# THE OMAHA DAILY BEE.

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## WAR HAS JUST BEGUN

President Kruger Still Determined to Make No Surrender to the British.

OOM PAUL IS NOW STAYING AT MACEDORP

Seat of the Boer Government is Now in a Railroad Car.

GUERRILLA WARFARE WILL CONTINUE

Secretary Reitz Says Burghers Will Hold Out for a Long Time Yet.

LYDENBURG WILL BE THE LAST STAND

**Kruger Denies Intention of Taking Refuge on Dutch Man-of-War and that He Has Over $10,000,000 of Treasure.**

LONDON, June 8.—2 a. m.—The executive officers of the Transvaal government are in a railway car, shunted on a switch at Macedorp station. President Kruger caused the interior of the coach to be reconstructed some time ago with a view to contingencies that have now arrived.

A correspondent of the Daily Express, who went from Lourenzo Marquez to see President Kruger, was received yesterday. The president sat smoking a long pipe. He looked worried, but his bearing was quiet and determined. He did not make the least objection to being interviewed.

The correspondent was equipped for the interview by cables from London.

"Yes," said President Kruger, "it is quite true that the British have occupied Pretoria. This, however, does not end the war. The burghers are fully determined to fight to the last. They will never surrender so long as 500 armed men remain in the country. I feel deeply encouraged by the fine work Steyn and DeWet are doing in the Free State."

The correspondent suggested that the war was over, inasmuch as the capital had been taken.

"The capital," explained Mr. Kruger, with energy. "What is a capital? It does not consist of any particular collection of bricks and mortar. The capital of the republic, the seat of government, is here in this car. There is no magic about any special site. Our country is invaded, it is true, but it is not conquered. The government is still effective."

Referring to the reasons why he left Pretoria Mr. Kruger said:

"I was not foolish enough to be taken prisoner. I provided this means of locomotion precisely for the same reason as our burghers supply themselves with horses when they take the field. It is necessary that I should be able to move quickly from place to place. That is all. By and by this car will take me back to Pretoria. For the present it enables me to keep away from Pretoria, where I could be of no service and where I should only play into the hands of the enemy."

**Kruger Has Not the Gold.**

"They say, Mr. Kruger," remarked the correspondent, "that you have brought with you gold to the value of £2,000,000?"

"It is not true," replied the president. "Whatever monetary resources I may have with me are simply those which we require for state purposes. At the same time I am not going to tell you where our treasure is. Let Roberts find it if he can."

"They also say in London, Mr. Kruger, that you contemplate taking refuge on a Dutch man-of-war at Lourenzo Marquez?"

"That again is a lie," retorted the president with vehemence.

"I know of no such Dutch vessel. I am not contemplating flight; I shall not leave my country. There will be no need of my doing anything of the kind."

The correspondent—"Then, sir, there is much surprise at your having left Mrs. Kruger behind."

Mr. Kruger—"But why? Mrs. Kruger is quite safe in Pretoria. She would only be put to personal inconvenience here. All communication between us is stopped, of course, but she will await my return with calmness and courage. She is a brave woman. I am here awaiting further information. We are surrounded by faithful burghers and are quite safe."

Secretary of State Reitz remarked:

"You may depend upon it that the war is not yet over. Guerrilla warfare will continue over an enormous area. We intend to fight to the bitter end and shall probably retire on Lydenburg, where we can hold out for many months."

**War Has Only Begun.**

"Yes," observed Mr. Kruger, "it is only now that the real struggle has begun. I fear that there will still be much bloodshed, but the fault is that of the British government." Then raising his voice to an almost passionate height, Mr. Kruger exclaimed: "The time has passed for us to talk. We have done plenty of that, but it has done us no good. The only thing left for us to do is to keep on fighting, to keep on fighting."

The correspondent who secured the interview telegraphed it direct from Macedorp station, when the wires were working as usual, to Lourenzo Marquez.

The Daily Express, in commenting upon the interview, refers to the "unabated defiance of the chief of the Transvaalers."

Nine hundred British prisoners arrived Tuesday at Nooitgedacht. They were penned in a barbed wire enclosure of four acres on the open veldt.

According to a dispatch from Lourenzo Marquez, dated yesterday, Lord Roberts is reported to have intercepted two trains full leaving the vicinity of Pretoria. Telegrams from the British side are exceedingly scanty. Two brief ones received from Pretoria say Mrs. Kruger is still occupying the presidency and that a number of engines and cars have been secured. The British under Major DeLisle captured a machine gun and caused the Boers heavy loss, the British casualties being slight. The British officials removed $300,000 from the National bank, but did not touch the other banks. Some of the Boers are surrendering voluntarily and the townspeople of Pretoria are described as showing considerable enthusiasm over the British arrival.

Mr. Prevost Battersby, in a dispatch to the Morning Post from Pretoria, dated June 5, says:

"The Boers pledged themselves to twenty British officers not to take the British officers away if these officers would control them and prevent an outbreak. Nevertheless they began their removal. After 900 had been taken British shells struck a train that was loading and the Boers desisted and retired. The British officers at Daspoort refused to leave their quarters and made the Boer commandant a prisoner, releasing him at midnight on condition that he would

(Continued on Second Page.)

