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ORIGINAL PACKAGES.

THE RIGHT TO SELL THEM IN KANSAS UPHELD.

Prohibitory Legislation Enacted Prior to the Passage of the Wilson Bill Nullified.

A Leter From the Assistant Attorney General of Leavenworth County Resigning His Office.

Other Matters of Interest to Kansans—Senator Ingalls to Speak at Hutchinson—A New Railroad Deal—A Decision Similar to the Foster-Phillips Decision Readered in Iowa.

Special Dispatch to the Daily Eagle.

TOPEKA, Kan., Oct 17.—The United States circuit court discharged, on a writ of habeas corpus, Charles Rohrer, under arrest for violating the prohibitory law. The court, in the opinion delivered in the case, held that the "original package" decision and subsequent congressional legislation render it necessary for the legislature of Kansas to re-enact the prohibitory law. There is great excitement, and no little consternation among the prohibitionists.

TOPEKA, Kan., Oct. 17.—A decision was rendered in the United States circuit court in this city this morning that has dropped like a bombshell, and created consternation among the friends of prohibition in Kansas. The decision in question allows the re-opening of "original package" houses in this state, and, in effect, declares that the Wilson bill enacted by congress does not restore the power of the Kansas prohibitory law as against the "original package" saloon.

The facts in the case are that Charles Rohrer of Topeka, agent for Maynard, Hopkins & Co., Kansas City liquor dealers, was arrested, charged with selling liquor in Topeka after the passage of the Wilson bill. The defendant admitted that he sold the liquor, as charged, and applied for a writ of habeas corpus before the United States circuit court, on the ground that the prohibitory law of Kansas was passed before the Wilson bill was enacted by congress, and consequently, that the Wilson bill did not apply. The judges, Foster and Phillips, sustain this view, and, in rendering their decision, grant the writ. The decision covers about twenty-five hundred words, and absolutely nullifies the prohibitory law of Kansas, so far as original package houses are concerned, and leaves the only remedy in the re-enactment of the law by the Kansas legislature, unless the supreme court of the United States should reverse today's decision. The case has been appealed.

THE DECISION.

After reciting the facts in the case, the decision of Judges Foster and Phillips is as follows:

"Opinion by J. J. Phillips and C. G. Foster.

"Two principle questions have been discussed by counsel in this case: First, as to the constitutionality of what is known as the Wilson bill, passed by congress on the 8th day of August, 1890, and second, whether, if said bill be valid, the existing prohibitory law of the state of Kansas applies; or is it needful that additional legislation should be had by the state to bring into action in the state the provisions of the Wilson bill. Under the view taken of the last question, we deem it unnecessary to enter upon any discussion of the first proposition, as, with or without the constitutionality of the Wilson bill, the result to the petitioner is the same.

"The first section of the prohibitory law of Kansas is as follows: 'Any person or persons who shall manufacture, sell or barter, any spirituous, malt, vinous, fermented or other intoxicating liquors, shall be guilty of a misdemeanor,' etc. [General statutes, 1889, section 2321.] Under the decision of the supreme court of the United States in Leis vs. Hardin (135 United States 100) this statute, in so far as it attempted to prohibit the sale of intoxicating liquors imported into the state and sold by the importer or his agent in the original package, was inoperative and void, being in conflict with section 3, article 1, of the federal constitution, which places the power exclusively in congress to regulate commerce with foreign nations and among the states. Incident to this decision, congress on the 8th day of August, 1890, enacted the Wilson bill, which decided 'that all fermented, distilled, or other intoxicating liquors or liquids transported into any state or territory, or remaining therein for use, consumption, sale or storage therein, shall, upon arrival in such state or territory, be subject to the operation and effect of the laws of such state or territory, enacted in the exercise of its police power, to the same extent and in the same manner as though such liquids or liquors had been produced in such state or territory, and shall not be exempt therefrom by reason of being introduced therein in original packages or otherwise.'

"It is not claimed nor pretended by the attorneys for the state that the petitioner previous to the passage of the Wilson bill was engaged in a business violative of any law of the state; but they do claim that immediately after the passage of said bill by congress the petitioner's business became and is a violation of the prohibitory law of the state; so that the proposition stands in this form: On the 7th day of August, 1890, sales made by the petitioner were permissible and lawful under the constitution of the United States, the prohibitory law of the state to the contrary notwithstanding. Therefore, if on the 9th day of August, 1890, the same act of the defendant is taken from under the protection of the federal constitution and is a violation of the same prohibitory law of the state, the conclusion would seem to be inevitable that this changed condition of liability is because of the enactment of congress on the 8th day of August, 1890. In brief, the contention of the state is that the act of congress enlarged the scope and operation of the act of the state legislature, making that which was a legitimate business one day a crime the next, not under any law of congress, but against the the law of the state.

