THE OMAHA DAILY BEE.

ESTABLISHED JUNE 19, 1871. OMAHA, SATURDAY MORNING, SEPTEMBER 24, 1898—TWELVE PAGES. SINGLE COPY FIVE CENTS.

HEROES AT THE FAIR

Veterans of San Juan Hill the Guests of Honor at the Exposition.

REMNANT OF GALLANT TWENTY-SECOND

All Who Escaped Spanish Bullets and Disease Welcomed by the People.

LIONIZED BY THE ADMIRING WOMEN

Men Who Came Home from Cuba Made Glad They Are Spared.

FRIDAY PROVES ANOTHER BUSY DAY

Attendance Large and Unusual Interest Shown in Everything by the Visitors—Saturday Promises Another Good Crowd.

Total Admissions Yesterday 28,229
Total to Date..... 1,558,407

If there had not been such tremendous masses of people at the exposition on the two preceding days yesterday's visitors would have been alluded to as a big crowd. But since the record was so emphatically broken a matter of 25,000 or 50,000 people is regarded as just an average showing, and this was pretty near the size of it yesterday. The thousands of Woodmen and Iowa visitors who had inundated the grounds the day before were generally turning their faces homeward, but they left enough behind to fill the enclosure as comfortably as could be desired.

The only unusual feature was the presence of the Twenty-second United States infantry, which spent the day on the grounds as the guests of the exposition management. With only five of the thirty officers who led the regiment away from Fort Crook remaining and only 183 of the enlisted men the veterans who did such noble service in the assault at San Juan brought to the White City a vivid reminder of the fact that a battlefield is not a playground. It was intended that the day should be a merry holiday for the soldiers, but when the column wheeled through the gates its meager numbers impressed the spectators who had gathered to welcome the regulars with a sentiment that was more pathetic than joyous. Hundreds of those who saw the regiment enter the grounds this morning were also present when it started for the front and when they saw less than 200 officers and men to represent the magnificent organization of a few months ago they almost forgot to cheer as they thought of those for whom the exposition gates could never open. But if the soldiers shared the sentiment it was not apparent. Few of them had ever seen the exposition before and as they confronted its magnificent proportions they could express only surprise and admiration. They lost no time in scattering over the grounds in an enthusiastic effort to see the whole show during their holiday and in half an hour the service uniform was in evidence all over the inclosure.

Showing Them Through the Fair.

The soldiers arrived at the north gate just before 10 o'clock in the special train that was provided for their use by the Missouri Pacific railroad. They were met by General Manager Clarkson, who informally welcomed them to the grounds, and by A. J. Webb of the Admissions department, who attended to the ceremony of running them through the gates. Ranks were broken without delay and the rank and file were turned loose until dinner time, while Major VanHorn, Captain Jones, Lieutenant Hall and other officers were conducted to the Administration Arch by General Manager Clarkson and provided with such information as might assist them in making the most of their day.

Although the Twenty-second was stationed at Fort Crook only a short time before the commencement of hostilities, there was no lack of friends to assist them in the enjoyment of their picnic. Some of them broke up into small groups, but not a few were seized upon by feminine admirers and hustled off to be lionized. But these felicitations were necessarily brief for at noon the mess call brought the soldiers to Markel's cafe, where an abundant repast had been spread by the order of the exposition management. The long tables in the south casino were amply sufficient to accommodate the entire party, and after all had been comfortably seated the officers withdrew and joined General Manager Clarkson at lunch on the other side. In neither case was there any speechmaking or formality. The grub was produced in abundance and the soldiers showed their appreciation by getting outside of it with the same enthusiasm that they exhibited in fighting Spaniards around Santiago. When all had been satisfied they dispersed again to spend the remainder of the day and evening according to their various inclinations. Their train did not leave the grounds until 9:30 last night, thus giving the soldiers an opportunity to see the presentation of the battle piece on the Plaza and have a view of the magnificent illumination of the main court.

Today will be Traveling Men's day and it is expected that several hundred drummers will be on the grounds. It will also be a holiday for about 800 poor children from Lincoln, who will visit the show as the guests of D. E. Thompson of that city and be entertained by the Board of Women Managers.

INDIANS BUILDING THEIR HOUSES.

Pueblos Prepare an Adobe Building and the Wichitas One of Straw.

The Pueblo Indians are proving to be the best workers in the village. They are hard at work manufacturing brick for their adobe house that will be erected at some point west of the Sacs and Foxes. These Indians are small, but this does not decrease their capacity to put in full time. Every morning they are up with the sun and work right through until the whistles blow for noon. At 1 o'clock they are out and at work again, continuing until the sun goes down. Up to date they have made about 1,000 brick and will require about twice as many more in the construction of their house.

In manufacturing their adobe brick the Pueblos dig a hole in the ground, taking off the top soil. When they reach the clay subsoil they turn in water and mix the earth to the desired consistency. After this the brick are put in molds, carried to a level spot and there dumped to dry in the sun. The brick are eighteen inches long, three inches thick and twelve inches wide.

