THE OMAHA DAILY BEE.

TWENTY-FIRST YEAR. OMAHA, TUESDAY MORNING, FEBRUARY 2, 1892. NUMBER 230.

BOYD'S TITLE CLEAR

Final Decision Rendered by the United States Supreme Court.

JUST AS OUTLINED BY THE BEE

Exclusive Reports Four Weeks Ago Entirely Confirmed.

NOTHING STARTLING IN THE RESULT

It Was Anticipated from the Beginning of the Litigation.

FULL SYNOPSIS OF THE DECISION

Chief Justice Fuller Reads the Opinion from the Bench Before a Crowd of Interested Lawyers, Correspondents and Nebraskans.

WASHINGTON, D. C., Feb. 1.—[Special Telegram to THE BEE.]—THE BEE's exclusive announcement of the result in the Boyd-Thayer case, which was laid before its readers weeks ago, was finally verified today in court when Chief Justice Fuller handed down the opinion reversing the decision of the Nebraska supreme court and declaring James E. Boyd to have been a citizen of the United States at the time of his election as governor of Nebraska. The decision is unusually long, covering twenty-one closely printed pages, a large portion of which is occupied with a recital of the frets in the case. The main point upon which the opinion rests and which all judges but Justice Field concurs, is that the attorneys of General Thayer, in their demurrer, practically concede the naturalization of Mr. Boyd's father in 1854, while throwing the burden of proof of such naturalization upon Governor Boyd's attorneys.

Predicted by Senator Manderson.

This is the very point which Senator Manderson cited as likely to prove fatal in the briefs of General Thayer's attorneys several days before arguments were made. Chief Justice Fuller based his opinion, as will be seen, also upon the territorial inhabitancy argument of General Cowin and inferentially upon Mr. Estabrook's ingenious plea for the inchoate rights of minors ratified by subsequent action of parents.

From these points three justices dissented. All but Justice Field, however, who denied the jurisdiction of the court to take cognizance of the case, agreed in the opinion of Sustice Fuller upon the main point relied upon. Ex-Attorney General Garland made two vigorous attempts to secure an immediate mandate of the court addressed to the Nebrrska supreme court.

No Immediate Mandate Issued.

The court declined to issue such peremptory order on the ground that it was usual to notify attorneys of the intention to issue such a mandate. As the court adjourned today until February 29, General Thayer can continue to draw the pay of the office for another month if he waits for the formal decree of the court to reach Nebraska.

Mr. Bryan of Nebraska succeeded in interjecting during debate on the rules in the house, an announcement of the supreme court decision with a remark that popular government had been restored in Nebraska. Governor Dingley of Maine tried to choke him off, but ineffectually. Mr. Bryan, when he finally got the floor, said:

Boyd's Election Reviewed In the House.

"I move to strike out the last words. It is not because I have any special dislike for the last word,' but I desire at this time and under this motion to convey to those interested an idea of intelligence which I am sure it will be glad to receive. In 1890 the people of Nebraska, by a plurality of more than 1,000 votes, elected Hon. J. E. Boyd as governor of that state. The retiring governor contested the election on the grounds that Mr. Boyd, although for forty years a resident of Nebraska, twice mayor of Omaha and the member of two constitutional conventions, was not a citizen of the state within the provisions of the constitution. The state court, by a vote of 2 to 1, declared Mr. Boyd not a citizen. I wish to announce to this house that the United States supreme court has just declared Governor Boyd a citizen and entitled to the office. The news is thus conveyed to you that this house may join with the people of Nebraska in rejoicing over the restoration of popular government in that state."

Democrats Applauded.

The words of Mr. Bryan were roundly applauded on the democratic side.

Around the court add the capitol generally the decision excited but little comment, as it had been so thoroughly anticipated by the press that the only surprise evinced was the needless delay of the court in rendering it. It can now be said that the decision was reached by the court in private conference on the Saturday before the publication in only seven papers in the United States; that knowledge of the fact that a decision was reached was known to seven correspondents only on the Monday following, and was retained in confidence until the Friday night succeeding when the result was sent out.

The delay in rendering the decision was due to the chagrin of the court at the premature announcement of their deliberations.

Nothing Startling in the Decision.

Senator Manderson said of the decision shortly after learning of it this afternoon: "Boyd is my governor and the governor of every other citizen of Nebraska. He will continue for about a year, and then we shall try to put a good republican in his place. There is nothing startling in the decision. I am not surprised at it, because of an allegation in the petition as to the naturalization of Boyd's father during Boyd's minority. This allegation was by a demurrer which was filed, admitted to be true.

SYNOPSIS OF THE DECISION.

Full Text of the Opinion as Rendered by the Supreme Court.

WASHINGTON, D. C., Feb. 1.—[Special Telegram to THE BEE.]—The United States supreme court, in an elaborate opinion by Chief Justice Fuller, held today that James E. Boyd is a citizen of the United States, and was a citizen for two years preceding his election as governor of Nebraska, and that consequently he is entitled to the office, and that John M. Thayer, the hold-over governor who denied the right of Boyd to succeed him, must give way. All the justices of the court, except Justice Field, unites in the conclusion that the United States supreme court has jurisdiction of the case. Justices Harlan, Gray and Brown, while concurring in the conclusion of the court that Boyd was a citizen of the United States, did so on the ground that the exercise of all the rights and privileges of citizenship by Boyd's father, a resident of Ohio, as shown on the record, established the assertion made by James E. Boyd and his father, that the latter had, in 1854 taken out his final naturalization papers although there is no documentary proof of the issuance of those papers.

