#### MANDAMUS WILL NOT ISSUE

Decision in the Platte Canal Case by Banc of District Judges.

UNANIMOUS AS TO THE MAIN POIN

Differ as to Constitutionality of the Law and Other Features-Opinions of the Three-Case Goes to the Supreme Court,

The decision of the district court denying the writ of mandamus against the county commissioners to compel them to call a spectal election for voting bonds to sid in the construction of the Platte canal was rendered yesterday by a bane of three judges.

Long before 10 o'clock, the hour set for rendering the court's opinion, the court room was crowded with prominent citizens. the crowd of listeners extending out down into the hall, while every available space in the room was taken by the time Judges Ambrose, Duffie and Keysor had taken their sents. Each of the judges delivered carefully prepared opinions, the decisions being read in the order named.

On one point the court was unanimous Before commencing the reading of his opinion, Judge Ambrose stated that it was the unanimous view of the court that the manda-

mus should not issue. Judge Ambrose, before whom the case was originally brought, and who had invited the other judges to sit with him, overruled the canal law in all particulars, holding it unconstitutional as to the right of the judges to appoint capal trustees and holding that the trustees were county officers and should be elected, not appointed.

Both of the other judges refused to hold that the law was unconstitutional, Judge Duffie taking the view that as the commis sioners had a discretion as to the amount of bonds to be issued, it would be useless to compel them to act, as they could by making the issue small, nullify the law, and Judge Keysor holding that the better practice would be to deny the writ and so get the constitutional questions squarely before the supreme court, as it might be a question, if the writ was allowed, as to what steps could be taken to get the matter before the court. act except through the legislative capacity OPINION OF JUDGE AMBROSE.

Judge Ambrose's opinion was as follows, This is an application for the issuance of a writ of mandamus to compel the respondent, writ of mandamus to compel the respondent, holders to an ordinary public or private corthe county of Douglas, to call an election poration. This board is possessed of most and submit the question of voting bonds to aid in the construction of the Platte river canal, under and by virtue of an act passed and approved at the last sess on of the legis-

It is alleged in the application for the writ It is alleged in the application for the writ greatest political force and agency which that a proper petition was presented to the the state of Nebraska has ever created, and Board of County Commissioners, signed by the requisite number of legal voters, and as the legal voters and taxpayers of Douglas that the county commissioners refused to that the county commissioners refused to call such election, alleging among other things that the act in question was unconsti-

presented to the board, asking that an election be called, as provided for by the terms of

various taxpayers sought the permission of motion this mighty engine and force. were granted the privilege, and have filed answers, or petitions of intervention, alleging various grounds as to why the writ should

One taxpayer intervened by way of de-

county commissioners collusively admit in their response to the application for the writ that the petition signed by the 2,500 and more legal voters of the county was a proper petition. The taxpayers inter-vening allege that it was not a proper peti-tion, for the reason that the petition itself upon its face sought to locate the route and tablish the termini of the proposed canal. while by the terms of the act itself that power rested with the trustees created un-der the act. The petition, as presented to the county board is attachd to, and made a part of the answer of one of the respondent county commissioners and is fully before the court. Its effect, and whether or not it was a proper petition, is thus presented to the court for its determination; and it is not competent for taxpayers in an application of this return to intervence or the court for the saturation of this return to the court for the saturation of this return to the court for the saturation of this return to the court for the saturation of this return to the court for tion of this nature to intervene on their own behalf, unless they can allege and substantiate by evidence that the respondents are colluding with the relator, so as to prevent a full hearing of each and every question that shall be presented. Each and every question in this case, as presented or attempted to be presented by either one of the intervenors is fully presented by the answer of the several respondents who are properly before the court. While I have listened with great attent on and have received very great aid and benefit by the argument of counsel for and on behalf of the several interven-ors, yet I am constrained to say that the Intervenors, as such, have no right to be heard in actions of this kind under the pleadings as in this case; and the intervenors will

DEFECTS OF THE LAW. Proceeding now to a consideration of the questions involved in this application I very great importance, and have been ably argued by counsel upon either side and have

The questions presented are: First—That the act in controversy is un-onstitutional because it provides that the udges of the district court shall appoint the five trustees, and that such trustees, when appointed, or as created by the act, are county officers, and that the constitution provides that such county officers shall be elected by

ond-That the title to said act is defective, in that it contains more than one subject, and the subject of the act is not clearly expressed in its title; and that the act undertakes to amend or repeal, or, in effect, amends or repeals previously existing laws, and does not contain the section or sections so amended, and the section or

sections as amended are not repealed.

