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THE CITY LOSES OUT IN CASE TAKEN TO THE SUPREME COURT

The Judgment of Lower Court in Mike Whelan Matter Affirmed By the State Supreme Court.

Attorney D. O. Dwyer this morning received a message from the clerk of the supreme court, notifying him that in the case of Michael Whelan against the City of Plattsmouth, the plaintiff had had his case affirmed, in which he recovered a verdict and judgment in the district court of this county, in the sum of \$150, which, with the accrued interest and costs, will now reach something over \$300. The controversy arose about three years ago, when the city, under the former mayor, graded for cement walk adjacent to the residence property of Mr. Whelan, located on Winterstein Hill. At the time the work was done it might have been settled for a small sum, and when the authorities were called up on the phone by Mr. Whelan to discuss the matter, as soon as it was ascertained who was talking and the subject of conversation, the city official hung up the receiver and would not discuss the matter. The injured property owner then sought a lawyer, and filed his claim for damages with the council, which was referred to a committee, and finally rejected. The matter was appealed to the district court, where it was tried before Judge Travis and a jury, the

city being represented by the then city attorney, W. C. Ramsey. The trial of the case in the district court resulted in a judgment for the plaintiff in the sum of \$150, which was \$550 less than plaintiff had sued for. The city authorities believing in the justness of their cause, appealed the case to the supreme court for a final determination of the law in such cases, with the result above stated.

The city has forty days from the rendition of the judgment in the supreme court in which to file a motion for a rehearing, and Hon. B. S. Ramsey, the present city attorney, will file such motion at once. If the case proves to be properly decided, there will need be some caution used in the future in grading adjacent to long established residences, or where the residences have been erected before the grade was established.

The case excited more than ordinary interest in the supreme court, the opinion affirming the district court was written by Judge Rose; Root, Letton and Segwick, each concurred in separate opinions, which rarely occurs. Judge Ramsey has ordered a copy of the opinions of the learned court sent to him.

BAD BOYS DISTURB POOR OLD GERMAN LADY

On Tuesday afternoon as an elderly German lady, who had been attending to some shopping in this city, was returning to her home, a mile southeast of the city, she was molested by three boys about twelve years of age. As she was driving to her home these unruly boys ran up behind the buggy and aside from provoking the old lady very much, took the packages out of the back end of the buggy box and ran away. The elderly called to a number of people in the vicinity for assistance, but as she could not speak the English language and there being no one in the immediate locality who spoke or could understand the German language who could act as interpreter for her, she was unable to expalin the affair satisfactorily to those who had come to her aid, and was therefore compelled to go home without her packages. This unruly deed occurred on Lincoln avenue near the limits of the Burlington yards. On account of their parents, the three culprits' names are withheld. But their names are known, also it is known that they are students of the Columbian school. The lady does not care to cause any trouble for the parents of the young culprits, but the parents should know of the whereabouts and actions, such as this, of their children after school hours. If the parents are not capable or unable to take care of their children after the school hours, they should be taken from them and placed in charge of some authority, institution, or parties, who would see to it that such culprits as these would conduct themselves in a gentlemanlike manner.

Honors the Journal.

Governor Shallenberger has appointed a number of delegates to the Lakes-to-the-Gulf Deep Waterway association, which will meet in St. Louis, November 25 and 26. Among the number appears the name of R. A. Bates, publisher of the Journal. While St. Louis is several hundred miles away, and none but the rich can enjoy such honors, and as no provision is made to pay the expense even of such trips, and as our time is very precious at this time of the year, it will be impossible for us to attend anyway, no matter how much we would like to. Governor Shallenberger has our thanks, just the same, for the honor conferred.

Judge Travis Makes Improvements.

The appearance of Judge Travis' residence has been improved recently by the addition of cement walks, concrete horse block, and other outside decorations, in which is included beautiful concrete porch columns and two large lawn urns. H. C. McMaken & Son have the contract for the work.

Has Finished Corn Gathering.

Mr. Sam Tubbs, of near Murray, was a Plattsmouth visitor today. Mr. Tubbs finished gathering his corn last Tuesday, being the first farmer to report his crop harvested. The corn was very good, and Mr. Tubbs has no complaint to make on this score. The farmers over the county are about half through with their corn gathering, this having been an unusually fine fall for our district work it is expected that by Christmas there will be no corn in the fields.

