

KRAUSE BROTHERS ARE FINED

First Citizemans Convicted Under Fence Law Get Their Sentence.

THIRTEEN HUNDRED BESIDE THE COSTS

Latter Amount to Over Eleven Hundred Dollars—Example Made of Case for Rest of Hangers.

The first conviction under the government's new fence law has been secured. Judge Munger Thursday morning overruled the motion for a new trial in the case of the Krause brothers, convicted at the May term of the United States district court of illegally fencing public land and intimidating settlers. Sentence was then passed on the accused, in which John Krause was required to pay a fine of \$500, pay one-half the costs of the suit and be imprisoned in the custody of the United States marshal for twenty-four hours. Herman Krause was fined \$500 and one-half the costs of suit and sentenced to similar imprisonment. Both were to be confined in the Douglas county jail until the costs and fines were paid. Ten days were given the accused in which to raise the money for their fines and sentence was suspended in the interim. However, the accused made arrangements to pay the fine and costs at once. The costs will amount in the aggregate to \$1,175.

Review of the Case. John and Herman Krause, brothers and the leading cattlemen of Sheridan county, were indicted at the November (1903) term of the federal grand jury of illegally fencing approximately 30,000 acres of public lands in Sheridan county, adjoining their personal property of a similar area in Box Butte county. Additional indictments were found against them at the May (1905) term of the federal grand jury and their trial on the combined indictments began during the May (1905) term of the United States district court. The trial occupied several weeks, the Krauses being defended by L. C. Noleman and C. C. Barker of Alliance and the prosecution was conducted by United States District Attorney Baxter, assisted by Assistant Attorney Lane and Special Attorney Rusk.

The trial attracted general interest all over the country, being the first attempt of the government to institute criminal proceedings for the violation of the anti-fencing laws. It was full of sensational features and was bitterly contested. Osborns Chief Witnesses. The government's chief witnesses were Mr. and Mrs. Theodore Osborn, who were homeowners within the alleged illegal fence enclosures of the Krause brothers. Mrs. Osborn developed into a witness of remarkable astuteness and demonstrated an acquaintance with the fence lines of the accused that was remarkable. She had made a complete circuit of the alleged illegal fence lines and offhand gave the locations of the fences according to quarter, section, township and range lines that sounded not only the court, but the attorneys for the defense.

Upward of fifty witnesses were examined in the trial on both sides and during the entire proceedings the court room was crowded, many of the spectators being cattle men from different parts of this state and South Dakota and Wyoming. Witnesses also were present from Washington, as it was the intention of the government to make this a test case. The evidence of the Osborns was corroborated by numerous other witnesses as to the fact of intimidation and illegal fences, and the result was the conviction of John Krause of intimidation and illegally constructing and maintaining illegal fences, while Herman Krause was found not guilty of intimidation, but guilty of constructing and maintaining illegal fences.

Motion for New Trial. The attorneys for the defense at once gave notice that they would file a motion for a new trial and this motion was filed a few weeks later. The argument on the motion for a new trial was made early in September. The contention of the defendants was that during the trial an effort had been made by the government to show that John Krause had once shot and killed one Sylvester over a fence line trouble some years previously, but was acquitted of crime on the ground that the killing was done in self-defense. A further attempt was made to question the reliability of the Osborns as witnesses and an impeachment of their evidence was attempted. The argument this constituted the general ground for asking a new trial. The government contested the motion for a new trial on the ground that the time and place to essay an impeachment of the testimony of the Osborns was during the trial and not after a conviction had been secured, also that even with the elimination of the testimony of the Osborns, there was sufficient corroborative evidence to warrant the verdict of the jury.