Third—Because it is special legislation, in that it delegates to any one county having a population of not less than 125,000 in-habitants, the right of putting into opera-tion, or of determining when shall be operalive, a statute virtually affecting the rights and privileges of the entire people of the state; and that it grants to only one county in the state, or to a corporation created by act, special and exclusive privileges and

Fourth-Because it creates a corporation nown as the Board of Canal Trustees of cuglas county, Nebraska. Fifth—That it makes party affiliation a

COUNTY NOTHING TO SAY. will be seen that there is created by act of the legislature a corporation which has unlimited power and control over all finances relating to this project, and that the county of Douglas, which it is confessed is the only county in which the project can be operative, has nothing to say in relation to the matter whatever, except that the county shall provide the necessary funds in that therefore we will exercise it. If we the next instance within the leave the next instance in the first leave the next instance in the first leave the next in the nex the first instance within the laxable limit of the carrying out of the carrying out of the carrying out of the carrying out of the purposes of this act. Every dollar expended, the power to exercise entire tain individuals, who by virtue of their tain individuals, who by virtue of their people.

There can be no limit to the power thus possessed by the judiciary. There can be no limit to the power thus possessed by the judiciary. The pose it shall be expended, at what prices the property shall be purchased, and where the power to exercise entire tain individuals, who by virtue of their tain individuals. The beauting power at countries to dend the writ, the power the power to exercise political power at countries the minutes to dealt countries the broadway depot at countries the broadway depot at countries to designate certains and thirty minutes the morning and thirty minutes the power that in individuals, who by virtue of their tain individuals, who by virtue of their tain individuals, who by virtue of their tain individuals. When the power the power the power the power that the power the power tain individuals, who by virtue of their tain individuals, who by virtue of their tain individuals. When the power the power the power that the power the power that the power the power that the power that the power to exercise entire tain individuals. When the power the power that the power that the power that the power the power that the power that the power that the power that the the power that the power that the the power that the the power that the power that the power that the power that the the power that the power that the power that the power that the the power that the power that the power that the power that the the power that the power that the the power that the power that t

the property shall be purchased, are all ex-clusively within the control of this corpora-

Does this act then amend any of the previously existing laws relating to counties, county affairs or county revenues?

Is the act under consideration an amendment of the sections to which reference has just been made?

They are not referred. on thus created.

Just been made?

They are not referred to in the act. These sections are not changed by the terms of the act, nor the provisions conflicting with the act in question are not repealed.

Is the county of Douglas a beneficiary under the act in question? Is it, in fact, the owner of this canal, and of the revenues derived from it; and responsible for its proper construction, maintenance and conduct?

If it is not, then it has no authority whatever to issue bonds for its construction. If

over to issue bonds for its construction. If it is beneficially interested in this project, then does not the provisions of the law in relation to the conduct, the purchase of property necessary for its construction, the payment or auditing of all the accounts con-cerning the receipts and expenditures of this canni, seriously conflict with the provisions of the statutes to which reference has just been made? Does it not take out of the power of the county board, to make all contracts and to do all other acts in relation to the property and concerns of the county If it does, and can in any measure be con-sidered an amendment of the provision referred to, then it must fail, because the act n question does not comply with the pro-visions of the constitution in relation to the altering or amending of previously enacted

previously existing corporation. This new orporate body is a county agency, or it is nothing; and it is invested with power over revenues derived from the investment of county funds, and payment from such funds for property, which property belongs to the county of Douglas, and divests the prior corporation of all power of investment of such funds, or the control of such county property, without in the least degree seeking to amend existing statutes. This mode of legislation cannot in my judgment be up

POWER TAKEN FROM THE PEOPLE. The next question I wish to consider is Have the judges of the district court the constitutional power to appoint the trustees

named in this act, and who, when appointed, become an organized body corporate, possessed with the full powers of corporations as known to the law? These trustees, when they shall have been named, and shall have fully organized the corporation created by this act, stand in the relation of directors to

any public corporation.

