COUNCIL BLUFFS

STUBBS STARTS FOR PRISON

Judge Sentences Him to Eighteen Months on Charge of Embezzlement.

FRIENDS TO ASK GOVERNOR FOR PARDON

Prisoner Thanks the Judge for Light Sentence but Court Expresses Belief He Has Been Too Lenient in Matter.

Eighteen months in the penitentiary at Fort Madison was the sentence imposed yesterday morning by Judge Green in district court upon David T. Stubbs, who Wednesday pleaded guilty to embezzling $1,800 from the Citizens' Gas and Electric company, of which he was formerly cashier.

As arrangements had been made earlier in the morning at the request of Stubbs that he be taken at once to Fort Madison, the passing of sentence was disposed of with all possible dispatch and half an hour later Stubbs was on his way to Fort Madison in custody of County Jailer Gallup.

Stubbs, who had nerved himself for the ordeal, took his sentence without flinching, and when the words committing him to the penitentiary for eighteen months had been pronounced by the court he thanked the judge for the light sentence in a voice in which but a slight quiver was noticeable.

Judge Green in referring to the case after sentence had been pronounced said he felt that the punishment imposed was, if anything, too light, and that an unusual amount of sentiment existed for the imposition of a light sentence not warranted by the facts in the case. It is understood that Stubbs' friends will petition Governor Cummins for a parole or pardon for him.

Several Want Divorces.

Mary G. Tracy began suit for divorce yesterday in the district court from William B. Tracy, to whom she was married February 9, 1888, in Harlan, Ia. She alleges that her husband treated her in a cruel and inhuman manner and that she was forced to leave him about a week ago. She asks for the custody of their three minor children, $2,000 alimony and $400 a year for the support of the children. The defendant is a clerk in the employ of the Union Pacific, and according to the plaintiff earns $90 a month and owns property valued at $2,000. To protect the claim for alimony the court issued an attachment for $1,000 against the defendant's property.

Mary J. Carter seeks a divorce from Henry Carter, to whom she was married in Omaha in October, 1893. She charges the defendant with being anything but a kind and considerate husband and that as a result of his treatment of her she is a physical wreck. She says her husband is worth $10,000, and asks to be awarded $3,000 alimony.

Elizabeth R. Richardson not only wants a divorce from H. E. Richardson, to whom she was married in Sioux City in July, 1902, and who, she alleges, abandoned her in August of the year following, but seeks the restoration of her maiden name, Elizabeth Marshal.

George W. Rolph, a painter, who fell from a scaffold while working on the residence of J. W. Squire on May 31 last and was seriously injured, has brought suit against Peter H. Wind, the contractor in charge of the work, for $4,077 damages. The plaintiff alleges that Wind was responsible for a defect in the scaffold.

Arthur is to Go Free.

James Arthur, who was convicted of blowing the Treynor bank safe on the night of January 6 and was sentenced to ten years in the Fort Madison penitentiary, will be set free. The clerk of the district court received yesterday the procedendo from the supreme court giving Arthur a new trial. The supreme court in sending the case back for retrial held that the evidence was insufficient to convict. County Attorney Hess stated yesterday that inasmuch as the state would be unable to offer any evidence except that introduced at the trial he would move to dismiss the case. It is expected that Jailer Gallup, who took Stubbs to Fort Madison, will bring Arthur back with him.

Arthur and John Bernstein were jointly indicted for the blowing of the Treynor bank safe. Bernstein pleaded guilty and was sentenced to ten years, but Arthur claimed he had nothing to do with the safe blowing, although he was arrested in company with Bernstein the morning following the attempt to rob the bank. Arthur is believed to be an assumed name.

DEATH RECORD

Henry C. Jaynes.

BEATRICE, Neb., Dec. 21.—(Special.)—Henry C. Jaynes, an old resident of Gage county, died at his home in this city yesterday morning, aged 78 years. Mr. Jaynes was a native of New York state and located in this county in 1878, being one of the first settlers of the city of Wymore, where he resided until about two years ago, when he removed to Beatrice. He is survived by a widow and seven children, H. S. Jaynes of Omaha being one of the number. Mr. Jaynes was a member of the Independent Order of Odd Fellows, which order had charge of the funeral services from the family home today at 2 o'clock.

L. H. Cowger.

L. H. Cowger, aged 66 years, died at his home in Washington, Ia., Wednesday evening of paralysis. The deceased has been for thirty or more years connected with the Chicago, Rock Island & Pacific railway and was at the time of his death foreman of the machine shops of that company at Washington, Ia. He was the father of three sons, residents of Omaha—William F. Cowger, formerly assistant custodian of the federal building, and Brady T. and John L. Cowger, members of the Omaha fire department. The three sons will leave for Washington, Ia., Thursday evening to attend the funeral.

Walter A. Florer.

