

CARMODY UPHOLDS FRAWLEY INQUIRY

Investigation of Sulzer Campaign Funds Legalized by His Own Message.

LEGISLATURE IS IN RECESS

Sarecky Can Be Prosecuted if He Didn't Answer German Questions.

ALBANY, Aug. 2.—The Frawley committee not only has the power to investigate Gov. Sulzer's campaign funds, it is the opinion of Attorney-General Thomas Carmody, but the Legislature can recess in session all the year if necessary to receive the report of the Frawley committee.

This opinion, made public to-day in response to a written request from Gov. Sulzer, makes it possible for Charles F. Murphy and his colleagues in the Democratic State organization to go ahead with their efforts to impeach the Governor without delay. The opinion contains 15,000 words. Under the ruling the Legislature acted legally when it took a recess on July 23 until August 11.

In holding that the committee has power to investigate the question of political campaign funds and to report to the present extraordinary session of the Legislature, Mr. Carmody points out that this question was opened by the Governor himself when he recommended to the special session that legislation be thrown around the official primaries all the safeguards of the present election law and to provide for a limitation of amounts which may lawfully be expended by candidates for nomination, and to make a violation of the law a felony.

Effect of Recommendations.

In view of these recommendations to the extraordinary session Mr. Carmody says that an investigation into the workings of the present primary law is within the power of the committee under the resolution adopted by the Legislature, in order that it may be advised fully as to present conditions so as to determine the advisability of legislation upon the subject and as to what form the legislation should take if determined upon.

The Attorney-General expresses the opinion that the investigation undertaken by the committee "should be welcomed by every right thinking citizen anxious for the purity of the ballot and its protection from excessive use of money."

Mr. Carmody also holds that any witness who refuses to attend or answer a pertinent and legal question propounded by the Frawley committee may be committed for contempt by a judge of a court of record. The Attorney-General says this question of law was sustained by the Court of Appeals in the case against William Barnes, Jr., by the legislative committee which investigated conditions in Albany. The court held in effect at that time that a legislative committee had the right to compel a witness to answer a pertinent and legal question. It ruled, however, that the questions asked Mr. Barnes were not germane.

The phrase of the Attorney-General's interpretation of the committee's power may have an important bearing on the position of Louis A. Sarecky, former confidential secretary to Mr. Sulzer. Mr. Sarecky declined to answer a series of questions put to him this week by the Frawley committee concerning Gov. Sulzer's campaign contributions.

It is believed, however, that the Governor will continue to advise Mr. Sarecky not to answer these questions unless he is permitted to appear with counsel who could aid him in seeing that his side of the story of the contributions was brought out.

The expectation is that the committee will refuse to let Louis Marshall appear as counsel for Mr. Sarecky, that the question will be taken to the court, and that a decision of the Court of Appeals will not be given until after election.

The opinion requested of Mr. Carmody by Governor Sulzer was to cover these points: "Whether or not the extraordinary session of the present Legislature, which convened June 16, 1913, has or has not adjourned sine die and ceased to exist as a legislative body; whether or not a candidate for office can lawfully meet and transact legislative business August 11, 1913, and concerning the scope, authority, jurisdiction and power of the Frawley committee."

Mr. Carmody's Opinion.

It is sufficient for the consideration of the questions here propounded to bear in mind that the Governor had recommended to the Legislature the adoption of a primary law which should be surrounded with all the safeguards of an official election, and any violation of which should be a felony. He had also recommended that the amount permitted a candidate for expenditure should be limited by statute and that a violation of provisions of such statute made a felony, although the existing statute only made it a crime of the grade of misdemeanor when it exceeded the limitation as to expenditure of the election itself.

I consider that it is well within the power of the Legislature at an extraordinary session, in order to act intelligently upon legislation so stringent in its nature, to make a careful examination into the workings of the present election law, all the safeguards of which were proposed to be extended to primary elections, among which safeguards was the requirement that candidates should file statements under oath of their campaign expenses. It had this power in regard to investigations as to the proper amount to be expended for campaign purposes to determine how the present law in that regard, applicable to elections, was working, and as to what methods had been taken, if any, by candidates to avoid it, and as to whether such violations, if existing, had become so serious that the grade of the crime should be increased from misdemeanor to that of felony as suggested by the Governor.

