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## THE COSSON LAWS

By SEN. GEORGE COSSON

Herbert Spencer asserted that all existences in the Universe, including man and social and religious organizations, have evolved. Be that as it may, the "Cosson Laws" evolved.

In 1904 the great Theodore Roosevelt, who had become president as a result of the assassination of President McKinley, was elected president in his own right. On the same ticket (Republican) George Cosson, a young man in Audubon county, Iowa, was elected county attorney of that county.

He believed with Theodore Roosevelt that good government was impossible without intelligent, but courageous and impartial enforcement of the law. He believed with Roosevelt that it was the duty of the public law enforcing officer, not the private citizen, to see that the laws were enforced; that no person or class was above the law, but that all citizens were equally entitled to the protection of the law. But, at that time throughout the state and nation there was widespread and flagrant disrespect for law.

In Iowa prohibition was the basic anti-liquor law, but there was also on the statute books of Iowa what is known as the Mulct law. Under the Mulct law, liquor could be sold as a beverage in such cities and counties as complied with the conditions and observed the limitations prescribed in said law. Cities and counties were known as wet or dry. The river cities and counties, with some in-

terior counties having a large foreign population, were wet. The rest of the state was dry, but dry in name only and in the sense that there the Mulct law was not in operation. Liquor could be dispensed by druggists under a permit granted by the court for medicinal purposes only. Audubon county was ostensibly a dry county, but all the druggists in the county except one held permits to sell liquor. This county, too, was dry in name only. There was wide-spread and flagrant violation of the law and bootlegging was rampant. This was the condition when George Cosson became county attorney of Audubon county.

Efforts in the past at law enforcement had been made, and substantial sums of money had been raised for that purpose, but nothing worthwhile had been accomplished. The illegal sale of liquor and open gambling were taking the subsistence of the working man, and his family paid the penalty in a lack of proper food, clothing and housing.

Under the Mulct law, the legalized saloon was prohibited from selling liquor to minors and drunkards, and from selling liquor on Sundays and holidays. It occurred to the young attorney that the bootlegger and the druggist certainly should have no privileges in the sale of liquor which were not granted to the open, legalized saloon. Since most of the druggists were his clients, he advised them personally that if they did not stop selling liquor to minors and drunkards he would put all of them out of business. This was taken seriously at first, but in time the warning was disregarded. He, therefore, went about it to collect evidence against all the druggists in the county holding permits, as well as a large number of bootleggers. He realized that the illegal sale of liquor was too widespread to secure convictions before juries. He, also, realized that witnesses under pressure would perjure themselves. He, therefore, first submitted the evidence to the grand jury and obtained the testimony of the witnesses under oath. He then used

the injunctive remedy by begining actions in equity, asking for both temporary and permanent injunctions and the assessment of the Mulct tax against the building wherein the liquor was sold. The witnesses, having testified under oath before the grand jury, could not change their testimony without being guilty of perjury.

He proceeded against all the permit holders at one time and also against a large number of bootleggers. The public was not expecting this. Nothing like it had ever happened in Audubon county before, and this widespread use of the injunctive remedy antdated the work of Prosecutor Tricket in Kansas City, Kansas, who later received national attention for the use of the injunction. Most of the druggists in Audubon county surrendered their permits without trial. When a case went to trial, the permit was ordered forfeited by the court and permanent injunctions were issued. The Mulct tax was assessed against the buildings where illegal sale of liquor took place. Convictions were certain because the evidence showed that neither druggists nor bootleggers had complied with the provisions of the Mulct law governing open saloons, in that liquor was being sold to minors and drunkards.

#### SOUGHT WHOLESOME RESPECT OF LAW

It was the purpose of the county attorney to protect people against crimes of violence and reduce commercialized vice to a minimum, and by selecting flagrant cases of law violation to create a wholesome respect of law. It was also his purpose to establish the principle that the law could be enforced and that the county attorney, as the chief law enforcing officer of the county, should take the initiative and full responsibility for seeing that the law was enforced in his county. Previously, proceedings had been instituted by private citizens, often the minister of some Protestant church.

