From Omaha Newsboys TWO CENTS

THE OMAHA DAILY BEE

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VOL. XXXVI—NO. 302. OMAHA, WEDNESDAY MORNING, JUNE 5, 1907—TWELVE PAGES. SINGLE COPY TWO CENTS.

STATE OPENS CASE

Prosecution Tells What it Expects to Prove Against Haywood.

GIGANTIC CONSPIRACY CHARGED

Steunenberg Murder One of Series of Crimes of Inner Circle.

OBJECTION TO THE STATEMENT

Court Allows it to Stand and Defense Notes Exception.

SEVERAL WITNESSES EXAMINED

Son of Murdered Man Testifies to Seeing Orchard Several Days Before the Murder—Orchard Will Testify Today.

BOISE, Idaho, June 4.—Through James H. Hawley, senior of the group of prosecutors, the state of Idaho today made the opening statement against William D. Haywood, whom it charges with the murder of Frank Steunenberg, and then began the presentation of the testimony by which it hopes to prove the indictment laid against him.

The opening statement was a broad, sweeping arraignment of the leaders of the Federation of Miners, who were charged with plotting wholesale murder and hiring assassins, all in a giant conspiracy of vengeance upon those who obstructed their sway, to destroy opposition by terrorism, to control the political destinies of the communities covered by their organization and to perpetuate their own power within the organization.

It charged a widespread conspiracy, dating in inception from the north Idaho disturbance fifteen years ago, reaching down to the murder of Frank Steunenberg, and whose murdered victims, by bullet and bomb, numbered scores. Hawley declared that wherever in the mining sections of the coast states the federation had been in control there had been left a trail of blood to mark its operations. Of the hired assassins he cried:

"To them murder became a trade and assassination a means of living."

General Conspiracy Outlined.

As to the general conspiracy Mr. Hawley said:

"I have said, gentlemen, it has been part of their object and policy to control the politics of the various sections where they have lived, where they have existed, where their organization, their subordinate lodges have had control. This conspiracy, this collusion, these crimes, this understanding between the leaders of this organization, together with some that were associated with them in a subordinate role, together at other times with others that upon the outside played into their hands, who were necessarily brought into their confidence, has, as I have stated before, caused the death and been the real cause of the death of Governor Steunenberg. It is well then for us to inquire as to the objects of this collusion and this understanding and this conspiracy. It is well to go into the objects of these leaders in accordance with the principles that actuated them in effecting this organization, so far at least as is necessary in order to enlighten us as to this particular crime that is charged, and on this, gentlemen, I will say that we expect to prove, and I have been exact in this matter, and will call it to your attention with words that I have considered, that this was not the only object of this organization, that although the persons composing the executive committee so far as their personality was concerned, have changed at various times their objects, the ideas of the leaders for the body have never changed. By mutual agreement and understanding of these leaders at the very inception of this organization certain objects were aimed at, and it has always been the object of the 'inner circle' of this organization to accomplish them. In fact, we will prove to you, gentlemen of the jury, that at the inception of this organization a conspiracy was formed by the members of the 'inner circle' the object of which was to perpetuate their own power, influence and control both in the federation itself and in the governmental matters of the different sections of the mining country wherein they had control by employing desperate criminals to commit murders and other atrocious crimes, by unusual and alarming methods against those who in official positions refused to be influenced by their wishes and those who in private life ran counter to their interests.

Motive for Murder.

"We will go further, gentlemen of the jury, and prove as part of our case and showing who is responsible for the murder of Frank Steunenberg, as showing the circumstances surrounding that murder and who caused it to be committed, that the leaders of this federation, the men who compose the 'inner circle,' have for more than eight years past made a record of deeds of violence and that their chosen methods and course and custom has left a trail of blood in the mining sections of this entire coast wherein they have had control. We will show that the leaders who comprise this 'inner circle' have traded in blood, employed hired assassins to take life and destroy property as their interests seemingly required, and as part of their general practice of protection have raised by assessment levied upon the members of their order a large amount of money as an emergency fund, and from it not only squandered large sums for their own personal use and criminal methods, but have also from it retained the best legal talent to defend those of their number charged with crime."

After retelling the story of the Caldwell crime, the arrest and confession of Orchard and part of the history of the Coeur d'Alene trouble, Mr. Hawley said:

"The original proposition and theory that the powers of this federation, of the 'inner circle' at least, of the federation, could best be perpetuated by the murder of those who in official life or in private situation ran counter to their interests, became insensified seemingly after these gentlemen assumed the entire control. The 'inner circle' composed as it was of this defendant and his co-defendants to a great extent, brought around them a few choice spirits, and to them murder became a trade and assassination a means of living. We will show that a scale of wages was even devised, fixing the amount to be paid for different crimes by this 'inner circle' to parties who committed those crimes, and chief among those who were doing the actual work that was planned by the 'inner circle' and paid for out of the hands of the federation by the members of the 'inner circle' was this man to whom I

(Continued on Second Page.)

