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TALBOT ICE COMPANY **Auditorium Corner TELEPHONE 455**

Gross Receipts of Company Not Correct Measure of Value of Franchise.

TELEPHONE COMPANY ON SAME BASIS

Occision Rendered by the Supreme Court in Case Carried Up from Omehn-Frank Barker Must Hang.

(From a Staff Correspondent.)

JINCOLN, April 5 .- (Special Telegram.) The gross receipts in a given year of a telephone or telegraph company is not the value of the franchise of such corporation and therefore cannot be taxed as a franchise, though the amount of the gross receipts may be taken into consideration in determining the value of the franchise. his the supreme court held this afternoon the case of the Western Union Telegraph company against the city of Omaha n which the decision of the lower court is reversed and the lower court is ordered to grant the relief prayed for by the com pany. That portion of section is of the revenue law which fixes the value of the franchises of these corporations as the amount of the gross receipts for the year previous is declared void. The action was brought by the Western Union Telegraph ompany, a New York corporation, against the city of Omaha to enjoin the collection of a city tax levied upon the gross recelpts representing the franchise. A demurrer was filed to the petition and sustained by the lower court.

The opinion was written by Commissioner Letton and while he holds that the legislature has not power to establish an arbitrary rule or standard of ascertaining the value of a franchise which has no relation to the ascertainment of value, he holds that the gross receipts may be taken into consideration in arriving at the franchise value and that the gross receipts may be taxed as the business of such corporation. The statement of the company that ! received its franchise under the laws of New York, the opinion held, does not prohibit its franchise from being taxed in Nebraska. Commissioner Letton said:

as the postroads act, does not confer upon telegraph companies accepting its provisions any immunity from taxation of their property in this state, whether such property is tangible or intangible.

Must Pay for Sewers.

Property owners along Capitol avenue in Omaha, from Twelfth to Sixteenth street, | will have to pay the special assessment Quincy Ames, C. for the construction of a sewer. When the city made the special sewer district ton, C. Elizabeth E. Shannon attempted to avoid payment, but lost her cause in the lower court, and this decision has been upheld by the supreme court. This will be the second assessment made against this property for sewers. Years ago, when the proposition was made to construct a sewer, the city council took the advice of Colonel Waring, an expert engineer, to put in six-inch pipe. At that time City Engineer Rosewater protested against the Waring system. The court calls attention to the fact that it would have been better had the council taken the advice of the city engineer, as the Waring system proved unsatisfactory as predicted, but that the council evidently had acted

TELEGRAPH TAX HELD VOID in what it thought was the best interests

Barker Verdict Upheld.

Unless the governor interferes. Frank be hanged at the state penitentiary Friday, June 16. The supreme court today affirmed the decision of the Webster county district court, before which Barker was ried, refusing to interfere in the carrying ut of the sentence. The opinion is writen by Judge Barnes. Barker, who is but 28 years of age, murdered his brother, Dan Barker, and his sister-in-law, Alice Barcer. near Red Cloud, February 1, 1904. hat he might become possessed of the ouse, property and farm and marry Miss lizzie Rinkie, a young woman of Red loud, who had promised to become his school fund. The fee charged for regiswife as soon as he had procured a home a take her to. In its concluding para-

graph, the court says:

The record shows the commission of one of the most brutal and deliberate murders recorded in the history of the state, that the facts and circumstances disclosed therein are not only consistent with the guilt of the accused, but inconsistent with any other rational conclusion, and in the trial of the case there's po reversible error.

The court reduced from ten to seven years the sentences of imprisonment in penitentiary of Thomas Gray, alias Tom Rogers, and Samuel T. Bradley, alias Samuel T. Buills, who with George Keeler were sentenced by the district court of Burt county to the penitentiary for robbing the Farmers' State bank of Lyons in January, 1904.

Ruling on Credits.

In deciding the case of McDonald against the county of Lancaster, the supreme court today modified the opinion of Commissioner Duffle, handed down some months ago, by holding that money loaned should be taxed to the lender #nd that his debts could not be deducted from the amount oaned. In listing his personal property McDonald included an item designated as bills receivable amounting to \$13.541 and an item of \$22,900 as represented by notes owing by him. The assessor refused to allow the reduction, the county board upd both. The supreme court reversed district court. It is the decision of

credits, except as to money loaned. These other opinions were filed:

Commercial National Bank against
Grant affirmed, Sedgwick, J.

