

Nebraska

State Supreme Tribunal Hands Down Important Decisions.

ECHO OF CAPITOL BANK FAILURE

Ruled that Street Railway Cannot Change Routing to Detriment of Public.

(From a Staff Correspondent.) LINCOLN, Oct. 30.—(Special.)—Opinions handed down by the supreme court today cover several things of statewide interest. The reversal of the Douglas county district court, which sentenced Jones, the negro murderer, to the electric chair; an echo of the old Capitol National bank failure in Lincoln; the right of a street railway company to use streets of a city according to its own pleasure, and an opinion which denies street railway companies the right to change their car routes to the detriment of the public, are among the rulings of the high court.

Can Recover from Funds. Lancaster County can recover from the state funds in the amount of \$10,238.27 for taxes collected by Lancaster county for the state and lost through the failure of the Capitol National bank of Lincoln in 1902.

When the bank failed the county had on deposit \$30,000. Acting on his own judgment and in the belief that the county was an insured of money collected for the state the county treasurer paid \$10,238.27 of the amount to the state treasurer.

In 1902 action was brought by Lancaster county to recover this amount from the state under permission given by the legislature. Afterwards through some mistake the case was dismissed by county officials and later reopened, judgment being given by the Lancaster county district court against the state for the amount.

State Appeals. The state appealed and the supreme court holds that the state must reimburse the county. The syllabus of the court is:

1. The statute which permits an action to be brought against the state by persons thereof, provides that, "The court in which such action may be brought shall hear and determine the matter upon the testimony, according to justice and right, as upon the amicable settlement of a controversy, and shall render award or judgment against the claimant, or the state, as upon the testimony and justice may require." Under this direction it is the duty of the court to brush aside technical defenses and to act in like manner as if the parties were settling amicably their controversy. Under these provisions and the circumstances of this case, as set forth in the opinion, the statute of limitation should not be held to be a defense to the action.

2. Where a county treasurer had deposited money received by him for taxes "belonging to the several current funds of the county treasury" in a depository bank which has given notice of its withdrawal from the depository statute, laws of 1901, chapter 30, he is not liable for the safekeeping of the funds.

3. Where the county treasurer is relieved from liability upon his bond for the loss of funds deposited in such banks, the county itself is liable for extraordinary circumstances, such as fraud, bad faith or gross negligence in the selection of a depository or the approval of its bonds in free from liability to the state for money collected as taxes in the capacity as trustee for the state and deposited by the county treasurer in such depository bank.

4. A county is not an insurer of the safekeeping of funds deposited in such banks, and the county is not liable for the loss of money received by it from taxes for the benefit of the state, paid to the state treasurer from the county treasury, which was lost on account of the failure of the bank without the fault of the county, an action may be maintained under the permission of the state senate, to recover back such money erroneously paid, and the fact that certain entries were made in the county books by the treasurer, charging the money lost to certain funds, under the same mistaken idea, is no defense to the action.

Heirs Can Recover Damages. Heirs of John Hughes of Sarpy county can recover from that county the amount of \$1,000, given him in the district court of that county for damages sustained by reason of a road located along his land. A claim for damages was filed by him against the county amounting to \$2,500. Appraisers allowed him \$11. This was cut by the county commissioners to \$21.25. Hughes later died and his estate appealed.

Claim was made by Hughes that a hedge which was destroyed was worth \$1,000 and the land \$1,000.

What Court Holds. The court holds that, "In a common law submission an award was agreed upon by the arbitration of \$90, signed and sealed and given to one of the arbitrators to deliver, which he failed to do, but produced it in court upon an order to that effect being made, and that failure to deliver did not revoke the agreement or set it aside."

Shilk Judgment Reversed. Judgment of the Douglas county district court is reversed by the supreme court given in favor of John Shilk for \$3,000 against Armour & Co. for damages received by the former while employed by the company.

The court holds that the evidence is

THE NEW GERMAN CHIEF OF STAFF.



GEN. ERICH VON FALKENHEYN.

insufficient to support a judgment in favor of plaintiff and it is an error to refuse peremptory instruction for defendant.

Shilk was injured by falling from a refrigerator car belonging to the Armour company, alleging that a splinter two inches wide had split off of the plank used to walk from the ice house to the car, causing his fall. He sued for \$30,000 damages.

Kohl Wins Case.

Senator Phil H. Kohl of Wayne wins his case in the supreme court, the judgment of the Wayne county district court being affirmed. Senator Kohl is in the real estate business, and in company with others was to receive all over \$45 per acre for the land. A portion of the land was sold, giving Kohl and his associates a profit of \$4,480. Associates of Kohl refused to pay him his share, resulting in a suit in which Kohl secured judgment for \$1,000. Defendants appealed and the supreme court affirms the judgment.

Cannot Make Changes.

