

THE DAILY BEE.

OMAHA.

Tuesday Morning, July 31.

LOCAL BREVITIES.

The latest design out in railroad advertising is to be seen about the city today and represents the watering places and resorts on the Missouri Pacific, Iron Mountain and Wabash roads. It is scripturally introduced with the words, "And the leaves are for the healing of the nations." A palm tree rises from a bed of tropical plants and its broad leaves are lettered with the names of the various attractions. A monkey dangling from one of the limbs by his tail holds out a banner setting forth the watering places along the routes. Edward Sutton was the name of the man recently captured in this city by Detective Neligh and his force. Sutton was accused of stealing a quantity of belting from the Calhoun mills and the charge made was grand larceny. He was taken up to Blair yesterday and on his examination before the county judge was bound over in the sum of \$500 to await the action of the grand jury. District Attorney Godwin presented the prisoner, who was bold enough to ask—Judge, will it do me any good to swear the other way from what the witnesses do?—

Trains from the south and east last night were generally late. The incoming U. P. train did not arrive until about 6 o'clock, while the K. C. train came in at 11, four hours late. The B. & M. trains were reported eight hours late and the Missouri Pacific was late also. Miss Nellie P. Bangs, one of the most popular and accomplished pianists in this country, and John Skilton, the famous cornetist, both of whom were with the Letta company when it visited Omaha lately, have been persuaded by their many friends in this city to come out and give a grand concert, the date of which cannot at present be definitely announced. They will be aided by some of the best local talent and will no doubt make the affair a brilliant one.

Eugene V. Debs, of Terre Haute, Ind., who is secretary and treasurer of the Brotherhood of Locomotive Firemen and editor of The Fireman's Magazine, has been in the city since Saturday and left last evening for Denver, where he goes to arrange some preliminaries concerning the approaching meeting of the Brotherhood, to be held in that place. On Sunday he met a large number of delegates from Nebraska lodges at Knights of Pythias hall and arrangements were made in regard to transportation to the convention. The railroads offered the most liberal rates.

The room in the Caldwell block, recently occupied by Bonner's furniture store, has been rented for a variety theater shortly to be opened by Jack Nugent and Harry Lucas, who will make a strong team. It will be called the Grand Central Theater. A cow which was being led up Farnam street last evening, with a rope tied to her horns and one of her hind legs, grew obstreperous near Max Meyers, and making her escape from her owner, made for the store door, dashing straight through and out of the back door, to the dismay of the clerks and demoralization of all the goods which came in her way. It wasn't exactly a "bull in a china shop," but it was the next thing to it, a cow in a cigar store.

The U. P. base ball team leave for their long eastern trip on Friday. They take a strong team of (11) of the best, picked players. Two of the club remain at home. The rain fall Sunday was over two inches in all according to the signal office report. Hans Anderson, an insane man residing in North Omaha, was taken down to Lincoln yesterday by Deputy Sheriff Crowell. Two well known admirers of "Bourbon" principles, who had been serving a term in jail for close a devotion thereto, were released yesterday upon taking a pledge to drink no more in the year 1883.

The laying of the corner stone of the new German school on Harney street has been postponed to the same hour on Thursday, on account of the weather. A lot of sticks and brush was found in one of the sewers yesterday and it was pumped out to discover the cause of its stoppage and overflow. As long as people throw such things as these in the sewers they need not be surprised that water won't run through them. The corner stone of the Lutheran church, 16th and Harney streets, was not laid Sunday afternoon on account of the rain storm. The ceremony is postponed to half past six o'clock on Wednesday evening.

Saturday night was one of the unusual number of drunken rows. In one or two localities particularly it was fearful, and once fifty or a hundred men were struggling together, surging up and down the street and slugging each other for all they were worth. This should not happen every Saturday night. There was a lively runaway yesterday morning. A baker's wagon, led standing a moment, ran up Douglas to 16th and then turned south. One of the horses fell but struggled up, and they ran a block further, when they were caught by a couple of colored men. Mr. Toft has purchased several lots on Saunders street near the corner of Caldwell, on which he will proceed to erect a business block with stores below and suites of rooms above. This will supply a long felt want in that part of Omaha and should any one wish to open a grocery store, drug store, butcher shop or bakery in this locality, they would undoubtedly be well patronized.

