FAVORED THE OLD BOARD

Omaha's Fire and Police Board Case Decided in the Supreme Court.

SMITH'S POSITION SUSTAINED

Governor Boyd Had no Right to Dismis the Members Without Cause, Properly Preferred-Substance of the Deeision - Lincoln Notes.

Lincoln, Neb., June 11 .- | Special to THE SEE |-The supreme court has decided that the governor has no power to remove a member of the Omaha Board of Fire and Police, except for official misconduct and upor charges specifying the particular act or acts to be proved and an opportunity to be heard in open defense. This accision refers to the case of the state of Nebraska, ex. ret., G. H. Hastings, attorney general, against Howard B. Smith. Mr. Smith was appointed a meniber of the board on May 2, 1800, and continued in that office until February 23, 1892, when he received a letter from Governor Boyd, informing him that be had been removed. The letter of removal merely stated that 'I have this day removed you, for cause, from the office of fire and police commissioner for the city of Omaha. On the same day Governor Boyd appointed D. Clem Deaver as Lis successor. Notwith-D. Clem Deaver as Lis successor. standing Deaver's appointment, however, Smith declined to give up his office. Deaver commenced as action to oust him from the office and in order to test the matter Attorney General Hastings commenced quo warranto proceedings against Smith.

In his answer Smith raised the pint of law that the governor had no power under the statutes to arbitra ily remove a number of the fire and police commission. To this answer a general demurrer was filed by the attorney general, thus presenting the real question involved, v.z. the power of the governor under the charter of the city of Omaha to remove members of the Board of Fire and Police Com-missioners for cause other than official misconduct, or for the cause named, without charges and an opportunity to be heard in their own defense.

Mr. Smith's Position Sustained. The supreme court today handed down an

opinion overruling the demurrer. After re-ferring to the statutes fixing the limitations of the Omaha charter, the syllabus govern

opinion overruling the demurrer. After referring to the statutes fixing the limitations of the Omaha charter, the syllabus governing the opinion says:

The act approved April 9, 1891, by which section 145 of chaper 12, complied statutes of 1891 (charter of the city of Omaha), was so amended as to provide for the appointment as fire and police commissioners of said city of members of the three parties casting the largest vote at the last city election does not take effect until the expiration of the terms of office of the two commissioners who were appointed in May, 1899.

The general provision in section 172 of the charter of the city of Omaha for the removal of officers of the city by the district court does not apply to members of the Board of Firs and Police Commissioners.

The provision of section 12, article V of the constitution, empowering the covernor to remove all officers appointed by him, applied only to officers mentioned in the constitution. Where by law there is no fixed term of office and the incumbent holds during the pleasure of the appointing power, the power of removal is discretic may and may be exercised without notice or hearing.

Where the incumbent is elected or appointed for a definite term and is removable only for specified cause, the power of removal cannot be exercised until there has been preferred ngainst him spec fic charges of which he shall have notice and an opportunity afforded him to be heard in his defense.

By the charter of the city of Omaha the governor is authorized to remove members of the Board of Fire and Police commissioners only for the cause therein named, viz. Official misconduct and upon charges specifying the particular act or acts to be proved and an opportunity to be heard in their own defense.

The question whether the power to remove is judicial in the sense that the officers named are entitled to have the question of cause therefore heard by the courts, and if not whether the action of the executive can be rev ewed by the courts is not raised in his case a

Justice Post's Comments.

Justice Post, who prepared the opinion, prefaced his decision with the following general comments: "The evident purpose of the provision for commissioners from the different parties is to remove the police de-partment of the greatest city of our state from the influence of partisan politics. The from the influence of partisan politics. The object is one to be commended certainly and to which the courts will give effect when possible without violating the recognized rules of construction. The wisdom of a division of the powers and responsibilities of the board between the three parties will not be called in question. opinion is strongly in the direction of fixed and definite terms of office, and in favor of making the officeholder so far as practicable without impairing the public service inde-pendent of the appointing power. It is this sentiment that is expressed in the provision of the charter of the city of Omaha under consideration. Without further claboration our conclusion is that the charter of the city of Omaha does not authorize the removal of the fire and police commissioners thereof except for official misconduct, nor until they have been notified of the particular act or acts of misconduct with which they are charged and an opportunity afforded them to be heard in their own behalf.

Special Holiday Pardons.

