

SUCCESSION TO PRESIDENCY IN CASE OF VACANCY

Following the Vice President Come the Members of the Cabinet.

THE SECRETARY OF STATE COMES FIRST

Would Only "Act as President" and it Would Become His Duty to Call Another Election—Third Term Matter Never Figured in the Debates During the Constitutional Convention.

By Frederic J. Haskin.

If it should so happen that both the president and the vice president should be unable to exercise the duties of the office either by reason of death, removal or disability, it would fall upon the shoulders of the secretary of state to "act as president," were he qualified, or, if it should have to pass him it would next fall upon the shoulders of the secretary of the treasury, and so on down through the list of cabinet officers as far as the secretary of agriculture. He and the secretary of commerce and labor were omitted from the succession act of 1886 because their positions had not then been created.

The man who thus would "act as president" is required by the succession law to call a session of congress within 20 days, and to lay before it the fact of the vacancy in the presidency, after which it would become the duty of that body to call a special election for the filling of the vacancy in the presidential and vice presidential offices. It has been suggested by some that in the event the forthcoming election is forced into congress and the house should fall to choose a president and the senate a vice president, Secretary of State Philander C. Knox would become president, some going so far as to say that he would serve for four years. The first statement may be true, while the other certainly is not. A careful reading of the constitution will reveal any direct authority for any succession in the event of a failure to elect. The constitution and the law both authorize this succession in the event that a vacancy occurs through death, removal or disability, but neither makes any provision for a vacancy through failure to elect.

Only "Act as President." It is reasonable to suppose, however, that should such a situation arise, the provision in the case of vacancies from death, removal or disabilities, would apply. In that event, however, Mr. Knox would only "act as president" until a special election could be held.

It is required by the law authorizing him to take up the reins of government, to call congress together, if it is not already in session, so that it can provide for a special election. How long it would require for such an election to be held is hard to forecast. In the first place, congress would have to agree upon the time and the terms of the election. Then time probably would have to be allowed for another pre-convention canvass and another pre-election campaign. It is very probable that under these conditions the election would be called for the usual Tuesday after the next Monday of November, and that the electoral voting and the congressional counting would be moved up just one year. Then another congress would be in session, and a house deadlock would hardly be probable.

It is odd that some eminent authorities in congress have asserted in years gone by that the secretary of state, or his cabinet successor, would serve out the four year term "acting as president." An inspection of the debates of the constitutional convention shows that there was no intent in that body that any person reaching the presidency by any route laid out by congress should serve a full term.

Randolph of Virginia moved that congress provide for succession in the event of the death, disability or removal of the president and vice president, and such officer as was selected thereunder should serve "until the time of electing a president shall arrive." Madison opposed that part of it, saying that it would prevent congress from filling a vacancy by an intermediate election. He therefore moved an amendment providing "until such disability be removed or a president shall be elected." That amendment became a part of the constitution, and was incorporated in the succession act of 1792 as well as in that of 1887.

When a cabinet officer succeeds to the presidency what will he be called? The constitution does not say that he shall become president. Would we, in the face of that omission call him president? It does provide that he shall "act as president." Will he be only Mr. Acting President? Debate in Convention.

It is interesting to follow the debate of the constitutional convention concerning the presidential succession. Ellbridge Gerry had opposed the assignment of the duty of presiding over the senate to the vice president, upon the ground that the president and the vice president would be so intimate that they might as well make the president the presiding officer of the senate. Governor Morris replied that then this would be the first time in history that an heir apparent was fond of his father. One thought that the vice president ought to have something else to do besides waiting for the president to die or be removed, and that was why he favored giving him the presidency of the senate.

The clause under which congress has a right to provide a presidential succession comes from the constitution prior to its amendment. It provides that in case both the president and vice president resign, die, are disabled, or are removed, congress may by law provide what officer shall then act as president, and such officer shall serve accordingly, until the disability be removed, or a president shall be elected. No one yet has decided what shall constitute a "disability." Some assert that it cannot occur until the president is certainly no longer able to discharge the duties of the office. However, why would it then say "until the disability be removed?" Some assert that when Garfield was lying at the point of death his disability began when he was shot, and that the same was the case with McKinley.

