

RHEA FIGHTS TO SAVE NECK

Convicted of Murdering Zahn, He Seeks Reversal from Supreme Court.

REPUBLICANS SAVE TAXPAYERS MONEY

Check to Fuston Family Held on the Treasury to the Extent of One Hundred Thousand Dollars.

(From a Staff Correspondent.) LINCOLN, Feb. 15.—(Special.)—The fate of William Rhea, convicted of the murder of Herman Zahn, once more depends upon the judgment of the supreme court.

In the trial court he was found guilty in the first degree and the supreme court last month affirmed the decision, setting April 25 as the day of execution. Through his attorneys Rhea now asks for a rehearing. The murder was committed in a saloon near Fremont, Herman Zahn, the keeper of the place, being fatally shot during an encounter and an attempted help.

The attorneys for the defendant contend that as the shooting occurred during a riot the verdict of guilty in the first degree is contrary to law, it not being shown that the murder was premeditated. The attention of the reviewing court is called to the following instructions of which the judge was requested to give to the jury: "The court instructs you that proof of robbery after the shooting of Herman Zahn is not proof that the accused, William Rhea, intended to rob him at the time of such shooting."

Judge Grimsom, before whom Rhea was tried, declined to give the foregoing instruction near the door of the saloon, from the impulse of the moment. That up to that time there was nothing to indicate an intent to rob, no preparation for fight, and nothing prepared necessary to insure success in a robbery; and that the robbery, if such there was, was an afterthought.

Excuse for Asking Reversal. Judge Grimsom, before whom Rhea was tried, declined to give the foregoing instruction near the door of the saloon, from the impulse of the moment. That up to that time there was nothing to indicate an intent to rob, no preparation for fight, and nothing prepared necessary to insure success in a robbery; and that the robbery, if such there was, was an afterthought.

Large Saving to Taxpayers. The cost of maintaining the various state institutions under the first year of the republican administration compared with the last year of the fusionists represents a saving to the taxpayers of more than \$100,000.

When the republicans assumed control among the first things done was to ascertain how many friends and relatives of fusion officials were being kept at the institutions at the expense of the state.

Chicago University Alumni. The third annual banquet of the Nebraska club of Chicago university alumni was served tonight at the Lincoln hotel, sixty persons attending. Prof. W. G. L. Taylor presided and toasts were given by Prof. J. Lawrence Laughlin of the Chicago university faculty, Chancellor Andrews, Albert Watkins, W. A. Clark of Peru and A. H. Weir.

Yerger of Fremont Acquitted. FREMONT, Neb., Feb. 15.—(Special.)—Frank Yerger was acquitted by the district court yesterday of the charge of statutory assault on Vanetta Vanhook's daughter of P. E. Vanhook of Nickerson.

Hebron Presbyterians Multiply. HEBRON, Neb., Feb. 15.—(Special.)—One of the greatest religious revivals ever experienced in this community has closed at the Presbyterian church. Ninety people made confession.

KELLEY, STIGER & COMPANY SPRING DRESS GOODS AND NOVELTIES FOR 1902.

New Silks! New Silks!

A most exclusive collection of spring silks—styles and shades are different from those generally shown, are sure to attract the attention of those who desire the choicest and best.

NEW EMPRESS CREPE SILK—In the new designs and colors, large assortment, at 85c. THE NEW IMPERIAL WASH SILK—White and cream and all the new spring colorings—27 inches wide, at \$1.00.

Grenadines will be in demand every month in the year. We have them in broche, iron frame, ribbon, stripes and many fancy designs—45 inches wide from \$1.00 to \$6.00 yard.

Our line is complete in black silks, imported black duchesse and peau de soie, best values ever offered, 69c, 89c, \$1, \$1.15, \$1.50.

Taffeta Silks. 22-inch Black Taffeta..... 65c 27-inch Black Taffeta..... \$1.00 27-inch Black Taffeta..... 85c 28-inch Black Taffeta..... \$1.25

Black Dress Goods

The undisputed superiority of our black dress goods department commands the attention and investigation of all.

The following are a few of the many special values that will be of interest to all buyers.

54-inch fine imported broadcloth—\$1.50, \$2.00 and \$5.00 yard. Venetian cloth, very desirable for spring suits, 54-inch wide, \$2.75 quality sale beginning Monday, for \$3.00 yard.