DENVER, Dec. 21.—Walter A. Florer of Gray Horse, Okl., well known as a trader among the Osage Indians, died here at midnight from tuberculosis of the brain. Mr. Florer came here about a year ago for his health. He was a son of Colonel John M. Florer, one of the pioneers of Oklahoma, and a trusted friend of the Osages, among whom he has lived since the close of the war. Walter A. Florer was born and raised among the Indians. The remains will be taken to Lawrence, Kan., for burial.

Eleanor Porter.

Eleanor Porter, the 3-months-old daughter of Mr. and Mrs. J. B. Porter, 1512 South Twenty-ninth street, died at the home of her parents Thursday morning at 10 o'clock. Funeral arrangements will be announced later.

Yamagata in Council.

TOKIO, Dec. 21.—Field Marshal Yamagata has been appointed to the privy council. Admiral Togo, now president of the general staff of the navy, in his farewell address to the officers and men of the combined Japanese fleet, which was dissolved yesterday, warned them to be in constant readiness for emergencies. He concluded with the words: "Victors, tie your helmet strings tighter."

MUSIC AND MUSICIANS

(a) Gavotte, Brunner.....Bach-St. Saens
(b) Nocturne, op. 17.....Brassin
(c) Valse Petite.....Joseph Gahm
(d) "Dedication".....Schumann-Liszt
Mr. Gahm.
"Bei Raggio Semiramide".....Rossini
Mme. Gale.
(a) "Ave Maria".....Schubert-Wilhelmy
(b) "Kujawiak".....Wieniawski
(c) Caprice (for violin alone).....Paganini
Mr. Albert.
"D'Oedipe a Colone".....Sacchini
Mr. Ellis.
(a) Welch Melody.....Thomas
(b) "Tristesse".....Lebano
Mrs. Gahm.
(a) "Chants Polonais".....Chopin-Liszt
(b) Gavotte.....Gluck-Brahms
(c) Two Valses, A flat, G flat.....Chopin
(d) Polonaise.....Paderewski
Mr. Gahm.
(a) "My Love Will Come Today".....DeKoven
(b) "Good Day, Marie".....E. Passard
Mme. Gale.
(a) "Molly's Eyes".....Hawley
(b) "Auf Wiedersehn".....Bendix
(c) "To Anthea".....Hatton
Mr. Ellis.

A very good-sized audience was out last night to greet the old time favorite of Omaha, Mr. Hans Albert, who, with the assistance of Mr. and Mrs. Joseph Gahm, Mrs. Gale and Mr. Fred Ellis, gave a very delightful concert at the Boyd theater.

Mr. Albert was in a most excellent and mellow mood and played with that sympathy for which he has always been noted. In response to the applause of a most delighted audience he gave an an encore a very touching arrangement of "Old Folks at Home." It is with great regret that we part from Mr. Albert as a soloist and only trust that in the studio work he takes up he will find as much pleasure as he has in times past given to his hearers.

Of Mr. Gahm too much cannot be said as to his conscientious work, his perfect technique and beautiful conception of the composers' thoughts. His rendition of the "Dedication," by Schumann-Liszt, in his first series, the "Gavotte" of Gluck-Brahms and the "Polonaise" of Paderewski in the second series, were all given with wonderful style and finish, proving in his versatility his right to rank with the real artists of the present time.

This was Mrs. Gahm's first appearance as a professional and most nobly did she acquit herself, playing her beautifully toned and picturesque harp with a charming ease of manner and delicacy of touch, showing the result of the hard work she has been doing under the instruction of Signor Enrico Tramonti. The "Welch Melody" was very much enjoyed. Her friends remembered her in that best of ways, by deluging her with flowers.

Mrs. Kate Norcross Gale is a new addition to the ranks of Omaha's sopranos. She possesses a mezzo voice of very good range, which was at its best in the song of Passard's "Good Day, Marie." As an encore she sang in a very delightful manner "Love is a Bubble."

A much felt need in Omaha of a fine basso-baritone has been supplied by Mr. Ellis, who has one of those absolutely true voices, which nothing can shake from the pitch, having besides a tender and sympathetic quality, which, in addition to his thoroughly artistic manner of singing, makes his appearance as a soloist a delight to his audience. His rendition of "Oedipe a Colone" was very dramatic, and in the ballads he sang to equal advantage.

Taken as a whole the concert was up to a high mark of professional work, only proving what talent we have right here in our own city that we have but too seldom heard.

NEW SENATOR TAKES HIS SEAT

John M. Gearin of Oregon Sworn After Discussion of Form of Certificate.

WASHINGTON, Dec. 21.—John M. Gearin, the newly appointed senator from Oregon, was present in the senate chamber today when the senate convened. His credentials were presented by his colleague, Mr. Fulton, but before he took the oath of office Mr. Burrows, chairman of the committee on elections, interposed an objection, saying that the certificate of election was defective in that it was provided that Mr. Gearin shall serve "until his successor is elected." He said that the governor had no constitutional right to place such a restriction upon his appointment. He, however, withdrew the objection after Mr. Spooner and Mr. Teller had suggested that the certificate is not without precedent. Mr. Spooner agreed that the words objected to were surplusage, but pointed out that they do not invalidate the appointment, which, he said, was regular in other respects.