The straw house that will be occupied by the Wichitas is about completed and ready for occupancy. It is located in the extreme northeast corner of the grounds and is daily frequented by hundreds of visitors. Most of the work in the construction of the structure was performed by the women, an Indian, Towanka Jim, bossing the job. To do this bossing he sits on a pile of hay near

(Continued on Fifth Page.)

PEACE COMMISSION ARRIVES

Campania with the Members on Board Steams Into the Harbor of Queenstown.

(Copyright, 1898, by Press Publishing Co.)

QUEENSTOWN, Sept. 23.—(New York World Cablegram—Special Telegram.)—The Campania touched here today at 2 p. m., having the members of the peace commission on board. Owing to a heavy sea the tender was unable to lay alongside outside of the harbor, consequently the steamer had to enter port. As it steamed inside the harbor the peace commissioners and party admired the harbor from the saloon promenade. The trip across the Atlantic was uneventful. The weather generally was fine, but fogs were encountered on the second day out. The voyage was no novelty to Senators Gray, Davis and Frye or Whitelaw Reid, but it was Judge Day's first trip across the Atlantic. The voyage passed without incident, the peace commissioners taking part in the games on passenger amusements committee. General charge of management of the [illegible] was in the hands of Hon. John McArthur, assistant secretary of the commission, and Arthur William Ferguson, who will act as interpreter. Senator Gray advised beforehand taking a stateroom and a special stateroom was set apart during the voyage for the members of the commission. The stateroom was furnished with maps and charts, the original intention being to hold a preliminary session on board, but the stateroom was locked and unused during the entire voyage.

Neb. State Historical Society Box 688

The passage was calm and none of the party was sick, except Mr. Frye, who was unwell during one day. A concert was given on board Thursday night for the seaman's orphanage fund, which helps the families of both American and British seamen. Senator Frye acted as chairman of the concert. Mrs. Frye was unable to be present through illness. After the concert Senator Frye made a short address, referring to the qualities of the sailors of America and England, and the great victory by the British over the Spanish armada and the victories at Manila and Santiago by American sailors.

Charge d'Affaires White makes arrangements in London for the members of the commission and they will probably stay at Hotel Cecil, where they will rest a day or two over Sunday and go to Paris by Dover and Calais.

CALM BEFORE THE STORM

Ominous Quiet in Paris Indicates the Possibility of a Revolution Soon.

(Copyright, 1898, by Press Publishing Co.)

PARIS, Sept. 23.—(New York World Cablegram—Special Telegram.)—There is that hush here which precedes great events. Tomorrow's decision of the special commission means revision or revolution, peace or sure war. The question no longer concerns the guilt or innocence of Dreyfus. Now it is: "Shall the army rule the people, or the people rule the army—which shall be supreme, the civil or the military tribunals?" There are no barricades in the streets of Paris tonight, but if revision is refused they are certain to rise. The Dreyfus press is so confident of popular support that it now dares to call Felix Faure canaille on account of his non-interference.

PARIS, Sept. 23.—Mme. Paulmier, wife of M. Charles Ernest Paulmier, member of the Chamber of Deputies from the department of Calvades, has added another tragedy to the bewildering intricacies of the Dreyfus plot.

Mme. Paulmier today entered the offices of La Lanterne and asked to see M. Milerand. M. Milerand was absent and M. Ollivier, who was present, stepped forward to receive the woman, who, without waiting for an explanation, whipped out a revolver and fired twice. M. Ollivier fell to the floor wounded. He was taken to a hospital.

Mme. Paulmier was taken into custody and when questioned said: "I wished to kill M. Milerand."

She alleged that La Lanterne had slandered herself and her husband, because her husband had written the letter to General Chanoine, the minister of war, with reference to putting a stop to the attacks on the army provoked by the Dreyfus affair.

The military authorities have accomplished their plan of stifling Colonel Picquart by placing him au secret. His counsel, Maitre Labori, has twice appeared at the office of the clerk of the court-martial and applied for permission to see his client. On both occasions he was informed that Picquart had been placed au secret and could be seen only on an order from the authorities, which order M. Labori will be unable to secure.

GARCIA'S CORDIAL WORDS

Cuban General is Received at Santiago with Ceremony and Makes an Address.

SANTIAGO, Sept. 23.—To the residents of Santiago yesterday was the most important since the capitulation, since it was the occasion of the first visit of General Calixto Garcia to Santiago since he left there in a bad temper July 1.

