

BURNAM NEVER SAW BRIEF

Says Hot Shot at Supreme Court Was Fired by Dunn.

JOKES AT CITING FOR CONTEMPT

Rather Startling to Return from Four Weeks' Vacation and Meet Such an Order, He Says, in Jocular Vein.

"After being away four weeks enjoying the pleasure of a vacation, it is rather startling to find myself cited for contempt of the supreme court," said City Attorney Burnam, with a smile.

The brief in question, that has been suppressed by the supreme court, or at least removed from the public files of the court, is a document of fifty pages. It is entitled "Brief and Motion Appellant for Rehearing."

Examinations shows that the brief written and submitted by Assistant City Attorney Dunn is quite caustic. After quoting a sentence from the decision of the supreme court, which was written by Judge Rose, the city's brief says:

"This would seem to show that Mr. Justice Rose started out without understanding or having clear in his mind what the complaint of the plaintiff was, or just what negligence was charged against the city."

Further on, the brief says: "I am not aware, of course, where Mr. Justice Rose has been in the habit of seeing and using sidewalks, nor where he obtained the information which enabled him to become a sidewalk expert."

"If it appears to me, that the writer of the opinion felt that the exigencies of the case were such that he was at liberty to ignore all of the evidence in the case except that favorable to the plaintiff."

"And it would seem that courts ought not to deem it their duty to place a strained, unfair and unreasonable construction upon testimony to sustain a verdict obtained by perjury and fraud."

"Again, Mr. Justice Rose read the record by some peculiar method of his own, through which he discovered a good deal that was not there."

And the brief then quotes the exact language of testimony on which the supreme court opinion is based, holding that the justice writing the opinion based it on the isolated answer to one question, ignoring all other testimony.

"Does a mere speculation, opinion or guess, constitute evidence upon which a jury may base a finding and verdict? If Mr. Justice Rose thinks so, it might profit him to read the opinions of this and other courts cited in our former brief."

"If this court is ready to enter upon the task of revolutionizing the law in that it is no longer necessary, and that all that is required to rob a city or before a name is a probability drawn as a conclusion from an opinion based on nothing, the court has certainly made an excellent start."

It is held to be sustained. Another pointed query by the assistant city attorney is: "Let me ask the court whether or not Mr. Justice Rose is to be sustained in the proposition that a verdict is supported by sufficient evidence which is based solely upon the opinion of the plaintiff as to the essential fact in the case?"

Mr. Dunn goes extensively into the evidence and quotes many decisions sustaining the city's contention that the verdict was "outrageous." He holds that the supreme court decision is based solely on the answer to one question, "dragged from the witness under a command to answer a question in a particular way, which the witness half a dozen times denied knowing anything about," and in the brief every language is used in traversing this assertion very fully.

Speaking of the language used in the supreme court opinion at one point, "And the plaintiff might have done so, too (stepped safely onto a sidewalk), except for the tipping of the walk, altogether probable," the Dunn brief comments:

"Good Lord, yes! Most any old thing is probable. But how about proof? Will Mr. Justice Rose direct the attention of this court to a decision by any court in the land, or to the language of any text writer, holding that a verdict may be sustained which is based upon the probability that the defect complained of caused the injury? Let me say, furthermore that Mr. Justice Rose found none, and that the decisions here cited, which he saw fit to ignore, state the rule as recognized by every court that has ever passed upon the question."

The brief then cites a line of decisions in similar cases, with the comment before or after each one, "Mr. Justice Rose says this is not the law."

LOOK AFTER PERKINS LOTS Son of Former Burlington President and Adviser Will Come to Investigate Property.

C. E. Perkins of Burlington, Ia., son of the former president of the Burlington railroad, and Colonel H. B. Scott, also of Burlington, a close business associate of the former railroad man and his adviser in real estate matters, will visit Omaha Tuesday to inspect the holdings of the Perkins estate here.

One of the most important of the Perkins holdings here is the lot on Farnam between Nineteenth and Twentieth on which the new Buick garage is going up. The estate also holds considerable property in various parts of the state and in Kansas.

Counterfeit Dollars buy trouble, but a genuine quarter buys Dr. King's New Life Pills; for constipation, malaria and jaundice. Sold by Beaton Drug Co.

DIPHTHERIA IS OVERCOME Not One New Case Develops at Kellou School Since Raid Made on Disease.