Mr. Gearin was then escorted by Mr. Fulton to the vice president's desk, where the oath of office was administered. Mr. Gearin took a seat on the democratic side of the chamber. He is the first democrat to occupy a seat in the senate from Oregon since 1887, when Mr. Slater retired from that body.

The bill extending for one year the time allowed the Council City and Solomon River railroad of Alaska for the completion of its line was passed.

At 12:36 p. m. the senate went into executive session and at 1:10 p. m. adjourned to January 4, 1906.

With adjournment for the holidays on today's program, only a few members were in their places when the house met. Nothing of moment was attempted and the house adjourned until January 4. The session occupied ten minutes.

FORMAL DINNER AT WHITE HOUSE

President and Mrs. Roosevelt Entertain Cabinet Members and Wives.

WASHINGTON, Dec. 21.—The president and Mrs. Roosevelt gave their first formal dinner to members of the cabinet and their wives and a few invited guests at 8 o'clock this evening. The dinner was in the state dining room. Following were the guests:

Vice President and Mrs. Fairbanks, Secretary of State and Mrs. Root, Secretary of the Treasury and Mrs. Shaw, Secretary of War and Mrs. Taft, Attorney General Moody, Postmaster General and Mrs. Cortelyou, Secretary of the Navy and Mrs. Bonaparte, Secretary of Agriculture Wilson, Secretary of Commerce and Labor and Mrs. Metcalf, Secretary Loeb, Colonel and Mrs. Bromwell, Senator and Mrs. Spooner, Senator and Mrs. Alger, Senator and Mrs. Knox, Representative and Mrs. Sibley, Representative Longworth, Former Secretary and Mrs. Paul Morton, Former Postmaster General and Mrs. Robert J. Wynne, Mrs. Tennworth, Mrs. Hobson, Mrs. Slater, Miss Roosevelt, Eliot Gregory and Lieutenant Sheridan.

SHORT SESSION OF THE HOUSE

Leave Given to Print Cotton Speeches and Adjournment Taken.

WASHINGTON, Dec. 21.—There was but a ten-minute session of the house today, when the holiday adjournment until January 4 was taken. Two speeches, one attacking and the other defending the cotton crop estimates of the government, were to have been made, but permission was granted to print these speeches in the Record. Mr. Payne announced:

"Our oratory seems to have been exhausted," and without extending further invitation to any member for a speech the adjournment was declared by the speaker.

Nominations by President.

WASHINGTON, Dec. 21.—The president today sent the following nominations to the senate:

Register of the Land Office at Lawton, Okl.—Henry D. McKnight.

Receiver of Public Moneys at Lawton, Okl.—A. W. Maxwell of Missouri.

United States Attorney—Thomas B. Latham, central district of Indian Territory.

AFFAIRS AT SOUTH OMAHA

Suit Against Street Railway Company to Enforce City Ordinance.

TRANSFER SYSTEM BASIS OF THE ACTION

Charles M. Tracy Lodges Complaint with City Attorney and Action Will Be Had to Test the Law at Once.

Charles M. Tracy, a carpenter living at 741 North Twelfth street, filed a deposition in the city attorney's office through whom the Omaha & Council Bluffs Street Railway company will be sued under the ordinance passed in South Omaha on July 3, 1905. The object of the case is to test the validity of the ordinance, and if possible compel the street railway company to issue transfers to its connecting lines within the limits of South Omaha in each direction. Mr. Tracy is an interested party, since he has to pay double fare from his home to all points on Twenty-fourth street north of Missouri avenue and a double fare in the reverse order when he returns home. Many complaints have been made to the street railway company, all of which have been ignored. Not only this, but the company has never given the slightest heed to the ordinance passed last July. Mr. Tracy has collected evidence which will make his case good, provided the ordinance is valid. The assistant city attorney will have charge of the case. The present South Omaha ordinance was copied from the Chicago ordinances, which have been carried to the supreme court of Illinois and proven valid. The second section of the ordinance provides a penalty of from $5 to $200 for each and every breach of the ordinance as prescribed in the first section.

Maher and Ford Held for Trial.

The defendants to the charges of robbery, James P. Maher and Michael Ford, appeared for trial at 10 o'clock yesterday morning and both waived preliminary examination. They were bound over to the district court. It is expected they will have their trial in January. The bonds were fixed at $500 in each of the three charges filed against them. The case of Ford and J. Morrissey, charged with having robbed the Rybin saloon at Albright, was brought to trial in the afternoon. John Rybin and a boy named Johnson testified against the defendants, and the evidence produced was sufficient to have the men bound over to the district court. Morrissey was placed under $1,000 bond and Ford under $500. The difference was because of the other indictments standing against him, making a total bond for Ford of $2,000.

Other Buyers Want the Bonds.

