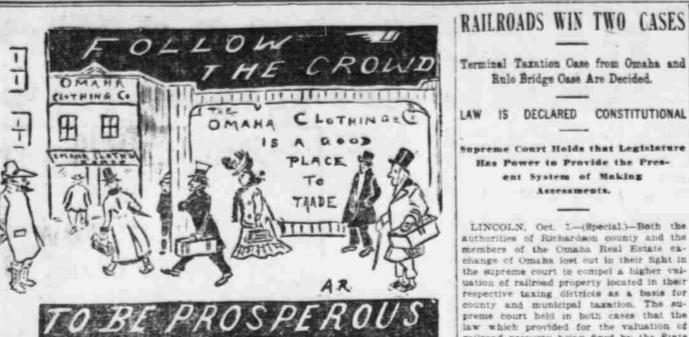
THE OMAHA DAILY BEE: SATURDAY, OCTOBER 8, 1904.



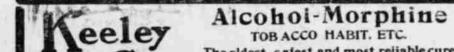
LOOK PROSPEROUS

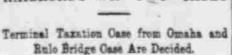
FOR THE APPAREL OFT.

PROCLAIMS THE MAN THIS MEANS YOU" "TAKE THEHINT WE WILL HELP YOU TO DO IT



SUIT SALE \$1000 \$1175 \$500 \$1500 SUITS \$750 \$200 SUITS \$1250 YOUR REDIT IS GOOD OVERCOAT THE LARGEST LINE SHOWN IN THE CITY FROM \$ 500 TO \$ 3500 were about when ON EASY PAYMENTS NO SECURITY OMAHA CLOTH'S COMPY. 1314 TARNAM





LAW IS DECLARED CONSTITUTIONAL

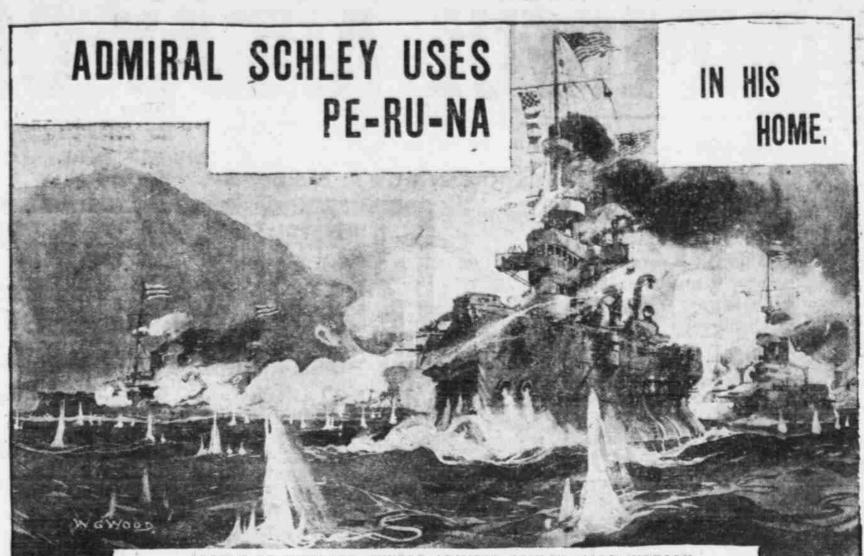
Supreme Court Holds that Legislature Has Power to Provide the Present System of Making Assessments.

LINCOLN, Oct. 1 .- (Special.)-Both the authorities of Richardson county and the members of the Omaha Real Estate exchange of Omaha lost out in their fight in the supreme court to compel a higher valuation of railroad property located in their respective taxing divisions as a basis for county and municipal taxation. The supreme court held in both cases that the law which provided for the valuation of railroad property being fixed by the State Board of Equalization and distributed according to the mlleage of the road was constitutional. The opinions held also that a depot, terminal facilities, bridges and other structures that were a part of the rallroad system were to be considered in the valuation of the entire system, and that the local taxing authorities had no right to assess them separately. Chief Justice Holcomb wrote the opinion in the Omahn case and Commissioner Pound wrote the Richardson county decision, each following a former decision of the court. The taxing authorities of Rulo, in Richardson county, attempted to assess the railroad bridge at that place for city taxation purposes and upon being defeated in the lower court appealed to the supreme court, where the decision of the lower court was affirmed.