There is a statute providing that two peni tentiary convicts may be pardoned on the Fourth of July of each year. An advisory board, consisting of the warden of the peni tentiary, chief justice of the supreme court and the attorney general, has heretofore recommended to his excellency two convicts

Governor Boyd, in considering the subject was impressed with the idea that this law was unconstitutional. Chief Justice Max-well was consuited in the matter and has written a letter to the governor in the capacity of a member of the advisory board rather than in that of chief justice. The letter reads as follows:

letter reads as follows:

FREMONT, Neb., June &-Hon. James E. Boyd, Governor: Dear Sir-Chapter 36 of the session laws of 1889 provides, "That on the 4th day of July in each year the governor of this state may, in his discretion, grant and issue an unconditional pardon to two convicts in the penitentiary who have been confined therein for ten years or more, and whose conduct while incarcerated in the penitentiary has been such as to entitle him or her to the benefits of the good time act.

"Sec. 2. Said pardons shall be issued upon the written recommendation of the warden of the penitentiary, the attorney reneral, secretary of state and the chief justice of the supreme court.

the written recommendation of the warden of the penitentiary of state and the chief justice of the supreme court.

"Eec. 3. This act shall not be construed or taken to abridge or deny the power now vested in the governor to grant pardons, but shall be in addition thereto."

You will observe that there is in fact a special bein addition thereto.

You will observe that there is in fact a special contact, which provides for a special board to recommend the pardon of two persons of a special class at the time stated each year. I believe that the statute is in conflict with the constitution which prohibits special legislation where a general law will apply, and also in effect takes away the discretion of the executive in granting such pardons; because, although couched in the language of courtesy, the meaning of the statute, nevertheless, is that the recommendations are smalled. It may be went to consider also the persons for whom the recommendations are smalled. It may be went to consider also the finature of the special statute. In general, none but those convicted of murder in the second degree or ike offense, are liable to be confined for more than ten years; therefore the 1.w applies almost exclusive y to persons convicted of murder in the second degree and sentenced to imprisonment for life; and as such sentences bear but a small proportion to the whole number the offect is that the punishment for marier in the second Caree and other like serious crimes in any event is but cleven or tweive years past have, to some extent been caused by this statute is a matter of mere conjecture; but if life and property are to be protected, the law must be permitted to take its course. The supreme court of this state, from its organization, has esrefully read and considered the evidence in the many voluminous criminal cases which have come before it and has never hestiated to set aside a vergic where the evidence failed to establish the guit of the accustive that a person may be wrongfully convicted of an offense, or facts in

my view in contravention of the constitution. In conclusion I desire to say that at any time. If I was convinced a meritorious case for pardon was presented, it would affor im pleasure to sign a recommendation for the same. don was presented ure to sign a recommendation ure to sign a recommendation.
Yours very respectfully,
SAMUEL MAXWELLA Chief Justice.

It is understood that the governor will exercise his power to pardon convicts on the Fourth of July irrespective of the advisory board and regardless of the fact that in past vesra this board had recommended convicts for pardon.

These Will Graduate.

The faculty of the State university today commended the following students to the Board of Regents as entitled to degrees:
Bachelor of Arts: Horaco S. Clason,
Homer Edmeston, Eugenia Getner, Mary
Hulihorst, Frederick Hyde, Lydia Mulion,
Walker Pilsbury, Josephine Freeman, Dan-

Bachelor of Letters: Charlotte Andrus, Edward Brown, Minerva De Pue, Stella Kirker, Cora Lvons, James McDonaid, Emma Pound, George Sheldon, Charles Skiles, Lura Stockton, Thomas Williams. Skiles, Lura Stockton, Thomas Williams,
Bachelor of Science: Samuel Avery,
Jawes Barklev, Theophile Brugger, Charles
Chandler, Rupert Dinges, Charles Helvie,
Paul Hubbard, Frederick Kenyon, Morgan
Maghee, Hugo Neison, Leroy Trover,
Bachelor of Civil Engineering: William
Brook, James Porterfield, Bruce Yates,
Master of Arts: Jared G. Smith, Albert
Woods, James Worley, Charles Lobinger,
Wilber Knight, Wilber Knight,

The artillery detachment of the university cadets held its annual compatitive drill or the campus grounds this forenoon, com-pany C detachment took first prize and company A detachment second. The chiefs of the winning detachment were R. E. Dinges of company C and R. S. Bulla of Company A. In the individual drill R. E. Dinges took first prize and H. C. Upton second.

The annual review and dress parade took place this afternoon and was witnessed by a large number of people. Governor Boyd presented commissions to the following officers: Captains—James A. Barkiey, Fred-crick D. Hyde, Morgan M. Maghee, George L. Sheldon, First lieutenants—Charles D. Chandier, Rupert E. Dinges, James B. Mc-Donald, Hugo E. Nelson, Leroy E. Troyer. licutenants - Theophit Brugger, Waiter B. Pillstury.

Irvine in Court.