SUMMARY OF THE BEE

Wednesday, June 5, 1907.

1907 JUNE 1907

SUN	MON	TUE	WED	THU	FRI	SAT
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23/30	24	25	26	27	28	29

THE WEATHER.

FORECAST FOR NEBRASKA AND IOWA—Fair and warmer Wednesday and Thursday.

Temperature at Omaha:

Hour.	Deg.	Hour.	Deg.
5 a. m.	52	1 p. m.	66
6 a. m.	52	2 p. m.	67
7 a. m.	55	3 p. m.	67
8 a. m.	56	4 p. m.	68
9 a. m.	57	5 p. m.	67
10 a. m.	59	6 p. m.	65
11 a. m.	62	7 p. m.	63
12 m.	64	8 p. m.	60
		9 p. m.	57

DOMESTIC.

Number of Nebraskans graduate at George Washington university, two of them being prize winners. **Page 1**

Daughter of late F. A. Falkenburg enjoins the Woodmen of the World from erecting a monument over the grave of her father, alleging a misappropriation of the funds subscribed for the purpose. **Page 2**

Jury for the trial of Mayor Schmitz on charge of extortion was completed yesterday. The court disqualifies Sheriff O'Neil for bias and placed panel in charge of Elisor Biggy. **Page 1**

Governor will file suit this month to compel E. H. Harriman to answer questions concerning merger of railroad lines. **Page 1**

W. J. Bryan in an interview in Baltimore says he has always favored a single term for president and of course cannot look with favor upon a third term for President Roosevelt. **Page 1**

NEBRASKA.

Northwestern is preparing a passenger tariff on interstate business to conform to the new 2-cent fare law. Burlington road files its list of passholders and it includes many who have been prominent in politics in both parties. **Page 3**

LOCAL.

City Health Commissioner Connell says he will consult with city attorney and see if they cannot compel City Prosecutor Daniel to do his duty toward persons arrested for violating sanitary laws. **Page 7**

William H. Taft or William J. Bryan will be the orator at the dedication of the Young Men's Christian association if present plans are successful. **Page 3**

Nebraska retail liquor dealers in annual convention in Omaha are considering recent laws enacted by the legislature to determine an attitude. **Page 2**

Rumor has it one of the larke packers is back of the purchase of Seymour lake and adjoining property and may establish another plant there. **Page 1**

Automobile club offers cash rewards for the discovery of persons placing harmful obstacles in the paths of their machines. **Page 11**

Society—Cupid has been enabled since the advent of June to make appreciable inroads into the society circle. **Page 5**

Judge W. H. Munger decides city of Omaha need not buy the water plant at the $6,000,000 appraisement and that the appraisement is invalid. Company will appeal the case. **Page 1**

SPORTS.

Earl G., a long shot, wins the five-furlong race at Belmont park. **Page 4**

Results of the ball games:

6—Omaha vs. Pueblo—2.
7—Lincoln vs. Sioux City—2.
5—Denver vs. Des Moines—1.

7—Boston vs. Detroit—1.
7—Washington vs. St. Louis—1.
10—Chicago vs. Philadelphia—6.
4—Cleveland vs. New York—2.

7—Milwaukee vs. Louisville—1.
8—Kansas City vs. Indianapolis—1.

Page 4
Live Stock markets. Page 9
Grain markets. Page 9
Stocks and bonds. Page 9

OUTBREAK DISTURBED PLANS

Chinese Rebels Were Not Ready at Time of Attack Upon Officials.

AMOY, China, June 4.—The leader of the insurgent Chinese forces has issued an address exhorting the people to support the movement and to confine themselves for the present to guerrilla tactics. It appears that the attack on the officials at Juan precipitated the outbreak against the government, the date fixed for the uprising being June 24.

SHANGHAI, China, June 4.—The viceroy of Canton has reported to the government at Peking that the disorders at Lien Chow and Pakhoi have been suppressed and that all the missionaries are safe.

EARTHQUAKE WAS DISASTROUS

News of Heavy Loss of Life at Hsing Kiang Through Recent Disturbance.