MRS. BAXTER SMITH ENTERTAINS ALTAR SOCIETY

From Thursday's Daily

One of the very pleasant social events of the season was that of yesterday afternoon, when Mrs. Altrogge and Mrs. Baxter Smith entertained the members of the St. John's Altar society and friends at the hospitable home of Mrs. Smith on North Third street. The fact that it was to be held at the home of Mrs. Smith and that Mrs. Altrogge was to assist Mrs. Smith in the entertaining, the ladies expected a fine time and expectations were fully realized in the entertainment of yesterday. For the occasion Mrs. Smith had thrown the parlors of her home open and assisted by Mrs. Altrogge made an especial effort toward insuring the guests a royal time. A musical program had been arranged for, which was rendered during the course of the afternoon. This program was a most delightful feature of the afternoon entertainment and was likewise thoroughly enjoyed by the guests. There were vocal solos, instrumental selections and the like, which were rendered in a very pleasing and charming manner. The dainty, as well as delicious, luncheon provided by the hostesses was not the least appreciated of the many delightful things provided by the thoughtful hostesses for the entertainment of their guests. The ladies realized over thirteen dollars.

At the Majestic.

A large audience witnessed the fine exhibitions at the Majestic last evening. The "Message of the Arrow" was a true reproduction of scenes often enacted on the frontier, and was true to life and a real thriller. The other subjects were equally as fine, and especially the "Mysteries of the Larama Convent."

Some of the most beautiful scenes were pictured in this subject, and natural scenery of the wildest character, and one having a bent for the mysterious should see this drama enacted, as it alone is worth the admission.

Manager Schlaes is making a success in keeping the quality of the exhibition up to a high standard.

ATTORNEY BURNHAM DIES AT OMAHA

Well Known Attorney Taken in Prime of Life by Typhoid Fever.

The Omaha Bee of this morning has the following in reference to the death of Henry E. Burnham, the well known attorney, who was well known in Plattsmouth:

"City Attorney Harry E. Burnham died last night at 9 o'clock at his home, 115 S. Thirty-seventh street, a victim of typhoid fever, with which he had suffered for several weeks. He was 44 years old.

"Mr. Burnham was born in Bloomfield, Indiana, and there he spent his boyhood. His early education was secured in the public schools of Bloomfield and in the Indiana normal school. In Indiana he studied law for five years, teaching school between his law terms to help raise funds for his legal education.

"Mr. Burnham completed his studies in the college of law of the Georgetown university, securing the degrees of L. L. B. and L. L. M. After the completion of his work in the law college he accepted a position as legal adviser and special examiner for the United States pension bureau and served four years.

"Mr. Burnham resigned his government position in 1893 and began the practice of law in Omaha. In 1897 he was appointed by Governor Holcomb as one of the judges of the Omaha municipal court. The law creating this court shortly afterwards was declared unconstitutional by the state supreme court.

"In 1901 and 1902 Mr. Burnham served as deputy county attorney under George W. Shields and in 1903 he held the same position under James P. English.

"Mr. Burnham was elected city attorney for the first time in May, 1906, making a successful race on the democratic ticket. He was re-elected in May, 1909.

"Mr. Burnham was the son of Mr. and Mrs. Samuel Burnham, Nebraska pioneers, who lived in Nebraska City from 1825 until 1861. Both his parents are dead. His wife is the only near surviving relative."

Don't Become Indifferent.

The only men of worth to a town or community are those who forget their own selfish ends long enough and are liberal enough in their ideas to encourage every public and private enterprise, who are ready with brain and purse to push every project calculated to build up the town and enhance its importance. The enterprise and push of a town or community is the foundation of its permanent success. A town may as well prepare for its funeral as to become indifferent to the enterprises in its midst. Men who come to town to make it their future home, who cannot see far enough before them to see that money placed judiciously in a public enterprise of their own town will be a hundred fold in the appreciation of their property are to be pitied.

Mrs. Peckham Demonstrates.

John Bauer & Son yesterday installed an electric sign and allowed in their window a position for Miss Adeline Capicola Peckham for the purpose of demonstrating the asbestos sad iron. Any woman not entirely satisfied with her ironing should witness Miss Peckham's demonstrations. She is very entertaining and knows her stunt thoroughly, uses her index finger a great deal, but this is her method of demonstrating.

Will Spend Money for Rip Rap.

Mr. A. P. Wood, superintendent of construction of the M. P. Railway company, was in the city yesterday, contemplating expending \$17,000 in rip rap near the new bridge over the Platte. The water has made quite a serious inroad at the south bank of Platte, just west of the bridge. It will take a large amount of stone and willow and cable to protect the bank from further encroachment of the Platte.

Mr. Vern Perry and wife, of Eight Mile Grove, accompanied by Mr. Walter Perry, of Orange, California, were in the city today, looking after business matters. Mr. Walter Perry arrived from California last Tuesday. The young men report their father as improving.

