

DINUZZO BRIEF IN ERROR

Attorneys for Saloon Man File Paper Pointing Alleged Mistakes.

STRESS ON LICENSEE'S RIGHT

Emphasis is Laid on Fact that Plaintiff Bought from City Privileges Which Are Abrogated by This Law.

Weaver & Gillier, attorneys for the plaintiff in error in the case of Frank Dinuzzo against the state of Nebraska, wherein suit was brought against Dinuzzo for violation of the daylight law, and a conviction obtained in the district court, have filed their brief in error in the Nebraska supreme court.

It is held first, that the bill is unconstitutional because it contravenes section 2, article III, of the state constitution; second, that no bill shall contain more than one subject and that the same shall be clearly expressed in its title; third, the amendments to section 14 of the bill are not germane to the section amended; fourth, because the act amends section 5 of chapter 1, contrary to constitutional requirements; fifth, because it amends section 1 of chapter 1, contrary to constitutional requirements; sixth, the act is unconstitutional because it denies the licensee the right to appeal or the right of a jury trial on the forfeiture of his license; seventh, because it imposes excessive fines and inflicts cruel and unusual punishments; eighth, said act is unconstitutional and void because it amends the sections of the various charters of the cities and villages throughout the state upon the subject of liquors, contrary to the constitutional requirements of the state.

The brief further holds that the court erred in not sustaining the demurrer to the complaint in the district court on each and every ground and in overruling the motion for a new trial, to which the defendant at the time duly moved, and further held by the plaintiffs in error that the principle of local option permeated all the city and village charters and the Missouri law itself, but by this act the power conferred has been taken away partially from the various corporate authorities. Denial is made that this act is a further amendment of the existing sections.

"Furthermore," says the brief, "it must be remembered that 200 licenses in the city of Omaha at the beginning of the year 1909 took out licenses for the sale of liquor, paid \$1,000 for the privilege of selling during the entire year and that when they paid their \$1,000 it was understood by all of them that they would be permitted to sell during all week days, except between the hours of 1 a. m. and 5 a. m. of each day, as provided by the ordinance of the city of Omaha, and such license was made and provided. After they had paid their money and purchased what they supposed to be a license or privilege to sell liquor during the year, the legislature by this act known as the daylight saloon bill, took away from them one-half, you might say, of the privilege which they had acquired and paid for, without providing any compensation or remission of license moneys whatever and all of this by a legislature which constantly preached home rule.

Must Be Held as Citizens Licensing saloon keepers exists in the state of Nebraska, just so long should the licensees be treated as other citizens of the state. Such legislation would not be tolerated for one moment in other lines of business and should not be in the liquor traffic. Any business which the state sees fit to license should be protected during the period covered by such license by the common principles of justice and fair play."

It is further held that if the legislature by this amendment to section 14, can prohibit the sale of liquor between the hours of 8 p. m. and 7 a. m., certainly it could prohibit the sale of liquor between 7 a. m. and 8 p. m., or between any other hours of the day, or for the whole day, which would revolutionize the law upon the whole subject.

The power of the legislature is conceded to control the liquor traffic and to prohibit it if it so desires, but it is held that it must be done by constitutional requirements.

License Revoked at Once.

The brief closes with these paragraphs: "Thus, according to this daylight saloon bill, no matter whether the person convicted in the police court appeals from the conviction or the conviction is revoked instantaneously, the board granting the same has no discretion in the matter, but must revoke the license, the licensee's business taken away from him, and his means of earning a livelihood for his family utterly destroyed.

It seems preposterous that an act of the legislature which cuts off the licensee from the right of appeal, the right of jury trial, the right to be heard in a court on appeal upon the merits of the conviction of his license, can be sustained upon any theory known to law.

"We therefore respectfully submit that the judgment of conviction herein is erroneous for the reason that the pretended law under which the complaint was drawn is unconstitutional and void.

HUNDREDS OF FRIENDS AT FUNERAL OF F. J. MORIARTY

Large Company Through St. Cecilia's Proceeds to Young Banker.