W. H. Irvine, who shot and killed C. E. Montgomery in this city on the morning of May 26, made his second appearance in court this morning since the tragedy. His appearance today was in marked contrast with his demeanor at his preliminary trial. Then he scemed almost a mental wreck. Today he had regained all of his wonted composure, sat creet and faced the judge with an easy, unconcerned air. When his case was called he quickly stepped forward and listened to the reading of the information with but little perturbation. He pleaded "not guilty" to the charge and his case was set for trial

Green Gaffney, who shot and killed Charley Thomas May 27, also entered a plea of not guitty. His trial was set for October

The barn of W. E. Cumings at Nineteenth and Y streets was burned last night.

The delegates to the national convention of the Yardmasters association returned east

at 2:40 this afternoon.

Several hundred members of the Railway Employes club held a picnic at Lincoln park this afternoon. Special trains came in from different parts of the state and a general good time is reported.

The fire department was called to Thirtyfirst and Q streets at 1 o'clock this afternoon

by a fire in John Nightengale's barn. The building was partly consumed. Lincoln Citizens Ratify.

Lincoln republicans ratified the nomination of Benjamin Harrison and Whitelaw Reid tonight by magnificent demonstrations. Government square and the surrounding streets were packed with a big crowd of people. A band of music and a profusion of the works enlivened the occasion. The speakers were J. L. Caldwell, W. H. Wood-ward, Franklin Calins, J. B. Strode, F. J. Kelly, Judge Parker, Captain Billingsley and T. C. Munger. The meeting was more than enthusiastic.

Edvar's High School Commencement. Engan, Neb., June 11 .- [Special Telegram to THE BEE. |- The fourth annual commencement of the Edgar High school was held in the Baptist church Friday evening. Long before the hour for beginning the exercises the church was packed from pulpit to galiery, not even standing room being left. The building was beautifully draped with tapestry and decorated with flowers, evergreens and plants. The graduates were Misses Ida Clary, Stella Walley, Sadie Hawley, Minnie Green, Vira Gardner, Jessie Gizzier and George Avery, Raiph Saxton, Mack Carison, Robert Avery and Raiph Casterline. The delivery of the graduates was excellent and the subject matter of the eleven orations is rarely, if ever, surpassed by any school for uniform excellence. The musical portion of the exercises, in which Edgar's best talent participated, was a pleasing feature.

Educational matters here are on a higher plane and the schools now occupy a position second to no other high school in the state.

BUTTE, Neb., June 11 .- | Special to THE Bre. |- Butte is making great preparations to celebrate the coming Fourth of July Swift Bear and his band of warriors wil entertain the crowd with war dances. Hon. W. D. Mathews of O'Neill, Hon. J. B. Barnes of Fremont and Judge Allen of Madison will deliver patriotic addresses. One thousand dollars in purses and prem-

One thousand dollars in purses and premiums will be hung up.

The Butte Gazette, edited by T. S. Armstrong, will issue its first number Friday.

This will be the only democratic paper in Boyd county, and makes three publications

Beatrice's New Hotel Assured.

BEATRICE, Neb., June 11 .- | Special Telegram to THE BEE.]-The entire amount of he \$100,000 stock required to insure the building of the new Hotel Blakeley at the sorner of Fifth and Ella streets, this city. has been subscribed and the enterprise is an established fact. Work will begin at once on removing the old opera house, and work on the excavation for the new structure will commence immediately thereafter. building is to be a four-story pressed brick front, with a frontage of seventy feet on Fifth and 140 on Ella street. The building proper is expected to cost not less than \$85,000.

Army Officers as Witnesses.

FORT ROBINSON, Neb., June 11 .- [Special Telegram to THE BEE. |-Dr. Raymond, U. S. A., Captain Garrard, Lieutenant Packer and six enlisted men left here tonight for Omaha, They were subpoenced by the

United States court at Omaba as witnesses in the Middleton assault case. Colonel Stanton paid the two companies of the Eighth infantry stationed here and starts for the Ninth cavalry camp on Clear creek, near Powderriver, Wyoming, tonight to pay the six troops of the regiment camped

Killed a Circus Pet. GRAND ISLAND, Neb., June 11 .- [Special to THE BEE. |- A huge bear was discovered yesterday attacking a cow belonging to H. Sasson near St. Libory last night. Mr. Sasson shot at the beast but only wounded the animal, which immediately turned on him. A neighbor came to the rescue with a winchester and killed the bear. The bear was the property of a man who has been traveling over the country exhibiting two of the animals. The owner paid \$5 damages.

Many Visitors Expected.

GRAND LIAND, Neb., June 11 .- | Special to THE BEE. |-Fully 2,000 visitors are expected to attend the annual convention of the Plattdeutch Central Verein von Nord Amerika, which takes place here from Friday, June 17, to Tuesday, June 21, inclusive. The local committee on entertainment is ready for them, and a rousing convention is expected.

