

# The Plattsmouth Journal.

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NO. 39.

## THE COMMERCIAL CLUB HELD A MOST ENTHUSIASTIC MEETING LAST NIGHT

A Great Many Important Business Matters Were Taken Up and Disposed of, and Committee Was Appointed to Raise \$1,000, by Subscriptions of \$1 Each to Advertise Plattsmouth.

From Friday's Daily.

The Commercial club held its regular meeting last night with a fairly good attendance and held a busy session of over two hours' duration. The first matter, after disposing of the minutes and communications, in the order of business was a report from the special committee on the road to the Platte river bridge. Mr. J. P. Falter stated that, as directed by the club, he, with Messrs. Tidd and Pollock, had invited the county commissioners to view the proposed new road, as well as the sandy condition of the old route, with the result that a road had been procured through the properties of the Burlington, Henry Born and Mr. Nord, and that a good black dirt road, with no sand, had been assured. The commissioners had ordered a bridge built over the small creek on the route, and while the road had not yet been graded, it was a good road, and for their prompt attention in the matter the commissioners were tendered a vote of thanks by the club.

Rea Patterson, chairman of the committee to procure better train service for the city, reported that the committee had interviewed Mr. Wakeley, general passenger agent, who seemed much interested in the matter and agreed to take the matter up with the proper parties at a very early date.

On suggestion of Superintendent N. C. Abbott, to whom the G. A. R. and W. R. C. have turned over the entire management of the Decoration day program and exercises, a motion was adopted requesting the mayor of Plattsmouth to issue a proclamation to the business men to close their

places of business on Decoration day from 9:15 to 10:30 a. m., during the exercises at the opera house.

The matter of advertising the city with a view of promoting an increase of our population, was taken up and discussed at some length. It was the opinion of the membership present that \$1,000 could be expended in this way and bring a profit to every line of business and trade and occupation in the town. To popularize the movement and give everyone a chance to share in the burdens, as well as in the profits, it was suggested that a dollar contribution from 1,000 men in all lines of industry and business would be the just and fair way to distribute the assessment, as well as the pleasure of doing something for the community. It was argued that it was not just and fair to expect 50 men to donate \$20 each, when over 1,000 men would share in the prosperity the \$1,000 judiciously expended would bring to the entire industrial community. It was suggested that the newspapers of the city raise the "hue and cry" for the \$1 subscription and thus get the leven to working. A committee consisting of A. L. Tidd, J. P. Falter and E. H. Wescott, was appointed to manage the campaign.

The old committee on Burlington band concerts, consisting of E. H. Wescott, Emil Wurl and Philip Thieroff, was directed to proceed to raise funds to continue the concerts this summer. It was suggested the concerts be held in some place to be provided and not on the street, as previously.

Jacob Meisinger in Town. From Friday's Daily.

Jacob Meisinger and wife have been on the farm during the two weeks their son, John, jr., has been in the hospital, and Mr. Meisinger drove in this morning to get some groceries to tide them over the week. He expects to go to Omaha tomorrow to accompany his son from the hospital. The farmers in Mr. Meisinger's neighborhood are through planting corn and some pieces are coming up nicely. The corn just planted is sprouting and the farmers are feeling fine over the good prospect for good crops.

## TROUBLE RENEWED ON EAST SIDE OF RIVER

Three-Foot Rise in 24 Hours the Cause, and One Home Falls in River.

The Glenwood Tribune of the 16th contains the following in reference to the renewed trouble over at Folsom:

The changeable Missouri river began cutting at Folsom again Wednesday and the fight for supremacy, which has so often been waged between the Burlington railroad and the river, is now on again. Trains of workmen are being hurried to Folsom and preparations made for another fight to save the tracks. The river began raising Wednesday night and in the next twenty-four hours had raised three feet. Rivermen think the rise is due to heavy rains north of here. Thursday morning the river was falling.

The river is now cutting just below the big hole cut last month. Wednesday it was noticed that a rushing current, heretofore unnoticed, had set in against this side. The river immediately began cutting. At midnight Wednesday night the old Bennett house, which has been near the edge of the river where the recent ripping was heaviest, was undermined and tumbled in, disappearing immediately in the swirling current. The ripping below the big cut is being torn away by the change in the point of heavy current.

Night work will be resumed at once, according to Trainmaster Hughes, who is in charge of the work. Crews of men have been working every day for the last three weeks throwing in cars of rock where the deepest hole was washed.

