

BRIEF FOR BECKHAM

Says There Is No Property in a Political Office.

SUPREME COURT NO CONTEST BOARD

Reasonable Notice and Fair Hearing Constitute Due Process of Law, and Legislature Is Final.

WASHINGTON, April 29.—Lewis McQuinn, attorney for J. C. Beckham, has prepared and will file his brief tomorrow in the Supreme Court in the case involving the title to the Governorship of Kentucky. On the 29th, the Supreme Court, it is contended that the provisions of the Constitution and statutes of Kentucky governing the trial of contested elections are unconstitutional.

As to the sufficiency of the statute, it is said: "It will be perceived that by the provisions of the Kentucky statute notice of the contest, specifying the grounds, must be given within 30 days after the action of the canvassing board, the members of the board must be selected by lot and sworn to try the contest; the board is required to assign a day for hearing the contest and may adjourn from day to day; it has power to compel the attendance of witnesses and to swear them; it may compel the production of papers and records; six members may render a decision, which must be reported to both houses of the General Assembly, which shall finally determine the contest. Thus it will be seen that a hearing, after reasonable notice, is provided; and this is all due process of law. It is not necessary that the process should issue from a court or that the hearing should be by a judicial officer. Neither is it necessary that there should be a trial by jury."

The Supreme Court of the United States in Iowa Central Railway Company vs. Iowa, 100 U. S. 322, is quoted to sustain this point, as follows: "The 14th amendment in no way undertakes to control the power of a state to determine by what process legal rights may be asserted or legal obligations enforced, provided the procedure adopted for these purposes gives reasonable notice and affords a fair opportunity to be heard before the issues are decided."

The provisions of the constitution and statutes of Arkansas, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Mississippi, Missouri, North Carolina, Oregon, Pennsylvania, Tennessee, Virginia and West Virginia, which are substantially the same as the Kentucky constitution and statutes regulating the procedure on the trial of a contest in the election for Governor, and it is said that the corresponding provisions in the organic laws of all the states referred to are likewise invalid.

As to the notice made by the counsel for Taylor that, in the administration of the law, the contest board and Legislature did not allow sufficient time for hearing, it is contended that the state provided a statute regulating the procedure allowing a hearing after reasonable notice, and the board or Legislature departed from the statute and rendered an erroneous decision, this does not bring the case within the prohibition of the amendment to the Federal Constitution. A decision of the Supreme Court of the United States is quoted in support of this last proposition.

It is insisted that there is no property in a political office, and hence its deprivation cannot fall within the inhibition contained in the 14th amendment. Numerous decisions of the Supreme Court of New York, Kentucky, Ohio, Missouri and Wisconsin are cited to sustain this proposition.

It is insisted that if this case presents a Federal question, then, by like allegations to those made here, such a question may be presented in every election contest and the court of last resort be compelled to determine the constitutionality of the laws of every state. It is therefore insisted that the motion to dismiss the suit should be sustained, because there is no color of a Federal question in the case. It is held that the jurisdiction of the Assembly is exclusive and its judgment is conclusive; that no other tribunal or court under any form of proceeding or any mode has jurisdiction to determine the constitutionality of the laws of a state, or to review the action of the Legislature.

In reference to the contention of Taylor's counsel, that the determination of the contest by the board and Legislature was the result of a fraudulent conspiracy on the part of members of the Legislature, it is maintained that the journals of that body showing the action cannot be impeached for fraud or mistake, and that they import absolute verity. Concluding the brief, referring to the act of Governor Taylor in adjourning the Assembly from Washington, it is contended that the state statutes which require the state statutes to uphold their claim that he had no authority under the conditions then existing to adjourn the Legislature.

TAYLOR RETURNS TO KENTUCKY

Spent Day With His Family in Frankfort and Left in Evening. LEXINGTON, Ky., April 29.—Governor W. E. Taylor passed through this city yesterday morning on his way to Frankfort. He was met at the depot by a large number of leading citizens. He stated that he returned to silence the rumors that he was leaving the state in a hurry. After attending to the matter of ascertaining whether there is any indictment against him, he will return to Washington. A number of Lexingtonians will go to Frankfort to add him in any way within their power.

No Warrant Served.

FRANKFORT, Ky., April 29.—Governor Taylor returned here from Washington and spent yesterday at the Executive mansion with his family. But few people were aware of his presence in the city till this evening, when he appeared at the railroad station and boarded a train for Louisville. The local officers and those in charge of the prosecution knew that Governor Taylor was here, and the fact that a warrant of arrest was not served upon him is now construed to mean that the indictment in this case will be held up and no process issued on it for several days. The indictment was returned in open court the day after those named in it, Taylor and others were returned, but was not entered as of record, and is now known to be in charge of Judge Cantrell.

Seven to Be Arraigned Today.

FRANKFORT, April 29.—Caleb Powers, Henry E. Youtsey, Harland Whittaker, John W. Davis, W. H. Culton, Wharton Golden and Richard Combs, alias "Tallow Dick" (colored), charged with complicity in the murder of William Goebel, will be arraigned tomorrow. Motions for bail are to be made in each case, and motions for a change of venue have been applied for by Powers, Davis, Whittaker and Combs. A large array of witnesses has been summoned.

MAY NOT NAME BRYAN.