A flood of letters poured into the city clerk's office yesterday from eastern purchasers of South Omaha securities. All were asking for information with regard to the sale of the city hall bonds to Spitzer & Co. last Monday night. They wished to be enlightened as to the nature of the transaction. The clerk answered in all cases that the sale was made to Spitzer & Co. in accordance with the old bid. Spitzer & Co. were third in the matter of favorable bids, and as the other two companies failed to appear to renew their bid the bonds were contracted to Spitzer & Co.

Northwestern Pays Taxes.

A representative of the Northwestern railroad paid the taxes of that company into the funds of the city treasurer yesterday afternoon. The amount was $274.55. It was paid without protest.

Wife-Beater Fined.

The case of Addie Lawer against her husband, Frank Lawer, was called again yesterday morning and the evidence for the defense was taken. The man failed to prove that he was innocent of the brutal assault upon his wife and was fined $15 and costs by Judge King.

Held for Grand Larceny.

Ed Demmitt and Lovie Terry, 131 North Twenty-sixth street, who were arrested Wednesday night on the charge of vagrancy, were held yesterday on the complaint of Tom Minns of the same address. He says that the pair entered his apartments Wednesday night and stole $20 in cash, three suits of clothes, his watch and other jewelry. The estimated cost of the articles taken was $115. The pair will have to face the charge of grand larceny.

Program at High School.

An excellent program was rendered by the students of the high school yesterday afternoon. The occasion was the formal presentation of a number of fine pictures and engravings and two companion busts of Venus and Apollo to the school by the Latin department. The efforts of the young people were finely applauded by the listeners. Outside of the high school itself the violin solo by Miss Edna Rudersdorf, accompanied by her sister, was highly appreciated. The two young women are alumnae of the school and are now in the State university. Mrs. S. R. Towne of Omaha gave a pleasant talk on the subject of art, and one of her statements was that the American school should be dated from the Centennial exposition in Philadelphia, in 1876. Since that time it has become a positive and distinct school with a character all its own.

Plans for Poultry Show.

C. H. Grundy, superintendent of the Tri-City Poultry association, makes the announcement that the people of South Omaha are to be treated to the finest exhibition of up-to-date poultry that has yet been presented, during the time from January 2 to 5. This exhibit will be in the Ancient Order United Workmen temple. Over 1,000 birds will be entered, besides numberless cats and a few dogs, warranted not to bark. Judge Thompson of Amity, Mo., a noted judge of good birds, will direct the awards. Many towns besides Omaha, South Omaha and Council Bluffs will be represented. Special medals and ribbons have been offered by the various poultry clubs. There will be plenty of music around the temple. H. B. Fleharty says he would not be surprised if some of the game cocks broke loose during the exhibit. On the evening of January 4 a great banquet will be served as a fitting close of the entertainment. It is not supposed, however, that the guests will eat all the birds.

Why McPherson Resigned.

It is stated that the reason of T. B. McPherson's retiring as cashier of the Union Stock Yards National bank is the increase of his personal business. He is interested in cattle, coal, land, mines and other investments to such an extent that these take much of his time. His work in the bank has given the highest satisfaction to the management and under his control the capitalization has increased from $200,000 to $300,000, with a surplus of $60,000. No successor has been suggested as yet. His successor will not be named until January 10.

Mrs. Mailander Dead.

Mrs. Caroline Mailander died yesterday afternoon at St. Joseph's hospital, Omaha. She was one of the pioneers of the city and mother of Joseph Mailander of Sarpy Mills, also of Mrs. August Williams, he being chief of the fire department of Armour & Co., and Mrs. Anton Baumeister. These children were with her when she died. There are three other sons, who will be here to attend the funeral, which will be held Saturday morning at 9 o'clock from St. Joseph's hospital.

Teachers' Examinations.

The following is the order of examinations to be given in this city beginning Wednesday, December 27. It is expected that a number of the South Omaha teachers and those who expect to become teachers will take the examinations: Wednesday forenoon, arithmetic and geography; afternoon, grammar, penmanship, music. Thursday forenoon, physiology, theory and art of teaching; afternoon, English composition, orthography and drawing. Friday forenoon, reading and history; afternoon, civil government and physical geography. The examination hours will be from 9 to 12 and from 1 to 5. This examination will be conducted in the high school building.

Magic City Gossip.

J. Coughlan of Mount Pleasant, Ia., is a guest of S. L. Winters.

Mr. and Mrs. Burton E. Wilcox, 2315 J street, are rejoicing in the birth of a daughter. It is their first child.

A number of the packing houses are preparing Christmas gifts for their employes and many have already been received.

Bjom lodge No. 29, Independent Order of Vikings, will elect officers for the ensuing year at Masonic hall tonight. The members anticipate a lively time.

South Omaha camp No. 1095, Modern Woodmen of America, will give an entertainment and social at their hall over the South Omaha National bank Thursday, December 28, followed by a dance.

