

IS MAYOR BEYOND THE LAW

Kelly's Counsel Brings This Claim to Secure Executive's Release.

IMPEACHMENT SAID TO BE ONLY REMEDY

South Omaha Mayor Seeks Escape from Charges of Bribery—His Office is Beyond the Pale of Statutes.

If Mayor Allen R. Kelly of South Omaha can find an escape from a trial for bribery through a loophole in the law the criminal suit brought by the state against him before Judge Vinsonhale will not reach a hearing. When the case was called at yesterday's session of court Kelly's attorneys at once entered a demurrer that is practically a plea in abatement. They informed the court they will ask for a dismissal on the ground that Kelly, in the capacity of mayor, cannot be tried under the state laws on the charge of bribery.

The statutes were read to show that only ministerial or judicial officials may be subjected to a trial for such offenses. The contention was made that the office of mayor is executive, decisions of the United States supreme court being quoted to establish the distinction between the terms "executive" and "ministerial" or "judicial."

Kelly holds an executive office, the attorneys argued, and therefore he is not under the jurisdiction of the statutes. He can be impeached and removed from office, but he is not to be tried for a crime on which the prosecution rests, but the present complaint is held to be defective for the reasons mentioned, and the case based on it ought to be dismissed. This state's theory is that the office of mayor properly comes under the head of ministerial and judicial both.

The charge against Kelly is that he received \$2,000 from eight brewing associations the Omaha Brewing association, J. Schiller Brewing company, W. J. Long Brewing company, Krug Brewing company, Metz Brewing company, South Omaha Brewing company, Pabst Brewing company and Anheuser-Busch Brewing company—a fee for assuring the privilege of selling liquor during the hours of sale to be forbidden by the statutes—election day, Sunday and between midnight and 5 o'clock in the morning.

No Loophole for Kelly. At the conclusion of a protracted argument by the attorneys Judge Vinsonhale overruled the demurrer. In his opinion the title of the statute is broader than the subject, or, in other words, executive officers are included under the terms ministerial and judicial, and so this point of law is settled as far as the present case is concerned and the hearing will go on. But it will not be resumed immediately, as the attorneys for the defense asked for a continuance when the decision of the court was made known, pleading that they need time to look up other details. Acquiescing in the request, Judge Vinsonhale postponed the hearing until December 14 at 10 o'clock.

There is a second case against Mayor Kelly on a similar charge. This was set for December 18. On that date Mr. Kelly will be called upon to answer to the specific charge of having accepted certain sums of money from Thor Jorgeson, Myron Sherman and others paid in consideration of his promising them immunity from police interference in conducting gambling houses.

Before court adjourned the attorneys asked permission to take the testimony of George Krug, a witness who will be absent from the city on the date of the hearing. Krug's testimony is a denial in toto of knowledge rendered to the payment the brewing company is said to have made to Kelly. Mr. Krug said that he had never paid any sum to Kelly, nor had he ever promised to pay him any sum. He added that he has no knowledge of the finances of the company and has never been paid a penny by anybody connected with the concern.

TRAIN CONDUCTOR IS JUSTIFIED. Sutherland Will Secure No Damages Because of Ejection.

In the suit of G. R. Sutherland against the Burlington Railroad company in the United States circuit court, seeking \$5,000 damages for illegal expulsion from a train of the defendant, Judge Cavanaugh instructed a verdict for the defendant.

The evidence in the case showed that one day last year G. R. Sutherland, an agent of a South Omaha commission house, in charge of two cartons of stock, received from the railroad company a transportation contract which entitled him to transportation on the freight train carrying the stock. He went to Emerson, Ia., where the stock was unloaded and then, according to the terms of the contract, presented that instrument to the local agent of the company to be exchanged for transportation to Omaha. The agent refused to supply him with a ticket, but, at his request, filled out a blank on the back of the contract which purported to be a pass for the defendant to Emerson on Omaha. This was the conductor on the passenger train refused to honor and ejected Sutherland from the train a few miles out of Emerson.