General Wood, with a portion of General Lawton's staff and several American officers, met General Garcia outside the city limits and escorted him into the town. Garcia was accompanied by his staff and by his son, Colonel Calixto Garcia, and by many Cuban officers who have recently come to Santiago and by 200 Cuban cavalry. The streets through which the party passed were thronged with cheering people and it was estimated that 10,000 persons filled the plaza in front of the palace where Garcia dismounted. He was met at the door by General Lawton and an informal reception by the American officers was held in the audience room. At night another reception was tendered Garcia at the San Carlos club, which was filled with prominent Cubans, American officers and women. The plaza was brilliantly lighted and decorated with flags and music was furnished by the band of the Fifth infantry. The Americans wore dress uniforms and General Garcia and his officers wore white uniforms and high boots.

In reply to a speech of welcome delivered by Senor Trujillo, editor of the Porvenir, General Garcia said:

People of Cuba, we owe a great debt to those heroes for their efforts in behalf of Cuban independence, efforts which would have been useless—no, not useless, for we would have triumphed, but not speedily, however, if the American people with its famous fighters, great ships and dauntless army had not sent its own sons to shed their blood with ours.

A grand nation it must be when the sons of millionaires, who had nothing to gain in Cuba but a soldier's glory, should come here to die side by side with Cubans. To this great nation, to this noble country which has always fought for the rights of liberty, we owe the achievement of our independence and the consummation of our ideals. Our gratitude will long live for America.

General Garcia's speech, which was delivered with considerable expression, aroused much enthusiasm among the Cubans present. General Garcia will remain in Santiago for several days as the guest of the Cubans of this city.

VESUVIUS IS QUITE UNEASY

Historic Volcano is Going on at a Great Rate Once More.

PEOPLE IN THE VICINITY ARE IN DANGER

Cities and Towns Near By May Yet Suffer the Awful Fate of Ancient Herculaneum and Pompeii.

(Copyright, 1898, by Press Publishing Co.)

NAPLES, Sept. 23.—(New York World Cablegram—Special Telegram.)—Vesuvius, after a long rest, is once more belching smoke and flames and lava. Where the present series of eruptions will end none can tell, but many residents here profess to fear the destruction of Naples, though for the most part they are cheerful and laughing, as were their ancestors of Pompeii and Herculaneum just before they were eternally buried.

A panic prevails at Torre del Greco, which is on the coast, three miles south of Resina. This town has a population of 25,000 happy-go-lucky Italians, whose greatest industry is selling relics, guiding travelers, telling lies to Americans and selling wines. So great was the terror at Torre del Greco that Cardinal Prisco, the archbishop of Naples, proceeded to that town with a large body of clergy and celebrated a special open-air service and offered up prayers, in which he implored the Almighty to cause a cessation of the eruption of Vesuvius. Thirty thousand persons attended the services. They came from the entire Vesuvian territory. Immediately after the conclusion of the beautiful and impressive ceremony there seemed to be a diminution in the flow of lava, or the inhabitants so believed, and there was great rejoicing. At all the churches special prayers are being daily offered up.

Destruction Predicted.

The oldest inhabitants have alarmed the people by announcing that the town is in great danger of destruction. And, indeed, one of the lava streams is certainly flowing in that direction. Nor would it be a new thing for lava to flow in the streets of Torre del Greco. The town was almost wiped out in 1651 and twice in the eighteenth century the lava crossed the town limits. In 1857 it suffered from one of the earthquakes that are a part of the volcano's diabolical performance. The eruption of 1861 deluged the town with burning ashes and caused thousands of dollars in damage. But the people smiled and said it was part of their fate as Vesuvians and then they rebuilt and bothered very little thereafter about the pall of black smoke hanging over them. But they are terrified now and are preparing to flee. Vesuvian mothers in Torre del Greco put their babes to bed with prayers more fervent than usual and with an anxious glance up at the crater, from which roll dense clouds of black smoke, the lower edges of which are stained with the blood red reflection of the molten stuff boiling in the cauldron below. There are watchmen posted on the hills by which the lava must flow, ready to give the alarm. Science has added to the security of the Vesuvians by giving them the telegraph and telephone. If this town is to be destroyed there need be no loss of life if the people will only leave in time, but familiarity with danger has made the Vesuvians incredulous and often it is too late before their start. That was the case at Herculaneum and Pompeii, where no lives need have been sacrificed.

The Vesuvian peasants on the hillsides are the most apathetic people in the world. The temperament that allows them to till the soil and plant vineyards on the side of a volcano that may destroy them at any moment is one that is not easily disturbed. Ordinarily when Old Vesuvius ("The Chimney of Hell" they call it) begins to fume and fret and rumble they do not go to the trouble of crossing themselves. They go on raising their coarse, sour wine and selling it to such strangers as their accomplices and relatives, the guides, deliver up to them.

Peasantry Alarmed.

But now at last they are thoroughly alarmed. They are not waiting for the front of the lava stream to push them out of their homes. They are moving out with whatever they can save, leaving the lava to devour their cottages and outbuildings and vines. Hundreds of cottages, the sole possessions of the peasants, have been wiped out. In strange and awful contrast with the spectacle of the wretched, ragged Vesuvians flying before the destruction, are the crowds of sightseers who laugh and revel amid the magnificent spectacles of fire and flame. Hundreds of guitar and mandolin players wander on the hillsides in holiday garb and in holiday spirit. Their songs and strumming mingle gruesomely with the hysterical and despairing cries of fugitives.

