

The Plattsmouth Journal.

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NO. 111

CITY WINS IN INJUNCTION OF PAVING CASE

JUDGE BEGLEY HOLDS CITY WAS IN THE RIGHT IN RECONSIDERING CONTRACT.

NOT VALID UNTIL SIGNED

Interest of J. H. McMaken in Company Was Not of Such Nature as to Affect Contract.

From Saturday's Daily.

The much mooted question of the right of the city to reconsider their letting of the paving contract to the Modern Construction Co., was passed upon yesterday afternoon when Judge Begley handed down his decision in which he denied the application of the Modern Construction Co. for a restraining order to prevent the city from entering into a new contract for the paving.

The case did not develop a great deal of testimony, only the city records covering the proceedings being introduced and the personal testimony of Charles M. Parker, being offered by the plaintiffs in the case who testified as to the practical knowledge of a contractor as to the cost of a job of this kind prior to its completion.

The plaintiffs contended that the awarding of the contract by the city council to the Modern Construction Co. constituted a binding contract without the necessity of a written contract and that the company was entitled to go ahead and perform the work and was ready to do so. As to the adequate remedy under the law, the plaintiffs contended it was impossible to estimate the amount to which the plaintiff company would be damaged by the failure to carry out the contract. The attorney for the plaintiff contended also that the application of the law to the fact of the interest of Councilman J. H. McMaken in the Modern Construction Co. was purely that of blood relation and affection, while the intent of the law had been to cover financial interest direct or indirect in barring a city officer from participating in a contract with the city.

The defense of the city as presented by Mr. Rawls was that the city council had proceeded in a lawful manner in the rejection of the award of the paving after they had agreed to accept it, as there was no written contract made and executed by the parties to the work and as the contract specifically provided for in the instructions in the plans and specifications, and which were of knowledge of the plaintiffs in the case. This was the main contention of the city and on which it based its defense against the action of the plaintiff.

The court in its decision for the defendant city and dissolved the temporary restraining order against the city which has been in force since last Monday evening and which decision will permit the city to go ahead at the meeting Monday and award a new contract for the paving.

Judge Begley held that there was clear and distinct provision made in the plans and specifications of the paving bids that covered the fact that the contract was not valid until it had been signed by all of the parties to the contract and proper bonded and none of which had been done at the time the city council reconsidered its previous action. The awarding by the council, the court held, was merely a matter of negotiation between the parties and not binding on the city.

If the plaintiffs had sustained damages by the action of the city council their remedy lay in an action for damages, not in the injunction proceedings, the court held.

While the matter of the relationship of Mr. McMaken of the Modern Construction Co., was not made a point in the injunction proceedings, the court held that as there had been no showing that Mr. J. H. McMaken was receiving any salary or other financial return from the company there could be no proof of his direct or indirect interest as under the laws of the state a wife can hold personal property in her own right, sue and be sued, or make disposition of her property without the necessity of the assent of the husband.

RUN OVER BY TRACTOR

From Friday's Daily.

While plowing with a tractor, Emil Hornemeier was shaken from his seat on the machine and as the tractor was backing was run over by one of the wheels of the machine, breaking his leg very badly. He was taken to the hospital at Lincoln where the fracture was dressed but he is still suffering much pain as the fracture is very complicated and will take some time to properly heal.

Ed Schulhof, Piano Tuner. Telephone 389-J.

GIVE PLEASANT DINNER

From Saturday's Daily.

Mrs. Charles S. Dovey and Miss Kathryn Waddick last evening entertained at a 6:30 dinner in honor of Miss Virginia Beeson, who is soon to leave the city, at the pleasant Dovey home on North Fourth street. The decorations of the dining room and the table were in a color scheme of lavender, sweet peas being used extensively in the decorative scheme, and which made an added touch of beauty to the scene.

Those attending were Mrs. A. J. Beeson, Misses Virginia and Helen Beeson, Alice Louise and Helen Westcott, Ruth Shannon, Ursula Herold and Kathryn Waddick.

TERRIFIC WIND STORM DOES LOT OF DAMAGE

Rainfall Following the Wind Causes Scare in Business Section on Account of High Water

From Saturday's Daily.

Following cloudbursts at Greenwood and Ashland at an early hour this morning the storm burst on this city with all its fury a few moments before 8 o'clock and for some twenty minutes one of the most intense wind and rain storms of the summer prevailed and did a great deal of damage over the city and through the surrounding territory.

While the rainfall was not as great as that yesterday the short period in which it fell, added to the fact that the ground had been well soaked, made it easy for a sudden overflow of the sewers on both Chicago and Washington avenue and which for a few moments menaced the business section of the city.