Boyd's Intentions Clearly Shown.

These three justices, although the fact was not stated in so many words by the court, did not assent to the conclusion reached by the other justices, that Boyd was also a citizen on the ground, viz., that the enabling act of Nebraska constituted a collective naturalization of all the inhabitants thereof at the time of admission into the union, unless they had stated that they had intended to retain their rights as subjects of foreign nations and that the various offices held by Boyd and the exercise of the right of suffrage by him with the oath of allegiance to the United States he took at various times, shows clearly it was his intention to become a citizen of the United States, and that he so considered himself.

The following is a summary of the opinion of the court which is not a verbal statement of its argument, though following the conclusions reached and the line of reasoning of the opinion.

Synopsis of the Opinion.

The court says that on January 13, 1891, the leave was granted to John M. Thayer by the supreme court of Nebraska to file proceedings looking to the ousting of Boyd from office of governor of Nebraska. The court then renews the charges contained in the information filed by Thayer, the point as is well known being that Boyd's father, although he had declared his intention to become a citizen of the United States and had in Ohio for years exercised unquestioned the rights of voting and holding office, and in fact never taken out his final naturalization papers and therefore was not a citizen and that as James E. Boyd himself had never been naturalized but had voted and held office under the belief that his father become a naturalized citizen while he was a minor; that, therefore, under the constitution, James E. Boyd was not a citizen, and therefore not eligible to the office of governor of Nebraska, the constitution requiring that the governor shall be a citizen of the state for at least two years preceding his election.

By Birtue of the Enabling Act.

Boyd, in his reply, held that the enabling act of Nebraska constituted a collective naturalization of all its inhabitants at the time of admission to statehood, and also asserted that his father had in 1854 taken out his final naturalization papers, although the record did not show such a fact.

The court first devotes some space to an argument in support of its right of jurisdiction under the mode of procedure under which the case comes before it, reaching the conclusion that while the attorney general of the state refused to institute a suit against Boyd, Thayer as the aggrieved party had a right to bring the suit on the nominal name of the state, and that the question being one of a denial of a constitutional right to Boyd, had made it a federal question which could be reviewed here.

The court says it understands that it is insisted that Boyd was an alien because his disabilities as a foreign born citizen had never been removed by naturalization. Congress, it says in the exercise of its power to establish a uniform rule of naturalization, has enacted general laws for the naturalization of individuals but that the instances of collective naturalization by treaty or statute are numerous.

Favors Collective Naturalszation.

The court then says: There can be no doubt that in the admission of a state a collective naturalization may be effected in accordance with the intention of congress and the people applying for admission on an equal footing with the original states, in all respects whatever, involves the adoption as citizens of the United States of those whom congress makes members of the political community, and who are recognized as such in the formation of the new state with the consent of congress. The question is not what a state may do in respect of citizenship, but what congrrss may recognize in that regard in the formation of the state.

The application of this doctrine is then made to the state of Nebraska and its various proceedings, looking to its admission, are then considered. One clause of the state constitution adopted that white persons of foreign birth, who had declared their intention to become citizens, should be considered electors and this congress amended by declaring that it should not operate as a discrimination on account of color. These provisions in connection with section 14 of the state constitution that "no distinction shall ever be made by law between resident aliens and citizens in reference to property," seems to the court a clear recognition of the distinction between those who had and those who had not elected to become aliens.

Declarations Were Sufficient.

It follows from this that all who had declared their intention to become citizens congress so regarded and placed those whose naturalization was complete in the same category with persons already citizens. But, says the court, it is argued that James E. Boyd had never declared his intention to become a citizen of the United States although his father had, and that because, as alleged, his father had not completed his naturalization before his son attained his majority, the father cannot be held to have been made a citizen by the admission act of Nebraska. On this point the court quotes from the acts of 1790, 1795 and 1802, that, minor children of naturalized parents shall, at the age of 21 years, be deemed to be citizens."

The statutes, it says, leave much to be desired with reference to nationality laws and the statements of his parents, who declare their intention but do not take out final papers before the children reach 21 years of age. Clearly minors, the court says acquire an inchoate status by the declaration of intention on the part of their parents.

Technical Points Repudiated.

If they attain majority before the parent becomes to be a natural citizen, they have a right to repudiate the status and accept foreign allegiance rather than hold fast to the citizenship which the parent's act has initiated for them. Ordinarily the minor makes application on his own behalf for naturalization, but it does not follow that an actual equivalent may not occasionally be accepted in lieu of a technical compliance.

The history of Boyd is then traced from his voting in Ohio in 1855 under the belief and assurance from his father that he (the father) had taken out his final papers. Then is traced Boyd's long career in Nebraska as voter, office-holder and soldier against the Indians with the view of showing that for over thirty years Boyd had enjoyed all the rights of citizenship. The hardships of the pioneers is briefly referred to, and the courtesy—the policy which sought the development of the country by inviting the participation in citizenship those who would engage in the labors and endure the trials of frontier life which has so vastly contributed to unexampled progress of the nation—justifies the application of a liberal rather than a technical rule in the situation of the question considered.