Judge Munger's Address. In summing up the argument of counsel for a new trial, Judge Munger said, in effect, Thursday morning: The admission of the testimony in the case of the Sylvester homicide was unwarranted for making a new trial. In the case and the jury was instructed to not take it into consideration, and that part of the testimony was stricken from the record. There was no effort during the trial to impeach the testimony of the Osborns, and that was their creditable question at that time. For this reason the bill of exceptions and motion for a new trial is overruled. Judge Munger then asked: "John and Herman Krause have you anything to say why sentence should not be passed upon you?" Attorney C. C. Barker, in behalf of the accused, said: "Your honors the defendants have been found guilty of a statutory offense which does not involve any moral turpitude, but is of the same general order as a violation of the hunting laws of the state. As to whether they were rightly or wrongly found guilty, it is not for me here to state. We were completely surprised at the testimony offered by the Osborns, and it was not until they were on the witness stand were we able to make case them. The defendants are poor men. They are not cattle barons. They came to the country poor and are yet poor men and are entitled to the clemency of the court. They are hard working men. They went into that inhospitable section and stayed there, while others passed on. They work with their own hands and try to make support themselves. If they are confined in prison it will take them away from their work and their families. I ask that the court will look into the equity of this case and ask for the mercy of the court and exact justice. Evidence of Their Poverty. Mr. Barker, in order to show the financial circumstances of his clients, asked to produce evidence of their poverty through L. E. Roberts of South Omaha, who was their financial backer. He showed that Mr. Roberts held their notes amounting in the aggregate to \$40,000, of which \$10,000 was secured by mortgage on their lands and \$30,000 on their cattle and implored the court to take these facts into consideration. District Attorney Baxter, on behalf of the government, said: "The government regards this case as highly important. It does not wish to do injustice to any one, but it desires that the law be enforced. The enclosure that existed at the time of the trial still exists. They have shown no contrition. In the case of Herman Krause there was nothing to show that he was guilty of intimidation. No case has been presented to this court or will be presented hereafter that will show a greater case of intimidation than that exhibited by John Krause. His crime was heinous, and the government must cease and order from this court to take down this fence. A representative of the court has been recently in that country and has found that the enclosure still exists. John Krause was an intimidator of the court and the limit of the law is not the limit of the law. An example should be made whereby the public can see that the law is enforced. The continuous with impunity and that the intimidation of settlers on the public domain must cease and order from this court shall go out to this effect. Mr. Barker replied to Judge Baxter with the statement: "The defendants had taken down their own fences, but that the only fences that remained were connecting fences. This prosecution looks to me more as a persecution against these men."

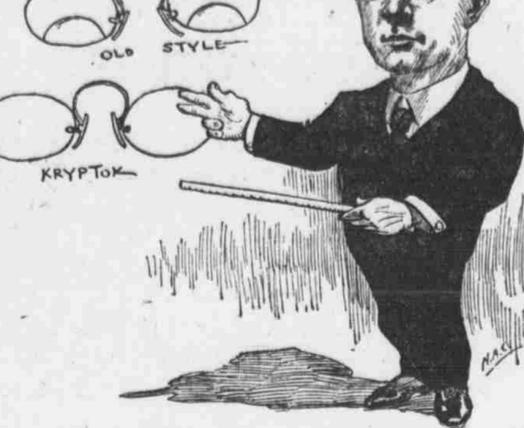
Court's Last Words. The court replied: "The court requires that the defendants shall take down the unlawful fences of any one else. The fact of the murder of Sylvester cannot be taken into consideration at all. The offense of these defendants is a violation of the law and an immoral one. The purpose of the law is to preserve the public domain for the use of the people. No one has the right to arrogate to himself the right of domain and control any portion of the public lands. The law does not permit a large and wealthy corporation to have tacitly permitted to do this thing in violation of the law. The law that does not mitigate against the violation of the law is done it. It is the duty of the department of justice to see that the law is enforced, not to exercise vengeance, but to punish for violation of the law. By doing this, further prosecution may be avoided, and in passing sentence it will show to offenders and all persons violating the law that it will not be profitable to continue paying fines for the privilege of keeping their illegal fences up. The court has no desire to inflict the sentence of imprisonment in this case beyond what the statute imposes. What Krause Says. Herman Krause said at the federal building just after sentence was pronounced: "We will of course pay the fine. That is the only thing we have to do." John Krause is a little more belligerent turn and remarked later in the day: "I think after all we will appeal the case to a higher court. It seems hard that we should have been convicted on the testimony of those Osborns. We should be given a chance to show what they are, and ought to have a new trial to do so, and then I am sure we will be acquitted."

OMAHA MEN AND THEIR HOBBIES

Remarkable Expansion of Their Business Throughout Nebraska.

FAVORABLE SHOWING IN EVERY FEATURE

Prosperity of the People Reflected in an Abundance of Cash, Loans Paid Off and Decreased Real Estate Account.



E. RIGGS—Pointing Out the Difference.

What is of the same general order as a violation of the hunting laws of the state. As to whether they were rightly or wrongly found guilty, it is not for me here to state. We were completely surprised at the testimony offered by the Osborns, and it was not until they were on the witness stand were we able to make case them. The defendants are poor men. They are not cattle barons. They came to the country poor and are yet poor men and are entitled to the clemency of the court. They are hard working men. They went into that inhospitable section and stayed there, while others passed on. They work with their own hands and try to make support themselves. If they are confined in prison it will take them away from their work and their families. I ask that the court will look into the equity of this case and ask for the mercy of the court and exact justice.