and power of the individual members of the board of trustees. The people of the county of Douglas in relation to this corporate body thus created, stand in the relation of stock extraordinary power. It has the power of expenditure of more money than the Board of County Commissioners would have for twenty years to come. It has the control of a great scheme, if successful. It has the entire management and manipulation of the it would seem as though stockholders, such to be possessed of sufficient capacity and power to enable them to select the men to whose management, custody and control they

are willing to entrust this vast expenditure The respondent has fully answered and has of money, and this vast political machine disclosed to the court the petition which was their capacity of directors of the corporation have the entire control, power and dominion over this whole subject; and the judges of aid act.

In addition to the answer of the respondent, are clothed with the power of setting in the court to be allowed to intervene, and seven men occupying the position of judges of the district court of the Fourth judicial alone of Douglas county, but they are the judges owing their seats to the elective franchises of the legal voters of the four countles composing the district, some of whom are not residents of the county and have no financial or personal interest other than the other citizens of the state at large have in the private concerns and interest of the county. not issue; the same grounds substantially franchises of the legal voters of the four being alleged and averred by the proper re-

> this power thus conferred upon us, and which must necessarily be exercised in this fashion, is a judicial power, but it is conceded to be a political power. WHY JUDGES WERE SELECTED.

the controlling political force.

who are republicans? Who are the two best men who label themselves democrats? Who

is the one best man who is labeled a popu-

are named, are recognized in this state as

yet been heard to say that the exercise of

Irrespective of decisions, it being conceded, and rightfully so, that the power which the judges are caled upon to exercise is a politi-cal power, and not a judicial one, and con-

because of the individuals occupying the position as judges, but simply because they

The judges of this court exercise, it is true, in some instances legislative power, such as the making of rules and regulations for the government of the court, the appointment of bailiffs and reporters. Upon the other hand the legislature in the allowance of a claim, in the punishment of those in contempt of its rightful orders and directions, exercises in a sense judicial power. executive in granting letters of extradition of criminals, in the calling of an extraordinary session of the legislature, and in many like instances exercises also judicial power. Yet such judicial power thus exercised by the legislature, or the executive, as well as such legislative power exercised by the court in the way indicated, as only and solely exercised to such a limited extent as may be necessary for the purpose of carrying into effect their own individual powers, as expressly delegated to them by the very terms of the constitu-

No man has yet had the temerity to that the executive may render a judicial judgment, or that the legislature may turn a final decree pronounced by the highest court in the state. By the very genius of the organization of these separate depart-ments, neither has the power to exercise the control over the subject matter with which each department is individually and separately

LEGISLATURE WENT TOO FAR. As is said by Alexander Hamilton, S1 Federalist, page 325, sixth edition; bers of the legislature will rarely be chosen with a view to those qualifications which fit men for the stations of judges, and as, on this account, there will be great reason to apprehend all the ill consequences of defective information, so on account of the natural propensity of such bodies to party divisions squalification for office.

Sixth—That it gives the canal trustees named in the act a life tenure of office, in that there is no limitation on the term of those appointed or reappointed, after the expression of the terms of those first appointed.

Proposity of such closers to party divisions a proposity of such closers to party divisions and closers to party divisions a proposity divisions and clos power by a legislative body to the exercise of Seventh—Because it provides for taking private property under the guise of taxation for other than a public purpose. language is not saying as to what the judi-language is not saying as to what the judicial body clothed with this power of political test is what might be done. Shall it be said in time to come that the judicial de-partment of this state, recognizing the unfirst instance within the taxable limit have the power to exercise political power at

# N. B. FALCONER

We now enter upon the second week of our

# GREAT JUNE CASH SALE.

Just as fast as one bargain is sold out we have another ready to take its place. Many new and choice goods will be sacrificed this week. We will offer even greater values than last, You all know what crowds attended our store every day last week and you have heard them speak of the extraordinary bargains they got. Prices will be lower than they were ever know to be before and that too on the very choicest and most desirable goods to be found The act in question creates a new and intependent corporate body, carved out of a

anywhere. We want to see our store jammed full of people all day tomorrow and these are the prices to do it.

