LITTLE FALLS HERALD

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LITTLE FALLS PRINTING COMPANY

CHAS. E. VASALY, EDITOR.

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FRIDAY, JULY 7.

The Duluth News-Tribune quotes from the Little Falls Herald (Rep.). What on earth have we done to get a thrust like that?

In a letter to the Duluth News-Tribune J. Adam Bede says he never received a dollar from the republican party of Minnesota for services.

In speaking of the republican congressional nomination in this district, Bede's Budget says: "Senator Buckman of Little Falls is the Dave Henderson of the district, and a man of unusual resources, but his business interests forbid him accepting."

The New York Sun has added to its long list of peculiar names, the peculiar one of Pisistratus Pifcalilly, who it is alleged lives in Boston. Little Falls once had a George Washington Pancake, bnt P. P is ahead of that.

Shares of the corporation controlling Brandreth's pills and plasters were recently appraised in a New York probate court at $20,000 each. These goods have been extensively advertised. A word to the wise, etc.

The Minneapolis Irish Standard calls attention to the historic fact that during Victoria's sixty-two years of rule over Ireland "without the consent of the governed," 87 prominent Irishmen have perished in English dungeons, 75 been executed for resisting British tyranny, 3,000 people butchered in suppressing public meetings, 8,000 imprisoned under correction acts. 75,000 died of ship fever, out of 4,200,000 emigrants to foreign lands; 3,668,000 have been evicted from their homes, while famine claimed 1,500,000. The Irish death rate is thus about 1,000 a month for the entire period.

Springfield American: Contrasted with such a personality as that of Bryan, Gorman cannot appear to the best advantage. He excels in craft and political manipulation and deceit, and in the use of language to conceal thought, while Bryan is one of the most ingenuous men who have ever been conspicuous in our politics. He speaks plainly and clearly, and everybody knows where he stands on most questions before the people, and knows that he is sincere, and these are popular qualities, however much appearances may seem to deny the fact at times. There cannot be much gain to the country in substituting a man like Gorman as the democratic leader. It would not be a step forward.

State Senator Valentine Batz of Stearns county, who is a large country merchant, brought a car load of hogs to market, for which he paid farmers $3. He sold them fairly well, but had little profit after the heavy freight was paid. Speaking on this very subject Senator Batz said: "I have not been able to pay farmers any more, nor so much for their produce, but have had to raise, over and over again, the goods I sell them, because raised on me daily. I ordered a carload of lath, and it cost me $1.90 per M, when the last notice was $1.90. A carload of shingles that should have been $2.10 was $2.30. Barbed wire that used to be $1.75 was $3, and so on. More for everything you have to buy, and less for what you have to sell, and less and less margins on the business you do."—G. C.

City Council.

The city council met in adjourned session Friday evening. Present, Carlson, Martin, Mecusker, Peterson.

Bills allowed:

Jos Adams, watching quarantine	21 00
M Jansen, hauling cart	1 50
Geo Robbins, " "	1 50
Wm Burkel, " "	1 50
Hose Co No 3, false alarm	2 50
Hook & Ladder, " "	2 25
Geo Emder, stars for fire police	6 15
Chemical Co 1 false alarm	1 75
F E Stanton, mdse to poor	6 00
Transcript Publishing company note heads and printing	7 30
M Coleman, washing towels, etc	3 75
Hose Co No 3, false alarm	2 75

The bill of Theo. Rayner, $4 50, for hauling away rubbish from back of the postoffice—was allowed. Mr. Trebby endorsed the bill, writing on it that Mr. Rhodes, who owns the building, would not pay it, and the amount would have to be assessed against the property. Mr. Rhodes as will be seen later, has different views.

Saloon bonds as follows were approved:

John Dolan, sureties Peter Medved and P. W. Blake; R. Lafond, sureties A. Tanner and A. Lafond, E. Pilon, sureties R. Marotte and V. Schallern; J. S. Wachlarowitz, sureties F. P. Farrow and J. A. Nichols; J. Simon F. Ellenbecker and H. Bentfield.

Assessor McDonald asked that the council pass an ordinance fixing his salary as already agreed upon.

The street commissioner's report—amount $366.02— was approved.

