

so. The opinion is by Judge Sullivan. Here again he stood for the interests of the people.

In State vs. Frank, 60 Neb. 355, the supreme court was asked to hold that the law fixing the salary of the clerk of the district court in certain counties and requiring all fees over and above the salary and expenses of the office to be paid into the county treasury was void. The court refused to do so...

This opinion is also worthy of note because it shows that Judge Sullivan is not only a just man and a learned judge, but a man of good literary attainments. The following extract from the opinion shows this:

"The sheet containing the record of the vote on House Roll 251, the bill here in question, indicates that some other paper was once fastened to it with a pin. The other paper, which, according to the evidence, showed the ye and nay vote, is gone; the pin has disappeared and counsel for respondent insist that the law has gone with it. 'And these things,' says Victor Hugo, in Les Miserables, 'took place, and the kings regained their thrones, and the master of Europe was put in a cage, and the old regime became the new, and the light and the shadows of the earth changed places, because, on the afternoon of a summer day a peasant boy said to a Prussian in a wood, 'Go this way, and not that.' Those were momentous consequences of a trival and commonplace event; but if we were to adopt the views of counsel for respondent, we would have in this state a condition of affairs capable of producing at any time, and likely to produce at some time, a situation which would exhibit almost as striking a disproportion between cause and effect. If counsel are right in their contention, then our most important statutes are liable to be annulled by the accidental displacement of a pin; municipal bonds may be invalidated and men may lose their property and their liberty; divorces may prove worthless and marriages may become null and children be bastardized, because some clerk, charged with the duty of journalizing legislative proceedings, has by mischance used muclage instead of paste. The doctrine is monstrous; its acceptance is unnecessary and might prove disastrous."

The case of U. P. R. R. vs. Roesser

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shows another phase of the judge's character.

This was a case brought to recover damages from the U. P. R. Co. for the death of a man by the name of Niels Rasmussen. Rasmussen was a passenger on the U. P. read. As the train swept by one of the stations he recognized a friend on the platform. He stuck his head out of the windows to salute the friend and wave good-bye. While he was in this attitude his head came in contact with the mail crane standing close to the track. Shortly afterward he died from the injury sustained. It was contended that the mail crane was too near the track and that the company was negligent in maintaining it there. The company said that Roesser was negligent in sticking his head out of the window. A majority of the supreme court took the railroad company's view of the case, but Judge Sullivan refused to do so, putting his conclusion upon the ground that Rasmussen had done only what nine men out of ten in the common walks of life would have done under the same circumstances.

In disposing of the language the judge used the following truthful language:

"In dealing with cases of negligence, judges are, I am disposed to think, too much inclined to take themselves as standards by which to measure the conduct of all classes and conditions of men. Commensurate care in a given case is apt to be what they would have done. They are accustomed to travel, and understand the dangers of the road; they are unaffected by novel situations; their native enthusiasm has been chilled by contact with the world; they hold themselves in leash, and wave no improvident salutations to acquaintances or friends. They are well-posed, circumspect, and deliberate; they are examples of correct conduct; but, however much it is to be regretted, their ways are not the ways of exultant youth, nor of 'the man with the hoe.' Carriers of passengers, as was observed in C. R. I. & P. R. R. Co. vs. Zernecke, 50 Neb. 689, 82 N. W. 26, 55 L. R. A. 610, are insurers; they charge for the risk they assume, and there is consequently no reason why the law imposing liability upon them should be enforced with reluctance. In actions brought to recover indemnity, courts have, it seems to me, no call to put a harsh construction upon the plaintiff's conduct in order to temper the statute with natural justice."

Another case along these lines is the case of C. B. & Q. vs. Martelle, 91 N. W. Rep. 364. (This was discussed last week.—Ed. Ind.)

In the case of Western Union Tel. Co. vs. Village of Wakefield, 95 N. W. 659, we again see the judge's sympathy with the people. The village of Wakefield levied an income tax on the Western Union Telegraph company. It was contended that the company was not subject to the tax. The supreme court agreed with the company and Sullivan dissented, held the ordinance levying the tax to be valid and state his reasons therefor with his usual force and clearness.