Oath of the Son Sufficed.

Under the circumstances, James E. Boyd, the court says, is entitled to claim that if his father did not complete his naturalization before his son had attained majority, the son cannot be held to have lost the inchoate status he had acquired by the declaration of intention; on the contrary that the oaths he took and his action as a citizen entitle him to insist upon the benefit of his father's act and has placed him in the same category as his father would have occupied if he had emigrated to the territory of Nebraska; that, in short, he was within the intent and meaning of the acts of congress in relation to citizens of the territory and was made a citizen of the United States of the state of Nebraska under the organic and enabling acts and under the act of admission.

Another and shorter course of reasoning brings the same conclusion. It takes up the averment in the answer of Boyd, declaring that his father had made his declaration of intention and had for forty-two years exercised the right of citizenship in Ohio and also distincty alleging "on information and belife that prior to October, 1858, his father did in fact complete his naturalization in strict accordance with the law and informed respondent at the time of that fact."

Precedent Established.

The court holds, on the authority of Justice Miller in Mitchell against Clarke, that it has the right to determine for itself the sufficiency of this allegation and that it is not concluded by the view taken by the Nebraska supreme court. It is true that under the naturalization laws, naturalization can only be completed before a court and that the usual proof of natualization is a copy of the courts record. But citing Blight against Rochester and Hogan against Curtz the court says it is equally true that where no record of naturalization can be produced, evidence that a person having the requisite qualifications to become a citizen did in fact and for a long time, vote and hold office and exercise rights belonging to citizens, is sufficient to warrant a jury in inferring that he had been duly naturalized as a citizen, such being the settled law the court says there can be no donbt that the fact that Boyd's father became a naturalized citizen before October 1854 is well pleaded in Boyd's answer and is therefore admitted for the demurrer on behalf of Thayer. Specific allegations of the time and place and court of naturalization would have been superfluous and in view of Boyd's imperfect information as manifest upon the face of the answer of a transaction taking place long ago hardly possible.

How a Jury Would Have Held.

Under the allegations made, a jury, the court holds, would have been warranted in inferring that Boyd's father became a citizen of the United States before 1845, and consequently that Boyd himself was a citizen. For this reason, without regard to any other question argued in the case, the court says Boyd was entitled to judgment upon the demurr.

Justices Harlan, Gray and Brown concurred in the conclusions of the court for this reason only The court's order reads as follows:

Final Order of the Court.

"The judgment of the supreme court of Nebraska is reversed and the cause remanded to be proceeded in according to law and in comformity with this opinion."

Unless the Nebraska courts should, of their own accord, depart from the usual custom, Governor Boyd will not be reinstated in office before March at the earliest.

Ex-Attorney General Garland asked for a mandate from the court this afternoon, but Chief Justice Fuller said that the court could not depart from its usual custom and would not issue a mandate before the usual time unless notice of attention be given the other side. The motion of Mr. Garland was therefore denied. As the court today adjourned until February 29, this action of the court will have the effect of delaying the issuance of the court's order until after its reassembling.

DOWN AT LINCOLN.

No Especial Excitement Manifest — What They Will All Do.

LINCOLN, Neb., Feb. 1.—[Special to THE BEE.]—Contrary to general expectations, the receipt of the news of the Boyd-Thayer decision in this city today failed to create even a ripple of excitement at the state house. The people of Lincoln had long since settled down to the conviction that the foreshadow of the decision, first published in this city exclusively by THE BEE, was correct. The decision has been expected each succeeding Monday, and the knowledge that the supreme court would adjourn today led everybody to confidently expect the final opinion.

The news was first received at the executive office by a telephone message from Omaha and confirmed a few moments later by private dispatches. Governor Thayer had already heard the news when he entered his office, and was undisturbed at the announcement. When THE BEE representative entered his office the governor was busily engaged in affixing his official signature to a number of school land leases that had been drawn up by the commissioner of public lands and buildings. He refused to express any opinion whatever, merely saying that he would, of course, "bow to the decision of the supreme court."

Decapitated Himself.

Among the first callers at the executive office was Colonel Harry Downs, chief clerk of the bureau of industrial statistics. The gallant colonel was the first to break the news of the Nebraska court's decision last May to Governor Boyd, and it has been a leading question whether his head would or would not bump the bottom of the basket before those of the other appointive officers. When Colonel Downs learned of the decision he deftly removed his official head himself and placed it at the disposal of Governor Thayer, thus relieving Governor Boyd of the painful necessity of performing the operation.

Oil Inspector Carns was asked whether he would follow Colonel Down's example and tender his resignation to Governor Thayer before Governor Boyd took possession. He replied that he had not considered the matter. It is believed, however, that all of appointive officers will tender their resignations, thus leaving a choice assortment of vacancies for Governor Boyd to fill as soon as he takes possession of his office again.

All Ready for Governor Boyd.

The executive offices at the state house are all ready for Governor Boyd when he comes into his own again. The work for the past three weeks has been quietly directed to that end. This afternoon Morton Smith and Colonel Tom Cooke, the executive clerks, were busily engaged in sorting over papers, completing records, etc. The work of the office will be carefully completed and left in good shape for the new administration.