Mrs. H. C. Richmond, head of the department of music at the State Normal school at Kearney, and Miss Fannie Slabaugh, a student at the normal, daughter of Dr. Slabaugh of this city, have returned for the holidays.

A case of scarlet fever was reported Thursday morning at the home of H. T. Peters, 1052 North Twenty-sixth street. Mr. Peters' little son, Harry, a boy of 8, has the disease. The house has been placed under quarantine.

The last rites of the Masonic burial service were celebrated over the remains of Harry N. White at Masonic hall yesterday morning at 10:30. The ceremony was attended by the relatives and friends of the deceased. The body was taken to Council Bluffs.

Charles Barry of St. Joseph, Mo., visited the exchange yesterday afternoon. He was introducing Mr. Churchill, who is to relieve Mr. Parkhurst, general agent to the Chicago Great Western railroad in Omaha. Mr. Farkhurst goes to Kansas City, where he takes Mr. Churchill's former position.

The postoffice will be open next Sunday from 11 a. m. to 1 p. m. A full complement of carriers will be present to assist in the general delivery of the mail. The registry and general delivery windows will be opened so that people can get their Christmas letters and packages. On Monday the postoffice will be closed at 10:30 a. m.

The three prisoners suspected of robbery committed here, John Morrissey, J. P. Maher and Michael Ford, were taken to the city jail at Omaha yesterday afternoon. It is likely that they will be arraigned in police court there to answer to the charge of robbing the Hanscom park cars two weeks ago or more. It is said that some of the car men were able to swear to the identity of the prisoners.

W. J. C. Kenyon and a number of prominent men of the Stock exchange went Wednesday evening to Chicago to attend the fat stock show now in progress in that city. A much larger number than this first party went last night. One object of so large a delegation is the fact that a similar show is to be held in South Omaha next year. The delegates expect to get pointers for the event here.

NOT OPINION SHE WANTED

Man Who Holds Anti-Woman's Rights Views Gets Too Close to Home.

She is very modest and retiring, though holding a public office, and though interested in charity to a certain extent, she shuns publicity. Over her vigorous protests, her name had been mentioned in a paper in connection with her charity work. She was on a South Omaha car bound for the home of some poor people she was helping. He was on the same car and sitting next to her reading about her charity work. He didn't know her and neither did she know him. She was anxious to know what the people thought of a girl's name being mentioned in the paper in connection with charity work. Finally she said: "What do you think of a woman who would allow her name to be published that way?" and she pointed to the article he was reading.

"I don't think much of her," he replied. "It just shows a woman will do anything to get her name in the paper."

She gasped and he soon learned she was the woman in the paper.

Without another word he pulled the bell rope and jumped off the car.

ENTHUSIASTIC OVER WYOMING

Colonel Cody Talks of Irrigation Work Near Town Named for Him.

Colonel William F. Cody arrived in Omaha last evening and went to the Merchants' hotel. With him came a party of young men from Cody, Wyo., who are making a holiday trip. Mr. Cody is en route to spend Christmas with his only remaining daughter, the wife of Lieutenant C. C. Stott, who is stationed at Fort Oglethorp, near Chattanooga, Tenn.

"The government is doing great work in reclaiming arid lands in Wyoming," said the colonel to a Bee reporter last night. "Several hundred men are employed on the work of irrigation in the country surrounding Cody, and the largest dam in the world is being built within four miles of the village, over the Shoshone river. I believe that this land will be the most productive in the world after irrigation plans are completed."

Colonel Cody will leave today for Chattanooga.

CONNELL TURNS HUMORIST

Adopts Method of Laughing Case Against His Client Out of Court.

After a six-hour session, without agreement or any chance thereof, the jury in the case of the Powell Automobile company against the street railway reported to Judge Redick that an agreement was impossible. They were thereupon discharged.

This outcome of the case was not unexpected by those who watched the trial. Mr. Connell, for the street railway company, adopted the tactics of laughing the plaintiff's case out of court, after first taking care to assert that there was really no case made out. His play on "the men who take their 'juggernauts' out of the garage, then give them in charge of the 'chawfoor' and take their seats on the tonneau," convulsed some of the jurymen until the tears flowed. It was hard even for the court to keep a straight face during Connell's address to the jury.

Croup.

Not a minute should be lost when a child shows symptoms of croup. Chamberlain's Cough Remedy given as soon as the child becomes hoarse, or even after the croupy cough appears, will prevent the attack. It never fails and is pleasant and safe to take.

Erie Railroad.

No change of cars Chicago to New York, Boston, Mass.; Buffalo, N. Y., and Columbus, O. These trains carry splendid Pullman and dining cars and coaches. Apply to Ticket Agents or J. A. Dolan, T. P. A., Railway Exchange, Chicago.

Set rings. Frenzer, 15th and Dodge.

Turquoise birthstones, Edholm, Jeweler.

ELBOURN MAY PAY COSTS

City Clerk Will Be Stuck if He Loses Union Label Suit.

