

MORE FRIENDS OF THE COURT

Manderson and Kolby File Answers in Assessment Mandamus Case.

WORRIED ABOUT THE FIRST ANSWER

Insist That Action of the Board Was Final and Cannot Be Overturned Except for Fraud-Fraud Charges Assessed.

(From a Staff Correspondent.)

LINCOLN, June 28.—(Special.)—The attorneys for the Burlington railroad, Charles F. Manderson and James E. Kolby, have filed a brief in the supreme court...

The appearance of the attorneys is explained thus: "The undersigned, attorneys-at-law and officers of this honorable court, being thereto permitted by the courtesy of this court, have the pleasure to present, amici curiae, their suggestions upon the record and questions involved in this case, to the end that this honorable court may have the benefit thereof in its consideration and determination of the matters of the controversy."

It is first argued that the board honestly performed its duties as an assessing board, fairly met the requirements of the constitution and laws of the state, and that the assessment as made must stand, even though the methods employed by the members for the ascertainment of values were not so scientifically correct as some others that might have been devised.

"In fixing the assessment the board acted judicially," continue the attorneys. "Its act, its judgment, its determination, was final and conclusive, and of like effect and equally binding as a judgment pronounced by a court upon a subject matter of which it has jurisdiction, and having this character it cannot be overturned at the caprice or whim of any person. And we insist most strenuously that the judgment of the board can only be attacked or impeached for fraud, or that which amounts to an intentional disregard of law, with the evident purpose of imposing unlawful burdens upon certain of the taxpayers."

Brush Aside First Answer.

It is insisted that the board undoubtedly knew about the constituent elements of a franchise at the time the assessment was made, and that it was not with this statement in mind that the board did not consider or assess the franchise, is somewhat in keeping with the first return of the board, that it doubted its power to assess the franchise and therefore did not assess it. But the first answer of the board is quickly brushed aside.

"Both are mere opinions, conclusions, but not statements of the fact," say the attorneys, referring to the first answer and the comment thereon by the railroad's attorney. "The truth is the first return stated unwarranted conclusions; the amended answer narrated facts."

Further they say: "Counsel for railroad hysterically proclaims that the railroad prepared the second answer and thereby 'usurped the Board of Equalization. It is evident that counsel for the railroad is the amended answer any better than the railroad's first answer (7), for they indulge in the cry that the preparation and filing of the amended return was such a shameful performance as to justify the view that the time is ripe for open revolt by the people."

"The board did assess all the property of each corporation, including the franchises. Apply what rule you may and you will find that the entire property, including the franchises of the railroad within Nebraska, is assessed."

To Rebuild Postoffice.

The \$206,000 recently appropriated for a new postoffice building in this city will be used for reconstructing and enlarging the present building. It will be entirely rebuilt, so that when finished it will in no way resemble the unsightly building now in use. Plans for the structure are now being drawn and will be ready for submission to the proper authorities within a few weeks.

Mr. Sizer expects the work to begin some time in the latter part of the summer or early fall. He has received no exact information as to the arrangement of the new building or the material with which it is to be constructed, but has been assured by Congressman Burkett that when completed the structure will be as nearly new as it is possible to make it under the terms of the appropriation, which provides for an annex or addition to the present building.

An election in the National Guard to fill the vacancy caused by the promotion of Major McDonald of the Second Nebraska has been called. The votes must be in by August 1, and will be canvassed at 10 o'clock that day by a board consisting of Adjutant General Colby, Captain James C. Penrod of Company C of the First, and First Lieutenant Fred Ludwig of Company F of the Second.

Harvesting in Thayer County.

HEBRON, Neb., June 28.—(Special.)—The crops of Thayer county are in better condition at present than they have been for several years. The rye has nearly all been cut and many of the farmers are now cutting their wheat. If the present conditions continue favorable throughout a glorious harvest will surely follow.

Has Depressing Effect on Fairfield.