At the state convention of the county attorneys held in Des Moines in the year 1906, the county attorney of

Audubon county, the youngest member in the convention, read a paper in which he said:

The prosecutor who amounts to anything will not wait for some private citizen to swear out informations. He will take the initiative and accept the full responsibility of his office.

Needless to say, this position was opposed by many of the members of the convention, especially the county attorneys from river counties. However, John Hammill, county attorney of Hancock county and a member of the convention, later governor of Iowa, championed the position taken by the county attorney of Audubon county. Cosson's address received publicity through the press, and the *Dial of Progress*, a temperance paper, published the address in full. Mr. Stouffer, publisher and editor of the *Sac City Sun*, wrote an editorial stating, "If that young county attorney of Audubon county practices what he preaches, he will be heard from in higher places."

After these prosecutions were brought and after the Des Moines address herein referred to, County Attorney Cosson was in Indianola on the day Newell Dwight Hillis gave a Chautauqua address in that city. After Dr. Hillis had delivered his address, the county attorney was introduced to him. Dr. Hillis said to the county attorney, "Young man, what do you do?" When told that he was county attorney of Audubon county, Dr. Hillis said, "If you want to amount to anything, what you want to do is to get the people after you and get defeated for office. This will attract attention of the better citizens and you will be called to some higher position." To this the county attorney replied that already he had the people after him, both good and bad, but he did not want to be defeated. Dr. Hillis then said, "If you are defeated you will go higher; wait and see, and remember what I have told you." Hillis was then pastor of Plymouth Congregational Church of Brooklyn, the successor of Lyman Abbot, who in turn had succeeded the great Henry Ward Beecher. Hillis was born in Magnolia, Iowa, a small town in Harrison county.

The meeting with Dr. Hillis occurred in the fall of 1906. The state had just witnessed one of the hottest and hardest fought pre-election political campaigns in its history. Governor Cummins was seeking the nomination on the Republican ticket for the third term. The battle was more of a contest between the "progressives" and the "standpatters," as they were then called, than a battle of individuals. Cummins was the leader of the progressive element of the Republican party, and George D. Perkins, his opponent and editor of the *Sioux City Journal*, was leader of the "standpatters." Cummins advocated the anti-pass law, the two-cent fare, the primary law, and the regulation of railroads. George Cosson, ignoring his own campaign for re-election as county attorney, was the leader of the Cummins forces in Audubon county, and Audubon being one of the contested delegations to the Republican state convention, Cosson argued the contest for the Cummins forces to secure seating of that delegation in the state convention. The result was Cummins' nomination, and in the general election of 1906 he was elected governor for a third term. H. W. Byers, of Shelby county, was elected attorney general of Iowa, and George Cosson was defeated as county attorney of Audubon county by twenty-five votes. By enforcing the liquor laws and the laws relating to gambling, he had alienated the wet and lawless element; by his support of A. B. Cummins he had alienated a considerable part of dry Republicans who were ardent "standpatters."

However, the prophecy of Dr. Hillis and the editorial statement by Mr. Stouffer in the *Sac City Sun* both came true. Cosson received his payoff for enforcing the law and supporting A. B. Cummins. He had met Governor Cummins repeatedly during the campaign, and had arranged his speaking dates in Audubon county. H. W. Byers, of Harlan, the new attorney general, was an ardent supporter and a member of the Cummins "kitchen cabinet." So, in May, 1907, Cosson was invited to become a special assistant in the office of Attorney Gen-

eral Byers. Thus, his opportunities then became state wide.

Some months thereafter violations of the law became so flagrant, especially as related to the sale of liquor, that riots occurred in several Iowa cities on the Mississippi river. In Davenport, Captain Neal, an old soldier of the Civil war, was assaulted and struck over the head with a cane, because he had instituted a number of actions against liquor violations. One, B. E. Jones, a locomotive engineer of the Burlington railroad, was also assaulted and received rough treatment in the city of Burlington, and it was rumored that in one other river city a rope had been secured to hang the attorney of the anti-saloon league, but this may have been only a rumor growing out of the hysteria which existed at that time.

