

NEWS OF INTEREST TO COUNCIL BLUFFS.

COUNCIL BLUFFS.

MINOR MENTIONS.

Davis sells drugs. Blocker sells carpets and rugs. Metz beer at Neumayer's hotel. Gas fixtures and globes. Bixby & Son. Wollman, scientific optician, 60 Broadway.

The city council will meet tonight in adjourned regular session. Miss Eibert of Des Moines is the guest of Mrs. Horace Everett.

George Crane, jr., has gone to western Nebraska on a business trip. Miss Eibert of Des Moines is the guest of Mrs. Horace Everett.

Wedding presents given special attention. C. E. Alexander & Co., 323 Broadway. It pays for itself—Cole's Hot Blast heater. For sale by Cole-Brosford Hardware Co., 11 S. Main.

Colonel and Mrs. J. J. Stealman expect to leave for Colorado, where they will reside. H. H. Van Brunt has gone to New York City to attend the annual convention of carriage manufacturers.

Mrs. Drayton W. Bushnell has gone to Chicago to attend the funeral of her mother, Mrs. Hyndshaw, and to attend the wedding of a relative.

Mrs. J. P. Conner, wife of Congressman Conner of the Tenth Iowa district, is the guest of Mrs. H. H. Van Brunt on Bluff street.

Chambers dancing academy, Royal Arthur ball, Tuesdays and Fridays, adults, 10 p. m. to 12 m. Assemblies for adults Fridays, 8:30 p. m.

The Ladies' Aid society of the Congregational church will meet at 7 o'clock at the home of Mrs. Charles Fitch, 124 Fourth avenue.

Mrs. W. W. Chapman of Denver, who is the guest of Mrs. E. L. Lafferty of First avenue, left yesterday for a short visit with friends in Plattsmouth.

The police have been asked to assist in the search for Ed Elliott, a young man who is missing from his home, 324 South Twenty-fourth street, since last evening.

The University club has taken up the matter of employers providing seats for their clerks in stores and is circulating a petition among the other clubs of the city.

Colonel Charles R. Hamman, president of the First National bank, left last evening for Milwaukee, to attend the bankers convention. William Stull will leave for there today.

In letters received by relatives Hon. W. E. Bainbridge, assistant secretary of the legation at Peking, China, says he and Mrs. Bainbridge may return to Council Bluffs some time next spring.

Mr. and Mrs. Harry V. Burley of Omaha, who have been visiting Mrs. Burley's parents, Mr. and Mrs. O. P. Wickham of seventh street, left yesterday for a visit in Boston, New York and Buffalo.

A. Anderson has gone to Buffalo, where he will join his father, Mr. A. Anderson, who recently went to New York on a pleasure trip, and together they will spend two weeks at an American exposition before returning home.

Farmer in the vicinity of the posthouse has notified the police that the house has been occupied for several nights. It is supposed that the place has been taken possession of by tramps who were unaware of the nature of the place.

Miss Ethel Thomas of this city has resigned her position as instructor at the Institution for the Feeble Minded at Glenwood and will leave today for Pueblo, Colo., where she will accept a position in a private institution of a similar character.

Mrs. W. P. Davies, 208 Farnam street, Omaha, was in this city yesterday and gave a description to the police of a gold watch valued at \$100, and watch chain, valued at \$25, which had been stolen from her. A visit to the local pawn shops was made, but no trace of the stolen articles found.

Noah Mattingley and Miss Eriola Otto were married Saturday evening at the home of the bride's parents, Mr. and Mrs. H. A. Otto, 101 Benton street. Rev. W. S. Barnes, pastor of the First Presbyterian church, officiating. The young people took their relatives by surprise. Mattingley will be at home at 315 South First street after October 22.

N. Y. Plumbing Co., telephone 230. Gravel roofing, A. H. Read, 541 Broadway. Pleads for Man Who Tried to Kill. CEDAR FALLS, Ia., Oct. 13.—(Special.)—John Penesh was sentenced in the county court of Benton to two years in prison for attempting to kill Miss Jennie Jira last spring, because she would not marry him. The girl pleaded with the court for clemency for the man, saying she loved him and would marry him when he was released.

TO OPPOSE GREAT WESTERN

Property Owners in Third Ward Resist the Railroad's Coming.

CLAIM TO FEAR DAMAGE TO VALUES

Call Meeting for Tuesday Night to Devise a Way to Protect Against Encroachment Upon Their Interests.

Persistent rumors that the Great Western proposes to enter Council Bluffs in the vicinity of Third street have aroused the property owners in the Third ward, who fear that their property interests will be damaged by the coming of the railroad.

That persons acting for the Great Western are buying property in this section of the city is not questioned and numerous options on lots have been secured recently by a firm of real estate dealers in this city.