FAIRFIELD, Neb., June 28.—(Special.)—The absorption of the Kansas City & Omaha railway by the B. & M., which change is to take place on Monday, is highly distasteful to the people of this town, owing to the fact that Fairfield will

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WASHINGTON, June 28.—(Special Telegram.)—Mr. Roosevelt left Washington today for the west. Previous to his departure he had an interview with Secretary Hitchcock in relation to conditions on the Omaha and Winnebago reservation in Thurston county. He ascertained that Inspector Churchill's report was on the way and that the secretary would be in the office next week. Mr. Roosevelt remonstrated with the secretary against the indictment of two of the Bee's reporters growing out of an investigation of the conduct of the agency and said it was a most outrageous and high-handed proceeding. He filed with the secretary very numerous additional papers relating to charges which he has made against the conduct of the agency and desired that they be considered in connection with Mr. Churchill's report.

Later in the day he was the guest of the president at luncheon, the only other guest present being General Wood. It is understood that matters of not only legislation but administration were talked over, the Cuban question being one of the subjects discussed.

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The postoffice department has authorized the postmaster at Neligh, Neb., to move the postoffice to the building owned by the Nebraska Land company.

Ernest O. Patterson has been appointed clerk in the treasury department.

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Postmasters appointed: Nebraska, S. L. Danner, Sacramento, Phelps county, Iowa, A. T. Curtis, resigned; Iowa, A. H. Brotherton, Martelle, Jones county, South Dakota, C. J. Lerager, Flynn, Aurora county; Frank Bold, Hosmer, Edmunds county.

N. P. Bromley, of Redfield, S. D., is in the city on his way to New York.

W. S. Summers, United States district attorney for Nebraska, is in the city. It is presumed that he comes here on matters connected with his office.

WILL OBSERVE THE FOURTH

Nebraska Towns Prepare to Hold Roasting Celebrations on Independence Day.

HASTINGS, Neb., June 28.—(Special.)—Great preparations are being made for a big Fourth of July celebration in Hastings. The members of the local lodge of the Ancient Order of United Workmen have taken charge and are going to make it a state affair for the various Ancient Order of United Workmen lodges.

Among the features will be a competitive drill for a \$100 silver cup as first prize and \$25 as second prize. There will be a competitive drill between the Degree of Honor teams; first prize \$15, second prize \$5.

A program of various kinds of races has been arranged. Addresses will be delivered by Mayor Miles, S. R. Bacon, Jack Jaskalek, O. J. Van Dyke, A. C. Shalenderger and G. W. Norris.

YORK, Neb., June 28.—(Special.)—The celebration of the Fourth of July at York promises to be more than a local affair. A number of business men and citizens from Lincoln are coming here. There will be something like 500 from Aurora, and a number will attend from Grand Island. Special excursion trains will be run on the Kansas City & Omaha from points south and north and there will be a large delegation from all of the towns along that line. The celebration will be held at Stromsburg on the north. Games of ball will be played in the morning between York and Aurora and in the afternoon Lincoln against York. At the four corners of the courthouse park four platforms are being built and a number of the best vaudeville performers have been engaged, who will give continuous performance from morning until late at night.

REPUBLICANS CHOOSE TWO

Fifty-Sixth District Names Oppose and Waldron for State Representatives.

BROKEN BOW, Neb., June 28.—(Special Telegram.)—The republican representative convention of the fifty-sixth representative district of Nebraska was held here in this city today. R. Hogland of Gandy, Logan county, was elected chairman, and C. C. Gardner of Sargent, Custer county, secretary. Alonzo H. Copey of Westerville and Sias C. Waldron of Oyer were nominated on the first formal ballot. The candidates voted for were: A. H. Copey, S. C. Waldron, Dr. Matthews, T. H. Boyerhoffer and C. L. Guttersen. The latter declined to be a candidate.