Hundreds of friends packed the little building which stands at Fortieth and Burd streets, known as St. Cecilia's cathedral, Tuesday morning to pay their last respects to the memory of Frank J. Moriarty, the banker, whose death by pneumonia poisoning occurred Sunday.

BRANDIEIS STORES

A Special Sale Wednesday Sample Embroidered Linens

This is a sample line of real hand embroidered linen pieces at less than one-half regular prices. This is the finest lot of embroidered linens ever offered in Omaha at such low prices.

- \$2.50 Center Pieces and Scarfs, each, 98c
\$3.50 Lunch Cloths and Scarfs, at \$1.49
\$5.00 Lunch Cloths and Scarfs, at \$1.98
Lunch Cloths and Scarfs, worth up to \$10.00— at, each \$2.50, \$2.98, \$3.50 and \$3.98

Brandeis Stores Announce Prize Winners

In Children's School Composition Contest. These children are winners of prizes for the best compositions on "Gas and Its Uses." The judges were A. E. Parmelee of the World-Herald, S. H. McCaw of the Omaha Bee and Rev. Edward Gleason of the True Voice.

PRIZES WILL BE GIVEN OUT THURSDAY FROM SUPERINTENDENT'S OFFICE—Brandeis Stores.

Here are the Winners of 1st, 2d and 3d Prizes—4th and 5th Prizes to be Announced Later:

- FIRST PRIZES: Wilfred Symons, Central school; Irene Wilson, Windsor; Myrle Gilchrist, Park; Charles Kavan, Castellari; Charles Shamp, Lakeside; Sigurd Sjoborg, Young Men's Christian association; William Seal, Webster; James Martin, St. John's; Stella M. Clark, Long; Dora E. Birchard, Central Park; Frank Pineau, Central; Florence Emmet, Lake; Clarence Weik, Farnam; Mildred Durnall, Mason; Francis Byrne, Bancroft; Alexander Robinson, Benson Public school; Charles Weath, Lothrop; Mary Brown, Vinton; Elizabeth Gould, St. Berchman; Tony Jones, Bancroft; George Carter, Jr., Long; Merie Kermes, Long; Engracia Hanson, Benson Public school; Ralph Hanson, Benson Public school; Ralph Kott, Webster; Donald Hoos, St. Cecilia; Jay Allen, Park; Ina Hartman, Park; Anna V. Clark, Saunders; Esther Benson, Castellari; Mamie Hynk, Bancroft; Robert Peterson, Sacred Heart.

SECOND PRIZES: Clara Starr, Bancroft; Harold Torell, Farnam; Alice Owens, St. Peter's; Ann Hanson, Lakeside; Marie Olsen, Bancroft; Jerry Wirtsofner, Farnam; Lulu Hebeke, Central Park; Pearl Maupin, Long; Hjalmer Peterson, Dupont; Elmer Charles Hall, Cass; Charles Peterson, Castellari; Dorothy Lake, Park; Flora Fleming, Lothrop; Judith Johnson, Webster; George Schellberg, Dazner; Pauline, Central; Mary Stefan, Forest; Sue Pearson, Columbian; Louis Anderson, Webster; Esther Kroner, Central; Fern Maupin, Long; Helen Henck, Lothrop; Mildred Brandon, Franklin; Bode Beveridge, St. John's; Verona Cass, St. John's; Helen Eastman, Columbian; Olga Anderson, Lothrop; Maurice Greenford, Kellom; May Karmetti, Bancroft; Olga Starr, Bancroft; Edward Geiger, Mahoney; Train, Byron; A. Simpson, Farnam; Petra Nelson, Train; Webster, Helen; Mollie Hill; Andrew Kellom; Louise Moore, Lakeside; Bernice Brishano, Lothrop; Helen Doran, Farnam; St. Anna; Cecilia; Francis Orman, Cass; Carl Longstrom, Kellom; Dudley Davis, Dunbar; Robert Siliow, Lakeside; George Barker, St. Francis; Lillian Shilberg, Long; Myrtle Benson, Saratoga; Susan Johnson, Lothrop; Ruth Riley, Commentus; Joseph L. Adams, St. John's; Thomas O'Brien, St. Cecilia; Robert Ellis, What Hill; John Lothrop; Elizabeth Bearich, Lothrop; Virgil Williams, Commentus; Clarence Reddy, Leavenworth; Mary Eastman, Sacred Heart; Lillian Anderson, Lothrop; Evelyn Neckles, Commentus; Mabel Dahl, Castellari; Ellen Erickson, Long.

