HANLY RIDDLED

Ex-Attorney General Smith, In a Speech at Franklin, Exposes the Governor's Deception.

The Truth Told About the Attorney General's Office.

In a speech at Franklin on Oct. 11, Hon. A. G. Smith, former attorney general, took occasion to unmask the hypocrisy of Governor Hanly and to call him to account for the willful misrepresentations that the governor is repeating over the state. Mr. Smith said:

The office of attorney-general was created by statute in the year 1855. From the first the power to collect moneys due the state was given to that office, and the attorney-general deducted from such collections the commission allowed by law. During the legislative session of 1889, the law governing that office and fixing the powers and duties thereof was revised and re-enacted. This statute was passed and approved March 5, 1889. It was a Democratic legislature that passed it, and a Republican governor who approved and signed it. The law was drafted by Hon. L. T. Mitchner, then attorney-general and a Republican, and its enactment was urged by the superintendent of public instruction and the highest school officers of the state; the reason for urging its enactment was that large amounts of school funds were diverted from their lawful channel, commingled with other funds, and practically lost to the schools of the state, and much of this fund had been lying dormant in the counties and in the hands of defaulting and negligent officers for many years; and the existing laws made no provision for the correction of these evils or for the restoration of this fund. This statute made provision for the appointment of collectors, sometimes called assistants, by the attorney-general, and provided that for the collection of any fund by the attorney-general or his assistants, which did not bear the expense of its collection, such expense should be paid out of any money in the treasury, not otherwise appropriated. This provision of the statute was intended by the legislature to compensate the attorney-general for expenses incurred in making such collections. The law provided that for all collections made by the attorney-general of whatever kind or character there should be paid to him a commission of practically twenty per cent, and to his assistants who made such collections a sum not exceeding ten per cent on the amount collected.

It is well to mention here that the assistants engaged in making collections for the attorney-general's office were simply expert accountants, and had nothing whatever to do with the legal machinery of the office. And it is unnecessary, perhaps, to say that the cost of making the collections was, in many cases, in excess of the amount allowed by law, in which case the excess was borne by the attorney-general.

At this point I wish to call your attention to the fact that the act just mentioned was drafted and caused to be introduced under the management of Mr. Mitchner, who was then attorney-general, without my knowledge or participation, and it was approved by Governor Hovey. Under the provision of this statute Attorney-General Mitchner operated for nearly two years. His collections were very large and the amount of money he earned under this law exceeds the amount earned by all of his successors in office. I mention this to call to your mind that if an officer is to be condemned because he has made too much money under the law, then it is but common decency that all be placed upon the same level and be subject to the same treatment, however indelicate it may appear from a partisan political point of view. Mr. Mitchner is a Republican politician. He is a clever gentleman and an honest man. So far as collections were concerned, he conducted that branch of office exactly as I did and as was afterwards done by William A. Ketcham, Republican, who succeeded me. I made the same class of collections as Mr. Mitchner made; Mr. Ketcham made the same class of collections that I made. Practically the same assistants who collected funds for Mitchner were retained by me through my term and continued to work for Mr. Ketcham during the period that he operated under the law of 1889. I know of no better lawyer than William A. Ketcham; nor do I know of any man possessing a higher order of integrity. When he succeeded me he was familiar with the powers and duties of the attorney-general's office. He knew the kind of funds that were being collected by the office, and the law under which they were collected, and the method of collection and the compensation paid for such work, and if he ever changed the method, I have no knowledge of it. His work in this regard, as in quite everything else connected with that office, is an approval of what I did while there, and I am satisfied to remain in his class. I repeat, only to emphasize, that in so far as the administration of the attorney-general's office relates to collections made under the law of March 5, 1889, is concerned, the work of Mr. Mitchner, myself and Mr. Ketcham is identical, and as to earnings does not differ in kind, but only in degree. Both my immediate predecessor and my immediate successor in that office are Republicans. "They are alive," and they are reputed to be rich. Now why are they left out of the calculation when the tongue of slander, falsehood and detraction is waged against me? I agree that nothing hurtful can be said of these gentlemen. But I stand just where they do, and what may be said of me in regard to collecting public funds under the law of March 5, 1889, can be said of them. Am I singled out at this late day as the victim of the shafts of insinuation, falsehood and malice simply because I am a Democrat? I was attorney-general of Indiana from November, 1890, to November, 1894, and it was my pride to give to the people of this state a faithful honest and useful administration, and barring possible mistakes and errors my record is clear. No attorney-general ever went out and made collections of delinquent funds himself. The most that a careful officer could do was to select competent assistants and trust the work to them, and after exercising all the care possible, if mistakes occur, they are simply mistakes and should be corrected when fully ascertained.