Mr. Copey is a native of Green county, Wisconsin. He was born in 1852. He removed to Custer county, Nebraska, in 1883, with his family, where he has since resided. He owns a fine farm in Clear creek valley of 240 acres. He is a prosperous farmer and quite an extensive feeder.

Mr. Waldron is a native of Walworth county, Wisconsin. He was born in 1860 and came to Nebraska with his parents in 1870 and located in Cass county. Since 1884 he has resided in the southwest part of Custer county, where he is engaged in farming and stock-raising. He has a ranch and owns four sections of land and has 250 head of cattle, besides other stock.

Both candidates are exceptionally strong with the farming class. They are successful business men and highly capable of filling the positions to which they aspire.

CHAUTAUQUA AT DAVID CITY

Second Annual Session Opens with Fair Attendance in Spite of Inclement Weather.

DAVID CITY, Neb., June 28.—(Special.)—The second annual session of the David City Chautauqua assembly commenced this evening and the indications are for a large attendance.

All of the prominent fraternal orders have large and commodious headquarters on the grounds. The rainy, gloomy weather retarded preparing the grounds, but the force has been enlarged and everything is in readiness to accommodate the immense crowd that is expected tomorrow.

Notwithstanding the inclement weather at the opening exercises, this evening, a large crowd was in attendance. The entertainment of the evening was: Opening address by the plenary superintendent, assisted by the Aerial quartet, the Kendalls, assisted by Prof. Samuel F. Smith, pianist. The principal attraction tomorrow is two addresses by Rev. M. C. B. Mason, the colored orator of Cincinnati.

At Beatrice Chautauqua Assembly.

BEATRICE, Neb., June 28.—(Special.)—Yesterday was temperance day at the Chautauqua grounds and, notwithstanding the fact that a heavy rain had fallen the night before the attendance was very large. Last night the diamond medal contest was held, Miss Ebel Abbott of Peru being the successful candidate.

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TWO BURGLARIES AT FREMONT

Nocturnal Visitors Enter House and Lumber Office, but Secure No Booty.

FREMONT, Neb., June 28.—(Special.)—About 12:30 o'clock last night a burglar was discovered in the house of W. J. Oregon on North Bell street. He was frightened away without having taken anything. Early this morning a pair of bloodhounds from Valley were placed on the trail. They took the scent and went directly to the Fremont, Elkhorn and Missouri Valley tracks, then toward Arlington. At Arlington the scent was lost at the tracks near the station.

The Edwards & Bradford Lumber company's office on F street was also entered last night. The thieves climbed over the high picket fence and broke in a window. The drawers of the office were ransacked and also the safe, which had been left unlocked. Seventy-five cents worth of stamps, which were in a drawer, were taken.

SHERIFF BLOCKS ELOPEMENT

Gage County Official Stops Youthful Lovers in Act of Boarding a Train.

BEATRICE, Neb., June 28.—(Special.)—Sheriff Waddington was called to Filley, this county, where he spotted an elopement of a young couple.

The principals in the affair were Miss Reed, the 19-year-old daughter of Mrs. Vanderploeg of this city, and a young Mr. Phillips, a resident of Filley.

The couple had planned to leave on an afternoon train, but when the people with whom the young woman was staying were apprized of her intended departure with Phillips, they notified the girl's mother here.

Mrs. Vanderploeg sent word to the sheriff to go to Filley at once. This he did, arriving there just in time to head off the youthful elopers. The sheriff brought the girl to the home of her mother here.

Blair Hardware Business Sold.

BLAIR, Neb., June 28.—(Special Telegram.)—A deal was closed here tonight by which D. Miller of Leigh, Neb., and S. W. Chambers of this city bought the old established hardware business owned by E. F. Cook. Mr. Miller has recently sold his hardware business at Leigh and Mr. Cook will retire to enter another line of business.

Mr. Chambers, who has been the joint agent of the First Elkhorn & Missouri Valley and Chicago, St. Paul, Minneapolis & Omaha railroads at Blair for six years, has tendered his resignation to become an active member of the firm. The consideration for stock and fixtures is about \$6,000.

