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SEMI-WEEKLY.

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WELLCOME'S DISBARMENT.

In commenting on the Wellcome case on November 14, this newspaper said: "The testimony against John B. Wellcome, in the disbarment case against him being tried by the supreme court at Helena, is all in. It is of the most damaging character and, to an unprejudiced person, proves beyond a doubt that he is guilty, as charged—of bribing members of the last legislature to vote for W. A. Clark for United States senator."

The opinion above expressed is fully justified by the verdict rendered last Saturday. Wellcome is guilty and, as The Gazette also remarked in the same article from which the above quotation is made, "if his conviction is not followed up by a criminal prosecution, then justice is blind in this state and the laws against bribery might as well be stricken from the statute books."

That is true, and it seems queer to the laymen that the supreme court of the state, having determined in a civil action that a crime has been committed, has no power to order the prosecution of the perpetrator. That duty, it seems, devolves upon the district court, but its grand jury, last January, on practically the same testimony given in the supreme court, declared that there was not sufficient evidence upon which to base an indictment. What a travesty on justice this is. If these things are to continue in Montana, the time is not far distant when the people will have no respect whatever for the law.

Yet the action of the supreme court has served one good purpose. To some extent, at least, it will remove the stigma from the state that has been placed upon it by this wholesale bribery of the legislature. And if the bribe-givers and bribe-takers are not punished by the law, the people will have no respect whatever for the law.

What effect the court's decision will have on the contest before the senate to unseat Mr. Clark, is hard to tell. Everyone is satisfied as to what should be done; if it is not done, the people will have very little respect for the integrity of the senate.

"UNASKED ADVISERS."

East Helena Republican: When it comes to matters concerning the interests of the republican party in Montana, the Billings Republican and Glendive Review can be relied upon to give all needed advice. The editors of these publications are dictating the policy of the party and outlining what shall be done. Just who appointed them dictators has not been revealed. But when they attempt to read out of the party men who voted the republican ticket in Montana before these dictators were heard of, they are committing an error. A man may have erred, but if he acknowledges himself at fault he merits forgiveness. Office-holding does not influence all men to belong to the republican party who vote that way. A faithful public servant is what the people esteem. The editors of Billings and Glendive are making themselves ridiculous by their ill-timed utterances. If they wish to retain the confidence of the people they will refrain from the publication of views which simply proclaim the writer a sorehead. Get into the republican band wagon and look pleasant. Don't imagine you're the whole works. When a feeling of this kind comes a-creeping over you, fret not your souls over the self-assumed task of party dictator. You are not responsible for the whole state. Keep Billings and Glendive in line. The rest of the state will get along. Remember that you alone do not constitute the republican party. There are others.

A NEW REPUBLICAN PAPER.

The first number of the Park County Republican is to hand, a new newspaper just started at Livingston, of which A. M. Williams is the editor and publisher. As the name of the new paper indicates, it will be republican in politics and there is believed to be ample room for a newspaper of that political faith in Park county. It used to be the banner republican county of Montana,

but was carried from its moorings in '98 by the free coinage issue and now has the only free silver "republican" paper published in the state—the Enterprise—which is believed to be owned by Marcus Daly and to draw its inspiration from Chas. S. Hartman. The Enterprise thus falling into the hands of the enemy, made a republican paper in Park county a necessity and the Republican, we are pleased to note, is a vigorous and healthy-looking paper, is well edited and will no doubt be liberally supported. It deserves to be; it has taken upon itself the task of redeeming a county which, from every consideration, should be republican, and we hope and believe the Republican will accomplish its object. More power to it; Park county is certainly too progressive and enlightened to trail along in the democratic column during these glorious republican times.

Editor Olmstead of the Pioneer has been named by the president as postmaster at Big Timber, to succeed Mrs. Ed. Runner. It is also reported that Walter Alderson of the Red Lodge Picket will secure the appointment of postmaster at Red Lodge in February. No one better deserves recognition at the hands of the administration than the newspaper men. They do more for the political cause they espouse than any other class of people—and get less for it.

Chairman Hanna has issued the call for the meeting of the national republican convention at Philadelphia, June 19. It requires that all delegates be elected thirty days prior to that date, so the state convention in Montana will have to be held not later than the 10th of May. Then politics will be on, and will continue to be the chief topic of interest for six months.

The esteemed Helena Independent, Senator Clark's personal organ, has not published a line of editorial in reference to Wellcome's disbarment. Our contemporary is probably so shocked, at the highest court in the state finding that bribery was practiced in the legislature by democrats, that it is too full of grief for utterance.

The Christmas edition of the Lewistown Democrat, in its handsome colored cover, does credit to the publisher of that excellent newspaper. And the people of Lewistown, judging from the liberal advertising patronage, appreciate a good thing.

GENERAL STATE NEWS.

