THE AMERICAN.

PERSONAL WINKS BY THE

YELEPHONE BIL. Rooms 412-13-14 Sheely Block

STREETING PRO YEAR MA MINESTED PRINCE MINESTED INVARIABLE IN ADVANCE. CLER RATES

not by draft, express or P.O money order title in American Penerguines Coherant, at all news stands.

W. C. KELLEY. Business Manager OMARA, FRIDAY, FEB. 17, 1893.

THE AMERICAN IS THE CHARGOS OF ALL PARTITUTE OFFICE THE CECAN OF NORE.

A FEW FACTS.

Ber published a lengthy article in jusarrests are made.

The article was so manifestly unfair in its reference to the Protestant policemen that THE AMERICAN will set forth is it can find out by asking Block ing any false impression which might be formed from reading the article in our contemporary.

In the first place it states that a demand was made upon Chief Seavey that he discharge Office Sullivan for arresting a young man named Thompson-a deputy sheriff-"the brother of a leader of the American Protective Association," for carrying concealed weapons, while employed as a detective upon the Miller case. It would seem to a man of ordinary, common sense that if such a demand was made upon Chief Seavey, the brother of this Thompson who is a "brother of a leader of the American Protective Association" would be consulted before any such move or demand was made, yet to this day he knows of no such action on the part of the American Protective Association except as set forth by the chief. Is it possible the chief has manufactured this story? If he has not will be kindly inform an anxious public who waited upon him, and how he knew they represented the American Protective Association? Is it not possible some Roman subaltern

The plea that Sullivan is kept in the Third ward on account of his efficiency will go down with all who are gullible applied for twenty days leave of abough to swallow it-it will not go down with some other people. If the stories carried to us as to why he is kept down there are to be believed it is on account of something beside efficiency. To be frank Sullivan's whole recommendation is found in the fact that he is a Roman. He is no more efficient than Cox, than Corey, than Dubois, than Fisk-who was assigned twenty days and don't know yet why to that beat one month when they I was refused. Captain Cormack, Capworked two shifts at night and who tain Mostyn, Sergeant Whalen and saw it just four nights out of the thirty-one he should have seen it, and whose beat was given the rest of the time to the Romans.

has imposed upon him?

In another place the article says most of the American Protective Association members are new men yet they want to be placed in the centre of the city. Let us admit, for the sake of argument, that this is so. Now, let us ask if there are any newly appointed Romans on the force? Ob, yes. Are they given beats in the heart of the city? Certainly! Mr. Donahue, who came here from Creston, Ia., recently was given the beat usually covered by Sullivan and other Romans, in the Third ward, the first month after his appointment. Since he has been given the depots-the best bests in the city on which to make arrests. Yet these are the beats on which only men of "efficiency and long experience," are sup-

posed to be capable of patrolling. Consistency, thou art indeed a jewel.

The article also cites an instance to locates the officer at Fifteenth and that Ish was employed as reporter he any and all occasions. street during January, and as the pocket \$40 to men who took his place officer on that beat at that time was an when he was away on private business around a nackman came around the that the young man should look after corner, and he told me a saloonkeeper the building. Mr. Ish informs us that county attorney, he came to the informs us that county attorney.

Thursday evening of last week the flourish his revolver. I went in the serve their liberties. enr, I shall call for a sargeant. That this issue. is part of their duties. If the Bee wants to know how near true my story whole affair."