## GOT READY IN FORTY HOURS

**Battleships Indiana and Massachusetts Figure in a Remarkable Experiment.**

WASHINGTON, June 7.—The experiments with the battleships Indiana and Massachusetts have been remarkably successful. A telegram received at the Navy department today from Admiral Casey, commandant of the League Island Navy yard, announced that the two ships were completely equipped and ready [illegible]. He said the Indiana would pull out [illegible] and the Massachusetts about two hours later for Newport, via Hampton Roads. The delay in the case of the latter ship was not because of any lack of preparedness on her part, but simply because the tide would not serve until afternoon. Thus it appears that these two formidable vessels have been made ready for any required service in the short space of about forty hours, without the slightest notice to the commandant of the League Island Navy yard or the commanders of the two battleships. The result is regarded as a satisfactory vindication of the policy of keeping ships "in ordinary," recently adopted by the Navy department. The record made at League Island is about as good as any made abroad, with superior facilities in the latter case. This little experiment will be noted with interest by other naval powers.

After the mobilization at Hampton Roads is completed the squadron, consisting of the New York, Kearsarge, Indiana, Massachusetts and Texas, will engage in squadron maneuvers and other exercises for the next six weeks. It is stated at the League Island Navy yard that the Indiana and Massachusetts would again be placed in "ordinary" at the yards when the exercises are over.

## BOER ENVOYS IN ST. PAUL

**Reception Committee at Depot Welcomes the Visitors to the Northwest.**

ST. PAUL, Minn., June 7.—Dr. Abram Fischer and H. H. Wessels, two of the three Boer envoys now in this country, arrived in this city a few minutes before noon today. Mrs. Fischer accompanied her husband. A special reception committee welcomed the visitors to the northwest. There was a large crowd at the depot and the Minnesota state band played a number of patriotic American airs. The visitors were taken at once to the Ryan hotel, where lunch was served. Governor Lind called on them there soon after their arrival. A public reception was held from 1:30 to 3 o'clock this afternoon.

In response to a question, Mr. Wessels said that the party had fixed upon June 20 as the time for leaving the United States, but events might prolong their stay.

Mr. Fischer, when asked if he believed his countrymen would eventually win, replied:

"I have no doubt of it. The English can never conquer us as long as a man or an ox remains alive in the country."

"Then you don't think the capture of Pretoria will have much effect toward terminating the war?"

"Not a particle."

At the meeting in the Auditorium tonight the mayor presided and there were several addresses.

The party will leave here for Omaha tomorrow morning.

## MINERS ADVISED TO WAIT

**Word of Warning from Sir Alfred Milner to Those Who Would Return to Transvaal.**

LONDON, June 7.—The following dispatch has been received at the Colonial office from the British high commissioner in South Africa, Sir Alfred Milner:

"CAPETOWN, June 2.—It is reported by telegram that large numbers of miners and others are about to start for the Transvaal from Southampton on Saturday. Cannot a public notification be issued warning the people against premature return here? They will be delayed at Cape points and will only increase the numbers supported by charity. It must be a couple of months at least before the bulk of those now in the Colony and in Natal can be allowed to return or work generally can be resumed."

## FIGHT WITH INSURGENTS

**Captain Crenshaw and Scouting Party Led Into Ambush by Guide.**

MANILA, June 7.—Captain Frank F. Crenshaw, with forty men of the Twenty-eighth infantry, while scouting near Taal was led into an ambush by a guide. Captain Crenshaw was badly wounded in the head and one private was wounded. The ambushers were scattered, leaving ten dead and three wounded on the field.

Captain Flint, while scouting five miles east of Biancabato, Bulacan province, had a slight brush with the enemy. Flint and two privates were wounded.

## FURTHER DELAY FOR NEELY

**Commissioner Shields Again Postpones Examination of Alleged Embezzler.**

NEW YORK, June 7.—The examination of C. F. W. Neely, which has been postponed from day to day and was to have taken place today before United States Commissioner Shields, was again postponed late this afternoon to June 18. As the bill relating to Cuban extradition was signed yesterday by President McKinley, there will, it is believed, be no further hearings in relation to the matter in the local courts.

**Wheel Works at Racine Burn.**

RACINE, Wis., June 7.—The plant of the Wisconsin wheel works was destroyed by fire tonight. The loss on stock and buildings and machinery is about $90,000, on which there is a blanket insurance of $80,000.

**Movements of Ocean Vessels June 7.**

At Plymouth—Arrived—Furst Bismarck, from New York, for Cherbourg and Hamburg.

At Boulogne—Arrived—Amsterdam, from New York, for Rotterdam.

At Maderia—Passed—Romana, from Rotterdam, via Liverpool, for San Francisco.

At Shimoseki—Arrived—Nulos, from Seattle, for Vladivostock.