Hardinger against Modern Brotherhood
of America; on rehearing former judgment
vacuated and judgment of district court
affirmed; Barnes, J.

Langdon against Clarke; reversed and
remunded; Letton, C.
Huber against Chicago, Burlington &
Quincy Railroad Company; affirmed;
Ames, C.

trarwood against Breese; affirmed, Leton, C.
in re Estate of Clapham against Clap-am; modified and affirmed; Oldham, C.
Railey against Raymond Brothers-Clarke ompany; reversed with directions, Old-

ty of Loup against Wirsig; affirmed: Oldham, C.
McBrayer against Jordan; reversed and action dismissed; Ames, C.
Nebrasku Lean & Trust Company against Crook; affirmed; Ames, C.
Rohlff against Estate of Snyder; atfor him, Mr. Burkett was at the capital irmed: Letton, C.
McCaw against Cox; affirmed: Ames, C.
Holmes against Chicago, Rock Island &
Pacific Railway Company; reversed, Ames, C.

Following are rulings upon motions for rehearing:

Felsch against Babb; overruled. Bitchey against Zeeley; overruled.

D. Jackson, E. R. Duffie and I. L. Former Officials Are All Reappointed,

(From a Staff Correspondent) LINCOLN. April 5 .- (Special)-Legislaive acts are now up to the courts. Govor Mickey has had his final swing and he matter has passed out of his hands. usofar as vetoes are concerned, the govbroke the record, having veloed wenty-seven bills. He signed a total of D4. A great majority of the bills which to receive executive approval were incorrectly, and it was due probably to carelessness more than anything is veto power so extensively. The govenor hesitated for a considerable time toaffected the disposal or sale of public lands and the fourth was the bill providing for the relief of Russell L. Leomia Late this afternoon he vetoed three of the lost the case in the lower court. bills and expressed his approval of H. R. 198. This bill provides the Boyd county Berker, the Webster county murderer, will they are located at the appraised value such is abolished. This because the govand approved it.

No Fee for Registering Warrants. One bill which the governor vetoed was the work and especial pet of State Treasurer Mortenson. It was H. R. 321, providing that a fee should be paid the state tensen grabs every state warrant possible them registered, as it prevents him get, exposition at Portland. ting that investment for the permanen tering would wipe out that practice. In his veto message Governor Mickey said:

The other bills vetoed, not heretefore published, are as follows:

sell them.

S. F. 228—Providing for the bringing of action for trespass by executors or administrators and for the disposition of the amounts recovered.

S. F. 229—Restricting the State board in its lovy of taxes to a rate sufficient only to meet the appropriations of the legislature for the year in which the tax is

Papillion Man Seriously injured. S. F. 121-Allowing the legislature to can

vass the vote on a constitutional amendment and to declare it carried if it should receive a majority vote.

S. F. 213—Authorizing the county couris to enter decree dispensing with the administration of certain estates against which there are no debts and to fix and establish the heirs at law of decedents.

Selects Court Commissioners. After one of the most strenuous days and took him home. It was a very nar-

ever spent by the members of the supreme port, during which thty were frequently called from the courtroom and importuned by various parties supporting some candiand real estate mortgages. He claimed the place as stenographer, the court late this & Co., Frank M. Leake, manager, was right to deduct from these items debts afternoon selected these men to compose W. D. Oldham of Kearney, John H. Ames held the assessor and the lower court over- of Lincoln, division No. 1, and E. R. Duf- stranger who sold Mr. Leake some tools he of Omaha, N. D. Jackson of Neligh and in the afternoon. I. I., Albert of Columbus, division No. 2. the court that debts in the ordinary course The new stenographers selected were Mrs of imminess may be deducted from the Estelle Duffle,, wife of Commissioner Duffie, stenographer to her husband; Core Marsh, stenographer to Commissioner Jack son; Mary Sheehan, stenographer to Com missioner Albert; Miss Tony Sadilek, ste nographer to Commissioner Letton; Mrs Wilson, stenographer to Commissioner Ames. No stenographer has yet been selected for Commissioner Oldham, though it is understood a son of Judge Barnes is after the vacant place. The commissioners

composing division No. 1 are reappoint-Friends of N. D. Jackson got busy this afternoon as they had never been busy before and brought about his appointment when it was almost conceded that he would

shortly before the appointments were made. Trouble for Bankers Union.