Banks at Sargent Merge.

SARGENT, Neb., June 28.—(Special.)—The two Sargent banks, the Custer county and the Farmers' and Merchants', have sold their businesses and buildings to a new organization, which will consolidate them and continue the business under the name of the Custer county bank. F. H. Young will be president, W. P. Higgins vice president and H. A. Sherman cashier. Mr. Young is also president of the Custer National bank of Broken Bow, the Ansley State bank and the Callaway State bank.

Independent Line for Fremont.

FREMONT, Neb., June 28.—(Special.)—At a special meeting of the city council last evening a franchise was granted to an independent telephone company, which will probably operate in connection with the Farmers' Telephone company. The

usual permission was given to erect poles and string wires. The price for telephones was fixed at 25 or under per month for single lines. The business part of town and 11 for residences. The price for an instrument on a party line will be reduced at least 20 per cent. The new company is to file its acceptance of the provisions of the ordinance within thirty days.

EXERCISES AT FEEBLE MINDED SCHOOL.

BEATRICE, Neb., June 28.—(Special Telegram.)—The annual closing exercises at the Institution for Feeble-Minded took place last night in the presence of a large and interested company of visitors from this city and other towns in the state. The exercises consisted of songs, recitations and drills, and were held in the assembly hall, which was tastefully decorated with flags and flowers. The program was thoroughly enjoyed by all and Superintendent Johnson and his corps of teachers are deserving of credit for the degree of excellence to which they have brought these children.

AURORA Board Names Teachers.

AURORA, Neb., June 28.—(Special.)—At the meeting of the school board teachers were elected for the coming year as follows: Superintendent, James Sparker; principal of high school, Miss Kathleen G. Hearn, of Lincoln; assistant principal, Mrs. H. H. Gable, of Aurora; Miss Clara Pense, of Harvard; Miss Eleanor Rodgers, of Aurora; Miss Kate Friend, of Syracuse; Miss Sidney E. Dunn, of Kenesaw; Miss Anna Harper, of Aurora; Miss Olive Warner, of Bladen; Miss Maude Bramer, of Aurora; Misses Nellie Moore and Bessie Chidester, of Aurora.

Boy Injured by Toy Cannon.

FREMONT, Neb., June 28.—(Special.)—Thirteen-year-old John Benjamin, living on East Fourth street, started a premature celebration of the Fourth of July yesterday afternoon and as result his face is severely burned. In company with some other boys he was firing a toy cannon on the sidewalk. John thought the fuse burned too slow and stepped up to the gun to investigate. The explosion which followed burned his face and filled it with fragments of powder. His eyes were uninjured.

Drug Has Serious Effect.

YORK, Neb., June 28.—(Special.)—About noon yesterday Miss Florence Brown, daughter of John S. Brown, was seized with violent convulsions, which were followed by hysteria. Her condition at first was considered quite serious, but Dr. Conaway, the attending physician, thinks she is now practically out of danger. The cause of her trouble is supposed to be a drug which she purchased from a Chicago firm, which was recommended to her for nervousness. She took only a small quantity.

Cass County Levy.

PLATTSBURGH, Neb., June 28.—(Special.)—The Cass county commissioners have finished their labor as a board of equalization. The total assessed valuation of the farm land of the county is \$2,518,471. The railroads and telegraph lines were assessed at \$782,312.45, and the total personal property at \$459,522. The levy made for the coming year was: General fund, 7 1/2 mills; bridge fund, 4 mills; road fund, 3 mills; soldiers' relief fund 3/4 of a mill and court-house bond fund, 2 mills.

Roasting Celebration at Osceola.

OSCEOLA, Neb., June 28.—(Special.)—Osceola's Fourth of July committee has everything in the way of arrangements. It is favorable there will be the biggest crowd and the hottest time that has ever been had here. Rev. Knox Boudle, the pastor of the Presbyterian church, will be orator of the day. The Osceola Woodmen band will furnish the music. A public dinner will be given at the hotel, and the evening will be fireworks and an illuminated parade.