## Will Not Be Prosecuted.

A special from Washington to the Omaha World-Herald, under date of May 16, says: Hans Johnson of Weeping Water, who was held to have violated the oleomargarine law and was subjected to a fine of \$225 because he accommodated a neighbor tradesman, will not be prosecuted. Senator Hitchcock received a letter from the commissioner of internal revenue saying that while Johnson was guilty of a technical violation of the law a penalty probably could not be collected and that the case would be dropped. Johnson only collected money from a baker on a butter substitute that for convenience was included in shipments of other goods to Johnson from Omaha.

## Improve Their Properties.

Mrs. J. A. Murray, L. H. Karnes and George Shoeman, all of the Second ward, have just completed substantial improvements to their residences in the way of concrete walks and other repairs. Mr. Karnes has built an addition to his dwelling, W. F. Brissey doing the carpenter work and A. W. Brissey the painting. The construction of the walks, with the other improvements, adds much to the appearance of the residences in the vicinity.

## Take Examination Today.

The following named young ladies spent the day with Miss Foster, taking teachers' examination: Edith Dean, Greenwood; Bertha King, South Bend; Birdie O. Johnson, Murray; Mabel Tracy, Louisville; Mayme Hoham, Louisville; Agnes Kennedy, Murray, and Hilda Briakman, Plattsmouth.

## CASE OF GERING VS. LEYDA IS DECIDED

Evidence Against Plaintiff Insufficient and Opinion Filed May 13, 1912, Faucett, Judge.

The following is a substance of the opinion of the supreme court in the matter of Henry R. Gering, plaintiff, vs. John M. Leyda, defendant:

Action in the district court for Cass county for malicious prosecution. Judgment for plaintiff for \$1. Defendant appeals.

The complaint upon which the plaintiff prosecuted was filed in the county court of Cass county by the county attorney, and charged that defendant, being a druggist with permit from the city council of the city of Plattsmouth to sell liquor for medicinal, mechanical and chemical purposes only, did, on July 5, 1908, unlawfully sell intoxicating liquor, to-wit: Whisky to one Samuel Beggs, "without first having obtained a license and given bond to the state of Nebraska, as required by law, authorizing him, the said Henry R. Gering, to make such sale of intoxicating liquor, such sale not having been made for medicinal, mechanical or chemical purposes." Upon the hearing of that complaint, the defendant there, plaintiff here, was discharged and this action followed. The allegations against the defendant, Leyda, is that he maliciously and without probable cause, procured the arrest and prosecution of plaintiff upon the complaint above set out. One of the errors assigned by defendant, and the only one we deem it necessary to consider, is that the trial court erred in overruling his request for a peremptory instruction, and in submitting the case to the jury.

The evidence of plaintiff himself is that Beggs came to his store on Sunday, July 5, 1908. "He said he wanted some whisky, I said: 'We don't sell it on Sunday.' He said: 'I want it for medicine. I have got to have it. I am going to go into the country.' I asked him what his name was and where he lived and he told me that he was working out in the country. I says: 'Do you want it for medicine?' and he said, 'Yes, sir, I do.' I asked him how much he wanted and put it up for him; took his money and delivered the goods to him, making the entry of the sale in the poison register."

The poison register shows that the sale was 12 ounces. The controlling question is: Did defendant, Leyda, procure the prosecution of plaintiff maliciously and without probable cause? The fact that a man is prosecuted on a criminal charge through promptings of malice on the part of the one instituting the prosecution, is not sufficient ground upon which to base a suit for malicious prosecution, if there is probable cause for such prosecution. There must be both malice and want of probable cause before such action will lie. In this case there is an entire absence of evidence to show that defendant made any false representations whatever to the county attorney or did anything improper in causing and filing of the complaint above set out. In fact, the county attorney himself testified that he never counseled with the defendant or asked his advice, nor did he know that he had with anyone else. He says he met defendant on the street and defendant said to him that he had heard that a man by the name of Beggs was getting liquor at plaintiff's store; that he told defendant that he knew about it and had the matter in hand.

Without going into the evidence in detail, it is sufficient to say that it clearly establishes the fact that the complaint against plaintiff was filed by the county attorney entirely upon his own initiative and without procurement on the part of defendant. The petition of plaintiff and his testimony show that he sold a bottle of whisky to Beggs upon the mere statement of Beggs that he wanted it for medicine. The evidence also shows that Beggs did not purchase it for medicinal purposes. Admitting that he deceived plaintiff, that would not establish the fact that, upon re-

ceiving information of such sale, the county attorney acted without probable cause in filing the complaint and prosecuting plaintiff therefor. But, even so, viewed from any standpoint, the evidence in the record before us is entirely insufficient to connect defendant with the prosecution of plaintiff. We think the court erred in not directing the jury to find for defendant as requested. Plaintiff has evidently concluded that there is no substantial merit in his action, as his counsel have neither submitted a brief nor appeared to argue the case orally. The judgment of the district court is therefore reversed and the cause remanded with direction to dismiss the action at plaintiff's costs.