The Chicago avenue sewer which drains a small territory was the first to overflow and soon had South Sixth street flowing with water from curb to curb and the sewer inlets wholly inadequate to handle the volume of water that was flowing down the street, as they were filled to their capacity and a force of citizens and workmen were called to work hard to keep the inlets open and allow the water that could flow into the new sewers.

It was but a short time after the overflow of the Chicago avenue sewer that the Washington avenue residents telephoned down that the sewer to overflow and soon had almost bank full and the sewers choking with the volume of the water and it was a matter of only a few moments until the water from that section of the city would sweep down into the main part of the city and add its part to the flood waters.

When both sewers were overflowing the water rose to the sidewalks on both North and South Sixth street and menaced the stores of E. A. Wurl and the Egenberger soft drink parlor for some time and in fact Mr. Wurl was unfortunate enough to get several inches of water in the area way underneath the walk which is used for the storage of coal, the water apparently seeping through from one of the sewer inlets.

Every section of the city reports trees blown down and sheds and other outbuildings damaged in the very intense storm and on North Seventh and Ninth streets the traffic was almost impossible owing to the large number of trees and limbs that had been blown into the street.

At the residence of Harry Kruker, on Washington avenue a large tree was broken off and carried away with it the telephone lines serving that part of the city and which will require some time to replace. On west Locust streets the electric lines were blown down, and one of the poles burned by the live wires touching it.

ENTERTAINS FOR MISS BEESON

Last evening Miss Ruth Shannon was hostess at a very pleasant tea party in honor of Miss Virginia Beeson, who is soon to leave for the west coast to spend the winter in school there. The tables were attractively arranged with the tiny favors of dancing girls in various colors and here the young ladies enjoyed themselves for some time. In the serving Mrs. Edna Shannon was assisted by Mrs. George K. Petring. Those who attended the pleasant occasion were: Misses Kathryn Waddick, Alice Louise and Helen Westcott, Sarah Rectory, Helen Beeson and Mesdames Waldeemar Soennichsen, Allen J. Beeson and Charles Dovey.

WILL WORK AT NEHAWKA

Lester (John) Griffin, who was employed in the Burlington shops at Plattsmouth until he met with a serious accident to his foot five weeks ago, has again accepted his old position with the Sheldon Manufacturing company of this place.

Mr. Milton Helton, a former employee, also is again at his old post with the factory and Emmet Hicks began work there on Monday morning. The factory is getting ready to resume work immediately upon receipt of barrels and other incidentals which should arrive soon. We understand the factory has a large number of orders on hand and more continually coming in.—Nehawka Enterprise.

METHODIST CHURCH ASKS FOR RETURN OF PRESENT PASTOR

Rev. F. E. Pfoutz, Present Pastor Here, Asked For This Charge During the Next Year.

From Friday's Daily.

The Methodist church of this city held their quarterly conference at the church last evening and which was attended by the officers and members of the church congregation to discuss the business affairs of the church. The Rev. J. W. Kirkpatrick, district superintendent, and wife drove down from Omaha to attend the meeting and presided.

It was the unanimous vote of the conference that the district superintendent carry to the annual conference of the Omaha district the wish of the members of the First Methodist church of this city for the return of their efficient and well qualified pastor, the Rev. F. E. Pfoutz.

Rev. Pfoutz came here at the first of the year in succession to the Rev. John Calvert, who was one of the most beloved pastors that has served this charge, and Rev. Pfoutz has proven a very acceptable successor and a very strong man in the church work here and with his family has become very popular in the community life.

It is not only the wish of the church that Rev. Pfoutz return here but the general public outside of the congregation most certainly will second the wish that this estimable family may continue here in the good work that they have proven so efficient in. If the church conference is governed by the wish of the residents of the city the present pastor certainly will be continued in this field.

At the meeting last night the selection of E. H. Westcott as the delegate to the lay conference in Lincoln on September 21 was confirmed.

PAYS A TRIBUTE TO MRS. A. A. WEIDEBURG

Burns (Wyo.) Herald Has Account of Death of Cousin of Henry Steinhauer of This City.

This community was deeply saddened by the unexpected death of Mrs. A. A. Weideburg, Sunday, July 29th. Mrs. Weideburg had been in poor health for a number of years, but her friends did not consider her recent illness of such a serious nature until the week previous to her death, when it became known that she was suffering from cancer. Death came as a release from pain, but it left many sad and lonely hearts.

