EACH SIDE GETS A VERDICT

City Wins Hydrant Rental Suit and Loses Counter Claim.

WATER COMPANY WILL FILE APPEAL

Corporation Sues for One Hundred Thousand Dollars and City Demands Eighty Thousand

to Offset It.

Judge Munger of the federal court directed Saturday the jury in the case of the Omaha Water company against the City of Omaha, for approximately \$100,000 hydrant rentals for the last half of the year 1904 and first half of the year 1905 to return a verdict for the city in both of the combined cases, but in favor of the water company on the counter claim of the

The decision states in effect that the water company cannot recover on its con tract, embodied in the ordinance of 1883, with the city, because of insufficient fire pressure in the hydrants, but the water company is not barred from collecting for the actual amount of water used, when

that can be determined. The counter claim of the city was for approximately \$80,000 expended in the purse of steam fire engines, made necessary by the alleged inadequate fire hydrant pressure, which was submitted as an offset to the claim of the water company for hydrant rentals. It was in this counter claim that Judge Munger directed the jury to return a verdict against the city,

The water company gave notice that it would appeal the case to the United States circuit court of appeals.

Details of the Trial.

The arguments in the case were conclude Friday evening, being almast wholly upon law points and before the court, the jury having been excused. When court con vened Saturday morning the attorneys for the water company submitted a motio that the court direct the jury to return a verdict for the plaintiffs. The motion was overruled, to which exceptions were taken. The attorneys for the city filed a like motion in both cases, both of which were overruled.

Judge Munger said in part, after a care ful review of the entire case:

In review of the entire case:

I have reached the conclusion after review of the case if it was merely a question of material fact it could be determined by the jury, but it becomes a question of law. There are two cases, one for rentals from July 1, 1994 to January 1, 1905, and the other for hydrant rentals from January 1, 1905 to July 1, 1966. An obligation is implied in the contract and either party is rerequired to comply with its terms. Both parties claim they have compiled with all these terms. The question then arises upon the obligation of the water company to provide ample fire protection under the provisions of the ordinance, which also provided for increased water facilities, both for domestic use and fire protection corresponding with the growth of the city and the corresponding increase of its pumping machinery and other devices to comply with these growth conditions.

Essential Parts of Contracts.

Essential Parts of Contracts. These terms were an essential part of the contract. The water plant was constructed for the city as it then was, and I am clearly of the opinion that taking the contract as a whole that it has been carried out, though complaint was made in 1855 and 1895 that the terms of the contract were not being carried out, but this complaint was decided against the city. The city again complained in July, 1904, and this is the suit now pending.

The question of the purity of the water conditions were complied with. "At all events," he said, "no complaint

and until the bringing of this suit. In compliance with the request of the plaintiffs, the court further instructed the micipal corporation." that this character of defense was frequently resorted to with a special view to depreciate the value of a water plant when the question of its purchase by a municipality was under contemplation. The court added:

As to Additional Mains.

The next question was that the contract provided that the water company should put in additional mains from time to time as needed, and additional hydrants. The water company agreed to do this, but the defendants claim it has not done so. The water company did not have the legal right to refuse to put in these hydrants ordered by the city, on the assumption that the city was in debt, and without money in the reasury to pay for them. This debt was contracted at the inception of the ordinance of 1883, and the contract explicitly directed that the water company should put in hydrants then needed, and all which would be needed in the future.

The water company had no legal excuss for not doing what it was directed to do by the city. For that reason I do not think that the plaintiff can receiver on its contract.

R. S. Hall, attorney for the water com

pany, here interrupted the court with the nurried observation that "The plaintiffs, in view of what you are about to decide, wish to amend their pleading according to the proofs submitted."

John L. Webster, attorney for the city, was on his feet in an instant and remarked with considerable emphasis: "Not after we have waived our rights to this

"The court is not disposed to grant your request at this time-the plaintiff cannot recover on its contract." Judge Munger further said, in effect, that

the direction of the verdict did not har the plaintiffs for suing for the actual value of the water used by the city in the hydrants, but that it could not recover on its contract.