The purchase of property supposed to be for the Great Western indicates that it will enter the city limits at the Grand bridge east of the paper mill and then go through the Gordon property at Sixteenth and Graham avenues and from that point swing around to Third street and run on the west side of this street to Eleventh avenue.

It is reported that the city at Third street and Eleventh avenue is said to have been bought for the railroad. From Third street and Eleventh avenue the line will run diagonally through the Rick, Spiers, Oursler and old Hanthorn property to Fourth street and Ninth avenue, then run along the south side of Ninth avenue to Fourteenth street, where connection will be made with the tracks of the Omaha Bridge & Terminal railroad.

The recent purchase of considerable property along Ninth avenue is said to have been for the Great Western. Owners whose property will not be bought by the road fear that the proximity of the railroad tracks will injure the value of their holdings.

GIVES HOPE TO CUNNINGHAM

Supreme Court's Decision in Tax Ferret Case Affects Council Bluffs.

The supreme court handed down a decision Saturday in a tax ferret case from Jasper county which has a direct bearing on the suit brought in the district court here to have declared null and void the contract entered into by the supervisors of Pottawattamie county with F. M. Cunningham.

The ruling of the supreme court holds that the tax ferret law is not only constitutional, but is retroactive, but penalties may not be collected for any time prior to 1897, when the law took effect, though the enforcement of the collection of the taxes themselves may be made.

The court holds that the law does not impair contract obligations or vested rights if it is applied retroactively. This point has a direct bearing on the case at bar in this country and adverse to the contention of Frank Shinn, the nominal plaintiff in the suit brought to have Cunningham's contract invalidated. The county board entered into a contract with Cunningham to ferret out property subject to taxation which had either been omitted or withheld from assessment, even if the sum equal to 50 per cent of all money recovered to the county through his work.

Subsequently to the entering of the contract the legislature passed an amendment to the law restricting the remuneration of tax ferrets to 15 per cent of the money recovered and declaring null and void all contracts made by county boards under the old law within thirty days from the passage of the law signified in writing his acceptance of the 15 per cent remuneration. This Cunningham refused to do, contending that the passage of the act could not invalidate or impair his already existing contract. Shinn in his suit attacked the contract on the grounds that Cunningham had failed to accept the 15 per cent and that the 50 per cent basis of remuneration was void and of no account. The decision of the supreme court in the case from Jasper county sustains Cunningham and declares that the law as amended by the legislature could not impair then existing contracts.

At the hearing before Judge Wheeler he held that the county's contract with Cunningham could not be impaired by subsequent legislation and in this he is sustained by the supreme court in its ruling Saturday. Judge Wheeler, however, also held that the law was not retroactive, but on this point the supreme court reverses him.

Shinn also attacked the contract on the grounds that the remuneration agreed upon between the county and Cunningham was excessive and contrary to public policy. This point was not passed upon in the case from Jasper county by the supreme court.

In the Jasper county case the supreme court also holds that the mere fact that the taxes were not assessed on the omitted property does not defeat the law, for the obligation to the county is not a new one. The subsequent listing of the omitted property is merely the correction of an error. The court further holds that the burden of proof must rest on the county.

The decision of the supreme court is regarded here as sustaining Cunningham's contract with the county board and that he will be able to collect his 50 per cent remuneration on all money recovered into the county treasury unless when the Shinn suit is tried before the supreme court it can be knocked out on the question of the remuneration being excessive and contrary to public policy.

Death of Curtis A. Hayes. Curtis A. Hayes, aged 24 years, died Sunday morning, at his home, 358 North First street, of a complication of diseases, after an illness of several months. He was well known in this city, having grown up here from childhood. He had recently returned from a trip to England, where he held a position of trust with a large American musical firm. He leaves his mother, two brothers, Clark E. and William, both of this city, and three sisters, Mrs. W. E. Dawson of this city, Mrs. Max Goldsmith of Omaha and Miss Vera Hayes. The funeral will be today at 4 p. m. from the residence, Rev. W. S. Barnes of the First Presbyterian church officiating, with interment at Walnut Hill.

Cut Prices on Millinery

PENNELL MILLINERY. 54 Broadway, Council Bluffs.

YOUNG FISH IN IOWA RIVERS

State Commissioner Makes Annual Fall Distribution of Bass and Pickerel.

BAYOUS SEINED TO GET GOOD SUPPLY

Easier Than to Maintain a Hatchery—Horse Show a Success—Improvements at State Institutions—Colored Pythians Elect.

Congressman Smith's Campaigning. Congressman Walter I. Smith arrived home yesterday morning from a ten days' campaign tour of the state, speaking under the appointment of the republican state central committee. He spoke Sunday evening in Denison. He reports well attended meetings wherever he spoke.