At Hong Kong—Arrived—Goodwin, from Tacoma.

At Bremen—Arrived—Rheinland, from New York.

At Queenstown—Sailed—Rhynland, from Liverpool, for Philadelphia; Teutonic, from Liverpool, for New York.

At New York—Sailed—La Bretagne, for Havre; Kaiser Friederich, for Hamburg, via Plymouth and Cherbourg; Boric, for Liverpool; Barbarossa, for Bremen, via Southampton. Arrived—Palatia, from Hamburg.

At Liverpool—Arrived—Waesland, from Montreal; New England, from Boston. Arrived—Germanic, from New York, via Queenstown.

At Glasgow—Arrived—State of Nebraska, from New York.

At Cherbourg—Arrived—Furst Bismarck, from New York, for Hamburg.

At Rotterdam—Arrived—Amsterdam, from New York, via Bologne. Sailed—Rotterdam, via Boulogne.

At Liverpool—Sailed—Cambrian, from Montreal; New England, from Boston.

At Lizard—Passed—La Touraine, from New York, for Havre.

At Bremer-Haven—Arrived—Saale, from New York, via Cherbourg and Southampton.

## ANOTHER FIGHT WITH BOXERS

Some Two Hundred Dead Bodies Left on the Field of Battle.

CHINESE SOLDIERS MASSED AT PEKIN

**British Marines Have Been Landed and with a Field Gun Will Attempt to Force a Passage from Tien Tsin to Pekin.**

LONDON, June 7.—A special dispatch from Shanghai, dated 7:30 p. m. today, says the dowager empress has ordered General Neih Si Chong, with 3,000 men, to protect the railroad at Pekin.

A severe fight, it is added, has occurred with the Boxers, whose ranks include many soldiers from other generals' commands. When the battle ended 200 dead were left on the field.

The dispatch goes on to say: "One hundred and eighty British marines, with a machine gun, are about to force a passage from Tien Tsin to Pekin. Altogether about 900 British have been landed from the fleet, a greater number than have landed from the combined vessels of the other powers. This evidence of Great Britain's intention to assert her position strongly gives great satisfaction here."

**Left to Naval Commanders.**

Naval commanders in Chinese waters have received instructions as to procedure, the question of an emergency being left to their discretion. No fear is entertained for the safety of the legations at Pekin. European residents, however, are escaping from the capital to the coast. Pekin is still under control, according to a dispatch to the Morning Post dated yesterday, but in a very excited state. A thousand foreign guards were garrisoning the legation houses. Six hundred international troops are at Tien Tsin, with six guns. A dispatch to the Daily Mail from Shanghai, dated June 7, takes a gloomy view of things, which are pictured as going from bad to worse.

The correspondent says: "The authorities are displaying palpably guilty supineness in dealing with the Boxers and the powers are more and more taking matters into their own hands. The Boxer revolt is spreading and is rapidly changing its character. The Boxers are getting arms, preparing to meet force with force.

"There has been no communication between Pekin and Tien Tsin since Tuesday, although a miserable abortive attempt has been made by Chinese soldiers to reach the capital. The troops were fired upon and the train had to come back. Another station had been burned on the line."

A news agency dispatch from Tien Tsin, dated yesterday, says: "The Boxers are still raiding and pillaging over a wide area. They have wrecked and burned the stations at Long Fong and Langoo. It has been definitely ascertained that Mme. Astir and Messrs. Ossent and Cades have been murdered. General Nieh claims to have defeated the Boxers, killing 500."

**"McKinley's Opportunity."**

The morning papers in long editorials dealing with the Chinese situation refer to the possible course of the United States. The Daily Mail which goes beyond any other in urging America to take part in intervention under the caption, "McKinley's Opportunity," says:

The United States have secured definite pledges as to the maintenance of the open doors and their intervention would not produce friction, danger of which is to be anticipated should either England or Russia act alone. We have no desire to precipitate a world-wide conflict, yet our movements are regarded with so much suspicion by many Russians that serious complications might ensue should we land a large force. The same applies to Russia. Face to face with ourselves, but the United States have the traditions with Russia and a community of interests with England. Their action would, therefore, secure the hostility of neither power. It need scarcely be said that they would have the moral support of the British people and our material support also if only the policy of our government in the far east were stronger than it is. They would certainly be assisted by Japan. In this way a world conflict disastrous to the interests of all great states could be avoided and at the same time the pledges which the skillful negotiations of Mr. Hay have extracted from the various powers would be vindicated.

"The opportunity for America has come. Will she be equal to it or will she let it slip from her hands and lose her vast potentialities of trade in northern China?"

England's financial interests in China, interests that can be named in the Stock exchange, aggregate £40,000,000. These on an average have declined 4 per cent. There are so many trading companies and syndicates holding concessions which are capitalized for vast unknown sums. The English money in China is probably close to £500,000,000. The report that Sir Claude McDonald is too ill to attend to his duties is reported to be unfounded. He has been in constant communication with the government.