Insurance Deputy Pierce this afternoon refused to issue a cortificate to the Bank-Nebraska. The refusal is based on the report of the company for the past year

which shows that many claims were paid CLEANS UP ALL THE BILLS with a less amount of money than the liability. Dr. Spinney, president of the order, was notified of the action of the Governor Vetoes a Few More and Signs the auditor by letter this afternoon and it is presumed he will mandamus the auditor to ompel him to issue the certificate. The uditor made no examination of the books SUPREME COURT COMMISSIONERS NAMED of the company and did not charge fraud his jetter to Spinney, but merely stated

> of conformed to the law. This action is another chapter in a long drawnout fight between Spinney and the insurance department, which has dragged its way through the supreme court, after first being heard before a special commissioner appointed to take testimony. The supreme court allowed the company to contimue business provided it corrected some errors which were pointed out. This is the first chance the insurance department has had at the company since that opinion was

that the report showed the company had

Laneaster County Wants Cash. Lancaster county has come to the su preme court in an effort to secure \$5,000 urer of Lancaster county collected state else on the part of the legislators that it taxes to that amount and deposited same ecame necessary for the governor to use in the Capitol National bank, which failed In 1883, thereby causing a toss of the money The county treasurer then paid the state day over four measures, three of which out of county funds to make up this loss. The county now claims the treasurer himself should have stood the loss, and conse quently wants the money back. The count

State Architect No More.

The office of state architect settiers may purchase the land upon which and James Tyler, fr., state architect, as after the Board of Public Lands and ernor has signed the bill doing away with Buildings have passed on the appraisement, this part of the state government. Mr. Tyler spent the day faking his affairs out of his office and in turning back to the state whole lot of new office fixtures.

Names Portland Commission. Governor Mickey today appointed H. G. Shedd of Lincoln. Senator for registering warrants. Treasurer Mor. Dakota City and ex-Representative Loomis of Frement to look after the Ne and objects strenuously to parties having braska exhibit at the Lewis and Clark

SUTHERLAND, Neb., April 5,-(Special.)
-As a resut of the offer made by Howard However patriotic the purpose of this act may be to divert the outstanding warrants of the state to the educational fund. Still I am constrained to disapprove the act for the reason that it places an unjust and discriminatory burden on the holders of state obligations who do not desire to the factory location. Sutherland citizens will them. are fully abreast of the times in the mat ter and offer to donate a site for the fuc-

> PAPILLION, Neb., April 5 - (Special.) While returning to his home from Pa very bad runaway. The horses took fright at some unknown object and be came unmanageable. The buggy was completely demolished and Mr. Zweibel was rendered unconscious. Charles Pffug on passing along found the unconscious man

Harness Store is Robbed.

row escape from death.

KEARNEY, Neb., April 5.-(Special Teledate for a place on the commission or a gram.)- The harness store of J. H. Haney entered by burglars last night and tool the commission: C. B. Letton of Fairbury, valued at \$100 stolen. The robbery is sup posed to have been committed by

BEATRICE-Yesterday at 5 p. m., in the county court, Herman Neumann of Odell and Miss Clara Gerner of Diller were united in marriage.

BURWELL At a meeting of the school board Charles E. Hill of Stanton, In., was elected as principal and Charles Dailey of Burwell as assistant.

SUTHERLAND-A petition signed by cit-izens of Sutherland has been presented to the Board of County Commissioners ask-ing them to declare the town incorporated. rd.ATTSMOUTH.—The Cass county mort-gage record for March is as follows: On farm property, filed, \$50.00; released, \$8.20 City property, filed, \$19.345; released, \$27.70 LINWOOD The last two nights there as frost and it froze some, but the fruit cess were not injured. Winter wheat looks e and there is no sign of the Hessian ny this immediate vicinity.