VICTORIA, B. C., June 4.—The steamer Shawmut brought news of a disastrous loss of life following an earthquake at Hsing Kiang. A telegram received from Peking by the Nishi Shimbun at Tokio shortly before the Shawmut sailed, reported that 4,000 persons were crushed to death, a vast number of houses destroyed and many persons left starving. The empress dowager has telegraphed urgent instructions to the local governors to take measures to relieve the distress.

DETECTIVES KILLED BY BOMB

Terrorists Throw It at Police and Soldiers Arriving Fire Into Crowd.

LODZ, Russian Poland, June 4.—Two detectives were killed and two soldiers and three other persons wounded in a street here today by a bomb thrown at the police officials by terrorists. A patrol of infantry, attracted by the explosion, appeared on the scene soon afterward and opened fire on the crowd, wounding thirteen persons. Thirty arrests were made in connection with the affair.

MISSIONARY BADLY BEATEN

Mr. Pollard, a Methodist Worker at Chao-Tung-Fu, Seriously Injured by Mob.

LONDON, June 4.—A special dispatch received here from Hong Kong says that Mr. Pollard, a Methodist missionary at Chao-Tung-Fu, has been mercilessly beaten by the Chinese. His lung was pierced by a weapon. The missionaries are flocking into Hong Kong from the Swatow and Pakhoi districts.

RUMOR OF PACKER ON LAKE

Certain Business Men Believe Big Dealer Bought Seymour.

THINK NEW PLANT MAY BE BUILT

Theory of Establishing Young City is Discredited by C. C. Shimer of the Real Estate Firm that Made the Deal.

Is Omaha to have another great packing concern?

Many among those who have watched the negotiations just closed by Shimer & Chase, whereby that firm secured the title to 1,600 acres of land located around Seymour lake, on behalf of eastern capitalists, believe one of the big independent packing houses is behind the deal.

For two months the work of securing the options to the land has been going on and was consummated last Saturday. But still those on the "inside" refuse to state to what use the land is to be put. It is one of the prettiest tracts of land in the state, but its transportation advantages make it even more valuable than the mere beauty of its location and the gentle undulations of its ground.

An evening paper published a statement that the tract bought at Seymour lake was to be used for a townsite for residences and that a great manufacturing concern was to be established at Sarpy Mills. The latter lies a mile from Seymour lake.

Mr. Shimer of Shimer & Chase pointed out that this statement was unreasonable.

Good for Manufactory.

"It is plain the advantages of Seymour lake as a manufacturing center are unexcelled," said Mr. Shimer. "Here is the main line of the B. & M., running through it; there is the Missouri Pacific and all the other lines are within easy reach. This tract is ideally favored as a site for a great manufacturing concern."

While the matter of the establishment of a packing house is largely speculative, men with a hand on the pulse of affairs believe all signs point in that direction. The tract of 1,600 acres would be too large for use for suburban homes, it is said, but if a great concern were established there the acreage would all be required for yards, trackage, buildings and as a site for the town that would spring up around it.

In support of this are the facts as pointed out by Mr. Shimer that the tract has unexcelled railroad facilities not possessed by several other desirable tracts in that vicinity and that $500,000 will be invested.

Dr. Miller sold 160 acres of the 1,600 purchased. He still owns the lake, which is about fifty acres in extent. He also owns a strip of ground running all around the lake.

AMENDS ITS COTTON REPORT

Crop Reporting Board of Department of Agriculture Changes Figures on Acreage.

WASHINGTON, June 4.—The crop reporting board of the bureau of statistics of the Department of Agriculture, after careful consideration of the replies to supplementary inquiries, reports from special investigation of the correspondents and agents of the bureau of statistics and the report of the bureau of the census on cotton production in 1906 finds that the estimate made on June 4, 1906, of the acreage planted to cotton in 1906 was too low and in order to bring the figures as near as possible to the actual facts the board, after considering all the evidence on the subject, has made certain adjustments and revisions in the report of June 4, 1906, which show that the area planted in 1906 was about 32,040,000 acres.

The average condition of the growing cotton crop May 25 was 79.5 per cent, as compared with 84.8 and 77.2 per cent in 1906 and 1905, respectively; ten-year average, 83.6 per cent; acreage, 32,060,000.

NEW ORLEANS, June 4.—The cotton market broke a dollar per bale upon receipt of the government's condition report. October sold down to 12 cents per pound and December went slightly lower than this.

The break in price lasted about ten minutes, after which the market worked quickly up to the figures quoted before the receipt of the report. The government's estimate was equal to the best that had been expected in New Orleans.