But Italian generosity has already spoken and plenty will be done for the Vesuvian sufferers. Subscriptions have been opened in the cities. The government has sent 50,000 lire ($9,650), and the king has contributed 10,000 lire ($1,950) to the relief funds. The damages to the orchards and vineyards are enormous. The crop was not gathered and thousands of acres are wholly wiped out.

The citizens of the adjoining towns, which are entirely safe, are making so much money out of the sightseers that they regard the eruption as a lucky event. Hotel keepers at Resina and Torre del Greco, who are themselves frightened, are gathering in as much money as they can before the lava comes their way. "We must charge big prices," said the keeper of a pension at the last named town, "for we may be destroyed, and after that we must have something with which to rebuild."

Features of the Eruption.

Last night the outline of Mount Vesuvius was lost in the darkness except when a dazzling electrical discharge lighted up the panorama. Over the central cone hung the vast characteristic pine-shaped mass of smoke and ashes motionless, like a bird of evil hovering over the peninsula. Occasionally came flashes of bright red and then flashes of purple and gray from the gigantic furnace in the bowels of the mountain. And every now and then the crater vomited volumes of ashes and huge stones. By these bombardments fifty persons have been wounded. The advanced shelter and restaurant of Cook's Tourist agency, which is near Vesuvius and which many Americans who read this will remember very well, was completely destroyed by a shower of rocks and cinders. The employes were obliged to seek shelter at Pompeii.

On September 19 occurred in Naples the miraculous ceremony of the liquefaction of the blood of St. Januarus, the city's patron saint. This ceremony takes place three times a year and if the liquefaction is rapid it is a good omen for Naples, while if it is slow misfortunes may be looked for. On the last occasion the liquefaction was very quick, greatly to the relief of the Neapolitans, who lay great faith in this miracle. St. Francis da Pola prophesied that Naples would be destroyed ultimately by an eruption of Vesuvius and Naples would be terrified at this time, fearing that its hour of doom had come were it not for the happy result of the Januarus miracle. They say that if the city is to get it it will not be this year, as nothing of very serious evil can happen to it before next May, when the miracle recurs. Palmier, the meteorologist, said before he died that he belived Naples was safe from Vesuvius. It is nine miles away, three miles further than Pompeii, and this distance made all the difference. Besides, that the prevailing winds do not blow from Vesuvius toward Naples, which is an important point, as the dense masse of lava and cloud of dust and ashes are controlled largely in their course by the air currents. During the present eruption ashes have been carried as far as Ceprano, which is in the Roman province, about seventy miles in an air line from Vesuvius.

Subterranean Disturbances.

Symptoms of subterranean disturbances which it is believed are connected with the eruptions, have occurred in several places. There has been an earthquake at Macerata, near the Adriatic, in Marche province, directly on the other side of the peninsula. At the last writing there are eight craters in active operation on Mount Vesuvius. Three emit lava, two sulphurous smoke and steam and three ashes and lapilli, or small stones. The authorities believe that Vetrana and Crocelle are in more danger than ever. The observatory is menaced and all the valuable instruments have been removed. It is feared that the funicular or cable railroad up the side of the mountain may be partly destroyed. It is owned by Thomas Cook & Son.

Engineers have made successful photographs of the eruption from a balloon, a feat that was attended with great danger. The balloon at times was enveloped in smoke and it was feared that it was destroyed.

Many wells in the Vesuvian neighborhood have dried up and there is a great scarcity of water. Prof. Tacchini, director of the Roman observatory, says he believes the eruption will be extremely serious and probably will continue with increasing violence. An enormous quantity of molten matter must find an exit through the craters and fissures. He declares it is impossible at this stage to foresee the results. He believes the earthquake shocks in different parts of Italy and the eruption are due to the same causes.

Almost Roasted Alive.

The great meteorologist, Luigi Palmier, whose observatory stood in the path of the lava streams and who bravely stuck to his post during the fearful and fatal eruption of 1872, although almost roasted alive, and choked by carbonic acid gas and sulphur fumes, had a theory that the eruptions and the phases of the moon had something in common. The belief is connected with the old legend of the mythological Vesuvius, who was imprisoned in the mountain by Jupiter, because he had the temerity to fall in love with Luna, and which says that the eruptions are caused by the struggles of the detained lover to get out into the open and gaze upon his mistress. The ancients had noticed that Vesuvius was most unruly when the moon was in certain states and out of that fact probably grew the legend. The present eruption began at the same time that a new moon arrived and that it is in accordance both with the legend and Palmier's theory.

Scientists do not know what the moon has to do with the matter, though students of volcanoes say that these eruptions are caused by inroads of the sea into the red-hot bowels of the earth and perhaps the moon by its action on the tides may have something to do with the Vesuvian outbreaks.