Colored Dress Goods

Etamines, Wool Crepe de Chine, Voiles, Wool Iron Frame Etamines, Acollines, Algo Crepe, Miral, Canvas Cloth, Batiste, fancy silk stripe Challis, latest novelty for children's dresses and waists, plain shades, 30 inches wide, 75c.

50 Per Cent Discount

Our Discount Sale on women's and children's long coats, raglans and jackets to be continued until every garment is sold at 50 per cent discount.

KELLEY, STIGER & COMPANY, Corner Farnam and Fifteenth Streets.

White Goods

Women instinctively turn to this store for stylish goods. Our line of white goods is exclusive in style and comprises all the latest novelties shown.

REP-ET-ETE—For shirt waists, corded stripes on very fine pique ground, 15c yard. HEAVY CORDED LAWS—For waists or dresses, 18c yard. FANCY STRIPED LAWNS—In medium weight, for waists or dresses, 25c yard.

New Wash Goods

Our range of wash goods is always a broad one, but broader this season than ever. Hundreds of pieces and styles. Each piece different from the other. Such a gorgeous array of new weaves would hardly be expected outside of this store.

DARK BLUE AND BLACK GROUND LAWNS—In small dainty designs, fine grade, at 10c yard. SEERSUCKER GINGHAM—This is perhaps the best house-dress fabric, and the most serviceable, 12 1/2c yard.

New arrivals in Laces, Veilings, Embroideries, Costume Nets and Dress Trimmings.

White, ecru and butter—Venise Lace and Batiste with Venise Lace Galleons—new designs that can be separated—at 35c, 40c, 50c, 75c, \$1.00, \$1.25 and \$1.50 a yard.

BLACK CHANTILLY LACE GALLEONS—Medallion effects, serpentine and irregular effects—25c, 15c, 10c, 5c and 7c a yard. WHITE POINT DE PARIS LACES—New bow knot ribbon effect, complete set of widths to match—at 5c, 7 1/2c, 11c, 12 1/2c, 15c, 20c and 25c a yard.

New Embroideries

Elegant assortment of choice new styles just opened.

FINE SWISS AND NAINSOOK EMBROIDERIES IN MATCHED SETS—Edges, flounces, insertions, headings, galleons and alovers to match. NEW NAINSOOK AND SWISS BEADINGS—in endless variety—at 7 1/2c, 8c, 10c, 12 1/2c, 15c, 20c, 25c to 60c a yard.

Special attractions in Muslin Underwear

Perfect fitting, well made garments, for very little money.

Gowns

50c GOOD MUSLIN GOWNS—Square neck, tucked yoke, with lace insertion, and lace ruffles. 85c GOOD MUSLIN GOWNS—V neck, tucked yoke, with lace insertion, and ruffled edged with lace.

Skirts

75c GOOD MUSLIN SKIRTS—With deep tucked flounce. \$1.00 GOOD MUSLIN SKIRTS—With deep cambric flounce, with 4-inch lace ruffle. \$1.45 FINE CAMBRIC SKIRTS—Deep flounce with 4 rows herring bone stitching and point Paris lace insertion, and lace edge.

Drawers

25c GOOD MUSLIN UMBRELLA DRAWERS—With deep tucked flounce. 50c FINE CAMBRIC UMBRELLA DRAWERS—With deep embroidery flounce. 90c FINE CAMBRIC UMBRELLA DRAWERS—Deep flounce with 4 rows of fine tucks, edged with point de Paris lace. AND A FULL ASSORTMENT OF CORSET COVERS.

GOVERNOR SAVAGE'S REPLY

Submits Defense in Omaha Fire and Police Mandamus Case.

ATTORNEY GENERAL PREPARES THE BRIEF

Claims Supreme Court Has No Jurisdiction Over Executive, that Being Co-Ordinate Branch of State Government.

(From a Staff Correspondent.) LINCOLN, Feb. 15.—(Special.)—The defense of Governor Savage in the Omaha fire and police mandamus case will be that the executive department, being a co-ordinate branch of the state government,

is not within the jurisdiction of the supreme court for direction or control in the performance or exercise of executive powers. The alternative writ, commanding the governor to appear and show cause why he does not appoint a commission, is returnable next Tuesday, but the answer of the governor, setting forth reasons why he has not made the appointments, was filed in the office of the clerk of the court today.