Thrown from a Horse. DUNBAR, Neb., June 11 .- [Special to THE BEE. |- J. F. Bogue, a farmer living two miles and a half west of town, was badly bruised yesterday by being thrown from a horse, and the animal stumbling and failing

HASTINGS, Neb., June 11 .- | Special Telegram to THE BEE.]—It is currently reported nere today that Dick Thompson had died in

a St. Joseph hospital. Thompson was for a long time a prominent journalist here, and once enjoyed the distinction of being the democratic candidate for secretary of state. He was always a good fellow. He recently edited a magazine at Ashland, and was next heard from in a St. Joseph hospital, where be had an attack of jaundice.

SUPREME COURT.

Decisions Handed Down by the Nebraska Tribunal Yesterday. LINCOLN, Neb., June 11 .- [Special to THE BEE. !- The supreme court today tanded down opinions in the following cases: Gillespie vs the City of Lincoln, Error from Lancaster county. Affirmed. Opinion by Mr. Justice Post.

A city is not liable at common law for the negligent acts of the members of its fire department.

Pin ntilfa intestate was struck and killed by a ladder wazon or truck belonging to the fire department of the defendant c ty, through the nerligence of the diverthereof, a member of said department, while driving along one of the streets of the city for the perpose of exercising a team of horses belonging to the department. Held that the city is not liable. Smith & US, vs. Boyer & Davidson, error from Red Willow county. Affirmed, Opinion by Mr. Justice Post.

by Mr. Justice Post.

In reviewing an order of the district court or a judge thereof, dischurzing an attachment, the evidence being conflicting, the same presumption provaits in favor of the correctness of the raining compitained of, as in cases of finding and judgment upon a formal trial.

The order of a judge discharging an attachment in such case will not be disturbed by this court unless it is clearly against the weight of evidence.

Pawness County vs. Storm. Error from

Pawnee County vs Storm. Error from Pawnee county. Affirmed. Oppinion by Mr. Chief Justice Maxwell.

Under the statute of the county board upon giving public notice through the newspapers as required by law and complying with the law in other respects, may locate a valid public road through the property of one or more of the land owners, although he has no actual notice of the proceedings while they are pending.

notice of the proceedings while they are pending.

Notice in a newspaper is constructive on'y, and while it is sufficient to give the county board jurisd ction, it cannot deprive the land owner whose property has been taken and nad no actual notice of the proceedin's to locate the road until after the time advertised for filling claims for damages had expired, from recovering compensation within a reasonable time after he has such actual notice, the actual appropriation of the property.

Connor vs. Draper, Error from Cass county. Affirmed, Opinion by Mr. Justice Norval.

Where, in an action tried to a jury there is Where, in an action tried to a jury there is evidence to sistain the verilet, the sucreme court will not set it aside and grant a new trial because the bare preponierance of the evidence seems to be against the verdict. Held that the instructions fairly submitted the issue to the jury.

When documentary evidence is excluded on the trial the same must be incorporated in the bill of exceptions, in order that this court may review the rulings of the trial court thereon.

The Lancaster County bank vs Hora. Error from Lancaster county. Aftir: Opinion by Mr. Chief Justice Maxwell. An assignment by a debtor of personal property for the benefit of creditors will not be invalid because not recorded, if file i in the county clerk's office within twenty-four hours after being made.

co inty clerk's office within twenty-four hours after being made.

An assignment for the benefit of creditors as it secures an equitable distribution of the proceeds of the debtor's property among his creditors will be sustained if possible.

Where the assignee has taken actual and exclusive possession of the personal property assigned such possession cannot be disregarded by third parties on the ground of want of notice. The statue merely provides for a registry of the instrument.

Oskamp vs Gad den. Error from Douglas Oskamp vs Gad den. Error from Douglas county. Aftirmed. Opinion by Mr. Justice

station at Schuyler, and asked the operator to request plaintiff to step to the telephone in their place of business in Omaha, as he desired to converse with them. He, one of the plain-tiffs, answered the call, but owing to the contiffs, answered the call, but owing to the conable to converse directly with each other. The
telephone operator at Fremont, an
intermediate station, proposed to and
did transmit defendant's message to
pialntiff, offering to sell them a
quantity of hay, and he also repeated to defendant their answer accepting the proposition. In an action for a breach of the
contract it was held that the conversation
was admissable in evidence, and that it was
competent for the defendant to state the contents of plantiff's answer to his message, as
repeated by the operator at Fremont, at the
time it came over the wire. Tootle vs First National bank of Chadron.

Error from Daws county. Reversed and re-manded. Opinion by Mr. Justice Norval. manded. Opinion by Mr. Justice Norval.

