of his name

## **EDITOR OF BEE** IS HELD GUILTY OF CONTEMP

Vindication of Paper's Fight Against Police Inefficiency By Grand Jury Comes Simultaneously.

(Continued From Page One.) carried on by the worthy successor

Quoting from the words of the late Edward Rosewater in a case before the supreme court, Nebraska reports 47, Mr. Connell read:

"The court should be chary in the exercise of power whose abuses might tend to cripple the power of the press. The press has a sacred duty to perform in many matters, an . for the faithful performance of its duties it will be held to a strict account before the great tribunal of mankind."

The principles for which Edward Rosewater stood, and for which the torial columns of The Bee-'re- 'pending' before a court. spect for the law and maintenance of order; pitiless publicity and condemation of inefficiency, lawlessness and corruption of office; and inculcation of Americanism as the true basis of American citizenship.

Burn the Constitution. "IIf these be not good principles for a newspaper to stand for," declared Mr. Connell in a voice of hunder, "I am asking in all fairness here you will find good principles? If they are not good principles to live and be guided by, then we might as well dump the declaration of in-dependence in the waste basket and burn the constitutions of the United States and the state of Nebraska."

Other Papers Not Prosecuted. The allegation that other papers have published articles which, he claimed, were as highly contemptu-ous if not more so, under the inter-pretation of the law, than had been the one published in The Bee, was made by Attorney Stanley Rosewater in his argument in rebuttal to the county attorney, and also was recognized and acknowledged by the judge, who said, however, that the stories in the other papers complained of, had not been brought to his official attention, and a couple that he had examined, notably one in the World-Herald, had not impressed him as coming under the

purview of the law. Preceding this article in The Bee," said Mr. Rosewater, "there were written many stories in the other papers containing insinuating articles against Mr. Moore. The newspaper situation, if the decision of the court were not reversed by Moore was not more apparent than the higher courts, and were carried was the clear intention to hit at out, appeared in the words of one The Bee. These insinuating articles of the decisions read by Attorney declared that Mr. Moore was a re-Shotwell in support of his conten-

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the night of the riot. In fact, in one progress.

The decision read: of these papers alone, there was a column and a half of matter about Mr. Moore.

State Not Interested. "It seems to me that if the state was so very much concerned about publications in the newspapers, it would in all fairness have taken into consideration these articles. "If this story in The Bee was

in contempt then the stories in the other papers were in contempt. "In the publication of what ap-peared to be a vindication of Mr. Moore, by printing those two affidavits attesting the manner in which they had been obtained through pressure by the police, the Bee was only protecting itself. It was simply defending its own name, attacked under guise of an attack upon its reporter, and giving a 'square deal' to its reporter and both sides of the case to the public.

Why Pick Out The Bee? "Why pick out The Bee?" de manded Attorney Rosewater; "were case, why stop The Bee from pri ting the other side?

"Under the construction of the law as laid out, it would appear that present editor and successor to this we are approaching a time of indimagnificent monument to fearless- rect censorship in which a newspaness and uprightness stands, are ex- per can publish hardly anything emplified in the words to be found concerning a case, in those cases in bold type at the head of the edi-

> "How long must a case be hanging in court before it will be considered to have passed the stage of pending? Some cases hang over torney, "and is the cause of this for months, and some for years, prosecution. There has been an at-Must the paper be barred for these years from commenting on a case, and throwing the light of publicity upon acts which are wrongful, and which it has discovered, and which possibly it alone could discover through its many facilities?"

Statutes Changed.

The fact that same of the decisupport his contentions were based upon statutes which had been changed afterward was brought out by Attorney Rosewater, and appeared at one moment to overturn the case made out by the prosecutor.

Attorney Shotwell had quoted deisions in Illinois and Ohio to uphold the contention that publication of such matter as was contained in The Bee article "pending" publica-tion had resulted in verdicts of guilty in contempt cases in those

Attorney Rosewater took up the two cases in his reply and showed and stretching possibly into months, that in the Illinois case the decision might possibly be called as a juror was based upon a statute that after- and be influenced by the article he ward was changed in order to pre- had read. How long is a case to vent a future similar decision and 'pend' in court before a newspaper that the same thing was done in the

One ray of light in the darkness

press was subordinate to the independence of the judiciary, but re- cerned, the question here is whether stricted the inhibition of the press or not this article, regardless of any to "pending" cases and exempted question of libel, has a tendency to

