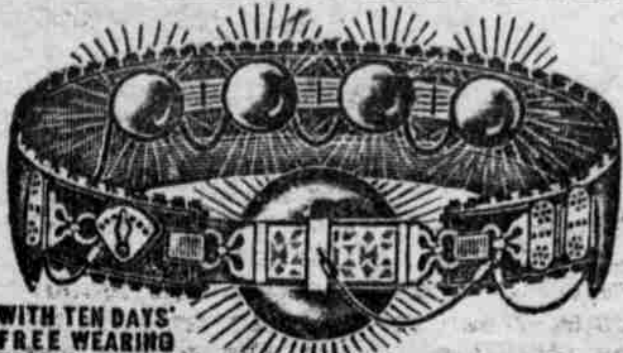


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Creating Judicial Vacancies.

Few executive acts involve within the mere statement of their nature, possible motive and at least dangerous scope, such complete condemnation as Governor Stone's appointment of a commission to examine into the capacity of Superior Court Judge P. P. Smith, of Lackawanna county, to perform the functions of his office. Judge Smith sat with the court last January, filed opinions in the cases assigned to him last March, handing down the last one in May. Some weeks ago he became seriously ill, but is now convalescing, and expects to resume his seat upon the bench next week. But notwithstanding the assurance of noted specialists that Judge Smith is rapidly regaining his normal health Governor Stone has appointed three physicians to determine his physical and mental capacity, with the intention, not to say hope, of retiring him upon half pay.

The statute upon which the governor predicates his eager action was approved by himself May 11, 1901, and reads as follows:

"Whenever a judge of any of the supreme, superior, common pleas or orphans courts of this commonwealth, by reason of physical or mental disability appears to be incapacitated for performing his judicial functions and duties, and by reason of such disability has not performed such duties for the period of one year, the governor of this commonwealth shall appoint a commission, consisting of three skillful and disinterested physicians from different counties of the state, to examine the said judge, and if the said commission shall report that said judge is permanently incapacitated to perform the duties of his office the governor shall notify the judge of such finding, and if the said judge shall resign with 30 days of such notice he shall receive for the balance of the term for which he was elected, during which he shall live, one-half of the salary which he would have received if he had not resigned; and the vacancy thus created shall be filled in the manner heretofore provided by law in case of vacancies in judicial office."

The governor has also appointed a similar commission to examine Judge John I. Mitchell, and rumor intimates that he contemplates other commissions to deal with Chief Justice McCollum and Justice Dean, of the supreme court. But the facts in their cases are not known. If any incapacity exists in relation to any one of them the public prints have not chronicled it. In Judge Smith's case there appears a premature exercise of authority under a statute of dangerous purview. At the threshold there is an unmerited insult to a citizen esteemed so highly as to be honored by judicial place. No man relishes having his sanity of mind or body impugned. The mere engendering of a suspicion as to the capacity of a judge is scandal-mongering of the most despicable kind. It touches upon the sanctity of a court.

But the practical facts in Judge Smith's case make the governor's conduct wholly inexcusable. The limit of time has not expired; only half the specified period has elapsed. And, as if to add insult to injury, the governor now complacently refuses to recall his commission on the theory that establishing Judge Smith's capacity will work no harm. Any call by that commission upon the judge before the defined time has passed would be trespass calling for a boot.

In all the history of the nation the people have been jealous of the dignity and sanctity of the founts of jus-

tice. A reverence of its own kind has ever been felt toward the holders of judicial office. When John Quincy Adams appointed the "Midnight Judges" this last act of malicious partisanship helped condemn his administration. The packing of the federal supreme court by increasing its membership to secure the affirmation of the legal tender act has been a blot from which the true American turns aside.

But the unwarranted exploitation of this Pennsylvania statute is fraught with the gravest peril. A governor can remove at will a whole court, and recreate it to suit the demands of favorites, or to secure decisions required by party exigencies. A disappointed candidate for a gubernatorial nomination can be solaced by appointment to a vacancy thus seized in brigand style. Coercion can be enforced upon unwilling factions by forcing the affirmation or invalidating of any law that involves detriment or benefit. Such tactics smack of England centuries ago, when a king upturned a kingdom's faith or pawned all his lands to secure an end.

It does not tend to lessen the evil that may be wrought by virtue of this statute that Governor Stone's term is happily drawing near its ignominious end. There may be other governors like Stone.—Pittsburg Post.

Two Policies Contrasted.

Senator Hoar thus contrasts imperialism and self-government:

What have your ideals cost you and what have they brought for you?

1. For the Philippine islands you have had to repeal the Declaration of Independence.

For Cuba you have had to reaffirm it and give it new luster.

2. For the Philippine islands you have had to convert the Monroe doctrine into a doctrine of mere selfishness.

For Cuba you have acted on it and vindicated it.

3. In Cuba you have got the eternal gratitude of a free people.

In the Philippine islands you have got the hatred and sullen submission of a subjugated people.

4. From Cuba you have brought home nothing but glory.

From the Philippines you have brought home nothing of glory.

5. In Cuba no man thinks of counting the cost. The few soldiers who came home from Cuba wounded or sick carry about their wounds and their pale faces as if they were medals of honor. What soldier glories in a wound or an empty sleeve which he got in the Philippines?

6. The conflict in the Philippines has cost you \$600,000,000, thousands of American soldiers—the flower of your youth—the health and sanity of thousands more, and hundreds of thousands of Filipinos slain.

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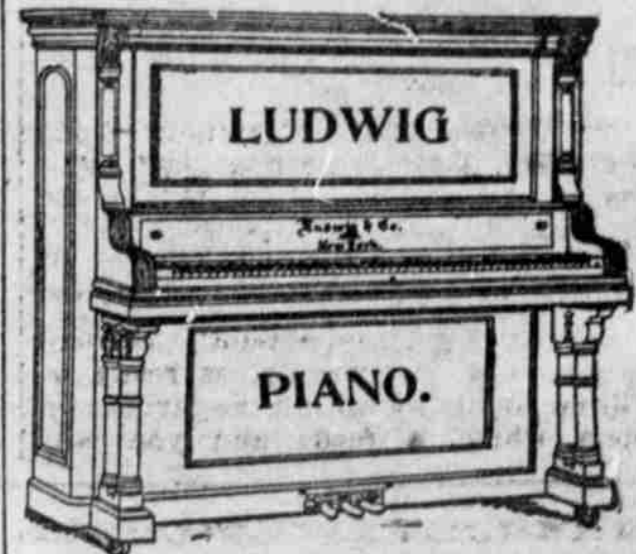
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