

# THE FRONTIER.

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O'NEILL, NEBRASKA, THURSDAY, DECEMBER 28, 1905

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## DEFENDANTS WIN SUIT

Jury Acquits Whittemore of Liability for Losses in Bank Failure.

VERDICT WAS SOON ARRIVED AT

Prosecution, Confident of Winning, Taken by Surprise. — Defendants Make Strong Showing.

The jury found for the defendants in the case of Bridget Corrigan against Fred Whittemore and the Fidelity and Deposit company of Maryland. The verdict came like a thunder clap to the prosecution, who confidently expected the bank examiner to be held liable for the losses sustained by the collapse of the Elkhorn Valley bank.

The trial of this case lasted from Monday morning of last week until Saturday night, the evidence being summed up and the jury receiving the instructions of the court just before the adjournment for supper Saturday night. The jury was taken to supper before attempting to make up a verdict, after which they returned to the court house and were closeted in the jury room a little over half an hour, when it was announced the verdict was ready. They were then brought into the presence of the court and the verdict, "we do find for the defendants and against the plaintiff," was read. Only a few persons were present in the court room at the time. The plaintiff sat beside her attorneys, Messrs. Harrington and Mullen.

This case has been of more than ordinary interest because in it were involved the hopes of some eighteen or twenty of the depositors of the defunct bank and also the liability of a bank examiner for losses sustained in the collapse of a bank.

The prosecution, conducted by Attorneys Harrington and Mullen, conducted their case upon the allegation that the bank was insolvent when Whittemore last examined it in December, 1903; that the examiner at that time made a false report to the state banking board and that by reason of such alleged false report the bank was kept running. The principal evidence introduced by them was a bunch of alleged fictitious notes, and a long list of witnesses were called by them in an effort to show that the persons whose names were attached to the notes did not or had not for many years lived in Holt county.

O. F. Biglin, as receiver of the defunct bank, was on the stand most of two days for the prosecution. He was asked to trace out the alleged forged notes and an adjournment was taken to allow him time for that purpose. When court again convened Mr. Biglin was put upon the stand and testified to having been able to trace out and discover the alleged forgeries in two hours. This testimony was brought out to show that Whittemore had not looked into the genuineness of these notes.

The bank receiver was then taken in hands by the defense on cross examination and it was brought out that during the adjournment of court a conference had taken place at the office of Mr. Harrington where were present the attorneys for Mrs. Corrigan, the bank receiver and Bernard McGreevy, the latter furnishing the key that opened the mystery to these alleged spurious notes. It was a matter of some surprise to those who had been watching the developments in these cases that the former bank president was not put upon the stand by the prosecution, in view of the fact that they had argued that he would be their main witness when the cases were brought to trial.

The defense, conducted by T. J. Doyle of Lincoln, M. L. Learned of Omaha and R. R. Dickson, conducted their side of the case along the following lines:

The bank examiner reported conditions to the banking board as he found them and it was therefore up to the banking board and not the examiner to close the bank if affairs were not regular; the good standing of McGreevy and Hagerty in the community; the accuracy with which the alleged forgeries were made. The defense introduced evidence and witnesses to support these claims. Mr. Whittemore was placed on the stand and his examination of and report on the conditions of the bank as he found them gone into in detail.

The defense claimed that Whittemore was only an agent of the banking board and that he had no authority to close the bank; that his report was true and that several items there reported might be constructed as sufficient cause for the banking board to take action.

The defense laid considerable emphasis on the previous good standing of Pat Hagerty and Bernard McGreevy in the community, showing that

Whittemore had no reason to suspicion anything wrong.

One of their strongest points was the accuracy with which the alleged forgeries were drawn. To illustrate this, they introduced two notes in evidence and placed the gentleman whose name was attached to them on the stand. A note for \$1500 signed by a well known farmer of this community, who chances to be a brother-in-law of the former president of the defunct bank, was found among the assets of the institution. The farmer called to pay his note at the bank and a short time after was confronted by an officer of the First National bank of Sioux City with a note identical to the one in the bank. This man testified on the stand that he had never given that bank but one note for that amount but could not tell which of the two he had signed.