The Legislature and its committee might very properly consider that the light of experience would be a substantial aid in determining the propriety of the additional legislation and the form such legislation should take if determined upon.

Scope of the Committee.

The scope of the inquiry, so long as it continues germane to this subject, is largely within the discretion of the committee, and the motives of its members, whether proper or improper, can in no degree limit or in any manner affect its powers.

I am therefore of the opinion that the activities of the investigating committee under consideration in its efforts to obtain the facts as to the workings of the present law are entirely within its legal province when it has been recommended by the Governor that the committee, from which it derives its powers, extend the provisions of that law to primary elections and increase the penalties for violations.

The Legislature was under no constitutional or legal obligation to act unadvisedly or hurriedly upon questions submitted to it. The Constitution itself provides for a consideration of that body. Such consideration may necessarily in many cases take the form of investigation of facts connected with the practical workings of statutes already in force upon kindred subjects. The investigation therefore undertaken by the

committee, which should be welcomed by every right thinking citizen anxious for the purity of the ballot and its protection from excessive use of money is, in my opinion, within its legal power.

Question of Adjournment.

Taking up the Governor's contention that the extraordinary session of the Legislature adjourned sine die on July 23 Mr. Carmody refers to the variety of subjects recommended to the special session by the Governor, including seventeen nominations, many of which are for important positions in the State service.

"The adjournment of the Legislature," says Mr. Carmody, "was stated in the resolution to be for the purpose of permitting the investigating committee to have further time to pursue its labors and to permit consideration of the propriety of other legislative recommendations to receive adequate attention from the committee to which legislation had been referred.

"In view of the importance of the questions involved the adjournment to permit the consideration and examination of committee of proposed legislation referred to them would not appear to be unreasonable. I have considered that an extraordinary session of the houses of the Legislature have to be adjourned to a day certain and that such action is not a procedure which requires the assent or recommendation of the Executive.

"In case such adjournment is for more than two days the concurrent action of both houses is necessary. That legislation of this importance should receive consideration is wholly within the province of the Legislature to determine and as much of the work is done in committee it is unnecessary to have the expense of daily sessions by the entire bodies during the consideration by the committee must necessarily be largely in a state of inactivity."

Discussing the question raised by the Governor that less than a quorum of the members of both houses was present when the Legislature ordered its recess Attorney-General Carmody points out that the official journals of the respective houses show that a quorum was present and voted. In his statement he holds that the journals are conclusive evidence of their contents.

RALLY TO SULZER'S AID.

Many Accept Invitations to the Conference To-morrow.

ALBANY, Aug. 2.—Gov. Sulzer is receiving many responses from his friends in the Democratic State organizations who have been invited to confer with him in the Executive Chamber Monday noon to formulate plans to meet the attacks of Charles F. Murphy on the Sulzer administration.

In his statement issued on last Wednesday Gov. Sulzer said: "If twenty-five determined and public spirited citizens will come to my support the battle for honesty and to bring the grafters to justice will be won, and the result achieved in the end will be the greatest victory for good government in our State in a quarter of a century."

It is expected that this citizens' committee of twenty-five will eventually spring from the Executive Chamber meeting for the Governor not only has invited the members of the Democratic State committee and the Democratic county chairmen to attend but also other prominent Democrats and men of other parties who have become identified with the Sulzer administration through his advocacy of the Statewide direct primary.

After the Grafters.

"The truth is I am after the grafters," said Gov. Sulzer to-day, "and before I am after the men who robbed the taxpayers of the State of millions of dollars Mr. Murphy is after me. The grafters are fighting for their loot and their liberty. It is immaterial what becomes of me. I am a mere incident in this fight for honest, decent government."

An explanation of these words is that the Governor has been making a series of scandals at which he has hinted several times recently. The graft scandals, his friends predict, will so far overshadow the attacks on the Governor's life that the people of the State will forget the assault on him.