Not a straw will be laid in the way of Governor Boyd's entrance upon his official duties. Governor Thayer's friends say he has simply done his duty as he understood it. He wanted Mr. Boyd's citizenship fully established. It has been so established in the court of final resort and the contest is ended.

About the only thing that Governor Boyd will not find waiting for him in the executive chamber is the mammoth oaken chair presented him with so much enthusiastic ostentation by the Samoset club of Omaha. The chair has been reposing in dignified solitude in another part of the building. Its presentation will again devolve upon the members of the Samoset, and it is believed that they will perform the ceremony with even a greater demonstration than upon the former occasion.

Governor Thayer's Future Course.

Governor Thayer will go from the executive office into an active business career. He has identified himself with a syndicate of Nebraska gentlemen who are interested in a new deep water harbor town on the gulf coast and will in the future devote his time to the development of a new commercial rival of Galveston. The syndicate is composed of Governor Thayer, C. E. Montgomery of the German National bank of this city, T. M. Lowry, the well known Lincoln grain man; R. R. Greer of Kearney, A. L. Strang of Omaha, State Treasurer Hill, Attorney General Hastings, Secretary of State Allen, Auditor Benton and J. L. Carson of Brownsville. These gentlemen have purchased 2,600 acres of land at Morgan's point on the Gulf of Mexico, twenty-two miles south of Houston and thirty-six miles from Galveston. It is the only point along the coast where high land and deep water meet. At this point a new city named La Porte has been platted and the syndicate will turn its attention to the development of a new metropolis in the southwest. Governor Thayer will take a prominent part in this work, and he will undoubtedly find it both congenial and profitable.

Don't Want an Extra Session.

THE BEE representative has talked with the leading members of the democratic party of Lincoln, together with many prominent members of the farmers alliance who are here to attend the meeting of the state alliance, and he finds that the sentiment in opposition to an extra session is general. Such well known democrats as Judge Harwood, J. H. Ames, Albert Watkins, Victor Vifquain and J. D. Calhoun are opposed to the extra session on the grounds of party expediency. They are unanimous in saying that an extra session could not benefit the democratic party and that the probability is that it would do it harm.

Removal of State Appointees.

The state appointive officials who hold their positions only through the pleasure of the governor are prepared to gracefully accept the inevitable, and it is the general impression that they will not be kept long in suspense. Louis Heimrod of Omaha will undoubtedly return to the chief oil inspectorship and General Vifquain will once more don the adjutant general's uniform. Sheriff Mallon of Fremont is again slated for the wardenship of the state penitentiary while Professor C. D. Rakestraw will be likely to secure his former position as superintendent of the blind asylum at Nebraska City. The friends of Governor Boyd are expecting a clean sweep.

World's Fair Commission.

One of the plums at the disposal of the governor is the place now held by R. R. Greer as commissioner general from Nebraska to the World's fair. There is a salary of $2,500 per annum attached to the position, and it is not considered here at all likely that a republican will be allowed to retain so lucrative a place, especially when the power of removal is so conveniently vested in the governor. There is a probability that still other changes will be made in the personnel of the commission. The governor is bound to retain the political equilibrium of the commission, but beyond this the organization is in his hands.

Omaha Grain Inspectorship.

Another important change reported likely to be made by Governor Boyd is in the chief grain inspectorship at Omaha. It is an open secret that the present chief inspector is giving satisfaction neither to the State Board of Transportation nor the grain men of Omaha. It is believed that the Omaha grain inspection department will develop more rapidly under the supervision of a man better qualified for the position, and it is altogether probable that a change would have been made in the near future, even had Governor Thayer remained in the executive office.

History of the Case.

The history of the gubernatorial contest forms one of the most important, as well as one of the most interesting in the constitutional annals of Nebraska. The case first came before the supreme court of the state on January 13, 1891, when Governor Thayer made application for permission to file an information in the nature of quo warranto proceedings. Later on the same day the information was filed by Governor Thayer in his own behalf, Attorney General Hastings having refused to prosecute the same. In his information the governor alleged that James E. Boyd was not eligible to the office of governor for the reasons that he had been born in Ireland in 1834, and that he never had been a properly naturalized citizen of the United States.

On January 15, 1891, Governor Thayer applied to the supreme court for an in injunction to restrain Governor Boyd from exercising the duties of the office, and on January 17 Mr. Boyd was served with a notice to that effect.

February '6, 1891, Mr. Boyd filed with the clerk of the supreme court a motion to dismiss the case on the ground that the petition failed to state facts sufficient to constitute a cause of action. On March 4 the motion to dismiss was argued, and on March 5 the motion was overruled and Mr. Boyd was required to make answer to the general case on March 10, 1891.

On March 10 Governor Boyd's answer was filed by his attorneys, John C. Cowin and John D. Howe. In his answer Mr. Boyd averred that he had been for over thirty-two years a citizen of the United States in fact and in law.

On the same day Governor Thayer filed his demurrer to the answer. On March 12 the case came up before the supreme court, was argued and taken under advisement.