## GERMANY IS READY TO ACT

**Willing to Join Concert of Other Powers in the Chinese Situation.**

BERLIN, June 7.—The officer commanding the German squadron at Che Foo has been directed by cable to send a detachment of sailors and marines to Tien Tsin, and, after conferring with the German minister at Pekin, to arrange with the commanders of the other squadrons regarding further measures to be taken for the protection of Europeans. It is understood that Germany has officially declared its readiness to act in concert with the other powers, but having no interests outside of Shan Tung she is not disposed to take the leading part in intervention in China.

The German newspapers claim to have discovered that the alleged secret agreement arrived at between Russia and Japan to act together against Great Britain in the far east is purely fictitious. The National Zeitung avers that Great Britain stands hand in glove with Japan.

BERLIN, June 7.—The foreign office regards the situation in China as no worse than it was last evening. There is nothing indicating an unfavorable change has occurred. Papers this evening, however, take a different view of the matter. The Vossische Zeitung says:

"Evidences are lacking of harmony among the powers interested in China and the probability is that if the Boxer movement is allowed to spread and the dangers growing out of it become more serious, this serious result will be on account of the want of harmony."

The National Zeitung, which expresses its views in similar terms, says that it hopes that until the present troubles are over Russia, Great Britain and Japan will bury their differences.

**Gift to Iowa State University.**

IOWA CITY, Ia., June 7.—E. Whitney Carr of Jordan, N. Y., today gave the Iowa State university $50,000 for the establishment of free scholarships for poor young people.

**Fox-Lee.**

VERMILLION, S. D., June 7.—Marion L. Fox of Sioux Falls was married here today to Miss Jessamine Lee, only daughter of Governor Andrew E. Lee. Mr. Fox is editor of the South Dakota Reform Press bureau.

## HOT CONTEST IN COLORADO

**Contesting Delegations from Arapahoe County Cause Delay in Democratic Convention.**

DENVER, June 7.—The state democratic convention, which met here today, easily surpassed in attendance and enthusiasm any similar gathering of that party ever held in Colorado. More than 1,000 delegates, including two Arapahoe county delegations of 184 members each, were assembled in the Tabor Grand opera house at 10:30 o'clock, the hour at which the convention was to meet.

At a meeting of the state committee this forenoon it was decided that neither of the Arapahoe delegations should have a voice in electing the temporary organization of the convention, but that both delegations should have representatives on the committee on credentials.

It was nearly noon when State Chairman Milton Smith called the convention to order and introduced Colonel B. F. Montgomery of Cripple Creek as temporary chairman.

Chairman Montgomery addressed the convention briefly, predicting the success of the party, not only in Colorado, but in the nation. His mention of W. J. Bryan, as already the presidential nominee of the party, was greeted with prolonged cheers.

At 4 o'clock the announcement was made that the credentials committee had not yet reached an agreement and that the convention would stand adjourned until 10 o'clock tomorrow morning.

During the afternoon the delegates of the Second congressional district met and selected James M. D. Reilly of Teller county and S. R. Fitzgerald of Telluride, for district delegates to the national convention and voted to recommend A. T. Gunnell of El Paso county and Charles Henkel of Pueblo county to the state convention as delegates-at-large.

## WEST VIRGINIA DEMOCRACY

**Convention Names Ticket Which May Have Some Bearing on National Politics.**

PARKERSBURG, W. Va., June 7.—The democratic state convention today completed its ticket and adjourned. Following are the nominations:

Governor—John H. Holt.
Auditor—James H. Miller.
Treasurer—James Garland Hearst.
Attorney General—George M. McCoy.
Supreme Judges—John W. English and W. G. Bennett.

The convention had a bearing on national politics, as the new legislature next winter will elect the successor of United States Senator Stephen B. Elkins. The consensus of opinion is that the work of the state convention has been favorable to the candidacy of John T. McGraw of Grafton for the democratic nomination for senator.

## GOLD DEMOCRATS ON DECK

**Call for Conference to Arrange for Putting a Ticket in the Field.**

INDIANAPOLIS, June 7.—A meeting of the national executive committee of the gold standard democratic party has been called for this city July 15 at 2 p. m. It is understood that the chief business of the committee will be to organize for the coming campaign and to see that an independent ticket is placed in the field. The committee will be composed of George F. Peabody, New York; John C. Bullett, Pennsylvania; Gordon Woodbury, New Hampshire; J. J. Valentine, California; Joseph Bryan, Virginia; L. M. Martin, W. R. Shelby, Michigan; Thomas F. Corrigan, Georgia; W. B. Haldemann, Kentucky; J. P. Frenzel, Indiana.

## TAYLOR NOT A CANDIDATE

**Asks Republicans to Relieve Him from Exactions Which Nomination Would Impose.**

LOUISVILLE, Ky., June 7.—The Evening Post prints a statement today under the signature of William S. Taylor, in which Mr. Taylor announces that he will not be a candidate for the republican nomination for governor of Kentucky. Governor Taylor states that after mature consideration of all interests involved in the contest he considers it his duty both to himself and his family to ask of the republicans of Kentucky relief from the exactions which the nomination would impose.