Health Commissioner Connel has made a finishing round of the Kellou school pupils, to make sure that all danger is over. There were in all twenty-three cases of diphtheritic infection, mostly nasal, found in that school, but not one new case has been reported since October 2. The health commissioner is now satisfied that his precautions have proved effective, but vigilance is not to be relaxed in the matter of looking after the good health of the school.

"Can be depended upon" is an expression we all like to hear, and when it is in connection with Chamberlain's Colic, Cholera and Diarrhoea Remedy it means that it never fails to cure diarrhoea, dysentery or bowel complaints. It is pleasant to take and equally valuable for children and adults. Sold by all druggists.

TUESDAY IS Brandeis Stores SPECIAL BARGAIN DAY

Every Tuesday is a day of extraordinary specials. This week's offerings are especially attractive.

Women's 50c Union Underwear at 25c and 39c. Fine and heavy ribbed union suits—medium and extra sizes—two big specials—per suit, 25c and 39c at.

Misses' and Children's Underwear at 15c. Jersey ribbed, soft fleeced—all sizes—at, each 15c.

Women's 75c Heavy Underwear at 49c. Vests, pants and union suits—soft fleecy lined—special for Tuesday, at, 49c.

15c HANDKERCHIEFS at 8 1/2c. Women's and men's all pure linen handkerchiefs—all widths of hems; 15c quality, 8 1/2c.

Misses' \$1.00 Gray Sweaters at 50c. All sizes of sweater coats for misses and children—various colored borders and cuffs, at, each 50c.

Women's \$4.00 and \$5.00 Skirts at \$2.98. Good panamas, fancy cloths, mohairs, etc., in black, blue, gray, etc., at, 2 98.

Women's \$15.00 Rubberized Silk Coats at \$8.98. All sizes—various colors—make fine raincoats—special, at, 8 98.

Women's \$20.00 Fall Suits at \$10.00. Black and colors, all new fall styles and materials—at, 10.

SILKS 2,500 yds. of plain and fancy silks, latest colorings; poplins, dress taffetas, and a tin messalines, worth 85c, at, 39c.

Broadcloths 52-in. broadcloth, all shrunk and sponged, worth \$1.50 and \$2.00—on bargain square—at, 95c.

Tuesday Forenoon Only—IN BASEMENT 12 1/2c quality flannellettes for dresses and waists—34 inches wide—blue, red, cream and black grounds with black or red figures—from the bolt—forenoon only, at, yard, 3 1/2c.

Women's Shoes Women's White Ribbon Brand Shoes, welt and turn, worth \$4 and \$5, at, \$2.

Men's Shirts Men's Negligee Shirts—all sizes—good quality—in basement, at, 19c.

BLANKET SPECIAL TUESDAY 30x50-inch white crib blankets—fast colored borders—have sold at 50c a pair, at, each, 15c.

Brandeis Stores Invite the Children of Omaha to be Their Guests at a Performance by Buster Brown and Dog Tige At the AUDITORIUM, Saturday, Oct. 16th. Come to Brandeis Shoe Department and Get Your Tickets—No Charge.



ADVANCE NOTICE! The Most Extraordinary Sale of LACE CURTAINS

EVER HELD IN OMAHA. BEGINS MONDAY OCT. 18th

When Brandeis advertises a big sale everyone in Omaha knows it will actually be a BIG SALE. Watch for later announcements. See the wonderful bargains in the Douglas street windows. All the Lace Curtains go on sale Monday. All the Drapery Yard Goods go on sale Tuesday.

BRANDEIS STORES

KAISER WARM TO UNCLE SAM Germany's Attitude, Says W. F. Stoeker, is Making Mr. Johnny Bull Jealous.

Germany is warming up to the United States with a friendly interest, according to W. F. Stoeker, member of the Nebraska legislature, who has returned from a European visit. He says that this attitude of the kaiser's people is making England jealous.

"While in Europe I had the opportunity to see Orville Wright, Henry Latham and Count Zeppelin, a most famous trio," said

Stoeker. "Germany is wrapped up in Count Zeppelin. Why, I actually saw people in tears of joy when he landed on the exposition grounds at Frankfurt. I saw Latham fly, but Orville Wright is the recognized airplane man."