Answer of the Governor. "Now comes the respondent, Erna P. Savage, governor of the state of Nebraska, claiming the right, privilege and immunity guaranteed to him by the constitution of the state of Nebraska, and protesting against and objecting to the jurisdiction of this court over him as such governor of the state of Nebraska, to make any order or issue any writ directed to him as such governor, commanding or directing him in any manner pertaining to the duties of his office as governor and files this, his return, to the alternative writ of mandamus issued to him in the above entitled cause and shows to this honorable court:

"That the powers of the government of this state are divided into three distinct departments, the legislative, executive and judicial, and no person or collection of persons being one of these departments shall exercise any power properly belonging to either of the others except as hereinafter expressly directed or permitted."

"That by section 6 of article v of the constitution of the state of Nebraska it is provided as follows: 'The supreme executive power shall be vested in the governor, who shall take care that the laws be faithfully executed.'"

"Not Subject to Court Order. "This respondent shows to the court that under the above provisions of the constitution of the state, he thereby becomes the head of the executive department of the government of this state, said department being a co-ordinate branch of the state government and is not subject to the order or direction of this court to the manner in which the executive powers are executed."

"He further shows to the court that the nature of the act which the relator seeks to enforce in this action is executive and governmental in its character, and he denies the right, power or jurisdiction of this court to direct or control by mandamus or otherwise this respondent in the performance of any duty which does or may devolve upon him as the governor of the state—the chief of the executive department."

"He further shows to the court that by the provisions of the constitution of this state and the distribution of powers pro-

vided therein this honorable court is denied the right to exercise any power properly belonging to the executive department and he, therefore, denies the right, power or jurisdiction of this court to in any manner interfere with or direct or control this respondent in the exercise of executive powers or in seeing that the laws of the state be faithfully executed."

Denies Jurisdiction in the Matter. "He further shows to the court that upon taking his seat as the governor of Nebraska he was required by the constitution to do and did subscribe an oath to support the constitution of the state of Nebraska according to the best of his ability; that, with all due respect to a co-ordinate department of a government of this state, he denies the jurisdiction of this court over his person as governor of the state of Nebraska, denies the jurisdiction of this court over the subject matter involved herein and denies the right of this court to direct or command him in any way as the governor of the state."

Continuing, the attorney general calls attention to the former decisions of the court in the Moores and Kennedy cases, both of which held that the governor had no legal authority to appoint fire and police commissioners for Omaha. As to this holding the attorney general says, "It is concluded and binding upon the state of Nebraska, the governor thereof and all parties claiming title to said office through said governor. This respondent shows that this said court then had jurisdiction of the subject matter of said controversy and of the petition of said parties and thereafter judgment was entered therein said cause finding the issues of fact and of law in favor of respondents therein and dismissing the petition of the state by its attorney general. And this respondent alleges that said application is and was binding and conclusive upon all parties thereto and by reason thereof the relator in this cause is estopped to insist or urge that it is the duty of this respondent to appoint fire and police commissioners for the said city of Omaha."

Former Judgment Still Effective. "And the governor of the state of Nebraska by said action adjudged not to possess the right or power to appoint a board of fire and police commissioners for the city of Omaha. This respondent alleges that the judgments of this court heretofore entered in the two proceedings referred to in this return are still in full force and effect, the same never having been vacated, reversed or set aside by this honorable court. A copy of the judgment of this court entered in the last above entitled cause is attached, heretofore, marked exhibit B, and made a part hereof."

"The respondent further shows to this court that since the decision of this honorable court in the case of the state on the relation of Constantine J. Smyth, attorney general, against Frank E. Moores, William C. Bullard, et al, being the first proceeding brought by the attorney general and referred to in this return, the office of the board of fire and police commissioners of the city of Omaha has been filled and is now filled by persons appointed thereto by the mayor of the city of Omaha and such officers have been and are now performing the duties of such board."

GOULD FAILS TO GIVE BOND Assistant Cashier of Platte Valley State Bank Has to Return to Jail.