The jury was then discharged by the and with its discharge the adjourned November term of the United States circuit and district courts came to

JOINT STATEHOOD - UNPOPULAR

Wanted by People of New Mexico, Says Ralph 5. Connell.

Ralph S. Council of New Mexico, son of W. J. Connell, is visiting his parents in block announce their spring opening March Omaha. He expects to remain here but = 2 and 24 Will show the finest line of a short time, being on his way to New York | ladies' tailoring goods, silks and laces ever City, where he will spend sometime visiting before displayed. his brother and sister, and enjoying metro-

Mr. Connell is in the sheep and goat business at Tuiarosa and reports that branch

of industry, as very prosperous. "Wool is 2% cents a pound," he says. "Many of the ranchmen are reducing their holdings, as they feel that under the present price it is a good time to sail." Many eastern people are coming in and the ranchmen are making room for them at prices which they feel will warrant conracting their business

Asked about the political situation, Mr

Connell said: "The people who live outside of New Mexico and particularly in the east were more concerned about statehood than the people who live in New Mexico. I believe if it were submitted to a vote of the people on the question of joint statehood, it would be defeated. Tho people there feel that if the bill should pass, giving them joint statehood, the distance would be so great and the railread fare so high, it would practically reduce the attendance at conventions to holding transportation over raffronds What are termed the cow and mining

are in favor and the sheep and goat men JEWELL GETS THREE YEARS are opposed to the joint statehood." DIAMONDS-Frenzer, 16th and Dodge.

MOTHER THANKS THE CORONER Aged Mrs. Wheeler Expresses Gratitude for Kind Treatment of

Murdered Son.

Mrs. E. Wheeler of Greenleaf, Kama nother of Frank E. Wheeler, who was nurdered in Omaha a few weeks ago, wrote Coroner Brailey this letter:

Coroner Brailey this letter:

1 write you this letter to offer you my grailfude for the nice care you have given my poor nurdered son, Frank E. Wheeler. None but a mother can know how sad my heart is and how surprised I am that he was associated in any way with a class of people he would have scorned in times past. If he had letters or papers about his clothes I would be giad to have them. I hope nothing belonging to him will fall in the hands of that terrible woman. May good bless you and all you have done for my son, even if he was dead, and may you never know such a sorrow as mine.

The mother of the murdered man is over The mother of the murdered man is over 70 years of age.

NELLYS ON THEIR WAY HOME

Left Manila Sixth of Month with Lientenant's Regiment for the

dome Land. Mr. and Mrs. Henry Mcredith Nelly sailed from Manila March 6 on the United States transport Sheridan for the United States. Mr. and Mrs. Nelly have been in Jolo, Philippine Islands, all winter, which island

by the United States troops under General Leonard Wood. Mrs. Nelly was Miss Blanche Rawlins Craig of Omaha. Her husband is Lieutenant Henry M. Neity of the Twentleth United States infantry. It is expected that under ordinary circumstance they will arrive in

FOUR VCITIMS ARE IMPROVING

San Francisco about April 6.

All but One of Seriously Injured in Car Wreek Are Getting Better.

The condition of the four patients in the South Omaha hospital, victims of the fatal street car wreck of Tuesday morning, is ncouraging. All of them are improving and there are hopes of their recovery. They are: T. E. Peterson, 415 Dorcas street, Omaha; William Burt, 2210 Jefferson street, South Omaha; Richard Wenlund, 2023 South Seventh street and Leo McGuire, 912 Nineteenth street. South Omaha.

The condition of the fifth of the seriously injured, Miss Mary Abraham, of 1722 South Thirteenth street, Omaha, is not so en couraging. She is at St. Joseph's hospital Miss Abraham rester fiarly well Friday night, but her condition is still very serious.

OMAHA MEN ON THE PROGRAM Davidson, Yoder and Waterhouse

Will Address Teachers at Fremont Convention in April.