A street railway company cannot make changes in the routing of its cars, where the travel is sufficient to show that the line where changes is contemplated is an important part of the system and where direct intercourse must be abandoned as a result without first receiving the approval of the railway commission.

This is the opinion of the supreme court in denying a rehearing to the Lincoln traction company in a case decided in favor of Herpolsheimer et al, some time ago.

Involves Routing of Cars.

The case involves the routing of cars to and from College View, a suburb of Lincoln, via the "high line," coming into the city over Twelfth street and by the department store of Mr. Herpolsheimer, the cars being taken off and routed over Thirteenth street by the store of a competitor, who, it is alleged, was a director of the street car company at the time of the change and now a stockholder. It is also set out that Herpolsheimer was induced to take stock in the company which built the Twelfth street line because cars would be routed by his store.

Section 242, Revised Statutes of Nebraska, should not be construed to authorize a railway company to select any street of the city it may choose for its right-of-way and obtain control thereof by condemnation proceedings or by contract with the city, according to an opinion of the supreme court in a case involving the right of the Omaha, Lincoln & Beatrice Interurban road to grade and lay its track above the grade established by the city of Lincoln.

The court holds that the city cannot by contract or any other way deprive itself of the power to control its streets and to establish and maintain the grades thereof.

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Overcoat Day

Our immense second floor Overcoat Section will then be at its very best. Assortments, you'll find far greater than ever before—and values, absolutely the best and most tempting in all Omaha.

INTRODUCING MOST EXTRAORDINARY VALUES IN Overcoats and Balmacaans \$10-\$15-\$20

If one of these three is your overcoat price, this store can make it mighty interesting for you—interesting to the extent of a positive saving of \$5 to \$8. Then too, we offer by big odds the greatest assortments. It's the one overcoat stock from which you are sure to buy yourself.

Style and Value Combined at Their Best in Our QUALITY OVERGARMENTS \$25, \$30, \$50

The reason we're known as the "Home of the Overcoat" is best answered by a visit to our overcoat store (second floor). The thousands of style right coats of the better grades featured here sets you thinking if such a thing as not being able to buy yourself could be possible at this store.

Suits with that style "punch" good dressers admire

Style Right Suits for Men and Young Men \$10-\$12

The clothes this store sells at \$10 and \$12 receive as much attention when being selected as do the \$40 suits. That's why the man who wishes an inexpensive suit has learned to know this store as the store where you are sure to buy yourself.

We Save You From \$5 to \$8 on the Quality Suits we sell at \$15-\$20-\$25

For style, quality, workmanship and richness of patterns they are the equal and in many cases the superior of suits shown elsewhere at \$20 to \$35, and what's more, here you'll encounter decidedly greater assortments. These facts surely ought to make it worth your while to come in for a try-on. Courteous, efficient salesmen to give you their prompt and undivided attention.

America's Finest Hand-Tailored Suits \$30-\$40

They are clothes of today in every way—rich Tartan plaids, Roman stripes, variety stripes, Glen Urquhart plaids, overlaid and many silk and wool novelties, featured in both English and conservative models. They are the clothes of a gentleman, the clothes for you.

Suityourself advertisement for Saturday sale of suits and overcoats. Includes text: 'Saturday is the big day of our SPECIAL SALE Of Several Hundred Boys' High Grade SUITS and OVERCOATS \$5, \$6, \$6.50 Values \$3.90' and an illustration of a boy.

Advertisement for King-Peck Co. featuring sweaters, later style headwear, union suits, and gloves. Includes text: 'Sweaters Omaha's Largest Showing Every style that's good, and every value is good—priced from \$1.50 to \$10.' and 'KING-PECK CO. 16th at HOWARD'.

Advertisement for Velvet Joe tobacco. Includes text: 'HAPPINESS is somethin' we carry inside of us an' bring out once in a while. A ca'm sperit an' a peaceable pipe o' VELVET 'll bring as much happiness t' th' surface as if it cost a hundred dollars.' and '10c buys a tin of VELVET—5c a metal-lined bag of this Kentucky's Barley de Luxe with that aged-in-the-wood mellowness.'

State Agricultural Societies to Meet Next January

LINCOLN, Oct. 30.—(Special.)—Representatives of the different branches of organized agriculture met at the office of Secretary Mellor of the State Board of Agriculture this afternoon and selected January 15 to 23 as the time for the meetings this winter. The election of a committee to have in charge the sessions resulted in the election of W. H. Mellor, Dean E. A. Burnett, J. R. Dunsmuir, C. W. Puzsley, W. B. Whitten, George E. Condra and Secretary George W. Kille.

