

SATURDAY, JULY 30, 1898

Entered at the post office at Rensselaer, Ind.  
as second-class matter.

WHAT WAS REALLY INVOLVED IN  
THAT SUPREME COURT  
DECISION.

South Bend (Ind.) Times.

The sober second thought seems to be coming to certain members of the supreme court in the township trustee case. Some of the more indolent ones made a mad rush to condemn Judge McCabe because he did not agree with his two Democratic associates in the reasons given for the decision. They seem to ignore the fact that he reached the same conclusion as the other judges did.

The criticisms indulged in against the decision by these papers were mostly the result of misinformation, or lack of information.

But the wrong done to the court and especially to one member of it, and to the Democratic party, is none the less serious.

The facts are briefly as follows: In 1898 the legislature passed an act postponing elections for election, township trustees and assessors from April to November, 1894, and requiring such elections every four years thereafter.

The first election under that law was in November, 1894, when the Republican party carried the state by the largest majority that it ever did, being over 40,000.

At that election the township trustees and assessors were elected.

The general law gave the Republicans 630 of the township trustees of the state and the Democrats 376, only a little more than one-third of the whole number in the state.

The legislature of 1897 passed an act again postponing the election of township trustees and assessors, this time from November to 1898, when the previous act mentioned required it to be held to November, 1900.

By operation of the hold over clause of its constitution, the present trustees won't continue to hold until their successors are elected and qualified.

The Democratic state committee, convinced of the correctness and legality of Republican trustees in the state government, gave the party an undoubted advantage in the organization of election boards, as it really did, arrived at the conclusion that the election ought not to have been postponed the last time. This committee caused a suit to be begun in the Whitley circuit court to compel the proper officers to hold an election for the trustees.

Now comes the question on the theory that the act of 1897 was unconstitutional, in that it extended the terms of the present trustees beyond four years, in violation of another clause of the constitution, and upon the further theory that if the act of 1897 was void it did not supersede, and repeal the old act of 1893, and hence a election must be held to compete to be held to November, 1898.

The circuit judge, Hon. Jos. A. Adair, being a Democrat, held that there was no law in force by which such an election could be held in November, 1898. On

appeal to the supreme court all five of its judges decided that the circuit judge correctly decided that no law in force by which such an election can be held this year, and that his judgment must be affirmed.

This is the pith and marrow of the supreme court decision in the celebrated township trustee case, about which the papers allude to above have so unjustly criticized the action of Judge McCabe.

They have constantly asserted that all acts of the supreme court are unconstitutional. The Republican judges and discrediting with the two Democratic judges had the effect of defeating the object of the Democratic committee, namely: to compel such an election this fall. This is absolutely untrue. And every lawyer and every intelligent man in the state will say, that it will take the trouble to read the opinion of the court.

It is true that the minority opinion concurred in by both Judge McCabe's Democratic associates reaches the same conclusion that the other judges do on entirely different reasons, namely—that both the act of 1897 and that of 1893 were unconstitutional and void, and hence there could be no election under either, or in other words, because neither of them is law.

And consequently hold that the only existing law under which such an election can be held is a previous statute under which no election can be held till 1902.

Every lawyer and every intelligent man in the state will agree that there was absolutely nothing Judge McCabe could have done in the case to prevent the defeat of the suit.

If he had concurred in all the reasons assigned by his two Democratic associates for reaching the common conclusion every member of the court reached, it could not be resisted the case from defeat, and failure of the Democratic committee to attain its object.

These facts the Times asserts without fear of successful contradiction. These facts being incontrovertible there is not the slightest justification for the censure which the papers mentioned have been showing on Judge McCabe, even if we should suppose which is assumed in all these criticisms that Judge's party and state, to the extent of his office he holds is to be measured by his subserviency to his party's interest in his decisions. But there can be no more burning scandal on any political party than for it to demand of the judges it elects to offer them to decide all law cases of the party electing them, right or wrong.

The Times emphatically denies that the Democratic party makes any such disgraceful demand of the judges it elects to office.