The opinion was handed down on May 5, 1891, Justice Norval reading the decision. The opinion was a lengthy document, reviewing the case in detail. It was to the effect that Mr. Boyd had not established his claims to citizenship. Chief Justice Cobb concurred in the opinion, while Justice Maxwell dissented.

A writ of ouster was served upon Governor Boyd on the same day, and then the contest rested until taken up to the supreme court of the United States.

NEWS IN OMAHA.

General Satisfaction With the Final Finding of the Supreme Court.

Enthusiasm was at high pitch when bulletins were posted at noon yesterday announcing the favorable ruling of the United States supreme court upon the Nebraska gubernatorial contest, and when THE BEE extra confirming the report appeared, shouts went up along the crowded street.

The news spread rapidly and was received with general satisfaction that found its expression in various forms. Some were noisy and cheered themselves hoarse while others contented themselves with less demonstrative methods.

Governor Boyd Hears the News.

Governor Boyd was at his son-in-law's home on Thirty-second street when the news was telephoned him from THE BEE office about the decision being handed down. He at once took the car for his office in his new theater and was seen there by a reporter for THE BEE.

The governor showed but very little indication of unusual elation of spirit over the good news but as he is capable of keeping his emotions pretty much to himself it is not at all improbable that he felt a deep and thorough satisfaction in contemplating the personal victory so long delayed and so patiently and manfully won.

"All I have to say for publication is this," said Governor Boyd, looking as calm and deliberate as though he were talking about plans for another splendid business block in Omaha, "General Thayer can no longer act as governor of Nebraska after the handing down of this opinion. Any act of his after the opinion has been rendered in the capacity of a governor would be illegal. I am governor of the state of Nebraska, whether I am in Omaha, Lincoln or somewhere else. The question of taking the chair is a secondary matter."

"How soon do you expect to go to Lincoln

[CONTINUED ON SECOND PAGE.]

TINKERING WITH THE RULES

They Are Still a Subject of Discussion in the House of Representatives.

EX-SPEAKER REED'S POSITION SUSTAINED

Mr. Cockran of New York Approves of the Ex-Speaker's Idea of a Quorum—Mr. Pickler Hard to Squelch—Senate Proceedings.

WASHINGTON, D. C., Feb. 1.—House—"The principle that the presence of a majority of members constitutes a quorum has had the sanction of every court to which it has been referred, and I think that it ought to have the sanction of this house."

This was the retort of ex-Speaker Reed today in defending himself against the spirited denunciation by the democrats of his official actions in the Fifty-first congress.

The rules are still the subject of harrowing discussions in the house, and the decree of the democratic caucus and the frequent demands for the previous question seem alike important in forcing the debate to a close and securing the adoption of the code reported by the democratic majority of the committee on rules. Indeed there is a disinclination in the rank and file of both sides of the house to regard the rules as a party question. Some of the most radical features of the code reported by the democratic majority of the committee on rules find quite the finest supporters on the republican side, and Hon. Bourke Cockran, the well-known Tammany congressman, this evening surprised his colleagues by eloquently approving the principle of recognizing the ocular evidence of a quorum and his speech was enthusiastically applauded by the republicans as an able defense of Speaker Reed's rulings in the last congress.

After the routine business of the morning, numerous bills and resolutions were referred, the most important being a resolution by Mr. Arnold of Missouri, requesting the recall of Patrick Egan, minister to Chili.

When the consideration of the report of the committee on rules was resumed, the pending amendment was one offered by Mr. Oate of Alabama, providing for a committee on order of business to consist of fifteen members (of which the speaker shall be ex-officio chairman).

Mr. Pickler of South Dakota wished to offer an amendment giving the committee on invalid pensions the rights it had during the Fifty-first congress to report at any time upon general pension legislation; but a demand for the previous question made by Mr. Catchings of Mississippi, cut him off.

Called in the Sergeant-at-Arms.

The speaker delared the previous question ordered, yeas, 150; nays, 99.

Mr. Pickler then moved an adjournment. Lost, 28 to 103. The vote recurring on Mr. Oates' amendment no quorum voted and Mr. Pickler raised that point and proceeded to proclaim that the amendment he wished to offer was for the benefit of the pensioners of the country. Though Mr. Pickler is possessed of a strong voice his words were drowned in a democratic chorus of "regular order."

In vain did the speaker call upon Mr. Pickler to resume his seat.

Finally the services of the sergeant-at-arms were called into requisition and before the menacing mace Mr. Pickler yielded and gracefully took his seat.

Mr. Oates' amendment was rejected.

Mr. Hooker's amendment to strike out the clause giving the committee on rules power to call up its reports at any time and preventing dilatory motions being made when they are under consideration was lost; yeas, 21; nays, 12.

On motion of Mr. McCreary of Kentucky an amendment was agreed to, requiring general appropriation bills to be reported within eighty days of the appointment of the committees in a long session and within forty days in a short session.

Polo of the Supreme Court's Decision.