When goods are sold upon credit induced by the fradulent representations of the purchaser as to his financial ability, the vendor may reseind the contract within a reasonable time after the discovery of the fraud, upon a return, or offer to return, the consideration received by him and reclaim the goods as against any one not a bona fide purchaser for value without notice of the fraud.

But where the fraudulent vendee has sold part of the goods to innocent parties, the original vendor may retain of the consideration an amount equal to the value of the goods parted with by his vendee, and tender the baiance of the consideration before the property of the consideration when goods obtained by fraud have been mortgaged by the fraudulent vendee solely to secure a pre-existing debt due from him to the mortgagee, the latter cannot claim the protection which the law affords an innocent and bona fide purchaser of property from a fraidunt vendees of property from a

and bona fide purchaser of property from a fradulent vendee.

The petition examined and held to state a good cause of action in replevin.

The Fremont, Elkhorn & Missouri Valley Railroad company vs Matthies, Error from Douglas county. Reversed. Opinion by Mr. Justice Post.

Mr. Justice Post.

In this state the special remedy provided by the statute for determining by condemnation proceedings, the damage to land when a part thereof is taken for right-of-way purposes by a railroad company is exclusive. Republican Valley railroad company vs Fink, 18 Nebraska, 82.

A petition for the appointment of a commissioner to appraise damage for the tak mr. of property for right-of-way, which sets torth that the petitioner desires to acquire a strip 100 feet wide through a particular tract, and refers to an accompanying plat, for a more particular description is sufficient.

PLEASED WITH HARRISON.

Nebraska Republicans Satisfied that Victory Is Now Assured.

FALLS CITY, Neb., June 11,-|Special to THE BEE !- The nominations of Harrison and Reid were received here with enthusiasm. The revulsion of feeling among Blaine's former supporters, since his resignation as secretary of state, is surprising, and had be been nominated there are scores of republicans here who would not have supported him. Richardson will give 400 majority for

the ticket.

CLAY CENTER, Neb., June 11.—[Special to THE BEE.]—The news of Harrison's renomination reached here yesterday evening and the boys fired cannon in bonor of the event. ASHLAND, Neb., June 11.—[Special to THE BEE.]—The republicans of this city were nore than pleased with the renomination of

mere than pleased with the renomination of President Harrison. He was the choice of the republicans here from the start.

FRIEND, Neb., June 11.—[Special Telegram to THE BEE.]—The republicans of this city held a rousing ratification meeting this evening. Hon, W. S. Simmons of Lincoln addressed the meeting and there is considerable enthusiasm. The nomination of Harrison is giving satisfaction to republicans rison is giving satisfaction to republican

HOLDREGE, Neb., June 11.—[Special Telegram to The Bre.]—The republicans of this county held an enthusiastic meeting here tonight, ratifying the nomination of Harrison and Reid and to organize a republican club. E. A. Washburn was chosen chairman and H. E. Bush secretary. The club starts out with about 150 members, all enthusiastic for CAMBRIDGE, Neb., June 11 .- [Special Tele

gram to Tue Bee. Five hundred enthusi-astic republicans ratified the nomination of President Harrison at Cambridge.

President Harrison at Cambridge. The assembly was entertained by brilliant speeches by Colonel Henderson, J. C. Gambol, Rev. McIycai and C. M. Brown.
COZAD, Neb., June 11.—[Special Telegram to The Bre.]—There is great rejoicing here among republicans over the nomination of President Harrison. Hundreds of independents in this county are sure to yote the search licent participal ticket thus fall.

rendents in this county are sure to vote the recubilican national ticket this full.

VALENTINE, Neb., June II.—[Special Telegram to The Bez.]—The republicans held a ratification meeting here tonight which was largely and enthusiastically attended. Sevlargely and enthusiastically attended. Several speeches were made and the work of the last four years gone over pretty thoroughly. On the streets today not a criticism was heard of President Harrison's administration and all opponents concede that he is by far the strongest candidate that could have been named. He will be particularly strong with the farmers who lean toward the independents.

GORDON, Neb., June 11.—[Special Telegram to Tun Ben.]—The news of the renomination of Harrison is received with the greatest

satisfaction and enthusiasm. Flags are waving and bands are playing. Harrison is all right:

Nebraska Farmers Busy. CLAY CENTER, Neb., June 11 .- | Special to THE BEE.]-This city has presented a lively

scene for the past week. The streets have been crowded with teams until the capacity of the grain elevators was exhausted, and the scarcity of cars made it impossible to relieve

Farmers are beginning to complain some on account of dry weather. There is plenty of moisture in the ground, but the surface has become quite dry and hard. Want Heavy Damages.