The street commissioner was instructed to furnish a bond in the sum of $500, the object being to have the commissioners apportion among his workmen whatever is due them. Instead of having the city clerk drawing separate orders, he is to draw but one.

The council then adjourned.

Ald. Lane was the only alderman absent at the regular meeting Monday night.

J. H. Rhodes addressed the council regarding the Rayner bill allowed Friday night. He said that he paid his bills, that the allowance of the Rayner bill was a slur on him, and that he would never pay the amount if assessed against him. He said no written notice, as by law required, had ever been served on him by the board of health, clean the premises, that Mr. Trebby had told him one evening that they should be cleaned, that teams had been sent there next morning to do the work, that Rayner was already there and kept the others away, saying he had the job; that the bill was exorbitant, being $4.50 for much less than a day's work. Mr. Rhodes said that if Mr. Trebby knew anything about law, he would have known the bill was illegal. He also intimated that Trebby seemed to be running a majority of the council and incidentally said that if Trebby was city attorney, he didn't see how Trebby could be a member of the board of health. Mr. Rhodes wanted some action taken, and it was decided to investigate the matter. There is little doubt but what Mr. Rhodes is right, and the city is out $4.50.

The report of Justice Shaw was referred.

Bills Allowed:

Richard Bros., mdse poor	$ 11 98
Andrew Johnson " "	5 00
P Lauerman, lunch for prisoners	65
Hose Co No 2, fire	2 00
J Brown, street work	3 60
J R Steele, street work	20 70
Gust Lindgreen, lodging	2 25
D M Lachance, covering table	2 00
M Poster, hauling cart	1 50

A petition was presented asking that a sidewalk be built on the north side of Fourth avenue southwest, beginning at the southeast corner, block 11, Water Power Co.'s addition, and running four blocks to block 14, Searle's addition.

Consideration of vetoes were deferred, and the council adjourned to July 8th.

R. N. Nichols has been quite ill, but is much better.

The handkerchief and apron sale held by the ladies of the Congregational church Saturday was a success, receipts, including sale of refreshments, amounting to about $60.

During the debate on the Dingley bill, Mr. Dockery of Missouri offered a proviso to be inserted in the first section of the bill, that should the secretary of the treasury be satisfied that an article was manufactured or controlled by a trust, the duty on such article should cease until in the secretary's opinion, the control by a trust has ceased. On that proviso the vote was 104 yeas, all democrats, and 124 nays, all republicans. And yet the republicans claim they will regulate the trusts!

GOV. LIND'S REPLY

Answers the Criticism of His Veto of the Railroad and Warehouse Bill.

Promptly Demands Retraction of Charges Made by the Luverne Herald.

THE CHARGES RETRACTED

Vetoed Measure Would Have Made Redress of Grievances Impossible.

Full Text of Governor Lind's Statement in Regard to the Railroad Case.

ST. PAUL, June 29.—The Luverne Herald, of which State Senator H. J. Miller is the editor and proprietor, has led the Republican criticism against Governor Lind for his veto of the Miller bill, being Senate File No. 24, to make findings of fact in proceedings before the Railroad and Warehouse Commission official court records in such cases. In a recent issue Senator Miller charged unworthy motives on the part of the governor and that he had been governed in his action by certain railway influence. Thereupon Governor Lind addressed to Senator Miller an explicit denial and demand for retraction of his charges, coupled with a full statement regarding the bill and reasons for the veto. Senator Miller, in The Herald of June 22, retracted the charges, with the statement that he would publish Governor Lind's letter in full in the following issue. The full text of the governor's communication is as follows:

ST. PAUL, Minn., June 20, 1899.

Hon. H. J. Miller, Luverne, Minn.

DEAR SIR—I confess I was not a little surprised when a copy of your paper of June 9th was placed before me and I saw the article headed "Lind's Betrayal of Trust," the first paragraph of which reads as follows: "The Herald has made the charge in previous issues that Senate File No. 24, relating to proceedings for the enforcement of the orders of the Railroad and Warehouse Commission, was killed by Governor Lind at the instance or by the demand of the Great Northern Railway company." I had been informed previous to this that you had made charges of some such character in earlier issues of your paper, but I paid no attention to them as I hoped that you would be down to the City and that I might have an opportunity to place the facts before you in their proper light, my time hardly permitting communication by correspondence in a matter so involved as the consideration of our statutes relating to the Railroad and Warehouse Commission, but this last charge is such a brazen falsehood and of such character that, coming from the source it does, I feel that it demands not only an explicit denial, but an explanation of the law as it now stands and the effect of the proposed amendment, so that you and any citizen who desires to understand the matter may see and appreciate the dangerous character of Senate File No. 24, which I refused to sign.