Programs are out for the first annual neeting of the East Central Nebraska Teachers' association at Fremont, April 5-7 inclusive, in which the Omaha teachers are included. Superintendent Davidson is on the program for an address the secon day and High School Principal Waterhouse, also, will participate. Mr. Davidson supply was then gone into at length by is scheduled to respond to the welcoming the court, and it was shown that even these address by Ross Hammond. County Superintendent Yoder has a place on the Friday afternoon program. William Hawley Smith had been made in all these years that the and State Superintendent McBrien are water furnished was not of sufficient purity. among the attractions.

Rubber! Rubber! Rubber!

Everybody's rubbers - anything, everyjury that it was shown by "Abbott, on thing in old rubber, much or little. Help the nursery of the Child Saving Institute by sending all the rubber you have or can beg from your friends to the institute, from where it will be loaded into a car or sold for the benefit of the nursery. The institute is already in receipt of some rubber, but not nearly enough to fill a car. Who will help us in this matter? Bicycle, carriage, automobile tires, rubber shoes, boots, bags, bottles, dolls, rattles and anything that is rubber that we can sell as old rub-

> Last Week of Roller Skating. The coming week will be the last of the year. Manager Oillan has arranged for a number of special events for the closing week, among them being a contest in plain and fancy skating on Tuesday night, a free-for-all race on Thursday night and grand costume carnival for Saturday night, after which the band will play "Home, Sweet Home" and the roller skates will be laid away until next fall.

WATCHES-Frenzer, 15th and Dodge.

"German Language and Customs" is the subject of a paper to be read before the Omaha Philosophical society Sunday afternoon, March 18, by Miss Pearl Rockefeller. Miss Rockefeller is a teacher of German at the Omaha High school and the subject will be treated in an interesting manner Judge Munger turned to Mr. Hall and The meeting opens at 3:00 o'clock, p. m., at Room 3, third floor, Patterson block, 17th and Farnam streets.

Card of Thanks.

We desire in this way to thank the W C. O. F., A. O. H., Sheridan club, telephone company, also all our friends and neighborn who so kindly assisted us in our be

J. P. HANNAHER AND DAUGHTER. ROSE COULTON AND DAUGHTER. N. F. CASESIDY AND SON. WILLIAM HOLDEN.

Stevens-Duryen Limousine Auto. R. R. Kimball has sold the first Limou ine automobile in Omaha; making the sale to C. W. Hull. The car is one of the finest put out by the Stevens-Duryea company It is of a deep wine color, aluminum body and weighs but 1,900 pounds. It is a four cylinder, twenty horsepower.

The Holland Fox company, 2% Paxtor

Sterling Silver-Frenzer, 15th and Dodge

Seventeen-Year-Old Boy Sentenced for Shooting with Intent, to Kill.

Peter Jewell, the 17-year-old boy who pleaded guilty some time ago to a charge of shooting at Fred Bilger with letent to kill, was sentenced to three years in the enitentlary Saturday afternoon by Judge Sution. The sentence was delayed for the purpose of necuring evidence as to the

boy's age. Jewell is considered one of the most desperate young criminals brought before the court for some time. Last fall be entered the room of Julius Lund in the Karbach block and was in the act of going through a trunk, when Lund surprised Jewell made a victous attack on Land, using the butt of his revolver as a weapon. He managed to escape, but was ollowed by Bilger, who heard Lund's cries for help. When they got out on the street Jewell turned and shot at Hilger, barely missing him. He was namediately overpowered and placed under arrest. He is also charged with holding up guests of various hotels and forcing them to hand over their money at the point of a revolver. He is considered a victim of yellow newspapers and cheap detective stories. When his room was searched a large supply of trashy literature was found. Jewell s a native of Germany, where his parents still live. He has a brother in this coun-

These prisoners were arraigned and pleaded not guilty: George H. Devers, charged with criminal assault; J. H. Robrecently has become a scene of sanguinary inson, charged with assault, with intent to warfare, in the destruction of 600 Moros rob, on a drug clerk in Farnsworth's drug store; George Ashford, charged with breaking into the Stars and Stripes saloon; John Johnson, charged with robbery.