The defense contended that if this gentleman could not tell which of his signatures was genuine, neither could the bank examiner.

The jury was composed of the following twelve representative men: Chas. Smith, James E. Harding, R. D. Spindler, H. Hodgkin, B. A. Powell, Elmer Adams, William Calkins, P. A. Just, A. S. Cate, George Cherry, John P. Sullivan, A. A. Wagers. Their verdict to the effect that the bank examiner is not responsible for losses sustained in the Elkhorn Valley bank is the judgment of twelve as substantial men as there are in the county.

### District Court Items.

But little has been done in the district court since the close of the Whittemore trial. The Christmas holiday was observed. Tuesday morning Bernard McGreevy sat beside his lawyer, Mr. Harrington, behind the railing in the court room while Mr. Harrington, County Attorney Mullen and Judge Harrington arranged the date for the hearing of an application for a change of venue in the McGreevy cases. Friday, January 5, was agreed upon by the attorneys and the court for the hearing of the application. Judge Harrington announced he would ask Judge Westover to come down from Rushville to preside at the hearing.

Sheriff Hall was instructed to call a special venire of jurors to serve in the retrial of the Irwin murder case, but the order was subsequently revoked and the case will be continued over to the next term of court.

Wednesday the prosecution in the Whittemore suits filed a motion for a new trial.

The jury was discharged yesterday until again called.

### The Reason Why.

Last week's Valentine Republican contained the following:

Under date of December 9, 1905, A. L. Towle received a letter which is self explanatory as follows:

The telegram of 7th instant signed jointly by yourself and Mr. W. S. Barker was duly received. I was told that the investigation of the land office did not incriminate you, but you were asked to resign because of the fact that the irregularities complained of might have been checked, and that in view of all the circumstances and considering the long tenure that you have enjoyed, it was thought best to make a change.

Not one regrets the outcome of the matter more than I. No member of the Nebraska delegation, so far as I know, had any intimation of the proposed action of the department.

Yours truly,  
J. H. Millard.

### Notice.

Wanted, two good men who understand threshing grain by hand, as I cannot get the professional hands to do it by horse power; as the steam power came around and took all the convenient work and left me out in the cold, as I was beyond one of the unsafe bridges where they thought it dangerous to go. My neighbors the Ditch Co. sometimes thresh thousands of bushels of grain and at other times they feed all in the sheaf and this was their sheaf year, so I am out in the cold and must thresh with flail. Job will last from one to two weeks.

Peter McMonigle, one of the 76.

### Mr. Deaver Resigns.

D. Clem Deaver, receiver of the United States land office at O'Neill, who has been in Chicago the past few days, wired to his friends here yesterday that he had resigned his official position with the Burlington railroad position and had accepted a lucrative as land agent.

The appointment has been offered to Sanford Parker of Spencer, formerly a resident of O'Neill and well known in north Nebraska.

Mr. Deaver's term of office expires next month, when it is supposed the resignation takes effect.

Renew for The Frontier.

M. DOWLING, President      JAS. F. O'DONNELL, Cashier

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CAPITAL & SURPLUS      \$55,000.00

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**O'NEILL NAT'L BANK**

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**5 Per Cent Paid**  
on Time Certificates of Deposit

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This Bank carries no indebtedness of Officers or Stockholders

### LOCAL MATTERS.

Dean Selah was a Ewing visitor yesterday.

C. J. Malone had business at Inman Tuesday.

John Alderson was up from the hay belt Tuesday.

Berle Martin was over from Gregory, S. D., to spend the holidays.

Miss Katherine Doyle went to Omaha Tuesday for a week's visit.

J. W. Yantzi and wife went to Seward Tuesday to be gone a few days.

Cyrle Ercilb of Spencer was a Northwestern passenger east Tuesday morning.

R. E. Slaymaker returned yesterday from Atkinson, where he had been for a few days.

Judge Harrington, Tom Coyne and Emi Sniggs each had business at Stuart Wednesday.

John A. Ziemer, who has been under the doctor's care for the past two weeks, is improving.

Will Hammond, who is attending school at St. Paul, is spending the holiday vacation at home.