In ordering a verdict for the defendant the judge intimated that the local agent of the company exceeded his authority in filling out the blank pass, and that the conductor was justified in ejecting the passenger, as his instructions were positive not to honor such contracts for passage.

NO ADMITTANCE TO CUSTARD. Space Behind Grocery Counter Fenced In by Court's Order.

W. P. Custard has been restrained by the district court from going behind the counters of the grocery store at Thirtieth and Meredith streets and assuming proprietary airs and pretensions. His privileges in this respect were restricted at the request of William Will, half owner with Florence McKee in the store mentioned. Will complained to the court that Custard has been in the habit of entering the grocery, walking around behind the counters in the way of the clerks and telling customers that he owned the place. He declined to leave the place, being supported in his pretensions by another partner. Judge Fawcett issued the injunction prohibiting Custard from proclaiming himself as partner in the store or going behind the counter. The writ was made returnable on December 8.

Fence Must Be Kept Intact. By tearing down and carrying away a fence marking a boundary line established by the district court between two farms, John R. Ritter and his three sons, John, Charles and Frank, have caused themselves to be cited before Judge Dickinson for contempt of court.

Frederick Beyer, and his neighbor, line between their land for a good many years prior to June 26, 1899, when the court determined its location and enjoined Ritter from interfering with a fence built along the line to Beyer. Ritter is said to have moved this fence. Judge Dickinson set December 10 as the date for Ritter and his sons to appear and show cause why they should not be punished for contempt.

Court Notes. John J. Gillen has commenced suit against the Cudahy Packing company to recover damages in the sum of \$25,150 on account of injuries received in an accident due to defective machinery in the Cudahy plant. Gillen alleges that his hand was crushed so that the bone had to be removed. Charles Roosevelt and John E. Veatch are undergoing a third trial before Judge

DOCTORS FAIL IN THEIR DUTY

Contagious Diseases Exist in Omaha Which Are Not Reported.

SMALLPOX IS NOT PROPERLY DEALT WITH

Neglect of Physicians in the State Arouses Dread of Epidemic—Omaha Man Catches Smallpox from "Cuban Itch."

SKERRETT IS ORDERED WEST

Well Known Omaha Officer is Transferred to Colorado—Lee Arrives Today.

Orders have been issued from Washington transferring Captain Delamere Skerrett from the position of judge advocate of the Department of the Missouri to a similar position in the Department of Colorado. He will be succeeded here by Captain James M. Erwin, acting adjutant general, who will be succeeded today by Major Michie, late adjutant general of the Department of Havana. Captain Skerrett follows his chief as Major Michie follows Lee. The position, labeled Colonel Merriam, is now stopping. The latter arrived in Omaha yesterday. Immediately following the meeting the orders of General Merriam surrendering command will be issued. The orders of General Lee assuming command will appear simultaneously, and the transfer will be complete. Major Michie will arrive with his chief and will take charge of his office at once. The date of the arrival of the new inspector general is not known at present.

The quartermaster's department has sent to Cuba from Jefferson Barracks 109 recruits, and next week 175 will go to the same destination from Fort Riley. Colonel Torney, surgeon in charge of the government hospital and sanitarium at Hot Springs, Ark., is in camp on the wife of his daughter, the wife of Lieutenant Ryan of the Sixth cavalry, who is coming east from San Francisco.

SUSPICION OF FOUL PLAY

Relatives of Schill and Kroft Desire Coroner to Investigate Supposed Asphyxiation.

At the request of relatives of Ferdinand Schill and Frank Kroft, who were asphyxiated in the Little Gem rooming house, Fourteenth and Webster streets, Saturday night, the coroner has decided to hold an inquest this afternoon. There is evidence, it is alleged, that both young men had money immediately before they retired and it is thought there may have been foul play. Chris Mathisen, proprietor of the Little Gem saloon, says his brother-in-law, Schill, had \$10.00 at midnight, but when found dead in the morning there was only 60 cents in his pocket. Kroft also had several bills, the denomination of which he doesn't know, but all of these were missing in the morning and his pocketbook was empty, save for some small change, amounting to 30 cents.