At the Executive Chamber conference Mr. Sulzer will make these things plain to his friends and ask them for a vote of approval as a defiance to the Democratic State organization and Charles F. Murphy. This conference will adopt a resolution declaring loyalty to the Democratic Governor of the State and heartily approving the work of administrative reform.

Invitations to the conference were sent out last yesterday. These have accepted: Gen. Amasa J. Parker of Albany, W. H. Higgs of Lyons, State Committeeman Mr. Elmer of Manhattan, Senator John W. McKnight and Assemblymen C. Fred Schwarz and Tracey D. Taylor of Rensselaer, Frederick E. Converse of Wayne, Silville Z. Havens, who has a proxy for State Committeeman William H. Murphy of Syracuse, George H. Kennedy of Buffalo, Assemblyman A. S. Hughes of Seneca, Falls, Sanford P. Church of Albion, Frederick A. Amory, president of the Fort Washington Club of New York city; Edward M. Crocker of Genesee, who is chairman of the Governor's direct primary war board; State Committeeman G. Smith of Schenectady, Henry P. Burgard and Edmund J. P. Keith of Nassau and County Chairman Andrew J. Bennett of Chautauque, James P. Doyle of Cayuga, Edward F. Roche of Washington, George E. Noth of Monroe, John F. Hallinan of Ulster and George H. Ansel of Allegany. State Committeeman Warner M. Sweet of Allegany, William Townsend of Ulster, G. B. Pluhner of Orleans and Charles S. Rattigan of Cayuga; County Chairman Samuel Stone of Pearl River, M. J. Callan of Clinton, Stephen Ryan of Chenango, James E. Kelly of St. Lawrence, George M. Ketcham of Orange, J. P. Kelly of Rensselaer, Mayor Erwin of Kingston, Dr. Rudolf Ebeling of Columbia county, Col. A. S. Bacon of New York city, H. M. Miller of Schenectady, the Rev. William Sheafe Chase of Brooklyn and Joseph Cassidy of Queens.

What the Conference Will Do.

The conference will discuss the question of whether or not in those Assembly districts known to be in control of the forces hostile to the principles of direct primaries as demanded by the Governor's messages loyal Democrats are justified in refusing to make primary contests to name candidates for members of Assembly on the ground that under the existing primary law party committees may perpetuate their own existence and secure the nomination of Assembly candidates opposed to direct primaries in spite of the wishes of a majority of the rank and file of Democratic voters.

Some Democrats believe that loyal members of the party may consistently nominate candidates for the Assembly on independent petitions after primary day, wherever it seems necessary to take such action to make certain that the name of the Democratic candidate who is pledged to direct primaries is placed on the official ballot.

ACTRESS SUES LACE MERCHANT.

Miss Laurell Says Besinger Promised to Marry Her.

George Besinger, a lace merchant of San Francisco, who is staying at the Hotel Knickerbocker, was served yesterday with a summons in a suit for \$5,000 damages for breach of promise brought by Miss Kay Laurell, an actress. Miss Laurell accompanied a process server to the hotel and pointed out Besinger.

Through her attorney, Myles J. Holley of 261 Broadway, Miss Laurell alleges that she gave up an important engagement in London to be married to Besinger and that after he kept her waiting for a year he refused to carry out his promise.

GOT REAL DOWNSING NOW, POLICE THINK

Wiretapper Who Swindled Two Southerners Said to Be Caught.

WRONG MEN TAKEN TWICE

Detective Has Been on the Trail Since Certain Events Here in 1912.

A man who says he is J. A. Downsing, sought by the police for a year as the chief actor in a wiretapping scheme by which two Southerners were swindled of \$25,000 in May of 1912, was arrested yesterday in Hebron, Md.

Commissioner Dougherty has had Detective McKenna looking for Downsing ever since the events of 1912. Twice arrests have been made. In New Orleans the supposed Downsing turned out to be Chris Tracy, and in Charleston he was a Mr. Fitzgerald.

The arrest means that the famous Gondorf gang of wire artists are now pretty much all accounted for. Charles and Fred the brothers, are under indictment, as also are Paper Collar Joe Krakowski, Dutch Alonzo Henne and Joe Eaton.

