

CHARGES PLOT TO OUST N. Y. MAYOR

District Attorney Swan Declares That Object of Special Grand Jury's Activities

ATTACK ON HEARST, TOO

By the Associated Press
New York, Feb. 19.—District Attorney Swan issued a statement last night in which he claimed that the extraordinary grand jury's charges against the three assistant attorneys were preferred as a subterfuge to bring about Mayor Healy's removal and "to find something on William Randolph Hearst." Mr. Swan asserted that the grand jurors expected Attorney General Newton to designate Alfred L. Becker, deputy attorney general, to take his place.

"The grand jury, presided over by Mr. Almiral," he continued, "has two main objects. The first is to find something on the mayor, or a pretext on which he may be removed and another appointed in his place, with a lively hope that the other may consent to an eight-cent fare. The other is that the other Mr. Becker will enable them to find something on William Randolph Hearst who has been a thorn in the side of the Interborough and the traction combination for years and a man whom they consider to be the chief opponent of the granting of an eight-cent fare."

"From the day the district attorney announced to the extraordinary grand jury," Mr. Swan continued, "that he was investigating the fabric of the written financial statement published by the Interborough officials and J. P. Morgan & Co., upon the faith of which the public bought \$23,000,000 of short-term notes in September, 1918, the dominant members of the extraordinary grand jury, who had been controlling its action, began a search to find something against the mayor and the district attorney, and they were joined in the search by the judge on the bench, who personally devoted two months of his time and labor to it."

"The claim that they desire to investigate this office is merely a pretext to secure a substitution of the attorney general for the district attorney, who refuses to be a party to their desires."

"They have two objects, I reiterate. First, to do the bidding of the great and powerful traction interests, and the other is political. In the language of one of the members of the extraordinary grand jury himself, that is to eliminate Hearst from the affairs of this city for all time. And this was the opportunity."

Attorney General Newton said here he had not been officially notified by the governor of his designation to succeed District Attorney Swan as counsel to the grand jury. When he is officially notified, he added, he would go to Albany and confer with the governor, and that announcement of the appointment of an assistant to carry on the work before the grand jury would be made from there.

PHONE EARNINGS INCREASE

Operating Revenue for November Greater Than in 1918
Washington, Feb. 19.—(By A. P.)—Telephone companies earned more last November than during the same month the year before, according to figures made public today by the Interstate Commerce Commission. Net operating revenue for sixty-four companies in November was \$8,950,424, an increase of \$699,308 over the net operating revenue in November, 1918.

Gross revenues for November totaled \$36,576,181, an increase of \$6,821,082 over the preceding November. Operating expenses aggregated \$27,625,757, compared with \$21,744,082 in November, 1918.

READERS' VIEWPOINT

Letters to the Editor on Current Topics

Prohibition and the Constitution

To the Editor of the Evening Public Ledger:
Sir—What follows is largely suggested by a most interesting and timely editorial in the *Evening Public Ledger* of the 5th instant entitled "Legal Quibbles Can't Kill National Prohibition." The article in the main deals with that part of Mr. Root's argument at Trenton some days ago in the Feigenbaum case, to the effect that the Eighteenth amendment is bad because it involves legislation. The writer seems to agree with Mr. Root from an academic standpoint but not altogether from a practical point of view. If Mr. Root's point only concerned the minutiae of this constitutional formulation, one would be inclined to agree with the editorial and also to agree in any event if the amendment had been ratified by the people as such.

Scientifically speaking, constitutions and so amendments should be confined to the statement of general propositions concerning governmental functions leaving the details to be worked out by the legislature. In the more modern instances of state constitutions, the method is often the reverse. The constitution itself furnishes some illustrations. This is doubtless because the framers (as the editorial indicates in the case here) are afraid to trust the purely legislative end with the carrying out of general directions.

