

### REDICK UPHOLDS MERGER ELECTION

Refuses to Grant Injunction to Stop Annexation Election Here Next Tuesday.

#### COMMISSIONER LAW VALID, TOO

District Judge Redick yesterday refused to issue an injunction preventing the holding of the annexation election June 1 on alleged grounds of unconstitutionality of the annexation and election commissioner laws advanced by W. L. Selby of Dundee, the plaintiff, and his attorneys, Murphy and Winters of South Omaha, and Samuel Cotner.

"Both laws are reasonable expressions of the legislature in their classification of the municipalities to be affected by them, and are not special or local legislation," said the judge. He sustained a demurrer which had been interposed by John P. Breen, author of the laws, and attorney for Election Commissioner Harley Moorhead, the defendant.

No attempt to secure an immediate hearing of the suit in supreme court will be made, according to Murphy and Winters, but a new suit will be started after the election in an attempt to prevent the validity of the decision of the voters, should it be in favor of annexation.

Several injunction suits may be started, said Samuel Winters. Judge Redick laid stress on the fact that it is considered the duty of courts to construe laws as constitutional, if such a construction is possible. He remarked in this connection:

"It is hardly necessary to remind litigants and counsel that the question of whether or not an act of the legislature is void as being contrary to or not within constitutional provisions is the most serious one presented to courts for decision, principally owing to the fact that the tribunal is dealing with an independent branch of the government and its power to decide arises only from the absolute necessities of the case."

Rests with Legislature. Regarding the constitutionality of the annexation law, Judge Redick said in part:

"Classification of municipal corporations is within the power of the legislature and classification based upon substantial differences in population is constitutional."

"All laws of a general nature must operate uniformly throughout the state or upon the different classes to which they are to be applied."

"Population is not the only basis upon which classification may be founded. The subject rests with legislatures and their enactments are not subject to interference unless classification is artificial and baseless."

Object is Consolidation. "The object of the act is to consolidate into one corporate body all cities of whatever class having such relations with each other as in the thought of the legislature make such amalgamation wise or expedient. To it eight objections have been urged."

The decision disposes of the objections in part as follows: "Can it be said that the facts that the inferior municipalities are mainly supplied from a common water works plant, and with gas, electric light and street car service from plants mainly located in and operated from the metropolitan city are so foreign to and disconnected from a proper basis upon which the legislature in its wisdom may authorize such cities to be consolidated as to amount to mere identification? Bearing in mind that the subject of consolidation of cities is purely legislative, it necessarily follows that that body may prescribe conditions upon which consolidation may be effected, and the only restriction upon the legislature in that regard is that such restrictions shall be reasonable."

### OMAHA BOY WHO WINS HONOR AT U. OF N.



Walter A. Hixenbaugh Jr.

Walter A. Hixenbaugh, Jr., of Omaha has been chosen as delegate of the World Fraternity club of the University of Nebraska to the summer conference of the Carnegie endowment for the International Conciliation, which meets at Ithaca, N. Y., June 15 to 30.

Mr. Hixenbaugh will go to A. Sorenson of Loup City and Lena Samuelson of Hildreth. All three men are prominent in university circles. Sorenson was editor-in-chief of the Daily Nebraskan last semester and Samuelson is editor-in-chief of the Cornhusker. Hixenbaugh was chosen by the Delta Chi fraternity, of which he is an active member, as their delegate to the national convention, which meets at San Francisco, August 20 to September 5.

Others upon whom the duty of conducting elections resting in the county in question or in the new county coming under the operation of the law.

Not Obnoxious. "That such a provision cannot have the effect of rendering an act otherwise general in its terms obnoxious to the constitutional provision against the enactment of special legislation is held in 34 Neb., 649."

"It is further objected that the expression 'having a population of 15,000 or more' makes the act applicable to only such counties as had the requisite population at the time of its passage and is therefore special and local. In all the acts classifying the cities of the state except metropolitan cities the same provision is found."

It is further contended that the act can only apply to existing counties by reason of the time limit for the appointment of judges of election contained in section 2313. What has been heretofore said as to the first objection is applicable here.

"The attorney for the plaintiff is to be commended for in effect apologizing for his attack upon a law which has received the almost universal commendation of the citizens of this state and community as well as upon the incumbent of the office of election commissioner, whose administration thereof is believed by many to be above criticism. These considerations, however, have not influenced me in the decision of the questions submitted."

Sustains Commissioner Law. "The argument that there may hereafter exist metropolitan cities and surrounding towns complying with every other condition set forth in Section 1, and yet because of the possible fact that the county containing such metropolitan city did not have a population of 15,000 and therefore did not have an election commissioner, such a metropolitan city would be deprived of the benefit of the act. I think it too imaginative and speculative to form a proper basis for declaring an act unconstitutional."