Mayor Appoints Delegates.

Mayor Sattler has appointed the following delegates to the Lakes-to-the-Gulf Deep Waterway association, which will meet in St. Louis November 25 and 26: Dr. J. S. Livingston, John Lutz, Dr. E. W. Cook, Frank Schlaler and George Lushinsky. Every city in Nebraska and especially those along the Missouri river, are deeply interested in this meeting, and according to the apportionment of delegates Plattsmouth is entitled to five representatives.

SLIGHT REDUCTIONS IN FOOD PRODUCT BUT SLIGHT

Within the past two weeks there has been a slight reduction in the price of food products, probably due to the monster corn crop raised this year, but the decrease has been so slight as to be hardly noticeable to the men with small families. New corn is selling on the street at 40 cents per bushel. Pork at the meat markets is sold over the counters at 3 cents less than formerly, but beef has not declined perceptibly in the local market. The attention of the retailers in the city was called to the reduction of prices in the large centers of population of from 2 1/2 to 3 cents per pound in beef, and the firm interviewed said that the reduction was only on the cheaper meats, such as had to be treated with a chemical before the odor disappeared so that anyone would buy, and such meat his firm would not allow to hang in their shop. The meat which has taken such a slump in New York, is probably some that has been stored so long that it is not fit for human consumption, and is offered at the cut price in order to get rid of it. There is an opinion also that the meat combine have agreed to temporarily lower the price of meats to force out of business some independent concerns. The Swift traveler was in town this week, and stated that there had been an advance of one cent per pound on the best cuts of beef.

IN MEMORIAM.

Mrs. Isabel Richey, Our Poetess.
Four snow-white rose buds in her hands,
Those hands so white, so fair;
They spoke of faith, of hope, of love,
The peace of God was there.

Most beautiful in death, she seemed,
An angel smile was there,
The breath of Eden on her lay,
And praise exchanged for prayer.

For death hath lost its painful sting,
All fear is cast aside,
For soul and body, God will bring
At the great Easter tide!
Canon H. B. Burgess.
November 18, 1910.

Completed Poultry House.

From Friday's Daily.
Mr. C. C. Wescott yesterday completed a new poultry house which is all fixed up in modern style with baths and the like, polished floors, grained woodwork, etc. However, the structure was not built to withstand heavy objects descending from above, as Mr. C. E. Wescott discovered, when in the gloaming an evening or two ago, he precipitated himself through the plate-glass roof of the new henery. Mr. C. C. Wescott was the first to arrive at his father's side, and found him still conscious, but getting his "breath in short pants," knee pants, as it were.

The Fire at Havelock.

Fire which for a time threatened to consume the entire building broke out on the third floor of the new Burlington storehouse at Havelock about noon yesterday, damaged the building and supplies stored in the structure to the extent of \$30,000. This is covered by insurance. The fire started on the third floor of the building in a pile of waste. The origin is unknown. This is the second loss by fire at Havelock which the Burlington has suffered during the last six months, of which the cause has never been learned. The damage, which amounted into the thousands, was confined mostly to the third floor of the new building. Water which was poured into the building damaged the first and second floors of the building to a considerable extent.

ANOTHER EXCELLENT CITIZEN OF PLATTSMOUTH PASSES AWAY

Alvin Everette Gass Dies at His Home Here After Battle With Bright's Disease,—Was an Lovable and Kindly Man.

From Friday's Daily.

Alvin Everette Gass, only son of Perry P. and Hannah Winterstein Gass, was born August 19, 1862, in Plattsmouth. He has lived his life here with the exception of nine years following his marriage to Miss Belle Wendell in 1889, during which time they made their home at Pacific Junction, Iowa, where Mr. Gass was connected with the Burlington railroad. In 1898 he returned to his birthplace and for a number of years was chief clerk under D. S. Guild, storekeeper of the Burlington. He continued in railroad work until elected to the position of auditor for the Independent Telephone company here, where he has served most efficiently and competently since, until illness made it necessary for him to give up his work four weeks ago. After a noble fight against that dread affliction, Bright's disease, he finally succumbed and his brave spirit took its flight at 7 o'clock, Thursday evening, November 17th, to join the beloved father and mother who have preceded him to the heavenly home. He leaves a widow and two daughters, Lucile and Helen, and an only sister, Olive, to whom there remains a blessed memory of a kind and tender husband, father and brother.