Values such as these cannot be found elsewhere.

# Silks! Silks!

Bengaline Silks at 25c Yard.

In shades of drab, navy, myrtle, canary, heliotrope and black, actual ralue 65c, Monday at

25c.

Cheney Bros.' 24-inch Printed China Silks, worth \$1.00, at

59c.

Armure Silk, the \$1.00 qual-

50c Fancy striped Taffeta Silks, very lesirable for waists, the \$1.00 qual-

Colored figured Alma Satin Surah and Taffeta Silk, actually worth \$1.00,

59c

Colored, striped and figured Satin Surah Silks, in small, neat designs, regularly sold at \$1.00, at

371c

#### Colored Dress Goods

Imported Challies, 33c

All our French Challis that sold at 45c and 50c on sale now at 33c. Silk finish Henrietta, 50c. All our best Henriettas, 46 inches

wide, that sold at 75c and \$1.00, all shades, Monday at 50c. 50 pieces new Novelty Dress Goods, marked to sell at 50c and 75c, now

Wrappers at 68c

Worth \$1.25 and \$1.50. Monday we place 50 dozen of our best plain and trimmed Wrappers, that have been selling at \$1.25 and \$1.50, on sale at 68c each. We have over 100 different patterns in challis, prints and ginghams, some plain and some trimmed with fancy braid and lace. This is a great sacrifice, but cost cuts no figure in this sale.

Shirt Waists, 48c

Worth up to \$1.50. All of our Shirt Waists that sold up to \$1.50 each go on sale Monday at 48c each. Among these are white lawn waists, checks, stripes and many new designs in percales and gingham. We expect to sell every waist in this lot Monday, as it is the greatest bargain we have ever offered.

### Ladies' and Gents' Furnishings.

Suspenders, 19c

Gents gilt trimmed clastic cord end summer weight suspenders, in black, blues, medium and light shades, at 19c per pair; regular price 35c.

Four-in-Hand Wash Ties, 19c.

Ladies' and gents' new French crystal weave, also madras and zephyr cloth, Wash 4-in-hand Ties at 19c each; regular price 30c.

Ladies' Hose, 37½c.

Ladies' 50c quality Hermsdorf fast black Hose, double soles, heels and toes, at 37%c per pair, 2 pairs for

Misses' Hose, 81c. Misses' 15c quality fine ribbed fast black Hose, in sizes 6 to 91/2, at 81/2c per pair, 3 pairs for 25c.

## Linings-

Yard wide Percalines, for waist and skirt linings, black and all colors, 10c yard for the 15c quality. Fancy waist linings, 10c yard for the 20c and 25c qualities.

Bedspreads

100 extra heavy Marseilles pattern Bedspreads, regular price \$1.25, for this sale

85c.

#### Tablecloths 200 double damask pattern Table-

cloths, 2 yards by 21/2, regular price \$3.75, for this sale, \$1.98 500 hemstitched Scarfs, 20x56, all

linen, stamped in the latest styles,

regular price 75c, for this sale 29c. Millinery

Dept Monday morning we will place on sale 100 choice Trimmed Hats for \$1.98 each, worth from \$5.00 up. These are the grandest bargains ever

#### Black Goods

At 371c.

All wool Storm Serge, All wool Albatross, all wool Imperial Twill, all wool Nuns' Veiling, all wool fig-ured Tamise, all wool black Novelty Weaves, etc., etc., 36, 40 and 46 inches wide, sold at 65c, 75c and 85c, all go Monday at

37tc a Yard.

Sunbonnets, 29c

A new novelty in Infants' Sun Bonnets, just in, white and colors; make the little ones happy; it's a great

White Dresses, 48c. Tomorrow we close a line of in-

fants' White Dresses, a new, beautiful goods, nicely trimmed, actually worth to \$1.00; we start them for 48c. Sun Umbrellas, 98c

100 Sun Umbrellas, an extra quality, good for sun or rain, regular price \$1.50; we start them for 98c.

New Laces, New Veilings, New Ribbons

murrer, and he, too raises the same questions sought to be raised by the county attorney, and the proper county authorities as to why the writ should not issue as prayed. And, in the first instance, it may be well and in the first instance, it may be well of applications, not alone according to their departments," says Chief Justice of the question of intervention.