Just at this juncture Mr. Bryan of Nebraska provoked the hilarity of the democratic side by deftly conveying the intelligence to the house that the supreme court had decided that Hon. James E. Boyd was the legally elected governor of Nebraska. "I move," said he, "to strike out the last word of the pending amendment. It is not because I have any special dislike for the last word, but I desire at this time and under this motion to convey to the house an item of news which I am sure it will be glad to receive. In 1890 the people of Nebraska by a plurality of more than 1,000 votes, elected Hon. James E. Boyd as governor of that state [applause]. The ex-governor contested the election on the ground that Mr. Boyd, although 40 years a resident of Nebraska, twice mayor of Omaha, and a member of two constitutional conventions, was not a citizen of the state within the provisions of the constitution. The state court by a vote of 2 to 1 declared Mr. Boyd not a citizent. I wish to announce to the house that the United States supreme court has just declared Governor Boyd a citizen and entitled to the office. [Great applause on the democratic side.] The news is thus conveyed to you that this house may join with the people of Nebraska in rejoicing over the restoration of popular government in that state." [Renewed applause.]

Created Much Discussion.

Mr. Burrows of Michigan offered an amendment re-establishing the rule of the last congress empowering the speaker to count a quorum when such quorum is present and not voting.

Mr. Alderson of West Virginia moved to amend the amendment by adding a clause providing that in no case shall the hat or cloak or umbrella of a member in the cloak room be counted. [Democratic applause.]

Mr. Reed of Maine replied that his impression was that the officers of this house (elected by whatever party) were quite capable of honestly carrying out the rules of the house as they understood them. He desired to call attention to what seemed to him to be a fact, that if the house had a majority of members actually present it was then and there constituted a body to do business, of course if any gentleman believed sincerely that it was necessary that a majority of the members should participate in business it would be the speaker's duty to stand by ancient methods, but if he believed that the presence of a majority of members constituted a quorum, he should take the proper means of ascertaining it. The amendment of the gentleman from Michigan, Mr. Burrows, proposed to ascertain that fact, "as that idea," concluded Mr. Reed, "has had the sanction of every court to which it has been referred I think it should have the sanction of this house." [Great applause.]

Quoted Mr. Reed.

Mr. Dockery of Missouri quoted from utterances made by the gentleman from Maine, Mr. Reed, in 1889, giving his idea of what constituted a quorum. The gentleman from Maine had then said that the constitutional idea of a quorum was not the presence of all the members of the house, but a majority of the members personal and participating in the business of the house. It was not the actual presence of members but their judgments and votes that the constitution called for.

Mr. Alderson said that during the session of the Fifty-first congress the speaker counted a quorum by counting gentlemen who were downstairs in the bath tubs in order that the republican majority might carry out what it intended to do, as against the expressed will of the people. Taking, for instance, the case of Mr. Forman of Illinois who had been counted to make a quorum when he was not in the District of Columbia. Mr. Alderson was not here to say that hats and umbrellas had been counted to make up a quorum, but to say that empty space had been counted time and again.

Mr. Reed replied to the specific statement made by the gentleman from West Virginia to the effect that Mr. Forman of Illinois had been counted to make a quorum during the last congress when in fact he was absent from the city. This statement, he admitted, was correct. The gentleman from Illinois, Mr. Payson, then occupied the chair, and he had made an error in the count. There was no method of counting a vote or the presence of a member that was not liable to error and mistake; and there had been repeated instances under the rules of the present house when not only members recorded who had not voted, but members who had voted were recorded erroneously. The errors would exist under any system.

Supported the Ex-Speaker's Ruling.

After further debate Mr. Cockran of New York took the floor and his remarks, without going to the extent of upholding the unlimited power of the speaker to count a quorum, advocated such a rule as would permit the house to transact business when there was a quorum present and refusing to vote. He would favor the closing of the door during every roll call. He would give to the house either through the speaker or upon motion of any member, the power to compel any representative here to bear that part of legislation which his presence gave him, and which was accorded to his presence and not to his voice. [Applause.] The house had a right to take an absent member by force and bring him to the bar. It had the right to punish him. Was not that counting him for one purpose? And if he could be counted for the purpose of punishment could not he be counted for the interests of the government? If representatives after having been arrested and released and punished, remain here silent and in contempt of the house, was the house powerless to count? He (Mr. Cochran) believed that the house had the right to count a quorum in any way it saw proper. [Applause.]

Mr. Alderson of West Virginia withdrew his amendment, and the question was taken on Mr. Burrows' amendment. The yeas and nays were recorded, pending which the house adjourned.

IN THE SENATE.

California Wants a Bigger Share of the Appropriations—Yesterday's Business.

WASHINGTON, D. C., Feb. 1.—Among the documents presented and referred in the senate today was the second annual report of the commissioner of patents. Mr. Kyle gave notice that he would on Wednesday next make some remarks on the proposed constitutional amendment as to marriage and divorce in the United States, and at the conclusion of the morning business the calendar was taken up, the pending question being the bill to appropriate $75,000 for a public building at Reno, Nev.

Mr. Stewart, in agreement with the offer made by him last Thursday, moved to reduce the appropriation to $50,000, and spoke of the necessity of a public building for the prosperous town of Reno.

Mr. Felton made an argument to show California had had nothing like her share of appropriations for public buildings or rivers and harbors. He gave the receipts from customs and internal revenues from that state from 1881 to 1891, showing an aggregate of about $118,000,000, and said that 4½ per cent of that sum would more than pay for all the public buildings which the state desired.

The amendment was agreed to and the bill passed.

