

NOT SUPERIOR TO COURTS

Relator Files His Brief in the Holcomb Mandamus Case.

GOVERNOR REQUIRED TO EXECUTE LAW

Opinions of Nebraska Supreme Court Cited to Sustain Position Writ of Mandamus Will Lie Against Him.

LINCOLN, May 14.—(Special).—The relator's brief in the case of the State of Nebraska vs. Victor Rosewater against Ritas A. Holcomb, governor of the state of Nebraska, respondent, has been filed in the office of the chief justice of the supreme court. The case grows out of charges filed against the members of the Fire and Police Commission of the city of Omaha, in which a mandamus is asked to compel Governor Holcomb to hear the testimony in person instead of by proxy. The brief begins:

The relation comes not into this court as a matter of course, but by virtue of the fact that the respondent is trying to deny it. The question presented is not one of courtesy between the departments of government, but one of justice. The motto of the state of Nebraska is "Equality Before the Law." If that motto means anything, it is that the humblest citizen in the state, equally with the wealthiest and most influential, equally even with its governor, can appeal to the courts for impartial and exact justice according to the law.

Section 168 of the charter provides, that upon written charges being filed against any commissioner, the governor shall, within a reasonable time, investigate the same upon testimony to be produced before him. By virtue of the provisions of this section the governor is not a party to the case constituted a judicial tribunal to try said charges, purely and simply a statutory creation, possessing none of the powers of a court of general jurisdiction, and which, therefore, is not a referee or delegate of his statutory power to a commissioner or other officer to make a finding upon the law and the facts.

This is not a matter of public interest, but a matter of private interest. This position of the respondent, to quote from his brief, "is not only trifling, but perilously near ridiculous."

Under section 168 of the charter the powers of the governor in an appointing board consisting of the governor, attorney general and land commissioner. Mandamus would clearly have issued against the relator if that board should have been appointed by respondent in his brief. Why not, then, against his successor? Would not mandamus issue against the governor if the performance of his ministerial duties imposed in him by statute as labor commissioner or as oil inspector? Would it not issue against the governor if he were vested by statute solely with all the powers now lodged in the State Board of Transportation? If not, federal constitution and defy federal courts by making the governor, who claims to be exempt from all process, the State Board of Transportation?

Required to Execute the Law. The first words of the preamble to the Nebraska constitution say: "We the people, sovereign in their own right, have delegated to their representatives certain powers to be exercised for the benefit of all the people. These powers are prescribed in the written laws of the state, the constitution and statutes of the United States and in its law-making powers alone by the constitution. The executive is required to execute the laws as found in the constitution and statutes of the United States and in the law-making powers of the government is the interpreter of these laws. None of these branches of the body politic has the independent power to create a separate sovereignty, each is circumscribed by the law for by the law, and not by the officer, are we governed."

Lincoln Ten Years Suffered Untold Agonies. Limbs Swollen So Could Not Get About. Ailment Physicians Signally Failed. Was Absolutely Disheartened. Had Lost All Hope. Gave Cuticura a Trial, Which Resulted in Absolute and Perfect Cure.

Forten years I suffered untold agonies from that dread disease Eczema, my lower limbs most of the time being so swollen and broken out that I could hardly get about. I had to wear slippers that I could move about at all. My brother, a physician of thirty years practice and extensive experience, had tried in vain to effect a cure and signally failed. I tried other physicians of splendid ability with like results, and had reached the point where I had lost all hope, when a friend induced me to give CUTICURA Remedies a trial. I used two cakes of CUTICURA (ointment) and it resulted in an absolute and permanent cure. I am now perfectly cured, sound as a dollar, and to CUTICURA Remedies I attribute the success of my recovery. I refer all interested to the Postmaster of this place, any of the ministers, the prominent business men, and all of the citizens of our vicinity indiscriminately, and especially to my friend, John A. B. Shipley, attorney at law, who persuaded me to give CUTICURA Remedies a trial.

