, except that it should be used according to Mr. Allen's judgment for the cause of bimetallicism. All donations were made for that purpose. The money was divided between democrats, populists and silver republicans in proportion to the vote cast. To have ignored the populists in the distribution would have been an inexcusable slight. The subject of fusion was not discussed directly or indirectly."

"Mr. Bateman, I presume, has reference to the letter as reproduced in my book. I took it from the newspapers. If Mr. Bateman proves to me that it was a mistake I shall make the change in subsequent editions."

DEMOCRATS OF OHIO

Meet at Columbus and Nominate a Full State Ticket.

The democrats of the state of Ohio met at Columbus June 30, in state convention. Harmony prevailed. A platform declaring for free coinage, for Cuban independence, and against trusts and monopolies was adopted. All were enthusiastic and every reference to Bryan's name was met with cheers. The following was the ticket named:

Governor.....Horace L. Chapman
Lieut. Governor.....Melville D. Shaw
Supreme judge.....J. P. Spriggs
State treasurer.....James F. Wilson
Board of public works.....
.....Peter H. Deegan
School commissioner.....Byron H. Hurd

State warrants in Washington are at a premium of one and one-half per cent. Washington is now a populist state and comment is unnecessary.

DEFAULTER ARMSTRONG

The Investigating Committee Report on One Institution.

FIND A SHORTAGE OF \$2,213.11.

Other Irregularities in the Past Management of the Beatrice Institution.

Counties in Arrears.

The legislative investigating committee has been laboring industriously at its work of investigating the several state offices and institutions since the adjournment of the legislature. It has completed the investigation of the institution for feeble minded youth at Beatrice. During the preceding administration the institution was under the control of the republican board of public lands and buildings. Dr. Armstrong was selected for superintendent and it is during his term of office that the shortage occurs. The examination of the institution was conducted by Senator Mitz and Wm. N. Silver, the secretary of the investigating committee. There was a rumor during the legislature that there was a shortage in the accounts of the Beatrice institution, but nothing definite could be learned, and it was this rumor with others of a similar character, that led to the appointment of the investigating committee empowered with authority to act.

Superintendent Armstrong admits the shortage and says that he wishes that he was in a position to pay it, but that he is not.

The report of the committee shows:

Balance of cash as shown by general cash account, Feb. 1, 1897.....	\$3,354 21
Balance as shown by cash account, brush department.....	116 90
Balance as shown by the children's petty cash account and not entered in the general ledger accounts, Feb. 1, 1897.....	66 95
Children's trust fund small items.....	5 41
Errors and omissions chargeable to the several cash accounts.....	81 80
Total debits.....	\$3,625 27

The following credits should appear.

School cash.....	0 20
Farm cash.....	2 69
Error cash.....	35
Error general cash receipts, being twice charged.....	136 82
Cash payments not credited.....	241 28
Cash payments not credited.....	\$32 92 414 25

Balance of cash which should have been turned over by Dr. Armstrong to his successor..... \$3211 01 |

The committee in commenting say: "A payment of \$1,000 check less protest fees, \$2.10 was paid in to the present superintendent, Dr. Fall, by Dr. Armstrong against the general balance due, leaving a net balance yet unaccounted for of \$2,213.21.

"Various irregularities have been noticed in this institution which may be of interest. The legislature of 1891 appropriated \$20,000 to build a girls' cottage, and \$5,000 to build a dining room and kitchen, believing such a building to be needed. This appropriation has all been used and no dining room and kitchen is to be found upon the premises; \$562.50 of the appropriation for dining room and kitchen was paid on voucher 1416 for plans for the cottage dining room and kitchen, \$120.75 was paid on voucher 1643 for Mr. Grant for services as supervising architect, making a total paid out for plans and supervising architect of \$683.25 for a building which does not appear upon the premises. The balance of the appropriation was used to buy building material, etc. During the same period of time about the same amount was drawn from the \$20,000 appropriation for plans, specifications and supervising architect, making a total drawn from these two funds of over \$1,300 for that purpose.