The test of this county: When we shall meet to appoint them we are to examine and see who power, for affirmative words vesting power under a constitution are construction are constitution are constitution are constitution are constitutional, the fact of the incapability of an act authorizing the district judges of an act authorizing the country.

South Chicago, Hyde Park and Lake was provided the properties of the properties are public officers who should be accorded to the incapability of an act authorizing the district judges of an act authorizing the country. covered in the opening words of the clause."
In support of this interpretation of the law

AFTER A CAREFUL RESEARCH. As is said in the care of Taylor against Place, supra 354, "We should never dream list? We can appoint no more from each hat the assumption of the legislative powers political party. The three political parties by the judiciary or the executive could be just named, and in the order in which they constitutional simply because these branches of the government are too powerless to suc-No man has cessfully usurp them. It is only because the legislative body of a state is powerful both in numbers and influence of members; because it holds the purse, and under our consti-tution appoints as well as pays; because from these sources of power, to borrow the similes of Madison, its ambition becomes enterprising, so that it everywhere extends the sphere of its activity and draws all power into its impetuous vortex; in fine, it is only because it so much needs constitutional con-

trol that the doubt arises whether the con-stitution does control it."

Shall we by reason of our ambition, which

I have thus carefully and fully gone over are judges, and are delegated to exercise as judges the political power of making the appointments in question.

The tydess of this power, being at all times solicity and judicial power, being at all times solicity. tous that upon so important a subject and one in which is asserted the constitutional power of our own departments, that the view thus expressed should be made as plain as possible. It is a matter of great delicacy to assert the jurisdiction of this department of the government contrary to the views ex-pressed by the legislative will in the act before us. But in a case so clear from doubt as is this I should be equally unworthy of the post of duty in which I am placed by the constitution if I swerved from the duty which that post placed upon me either from a want of attention to or a just sense of the rights before me or oppressed by a false delicacy in passing upon a question so full of importance to us as a part of the judicial power of this judicial district; or from any other cause. No argument has been overlooked, no authority unconsidered, but the conclusions arrived at are based upon the constitution have been led to see it and the writ will be denied.

SOME DEFECTS NOT FATAL. tion then the law did not amend any statute affecting the ownership of county property. the county for the construction of the canal was a fatal objection. Works of municipal improvement required the expenditure of

> was held that a municipality might issue bonds for a railroad. The farther it was built the more beneficial it became, and so The judge said that he recognized the force of Judge Ambrose's objections to the apointing power of the judges. It was a question of not whether the law was wise or not but had the judges the power to appoint. "lilinois," added the judge, "under a similar constitutional provision holds that such appointive power exists, the constitution giving the judges the power in addition to co law and chancery jurisdiction such jurisdiction as the law may provide. This legislature upon the judges as a duty, and evil effects must be placed on the legislature. The other argument advanced is that if this constitutional clause does not authorize the egislature to give the judges such a power, then the act relating to the canal commis-

Can tend that this would invalidate his acts.
The words in our constitution conferring

called in question. The court in that case not granting the writ and for protecting the held that the act merely referred to the people from the expense of an election until judges as individuals.

COURTS SHOULD GO SLOW. Judge Duffie concludes that the designation of the seven district judges in the act called on them to perform no judicial or official function. They occupied the same position as any other citizen who was offered a trust as an official duty they could accept or reject it, and no coercive power could compet them to act. "But the failing of the appoint-ing power," he continued, "would not make the act unconstitutional, though some other steps on the part of the legis-lature may be necessary before the act of the legislature will become efand that they may delegate to any person or body the power of appointment, yet the person or body upon whom this delegated power is imposed must be such a person or body as is competent and exercise the function which the act in question imposes upon them.