Lyons Mullen is spending the holidays in O'Neill. He is studying dentistry at an Omaha college.

Fred Johring is up from Fremont, where he is attending school, to spend the holidays with his parents.

Miss Ida Schwanck, a type manipulator in The Frontier office, spent Christmas with her parents at Wisner.

R. E. Chittick, who assumes the duties of county treasurer next Thursday, came down from Stuart yesterday.

The board of supervisors convened yesterday to close up the year's business and get county affairs in shape for the new year.

Mrs. F. B. Cole went to Lynch yesterday, being called there by a telephone message from her son stating their baby was quite ill.

Mrs. John Sturdevant and little daughter went to Stuart Monday evening, where they join Mr. Sturdevant and will make their home.

Mrs. N. W. Shaw left Saturday morning for Webster, Kentucky, to spend a few weeks assisting at the home of her parent.

Miss Lizzie O'Mally, the accomodating and efficient postmistress, took a well deserved vacation Monday and Tuesday and visited at the home of her mother in Shields township.

Services will be held in the Episcopal chapel Friday evening, December 29, at 7:30; Sunday, December 31, at 11 a. m. and 7:30 p. m. Sunday school after morning service. All are cordially invited.

The Frontier learns that Miss Blanche Adams, who was contracting symptoms of consumption before she left O'Neill, is rapidly regaining her health on the Pacific coast, she now being at Los Angeles, Cal.

Miss Mary Howe entertained a few of her girl friends Wednesday evening. Those present were: Maude Hall, Delta Bowen, Pearl Kinney, Amelia Gatz, Clara Hemingway, Edna Moler and Dora Alberts. All reported a good time.

Real estate men report an increased demand for Holt county land. The buyers mostly are coming from Illinois and Iowa, a great many putting their money into the land as a matter of speculation. Others are buying with the intention of making their homes here.

O'Neill people at Atkinson appear to be enjoying a reasonable degree of prosperity. John and Mrs. McNichols, who removed from O'Neill to Atkinson some fifteen years ago, are engaged in the restaurant and bakery business and are having a good trade. Fred Swingley, Dennis Hunt, Mike Sullivan, Mose Campbell and Pat O'Donnell are all looking well and flourishing.

Bennet Martin arrived home the first of the week from Omaha, where he has been for several weeks at a hospital undergoing an operation. Bennet has not been himself in health for some months but The Frontier trusts he will soon be enjoying his old time vigor.

Thomas E. Alderson and bride came up to O'Neill Wednesday last after the wedding and departed on the early train for a brief wedding trip to Lincoln and other points. The young couple will be at home at the farm of the groom's parents near Chambers until spring.

Mary Hall has been granted a divorce from Dan Hall and awarded \$500 alimony. The couple were married in O'Neill in 1901 and have been living in Atkinson since their marriage. The husband sued for a divorce, making some highly sensational charges. The defendant filed an answer and cross petition and was granted a divorce.

The Northwestern railroad announces another special train for instructing farmers in crop and soil culture. The train will be at O'Neill at 5:30 p. m. on Friday, January 5. Free illustrated lectures will be given by the professor of agriculture and other scientific men of the university of Nebraska. Farmers and all others interested in agricultural subjects are invited to attend.

Next Sunday evening Rev. T. W. Bowen will preach at 7:30 on "How We Spend Our Time." Solo by Mr. Grosvenor. At 9:30 a watch-night service will be held, when Rev. J. M. Caldwell, D. D., will preach. A special program of particular interest and profit is being prepared. A large choir will render music of an exceptional character. Special services will be held all next week at 7:30 p. m. The pastor will be assisted by other ministers. Mr. David B. Grosvenor will have charge of the singing.

John and Emmet McBride arrived home last Thursday from Obelin, Ohio. Emmet is somewhat crippled up from his recent experience with holdups at Obelin, but is able to get around by using a crutch. He has got out in a remarkable short time, however, considering having received two bullet wounds. He was shot in the hip and arm. A bullet struck him in the left arm just above the elbow and passed out just below that joint. The other entered the fleshy part of the hip and injured the chords of the limb.