Mexican Award Bill.

The Mexican award bill (known as the LaAbra claim) was then taken up. The first vote was on an amendment by Mr. Vilas to insert in the first and fourth sections the words, "effectuated by means of false swearing," agreed to.

The next vote was on another amendment by Mr. Vilas to insert in section 4 the words "And that the said La Abra Silver Mining company, its legal representatives or assignees, be barred and foreclosed of all claims to the money, or any part thereof, so paid by the republic of Mexico for or on account of such awards." Agreed to.

The next vote was on another amendment by Mr. Vilas to insert in section 5 the words "And in case it shall be finally adjudged in said cause that the award made by said mixed commissions, so far as it relates to the claim of the LaAbra Silver Mining company, or any definable and separate part thereof, was not obtained through fraud as aforesaid, then the secretary of state shall proceed to distribute so much of the said award as shall be found not so obtained through fraud or the proceeds thereof remaining for distribution, if any, to the persons entitled thereto." Agreed to with a verbal amendment.

Passed the Biel.

The bill was then passed, yeas, 43; nays, 5—Messrs. George, Higgins, Powers, Vance and Vest.

It directs suit to be brought in the name of the United States in the court of claims against the LaAbra Silver Mining company, and all persons making claim to any part of the award, to determine whether that award was obtained by fraud effectuated by means of false swearing. An appeal may be taken to the supreme court of the United States and in case of the final decision against the company, the government of Mexico is to be released from further payment and the amount undistributed is to be paid to the government of Mexico. A like bill in relation to the Benjamin Weil claim was then taken up and passed.

Adjourned.

IN THE SUPREME COURT.

Decision in the Lottery Case—Assignment of Circuits.

WASHINGTON, D. C. Feb. 1.—The United States supreme court today upheld the constitutionality of the anti-lottery act of the last congress, affirming the decision in the cases of the publishers of two New Orleans newspapers charged with sending through the mails newspapers containing lottery advertisements.

The court holds that the power granted congress is complete and carried with it the power to forbid the use of the mails in aid of the perpetration of crime or immorality. There is no abridgement of the freedom of the press for the reason that the government does not prohibit communication by other means, but simply through the government agencies which it controls.

The chief justice announced the following allotments among the circuits:

Fourth Circuit—Horace Gray, associate justice.

Second Circuit—Samuel Blatchford, associate justice.

Third Circuit—John H. Harlan, associate justice.

Fourth Circuit—Melville W. Fuller, chief justice.

Fifth Circuit—Lucius Q. C. Lamar, associate justice.

Sixth Circuit—Henry M. Brown, associate justice.

Seventh Circuit—John M. Harlan, associate justice.

Eighth Circuit—David J. Brewer, associate justice.

Ninth Circuit—Stephen J. Field, associate justice.

Adjourned until February 29.

THE DEATH ROLL.

Last Survivor of the Selkirk Hugenot Colony Passes Away.

GALENA, Ill., Feb. 1.—Frederick Chetlain has just died here, aged 71 years. He was the last survivor of old Red river colony of Hugenots, who emigrated from Switzerland to the Selkirk in Manitoba. Nearly all the members of the colony deserted the settlement five years later and came to Galena, and while their descendants are numerous, he was the last member of the original colony.

PORTLAND, Ind., Feb. 1.—A telegram received announces the death in Washington, D. C., of John Jay Hawkins, chief of the judiciary in the first auditor's office of the treasury department. For twenty-five years he has had a position in the treasury department. In 1887 he was one of the committee of three to carry to England over $100,000,000 in bonds to be delivered to the Rothschilds.

LONDON, Feb. 1.—The death is announced in his 82d year of Alexander Rizos Rangebe, the Greek poet, archæologist and statesman. He was sent to Washington in 1868 as envoy extraordinary.

RAILROAD INFLUENCE DID IT

Arguments In Favor of Electing United States Senators by the People.

HOW LEGISLATURES ARE FIXED

Representative Johnson of South Dakota Explains to the Elections Committee Why Senator Palmer's Measure Should Become a Law Immediately.

WASHINGTON BUREAU OF THE BEE,
513 FOURTEENTH STREET,
WASHINGTON, D. C., Feb. 1.

The talk over the plan of Senator Palmer of Illinois, and others, to have United States senators elected by direct vote of the people, is bringing out some peculiar features in past senatorial elections. Representative Johnson of North Dakota explained today to the house committee having the subject in charge, why he was in favor of a new plan. He said that when republicans had control of the North Dakoka legislature, a caucus was held at which he received forty-two out of eighty votes. After getting the caucus nomination Mr. Johnson retired to his hotel, feeling sure of his election on the following day. In the meantime, however, he was waited upon by an attorney for one of the railroads of that section which exerts strong influence in legislative and judicial affairs.

Must Support the Railroads.

The railroad attorney asked a pledge of Johnson that if he was elected to the United States senate he would exert his influence in securing the appointment of a certain judge to the United States circuit court, favorable to railroads. Johnson was willing to endorse the judge, but was not willing to give the railroad a pledge in black and white. Thereupon they parted, and the railroad influence was turned against Johnson. The next day he was defeated by a candidate who had received only seven votes in the caucus.

