

The Democrat.

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A. M. Carr, Henry Bronson, Hubert Carr

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WEDNESDAY, OCT. 18, 1911.

EDITOR MURPHY AND THE RECALL OF JUDGES.

The editor of the Dubuque Telegraph-Herald, Mr. Lewis Murphy, does not agree with some of the positions taken in our editorial of last week relative to the recall of judges.

While quite agreeing with us that the people of this country will never place their government in jeopardy by becoming a mob, Mr. Murphy discusses the question from his standpoint as follows:

"It is not proposed to go outside the constitution to secure the recall of judges. The reform can't be secured that way. Every state and the national government would have to go about it in the same way—by amending the constitution. To do this, two-thirds of the electorate must approve. This approval given, wherein would there be invasion of the minority's rights?"

Judges subject to the recall. The Major fears for the minority's rights. His thought is that a judge would not so interpret the constitution as to give offense to the majority which could recall him and that consequently there would be denial to the minority of its constitutional rights. In other words, the Major's fear is of the people—he is unwilling to trust them to be fair and just and right. Rather than trust them to deal justly by the minority he would trust a judge.

What means of relief from constitutional interpretations by the courts exalting property at the expense of human rights does Major Carr propose? How would he restrain the Supreme Court from doing what it did in the Tobacco and Oil trust cases—usurping a legislative function of government? Major Carr knows as a lawyer and a student that under the constitution and the laws we are powerless to restrain the Supreme Court in any course it elects to pursue. It took the Civil War to recall the Dred-Scott decision. Major Carr will not assert that it is beyond the power of the Supreme Court to make this government a judicial oligarchy, even though a judicial oligarchy or that it is likely to become one.

We fall to see that there is any warrant in democracy as Jefferson taught if for reposing greater faith in the wisdom, patriotism and unselfishness of a majority of a court of nine men than in the American people. It is quite true that whenever our constitution is amended so as to provide for the recall of judges, the minority will have no legal reason to complain. Whenever two-thirds of the people of this country desire to change our organic law, or any other law, the change should be made and the change will be made, and made in the mode provided for by the constitution.

The argument that those who oppose the recall of judges are unwilling to trust the people applies to everyone who believes in a constitutional form of government.

If the people can be trusted implicitly what use is there for constitutions? Are not constitutions adopted largely for the purpose of placing limitations upon the natural liberty and human will of majorities? There were weak judges and unjust judges in the days when the Saviour of mankind was here upon this earth, and during all of the years which have since elapsed. The question under consideration is how can such judges be best removed from official positions. The constitutions of the United States and of the several states provide for their impeachment.

The constitution of United States provides that all civil officers of the federal government can be impeached for "treason, bribery and other high crimes and misdemeanors." The house of representatives prepares the articles of impeachment which correspond somewhat to an indictment by a grand jury, and the defendant is tried by the senate, that body taking the place of the court and pet jury in an ordinary criminal case. The constitutions of most of the states are patterned after the federal constitution in respect to impeachment trials, although in some of the states the supreme court has the power to try impeachments.

The phrase "high crimes and misdemeanors" described in the constitution, is to be taken, not in its common law, but in its broader parliamentary usage to include not only crimes for which an indictment may be brought, but grave political offenses, corruption, maladministration, or neglect of duty involving moral turpitude, arbitrary and offensive conduct, and even gross improprieties by judges and high officers of state, although such offenses be not of a character to render the offender liable to an indictment either at common law or under any statute.

If our Supreme Court should attempt to substitute a "judicial oligarchy" for our present form of government, the people's representatives in congress would impeach them without hesitation. It would require no sword to cut that kind of decisions out of our jurisprudence.

We think that it would be advisable to make it easier to impeach public officials guilty of malfeasance in office, but the desire for fair play, uppermost in the minds and hearts of most men, will, we think, find a way to remedy every wrong, including the removal of improper judges, without depriving minorities of the privilege of presenting their grievances to courts that are free from special obligations to majorities and beyond their direct influence and power to harm.

ANTI FUSION ELECTION LAWS UNCONSTITUTIONAL.

A short time ago the legislature of the state of New York passed an act, which provided that any person nominated by more than one political party, or independent bodies, could have his name on the ballot but once. The New York statute was copied almost word for word from a bill passed several years ago by a partisan legislature of this state. The object of both the Iowa and New York statutes was to prevent fusion, and by legislative jugglery make it difficult for the members of two or more parties to unite upon an acceptable candidate.

The court of appeals of the state of New York, which is the court of last resort in that state, handed down a unanimous decision on Tuesday of last week holding the New York statute unconstitutional.

The following extract from the opinion shows the principal reason upon which the opinion is based:

"We hold the statutory provisions challenged to be unconstitutional because they unnecessarily and substantially discriminate between electors in the opportunities and facilities afforded for voting for candidates of their choice.

