

# Smith to Take Murphy's Place In the State

## Governor Will Be Formally Recognized To-night at the Meeting of Delegates as Leader of the Party

### Move May Aid Re-election

#### Leaders Say Decision Will Put Him in Strategic Position for Fall Campaign

ALBANY, May 5.—When the session of the New York State delegates to the national Democratic convention is opened here to-morrow night Governor Smith will be formally recognized as the leader of the state Democratic party. This, according to the viewpoints of prominent Democrats who arrived here to-night from all parts of the state.

Those who present these contentions by no means are of the opinion that Charles F. Murphy will surrender his post as leader of Tammany Hall and give his place to Smith, but the claim is made, as one of the delegates put it, that "Murphy realizes he is going to play second fiddle" and is willing to aid in the movement to place the leadership of the state organization in Smith's hands.

A notable feature in the trend of thought of organization Democrats is the attitude they entertain toward Mayor George R. Lunn, of Schenectady. If they have any fear that Mayor Lunn may succeed in carrying out his threat to defeat the unit rule system they conceal it carefully. The majority refuse to take Lunn seriously; most of them look upon him as an interloper, who has not as yet learned his proper place.

#### To Name Governor Chairman

There was some discussion of the appointment of Frank Cooper, Schenectady Corporation Counsel and Lunn's lieutenant, to the office of Associate Justice of the Federal Court, Northern District. While it is generally conceded that the appointment of Cooper was a slip at the state Democratic organization, delegates are not interpreting it as a token of Lunn's strength either in politics or with the Washington Administration.

One delegate raised the point that Mayor Lunn, when he arrives at the session to-morrow night, may find himself in the position of a man fully armed but with no one to fight. The first move at the opening session of the conference, which will continue to Friday night, will be the elevation of Governor Smith to the permanent chairmanship of the Federal Court, Northern District, and formal resignation of Murphy as state Democratic leader.

This action will rob Mayor Lunn of his target. He will come prepared to engage in the popular pastime of condemning Tammany Hall and Murphy leadership only to find Governor Smith in Murphy's place. The decision to place Smith foremost is generally regarded as a preliminary maneuver to enhance his prestige and place him in a strategic position when he seeks reelection as Governor this fall.

#### Will Not Present Smith's Name.

Among the delegates who have reached Albany and with any voice in party councils none can be found who place any credence in the rumor that the delegates will go to San Francisco to present the name of Alfred E. Smith as a Presidential candidate. This view is not based on the belief, they declare, that "Al" will make a good President, but because they figure there would be little likelihood of his getting the nomination. They then add that Governor Smith, after having been

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shelved at San Francisco, would be precluded from seeking reelection as Governor. The Democrats are frank to say that they have no other gubernatorial candidate to present.

These contentions are backed up with the argument that Governor Smith is not alone the logical candidate, but the one man in the state acceptable to up-state and down-state Democrats. It is pointed out Governor Smith's popularity in New York has suffered but little and that his difficulties with up-state leaders have been ironed out.

#### Demand a Wet Plank

While Governor Smith is the all-prevailing topic of conversation, prohibition crops in here and there with no uncertain persistence. There seems to be some degree of hesitation of frank expression on the part of the up-state delegates, while the New York members are out and out for demands that a wet plank be made one of the most conspicuous features of the national Democratic platform.

There is little chance, however, that the ultra-wets will have their way. It is predicted that the state delegation will stand for a liberal interpretation of the Volstead act, with the way left open for the saloon, beer and light wines.

Mayor Lunn is expected to contest any action which will tend to nullify the prohibition program of the Washington Administration.

Mr. Murphy was among the delegates who arrived here to-night from New York. He had nothing to say. Soon after registering at a local hotel he went into conference with Democratic leaders. It is understood that Governor Smith and State Chairman William W. Farley also attended this exclusive session.

#### Unit Rule Is Opposed By Franklin Roosevelt

#### Wants Democratic Delegates of State to Vote as Each Wishes at the National Convention

From The Tribune's Washington Bureau. WASHINGTON, May 5.—Opposition to the adoption by the New York state delegates to the Democratic National

Committee of the unit rule, which binds them to a certain action previously decided upon by leaders, was voiced yesterday by Franklin D. Roosevelt, Assistant Secretary of the Navy. In a letter to William W. Farley, chairman of the Democratic State Committee, at Albany, Mr. Roosevelt declared the adoption of the rule was "politically inexpedient and undemocratic" and added that it was imperative that the delegates refrain from playing politics.

"Now, if ever," said Mr. Roosevelt, "it must be realized that the nominee of our party must be the man who represents most clearly the choice of a majority of the delegates elected to represent their home districts as the best possible candidate we can offer. Heretofore delegates from New York State have been under strict orders to sign on the dotted line, to do exactly as they were told, and not as they individually felt was right. The main trouble in the past, in short, has been the unit rule, and I wish to voice my opposition to it.

"Let the Democratic people feel the Democratic choice was made in a real democratic manner by a free and frank interchange of opinions with every man voting according to his conscience, and we will have, in my judgment, a tremendous advantage at the very start of the campaign."

#### "Dime-a-Dance" Girls To Shun White Lights

Ten "dime-a-dance" girls took the pledge against the white lights of Third Avenue in the Women's Court yesterday. Some were in tears when they left the courtroom and some were sullen, but all had given the same promise to Judge Joan Norris.