"One item of great expense to the Beatrice institution is that of soap, which has been bought at times in the past by the car load, one voucher alone having been drawn for \$649. Voucher 1986, under date of February 28, 1893, was presented to the board of public lands and buildings and disallowed; \$79.20 of this being drawn in favor of the superintendent, Dr. Armstrong covering expenses of a trip to Chicago. After being disallowed by the board this was paid out of the general cash account and charged to the farm account; \$921 is drawn to have been used for the purchase of cows in the institution during the ten years of its existence.

"The books of record in this office are very numerous, being many times unnecessary duplication. The system of record keeping throughout the state institutions is greatly at variance and it is one of the objects of this committee to perfect a system of accounting which shall be a uniform system for all the various state institutions. While the books are unnecessary numerous in the Beatrice institution for feeble minded youth it is only due Superintendent Armstrong to say that the clerical work in this institution was well done. While some clerical errors have been discovered

they have been comparatively few in number."

The law requires each county having inmates in the institution to pay \$40 to the superintendent annually for each of them. Superintendent Armstrong did not attend to the collection of these charges carefully and there is at this time a balance of \$677.87 due the institution from the counties of the state.

GOVERNOR HOLCOMB DENIES

The Charges Made by Republican Papers That He Received Money from Bartley.

Governor Holcomb gives out the following statement. It explains itself. He says: "Concerning the defalcation of Mr. Bartley, as state treasurer, I have noticed in the State Journal a miserable lying screed copied from a Pawnee county paper, to the effect that I was in some way connected with this shortage in a questionable manner, while a Lincoln evening paper (the Call) asserts that on two different occasions I have received a specified sum of money belonging to the state treasurer. "I wish to brand these statements not only as utterly devoid of truth, but entirely without foundation and purely malicious. I have not and never have had, directly or indirectly, one cent of money belonging to the state treasury; nor have I any knowledge regarding the subject except that possessed by others and which I would willingly tell to any person.

"I have been told that these statements were based on a deposit of money made by Mr. Bartley in a bank in Broken Bow, my home town, and that I was a stockholder in the bank. This statement is equally false. I am not and never have been interested in this bank. I have had no business dealings with it of any kind since my election as governor, other than as an ordinary depositor, except the continuance of a business transaction entered into long prior to that time. After this money had been deposited in the bank I advised the officials that I should make an effort to have all school moneys belonging to the state invested in interest-bearing securities, as the law requires, and that if the bank cared for a deposit of state money they had better give a bond under the depository law to cover the deposit. The bank did this and whatever state moneys it has had been under its depository bond, which has been a matter of public knowledge to all alike.

"Again I wish to reiterate that any assertion or insinuation either by an individual or a newspaper that I have ever received by any means one farthing of the moneys belonging to the state treasury, is an unqualified falsehood and a wicked libel, for which those responsible should be made to feel the weight of the law.

(Signed.) SILAS A. HOLCOMB."

A NEW PACKING HOUSE.

Armour & Co., Will Invest More Than \$1,000,000 at South Omaha.

South Omaha and Omaha have been victorious again. They have secured another large packing house. P. D. Armour has already begun work preparing for the new structure.

It will be located upon a tract of land nineteen acres in extent recently conveyed to Armour & Co., by the Union Stock Yards company.

The new plant will cost over \$1,000,000 and will be ready for operation by January 1. When completed it will have the largest capacity in South Omaha for hogs, cattle and sheep, and it will give employment to more than 3,000 men.

It will be most substantially built and thoroughly equipped with all modern appliances, and like Armour's two other great houses in Chicago and Kansas City, will be of the most improved style.

The work begun yesterday was by engineers, but it is to be followed up at once by graders and builders and will be pushed to completion at the earliest possible day.

A special significance is attached to this acquisition to the Armour house because Armour & Co., have by this step recognized the importance of Omaha and South Omaha as a stock center and as a distributing point, and the arrival of Armour with all the powerful interests which he controls is considered to be a trump card in the great game of tariff rates which railroads and shippers play, because wherever Armour is, there the best traffic rates can generally be found.

The immediate consequence will be the broadening of South Omaha as a market for the stockmen of the entire west. Stock receipts of late, as is well known, have greatly increased, but the arrival of Armour will have the effect of still further increasing those receipts because it will increase the demand for live stock and give to the South Omaha market an activity and magnitude which it could never have without Armour.