The governor says I made too much money while attorney-general, in the manner as he stated it. And then he asks dramatically, "was he worth it?" I need not accept or deny the correctness of his statement of the amount I made. That is of no consequence if what I earned was earned under the law. If the law was too liberal, it is for the legislature to change it, and to reduce the compensation it allows. My compensation was fixed by the law and every effort was made to comply strictly with its provisions. I will later on discuss the question whether I got more than I was worth. The question now is, had I a right to take it? Would you have taken it? Would the governor have taken it? Would any official who operated under a law fixing his compensation have refused to take that which the law gave him? It seems not. The question answers itself.

Did I Earn More Than I Was Worth?

Let us look into this proposition. In 1891 the legislature enacted what is known as the new tax law. It was a Democratic caucus measure. It was strongly opposed in the legislature by nearly all of the Republican party and a few members belonging to the Democratic party. It finally became a law, and under it a new valuation of all the property in the state was directed. Then the fight to defeat it began in earnest. Politicians and newspapers demanded its overthrow, and the great corporations took the lead to defeat the power of the legislature to enact such a measure. They declared that it was unconstitutional and the valuations of property fixed under its authority were void. Railroad corporations doing business in this state went before the tax board and resisted the assessment of their property on the ground that the law was invalid. The board, however, overruled these objections and increased the valuation of railroad property for taxation from $69,000,000 to $160,000,000, an increase of $91,000,000 in a single year. To defeat this assessment, all of the large railroad corporations brought suits to annul the law for the alleged reason that it was in violation of both the state and federal constitution, and the assessment of $160,000,000 against their property was void. These suits were commenced in various parts of the state at the same time, and temporary injunctions granted to stay the collection of taxes until a final hearing could be had.

To sustain the law and save possible loss to the state, the attorney general employed additional counsel and began a vigorous defense of the law. There is no denying the statement that at that time the whole Republican party of the state was up in arms against the law. The Republican state convention met at Fort Wayne and resolved against the law, stigmatising it as fraudulent and demanding its repeal. Mr. Fairbanks made a speech against it and the whole party machinery was set in motion to overthrow the law. I went before the people to defend the law; I followed the accusations of the corporations against the law into the courts and fought it out there. From one court to another for over two years, I followed these corporations in defense of this law and finally landed in the supreme court of the United States, where I met and defeated all the corporate power centered in Indiana. The victory was a great one for the people of the state. The constitutionality of the law was sustained and the assessment against railroad property, amounting to $160,000,000 was affirmed—an increase of $91,000,000 over the old valuation. When the decision of the supreme court of the United States was made final, these corporations owed four years' taxes to the people of this state. I forced the payment of these taxes to the people of the state. I forced the payment of these taxes into the proper treasuries, amounting to millions of dollars. In this great conflict I received nothing and paid my own expenses. Do you now ask the question, "Was he worth it?" Did he earn his pay while serving the people as attorney general?

Let me go a step further. By examination I discovered that the great properties owned by the sleeping car companies, the express, telegraph and telephone companies, doing business in Indiana, were paying no tax on their invested capital and valuable franchises, and that there was no law in the state whereby this property could be adequately assessed and valued for taxation. So during the session of the legislature of 1893, I had prepared a bill providing for the assessment of this great property. It was introduced in the house and after much delay, occasioned by a lobby interested in the defeat of the measure, it passed the house and was transmitted to the senate. There the most powerful lobby attempted to defeat the bill and held it up on third reading until six hours before adjournment. It passed the senate, however, after the most persistent fight ever made over a single measure in that body. I bore the brunt of that fight. No sooner had the bill become a law than these corporations assailed it in court. I met these suits and fought them until the last hour of my official life, and handed the unfinished business over to my successor in office. The law was finally upheld in all its parts by the courts, and the property owned by these corporations have ever since been paying taxes to the state on the same basis as railroad property. I am not prepared to say how much taxes the people have received from these corporations. The sum is large. It is safe to say it is up into the millions. Before the passage of that law those corporations paid nothing on the capital invested. It was through my personal efforts as attorney general that they are paying now. Do you still ask the question, "Was he paid too much?"