From now until election day Congressman Smith will devote practically all of his time to the Ninth district and will be in this eventing at Ottumwa, Saturday evening, when he will place in a boat of fish in the Des Moines river. A local association of sportsmen was formed to see to it that the fish are protected until they have scattered along the river. The fish commissioner will this week take a carload to Perry for placing in the Iowa river the same way. He has calls for about twenty-five carloads in different parts of the state, but cannot supply more than half that number. The fish are mostly bass and pickerel, but there are all kinds of fish.

Some years ago the state had a small fish hatchery at Ottumwa, but the year they were found that an abundant supply of young fish can be taken every year in the bayous along the Mississippi river above Sabun and all the fish distributed to Iowa streams are from this source. Last year, owing to high water, it was almost impossible to get fish, but this year they have been easily taken and the streams of Iowa will be better stocked with gamey young fish than ever before.

Successful Horse Show. The success of the Des Moines horse show for this year was such that the promoters plan for one on a large scale next year. There will be a deficit approaching \$3,000 in the finances of the horse show, due to the high water, but the weather and lack of facilities, and to obviate this it is proposed that a coliseum be built, so that the horse shows and similar entertainments can be given indoors. The show brought to the city the finest lot of horses ever seen here and it was well patronized by the home people. Augustus, of St. Louis, who had a number of fine horses here, turned over all his winnings to the Home for the Aged in Des Moines.

The midway aggregation held this morning. The carnival association had to get out an attachment to secure its share of the proceeds of the horse show. The owners protesting that the attendance for the week had been so poor that they could not afford to make the division of gate money.

State Institution Improvements. The State Board of Control, in its biennial report, now almost completed, will ask the legislature for about \$300,000 in addition to the \$1,250,000 required to run the various state institutions. The \$300,000 is for permanent improvements and is about the amount needed for the present biennial period. The board will recommend the purchase of additional tracts of land at the various state institutions, so that there will be about 1,200 acres at each one of the four insane hospitals and 900 acres at Glenwood. This will necessitate the purchase of about 2,000 acres at an estimated cost of \$150,000. It is desired that a number of new buildings be provided for by the next legislature. There should be two new cottages at Glenwood, a new cottage at Xiteherville, a building for a polytechnic school at Eldora and a new chapel at Harcourt for the soldiers' home. A new hospital is just about completed at Harcourt, a power plant has been contracted for at Eldora, heat and lighting plants have been built at several of the state institutions this year and a vast amount of work is being done at Cherokee in the new insane hospital. It is planned by the board to build a new hospital at the home of the insane, and in the county almshouses can all be placed in a colony and be cared for after the manner of some other states.

New Town Located. The building of the Des Moines, Iowa Falls & Northern railroad is being done from the northern end, commencing at Iowa Falls, although the right-of-way was secured through to Des Moines, and grading work has been done all along the line. It is expected that the iron will all be laid before freezing weather. Thus far two new towns have been located, both in the western part of Hardin county. Bukevys is the name of a new town located in the township of the same name and the name of this has already been heard. Another new town has been located south of Radcliffe in Concord township and it is called Garden City. It is located in a fertile farming region.

Colored Pythians Officers. The grand lodge of colored Knights of Pythias, better known as the Knights of Pythias of North and South America, Europe, Asia, Africa, Central America and Australia, has adjourned the past week in Centerville, has assigned to meet next year in July at Burlington. The order was reported in a flourishing condition. The following is a complete list of the officers elected and installed at the grand lodge meeting: Grand chancellor, C. L. Washington; Cleveland; vice grand chancellor, C. T. Cochran; grand reporter, Rev. E. Roney; fraternal keeper, records and seals, J. W. Madley; Burlington; master of exchequer, J. W. Smith; Burlington; marshal, A. L. McDowell; Ottumwa; medical register, Dr. A. A. Hinton; Okaloosa; supreme representatives, C. T. Gooch and J. E. Burke.

Train Service Complaint. The complaint of traveling men and others in regard to the inefficient service on the Milwaukee railroad between Marion and Council Bluffs is to be again taken up by the State Railroad commission. An extensive petition to the commissioners signed by many traveling men and patrons of the road on that section was filed with the commission last winter, but after conferences with the railroad officials the complainants withdrew their papers and the commission dropped the matter. At that time an extra accommodation train was placed on the road. Now the committee of traveling men in charge of the petition has renewed their complaints and efforts and have asked the commission to set a date for the hearing on the original complaints or petitions. An additional local passenger train is wanted in both directions on the line.

Accused of Killing Dr. Fallov. The negro taken from here to Newton to be confronted with a charge of murder gave the name Chester Tyler when he arrived in Newton and says that his residence is Des Moines. The abridger of Jasper county and a nephew of the murdered Dr. Pralor took the man to Newton. He strongly protests innocence and the nature of the evidence against him secured by detectives is not yet known.