The Omaha case was an original suit in the supreme court for a mandamus to compel the city council to reconvene as a board of review and listen to protests against taking the figures of the State Board of Equalization on the railroad terminal property as a basis of taxation. The suit was brought by George Morton, W. G. Ure and others, in the answer of the city council it was set out that that body had taken the figures returned by the State Board of Equalization, which, they held, was one-fifth of the valuation of the Omaha railroad property, and multiplied it by five to make it uniform with the valuation of other property in Omaha. This writ was also denied. The suits were brought under the old revenue law, but as the new law is practically the same as the old law, the decision will apply in regard to the constitutionality of the new

The syllabus in the Omaha case follows: Syllabus of Omaha Case.

Syllabus of Omaha Case. 9yllabus of Omaha Case. 1. In the assessment of railway property for municipal purposes situated in cities of the metropolitan class, such as is required board of Equalization for general revenue purposes under the provisions of sections and 40 of chapter 7, article 1, compiled statutes of 1900, as existing prior to the revenue act of 1900, it is made the duty of the tax commissioner or assessor of such ity to accept the values of the fractional part of such railroad property situated in the municipality as the same is valued and assessed by the State Board of Equalization and apportioned to such city in accordance. The proportional share of railway prop-rity as valued and assessed by the State Food of Equalization belonging to and instated in such city and subject to tax-ing the proper authorities of such city by lowering or raising the value of the same as thus ascertained so as to bring about uniformity of valuation in respect of all property subject to taxation within the municipality. The property of railway and assessment of the property of railway and assessment of the property of railway be such and assessed by the state bout uniformity of valuation in respect of all property subject to taxation within the municipality.



BATTLE OF SANTIAGO, WHERE ADMIRAL SCHLEY MADE HISTORY.

ONE of the greatest naval battles in the world was the Fight hesitation, he said: "I can cheerfully say that Mrs. Schley has Off Santiago. Never since the dispersion of the Spanish taken Peruna and I believe with good effect." Such was the tes-Armada has there been a timony of Admiral Schley.

A Historic Naval Battle. more epochmaking vic- Like the battle of Santiago, the thought was sprung upon him tory in the onward march of civilization than in the notable event without any warning, and he disposed of it with the same vim of July 3, 1898, in which the great hero, Admiral Schley, took a and decision as he did with the Spanish fleet led by the ill-fated leading part. Viscaya.

No patriotic citizen of the United States can fail to render him His words concerning Peruna have gone out into the world to

produce that dash and daring so characteristic of the American from mouth to mouth, across oceans and continents

soldier. A man must think quickly in these days. There is no time for speech, these words never would have been uttered by an officer slow action. New enterprises arise in an hour. Old ones pass occupying such a notable position as that of Admiral Schley. away in a moment.

A multitude of great themes clamor for notice. A man must take sides for or against by intuition, rather than by logical de duction.

One day this fighting admiral, Schley, happened to be in company with others who Admiral's Opinion on Pe-ru-na. were talking topics of popular interest. The subject of Peruna was raised,-

its popularity as a catarrh remedy, its national importance, its extensive use.

One asked his opinion upon the subject. Without a moment's lieve with good effect." W.S. SCHLEY.

sult is arrived at. of its own commonwealth." The third objection was that the sections

the homage due, and to accord him the glory so well deserved. be repeated by a thousand tongues, because he had said them. It was a great naval battle. Without a moment's warning it Like the news of his victory over Cervera, his words concerning began. Quick decision, undaunted courage, excellent discipline, Peruna will be Admiral's Words Carry Weight. and passed

Except for an inborn manly independence, in a country of free

Except for a world-wide notoriety and popularity, such as Peruna enjoys, no remedy could ever have received such outspoken public endorsement by such a man.