Mrs. Weideburg was the mother of six children, all but one living to grow to young manhood and womanhood. The mother gave all her time and strength to the raising of her family and making a real home for them. Though they lived among us for but four years, her home was considered by everyone as one of the most hospitable in the whole community, where young and old alike were made welcome. Where there was a call for help and sympathy, she was ever ready to respond.

In recognition of the place she and her family have made for themselves, the last services of love held for her were attended by a large concourse of people. These services were held Wednesday morning, July 11, at 10 o'clock at the Presbyterian church with Rev. D. R. Burr in charge. He chose for his sermon the text, Psalm 116:15, "Precious in the sight of the Lord is the death of his saints," speaking words of comfort and hope.

Mesdames D. R. Burr, C. H. Bastian, S. H. Sibley and Messrs. C. H. and T. W. Bastian assisted with appropriate music. Beautiful flowers were given by sympathetic friends. An exquisite wreath in memory of mother was the offering from the bereft immediate relatives and friends attending the burial services held at Lakeview cemetery, Cheyenne.—Burns (Wyo.) Herald.

VISITING RELATIVES HERE

From Friday's Daily.

Dr. and Mrs. A. F. Fritchen and babe of Decorah, Iowa, arrived here yesterday afternoon to enjoy a visit at the home of Mr. and Mrs. Frank R. Gobelman, motoring in from Sidney, Iowa, where they have been visiting Mr. and Mrs. David Hiatt, parents of Mrs. Fritchen. At the Gobelman home has also been visiting Miss Lovey Hiatt, who with Mrs. Fritchen is a sister of Mrs. Gobelman.

CARD OF THANKS

We desire to express our appreciation of the many acts of kindness and sympathy shown to us in the hour of our bereavement and also for the floral remembrances at the funeral and to all those who took part in the services.

MRS. W. D. MESSERSMITH.
HARRY MESSERSMITH.
MRS. HOMER M'KAY, FAMILY.

THE NEW PRESIDENT

Calvin Coolidge was born July 4, 1872, at Plymouth, Vermont, and is the second native son of Vermont to occupy the white house, the other being Chester A. Arthur, also a vice president, called to the chief executive office by the death of the president. He had served as governor of the state of Massachusetts for two terms when named for the office of vice president by the republican convention at Chicago in 1919 and was elected with President Harding in the fall of that year.

Coolidge, who is known as "Silent Cal," made his chief reputation in the handling of strikes in Boston, while governor of Massachusetts, when he successfully broke them. He is the third man from the state of Massachusetts to be president, John Adams being the other two Bay state citizens so honored.

EXECUTIVE AND PARTY REACH THE CAPITAL

New President and Wife Arrive After All Day Journey—Go to Old Quarters at Hotel.

Washington, Aug. 3.—Calvin Coolidge today grasped the helm of the ship of state as it fell from the lifeless hand of his captain, Warren G. Harding.

Quickly he took upon himself the duties of pilot. Up practically all night receiving the news of his chief's sudden death, he had taken in the sitting room of his father's farm house in Plymouth, Vt., the oath to perform the duties of the thirtieth president of the United States.

Then a visit to his mother's grave, and he was off to Washington. He arrived in the capital at 9:10 p. m., to be met at the railway station by an official party, including Secretary Hughes and Postmaster General New. Then before retiring he conferred with Secretary Hughes and Senator Curtis of Kansas, republican whip. Tomorrow the new chief executive planned a busy day. He intended to remain in Washington until the body of Mr. Harding arrived from San Francisco, Tuesday, and go to Marion, O., for the burial.

President Coolidge went directly to his suite in the Willard hotel, where he and Mrs. Coolidge will remain until Mrs. Harding at her convenience moves from the White House.

To Rise Bright and Early

The new president planned to rise bright and early tomorrow morning and be at his desk by 9 o'clock. Mail, accumulating during his vacation in New England and conferences on Mr. Harding's funeral arrangements will absorb his attention. He will also look after preparation of a proclamation for a day of national mourning for Mr. Harding.

Those who came with the president consider it unlikely that he will announce any important steps in his administration until after the shock of the death of Mr. Harding.

The last leg of President Coolidge's trip from New England to Washington was made in fast time. Less than four hours and a half after he had boarded the special train which awaited him at the Pennsylvania station in New York, he stood in the capital.

As he passed through the gates to the presidential entrance of the railroad station which was last used by Mr. Harding when starting on his Alaskan trip, Mr. Coolidge raised his hat and bowed quietly to the crowd behind the ropes. There were no cheers nor applause but spectators raised their hats. The reception throughout was marked by its dignity and silence.