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on trial, even though it be prohibited from so doing by a court." How About Other Jurors. "How about the other 14 grand jurors who might have heard what

Mr. Moore said in the grand jury room, and who were not called, after two of the grand jurors for the defense had controverted the testimony of two grand jurors for the prosecution?" demanded Attorney Connell, in discussing that phase of the case. "Two of the grand jurors, one of them with what he called a 'wonderful' memory, testified to words they said Mr. Moore stitutes used in the grand jury room, but neither of these two grand jurors agreed exactly upon what words he had used. Two other grand jurors were called and these testified to something entirely different. Now, there were 14 other jurors in that room. They were within call of the not the others equally guilty of con- county attorney just across the hall. The matter looks too one- and under his jurisdiction. He could sided when the other papers are not have called them. At a moment of stopped. Then, after the other papers had printed one side of the call those other 14 men and get the matter cleared up? How did it come about that only those two particular grand jurymen were called, and that the state ceased its efforts when the defense had gotten two others who

denied their statements?" Were After Rosewater. Continuing, Mr. Connell said that the whole basis of the prosecution was an attempt to "get" Mr. Rose-

"He is the chief subject in this tempt to prevent Mr. Rosewater from publishing these articles exposing the alleged conditions in the police department, and from conducting his paper in the interest of the public, by exposing to the public those things about which they should have knowledge."

Contempt in Dark Ages. Beginning his argument for the defense, Attorney Connell said:

"There has been a continuous advancement from the dark ages, when a man accused of contempt of a court was immediately tried, condemned and taken out and ham-strung or burned. We have developed from that time. Along with this development of man has come a development of the rights of the

"All I can see in this case is a far-fetched conclusion that some mar among the 200,000 or more peoe in Douglas county might read car handle it? Some cases pend 10 or 12 years. The constitution of the state of Nebraska and of the United States guarantees the freedom and liberty of the press, making it responsible only for the abuse

of its power." Property of Court.

Summing up the case in announc-

those which were on trial, also ex- impede the court in carrying out its

"A newspaper may publish a fair suave, or it may call a spade a spade, report of the testimony in any case but the question is, can it impede suave, or it may call a spade a spade, missed this court in the exercise of its constitutional authority? The question is the property of this court while

it is pending. Considered Case Beforehand.

Dismissing the charge against Restitutes contempt, and that this case had ratified the action of his suborcame under that charge."

Dismisses Moore.

Preliminary to announcing dismissal of the charge against Mr. Moore the judge said:

"I think the articles entirely un justifiable, and inspired by a desire an arrest of judgment. to attack the police and Captain Haze, but in so doing it steeped beyond the line of defense allowed the man under indictment. In the evidence, however, I find a conflict torney Connell. of testimony between two of the

carried gasoline to the court house empting comment of all trials in function of determining causes clude that the evidence against him pending before it at this time. It is not satisfactory, and therefore the may be libelous and it may be very proceedings against him are dis-

> Holds Editor Rosewater. The Bee, however, as a publishing company, has admitted the publication of the article, said the judge

and therefore must be held. In the case of Editor Rosewater, said the judge, the decisions were porter J. H. Moore, the court said: many that the editor of the paper In announcing the determination is its responsible head, and must be of this case I will take occasion to held liable for the cast of his subsay that the defense has rested un- ordinates. Whether or not Mr. der the disadvantage, which I have already mentioned, that before inst-ucting the county attorney to file the difference, and if it did, the fact the information of contempt I had that he had allowed continuous artiup the authorities and cles along the same line to be pub formed the opinion as to what con- lished afterward indicated that he

The court then announced that he would hold Mr. Rosewater, and was prepared to impose the penalty. Attorney Connell asked that the case go over until morning to give him time to prepare argument for

'That is a new kind of a motion, isn't it?" questioned the judge. "It is merely like a motion for a new trial in other cases," said At-

The judge then announced that grand jurors, and that of two other he had already made up his mind to grand jurors. Despite this, I was allow the attorney five days to prolast night prepared to find Mr. cure a supersedeas, for which con-Moore guilty, but the testimony he sideration the attorney thanked him, gave in his own defense on the stand today has moved me to conthis morning.