"There is nothing in the wording of the act implying that congress assumed such a power or intended to give such effect to this enactment. At the time congress passed the Wilson bill, it was well known and recognized that the supreme court had decided that such a state prohibitory law was void, in so far as the dealer in imported liquors in the original package was concerned. In other words, there was no law and could be no law in existence making such business a crime. It cannot be assumed that congress desired to introduce into the present police laws of the state an article or subject hitherto not included by these laws. How could congress know that the people of all or any of the states on the 8th day of August, 1890, desired to have such subject or article embraced in their police laws.

"The contention of counsel for the state is that it is for the several states themselves to determine the scope and purpose of their police law; and congress has not undertaken to arrogate to itself any power or control over that subject. In employing the words, 'shall be subject to the operation of the laws of the states,' congress did not use them in a mandatory, but in a permissive, sense. The most ardent and enthusiastic advocate of a strong central government would spurn the idea that congress dictated or conveyed a mandate to the several states in the matter of the exercise of their police powers. On the contrary, the Wilson bill left it to the free and untrammeled action of the several states to determine whether they would or would not include within their police laws this particular article of commerce. Every state in the union, probably, has upon its statute books some police regulations for the traffic in intoxicating liquors. The statutes, as a rule, exempt from their operation, either in express terms or by implication, imported liquors and their sale in original packages. In some of the states the exception was expressed, as in the Iowa prohibitory law prior to 1888 and the old New York law of 1855; and in all cases where not expressly reserved, the law of the land, as declared by the supreme judicial tribunal, supplied the exception, thus indicating the general consensus that hitherto it was not recognized as among the police powers of the state to regulate or interdict among the states the traffic in imported liquors. The decision in Leis vs. Hardin but emphasized this fact and principle. The prohibitory law of the state of Kansas where it touched upon interstate commerce, was no law at all, at the time of its enactment, nor since. Judge Cooley says: "The terms unconstitutional law, as employed in American jurisprudence, is a misnomer, and implies a contradiction, that enactment which is opposed to the constitution being in fact no law at all. [Cooley on Constitutional Limitations]. Again, at page 187, this same authority says: When a statute is adjudged to be unconstitutional, it is as if it had never been. Right cannot be built up under it; contracts which depend upon it for their construction are void; it constitutes a protection to no one who has acted under it, and no one can be punished for having refused obeyance to it before the decision was made. And what is true of an act void in toto is true also as to any part of an act which is found to be unconstitutional, and which, consequently, is to be regarded as having never at any time been passed and in legal force.'

"How can the act of congress in question have the effect and operation claimed for it by the attorney for the state; for it must be kept in mind that a legislative act in conflict with the constitution is not only illegal or voidable, but it is absolutely void. It is as if never enacted, and no subsequent change of the constitution removing the restriction could validate it or breathe into it the breath of life.

"For illustration: Section 10 of article 1 of the federal constitution declares that 'no state shall pass any bill of attainder, ex-post facto law, or law or laws impairing the obligation of contracts.' Suppose a state should pass any of these prohibited acts, and after its passage the constitution should be amended by the assent of the requisite number of states, and the foregoing section dropped altogether, so that there was no longer any restriction on the states in this particular, would anyone contend that a prior enactment in the face of the constitution, dead at the time of its enactment, for the want of life-giving power, would at once arise from its tomb and become a living, actual, lawful thing?

"Or suppose the legislature of Kansas, in the times of imputed financial distress, should enact a law providing that in all cases of judicial sale of real estate hereafter made on foreclosure of mortgages, there should be a stay of execution for one year after judgment. Such a law would seem fair on its face, and would be, in general terms, like the prohibitory law of the state. The courts unquestionably would hold that as to judgments rendered or mortgages executed prior to such enactment the statute was inoperative and void, because it impaired the obligation of contracts and was in violation of section ten, article one, of the constitution, although it might be held a valid law as to subsequent contracts; good in part and bad in part. Now suppose the constitution should be amended and section ten should be excluded, could it be maintained that this act of the legislature would become a valid law as to prior contracts without further legislation?

"Where is the distinction between the supposed case and the one at bar? In either case, the legislature undertook to legislate on a matter forbidden it by the constitution: in the one case prohibited in terms, and in the other taken away and denied to it by a delegation of all power over the subject matter to congress.

"If the constitutionality of the Wilson bill is to be held on the theory, as claimed by its advocates in the debate thereon in the senate of the United States, and in the argument at this hearing, that congress, in the exercise of its power to regulate commerce among the states and with foreign nations, simply decided, or declared that its jurisdiction should not be confined to certain subjects and matters of commerce, or that certain subjects, or matters and things which may be considered subjects of commerce, should thereafter be excluded from its jurisdiction, under the commercial clause of the constitution; and the traffic in intoxicating liquors should be classified and remitted to the subjects within the police power of the state—such a law, under every rule of construction, must be prospective in its operation. And it must further be conceded, that as the right of the state to treat such an article of commerce as subject to laws passed by the state in the exercise of its police power comes, for the first time and alone from the enactment of the Wilson bill, until the state passes a traffic law thereafter forbidding such, it has never exercised the power or discretion, call it what you may, lodged in it by congress.