NEW YORK, June 4.—A very excited market with a severe decline in prices was a result of the government's first cotton crop report for the season. The market had been very nervous, with prices showing a net loss of 18@20 points before the report was published. The condition of 79.5 per cent was a little better than indicated by recent private reports and exceeded the break of 24@28 points which immediately followed the report and which carried October off to 11.48 cents and January to 11.70 cents, or 40@45 points under last night's finals. There was heavy buying by shorts and bull interests at the decline and the market rallied 15@20 points before 1 o'clock.

BRITISH SEALERS CAPTURED

Revenue Cutter Rush Takes Charlotta G. Cox in Fairweather Grounds, Off Alaska.

WASHINGTON, June 4.—The secretary of the treasury has received a telegram from Captain Ainsworth of the revenue cutter Rush, stating that he had seized the British sealing schooner Charlotta G. Cox, which was found illegally catching seals in Fairweather grounds, off Alaska.

The Cox, it is said, evidently was taking seals during the closed season within the area of the ward in violation of articles of the tribunal of arbitration agreed to by the governments of Great Britain and the United States. It had seventy-seven fur sealskins on board. The department has directed the commander of the Rush to deliver the Cox to the British authorities at the nearest port in British Columbia, in accordance with the joint regulations of the two governments in case of seizure. The Rush also reported the presence of Japanese sealers in the same vicinity with a large number of sealskins on board. The Japanese sealers, however, are not subject to seizure outside of territorial waters.

LINEMEN RETURN TO WORK

'Frisco Telephone Men, Who Struck in Sympathy with Girls, Ordered Back by Union.

SAN FRANCISCO, Cal., June 4.—The 300 linemen who left the service of the Pacific Telephone and Telegraph company yesterday out of sympathy with the striking girl operators were ordered back to work by President Kelly of the district council, who holds that the men in going on strike violated their agreement with the company entered into December 22, 1906.

WILL NOT RECOGNIZE UNION

President of San Francisco Roads Declines to Treat with Car Men in Any Way.

SAN FRANCISCO, June 4.—"I have requested Patrick Calhoun and Henry T. Scott to be present at my office Wednesday afternoon and meet with the conciliation committee organized by the Civic league," said Governor Gillette yesterday. "I shall be present at this meeting if my duties, which call me to Sacramento tomorrow, will permit me to return. No definite plan of action has been outlined by this committee. I met with the members today at their request, being vitally interested in the peace of the city.

"Mr. Calhoun and Mr. Scott will be asked to confer with this body of men and efforts will be made to effect a meeting between the contending parties in the series of strikes that are now injuring this city. It is the intention of this committee to meet with and confer separately with the men in control of the corporations at war with the labor unions and the officers of the unions now out on strike."

In reply to this statement, Patrick Calhound, president of the United Railroads, said:

"I have heard nothing whatever of the intentions the governor may have and I merely wish to state the company's position.

"The United Railroads will never agree to deal with the local car men's union and any conferences held by anybody with the view of bringing about recognition of the union will only be productive of harm, by arousing false hope in the minds of the men who have left the company's service."

LOTTERY MEN PLEAD GUILTY

Thirty-Two Implicated in Honduras Case Fined Over Quarter Million Dollars.

MOBILE, Ala., June 4.—Thirty-two men who pleaded guilty in the United States court yesterday to an indictment charging conspiracy to cause the interstate carriage of lottery advertisements were sentenced today by Judge Toulman to pay fines amounting to $284,000.

The defendants also agreed to surrender for destruction all lottery books, plates and other paraphernalia and to immediately dispose of the printing establishment belonging to the Honduras National Lottery company, located in Wilmington, Del., and operated under the name of the John M. Rogers press, where the lottery tickets have been printed for many years. With the pleas of guilty and the surrender of all lottery material, the Honduras National Lottery company which is the successor of the old Louisiana State Lottery company, passed out of existence, ending a long endeavor of the federal authorities to end it. The defendants included: William L. Parkhouse, James Rea, C. W. Bredow, William P. Johnston, Louis C. Graham, Edward L. Pinac, Davis Hennen Morris, Frank L. Howard, Alfred Hennen Morris, Albert Baldwin, sr., Chapman Hyams, Paul Conrad, John Dephurst, Walter J. Demarest and Edward J. Demarest, all of New Orleans; John Morris Rogers, Jesse K. Baylis and Lester K. Baylis of Wilmington, Del.; General W. L. Cabell of Dallas, Tex.; Herman Brunner of St. Louis, and a dozen others residing in eastern and southern cities.

DINAN IS AT LAST ACCUSED

Chief of Police of San Francisco Charged with Influencing Schmitz Jurors.