His signed statement appears as follows:

Washington, D. C.

on various Peruna Drug Co., Columbus, Ohio: Gentlemen -- "I can cheerfully state that Mrs. Schley has taken Peruna and I be-

ered and not the method by which the re- preme court's interpretation of the laws the penitentiary. He was arrested about ignored and has been to this day. Some the middle of August, and not being able few years ago she began suit against the to furnish hall, has been in the county jall Sells brothers to recover her

TOB ACCO HABIT. ETC. The oldest, salest and most reliable cure ure All Communications Confidential. Omaha, Heb. Cor. 19th & Leavenworth. Tel7 184.

CALL FOR ANNUAL ELECTION

Acting Governor McGilton Signs His Name to Official Document.

LINCOLN CELEBRATES THE LAUNCHING

State House About Deserted on Account of Absence of Officials in Seattle and Else-

where.

LINCOLN, Oct. 7 -- (Special)-Lieutenant Governor McGilton this afternoon issued his election proclamation setting agide November 8 as a day upon which the state candidates are to be voted for.

Lincoln very appropriately celebrated the launching of the battleship Nebraska this a driver led to the search which revealed afternoon. Promptly at 4:00 o'clock, the time the ship alld into the water the old cannon at the state house was turned loose eight times, the Burlington whistles and all other whistles began to shrick and general hediam held sway. A direct wire con neeted the city of Lincoln with Seattle and just as the message was flashed across, the noise begun. Captain Davis of the shooting of the cannon.

The Baker Brothers Engineering company of Omaha filed articles of incorporation with the secretary of state this morning to do a printing and lithographing business The capital stock is \$12,000 and the incorporators are the seven Baker brothers and Harry G. Unverzagt.

J. T. Moryska and others of Crete filed articles of incorporation with the secre- county shows considerable advance over tary of state this morning for the Crete the price paid last year and the oldest Grain and Live Stock association. The residents who predicted that farm lands in capital stock is \$15,000.

The state house has the appearance of brought a year ago, are now scrambling a grave yard these days, all of the sinie | for farms at advanced prices,



officers except Mr. Follmer being at Seattle and a majority of the deputies being out in the state on business. Bookkeeper Fidel of the office of the land commissioner, Deputy Auditor George Anthes. Insurance Deputy Pierce and Labor Commissioner Bush are in Omaha to take part in the primaries as is Bailiff fdeman of the supreme court. The affairs of state however, are running along as usual with Lieutenant Governor McGilton making a trip down here between times to sign papers.

Farmer Found Dead,

HASTINGS, Neb., Oct. 7.-(Special Telegram.)-August Berg, a farmer who for ten wears has lived four miles south of Kenesaw, was found dead in the sand hills by searching party at 2 o'clock this morning. Coroner Perkins held an inquest at Kenesaw this afternoon, the jury finding a verdict of accidental death. Berg was 62 ears old and had been selling produce at Kenesaw. The arrival of the team without the body.

Arrested for Horse Stealing.

NORFOLK, Neb., Oct. 7 .- (Special)-George Hart, aged 25, charged with stealing a fine horse and rubber tired rig from Clyde Scott at Columbus 'ast Wednesday, was arrested here today and inited. He drove the horse into town, but attached to office of the adjutant general did the an old wagon, for which he had traded the rubber tired rig. Scott traced the fellow from Columbus to Norfolk by way of Clarkson and Leigh At Chirkson the trade for an old buggy was made. Hart claims to be from Johnstown, Brown county.

Lands Advancing in Price.