AT LEAST THAT IS WHAT BREEN SAYS

Latter Wrote Out Opinion on the Matter and Elbourn Then Said Go To with Your Opinion.

And it may come to pass in these strenuous Elbourn-Breen days that if the city clerk loses the mandamus suit brought against him to prevent him including the provision that all city printing must bear the union label in his advertisement for bids, he will have to pay the cost of the suit. City Attorney Breen expressed such an opinion.

The battle royal now going on between the two has had a very depressing effect on the entire city hall and an effort will be made to settle the differences between the two before the glorious Christmas, so that the immortal maxim of peace on earth may be realized. But in the meantime Mr. Elbourn has a say coming. He heard Thursday morning that Mr. Breen intended to write him a letter of a scorching nature (which Breen denied) and that gave him the inspiration to explain:

"I understand Breen has fixed me up a couple of opinions on that label business. Well, when I want anything from Breen in the way of an opinion I will ask for it. I have run this office during the incumbency of three different city attorneys and I have had to sit down on every one of them. As Bill Elbourn, a private citizen, I might say that resolution is of no effect, but as William Elbourn, city clerk, it is not my province to hold a resolution passed by the council as bad and I don't intend to do it."

Opinion is Ready.

"Mr. Elbourn's opinion is on the desk in there and he can get it when he comes after it," said City Attorney Breen. "He talked over the matter with Mr. Herdman and said he would follow the advice of the department if we would give him a written opinion. When Mr. Mahoney came into court to get his restraining order I told him what Elbourn had said and he agreed to wait until I had seen Elbourn again.

"I failed to connect with Elbourn and Mr. Mahoney filed his suit. Mahoney told me he had waited, and as I failed to call him up he called up Elbourn and talked with him. Elbourn, he said, told him he didn't want any advice from this office or from any one else, so Mahoney filed the suit. If Elbourn loses the suit the costs will certainly be taxed to him, and if the city doesn't have to pay any costs I will be satisfied."

FIGHT TO SAVE TENDERLOIN

Efforts of Property Owners to Stave Off Tracks Exerted in Court Trial.

After the attorneys had stipulated as to the facts involved in the Goldsmith-Krug injunction suit against the Union Pacific to prevent the laying of tracks at Eleventh street and Capitol avenue, argument proceeded before Judge Troup Thursday morning.

Attorney W. H. Pennock, associated with Isador Ziegler, for the plaintiffs, admitted that if the railroad has a franchise for the use of the streets at the point in question, then plaintiffs ought not to prevail, but it is the contention of plaintiff's attorneys that the road has no such franchise, only a city license or ordinance, and so should be estopped from "irreparably damaging" the property of Goldsmith and Krug.

In his answer for the railroad company, Edson Rich set up that the company did not admit anything as to the ownership of the property in question, but did admit that Goldsmith occupies the building with a saloon. The answer says the rooms over the saloon are, to the knowledge of plaintiffs, occupied by prostitutes, who carry on an unlawful business. It is alleged in the answer that the railroad is proceeding under authority granted by an ordinance passed by the city council on December 5 and 12.

In his argument Mr. Rich contended that in any event the railroad is among the corporations that have the right to the use of the streets, within reasonable limits, when necessary to the conduct of their business, even against the protests of property owners. He pointed out that the extension of tracks being made at Ninth street and Capitol avenue will not go inside the sidewalk line and will leave ten or twelve feet of space between a passing car and the Goldsmith saloon.

Mr. Rich effectively called attention to the fact that the advent of the tracks meant the complete transformation of a district whose only industry is prostitution of character into a district of laudable business enterprises, such as would be a boon to Omaha.

At the conclusion of the arguments the attorneys for plaintiffs agreed to submit a brief to the court on Saturday. Mr. Rich said he would submit a reply brief next Monday. Judge Troup will give his decision after reading the briefs and will not delay the ruling any longer than necessary.

AMI TODD IS REARRESTED

Former Nebraskan Up on a New Charge of Subornation of Perjury.

Ami Todd, formerly of Plattsmouth, but now in Denver, was rearrested Thursday in the latter city on a new charge of subornation of perjury in connection with the fraudulent land filings in connection with the Bartlett Richards and W. G. Comstock enclosures, and was bound over to the federal grand jury to meet at Omaha in May, 1906, in the sum of $5,000. Todd is already under bond of $2,000 on a former charge for like offenses.

Upon the instigation of the special agents of the land department, who are investigating the frauds, a warrant has been sworn out for the arrest of George Patten, now in Kansas City, for subornation of perjury in connection with the U. B. I. ranch and Rev. George G. Ware cases. Patten formerly lived at Brownville, Neb. He will be arraigned upon arrest before the United States Commissioner at Kansas City and bound over to the May term of the federal grand jury for the Nebraska district.

PARKHURST TO KAWVILLE

Great Western General Agent Goes to Kansas City to Look Out for Grain.