Let me go a step further. In 1892, the Union Railway and Belt Railroad of Marion county brought suit to set aside and have held void an assessment of $6,000,000 on their property. They refused for about three years to pay any taxes. I appeared and answered that suit. I filed a counterclaim asking judgment for the amount of their delinquent taxes. The case was tried before Judge Reinhard, sitting as circuit judge, and after a hotly contested trial, with Hon. A. C. Harris for the plaintiff, I recovered judgment for $130,000 against these two corporations. Pending an appeal to the supreme court, I went out of office. After that the judgment was paid, but I received no compensation for my work. Now do you ask, "Was he paid too much?"

The work I did while attorney general is still bringing rich rewards to the people of the state, and it will continue until the end of time. The money I forced from corporations and put into the public treasury has made it possible to discharge the public debt of the state as it becomes due; it has made it possible to support the penal and benevolent institutions of the state, without borrowing money; it has made it possible to discharge the obligations of the various counties and the municipal governments of the state and to lighten the burden of taxation upon the whole people. With this view of the matter do you hear someone say, "He was paid more than he was worth"?

Additional Counsel.

Complaint is made that additional counsel was employed in these cases and paid out of the funds of the state. That is true. When the corporations assisted by political partisans assailed the very existence of the state and sought to sap its life by defeating the legislative power of taxation, the only means by which government can live, I deemed it wise to employ assistance in that great emergency to aid the state against the aggression of corporate power which was seeking to become greater than the state itself. I accordingly employed Hon. William A. Ketcham, Hon. John W. Kern, and Hon. Albert J. Beveridge, and that employment was approved by the state board of tax commissioners. Their employment was valuable to the state and was made and completed according to law. I still compliment these gentlemen for the able assistance they rendered the state in that great contest for the power and majesty of constitutional government. I wish to keep it prominently before you that that contest was waged by corporate power against the sovereign power of the state, and if the corporations had been successful in that contest the state would have been humbled before their power, and instead of the state being a government by the people and for the people, it would today be a plutocracy dominated by sordid wealth and corporate power—paying just such taxes to the people as they directed the legislature to authorize. I say this because in the legal contest to sustain the tax law of 1891, it was shown that the valuation of railroad property under the old system was $69,000,000, which amount had been fixed and determined by the railroads themselves, which amount they offered to pay upon without further contest. The real contest, therefore, being on the increase of $91,000,000 fixed by the state's assessment made under the new law. It was this valuation of $91,000,000 which I fought to sustain and won in the courts, and which the railroads tried to escape from paying upon.

Make your own computation. These corporations have been compelled to pay taxes on this valuation (which I fought for and upheld in the highest court) for fourteen years. Take the average rate for state and local purposes for fourteen years, then add to it the additional revenue paid under the sleeping car law of 1893, and you will have the net result of the benefit you have received from my administration as attorney general of Indiana. And as I have said, the beneficial result of my labors for the state is going on, and will continue to bear rich rewards until through mismanagement and corrupt methods corporate power shall again seize the legitimate functions of our state government.

Do you hear anyone say, "He received more than he was worth"?

The work I have briefly stated to you was neither light nor pleasant. It was hard, laborious work. The questions involved were original and of the highest moment to the state. Defeat meant financial disaster to the state and a denial to the people the right to exercise through the law-making department of government the sovereign power of taxation independent of the wish and demand of corporations and trusts.

Nothing more need be said on this subject except that since the conclusion of this labor these corporations have pursued me with unrelenting opposition. They still feel the sting! But the mill grinds on!

The governor asserts in his speeches that during the session of the legislature in 1891, when he was a senator, that he observed that I put in the whole winter lobbying for a bill to increase the compensation of the attorney general, and that he, as a senator, opposed that bill at every step and stage, even to voting to sustain Governor Hovey's veto. To say the least of this statement, it is reckless. The only bill introduced in the legislature of 1891 affecting the compensation of the attorney general was the general fee and salary law, which was a caucus measure of the Democratic party. The policy of the measure was to reduce and grade down compensation allowed to state and county officers from 25 to 50 per cent. When that measure was pending I consented and advised the committee having it in charge to reduce the commission allowed the attorney general under the law of 1889, from 20 to 12 per cent, a reduction of 40 per cent, which change was made and became a part of the law, which is shown at page 424 of the Acts of March 9, 1891.