The present outbreak of the mountain began with loud rumblings that suggested internal earthquakes. The Vesuvians knew what was coming and soon a mountain of solid black smoke, almost as big, it seemed, as Vesuvius itself, hung over the principal cone. Then hissing, seething and spluttering, searing the face of nature, burying green vineyards and orchards and swallowing up every trace of life or vegetation, two rivers of molten lava descended from Mount Somma to the north.

Moving Molten Mass.

The largest of these streams is 750 feet wide, or about the width of three city blocks in New York, and about fifty feet high. It advances like a huge serpent at the rate of eleven feet an hour. The bulk of this lava is enormous. Its frontage is as much both in height and width as three blocks in a small American city. It is headed in the direction of the sea. It moves steadily onward with a mechanical regularity that is appalling. The extent of its journey must depend on the mass of lava that Vesuvius vomits. If the output stops then must the fiery river cease its roar, but as long as thousands of tons of molten rock pour from the crater must the stream push its way onward, leaving no one can say how much havoc in its path.

The red hot river proceeds with an awful roar. It is a dull purple by day, the hot lava cooling rapidly on the surface. As it splits up in moving, the red-hot mass is revealed here and there. By night the lava has a different color, the red showing clear through the cooled surface. It is of an angry blood color. It lights up the country for twenty miles around. It is so hot, this burning river, that one cannot go nearer than twenty feet to it and even at this distance the heat is almost unbearable. It is a favorite trick of the Vesuvian guides to place small coins in the lava and give the tourist the impression that they have made them. This is not a very dangerous feat if deftly done. An Englishman named Pearson, who tried to get a print of a five franc piece as a souvenir by placing it in the molten stone, severely burned his right arm.

But the point that interests the Vesuvian most is the question of where the deadly river will halt. There are three lava streams descending respectively toward the villages of Veterana and Crocelle and the town of Resina. The last named is seriously threatened. It is a place of 13,000 inhabitants, directly on the coast and five miles southeast of Naples. It is almost on the site of ancient Herculaneum and it is built upon lava. It has not been seriously hurt by Vesuvius since 1631, when a violent eruption wrought much havoc there. It is a place which many Americans visit while exploring the Herculaneum excavations.

SPAIN MUST GET RIGHT OUT

No Delay to Be Tolerated in the Matter of the Evacuation of Cuba.

WASHINGTON, Sept. 23.—A very peremptory message of instruction has been sent to the Cuban military commission and by them made the basis of a note to the Spanish commissioners. The authorities in Washington will not make its terms public, but it is thought the general tenor is that the United States will not be satisfied with any further delay in the evacuation of Cuba. It is to the effect that the terms of the protocol called for immediate evacuation and that Spanish sovereignty must be relinquished. The American commissioners have been informed that the evacuation of Cuba cannot be delayed.

Curzon Raised to a Baronetcy.

LONDON, Sept. 23.—It is officially announced that Hon. George N. Curzon, until recently parliamentary secretary for the foreign office, who is to succeed the earl of Elgin as viceroy of Egypt, has been elevated to the peerage as Baron Curzon of Kedleston.

HOLDS MOORES INELIGIBLE

Supreme Court Decides the Quo Warranto Case Against the Mayor.

JUSTICE NORVAL'S VIGOROUS DISSENT

Minority Opinion Holds that Respondent Was Wrongfully Deprived of a Jury Trial and that Hearing by Referee Was Wrong.

LINCOLN, Sept. 23.—(Special Telegram.)—The supreme court this afternoon rendered its decision in the Broatch-Moores case involving the mayoralty of the city of Omaha. The decision of the court upholds the finding of the referee before whom the case had been tried, and holds that Moores is ineligible to hold the office. The opinion is written by Commissioner Ryan. Judge Sullivan writes a concurring opinion in which he disagrees with some of the points in the majority opinion, but agrees in the main. Judge Norval writes a dissenting opinion. The syllabus of the majority opinion is as follows:

"The history of quo warranto examined and held not to furnish a basis for the determination of the question of whether or not a jury trial in this state is demandable as a matter of right.

"2. The provisions of section 6, article i, of the constitution of Nebraska considered and, in connection with provisions of the statute of existence at the time of its adoption, held not to entitle respondent in a quo warranto proceeding to demand a jury for the trial of the issues of fact to be determined, as a matter of right.*

"3. Where jurisdiction is in direct terms conferred upon the supreme court of this state, it will be exercised in such manner as constitutionally it may be exercised, even though no rules of procedure applicable to such case have been provided by the legislature.

Care of Public Funds.