The low prices made this month by S. P. Morse & Co. have attracted crowds of customers even in the coldest days, and our readers will be consulting their own interests in examining Morse's stock, now the largest offered at retail in the West. The system of direct exportations and taking advantage of every cash discount is one of the secrets of Morse's success. Attention of those who want to become borrowers of money on real estate and become members of the Loan and Building association, is called to the following order of the board of directors: "Whereas the profits of the association amount to over 75 cents per share, it is ordered that from now and until further notice the members shall pay a premium of 75 cents on each share bought after August 1st. Those who want to join the association should do so at once because they will save money. The office is open every evening between five and six o'clock and on Tuesdays, Thursdays and Saturdays evening between 7 and 8 o'clock at 212 South Fourth street. Those who will subscribe here see the list of August. Those who subscribe here see the list of August. After the 1st of August there will be a premium of 75 cents on each share."

THE PEOPLE'S PLEA.

Concluding Arguments in the Injunction Suit.

A Masterly Speech by George W. Doane.

The Rights of Popular Sovereignty Eloquently Vindicated.

Who Have Defied the Law?

The hearing in the injunction suit to restrain the mayor and city council from entering into contracts to pave Fifteenth and Eleventh streets with sandstone against the protest of the tax-payers, was resumed Saturday afternoon in the District court before Judges Neville and Wakely. Gen. J. C. Cowin made the closing argument for the defense. He argued the constitutionality of the charter, and insisted that although assessments of special taxes must be upon the property benefited and according to benefits, the charter was clearly within that provision of the constitution as construed by the decisions of the Supreme court, and that the city council was the tribunal to declare and determine what property was benefited and the extent of the benefits and to make the assessment accordingly. That the council having ample power to pave and assess and levy a tax to pay therefor, the question was, has it pursued, in the premises, the provisions of the law in that behalf provided. The council has authority to pave on its own motion, and when petitioned by a majority of the property in a paving district were required to pave, provided it could do so in the manner provided by law. He considered, conceding the constitutionality of the act as contained for, that there were but two questions in this case. First, has a majority of the abutting feet front, or the property represented in the paving district, petitioned in writing to the council by the owners thereof, as provided by the law; and second, if not, has the council exceeded its authority or abused its discretion in ordering the district to be paved with Colorado sandstone. The General conceded that when a majority of the property in a paving district petitioned by the owners for a certain material, that if the district was to be paved it should be by that material if available. But in this case it was clearly shown upon the theory of the plaintiff, a majority of feet front did not petition by the owners for any particular material. It was simply absurd to deem a lease for less than four years the owner of the property, and to give him power, with any other interest, to put in motion the machinery of the law which gives his lessee his fee to the land. If the council could not pave without a petition from a majority of the feet front petitioning by its owners, and such petition was suffered to give jurisdiction, no one would contend that this petition was sufficient.

Secondly, is the material suitable selected by the council. He was surprised that after all the denunciation of Colorado sandstone, and now when the opportunity was fully presented to test the matter, and when it should be done in justice to the council, the public and the court, not one single line of proof, oral or written, was offered in evidence against the Colorado sandstone. He pointed out a not a particle of evidence that the council acted otherwise than for the best interests of the city, and had not exceeded its authority or abused its discretion. He insisted that the showing gave the court no jurisdiction.

The General said that the condition of our streets had for years been a great drawback to our prosperity, and that the court could not, without a clear case, retard by injunction these improvements. If allowed upon the showing here, then any property owner in any paving district may absolutely prevent any paving. MR. DOANE'S ARGUMENT. Mr. Geo. A. Doane began the concluding argument for the petitioner at 10 o'clock yesterday morning. He said that the court had been listening to elaborate arguments and learned counsel and had awakened to know what interests they represented. He could understand who Mr. Connell represented. As city attorney whatever his sympathies, he was bound to defend the city officers assailed by the suit. The interest represented by Mr. Cowin was also known. He appeared on behalf of the sandstone contractors to defend their pecuniary interests. But how is it that Judge Thurston comes here. Who and what does he represent? I see by the resolution of the city council that Mr. Thurston had volunteered his services "without pay." It is plain, therefore, that Mr. Thurston's interest is not pecuniary.