Kroft's funeral will be held Tuesday morning, interment in St. Mary's cemetery. The body of Schill will be buried in Laurel Hill cemetery Wednesday afternoon.

LIBERTY HAS NO ATTRACTIONS

Youths Guilty of Theft and Without Homes are Being Sent to Enter the Reformatory.

"Doc" Silcott, a 16-year-old boy, pleaded guilty in police court Monday to breaking into a Union Pacific freight car Thanksgiving day and stealing \$55 worth of silver bullion. He was held to the district court, where an attempt will be made today to have him sent to the reform school. For his years Silcott is an old offender and has given the police much trouble. A year ago he was implicated with a Woodcock and another, two notorious characters, in a series of freight-car robberies and his extreme youth alone saved him from accompanying them to the penitentiary. He has no parents and for several years has lived in shanties along the river front. He says he would like to go to the State reformatory.

Silcott was arrested last Friday by Special Officer J. C. Viggard. The stolen bullion has not been recovered as yet.

TRAMP CLAIMS HIS RIGHTS

Asks Damages for Ejection from Train After He Had Given Brakeman Fifty-Cent Fee.

In the United States circuit court there is being determined the right of a tramp on a freight train. In 1899 Angelo Petretta, an Italian who needs an interpreter to converse with Americans, found himself at North Platte on the Union Pacific railroad. He had no money to buy a ticket, but paid a brakeman 50 cents to be permitted to ride to this city. He was instructed by the brakeman to get on top of a box car which was attached to the train, and according to his story he climbed up and sat on the brake wheel. After the train had started, he testifies, the conductor or some other trainman came along and asked him for more money, which he refused to pay. With clubs the trainmen then drove him from the top of the car while the train was running at full speed. He fell under the car and lost an arm. He now asks \$15,000 damages.

A Village Blacksmith Saved His Little Son's Life.

Mr. H. H. Black, the well known village blacksmith at Grammaeville, Suvaiva Co., N. Y., says: "Our little son, five years old, has always been subject to croup, and so had the attacks been that we have feared many times that he would die. We have had the doctor and used many medicines, but Chamberlain's Cough Remedy is now our sole reliance. It seems to dissolve the tough mucus and by giving frequent doses when the croupy symptoms appear we have found that the dreaded croup is cured before it gets settled." There is no danger in giving this remedy, for it contains no opium or other injurious drug and may be given as confidently to a babe as to an adult.

Another Old Settler Gone.

Died, at 6:20 a. m. December 3, of pneumonia, Mrs. Ruth S. White, wife of ex-Minister William White. The deceased with her husband and family settled in Omaha in the summer of 1857 and has resided here continuously since that time. She was an exemplary and industrious woman, a kind mother and loving wife, highly respected by all who had the pleasure of her acquaintance. Mrs. White was the mother of seven children, four of whom are living and arrived at years of maturity. The deceased was a devoted member of the Presbyterian church and will be buried from the family residence on Wednesday at 2 o'clock p. m. Friends of the family are invited.

Less Than Half Rate

Port Arthur, Houston and Galveston, Texas, on sale December 10th, only via O. & St. L. Ry. All information at city ticket office, 1415 Farnam St. (Paxton Hotel block), or write Harry E. Moore, C. P. & T. A., Omaha, Neb.

Parties Having Washington State Transmississippi Exposition Commission scrip Will Please Communicate with us.

THE BEE PUBLISHING COMPANY.

Have We Done It?

Ten days ago we talked with a large advertiser who told us a successful advertiser is one who keeps people guessing what is coming next in an ad. In writing this we were thinking of that man and it came to our mind. Have we kept any druggists guessing about our "Cough Remedy"? Cramer's Kidney Cure..... 75c Menen's Talcum Powder..... 12c Syrup of Figs..... 30c Huxham's Hair Restorer..... 75c Miles' Nerveine..... 75c Carter's Liver Pills..... 15c Hremo Quinine..... 15c 1 doz. 2-gr. Quinine Capsules..... 7c 1 doz. 5-gr. Quinine Capsules..... 15c Plakham's Compound..... 75c Peruna..... 75c Uncle Sam's Tobacco Cure..... 50c Dr. Kari's Creamer's Pennyroyal..... 91.00 Shradler's Pig Powder..... 25c Pierce's Prescription..... 65c Doan's Pills..... 40c

SCHAEFER CUT PRICE DRUGGIST

S. W. Cor. 16th and Chicago.

BOSTON STORE GREAT RIBBON SALE.