Judge Redick sustained the election commissioner law, which was also attacked in the suit in the following language:

"The points made are that no other county can ever come in under the provisions of the election commissioner act because of the requirement that within thirty days after the act becomes a law the governor shall appoint such commissioner, the argument being that the time of the appointment of the officer is so limited by the provision that a county subsequently acquiring 15,000 population would exist without any authority in the governor to appoint a commissioner."

"Believing it to be the duty of the court to sustain the law if possible, I think it would be entirely competent to construe that provision in one of two ways: First, that the provision is temporary and for the purpose of putting the law into effect, that the power of the appointment would exist as to a county subsequently acquiring the requisite population, holding that the expression, 'within thirty days after this bill shall have become a law,' as applied to such county, the same as though it had been 'within thirty days after this act shall become applicable to any county' the governor shall appoint, or secondly, as suggested by counsel for defendants, the term, 'election commissioner' might be construed as descriptive only and be made applicable to such officer or off-

### BRAVE REPORTER BEARDS THE LION

He Even Dares to Ask Colonel Welsh as to His Opinion of Rev. Irl Hicks' Cyclone Prediction.

#### AND HE GETS OUT ALIVE, TOO

A brave man was chosen by the city editor for a special mission of great danger. He handed to him a dispatch from St. Louis.

"Go," he said, "to Colonel Welsh at the weather bureau and ask him if there is anything in this."

The reporter looked at the dispatch. It stated that Rev. Irl Hicks, weather prophet, had predicted tornadoes in the middle west in the eighteen hours following 5 p. m., May 28.

The reporter's face blanched as he read, but by no other sign did the fearless fellow show his feelings regarding the terrible service to which he was assigned. He simply said:

"I will ask him."

To Colonel Welsh the mention of a red flag is a bull.

The reporter, as he bent his steps post-office-ward, remembered that the weather bureau is on the fourth floor and that the hard cement pavement is below the windows.

He falters not. But he did not falter. He thought of calling up a friend to give directions as to what he wished done with it which he has in the postal savings bank.

When he arrived outside the weather bureau door he was outwardly calm. He entered with a firm step. His glance instinctively roved upon the windows. He noted that they were all closed. It was a good omen.

Colonel Welsh sat at his flat top desk, figuring out the next day's weather. He was smoking his pipe. The reporter laid the dispatch on the desk in front of him.

"How about this, Colonel?" he said, without a quiver in his voice.

It was a tense moment. The barometers and thermometers and wind gauges all seemed to stand still.

He truly laughed. And then the unearthly stillness was broken by a laugh. Could it be? Will a bull placidly eat grass when the red is flashed before his eyes?

Yes, it was true! The colonel was laughing the sarcastic, sardonic laugh of the contemptuous.

"If Irl Hicks," he said, and there was a world of universe of pity in his voice, "your old Irl Hicks predicting a tornado! Hicks, who was hiding behind a folding door on the third story of a building on Washington street at the time of the tornado in St. Louis in 1904. Poor Hicks! And he's still getting away with it!"

And the colonel laughed as he felt his pipe and looked at the dispatch.

It is to laugh. "Well, well, well! The man that sent out this dispatch must be quite a bright fellow. I see he says 'The fall of the barometer to 25 degrees was predicted by the Rev. Irl R. Hicks. Now, in most places, I believe, barometers don't have degrees.' No, thermometers, have degrees. Barometers move in inches and hundredths of inches. Ha, ha, ha."

"Still, you must give Hicks credit. He predicted the St. Louis tornado less than three hours after it happened. He predicted the Galveston tidal wave the evening after the very morning when it took place. Well, well, well—Hicks, Dowle, Schiatter—the people fall for their right along. Barnum was right after all. Barnum was right!"

Reaction Comes. The reaction had come—that reaction which overtakes a man bound upon some desperate enterprise, leading a forlorn hope, the reaction which follows successful accomplishment. The reporter joined in the laughter, boisterously. The world looked bright once more. He felt almost as though he could embrace the elevator man, as he went down, although he is not a comely person. Elevators seem grand inventions after a man has been face to face with quick descent through the air from fourth-story windows to cement sidewalks.

The reporter, it is understood, will decline a medal. He is a modest man.

### SUN IS SHINING IN WESTERN NEBRASKA

Main Line Trains on Time, While Some Branches Are Still Out of Commission.

#### PLATTE IS OVER ITS BANKS

The local forecaster and the railroad officials are together on weather conditions west of Omaha. For this locality the former is predicting partly cloudy and rising temperature for Sunday, but the railroad men are not talking.