**Nutmeg Democratic Convention.**

WATERBURY, Conn., June 7.—The democratic state convention assembled here today to elect the twelve delegates who will represent Connecticut democracy in the national convention at Kansas City.

The state committee was engaged until a late hour last night considering the New London contest, which was exceedingly acrimonious. The decision was a compromise, the delegation headed by Mayor Beckwith being obliged to share the representation with that led by B. F. Mahan. In the New Haven district caucus ex-Congressman James D. Pigott defeated National Committeeman Alexander Troupe for delegate to the national convention.

The convention unanimously adopted a platform, naming William J. Bryan as its candidate for president, instructing the delegates for Bryan and pledging support to the platform of the Kansas City convention.

**Gold Democrats to Organize.**

INDIANAPOLIS, June 7.—A meeting of the national executive committee of the gold standard democratic party has been called for this city July 15 at 2 p. m. It is understood that the chief business of the committee will be to organize for the coming campaign and to see that an independent ticket is placed in the field. The committee will be composed of George F. Peabody, New York; John C. Bullett, Pennsylvania; Gordon Woodbury, New Hampshire; J. J. Valentine, California; Joseph Bryan, Virginia; L. M. Martin, W. R. Shelby, Michigan; Thomas F. Corrigan, Georgia; W. B. Haldemann, Kentucky; J. P. Frenzel, Indiana.

**Session of Socialists.**

NEW YORK, June 7.—The consideration of the report of the committee on constitution occupied the morning session of the socialist labor party convention today. The national executive committee probably will not be appointed until after the convention.

**Captain Fisher Renominated.**

CRAWFORD, Neb., June 7.—(Special Telegram.)—Captain Allan G. Fisher of Chadron was nominated for re-election by the republicans for representative from this district. The nomination was unanimous.

**Congressional Nomination.**

WESTON, W. Va., June 7.—Hon. B. B. Dovener was renominated for congress by the republican convention of the First district.

**Neely's Package is Attached.**

INDIANAPOLIS, June 7.—Deputy United States Marshal Boyd returned today from Muncie, where he went to attach the mysterious package that reached there on May 29 addressed to Charles F. W. Neely. The package was mailed from San Jose, Costa Rica, May 18.

## GIVES HOME RULE NEW LIFE

Supreme Court Upholds Its Decision in the Police Commission Case.

ALBYN FRANK MUST MAKE A REPORT

**Decision of the District Court of Douglas County is Overruled—Frank Hibbard Loses His Job with the State.**

LINCOLN, June 7.—(Special.)—Before adjournment at noon today the supreme court handed down decisions in three very important cases. One of these holds against the dummy Fire and Police Commission appointed by Governor Poynter, another upholds the act passed by the last legislature fixing salaries of clerks of the district court and the third renders inoperative the law creating the pure food commission.

The decision in the Fire and Police Commission case was based on the adjudication of the case of the State against Moores. The opinion was written by Judge Sullivan, Judge Norval concurring. Judge Holcomb took no part in the decision of this case.

During the morning session of court the motion of the attorney general for a rehearing of the Bartley bondsmen case was argued and submitted. Judge Holcomb withdrew from the consideration of this case and in doing so created a little comment, as practically the same objections to his qualifications were urged in the Fire and Police Commission case as in the bondsmen case.

The opinion of Judge Sullivan in the Fire and Police Commission case says:

This action was evidently instituted to secure a decision overruling the case of the State against Moores. The Moores case lays down the doctrine that whatever the court may conceive to be the spirit of the constitution is to be regarded as part of the paramount law. While the decision, by recognizing and enforcing the essential right of local self-government, is conceded to rest upon sound political principle, it was rendered by a divided bench and, as a judicial pronouncement, has been much criticised. If it is to be acquiesced in and accepted as a rule of construction the constitution of the state is to be fully known only by studying the theories of the judges who are chosen to expound it; it will expand or contract with every fluctuation of the popular will which produces a change in the personnel of the court and the limitations upon legislative power will be as unknown and unknowable as were the rules of equity in the days when the chancellor's conscience was the law of the land. It is the opinion of the writer that the decision is thoroughly vicious, that it strikes a lethal blow at a co-ordinate branch of the government and ought to be repudiated and condemned. But since the members of the court who participate in this decision are not in accord upon the question of constitutional law here involved further discussion of that question is unnecessary and would be unprofitable. There is another point in the case upon which we are agreed and which is decisive of the controversy. The judgment must be in favor of the respondents whether the ordinance under which they claim is valid or not.