S. D. Parkhurst, for the last eighteen months general agent of the Chicago Great Western railroad at Omaha, has been appointed grain agent for the same road at Kansas City. He will be succeeded at Omaha by H. H. Churchill, formerly chief clerk to C. R. Berry, assistant general freight agent at St. Joseph, and up to this time also holding the position of grain agent at Kansas City. Mr. Parkhurst left Thursday night for St. Paul for a few days and Mr. Churchill will arrive today to assume the duties of his new office.

AT THE PLAY HOUSES

"Nancy Brown" at the Krug.

Laughing, dancing, singing, sparkling, "Nancy Brown" tripped across the stage at the Krug theater last night, and made good. What if we do not know any of the people whose names are listed on the bill as the principals? We surely know when we are pleased by the work of the folks on the stage, and that bunch must have pleased us or we wouldn't have laughed as we did, and clapped our hands and otherwise have encouraged them to greater exertions. It isn't the biggest company ever seen at the theater, nor the best, but it is a good organization, is imbued with snap and energy, and gets the ginger into the action of the piece. Everything comes quick, as it should with a piece of the sort, and it nearly all comes right, so that the very best effect is achieved. Some new stunts in the way of chorus formations and stage pictures are given, none of them especially wonderful, but all pleasing in the highest degree.

Mary Marble, who is heading the company, doesn't look it, but demonstrates that she is the possessor of a wholesome fund of humor, a good conception of what fun is, and above all has a voice that is pleasing, both in conversation and song, and which she uses with excellent effect. The songs she sings are simple enough, but they are well sung, and that is much more to be desired than an ambitious effort only partly achieved. Florrie Clements, the soubrette of the company, also has a melodious voice, and is further the captain of a pair of nimble feet that caper right daintily in connection with one of the many song hits of the bill.

Osborne Clemson sings two solos in a splendid baritone and was awarded last night by many recalls for his work. William C. Mandeville is the chief funmaker of the outfit, and is a continual provocative of laughter, his supernaturally lugubrious air and manner and the songs he sings in a sepulchral voice being his strong points. Ben Lodge and Robert E. Hartry, his coadjutors, are also good. Frank Craven made a fine comedy Frenchman and David Andrada is an excellent copy of Joe Coyne in the role of an Englishman who isn't so silly as he looks. In the company are others, all of whom are well fitted for their work. This is especially true of the chorus, which is not only good to look upon, but pleasant to listen to. "Nancy Brown" will remain the rest of the week, with a matinee on Saturday.

WARNER SILENT AS TO FORCE

New United States Marshal Declines to Say Whom He Will Appoint.

United States Marshal W. P. Warner of Dakota City, appointed as the successor to T. L. Mathews, arrived in the city Thursday morning and is at the Iler Grand. Mr. Warner was asked in reference to the reappointment of the present force of deputy marshals. He said:

"I see such a report has been sent out from Dakota City. I have nothing to say about the matter just now. I have not been officially notified of my appointment as yet, nor have I received my commission, nor have I executed my bond. Consequently it would be imprudent for me to say anything just yet. I will visit the marshal's office this afternoon, but I cannot take hold until I have been officially notified of my appointment. I shall go from here to Lincoln this evening. My visit here is an informal one and I must be excused from saying anything just at this time."

ANNIVERSARY OF MASSACRE

Thirty-Nine Years Ago Ninety-Three Whites Were Killed at Fort Phil Kearny.

Thursday was the thirty-ninth anniversary of the massacre of ninety-three men of the Twenty-seventh United States infantry (or second battalion of the Eighteenth infantry), a small detachment of the Second United States cavalry and five citizens near Fort Phil Kearny, Mont. (now Wyoming).

The story of the massacre has been frequently told with more or less false embellishments until the real facts of the massacre have almost been lost in the lapse of years. At present there are but two men in Omaha who were present at the fort at the time of the tragedy. One of these is Morris Barnes, a member of the Boyd theater orchestra, then a member of the Eighteenth infantry band, and S. S. Peters, at that time a member of the Eighteenth infantry, now a reporter for The Bee.

MORTON'S HISTORY IS COMING

First Volume of the Great Work is Off the Press and Being Delivered to Subscribers.

Volume I of the Morton History of Nebraska is off the press and is being delivered. It is a handsome quarto volume of 781 pages, profusely illustrated with steel plate engravings and half-tone pictures of prominent Nebraska men. This first volume deals with Nebraska from the earliest explorations up to the admission of the state as a member of the Union. Two hundred pages are devoted to biographical sketches of prominent citizens. Two additional volumes will follow, telling the story of the state since its admission to the present day.

FIRE RECORD.

Missouri Business Houses.

SEDALIA, Mo., Dec. 21.—Fire today destroyed the Katie building, occupied by the Hale-Kibbey Dry Goods company, causing a total loss of $75,000. The building was owned by E. G. Cassidy, whose loss is $20,000, and the stock by E. V. and E. B. White, who sustained a loss of $40,000. The small stores adjoining suffered minor losses.

Casino at Nice.