"Regarding my nomination as a member of the Board of Education, I will say that this is a surprise to me, as I had no ambition to enter into politics again, but preferred to live in peace."

BENNETT'S

A Glow of Satisfaction from Wearing a Wooltex Coat

You will realize that the beautiful lines of a Wooltex coat give you such an air of distinction that unconsciously you hold yourself better.

It's a joy, too, to know that the material is fine, the linings beautiful, the tailoring so mannish that you are willing to let the most critical examine it.



The Wooltex label is the makers' guarantee of pure wool and two seasons' satisfactory service. A Wooltex coat is so distinctive in style as to look like a coat especially designed for the wearer—

\$25 to \$35

Autumn Footwear for Women

Autumn Boots, smart STYLE, solid COMFORT. In all leathers—all sizes and all widths.

Prices \$3 \$3.50 and \$4 a pair.



BENNETT'S BIG GROCERY

Bennett's Excelsior Flour, sack \$1.75 and 50 Green Stamps Bennett's Capitol Coffee, package 90c and 30 Green Stamps Bennett's Challenge Coffee, pound 1.90 and 10 Green Stamps Bennett's Tea, assorted, pound 90c and 60 Green Stamps Sugar Cane Juice, large bottle 35c and 30 Green Stamps H. J. Heinz Sour Mixed Pickles, quart 20c and 10 Green Stamps Virginia Swiss Cheese, pound 85c and 10 Green Stamps

BEST WE HAVE CANNED GOODS A Tuesday Sale, While Supply Lasts, Closing Out Less Than Cost Pineapple, graded, can 20c Stringless Beans, can 10c Pineapple, sliced, can 20c Squash, per can 10c Peaches, per can 15c Sifted Peas, extra fancy 10c Succotash, per can 10c Fancy French Beans 10c

Royal Celery Salt, bottle 10c and 10 Green Stamps Bennett's Capitol Pancake, pkg. 11c and 10 Green Stamps Cornstarch, pound 11c and 10 Green Stamps Hex Eye, three cans 25c and 10 Green Stamps Olives, quart jar 40c and 10 Green Stamps Sweet Pickled Peaches, quart 20c and 10 Green Stamps Jap Rice, four pounds 25c and 20 Green Stamps Chicken Feed, pound 10c

Special Offer—Ten's Graham Crackers and Tourist Sodas, a fresh supply direct from ovens, package And 10 Stamps 10c

Critical Men! Here's Style and Shoe Economy

Try Drexel's \$3.50 Special For those men who feel that they would limit their purse to \$3.50 for a pair of Oxfords, we have a special invitation. Our line at this price is second to none in the entire west. Styles galore—old, new and up to the minute. As for the leathers, we have them in patent colt, vealour, vic kid, gun metal, box and Russian calf. Some button and some lace and some blucher; and more than this, a staff of expert fitters always at your service. Write for new fall catalogue.

Drexel Shoe Co. 1419 Farnam Street.

Swap

Exchange what you have, and don't want, for something you have not—and do want. Some one—if they know about it will be glad to trade with you. You can get something you can use for what you don't want

Your home, no doubt, contains many things which are not used, and are simply taking up space in attic and basement. Perhaps it is a gun, bicycle, trunk, ice-chest, overcoat, etc. There are a great many things which you want and haven't the ready cash to buy. The best way to do it is

through a Bee Want Ad By advertising under the head of "Barter and Exchange" you will make a good trade for something you can use.

You can usually get more in this way than if you sold for cash. To show what can be done in this way we are making

A special price for "Swaps" 50c for an ad like this for a week—3 lines, or 15 words, 7 times for 60 cents.

WILL EXCHANGE Jewel gas range with oven, almost new, for bed room furniture or sofa. Tel. Harney 0909.

50c for an Ad Like This for a Week—3 Lines, or 15 Words, 7 Times for 60 Cents.

Want Ad Dept., Omaha Daily Bee

Fountain Pens 25c Each We are overstocked on high grade fountain pens and want to close them out quickly. All are made of hard rubber, chased cap and barrel, fitted with 14kt. gold pens, each in a box with filler. They make fine Christmas presents. Order one today, tomorrow they may be all gone. No stamps taken. D. F. Hatch, Box 143, Denver, Colo.