First Pipe Organ in Nebraska City.

NEBRASKA CITY, Neb., June 28.—(Special.)—J. H. Simms, organist at All Saints' church, Omaha, and Mrs. J. Wagner Thomas of that city last night christened the new pipe organ at the Catholic church of the First Presbyterian church here had placed in their new building. The church was crowded to the doors with people who were anxious to hear the instrument on its initial performance. This is the first pipe organ this city has ever had.

Held Up by Masked Men.

NEHAWKA, Neb., June 28.—(Special.)—About 10 o'clock last night Raymond Pollard, while returning from home, was held up on the edge of town by two masked men. One of the masked men pressed a revolver close to his face while the other went through his pockets, taking from him \$22. No clue to the perpetrators has so far been discovered, but bloodhounds have been sent for and every effort will be made to run them down.

Parallels Edward's Case.

FAIRFIELD, Neb., June 28.—(Special.)—Charles Brown, son of a prominent farmer living a few miles west of this place, underwent an operation for appendicitis on the same date as King Edward. The operation, performed by Dr. A. R. Ray of this place, was exactly the same as that performed on the king, and the bulletins issued in regard to his majesty would have answered for Brown's case.

Red Men Invade Fairbury.

FAIRBURY, Neb., June 28.—(Special.)—A lodge of the Improved Order of Red Men was instituted here Thursday night, with a charter membership of twenty. The officers elected were: L. J. Nutzman, prophet; H. A. Day, sachem; P. C. Huber, senior sagamore; L. Weil, junior sagamore; F. P. Conrad, chief recorder; Ernest Wiley, keeper of wamum.

Frost Damages Crops.

SARGENT, Neb., June 28.—(Special.)—A heavy frost last Friday night did considerable damage to gardens and the corn crop in the hills around here.

FORECAST OF THE WEATHER

Promise is That It Will Be Fair and Warmer Sunday and Monday.

WASHINGTON, June 28.—Forecast: For Nebraska, Colorado, Wyoming, South and North Dakota—Fair and warmer Sunday and Monday.

For Iowa—Showers, followed by fair Sunday; Monday fair.

For Kansas—Rain Sunday and in east portion Monday; warmer Monday.

For Illinois—Fair in south, rain in north portion Sunday; Monday fair, brisk in north northwest winds.

For Missouri—Fair Sunday; Monday increasing cloudiness, showers in western portion.

Local Record.

OFFICE OF THE WEATHER BUREAU, OMAHA, June 28.—Official record of temperature and precipitation of Omaha for the corresponding day of the last three years:

Table with 4 columns: Year (1902, 1901, 1900, 1899), Maximum temperature, Minimum temperature, Mean temperature, Precipitation.

Record at Omaha for this day and same month in former years:

Table with 4 columns: Year (1901, 1900, 1899, 1898), Maximum temperature, Minimum temperature, Mean temperature, Precipitation.

Deficiency for year ending March 1, 1902: Total excess since March 1, 1902, 12.18 inches; Excess for the day, 10.18 inches; Total rainfall since March 1, 10.18 inches; Deficiency for year ending March 1, 1901, 4.91 inches; Deficiency for cor. period 1901, 4.91 inches; Deficiency for cor. period 1900, 4.07 inches.

BUTLER IS TURNED OUT

House Decides Against Him in the Contest Case from Missouri.

DISTRICT ELECTION IS HELD NOT VALID

Guested Man Makes a Vigorous Speech for an Hour in Defense of His Right to Retain the Seat.

(From a Staff Correspondent.)