#### INGHAM DEMANDED ACTION

Cummins was serving his third term as governor of Iowa. The late Gardner Cowles, Sr. was publisher, and the late Harvey Ingham was editor of the *Des Moines Register and Leader*, as the newspaper was then called. Harvey Ingham, though he had strongly supported Cummins for a third term, decided something ought to be done; and that he, Harvey, would see to it that something was done. Accordingly, he started a crusade in the *Register and Leader* to compel Governor Cummins to act. Ingham quoted from the constitution of Iowa, which provides that the governor shall be the chief executive officer of the state, and that "he (the governor) shall take care that the laws are faithfully executed." The fact that the governor under the law was given no power to remove public officers for failing to enforce the law, and that no general provisions were made whereby the governor could see that the laws were faithfully executed, was not in the opinion of Ingham an excuse for inaction. Day by day Mr. Ingham continued his campaign against the governor, and in almost every issue of the paper, the provisions of the constitution were set

forth providing that, "He, the governor, shall take care that the laws are faithfully executed."

So serious became the situation that Governor Cummins called a conference of close personal and political friends, including members of the general assembly, to consider whether or not the legislature should be called in special session for the purpose of enacting laws which would give the governor the machinery to see "that the laws were faithfully executed." Specifically, Governor Cummins, as well as Attorney General Byers, favored a law giving the governor power of removing public officers for neglect of duty. However, some of the advisors of Governor Cummins, members of the state senate, who also were strong for law enforcement, advised against a special session, since at that time no one could foretell what the legislature might do if and when called in special session.

The campaign of Ingham continued until finally H. W. Byers, attorney general, decided that as attorney general he would take the initiative to see that the law was enforced, and he issued a public statement to that effect, which statement was approved by Governor Cummins. Accordingly, at the request of both the governor and the attorney general, Charles W. Lyon, assistant attorney general and George Cosson, special assistant, were sent to Davenport to confer with the county attorney and mayor; also to confer with religious and civic groups to see what could be done, looking toward a better enforcement of the law. This visit received some publicity. Some, but not satisfactory results were accomplished. Mr. Ingham ceased his crusading campaign and matters were for a time held in abeyance.

#### EVENTS MADE LEGISLATION POSSIBLE

Cosson, while remaining a special assistant for the attorney general, became a candidate for office of senator from the Audubon-Guthrie-Dallas senatorial district, and was nominated and elected as senator from that district, becoming a member of the Thirty-third General

Assembly of Iowa, which convened in Des Moines in 1909.

As a result of his own experience as county attorney of Audubon county, and following the crusading campaign of Harvey Ingham in the Des Moines *Register and Leader*, the time was most opportune for action. Senator Cosson, therefore, prepared and offered a series of bills, which took the name of the author and later came to be known as the Cosson Laws. These law enforcement measures received principal attention over the state, but Senator Cosson also offered and secured the passage of an unfair discrimination bill covering milk, creamery products, poultry, eggs and grain, and a bill looking to the reform of criminal procedure.

Again referring to the law enforcement measures, human nature being what it is, experience had shown that law enforcing officials, especially the county attorney and sheriff, were zealous in their duties in enforcing the laws against crimes of violence, but hesitated and often refused to prosecute commercialized vice such as the illegal sale of liquor, gambling and violence growing out of labor troubles. Both county attorney and sheriff usually waited for private citizens to file informations or for the grand jury to bring indictments. Cosson sought to remedy this evil.

Therefore, the first bill offered, known as Senate File No. 6, defined the duties of the county attorney, and made it mandatory upon him to enforce, or cause to be enforced, in his county, all of the laws of the state, except such laws the enforcement of which was exclusively enjoined upon others by statute.

The second bill, known as Senate File No. 7, defined the duties of the sheriff and made it mandatory upon him to act. Too often the sheriff, like the county attorney, was diligent concerning crimes of violence, but offered the repeated excuse that if someone filed information he would make the arrest.