Silver Bow Lodge, No. 246, B. P. O. Elks of Butte has voted unanimously to incorporate for the purpose of building a handsome hall, to cost at least \$75,000, and in all probability more.

Timothy Sweeney of Helena was found dead, 11 miles from that city Saturday, alongside the Montana Central railroad trestle, with his head crushed in. He is supposed to have been struck by a passing train.

A. Stubbelfield died at Big Timber Friday of last week of a complication of diseases, aged 63 years. Deceased was a familiar character around Big Timber and was the owner of one of the valuable additions to that city.

Senator Carter has made a favorable report from the committee on public lands on the bill to permit Charles T. Rader of Fort Logan to make a new selection of 640 acres of desert land in place of an entry erroneously canceled in 1891.

D. S. Johnson, janitor of the Northern Pacific depot at Livingston, was killed there last Thursday morning. He was crossing the tracks, when a switch engine struck him, killing him instantly. He leaves two sons, either in Butte or Anaconda.

The bill of Forbis & Forbis and Forbis & Mattison for legal services rendered in the Davis estate was presented for settlement in the district court at Butte last week and signed by Judge Lindsay. It aggregates \$50,000. The administrator was ordered to pay it.

Judge Knowles has issued a peremptory writ of mandate to compel the city of Helena to pay the Helena Water Works company the sum of \$10,005. The water company has a judgment against the city for \$30,000. Some time ago, by special levy, the sum of \$10,005 was raised for the purpose of applying on this judgment. The city administration declined to pay the money over to the water company, raising the question of the legality of the contract. The city has secured a stay of ten days, pending motion for a new trial. If this is overruled, an appeal will be taken to the United States circuit court of appeals.

Thomas A. Darling, a northern Montana cattleman, said recently in Seattle: "We are coming to a serious point in the cattle business in Montana. During the dull cattle market of three years and more ago the cattlemen, or a large majority of them, were forced to dispose of their younger stock. Heifers were sold and little or no efforts were made to keep up the breeding stock. The last three years of prosperity have brought us to a realization of our mistake, even though we had to dispose of other property to make ends meet. There is not a cattleman in the state but is trying to buy young, breeding stock, and thousands upon thousands will be imported from other districts this year."

WELLCOME DISBARRED

The Supreme Court Says the Butte Attorney Is Guilty of Bribery.

NO QUESTION ABOUT IT

He Hasn't Denied It and Is Criticized for Not Taking Witness Stand.

Helena, Mont., Dec. 23.—The supreme court decided the Wellcome case today, holding that the Butte attorney must be disbarred. The decision was a trifle sooner than was generally expected as rumors have been around town for several days that the case would not be decided before the latter part of next month.

Few people were in when the court filed in and the chief justice announced the decision. The opinion is by the whole court.

The court begins its opinion by reviewing briefly the charges of bribery and conspiracy to bribe preferred against Wellcome as well as the recent proceedings before the court.

The court eliminates in the discussion of the case all charges based upon information, addressing itself directly to the question of the guilt or innocence of the accused, upon the specific charges of bribery. The court says that on account of the voluminous evidence taken and because disbarment must be made in case either the charge of bribery or conspiracy to bribe is sustained by proof, the court will confine itself to the charge of the payment of \$10,000 to W. A. Clark of Madison county, referring to the case of Garr, Whiteside and others only in so far as is necessary to elucidate the Clark charge.

The court discards those portions of the evidence bearing upon the financial transaction of Warner, Geiger and Hobson as immaterial.

The court quotes extensively from the testimony of State Senator Clark as to his meeting with Whiteside, planning to meet with Wellcome for the purpose of getting the money and the famous scene in Wellcome's room in the Helena hotel when the money was paid to Clark. The court reviews the testimony of Whiteside and Meyers and continuing says:

"The accused was not sworn as a witness, but was present throughout the hearing. At the time appointed by this court for the accused to answer the charges he did not appear in person. His answer was made under the oath, upon information and belief, of one of his counsel. Thus the charges themselves are not challenged by any direct denial by him. The statement of Clark and Whiteside are not contradicted by anyone. The accused is the only one except Garr and Steele in relation to the Garr matter, who could deny them or otherwise enlighten the court concerning them, for it appears from the evidence of these witnesses that not more than one person was present with the accused at any of the negotiations, except in the one instance when Clark was paid the ten thousand dollars at room 201 of the Helena hotel.

"In the formal charges it is alleged that Wellcome was active in the support of W. A. Clark of Butte, for United States senator. This is admitted. It may be further noted that in his testimony Whiteside details several conversations with Wellcome as to Wellcome's negotiations with many other members of the assembly whose vote he was trying to secure by the use of money and otherwise. The same remark may be made touching the testimony of Clark.

"Another circumstance, somewhat corroborative of the stories of Clark and Whiteside, in view of the conversation first had by Clark with Wellcome, also the intention of certain supporters of W. A. Clark of Butte is the fact that when the election did finally take place many democrats and republicans who heretofore had opposed Clark's candidacy shifted over and voted for him without apparent cause. Steele was not called as a witness.