Today Greatest Sale of Ribbons Ever Held in the United States. \$1.00 RIBBONS FOR 15c. 25c RIBBONS FOR 5c.

Every three months one of the largest ribbon mills in Paterson, New Jersey, sends us their entire accumulation of ribbon remnants.

When the mill weaves a piece less than ten yards it goes in the remnant lot, and every so often they ship these remnants to whomever has the contract. For the last three years we have had the contract, and in all these three years we have never received such a fine lot. They have been in our show window for the past week and have been much admired. They go on sale today for the first time.

1.00 LOUISIAN RIBBON, 15c.

All the very fine Louisiana ribbon that generally sells for up to \$1 yard, in all the new pastel shades, go at 15c yard.

50c SATIN AND TAFFETA RIBBON, 10c.

All the extra heavy satin and taffeta ribbon, in all the new colors, that generally sell for 50c yard, go at 10c yard.

25c FANCY AND PLAIN RIBBON, 5c.

All the fancy and plain, wide and narrow, high grade ribbon that generally sells for 25c, go at 5c yard.

15c RIBBONS AT 24c YARD.

All the ribbons that generally sell up to 10c and 15c yard, in narrow and wide widths, plain and fancy, every imaginable color, go at 24c yard.

These remnants are on sale on main floor, bargain square, and this will be the biggest ribbon sale Omaha has ever witnessed.

BOSTON STORE, OMAHA, N. W. Cor. 16th and Douglas Sts.

Union Labor Supports Electricians.

The Electrical Workers' union in its contest with the New Thompson-Houston Lighting company has secured the endorsement of the building trades of Omaha. Yesterday it was reported that the strike was to be ordered on the new pier building, where Thompson-Houston men were

Smallpox Vaccine

We sell Smallpox Vaccine in slender glass tubes (glycerinated) and on ivory points. Fresh supply received two or three times daily. Write or telegraph us.

FAIR PLAY FOR THE WIDOWS

Omaha Woman's Club Will Endeavor to Secure Re-Enactment of Judge Baker's Measure.

A committee of the Woman's club has been appointed to urge the incoming legislature to pass a law that will give to widows an absolute title to real property left by their husbands, instead of only the usufruct, which they enjoy under the statute now in force. In 1889, when Judge Ben S. Baker was a member of the legislature, he introduced and secured the passage of a bill providing that one-half of the real estate of a man dying intestate should pass absolutely to his widow, and one-half to his father and mother, if they were then living. If they were not, then the estate should pass absolutely to the widow. In cases where there were children to be cared for, the Baker law was declared unconstitutional on the technical ground that its title was insufficient, bringing into force the old law providing that the widow should have only a life interest in the real property of which her husband died seized.

The members of the Woman's club believe that a widow should receive an absolute title to her just share of the realty left by her husband and be free to dispose of it as she may desire. With this opinion firmly planted they are going after the members of the legislature to secure a practical re-enactment of the Baker law.

TOMMIE GETS HIS DESERTS

Prosecuting Attorney is of the Opinion that Rude Youngster Deserved Chastisement.

"What did your folks have for Thanksgiving dinner?" asked little Tommie Molke of little Agnes Kastner.

"We had roast pig," answer Agnes.

"I thought," said Tommie, "brine pig? Why didn't you have your grandpa give you some of the chickens he stole?"

Then Agnes' mamma, who overheard the conversation, came out and gave Tommie a whipping to improve his manners, and today Tommie's mamma called at the police station to have Agnes' mamma arrested. But the city prosecutor refused to give her a complaint, saying that Tommie probably got no more than he deserved.