WOMEN TAKE DESERVED REST

After Strengous Week of Soliciting Funds Y. W. C. A. Declares n Respite.

Saturday a brief respit was taken in the canvass of the Young Women's Christian association and the ma jority of the members of the visiting commitee, who have worked so strenuously since the camaign opened Thursday, are spending the day at home preparing for the Sabbath. But the women can afford the rest for, though the finance committee has made no definite statement as yet, it is known that something over \$5,000 had been raised Saturday morning. Besides this, the committee has under consideration several big propositions from some of the business firms that can not yet be announced and the result of which may not be definitely determined until near the close of the campaign, if they are accepted Some of the people from whom the largest private subscription are expected, have not been communicated with as yet a number being out of town and these will undoubtedly swell the fund materially when they come in. The committee is also in communication with a number of former Omaha citizens, who still have extensive property interests here; also several large eastern manufacturers and others who enjoy extensive patronage from local business firms and it is hoped that these will contribute liberally

HOW THE MISTAKE WAS MADE Chairman of Committee Proclaimed He Was Joseph Flury to

Quell the Mob.

Since the report became current Thursday night that the man selected at the head of the committee which examined the county jail in search of the three negroes charged with the murder of Edward Flury was Joseph Flury, a brother of the victim, much speculation has been indulged in by people who were not at the scene as to the origin and reason for this report. The fact is simple enough. When the man who acted in this capacity came out of the jall and stood on the jail steps he addressed the crowd, saying: "Now, gentlemen, I am Joseph Flury, brother of Ed Flury. In company with these other men I have examined this jail and I can tell you the prisoners are not here."

Those who heard these words and did not know the speaker from Joseph Flury had no reason then to doubt what he said. roller skating season in Omaha for this They did not realize that the speech was made at the suggestion of the officers inside, who were doing everything they could to quell the disturbance.

Homescekers and Colonists. Tuesday. March 20, is the next date for the very low rates via the Missouri Pacific Railway for both round trip and one-way tickets to certain points in the south and southwest, Kansas, Oklahoma, Texas, etc. Full information at city ticket offices, S. E. corner 15th and Farnam, or Union station. THOS. F. GODFREY.

Pass, and Ticket Agent. Free! Free! Until March 31st, either a genuine water dor or an Sxio art enlargment free with

HEYN. THE PHOTOGRAPHER, 313-15-17 South 15th St. (Odd Numbers.)

DIAMONDS-Edholm, 16th and Harney. Card of Thanks.

We wish to express our thanks to our nany friends, the orders of Royal Neighhers and Eastern Star and the employes of the Western Weighing association for their kind remembrances and sympathy during the illness and death of our father. MR. AND MRS. J. C. KLOTZ, DAUGHTER AND MOTHER.

ice! Ice! Ice! Ice! Sale-2,000 tons good ice. Address H. H. Teachout, Ninth and Vine streets, Des Moines, Ia.

Men's, boys', children's clothing, hats ladles' suits, skirts, millinery, etc., cash or credit. People's Store, 16th and Parnam. Remember Goodley F. Brucker on pri-nary day for councilman of 5th ward.-Adv Frank E. Colby, optician, is now with the columbian Optical Co.. III S. 16th St.

Wertz, Dentist, 664-5-6 Paxton Bik. Have Root print it.

Jim Key is coming.

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We could not know so many people wanted to buy watches where the prices were right. Now we can sell you watches from \$1.00 to \$200-but just to stimulate your interest in our business we will quote a few very particular special prices.

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Everything else pertaining to a first-class jeweler's trade. We can quote you a SPECIAL PRICE ON A FEW DIAMONDS. Select Cut Glass and some very elegant and artistic pieces of Hand-Painted China. Some curious and talking novelties imported from Europe. OUR PRICES MODERATE-OUR AIM ALWAYS TO PLEASE.



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DR. BRADBURY, DENTIST 15 Years Same Location

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One-way and round-trip tickets sold from nearly all Rock Island points in the North and Central West to practically all points Southwest.