The governor says he opposed the passage of that law from start to finish and at every stage and step, because it was intended to increase the compensation of the attorney general. The record shows that this law was intended to, and did, decrease the compensation of the attorney general 40 per cent on collections, and nowhere added any additional powers, duties or compensation to that office. Whoever voted against that bill voted to allow the attorney general 40 per cent more on collections than I asked the legislature to put into the law itself.

I knew that a powerful lobby of the county officers were present and attempted to defeat the bill, not because they favored the attorney general, for they were opposing him, but simply because the defeat of that measure would keep fees and salaries of these officials at high-water mark. So it is easy to see that a member of the general assembly who voted to defeat that bill voted with the county officers' lobby and against the reduction of all fees—and voted to keep the attorney general's compensation 40 per cent higher than that officer had consented and recommended to have it fixed.

One word more on this subject: I never at any time in my life lobbied for a measure pending in the general assembly. I never aided, abetted or advised, directly or indirectly, in the work of any legislative lobby. When in office I never worked or assisted others to put a law through the legislature which added a penny to my compensation.

The trusts? Well, they work in Indiana all the time just as the bartenders do in the big Republican Columbia club at Indianapolis, which regards a liquor license as something only for the common saloons to bother with. And neither the trusts nor the Columbia club liquor dispensers happen to attract the attention of the governor and attorney-general. But just let them catch some fellow putting a penny in a slot machine!

A large portion of the speeches of both Governor Hanly and Attorney-General Miller is given over to telling about the crookedness of several Republican state officials. When they finish telling how the Republican party has thus betrayed the people they then ask everybody to vote to keep this same party in power. This is courage of the kind called "gall." It is also an insult to the intelligence of the voters of Indiana.

The Republican state officers, from the governor down, are not parsimonious when it comes to handing the public funds out to party favorites. And it makes no difference that the state is "embarrassed"—Governor Hanly used the word himself—and needs a million dollars or so to be even with the desperate game the Republican politicians have played with it.

The Republican spellbinders if they are not careful may hold up to the view of their hearers a Columbia club poker chip. The Columbia club, you understand, is the swell Republican organization at Indianapolis in which Governor Hanly, Attorney-General Miller, Vice President Fairbanks, Senators Hemenway and Beveridge and other G. O. P. orators are stockholders.

HOW TO VOTE

All Voters Should Read Carefully the Following Specific Instructions.

Every voter who goes to the polls is interested in making his ballot effective. Instruction in voting, therefore, cannot be too thorough. Not only is this especially true as to first voters, who will have their first experience with the Australian ballot system, but it is true of all others because of the changes that have been made in the law since it was originally passed. At public meetings and privately voters should be given accurate information as to what is required in casting a ballot. The following instructions, therefore, should be studied, as they will be found of value:

The device at the head of the Democratic ticket is a rooster.

The device at the head of the Republican ticket is an eagle.

The Democratic ticket is in the first column, the Republican ticket is in the second column, and so on.

Below is a sample of the heading of the Democratic and Republican tickets, with the respective party devices, in the order in which they will appear on the ballot:

DEMOCRATIC TICKET.

DEM. For Secretary of State, JAMES F. COX.

REPUBLICAN TICKET.

REP. For Secretary of State, FRED A. SIMS.

When you go to your voting place you will be handed three ballots:

The State ballot—On red paper, containing the candidates to be voted on for State offices, except for Senator and Representative.

The county ballot—Printed on white paper.

The township ballot—Printed on yellow paper, containing the township candidates.

If you want to vote a straight Democratic ticket, make a cross within the circle containing the rooster at the head of the first column of the ballot.

INSTRUCTIONS TO VOTERS:

First. You must get your ballot and the blue pencil from the Polling Clerks in the election room.