Special Bargain Bulletin

Wednesday—Boys' and Children's Suits, Silks, Draperies. Thursday—Ladies' Suits and Furs, Laces and Embroideries. Saturday—Men's and Ladies' Furnishings, Suits, Coats and Shoes. Monday—Big Sale of Silks, Dress Goods, Linens. Matchless bargains in Rugs and Furniture.

Friday—Greatest Sale Day of the Year in Domestic Room—Watch Thursday evening papers and 16th St. windows. Saturday—Men's and Ladies' Furnishings, Suits, Coats and Shoes. Monday—Big Sale of Silks, Dress Goods, Linens. Matchless bargains in Rugs and Furniture.

100 New Crown Jewel Suits—Shown Tuesday, at \$25.00. HAYDEN'S THE RELIABLE STORE See the New Beauties in Crown Jewel Suits Tuesday, at \$25.00.

Ladies' Underwear at Half

A big purchase of ladies' winter weight wool and cotton underwear secured at a great bargain, will be placed on sale Tuesday in two big lots. Greatest snap of the season:

Lot 1—Ladies Underwear, in vests or pants, heavy fleece lined garments, regular 50c values, pure white, all sizes—garment 25c. Lot 2—Ladies Underwear—vests or pants, swiss ribbed wool garments, values to \$1.00, on sale Tuesday at 49c.

\$15 New Winter Coats \$6.95 A special purchase of 200 handsome new coats just received from our New York buyer, 1/2, 3/4 and full length, in the very newest styles; garments worth to \$15.00; all at one price—in Tuesday's sale, choice \$6.95

SKIRTS MADE TO MEASURE \$1.50, \$2, \$2.50, \$3.50 Up Select any material from our high grade Dress Goods Dept. and we will guarantee you a perfect fit or money refunded. For further particulars call at Hayden's high grade wool Dress Goods Dept.

Extra Specials for Tuesday BLANKET SALE From 25c each to \$20.00 a pair. COMFORTABLE From 59c each up to \$12.50 each. Outing Flannels, 7 1/2c, 10c and 12 1/2c. Elderdowns, 25c, 35c, 45c and 50c. Flannellette, 7 1/2c, 8 1/2c, 10c, 12 1/2c. Cotton Batts, 5c, 7 1/2c, 8 1/2c, 10c, 12 1/2c and up. Comfortable Cloth, 5c, 7 1/2c and 10c. Every article best made of its kind.

Crockery Specials for Tuesday 3 Handled Cups 10c 3 6-inch Plates 10c 6 Saucers, Tuesday 10c 3 Handled Sherbets 10c 3 Colonial Glasses for 10c 3 rolls Shelf Paper 10c 3 Bread and Butter Plates 10c

Interesting Stove Specials 15-inch Dandy Oak Stove, full nickeled, 8 98. 6-Hole Steel Range, with high Cabinet Closet, full nickeled, 18-inch oven, at 22.50 6-inch Stove Pipe and Elbows, Tuesday 7c Splendid Oil Heaters 2.75 Coal Hods, special 15c

Italian Blue Plums and Last of Peaches On Sale Tuesday 4 basket crates Fancy Italian Blue Plums per crate 95c Extra Fancy Colorado Elberta Peaches, per crate 95c Watch the papers for our big Annual Koffer Bear Sale. Hayden's the Greatest Market in Omaha for Fresh Vegetables. Fancy Wax or Green Beans, per lb. 2 1/2c Fancy Sweet Potatoes, lb 2c 5 bunches Fresh Radishes, per lb. 2c 4 bunches Fresh Beets 5c Fresh Spinach, per peck 10c 3 bunches Fresh Lettuce 5c Fresh Parsnips, Carrots or Turnips, per pound 3 1/2c Monday's prices on all groceries, Butter, Cheese, Crackers, etc.

DON'T FORGET TRY HAYDEN'S FIRST IT PAYS WANTED Conductors and Motormen

Able-bodied men, between the ages of 23 and 40, above five feet six inches in height, and well recommended, for permanent positions as conductors and motormen. Residents of Omaha and vicinity preferred. Apply from 9:30 to 11 a. m. and 2 to 4 p. m. daily, at the office of superintendent of transportation, 2d floor Merchants' National Bank building.

Omaha & Council Bluffs Street Railway Company

ASK FOR Metz THE BEER OF QUALITY

Reliable Dentistry AT Taft's Dental Rooms