**Recital of Local History.**

Briefly stated the facts of the case of the State against Moores are these:

Acting under the provisions of sections 166 and 167 of chapter xii, compiled statutes for 1897, which conferred or assumed to confer upon him authority to appoint fire and police commissioners for cities of the metropolitan class, Governor Holcomb appointed James H. Peabody, D. D. Gregory, William C. Ballard and Charles L. Herdman as fire and police commissioners for the city of Omaha. The persons so appointed duly qualified and entered at once upon the discharge of their official duties. Afterward there was filed in this court by the state, on the relation of the attorney general, an application for a writ of quo warranto against the governor's appointees, the purpose of the action being to obtain an adjudication upon the validity of sections of the statutes under which they had been commissioned. While this action was pending the mayor and council of Omaha provided by ordinance for a board of fire and police commissioners and appointed respondents herein, Matthew H. Collins and Victor H. Coffman, together with two other persons, namely, Peter W. Birkhauser and Charles J. Karbach, to act as members of such board. The persons so appointed by the city authorities intervened in the action and asserted their claims. They contended that the ordinance under which they had been commissioned was valid and that the statute under which Peabody, Gregory, Ballard and Herdman had been appointed was void. The cause was regularly submitted for decision and the court, upon due consideration, decided that the ordinance was valid and that sections 166 and 167 of the city charter, so far as they assumed to confer upon the governor authority to appoint fire and police commissioners, were contrary to the scope and purpose of the constitution and therefore invalid. By the judgment rendered the appointees of the governor were declared to be intruders and were ousted from the offices which they held, and the appointees of the mayor and council were installed in their places. This judgment was executed and it is still in force. The case now before us was commenced during the present term of court. It also is an information in the nature of a quo warranto, whereby the state, on the relation of the attorney general, demands of the respondents, who are members of the Board of Fire and Police Commissioners of Omaha, holding under the authority under which they are assuming to act. After the cause was pending, Governor Poynter, acting on the assumption that sections 166 and 167 aforesaid, are not in any respect violative of the supreme law, appointed James H. Peabody, William J. Broatch, Harry C. Miller and John J. O'Connor as members of the Board of Fire and Police Commissioners for the city of Omaha. Those persons have intervened in the action and filed a pleading in which they assert their claims to the offices held by the respondents. So it appears that we are again called upon to adjudicate between the appointees of the governor and the appointees of the mayor and council the identical matters which were adjudicated in the first case.

**Doctrine of Res Judicata.**

One of the defenses interposed by the respondents is that the judgment in the Moores case, whether right or wrong, is binding and conclusive upon the parties to this litigation. Counsel for the intervenors, on the other hand, contend that while the doctrine of res judicata applies to ordinary suitors it has no application to a sovereign state. The question thus raised is an important one and we have given it careful consideration, reaching the conclusion after much reflection and a thorough investigation of the authorities, that when a state invokes the judgment of a court for any purpose it lays its sovereignty aside and consents to be bound by the decision, whether such decision be favorable or adverse. While the state as a political community is not obliged to submit to the jurisdiction of its own courts it ought, in reason and justice, to be bound whenever it voluntarily appears in court and without reservation submits a matter in controversy for adjudication.

After quoting from a number of authorities in which similar questions were involved the opinion closes with the following:

One other matter calls for a passing notice. The original brief of counsel for respondents conveyed quite plainly his apprehension that political considerations might be a factor in the decision of the case. No judge conscious of his own integrity will listen to such suggestion. No self-respecting court will tolerate an argument which proceeds on the assumption that the goad and the spur are necessary to compel it to discharge honestly its constitutional duty. We know as well as counsel that the supreme and inexorable duty and obligation of a court to truly interpret the will of the lawgiver has no possible relation to the questions of party expediency. It is surely not necessary to instruct us as to that.

**Court Feels Confident.**

We believe thoroughly in the rectitude of our own intentions; we feel sure of the inflexibility of our purpose to administer justice uninfluenced by considerations of party advantage, and we will not permit counsel to deal with us on the theory that we may perhaps be contemplating a be-

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## CONDITION OF THE WEATHER

Forecast for Nebraska:
Fair; Cooler; Northwest Winds.

Temperature at Omaha Yesterday.

| Hour. | Degree. | Hour. | Degree. |
|---|---|---|---|
| 5 a. m. | 72 | 1 p. m. | 87 |
| 6 a. m. | 72 | 2 p. m. | 85 |
| 7 a. m. | 74 | 3 p. m. | 83 |
| 8 a. m. | 76 | 4 p. m. | 87 |
| 9 a. m. | 79 | 5 p. m. | 85 |
| 10 a. m. | 83 | 6 p. m. | 83 |
| 11 a. m. | 84 | 7 p. m. | 82 |
| 12 m. | 87 | 8 p. m. | 80 |
| | | 9 p. m. | 77 |

## NIGHT CARS RUN IN ST. LOUIS

**Service Resumed After Being Suspended for More Than a Month.**

ST. LOUIS, Mo., June 7.—Cars were run on one line of the St. Louis Transit system tonight for the first time since the strike was declared, almost a month ago. In many quarters it was feared that trouble would occur as soon as darkness appeared. At 10 o'clock tonight the police had received no intelligence of the gathering of crowds along the line operated and no fracas of any character had been reported. The line selected to make the test is what is known as the Lindell division, running from the car sheds at Fairfax and Taylor avenues down Finney, Grand, Lucas and Washington avenues to the loop at the entrance to the Eads bridge, a distance of about four miles. Every car carried a police guard and in addition the thoroughfares along the entire route were patrolled by police officers and companies of the posse comitatus, the latter armed with riot shotguns. As the Lindell division passes for the most part through the respectable portion of the city, it is not apprehended that trouble will occur.