SAN FRANCISCO, June 4.—The grand jury yesterday filed with District Attorney Langdon a general complaint against Chief of Police Dinan, charging him with willful and corrupt misconduct in office, in that he subverted the law in endeavoring to secure the acquittal of a defendant without the knowledge of the district attorney. The defendant in the case was Mayor Schmitz and the investigation by the grand jury grew out of the accusation of Assistant District Attorney Heney that Chief Dinan had attempted to tamper with the talesmen drawn for the jury which is to try Mayor Schmitz on the charge of extortion. Chief Dinan was accused by Assistant District Attorney Heney of having detailed some of his officers to interview prospective jurors in the favor of Schmitz. The chief practically admitted having detailed men to shadow some of the men on the venire, but declared that he did so because he wanted to see that no improper person got on the jury. Another basis for the information filed by the grand jury is the accusation that the chief afforded protection to a disorderly resort.

Dinan has ten days to answer the complaint and must stand trial in the superior court with removal from his position as the penalty if he is found guilty.

BRYAN AGAINST THIRD TERM

Nebraskan Thinks the President Should Not Run Again.

BALTIMORE, June 4.—William Jennings Bryan, during an interview today with a representative o the News, said: "When in congress I endeavored to secure an amendment to the constitution making the president ineligible for a second term and in both of my campaigns I also announced that if I was elected I would not be a candidate for a second term. I would hardly look favorably, therefore, upon a third term.

"I assume that the president will adhere to the opinion which he has expressed on the subject and will not be a candidate again. It would be a reflection upon the success of his administration if, coming in by an enormous majority, he had so reduced the popularity of his party as to make it impossible for any other republican to be elected.

"If his reforms are of a substantial character there ought to be some other republican sufficiently identified with him to represent them as a candidate. It would be strange if the president was strong enough to violate the anti-third precedent set by Washington, Jefferson, Madison, Monroe and Jackson and yet was not able to develop a worthy republican successor.

PUT DYNAMITE UNDER CAR

No Serious Damage Done, but San Francisco Passengers Are Frightened.

SAN FRANCISCO, June 4.—Dynamite was exploded under the first car sent out over the McAllister street line today. The forward truck of the car was raised from the tracks and the passengers were badly frightened, but no serious damage was done. The explosion occurred when the car was half way between Polk street and Van Ness avenue

BILLINGS MEETS OMAHA MEN

Early Morning Reception Tendered by Montana Hosts.

TAKEN ON AUTO TRIP OVER CITY

Commercial Club Extends Glad Hand to Nebraska Men—Strain of Trip Begins to Tell Upon the Tourists.

(From a Staff Correspondent.)

BILLINGS, Mont., June 4.—(Special Telegram.)—An early start was made here by the Omaha boosters, who arrived at 5 a. m., and were entertained at a 5 o'clock breakfast at the Northern hotel by the Billings Commercial club. The excursionists are beginning to feel the strain of the trip, as few retired last night until midnight after taking in the annual ball given by the maids and matrons of Sheridan at the Sheridan Country club.

After breakfast this morning carriages and automobiles were provided by the Billings club men and a drive of several miles was taken over the residence and business sections of the city. The Omaha visitors were much impressed with Billings from a commercial standpoint and were royally entertained until the train left at 9 o'clock. An informal reception for the excursionists was held at the Billings club at the conclusion of the sightseeing tour and the Omahans were given a hearty sendoff when the train left for the western Montana cities and Helena.

SCHMITZ JURY IS COMPLETE

Panel for Trial of 'Frisco Mayor on Charge of Extortion is Filled.

SAN FRANCISCO, June 4.—The jury was completed this afternoon for the trial of Mayor Eugene E. Schmitz on the first of the five indictments returned against him by the Oliver grand jury, by which he is accused jointly with Abraham Ruef of having extorted from Joseph Malfanti $1,175 as the first installment of a $5,000 annual bribe to secure the French restaurant keepers of San Francisco their licenses to sell liquor.

Judge Dunne, upon motion of the prosecution and over the determined and spirited objections of the defense, formally disqualified Sheriff Thomas O'Neil and Coroner William Walsh as unfitted by personal bias to perform any court functions in connection with the trial and appointed William J. Biggy as elisor, to have charge of the jury until a verdict has been rendered or a disagreement reached.

Shortly after adjournment of court Mr. Biggy, who for some months past has been Ruef's jailer, marched the jury to the St. Francis hotel, where the "twelve tried men and true" will be kept under lock and key during all the time that they are not sitting in the trial. Judge Dunne has decided that the jurors shall have no newspapers to read until all articles relating to the case have been censured; they may receive no general mail nor may they be communicated with by their families except under the scrutiny of the elisor.