The judges of this district are selected, not because of the individuals occupying the position as judges where the construction of a board, and in either event would be constitutional. The large and independent powers of the trustees, to which objection is made, would only be exercised by the constitution with any such functions. Upon the contrary we are position as judges where the individuals occupying the position as judges would either be a duty imposed on the judges would either be a duty imposed on the judges under the constitution or the creation of a board, and in either event would be constitutional. The large and independent powers of the trustees, to which objection is made, would only be exercised by the constitution with any such functions. Upon the contrary we are The appointment of trustees by the court to step between them and their choics." Referring to the provision that not more than two trustees could be selected from one political party the court called attention to the constitutional clause that no religious test should be made for office as being the only inhibition as to qualifications for office in Nebraska. Political qualifications were required respecting the Board of Fire and Police Commissioners and the supreme court commission. The canal trusees are public officers in a certain sense, added the judge. "It is argued that they are mere trustees or agents of a corporation created by the legislature for the purpose of taking and holding the title, for public use, of certain lands to be used for canal purposes; that they are a quast public authbelonging to the municipality of Douglass The legislature seems to have been particular in wording this act to divest the canal trustees of all political and governmental authority. They are restricted the maintenance, repair, management and construction of the canal. The only defini-tion applicable to show that they are public officers is that they are paid from the public treasury." The judge held, therefore, that Judge Duffle read an opinion, stating that they do not fall within the constitutional he deemed the objection that existing stat-utes were amended in the canal law without explaining his views on these questions said being referred to, was without merit. If he believed it the duty of the judiciary to the canal trustees were created as a corporadepartment of full force. Further, he doubted the wisdom of the district court in declarit county property was placed under the an act unconstitutional, except in cases of custody of trustees then no statute was emergency where the personal or property amended. He did not think that the fact rights of an individual, would be invaded that money was to be expended outside of Hence, the constitutional question should be lieving the act constitutional he was of the opinion that the writ-should not issue. did not think a court should make an order money outside of the municipality. In Walker against Cincinnati, 21 Ohio, 15, it it could not enforce. The act left to the county commissioners full authority to de-

termine the amount of bonds to be voted on and their discretion could be governed by the courts. They could millify the whole act by lesuing a small amount of bonds. KEYSOR'S VERSION OF THE LAW. Judge Keysor stated that after an examination of the authorities he also had con-cluded that the petition should be d'amissed for the reasons stated by Judge Ambrose. He did not coincide with Judge Ambrose in the view that the law was unconstitutional because it sought to amend former acts relating to the powers of the county commis-sioners over the public funds of the county. He agreed with Judge Duffie in his constructon on this point and also in his opinion that the extraordinary writ prayed for should not be granted for the reason that the discrecally nullify the writ and set the powers of

tend that this would invalidate his acts.

"The words in our constitution conferring powers on the courts, together with such other jurisdiction as the legislature may provide, if they are to have any meaning at all, must be applied to something other than legal or equitable powers, which are fully covered in the state constitution were incapable of receiving such a grant of power. He further added that if the judges were competent under the constitution, their acts would still be void, as the canal commissioners, and under the state constitution were incapable of receiving such a grant of power. He further added that if the judges were competent under the obstitution their acts would still be void, as the canal commissioners would be public officers and under the constitution must be elected. The third the prize immediately upon his arrival. The entire day will be devoted to sports. There will be a ball game, a tug of the constitution of the prize to all of the winners. The prize to all of the winners. The prize to a entatives with legislative power that it in- one of them was a judge; no one would con- appoint canal commissioners, and under the be presented with a prize immediately upon be void, as the canal commissioners would be public officers and under the constitution must be elected. In this he dissents from Judge Duffie's views. If both these proposi-Judge Duffle's views. If both these proposi-tions were true, he did not think it neces-sarily made the law unconstitutional nor did

> the legislature amends the law," he added. Judge Keysor agreed with Judge Duffie hat a court should not declare a law un-constitutional unless the exigencies of the case were such as to make it necessary in est friends, so much so that whenever Dr. gram.)—John S. Harper, chief clerk in the order to save the rights of a litigant before Stone goes cast, he calls on Judge Harmon. surveyor general's office here, confessed to the court. If this were the only consideration he would declare the law constitutional and leave the supreme court to decide the point. He concurred with Judge Duffle in the opinion that the expenditure of money outside the county for the building of the canal did not invalidate the act. He concurred in the opinion that if the judges had the right to appoint commissioners and such commissioners were not public officers it would not be depriving the people of the right of self-government for the reason that the people, if they saw fit to vote the cointment and made the act their own, as though they had elected the commissioners though they had elected the commissioners.
>
> The judge did not think that this act was invalidated by the provision that the appointment of commissioners should be made from different political parties. He adopted the reasoning of Judge Duffie in this par-