Aside from the running of night cars on the Lindell line the last twenty-four hours have brought out practically no new developments in the strike situation.

Another fruitless conference looking to a settlement of the strike was held this afternoon between Judge H. S. Priest, who is now conducting the strike negotiations for the Transit company, and ex-Governor William J. Stone, counsel for the strikers.

Sheriff Pohlman's posse comitatus had grown to 1,277 men this afternoon. The number is deemed sufficient by the sheriff to operate a number of lines after dark. The work of swearing in deputies is being continued daily.

Twenty-five sticks of dynamite were unearthed by the police and detective departments today. Five sticks were found buried under the Easton avenue car tracks at Easton and Vandeventer avenues and twenty additional sticks were found in an abandoned shed at Broadway and Gasconade street, in the immediate neighborhood of the power house of the Southern Electric.

The dynamite found on the Easton avenue tracks had been made into a bomb and placed immediately under the rail. Had a car passed over it at the time the conveyance probably would have been blown to atoms.

**Seven Policemen Shot.**

Three police officers were shot in various parts of the city tonight as the result of riots. Michael Gibbons was hit in the ankle and knee, B. J. Boland in the knee and W. C. Coates in the back. The latter's wound is serious.

Gibbons and Boland were acting as guards on Union line cars and Coates was on a patrol wagon, guarding property of the Transit company.

While standing on the rear platform of a northbound Union line car John Goetling, a photographer, 20 years old, was shot and seriously wounded tonight at Fifteenth and Chambers streets. The city hospital physicians say that Goetling probably will die within twenty-four hours from the result of his injury.

## TOWN DESTROYED BY FIRE

**Virginia in the Mesaba Iron Range of Minnesota Suffers a $600,000 Loss.**

DULUTH, June 7.—The entire business and most of the residence section of the town Virginia, on the Mesaba Iron range, was wiped out of existence today about the noon hour and it only took sixty minutes to do it. In that time fully 125 buildings were reduced to ashes. The main business section of the city is about five blocks from the mill where the fire started and over this intervening territory the flames spread rapidly, carried directly to the business buildings by a fierce southwest wind. The territory over which the fire traveled covered about twelve blocks, about nine of which were thickly built up. Tonight there is not a business house, hotel or store standing in Virginia. The residence portion of the town was only partially burned. The school house is untouched, as also are most of the churches.

The loss is estimated at $500,000, with not more than $125,000 insurance. So far as known no lives were lost.

## WHITESIDE MAY BE PROMOTED

**Commandant of Department of Santiago Praised Highly by General Wood.**

SANTIAGO DE CUBA, June 7.—Colonel Samuel M. Whitside of the Tenth cavalry, commanding the Department of Santiago and Puerto Principe, has been recommended by Governor General Wood for promotion to the rank of brigadier general in recognition of his admirable conduct of the affairs of this turbulent district and in recognition of the importance of the post.

**Political Killing in Santiago.**

SANTIAGO DE CUBA, June 7.—J. T. Bryce of Savannah, Ga., killed a Jamaican named Constantine last night in a fight growing out of a remark by Bryce that if the Americans instead of the English had been fighting the Boers the Transvaal war would have terminated long ago. It is claimed by Bryce that he acted in self-defense. The British consul and Colonel Whitside, the department commander, are investigating the case.

## MEETS A HORRIBLE DEATH

**Workman Falls Into a Pot of Molten Metal and is Rescued Too Late.**

KANSAS CITY, June 7.—Thomas Kern, aged 35 years, an employe of the smelting works at Argentine, fell into a large pot of molten metal and died a few hours later in horrible agony. Kern fell into the pot in a sitting posture. His companion shouted with horror, while the man, gasping in agony, laid his hands on the other side of the red-hot kettle and tried to raise himself out. Other workmen hurried to his assistance and removed him from his position.

**Ball in Honor of Admiral Dewey.**

COLUMBUS, O., June 7.—The reception and ball at the Chittenden hotel tonight in honor of Admiral and Mrs. Dewey was attended by the leading society people of Columbus and other Ohio cities. Admiral and Mrs. Dewey will leave for Detroit tomorrow morning.

## IMPOSE FINE ON BEE

Supreme Court Passes on One of the Contempt Cases Before It.

HOLDS PUBLISHING COMPANY GUILTY

Fixes the Penalty for Printing Obnoxious Articles at Five Hundred Dollars.

JUDGED TO BE IMPEDIMENT TO JUSTICE

Long Dissertation on Right of Litigants to Impartial Hearing.

