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CITY COUNCIL SEEMS TO FAVOR SHORT FRANCHISE FOR THE WATER COMPANY

Resolution Stating That the Best Interests of the City Demand The Giving of a Ten Year Franchise Was Referred To The Fire And Water Committee Last Night.

From Tuesday's Daily.

The water franchise question took up but little time in the city council last evening. There was no discussion of it at all. A resolution concerning the question was introduced and then referred to the fire and water committee. This committee consists of Neuman, Dovey and Shea.

The resolution, which follows, was probably drawn up as a result of the secret conference of councilmen held Friday night at Councilman Dwyer's office:

"Resolved, The matter of a new franchise and contract for water with the Plattsmouth Water company is now being agitated, and,

"Whereas, The said water company is now asking for a new franchise and water contract, therefore be it resolved by the mayor and city council of the City of Plattsmouth that the best interest and welfare of the people of said city require that such franchise and contract should not be for a longer period than ten years."

There were two representatives of the water company present—T. H. Pollock and C. F. Weber—but they were not called upon. A resolution from the directors of the Commercial club was also read. It was not the same resolution as passed at the meeting Thursday night, but a new resolution written with more tact than the old one, which was offensive to the councilmen. The resolution, after being read, was "placed on file."

As no one of the councilmen had anything to say last evening about the water franchise, it is still a mystery as to how they stand on the question of the franchise submitted. The foregoing resolution may be simply a means of postponing the discussion, or it may represent the sense of the council.

The councilmen refuse to say much about the water question except that they think it best not to be rushed in the matter. It is generally believed that a majority of the members are opposed to municipal ownership. On the other hand they wish to get as good a franchise as possible from Mr. West, the owner of the plant.

The silence of the council on the water question last evening may have been a disciplining of the Commercial club for "infringing on the rights of the council." It is known that several of the councilmen expressed themselves in pretty strong terms about the action of the Commercial club in taking what these councilmen considered "snap judgment on the franchise."

It is believed, however, that the council has no intention of forcing a hard bargain with the water company. Mr. West agrees to spend considerable money and to make a number of reductions in the water rates. It is probable that after a month or two of jockeying that Mr. West will get a franchise that is satisfactory to him and that the city will get one that is fair to the people.

Picture Show Ordinance.

The picture show ordinance came up for the second reading. At the conclusion of the reading Councilman Weber said that it appeared to him that the ordinance was extreme in many respects and he thought that it ought to be referred to the police committee for investigation. This was simply a method of killing it, as the police committee will probably never see fit to make a report on it. Before the ordinance was read three petitions were presented asking that the ordinance be not passed. These petitions had a total of 256 names.

Mayor Sattler reported that he had vetoed the Dwyer ordinance regulating the maintenance of water pipes in the streets and the shutting off of water "for the reason that the council will im-

mediately have for consideration the subject of a new water franchise and such regulatory provisions as may be necessary can be incorporated in said franchise without the unnecessary publication expense. And for the further reason that this ordinance would not afford equal protection to all the people alike.

Councilman Dwyer said that the contractor who had been given the contract for many of the crossings of the city and much other city work, for some reason was not doing the work, although notified by the city time and again to do it. He moved that the contractor be given three days in which to start the work, and if he did not start it in that time that the city do it by contract and charge the excess of costs against the bond of the contractor refusing to do the work.

It appears that a great many crossings have been ordered in and the work awarded, but the contractor is not putting them in. As it is getting near the time of year when the crossings will be much needed the councilmen are getting impatient.

The special library committee reported on the work it recommended to be done at the library in the way of retaining walls and other improvements. The committee was instructed to estimate the cost of the improvements and report at the next meeting.

Councilman Neuman complained that the sidewalk along the city park was in such a bad condition that it would be better for the city to take it up than leave it like it is. He said the city should fix up its own walks before forcing the citizens to put in walks. It was setting a bad example for the city to be delinquent in this matter.

Councilman Gravett moved that the county be requested to furnish the chief of police with a key to the jail and to put a gas light at the jail corner. Carried.

Councilman Weber moved that Fourteenth street, from Elk to Fulton, be put in good condition. This is the road in front of the Masonic home, and the builders of the Platte river bridge desire that it be fixed up as the main road from the business section of town to the river. Mr. Weber thought that about \$150 would be sufficient for the road.

Councilman Dwyer questioned the wisdom of putting the money on that street instead of using less money for Eleventh street, which is now used by persons going to the road to the river. Weber's motion finally carried, six voting yes and the rest not voting.