"From this conclusion, we see no logical escape. The operation and scope of criminal laws should not be enlarged by implication. They should be strictly construed, and where there is any well founded doubt as to any act being a public offense, especially one not malumsie, it should not be declared such, but should rather be construed in favor of the liberty of the citizens.

"It follows that the petitioner is entitled to be discharged and it is accordingly so ordered.

EFFECT OF THE DECISION.

TOPEKA, Kan., Oct. 17.—Carl Jocheck immediately on receiving the information that the United States court had given a decision in favor of the original package men, reopened his package house on lower Kansas avenue, and has been doing a big business all day in wines and whiskies. Two barrels of beer, which he had in stock, did not last an hour after his place was opened. The Schandler bottling works house at 403 Kansas avenue opened at noon and has been crowded with old-time bums and ex-saloon keepers. Other places will probably open this evening, and by tomorrow they will be running in full blast once more. Tuchman opened his package house at 325 Kansas avenue at 2 o'clock this afternoon. To a reporter, who called, he said: "I have opened up again. It is just, as I knew it would be."

The Republican state committee immediately upon learning of the decision, issued a circular urging all prohibitionists to vote for prohibition candidates for state and county offices and for the legislature.

THROWS UP THE SPONGE.

Resignation of the Assistant Attorney General of Leavenworth County.

LEAVENWORTH, Kan., Oct. 17.—W. W. Black, Esq., who for the past two years has held the position of assistant attorney general for this city, today sent the following letter to Attorney General Kellogg, resigning his office: "I have the honor, herewith, to tender my resignation as assistant attorney general for the county of Leavenworth, to take place at once. All cases pending in the district court of this county in which I should appear as an officer have been continued to the December term of said court.

"In this tendering you my resignation, allow me to express my most sincere thanks for your uniformly courteous, kind and generous treatment. While acting as your assistant I have endeavored, at all times, to obey your instructions, to honestly and faithfully enforce the prohibitory liquor laws of the state without fear or favor, and have been assisted and encouraged by your sympathy, aid and advice, given from time to time, and above all, by the knowledge that you would always stand by me in any attempt to fairly and impartially enforce this law.

"The liquor men of this city are rich, powerful and persistent, and have been able to obtain the best legal talent of the country to defend them; and every legal proceeding has been sharply contested at every point. But, despite all their efforts, the decisions of the courts have been against them. During this summer I have obtained from the district court decrees authorizing the marshal of this city to shut up and abate about forty places where intoxicating liquor was sold in violation of the law, and have secured a judicial interpretation of the power of the marshal under these decrees. In a recent case (Wolfsperger vs. McGahey) brought about two weeks ago, by the wife of the owner of the Kansas Central hotel, of this city, to restrain the marshal from shutting up that place, I secured a decision of our district court that said decrees allowed the marshal to take absolute and complete possession of such places, and if, in the judgment of the marshal, it was necessary so to do, he could lock up such places and remove all persons, including the family of the owner, even if such places were the homestead of such family, and absolutely prevent the sale of liquors in such places, for the reason that they had been declared common nuisances.

"These decrees had been obtained against nearly every joint keeper of means or influence in the city, and they recognized the result of this suit as a crushing defeat. This decision and the fact that the marshal of this city was known to be honest and fearless, led the law and order people to hope that a death blow had been given to the lawless element of this place, and that soon our fair city would be redeemed from the blighting damnation of the liquor power.

"The enforcement of the prohibitory law in the city of Leavenworth depends more than anything else upon the disposition and quality of the state administration. So long as there exists any suspicion that the authorities—men elected to office by the dominant political power—are not in hearty accord with the temperance legislation of the state, there will be in all such towns as this a division of public sentiment, against which local officers can make little or no progress; and this, I regret to say, is the case with us now, as it has not been at any time for years prior to this.

"The recent visit of Mr. Higgins, present secretary of state, and candidate for re-election to the office, with a letter from Governor Humphrey, authorizing him to come; his conference with well known Democrats and anti-Prohibitionists; the selection, at their dictation, of a new board of police commissioners, two of whom the governor has appointed; his telegram to the secretary of the resubmission club; the failure of Mr. Higgins to see or consult with any part of the element in favor of the enforcement of this law, and the ignoring of Mr. Fairchild, an aged man, who has imperiled his life for the sake of law during the past two months, have resulted in encouraging the enemies of the law and demoralizing public sentiment to such an extent that I feel that no one can successfully stem the tide of opposition thus aroused.

"In thus tendering you my resignation, I do so with the greatest respect for you, a respect increased by my official relations with you and by my knowledge of your honest, sincere and courageous purpose to have all the laws impartially enforced. I sincerely regret that the circumstances above set forth, over which you and I could have no control, render this action on my part necessary.

"I have the honor to be your most obedient servant

"W. W. BLACK.

"Assistant attorney general of Leavenworth county."

ANOTHER DECISION.