"It is apparent," said Judge Keysor, that the questions raised in this case are very important to the people of this county and the court is fully advised from the argu-ments, that whatever may be the conclusions reached, this cause will be taken to the supreme court for final decision. I am of the opinion that if there were no other reasons why this writ should be denied, it ought to be denied by this court as a formal matter, in order that this case might go the supreme court upon the issues presente to relieve any doubts that might arise as the power to supersede a writ of mandamu: delay the election until the case sed of. The writ should be denied." D. C. Patterson, the relator who asked for the mandamus to be issued, said after the decision had been handed down: "This de-cision places our case really in a better condition than if the court had granted the mandamus. We shall appeal at once to the supreme court and intend pushing the suit vigorously. Being the appealing party we will see that the case is not delayed. The decision is really two to one in our favor.

HE BIT THE BOY'S FINGER eism of His Clothing Stock. Yesterday afternoon three boys entered the second-hand store of H. Goldstein, on Douglas street, near Eleventh, in search of a pair of pants. A number of the articles were displayed by the proprietor, but the prices did not suit the prespective customers, and they plainly stated that they would not give one-tenth of what was asked for them. This enraged Goldstein, and he picked up a hammer, with which he apparently intended to resent the slur cast on his clothing. The boys, however, did not remain inactive, and soon they and Goldstein and his wife, who was present, were engaged in a fight. It is claimed by one of the boys, C. H. Bishop, that Goldstein soized one of his fingers between his teeth and attempted to bite it off. This put an effectual stop to the fight. The boys to run, but were pursued by Officers Mitchell, Russell and McCarty. The latter officer suceeded in capturing Bishop, but the other two got away. He was arrested and charged

Picnic of Switchmen's Union. This year the annual picnic of the Switchmen's union will be held at Coffman, the date having been fixed for June 20. The train the court at naught. Were this the only bearing the switchmen and their guests will reason, he would hesitate to deny the writ, leave the Broadway depot at Council Bluffs for such matters of public interest should so at 9:39 in the morning and thirty minutes

WAS HARMON'S CLASSMATE

Dr. Stone Tells Some Tales Out of School About the New A ver whose shoulders President Cleveland has dropped the mantle of United States attorney general, was a college classmate and chum of Dr. R. M. Stone of this city. This was some thirty years ago, but ever since that time the two men have been the warm-

Last night in speaking of the appointment of Judge Harmon, Dr. Stone stated that he remembered well the time when Judge Harmon was a poor boy, teaching an Ohio dis take him through college. This was in 1864 and 1805. The doctor and Judge Harmon graduated from Denison college, a Baptist school at Granville. The day before the graduation exercises were to be held a moch program was circulated through the college The next morning the names of the graduate were read at the chapel services. The name of Harmon was not upon the list members the faculty having an idea that he had part in preparing and circulating the mock orogram. Everybody was indiguant, the stu-lents feeling hard toward the officers of the chool and the members of the faculty feelng none too friendly toward the students. Iarmon was not expelled, but he was told to be at the college at 6 o'clock the next there on time, and with him there was a brass band.

#### SYMPATHY FOR DEBS.

Omaha Workmen Pass Resolutions on Recent Decis on in His Case,

A mass meeting of the workingmen Omaha was held at Knights of Labor hall as the post mortem is concluded. last evening to take action on the recent refusal of the supreme court to grant a writ of habeas corpus in the case of Eugene V. been administered by some unknown person Debs. The hall was packed with workmen. J. B.

Schupp, president of the Central Labor union, Speeches were made by August Bierman, Rev. Alex. F. Irvine and "General" Kelsey of Industrial army renown. lowing resolutions, introduced by Kelsey.

Whereas, The supreme court of the United States has dealed Eugene V. Debs, president of the American Railway union, a writ of habeas corpus, thus denying him the right of an impartial trial by a jury of his peers, and,
Whereas, Such dental has swept aw
every safeguard that protects the liberty
the citizen; therefore, be it
Resolved, That we, 'the workingmen

Omaha in mass meeting assembled, de nounce the action of said court as arbitrary and unjust and calculated to destroy the confidence of the masses in the integrity of the judiciary of the United States; and, be it further. t further Resolved, That we call upon all liberty oving citizens in the United States to de counce the action of said court.