NIGHT FLYING MAY NOT START ON AUGUST 20TH

Reports that the initiation of night flying would start on August 20, were unconfirmed in Omaha this morning, says yesterday's Daily News. D. B. Colyer, in charge of the central division of the night flying, said that he had no idea of when the actual starting would occur.

"We have to put several more small stations twenty-five miles apart in operation before the actual flying will start between Omaha and Chicago," declared Colyer.

Pilots of airplanes practiced flying around the lights and over Omaha Wednesday night. They were guided by the lighting system recently installed at Fort Crook. The practice will be continued for several weeks.

Mrs. John Geiser was a passenger this afternoon for Omaha to look after some matters of business.

RESIDENT OF THE SOUTH PORTION OF CITY COMPLAINS

Thinks That More Attention Should Be Given to Care of Lincoln Avenue in This City.

From Friday's Daily.

The Journal has been asked to give exposition to the views of one of the well known residents of the south portion of the city who resides in the vicinity of Lincoln avenue and who has marked views concerning the care of and maintenance of the avenue.

This gentleman claims, and his assertion is well founded, that this important street is in very rough and bad shape and has been so for the entire summer and he feels that the residents of that section of the city should have some work performed on the avenue. As the gentleman states the avenue is one that is very extensively used by the men working in the shops as well as by the residents from south of the city traveling back and forth from their homes and they find a rough, uneven street to travel over and with several very bad crossings that makes the going as hard as possibly could be imagined.

While the season has been such as to check some of the street work, our friend believes that he has a just cause for complaint and would like very much to have the avenue placed in as good a condition as possible in the immediate future.

FUNERAL OF W. D. MESSERSMITH TODAY

Held at the Late Home in the North Part of City and Attended by Many of Old Friends.

From Thursday's Daily.

This afternoon at the late home in the north part of the city was held the funeral services of W. D. Messersmith, the news of whose death yesterday had brought such a deep sense of regret to the community.

Rev. Frank E. Pfoutz, pastor of the First Methodist church, conducted the services and spoke words of comfort to the sorrowing widow and members of the family. During the service, Mrs. G. E. Roman and Mrs. Charles Schutz gave two of the old and well loved hymns.

W. D. Messersmith was born May 24th, 1845, near Connorsville, Indiana. When about eight years of age he with his parents, removed to the state of Illinois, where he grew to young manhood. Leaving the parental surroundings he began his own life career in Iowa, living in and around Mt. Pleasant. In the year 1873 he came to this state and located in Plattsmouth. And from his home in this city he laid down the working tools of his life to enter into the reward that awaits his long life of constant labors, being 78 years, 2 months and 7 days old.

In the year 1873 he was united in marriage to Miss Elizabeth Larkin at Mt. Pleasant, Iowa. Together they have braved the problems and rejoiced in the blessings that life had for them.

Mr. Messersmith was a veteran employe of the Burlington Railroad, having worked in this place for a great many years. He took an active interest in politics and civic affairs and has served his community with unusual interest. He held membership in the Knights and Ladies of Security, now known as the Security Benefit Association, of Lincoln; a member of the First Methodist Episcopal church of Plattsmouth, where he did his portion of the work of the Kingdom.

About two years ago he began to fail in health and has not been able to do his usual self since, but gradually walked toward the setting of life's sun, which came for him on the evening of the last day of July.

Mr. Messersmith leaves a host of friends and several relatives to mourn his going, his brother Joel having preceded him. One sister, Mrs. Homer McKay, of this city, is left with the companion of his many years, one half-sister, Mrs. E. A. Peel, of Burlington, Iowa, and their adopted son, Harry, of Council Bluffs, Iowa.

Members of the immediate family circle in attendance at the funeral were Mrs. J. Messersmith, of Lincoln; Mr. and Mrs. M. F. Gorham, of Council Bluffs; Mrs. Maud Bunch and daughter, Burleigh, of Omaha; Mr. and Mrs. Carigan, Havelock; Print Latham, Havelock and Charley Messersmith of Council Bluffs.

WANT PASSENGER BACK

On last Saturday a petition was being circulated to ascertain whether or not it was the desire to have the passenger train that went west about 10:30 a. m. to Lincoln and returned east about 3 o'clock p. m. This gives the people a better chance to visit the county seat when they desire also to visit Lincoln. It is understood that a large number signed this petition.—Elmwood Leader-Echo.

VICTIM OF PECULIAR ACCIDENT.