"Clark and Whiteside, prior to their examination in this court, had twice been examined touching these transactions, once before the legislative committee, and once before a grand jury called by one of the judges of the first district to inquire into the charges made before the committee. Their statements made on both occasions were in the hands of counsel at the hearing. And though both were thoroughly cross-examined by able and astute questioners and every opportunity was afforded to test their truthfulness by a comparison of these statements no substantial discrepancies were shown. A careful and painstaking examination of their accounts given at the hearing in so far as they relate to the same matters, also failed to reveal any substantial contradiction or omission. These statements are not unreasonably in the light of this whole record and it is highly improbable that such a story could be deliberately concocted and repeated so many times without being discredited in some substantial particular.

"After seeing and hearing the witnesses ourselves, and noting the silence of the accused when he ought to speak, and his failure to produce other witnesses to rebut the material statements made by Clark and Whiteside, which it was in his power to do, we can reach no other reasonable conclusion than that this charge is true.

"Counsel for the accused at the open-

ing of their proof proposed to show that for many years there had been a scheme in the democratic party in this state; that one division was favorable to W. A. Clark of Butte, and the other followed the leadership of one Marcus Daly and was known as the "Daly Gang"; that the effort of the latter has always been to rule the party at all hazards; that one of its purposes was to defeat W. A. Clark by fair or foul means in his aspirations to go to the senate of the United States; that the witnesses Whiteside and Clark belong to his "gang"; that the exposure was the result of a criminal conspiracy among various members of this gang, including Clark, Whiteside and Myers, falsely to charge W. A. Clark of Butte and his friend with bribery and thus to defeat him and that the money turned over by Whiteside was really furnished by that faction to give the color of truth to the charges made against Wellcome.

"Evidence was introduced by the accused in support of this defense. But taking this all together and giving it the utmost weight to which it is entitled, it is hardly sufficient to require consideration, as it establishes nothing beyond the fact that there is and has been for some years a strong political hostility between W. A. Clark of Butte and Daly as rivals for leadership in the democratic party. There is no fact proved from which an inference is permissible upon any legal principle that the opposition from the Daly faction of the party was other than such as was perfectly lawful.

"It was certainly no crime for any number of men to combine together to elect W. A. Clark of Butte, by lawful means to the United States senate. It was certainly equally lawful for any number of men to join forces to defeat him, if they used lawful means only. It does not appear in this record that the opponents of Clark used any unlawful means in their opposition to him nor is there a scintilla of proof tending to show that any of them furnished the money in evidence in this case.

"It appears from the proof that the accused has heretofore borne an excellent reputation of honesty and integrity in his profession. This fact we have considered in his favor but a spotless reputation is no defense for a crime where the proof establishes it as fact. So in this proceeding being satisfied he is guilty notwithstanding his previous good character we must so find. (People vs. Best, 58 Pac. Rep. 1091.)

"Finally counsel insist that men who deliberately deceive another in order to win his confidence with a purpose to betray him are not worthy of belief and that an attorney, heretofore above reproach should not be degraded from his profession upon the testimony of men in the position of Whiteside, Clark and Myers. Courts always act cautiously upon such evidence. Many of them condemn such action in the severest terms.

"The course pursued by these persons is to be censured. Far better and more righteous would it have been for Clark and Meyers, who are members of the bar of this court, to have gone to Wellcome, their brother lawyer, and if possible persuade him to desist from the abhorrent practices he was engaged in; far more in accord with those high sentiments of professional honor and integrity which honorable lawyers should always possess, to have recalled him to a sense of duty to the law, and not to have deceived him, and encouraged him to commit crime. But, however reprehensible it may be as violative of the principles of propriety and morality, the fact that a witness has acted as a detective or decoy, apparently entering into the criminal plan in order to detect and expose it, does not, of itself, render the evidence unworthy of belief. The adjudicated cases are numerous where convictions upon this character of evidence have been sustained.

"The fact that the act here charged as a ground for this proceeding had no connection with the professional conduct of the accused makes no difference as to the treatment to be given it by this court. Under our statute, as heretofore construed in this case (58 Pac. 45) offenses within the line of professional duties and those without these lines stand upon the same footing so far as concerns the quantum of proof necessary to establish them. Nor does it matter that no injured suitor is demanding redress.

"With the motives prompting this action on the part of the accuser we have nothing to do further than as they reflect upon the credibility of his story. The ultimate end sought by him may be very far from an honest purpose to purge the profession of an unworthy member. Still when a charge of this kind is presented that a member of the profession has been guilty of acts tending to subvert society, the court must act, painful to us as the performance of the duty in this case is, be the ultimate consequences what they may.

"It is therefore ordered that John B. Wellcome be removed from his office of attorney and counselor of this court and that his name be stricken from the roll."

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