He is not here for pay, like Mr. Cowin. He is here to represent a power that is attempting to take out of the hands of these citizens a power that belongs to them, for the benefit of another power that is endeavoring to rule over this people. This interest is perfectly understood. It hides behind no mask. It is here trying through its attorneys to force upon this people something they do not want, and have expressly repudiated. It is here attempting by attenuated technicalities and monstrous propositions and distortions of the law to cloud the real issue and to commit a grave wrong against this community. Authorities are ignored, the plainest principles of elementary and constitutional law are rejected and the cars of this court are veared by the advancement of theories of government that are denied by every interest of good government and pronounced against by an overwhelming mass of the best legal authority.

Mr. Doane then took up and examined what he termed A MONSTROUS PROPOSITION, laid down by Judge Thurston, that the powers of the city council are to be construed liberally, and the right of the people strictly. He insisted that the converse was the truth, that it is laid down by all authorities and is the foundation of popular liberties that when any legislation affects adversely the rights of the people, the presumption is always that the legislative body has exceeded its powers. A second monstrous proposition advanced is that the city council is a legislative body and has supreme legislative power and that all the presumptions are in favor of its supreme power. This, too, is denied by all the authorities. The city council when it exercises its power, must keep strictly within the law granting its powers, and those powers coming from the people of Omaha, they are constrained under the statute that grants them. Every intention is against the exercise of an assumed power until the contrary is proved. (71 N. Y., 1 Dillon, Sec. 55) These authorities plainly show that all the intentions are in favor of the people and not of the council.

THE JURISDICTION QUESTION. But the jurisdiction of this court has been challenged because it is asserted that the petitioners have an adequate remedy at law. We are told that they would have waited until the contracts have been let and the paving done, and then the courts should have been appealed to against levying the requisite tax. But what remedy is there at law to prevent the city council from making a contract against the law. Must we wait until after the wrong has been committed, then seek redress. This is no remedy. The court must prevent the wrong of a misappropriation of the public monies for laying a pavement that the majority of the tax-payers have not only not petitioned for but have petitioned against. All authorities agree that the courts have equitable jurisdiction to intervene to prevent an abuse of discretion. [1 Dillon, section 253.] The court has a right to declare void ordinances that are unreasonable and oppressive. No matter how strictly legal the exercise of the power may have been, an inequitable result of the exercise of that power may be set aside in the public interests. This court must interfere, not only because a misappropriation of public funds is involved, but because this conduct of the council means A BOLD DEFIANCE

of public sentiment and an outrageous disregard of the wishes of the taxpayers and the people in laying down a pavement they do not want, and which they do not intend to pay for. The gentlemen tell us to wait. They know very well that delay is an estoppel of our rights; that if the improvements progress without objection, property owners are estopped from finally refusing to pay the tax, much as a council must from recovering when paid for an ordinance. This is the time to make the objection, here in this court, which we claim has full jurisdiction to give the relief prayed for. I now come to consider the point which I lay down that the council has no power to order paving done with a certain material except on petition of property owners along the street ordered paved.