DAVID M. SAPP, Plymouth, Ill. CUTICURA WORKS WONDERS CUTICURA Remedies cure all kinds of skin, scalp, and blood, with loss of hair, whether itching, burning, scaly, pimply, and blotchy, whether simple, scrofulous, hereditary, or contagious, when all else fails.

could do no wrong, he therefore could not be mandamused by himself. The judges of the supreme court, who are the servants of the people, could not do wrong, but they could not be mandamused by the people. The relator is not a party to the case. The relator is merely the head of the executive department of the state government. His colleagues are by section 1, article v. of the constitution the lieutenant governor, secretary of state, auditor, treasurer, superintendent of public instruction, attorney general and commissioner of public lands and buildings. The relator is not a party to the case. The relator is merely the head of the executive department of the state government. His colleagues are by section 1, article v. of the constitution the lieutenant governor, secretary of state, auditor, treasurer, superintendent of public instruction, attorney general and commissioner of public lands and buildings. The relator is not a party to the case. The relator is merely the head of the executive department of the state government. His colleagues are by section 1, article v. of the constitution the lieutenant governor, secretary of state, auditor, treasurer, superintendent of public instruction, attorney general and commissioner of public lands and buildings.

Another Large Assortment of French Valenciennes Laces. Pretty patterns and marvelous values at 20c, 25c, 30c, 40c, 50c, 75c and \$1.00—a piece of 12 yards.

New Black Silk Tossa and Craquelé Mesh Nets. 45 inches wide for waists and skirts very fashionable at 50c, \$1.15, \$1.25, \$2.25 and \$2.75 a yard.

Ladies' Revered Hemstitched Pure Irish Linen Handkerchiefs. 12 1/2c and 15c quality—reduced to 10c.

Wheat Sells Well. WEST POINT, Neb., May 14.—(Special).—Wheat has been selling right here in West Point during this week for considerably over \$1 a bushel, and there is no doubt in India either.

Recruits from Fremont. FREMONT, Neb., May 14.—(Special).—Although Dodge county has sent no company to Camp Saunders there are twenty young men from this county enlisted there. The men who went from here yesterday afternoon enlisted in company H, Second regiment. Fremont also has a representative in the Omaha guards, companies A and H of the First, and M of the Second. S. S. Sider and Ernest Elsner of this city enlisted yesterday in Captain Culver's cavalry company of Colonel Woods' regiment.

MELLEY, STIGER & CO. Reduction Sale Monday on Dress Goods and Silks.

Novalty Ribbons. 1,000 yards 3 and 4 1/4 inch Fancy Plaid, Checked and striped. Pop ties, sashes, millinery purposes, etc. only 25c a yard.

R. J. Roberts' Famous Steel Scissors. Extra refined, solid shear steel, nickel plated, at 50c, 60c, 70c, 80c, 90c and \$1.00 each.

Children's Ideal Waist Supporters. Comfortable, healthful and easy of adjustment—the weight falls entirely on the shoulders—all sizes.

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The New Child's Waist. Well adapted for boys—elastic hose supporters—very substantial. We have in our corset department "F. D." "Glove Fitting"—"Royal Worcester."

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Sheets and Pillow Cases. The way the public continues to patronize this department is the surest kind of an indication that we have struck the right key-note in bargain giving.

Wash Goods. We have got some charming new novelties in this line which we think will delight you. They would grace a duchess and they are the acme of daintiness and beauty.

Ladies Parasols and Umbrellas. We never knew the time when so much beauty and style could be obtained at so small a cost—possibly the biggest bargain of the season.

Table Linen Specials. No need of making any mistakes if you trade with us. We sell our linens on their merits and we save you all intermediate profits by making our purchases direct from the largest manufacturers of table linen in the world.

Towels. 200 dozen 20x38-inch and 22 1/2x44-inch Towels, go at 12 1/2c and 10c each.

Ladies' Hosiery and Underwear. At 15c—Ladies' guaranteed fast black and tan hose, double sole, heel and toe, a very good quality, Monday only 15c pair.

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Special Agents Butterick's Patterns. June patterns and publications now ready.

Men's Summer Underwear. Extra quality ribbed union suits, drawers, extra well made, drawers double gusseted, 25c.

Men's Half Hose. Black and tan, extra serviceable, double sole and soles, extra serviceable, 12 1/2c.

Bicycle Leggings. Men's all wool leggings with fancy tops, 60c.

Neckwear for Summer. Washable string ties, made of fine quality gingham, in neat stripes, checks and plain colors, 3 for 25c.

Ladies' Neckwear. White pique and washable ascots, extra long, 25c. White pique in colored stripes, white pique and washable ascots, in all colors, 50c.

