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COUNCIL BLUFFS.

ADDITIONAL LOCAL NEWS.

DETAILS OF THE DECISION.

The Supreme Court Says the City is Liable for Filling the Streets.

The decision of the supreme court in regard to street filling is one of the greatest moments in this city as under this decision is involved a large amount of work done during this fall and winter and assessed against abutting property.

The petition states that the defendant passed an ordinance providing that all call charges for the improvement of streets and alleys should be assessed against the respective owners and lots fronting on the alley improved, and collected as provided in sections 478 and 479 of the code, and thereafter passed a resolution providing for a change of the former grade of about four feet, by filling certain described streets preparatory to paving.

There is some ambiguity in the ordinance passed for the purposes of this case it will be conceded the ordinance provides that the charges were such as are contemplated by sections 466, 467 and 468 of the code, and chapter 51 of the acts of the fifteenth general assembly.

Chapter 51 of the acts of the Fifteenth general assembly has reference to the improvement of streets and alleys and a consideration of its provisions is not required, and this is true as to sections 478 and 479 of the code, because the assessment shall be made under the other sections referred to therein, and the same collected as provided in named sections.

Section 467 refers alone to the repair of permanent sidewalks, and 465 provides that the expense of grading streets shall be paid out of the general fund of the city. Therefore the requisite power must be conferred by section 466 of the code.

It will be observed that this section does not include the power for grading streets or alleys and therefore does not conflict with section 465. But, section 466 does provide for paving and the resolution contemplates that the streets were to be graded, "preparatory to paving." Now the question is whether work preparatory thereto is the power contemplated by the statute. We think not. It will be assumed the council in good faith passed the resolution and at that time intended to pave the streets but when or how was left to the uncertain future.

Because the preparatory work was done the council was not conclusively bound to pave, and circumstances thereafter occurring might cause the same council to make a change in this respect. Besides the changes in the person of city councils frequently occur, and thus changes in the policy to be pursued are brought about. The power conferred is to pave and not merely to make a preparation therefor. The work of preparation must, of course, be done first, and in the discretion of the council, the street may be graded and the latter, no doubt, done under one contract and the paving under another. But the only power conferred is to assess abutting owners for paving and this may include the preparatory grading. The whole must be assessed together or if this be not true no power is conferred to assess the cost of the grading on the abutting owners and then at some future and uncertain time make another assessment for paving.

Powers of this character which sometimes are onerous burdens on the citizen and assessed against his consent and possibly against his interest are usually strictly construed. Council for the appellee cite and rely on Buell vs. Ball; 20 Iowa, 582; Robinson vs. City of Burlington; 50 Ib., 240, and Koons vs. Lucas; 52 Ib., 177. These cases are clearly distinguishable.

Because the city had no power to assess the cost of grading against an abutting owner, a suit against him would have been useless and therefore the plaintiff should not be required to do a useless thing or incur cost and expense without any benefit, and for this reason he should not be required to bring such an action before proceeding against the defendant.

There is no provision of either the contract or the statute, which proves that in no event shall the city be liable to pay for the grading. Adjudged cases therefore in which this fact appears are distinguished from this case. The only provisions bearing on this question is in the

contract—to the effect that the city agreed to issue to the plaintiff "certificates of assessments against the owners of abutting lots," and it will be assumed if the power to make the assessments existed, that the plaintiff could collect the amount due him from the owners, and that he agreed to take such certificates as payment in so far as the defendant was concerned. It may be said that the defendant did not in terms agree to pay, but it contracted and the work was done for a compensation fixed by the city and to its satisfaction under an assumed power, that the expense could be assessed as a charge on the abutting owner, and in substance both parties contemplated payment should be made in a certain manner or out of a designated fund. The plaintiff contracted to do so, and the defendant had no claim or demand against the abutting owner, or the power to create the fund, and yet it contracted it had. In White vs. Snell 5 Pick 425 the defendant promised to pay the plaintiff one hundred dollars, "to be paid when I recover of Shearman any demand made against him." Now, if the defendant had here I now live, to be paid when recovered of said Shearman, with interest from this date, and it was held that if it was established the defendant had no demand against Shearman, the plaintiff was entitled to recover. When the city admitted the existence of a debt, and issued certificates to the effect that the plaintiff could be paid out of a particular fund created by the city, it must be assumed it guaranteed, or by implication contracted, that such fund existed, or that it had taken and had its power to take the steps necessary to create such fund. Now, what turns out that there was no such fund, and that the power to create it did not exist, it seems to us that the city should not and cannot escape all liability under the contract, and it has been so held: Kearney vs. City of Covington, 11 Bush, Ky., 339; Sleeper vs. Bullen, 38 Kan., 286; Fisher vs. City of Chicago, 38 Ill., 266. See also 1 Dillon's municipal corporations, sections 480, 481, 482 (3rd ed.), and authorities cited in notes.