The first presidential succession act was passed by congress in 1792. It provided that in the event that both the president and the vice president could not serve, that the president of the senate should act as president, and that he in turn, was to be understood by the speaker of the house of representatives. This provision was made in the law regulating the election of the president. It continued to be the law until the succession act of 1886 was framed.

This latter act provides for the succession of the officers of the cabinet in the order of their rank down to and including the secretary of the interior, and provides for the calling of a special election. It limits the accession of these officers only to those who have been confirmed by the senate, who fill the eligibility specifications of the constitution, and who are not under impeachment.

Third Term No Factor. The third term matter never figured directly in the constitutional debates, although as long as there was any idea that the president was to be selected by congress he was to be ineligible even to a second term. Some had proposed a term "during good behavior," and others had acceded to the proposition provided they could devise a form of impeachment or recall that would not be too difficult of being enforced. Others thought a seven-year term about right. Finally they decided on the four-year term without any inhibition against re-election. Washington declined a third term because patriotism did not forbid his laying down the cares of state and his natural inclination to return to private life. Jefferson declined a third term because of the example of an illustrious predecessor and because he believed it was as much a duty to give up the office at a proper time as it was to fill it well when he held it. He said to those who urged that there were grave problems then to be solved and that he was the man to solve them, that there never would be a time when difficulties would not exist, and that he was sensible that he was not the only one who could solve them.

Grant had no patience with the anti-third term proposition. He informed the Pennsylvania state convention, in May, 1876, that it might come to pass that it would be unfortunate if not disastrous if the country would not choose a man for a third term. He asserted, however, that he was not a candidate for renomination, and that he would not accept one unless circumstances rendered it imperative that he should do so—circumstances not likely to arise. However, in 1880 it was different with him, and he would have accepted a third term then if he could have secured the Republican nomination.

There was nothing in any of the plans submitted to the constitutional convention providing for a vice president. The first time the idea of such an official was brought forth was in a report made to the convention after it had been in session several months. It was confessed that but for the advisability of having the successor to the president chosen in the same way that the president was chosen, the office of vice president would have been about as useless as the fifth wheel to a wagon.

Tomorrow—Presidential Elections. VI—Changing the Electoral Plan.

- Where Beggars Get Matches Instead of Money. This queer feature of alms-giving prevails in Costa Rica. See Frank G. Carpenter's letter next Sunday.

WHY SALVES CAN'T CURE ECZEMA

Since the old-fashioned theory of curing eczema through the blood has been given up by scientists, many different salves have been tried for skin diseases. But it has been found that these salves only clog the pores and cannot penetrate to the inner skin below the epidermis where the eczema germs are lodged. This quality of penetrating—probably explains the tremendous success of the well known liquid eczema remedy, oil of wintergreen, thymol, glycerine, etc., as compounded in D. D. D. Prescription. We have sold other remedies for skin troubles but none that can

recommend as highly as this for we know that D. D. D. stops the itch at once. We can give you a good size bottle for 50 cents that will be enough to prove it. Of course all other druggists have D. D. D. Prescription—go to them if you can't come to us—but don't accept some big profit substitute. But if you come to our store, we are so certain of what D. D. D. will do for you that we offer you a full size bottle on this guarantee:—If you do not find that it takes away the itch AT ONCE, it costs you not a cent.—McCrum & Deary, Druggists, 912 Main St. Adv.

NOTICE OF ELECTION

Notice is hereby given that on the Tuesday following the first Monday of November next, in the County of Ada, an election will be held for members of Congress, State, County, District and Precinct officers. Following are the names of the persons who have been nominated for the various offices.

Table with columns: REPUBLICAN, DEMOCRATIC, ELECTORS' PROGRESSIVE, SOCIALIST, PROHIBITION. Lists names for various offices including Presidential Electors, Representatives in Congress, Justice of Supreme Court, Governor, etc.