CEDAR RAPIDS, Ia., Oct. 17.—Judge Stoneman, of the superior court, decided today that the state prohibitory law was null and void as far as the sale of original packages is concerned.

SENATOR INGALLS.

Special dispatch to the Daily Eagle.

HUTCHINSON, Kan., Oct. 17.—Senator Ingalls will speak in Hutchinson on Thursday, October 23, at 2 p. m. Arrangements are being made for the entertainment of 25,000 people. Badges have been printed and will be furnished free. A large parade will be had, and everybody is asked to help in the matter by bringing their wagons, carriages, glee clubs, bands, parties on horseback, and music, to take part in the parade. An old-fashioned time will be had.

PENSIONS FOR KANSANS.

WASHINGTON, Oct. 17.—The following Kansans were granted pensions today.

Timothy M. Lewis, Greenleaf; Henry M. Cronkite, Miltonvale; Alexander Williams, Udall; Smith B. Squires, Sycamour; Wm. M. Carlisle, Oakland; Soger Davis, Newton, Wm. Gellermann, Enterprise; John Eberhaldt, Glasco; John W. Stow, Howard; Henry Sultzbach, Patterson; Isaac Hoffman, Altamont; Lorenz Getman, Randall; John Sitts, McPherson; Franklin Owen, Topeka; Benjamin F. Wood, Russell; Curtit A. Lamb, Twin Mound; Leonard H. Archer (deceased), Clarksburg; Epinetus Arnett, South Mound; William J. Grimwood, Hemestead; Henry Frazier, Cedron.

Increase—Shelton Ingram, Muncie; Malcolm G. Clark, Luray; Samuel Cunningham, Columbus; Joseph Gudgel, Bolcourt; Francis A. A. Neals, Topeka; Fred Holler, Topeka; Dow Clayton, Barrett; Timothy Daily, Richmond; Leroy Root, Frederic; Thomas Blair, Longton; Josephus Dorr, Lyons; Andrews F. Edwards, Parsons; William R Romine, Caldell; Van Epps Hugunin, Kirwin; William Lee, Russell; Hiram Travis, Minneapolis; George W. Townsend, Westmoreland; Reuben Rowley, Norton; William A. Watkins, Bone Springs; Nathaniel Hudson, Elbing; Samuel W. Jewell, Piedmont; John D. Brown, El Dorado; Bayles Cloud, Wichita; Clark Walker, Dexter; Joseph C. Parker, Lenora; William H. Wiggins, Lapland; Albert J. Crumb, Lyons; William E. McCreary, Emporia; George H. Beeler, White Cloud; John Robinson, Oskaloosa; Leander A. Bigger, Hutchinson; William E. Lees, Chico; James M. Conwell, Emporia.

Reissue—James K. Francis, Wichita.

Original widow—Hariet, widow of John Crippen, Buffalo Park; Rebecca, widow of Leonard H. Archer, Clarksburg.

CATTLE QUARANTINE.

WASHINGTON, Oct. 17.—Acting Treasurer Batchellor today issued a circular approving the designations of the customs ports and districts named as quarantine stations by the secretary of agriculture at which all cattle designated in said act must be imported into the United States. He also suspends the prohibition of the importation of cattle into the United States from any part of the world, provided, however, that the importation of such meat cattle must be subject to and made in accordance with the regulation prescribed by the secretary of agriculture for the quarantine of cattle arriving in the United States, and he is satisfied that such importations will not tend to the introduction or spread of diseases among United States cattle. For the same reason the prohibition on hides of cattle from North, South and Central America is removed.

A MARSHAL SHOT.

FALMOUTH, Ky., Oct. 17.—The town marshal of this place, Mr. S. E. R. Vegelson, was killed last night by an unknown assassin, who fired upon him just as he was entering his gate.

THE DAILY DOCKET.

THE STORY OF THE CRIMES AND MISHAPS OF A DAY.

James Maxwell Hung at Morris, Illinois, for the Murder of Charles Decker.

A Religious Fanatic Murders a Man in Order to Test His Own Power to Restore Life.

A Frightful Panic in a Church at Chicago—One of the Assassins of the New Orleans Chief of Police Shot Down in Jail—Other News Notes of Interest.

MORRIS, Ill., Oct. 17.—James Maxwell was hanged at 10:47 this morning for the murder of Charles Decker in June last. He was game to the last and died apparently the most unconcerned man in town.

Maxwell was the coolest man about the place. Last night when the sheriff showed some evidences of trepidation fat the task before him, Maxwell said "Brace up old man; you are much more troubled about this thing than I am." He had slept well, and ate breakfast with apparent relish this morning.

Maxwell's spiritual advisers received a severe shock this morning when they went into his cell to administer the last words of consolation to him. An enterprising reporter had been before them. He had assumed the guise of a minister, with the idea of getting an interview. He failed; for, when the newspaper representative began to question him as to his spiritual welfare, Maxwell threw off the religious mask which he had hitherto worn, and drove his visitor from him with a string of curses of the most sulphurous sort.