There is a class of cases which hold in substance that, when the powers of a municipal corporation are defined in the charter, or by statute, that persons contracting with the corporation are bound to know the extent and character of such powers, and therefore deal with the corporate authorities at their peril. Craycraft vs. Selvaige, 10 Bush Ky 696; Yottman vs. San Francisco, 20 Cal. 98. Swift vs. Williamsburg, 12 Barb 427. Considering the correctness of these cases, we do not think they have any application to the case at bar. For if the plaintiff had looked at the statute, he would have ascertained that the city had the power to grade its street and pay hereof out of the general fund, and that it did not have the power to make an assessment on the abutting owner, and we think he had the right to conclude that the city would and was bound as no assessment could be lawfully made to pay him but out the general fund. The demurrer should have been overruled. Reversed.

The Hibernians completed arrangements for a celebration the 4th. The Hibernian societies of Omaha and Plattsmouth will join in a grand picnic and other doings here.

City Council. At the meeting of the city council last night it was decided to use a certain lot on Sixteenth avenue in Kline's addition as a place in which to deposit city rubbish.

S. E. Burdick filed an affidavit stating he was arrested by an officer without cause. The officer preferred a charge of drunkenness against him, of which he was acquitted by the court. He stated that when arrested the officer searched him and took away \$8, which he did not account for and has never returned. Referred to the mayor and police committee.

City jailor Mottaz presented his resignation, stating as reasons that his books had been tampered with and that money and valuables had been missed and that he had been ordered about like an errand boy by the city clerk and other officials. The charges by him against the jailor were referred to the same committee.

The Cour d'Alene Region. From the Denver News. A gentleman who has recently returned from the Cour d'Alene district says that there is very much bitter feeling felt there against the western papers for the treatment which the district has received at their hands. He also prophesies that the district will become a large producer in 1885, and this admission that it will do nothing great in 1884, is sufficient evidence of the value of the section.

The western papers have simply treated the district fairly from the evidence presented. The wild and wondrous tales told have not been substantiated, and will probably never be. There was too much talk about the mines, too much of an early rush and too little gold. Another recently returned gentleman says of the tendency to exaggeration: "Well, sir, every bunch of willows is a mighty forest, every frog pond a tyfian lake, every ravine a roaring river, every ridge of rocks a gold mine, every town a county seat and every man a liar."

Can't Say Enough. "I cannot speak to highly of Burdock's Blood Bitters; they have been a great blessing to me. Cured me of biliousness and dyspepsia from which I had suffered for years." Mr. J. Marsh, Bank of Toronto Ont.

In His Wife's Pocket. A fire broke out in a dwelling house the other night, and after the man and his wife had safely reached the street, the latter said that there was \$50 in the pocket of her dress which was hanging in a second story back room. "I'll go for it," said the husband, and he plunged into the burning. The flames raged furiously and the man did not return. At the expiration of an hour the fire was extinguished and the back building saved. The husband started his way up the rear stairs through water and blinding smoke, and found the man in the closet still fumbling at his wife's dress, looking for the money. He was nearly suffocated with smoke, but had strength enough to say that he thought he had found the pocket inside of two hours. It never occurred to him to seize the dress and rush out with that. Some men get so excited and in the time of fire.

A Word of Caution. Railroad men, mechanics, commercial travelers, base ballers, farmers and persons generally labor out of doors, are peculiarly liable to accidents and injury. Thomas' Electric Oil for bruises, burns, lacerations, and sprains, is one of the finest applications yet devised.

The Spider and the Fly. A very good spider-and-fly story is told on the authority of Mr. Thomas Bell, the naturalist, who witnessed the act. "A very strong, loud, blustering fellow of a blue-bottle fly bounced accidentally into a spider's web. Down rushed the old spider and threw her long arms around his neck, but he fought and struggled, and blew his drone, and battered and tore the web into holes, and so got loose. The spider would not let go his hold, and the fly flew away with the spider."

GOVERNING ALASKA.

Effect of the Law Recently Enacted.

The Plan of the New Administration of Our Northern Possession.

San Francisco Chronicle.