CONSTITUTIONAL AMENDMENTS

- 1. "Shall Section 1 of Article 3 of the Constitution of the State of Idaho be so amended as to give the people the power (under conditions to be hereafter prescribed by act of the legislature) to propose a referendum vote upon any act or measure passed by the State Legislature and to approve or reject the same at the polls, independent of the Legislature?"
- 2. "Shall Section 1 of Article 3 of the Constitution of the State of Idaho be so amended as to give the people the power (under conditions to be hereafter prescribed by acts of the Legislature) to propose laws of their own initiative and enact the same at the polls independent of the Legislature?"
- 3. "Shall Section 1, Article 8, of the Constitution of the State of Idaho be amended so as to limit the bonded indebtedness of the State, exclusive of the debt of the Territory at the date of its admission as a State, and exclusive of debts and liabilities incurred subsequent to January first, 1911, for the purpose of the construction and furnishing of the State Capitol at Boise, Idaho, and exclusive of debt or debts, liability or liabilities, incurred by the Eleventh Session of the Legislature of the State of Idaho, to be limited to the sum of Two Million Dollars?"
- 4. "Shall Section 2 of Article 3 of the Constitution of the State of Idaho, be amended so as to provide that the Senate shall consist of one member from each of the counties of the State now created or which may hereafter be created, and the House of Representatives consist of not to exceed three times the number of Senators?"
- 5. "Shall Article 6 of the Constitution of the State of Idaho be amended by adding thereto Section 6 so as to reserve to the people of the State, or any Electoral District therein the right to recall any public officer except Judicial officers in the State or said Electoral District?"
- 6. "Shall the Constitution of Idaho be amended by repealing Section 3 of Article 13 of the Constitution, which provides that all labor of convicts confined in the State's prison shall be done within the prison grounds, except where the work is done on public works under the direct control of the State?"
- 7. "Shall Section 2 of Article 9 of the Constitution of the State of Idaho be so amended that the general supervision of the Educational Institutions and Public School System of the State of Idaho shall be vested in a State Board of Education, the membership, powers and duties of which shall be prescribed by law?"
- 8. (a) "Shall Section 6 of Article 16 of the Constitution of the State of Idaho be amended so as to make the county treasurer ex-officio tax collector?"
- (b) "Shall Section 6 of Article 16 of the Constitution of the State of Idaho be amended so as to authorize county treasurers and ex-officio tax collectors to employ deputies and clerical assistance when so empowered by the Board of County Commissioners?"

Said election shall be open at eight o'clock in the morning and will continue until seven o'clock in the evening of the same day. Dated this 14th day of October, A. D. 1912.

STEPHEN UTTER, Clerk of the Board of County Commissioners

THIRD TICKETS IN THE FIELD IN THREE COUNTIES

Progressives Make Nominations for County Offices in Twin Falls, Nez Perce and Kootenai.

In three counties of this state—Twin Falls, Nez Perce and Kootenai—Progressive county tickets have been placed in the field making three-battered county fights. Interesting situations have developed with respect to the men who have been nominated and the attacks made on the ticket by the Republican organizations wishing to keep it off the ballot. The Nez Perce county Progressive ticket has been carried into the courts to prevent its certification. This ticket is officially known as the "People's Ticket." Mills Leads in Twin Falls. One of the surprises in connection with the Twin Falls ticket was the nomination of Homer C. Mills for county attorney. Mr. Mills was assistant United States district attorney and but recently resigned. He has been through the Chicago convention and the acts of the reactionary members of the Republican party since then, converted to the cause of the Progressive party and is leading the movement in Twin Falls. Because of Mr. Mills' connection with a federal office it has been