"4. A clerk of the district court who, knowingly and intentionally deposits public moneys received by him in payment of fines imposed in his court together with other trust funds and his own private funds in a bank in one general account to his own individual credit, and before he has paid said fines to the court treasurer as provided by law, knowingly, willfully and intentionally draws from said bank all of the funds so deposited and uses the same for the purposes other than the payment of said fines, thereby converts said funds to his own use and is probably held in default within the meaning of section 2, article xiv, of the constitution of the state and is therefore ineligible to any office of trust or profit during the existence of such default."

The opinion holds that the appointment of the referee in the case was justified by the law and precedents, and quotes at considerable length from his findings. It holds that in a case of this nature a jury trial could not be held. Moores is held to have been a collector and custodian of the public funds under the constitution, and the fact that he held public funds in his possession and deposited them in the bank as part of his private funds constituted a defalcation which intentions of future payment or restitution could not palliate.

Closing Words of Opinion.

The opinion closes as follows: "The report of the referee disclosed facts for the existence of which the fault of deputies or oversight on part of their principal was no excuse. The fines and penalties which he neglected to account for and pay over belonged to the school fund of the state under the provisions of section 5, article viii of our constitution, and the county was merely custodian therefor. It would have been therefore, no excuse for him to show and for the referee to find that the county was Mr. Moores' debtor with respect to other independent matters. It would be a harsh rule which would hold a clerk liable for the mere failure to pay over fines irrespective of oversight or other unavoidable excuse. The report of the referee, however, shows and the evidence fully sustains it, that some of the fines therein mentioned were carried from month to month; that the Wallenz fine was not held by agreement of parties, but because of protest against paying by attorneys of parties who had no right to control payment.

Concerning Trust Funds.

"Near the close of Mr. Moores' term it was shown by the evidence and found by the referee that the bank account of Mr. Moores was overdrawn, that in his account there had been deposited to his own individual credit the fines which he failed for a long time to pay over after the same should have been paid and that, by his overdrafts, the amounts of these fines had been appropriated to his own use. Indeed, in his testimony, Mr. Moores said that if he had known that there was to his credit in the bank a certain small amount he would undoubtedly have drawn it out. There was sufficient evidence to justify the conclusion of the referee that this appropriation of public money was willful and corrupt, and this was a question of fact with all its concomitants.

"It could not operate to Mr. Moores' advantage if it had been found that he was a man of larger means and credit. The only logical meaning this could have had would have been to show that Mr. Moores could make good his default, and this consideration has doubtless lured many, if not most defaulting officers, to take risks which have ultimately proved their destruction. In a majority of cases of defalcation it is quite likely that the first misappropriation was made in the full confidence that it would be made good and no one would be harmed. There is no middle ground either of safety or honesty. Trust funds must be held sacred, and the officer who appropriates them to his own use must be held to be guilty of a breach of trust, no matter how able and willing he may afterward prove to be to replace the misappropriation of that which was not his own. The exceptions and objections of the respondent have been sufficiently met by these general observations, and it remains but to say that we approve the findings of the referee and that judgment will accordingly be entered in accordance with his recommendaions."

Judge Sullivan's Dissent.

Judge Sullivan in concurring in the conclusion of the opinion as written by Commissioner Ryan said: "While concurring in the judgment I feel constrained to express my dissent from the proposition that the first clause of section 2 of article viii of the constitution is directed only against those who are in default either as collectors and custodians of public money or as collectors and custodians of public property. I think that the provision should be construed as though it read: 'Any person who is in default as a collector or custodian of public money or property,' etc. A construction based on a literal reading of the clause is not merely unreasonable but leads to an absurdity. There never has been and there is not the slightest reason to suppose there ever will be in this state such an office a that of collector and custodian of public property. That the framers of the constitution or the electors of the state had such an officer in mind as a possible legislative creation is beyond belief. Besides there seems an insuperable difficulty in the way of one who is collector and custodian of public money ever being in default in both capacities. His relation to the money as a collector ends where his connection with it as a custodian begins. He cannot become a custodian without having been faithful as collector. Thus a too literal construction of the clause practically nullifies it. Being charged with the duty of issuing execution for the collection of fines and judgments on forfeited recognizances, the clerk of the district court is undoubtedly a collector of public money, but his possession of such money is only incidental to its collection and he is therefore not a custodian within the meaning of the constitution."

Should Have Had a Jury.

In his dissenting opinion Judge Norval deals almost entirely with the question of whether the respondent was entitled to a trial by jury. He holds that such was his right and says: "I am firmly convinced that the constitution was violated in the present case in refusing the respondent a trial by jury when he made demand therefor. Moreover the denial of such right is in violation of rules 14 and 16 promulgated by this court."

Judge Norval goes at length into the history of quo warranto cases and finds that it is the common practice to give them jury trials and that it was the practice in this state prior to the adoption of the present constitution. He further says "there was no power to appoint a referee to try this cause against the objection of either party and the order of reference was in violation of the trial by jury guaranteed by the constitution. It will not be claimed that quo warranto is an equitable proceeding and if it be true, as the majority opinion argues, that it is not a criminal proceeding, then it must be a legal remedy and hence this court was powerless to send the cause to a referee for trial without the consent of both parties."