Rate about half-in many cases less than half -the regular fare. Try YOUR luck Southwest-thousands of people

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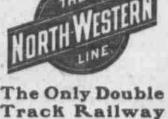


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Almost Cravenette Coal time. Time to see our complete line Monday. Do it.

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You like good quality, you like low prices-then you'll like our spring line of Men's and Boys' Clothing. Here's one of the good reasons why we sell Hart, Schaffner & Marx clothes-we show it in the cutthe straight front Varsity Suit.

the front looks; let us show you many other distinctive styles that are just as pleasing as the Varsity prices-\$12.50, \$15.00, \$18.00, up to \$30.00. The Top Coat supplies a want

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no other garment can. We're showing a swell line at \$10.00, \$12.50 and \$15.00.

Our Rain Coats lead in quality and style. No garment is as useful in an all around way as a good cravenette rain coat-stylish to see our line at \$10.00, \$12.50, \$15.00 and \$18.00.

Sale of Men's Odd Pants-5(h) pairs of men's pants, in the best patterns and materials, worth up to \$4.00, will be placed on sale Monday in two lots, at \$1.95 and \$2.50.

SPECIAL SALE KNEE PANTS SUITS-We have just closed out from a well known manufacturer an immense line of boys' and children's Knee Pants Suits, in all the newest styles and materials—secured at a price which enables us to offer our customers the greatest values ever known in seasonable suitsat \$2.50 and \$2.95.

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Republican Candidates ENDORSED BY The Fontenelle Club.

To Be Voted For at Primaries Tuesday, April 3, 1906-8 a. m. to 0 p. m.

CANDIDATES. For Mayor, E. A. BENSON. Real Estate

For City Clerk, SAM K. GREENLEAF, Clerk. For City Comptroller, JOHN N. WESTBERG.

Insurance. For City Attorney, JOHN P. BREEN. For Building Inspector, JOHN H. BUTLER.

FOR CITY COUNCIL. (To be voted for in all wards.) First Ward, E. A. WILLIS, Foreman Omaha Printing Company. Second Ward, W. W. BINGHAM.

Contractor.

Mgr. The Chatham. Fourth Ward, JOHN A. SCOTT. Real Estate. Agent Ames' Estate. Fifth Ward, L. E. LUCAS. Coal Dealer. Sixth Ward, George L. Hurst.

Third Ward, HENRY L PLUMB.

Paxton-Mitchell Co. Seventh Ward, C. S. HAYWARD, Hayward Bros. Shoe Co. Eight Ward, C. J. ANDERSEN. Andersen-Millard Co.

Ninth Ward, J. C. PEDERSEN. Carriage and Wagon Wks. Tenth Ward, GEORGE COTT. Martin-Cott Hat Co Eleventh Ward, FRANK CRAWFORD. Lawyer. Twelfth Ward, D. A. N. CHASE.

Chase & Co., Wholesalt

Coffee, Tea and Spices. To the Republican Voters of the City

of Omaha: You must decide whether you want to elect or continue in office many of whom have demonstrated their entire incompetency and servitude to the public service corporations, or whether you will have honest and capable officials who will represent all of the people at all times. The above named candidates believe that the city should own its own government,

and they stand for-ONE-DOLLAR GAS. Equal taxation, economical and honest expenditure of public money. Impartial enforcement of law.

An ample police force for protection of iffe and property. Clean streets and a CLEAN TOWN.

Public Improvements and city paving repair plant. A welcome to capital and manufacturing enterprises. No graft or ring rule.

No gambling, law breaking or corperaion control of elections No free lights, no free water and no free telephones to city officials, No forms of compacts between city officials and public contractors.

No more free franchises, and no giving

away of streets and alleys without substantial consideration to the city, Make up your mind what you want, and

rote at the primaries for the men who will carry out your ideas. Do not lose the force of your conviction by voting for friends who have no chance to win, and thereby defeat candidates who stand for the above princi-



The High School Cadets