A most unusual accident occurred in Omaha Wednesday morning when Lloyd Leo Feller, five year old son of Mr. and Mrs. L. R. Feller was the victim of a severe electrical shock while standing near the window during an electrical storm. The lad was unconscious for some time after the shock and several times since has been stricken with semi-consciousness, although physicians say that at his age the shock will wear off, if he is kept quiet for a week or so. Mrs. Feller, mother of the boy, is a sister of Mrs. Elmer Webb of this city, and the family resided here in 1918 when Mr. Feller was employed at the Sharp Machine Shop.

PLATTE RIVER IS FOLLOWING IN FOOTSTEPS OF MISSOURI

Efforts to Check Change of Channel Thru Valuable Sand Pits Have Proven Unsuccessful.

From Saturday's Daily.

The June rise of the Platte river did more damage at this point than was supposed at the time. The Courier made mention of the fact that the river broke through and flowed into the Lyman-Richey sand pits, but the greatest apprehension at the time was that the thousands of game fish planted by the state would escape. It did not occur to anyone at the time that when the waters receded the course of the main channel of the river would continue through the lakes and threaten the destruction of the sand industry at this particular point.

So deep has become the channel and so swift the water that it has baffled all efforts to change its course. For more than six weeks the sand company has had a gang of men at work with a drag line in an endeavor to check the flow. More than ten thousand bags of sand as well as innumerable car loads of concrete have been dumped into the stream, only to be torn away by the chaf before a Kansas cyclone.

It is said that it has cost the sand company up to date more than \$5,000 in an endeavor to protect their property, and still the waters rush on apparently undisturbed by the efforts of the workmen.

A new plan is now being tried, which Superintendent Sundstrom hopes may be successful. Instead of dumping sand bags into the stream as before, he is having them wired together and hopes in this way to prevent them from washing away. If the new plan proves successful he will have the course of the stream changed within the next few days.—Louisville Courier.

FINE LITTLE GIRL

From Friday's Daily.

Yesterday afternoon a fine little girl arrived at the home of Mr. and Mrs. Frank Shryock in the south portion of the city and with the mother is doing very nicely. Mr. and Mrs. Shryock have just recently moved here to make their home.

P. G. Egenberg will write you a policy in the New York Life Insurance Co., and look after your New York Life business. j2-400

Your Contract With the Federal Reserve!

The days when grain was cut with a scythe and bound by hand have practically disappeared. Modern methods have put farming on a more efficient basis.

The days when people had to carry their money with them are also past. Modern methods of paying by check have simplified and made safe the exchange of money.

Be up-to-date in your financial transactions! Keep your money in this strong bank and pay by check.

THE FIRST NATIONAL BANK
THE BANK WHERE YOU FEEL AT HOME
PLATTSMOUTH NEBRASKA

FIRST NEWS OF DEATH RECEIVED BY RADIO

WOODMEN STATION BROADCASTS ANNOUNCEMENT AND CUTS OFF ITS PROGRAM.

STROKE OF APOPLEXY CAUSE

Mrs. Harding Reading to Patient at Time When End Comes Most Unexpectedly to All.

From Friday's Daily.

The first news of the death of President Harding came to this city at a little after 10 o'clock last evening while the Murray radio concert was being broadcast from Station WOAW in Omaha and the announcement that the leader of the nation had gone was almost past belief to the listeners.

Earlier reports had been to the effect that the president was improving and when the news of his death came it was a decided shock to the residents of the community who were on the street. Following the radio announcement a few moments came the telegraphic assurance that the report was all too true and that the spirit of the kindly and lovable man in the white house had been stilled.

The death brought sadness to men and women of all political affiliations and creeds and was the sole topic of conversation on the streets as the sad facts were made evident as to their truthfulness.

On learning the news of the death, the rector of the Holy Rosary Catholic church in the west portion of the city had the church bell tolled and this brought to the residents of that section of the city the news of the death, Father Suesser, the rector, being a great admirer of the president.

Presidential Headquarters, Palace Hotel, San Francisco, Aug. 2.—Warren G. Harding, president of the United States, died instantaneously and without warning tonight at 7:30 o'clock, a victim of a stroke of apoplexy which struck him down in his weakened condition after an illness of exactly a week.

PRODUCTION OF FORD CO. SETS A NEW HIGH RECORD

From Saturday's Daily.

Production of the Ford Motor company went to a new high record for the week ending Tuesday, July 24, during which a total of 40,930 cars and trucks were turned out for domestic use, the Ford News announced. This exceeds by 127 the record production of the previous week. The Fordson tractor plant's output for the week was 1,882.

At the Lincoln division of the company a new production mark was established with a total of 210 cars for the week ending Tuesday.

Advertise your wants.