## A SHERIFF'S BROAD POWERS

Senate File No. 7 provided that it shall be the duty of the sheriff by himself or deputy to preserve the peace in his county, to ferret out crime, to apprehend and arrest all criminals, and to secure evidence of crimes committed in his county and to file information against all persons who he knows or has reason to believe has violated laws of the state. It was made his duty to make special investigation of any offense when directed in writing so to do by the county attorney. The sheriff by himself or deputy was given the power to call any person to his aid to keep peace or prevent crime and to arrest any person liable thereto, and when necessary *the sheriff may summon the power of the county.*

Few people realize how very broad the powers of the sheriff now are, and how mandatory under this law it is for the sheriff to ferret out crime, to apprehend criminals, to file informations, and to preserve the peace in his county. While the county attorney is the chief law enforcing officer, the office of the sheriff comes down to us from the early history of England, at least from the time of King Alfred, and under common law the sheriff is the chief conservator of the peace in his county.

Having defined the duties of the county attorney and the sheriff and made it mandatory upon them to act, the Removal bill was necessary, so that if they failed to perform their duties as defined by statute, they could be removed from office. Accordingly, Senator Cosson introduced Senate File No. 8 which gave the governor the power to remove officers for refusal or neglect to perform duties of their offices. All of these three bills were offered at the same time. The senate judiciary committee took the position that the removal of a public officer should be a judicial matter, with the right of the defendant to appear in court and be heard in his own defense, and, therefore, they objected to the provision for the governor having the power of removal. Senator Cosson was in sympathy with this suggestion and pre-

pared the Removal bill which, with some modifications and additional provisions, is still on our statute books. The law provides for the removal of public officers for misfeasance, malfeasance or nonfeasance in office; for corruption, extortion, intoxication or conviction of being intoxicated. The hearing may be had during term time or vacation, as a summary proceeding before the court without a jury and is to take precedence over all other cases. An outside judge may be had as a matter of right by filing an application with the supreme court. If the defendant is found guilty, he is to remain out of office unless and until the decision of the district court is reversed in the supreme court.

Another bill was offered to enlarge the powers of the attorney general creating a Department of Justice and making the attorney general the head thereof. This bill specifically gave to the attorney general the right to appear in any action or proceeding in any part of the state where the state was a party or interested or when, in his judgment, the interest of the state required it. This bill specifically gave to the attorney general "supervisory powers over county attorneys." This was known as Senate File No. 131.

Still another bill was offered by Senator Cosson known as Senate File No. 370, and was known as the Red Light Injunction and Abatement bill. It provided for temporary and permanent injunction against the person operating houses of prostitution, the owner of the building, and the assessment of a tax in the nature of the Mulct tax in the sum of \$300 upon conviction.

All of these bills were passed, signed by the governor, and became law. Here were the most complete law enforcement measures to be found in any state in the Union. The attorney general could proceed against any law enforcing official on his own motion. He was compelled to act when directed so to do by the governor. The

<sup>1</sup>Senate File 370 was held unconstitutional because the speaker of the house failed to sign it, but it was re-enacted in the same form.

county attorney could proceed against officers in his own county, and if none of the public officials acted, any five citizens could file information against local law enforcing officers who failed to act.

Ora Williams, who was later to become curator of the Iowa Historical Department, was then statehouse reporter for the *Marshalltown Times-Republican* and a large number of other Iowa daily newspapers, and Leon Brown, statehouse reporter of the *Register and Leader*, rendered valuable assistance by clear and honest reports of the nature and purpose of these laws. Harvey Ingham of the *Register and Leader*, the late D. W. Norris and Editor Moscrip of the *Marshalltown Times-Republican* gave strong editorial support. It should be said for the record that the press of Iowa as a whole, including papers in the river cities, where there had been acts of violence, gave full support to these law enforcing measures as they were being successfully fought through both houses of the legislature.

Senator Cosson then became candidate for the office of attorney general and was nominated and elected to that office, assuming his duties in January, 1911. He served three terms as attorney general, and until January 1, 1917. This experience had not changed but strengthened his position with reference to the duty of a law enforcing official to take the initiative and responsibility commensurate with the duties and authority of his office. As head of the department of justice he assumed the responsibility of seeing to it that the law was substantially enforced in every part of the state. He exercised supervisory powers over county attorneys, and by proper consideration he had their cooperation and not their hostility.