DAVID CITY, Neb., Feb. 15.—(Special.)—The preliminary hearing of Richard C. Gould, assistant cashier of the Platte Valley State bank of Bellwood, on a charge of making and verifying false reports to the State Banking board, and other improper transactions, which resulted in the closing of the bank, was concluded in county court yesterday afternoon. He was held to the district court under a bond of \$2,000, which he did not give. He was remanded to the county jail and will probably be arraigned in district court next week.

Jury Says McPetry is Innocent. COLUMBUS, Neb., Feb. 15.—(Special Telegram.)—After being out eleven hours

the jury in the case against Casper D. McPetry, charged with obtaining property by false representations, brought in a verdict at 3:30 this morning of not guilty. The information against Vincent C. Connelly was quashed on a technicality and his trial, the most sensational one pending, will probably go over to the next term of court. Connelly, a barber apprentice, is charged with making a murderous assault with a razor upon Andrew Christiansen at Lindsay on New Year's eve.

PLATTE PHYSICIANS CHOOSE New County Organisation of Doctors Elects Its Executive Staff and Delegates.

COLUMBUS, Neb., Feb. 15.—(Special.)—The first regular meeting of the Platte County Medical society resulted in the election of Dr. H. J. Arnold of Columbus as president; Dr. J. C. McKinley, Humphrey, vice president; Dr. B. C. Fleming, Columbus, secretary; and Dr. H. A. Hansen, Columbus, treasurer. Dr. Metz of Humphrey and Dr. Grabel of Creston were selected as a program committee and Dr. McKinley was designated a delegate to the next meeting of the state association. The society will meet in February and August.

SUPERIOR SHOW OF STRENGTH Thornton and Harkins Cross River to Settle Difference in Primeval Way.

SUPERIOR, Neb., Feb. 15.—(Special.)—William Thornton, Jr., and Charles Harkins, young men of Superior, fought with bare fists for thirty minutes yesterday afternoon. Harkins' jaw was broken in two places, one ear was nearly cut off and his face is a mass of bruises. Thornton was also badly punished. The two men disputed over some wood and, fearing arrest, crossed the Republican river into Kansas to fight it out.

Suspected Bootlegger Caught. FENDER, Neb., Feb. 15.—(Special.)—A boarder at a place, charged with bootlegging, Warner is said to have been a United States prisoner in 1892. He will be taken to Omaha tomorrow.

Doing Good. A great deal of good is being done in all parts of the country by Chamberlain's Cough Remedy. The most flattering testimonials have been received, giving accounts of its good work of aggravating and permanent relief. It has yielded to its soothing effects, of severe colds that have been broken up by its use, of threatened attacks of pneumonia that have been warded off and of dangerous cases of croup that it has cured. The great popularity and extensive sale of this great preparation cannot be a surprise to anyone who is acquainted with its good qualities. Use it when you have need of such a remedy and it will do you good. For sale by all druggists.

SHOT BY FIANCEE'S BROTHER Bachelor Postpones Marriage Several Times and His Death Follows.

MONETT, Mo., Feb. 15.—A. G. Topper, an eccentric bachelor, was shot and killed by Ernest Stringer last night at Topper's farm in Lawrence county, three miles northwest of Monett. Young Stringer's mother was a witness to the shooting. Four shots were fired from a 28-caliber revolver, each one taking effect in Topper's body. Topper had promised to marry Mrs. Stringer, but had postponed the event several times.

The many friends of G. H. Hausan, engineer L. E. & W. R. R., at present living in Lima, Mo., will be pleased to know of his recovery from threatened kidney disease. He writes: "I was cured by using Foley's Kidney Cure, which I recommend to all, especially farmers, who are usually similarly afflicted."

DAKOTANS SEE BIG FIGURE

Northwestern Industrial Company Incorporates for \$900,000,000.

BUSINESS IS TO BUILD ABATOIRS

Oscar Nelson of Pierre is interested and one of its offices will be in that city.

PIERRE, S. D., Feb. 15.—(Special Telegram.)—Articles of incorporation were filed in the office of the secretary of state today for the Northwestern Industrial company, with a capital of \$900,000,000.

The incorporators are: Thomas B. Beasant, Mortimer Metzger of New York, and Oscar Nelson of Pierre. The directors are: George H. Thayer, Boston; Samuel A. Kimball, Newton, Mass.; Samuel L. Chamberlain, Horace Winans, Edward D. Street, New York.