PLATTSMOUTH—In the district court oday Clyde Perkins, convicted of burglary, nd William Balbo, convicted of horse toaling, were each sentenced to one year in the penitentiary by Judge Paul Jensen. FREMONT-Someone broke into the foung Men's Christian association rooms ast night and stole all the electric light milbs in the rooms and bath rooms. Noththe rooms and bath rooms. Noth-was taken. There is no clue to the

FULLERTON-At a meeting held by the Board of Education, Prof. Cather was reelected superintendent for the ensuing school year. There is still a vacancy for the principalship of the high school and a seventh grade teacher.

LEIGH-Roy Carieton of this place died at the home of Mr. and Mrs. Jarvis, four and one-half miles south of Howells, late Monday evening of appendicitis. He was teaching school in that neighborhood and became ill and died before he could be brought home.

ALBION—Orvil Woodward and Emery Baldwin, the young men arrested some days ago for breaking into the school house in district No. so and taking some property therefrom, were yesterday bound over by the court judge for their appearance at the next term of the district court.

EREMONT—John Feinaur alighted from ance at the next term of the district court.

FREMONT—John Feinaur alighted from the Black Hills train on the Northwestern yesterday afternoon before, it quite cane to a stop. He lost his fcoting and fell headlong on the brick platform. He sustained some bad bruises and cuts, which required considerable time of a physician to sew up, but no very serious injuries.

STELLA—Gaandpa Ned O'Donal went out at the usual time this morning to do the chores and was soon discovered in the yard dead. He was subject to heart trouble. He was one of the very carry seltlers in this country and lived with his wife in an adjoining house to his son. James O'Donal, four intles north of Stella.

ORD—At a recent meeting of the directors of the Loup Valley Agricultural society it was decided to hold the annual meeting for the current year on September 12, b. 14 and 15. The society is in excellent finanfor the current year on September 12. lo. 14 and 15. The society is in excellent financial standing and expects to spend considerable money in the exection of new buildings and other improvements for the annual show this fall.

of the most sweeping revivals it has had for years. Evangelist G. Augustus Jones of University Place, assisted by the local pastors, E. H. Ser., and J. J. Stocking, are doing a good work. The meetings was continue all the week and great things are expected. Some fifty have been to the altar. One of the incidents of the meeting was an afternoon service Sunday afternoon at a sod school house out in the country seven inless, at which nine were converted.

at a sod school house out in the country seven miles, at which nine were converted. COLUMBUS—Monday night lightning struck a large barn belonging to Ed Munson, a farmer living tweive miles west, just over the line in Nance country. A horse had all the hair burned off his tail and hind legs, but his flesh scenis not to have suffered any. When repairs were started on the cornice the workmen took out about a boshel of dead bees and nearly life pounds of honey was found in the box of the cornice between the rafters. Whether the bees were killed by the lightning or perished during the unusual severe winter is not known, but Munson says the honey will repay him for all his loss.

FREMONT—bodge county has another ditch fight on hand, this time against an assectament for cleaning out the cut-off ditch which extends from near the Standard Beet Sugar company's factory to the Platte river. The board assessed the cost on most all the proporty east of the ditch to a point about three miles cast of this city, about nine miles from the ditch. The hearing on the assessment came up yesterday afternoon. About fifty farmers clubbed together and hired an attorney to light the case and most of them were on hand After some discussion the barring was adjourned to May 2. The farmers claim that the refuse from the sugar factory has filled by the ditch and that the sugar company should therefore stand a larger part of the expense, and shot hat fome of the lands are too far from the ditch to be benefited by clearing if oil. The supervisors went to Leavitt this morning to make a personal inspection of the situation.