The council will have a special session on November 13 for the purpose of considering the question of special sidewalk taxes. A large number of sidewalk resolutions will be taken up at that time.

The city attorney reported that the city had no right to certify the sidewalk taxes to the county treasurer, as Mr. Whalen was not legally bound to pay for the sidewalk. Mayor Sattler said that Mr. Whalen was willing to compromise with the city, and a motion was made for a special committee to wait on Mr. Whalen and try to reach a compromise.

The following claims were allowed: Street sprinkling, W. B. Riehel, \$37.80; street work, M. Sheldon, \$1; James Psocek, \$12; Phil Harrison, \$5.40; James Mrasek, \$21.80; James Wynn, \$45.60; Mike McCool, \$25.20; Oliver Osborn, 40 cents; Ed Snodgrass, \$45.60; James Rehal, \$36; G. W. Boman, \$2.50; cement work, Fred Ohlenhouse, \$5; Jacob Mason, \$2.45; G. Knapp, repairs, \$2.35; D. B. Ebersole, repair work, \$9.25; S. W. Goehenour, foreman fire department, \$6.25; Western Stamp and Stationery company, seal, \$6; nozzlemen, P.

H. Kinneman, \$1.50; Will Mason, \$1.50; P. A. McCrary, \$1.50; watching fire, Raymond Henry \$1.50; James Andrews, \$1.50; A. S. Will, cedar posts, \$22.10; John Bauer, fence and gates, \$93.50; H. C. McMaken & Son, library work, \$7.34; H. C. McMaken & Son, merchandise to cemetery, \$3.90; H. C. McMaken & Son, crossing, \$5.16; R. A. Bates, printing, \$15.35; A. S. Will, 45 loads cinders, \$6.75; Frank Lofinsky, street work, \$20; foremen fire department, C. P. Richards, \$6.25; Hugh D. Stanley, \$6.25; C. M. Manners, \$6.25; Anlon H. Koubek, \$6.25; Raymond Henry, \$6.25; B. G. Wurl, expenses, \$1.45; Frank Libershal, secretary fire department, \$6.25; George E. Dovey, expenses to Wahoo, \$5.60.

The claims committee reported that claims of C. W. Baylor for \$1.50 and Lorenz Brothers for \$8.85 were allowed.

WANTS THE MISSOURI PACIFIC TO "DIG UP"

A Peculiar Suit Against the Railroad Company at Nebraska City.

Mrs. Mary Fenner Miller, through her attorney, John C. Watson, has filed a suit in the district court for \$1,999.50 against the Missouri Pacific railway.

She sets up that on January 30, 1911, she had a store down on Fourth corner, near the Missouri Pacific crossing, and it contained a stock of goods and household furniture valued at \$4,403, and that about 11 o'clock that morning the building caught fire and would have been saved, but after the fire company responded to the alarm and laid a line of hose that the Missouri Pacific backed an engine over the hose, cutting it in two and shutting off the supply of water, thus enabling the house to burn with its contents. She therefore claims that she was damaged to the amount above named over and above her insurance and asks that she be given judgment for that amount.

The plaintiff now resides at Fremont, having married and moved there shortly after the fire. The city filed a claim with the company for the section of hose which was destroyed at the time and the company promptly paid the claim.—Nebraska City News.

An "Efficiency" Convention.

"Efficiency" will be the keynote of the great Silver Jubilee convention of the Nebraska Christian Endeavor Union at Lincoln, October 26-29, 1911. The greatest body of Christian Endeavor experts ever assembled for a state Christian Endeavor convention program will be at "Lincoln 1911." They include Wm. Shaw, general secretary, and Karl Lehmann, interstate field secretary, of the United Society of Christian Endeavor; Willis L. Gelston, superintendent of young people's work for the Presbyterian church; Claude E. Hill, superintendent Christian Endeavor for Christian church; Daniel A. Poling, superintendent young people's work for Evangelical church, and E. P. Gates, field secretary Illinois C. E. Union. Conferences and a "School of Methods" will have a prominent place in the program. From 2,500 to 3,000 delegates are expected. Write Ray G. Fletcher, 361 Fraternity building, Lincoln, for further information.

Tells of New Road.

The Kansas City Star of Sunday had a lengthy article on the convention at Plattsmouth in the latter part of October to organize the Omaha-Kansas City Good Highway association. It stated that city officials, Commercial club officers and good roads advocates would be invited to attend from all the cities along the route.