According to the reports to the railroads, rains last night was general from the central portion of the state, east and continues today, extending far over into Iowa. Along the Burlington's northern line and over the Northwestern system, west to Crawford, Alliance and Broken Bow, it is clear and the sun is shining.

The Union Pacific reports similar conditions, the rain not extending west of Grand Island, with sunshine from Lexington all the way west.

In Omaha the official gauge indicated 28 of an inch of rain during the twenty-four hours ending at 7 o'clock this morning, with 3.39 inches during the week. Out in the state during the twenty-four hours the railroads report from one-half to an inch and one-half during the twenty-four hour period.

Trains on Time. With a little cessation in the rain, the railroads are getting out from under the floods. Trains from the east are coming in practically on time. Those from the south and west are running from one-half to an hour late, the delay being on account of soft roadbeds.

The Northwestern's (Lincoln) branch is still out of commission and the information is given out that trains will not be running through to Winner before next Wednesday, at the earliest. There is a gap of twenty miles between Verdo and Verdigris, where all bridges over the Verdigris river are washed out. At one point the flood was so great that it went out the concrete piers and carried on iron girder 100 feet in length some sixty feet down stream.

Down through Nemaha, Richardson and Otoe county, dikes along the Big and Little Nemaha rivers, constructed some years ago, have burst and the flood waters are flowing out over the farms,

### RELATIVE OF GENERAL GRANT ENLISTS IN THE NAVY HERE

Ulysses Simpson Grant, grandnephew of General U. S. Grant, hero of the civil war and president of the United States, enlisted in the United States navy Saturday at the local recruiting station.

Young Grant is a well set up youth. His home is at 516 East Second street, Grand Island. His father's name is also Ulysses Simpson Grant.

"My grandfather was a cousin of General Grant," said the young man. "I was born on the anniversary of Grant's birthday, April 27, 1897. My father was born the very day Grant took Vicksburg. I certainly am proud of my name."

U. S. Grant will be sent to the Great Lakes naval training station at Chicago.

### Parral May Escape by Technical Plea

Juan Parral, convicted of manslaughter by a jury in Judge English's district court for the shooting of Detective Thomas Ring, should go free by the jury's verdict, A. L. Sutton, his attorney, declared.

The jury's verdict in effect found Parral not guilty of murder in the first or second degree by convicting him of the lesser crime of manslaughter," said Sutton, "but manslaughter is defined by law as the killing of a person in a quarrel or in passion or anger, or in the commission of an unlawful act. Under the evidence this definition does not fit Parral's crime if he committed any. He was either guilty of murder or of nothing. I think the courts will uphold this view."

Sutton will file a motion asking Judge English for a verdict of acquittal for Parral, notwithstanding the verdict, in accordance with this technical interpretation of the laws governing the case.

### PETER KRUPA DIES FROM SELF-INFLICTED WOUND

Peter Krupa died at St. Joseph's hospital from the effects of a bullet wound in his right temple. He resided at 384 Harney street and was dependent because unemployed. No inquest will be held, as the authorities are convinced that Krupa shot himself.

### ROCHFORD IS RECOVERING AT ST. JOSEPH'S HOSPITAL

E. H. Rochford, victim of an automobile accident, is recovering at St. Joseph's hospital.

### Carson Says that Lofgreen Worked at Time of Murder

E. M. Carson, 926 California street, of the Ideal Cement Stone company, the same firm which employs Axel Lofgreen, who was arrested in connection with the Ada Swanson murder case, told the police that he visited the cement job at 1809 Locust street where Lofgreen told the police he worked the day of the murder, and saw the man on the job. Lofgreen was released on \$1,000 bonds provided by Carl Peterson, superintendent of the Ideal firm.

### Cargo in Sight for Steamer Julia

When the steamer Julia reaches Omaha there will be a cargo waiting to be taken to Decatur.

Dozens of firms are anxious to learn of the Julia's schedule, and a lot of details as to how to manage to get freight for Decatur onto this boat. Calls come frequently to the Commercial club on these points. George Kelley is seeking information as to how he can get a shipment onto the boat. The Maney Milling company wishes to learn when and how it must have its contingent of flour at the dock to go to Decatur. It wants to know what is the premium on insurance, of a contingent, and a lot of other vital questions.

### Big Farmers Picnic at Clark's

CLARKS, Neb., May 28.—(Special.)—The farmers' unions in this vicinity held on June 3 a big basket dinner and picnic in the Grant grove. The speakers to be present are A. O. Thomas, C. H. Gustafson and G. L. Carlson.

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