When the sheriff began to read the death warrant in a trembling voice, Maxwell interrupted with "Stop that gab, Schroder, and let us get through this thing as soon as possible." His wish was complied with, and he was at once conducted to the gallows. A brief prayer was offered, the prisoner was pinioned, and the noose adjusted. The sheriff told him if he had anything to say to say it. His reply was a complaint that the sheriff had put a window in the shanty in which the execution took place, so that the crowd could see him. The sheriff then cut the cord, and the body fell. In six minutes Maxwell was pronounced dead. Just before leaving his cell, Maxwell handed the sheriff a big knife, telling him that he might have killed himself a dozen times if he had wanted to.

MAXWELL'S CRIME.

The crime for which James Maxwell was executed was one that was attended with a brutality rarely found even in the annals of crime.

On the night of June 25 last, the house of Charles Decker at this place was entered by two men for the purpose of robbery. Decker, a man about 50 years of age, was aroused, and met the marauders in the hallway. One of them beat him over the head with a hatchet, fracturing his skull and inflicting other injuries, from the combined effects of which he died. His assailants left him lying on the floor and entered another apartment, where they were met by Mrs. Decker, the mother of their victim. She was knocked down and rendered insensible by a blow from the hatchet that had knocked down and killed her son.

The murderers than began to search the house, but an alarm had been given and they fled without securing any plunder. A party of citizens searched the country about the city, and in two hours had run Maxwell to earth and arrested him. The following day a negro named Fitzhugh was also arrested. Enough evidence was obtained implicating the pair to make their guilt a matter of little doubt, and the prisoners narrowly escaped lynching. More evidence was obtained later, by which it was shown that Maxwell had induced Fitzhugh to take part in it, and had urged him to the killing, in case any should prove necessary. The programme was carried out, and it was Fitzhugh who wielded the weapon that deprived Decker of life and nearly killed his mother. Fitzhugh confessed the crime, but Maxwell clung to his story of innocence until confronted in the jail by his accomplice. Then he broke down and made a confession, saving that he always knew the gallows would be his end, but that it had come sooner than he expected. The trial took place, and Maxwell was sentenced to be hanged, while Fitzhugh, who turned state's evidence, got off with a term of imprisonment.

A SELF-APPOINTED EXECUTIONER

One of the Assassins of Chief Hennessey Shot Down in Jail.

NEW ORLEANS, La., Oct. 17.—Antonio Scaffinia, identified as one of the assassins of Chief Hennessey, was shot and mortally wounded at 11:45 o'clock this morning in the Parish prison, by Thomas H. Duffy, a young man 28 years of age.

The shooting was done in the corridor or "bull pen" of the prison, and Duffy's actions were so quick that several deputies who were present knew nothing of what was transpiring until the shot was fired. Duffy, who is a brother of Prof. Duffy, the boxing instructor of the Southern Athletic club, is a very unassuming young man, and has been connected with the various newspapers of this city in the carriers' department. He is at present employed in the office of the Spirit of The South, which papers he gave out to the newsboys and carriers. He resides at 19 St. Louis street, and has been a frequent visitor at the Parish prison to see some friends who were incarcerated there. He was always quiet and acted in a peaceable manner whenever he visited the institution, and it was this fact that threw the deputies off their guard for the time being. At 11:45 o'clock this morning he appeared at the outside gate and was admitted by Deputy Sheriff Fortier. Duffy informed Deputy Sheriff O. S. Andry that he called for the purpose of seeing one of the "dagoes" arrested for the assassination of Chief Hennessy, as he believed he was able to identify him. He asked for Scaffinia. Presently Scaffinia came down, accompanied by Deputy Sheriff Tim Dwyer. He put his face within a few inches of the gate to recognize who it was that wanted to see him. As he did so Duffy, who was standing about a foot from the gate, with a lightning-like motion with his right hand, drew a revolver from his hip pocket, and putting it within a few inches of Scaffinia's face, pulled the trigger. The weagon was discharged with a loud report, and the dago with a groan fell back in the corridor, the blood spurting from a wound in the left side of his neck. Duffy was grasped by the deputies and disarmed. While in the station Duffy said that if the dago died, he was willing to hang. He said to the officers: "I only wish there were about seventy-five more men like me."

Scaffina was asked if he had anything to say before he died, and he replied in the affirmative. He began his statement by saying: "We knew that Chief Hennessey and the policemen were good people. We are good friends of the Mattrangdas. I am going to die. I die innocent. You know me, judge. I always was a good boy. My idea is the Mattrangdas did that to keep the Provenseans in jail. I knew the Mattrangdas, the Provenseans and Chief Hennessey. I was friendly to all of them. That's all. Oh, my God, I am going to die!" and Scaffina closed his eyes and remained silent.

More than fifty arrests have been made of parties believed to be implicated in the assassination of Chief Hennessey, and today another dago, Pedro Natal, was identified by Officer Lamagan as one of the men he saw running away from the scene of the murder.

A PANIC IN CHURCH.