In the passing of Alvin E. Gass Plattsmouth has again been called to mourn one of its most highly respected and valued citizens, just in the prime of his usefulness. Useful because he filled a place all his own, both in his public relations, as well as his social and private life. He was a consistent member of the Presbyterian church, and had been a constant attendant upon the services until his health began to fail. His unassuming, pure, sweet life, has been an inspiration to those who have been closely associated with him. Strange as it may seem, however, we are slow to appreciate the true worth of those with whom we mingle from

day to day, 'til the silent messenger calls them from our sight.

Al, as he was familiarly called, was a genius with his pen, and but few knew of his gifted talent as a writer of prose and poetry, outside of the charmed home circle. For it was there he lived, loved and worshiped. And as we touch briefly upon his home life, we would tread softly, for it was his sanctuary, where he worshipped at the shrine with his loved ones, and where his unselfish, gentle, loving presence will be missed by his devoted wife and daughters more than language can express. While the husband and father had been a patient sufferer for two years, but few knew that the dread disease had marked him for its victim, until recently. With his faithful physician and loving attendants, he battled bravely with the disease, until hope was gone. But when the summons came, it found him ready, and with words of endearment to those he loved, and a smile on his lips, he passed sweetly and peacefully to his rest, just as the church bells were calling the people to prayer, and ringing for him the summons to a higher and better life. And as we say "good-bye," we can add nothing so appropriate as the first and last lines of his own eulogy to Eugene Field. "And he is gone, the one who, with his genius, and poesy, has touched the heartstrings of us all. And as the year was dying, and the flowers which he loved did droop their pretty heads before the cruel wintry blasts, his poetic soul took its flight. And if such things above are given, he'll be poet laureate of heaven."

The sympathy of the community goes out to the bereaved ones in this hour of sorrow and loss. And we commend them to the Infinite One, who alone is able to comfort their aching hearts.

WILL ENFORCE ANTI-TRUST ACT

Attorney General to Ask State Corporations to Come to Time.

Attorney General Mullen, appointed by Governor Shallenberger for a period of two months, proposes to require corporations to obey the Junkin anti-trust act by requiring them to make reports to him as provided for by the law. He will give the companies until December 1 to comply with his request.

That part of the Junkin act has been to a great extent a dead letter since the enactment of the law, which was to be effective in 1906. The section of the law does not apply to corporations incorporated under the laws of Nebraska or to common carriers. It applies to all joint stock companies or associations whose stockholders are not personally liable for their debts. Such companies are required to file a statement with the attorney general on or before September 15 of each year, showing the market value of capital stock, how much has been paid in cash for the same, the amount paid in dividends, a statement of stock owned in other corporations, the amount of stock held in trust by it for other corporations, and such must file in the attorney general's office on or before June 30 of 1910 an undertaking that it will comply with all of the laws of Nebraska governing corporations.

The Junkin act further provides that the attorney general may at any time require of any corporation or joint stock company engaged in business in this state any statement he may think fit in regard to the conduct of its business.

Civil and criminal prosecutions may be instituted for failure to report and the fine shall not be less than \$500 nor more than \$5,000. The

making of a false statement shall be punishable the same as perjury.

Only about forty-five corporations have filed such statements as are required by law, while over 500 foreign corporations are doing business in this state which have appointed the state auditor as agent.

Walter Perry Here.

Walter Perry, of Orange, California, a native Cass county boy, came in from Orange, Calif., a day or two ago, looking the picture of robust health. Mr. Perry went to California four years ago and owns an orange orchard of which nine acres are in bearing with several acres more of young trees which will be in bearing soon. Strawberries in his neighborhood were selling at six boxes for 25 cents, new peas and beans are in season also now. Mr. Perry is much pleased with that country, and although successful in farming here, much prefers the fruit growing to the agricultural.

Taking Teachers' Examinations.

From Friday's Daily.
The following named young ladies were in attendance at the examinations held by Miss Mary Foster, county superintendent, at her office in this city today: Miss Ellen Smith, Miss Merle Gustin, Miss Hazel Lamphere, all of Elmwood, and Miss Katie Foster, Miss Adelaide White, Miss Mildred Johnson, Miss Edna Shopp, Miss Delsie White, Miss Willa Moore, Miss Irene Hartwick, Miss Florence Rummel and Miss Ina Hatt.

The Mascot Departed Today.

The thoroughbred bull pup which served the Red Sox ball team as a mascot this summer, left today for a new owner. Mr. Fiton, the owner, came for him, having sold the pup for \$200, and thought he had sold it cheap. The dog has been in the custody of Manager Bratner for several months, and was loaned to the ball team during the season.

Mrs. W. A. Taylor departed for Plainview, Nebraska, this afternoon, where she will visit her son, William Taylor, for a time.