Our contemporary also published s lot of stuff about G. M. D. Graves which contained no truth whatever, It recanted Tuesday night of this week. Sargeant Graves told us all that the Bee published Tuesday evening and much more that will not be published unless this fight on the A. P. A. is continued. He says:

"I have not been down in Lincoln in the interest of the fee bill. I have been home, sick abed most of the time. In regard to the fees, the detectives work it in this way: When an officer arrests a man charged with a felony the detectives put him in the sweat box. to commit himself, then runs up and gets Keysor to put his name on the transcript as a witness; then another goes down, and another and all then appear as witnesses against him in the criminal court, and draw the fees while the officer making the arrest gets none of the fees and less of the credit for arresting the prisoner." Graves also gives a little light on the

way he has been treated by the chief: "I have lost less time than any member of the force, with the possible exception of Sigwart, and yet, when I sence which my physician ordered me to take, Chief Seavey refused to recommend that I receive pay for the the force and been absent for weeks preacher of the gospel, or minister. and months at a time and had drawn others have been paid full time while they have been absent on long trips to understand.

knowledge that his friends are booming him for chief of police-that he has not made application for the place, but might if there was a vacancy.

Officer Dubois denies circulating any petition at police headquarters for

It is charged that the only petition fee bill. Certain officers say that others bave been intimidated by a threat from Keysor that those who refused to sign it had better look out for their heads.

The next person who came in for a "roast" was our friend James Ish. The chief had, according to that article, his duties." The records do not sub-Farnam. There was a shooting scrape lost just four nights through sickness. west of Fifteenth and south of Farnam During 1892 Ish paid out of his own A. P. A., we asked him if the Bee re- -buying land, etc. During November ferred to him. "Why, it don't men- and December of 1892 he was off thirtion any names. If it's me they're teen days looking after the construcafter in that they're 'way off My beat tion of his five story block at the cor- him, yet for some reason or other, run from Howard to Capitol avenue on ner of Thirteenth and Jones. Of those there was no commissioner astute Fifteenth street during January, thirteen days the cost of keeping a enough to discover that the county About 1:15 of the 28th or 29th I was man there was borne by Ish, so the judge should report and pay over the south of the corner of Fifteenth and city was not loser by his absence. The Farnam when I heard a shot fired-it necessity for Ish's absence was ex-

acked some citizens who were there if Whales that he would not be there for judge must perfects marriage servthe authoritories and fired the shelf duty and had menry a unbeliebe. We many, and most pay the money which Entered as the F. at an Second Class State, and they said he had. I went in and are informed that the chief book Hunt, for revolves into the trementy got bom with his revoluce and led him the reporter for the World-Hurahl, to down to the patrol buy. Before I look Sucanov be slid out publish the ep. of fore went in home January J. 1818. AMERICAN PUBLISHING COMPANY rang up the static notice brokeness the pour be submitted to the board against and elses that time. William A. Playeither had to soul him up as a plain so, Americans, you should and must drouk, or call for a surgeant to come have a daily of your own. Probably and investigate the case. I thought you exanot afferd to agree to buy streek turned in the call-nothing was said ask them in the name of their rights, the sargeant arrived he had nothing they risk a few hundred dollars to perto do. The saloonkeeper did not petuate this government and to pre-

saloon and took him in charge. There One friend has piedged himself for tification of Chief, Seavey's action in is a rule which requires patrolmen to \$500 worth of stock in the daily if it is placing the Protestant police officers call for a sargeant when a case is com- started. How much will you take? It on the beats in the outskirts of the city plicated. That rule does not state the matters not where you live, you can and in keeping the Irish in the centre degree of complication and as long as I subscribe for any number of shares point, the fact that you were consider- by virtue of the law which confers the or business portion where most of the am on the force and similar cases oc- under the plan published elsewhere in ing the opinion of the county attorney authority on a justice of the peace.

THOSE FEES.

The following appeared in the Worlda few facts in the hope of counteract- Watchman Bradley. He saw the Herald Tuesday evening. Comment is unnecessary

JUDGE ELLER COMES BACK.