Second. If you desire to vote a straight ticket, then make a cross, thus X, within the large circle at the head of the ticket containing the device of the party for whose candidates you desire to vote. If you do not desire to vote a straight ticket, you must not make a cross in the large circle containing the device of a party, but must make a cross, thus X, on the small square to the left of the name of each candidate for whom you desire to vote, on whatever list of candidates it may be. If the large circle at the head of the ticket is marked with a cross or otherwise and the ballot is marked with a cross or otherwise at any other place, it will be void and cannot be counted, unless there be no candidate for some office in the list printed under such marked device, in which case you may indicate your choice for such office by making a cross, thus, X, on the square to the left of the name of any candidate for such office on any other list. The cross must be placed within or on the circle or square, or the ballot will be void and can not be counted.

Third. Do not mutilate your ballots, nor mark them, either by scratching off a name or writing one upon them, nor in any other way put a mark upon them, except by placing one in the circle or on the squares, as above described. Otherwise the ballot will not be counted. You must not put any mark of any kind upon your ballot except in the manner above described.

Fourth. After you have marked your ballots, and before you leave the election booth, fold them up separately so that the face of each one can not be seen, and so the initial letters of the names of the Polling Clerks on the back thereof can be seen. Then hand your ballots to the Inspector, the pencil to the Polling Clerks, and immediately leave the election room.

Fifth. If you are physically unable to mark your ballots, or can not read English, so inform the Polling Clerks, and make an affidavit to that effect. They will then go with you into the election booth, and you can then tell them how you desire to vote, and they will mark your ballot for you. Neither you nor the Polling Clerks must permit any other person to hear or see how your ballot is marked. It is a penal offense to declare you can not read English or can not mark your ballot, if, in fact, you can.

[In no case can the ballots be marked by the Polling Clerks if the voter can read the English language and is physically able to mark his ballot. Nor can they mark it until the voter has made the proper affidavit.]

Sixth. If you should accidentally, or by mistake, deface, mutilate or spoil one of our ballots, return it to the Poll Clerks and get another one of the same kind.

Seventh. You must not accept a ballot from any person outside of the election room. Any ballot outside is fraudulent; and it is a penitentiary offense to have it in your possession, whether you attempt to vote it or not.

Eighth. You must not attempt to hold any conversation in the election room except with members of the Election Board and the Polling Clerks.

Ninth. Use only the blue pencil handed you by the Polling Clerks in marking your ballots. If you mark with any other pencil, your ballot so marked will be void, and will not be counted.

Tenth. You must not put any mark of any kind on your ballot, except as above described.

VOTING BY MACHINE.

If you are unable to vote by machine on account of physical disability or inability to read English, and make an affidavit to that effect, you will be instructed or assisted by the Polling Clerks, as in the case of voting by ballot. If you request it, you will, upon being registered by the Polling Clerks, be instructed by them as to the manner of voting by machine. You can not remain in the voting machine booth more than one minute; and no person can be in or near the machine when a voter is in the voting machine booth unless it is the Polling Clerks while instructing or assisting the voter.

THE NEW LAW AS TO BUYING AND SELLING VOTES.

(Approved March 6, 1905. Acts 1905, p. 481.)

Penalty for Buying Votes.

1. That whoever, directly or indirectly, hires, buys or offers to hire or buy, or furnish any money or other means to be used, or directs or permits his money or other means to be used, or handles any money or other means, knowing the same to be used to induce, hire or buy any person to vote or refrain from voting any ticket or for any candidate for any office, to be voted for at any election held in this State; or whoever attempts to induce any person to vote or to refrain from voting for any candidate for any office to be voted for at any election held pursuant to law or at any primary held in this State, by offering such person any reward or favor, shall be fined in any sum not more than fifty dollars and disfranchised and rendered incapable of holding any office of trust or profit for a period of ten years from the date of such conviction.

Penalty for Selling or Offering to Sell Votes.

2. Whoever sells, barters, or offers to sell or barter his vote or offers to refrain from voting for any candidate for any office to be voted for at any election held in this State, either for any money or property or thing of value or for any promise or favor or hope of reward, given or offered by any candidate to be voted for at any election held in this state or by any other person or persons, shall be fined in any sum not more than fifty dollars and disfranchised and rendered incapable of holding any office of trust or profit for a period of ten years from the date of such conviction.

Witnesses.

3. Any person called as a witness to testify against another for the violation of any of the provisions of sections one or two of this act, is a competent witness to prove the offense, although he may have been concerned as a party, and he shall be compelled to testify as other witnesses, but such evidence shall not be used against him in any prosecution for such or any other offense growing out of matters about which he testifies, and he shall not be liable to trial by indictment or information or punished for such offense.