WHAT KEARNEY PEOPLE THINK

Question of Independent Telephone in Omaha Concerns Every Business Man in the State.

Kearney, Neb., September 28. Kearney business men are evincing a lively interest in the efforts now being made by the independent telephone interests to have the question of granting a franchise to an independent company in Omaha submitted to the voters of that city at a special election, the expense whereof is to be paid by the promoters of the company. The Omaha papers are at present publishing numerous articles for and against the proposition, being principally in the form of interviews with men identified with the company or the Bell company, and the contest is waxing exceedingly warm. The independent people do not ask the council to grant them a franchise, their only request being that the matter be submitted to a vote of the people.

In speaking of the matter to a Hub representative a prominent business man of this city said: "The question of whether this shall be an independent telephone exchange in the city of Omaha is one which concerns the business men of every town in the state, where independent companies are in existence, almost as much as it does the people of Omaha. The people of this state have invested hundreds of thousands of dollars in the telephone business, and large numbers of business men no longer have Bell telephones in their stores or offices. This condition diverts many telephone orders for goods from this section, which would otherwise go to Omaha, to Lincoln and Grand Island, and orders by mail, which might go to Omaha by telephone if there were connections, are just as liable to go to Chicago, St. Joe or Kansas City. "I believe that the manufacturers and jobbers of Omaha are committing a crime against themselves, against their city and against the spirit of progress, which has built up the great state of Nebraska, by insisting that their city council submit this matter to a vote of the people. If they should arise en masse and insist that the council allow this barrier to the commercial growth of the city to be removed, I do not believe that the members of the council would dare to refuse the demand, even if they did have an understanding with the Bell company. "If Omaha insists upon allowing the Bell monopoly exclusive entrance into its business houses, denying equal privileges to a company owned and controlled by Nebraska people, I believe that the retailers of the state should place their orders with houses located in cities which are apparently tied up with such monopoly. I have written to a number of manufacturers and jobbers in Omaha with whom I have been doing business and told them how I stand on the matter and think other business men should do the same."

JOKE THAT IS NOT A JOKE

Murray's Prize Terrier Pups Sold by Son at Bargain Counter Prices.

Patrick Murray, proprietor of the barber shop in the Murray block, says there is a time when a joke is not a joke. He maintains there is such a thing as carrying a joke too far. Patrick Murray, Jr., carried a joke around the block from his store, a corner of the Murray block, to the corner of the Murray block, yesterday afternoon. Just what Patrick Murray, Jr., said to Patrick Murray, Jr., has not yet been divulged, but the elder Murray is buying just the same. Mr. Murray has a litter of eight fine fox terrier pups. He has been offered from \$20 to \$30 each for them and expected to raise up a modest fortune and then retire. Yesterday afternoon the son took three of the pups and went in front of the Paxton hotel and sold the infant cubs for 5 cents each. Mr. Murray is now trying to recover the loss his son closed out at bargain counter prices.

Gigantic Conspiracy.

"This is a gigantic conspiracy, of Coughs, Colds, etc., against you. Fight it with Dr. King's New Discovery. 50c and \$1.00. Sold by Sherman & McConnell Drug Co."

LOCAL BRIEVITIES.

Frank S. Black, sales agent of the Natural Food company, is in the city. Mr. W. Johnston who sued the Omaha Electric Light company for damages was awarded a verdict by a jury Thursday afternoon. Two suits against the city of Omaha were filed in the district court Thursday afternoon. Neil J. Hilding wants \$58 for labor done and material furnished for engine house at Twenty-fourth and Cummins streets. He alleges that he entered into contract with the city to do the work and that \$100 was advanced to him. He wants the city to pay the balance of \$58 and that the city owes him \$101.50 which he wants.

HOME-MAKING ASSOCIATIONS

Remarkable Expansion of Their Business Throughout Nebraska.

FAVORABLE SHOWING IN EVERY FEATURE

Prosperity of the People Reflected in an Abundance of Cash, Loans Paid Off and Decreased Real Estate Account.