Dowsing Admits Identity.

Dowsing admitted his identity when arrested, the police say, and will leave on the 12:25 train this morning. A detective was sent to Philadelphia to meet McKenna, who has had a long and exhausting trail to follow. Two months ago it was learned that the man was born in Hattiesburg, Miss., and this served as a starting point. McKenna traced him to Texarkana, to be told that he had left that place twenty-six years ago. He ranged through the South and wired Commissioner Dougherty last night that he had found his man.

The drama of the \$25,000 started with the arrival in Wilmington of Downsing and a wife who had a toothache. She was taken by her husband to Dr. J. H. Powell, a prominent dentist, and there between gnaws of pain she managed to learn that Powell had money to invest and to suggest that her husband be consulted.

The Old Game Proposed.

A meeting took place in which Kirby Cleveland Sidbury, an attorney, was also interested in the grafters. The meeting was that of overhearing race-track results through a friend in the telephone office.

When they arrived in New York this friend was introduced as Mr. McDonald. The police say he was a hardy, good-looking man. They went to a house in West Eighth, second street fitted up downstairs as a poolroom. Powell and Sidbury lost \$3,000 apiece on Flying Fairy.

On September 20 Sidbury came on alone with \$7,000 which he did not take back. On October 1 he brought \$7,000 more and on October 26, \$5,000. He never won.

INQUIRY INTO DEATH OF CAHILL WILL GO ON

Expert May Examine the Blood Stains on Policeman's Club.

Deputy Police Commissioner Dougherty will continue his investigation into the death of Policeman John E. Cahill of Brooklyn in the side yard of St. Matthew's Roman Catholic Church, at Utica avenue and Lincoln place, on the morning of July 21. He had worked on the theory that Cahill killed himself, but the verdict of a Coroner's jury that "deceased came to his death at the hand of a person or persons unknown" leaves the case still open.

"We would have continued our investigation irrespective of the verdict of the Coroner's jury," Mr. Dougherty said yesterday. "What I want and what the public wants is to get at every last fact in this case."

Mr. Dougherty may appeal from the verdict and has instructed Acting Captain Coughlin to ask District Attorney Crosey to lay the case before the Grand Jury. The police say that Coroner Rooney's charge to the jury contained no reference to incidents suggesting suicide. The District Attorney's office will also go more deeply into the case. It is said that an examination of the blood stains on the policeman's club by an expert, Prof. Reichert of the University of Pennsylvania preferably, may go a long way toward solving the mystery.

ENVOY WILSON'S PURSE STOLEN.

Pickpockets Jostle Him at Brooklyn Bridge and Get \$100.

Henry Lane Wilson, Ambassador to Mexico, lost a pocketbook containing something more than \$100 through the work of pickpockets at the Manhattan terminal of the Brooklyn Bridge about 5 o'clock Friday afternoon.

The Ambassador had driven down as far as the bridge with some friends, who were bound for Brooklyn and went into the bridge terminal with them. There he got into the usual afternoon jam and after being jostled a little more vigorously than seemed necessary felt for his wallet, which had been in his hip pocket. The wallet was gone.

A report was printed yesterday that Ambassador Wilson had lost some valuable state documents along with the wallet. This he denied emphatically, adding that he never carried papers with him and that the only thing in the wallet besides the money was a number of his personal cards, the loss of which had somewhat embarrassed him, as they were the only cards he had with him.

WELLS FARGO RATES CUT HARD.

Company May Withdraw From California if Appeal Fails.

SAN FRANCISCO, Aug. 2.—Wells, Fargo & Co. decided to-day to appeal to the United States Supreme Court if necessary from the California Railroad Commission's decision which cuts the express company's interstate rate \$750,000 annually. If this appeal goes against them the company will withdraw from California.

The company's next step against the decision ordering a reduction in profits from 136 per cent. to 10 per cent. a year will be an application to the commission for a writ of review. Should the commission refuse, which is expected, then the company will appeal to the State Supreme Court, and finally to the United States Supreme Court.