Madison, Neb., June 11.- | Special Telegram to THE BEE |-Civil action has been commenced in the district court by Mr. and Mrs. John Griswold against Drs. Hutchincon and Foote for \$20,000. The complaint alleges that a recent operation performed was unskillful.

Dangerously Wounded. NORTH BEND, Neb., June 11 .- [Special Telegram to THE BEE. |-While playing with a revolver, Earl Brown, 9 years of age, shot himself in the side, making a very serious wound. Doctors have probed for the ball, but have not found it.

Sent to the Reform School. BEATRICE, Neb., June 11 .-- [Special Telegram to THE BEE. |-Harney J. Huston, a minor of Cortland, was today adjudged incorrigible in the county court and ordered sent to the reform school at Kearney.

Conferred the Black Cross Degree. Buant, Neb., June 11 .- | Special Telegram to Tue Bee. |-The Knights Templar of this place conferred the Black Cross degree upon Prof. Atkinson of the Omiha agency schools this evening. J. P. Latta and George Green of Tekamah were down as visitors.

WILKINSRUSTIN'S FIRERA Sad Ceremonies at the Home of the Young

Man-Grief at Yale. Captain and Mrs. C. B. Rustin and their on, Fred Rustin, arrived at 4 o'clock Friday evening from New Haven, Conn., with the remains of Wilkins Rustin, who met a sad and premature death at New Haven on Monday, June 6, as the result of injuries received by him while being initiated into the D. K.

E. society of Yale college.

The sorrow-stricken relatives were met at the depot by a company of friends and the casket was taken at once to the family residence at 1622 Harney street. The funeral services were held vesterday afternoon, Dr. Durvea conducting the rengious ceremonies over the departed. The floral offerings were superbly beautiful. The sophomore class, to which the deceased beonged, sent a magnificent pillow of roses and smilax, and the D. K. E. fraternity ten-derly remembered the young man who was about to become a member of that society in the presentation of a handsome shield com-posed of variegated roses and lilies. The floral gifts from friends in Omaha were umerous and elegant, for the deceased very popular among his numerous acquaint

nces in Omaha. funeral was largely attended. The The funeral was largely attended. The family is one of the oldest and most respected in the city and many hundreds of people sympathize with the bereaved family. Following are the pall bearers: W. G. Doane, J. W. Broatch, V. C. Caidwell, A. H. Preston, W. G. Preston, Augustus F. Kountze, John Patrick and Will Hoagland. All of the pail bearers are Yale men.
The body was interred in Forest Lawn

Merely Cruel Folly.

Touching the manner of his son's death Mr. Rustin said that he was thoroughly convinced that the reports tending to convey the impression that the accident was a case of premeditated malice or intentional cruelty on the part of any of the young man's associates were entirely misleading. The ridiculous ceremonies through which the members of the D. K. E. society were obliged to pass were not necessarily dangerous, and this sad incident was an accident which none had forecast. foreseen. His classmates were all shocked and sorrow-stricken by the tragic ending of the evening's sport, which they had intended to be only a little rough and ridiculous. "It was eruel folly," said Mr. Rustin, "that is about all that can be said about it My son was roughly with his about it. My son was popular with his class and I do not believe for a moment that any of them would have permitted the accident to occur if they had foreseen it."

How the Accident Happened. Mr. Fred Rustin, brother of the deceased who is also in Yale, explained the exact manner in which his brother received the fatal blow that ended his life. It seems that the ceremonics of initiation were almost finished at the time Wilkins Rustin and several others who were being initiated had been out on the campus, where they were compelled to sing songs and go through several ridiculous performances. The final act was to make a run down the street to-ward a restaurant, where the hoodwinks were to be taken off and the novitiates were then to be given some refreshments, con-cluding the ceremonies.

As the party entered the street through which the run had to be made some one cried out "run" and off they all dashed. Young

Rustin, aithough blindfolded, proved to be the swiftest runner of the lot, and as it is the well known custom of the society to make the applicant run a second time in case he failed to do his best on the first attempt Young Rustin decided to make a run the first time that would free him from a second demand of that kind. When the party had run some distance and had almost reached the restaurant where the refreshments were in waiting, the man who had Mr. Rustin in charge saw a back standing in the street and fearing his blindfolded companion would dash into it he called to him to stop. But Mr. Rustin was some distance ahead of his guide and having the bandage about his ears as well as his eyes it is believed that he did not hear the warning, for he ran against the tongue of the huck with tremendous force and fell prostrate on the pavement. The pole of the hicle had struck him fair in the pit of the stomach. He lingered from Wednesday evening until Monday morning, when he ex-

Stories were spaced broadcast to the effect Stories were spaced broadcast to the effect that the deceased had been cruelly bazed to death, and other reports stated that two of the guides ran by Rustin's side until he got within a few feet of the hack pole and then called to him to "Look out, there comes a wagon," and deliberately guided him to his death. These rumors are not believed by the relatives of the deceased, as stated above. They are convinced that the untimely death was simply an accident resulting from correvas simply an accident resulting from carelessness.