A summary of the official reports of the business of building and loan association in Nebraska for the fiscal year ending June 30, 1905, has been completed by Secretary Royce of the State Banking department. The figures show remarkable growth in these saving and home making institutions and supplements other proofs of the prosperous condition of the people of the state. The fifty-nine associations included in the summary show resources aggregating \$1,250,000, an increase of over \$1,000,000 in the fiscal year. The increase in first mortgage loans was nearly \$1,000,000. Shares in force advanced from 114,000 to 198,000 and the number of share holders from 24,900 to 25,000.

Assets and Liabilities table with columns for 1904-5 and 1905-4. Assets include First mortgage loans, Loans in force, Stock loans, Real estate, Furniture and fixtures, Cash, Advances, Expenses and taxes, Other assets. Liabilities include Dues and dividends, Full paid stock, Reserve fund, Undivided profits, Incomplete loans, Commission advanced, Advance dues, Advance interest, Other liabilities.

Receipts and Expenditures table with columns for 1904-5 and 1905-4. Receipts include Balance on hand, July 1, 1904, Dues (running stock), Dues (full paid stock), Interest, Premiums, Fines, Membership and Loans repaid. Expenditures include Salaries, Commission, Other expenses, Withdrawals, Matured stock, Loans, Cash on hand, Other expenditures.

Every feature of the report reflects prosperity with a big P. The aggregate of the year's business in well over \$5,000,000 and was transacted at an expense of \$60,000 for salaries, and \$45,000 for other expenses. Chamberlain's Cough, Cholera, and Diarrhoea Remedy cured diarrhoea and dysentery in all forms and in all stages. It never fails.

A GREAT SALE OF DOLLS.

J. L. Brandeis & Sons Offer Thousands of Dressed and Kid Body Dolls at a Fraction of Their Cost to Import.

ON SALE SATURDAY, SEPT. 30. We announce the greatest bargain sale of dolls ever known in Omaha. The dolls are all imported and became slightly wet in the vessel in transit. The shipment was refused and Brandeis bought it all at a price less than cost to import. Only a small portion of the stock was in the least damaged. Saturday is the sale day. J. L. BRANDEIS & SONS.

ST. PAUL AND RETURN

DULUTH, ASHLAND AND RAYFIELD AND RETURN

DEADWOOD AND LEAD AND RETURN

VERY LOW RATES NOW TO ALL PORTS EAST

NOTICE TO VISITORS.

The Y. M. C. A. Bureau.

CORNER SIXTEENTH AND DOUGLAS STREETS.

Will give you FREE information where to find sleeping accommodations.

All persons having rooms to rent should send their addresses and prices to this bureau by mail. DO NOT TELEPHONE.

12150 TO ST. PAUL & MINNEAPOLIS

And Return Via Chicago Great Western Railway.

12150 to Duluth, Superior, and Ashland. Tickets on sale till September 30th. Final return limit October 31st. For further information apply to S. D. Parkhurst, General Agent, 1313 Farnam St., Omaha, Neb.

Closed. On account of Holiday Saturday, September 30, until 6:30 p. m.

MEGEATH STATIONERY CO.

DIED.

MADONIN—Sophia, wife of John Madonin, died at her residence, 2838 S. 12th St., at 10:30 a. m., September 27, 1905. Burial at St. Ignace cemetery, Tuesday afternoon at 2 o'clock from residence. Valley street interment, Laurel Hill cemetery.

PATRICK—Margaret E., youngest daughter of the late Maxwell P. and Eliza Burke Patrick, September 28, aged 15 years. Notice of funeral later.

Calumet Baking Powder advertisement with logo and text: "Perfect in quality. Moderate in price."

Two Great Groups of Men's Suits and Overcoats. Specially Priced Tomorrow for Visitors to Ak-Sar-Ben. The values are 'way out of the ordinary—so do not miss a word of the interesting details which follows—It tells of artistically made and faultlessly fashioned suits and overcoats for men.

GROUP NO. 1. \$15 Suits and Overcoats at \$10—These suits and overcoats are made of the new fall materials—every garment is tailored right up to the top notch of perfection—made as your tailor would make them, provided you wanted to pay \$25—handsome, new fall patterns—all sizes—every style. We can fit men of every build as good as your tailor. Not a suit or overcoat worth less than \$15—many you'll consider cheap at \$15, tomorrow. GROUP NO. 2. \$18 and \$20 Suits and Overcoats at \$15—These are the very finest suits and overcoats—fabrics are the most exclusive out—all the newest effects that smart dressers will wear this fall; suits and overcoats you cannot buy elsewhere for less than \$18; they're a real bargain at \$15.