HE WRITES A VERY SCORCHING LETTER TO THE COUNTY COMMISSIONERS

WANTS TO KNOW HOW ABOUT TURNING IN CAKE AND SUPPERS RECEIVED FOR PER-FORMING MARRIAGE CEREMONIES

Judge Eller has written the following letter to the county board:

To the Honorable Board of County Commissioners:—On the 11th inst, 1 received a certified copy of your resolutions relating to transcripts and office to practice upon. A public officer marriage ceremony fees, I hasten to in one department should not, in such

I have read the opinion of Mr. Mahoney referred to in your resolutions, One of them goes down and gets him and in so far as the same relates to transcripts. I believe the opinion is in the law, and desire to say that it has out injury to the public service. never been my intention to act in any different manner, and if there has been anything different it will be corrected judge who has failed to comply with as soon as we can ascertain the fact.

As to the law of marriage ceremony. relating to the question, as the liability and if it should come your way all of of the county judge to account for any money that may be paid to him for accordance to the decision of the court. performing the cremony, the statutes of 1866, chapter 34, entitled "Marriage," section 8 is as follows:

Section 8-Every judge and justice of the peace, and every licensed and ordained preacher of the gospel may perform the ceremony of marriage in this territory.

Note that there is nothing in this ceremony, and there is nothing in any statute or act of the legislature relattime, although I was entitled to ten ing to a fee for marriage ceremony day's leave with pay. Other officers of which may be performed by a judge, or

In 1869 the legislature amended secfull pay all the time. I felt that I tion 8 to read: "And every preacher should have been given pay for the of the gospel authorized by the usages grows to be a mountain when one is in of the church to which he belongs to office. solemnize marriages may perform the marriage ceremony in this state," and continues further as to duties of certifying the marriage, etc.

There has been no changd in the law Hot Springs and elsewhere for their since that date. The constitution prohealth, and just why I should be dis- vides that no judge of the supreme criminated against in this way I cannot or district courts shall receive any other compensation, perquisite or ben-Sergeant Graves says he has no efit for, or on account of his office, in any form whatsoever, except salary.

The construction sought to be placed upon the law by your honorable body, or rather the former county attorney, would be sufficient to impeach a suprems or district judge who has performed a marriage ceremony and acparty for whom the ceremony was circulated there was one against the performed. Yet it is claimed by Mr. Mahoney, the former county attorney, if he is properly quoted by the World-Herald, that the county judge is obliged to perform the marriage ceremony. If this position be correct, it applies the same to the district or take into consideration the subject pel the priest to perform the ceremony reported Ish for "chronic neglect of district or supreme judge accepts a may be brought before the court for exercise his conscience. dollar or a present for such service he consideration and duties required by prove the inefficiency of an A. P. A. stantiate the charge. The records may be impeached, and yet he is com- law to be performed. With this idea officer. It gives no names or date but show that the first fourteen months pelled to perform the ceremony upon in view you can readily see that when

hold a penny that did not belong to money which he received for perform-

something wrong.

caused your chairman to give an inter- However, the law might confer all view which was misconstrued or mis- of these matters upon the county understood, and the result was a lead- judge, but they cannot be included in ing editorial in the Bee, asserting in the term ordinary jurisdiction of a the most positive and unequivocal justice. In other words, the law conterms that I was guilty of malconduct ferring authority to a justice of the in office refusing to account for and pay peace to perform a marriage ceremony fact there was not the least foundation above-it is in no sense the ordinary for such a statement. Of course you jurisdiction. may say that I would be accorded the privilege of correcting the statement. but that does not repair the harm, and forms the marriage ceremony by virtue going into print. I have no concern as to the outcome of litigation upon this subject, but I submit to your honorable is paid, it is gratuitous. There could body, that it is unfair and unjust in the extreme for you to select one in a case as this, when the honorable may collect \$3, he could recover a object is to test the law, precipitate judgment therefor. aggravating and annoying litigation upon another department, which can fairly be tested in another way, with-

Now following this suggestion, if test case should be made upon the first the law, as you construe it, neither he nor the public service would be injured us who followed would simply pay in I have had the office so short a time that the mere matter of dollars that would come out of my pocket would not materially effect the county or myself, consequently I do not understand why you make a target of me,