Consul General Church Howe.

President McKinley has appointed the Hon. Church Howe of Auburn, Nebraska, to be consul general at Apia in the Samoan Islands. The salary of the place is \$3,000 per year and perquisites. Mr. Howe was named at the request of Senator Thurston. The nomination will be confirmed by the senate and Church will abdicate his throne in Nemaha county for about four years. It is generally understood that Tom Majors will take command during Howe's absence.

DIRECT LEGISLATION.

Senator Butler Pushing the Subject in the United States Senate.

A RESOLUTION AGREED TO.

Committee to Investigate Its Feasibility and Then Make a Report.

Allen On the Committee.

Senator Butler has succeeded in passing through the Senate a resolution instructing the committee on privileges and elections to inquire into the feasibility of applying the principle of direct legislation through the initiative and referendum to federal legislation and to report to the Senate next December. He had made several efforts to pass a resolution to have a special committee appointed to make the investigation, but was unsuccessful. If he had succeeded in getting a special committee appointed he would doubtless have been its chairman and could have directed the investigation. As it is the resolution goes to the committee on privileges and elections of which Senator Allen is a member. He will urge upon the committee the necessity of making a thorough investigation and comprehensive report. In this way the matter will be brought before the Senate for definite consideration sometime in December. The resolution agreed to was as follows:

"Resolved.—That the committee on privileges and elections be and is hereby, instructed to inquire into the feasibility of applying the principle of direct legislation, through the initiative and referendum, to the legislation of the federal government, and report to the Senate at the opening of the regular session of Congress in December, or as soon after as practicable, by bill or otherwise, the result of said inquiry."

In introducing the resolution Mr. Butler said:

I had intended to speak at some length this morning upon the resolution, and to show that direct legislation is the essence of democracy and that our representative form of government might be improved and brought nearer the people by the application of the methods of direct legislation known as the initiative and referendum to Federal legislation. I intended to show how the ancient right of petition could be made effective by the initiative—how a given per cent of the voters could by petition, command congress or the legislature to heed their petition. I intended to show how through the referendum a certain per cent of the voters could demand that a law passed by congress or the legislature deemed to be oppressive or grossly unjust be submitted to a popular vote.

I intended to enumerate a number of laws passed by congress and the various state legislatures which the people would now repeal and repudiate if they had the opportunity to pass upon them. I intended to show how the referendum would destroy the pernicious influence and effects of the trust and monopoly lobby that infests legislative halls and too often influences the people's representatives to vote for measures against the public welfare. I intended to show how the system works in the Swiss Republic and how in a modified way it is now employed to a greater or less extent in nearly every state in this country. And finally I had intended to show that the principle of the initiative and referendum could not be opposed by any democrat who endorses the declaration of Jefferson, that the people are capable of self government, nor could it be opposed by any republican who holds to Lincoln's idea that this should be a government of the people, by the people and for the people.

However I shall not take the time of the senate this morning to discuss these matters, but will be content that the resolution be adopted and go to the committee on privileges and elections. I will reserve my remarks until the regular session next December, when the committee named in this resolution makes its report. I do this in view of the discussion on yesterday about efforts being made to delay the tariff bill in order that the people's party may not be responsible in the least for such delay. I am anxious for the republicans to pass their tariff bill and have an opportunity to start up that promised wave of prosperity.

I ask that the resolution be acted upon now.

A vote was taken and the resolution was agreed to.

Horticulturists Meet.

The summer meeting of the Nebraska State Historical society will be held at Arlington, Nebraska Thursday and Friday, July 15 and 16. Horticulturists and others are requested by the president and secretary to bring any exhibits of fruit, flowers, trees, seeds and vegetables, also horticultural appliances especially such as may be made at home.

A short carriage drive and picnic is arranged for by citizens of Arlington. Loading orchards, vineyards and small fruit plantations of the vicinity will be visited.

If your subscription has expired, you will find the date of expiration marked on this week's issue, either on the paper or on the wrapper. Examine it carefully and pay as soon as possible.