G. A. R. Entertained.

The G. A. R. gave a social to the Relief Corps and friends Saturday night, which was attended by 159 people. A pleasant social time was enjoyed and the singing of many old war songs created much enthusiasm. Miss Freese furnished the music for the evening. Ice cream and other refreshments were served.

COON MUST PAY FOR KILLING MISS SMITH

Supreme Court Tells Auto Drivers What the Law Requires of Them.

From Tuesday's Daily.

The supreme court yesterday decided two suits for damages for injuries inflicted by automobiles and in each case affirmed judgments given by the lower courts. A judgment against William Coon of Lincoln for \$4,500 for the killing of Miss Nellie Smith was affirmed, also a judgment for \$2,000 against Thomas Draper of Lincoln for injuries inflicted upon Mrs. Fredericka Blado.

Less than one year ago the same court affirmed a judgment of imprisonment in the penitentiary against an Omaha man who killed William Krug while both were driving different automobiles.

A criminal case against William Coon for the killing of Miss Smith resulted in his acquittal. A damage suit instituted by Lizzie Smith, administrator, resulted in a verdict for \$4,500. This was alleged by the defendant to be excessive and he appealed to the supreme court on that point and also alleged that the evidence was insufficient to warrant the finding of the jury. The supreme court holds that the evidence was sufficient and that the amount of the judgment is not excessive. It also held against the defendant on his allegation that the deceased was guilty of contributory negligence when she became frightened and bewildered at the near approach of the automobile at the corner of Twelfth and O streets. The court says that one who becomes bewildered and frightened at the near approach of an automobile in a public street and for that reason fails to avoid a collision is not guilty of contributory negligence.

The decisions of the court in both the Draper and Coon cases were written by Judge J. B. Barnes, to whom the two cases fell by lot when the court assigned the cases to the different judges. The death of Miss Smith occurred April 29, 1908.

Duty of Auto Drivers.

The opinion of the court in the Coon case contains the following:

"The driver of an automobile, when approaching a street crossing in the main business part of a city, at a time when the streets are occupied by other vehicles and pedestrians, should have his automobile under control, should keep a sharp lookout and should manage his car as to its rate of speed and otherwise stop if necessary to avoid injuring anyone who for any cause is found to be in a place of danger.

"One who becomes frightened and bewildered at the near approach of an automobile while crossing a public street and for that reason fails to avoid a collision, is not as a matter of law guilty of contributory negligence."

Killed a Large Wolf.

From Tuesday's Daily.

John Meisinger, jr., who lives near Cullom, was in town today, and reports killing a mammoth gray wolf this morning before breakfast, but not before his wolfship had killed two chickens. He was going to the barn about 5 o'clock when he saw the first chicken carried away, and then he returned to the house for his gun. In again returning to the barn he saw Mr. Wolf coming over the hill, and awaited his approach. He had just grabbed another fowl when John shot him. Mr. Meisinger says these pests are numerous in his section, and that this was one of the largest gray wolves he ever saw.

Plattsmouth Beat Murray.

Sunday the Plattsmouth baseball team went to Murray and played the team there, winning the game by a score of 7 to 4. The feature of the game was the pitching of Long, who struck out fourteen men. Briggs got a three-base hit. The Plattsmouth players were: Ault, Long, Kanka, Kalend, Edwards, Briggs, Smith, Maurer and Perry. Dobson and Wright was the battery for Murray.

His Uncle Dead.

Dr. Arthur V. F. Brown went to Omaha this morning to attend the funeral of his uncle, James Thompson, who died Saturday afternoon following an operation. Mr. Thompson had visited here several times. He recently returned from a trip to the Grand Army reunion at Rochester. The funeral services will be in charge of the Knights Templar at Omaha. Mr. Thompson was 73 years old.

BATES BUILDS HOME ON "POSSESSIONS"

Burlington Attorneys Will Bring Suit at Once Against Him as Trespasser.

From Tuesday's Daily.

Charley Bates, the squatter on the land in the bottoms east of town, who extended his fence yesterday to include about fifteen acres more of land, is building a house on his new "possessions" this morning, and it looks as if he is going to try to "hold the fort." The new fence was guarded with a shotgun last night.

While he is putting up his shanty the attorneys for the Burlington railroad are getting ready to file a suit against him as a trespasser.

An attorney who seems entirely familiar with the history and titles to the land says that in the beginning of the settlement in what is now Plattsmouth an organization known as the Plattsmouth Townsite company was formed, and lots were granted to the members of the company. It was on government land and they had no title to their lots, so they petitioned congress for a grant to the land.