NICE, France, Dec. 21.—A fire early today partially destroyed the Casino shortly after the departure of a gay night party. There were no casualties. The loss is estimated at $20,000.

HYMENEAL.

Barnes-Chittenden.

TECUMSEH, Neb., Dec. 21.—(Special Telegram.)—Rev. Wesley W. Barnes and Miss Katherine Chittenden, well known young people of Tecumseh, were married at the home of Bishop Williams in Omaha this morning.

Gigantic Conspiracy.

'Tis a gigantic conspiracy, of coughs, colds, etc., against you. Foil it with Dr. King's New Discovery, 50 cents and $1.00. For sale by Sherman & McConnell Drug Co.

Mrs. Koats Attempts Suicide.

Despondency over domestic trouble is said to have been the cause of the attempt of Mrs. J. Koats, 518½ North Sixteenth street, to take her own life at 8 o'clock last night. The woman drank an ounce and a half of laudanum, but was discovered in the act by members of the family, who notified the police. Drs. Langdon and Cox were sent to the house, and, after working over the case for three hours, had the woman out of danger.

CURRENT LITERATURE.

"Teddy Sunbeam: Little Fables for Little Housekeepers," by Albertine Randall Wheelan, is a book that is sure to interest, as it is made up of short stories, simply but brightly told, about the familiar objects in the home quaintly personified; a book that is sure to instruct, as it tells of the healthful cleansing influences of Teddy Sunbeam's rays and teaches many practical recipes for order and system. Teddy drying out the spot on the soiled dress; Teddy talking to Miss Violet; Teddy talking to Prince Wasteful; Teddy always active, always helpful, illuminating every page, will soon become a household companion to the little readers. Paul Elder & Co. are the publishers.

"The Rose Primer," by Edna Henry Lee Turpin, is distinguished by the small vocabulary of common words, the frequent reviews, the short sentences, the simple language and phonetic exercises, and the carefully graded and well-selected subject matter. There are never more than two new words on a page, and only 198 in the book. The illustrations are attractive and helpful. American Book company are the publishers.

In "The Runaway Donkey," by Miss Emilie Poulsson, the tricky donkey, Barney Gray, whose pranks have already amused many children, is the subject of several of the rhymes of this new book. A character to vie with Barney is Pony Rollo, as clever, though not as mischievous, as the donkey. Other rhymes tell of the doings of birds and beasts in a way to please the fancy and arouse the sympathy of the children and to gratify the love of animals which is so strong in childish hearts. Mr. L. J. Bridgman's drawings accord capitally with the verses, bringing into special prominence the element of fun, which is stronger in this than in Miss Poulsson's other books. The book is published by the Lothrop Publishing company.

"Stories of Great Musicians," by Katherine Lois Scobey and Olive Brown Horne, treats of the ten great masters of music in simple form. The musicians whose lives are briefly described are Bach, Handel, Mozart, Haydn, Beethoven, Mendelssohn, Chopin, Schumann, Schubert and Wagner. A portrait of each is given and several other incidental illustrations ornament the book. Published by the American Book company.

Above books at lowest retail prices. Matthews, 122 South Fifteenth street.

YOST MAKES SUGGESTIONS

Michigan Foot Ball Coach Thinks Slight Changes Are Necessary if Rules Are Enforced.

DETROIT, Dec. 21.—Fielding H. Yost, coach of the University of Michigan foot ball eleven, tonight mailed a letter to Walter Camp, chairman of the foot ball rules committee, regarding proposed changes in the rules. Coach Yost shows a disinclination to agree with Mr. Camp that the team having possession of the ball must advance it ten yards in three downs. Yost suggests allowing all the downs for the requisite ten yards. The rule of three downs for ten yards, says Yost, would in a game between two well matched teams develop a mere punting duel.

Other suggestions made by Coach Yost are as follows:

Allow five men back of the line of scrimmage.

Do not abolish the low tackle, but legislate against the double tackle.

Let the rules stand as at present, as far as roughing is concerned, but make the officials enforce them.

Have the officials named by a central appointing board.

Make the time of halves thirty minutes instead of the present thirty-five minutes.

Regarding roughness in the game Coach Yost says:

In the entire history of foot ball at Michigan we have never had a man seriously injured in practicing the game. Regarding brutality on the field, I can only coincide most heartily in your views. No punishment is too severe for such an offense. Disqualification is not unreasonable. There are enough clean, able players in every school to make up an eleven that can play the game as gentlemen should.

FATAL BOXING BOUT AT CLUB

Patrick Reynolds of Philadelphia Dies After Blow Behind the Ear.

PHILADELPHIA, Dec. 21.—Patrick Reynolds, a young man living in the southern part of the city, died suddenly tonight while boxing with Frank Shanahan, a friend. The men are members of a club and were having a friendly bout, when Shanahan struck Reynolds behind the ear. The latter sank to the floor and became unconscious and died before a doctor could be summoned. It is believed his death was due to heart disease. Shanahan has been detained by the police pending