## Editor Rosewater Volunteers Testimony, and Case Is Ended

counsel for The Bee, shortly before noon yesterday began the opening argument for the defense, following the closing of testimony, and the opening argument of County Attorney Shotwell in the trial of The Bee in the district court on a charge of having committed a contempt of court, and having attempted to obstruct the administration of tice," by the publication in The Bee of the revelation that, according to the affidavits of two witnesses for the state, Police Captain Haze had

Bee, on which the reporter, J. Harry Moore, had been indicted. Rosewater Takes Stand.

been active in "framing up" untrue

charges against a reporter for The

The closing of the testimony came abruptly after Attorney Connell, for the defense, had placed on to refute testimony to the effect that sires.' he had written, or "may have" writ-November 9, on which the contempt harge is based.

Mr. Moore denied that he had tional ri-written the story, and denied having question. 'claimed," or to having admitted, to cross-examined by the county attorney as to how he had gained the that he had in fact written the ediaffidavits from the two state's wit- torial. ing his decision, Judge Redick said: nesses, who had confessed to hav-"A case pending in court is the ing perjured themselves at the soporter for The Bee, and that he had tion.

This decision was the one anlice department, and that he had nouncing that the liberty of the liberty of the court and no outlice department, and that he had nouncing that the liberty of the liberty of the court and no outlicitation of Police Captain Haze, and upon the promise of the police captain that if they would swear "I wrote it following a conver-"So far as this proceeding is con- against The Bee reporter he would

"get them out of jail." Mr. Moore testified that the first Thorp and Morris, wished to confess their part in the unsavory af-fair was when he received a telephone message from the jail that Thorp and Morris had asked an attorney, who was in the jail visiting another prisoner, to notify Moore of what they wished to do and request him to come and see them. Later, said Mr. Moore, Deputy Sheriff Lee also notified him that the two witnesses had confessed to certain facts regarding the activity of the police captain in his case, and wished to make a statement to that effect.

Got a Notary.

Mr. Moore stated that immediately upon receiving this information he first produced a notary public and visited the two prisoners, who made statements which were taken down by the notary, in which they confessed they had been solicited and urged by Police Captain Haze into making their charges against Moore, further stating that, as matter of fact, they had not seen Moore in the crowd of the court house riot, and as further matter of fact had never even seen him at all, or even heard of him, until the day they were stationed in an office by Captain Haze for the purpose of getting a look at Moore when he came into the room on a "trick" message sent by the captain to en-

tice him to the room Wanted Affidavits Kept Safe. Moore stated that on getting the affidavits he handed them to Managing Editor Kennerly of his paper with the request that they be kept in a safe, doing so because the managing editor was chief of the department in which he worked, and because the further fact that he had been indicted through his employ-ment on the paper connected the paper in interest with him in the affair and made the paper a party thereto, and it was eminently proper and in the natural order of things he should, therefor, confer with the managing editor over the mat-

He stated that he made no request that they be published, and the conversation with the managing editor was short, the time being near the lunch hour, and the managire: editor going out, he himleaving the office later, and not seeing or conversing with the managing editor until after he had seen the publication of the affidavits

in the paper. County Attorney Shotwell sought to get an admission on cross examination that Moore knew, or must have known that the affidavits were going to be published, but the witness stuck to his statement that the conversation with the managing editor was short, as stated, and not continued later in the day.

Rosewater Volunteers Testimony. Editor Rosewater was placed on the stand to show that he had had no cognizance of the news story in

Attorney Stanley Rosewater, of | Attorney Connell objected to this, Rosewater, Cotner & Peasinger of as not coming within the range of subjects opened up by the direct examination.

After considerable argument Judge Redick sustained the objection. Attorney Shotwell then attempted to question the editor about an edi-torial squib of November 8, prior to the publication of the "contempt"

story, which squib read:
"Our grand jury makes a mistake when it permits itself to be manipulated by the discredited police department in pursuit of personal grievances."

"Did you write that editorial?" uestioned the county attorney.

"I did," said the witness.
"Stop. Wait," said Attorney Conout. The witness answered before I could get in an objection, and I object on the ground that it is not cross-examination, and that I have this article, and at some future time, the stand Reporter Moore, and Vic-and stretching possibly into months, might possibly be called as a juror Mr. Moore was placed on the stand answer the question if he so de-will hand them to Mr. Wilson, the

The court admitted the objection, en, the story in The Bee of Sunday, and Editor Rosewater then said he wished to consult his attorney before availing himself of a constitutional right to refuse to answer a

The judge permitted the conhave done so. He was closely sultation, after which Mr. Rosewater again took the stand and said

He was asked if he had written

sation I had with Sheriff Clark at the jail," said Editor Rosewater, in which we had taken up various news he had that the witnesses, phases of the police activity in consection with the work of the grand jury, and attempts to get an indictment against me.