CHICAGO, Oct. 17.—While the pastor, Rev. Father Barzeynesky, of the St. Stanislaus Roman Catholic church, was conducting an 8 o'clock service this morning for children, the altar draperies caught fire from one of the candles, an a panic ensued. In the wild rush about twenty of the children were crushed and trampled on; and some of them received injuries which it is believed will prove fatal. There were about 1,500 children accompanied by their mothers, in the church at the time. The arrival of the fire department added to to the stampede, and in a few minutes 10,000 people had gathered in the neighborhood. The fire was quickly extinguished, and the police with difficulty rescued the children from the excited multitude. None of the little ones were dead, but a large number were injured, a few seriously. Joseph Jasak, 12 years old, has a fractured skull and will probably die; Stanislaus Kaminska is injured internally; Frank Drowelcki has a severe cut in his head, and Stanislaus Furgot, 9 years old, is injured internally. Martin Keoski, 10 years old, Frank Sick, 10 years old, and Leon Skowkowsky, 11 years old, were sent to the hospital, and four other children were taken to their homes. The scene after the panic was over was terrible. The stone steps at the entrance were covered with blood. The carpets on the floor of the church, and many of the pews were torn up, and the church had the appearance as if some bloody riot had taken place there.

KILLED BY A FANATIC.

COLUMBIA, S. C., Oct. 17.—Primrose Jones (colored) was killed Sunday morning at Sumpter, S. C. A protracted meeting was being carried on by the negroes at Beulah church, and the greatest excitement prevailed. Deputy Coroner Norris held an inquest at the church. The testimony showed that in a perfect frenzy of fanaticism, John Jones was killed by Rev. A. H. Durant, the negro pastor, and one Richard Campbell, a prominent member of the church, because the deceased had expressed doubts about the supernatural power of Durant to kill and restore to life. It was a test case, but the experiment failed. The finding was that Jones was killed and murdered by Richard Campbell and A. H. Durant. The jury was composed of intelligent colored men. The prisoners are in jail.

MURDERED HIS WIFE AND CHILDREN.

BERLIN, Oct 17.—A terrible tragedy occurred today at Reinkendorf, a suburb of this city. A builder named Schaaf, who at one time was wealthy, but who lost his money, and is now heavily indebted, attacked his wife and five children with a hatchet, and hacked their heads in a terrible manner. Three of the children have died from their injuries, and frau Schaaf and the remaining two children are unconscious and are dying. The murderer has fled, and has thus far eluded the efforts made to capture him.

A BATTLE WITH ROBBERS.

LIMA, O., Oct. 17.—About three o'clock this morning, a gang of robbers were detected at work on a safe at Ohio City, about two miles west of here, on the Chicago and Erie. The alarm was given, and the citizens turned out to capture them. The robbers opened fire on the posse, and a battle ensued during which three men were killed and others wounded. The robbers, it is reported, made their escape leaving one of their number dead.

Later particulars from the fight between safe burglars and citizens at Ohio City state that William Place and Charles Hoover were seriously wounded by shots from the burglars. Two others of the citizens' party were slightly injured. The fire was returned and one of the burglars fell dead. He has not been identified. While the shooting was going on the men at work on the safe blew it open and secured the contents. They then mounted their horses and fled.

THE ENGINEERS.

PITTSBURG, Pa., Oct. 17.—The International Brotherhood of Locomotive Engineers resumed their twenty-seventh annual session at the old city hall this morning. The meeting was held with closed doors. After adjournment, First Grand Master Engineer Ingraham said they had not fairly started with their business. The morning session was taken up with the introduction of resolutions and their reference to the proper committees. These will not be given to the public unless adopted by the convention. An official of the organization stated this morning that the engineers would not federate. The grand officers will be instructed, however, to confer with the officers of the federation and report some method whereby the organization may work, not only in harmony, but in union, and, if possible, in conjunction, in cases of trouble. The officers will report at the next meeting. This action will be in the nature of a compromise or peace offering from the order and controlling element, as the younger members must be recognized.

THE FUNERAL TRAIN.

PITTSBURG, Pa., Oct. 17.—The train bearing the remains of Justice Miller arrived in the city, en route from Washington, D. C., to Keokuk, Ia., at 9:30 o'clock, and after a brief stop proceeded westward. In the funeral party were Chief Justice Fuller, Justice Brewer, Attorney General Miller, Maj. Wright, marshal of the supreme court of the United States; Mr. McKenny, clerk of the supreme court; Prof. Wilson of the Smithsonian Institute; Mr. Woolworth of Omaha, Frederick Faust, Superintendent Main of the Pullman company, E. F. Coedner representing the Pennsylvania Railway company, and the family and personal friends and relatives of the deceased. The funeral party will reach Keokuk tomorrow morning.

ANOTHER RAILROAD DEAL.