Resolutions were also adopted expressing it the money power to secure control of the military was an alarming fact.

Dishonest Watchman Arrested,

H. Myer was arrested late yesterday afternoon by Detectives Hayes and Hudson for stealing goods valued at \$125 from the Kilpatrick-Koch Dry Goods company. Myer has been employed by the firm as a night watchman, and it seems that during the last two or three months he has been systematically with disturbing the peace. Goldstein was robbing the store, carrying off a few articles also put behind the bars, with the charge each night. The firm has had a watch on of mayhem against him. He denies that he him for several weeks and finally succeeded bit the boy's finger, but the finger bears evidence of having been between someone's quantity of different kinds of dry goods was discovered in his home at 1410 South Fourteenth street. Myer acknowledged his guil-

A meeting of the Jacksonian club was held last evening at the club rooms in the Patterson block. The silver question was the subject of discussion. Judge Langdon was made

# HAS CONFESSED

Own: Up at Last that He Has Done a Terrible Deed.

ADMITS THAT HE RUINED MAUD VEST

Judge Judson Harmon of Cincinnati, O., Tells His Friends at Cheyenne Everything and at Once Takes the Train for California to Join His Wife,

> CHEYENNE, Wyo., June 7 .- (Special Telesurveyor general's office here, confessed to his friends this morning that he was the seducer of Maud Vest, who committed suicide in Omaha on Wednesday while recovering from an unsuccessful attempt to commit

Letters in the dead girl's effects signed John Sharpe led to Mr. Harper's being implicated. The girl was a domestic in Attorney General Fowler's house, where Harper, who is Mrs. Fowler's brother, boarded.

After making his confession Harper left on an early morning southbound Union Pacific train for Denver, from which place it is thought he will go to California. Mrs. Harper, an estimable lady who has just returned from a California health resort where she has spent the past seven months, accompanied her husband.

CORONER HOLDING AN AUTOPSY. Was | Doctors Investigating the Cause of Maud Vest's Death.

An autopsy on the remains of Maud Vest, who committed suicide at the Presbyterian hospital the other day, was begun at the morgue at 2 o'clock yesterday afternoon. The physicians in charge are Drs. Somers, Towns and Davis. The inquest will be held as soon

The jury found that the deceased had come

to her death from a dose of poison which had

or persons. There were indications to show that a criminal operation had been performed on the woman, but the physicians stated that she had recovered from the effects of it at the time she died. Senator Hansen of Wyoming, who is be-

aind the investigation, is of the opinion that the woman's death was caused by an overdose of some medicine which she had taken. Some color is given to this by the peculiar symptoms which accompanied the poisoning. symptoms which accompanied the poisoning. Dr. B. B. Davis, who attended Miss Vest, said indicate aconite poisoning, but the symptoms were so peculiar that he was unable to tell exactly what drug was used.

FIGHTING OVER A PILE OF GOLD Coin Found in the Possession of Alleged Crooks Provokes Litigation.

There is likely to be a fight over the \$158 that were found on the persons of John Howard and Fritz Frank, the two men who are charged with cracking the safe in the office of the Anheuser-Busch Brewing company and also of robbing the South Omaha saloon keeper, Brosnihan. Of the money \$150 was in gold. As the larger amount of the money that was stolen from Brosnikan was gold, he thinks he is the first man who is entitled to the money that is now in the hands of the police and consequently his attorneys made a demand for it yesterday. Jailor Havey refused to give it up. The matter will come up for hearing June 14.

The Anheuser-Busch company will also make an effort to get the money, and the at-

torney for the prisoners says that neither will get it, but that it will remain the property of his clients. "STRAIGHT" DEMOCRATS.

for June 27.

Chairman Euclid Martin and Secretary J. B. Sheean of the "straight" democratic state central committee have called a meeting of he committee at the Merchants hotel June 27. At this meeting the date for holding the state convention will be fixed and measures taken for the organization of "straight" ounty central committees in all counties