Mayor Moores is out of the city, having left for Chicago yesterday afternoon before the news of the decision had arrived. W. J. Broatch was at home last night. He said: "I have nothing special to say for publication. I really do not know anything about the decision beyond the fact that the court has affirmed the referee's report and decided the case in my favor. I cannot say just when I shall take possession, but I shall act entirely within the law. I have not yet consulted with my attorneys; I shall take their advice as to what course I should pursue."

TEMPERATURE AT OMAHA

Hour.	Deg.	Hour.	Deg.
5 a. m.	63	1 p. m.	82
6 a. m.	63	2 p. m.	85
7 a. m.	63	3 p. m.	87
8 a. m.	65	4 p. m.	87
9 a. m.	69	5 p. m.	88
10 a. m.	73	6 p. m.	87
11 a. m.	77	7 p. m.	83
12 m.	79	8 p. m.	81
		9 p. m.	73

TODAY AT THE EXPOSITION.

At the Grounds:

Commercial Travelers' Day.

8 a. m. to 10 p. m., Indian Congress on Indian Grounds.

10 a. m., Omaha Concert Band at Auditorium.

11:30 a. m., Battleship Illinois Docked at Government Building.

12 m., Fire Horses Hitched by Electricity.

1:45 p. m., Commercial Travelers Enter Grounds.

2 p. m., Organ Recital at Auditorium.

2:30 p. m., Mexican Band at Government Building.

2:30 p. m., Omaha Concert Band, Transportation Building.

4 p. m., United States Life Saving Drill on Lagoon.

7 p. m., Farewell Special Concert by Mexican National Band.

TRAIN ROBBERS ARE ACTIVE

Missouri Pacific Express Held Up Six Miles from Kansas City Union Depot.

KANSAS CITY, Sept. 23.—The Colorado and Coffeyville express train on the Missouri Pacific railroad, which left Kansas City at 9:15 o'clock tonight, was held up by robbers near Leeds, a suburban station about six miles out from the Union depot. The locomotive and baggage car were detached from the train and taken down the track toward Dodson, after which the robbers shattered the Pacific Express company's car with dynamite. At midnight it is not known what the robbers secured. Officers of the express company state that the safe contained little treasure, as the messenger carried nothing for points beyond Coffeyville, Kan.

The explosion of the dynamite used by the robbers was heard by many persons in the southeastern part of Kansas City. Flying debris from the shattered car carried down the telegraph wire along the 'Frisco tracks, which parallels the Missouri Pacific at this point. After committing the hold-up the robbers entered the 'Frisco station at the Belt line just east of Leeds and overpowered the operator. After smashing the instruments in his office they took the operator with them to the scene of the robbery.

It is reported that the robbers wrecked the locomotive after running it almost to Dodson, but the report is not confirmed.

Superintendent Moore, the Pacific Express company's chief official here, insists that the train carried very little treasure.

The robbers numbered seven, it is reported. The scene of the hold-up is not far from Brush Creek or the Blue river, where there is thick brush and heavy timber and the escape of the robbers from that locality would not be a difficult matter.

A special train has taken police and railway detectives to the scene. At a late hour the train was still detained there, owing to the wreck of the baggage car.

So far as can be learned the passengers were not molested.

EMPEROR'S LIFE IN DANGER

Dowager Empress Desires to Place Prince Kung's Grandson on the Throne.

LONDON, Sept. 23.—According to special dispatches received from Pekin, members of the European community there believe the life of the emperor of China is in danger. It is added that the dowager empress desires to place Prince Kung's grandson on the throne. The emperor, it is added, realizes the strength of the conspiracy against him and has ordered the guards at the palace to be strengthened.

Explosion Wrecks a Distillery.

NEW YORK, Sept. 23.—An explosion in the Fleischman distillery at Long Island City today wrecked the building and it is believed resulted in the death of Patrick McCafferty, who is missing. Three other workmen in the distillery were seriously injured. Their names are: James Moran, William Kronta, —— Ecobs. The explosion set fire to the ruins of the building and it was consumed. The loss on the distilling plant is about $25,000. The cause of the explosion is not known.

OUSTS HERDMAN GANG

Supreme Court Relieves Omaha of the Outlawed Police Board.

HOME RULE GAINS A SIGNAL TRIUMPH

Control of Fire and Police Departments Passes to City Council.

WRIT OF OUSTER ISSUES AT ONCE

Sheriff McDonald Directed to Execute th Court's Mandate.

SHORT STORY OF THE LITIGATION

How the Case Originated and the Steps Taken to Secure the Result Which Has Just Been Announced.