JUDICIAL EXPLANATIONS. Judge Neville—I wish here to state that there seems to have been some mistake in the reporting of the remarks on Saturday upon this point. I said that construed alone the portion of sec. 4 relating to petitions would seem to imply that a majority of property owners in a paving district must petition; but I distinctly stated that this view must be modified by that portion of the statute relating to the petitioning power. The council may exercise its petitioning power to be taxed for the cost of improvement, and I am sorry if my words gave any such impression. Judge Wakely.—It is my present impression that it is not a condition precedent to the exercise of its powers by the council, that there should be a petition of a majority of the property owners. I think the council has the right to order paving. But when the people have petitioned under the law the council must use the material petitioned for. I should like to hear authorities on the point as I consider it a very important one. Mr. Doane continued: The council has neither power to order paving or has no power. It cannot be enlarged or restricted by any petition of the people. Mr. Doane then read from the statute to show that the right of initiative in paving was not granted among the general powers of the city. We claim that this power cannot be exercised until a petition of the citizens calls it out. The power is conferred in a special way to be exercised under special conditions which are precedent to its exercise. Let us inquire WHAT IS NECESSARY to be done by the citizens and council in determining upon the material to be used in paving. What parties must petition? The purpose of the law is evidently to give the property owners along the street to be paved a voice in deciding the material to be used. It does not mean that because a paving district has been laid out that all the property owners, some of whom may not be taxed, are to have a voice. Judge Neville.—Both Judge Wakely and I agree on that. Now let us inquire how this will of the people is to be voiced. Only by those owning lots and lands abutting on the streets; or, if more, it shall be made known to the city Council prior to the petition how many others are to be taxed so that they too may have a voice in this determination. The issue is simply whether or not a majority of lot owners representing a majority of feet front in the paving district have petitioned under the law. PAVING AND TAXING DISTRICTS. A paving district is a definite district. They are separate and distinct. They are separate and distinct purposes. The law is plain. The council must determine and establish prior to the petition what portion of the property in or out of the paving district shall constitute a taxing district. But up to today we have no knowledge through any act of the council which portion of the city property is to be assessed for the cost of these improvements. The law says that the council may consider the petition of the owners of property abutting on the streets or of those who are to be taxed provided that the council has determined and established who are to be taxed which we have not yet done. Judge Neville.—That is the important point. This determination can only be done by ordinance, the prescribed mode of joint action by the mayor and city council, which is the only way in which they can act jointly. We claim that if a majority of the owners of property abutting on the street ordered paved petition, the council were induty bound to order the paving done with the material petitioned for. We now come to inquire whether a majority of property owners have so petitioned. Here the court took a recess till 3 o'clock.

A Startling Discovery. Physicians are often startled by remarkable discoveries. The fact that Dr. King's New Discovery Cures Consumption and all throat and lung diseases is daily curing patients that have given up to die, is startling them to realize the value of this wonderful discovery, tested in hundreds of our best citizens using it in their practice. Trial bottles free at C. F. Goodman's drug store Regular size \$1.00.

LOVERS OF LIBERTY.

Lecture by Colonel R. O'S. Burk, at Masonic Hall.

England's Solution of the Irish Problem Ably Discussed Last Evening.

There was a large attendance at Masonic Hall last evening to hear "England's Solution of the Irish Problem" discussed by the widely known agitator, Colonel Richard O'S. Burk, under the auspices of the Emmet Monument association. Shortly after eight o'clock the speaker entered the hall, accompanied by General George M. O'Brien and others, and was greeted with hearty applause. In a neat speech General O'Brien introduced the soldier and patriot to the audience.

After expressing his pleasure at meeting his many western friends, he said that it was his purpose to put his own personal feelings aside and deal simply with facts. The Irish problem was a national question and the sides were false. Notwithstanding the assertions made there is no conflict between Ireland and the English people, but against the aristocratic English government. It had left no measure untaken to kill Ireland's industries in every way. Not only through the press but by sending her literary men—Godwin Smith, Froude, Dickens and others—to this country, has she tried to mould public opinion in her favor. Her statesmen say they have exhausted all their means to improve the condition of Ireland, but her people are to-day more dissatisfied than ever. A bold defiance of public sentiment and an outrageous disregard of the wishes of the taxpayers and the people in laying down a pavement they do not want, and which they do not intend to pay for. The gentlemen tell us to wait. They know very well that delay is an estoppel of our rights; that if the improvements progress without objection, property owners are estopped from finally refusing to pay the tax, much as a council must from recovering when paid for an ordinance. This is the time to make the objection, here in this court, which we claim has full jurisdiction to give the relief prayed for. I now come to consider the point which I lay down that the council has no power to order paving done with a certain material except on petition of property owners along the street ordered paved.

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A true assistant to nature in restoring the system to perfect health, thus enabling it to resist disease, is Brown's Iron Bitters. The board of trustees of Brownell hall met last evening and transacted some very important business. Some time ago Hon. J. M. Woolworth offered to donate a very handsome and valuable site for new college buildings under certain conditions, and while the offer was a magnificent and generous one, time was taken to consider the possibility of accepting of the offer. This was done last evening. The plans and specifications must be prepared within the next year and the buildings must cost not less than \$500,000. Work on the same must be begun within another year and the first building shall not cost less than \$300,000.