This capital has only been exceeded in filings in this state by the Billion Dollar Mining company, another New York concern.

OWENS QUOTES WOODWARD Billings Man Has Alleged Murderer's Own Tale to Tell at Casper.

CASPER, Wyo., Feb. 15.—(Special.)—William Owens arrived here yesterday night from Billings, Mont., to testify in the Woodward case. It was at Owens' ranch that Woodward, the murderer of Sheriff Ricker, was captured. Owens says Woodward told him that he went to the barn at the Woodward place, in Garfield Park, to get a horse to ride out of the country. He saw a number of strange horses in the barn, but did not know that the sheriff was there. He struck a light to pick out the best horse and just then the dogs barked and attracted the attention of Sheriff Ricker, who started toward the barn from the house. Woodward saw the officer coming and, waiting until Ricker was within ten feet of the barn, took deliberate aim and fired.

Sheriff Ricker fell at the first shot. After lying on the ground for about ten minutes the officer called for help. Woodward then came from the barn and dragged the dying man over a little hill, where the deputies could not see him. The sheriff was still alive and again called to the deputies at the house to come to his assistance. Woodward then struck the officer in the face with the butt of his revolver and killed him and robbed the body of money, jewelry and ammunition. Returning to the barn, Woodward turned all of the horses loose. He remained in the barn for about an hour, shooting towards the house occasionally. Finally he crawled through a hole in the rear of the barn, mounted a horse and made his escape to the mountains.

Meeteetse Thinks It Has Oil Well. MEETEETSE, Wyo., Feb. 15.—(Special.)—Meeteetse is excited by the announcement that a flow of oil has been struck in the well of Dan Weller, a liverman, who was drilling for water. The oil was found at a depth of about seventy-five feet in a mixture of coarse black and white sand. Weller will sink the well deeper.

Laramie Man Cuts His Throat. LARAMIE, Wyo., Feb. 15.—(Special Telegram.)—George Foster, aged 34 years, committed suicide here today by cutting his throat with a razor. Foster was dependent. James Rogers, an uncle of the suicide, lives at Crest, Neb.

CLOUDS COVER NEBRASKA SKY

Two Days of Gloom, with Fleeting Winds Are Promised by the Weather Man.

WASHINGTON, Feb. 15.—Forecast: For Nebraska, Kansas, North Dakota and South Dakota—Partly cloudy Sunday and Monday; variable winds.

For Iowa, Missouri and Illinois—Partly cloudy Sunday and Monday; light, variable winds.

For Wyoming and Colorado—Partly cloudy Sunday and Monday; with snow in mountain districts; variable winds.

Local Record. OFFICE OF THE WEATHER BUREAU, OMAHA, Feb. 15.—Official record of temperature and precipitation compared with the corresponding day of the last three years:

Table with 3 columns: Year, Maximum temperature, Minimum temperature, Mean temperature, Precipitation, Record of temperature and precipitation at Omaha for this day and since March 1, 1901.

Local Forecast Official. L. A. WELSH.

DISEASED KIDNEYS

If Any of Your Family in This or Past Generations Has Suffered from this Disease Make a Test of Your Urine and Satisfy Yourself.

CURED FREE

Mrs. George Haight of 861 Columbus Ave., New York City, who is 78 Years Old, Says She Was Cured of Serious Kidney and Bladder Disease.

WARNER'S SAFE CURE

Is the Only Cure for All Forms of Kidney Disease—A Trial Bottle Will Be Sent Absolutely Free.

TEST YOUR KIDNEYS. Put some morning urine in a glass or bottle and let it stand for twenty-four hours. If then it is milky or cloudy or contains particles or germs float about in it, your kidneys are diseased.

WARNER'S SAFE CURE is purely vegetable and contains no harmful drugs; it does not constipate; it is sold by all druggists and mail-order houses.

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Advertisement for Ayer's Hair Vigor. Text: 'If You Don't, You Will. If you don't want to lose your hair, you will have to do something, that's certain. What shall it be? Use Ayer's Hair Vigor. It gives nourishment and strength to the weakened hair-bulbs, and the hair remains tightly in place. It does other good things, too. It restores color to gray hair, keeps the scalp clean and healthy, and makes the hair grow heavy and long.'