The implied assumption in the criticism mentioned that it does, has, or will make such a demand, we indignantly repudiate. And though of any man calling himself a Democrat, and we deny the authority of such papers to speak for the Democratic party.

Some of these papers mention as a circumstance against Judge McCabe that his son was one of the attorneys in the case employed on the side that succeeded.

These assertions seem to be wholly unfounded as to the reason why it became necessary for Judge McCabe to participate in the decision. He has two sons who practice law before the supreme court, and in every other case he has declined to participate where either of them were concerned as counsel.

But in this case it was a constitution at question. It has been a well-known and long established principle of our law, prudence, and especially by the supreme court of Indiana, and the United States, that constitutional questions will not be passed upon without the presence and participation of all the members of the court.

The wholesome rule required Judge McCabe to participate in the decision. And according to the more law-abiding Democratic papers mentioned the only way he could escape criticism was to prostitute his judgment and violate his conscience by giving a different reason for the conclusion reached by all of them. This is puerile and pitiable.

Some facts, however, have come to light which decide the question that it is very fortunate for the Democratic party that Judge McCabe did not agree with the minority of the court in holding that the act of 1897 was unconstitutional and

would. Had he done so, though it could not have changed the result as it now stands as to the case, yet it would have made a farce holding the act of 1893 void. And if the act were void, the electing the present trustees under it would be equally void, and the appointing powers could have filled every trustee's office in the state.

The statute provides that the county auditor in each county, when the board of commissioners is not in regular session, shall fill such vacancies by appointment.

Of the 92 counties in the state only 23 have Democratic auditors, namely: Adams, Allen, Brown, Clay, Crawford, De Kalb, Dubois, Elkhart, Franklin, Grant, Knox, Martin, Monroe, Owen, Parke, Posey, Starke, Sullivan, Switzerland, Vigo, Wells and White. All the rest, 69 in number, have Republican auditors. Therefore, had Judge McCabe joined in the minority opinion and made the prevailing opinion, the only Democratic township trustees we would have had in the state would have been 69, while the number of trustees named above, who held Democratic auditorships, were appointed, and the number is only 23 instead of 376 as it now is.

And the Republican auditor would have appointed all the trustees in all the 69 counties in the state, giving the Republicans 750 trustees instead of 630 as it is now. That holding would have decreased the Democratic trustees in the state 160 and increased the Republican trustees by 160 in number.

The present majority of Republican trustees over the Democratic is 254, but if the minority opinion had prevailed the Republicans 750 trustees instead of 630 as it is now. That holding would have decreased the Democratic trustees in the state 160 and increased the Republican trustees by 160 in number.

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concerning the election of township trustees and assessors that it would be an infringement on the rights of the people to have them elected for four years.

These facts, however, could not change the conviction of the few members of the court, even had they been known to them before the decision was made.

We have every reason to believe that each one of the judges was governed by his own judgment and conviction as to the law.

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WARREN & IRWIN.

Charles Vach, the Optician, says that his business is improving right along. His long experience, and the fact that he keeps constantly on hand only first grade goods, explains his claim.

Damp salt will remove the discoloration of tea and the like in dishes that have been carelessly washed.

A tea-cup soaked in a strong solution of rock salt will be an especially effective fire extinguisher.

A handful of rock salt added to the bath is the next best thing to an ocean dip.

Damp salt will remove the discoloration of tea and the like in dishes that have been carelessly washed.

New cutlery soaked in a strong solution of rock salt will be an especially effective fire extinguisher.

As a dentifrice salt and water will only cleanse, but whiten the teeth, and will harden the gums.

When broiling steak a pinch or two salt thrown on the fire will quench the flames arising from the dripping fat.

A weak solution is good for raw skin, to be used as a wash, and this is still better if a few grains of red pepper are added.

Ink stains may be removed by the use of muriatic acid. When it becomes discolored remove it and use a fresh supply until no color remains.

It is dissolved in water and snuffed up with it to use as a curing salve, but when chemicated with water and for night and morning for several months.

A little salt in raw or boiled starch will prevent the iron from sticking, and make the starch whiter. If the iron is rough, some salt on a piece of muslin over the iron and the iron on it until they are dry and smooth.

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