Laying the Corner Stone. The corner stone of the School and Gymnasium Building, which is being erected by the "German Association" of Omaha, on Harney St., bet 18th and 19th, will be laid on Thursday, Aug. 2d, at 5 o'clock p. m. Addresses will be delivered by Mr. G. H. Reisman, (in German), and Hon. Edward Rosewater, (in English). Members of the "Association," the "Concordia" and the "Mennerchor," and all others desiring to participate, are requested to meet at the building at the hour stated above.

Army Orders. Recruit John McGrath, enlisted at Fort Omaha, Neb., is assigned to the 4th Infantry. Leave of absence for one (1) month, to take effect September 1, 1883, and with permission to apply for an extension of one (1) month, is granted 2d Lieutenant Zerah W. Torrey, 6th Infantry.

Every Corset is warranted satisfactory in its wear in every way. The only Corset made by the person from whom it was bought. The only Corset made by the person from whom it was bought. The only Corset made by the person from whom it was bought. The only Corset made by the person from whom it was bought.

CASTORIA

Infants and Children Without Morphine or Cocaine. What gives our Children rosy cheeks. What cures their fever, makes them sleep. When Babies fret, and cry by turns. What cures their colic, kills their worms. Their Constipation. Four Shillings, Colds, Indigestion, etc. Castoria. Farewell then to Morphine Syrup, Cassell Oil and Paregoric, and Hall Castoria.

SURGING AHEAD.

Important Action of the Board of Public Works.

Two Hundred Thousand Yards of Grading Let—The Paving Work to go Ahead on Sixteenth Street.

At the meeting of the Board of Public Works last evening, several important contracts for grading to be done on the streets of Omaha were let, the successful bidders including McHugh & McGrovec, T. L. Murphy & Co., Morris Morrison, Patrick Walsh and Benzou & Co. There are other contracts yet to be let, the grading in all under which will amount to over 200,000 yards and the prices on which range from 15 1/2 to 25 cents per yard. The cost of this work will aggregate nearly \$68,000.

Included in the list of streets to be graded is Sherman avenue, from Leard street north as far as the residence of Hon. A. J. Poppleton, which is to be completed and the Sixteenth street bridge removed by September 1st, to accommodate the state fair travel. Thirteenth street is to be graded to its full width from Pierce to Martha streets; Grading street from the Military bridge to the city limits; Tenth from Pierce south; Pierce between Tenth and Tenth; Jackson from Tenth to Nineteenth; part of Fifteenth; Eleventh and Twelfth south of Howard to Jones, are some of the principal streets to be thus graded.

It is reported that the council in its committee meeting last evening decided to allow the paving of Sixteenth street to proceed without further obstruction, so as to be ready for the state fair. Work is now going on by the Jones street sewer, which is to be extended to the east side of Seventh street, a large force of men being already put on. Win. Fitch & Co. are the contractors. Work is actively progressing on the Sixteenth street water sewer. Brick is being put in on St. Mary's avenue for the extension of the sewer which runs from the east end of Twenty-second street. Two branch sewers will be built to connect with this, one on Farnam street and one for storm water and sewerage combined, on St. Mary's avenue.

BRIDGES. A new bridge is almost completed on 9th street, leading to the waterworks. Contractor Walker will have it ready for travel in a few days. A large amount of curbing and guttering is going on all over the city and advertisements are being prepared for more. The street railway from Capital avenue to Leard street, down 16th has been put in perfect trim and cars can be put on it any day. These are Solid Facts.

The best blood purifier and system regulator ever placed within the reach of suffering humanity, truly it is Electric Bitters, a simplicity of the liver, Biliousness Jaundice, Constipation, Weak Kidneys, or any disease of the urinary organs, or wherever requires an appetizer, tonic or mild stimulant, will always find Electric Bitters the best and only certain cure known. They act surely and quickly, every bottle guaranteed to give entire satisfaction or money refunded. Sold at 50 cents a bottle by C. F. Goodman.