This is Representative Johnson's experience as he himself related it to the committee, and if need be, he is ready to give the names of the attorney who proposed the bargain over the senatorship and the judge who was to profit by it. As it is, Mr. Johnson's story appears to throw a shadow upon the methods which brought about the selection of one of the North Dakota senators now serving in congress.

Miscellaneous.

Senator Pettigrew was today instructed by the senate committee on public lands to report his bill appropriating $20,000 for the survey of the northern line of Nebraska defining the boundary line between Nebraska and South Dakota.

E. G. Kelley was today appointed postmaster at Cylinder, Palo Alto county, Ia., vice C. H. Terwilliger, resigned, and A. Tremaine at West Grove, Davis county, Ia., vice A. E. Henry, removed.

P. S. H.

UTAH'S ADMISSION.

It Threatens to Become One of the Issues of Present Congress.

WASHINGTON, D. C., Feb. 1.—The question of Utah statehood is likely to become one of the political issues of the present congress. Already a bill is pending in the house committee on foreign affairs for the admission of Utah, and today Mr. Bushnell of Wisconsin introduced a resolution stating that Utah has a larger population than the three adjoining states of Wyoming, Idaho and Nevada combined, and declaring as follows:

Whereas, The president, in his last annual message to congress, substantially recommended that this territory should still be kept out of the union until we have "satisfactory evidence" that after admission they would "make, enforce and maintain" effective laws against polygamy, as a state, the could not do so; and,

Whereas, Under such a rule and all the circumstances and possible contingencies, it is difficult to determine what would be such "satisfactory evidence," or whether the time for the admission of the said territory into union will ever arrive; and,

Whereas, An amendment to the constitution forever prohibiting polygamy in the United States and empowering congress to enforce it, would have no longer any reason or excuse for refusing statehood to this great territory; and,

Whereas, Such an amendment would besides guard the small states adjoining Utah against the inundation from its polygamous neighbor, who may thus now easily gain control of one or more of them and so change their constitutions and laws so as to sanction and legalize polygamy there beyond the power of the general government, under our present constitution to gainsay, deny or in any manner interfere with; and

Whereas, It would seem the part of wisdom to so deal with this question of polygamy as to effectually and finally dispose of it now while yet it may be easily done; therefore,

Resolved, By the senate and house of representatives of the United States, in congress assembled (two-thirds of each house concurring therein), that this congress hereby proposes to the legislature of the several states the following amendment to the constitution of the United States, to be known as article 16 of the amendments thereto, towit:

Section 1. Polygamy shall never exists in the United States, or any place subject to their jurisdiction.

Sec. 2. Congress shall have power to make all needful laws to enforce this article and punish its violation.

Western Pensions.

WASHINGTON, D. C., Feb. 1.—[Special Telegram to THE BEE.]—The following list of pensions granted is reported by THE BEE and Examiner Bureau of Claims:

Nebraska: Original—Jonathan H. Resver, John Shellabarger, Vincent Snapp, Frederick Schultze, John Lee, Irus Clark, Joshua Perkins, David Campbell, Frederick P. Smith, Henry P. Smith, Russell Pine, George W. Tate, Henry M. Warriner, Thomas Lawrence, Thomas Matthews, G. Mizen, Richard Tibbetts, Edwin F. Woodward, Andrew Nickerson, James W. Smith, Henry H. Sprague. Additional—George W. Collins. Increase—Harvey H. Childs, Thomas C. Armor.

Iowa: Original—Dison Tice, William Bonner, Simon Edwards, John Cassell, Alonzo Strawn, Samuel S. Smith, William Wight, Samuel Cox, James H. Carmichael, George Black, Robert N. Lafferty, Thomas Chenovert, Levi Taylor, John W. Lyons, Edward I Ramsay, David Wallace, William J. Paine, Adinoram J. Burtch, Charles Westbrook, George W. Dodson, Martin V. Straight, Thomas Clifford, John H. Carpenter, John McPherson, Henry Rice, Shelby Willis, Thomas J. Sutton, George B. Kelton, John H. Rice, Jacob H. Wolf, James Spicer, Thomas Shannon, Daniel Whitney, George Stephenson, John H. Martindale, Stephen J. Cook, Cyrus Colvin, Robert Wilson, William H. Lean, William H. Wenzel, John McDonnell, Daniel H. McGagy, Ebenezer Rankin, Eli Roth, James Stewart, Henry Z. Tucker. Additional—William A. McCallister, Isaac Whitaker, Samuel Morris. Original widows, etc.—Jane E. Morey, minor of John P. Cushing.

Asked That Egan Be Recalled.

WASHINGTON, D. C., Feb. 1.—In the house today Mr. Arnold of Missouri presented for reference a resolution requesting the president to recall the minister of the United States to Chili, Patrick Egan, to the end that reciprocity of amicable relations between the two countries may be had and maintained.

The Fire Record.

WOODSTOCK, Ill., Feb. 1.—Fire early this morning burned the Waverly house, livery stable, two saloons, pool room and a number of smaller buildings. The loss aggregates $60,000, with little insurance.

Iowa's Legislature Does Nothing.

DES MOINES, Ia., Feb. 1.—The senate met this morning and at once adjourned until tomorrow morning. The house was not in session.