WASHINGTON, June 28.—When the house adjourned tonight the general deficiency bill and one item in the naval appropriation bill was all that remained in dispute between the two houses so far as the appropriation bills are concerned. The conference report on the District of Columbia bill was adopted and it now goes to the president for his signature. Earlier in the day the house decided the contested election case of Horton against Butler for the Twelfth Missouri district by declaring the seat vacant. By a vote of 100 to 135 a strict party vote—Mr. Butler, who is a democrat, was decided not entitled to the seat. Mr. Butler made a vigorous speech of an hour in defense of his right to the seat.

The Dick military bill was made a conference report, not to interfere with consideration of a provision for the clerk of the District of Columbia to make special regulations for the Grand Army of the Republic encampment in this city next September.

Reserving the right to object, Mr. Moon of Tennessee took the floor to explain why he had objected yesterday. On March 14, he explained, the committee on territories made an unanimous report on a bill to give Indian Territory a territorial form of government under the name of the Territory of Jefferson. He said that by order of the committee he was directed to secure action on the bill. It was necessary to see the speaker and he had been informed that more important matters were pressing and that consideration would be arranged for later.

"The rights of 400,000 people were involved," said he. "The condition in the Indian Territory is chaotic. There are no courts, no provisions for the insane and no penitentiaries. But the committee on rules and the speaker declined to fix a day, or to hear a motion to fix a day, for the consideration of the bill. The only reason assigned by you, Mr. Speaker, or the other members of the committee on rules was that you had protests from the territory against the measure. I submit that every paper in the territory, every democratic and republican club, every municipality and 95 per cent of the people are in favor of this bill.

"I have no personal interest in the measure, but I would feel justified now in objecting to every report for unanimous consent for the consideration of a less important measure."

Grand Army Bill Passes.

He specifically disclaimed any intention to impugn the speaker's motives, and while he felt that he ought to object, he appreciated that at the close of the session he might interfere with the passage of many meritorious bills. "But I give notice now," he concluded, "that at the next session I shall object to every request for unanimous consent until there has been a hearing upon this bill."

The resolution was then passed and the house resumed the debate on the Horton-Butler contested election case, notice having been given that after it was disposed of the reports of the naval and District of Columbia appropriation bills would be called up. The contestee, Mr. Butler of Missouri, took the floor in his own behalf, making a speech of an hour.

Mr. Butler made an eloquent plea for justice in the determination of the case.

Mr. Taylor of Ohio concluded the debate in behalf of the majority report.

At the conclusion of Mr. Taylor's remarks the vote was taken, first on the minority resolutions, declaring Mr. Butler elected and entitled to the seat.

The resolutions were defeated—100 to 135. The majority resolutions, declaring the seat vacant, then were adopted without division.

Bills were passed to extend for one year the time in which to make final report in desert land entries in the Yakima reservation, Washington; to appoint George H. Ball a warrant machinist in the navy; to authorize the secretary of war to receive Arturo R. Calvo of Costa Rica as a cadet at West Point; to prevent any consular officer of the United States from accepting an office of trust from a foreign country without executing ample bond with the secretary of the treasury, and for the relief of settlers on lands granted in aid of the construction of wagon roads.

At 6:50 the house adjourned until 11 o'clock tomorrow (Sunday).

BOY'S HEAD BLOWN OFF

Ray Manfull Meets Untimely End by Discharge of Gun in His Own Hands.

SHELTON, Neb., June 28.—(Special Telegram.)—Ray Manfull, son of John Manfull, was a 10-year-old boy living on Elm street, nine miles southwest of this place, met instant death this forenoon by the discharge of a loaded shotgun in his own hands.

Early this morning he took the gun and went into a neighbor's cornfield, where he was found by his father a short time after the report of the gun was heard.

The charge of shot entered his left eye.

WOMAN KILLED AT VALLEY

Mrs. H. A. Lockwood Struck by Freight Train and Death Results.

Extremists Grasshoppers.

VALLEY, Neb., June 28.—(Special Telegram.)—Mrs. H. A. Lockwood was killed by a freight train while crossing Main street in Valley at 10 o'clock tonight. Her horse was killed also and the buggy smashed.