Royal W. Cudworth, coal dealer, the last talesman of the venire, was accepted at the afternoon session after a brief examination. The personnel of the trial jury follows: L. Weil, department store buyer; Paul Bancroft, real estate dealer; Charles H. Gish, contractor; James Feitelberg, furniture dealer; George De Uriosta, commission merchant; John O'Mara, blacksmith; Theodore Dellwig, retired broker; Charles S. Capp, real estate broker; James E. P. Benson, pressman; Thomas Elrick, haberdasher; Hugh Burns, retired coal merchant; Royal W. Cudsworth, coal dealer.

The state hopes to put in all of its evidence this week. Former Police Commissioners Hutton, Reagan, Drinkhouse, Howell and Poeheim will likely be the first witnesses called.

POLITICS IN KANSAS CITY

Twenty-Seven Men Voted from Small Building Where Detective Brannon Had a Room.

KANSAS CITY, Mo., June 4.—The Board of Police Commissioners today continued their investigation into the charges of police corruption and turned up evidence to substantiate some of the charges.

Detective Bert J. Brannon asked to explain why he had maintained two residences, one of which was in the business district, said he kept his down town residence so he could help his political friends. It was brought out that one floor of a small building on which Brannon rented a room furnished twenty-seven votes at an election while Brannon lived there. Brannon said he abandoned the down town residence "when the board put us out of politics."

Arthur Rowland, a negro, told of reporting to the police that he had been robbed of a sum of money. He said the police did not ask him for his evidence, but instead locked him up. He never recovered his money.

HARRIMAN MUST ANSWER

Government to File Suit to Compel Magnate to Reply to Questions Concerning Merger.

WASHINGTON, June 4.—After a conference with President Roosevelt tonight, Commissioner Lane of the Interstate Commerce commission announced that before July 1 legal proceedings would be instituted to compel E. H. Harriman to answer certain questions propounded him by members of the commission at the recent hearing in New York, when the merger of the Harriman lines was under investigation. Previous to his conference with the president, Commissioner Lane had conferred with Frank B. Kellogg, special counsel for the government in the Standard Oil prosecutions, and it was arranged that Mr. Kellogg should represent the government in the case to be brought against Mr. Harriman.

WRECK ON GREAT WESTERN

Passenger Train Derailed by Spreading of Rails and Five Are Injured.

DUBUQUE, Ia., June 4.—A Chicago Great Western passenger train, west-bound, was derailed six miles west of Dubuque this afternoon. Five persons were injured. Spreading rails are supposed to have caused the mishap.

Railroads Plead Guilty.

SPRINGFIELD, Ill., June 4.—The Wiggins Ferry company and East St. Louis Connecting Railroad company and the Baltimore & Ohio Southwestern Railroad company each pleaded guilty today in the United States court to two charges of violating the interstate commerce law by having defective couplings on cars and were each fined $100 and costs on each count.

HONORS FOR NEBRASKA BOYS

Two Among the Prize Winners at George Washington University.

(From a Staff Correspondent.)

WASHINGTON, June 4.—(Special Telegram.)—George Washington university at its commencement exercises today awarded to a Nebraska boy, Frank K. Jenal of Hartington, its first prize of $100 for debate. Mr. Jenal is a graduate of Creighton university, with a degree of master of arts, but has been pursuing his studies at Georgetown university along legal lines.

In this connection it is interesting to note that another Nebraska boy, Frederick K. Nelson of Lincoln, won first prize of $40 for the best essay in the law class which graduated today. Among those who also graduated with the degree of bachelor of laws were the following who took degrees from Creighton university of Omaha: William J. Fisher, A. B., Lehrville, Ia.; John M. Kennedy, A. B., Kansas City, Mo.; Thomas F. McGovern, A. B., Denver, Colo.; Francis S. Montgomery, A. M., Omaha. The following were graduated bachelors of law: William F. Condon, A. M., LL. B., Fort Dodge, Ia., former graduate of Creighton university; John G. Loos, LL. B., Harvard, Neb.; Frederick K. Nellson, A. B., LL. B., Lincoln, Neb., their primary degrees having been taken in the University of Nebraska.

The comptroller of the currency has approved the conversion of the Utica bank, Utica, Neb., into the First National bank of Utica, with $50,000 capital. The Okey-Vernon National bank of Corning, Ia., has been authorized to begin business with $50,000 capital. A. F. Okey is president, C. H. Vernon, vice president; C. E. Okey, cashier.

Rural free delivery carriers appointed: Nebraska, Madison, route 5, George S. Fraser, carrier; Charles E. Fraser, substitute. Iowa, Garner, route 3, Julius A. Stelzmiller, carrier; Leona M. Stelzmiller, substitute. Toledo, route 4, John R. McCluskey, carrier; Charles W. Ullam, substitute.

