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CALL FOR ANNUAL ELECTION

Acting Governor McGillon Signs His Name to Official Document. LINCOLN CELEBRATES THE LAUNCHING State House About Deserted on Account of Absence of Officials in Seattle and Elsewhere.

LINCOLN, Oct. 7.—(Special.)—Lieutenant Governor McGillon this afternoon issued his election proclamation setting aside 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 afternoon. Promptly at 4:00 o'clock, the time the ship slid into the water the old cannon at the state house was turned loose eight times, the Burlington whistles and all other whistles began to shriek and general bedlam held sway. A direct wire connected the city of Lincoln with Seattle and just as the message was flashed across, the noise began. Captain Davis of the office of the adjutant general did the shooting of the cannon. The Baker Brothers Engineering company of Omaha filed articles of incorporation with the secretary of state this morning with the capital stock is \$25,000 and the incorporators are the seven Baker brothers and Harry G. Evernaght. J. T. Moryska and others of Crete filed articles of incorporation with the secretary of state this morning for the Crete Grain and Live Stock association. The capital stock is \$15,000. The state house has the appearance of a grave yard these days, all of the state

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 Antnes, Insurance Deputy Pierce and Labor Commissioner Bush are in Omaha to take part in the primaries as is Bailiff Siedman of the supreme court. The affairs of state however, are running along as usual with Lieutenant Governor McGillon 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 years has lived four miles south of Kenesaw, was found dead in the sand hills by a 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 years old and had been selling produce at Kenesaw. The arrival of the team without a driver led to the search which revealed the body.

Arrested for Horse Stealing. NORFOLK, Neb., Oct. 7.—(Special.)—George Hart, aged 25, charged with stealing a fine horse and rubber tire from Clyde Scott at Columbus last Wednesday, was arrested here today and jailed. He drove the horse into town, but attached to an old wagon, for which he had traded the rubber tire. Scott traced the fellow from Columbus to Norfolk by way of Clarkson and Leigh. At Clarkson the trade for an old buggy was made. Hart claims to be from Johnston, Brown county.

Land Advancing in Price. YORK, Neb., Oct. 7.—(Special.)—A few of the recent sales of land made in York county shows considerable advance over the price paid last year and the oldest residents who predicted that farm lands in York county were worth all that they brought a year ago, are now scrambling for farms at advanced prices.

RAILROADS WIN TWO CASES

Terminal Taxation Case from Omaha and Rulo Bridge Case Are Decided.

LAW IS DECLARED CONSTITUTIONAL

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

LINCOLN, Oct. 7.—(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 districts 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 mileage of the road was constitutional. The opinions held also that a depot, terminal facilities, bridges and other structures that were a part of the railroad 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 Omaha case and Commissioner Fournier 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 convene as a board of review and listen to protest against taking the figures of the State Board of Equalization on the railroad property as a basis for 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-fourth of the value 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 the new law is generally the same as the old law, the decision will apply in regard to the constitutionality of the new law.

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

1. In the assessment of railway property for municipal purposes situated in cities of the metropolitan district, such as is required to be listed with and assessed by the State Board of Equalization for general purposes under the provisions of sections 49 and 50 of chapter 27, article 1, compiled statutes 1901, an assessment of railway property for such purposes is made by the State Board of Equalization and assessed to such city to accept the value of the fractional part of such railroad property situated in the municipality in the same ratio as the assessed by the State Board of Equalization and apportioned to such city in accordance with the provisions of said statute.

2. The proportional share of railway property as valued and assessed by the State Board of Equalization, belonging to and situated in such city and subject to taxation for municipal purposes, is to be assessed by the proper authorities of such city by lowering or raising the value of the same as they may deem proper, so as to secure uniformity of valuation in respect of all property subject to taxation within the municipality.