THIRD PRIZES: George Perkins, Lothrop; Stanley Walker, Sacred Heart; Ruth Harney, Webster; Moses Petrovits, Pacific; Beulah Maxwell, Lothrop; Charlotte Newell, Kellom; Pearl Paddock, Lucy; Rubenstein, Leavenworth; Lestie Kreschbin, St. Joseph; Violet Schmidt, Castellari; Sarah Rubenstein, Leavenworth; Mary Truick, Forest; Helen Frauson, Webster; Clara Stolinski, Immaculate Conception; Donald McFarland, Lake; Selma Schneider, Vinton; Margaret Boye, Pacific; Louise Van Auken, Leavenworth; William Charles, Lothrop; Fredren, Kellom; Homer Porter, Saratoga; E. E. Bryson, J. E. Curtis, John P. Coad, Jr.

FRY'S SCHOOL SHOES

We're going to put school shoes on a whole army of boys and girls during the coming week. Every one of them will be correctly fitted as regards size, width and shape of last. Every pair of shoes, too, will be the BEST SCHOOL SHOES That Money Can Buy.

The styles will be correct, and the durability will give great satisfaction.

BOYS' SCHOOL SHOES, \$2.00 \$2.50 and \$3.00. GIRLS' SCHOOL SHOES, \$1.50, \$2.00 and \$2.50.

FRY SHOE CO., THE SHOERS

16th and Douglas Sts

Mr. Harriman writes me that he is all right. My opinion is that Mr. Harriman has not been off the job," replied the general manager with a smile.

Mr. Mohler did not divulge any further the contents of the letter, which he said, was of a personal nature.

Many people delude themselves by saying "It will wear away," when they notice symptoms of kidney and bladder trouble. This is a mistake. Take Foley's Kidney Remedy and you stop the drain on the vitality. It cures backache, rheumatism, kidney and bladder trouble, and makes every trace of pain, weakness and urinary trouble disappear. Sold by all druggists.

As to Kille's Knoxville man.

KNOWVILLE, Tenn., Aug. 30.—William G. Price, president of the Knoxville Furniture company, died today of injuries sustained in an automobile accident last night. Mr. Price and a party of friends were riding on the Martin Mill pike, when the machine left the road, plunged over an embankment and buried Mr. Price beneath the car. The others in the party were not badly hurt.

BENNETT'S

It's CHILDREN'S WEEK

No longer necessary to fret over the making of children's dresses—not if you come to Bennett's. The line we carry is known throughout the east as the best in the trade. The materials are all standard grades, the making is perfection, while the styles are those of designers of international reputation on children's garments.

We pay a trifle more for all this goodness believing mothers prefer it to the shoddy, carelessly made garments with which the market is overrun. The Fall lines are ready. Buy a liberal supply of school dresses now. We have clever new ideas in percale, gingham and Galatea, for girls 6 to 14 years, all much less than materials and making would cost you—

- 98c, \$1.98, \$2.50

New Tailored Suits Fall suit selling is already in full swing. The new and fit of Bennett's suits has caused the popular fancy and started the selling much earlier than usual. Handsome Skinner satin lined, the wringing and broadcloth suits in new shades. \$25

FALL JACKETS—You'll need one of these first cool days. We are showing the latest style jackets in black, gray and tan at \$10, \$12.50, \$15, \$18, \$20, \$22, \$24, \$26, \$28, \$30, \$32, \$34, \$36, \$38, \$40, \$42, \$44, \$46, \$48, \$50, \$52, \$54, \$56, \$58, \$60, \$62, \$64, \$66, \$68, \$70, \$72, \$74, \$76, \$78, \$80, \$82, \$84, \$86, \$88, \$90, \$92, \$94, \$96, \$98, \$100.