presumed that he was anti-Roosevelt, but he happened to be one of the exceptions of which there are many all over the United States. Soon after his arrival in Twin Falls Mr. Mills was urged to take the nomination for county attorney on the Progressive party ticket and accepted. Bartlett Sinclair in Kootenai. A partial Progressive party ticket has been filed in Kootenai county. There Bartlett Sinclair of Rathdrum, well known in Idaho politics, is the third party nominee for state senator. Mr. Sinclair has been identified with the Republican party for years but refused to stand for the Chicago steal, and the acts of the reactionaries. He has been a candidate for congressman from north Idaho. The other candidates on the ticket are almost as well known. They

are: For state representatives—W. E. Stoddard, Coeur d'Alene; Fred Ulrich, Cougar Gulch; Harry Kaye, Athol, and R. A. Marshall, St. Maries. For treasurer—Constance Cassidy, Coeur d'Alene. The balance of the county ticket was left vacant. Peculiar Situation. The suit instituted to bar the Progressive candidates from the Nez Perce county ticket presents some interesting facts. The Progressives there endorsed a number of candidates nominated by the Republican party but in certifying down the third party ticket they filed, they certified the names of the Republican candidates endorsed, so that in reality these candidates have been nominated twice. They were the

successful candidates at the primaries and filed the acceptances to the nominations. Those attacking the Progressive party ticket want the names of these candidates as well as others barred from the ballot as Progressive candidates. That part of the complaint filed against the ticket referring to these candidates is as follows: "That Jacob L. Goodnight, named in said purported certificate of nomination as a candidate for state senator; Sherman C. Case, as a candidate for representative; Leroy J. Southwick, for commissioner from the third district; John L. Chapman, county treasurer; Elta Brown, superintendent of public instruction, and Edson D. Briggs, county surveyor; were candidates on the Republican ticket at the primary election held on the 30th day of July, 1912,

in Nez Perce county, Idaho, and as such were duly and regularly nominated as candidates for the respective offices for which they are named as candidates in said purported certificate of nomination. That they were such candidates on the Republican ticket at the regular primary voluntarily and after filing the acceptance of nomination for such primary election as required by law. That none of said persons ever authorized, consented, or accepted the nomination attempted to be made in said purported certificate of nomination."

International Dry Farming Congress. Lethbridge, Canada, October 19-26. Excursions via Oregon Short Line October 16-17 and 18, with limit of November 14. See agents for rates and further particulars. Adv. T. Th. O-13

HOW TO VOTE FOR ROOSEVELT. (Cut this out and hand it to some Progressive voter who is not a subscriber to the Capital News and request him to take it to the election booth with him when he votes.) Write the following names in the blank spaces provided for presidential electors in the column set aside for the Electors' Progressive Party and place an X in the circle or square opposite each name: H. HARLAND X E. M. HARRIS X L. M. EARL X H. C. OLNEY X TO VOTE FOR PROGRESSIVE CONGRESSMAN. Write the following name in the blank space provided for congressmen in the column set aside for the Electors' Progressive Party: P. M. SMOCK X TO VOTE FOR THE PROGRESSIVE STATE TICKET. Mark an X opposite the name of every candidate printed in the column headed "Electors' Progressive Party."

A CALL FOR VOLUNTEERS. State Chairman James H. Gipson of the Progressive state central committee desires 3000 volunteers to serve one day in the third great war for American independence—the war which is intended to free this country from the dominating influence of the special interests and corporate greed. The decision of the state supreme court refusing to permit the names of the Roosevelt presidential electors and the candidates for congress to be printed on the official ballot, necessitates the writing in the names which will not be printed. The state chairman asks volunteers to stand at the polls in every precinct of the state and instruct voters on election day, Nov. 5, how to write in these names and to VOTE FOR AMERICAN INDEPENDENCE. All willing to volunteer to serve one day will please fill in and mail the following blank to James H. Gipson, chairman, Boise, Idaho. ENLISTMENT BLANK. James H. Gipson, Progressive State Chairman, Boise, Idaho. Dear Sir—I will work for the Progressive ticket and do all I can on election day to instruct voters how to write in the names of electors and congressman in _____ precinct, _____ county, Idaho. (Signed) _____ (Postoffice address) _____