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Question of Granting Saloon Licenses the Prevailing Issues,

SEVERAL NOTABLE CHANGES IN SENTIMENT

Norfolk Surprises Itself by Electing the Democratic Ticket, While Columbus Selects a Repub-

Telegram.)-The city election, which took fight in many years. place yesterday with quite a bit of excitement, was close throughout. Alleged republicans who had gone into the condidates formed an organization and put of the total vote cast-169-W. H. Hann. candidates for all offices in the field by for mayor, received 150 votes. petition. The socialists also put candidates in the field. A few days before election the petition candidates who claim to be of 24. There was but one ticket to be at least two saloons for the ensuing year. republicans, and who were termed during voted, for two trustees, and the issue was campaign "malcontents", the socialists and electric lights and the saloon, and both The city election resulted in the election of combine, dividing the offices between them and the candidates that they decided to drop declined and thus left one candidate At the election it was decided to issue for each office who was either a "mal-

content", a socialist or democrat. During the day large numbers of women Education. The latter two were elected by only one anti-member on the board. the votes of the women.

The following is the ticket elected: Mayor, E. B. Warner, republican, majority 58; city clerk, Charles Samuelson, republican, 96; city treasurer, Robert Shuman, republican, no opposition; city engineer, Paul G. Meyers, republican, no opposition; police judge, Daniel Baker, republican, no opposition; members of Board of Education. Juhn Burke, petition candidate, 25; and E. Columbus Elects Republican Mayor. r. Tramp, petition candidate, 45; councilmen, First word, William Stack, socalist, Second ward, George Graham, republi-

can, 60; L. R. Duke, socialist, 3. FAIRBURY, Neb., April 5 .- (Special.)-The municipal election resulted in a victory for the high license party, except one councilman. The officials elected by the high license party are: Nat Downs, mayor; F. L. Rains, clerk; J. O. Evans, treasurer; R. E. Riley, police judge; W. W. Watson, engineer, and F. M. Rains,

can, 2; Third ward, William Yost, republi-

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It's the small but constant loss of flesh that indicates physical waste - the gradual slipping away of healthy flesh, pound by pound, which no ordinary food seems to restore. Scott's Emulsion will restore it. This Emulsion is the greatest flesh builder obtainable. Scott's Emulsion first stops the wasting-that's one gain. Then when it supplies new flesh and takes one back to normal strength and weight, that's another gain and a big one.

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Landslide at Norfolk.

ticket here with the exception of two phantly elected. Mohr receiving 111 of Education. John Friday, major elect received a majority of 145 over M. C Hagen, running for a third term. A. J Koenigstein defeated S. R. McFarland for city clerk; B. J. Schorregge defeated Robert Utter for treasurer; I. G. Westervelt defeated S. W. Hayes for police judge P. J. Stafford and P. Crotty, democrats, were elected to the council. The outcome NORTH PLATTE, Neb., April 5 .- (Special was the result of the flercest municipal

BLOOMFIELD, Neb., April 5 .- (Special. -The annual city election was phenom vention and were beaten out by other can- and that carried almost unanimously. Out Carney, Christ Rath.

OSCEOLA. Neb., April 5.-(Special.) Osceola has gone dry again by a majority democrats got together and made a these questions carried by good majorities There was no excitement.

EMERSON, Neb., April 5.- (Special.) bonds to the amount of \$20,000 for building and furnishing a school house

OAKLAND, Neb., April 5.-(Special.)voted for members of the school board, At the city election held here Tuesday, there being as high as eighty female votes, the license party elected Charles Samson in one ward. On the whole the regular mayor, Peter Palmer, councilman Second republican ticket nominated at the city con- ward, while the anti-license ticket elected were victorious by a majority of 14. The vention and primaries won out, the excep- C. E. Ohlsep, councilman First ward; A. tions being William Stack for councilman B. Peden, treasurer, and S. A. Lundstrom, for the First ward, L. R. Duke, councilman city engineer, E. W. Harding was elected for the Third ward, and E. T. Tramp and city clerk without opposition. License is John Burke for members of the Board of assured for another year, there being