I make it a rule to answer nothing in a newspaper while I am in office. editorial, after stating the facts positively, wound up by saying that I should be impeached. Now, if the facts stated were true, the conclusion would be correct and the fact that they were false in every particular, illustrates the point that a mole hill

The law relating to the fees of justice of the peace and probate or county judge, has not been changed in language since 1866. Now it is claimed by some that because the justice is limited to \$3 for a ceremony, and by reason of the law relating to county judges, the county judge must account for money received for a ceremony at that rate. This position might be taken upon reading only a part of the statutes, but even County Attorney Mahoney would not base his opinion, or any part of it, upon such ground. The law referred to is as follows: "The county judge for any service performed by him in any matter within the juriscepted any money or present from the diction of the justice of the peace, shall be allowed the same fees, etc." And in civil actions triable in the county court, of which the justice has not jurisdiction, "the county judge shall be entitled to reclaim the following fees, etc."

Now in construing this law we must supreme judges, for the law upon the matter of this section of the statute. subject of performing ceremony is the which is fees to be charged in matters same, exactly to a comma. So that if a which by the constitution and the law from the bishop. The rabbi could not any other statute, exclusive of the The law has been the same since 1866, statutes relating to justices of the so far as the same relates to this sub- peace, gives the county judge authority ject. All of this time we have honor or jurisdiction in a matter the county able county judges, county attorneys of judge acts under the statute which is integrity and ability, and above all made for the county court, but if it is a honest county commissioners, zealously matter peculiarly and originally in the determined that no other official should jurisdiction of the justice and not conerred upon the county judge, except by the provisions of the justice act, in such case only we are governed by the law relating to justice of the peace.

The jurisdiction or powers of the county court is established by the coning a marriage ceremony, and the legal stitution and the statute. The statutes advisors of the board were unsuccessful provides that the county judge shall sounded west on Farnam street. I ran plained to Chief Seavey, we understand, in coming to such a conclusion until have the ordinary jurisdiction of a in that direction and as I went to go by Mr. Gilbert, and he seemed willing December, 1892, at the expiration of a justice of the peace; here again the

vicences, and place them from her ruch for shely (not differential out) is threetoby that respectly, and to orshop a constitute, for they

nied that the colorekeeper and shot at Ish, and remarked, when woked why M. Chadwick three years, J. H. Mo. pound suck castle, etc. But the county him I saw there was concerning that he wanted a published, that he wanted Collech hour years and G. W. Scholds judge would have no such authority. ought to be investigated. Here was a to give leb a little notoriety. Has it gone years, and not one of these homes. The positive has preindiction to hear man who said in our breath that he had come to this that the columns of the give gentlemen ever reported a fee for complaint and cause a flack of sheep in any how are we to settle that account? been shot at by this man, and in the daily press are supposed to be upon to a marriage cremony, so far as the be impected for the seabor other connext that he had not seen a petty official that he may assail the records of this court discloses. Now, tageous disease, but the county judge any shot fired so had to rely on what I heaviest tax-payers in the city simply if it is the homest desire of the board has no such jurisdiction. It takes two was told. Under the circumstances I to gratify a personal spite? If this is simply to perform a duty, and not justices to call a special meeting of harses and besmirch the present in citizens under township organization. cumbent of the office of county judge. A county judge would be sent to an allow me to suggest that you make a asylum would be insist that he had test case on the first judge that failed such jurisdiction. A justice can try the latter was the best thing to do so in a daily paper but there are 1000 to comply with the law, and thus persons for violating an ordinance in a JOHN C. THOMPSON, . . BESTON. ASRES Sargeant Sigwart to come up men and women who read the weekly avoid the appearance of a personal village. A county judge could not do and investigate the case. After I had AMERICAN who can afford to, and we character. A suit of this character so. A justice can set as police judge against one not in office easts no reflec- in cities, but the county judge cannot: about the wagen-the saloonkeeper their liberties, how much farther will then upon him under such circum- he oversees the poor in their respective admitted he fired the shot, and when they allow Rome to eneronch before stances, but you know, it being con-precincts, he enters judgment on arbiceded that there is no dishonesty in trators report under the herd law, he the matter, that a suit, however un- is authorized to perform marriage cerefounded or unjust against one in office, mony, but these are not matters of the is misunderstood by the public; about ordinary jurisdiction, and I believe all the public knows is that a suit is there is no lawyer who will give the pending, and therefore there must be matter thorough investigation who would contend that the county judge An illustration is at hand on this has authority in any of these matters