The girls were arrested in a police raid on the United Music and Dancing Schools, at 110 Third Avenue, where they were "instructors." It was their business to ask bashful young men to dance with them. The men paid 10 cents a dance. Out of the dime the "instructor" got four cents. The girls testified they earned \$3 to \$4 a night. "They are girls who have run away from their homes, looking for amusement," said Miss Katherine Smith, probation officer.

# Lever Food Act Attacked in Potato Case

## Demurrers Filed to Indictments Against E. A. Sullivan, as Profiteer. Call Law Unconstitutional

### Early Decision Sought

#### Statute Contains No Standard of Reasonable Price, Say the Contestants

Constitutionality of the Lever food control act, under which the government is seeking to curb the profiteers, is attacked in two separate demurrers filed yesterday in the United States District Court here, to indictments entered by the Department of Justice April 20, charging Eugene A. Sullivan & Co., Inc., of 156 West Street, and Eugene A. Sullivan, individually, as an officer of that company, with having violated the law in buying potatoes at \$4.25 a hundred pounds and selling them at \$6.75 for the same weight.

The demurrers were filed by Elfers & Aherley, of 277 Broadway, who enumerated eleven grounds of objection to the validity of the Lever act, as originally passed by Congress on August 10, 1917, and amended October 22, 1919. This is the first test case brought in this Federal jurisdiction. The constitutionality of the Lever act has been overthrown in Missouri, Michigan and Kentucky and sustained in the Buffalo district of New York and in the State of Washington.

Attorneys for the defendants said they would seek early action in the Federal District Court here, but the government will make efforts to procure an appellate decision before the United States Circuit Court of Appeals on the case which is now pending on appeal from the Buffalo court.

#### Decisive Action Sought

Every decision thus far rendered on the merits of the Lever act has been one from a court of first resort. A decision by the United States Circuit Court of Appeals will carry with it something of the punch of finality and clear the air of many uncertainties and ambiguities that beset the enforcement of the act, according to both sides to the controversy.

Attorneys for the defendants assert that the Lever act, as originally passed by Congress, contained no penalty clause, but was merely an expression that the charging of unreasonable prices for necessities was unlawful. Its effect was purely moral. The amendment of October 22, 1919, designed to put teeth in the law, fixed penalties at a maximum of \$2,000 fine and five years' penal servitude, or both, for violation, but, they declare, Congress failed to fix the standard of a reasonable price for necessities, leaving that matter entirely to the judiciary.

#### First Two Objections

The first two objections in the demurrer state that the acts charged against the defendants do not constitute a crime against the laws of the

United States and fail to allege facts sufficient to constitute a cause of action.

Nine other objections deal with the constitutional phases of the Lever law. It is declared that the purposes for which the Lever law was enacted by Congress as a war measure have ceased to exist and that the indictments fail to state what is a reasonable and just price for necessities; that the law operates as a deprivation of liberty and property without due process of law, in violation of the Fifth Amendment of the Constitution.

#### Newspaper Paper Prices To Be Boosted July 1

#### Wholesaler's Announcement Is Presented to Senate Committee of Inquiry

WASHINGTON, May 5.—Further advances in print paper prices are to be made by the International Paper Company July 1, said a telegram from Chester W. Lyman, vice-president of the company, which was presented today to the Senate committee investigating the paper shortage.

The message, addressed to Joseph Pulitzer jr., publisher of "The St. Louis Post-Dispatch," follows: "Alarming rise in prices for pulp wood, other raw materials and mill supplies, together with inevitable increase in transportation charges, will necessitate a higher selling price for last two quarters. Impossible to foretell extent of increase on account of uncertainty of conditions. Increase in cost likely to continue to turning point reached in general industrial, social and financial conditions.

"Only remedy for present trouble is rigid economy by publishers in their use of news print."

In presenting the telegram, Charles C. Ross, Washington correspondent of "The Post-Dispatch," said that paper was "strongly opposed to government control of the paper industry in any form whatsoever, on the ground that it would in effect be government control of the press."

# South Pole Expedition to Have Fleet of Airplanes

## John L. Cope's Ship Will Carry Twelve to Fourteen Mayhines for Photographic Flights

LONDON, May 5.—A fleet of twelve to fourteen airplanes will be taken along on the Terra Nova, the ship which John L. Cope will fit out for his expedition to the South Pole. "It is not without realization of the limitations to the use of airplanes that we have included them in the equipment," said Captain Wilkins, who commands the air wing. "There will be two pilots to each machine, except on the single-seater scouts. The fuselages will be so constructed that they can be used as sledges.

"There is a general impression abroad that a spectacular dash to the South Pole will be made by air, but this is not so. The principal use of airplanes will be for photographic flights from known landing grounds, always returning to the same base."

#### Reds Fight Reichswehr

COBLENZ, May 4 (By The Associated Press).—Fifty Communist workmen from the vicinity of Duesseldorf

entered the British occupied area last night after a brief but sharp encounter with a detachment of the Reichswehr occupying Duesseldorf, who were stationed a few miles south of that city. Several Reds were killed in the encounter and three men on each side were wounded. The Reds were caught by the British zone and interned. The Reichswehr are out gathering arms and arresting the leaders of the Reds.

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