Come up to Eureka Springs "On top of the Ozarks". Radiant Foliage Mountain Air Turquoise Skies. Enchanting Views Gorgeous Sunsets Beautiful Drives. Horseback Rides Tally-ho Parties (Tennis) Good Times. Purest Water Known. Eureka Springs has many excellent hotels and boarding houses, among them the magnificent Crescent Hotel, located on the summit of the highest mountain. This hotel is noted for its excellent service, splendid cuisine and beautiful situation. An Inexpensive Trip. Eureka Springs is a night's ride from Kansas City on Frisco system. All morning trains from Omaha make direct connection in Kansas City Union Depot, with Frisco trains carrying through sleeper to the Springs. Round trip tickets from Kansas City only \$18.00. Omaha \$22.00. Other rates to proportion. Get the unique little book, "The Man Who Forgot at Eureka Springs." Write for free copy to Frisco Ticket Office, 900 Main St., Kansas City, or J. A. GILLIES, Manager Crescent Hotel, Eureka Springs, Ark.

SEASONABLE FASHIONS. Saturday at Temple Israel in this city. Sunday evening at 8 o'clock Rev. Frederick White of the subject, "The Heart's Longing," while at 10 o'clock Saturday morning he will discourse of the "Role of the Jew." There will be special music at both services. Friday evening will complete the 5,000th year since the creation as figured by the Jews.



Announcements of the Theaters. To all appearances visitors who come to the Ak-Sar-Ben festivities consider the Orpheum theater a most desirable place to go for scores of strangers are in the audience every night at the popular play house. To an extent this may be accounted for by the fact that cities of less population than Omaha do not have a high class vaudeville theater and many of these visitors only at long intervals get a chance to enjoy this bright, snappy and novel entertainment.

ONE FARE. Kansas City, Mo., and Return. Via the Missouri Pacific railway, tickets on sale October 1 to 7. Full information from any agent of the company or Thomas F. Godfrey, passenger and ticket agent, S. E. corner Fifteenth and Farnam streets, Omaha, Neb.

The Golden Eagle Restaurant (Formerly Eagle Restaurant). Will reopen Thursday, September 28. Joe Lee, manager. All old friends and patrons are cordially invited to call. Reformatory, rearranged, enlarged to double its former capacity. Polite treatment and first-class service to all.

2-K wedding rings. Edholm, Jeweler. The following marriage licenses were issued today: Name and Residence. Age. Halbert Davis, South Omaha, 29. Janet G. Marriot, Omaha, 21. Amanda Peters, Dixon, S. D., 23. Marie A. Eggers, Shelby, 21. Hubert Ryner, Omaha, 26. Elizabeth J. Mooney, Omaha, 21. Thomas L. Whitehall, Oac county, 41. Lillian B. Barnes, Oac county, 27. George A. Schoorn, South Omaha, 41. Kate Lath, South Omaha, 24.

Mr. Tim Murphy begins his short engagement at the Boyd this evening, offering his new comedy, "A Corner in Coffee." He will play this piece on Friday evening and a Saturday matinee. On Saturday evening the bill will be a double, a one-act comedy "Uncle Ben; or My Lady Help," preceding the well known classic, "David Garrick." Mr. Murphy has been making a great success in these plays, and the indications are that he will repeat his triumphs in Omaha. Beginning on Sunday evening, Robert Mantell, one of America's greatest actors, comes for a week in classic plays. His repertory includes "Richard III," "Richelieu," "Othello" and "Hamlet."

The Burwood theater is offering much to attract the visitors during the carnival season, and the management wants to call attention to the matinee on Saturday afternoon, when "A Royal Family" will be the bill. This is a pretty play and is being most charmingly presented.

E. D. Keck, voice teacher, Davidge Bldg. Harry S. Davis, undertaker, Tel. 1234.

AFTER AYER'S HAIR VIGOR. MORE HAIR. There is a reason, and the best kind of a reason, why Ayer's Hair Vigor makes the hair grow long and heavy. It is a hair-food. It feeds the hair and makes it healthy and strong. Healthy hair grows, keeps soft and smooth, does not split at the ends, and never falls out. Give Ayer's Hair Vigor to your gray hair and restore to it all the deep, rich color of early life. Made by J. C. Ayer Co., Lowell, Mass. AYER'S CREAM FACIAL—For chloasma. AYER'S PILLS—For constipation. AYER'S SERRAPELLLE—For the blood. AYER'S GOUT CURE—For rheumatism and gout.