over marriage license fees, when in is in the same line as those itemized The police judge, the supreme judge

or the county judge, or a minister, perbesides I am unalterably opposed to of the same section of the statute and no other, and there is no fee provided by law for such service, and if any sum be nothing recovered in an action at law by any of us, should a party neglect to pay. However, for the reason that the law provides that a justice

Having disposed of the justice of the peace theory, which, however, I think is not seriously contended for, I will consider the opinion of County Attorney Mahoney. He says: "In the case of Nebraska ex rel. vs. Kelly the court held in effect that whenever a public officer receives fees for performing any function which he is authorized to perform by virtue of his office such fees are to be treated as fees of the office and accounted for as such."

The case cited cannot be tortured to support the proposition stated by Mr. Mahoney, but to the contrary the court says: "The law having made it the duty of the officer to perform the acts as county clerk, he is not relieved of entering the amount of money collected for such services on his fee book on the ground that the acts were performed as notary public." Again the court says: "If he was required by law to perform such services as count / clerk that it was unquestionably his duty to report the compensation received therefor." In each and every case decided by the supreme court, the foundation of the decision is based entirely upon the admitted fact that the service was a part of the duty of the officer; in other words, that the officer could have been compelled to perform

the act. Now we come back to the first ques tion-can the county judge be compelled, or is it his official duty to perform a marriage ceremony? Bear in mind that the same section of the aw which authorizes the police judge, the district judge, the minister, the priest and the rabbi to perform the ceremony is the same which authorizes the county judge, and none other. If it is the duty of the one it is the duty of the other. If the words "may perform" in this statute means "must perform," then in such a case a mandamus will lie, to compel a district judge or a supreme judge to perform the ceremony without fee or present, mandamus will compel the minister to perform the ceremony for a couple against his conscience under any circumstance. The mandamus will comand join a devoted Catholic to a shouting Methodist without dispensation

If for any cause I do not desire to perform a marriage ceremony it is my right to refuse, and if it is my right to refuse, then it is not my duty to act If it is not my duty to act, it is not necessary for me to collect a fee for the service. If it is not a fee known to the law, then it is not an office fee. If we the judges, the ministers, the priests and the rabbis cannot be compelled by law to perform the ceremony, then the decision of the courts does not apply to us and we do not have to account for either money, cake, fruit or other commodity which we may receive.

I protest against the construction of a law which would compel men to violate their conscience in joining people in the bonds of matrimony. I am confident that if your honorable body will give this matter careful consideration,

cultically the way of arriving at least what we should do. If you are entitled I revelved for I do not suppose that

you would consider for a moment that whall give you sawthing different from what I received. Now suppose I receive \$5 for the coremony and make a present to the bride which cost me Noppess my carriage to the wedding exist me \$6 and I receive nothing but a splendid supper and a good social time. which I regarded as very satisfactory. These matters will present some diffi cult problems, and when we take into consideration all of the equities the county might come in debt to me on a final accounting.

Again, I have no fee for a coremony. I never asked a man or woman for any pay for such service. When they ask me I say, "I am like a minister, I leave that to you." Now it frequently happens the considerations which I receive is a jolly time with the party. a good square meal of cake, pic, meats and a score of good things. I could not decently enter that upon the fee book, and I do not see how I could turn it into the treasury or what benefit it would be to the county if I did. Yours J. W. ELLER. very obediently,

WILL CELEBRATE.