CASE OF EDWAFD ROSEWATER HELD UP

**Opinion of the Court is Handed Down by Justice Sullivan, Justice Holcomb Concurring—Opinion in Full.**

LINCOLN, June 7.—(Special Telegram.)—The supreme court this morning found The Bee Publishing company guilty of contempt of court and imposed a fine of $500. No decision was rendered in the case against Edward Rosewater. The syllabus of the court's opinion is:

"The common law power of the court to punish for constructive contempt is in this state expressly confirmed by legislative enactment. Every litigant is entitled, not only to a just decision of his cause, but to a decision rendered by a court which is at the time entirely free from physical and moral coercion. The press and the public have the right to fully discuss, criticise and censure the decisions of the courts, but they have no right, while a cause is pending, to attempt by threats or other form of intimation, to control judicial action. A newspaper corporation which deliberately seeks to influence judicial action by the publication of articles threatening the judges with public odium and reprobation in case they decide a pending cause in a particular way, is guilty of constructive contempt.

**Opinion of Judge Sullivan.**

Opinion by Judge Sullivan:

"This proceeding for contempt, instituted by the attorney general at the request of this court, is based upon certain newspaper articles relating to the case of State against Kennedy, which was at the time of the publications pending before us for decision. The defendant is a corporation engaged in the publication of a newspaper which has a general circulation throughout the state. The editor is Edward Rosewater, who has also been cited to show cause why he should not be punished for contempt and who has at his own request been awarded a separate trial. Some of the articles were obviously designed to prevent one member of the court from participating in the decision, while others threatened two members of the court with public odium and reprobation in case they should give a judgment in favor of the state. One article, which was entitled 'Worthy of Serious Consideration,' after declaring that Judge Holcomb, before coming to the bench, had expressed an opinion upon the question involved in the Kennedy case, proceeds as follows:

"Having prejudged the case, Judge Holcomb must certainly realize that it would be in conflict with the spirit if not the letter, of the constitution and laws for him to use his judicial position to sustain himself in his former declarations. To set the precedent by participating in this case, after having formed and expressed an opinion, would lower the standard of the tribunal from which impartial and equal justice is expected to be administered and whose unbiased interpretations of the constitution is the bulwark of our free institutions."

"Soon afterward the following article appeared:

"Fusion ward heelers in Omaha are again giving advance tips to the effect that the fusion judges of the supreme court will hand down a decision at their sitting two weeks from next Tuesday ousting the present Board of Fire and Police Commissioners and seating the pretended board appointed by Governor Poynter. Has it not come to a pretty pass where supreme court decisions are retailed in this manner in Third ward resorts and on street corners?"

**Article Which Offends.**

"A little later there was published an article entitled 'Politics in the Courts' (reprinted from the Grand Island Journal), which is as follows:

"It is reported that the fusionists in Omaha are preparing to profit by action of the fusion supreme court when it reverses the ruling of the court in the fire and police commission case. If Judges Sullivan and Holcomb lend their aid to the scheme of the Omaha bunco steerers they will be a disgrace to the legal profession and the laughing stock of every lawyer in the land. It is to be hoped that the fusion members of the supreme court will prove more manly than their heelers at the metropolis would have them be."

"Another article, entitled the 'Ethics of Justice,' published May 8, 1900, is too long for insertion in this opinion, but its character is sufficiently indicated by the following excerpt:

"A due appreciation of the sacred duties of the judicial office and the inviolable right of every citizen to speedy and impartial justice should counteract all pressure of political partisans anxious to use the judicial ermine to cloak their schemes for political power and preferment. If it does not, then Nebraska's motto, 'Equality before the law,' becomes a delusion and a snare."

"Defendant appeared in court by counsel and defended the accusation against it upon the grounds—first, that no disrespect to the court or to any member of the court was intended; second, that the case of the State against Kennedy was not pending; third, that the publications were made with good motives and were not calculated to obstruct the due administration of justice. The Kennedy case was pending, of that we have judicial knowledge, and the defendant must surely have known that the case was in court and undetermined, for it appears that the attorney for the respondents brought their brief to Mr. Rosewater's office and that the article headed 'Worthy of Serious Consideration' immediately followed the meeting between the editor and the lawyer. It also appears from the evidence that the article was written for the express purpose of calling public attention to the alleged impropriety of Judge Holcomb participating in the decision of the court.

**Calls Defense Puerile.**

"The first and third defenses are puerile. They amount only to a denial that the defendant intended to violate the law. Under the conceded fact the course pursued by it was indefensible, its conduct is not susceptible of an innocent construction. The state declares that any willful attempt to obstruct the proceedings, or hinder the due administration of justice in any suit, proceedings or process pending before any court shall constitute a criminal contempt and be punishable as such. (Section 669, Civil Code.) This statute is merely declaratory of the law as it has existed for hundreds of years. It is a legislative recognition of the authority of the courts to deal in a summary manner with persons who do any wanton, deliberate or intentional act