In Minneapolis and St. Louis Railway Company vs. Railroad and Warehouse Commission, 44 Minn., 336, which was one of the earlier cases under the present railroad law before our Supreme Court, Judge Mitchell uses this language: "The act (Laws 1887, Chapter 10) regulating common carriers and creating the Railroad and Warehouse Commission is a piece of legislative patchwork composed of provisions borrowed from different and dissimilar sources without uniformity of plan and not always consistent with each other. A construction of the act is therefore a difficult task." Although the act has been amended several times since that language was used with reference to it, it is still applicable to many of the provisions of the law as it now stands, as any one who has read it with care must concede; but, nevertheless, it has now been before the Court so often and many of its sections so thoroughly construed, that the most striking inconsistencies have been reconciled and the legislation, as a whole, made harmonious by judicial interpretation. In my message to the legislature I recommended only one change and in the following language: "The report of the State Railroad and Warehouse Commission will be laid before you. No new legislation is needed on that subject, except that the record made before the Commission on a hearing should be made to constitute the record on appeal. The present practice of trying a case de novo in the District Court is useless and expensive and by its delays tends to defeat the ends of the law." An amendment in harmony with this suggestion would have been a decided improvement on the law as it now stands and would have had my prompt approval, as it had my cordial endorsement in advance. I cannot help feeling that you are under the impression that Senate File 24 would have accomplished the purpose indicated by my recommendation, for I can hardly conceive that a man of your standing would purposely traduce and malign a public servant from partisan motives alone. I shall therefore take more time and exercise more patience in explaining the law to you than I would to one for whose character and motives I have less regard than I have had for yours in the past, believing that when the matter is placed before you in its proper light you will have the manhood to undo, so far as you are able, the injustice which you have done me.

By our legislation constituting the Board of Railroad and Warehouse Commissioners and defining their powers, the duties of the Board are divided into two classes. The first, and most important, is to pass upon the reasonableness of transportation rates and to prevent discrimination between persons and places. The second, is the power to regulate the manner of maintaining and operating the railroads, with a view to insuring the security, convenience and accommodation of the general public, without regard to the question of rates; in other words—the rate-making power and the administrative power respectively. This distinction must be borne in mind in order to understand the different provisions of the statute and the decisions of our Supreme Court pursuant to them.

In proceedings under the first class of questions, viz.: Those that involve the rate making power and the prevention of discriminations, the railroad company has the right of appeal to the District Court from the determination of the Commissioners. See Subdivision D of Section 15 of the Act. (Page 21 of the pamphlet which I send you herewith). In the other class of cases, which relate only to administrative regulations, there is no appeal from the action of the Commissioners to the District Court. The propriety of their determination can only be inquired into upon a suit instituted for the enforcement of the Commissioners' decision. See the case cited, 44 Minn., page 336.

The "Steenerson case," which is the most important case that we have had in our courts under the law up to the present time, was decided upon a review of the action taken by the District Court upon the trial of an appeal taken from the Commissioners' decision prescribing lower rates. See the statement of the case by Judge Canty on page 714, Vol. 72, Northwestern Reporter. He says: "After summoning the railway company and having a hearing, as provided by the statute, the Commission made an order reducing rates on grain on all the lines of the railway company within the state. From this order the railway company appealed to the District Court and after a hearing on the appeal, the Court reversed the order of the Commission. From the order of the Court the Attorney General appeals to this Court, etc." This appeal was taken under Subdivision D, Section 15, just cited. A trial in the District Court upon an appeal of that character is undoubtedly the most important feature in a proceeding under the law, for upon the record as there made the case will be reviewed by the Supreme Court and eventually in the Supreme Court of the United States, if a writ of error is taken to the latter Court. This trial in the District Court upon an appeal is now virtually a trial de novo, as I suggested in my message, and it was this section that I recommended should be amended so that it would not be necessary to go over again in the District Court the same ground that had been traveled before the Commissioners, for a retrial upon new evidence necessarily consumes more time.