YORK. Neb., Oct. 7 .- (Special.)-A few of the recent sales of land made in York York county were worth all that they

constitution." The court held that this the case of the State against Savage in which the court held that the State Board clude in its assessment the value of the franchises with the tangible property asheld that the whole property of any corporation would be assessed in its entirety and in such valuation should include all

sonal property mixed. rallroad property from other property and therefore the section is void because the

violated. The court held that the object of the constitution was to have all property bear its just share of the burdens of state and that this condition would not obtain were railroads assessed in each county by the assessors like a piece of ground or a lot. It holds that the railroad in a county is a part of a system and as such part is valuable. The court holds that the value is given to a railroad in a county by its franchise, the connections in and out of the state and the fact that if each county assessed a part of the track, the result would not be what the constitution intended. The court holds

in question "exempts railroad property as- THREE PRISONERS BREAK JAIL since that time. At the opening of court, leaving the matter in the hands of a Tesessed by the State Board of Equalization from the payment of its proportion of the taxes levied for the support of the county, school district and city, appellants in this action, and thereby violates the

is is required to be listed and scheduled with the anditor of public accounts by sec. Itoms is and 4, chapter 7, article 1, com-plied statutes of 1990, as heretofore exist-ing by one assessing body and for ascer-taining the value of the whole of such property of any one railway corporation to ruper to taxation in this state as a unit or as an entirety and to distribute the value as thus found over the main line or track of such railway company and to the different taxing districts, municipalities, etc., on a mileage basis. 4. Such a scheme or plan of assessment is and taxation of the property of railway companies as herein provided for state, county and municipal purposes does not violate the provisions of the fundamental law commanding uniformity in the value. The levying of a tax upon all property sub-ject thereto according to tis value. **Distribution of Value.** rule of uniformity prescribed by section 1. article is of the constitution" The court holds that bridges, depots, water tanks and robbing a store at Ellis recently and the other necessary structures along their right-of-way are a part of the railroad as a whole, and have no separate existence from that of the road. Apart from the the trall of the fugitives this morning road the court holds a bridge is just so and the officers belive they will succeed in much junk and to treat it as a separate running them down soon.

entity is to take away its chief value.

Classification is Legal.

adopted in the new revenue law and is

reasonably calculated to meet the problem

The other objections to the sixtute were urged by counsel, who appeared as friends

of the court. The first was that it operates

unequally and unreasonably with respect

situated wholly within one county, such,

for example, as terminal and belt line com-

"The arguments advanced on this ground.

however, apply rather to the constitution-

ality of provisions in the several statutes

county purposes is required to be taken as

a basis of assessment in such municipali-

The other objection was that the statute

does not require that notice be sent to the companies assessed or to the taxpayers

City Attorney's View.

"So far as I can learn," said City Attor-

ney Wright, "the supreme court decisions

in the Rulo bridge case and the Omaha Real

Estate exchange case are directly against

the contentions of the city and the citizens

here who have endeavored to prove uncon-

stitutional that part of the law requiring

panies. The opinion says:

county assessments.

to the railroad companies whose tracks are

in hand.

Distribution of Value.

Distribution of Value. 5. The valuation and assessment of the property of a railway company, as therein provided, as an entirety and the distribu-tion of the value thus ascertained upon a mileage basis over the entire line of such railway does not operate as a changing of the status of the property assessed. Its effect is only to distribute the value of an organic whole to the fractional parts situ-ated in the different subordinate taxing dis-tricts through which the line extends and in which the property is actually situated, which is a legitimate exercise of legislative power. As a fourth objection it was argued that the statute makes a classification not authorized by the constitution. The court holds the classification is made not by the statute, but by the nature of the subjects dealt with. They are intrinsically and fundamentally distinct and the legislature. which is given the power expressly to fit. the mode of assessment as it may direct. has adopted a method which has been in operation many years and has been re-

ower. 6-In the assessment of railway property 6.—In the assessment of railway property for taxation as therein provided it is com-petent for the legislature to classify such property 'and provide for the assessment of the same as personairs and to fix the status of the property assessed by providing for the valuation of the property as an entirety and the distribution of the total rules each taxing district according to value to each taxing district according to the number of miles of main track located

therein. 7. Said sections 29 and 40 as existing prior to their repeal by the revenue act of 1900 are not invalid as taking property by taxa-tion without due process of law. C. B. & Q. R. R. Co. against Richardson county, Nebraska. followed. Paragraph 2 of the syllabus has been interpreted to mean that the city board of

governing municipalities, whereby the valreview has not the power to increase the uation of railroad properties for state and valuation of railroad property in its jurisdiction or decrease it, as it will, but that if the state board assesses on a fifth ties, made on a different busis than to valuation and the city property is assessed the constitutionality of the general statu at its cash value, then the board of review tory provisions with reference to state and has the authority to multiply by five in order to make the assessment uniform.