CHICAGO, Oct. 17.—An evening paper says: "It has been currently talked among railroad men for several days that the Chicago and Alton Railroad company is negotiating for the purchase of the Kansas City and Southern. Last night it was reported that the Santa Fe was after the Southern, but it was authoritatively stated today that if the road was sold it would be to the Alton. It is a well known fact that the Alton is contemplating an important departure from its former policy, and will if possible, secure new advantages by the acquisition of feeders west of Kansas City. The Kansas City and Southern taps a rich territory and is pointed towards a still better field."

BURNT OUT.

NASHVILLE, Tenn., Oct. 17.—Fire broke out in the oil rooms of the Cherry-Morrow Manufacturing company, situated within the walls of the state penitentiary, in this city, at six o'clock. The flames spread rapidly, and the entire plant of the manufacturing company was destroyed. The old prison built in 1832 is unharmed, and all the convicts had been safely housed there for the night before the fire began. Outside the walls three small cottages and a lumber yard belonging to the Cherry-Morrow company, were consumed. It is estimated that the losses will amount to $100,000.

INDIGNANT CITIZENS.

ABILENE, Kan., Oct. 17.—An exciting indignation meeting was held by the business men and citizens tonight to compel D. Matteson, the mayor, to give up for publication an ordinance duly passed and signed, but of which he held possession, the city was to loose the improvement of its water works system thereby, and the people were indignant. He at last promised to surrender the ordinance tomorrow.

KINGFISHER'S TURN.

THE NEW CAPITAL BILL PASSED BY THE HOUSE.

The New Combination Votes to Locate the Capital at Kingfisher.

A Day of Excitement and Uproar in the Lower Body—Post's Ability as a Leader.

The Council Spends the Day in Discussing the Bill to Create Territorial Officers—The Game Law Passed—The Sense of the Council Against an Occupation Tax—General Notes.

Special Dispatch to the Daily Eagle.

GUTHRIE, Ok., Oct. 17.—The council this morning, after the usual routine business had been disposed of, went into committee of the whole for the consideration of council bill No. 4, which was prepared by Mr. Foster and provides for the creation of the offices of auditor, treasurer, attorney general, and superintendent of public instruction, and prescribing the duties and fixing the salaries of each.

The first section, which provides for the appointment by the governor of a territorial auditor, who should hold his office for two years, was, on motion, stricken out.

Mr. Pittman moved, as a substitute, that the superintendent of public instruction should be elected, and hold his office for two years, and that he should be ex-officio territorial auditor.

The substitute was opposed by Mr. Foster, for the alleged reason that it was in conflict with the organic act, which provides for the appointment, by the governor, of all offices, except district, county and township offices.

Mr. Pitman held the opinion that the organic act referred to federal officers, and that the power to create an office would carry with it the power to provide for the manner of filling.

The substitute was carried.

The following sections outline the duty of the auditor.

He is required to make annual and biennial reports to the governor and legislature; to investigate claims against the territory, and issue warrants, each warrant bearing the date of its issue, and payable in its regular turn; to return taxes improperly charged, when the correction has been ordered by the county commissioners; to instruct the clerks of counties to proceed against delinquent officers and their bondsmen within fifteen days subsequent to the delinquency, unless it is considered without the officer's fault, and then a delay not exceeding sixty days may be granted; and, also, to act, ex-officio, as superintendent of insurance.

It was moved by Mr. Brown of Oklahoma, to strike out the section providing for the appointment of a territorial treasurer, which was carried.

He then moved to make the duties of that officer incumbent upon the territorial secretary. This motion was defeated.

Mr. Foster repeated his objection to the election of such officers, and said that he had discussed the subject with the judges of the territory and knew that they were of the same mind.

Mr. Pitman intimated that the governor must have promised one of the gentlemen an appointment, which accounted for their zeal.

The original section was finally reinstated, making the office appointive and for a term of two years. His duties and powers are outlined in the sections following.

Mr. Brown of Oklahoma introduced an additional section providing that a committee from the legislature might count the money in the treasury and if they had reason to believe it to be borrowed, they might seize it and hold it until a full examination and adjustment.

One section makes warrants, unpaid for want of funds, bear 8 per cent interest.

Mr. Nesbitt moved to strike out 8 and insert 6, because 8 might not be the legal rate.

Carried.

The committee reported and asked permission to sit again this afternoon.

Recess.

AFTERNOON SESSION.

The bill providing for the appointment of an attorney general at a salary of $8,000 per year, a treasurer at a salary of $7,000 per year, and making the superintendent of public instruction also auditor, with a salary, as auditor, of $6,000 per year, was put upon its passage.

The sense of the council was against an occupation tax.

The house bill for the protection of game was passed.

Adjourned.

HOUSE.

MORNING SESSION.

Mr. Neal in the chair.

Roll call showed 24 present.

The long session of yesterday told on the members.

Prayer was offered by the chaplain.

The long minutes of yesterday were read and approved.

Mr. Merten—I demand that the motion shall be put in writing.

Mr. Jones—I will neither leave the floor nor put the motion in writing.

Mr. Merten—What objection has the gentleman to putting his motion in writing?