General John C. Cowan, Hon. John J. Sullivan and Matthew Gering, attorneys for plaintiff, and James E. Leyda, Byron Clark and W. A. Robertson, attorneys for defendant.

## FEDERATION OF NEBRASKA RETAILERS

Plattsmouth Branch Enjoys an Interesting Meeting and Address by Penn P. Fodrea.

From Friday's Daily.

The Plattsmouth branch of the Federation of Nebraska Retailers' association held an interesting session at the Commercial club room last night. The meeting was attended by a full membership, as well as many persons who are not yet members, and was addressed by Penn P. Fodrea, secretary of the state association and editor of the Omaha Trade Exhibit. Mr. Fodrea talked on the issues that are nearest every merchant's heart, bargain day or sales day, how to attract the trade to the town, telling his hearers of methods he had tried, of some tried by others and how they worked. He also spoke of the work of the federation, the good already accomplished, and that which was expected to be attempted in the near future. The speaker mentioned some of the beneficial legislation brought about by the efforts of the federation, and spoke of other splendid measures which the federation would try to have enacted into law at the next session of the legislature. The address was a splendid effort from a wide-awake business man and held the attention of the merchants present until a late hour.

Officers of the Plattsmouth association recently elected are: Emil Wurl, president; John Crahill, vice president; Mike Bild, treasurer, and A. L. Tidd, secretary.

## "Squaw" Shipped to Iowa.

From Friday's Daily.

William A. Fight yesterday shipped his standard bred, registered mare "Squaw" to Fremont, Iowa, to Don Tribbey, who will trot the mare in a circuit through Iowa and Illinois the present season. The animal has a mark of 2:18½ and can go in much less and did last season, but Mr. Fight prefers not to mark her lower at present. She is a fine specimen of the thoroughbred mare and during last season did not go in a single race that she did not bring off a purse. Her earnings two years ago were \$2,800, and last year almost as good. The mare is a bright bay, 8 years old. Don Tribbey, who will manage her this season, is a skilled driver, having driven very successfully for two seasons. He will start the mare at Fremont this season.

## Baseball at Cedar Creek Sunday.

The enterprising village of Cedar Creek is the first in the county to organize a baseball team for the season of 1912, and the old saying, "the early bird catches the worm," holds good with the Cedar Creek club. In the initial game of the season at Manley last Sunday Cedar Creek won a hotly contested game, the score being 7 to 6. A return game will be played at Cedar Creek next Sunday afternoon, when the Cedar Creek club expects to keep its place at the top of the list of the Cass county league. Cedar Creek, games won, 1; lost, 0; Manley, games won, 0; lost, 1, etc.

## ELEVEN PRISONERS TRY SUICIDE ROUTE

James Higley of Plattsmouth Is One Among the Number and May Die.

From Saturday's Daily.

According to the Omaha papers of this morning eleven prisoners confined in the county jail on sixty and ninety-day sentences, attempted suicide by the gas route yesterday. It appears from the statement given to the press that the jailbirds had become discouraged over their prospect and were mentally and physically sick from eating prison grub, which they termed "scraps" and "foul food," "green liver," "string" and other refuse in their diet, and the eleven entered into a pact to shuffe off their mortal coil and end it all by turning on the gas.

When the odor of gas became strong in the jailer's apartment he began to investigate and discovered the men lying on a table in the "bull pen" in a more or less unconscious condition. James Higley, serving a sixty-day sentence, was in a critical condition, lying nearest the gas jet. He was hurried to the hospital about noon in a dying condition, and it was thought that he could not recover. The other ten were brought out of their stupor. None of the prisoners would tell who turned on the gas.

The jailer detected an odor of gas about 10 o'clock, but supposed it was a leak somewhere about the jail and did not examine into the matter until about two hours later.

Young Higley was taken to Omaha some days ago on a charge of aiding the men arrested as "white slavers," but was released from that charge; but instead of coming back to this city he hung around the jail where the two "slavers" were imprisoned, and was again arrested and sent up for sixty days on a charge of vagrancy.