Cave Collapses and Two Boys Killed

COLUMBUS, Neb., Oct. 30.—(Special Telegram.)—Clarence Green and Jerome Macken, aged 12 and 14 years, lost their lives at Platte Center, this county, at 5 o'clock last night as a result of a roof of a cave they were building caving in. E. H. Walter, Platte Center furniture dealer, who was inspecting the cave at the time of the accident, was probably fatally injured and Earl Burke, a fourth member of the party, had his back injured by the falling dirt. Within a few minutes after the accident efforts were made to rescue the boys, but the weight of the earth had crushed the life out of them.

SPILLMAN AND STEPHENS HOLD MEETINGS IN WAYNE

WAYNE, Neb., Oct. 30.—(Special.)—Democrats and republicans held opposition meetings at the same time in Wayne. Although the Howell party was present the chief attractions were the rival candidates for congress, O. S. Spillman and Dan V. Stephens. The Stephens audience was decidedly small as compared with the crowd to which Spillman spoke. Enthusiasm among the republicans in Wayne county is running high for Spillman. Republican leaders of Wayne county say Spillman will carry the county by 700 majority.

FORMER AUBURN WOMAN IS DEAD AT EL PASO

AUBURN, Neb., Oct. 30.—(Special.)—A telegram announces the death of Mrs. Winnie Harmon at El Paso, Tex. Mrs. Harmon resided at Cluster, Okla., and went to Texas about two years ago because of tuberculosis. She is the daughter of Mr. and Mrs. Frank Cole. Mr. Cole took her overland in his automobile. He and his wife remained in Texas all last winter and until the middle of the summer. When they left they thought she was on the high road to recovery and were greatly shocked with the news of her death. The body will be brought here for interment. Mrs. Harmon was born and reared here and is a graduate of the Auburn High school.

French Arrange War Loan of Ten Million with Gotham Banks

NEW YORK, Oct. 30.—The loan of \$10,000,000, arranged by the French government with the National City bank and other New York banking institutions, it was learned today, is to be used in the purchase of war supplies in this country. There will be no public offering of the notes, all of which will be retained by the bankers making the loan. The loan, it is reported, is to run nine months, and the collateral is to be 6 per cent. treasury notes of the French government, issued for this period. The basis of the loan is reported to be about 3 1/2 per cent interest, and it is said that the money will be advanced on the understanding that it is all to be spent in the United States. In this connection it became known today that the National City bank had loaned \$5,000,000 to Norway, and that Switzerland also sought to obtain a loan here.

REPUBLICAN VALLEY DOCTORS MEET IN OXFORD

OXFORD, Neb., Oct. 30.—(Special.)—The annual meeting of the Republican Valley Medical association was held here yesterday, about forty medical men being in attendance. Dr. L. W. Rork of Oxford was the presiding officer. Papers were read by Drs. Foote of Hastings, Lemere of Omaha, McClanahan of Omaha, Campbell of Stamford, Sundbury of Holdrege, Johnston of Upland and Farrell of Wallace. The officers elected for the coming year are: President, Dr. N. T. Johnston, Upland; vice president, Dr. H. C. Smith, Franklin; secretary, Dr. P. A. Sundbury, Holdrege; treasurer, Dr. W. D. Shields, Holdrege. The session closed with a banquet for the doctors and their wives at the Burlington hotel. The next meeting is to be held at Holdrege.

JOHN JONES GIVEN NEW TRIAL BY SUPREME COURT

LINCOLN, Oct. 30.—(Special Telegram.)—John Jones, the colored man convicted in Douglas county of the murder of Sam Leone, a pool hall proprietor, will escape the electric chair for a time, at least. The supreme court this morning reversed the lower court and remanded the case back. The syllabus of the decision follows: 1. In a criminal trial a confession of guilt alleged to have been made by the defendant is not competent in evidence, unless first shown to have been voluntarily made. 2. An involuntary statement or confession is not competent against the defendant for any purpose. 3. Evidence that defendant has admitted guilt or important facts should not be received for impeachment or rebuttal, but should, if material and competent, be offered in chief. 4. A defendant cannot be cross-examined, and afterwards contradicted in respect to matters that are not admissible as part of the case. 5. If the defendant has signed an involuntary written confession, it is erroneous to allow him to be cross-examined

Delicate Girls and Women

are too often dosed with drugs when their blood is really starved. They need that blood-strength which comes from medicinal nourishment. No drugs can make blood. SCOTT'S EMULSION is a highly concentrated blood-food and every drop yields returns in strengthening both body and brain. If you are frail, languid, delicate or nervous, take Scott's Emulsion after meals for one month. No Alcohol.

Cleanse the Blood and Avoid Disease

When your blood is impure, weak thin and debilitated, your system becomes susceptible to any or all diseases. Put your blood in good condition. Hood's Sarsaparilla acts directly and peculiarly on the blood—it purifies, enriches and revitalizes it and builds up the whole system. Hood's Sarsaparilla has stood the test of forty years. Get it today. It is sure to help you.