Grief at New Haven.

Brief funeral services were held on Wednesday at New Haven, all the members of the class being excused from duty to attend. Speaking of the incident the New Haven Daily Morning Journal of last Wednesday said: "Nothing, perhaps, has ever cast such a general gloom on the campus. The depressing effects of the unfortunate accident is everywhere apparent. fortunate accident is everywhere apparent.
Just before the operation was performed on
Rustin his most intimate friends passed through his room and said goodbye to him. The sight was a deeply touching one, young men with life before them saying goodbye to a friend who had been so harshly taken from them. Everywhere the noble, manly character of the dead student was enlogized. He was one of the men who made Yale a pleasant place to be in. Naturally the blow falls heaviest on his father and mother. in. Naturally the blow falls heaviest on his father and mother. He had written them glowing letters about the pleasure he expected to get from the societies feel keenly their share in causing Rustin's death. Psi Upsilon and D. K. E., the two leading junior societies, adopted the following reso tion last night:

"Resolved, That every candidate shall assent to the oath of the society and shall sign the constitution.

the constitution.

"Reso ved further. That the initiation ceremony shall be the above and nothing more.

"The sophomore class also passed resolutions expressing the sorrow of the entire class occasioned by the sad accident, sulegizing the deceased and declaring that the class as a special mark of respect should wear badges of mourning until the end of the present school year."

The W. A. Page Soap Co., are publishing each week a different list of ten merchants who sell Union soap. Waten for your grocer's name.

Arrival of the Companies for the National Competitive Drill.

WITH OMAHA'S RECEPTION

Complete Program of the Occasion-Mon. day Will Be an Interesting Day at the Camp-Work Wil Commence Earty.

The famous Belknap Rifles of San Antonio, Tex., arrived in the city at 8 o'clock last evening. As usual the company had bed luck all the way up on account of delays, wrecks, etc.

A detatchment of Omaha Guards commanded by Lieutenant Wilson met the new arrivals and acted as an escort to headquarters. The men were pretty well tired out after their long ride and were very glad when their journey's end was reached.

After reporting at headquarters the command marched to the Murray hotel and had supper. While the company was waiting at the corner of Sixteenth and Farnam for the captoin to make his report to Secretary Aitenison, the Texans let loose their old time ground of any importance since the organization of the company in 1884. It runs like this: "Hip, hip burrsh, Tiger, Beiknap, mayerics, Texas, one, two, three, Zip, boom

Proceeded to Camp.

Immediately after supper the command proceeded to the camp. It was impossible for some of the Belknaps to come with the for some of the Belknaps to come with the company, but the few who were left tenind will reach Omaha Monday. Roster of the drill: Captain, Robert B. Green; first lieutenant, John F. Green; second lieutenant, I. C. Baker; sergeants, Charles Norton, James Findiay, David Watts, Will Jones, Percy Richardson; privates, Mr. Becker, C. C. Smith, Frank Smith, S. Wolcken, S. Mcadoo, J. Tugwell, M. Sowday, W. Dascomb, J. Durnell, C. Bee, B. Pee, T. Bee, W. Alexander, J. Jones, F. Jones, W. Webb, A. Blum, H. Dukel, C. Harden, B. Anderson, H. Bacon, H. Baker, R. Hickman, E. Hernandez, E. Walton, W. Trommer and N. Winstead.

The program as arranged for the first three days is as follows:

Monday, June 13—Arrival of troops, band concert 1: to 12 m. 12 m., formal opening of camp, Lieutenant Colonel H. B Mulford president of National Competitive Drill association, commanding. Welcome to state, Governor James E. Boyd. Welcome to etty, Mayor George P. Bemis. Response on behalf of association and presentation of Captain William V. Richards, Sixteenth United States is fantry as commandant of camp, John E. Aitchison, secretary National Competitive Drill association; raising of flag over headquarters, 1:30 p. m., meeting of officers in each class of drilis at headquarters, 2:30 p. m., grand mount 4:0 p. m. to 5:00 p. m., practice drill by maiden infantry, zouaves, Gatiling and artillery companies — p. m., grand dress parade. — p. m., grand military band concert.