Rulo Bridge Case. In the Rulo bridge case four objections

who might want to appear before the state were made to the plan of assessing railboard. The court holds that the statute road property as prescribed by the statutes. The first was that "sections 29 and fixes the time of meeting of the state board, that public meetings are held and 40 in legal effect exempt the franchises that this is sufficient. of railroad corporations from taxation and thereby violate section 1 of article ix of the

objection was disposed of sufficiently in of Equalization in the assessment of railroad and telegraph properties should insessed. In that opinion Judge Holcomb

elements that go to make up the property. whether franchises or other intangible property, real or physical property or per-The pext objection was that the statutes provided a different manner of assessing

uniformity clause of the constitution is

local taxing boards to accept the figures of the State Board of Equalization on railroad property. Our fight in the federal courts, however, to compel the railroads to pay a proportionate share of taxes on their Omaha terminals is by no means set tled, although the opening there is reduced to a very small one. I intend to have a conference with Attorneys Baldrige and Breen at once, with a view to pressing the cases in the United States court. "One of our chief hopes here is a ruling

of the United States supreme court that where the value of terminals are disproportionate to the remainder of the road the mileage system of valuation does not necessarily apply. At any rate, I think the case will be pushed to a definite conclusion. I understand C. J. Smyth will file a motion for a rehearing in the Rulo bridge case and Mr. Mahoney the same in the Real Estate exchange case, but I do not anticipate results from these, and regard the supreme court decisions as final. It bears upon the fight of the city because practically the same questions are involved and it has been the practice of that it is the result that has to be consid-' the federal courts to accept the state su-

Men Accused of Crimes at Bestrice

Take Sudden Leave of Officers. BEATRICE, Neb., Oct. 7 .- (Special Te'egram -John Eddleman Jack Fenton and William Dugan broke jail here last night. Eddleman was being held on a charge of and is a sister of his wife.

other two were serving time for petty larceny

BASSETT, Neb., Oct. 7 .- (Special Tele-

Insists Brothers Secured Her Share The Beatrics bloodbounds were placed or of Estate. TECUMSEH. Neb., Oct 1-(Special)-

Sentenced for Assault.

Peter Selis, the great circus man who died grounds. of apoplexy at his home in Columbus.

O., yesterday leaves a sister in Tecumseh in the person of Mrs. John Robinson, a

SIDNEY, Neb., Oct. 7 .- (Special Telegram.)-The safe and cash register at the Union Pacific hotel were robbed late last liam Nieter entered a plea of gullty to the inherited a large estate left by their father night of \$150. The thief is supposed to be charge of statutory assault and was sen- many years ago. She says the showmen, the night porter, who skipped out of town



October 1, he plead not guilty and the case cumseh lawyer who, at about that time was continued to the 12th of this month. met with great reverses and left the coun-He confessed his guilt to the sheriff and try, losing sight of her suit. The woman county attorney since the case was con- has held to this story for years and can tinued and was sentenced tonight. Nieter give much history of the Sells family. She is 30 years old. The girl is 16 years of age, is very poor and lives almost in destitute circumstances here. At one time when the

Sells circus visited this city a number of SISTER OF PETER SELLS IN NEED years ago, Mr. Robinson, who was then living, his wife and son. Charles, were given the courtesies of the entertainment and seemed to be entertained by the Selis brothers personally while on the show

Hotel Robbed of Cash. gram .- Judge Harrington held a session widow According to Mrs. Robinson's story of court here this morning at which Wil- she, with the other members of the family,