Fred F. Koth has been appointed postmaster at Milltown, Hutchinson county, South Dakota, vice S. D. Meyers, removed.

Dr. F. S. Ashcroft has been appointed pension examining surgeon at Deadwood, S. D.

RAIN PUTS STOP TO DRILL

Cadets in Camp at Glenwood Have Sport with the Band, which Must Work.

GLENWOOD, Ia., June 4.—(Special.)—The first day of camp passed uneventfully. Even the hospital corps reports no serious accidents. Guard mount and dress parade passed off without a hitch.

Towards evening Captain Welsh had assembly blown, and when the men were lined up he ordered a general inspection of their baggage. He ordered the inspecting officers to confiscate all blank cartridges, guns, pistols, revolvers, firecrackers and cannon crackers. After inspection Captain Welsh's tent resembled a small arsenal. Statistics showed that about nine-tenths of this stuff, including a powder mine with electric batteries and wires for setting it off, came from the band. On inquiring from some of the men who had been to camp before, Captain Welsh discovered the band's reputation for much fun. He thereupon summoned the first lieutenant of the band and told him that hereafter the band must take setting up exercises, police the camp, practice and attend the parades with the rest of the boys.

During last night the gentle patter of rain was heard, a loud rattle, the sound of running feet and then a flow of words. This brought the corporal of the guard on the run. He discovered that one of the boys, thinking that it was not raining hard enough, had crept around to the tent of an enemy and thrown a bucket of water, bucket and all, on the aforesaid enemy. The excitement caused by this had barely subsided when an uproar arose from a whole row of company tents. This time the corporal found that a bunch of boys, presumably from the band, had tipped the possessors of cots out on the ground.

The grounds being wet, there were no drills this morning except troop parade. The other drills scheduled for the morning were postponed until afternoon.

KUROKI VISITS LEAVENWORTH

Japanese Party Inspects Army Post and Leaves for St. Paul on Special Train.

LEAVENWORTH, Kan., June 4.—General Baron Kuroki and party left for St. Paul in their special train over the Burlington railway this evening after a day spent at Fort Leavenworth. The day here included a reception tendered by General C. B. Hall, commandant of the fort, and other officers; a luncheon; a review of all the troops at the garrison, including heavy batteries, field artillery and infantry and an inspection of the army service schools and the post in general. General Kuroki took especial interest in the maneuvers. Great crowds of people gathered in the city from nearby points and the visitors were cheered wherever they went.

WIND TOPPLES BUILDINGS

Churches and School House Blown Over at Rome, Tex.—Damage at Decatur.

ROME, Texas, June 4.—Four churches and one school house were blown from their foundations by a heavy windstorm here early today. The public school building was lifted from its foundation. Much lumber was scattered all over the town and several box cars were blown off their track.

DALLAS, Texas, June 4.—A tornado struck thirty miles south of Decatur, Texas, early today. The district covered by the storm was narrow, but much damage was done to property. No lives were lost. Two residences were destroyed and a number of barns were blown down. Hail destroyed the crops west and south of Decatur.

Museum Association Meets.

PITTSBURG, June 4.—Sixty delegates representing all sections of the country were in their seats when the annual meeting of the American Association of Museums opened here today. The convention is being held in the lecture hall of sciences, Carnegie institute and the sessions will close on Thursday evening. Among the prominent scientists present are Dr. Herriman C. Bumpus, of the American Museum of Natural History, New York; Dr. Edward S. Morse, director of Peabody museum, Salem, Mass.; Dr. W. P. Wilson, director of the Philadelphia museum; Dr. W. T. McGee, of the Public museums, St. Louis; Dr. J. E. Talmage, of the Deseret museum, Salt Lake City, and Dr. W. M. Holland, director of the Carnegie institute, Pittsburg.

CITY NEED NOT BUY

Decision of Judge W. H. Munger in the Water Works Case.

HOLDS APPRAISEMENT IS INVALID

Records Shown to Appraisers and Not the Water Board.

ON THIS POINT RULING IS BASED

Company Will Carry it to Circuit Court of Appeals.

TRIBUNAL OF THE LAST RESORT

Text of Decision Covers Point on Which Order Rests and Shows Position of Court as to the Controversy.

The city of Omaha does not have to buy the Omaha Water company plant for $6,253,136.42, the price fixed by the board of appraisers, and that appraisement is invalid—this is the decision of Judge W. H. Munger in the United States circuit court for the district of Nebraska, handed down last evening, thus bringing to a culmination the prolonged fight precipitated by the Omaha Water board under the provisions of the compulsory water plant ownership law enacted by the legislature of 1905. It leaves the next step to be taken by the water company in the form of an appeal to the circuit court of appeals, and this will be done in due course of time.