Editor Rosewater then testified that on the evening of the publication of the editorial he had attended an entertainment, at which Judge Redick himself was present, and had remained there until The Bee had gone to press.

Mr. and Mrs. Judson Return From Christening Ship

Mr. and Mrs. Frank Judson re-turned from Wilmington, Del., where Mrs. Judson christened the ship, "City of Omaha," with a bot-tle of real champagne. Mr. Judson says that 20,000 people witnessed the christening of the ship. Identify Rescued Woman.

Chicago, Nov. 19.—The identity of the "Mrs. Mary Duke," who was escued from Lake Michigan three days ago, today had been cleared She was identified by Theodore up. She was identified by Theodore MacHold of St. Joseph, Mich., as his mother, Mrs. Mary MacHold of El Paso, Tex. Mrs. MacHold had een missing since July, her son

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## MAYOR SILENT ON REPORT OF THE GRAND JURY

Butler Blames Council for Governor's Police Probe Order-Ure Firm On Present Station Site.

City Commissioner Butler stated that the grand jury report, referring to lack of leadership during the afternoon of Sunday, September 28, at the court house, justifies his contention that the city council should order a public investigation, as proposed in his resolution, which will be brought before the city council for action Thursday morning.

"You will recall that my resolution provided for a public hearing at which the governor's representative should be permitted to take part," said Mr. Butler. "This resolution was laid over until the grand jury report was received. If the council had adopted that resolution. it would not have been necessary for Governor McKelvie to have written his letter last week to the mayor and city commissioners. Favors Open Hearing.

"This hearing should be held and should be open. Let us know what the facts and the truth are and place the blame, if any, where it belongs. I am going to insist Thursday morning that the council adopt my resolution. Where would we get with a secret investigation of this kind?"

Mayor Smith was told of the conents of the grand jury report with reference to the police at the court house and he was asked to express his opinion.

"I wish to read the entire report before I comment and when I have read it I may not make any comment," the mayor replied. "As I stated before," he added, "I have asked for reports from every member of the police department."

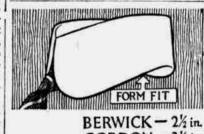
He added that he arrived at the
Harney street side of the court house as early as 5 p. m., on the Sunday of

the riot Will Call for Reports.

"I have directed Chief of Police Eberstein to have every member of the police department send to me whereabouts and actions on Sunday September 28, from noon to mid-night," the mayor said. "When I governor's representative, whom I

expect to be in Omaha this week.' Commissioner Ure asserted that ne would not make any comment of the grand jury's reference to the poice department until he shall have read the entire report.

"As for the recommendation of the grand jury, that the new police station should not be located at the present site, I would state that I lon't believe that I will be influenced by the grand jury in that matter," Mr. Ure said.



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## Police Raid Alleged Fan-Tan Game and 15

Detectives Troby, Bolar, Haze and Danbaum broke up an alleged game of "fan-tan" yesterday afternoon just when it was getting interesting for 15 Chinese in the grocry store of Sam Gwong, 122 North with keeping a gambling house. Sevwelfth street, and arrested Gwong eral dozen wooden blocks, resem-

nd his 14 companions.

Eye, Lee Sing, Long Hop, Bab Cun, Yee Poy, Tun Lam, Louie Kong, Ax King and Jun Chin all said they lived at 122 North Twelfth street. Chinamen Are Caught Lee Sing, 111 North Twelfth street, Jun Lee, 1204 Douglas street, and Lo Dow, 517 North Sixteenth street. were charged with gambling and released on \$200 cash bonds each.

Gwong was made to put up \$500 cash for bond. He was charged bling dominoes, and \$57.50 in cash Most of the alleged gamblers live were taken in the raid and held as in the grocery store. Ax Sing, Long evidence against the Chinese.

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the material, and the braid-

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Brooms
Leather Vests
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these organs healthy by taking GOLD MEDAL HAARLEM OR

and movement becomes painful it

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Coughing

question, and that in the ordinary course of the day's business in The take Father John's Medicine, Bee's local news room such a story 1807 Farnam St., because this old-fashioned would not be brought to his attenfamily medicine contains no Omaha, Neb. On cross-examination County Attorney Shotwell attempted to go into the question of who wrote the 60 years in use editorial "Stop! Look! Listen," published after the story.