Mr. Jones—The gentleman proposes to jump up while I am reducing the amendment to writing and claim the floor. He had it all the afternoon yesterday and I think he has it now.

The chair—The gentleman will be given time to reduce his motion to writing.

Mr. Jones—I offer the following resolution:

Be it resolved, That the records be changed so as to show that the motion of Mr. Wimberly to further suspend the rules was lost by not receiving a majority of the whole house.

Mr. Terrill—I object to the adoption of this resolution, as it will materially change the whole record.

Mr. Merten—My point of order is that a majority having voted for a suspension of the rules, and the vote declared, we acquiesed in it.

Mr. Jones—I rise to a point of order. [Confusion.] The gentleman knows he is out of order when he tries to debate the subject.

Mr. Daniels—I stated last evening that when the chair decides upon a point of order it cuts off debate, unless permitted by the chair. An appeal from the chair is not debatable. [Reads from Cushing's Manual.]

Mr. Jones—Read on; it would kill a dead man to stop there.

Mr. Terrill offers following protest: I protest against the changing of the records.

Mr. Merten—I appeal from the decision of the chair.

[Several on the floor reading rules; hallooing for a point of order; speaker pounds the desk; a deaf of a time.

Mr. Barker—May I have permission to read this section?

Mr. Merten—I don't care to have it read. The appeal from the decision of the chair is a very important question. I am aware that the position of chairman is neither easy nor pleasant on all occasions. The decision of the chair is quite apt to call forth adverse criticism from parties opposed. On such questions I would not appeal, but in this case I think the issues demand it.

Resolution was withdrawn by Mr. Jones.

A row outside soon emptied the lobby.

The chair wisely suggested that the door be locked.

Mr. Trosper—I hold that the chair made a wrong decision. A quorum can pass any bill, and house bill No. 49 carried last night, and was not lost as declared by the speaker. I want the records so corrected as to show that the chair declared the bill lost.

Mr. Wimberly—I wish to disagree with the gentleman from Oklahoma. It requires a constitutional majory to pass bill.

Mr. Waggoner quotes from Cooley on the constitution, supporting Trosper's position.

The chair—A quorum being present, and a majority voting for any measure will carry that measure.

Mr. Campbell—It must take a majority of the whole house to carry a bill.

Mr. Jones—I move that we reconsider the vote on house bill No. 49, by which said bill was declared post.

Mr. Barker—The question is out of order.

Mr. Jones—I have the floor.

Mr. Terrill—No bill can ever be passed without the constitutional majority.

Mr. Trosper withdrew his objection.

Mr. Wimberly—I move to reconsider the vote on house bill No. 49, by whicch it was declared lost.

Mr. Merten—We now have two motions before the house.

The chair—One was withdrawn.

Mr. Terrill—It does seem as if this bill should not come before us again. It was lost last night.

Mr. Peery—Did you ever move to reconsider a bill?

Mr. Terrill—Yes, sir.

Mr. Currin—If they will come to a vote, I will vote to put the bill in the hands of a committee.

Mr. Terrill—The bill is dead. It was so corrupt that it stunk before it was dead. It is not fit for a scavenger to handle.

Mr. Jones—The gentleman is descending to personalities.

Mr. Post—I move that members be limited to twenty minutes for the discussion of the bill in question. Have an invitation out to dinner and it is a very nice dinner, and I hope that the house will adjourn.

Lost—13 to 11.

Mr. Merten—I move to take a recess until 1:45.

Mr. Daniels—Has not the gentleman from Payne the floor?

Mr. Merten withdrew his motion, but his second would not consent.

Mr. Colson—The gentleman from Logan has repeatedly accused members of wrong motives. I shall eventually resent those charges. I consider myself half way decent.

Mr. Lewis—I consider myself wholly decent.

Mr. Jones moved that a recess be taken until 2 p. m., to permit the gentleman from Kingfisher to eat a turkey dinner, as it might spoil.

Carried.

AFTERNOON SESSION.

The house resumed consideration of house bill No. 49 and wrangled for two hours.

The members of the house explained at length their actions up to the present time.

Jones, Talbott and Daniels made strong speeches.

Mr. Daniels—I still ask for a committee to investigate the charges against me. I never received $4,000 for voting in favor of Oklahoma City.

Mr. Post—I introduced the bill and am ready to champion it. I have just received a telegram from Col. Miles: "Stand by your friends and they will stand by you." I have made some pledges to gentlemen from other counties, and will keep them to the letter. I am proud to have a man like Oklahoma Jones for a friend.

The motion for a reconsideration was adopted—14 to 11.

Recess.

Mr. Waggoner—I will explain my vote. I am in favor of separate schools. I vote for Kingfisher and, in return, they vote with me for separate schools.

House bill No. 49, locating the capital at Kingfisher, passed—14 to 11.

The house adjourned until 3 o'clock Monday.

NOTES.

Mr. Post was the most quiet member of the house while his capital bill was under fire. No taunts or remarks flung at him had any effect. He kept his eye on every move and ruling, and was always ready. That Post is an organiz