The child referred to the arrest of Joseph Kastner, a mamma called at the police station and their subsequent fine in police court for stealing two sacks of dressed chickens.

Announcements of the Theaters.

The current engagement of the "Quo Vadis" company at Boyd's theater will close Wednesday night and a matinee will be given Wednesday afternoon. Frequent curtain calls during each production have attested the admiration excited by this splendidly-staged religious drama. Friday will witness the coming of William Collier in "On the Quiet," his new comedy. Seats go on sale Wednesday for the Collier engagement of two nights and a matinee.

The show at the Orpheum this week has scored a big hit and is drawing the happy crowds. The Strator Zouaves present a startling performance and are a big stage novelty. They will prove a good drawing card all through the engagement. Fields, the juggler, and Al Shean and Charles E. Warren in "Quo Vadis Upside Down" are also strong and fine features.

Tommy Meyer, formerly manager of the Orpheum theater at Los Angeles, is in the city. Mr. Meyer is the advance representative of the "Orpheum Show," which comes to the Creighton Orpheum next week.

UNION PACIFIC OVERLAND WORLD'S PICTORIAL LINE

A DUAL ROLE FASTEST TRAINS AND SHORTEST LINE.

Business men and others recognize the importance of this combination by selecting the UNION PACIFIC for WESTERN POINTS

OMAHA To SALT LAKE CITY - 10 Hours Quicker than any other Line. To SAN FRANCISCO - 15 To PORTLAND - 15

OMAHA To SALT LAKE CITY - 238 Miles Shorter than any other Line. To SAN FRANCISCO - 310 To PORTLAND - 64

New City Ticket Office 1324 Farnam Street. Tel. 316.

working with union builders, but before the men walked out the electricians quit and the union men resumed work.

The firing of the Deere building has been secured by the business agent of the Electrical Workers' union for a firm conceded to be fair and three other jobs have been suspended pending a settling of bids at the suggestion of George E. Russell. This strike is the only one of the same length in the city where no head feeling or personal encounters have resulted from the active enforcement of the boycott.

Cook's Imperial Extra Dry Champagne

is the wine for Americans. Its purity and bouquet commend it to them.

Do you need a hired girl? A Bee maid will bring one.

Burlington Route

Homeseekers' Excursions

to many points—west and north-west—south and southwest.

One Fare Plus \$2.00 for the Round Trip.

December 4 and 18, January 1 and 15.

Return limit of tickets—twenty-one days from date of sale.

TICKET OFFICE, 1502 FARNAM STREET, TEL. 250.

BURLINGTON STATION, 10TH AND MASON STS. TEL. 128.

W. W. SAMOSET COLLAR

Write for Catalogue of Drugs and Rubber Goods.

Sherman & McConnell Drug Co

Southwest Cor. 16th and Dodge Sts.

HAYDEN'S Particulars as the Goods Come In.

A lot of news in a few words. Our cloak buyer was in New York last week and the immense cloak stock of Frelander & Co. was sold at auction. Trade was quiet with the manufacturers of cloaks, suits, skirts, waists and wrappers. He secured some of the greatest bargains we ever knew of. Some came by express and are now here. Others are coming by freight and will be here in a few days.

We will give you further particulars as the goods come in. For tomorrow, Tuesday, we have one hundred box coats, silk lined throughout in kerseys and fancy mixtures with storm and coat collar; others tell you they are a bargain at 14.50—Hayden's price Tuesday—

Ladies' Kersey Coats in tan and black, with high storm collar, well made, silk sewed throughout; others

Ladies' Automobiles in castors, tans and other colors, satin lined throughout; others ask you \$25.00 and \$30.00; Hayden's price

Ladies' box coats made from the well known Washington Mills Kerseys, lined with the famous Skinner's satin, trimmed with straps of same material; sold elsewhere in this city for \$14.75; Hayden's price Tuesday

SPECIALS FOR TUESDAY.

Ladies' Coney Collarettes, satin lined, 12-inch collar, each

Ladies' Silk Waists—

at Ladies' Rainy-Day Skirts,

at only

Ladies' Wrappers, 15-inch flounce, heavy flannelette, at

Great Special Sales on Millinery This Week.