Judge Munger's decision is based upon one point in the controversy, namely, that the board of appraisers erred in receiving the books and records of the company for review without submitting the same to the inspection of the city or the water board. C. C. Wright, one of the attorneys for the latter, said he thought the decision could have been based on a number of other points as well.

Direct Results of Suit.

The decision was the direct result of a suit brought by the Omaha Water company through its president to compel the city of Omaha to buy the plant of the water company on the basis of the terms made by the board of appraisers.

The case was argued about two weeks ago before Judge Munger by Attorneys Mansfield of New York and R. S. Hall of Omaha for the water company and John L. Webster and Carl C. Wright for the city of Omaha.

Judge Munger's ruling occasioned no surprise, it appeared from expressions, to either side to the controversy. Considerable interest, however, centers on the action of the higher court. Judge Sanborn of the circuit court of appeals has handed down one decision on the contract phase of the question and it was adverse to the city. As no question of the federal constitution is involved in the controversy, the matter will not be taken to the supreme court.

The chief contention of the city in this litigation has been that the appraisement was not arrived at by an unanimous vote of the appraisers and therefore should not be allowed to stand. It held the fact that only two of three appraisers voted for the figure named invalidated the appraisement, while the water company held to the theory of law that the appraisement was legal and binding since where the rights of a municipality were involved an unanimous appraisement was not necessary, that that was only necessary where the interests of individuals were at stake.

The appraisers were Daniel W. Mead, G. H. Benenberg and John W. Alvord. Mr. Alvord was the one who declined to concur in the appraisement.

Text of the Decision.

The decision of Judge Munger is:

This is an action for the specific performance of a contract whereby the complainant agreed to sell and the defendant agreed to purchase the water works of the complainant at a price to be fixed by appraisers, one appointed by each of the parties and the third appointed by the two others. Among the numerous defenses interposed by the city it will be sufficient to notice but one.

The appraisers in fixing the value of the plant awarded something over $500,000 as the value of the plant as a going concern in addition to its physical value. In determining the value of the plant, they had a right to consider it as a going concern, I have no doubt. But it appears from the record that during the progress of the hearing before the board of appraisers the complainant offered to permit the appraisers to examine and inspect their books and records for their own personal and private information, such books and papers, however not to be subject to inspection by the defendant or its counsel, nor the contents to be disclosed to them. The tender made by the board of appraisers of the books and records of the complainant was objected to by the city. After the case was finally submitted to the board of appraisers and the argument had, the board of appraisers requested that the books of the complainant be forwarded to Cincinnati, for the examination and inspection of the board. Counsel for the city again protested against such examination. The board appointed an auditor to examine and audit the books. I think it would have been perfectly competent and proper for the board to have employed an auditor to examine the books and papers which were properly before the board as evidence, but I am clearly of the opinion that the taking and receiving of evidence, consisting of these books, on the part of the board of appraisers, without permitting the same to be examined by the defendant city was such an irregularity as vitiates the award.

Right to Rely on Own Skill.

It is undoubtedly true that the appraisers were selected by the parties because of their skill, experience and knowledge as to the value of water works property, and they undoubtedly had a right in fixing the value to rely to a large extent upon their own personal knowledge and judgment of the value of such matters. But, in the very nature of things, it was necessary for them to take evidence. They could not be expected to make such a personal inspection as would enable them to know the extent of mains and distributing pipes, their dimensions or character; evidence would necessarily have to be taken on this point. The value of the water works plant or system, as a going concern, would largely depend upon the number of household connections, income, rental and so forth. This is a matter which would necessarily, it seems to me, be largely determined by evidence, and the books and records of the company would necessarily have a direct and important bearing upon this question. When appraisers are required to take evidence and rely wholly upon their own knowledge and judgment, such evidence should only be taken when an opportunity is given to the respective parties to hear or examine the same. In this case, as stated, not only was the evidence received by the appraisers without the city having an opportunity to examine the same, but against the protest of the city unless such examination was afforded it. Undoubtedly the water company was not required, if they did not see fit, to offer their books as evidence, or present them to be examined by the appraisers; it should have been done as any other evidence is offered, so as to afford the opposite party an opportunity to cross-examine and controvert.

Reserves Views on Others.

The awarding being invalid for this reason, it follows that the relief asked by the complainant be denied. As the case will doubtless be appealed I do not express my views upon other questions raised and fully argued.

A decree will be entered, dismissing the

(Continued on Second Page.)