This is not necessarily fatal to a constitutional amendment, if fundamentally within the power to amend, nor perhaps if beyond that power if it is adopted or ratified by the vote or other direct action of the people. In such a case, while its initiation might be technically invalid, it could be held good on the theory of being based on a revolution, though the ratification of 1873 as regards certain forbidden changes in the bill of rights was deemed to be partly revolutionary and was sustained on the ground of the approval of the people by vote of a large majority. It does not have Mr. Root's argument on this question, but rather understands it goes deeper than the mere question of legislative detail. The initial business of Congress is only to "propose a general subject, that is, leaving it that be referred to the then Congress (almost certain to be a different body from the proposing Congress) in its purely legislative capacity to apply and carry out. Whereas, here Congress is not proposing something affecting the powers of the government generally, but is acting particularly and directly and so legislating in a way that is irreparable by another Congress, certainly as to the time when prohibition begins.

An essential element of legislation is that it is subject to repeal by the same or a succeeding law-making body. There has been no approval by the people as such. Apparently this is not required by Article V. Nevertheless, this may be held to be an essential factor for the amendment of this nature and that too in a reasonable construction of Article V.

However this may be, what is even more interesting, is the latter part of the editorial. In the last paragraph the writer senses and refers to what seems to be the evident underlying question: that is, that the amendment involves the appropriation and exercise of police powers by the Federal Government which were never granted to or vested in that government by the states, but on the contrary were reserved by them. The editorial writer's answer is that the states (I take it meaning the "people" and not merely the political or governmental organization) have consented to surrender their police powers over the liquor traffic, through the requisite number of state legislatures ratifying the amendment. But is not this really the very question involved? Have they? Can it be done in this way? This of course can only be settled by the Supreme Court.

It is probably one of the most, if not the most, momentous constitutional questions that has ever arisen. The present objective of prohibition (with which we have no quarrel) is negligible, a side issue, considering the fundamental questions of government concerned. Whether the amendment stands or falls must depend upon the constitutional provisions and having regard to the possible effect upon our dual system of government.

It might be of interest to discuss here these questions, but to do that reasonably would involve too great a trespass upon your generosity in the matter of space. However, this perhaps may be added. Another important amendment

(the object of which is not in question here) is now in process and likely will be soon confirmed. Its sponsors are already celebrating it, judging by the temper of the times, there will probably be more attempted of various sorts and kinds, particularly in view of the fact that this eighteenth amendment demonstrates the celerity and easiness with which changes in our system of state and federal government can be made. A New York journal very recently suggested that the time was ripe for a constitutional convention to deal with the entire federal constitution more or less and that the party that adopts this as a plank will secure a potent following. We don't agree with this, but it shows a trend of thought.

Therefore, would it not be well and forethought, while we are in the way and the amendment is good, to propose still another amendment, namely to Article V, providing that no amendment affecting the reserved rights and powers of the states or the autonomy of the states and federal system of government, particularly as to the established powers of their judicial branches, shall be valid, without direct action by the people either by vote through conventions or by referendum? Thus eliminating the possibility of binding people by mere action of state legislatures or the choice of state legislators never contemplated such an exercise (surrender of reserved powers, etc.) on their part, and in one state, if not all, are without power to surrender and give away the very thing which they are constitutionally guaranteed by this eighteenth amendment it is contended they have surrendered, and who, at least, have seen to it, are absolutely without power to add to or take away from their own state constitution without the approval and vote of the said people.

There appear to be good reasons, even as Article V now stands, for contending that amendments such as those above indicated would not be valid, but a change of this article would remove any doubt. The question is not new, except in its present emphasis. It was foreseen some 125 years ago. The present seventeen amendments did not touch it or did not squarely raise it. This eighteenth amendment does. That is the reason for this communication.

WILLIAM S. WALLACE
Philadelphia, February 14.

Mr. Bryan and the Unwelcome Guest

To the Editor of the Evening Public Ledger:
Sir—Your narrative of the good nature with which William J. Bryan accepted the joke upon himself when he learned that the most appreciative applause of a speech he made in Nebraska, came from two inmates of the State Insane Asylum, the orator thereby proving himself, as you say, "not entirely without a sense of humor," recalls a memory of a visit of the peerless leader to this city.