## W. C. T. U. at Nehawka.

Through the courtesy of Mr. Charles Troop, the visitors from this city, Mesdames Troop, Vandercrook, Zink and Moore, went and returned in the auto, and all but one report a lovely trip through the country and all agreed on the fine work done at the institute. The genial chauffeur said it "looked pretty bad for one member of a prohibition party to be distributing the contents of the stomach all along the road, both going and coming from the meeting." The unfortunate victim feels that the charms of "joy riding" are not all unmixd and asserts positively that if whisky intoxication is only half so bad as "auto intoxication," she wonders how anyone would ever knowingly tackle it the second time. The work of the institute was very enthusiastic. The meeting was held in the M. E. church, which was profusely decorated with flowers, and the visitors were entertained at private homes. Mrs. Vandercrook and Mrs. Zink represented the Plattsmouth union on the program and did it with great credit. Mrs. Daily, vice president of the state W. C. T. U., was there as leader, and she is worth a host, being well posted on all departments, a good speaker and made a pleasing address. School pupils filled the church in the afternoon and Mrs. Butler and Mrs. Daily gave short talks on the evils of tobacco. Professor Clark of Weeping Water gave the fact that during his observations of five years he noted that the laggards in his classes were the tobacco users. They were never at the head of the class, but most always at the foot. The institute closed in the evening with an address by Mrs. Daily.

## Captured Eight Wolves.

From Saturday's Daily.

A Childers came down on No. 4 this morning from his home near Oreadopolis, having in his custody eight young wolves, which appeared to be about 2 months old. Mr. Childers and his son captured the entire litter yesterday while trapping on Cedar Island in the Platte river. He offered the wolves for 25 cents each.

## ANXIOUS TO BECOME NATURALIZED CITIZENS

A Large Number of Foreign Born Citizens Will Ask for Second Papers.

A large number of foreign born citizens will take out their second naturalization papers on the first day of the next term of the district court. Their residences are in different localities in the county, but quite a number from Plattsmouth. The names, places of birth, date of arrival in the United States and places with their postoffice addresses are posted in the office of the clerk of the court and are as follows:

A. Anderson, born in Sweden, arrived in New York August 9, 1881, address Weeping Water; Senerin Krejoci, birthplace Austria, arrived in New York June 9, 1908, lives in Plattsmouth; Vaclav Jonea, birthplace Austria, arrived in New York September 30, 1903, address Plattsmouth; Ferdinand Duda, born in Austria, came to New York in 1903, resides in Plattsmouth; Edward John Jeary, England, arrived at Philadelphia August 14, 1901, address Elmwood; Charles Robert Trenholm, Canada, came to Vermont April 13, 1889, resides at Elmwood; Frank and Peter Rouka, Austria, arrived at Galveston May 26, 1906, lives in Plattsmouth; Joseph Rouka, native of Austria, arrived in New York December 25, 1905, resides in this city; Matej Sedlak and Frank Slatinsky, born in Austria, came to New York in 1904, reside in Plattsmouth; Henry Riechman, native of Germany, came to New York May 18, 1884, gets his mail at Murdock; George Adam Kaffenberger, native of Germany, arrived in New York February, 1887, gets his mail at Plattsmouth; Joseph Youngquist, born in Sweden, came to New York March 30, 1889, resides at Avoca; Adolph Wasch, born in Germany, came to New York September 13, 1903, gets his mail at Plattsmouth; Henry Steger, born in

Germany, came to Baltimore November 26, 1905, Plattsmouth is his address; Alfred Julius Neffson, native of Denmark, arrived in New York May 1, 1905, gets mail at Weeping Water; Christian Rasmussen, born in Denmark, arrived at Toledo December 17, 1903, lives at Wabash; Rasmus Louritzen, born in Germany, came to New York August 13, 1903, gets mail at Weeping Water; Jens Christian Christensen, born in Denmark, arrived in New York April 20, 1903, receives mail at Wabash; Herman Todter, native of Germany, came to New York October 27, 1904, resides near Murdock; William Anderson, born in Sweden, came to Philadelphia June 13, 1881, resides at Louisville.

## Starts Menagerie.

From Friday's Daily.

Will Egenberger yesterday purchased the first of what will probably be one of the largest menageries in this part of the state. The specimen of wild animal was one very rare in this locality and was captured two weeks ago by two Cass county's famous hunters, which adds to the value of the specimen very much. The animal just purchased is a red fox, apparently about 2 or 3 months' old. The purchase was made from Asbury Jacks, who, with James Thomas, captured the fox with two others, alive, one week ago last Sunday. The hunters found the cave where the mother fox nested, and smoked the little ones out; the old one was too sly for them and died of suffocation before it would be put on exhibition. Mr. Jacks delivered the young fox to Mr. Egenberger yesterday afternoon.

## In From Murray.

From Friday's Daily.

H. C. Long, from west of Murray, was in the city today, driving in from his home this morning. He was accompanied by Mrs. Long and their daughter, Miss Gertrude. This is Mr. Long's first day to town without the aid of his crutches since he broke his limb several months ago.