During his incumbency in office he removed or caused to resign a total of thirty-four public officials under the Cosson Removal law. The list included sheriffs, mayors, marshals, chiefs of police and members of boards of supervisors, including the supervisors of Polk county.

The mayor of Ottumwa and the mayor of Harlan were removed. However, it required an appeal to the supreme court to remove the mayor of Harlan.<sup>2</sup>

All of these removals were done speedily and with a minimum of effort and cost, the object being not to see how many individuals could be placed behind iron bars at Fort Madison and Anamosa, but to compel law enforcing officers to enforce the laws of the state without fear or favor, including laws against commercialized vice; also to require honesty and better business methods on the part of members of boards of supervisors and other public officials. The author is of the opinion that this is much preferable to long drawn out criminal prosecutions. Of course in cases of embezzlement and crimes of violence, criminal prosecutions must be had.

These laws proved the test of pragmatism. They worked. Open commercialized vice was reduced to a minimum. The Red Light Injunction and Abatement law attracted attention over the nation and a similar law was passed in a number of states. At the request of Senator Kenyon, the attorney general prepared a bill for the District of Columbia, which the senator introduced and secured its passage in congress covering the District of Columbia. The ancient though not honorable profession of legalized or segregated prostitution was to come to an end.

Since the bills received a great deal of attention over the nation the Iowa attorney general was made president of the National Association of Attorneys General, a member of the National Executive Committee on Prison Labor, and was invited to speak at the Chicago vice hearing, probably the largest vice hearing that was ever conducted in this country; also to the City Club in Chicago, and the annual convention of the National Hygiene association held in Saint Louis, being a guest of J. Lionberger Davis; also to the council of members of the Chamber of Commerce at Kansas City, Missouri; to a

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<sup>2</sup>See Reports of Attorney General 1913-1914 and 1916.

group of civic leaders in Omaha; and in a large number of cities and towns in Iowa. He was also invited to speak with Senator Kenyon and others at a large banquet in Washington, D. C., which included high army and public officials. This was at a time when the Red Light bill for the District of Columbia, which Senator Kenyon sponsored, was pending before congress.

Through the ages there have been advocates of the legalized and supervised system of prostitution and much has been claimed for medical inspection. However, Dr. Evans, health commissioner of Chicago, testified at the vice hearing on the very program at which the attorney general of Iowa appeared, that medical inspection was a fraud and worse than no inspection, since it was found that some disreputable doctors would sign up in advance a large number of health certificates and the madam would merely fill in the name and date as needed.

Of one thing we may be certain—wherever there is legalized or organized and protected prostitution, there is traffic in the lives of human beings—that is to say— young girls. Formerly this traffic was referred to as the white slave traffic. It is a coincidence that while this article is being dictated this very question is receiving attention by the committee of the United Nations. In Mrs. Roosevelt's column of the day, she says, "Now we are working on a covenant which has come from the social commission and deals with prostitution and traffic in persons."

The press also carried a story just a few days ago that bills have been offered in the National Assembly in Italy to prohibit legalized prostitution, and the report states that if the bills pass, it will abolish a system which has existed from the early days of Rome. That would take us back before the days of the Caesars.

It is interesting to note that what occupied the attention of the Thirty-third Assembly of Iowa two generations ago, the county attorney from Audubon county and

the attorney general of Iowa, is now receiving attention by the United Nations and by the National Assembly in Italy.

#### LAW ENFORCEMENT REQUIRED

From what has been said, it is clear that good laws, and officers who will enforce such laws without fear or favor, are essential to good government. If more is needed, witness the occurrences of the two riots of Peekskill, New York, where veterans of foreign wars, Catholic veterans and Jewish veterans decided that Paul Robeson should not be allowed to sing because of his communistic sympathies. Some excuse might be legitimately offered for the first riot; but no excuse can be offered for the second riot. In the second riot, one hundred forty persons were injured, numerous cars wrecked, and scores of individuals subjected to rock barrages over a ten-mile area, according to the magazine *The Nation*.