If the discrimination were trivial our decision would be different, but we know from the election litigations that have come before us that the discrimination here is of a very substantial character, and where voting machines are used the difficulty of voting a split ticket is still greater than where voting is by ballot."

The New York legislature copied after the Iowa legislature, now let the Iowa Supreme Court copy after the New York Court and declare the Iowa anti-fusion law unconstitutional. It is certainly partisan politics and its presence among our statutes is indefensible to the state.

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If a majority of the voters of Iowa wish to elect some man to the office of governor, or some other office, the legislature has no moral or constitutional right to make it difficult for them to record their wish in the ballot boxes.

In an address delivered only a few weeks ago, John Marshall Harlan, associate justice of the United States Supreme Court, speaking of the New York court of appeals said:

"I believe that there has never been a moment since the organization of the Government of the United States when that great court has not exerted the very highest influence upon the judicial administration of America."

Will the influence of that great court extend far enough to help Iowa in the instant case?

THE WHITE HOUSE OFFICIAL BUSINESS.

Penalty for private use, \$300. Mr. Hitchcock has been known to exercise supervision over what the various members of congress send out under their franks. On more than one occasion, when some congressman has used his frank to disseminate speeches made outside of congress and having no relation to legislative matters, the vigilant Postmaster General has called the offending statesman to account and warned him that the franking privileges is to carry official business only.

Under the Hitchcock system of reasoning any speech Mr. Taft makes asking that the Republican administration be continued in power, is "official business" within the meaning of the postal regulations.

Mr. Hitchcock has let down the postal bars in another particular, by way of lending aid to the Taft press bureau. Some time ago the President conceived that it would be a good thing for him if all the lawyers of the country could read his message denying the right of the people of Arizona to have the recall. So he had several thousand copies of this message printed, free of charge, at the Government Printing office, and the press bureau clerks are now busy sending copies of it, under the White House frank to as many lawyers as they can reach.

The Taft administration has virtually turned the White House into a political headquarters. Clerks are busy seeing that the various press speeches, and other clerks are kept busy seeing that the various press bureaus which have headquarters in the capital are supplied with all sorts of literature designed to help the President in his campaign for re-nomination.

President Taft is demanding to know with great bravado, what single case of combination in restraint of trade which ought to be condemned could not be reached under the Supreme court's interpretation of the anti-trust law in the Standard Oil and Tobacco trust cases.

There are few who care to take issue with the President. The average man believes that the trusts "could be reached," if the government would set out in good faith to reach them.

The vital issue is not whether the trusts "could" be reached. The real important question is: Why is that not a single guilty trust magnate has been sent to jail, or even called to the bar of justice? The answer is that the government does not send trust magnates to jail nor control the standpat republican machine, and for fourteen years the standpat republican machine, in recognition of campaign fund donations and other favors, has permitted special privilege to name the man to be in charge of the prosecuting machinery of the government.

The present attorney general is George W. Wickersham, whose last act before taking charge of the government prosecuting machinery was to draw down his share of a handsome fee paid his law firm by the sugar trust. When a movement was started to bring about a Congressional investigation of the sugar trust, Mr. Wickersham headed it off by having President Taft send a message to Congress advising against the investigation on the ground that it might give immunity to the men higher up and otherwise embarrass the administration. Although the trust practically admitted having stolen over \$2,000,000 from the government by returning it after the crime was discovered, not a single one of the trust magnates into whose pockets the \$2,000,000 would have gone had not the theft been discovered, was called to bar of justice, much less punished.

Mr. Wickersham permitted an underling secretary and a few dock hands to alone stand the vengeance of the law. When American sugar interests purchased vast tracts of rich sugar lands in the Philippines in violation of the law, Mr. Wickersham again came to the rescue with an opinion upholding the sale.

Mr. Wickersham is now posing as the great trust buster. He pretends that he will drive the trusts out of business, and some of the trusts pretend that they take his threats seriously. But the record of the attorney general is not one that gives the people any reason to hope for enforcement of the law against criminal trusts or guilty trust magnates. The first thing Mr. Wickersham did upon taking office was to drop important suits against members of the best trust. His explanation was that he didn't believe the trust officials "meant" to do wrong.

THE END OF A SYSTEM.

The late Cornelius N. Bliss was four times Treasurer of the Republican National Committee in Presidential elections. Bringing to his post efficiency and a merchant's orderly ways, he perfected the system of handling political campaign funds as it then existed.

According to the most likely estimates, Mr. Bliss must have handled in those four campaigns nearly \$30,000,000. How much it really was few living men know. There was no legal check upon campaign expenditures either in the state or the nation. There was no bar to receipts. It was open to any special interest to contribute to any campaign fund and to establish thereby what Thomas C. Platt called "moral obligation" resting upon legislatures and executives.