In the case of State vs. Kennedy, being one of the cases with reference to the Omaha police and fire commission, the opinion was written by Judge Sullivan. The closing paragraph of that opinion would be carried at the mast-head of every paper in this state which desires the judge's re-election. It gives in clear, terse and forceful language the judge's conception of the true attitude of courts towards political questions. In that case it was suggested by republican counsel that possibly the court being fusion would decide in favor of the fusion board of fire and police commissioners and hence counsel took it upon himself to warn the court against such a course. It was in answer to this warning that Judge Sullivan wrote the following paragraph:

"The original brief of counsel for respondents conveyed quite plainly his apprehension that political considerations might be a factor in the decision of the case. No judge conscious of his own integrity will listen to such suggestion. No self-respecting court will tolerate an argument which proceeds on the assumption that the goad and spur are necessary to compel it to discharge honestly its constitutional duty. We know, as well as counsel, that the supreme and inexorable obligation of a court to truly interpret the will of the law-giver has no possible relation to questions of party expediency. It is surely not necessary to instruct us as to that. We believe thoroughly in the rectitude of our own intentions; we feel sure of the inflexibility of our purpose to administer justice uninfluenced by considerations of party advantage; and we will not permit counsel to deal with us on the theory that we may perhaps be contemplating a be-

trayal of our trust. Whatever may be the effect of our decisions upon party interests, we shall still resolutely endeavor to act in obedience to the maxim, Fiat justitia ruat coelum, and it will not be necessary for counsel to point out that it is the duty of the court to do its duty."

Polk County

A branch of John N. Baldwin's railroad runs through Polk county, the home of Governor Mickey, who was selected as "our man" by Baldwin & Co. eight days before the 1902 republican state convention. Governor Mickey is a member of the state board, which has the assessing of railroads and fixing the state tax levy of each county.

There may be no connection here, but it is remarkable that although the assessors in Polk county added \$64,899.19 to the assessed valuation of business men's and farmers' property, Baldwin's railroad board cut down railroad valuations \$2,995.50 in Polk county. A two-mill increase this year adds 33.4 per cent to the farmers' taxes, but the railroad increase is almost exactly 20 per cent over last year.

The state tax levy of 1902, at 7 1/2 mills, amounted to \$9,893.91, divided thus:

Railroads \$ 574.86
Others 9,319.05

This year, at 9 1/2 mills, the levy is \$13,120.38, divided as follows:

Railroads \$ 689.70
Others 12,430.68

Whether Governor Mickey desired to punish the populists of Polk county or whether it was Baldwin's branch road that appealed to his Christian heart, is not known. But the fact remains that the railroads got the big end of the deal out in that county this year—as, in fact, they did in substantially every county in the state.

The State Debt

After a number of years of populist education in the matter of civil government, there are still a large number of persons whose ideas regarding the state debt are very hazy. Let us again inquire into the matter:

The fiscal year ends November 30, and on even numbered years all books and accounts are closed and each state officer and head of a state institution makes a biennial (or two-year) report. Many accounts are closed temporarily at other times, for example, there is a system of semi-annual reports to be made to the governor. State officers are inducted into office on Thursday following the first Tuesday in January on odd numbered years. Although at that time there is a partial closing up of accounts in order to turn over the offices, this does not approach in thoroughness the grand closing up at the end of a biennial period. Hence, in all comparisons of populist with republican rule, counting from biennium to biennium, there is always a short period of republican administration to be reckoned with in populist bienniums, and vice versa.

When the republicans closed the books of the state November 30, 1896, the state debt, barring a few small items, was as follows:

State bonds \$ 449,267.35
State gen. fund war.....\$1,727,447.72

Total \$2,385,540.35

When the populists closed the books of the state November 30, 1900, just four years later, every item of state debt was summed up in the following items:

State bonds none.
State gen. fun. war.....\$1,727,447.72

The "few small items" referred to under the republican administration are as follows:
Temporary uni. fund war...\$27,444.63
Ins. feeble minded warrants. 31,724.50
Live stock indemnity war.. 172.00

Most of these were interest-bearing warrants at that time and were paid and cancelled during the four years of populist administration which followed.

Leaving these wholly out of account, however, a little calculation will show that under four years of populist administration the state debt was reduced \$658,000, as follows:

State bonds \$449,267.35
State warrants 208,825.28

Total \$658,092.63

Now, notice what happened in just two years later: See the auditor's report for the biennium ended November 30, 1902, page 29. You will see that the state debt is given as follows:

General fund warrants...\$1,989,828.63
In other words, under republican administration the debt had increased \$261,880.91.

Today it is likely that the debt is considerably above the two million mark, but the auditor discreetly holds back any information regarding the

matter. He may tell us when the books are closed November 30, this year.

The new revenue law was enacted under the railroad whip, to wipe out the state debt and make the farmers foot the bill. Every earmark shows its purpose. The debt is wholly a republican creation. Not a dollar was ever added to it by the populists, but on the contrary, they cut it down instead. The railroads dominated the republican administration responsible for the creation of the debt. Let them pay their share in wiping it out.

This will not be done if the republicans elect the supreme judge and the district judges this year, because that will be construed—and properly, too—as an indorsement of what the republicans have done. The election of Judge Sullivan and the populist candidates for district judge will be the entering wedge in overthrowing railroad domination.

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