LINCOLN, Sept. 23.—(Special Telegram.)—The supreme court overruled the motion for a rehearing in the Fire and Police Board case this morning and the following writ has just been issued:

Supreme Court of Nebraska: The State of Nebraska—To the Sheriff of Douglas County: Whereas the state of Nebraska, on the relation of Constantine J. Smyth, attorney general, commenced and prosecuted to final judgment a proceeding upon an information in the nature of quo warranto against Frank E. Moores, William W. Bingham, William F. Bechel, Louis Burmester, Myron D. Karr, Ernest Stuht, David T. Mount, Frank J. Burkley, George W. Mercer, Charles O. Lobeck, J. H. Peabody, D. D. Gregory, William C. Bullard and R. E. L. Herdman, respondents, and Charles J. Karbach, Matthew H. Collins, Peter W. Birkhauser and Victor H. Coffman intervenors to test the right of rival claimants to hold the offices of members of the Fire and Police commission of the city of Omaha, and to oust from said offices the claimants not entitled to said offices; and

Whereas, judgment was rendered in said court and entered of record in said cause, June 23, 1898, as follows:

"The cause having come on at the January, 1898, term of this court for hearing before the court upon the respective pleadings of all the parties hereto, and upon the briefs on file and upon the oral arguments of counsel, and the cause having been submitted to the court for its decision, on consideration whereof, on this 23d day of June, 1898, the court does find all the issues raised by the respective pleadings in favor of the relator as against the respondents Bullard, Gregory, Peabody and Herdman, and against the relator as against the other respondents and intervenors; and in favor of the respondents, Moores, Bingham, Bechel, Burmester, Burkley, Karr, Stuht, Mount, Lobeck as the mayor and city council of the city of Omaha, as against the respondents, Bullard, Gregory, Peabody and Herdman; and in favor of Karbach, Collins, Birkhauser and Coffman, the intervenors, as against the respondents, Bullard, Gregory, Peabody and Herdman; and the court finds that the intervenors have a good title to the four offices of members of the Board of Fire and Police commissioners of the city of Omaha and are entitled to immediate possession thereof, and the court finds that the respondents, Bullard, Gregory, Peabody and Herdman, have no right or title to the said officers, or any of them, and should be ousted therefrom. Considered and adjudged by the court that the respondents, William C. Bullard, Daniel D. Gregory, James H. Peabody and Robert E. L. Herdman, be and they hereby are ousted from the four several offices of members of Board of Fire and Police Commissioners of the city of Omaha, now in their possession, and the intervenors, Charles J. Karbach, Matthew H. Collins, Peter W. Birkhauser and Victor H. Coffman be and they hereby are installed in said offices, and it is ordered that a writ of ouster issue against the respondents, Bullard, Gregory, Peabody and Herdman, and that all costs of this action be taxed against the last named respondents and execution is hereby ordered to issue therefor."

Now, therefore, you are commanded in the name of the state of Nebraska forthwith to remove the said William C. Bullard, Daniel D. Gregory, James H. Peabody and Robert E. L. Herdman from the several offices of members of Board of Fire and Police Commissioners of the city of Omaha and install the said intervenors, Charles J. Karbach, Matthew H. Collins, Peter Birkhauser and Victor H. Coffman, therein. You are further commanded to require of said William C. Bullard, Daniel D. Gregory, James H. Peabody and Robert E. L. Herdman that they deliver forthwith to the said intervenors, Charles J. Karbach, Matthew H. Collins, Peter Birkhauser and Victor H. Coffman, all the books, papers, furniture and other things pertaining to said offices of members of Board of Fire and Police Commissioners of the city of Omaha.

You will execute this writ forthwith and make due return of your doings hereon without delay. Witness the Honorable T. O. C. Harrison, chief justice of our said supreme court, at Lincoln, Nebraska, this 23d day of September, A. D., 1898, and the seal of said court hereto attached.

D. A. CAMPBELL,
Clerk of the Supreme Court.

Story of the Litigation.

The litigation which has just terminated in a victory for the right of local self-government and the discomfiture of the Herdman gang is the outgrowth of a long series of efforts to manipulatae the Omaha fire and police departments for political ends and to prostitute the service in the struggle to perpetuate one of the rottenest political machines that ever existed in Nebraska. Every possible means has been employed to delay the result, but the interests of good government prevailed.

The question was taken into the courts shortly after the ousted board went into office. At that time Peter Birkhauser, a member of the preceding board, brought an action to prevent the new board from exercising authority, but last November the supreme court handed down a decision which was adverse to Birkhauser and his associates, but did not pass upon the law.

Meanwhile the unscrupulous administration of the fire and police departments became constantly more apparent and the unprecedented inefficiency of the police department permitted the criminal classes to prey upon the public practically without restraint. At the beginning of this year an original suit was brought in Judge Scott's court, in which the constitutionality of the law by which the board was appointed by the governor was attacked. The fight was made on the broad ground of the right of local self-government, and this position was sustained by an overwhelming show of authorities. The decision of Judge Scott was handed down January 12, and it held that the statute was invalid and an invasion of the right of the people of Omaha to