The members of the Woman's Christian Temperance Union of O'Neill met for their regular quarterly business meeting at the home of Mrs. C. L. Bright on Wednesday, December 20. The officers and superintendents of the different branches of the work presented written reports of the work done in their departments. A number were absent, but most had sent in reports which were read. Altogether a very satisfactory quarter's work was shown. The next meeting will be at Mrs. Bright's, Wednesday, January 3.

Mayor Doyle and City Clerk Saunders went to Atkinson Wednesday to look over the gas lighting plant in use there and report their findings to the city council. The Atkinson plant is owned by a local company and was put in at an expense of \$3,600, although members of the company say if they had it to do over it could be done for \$2,500. The gas is created from a substance called carbide. The light, while not equal to electricity, is good and not so expensive. The mayor and clerk will report at the meeting of the council on next Tuesday evening and it would be advisable for citizens interested in the lighting proposition to attend the meeting.

### Notice of Removal.

Wm. Lockard, formerly located in Corrigan's drug store, has opened up in new building one-half block east of bank corner.—Wm. Lockard, Jewelry Kodak and Phonographs, O'Neill, Neb.

### LAND FENCERS WEEP.

Get a Little Heavier Dose in Minnesota Than in Nebraska.

A scene and a confession occurred in the United States circuit court at St. Paul one day this week, recounts an Omaha paper, in connection with land frauds, that will be of interest in Nebraska at this time, when the Richards and Comstock cases are fresh in mind. Both of the offenders, who were convicted at St. Paul, had been held in high respect in the section where they resided.

The men up for sentence before Judge Amidon at St. Paul were Royal B. Stearns and William T. Hornshell, who had been found guilty by a jury of conspiring to defraud the government by securing possession of homestead lands in South Dakota through misrepresentation.

Numerous witnesses testified to signing applications in St. Paul which they never saw again. They were told, they said, that they were to get \$100 for signing the papers, and that their expenses for two trips to South Dakota would be defrayed.

When asked if he had anything to say why sentence should not be passed Stearns said:

"What I have to say, your honor, can be said in a very few words. It is this: Soon after I was arrested in this matter I came to St. Paul and with two of my friends went to see the district attorney. At no time would I have been willing to plead guilty to have fenced these lands for pasture. I never tried to get the lands for any other purpose. Sixty other men who have been doing the same thing that I have been doing have come before the district attorney's office and have been allowed to go free.

"Special Agent Moore has made reports to the land commissioner that he knew to be false, and the government officials all through South Dakota have been hoodwinking the government in matters of this sort.

"In South Dakota county judges, county attorneys and clerks of the county courts have been signing papers that they have known to have been false and worthless, and this sort of thing has been going on for years. I myself once had the honor to be elected county judge—"

Here Stearns broke down and wept bitterly, being unable to go on with the remarks.

With an effort he managed to control his feelings and continued his remarks.

"Yet never, while I was in the position, did I ever sign a false paper for any of the many people who came daily to my office in order to induce me to do so. Down there, your honor, it has been generally believed for years that there was no harm in doing these things. Everybody did them and nobody thought anything about it."

Stearns finished and stood before the judge with bowed head, tears flowing from his eyes.

Judge Amidon moved some papers on his desk and looked over at the clock.

"Mr. Stearns, how old are you?" asked Judge Amidon.

"I am 53 years old," replied Stearns.

"Have you any children?" said the court.

"I have one daughter 23 years old, and a wife," was the reply.

"It is a sad duty that falls to me to be obliged to sentence you," began the judge, "but something must be done by way of an example. There is no doubt that much that you say regarding the unlawful and wicked practice in that part of the country is true. You are the most guilty in this case and I sentence you to serve one year and six months in the Minnesota state prison at Stillwater, and pay a fine of \$1,000."

Stearns walked slowly back to his seat beside his attorney and sat down.

Judge Amidon called the name of William T. Hornshell, and a tall dark man walked before the bar and stood facing the judge.

"Have you anything to say," asked Judge Amidon.

"Nothing except what has been said for me," was the reply in a low voice, and suddenly Hornshell began to weep bitterly.