The largest individual holder of Wells-Fargo capital stock is Mrs. Mary A. Harriman, who owns \$6,645,000, or 27 per cent. of the issue.

Heavy Rains Help Texas Cotton.

AUSTIN, Tex., Aug. 2.—Heavy rains fell last night and to-day, covering practically the entire cotton growing region of the State. The drought was beginning to injure cotton seriously. The rains will add enormously to the yield.

B. Altman & Co.

For TUESDAY, Aug. 5th

Women's Suits and Dresses

Extraordinary reductions have been made in the prices of a number of styles in Women's Tailor-made Suits and Silk Dresses. These will be offered as follows:

Tailor-made Suits at \$18.00 & 24.00
Silk Afternoon Dresses at \$18.00, 24.00 & 30.00

For TUESDAY, Aug. 5th

An Exceptional Sale of Women's Summer Dresses

made of the popular Cotton Fabrics, in simple, desirable styles, will offer attractive values at the special prices of \$4.75, \$6.75 & \$9.50

A number of higher-cost Dresses will also be placed on sale at appreciably reduced prices.

SPECIAL SUMMER SALES FOR TO-MORROW (MONDAY):

The Misses' & Small Women's Dep't

has for selection Summer Apparel for all occasions, including the following at remarkable concessions from former prices:

- Tailor-made Suits of light-weight worsteds, formerly \$30.00 to 42.00, at \$10.50 & 15.00
- Tailored Suits of Cotton fabrics, formerly \$15.00 to 32.00 at \$9.50
- Silk Dresses, formerly \$25.00 to 35.00 at \$14.50 & 24.00
- Lace Dresses, formerly \$32.00 to 55.00 at \$22.00
- Cotton Dresses, formerly \$8.75 to 32.00 at \$4.50, 7.50 & 12.75
- Also Misses' and Small Women's Sport and Street Coats, formerly \$15.00 to 35.00, at \$9.50

Women's Silk Mousquetaire Gloves

16-button length, in white or black, at the very low price of . . . per pair, 65c.

Women's Silk Petticoats

- for Summer wear, at special prices.
- Silk Jersey Petticoats . . . at \$3.85
- Crepe de Chine Petticoats . . . at 4.50

Women's Summer House Gowns

- at the following attractive prices:
- House Gowns of flowered voile or dimity, at \$2.00
- House Gowns of white dotted Swiss, lace-trimmed . . . at \$3.75
- House Gowns of white dotted Swiss, lace-trimmed or hand-embroidered, at \$5.00 & 7.50

Bathing Costume Department

Extensive Reductions have been made in the prices of Women's and Misses' Bathing Costumes. A Special Offering for to-morrow will consist of

- Bathing Costumes of satin, including tights, at \$7.50, 10.00 & 12.00
- Bathing Costumes of mohair, with bloomers, at \$3.75 & 5.75

A limited number of Women's Coats

(sizes incomplete) will be placed on sale, in order to effect a clearance, at the following greatly reduced prices:

- Sport Coats of chevots and other worsteds, at \$5.00
- Travel and Motor Ulsters of worsteds at 18.50
- Dust Coats of linen, at \$6.50, 9.50 & 11.75

The Department for Infants' Wear

Extensive reductions have been made in the prices of a number of discontinued styles in

- LITTLE CHILDREN'S COTTON DRESSES
- These will be marked at 65c., \$1.10 & \$1.35
- Also Little Children's Summer Coats (sizes 18 months to 4 years) will be placed on sale, to close out, at \$3.50 & 4.75

In the Art Objects and Bric-a-brac Dep't.

Mahogany Art Furniture

in a specially selected assortment, will provide an interesting offering at exceptional prices, as follows:

- Tea Wagons and Martha Washington Sewing Tables . . . each, \$15.00
- Book Stands . . . at 9.50
- Tip Tables, round or octagonal . . . at 5.00
- Muffin Stands . . . at 5.00 & 6.00
- Serving Trays . . . at 4.00
- Palm Stands . . . at 3.00

The Services of the Mail Order Department are at the disposal of Out-of-town patrons. Telephone, 7000 Murray Hill.

4th St. New York City