Senate File No. 24 did not assume to correct this defect, as you appear to think, but steps in to amend Section 22, page 26 of the pamphlet, which simply relates to the enforcement of the orders or decisions of the Commission. These orders or decisions are of two kinds: Administrative orders and final orders or decisions involving the rate making power, when such orders have not been appealed from to the District Court. In regard to the latter class of orders, where the railroad company had the right of appeal if they saw fit, it is a well settled principle of law that where an individual or corporation has litigated a question before a tribunal upon the merits and had the right of appeal from the order or decision of such tribunal to the District Court and omitted to exercise it, it cannot subsequently raise any question as to the merits of the order or decision when it is sought to secure enforcement of such order or decision in the courts. It stands upon the same footing, when not appealed from, as a judgment of the District Court rendered upon an appeal under the provisions of Subdivision D of Section 15. Therefore, when such an order comes up for enforcement in the District Court, no question can be raised as to its validity or its reasonableness, provided the company had due notice. Hence the only class of orders or decisions that can be litigated under the provisions of Section 22, which you sought to amend by Senate File 24, as the law now stands are those relating to administrative proceedings.

You will observe by Subdivision B of Section 15 that on the hearing of the appeal provided for in that section "the record of said Commission shall be prima facie evidence of the matters therein stated." The same provision exists in Section 22 in regard to proceedings for the enforcement of the orders or decisions of the Commission under that section. It is provided (commencing on Page 28), "upon a trial of such case, the findings of fact of said Commission, as set forth in its record, shall be prima facie evidence of the matters therein stated." I have underscored these provisions in the pamphlet which I send you. These two provisions are the most important features regulating the practice under the railroad act. They have the effect of throwing the burden of proof upon the railroad company to show that the decision of the Commission is wrong in case of an appeal under Section 15, and likewise that the order or decision was wrong or unjustifiable in proceedings for its enforcement under Section 22. On this point let me call your attention to the language of Justice Canty, N. W. Reporter 72, page 715, who after quoting this provision says: "Then the burden is on the railroad company to show that the rates fixed by the Commission are unreasonable." Justice Collins, page 73 (same volume), commenting on the same provision in the statute, said: "Here we find that by legislative enactment an order of the Commission fixing and prescribing a tariff of rates must be deemed and taken in all of the courts of our state as prima facie evidence that the tariff so fixed and prescribed is equal and reasonable; the onus being thus fixed upon the appealing carrier, in all our legal tribunals and in all proceedings, to show that it is not. The burden of proof was therefore upon the respondent carrier (Great Northern Railroad Company) to overcome a prima facie case presented in the Court below by means of the order of the Commission." I have no hesitancy in saying that but for this statutory provision the judgment rendered in the Steenerson case could not and would not have been rendered by our Supreme Court. The decision, as you will observe, is simply to the effect that the record does not show the rates established are unreasonable or confiscatory. In other words, the Court simply held that the railroad company had failed to overcome the determination of the commission, which the statute said and which the court said was prima facie just and reasonable. I realize that it is difficult and practically impossible to make one who has had no experience at the bar appreciate the immense advantage of going into Court with a prima facie case, instead of being called upon to establish the case by affirmative evidence, particularly in matters of this character. If it were incumbent upon the state to establish the reasonableness or unreasonableness of the rate by affirmative evidence, such as would be admissible in Court, it would be next to impossible under existing conditions to do so. It certainly could not be done without the co-operation of railroad experts. Notwithstanding these facts, the proposed amendment to Section 22, by Senate File No. 24, leaves out this vitally important provision of the section as it now stands. Now Senator, let me ask you in all candor, why was this left out? Did you realize that it had been left out when you introduced the bill? Would you have introduced it, knowing that it was left out? Would you have voted for this amendment with the knowledge that the effect of it would be to shift the burden of proof from the shoulders of the railroad company to the side of the producer and the state? A candid answer to these questions I have a right to ask and do ask of you. But this is not by any means the sole reason why I omitted to sign Senate File 24, although it seems to me that any candid man would regard this not only sufficient but imperatively demanding that it should not have my approval.