COMPREHENSIVE DISPLAY OF NEW Autumn Dress Goods

Bennett's as usual takes a commanding position in the showing of new fabrics for the coming season. The richest materials, the ultra-fashionable weaves and colorings find their best expression in today's exhibits.

Magnificent broadcloths and directoire suitings, wonderfully lustrous and of soft draping tendencies; then to the new diagonals, the weaves, the hopackings, the solids, etc.—in the whole category of autumn colorings. A matchless show fashion's forecast in fabric art.

A Sharp Reduction On Popular Line of SILKS

A Bargain Extraordinary 28 and 36-inch silks, worth to \$1.25 a yard.

This lot embraces pongees, fancy taffetas, Louisianes and foulards, plain and fancy effects; splendid shades; first time on sale Wednesday at such a price. 49c

New Kimono Silks Complete new line of the best fall patterns from the leading maker of this class of goods; 32-inch silks, at, yard, 59c

Here's the "Last Straw" On Wash Goods

Wednesday we start the final cleanup, giving you choice of entire stock; any goods worth up to 50c is now on sale 19c

W. T. BOURKE STOCK Men's Furnishings

Every man knows the character of goods Mr. Burke carried in his store. He handled only quality goods and had the reputation of showing the tastiest goods in town. We bought the stock ON SALE THURSDAY, at 50 CENTS ON THE DOLLAR

Genuine Alligator Leather POST CARD ALBUMS

An overproduction of high grade albums, originally made by the Wana-maker stores, made to us by Landis & Co., New York, at low figure. Albums have full alligator leather covers and gilt edges. \$2.48 and \$2.98

Other cloth bound albums, 300 card capacity, 49c

Other cloth bound albums, 200 card capacity, 49c

Denison's 25c Lunch Sets, 100 and 10 green stamps

Crepe Paper Napkins, 100 and 10 green stamps

Roll Lunch Paper, 100 and 10 green stamps

Black Ink, three bottles, 100 and 10 green stamps

25c Tablets for, 100 and 10 green stamps

Bennett's Big Grocery

Bennett's Golden Coffee, pound, 25c and 40 green stamps

Bennett's Tea, assorted, pound, 25c and 40 green stamps

Tea Siftings, pound, 25c and 40 green stamps

Pickling Spice, pound, 25c and 40 green stamps

Jap Rice, four pounds, 25c and 40 green stamps

Great Half Price Lace Sale

See Sixteenth Street Window Display Thursday All Kinds of Dress Trimming Laces

HAYDEN'S

BOYS' SCHOOL SUITS, with two pair of pants, at \$1.98

MAIL ORDERS FILLED FROM DAILY ADS, Except in Case of Hour Sales.

BIG SHOE SALE CONTINUES TO BRING CROWDS OF CUSTOMERS TO THIS STORE

\$2.50 Men's and \$1.98 Women's

Shoes and Oxfords Worth Regular \$5.00 Up To \$1.98-\$2.50

Entire Floor Stock and Samples of Spencer Shoe Co., and two other big lines bought at a fraction of their worth, all leathers, all lasts, the Greatest Shoe Bargains ever offered in Omaha, at prices. \$1.98-\$2.50

Our Ladies' Tailoring Dept.

is now in full blast. We are making the finest suits, coats and skirts for much less than you have ever paid before. You can select any cloth and have it made in any style you choose, or our designer will draft you an entirely new style.

See high grade Wool Dress Goods department.