FOR RENT—Houses and Lots. FOR RENT—House on Chicago between 14th and 15th. Enquire of J. S. Swift, cor. Chicago and 15th. 763-11. FOR RENT—Two handsome lots east from 26th and 27th Sts. SHILVER & BELL. 763-11. FOR RENT—Entire lot of house hold furniture at 767 S. 16th St. 771-11. FOR RENT—Room suitable for a gentlemen. Apply at 169 Farnam St. 764-11. FOR RENT—A room house, new, good location, F. Leavenworth and South Ave. Enquire 110 Dodge St. 760-11. FOR RENT—Cheap, pleasant cottage, completely furnished for housekeeping, 605 N. 18th St. 760-11. FOR RENT—Room, cor. 10th and Douglas streets. Enquire at Drug store. 767-11. FOR RENT—Furnished room, 1505 Farnam street. 691-11. FOR RENT—Cottage, 5 rooms, 16th and Hickory, house, 6 rooms, 14th and Davenport. Enquire of J. P. Hayes, cor. 12th and Spruce. 821-11. FOR RENT—Well furnished, well located, good library, for sale cheap. JOHN L. MOORE, 608-11. CRETE, Neb.

FOR RENT—Desirable cottage, \$20 per month, 210 California street. 483-11. FOR RENT—New rooms furnished or unfurnished, with bath. References required. 1610 Davenport. 760-11. FOR RENT—Two small brick stores and basement just being finished, 303 three doors north of Neb. National Bank. S. LEHMAN. 165-11. FOR RENT—A first class furnished room with good board for gentleman and wife finest location in the city. Also few table lodgings wanted. 3423 Farnam St. 764-11. FOR RENT—A good woman cook 1155 Farnam St. 760-11. FOR RENT—Cheap, a good span of mules, wagon and harness 21 N. 16th St. 773-11. SIX HOUSES FOR RENT—Cheap! Enquire of Hollins and Motter, room 10 Omaha National Bank. 764-11.

FOR RENT—A regular graduate in medicine, graduated from the University of Chicago, 1882. Located in Kansas City, Mo. For sale by the proprietor. 1001 1/2 Broadway, New York. Dr. Reddick. A regular graduate in medicine, graduated from the University of Chicago, 1882. Located in Kansas City, Mo. For sale by the proprietor. 1001 1/2 Broadway, New York. Dr. Reddick.

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FOR RENT—Houses and Lots. FOR RENT—House on Chicago between 14th and 15th. Enquire of J. S. Swift, cor. Chicago and 15th. 763-11. FOR RENT—Two handsome lots east from 26th and 27th Sts. SHILVER & BELL. 763-11. FOR RENT—Entire lot of house hold furniture at 767 S. 16th St. 771-11. FOR RENT—Room suitable for a gentlemen. Apply at 169 Farnam St. 764-11. FOR RENT—A room house, new, good location, F. Leavenworth and South Ave. Enquire 110 Dodge St. 760-11. FOR RENT—Cheap, pleasant cottage, completely furnished for housekeeping, 605 N. 18th St. 760-11. FOR RENT—Room, cor. 10th and Douglas streets. Enquire at Drug store. 767-11. FOR RENT—Furnished room, 1505 Farnam street. 691-11. FOR RENT—Cottage, 5 rooms, 16th and Hickory, house, 6 rooms, 14th and Davenport. Enquire of J. P. Hayes, cor. 12th and Spruce. 821-11. FOR RENT—Well furnished, well located, good library, for sale cheap. JOHN L. MOORE, 608-11. CRETE, Neb.

FOR RENT—Desirable cottage, \$20 per month, 210 California street. 483-11. FOR RENT—New rooms furnished or unfurnished, with bath. References required. 1610 Davenport. 760-11. FOR RENT—Two small brick stores and basement just being finished, 303 three doors north of Neb. National Bank. S. LEHMAN. 165-11. FOR RENT—A first class furnished room with good board for gentleman and wife finest location in the city. Also few table lodgings wanted. 3423 Farnam St. 764-11. FOR RENT—A good woman cook 1155 Farnam St. 760-11. FOR RENT—Cheap, a good span of mules, wagon and harness 21 N. 16th St. 773-11. SIX HOUSES FOR RENT—Cheap! Enquire of Hollins and Motter, room 10 Omaha National Bank. 764-11.

FOR RENT—A regular graduate in medicine, graduated from the University of Chicago, 1882. Located in Kansas City, Mo. For sale by the proprietor. 1001 1/2 Broadway, New York. Dr. Reddick.

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