3. It is competent for the legislature to provide for the method by which the value of the property of railroad companies such as is required to be listed and scheduled with and assessed by the State Board of Equalization, and to provide for the method by which the value of the whole of such property is to be assessed for municipal purposes in this state as a unit or as an entirety and to distribute the value as thus assessed to the several cities, towns and municipalities, respectively, in which such railroad property is situated.

4. Such a scheme or plan of assessment for municipal purposes does not violate the constitutional provisions for equal and uniform taxation, and the law which provides for the same is not unconstitutional. The law which provides for the same is not unconstitutional. The law which provides for the same is not unconstitutional.

5. The valuation and assessment of the property of a railway company, as therein provided, as an entirety and the distribution of the value of the property in its entirety on a mileage basis over the entire line of such railroad does not operate as a changing of the status of the property assessed for taxation in the different subordinate taxing districts through which the line extends and in which the property is actually situated, which is a legitimate exercise of legislative power.

6. In the assessment of railway property for municipal purposes in this state as a unit or as an entirety and to distribute the value of the property as thus assessed to the several cities, towns and municipalities, respectively, in which such railroad property is situated, the legislature has the power to provide for the method by which the value of the whole of such property is to be assessed for municipal purposes in this state as a unit or as an entirety and to distribute the value of the property as thus assessed to the several cities, towns and municipalities, respectively, in which such railroad property is situated.

Rulo Bridge Case. In the Rulo bridge case four objections were made to the plan of assessing railroad property as prescribed by the statutes. The first was that "sections 49 and 50 in legal effect exempt the franchisees of railroad corporations from taxation and thereby violate section 1 of article 1 of the constitution." The court held that this objection was disposed of sufficiently in the case of the State against Savage in which the court held that the State Board of Equalization in the assessment of railroad and telegraph properties should include in its assessment the value of the franchisees with the tangible property assessed. In that opinion Judge Holcomb held that the whole property of any corporation would be assessed in its entirety and in such valuation should include all elements that go to make up the property, whether franchisees or other intangible property, real or personal property or personal property mixed.

The next objection was that the statutes provided a different manner of assessing railroad property from other property and therefore the section is void because the uniformity clause of the constitution is 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 that the constitution intended. The court holds that it is the result that has to be considered and not the method by which the

ADMIRAL SCHLEY USES PE-RU-NA IN HIS HOME.



BATTLE OF SANTIAGO, WHERE ADMIRAL SCHLEY MADE HISTORY.

ONE of the greatest naval battles in the world was the Fight Off Santiago. Never since the dispersion of the Spanish Armada has a more epoch-making victory in the onward march of civilization than in the notable event of July 3, 1898, in which the great hero, Admiral Schley, took a leading part.

No patriotic citizen of the United States can fail to render him the homage due, and to accord him the glory so well deserved. It was a great naval battle. Without a moment's warning it began. Quick decision, undaunted courage, excellent discipline, resolute self-confidence—these combined in Admiral Schley to produce that dash and daring so characteristic of the American soldier.

A man must think quickly in these days. There is no time for slow action. New enterprises arise in an hour. Old ones pass 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 deduction.

One day this fighting admiral, Schley, happened to be in company with others who were talking Admiral's Opinion on Pe-ru-na, on various topics of popular interest. The subject of Peruna was raised, its popularity as a cathartic remedy, its national importance, its extensive use.

One asked his opinion upon the subject. Without a moment's hesitation, he said: "I can cheerfully say that Mrs. Schley has taken Peruna and I believe with good effect." Such was the testimony of Admiral Schley.

Like the battle of Santiago, the thought was sprung upon him without any warning, and he disposed of it with the same vim and decision as he did with the Spanish fleet led by the ill-fated Viscaya.

His words concerning Peruna have gone out into the world to be repeated by a thousand tongues, because he had said them. Like the news of his victory over Cervera, his words concerning Peruna will be caught up by the multitudes from mouth to mouth, across oceans and continents.