Lay in Your Grocery Supply for the Month, Big Sale

Wednesday, September 1st

Flour Sale Special For This Sale

45-lb. sacks Best High Patent Flour, made from No. 1 Wheat, long sacks, guaranteed, for this sale, per 45-lb. sack, \$1.40

100 Bars Best Brands Laundry Soap, 25c

4-lb. Best Boiled Oatmeal, 25c

6-lb. Choice Japan Rice, 25c

7-lb. Best Boiled Oatmeal, 25c

Quaker Wheat Flakes, pkg., 15c

All Kinds Corn Flakes, pkg., 15c

1-lb. cans Assorted Soups, 7c

Condensed Milk, per can, 7c

The Best Bulk Starch, per lb., 5c

1-lb. pkg. Seeded Raisins, 5c

Oil of Mustard Sardines, per can, 3c

Brominegelon, Jellycon or Jello, pkg., 7c

Life Coco, regular, 1c

The Best Soda Crackers, Pretzels or Ginger Snaps, per lb., 15c

The Best Tea Siftings, per lb., 15c

The Best Golden Santos Coffee, lb., 15c

1-lb. Full Cream Cheese, per lb., 15c

The Best No. 1 Creamery Butter, lb., 25c

The Best Dairy Table Butter, per lb., 25c

Extra Fancy California Freestone Peaches, per crate, \$1.10

Bushel Boxes Extra Fancy Colorado Bartlett Peaches, per box, \$1.75

Large 4-basket crates Fancy California Sugar Prunes, per crate, \$1.00

Large Market Basket, Fancy White Crab Apples, 30c

Crab Apples, per basket, 17c

All Fresh Vegetables at Our Regular Low Prices.

FRUIT JAR SALE.

For economy use our Diamond Fruit Jar, quart size, regular price \$1.25, on sale tomorrow, 60c.

DON'T FORGET TRY HAYDEN'S FIRST IT PAYS

U. S. GOVERNMENT LAND OPENING

Along Railroad in Montana CONRAD-VALIER Project

69 Miles North of Great Falls. 70,000 acres of irrigated land, segregated by the United States under the Carey Land Act, will be open to entry and settlement.

\$3.50 per acre down; balance in fifteen years' time

Small installments make possible payment for land from annual sale of crops.

This land will be allotted by drawing at Valier, Montana, a new railroad town, on Thursday, October 7, 1909.

You May Register for This Drawing by Power of Attorney

If you do not take land after your number is drawn, it costs nothing.

Title Can Be Acquired by Only 30 Days' Residence.

There is no sage brush or stumps on this land, which is ready for the plow. Remember, there are no free government irrigated lands. Reached over the Great Northern or Burlington Railroads. For complete information and Blanks, call on or address

W. M. Wayman 1109 Security Bank Bldg., Minneapolis, Minn., or Valier, Montana.

NEBRASKA STATE FAIR

LINCOLN - SEPT. 6th to 10th

Wonderful displays of Live Stock, Agriculture, Machinery

Splendid Racing

Liberati's Band and Grand Opera Singers.

Pain's Battle in the Clouds with Airship

Athletic Meet - Carnival - Baseball

ONE AND ONE-HALF RATES ROUND TRIP ON ALL RAILROADS for information, Premium List, or Entry Blanks write

W.R. Mellor, Secy. LINCOLN, NEB.

BAILEY & MACH DENTISTS

Best equipped dental office in the middle west. Highest grade dentistry at reasonable prices. Porcelain fillings, just like the tooth. All instruments carefully sterilized after each patient.

THIRD FLOOR PAXTON BLOCK Cor 16th and Farnam Sts.

FISTULA—Pain When CURED

All Rectal Diseases cured without a surgical operation. No Chloroform, Ether or other general anesthetic used. CURE GUARANTEED to last a LIFE-TIME. EXAMINATION FREE.

WRITE FOR BOOK ON FILES AND RECTAL DISEASES WITH TESTIMONIALS DR. E. R. YARRY, 224 See Building, Omaha, Nebraska

A BEE WANT AD—

will prove indispensable to your business after you have once experienced the quick results of Bee advertising.

FIVE DOLLARS

Buy a good weight pair of gold Cuff Buttons. We have a very tasty button for \$5.00 and \$4.00. Spend a few minutes in our store. Look for the name S. W. Lindsay, Jeweler 1516 Douglas Street.