The land to the river's edge was granted to Mayor Wheatley Mielckwaite "for the use and benefit of the occupants and owners," and the mayor then gave them deeds to their lots.

The Burlington railroad, says this attorney, secured its right-of-way by buying the land from the owners. Their right-of-way extended to the water's edge. Then came the high water that changed the channel of the river and built up the land that is now in dispute. According to the law of accretions, this land belongs to the Burlington, as their right-of-way extends to "the water's edge."

Afterwards the Burlington almost lost its right to the land, as F. E. Schlater and Ed Fitzgerald used the land for grazing purposes for a term of twelve years. In order to avoid litigation in the matter, the Burlington compromised with Schlater and Fitzgerald, the latter giving the railroad deeds to the land in exchange for leases which would run until the Burlington desired the land for railroad purposes.

This attorney said that Bates was simply a trespasser and suit would be instituted against him immediately to put him off the land.

It is said that the Burlington has always intended this large tract of land to be used for an immense system of switching tracks, a storage place for cars not in use during dull times, and an important point for transferring freight similar to the "gravity switch yards" in Harlan, across the river from Kansas City. The same system may be used here. Engineering corps have worked on the tract at various times, and the engineering offices of the Burlington has many blue prints of plans for the use of the land here.

In spite of the fact that the Burlington claims the land, there are good authorities who believe that the city has a better title to it. When it gets into the courts, it is probable that the city will ask to be made a part to the suit, so that it can protect its rights, if it has any.

One attorney, in a talk with the Journal, said that in his opinion the law of accretions did not apply to the land. The land was not made by gradual accretions, but by the act of a flood. A different law governs such cases.

Mont Shrader of Nehawka was in town yesterday.

NEBRASKA MAN IS ELECTED PRESIDENT

And Northwestern Coal Dealers Praise Work of State Commission.

Nebraska's leadership in the movement to secure accurate weights of coal shipments and a fair adjustment of rates was recognized by the Northwestern Coal Dealers' association at Minneapolis in the election of W. B. Banning of Union, state senator from Cass county, as president for the ensuing year and the adoption of resolutions commending the action of the Nebraska railway commission in filing a complaint before the interstate commerce commission against the practices now complained of. Commissioner Furse and Expert Powell of the state commission have lately made some investigations into the question of coal weights at Omaha, Lincoln and elsewhere. They have found that in a good many instances the work is done under conditions making it impossible to secure the correct weight. Where mistakes are made they are usually against the shipper.—Lincoln Star.

SUPREME COURT REDUCES SENTENCE OF CLARENCE

Sentenced to the Penitentiary for Ten Years and Term Reduced to Two Years.

From Wednesday's Daily.

The ten years' sentence of John Clarence has been reduced by the supreme court to two years. Clarence shot and killed John P. Thacker, January 15, 1909. The accused was twice tried in the district court and twice was given a sentence of ten years, the last conviction being for manslaughter. The supreme court finds that the evidence is sufficient to sustain a verdict of manslaughter, but of a low grade, and a reduction of sentence was therefore ordered by the supreme court. The decision of the court was taken into custody by the sheriff in Cass county, he having been at liberty on bail.

The circumstances connected with the killing of John P. Thacker by John Clarence are still fresh in the minds of the readers of the Journal, and we do not deem it necessary to reiterate them at this time.

The first trial was on the charge of murder in the first degree. It resulted in a verdict of murder in the second degree and a sentence of ten years. The supreme court reversed this judgment, and on the second trial manslaughter was necessarily the charge. The second trial resulted in conviction, and this judgment is affirmed by the higher court and the sentence is reduced to two years.

The supreme court finds no error in the instructions and holds that the lower court did not commit error in refusing to grant a change of venue to another county. The objection to the admission of testimony showing that he carried a revolver is held by the supreme court to have been erroneous, but not prejudicial, on the contrary to have been decidedly in his favor, because of his crippled and helpless condition and the nature of his business, which was that of a horse breaker. The court says his carrying of a revolver, as he carried it, generally exposed on a belt around his body, was justifiable and that there was no evidence to prove that he made preparations for a conflict with Thacker or that he premeditated the killing.

Steel Work at Bridge.

The mass of piling and lumber and steel at the Platte river is beginning to assume the appearance of a bridge. Several of the steel spans are already in place and the work is being pushed with much success. The bridge will be completed between the middle and the last of October.

For Sale.

A number of thoroughbred Duroc-Jersey males, Glen Perry.