I recommended in my message that the record made before the Commission on a hearing should be made and constituted the record on appeal. This was for the sole purpose of expediting matters and saving time. The protracted delays resorted to by the railroad companies on all proceedings against them is, as you well realize, the worst feature in the administration of the law that we have to contend against. The provisions of Senate File 24, instead of tending to curtail and prevent delays, seem especially calculated to further them. The proposed amendment, Senate File No. 24, provides that the Commission should report to the Court the papers and testimony taken before it and further, that if the Court "shall think it needful, that additional evidence shall be taken or further inquiries be prosecuted, it shall recommit the matter to the Commission to prosecute such inquiry." Now, if you know anything about legal procedure, you know that it would be infinitely more expeditious for the District Court to try and dispose of the case before it in its own way than send a portion of it back for rehearing or for the taking of additional evidence before another tribunal. You also know or realize that if this provision had become a law, the first thing that the railroad company would have done upon a report being filed in the District Court, would have been to make innumerable motions, all of which take not less than 10 days' notice, to have this question and that question and the other recommitted to the Commission for the taking of further evidence. But this is not all, nor the worst feature of this provision. The proposed amendment provides that the Commission might be called upon or it might in its own discretion rehear and reconsider all the questions "involved in or connected with its order or requirement, to enforce which the petition was filed, such rehearing to be had adupon alldditional evidence in connection with the whole record filed with the petition, as above provided, and may thereupon make and file in the case with its report and return of evidence taken, an amended or supplemental order, which shall then be substituted for the original order or requirement of the Commission." When this amended or supplemental order was brought in, it would, of course, be subject to the same power of the court to be recommitted, and so on without limit. Now, although I realize that you are not a lawyer, it seems to me that when you consider these facts, especially if you will take the trouble to confer with some competent practitioner, or say Judge Brown, you will see that I am correct in saying that these provisions seem especially calculated to further delays. You will also observe that these are very different provisions from those that I recommended and this subject was not new to me. I had it up in all its phases when a member of the Committee on Interstate and Foreign Commerce of the House of Representatives, and I then arrived at the same conclusions which guided my action in this matter.

You criticise me for not consulting with the Attorney General. Why should I? Would you ask anybody's advice upon a plain proposition where your duty was clear? But I make this suggestion to you. You are at liberty to submit this letter to the Attorney General and take his views upon the questions which I have discussed. I am surprised, in view of your experience in the senate and the judgment which you entertained and expressed of the majority of your colleagues, that the fact that this bill was permitted to go through without opposition was not sufficient to put you on your guard, especially after the passage through the senate with only three dissenting votes of the Shellbach bill, which would have repealed the Anderson law taxing railroad lands, had it passed the house and received my approval. With such experience fresh in your mind, it seems to me that you might have scented the woodchuck in Senate File No. 24.

If you require further information to enable you to understand this subject, let me know and I will cheerfully furnish it. In the meantime, I denounce every statement and innuendo contained in your several articles bearing upon this subject as absolutely false; and as a small measure of reparation, I demand that you retract your charges and that you give this letter such publicity in your paper as you have given the libelous articles referred to.

Yours truly,

JOHN LIND, Governor.

THE TROTTING RECORD.

John Oberholzer, Norristown, Pa., has converted Lady Lysdyk to the trotting gait.

Princess Clara is in training once more. In 1893 she took a yearling race record of 2:26½.

Askey, 2:08¼, was not broken until 5 years old and made his first start as a 7-year-old.

When the winter racing season in Russia closed, Frank Caton had won $8,000, standing at the head of the winning list.

Central Girl, 2:22¼, by Nutwood Wilkes, sire of Who Is It, 2:12, has worked a mile in 2:17 on the Alameda (Cal.) track.

John Splan says the best thing he saw while on his recent trip to Kentucky is the filly Extasy, 2:10½, who is being taught to trot.

Bert Sheldon, Jr., is 16 years old and commenced the campaign of 1899 by taking the 2:17 trot at Newark, N. J., Memorial day in handy fashion.