HAYDEN BROS.

Vitalized Air for Painless Extracting.

\$8.00—Best Set Teeth \$8.00. All work warranted to give satisfaction.

TAFT'S PHILADELPHIA DENTAL ROOMS 1517 Douglas Street.

DENVER Sick Dogs

ELFAS ON DOGS—MANGE ON DOGS—DISTEMPER IN DOGS—

Are unnecessary evils. They can all be cured, and it is the duty of everybody keeping dogs to see that they are free from diseases before cold weather sets in.

50c Clayton's Distemperine..... 40c 50c Clayton's Mange Cure..... 40c 25c Clayton's Erythra for Dogs..... 20c 50c Clayton's Vermifuge..... 40c 50c Clayton's Tonic Pills..... 40c 50c Clayton's Laxative Pills..... 40c 50c Clayton's Soap..... 15c

J. A. FULLER & CO. 14th and Douglas Sts. Open All Night.

Smoke the best. Ask your dealer for a

MERCANTILE

IT COSTS YOU NO MORE THAN INFERIOR BRANDS. F. R. RICE N. C. CO., Mfrs. St. Louis. UNION MADE

The Ins and Outs

Of the clothing trade are as numerous as in any other. You may have quite a considerable amount of knowledge about fit and finish—and even quality—but yet be imposed upon. It requires an analytical mind sometimes to differentiate the good from the bad.

Your knowledge cuts no figure in your buying at this house. Your boy can trade here with perfect safety. You need not trust to your memory as to where to buy it—buy it here, and, if you're not satisfied, bring it back and get your money. Our name plate in our clothing is a guarantee that it's all right.

We have Men's Suits and O'Coats

Equal in every way to merchant tailoring, except the price. We would like to have you look at both before you buy your Winter Suit or Overcoat.

Pages of honest praise would not convince you so quickly as a brief visit to our store.

Men's Suits at \$4.50 and up.

Men's O'Coats at \$5.50 and up.

Nebraska Clothing Co

CLOTHES FOR MEN & WOMEN

HAYDEN'S Special Watch Sale

Tuesday, we will make special low prices on all the standard makes of reliable watches. We show the most complete assortment in all the guaranteed movements, cases and sizes.

Make your selection now and we will hold the watch for you until wanted. A grand assortment of latest novelties in jewelry and silverware for the holidays, now on sale.

Another Big Book Sale

On Tuesday, we will put on sale the most astonishing values in fine books ever known in Omaha. New copyrighted \$1.50 books on sale at 81c.

\$1.00 Shakespeare's complete works, on sale at 25c.

\$1.25 copyright books on sale at 25c.

Books of all descriptions, suitable for the holidays, all on sale at cut prices Tuesday.

Grand Holiday Sale Leather Goods

Just the Thing for a Christmas Gift.

Pocketbooks, card cases, bill books, hand bags, etc., in seal, morocco, alligator, walrus, etc., at prices that can't be compared with.

50c silver gaitered finger purses, 25c. 25c combination pocketbook and card case, 15c. 50c combination pocketbook and card case, 25c.

\$1.00 genuine seal, walrus or morocco combination books, 50c. 25c genuine seal combination books, seal lined, \$1.00. A beautiful line of dressing cases, cuff boxes, etc., in Suedes, leathers.

PIANOS SOLD ON EASY PAYMENTS.

Special Bargains in Silks

In the Economy Bargain Room. 50 bolts of black pongee silk, 21-inches wide, all go on sale at 15c.

25 bolts of beautiful changeable silk, pretty colors and designs at 15c.

100 pieces of fine silk and satin, all the bright and pretty shades, all go at 39c and 25c a yard.

Big stock reducing silk sale now going on—the biggest of silk bargains of all kinds.

HAYDEN BROS.

Great Special Sales on Millinery This Week.

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Vitalized Air for Painless Extracting.

\$8.00—Best Set Teeth \$8.00. All work warranted to give satisfaction.

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