Governor Dewey states that he ordered an investigation. It is suggested that the governor himself should be the first to be investigated. No one can imagine a second riot of any kind, much less of this magnitude, taking place in New York when Theodore Roosevelt was governor of that state, regardless of any sympathy or hostility which Roosevelt might personally feel for any of the participants. Theodore Roosevelt while president had a colored man, Booker T. Washington, to lunch at the White House, but when some members of a colored regiment shot up Brownsville, Texas, and no one would give testimony, Roosevelt suspended the entire regiment.

Governor Dewey has already passed judgment and found that "The Communist groups did provoke the incident and the state and local police used every conceivable method to preserve peace and order at the meeting."

One Iowa incident will suffice to show that violence, either in connection with labor disputes or otherwise, can be suppressed if men in authority have the courage

and the will to preserve order. During the administration of Attorney General Cosson a truckers' strike occurred in Des Moines. It was accompanied by much violence. Truckers who desired to continue work and not join the strike were dragged from their trucks and often beaten. Ralph Bolton, secretary of the Greater Des Moines committee, and Geis Botsford, who was secretary of the Des Moines Chamber of Commerce, appealed to the attorney general to go with them to witness the violence. This he declined to do, since he wished not to identify himself with any interest, but took his own car and with him the superintendent of public safety and the chief of police and his deputy, and found the situation was worse than had been reported.

Governor Carroll felt that the militia should be called. He was assured by the attorney general that this was unnecessary; that he, the attorney general, could handle the situation. The attorney general notified the sheriff to furnish not less than fifteen deputies. The chief of police was notified to furnish an equal or larger number of policemen. The attorney general used his own special agents, and those specially appointed. Fifteen squads were created. Some of them were mobile. In each squad there was a special agent representing the attorney general, at least one deputy sheriff, and at least one or two policemen. These squads assumed their duties early the next morning and were ordered to move about in the troubled areas and never allow more than five or six people to congregate in one place. They were ordered to immediately arrest and take to the police station anyone who insisted on congregating. Within twenty-four hours order was restored, and while the patrols continued for several days there were absolutely no acts of violence after the first day and not many the first day. Personally the attorney general was in sympathy with the strikers receiving larger pay, but officially it was his duty to preserve order regardless of whether violence was caused by strikers or strike-breakers, by union men or non-union men.

Governor Dewey sought to exonerate himself from blame by claiming that the Communists provoked the violence of Peekskill, New York. The governor, however, overlooked one little detail, to speak facetiously, or a matter of the first magnitude, if we speak seriously, that is, whether the violence was provoked by the people who went there for the purpose of preventing Paul Robeson from singing, or whether it was provoked by the Communist friends and sympathizers of Paul Robeson, as Governor Dewey asserts, the fact remains that a riot of that magnitude, intensity and duration was a successful challenge to the sovereignty of the state of New York, and the validity of the first and the fourteenth amendments of the Federal constitution guaranteeing free speech and assembly; that Governor Dewey had advance notice that violence and rioting would occur and that he, the chief executive of the state of New York, took no proper measures to prevent the violence.

There never can be any valid excuse for a public official, high or low, in New York or any other state, who neglects or avoids exercising all the authority conferred upon him by law to preserve order. No superior intelligence nor extraordinary courage is required—just a simple determination to accept the full responsibility of office and enforce the law. Rioting or unrestrained violence is a reflection upon the officials of any community where they may occur, and should not be tolerated, especially in states where the laws confer full authority upon public officers to cope with any troublesome situation.

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#### SWIFT MEANT IOWA AND HYBRID CORN

It was Jonathan Swift who wrote in his "Voyage to Brobdingag" early in the eighteenth century: "Whoever could make make two ears of corn, or two blades of grass grow upon a spot of ground where only one grew before, would deserve better of mankind and do more essential service to his country than the whole race of politicians put together."



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