Sir Eld, 2:14¾, has gone lame and will be laid up for several weeks. A misstep on the speedway of New York in a brush with Red Lady, 2:12¼, did the business.

Frank B. Walker has been engaged to do the starting at the Nashville meeting, Oct. 16-21, and it is understood that John B. McFerran has been requested to act as presiding judge.

The guideless pacing mare Cute, 2:15¼, stepped the Brodhead driving park track, New Paltz, N. Y., Memorial day in 2:13½ and again covered the same track June 3 in 2:12, beating the track record.

For two years horsemen have been speculating as to the ownership of Page, 2:09¾, by Polonius, but in the recent death of Charles E. Tilford the owner of the Orange county (N. Y.) trotter was discovered.—Horseman.

CURTAIN RAISERS.

Nat Goodwin, it is said, contemplates playing Shylock.

A new farce is projected with an automobile as its theme.

A burlesque on "The Children of the Ghetto," called "The Children of the Stiletto," is on the market.

An enterprising electrician has taken contracts to keep several New York theaters cool this season with liquid air.

When Olga Nethersole returns to this country next season, she will have an exclusively American company to support her.

Henry Irving, the Kendals and N. C. Goodwin will play engagements at the Knickerbocker theater in New York next season.

Mrs. Beerbohm Tree will act in London, but not at her husband's theater, in Mme. de la Vallette, which Rejane played first in Paris.

Ernest Martin, a member of Sir Henry Irving's company, has written a volume of essays on social evils, entitled "Shadows and Glimpses of Society."

It is stated that a leading Japanese actor and actress are coming, with their company, to make a tour of this country. They will open in San Francisco.

Mason Mitchell has just closed a contract with Major James B. Pond to begin a war lecture tour in October. Mr. Mitchell will have two lectures, illustrated by colored dissolving views of Santiago and its environs and Samoa.

Annie Russell thinks the naturalistic school of acting is in the ascendant. She says: "We are returning to the drama of the home and of the heart. We are abandoning our fads and seeking simplicity. We are just coming home again to the affections, to sanity, to the real and the beautiful. The drama of romance, of true love, is here with us more and more frequently."

FICKLE FRANCE.

A French crisis would seem to be a more serious thing if it were not so frequent.—Evening Wisconsin.

The ease with which a French cabinet can be upset is the admiration and despair of the American people.—Philadelphia Ledger.

The French ministry whisks in and out with all the pensive grace and celerity of a cow's tail in fly time and with little more significance as a rule.—Buffalo Courier.

Somebody ought to take a hatchet and a gourd full of nails and make a cabinet for the French republic that will hold the cigars and decanters.—Memphis Commercial-Appeal.

A French scientist proposes to work up a lot of artificial clouds for the Paris exposition. One would suppose they had enough of the real article to make a good showing.—Kansas City Times.

France pays little attention to the question of what she shall do with her ex-presidents, her attention being engrossed in the treatment of them while they are in office.—St. Paul Pioneer-Press.

THE ROYAL BOX.

King Humbert of Italy, ruler of one of the greatest wine producing nations, is almost an abstainer.

The Prince of Wales is 5 feet 6 inches high and weighs 180 pounds. He has light gray eyes, a gray beard, a brown complexion and a bald head. His hands and feet are small.

Nearly all the dresses worn by the Princess of Wales are made from pen and ink sketches drawn by her royal highness. By her express wish these designs are always returned to her.

Emperor Franz Josef of Austria is to devote a large portion of his private fortune to the erection of a large block of flats for persons of the well to do middle class. He has gone out of mourning for his wife.

The queen of Italy is still a very handsome woman and certainly most sympathetic in manner and speech. But she is growing too heavy. Her majesty is heavier than any other queen in Europe, her weight being 176 pounds.

THE PUNSTER.

Whisky straight makes crooked paths.

Every married woman travels under an assumed name.

Powder magazines ought to be classed as flash literature.

The pawnbroker should not be censured for keeping his pledges.

Some girls make their gowns, and the gowns of some other girls make them.

The chairman of a meeting uses his gavel when he wants rapt attention.

It's a sad mistake to judge a man by what he gets instead of by what he earns. He may get more than he earns.—Chicago News.