CENTRAL CITY, Neb., April 5 .- (Special.)-The city election here yesterday was a landslide for the prohibitionists. The license question was voted on direct. FAIRMONT, Neb., April 5,-(Special.)-The election in this city passed off very quietly yesterday, there being but one

ticket in the field. For license, %; against

COLUMBUS, Neb., April 5 .- (Special.)-A large vote was polled at the city elecction. It was everybody's victory. R. S. Dickinson, republican, was elected over Hon. W. N. Hensley by 166 majority, but the democrats took everything else by large majorities except councilman in the Sec ond ward, where J. H. Galley and S. J. Ryan tied with each 117 votes. will be decided by casting lots at the next meeting of the city council. G. B. Spelce was elected treasurer over D. N. Newman

by 218 votes. The result will be a democratic council and a republican mayor, PLATTSMOUTH, Neb., April &-(Spedat.)-During the city election yesterday polities was practically ignored and the city will go "wet" another year. The democrats elected J. P. Sattler, L. P. Larson and John Vorndran and the repubicans elected Will White and William Balance for members of the city council. For members of the school board, D. C. Morgan (dem.) received 449; Dr. E. D. Cummins (dem.), 368; J. W. Robertson for license by over 100 majority (rep.), 347; Judge J. E. Douglas (rep.), 329. NELSON. Neb. April &-(Special)- At the village election held here yesterday the anti-license ticket was elected by 20 majority. This means that Nelson will bedry for two years at least, as the antilicense people now have a majority for

GIRBON, Neb., April 5 - (Special.) - At the election the high license ticket was

HURWELL, Neb., April 5 .- (Special.)-At the village election the high license ticket was elected by 17 majority. PIERCE, Neb., April 5 .- (Special.) -- The town election passed off rather quietly here today, about 190 votes being polled. Neither party and candidates in the field, but two sets of candidates were nominated by petition. The issue understood was the

NEBRASKA TOWN ELECTIONS councilman First ward. The prohibition- marshal and town clerk, Mesers. D. L. tion of the present marshal, George W. Goff, and the present clerk, L. R. Herbert. NORFOLK, Neb., April 5.—(Special.)—A Those who opposed them nominated Messrs, W. E. Powers and F. A. Schulz. lemocratic landslide elected the entire Messrs. Upton and Mohr were trium-STROMSBURG, Neb., April 6.-(Special) This city voted dry by an overwhelming

majority. Warm Contest at Sutton. SUTTON, Neb., April 5 .- (Special.)-The ity election was hotly contested and resulted in electing a part of the two tickets which were in the field: Mayor, Henry Grosshans; clerk, H. N. Ochsner; treasurer John G. Greiss; police judge, E. P. Burnett; engineer, Howard Newnham; councilmen First ward, J. Van Pallen; Second ward, James West; Board of Education, 8

LOUP CITY, Neb., April 5 .- (Special.)-The village election passed off quietly. The uestion of license was submitted and the license ticket won by 8 votes, which insures FULLERTON, Neb., April 5 - (Special.) of one councilman. J. W. McClelland, the

license candidate for mayor, carried every ward in the city FAIRFIELD, Neb., April 5 -(Special.)-At the city election Dr. A. R. Ray, representing the people's, or progressive party favoring public improvements, etc., was reelected mayor over Joseph Kyne, conservative. On the question of license the "wets" proposition to issue waterworks bonds was

ALBION, Neb., April 5.-(Special.)-For the third successive year Albion cast its vote for no license.

lefeated by 40 votes.

STELLA, Neb., April 5.-(Special.)-A ight vote was cast at the village election. the anti-license ticket electing Daniel Sarvis and the license ticket electing J. D. Curtis. As three of the license board held wer this will make the town "wet" for another year at least.

ST. PAUL. Neb., April 5 - (Special.) -The city election passed off quietly, there being only one ticket in the field. The ticket elected is a high license, non-partisan one. In the neighboring town of Dannebrog, on the contrary, there was waged all day a long, hard-drawn contest between the license and prohibition forces, and the result of the count shows that Dannebrog has gone prohibition for the first time in her history.

BATTLE CREEK, Neb., April 5 .- (Special.)-The town election was very quiet, there being no issue, simply choice of PAPILLION, Neb., April 5 .- (Special.) Sections for village trustees are as fol-Clarke; highest number of votes cast, 72 lowest, 62. This was the slowest election that Papillion has ever known.

R. J. Gilbert, city engineer, and N. S. Horn, police judge. D. E. C. Long and David Miller were elected councilmen in the First ward, and Dr. Raynor in the Third ward The result on councilmen was a tie in the Second ward, J. C. Killarney and T. B. Fragier both receiving the same number of votes. The city went