Wharton Barker would like the Middle-Road Populist nomination. PHILADELPHIA, April 29.—Interest has been aroused in the approaching Populist National convention, which will be held in Cincinnati May 9, owing to the possibility of that party turning its back upon W. J. Bryan. According to Whar-

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This gathering will represent over 17,000 itinerant preachers and nearly 3,000,000 members. It has control of large property interests. The valuation of church and parsonage property alone is \$24,000,000. Three and a half millions are invested in the publishing houses of the church. The hospitals, homes and institutions of learning represent many millions more. It is a vast organization and as a compactly joined together as an army. Each member of the conference is chosen by the state conferences in much the same manner that a Senator is elected by a state legislature. The delegates have their traveling expenses paid by the church and are allowed \$1 per day for board while attending the general conference. The outlay of the Chicago committee of arrangements, the expense will considerably exceed \$100,000.

The general conference bears the same relationship to the world-wide Methodist Episcopal Church that Congress does to the Government of the United States. It is a delegated law-making body and supreme court combined. It makes and interprets all the laws of the church. Routine business will be transacted in the Auditorium during the forenoon of each day, and committee meetings will be held in the afternoon in Budebaker Hall, 312 North Dearborn Street. It is a vast organization and as a compactly joined together as an army. Each member of the conference is chosen by the state conferences in much the same manner that a Senator is elected by a state legislature. The delegates have their traveling expenses paid by the church and are allowed \$1 per day for board while attending the general conference. The outlay of the Chicago committee of arrangements, the expense will considerably exceed \$100,000.

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CARTER STOLE \$2,000,000

GOVERNMENT EXPERT TELLS HOW IT WAS ACCOMPLISHED.

The Thief Was Systematic and Carefully Invested a Portion of His Plunder Monthly.

ATLANTA, Ga., April 29.—The Constitution tomorrow will print the report of Edward L. Johnson, the expert accountant detailed by Attorney-General Griggs to assist in developing the extent of the frauds charged to have been perpetrated upon the Government by Captain O. M. Carter, now serving a sentence in the military prison at Leavenworth, Kan. Accompanying the report, which was made yesterday to Mr. Erwin, is a statement from Mr. Westcott, Carter's father-in-law, in which he repudiates Carter's statement that the assets in the affair were Westcott's.

Extracts from expert Johnson's report show how with each monthly issuance of debasing checks to the contracts Carter invested a third of the total amount in bonds or securities. The report shows a continuance of the divisions, month by month, as the money was paid by the Government from the bonds of the end of Carter's control at Savannah, and on this feature of the report the Constitution says the figures show Carter's one-third of the spoils to have been over \$500,000, exclusive of his share in the late checks for \$57,745.90, which were paid over in New York at the time Carter was about to leave the district, when succeeded by Chamlette.

Westcott is furnished the Government with the receipt of Carter in the Captain's own handwriting under dates of October 11 and 29, 1897, for all of Carter's securities left with him and so returned by Carter, amounting to over \$400,000, the receipts specifying the securities in detail. These in the fall report says that over all of Carter's investments made since the beginning of his operations with the other defendants.

This would indicate the total loss to the Government of \$2,000,000.

Columbian Rebels Win Again.

NEW ORLEANS, April 29.—The steamer Fulton arrived here today, with the news of the fall of the Central American Republic. Captain Jacobson, of the ship, learned that Dr. Zambola, an agitator, well known in the United States as a promoter of revolution in Central America, had returned to the South, and that Zelaya, President of Nicaragua, had issued a warrant for his arrest.

Gall Stones in Tanner.

CHICAGO, April 29.—The skeleton of Governor Tanner's anatomy, taken Saturday, was developed today, and revealed the presence of gall stones in the biliary ducts. The Government will remove Springfield tomorrow, where an operation will be performed.

MUTOSCOPE.

See the handsome moving pictures now on exhibition at Union Pacific ticket office, 135 Third St. Free.

Constipation

Headache, biliousness, heartburn, indigestion, and all liver ills are cured by Hood's Pills

Hood's Pills

Sold by all druggists. 25 cents.

Overworked Nerves

and wasting vitality make their presence known through headaches, dizziness, inability to sleep, loss of appetite and a general run-down condition of the system. These signs are sometimes accompanied by neuralgia, hysteria, rheumatism or nervous prostration in some other form. To remove these troubles, cure the nerves. They need feeding, strengthening and building up, and nothing will do this so quickly and so surely as Dr. Miles' Nervine. This truly remarkable medicine is gaining hundreds of new friends every day. Here is a surgeon from Decatur, Ind., Mr. G. E. McKean, who writes: "A chronic stomach trouble, which my physician was unable to overcome, so wore on my nervous system that I broke down with nervous prostration. I could not sleep day or night except in fitful snags; could scarcely eat any kind of food and wasted away to a mere shadow. After spending over \$300.00 in a vain search for relief, I was prevailed upon to try Dr. Miles' Nervine. Relief came immediately. I took six bottles and today am a well man." Dr. Miles' Nervine is sold at all druggists on a positive guarantee. Write for free advice and booklet to Dr. Miles Medical Co., Elkhart, Ind.

Tutt's Pills

Cure All Liver Ills.

A CLEAR HEAD; good digestion; sound sleep; a fine appetite and a ripe old age, are some of the results of the use of Tutt's Liver Pills. A single dose will convince you of their wonderful effects and virtue.

A Known Fact.