Mr. Bliss lived to see this dangerous system overthrown. He saw New York pass a Publicity act and other states enact similar laws. He saw both National Committees in 1908 operate under the New York statute and voluntarily give out their accounts. He saw congress, on January 26, 1907, forbid corporations to contribute to any Federal election fund. And on August 17, 1911, he saw the Seven Years War for clean elections practically closed with the Rucker act, which provides for publicity before and after election and limits the amounts that candidates may spend at primaries and elections.

No treasurer of an American campaign committee will ever again handle such vast secret funds as came to the party treasury when it was in the capable hands of Cornelius N. Bliss.—New York World.

The World states the case quite delicately when it speaks about vast contributions, and the "moral obligation" created thereby.

When the hist of the last decades of the nineteenth century is written it will be recorded as an indisputable fact, that during the years covered by Mr. Bliss' terms of office the American people were unjustly deprived by confederated corporations, of a larger part of the wealth produced by their labors, than any other people in a like length of time in the history of the world.

And in our opinion it will also be recorded that Mr. Bryan did more than any other man of his day and generation toward putting an end to the nefarious system.

SPECIAL WASHINGTON CORRESPONDENCE.

By Clyde H. Tavenner.

Postmaster General Frank H. Hitchcock has wheeled his famous steam roller out of the shed, where it has stood in repose since he used it so effectively in flattening out opposition to Mr. Taft three years ago, and is preparing to again run it back and forth over those who oppose a continuance of the Taft administration.

Mr. Hitchcock is putting the old machine in order by the liberal use of "franking privilege oil." As a preliminary to more extensive use of the roller later on the Postmaster General is at present permitting the White House Press bureau, of which Mr. Taft's private secretary, Mr. Hillis, is manager, to send broadcast over the country all the speeches the President is making during his tour of the West.

Many of these speeches were prepared in advance, and although the President hasn't yet delivered some of them, they all have gone out to Republican editors, each with a "release notice." On the outside of the envelopes in which these speeches are being sent is this inscription:

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The extent of Wall street's great fear of Mr. Wickersham as a prosecutor of trust magnates is indicated by the remark of J. P. Morgan, who, when he was asked by a newspaper man what he thought of the attorney general's great anti-trust speech which had been delivered more than a week previous, replied: "I don't think anything about it, because I haven't read it."

Even in the far off Philippines the impression prevails that William H. Taft will not succeed himself as President. The Filipinos will be disappointed should Mr. Taft be re-elected, because he is decidedly unpopular over there because of his attitude that the Filipinos should not be given their independence "within the time of the present generation."

Before Mr. Taft was elected President of the United States the inhabitants of the Philippines knew a good deal better than did the people of the United States. He had been the governor general of the Philippines, and while his administration was heralded in the United States as a very successful one, it was as a matter of fact very unsatisfactory to the Filipinos.

The following letter from "A Filipino" calls attention to the fact that in the Philippines Mr. Taft was known as "Mr. Facing Both Ways," a title that some people would consider appropriate for Mr. Taft as President of the United States.

"When the experience of William Taft as administrator in the Philippine Islands was urged by the promoters of his candidacy as proof of his fitness for the office of the President of the United States, those who had followed with some attention the course of his administration in the islands suggested that a certain degree of respect might be paid to the verdict which had been rendered upon it by its far away subjects. That verdict was epitomized in the familiar title, saddled upon this estimable gentleman throughout the archipelago, of 'Mr. Facing Both Ways.' It may be confidently asserted that as President of the United States none of his predecessors have ever justified this epithet more completely.

"In the Presidential policy towards the archipelago, Mr. Taft on the one hand promises (in his own good time) the 'choice of independence to its inhabitants and on the other hand' is urging forward the sale of great tracts of land to non-resident capitalists for the exploitation of the wealth of the islands and to the certain destruction of any hope of independence.

"Mr. Taft speaks officially through the mouths of his confidential advisers, through Secretary Ballinger, through Secretary Wilson, through Attorney General Wickersham, and immediately denies the words and actions for which, as his official and personal representatives, he is directly responsible. He publicly defends the system of the civil service. At the same time, he uses the influence of patronage to punish the insurgent republicans. Mr. Taft, the peacemaker, urges the fortification of the Panama canal, dispatches an army to the borders of Mexico, facing an imminent risk of international complications, and fosters the menacing increase of the navy. Some of us may like this thing that he says and does, and some may like the opposite. But—where is Mr. Taft?"

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S. C. HATCH, Passenger Traffic Manager.

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NOTICE OF APPOINTMENT OF EXECUTOR.

State of Iowa, Delaware County, ss
Notice is hereby given that the undersigned has been duly appointed and qualified as Executor of the Estate of Edward Rolfe, late of Delaware County, deceased. All persons indebted to said Estate are requested to make immediate payment, and those having claims against the same will present them, duly authenticated, to the undersigned for allowance.

Edward Rolfe, Jr.
Dated Oct. 10th, 1911.

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