Tucsday, June 14.—9:00 a. m., guard mount 6:45 a. m., inspection of companies which are to drill this day, 10:30 a. m., (souave) Waish zouaves of St. Louis, captain William Heyman, 11:30 a. m., (maiden) king rifles of Sulphur Springs, Tex., captain John A. Mitchell, 2:30 p. m., (gatling) Omnha guards of Omaha, Neb., captain F. E. Famford, 3:30 p. m., (mathem guards San Diego, Cal., captain E. E. Speleman, 4:30 p. m., (gatling) Omnha guards of Omaha, Neb., captain F. E. Famford, 3:30 p. m., (maideu) Company A., ninth Infantry, California mational guards, San Diego, Cal., captain E. E. Speleman, 4:30 p. m., grand street parace. A parade of all the companies in attendance and the entire second infantry. United States of army under command of major William S. Worth, United States of army under command of major William S. Worth, United States of army under command of major William S. Worth, United States of a my under command of major will drill and page to the formand of the page of th The program as arranged for the first three days is as follows:

Wednesday, June 5-9 a. m., guard mount. 10 Wednesday, June 5-9a. m., guard mount. 10
a. m., inspection of companies which will drill
during this day. 10:31a. m., National Omaha
Guards, Omaha, Neb., Captain F. E. Bamford.
11:30 a. m., Gatting Cincinnati Light Artillery,
Cincinnati, Captain Fred J. Herman. 1:33 p.
m., Zouaves, Chilhowee Zouaves of Knoxville,
Tenn. Captain W. P. Chandler. 2:30 p. m.,
grafi sham battle; a realistic representation
of one of the most famous battles known in
history; all of the troops will participate in
this grand battle and the forces on both sides
will be commanded by United States army will be commanded by United States army officers. Grand military band concert after sham battle. Exhibition drills. 7 p. m., diess parade. 7:30 p. m., grand military band concert.

calls of service and roll calls at the National Competitive Drill association encampment, Omaha, Neb., June 13th to 20th, 1892, will be sounded as follows:

REVEILLE.
First Call 5:50 a. m. Assembly 5:50 a. m. Breakfast Mess Call 5:55 a. m. Surgeon's (sick) Call 6:15 a. m. Fatigue (police) Call 6:30 a. m.
GUARD MOUNTING.
First Call
First Call 9:45 a. m. Assembly 10:30 a. m. First Sergeant's Call 11:30 a. m. Dinner Mess Call 12:00 m. Supper Mess Call 5:30 p. m.
DRESS PARADE,
First Call
Encampment Notes.

Dress parade will be held every evening at Captain Joyce of the Avon Rifles, Cincin nati, notified Secretary Aitchison yesterday that it would be impossible for the company to attend the drill.

The sponsors, chaperones and maids of honor have been requested to attend the opening ceremony at noon on Monday. After the addresses by the governor and Mayor Bemis the ladies will be introduced to the officers of the companies which they will All ladies will be admitted to the grounds

free on Monday up to 3 p. m. Brigadier General Brooke, U. S. A., has accepted the invitation of Secretary Aitchion to review the parade on Tuesday even-

The Omaha guards, including the gatting section, went into camp last evening. Bugler Daly of the Second infantry has seen employed by the management to sound

The orderlies detailed from the Omaha

guards for duty at headquarters yesterday had a busy time of it. Today will be a busy one for the detachments of guards detailed to do escort duty. Companies will be arriving today.

Captain Boyd of the Sealy rifles of Galveston is well pleased with his reception yesterday and is particularly pleased with the camp grounds and the quarters his company has been assigned.

The new white duck uniforms of the Sealy riffes are much admired. Governor Boyd has been given an invita tion to welcome the visiting militia organiza-tions that may participate in the national drill in Omaha in his capacity as commander-in-chief of the Nebraska National guard. The governor will next Tuesday evening review the imilitia column with his staff and also with General John R. Brooke, U. S. A., commander of the Department of the Piatte, and staff. The reviewing stand will be upon the balcony of the Paxton botel overlooking Farnam street.

Company B, Colorado National guards, Denver, will arrive over the Rock Island at The Dallas (Texas) Light artillery will ar-

The Daliss (Texas) Light artiflery will arrive by the Burlington at 6:40 this morning.
The Missouri Pacific will run a special train for the Fietcher Rifles of Little Rock,
Ark., and the party, numbering nearly 150 persons, will arrive at 10:30 Monday morn-A telegram was received by C. B. Altchison, secretary of the local association of the national drill, that the Cincinnati Light

artillery will arrive in the city at 12:35 Sun day moraing. A telegram from Davenport, la., says that Devlin's cadets will arrive at 8:50 Sunday morning.



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Men's fine Derby and Soft Hats, 50c, 75c and \$1, usual price \$1,25, \$1.75 and \$2.50.

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Men's Kangaroo Low Shoes, \$1.25, usual price \$3.

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