Except for an inborn manly independence, in a country of free speech, these words never would have been uttered by an officer occupying such a notable position as that of Admiral Schley.

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. Peruna Drug Co., Columbus, Ohio: Gentlemen—"I can cheerfully state that Mrs. Schley has taken Peruna and I believe with good effect." W. S. SCHLEY.

THREE PRISONERS BREAK JAIL

Men Accused of Crimes at Beatrice. Take Sudden Leave of Officers. BEATRICE, Neb., Oct. 7.—(Special Telegram.)—John Eddleman, Jack Penton and William Dugan broke jail here last night. Eddleman was being held on a charge of robbing a store at Elletts recently and the other two were serving time for petty larceny.

Sentenced for Assault.

BASSETT, Neb., Oct. 7.—(Special Telegram.)—Judge Harrington held a session of court here this morning at which William Nieter entered a plea of guilty to the charge of statutory assault and was sentenced to three years and six months in the penitentiary.

Hotel Robbed of Cash.

SIDNEY, Neb., Oct. 7.—(Special Telegram.)—The safe and cash register at the Union Pacific hotel were robbed late last night of \$150. The thief is supposed to be the night porter, who skipped out of town and has not yet been apprehended.

Insists Brothers Secured Her Share of Estate.

TECUMSEH, Neb., Oct. 7.—(Special Telegram.)—Peter Sells, the great circus man who died of apoplexy at his home in Columbus, O., yesterday leaves a sister in Tecumseh in the person of Mrs. John Robinson, a widow. According to Mrs. Robinson's story, she, with the other members of the family, inherited a large estate left by their father many years ago. She says the showmen, Sells Brothers, got the money and she was

Sister of Peter Sells in Need

of Estate. He was arrested about the middle of August, and not being able to furnish bail, has been in the county jail since that time. At the opening of court, October 2, he pleaded not guilty and the case was continued to the 12th of this month. He confessed his guilt to the sheriff and county attorney since the case was continued and was sentenced tonight. Nieter is 39 years old. The girl is 16 years of age and is a sister of his wife.

Insists Brothers Secured Her Share of Estate.

TECUMSEH, Neb., Oct. 7.—(Special Telegram.)—Peter Sells, the great circus man who died of apoplexy at his home in Columbus, O., yesterday leaves a sister in Tecumseh in the person of Mrs. John Robinson, a widow. According to Mrs. Robinson's story, she, with the other members of the family, inherited a large estate left by their father many years ago. She says the showmen, Sells Brothers, got the money and she was

preme court's interpretation of the laws of its own commonwealth.

The third objection was that the sections in question "exempt railroad property assessed 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 rule of uniformity prescribed by section 1, article 1, of the constitution." The court holds that bridges, depots, water tanks and 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 road the court holds a bridge is just so much junk and to treat it as a separate entity is to take away its chief value.

Classification is Legal.

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 fix the mode of assessment as it may direct, has adopted a method which has been in operation many years and has been re-adopted in the new revenue law and is reasonably calculated to meet the problem in hand.

The other objections to the statute were urged by counsel, who appeared as friends of the court. The first was that it operates unequally and unreasonably with respect to the railroad companies whose tracks are situated wholly within one county, such, for example, as terminal and belt line companies. The opinion says: "The arguments advanced on this ground, however, apply rather to the constitutionality of provisions in the several statutes governing municipalities, whereby the valuation of railroad properties for state and county purposes is required to be taken on a basis of assessment in such municipalities, made on a different basis than to the constitutionality of the general statutory provisions with reference to state and county assessments."

The other objection was that the statute does not require that notice be sent to the companies assessed or to the taxpayers who might want to appear before the state board. The court holds that the statute fixes the time of meeting of the state board, that public meetings are held and that this is sufficient.

City Attorney's View.

"So far as I can learn," said City Attorney 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 unconstitutional that part of the law requiring 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 settled, 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 case 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 the federal courts to accept the state su-

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