MELLEY, STIGER & CO. Gor. Farnam and Fifteenth

ORDERS FOR FIRST TO MOVE

Colonel Bratt Directed to Report at San Francisco Immediately. Nebraska Volunteers Destined to Go to the Philippines Are Ready to Leave When the Cars Pull Up to Load.

LINCOLN, May 14.—(Special).—The long expected orders for the movement of the First Regiment to San Francisco came this afternoon at 3 o'clock and is as follows: WASHINGTON, May 14.—Colonel John P. Bratt, First Regiment, United States Nebraska Volunteers, declined to accept the resignation of the secretary of war you will proceed at once with your regiment to San Francisco, Cal., and report to the commanding general there. Upon receipt of this order you will at once communicate with chief quartermaster at Omaha for the necessary transportation and with the chief commissary at Omaha for ten days' field rations, the necessary travel rations and coffee money.

The time for the departure of the regiment depends now upon the department at Omaha, and it is the general opinion among the officers here that the rations and transportation will be provided so that the move can be made Monday forenoon. The Catholic priest of this section held a conference in this city Tuesday. Bishop Scannell of Omaha was in attendance. Colonel Elliott was at Lincoln this week and made arrangements to organize a company of militia in West Point, so as to be ready for the next call for troops.

WEST POINT, Neb., May 14.—(Special).—Wheat has been selling right here in West Point during this week for considerably over \$1 a bushel, and there is no doubt in India either. The plans and specifications for the new steel bridge across the Elkhorn at this place were received several days ago and filed with the county clerk. Bids will be made out upon this plan, and must be received before the 24th inst. when the county board meets to act upon the bids. The public schools here exhibit their annual report at the Transmississippi Exposition. They are of an elaborate character.

NORFOLK PEOPLE PROTEST

Mass Meeting to Denounce the Favoritism of Governor Holcomb. DEMAND COMMISSION FOR THEIR OWN MEN. Son of Senator Allen Taken from Another Regiment and Made Lieutenant of Norfolk Company—His Mother Asks Him to Decline.

NORFOLK, Neb., May 14.—(Special).—When the news reached Norfolk that Henry Allen, son of Senator W. V. Allen, had been appointed by Governor Holcomb as second lieutenant of Company L, from Norfolk, it created much unfavorable comment and uproar, which culminated in a mass meeting at the city hall, which was very largely attended, last night. Henry Allen is a member of the Allen Rifles of Madison, in the First regiment, while Company L is part of the Second regiment; therefore the apparent favoritism is greatly resented by the people here, who feel that there are a number of young men in Company L better qualified and certainly more entitled to promotion in the regular order. During the meeting a message was received from Mrs. Allen of Madison stating that she was opposed to the appointment of her son in this way and that she had already asked him to resign his commission and remain with his own company and that she had also wired Senator Allen to use his influence to the same end. Those sentiments were heartily applauded and to give time for this to be done the meeting adjourned until next Monday night without passing any resolutions.

Rains Have Put Small Grain and Imperil. CHASE COUNTY, Neb., May 14.—(Special).—Chase county is enjoying some fine rains and the crops are looking splendid. The small grain has never before looked so promising and the acreage is fully twice what it was last year. The farmers are all busy putting in their corn and are very much encouraged at the outlook. The grass on the prairies is most abundant and stock is doing finely. There are a number of parties in this county having cattle shipped in and daily parties from the east are coming in from the country to look up locations for ranches and places to bring cattle to summer. The merchants of this county report business exceptionally good this spring.

Johnstown Robbers Caught. AINSWORTH, Neb., May 14.—(Special).—The Johnstown robbers have been caught. There is little doubt that the party in custody here in this city and his partner in the affair, John Duncan, is in the hands of officers and has turned state's evidence. On the evening of February 23 of this year a party of Johnstown, this county, was robbed of some \$1400 in cash, two robbers holding up the agent, D. W. Alspaugh, making him deliver over all money in his hands. The robbery was committed just after the westbound passenger had left.

WANTS A REGULATION

LINCOLN, May 14.—(Special Telegram).—A hearing was held today before the governor in the requisition case wherein a man named Farrington is wanted in Council Bluffs by a nurseryman, who charges Farrington with embezzlement. Farrington claims it is a scheme to get him out of this state and into Iowa in order to enforce the collection of a debt and he made strong showing in the hearing. The governor has taken the matter under advisement.

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