"I am 50 years old and have one daughter," he said between his sobs. "My wife is dead."

He leaned his head down upon the desk in front of him and wept aloud.

"You are the lesser offender in this case," said Judge Amidon, "but you are not altogether free. Therefore I sentence you to serve six months in the Ramsey county jail and a fine of \$500."

### Half Rates to Golf Tournament Mexico City, Mex.

Via the North-Western Line. Excursion tickets will be sold at one fare for the round trip, January 1 to 12, inclusive, with favorable return limits. Apply to agents Chicago & North-Western R'y.

## THE LIGHT PROPOSITION

Attorney Whelan Thinks Something Should Be Done.

SUGGESTS TO COMMERCIAL CLUB

Would Have Them Hold Meeting and Recommend Action to Be Taken By the Council.

O'Neill, Dec. 26.—The Editor of the Frontier, O'Neill, Nebraska: Since the publication of the electric lighting proposition made by J. P. Connelly, I have searched both our local papers for some expression from the citizens in regard to the matter and had hoped that those having heavier interests in the community than myself would express themselves either for or against it. But, although they have not done so, it seems to me that the matter should not be allowed to fall through. A great many of our citizens do not seem to be in favor of donating to Mr. Connelly the building which he asked for, as a condition of putting in the plant. They think the city would have no protection, if for any reason it would be impossible for Mr. Connelly in future years to keep his part of the contract. This contingency could be guarded against by putting in the deed a clause providing that in case of his default, the property should immediately revert to the city.

Regarding the rates demanded for street lamps, I had a talk with Homer Garretson, who ran the plant here some eight or ten years ago, and he is of the opinion that eight dollars per lamp is a reasonable charge, considering the increased price of coal and electrical supplies.

If the prices are too high, or if the demands made by Mr. Connelly are too great, these are matters of detail which might be adjusted by a conference with Mr. Connelly or his representatives, but propositions like the present one come to us too rarely to be allowed to go by default. This would be a proper subject for discussion by the commercial club, which ought to hold a meeting prior to the next meeting of the city council, and recommend some action one way or the other. Very respectfully,

E. H. Whelan.

### Business Notices.

Brennan has bale ties for sale.

Car load of bale ties at Brennan's. Go to Brennan's if in need of bale ties.

See McNichols for flour, feed and grain. 11-3mo

Do not sell your grain until you see McNichols. 11-3mo

For farm loans see Lyman Waterman, O'Neill. 45-1f

Furnished rooms to rent, inquire 3 blks. west of convent.

Durocks good as grows for \$15. Boars gilt up to 200 pounds. Come and see them.

Address Z. Warner, Atkinson, Neb. R. F. D.

A New Year's dance will be given at the opera house on Monday night, January 1, which promises to be a pleasurable social event.

Wanted—Bright, honest, young man from O'Neill to prepare for paying position in Government Mail Service. Box One, Cedar Rapids, Ia. 27-8

When wanting an auctioneer call on or write me. Sales over \$1000 1 per cent; a minimum charge of \$10 for small sales.—Joe Schinder, O'Neill, R. F. D. No. 1. 27-2

Notice—All persons owning me are hereby notified that all accounts not paid or satisfactorily settled on or before January 1, 1906, that they will be placed in the hands of an attorney for collection. Frank Leahy. 2-w

### Excursion Rates for the Holidays.

Via the North-Western Line. Excursion tickets will be sold at reduced rates December 22, 23, 24, 25, 30, 31, 1905, and January 1, 1906, good returning until and including January 4, 1906, to points on the North-Western Line, including January C. St. P. M. & O. R'y., to points on A. T. & S. F. R. R., Denver, Rio Grande R. R., and Colorado Southern, Denver to Trinidad, inclusive, and Colorado and Southern points, Orin Jct. to Cheyenne, inclusive, also to points on D. S. S. & A. Ry. and Mineral Range R. R. Apply to agents Chicago & North-Western R'y.

### Notice.

Having disposed of my meat market and desirous of closing up all accounts and all persons knowing themselves indebted to me will confer a favor by calling and settling at once. For the next ten days can be found at the O'Neill National Bank. 2-w  
John Miskimins.