It was some years after his second defeat for the presidency—about 1906, I think—that Mr. Bryan was a guest at the Pen and Pencil Club for a few hours following a lecture on "The Prince of Peace," or one of the other topics that engaged his platform eloquence. Beer was served at the luncheon—the eighteenth amendment and the Volstead act were unborn in those halcyon days, and when an attendant started to open a bottle for the distinguished visitor the latter shook his head as he declined the proffered refreshment.

"Do you object to our drinking, Mr. Bryan?" politely inquired one of his entertainers.

"Oh, no," was the answer, though perhaps in a deprecatory tone; "that is, if you want to."

My recollection is that all the newspapermen present did want to and emptied their bottles of beer.

"Conversation grew animated and in the course of it one daring spirit asked: 'Mr. Bryan, do you expect to be a candidate in 1908?'"

A smile, reminiscent but plainly amused, came to the face of the peerless perennial as he replied:

"Boys, I'll tell you a little story in answer to that leading question. 'Out in Nebraska a dance of a party of some kind was given by a select group. No one was permitted to enter the hall except persons who had invitations. Early in the course of festivities a young man, by some hook or crook, had managed to gain admittance without the

necessary passbook. He was quickly espied by the floor manager or some one else in authority and told to get out. When he demurred he was kindly but firmly taken by the arm and escorted to the door. And the dance went on.

"By and by the uninvited one made a second appearance and had got well into the hall before the floor manager saw him. Without delay that official approached the stranger and sternly ordered him to leave. This time the intruder sought to remonstrate more vigorously than he had done at his first exit. To the aid of the lynx-eyed controller of the social convention came several other husky young merry-makers, who laid violent hands on the outlander and thrust him from the room, accelerating his passage by a lusty kick or two.

"As he regained his equilibrium the rejected visitor muttered: 'I know what's the matter; they don't want me in there.'

"Mr. Bryan's smile, as he concluded his

anecdote, again was reminiscent, but with a touch of inecrutability for all its good humor.
H. J.
Philadelphia, February 17.

Why Min's Mother Dusted

To the Editor of the Evening Public Ledger:
Sir—I am offering the following solution to the mystery of the "woman in black":

Uncle Jim is a married man. After deserting his wife he sailed to Australia and struck it rich. Then he became lonesome and decided to visit the Gumpas and share his riches with them. Suddenly he discovers his wife hounding him. Realizing she must be wise to his accumulation of cash and not desiring to include her in his profit sharing campaign, he breaks camp and beats it back to Australia. However, his wife, not knowing of his departure, still hangs around the Gump mansion.

As soon as Min's mother saw the

"face at the window" she thought it was the dressmaker who "manufactured" that costly wardrobe which she brought along and had not "settled" for. Hence the departure of mother. An for Andy and Min's nervousness, that's their natural disposition.
CARL A. ROGGE
2743 North Ninth street.

She's Trying to Steal Chester

To the Editor of the Evening Public Ledger:
Sir—Here is my opinion: I think the woman in black heard about Uncle Jim being a very rich man and that he gave Andy Gump a couple of hundred dollars. She is trying to get a chance to steal the money, but every time she is being caught as one of the Gumpas always sees her, and then she hides or runs away.

Or, hearing Uncle Jim giving the Gumpas money, she is trying to steal Chester and hold him for a ransom.
FANNIE ABRAMS
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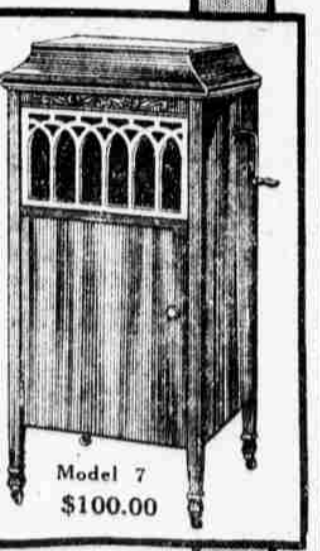
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