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SUPREME COURT SYLLABI.

10188. English against Smith et al. Error from Douglas. Affirmed. Commissioner's opinion, division No. 2. Albert, C. Unreversed.

1. A obtained judgment in the district court against B, a corporation, upon which B had set aside the judgment. B brought the case to the supreme court. The supreme court affirmed the judgment of the district court, and the case was remanded to the district court for execution.

10203. People's Building, Loan and Savings Association against Klauer. Error from Adams. Commissioner's opinion, division No. 1. Kirkpatrick, C. Unreversed.

1. Where a building and loan association, through its agent, by representations induced a person to purchase a stock in such association, and such person has entered into the contract to which he is bound, and it further appears that the agent acted in good faith, the contract will be enforced, and the person who induced him to purchase the stock will be held liable therefor.

2. Evidence examined and found to sustain the finding of error in the commissioner's opinion. Appeal from Lancaster. Affirmed. Unreversed.

1. A finding based upon sufficient evidence, though conflicting, will not be reversed. 2. Before one having a general claim against another can maintain a creditor's bill, he must first have reduced it to judgment. Fairbanks against Nelson. Appeal from Lincoln. Affirmed. Unreversed.

1. A petition is not fatally defective merely because its averments could have been made more certain. 2. Objection that a pleading is indefinite in its allegations should be raised in the motion to make more definite and certain. 3. Where a note stipulates for a lawful rate of interest, and a higher rate is actually paid, the contract is enforceable for the actual rate. 4. Where a mortgage provides that the mortgagor shall keep the buildings insured for the benefit of the mortgagee, the latter is entitled to be reimbursed for insurance premiums paid by him.

1. Possession of a negotiable promissory note is prima facie evidence of ownership. 2. Hawver against Parkway Real Estate Company. Appeal from Douglas. Affirmed. Unreversed. C. J. Reported.

1. A finding of fact based upon conflicting evidence will not be disturbed on review unless clearly erroneous. 2. A writ of setting aside a judicial sale is unavailable on review unless the same was presented to the court below. 3. Error in the commissioner's opinion against Merchants' National Bank, Omaha. Error from Douglas. Affirmed. Unreversed. Commissioner's opinion, division No. 1. Reported.

1. In an action against a married woman on a promissory note, wherein she pleads a separate estate, that, at the time of her execution, she was a married woman and had a separate estate, is not a good defense in her own right, stated in good faith. Cocher against Cornell. No. 215. Unreversed.

2. A contract of suretyship is binding on a married woman, when made with reference to her own estate, and credit of her separate estate, subject to the qualification mentioned in the preceding paragraph. 3. The liability of a married woman on a contract made within the scope of her estate, and upon the faith and credit of her separate estate, is to be determined by the same rules as those applied to persons of full capacity. 224. Intosh, Error from Douglas. Affirmed. Holcomb, J. Reported.

1. Evidence examined and held sufficient to support the verdict of the jury. 2. Verdict held to be not contrary to the instructions of the court. 3. When to a question in direct examination an objection is interposed and sustained, and the witness answers the question, the facts sought to be elicited therefrom are to be taken into consideration in the ruling of the trial court had there been no objection. Lewis against North. Error from Hall. Reversed and remanded. Holcomb, J. Reported.

1. It is an procedural error to submit questions of fact on purely equitable issues raised by a party to the case. 2. A district court sitting as a court of equity may in its discretion submit to the jury any question of fact which is material to the case. 3. In order to justify a decree of specific performance of a verbal agreement for the sale of real estate, the party seeking performance must show that the agreement was made, and that it was intended to be enforced, and that the party seeking performance is in a position to perform. 4. A contract of suretyship is binding on a married woman, when made with reference to her own estate, and credit of her separate estate, subject to the qualification mentioned in the preceding paragraph. 5. The liability of a married woman on a contract made within the scope of her estate, and upon the faith and credit of her separate estate, is to be determined by the same rules as those applied to persons of full capacity. 224. Intosh, Error from Douglas. Affirmed. Holcomb, J. Reported.

1. Money paid to a village treasurer to procure the issuance of a license to sell intoxicating liquors, as required by the treasurer ex-officio, and his bondsmen are liable for his failure to account therefor. 2. A village can maintain an action against a defaulting treasurer and his bondsmen to recover license money collected by such treasurer, although the village council has not yet passed an ordinance authorizing the treasurer to collect the same. 3. A village can maintain an action against a defaulting treasurer and his bondsmen to recover license money collected by such treasurer, although the village council has not yet passed an ordinance authorizing the treasurer to collect the same. 4. A village can maintain an action against a defaulting treasurer and his bondsmen to recover license money collected by such treasurer, although the village council has not yet passed an ordinance authorizing the treasurer to collect the same. 5. 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