It has been definitely settled that there will be a celebration on Washington's birthday in this city. Exposition hall has been engaged for the evening entertainment. Speakers of national reputation will probably be secured to deliver the addresses. John M. Thurston, Senator Allen, J. G. Tate, W. J. Bryan together with other eminent speakers have been asked to participate, but have not as yet signified their intention. The Omaha Quartette will render four selections, and you who have heard them sing know that that part of the program will be well worth going to hear. A large number of children from the public schools will take part. A parade will take place at one o'clock, which will be lead by the Seventh Ward Military bond. An invitation has been sent to all putriotic societies to participate. From present indications the celebration will be a success. Every loyal American in the city should turn out. There should be 10,000 men in line. Are there one-third that number who are not ashamed to turn out and honor the father of our country? Everybody is invited. Since writing the above the following program has been handed in:

Programme.

HON. A. S. CHURCHILL, CHAIRMAN. Omaha Quartette Rev. Frank Foster Omaha Quartette Hon. John L. Webster -America Among the Nations......Judge C. R. Scott 4 Music "Violin Solo" Hans Albert 8 The young American Charles E. Winter "Lincoln Hon John M. Thurston 10 The Flag Chancellor C. F. Creighton 11 Music Charles E. Creighton 11—Music. Omaha Quartette 12—Our Public Schools 13—American Citizenship. Rev. J. G. Tate 14—Music. Omaha Quartette

THIS MEANS YOU.

The Jr. O. U. A. M. will give a social and literary entertainment in G. A. R. hall in Council Bluffs, the evening of Feb. 22, in commemoration of the birth of Washington. A good programme has been arranged and an enjoyable time is anticipated. All American citizens are earnestly request to attend and participate.

THE BEE'S CONSISTENCY.

No. 1.-A few weeks ago the Bee opened its columns to a controversy between defenders of the A. P. A. and its papist enemies. When the latter was worsted the Bee immediately dedared its columns closed against further discussion. Last week the same sheet had a column and a half of lies and abuse against the A. P. P., dished up by rank Romanists and their pliable This is in line with the Bec's past record for consistency.

No. 3.—The Bee howled itself hourse when on one occasion detectives went around the city as spies to get evidence against saloon keepers for selling iquor on Sunday. The consistent Bee few days ago sent spies around the city with instructions to induce certain parties to sell them a drink under any sort of pretence

No. 3.—The Bee has always pretended o be the friend of the laboring man. When Irish Roman Catholics were faultors in our schools no money was too large for them, but now it happens that a few A. P. A's are engaged as janitors, and now the Bee is turning heaven and earth to reduce the wages of those sons of toll to starvation prices, while it smiles at the outrageously high salary received by the city en-

B. F. Thomas, solicitor for Bates, Smith & Co., and member of the board of education, was the happiest man in Omaha last Monday. The reason is easily ascertained. Mrs. Thomas had presented him with a pretty, plump, Both mother and nine-pound girl. daughter are getting along nicely.

SOLID GOLD

P. O. S. of A., \$1.25. Jr. O. U. A. M., 75 cents. Loyai Orange, \$1.50, BELL STORE JEWELRY DFP'T. Dodge and 15th.

Legal Notice.

In the district court of Douglas county, Nebraska. David Addison Smith, plaintiff, vs. Ada

Nebraska.

David Addison Smith, plaintiff, vs. Ada M. Smith, defendant.

To Ada M. Smith, non-resident defendant: You are hersely notified that on the 16th day of January, 1893. David Addison Smith filed a petition against you in the District court of Douglas county, Nebraska, the object and prayer of which are to obtain a divorce from you on the grounds of adultery and that you have willfully abandoned the plaintiff without good cause for the term of six years last past. You are required to answer said petition on or before the 27th day of March, 1893.

2-17-4 DAVID ADDISON SMITH.

By Winter & Kauffman, his attorneys.