A Chronicle reporter called yesterday upon J. S. Oakford, the late collector of customs at Fort Wrangell, Alaska, to learn some particulars about the government of that territory. It is to be provided. It may be mentioned that Mr. Oakford has been the chief mover in the passage of this bill. He secured from the chamber of commerce a resolution that a government was an absolute necessity and a similar one from the board of trade. Mr. Oakford went to Sacramento and procured a concurrent resolution from both houses of the legislature, instructing the California delegation to use all reasonable efforts to secure the passage of the Alaska bill through the house of representatives, and it was due to this body that the bill was finally passed.

STATUS OF THE POSSESSION. "Before proceeding to speak of the benefit that will accrue to the territory by the installation of a government, I would like to give a sketch of the past," said Mr. Oakford. "You are well aware that the greater part of Alaska is an unexplored country, and that the strip of country known as Southeastern Alaska is where the Europeans are resident. What does this country include?" "It begins at 54-40 and continues till it strikes the Mount St. Elias meridian. You can see that along the coast are dotted myriads of small islands, with some few large ones. Sitka, the capital, is situated on one of these islands, and here is the termination of communication from the civilized world."

"Do you mean to say that the only white people that are to be found are in this strip?" "No, not exactly. But with the exception of some few employes of a packing company living at Cook's inlet there are no European residents in any other part of the territory out of the employ of the Alaska Fur company." "So practically the government will be for Southeastern Alaska?" "Practically, yes. But let me give you an illustration of how this country has been arranged. Hitherto it has been under the treasury department and the only resident officials have been customs house officers. There was no way to collect debts or punish crime except by local vigilance committees. In the case of two outrageous crimes the people took the law into their own hands. In 1879 they hanged a white man at Wrangell island for killing a countryman in a drunken brawl, and at Harrisburg, last year, three Indians were hanged for the murder of two white men."

THE NAVAL FORCE. "But the government used to have a military force there, did it not?" "Yes, it did. At the time of the transfer to the United States detachments of troops were stationed at Sitka, at Fort Wrangell and at Fort Tongass, in southeastern Alaska. In 1876 the United States ships were there. Three years later a serious disturbance was apprehended from the Indians, and, at the earnest request of the inhabitants of Sitka, the British man-of-war Osprey, from Victoria, came to their rescue. There she remained till she was relieved by the United States ship Albatross. Since that time the following ships have been on the station: The Jamestown, the Wachusett and the Adams. The last vessel is waiting to be relieved by the gunboat Pinta, which is now on her way to this port from Panama."

"Well, has the presence of these men-of-war benefited the territory?" "Certainly it has. Besides keeping the Indians in subjection, it has also served to support various trading establishments, especially in Sitka, at which it was estimated that the crews of the Jamestown, Wachusett and Adams spent more money in each month of their stay than all the white residents of the town in three years. The small gunboat Pinta, with her crew of forty men, is amply sufficient for all needed protection in supporting the government officials in the exercise of their duty."

THE NEW GOVERNMENT. "What will be the personnel of the new government?" "The bill provides for a governor, a district court, with a judge, a clerk of the court, a marshal and a district attorney. The court is to hold three sessions in each year—one at Sitka, one at Wrangell and one at Harrisburg or Juneau. It will adjudicate on all mining and property claims. It is a most important consideration, as up to this time there has been no tribunal before which the claims of the Indians could be settled. In addition to the officials already mentioned, four commissioners are to be appointed, one to reside at Sitka, one at Wrangell, one at Harrisburg and one at Oonahaska. They are to try all petty offenses; in fact they will act as police magistrates. This is the only relief needed by the Indians as they are greatly addicted to thieving and hitherto there has been no way of punishing them. The marshal will have the power of appointing deputy marshals. Besides, I forgot to mention that there are two treasury officials stationed at the Seal Islands, whose duty it is to collect the duties on the Alaska Fur company do not violate the terms of the contract they have with the government. The present law provides that the governor is to make a yearly report on the Seal Islands, but I cannot see how it can be done. There is no possible means of communication, except by a government steamer."

THE FUR COMPANY. "Will the officials have much to do with the Alaska Fur company?" "The government is not likely to interfere in any way or shape with the Alaska Fur company. They hold the Seal Islands under a lease which does not expire until 1890, and as I have already said, there are treasury officials to look after infringements, and the visit of the governor is an impossibility. I will tell you one good which will result from the establishment of a government, and that is that it will suppress some few dishonest traders, who get credit in Portland and in San Francisco, and who refuse to pay their debts. They also are enabled to undersell the honest traders by their swindling operations."

"How will the Indians be affected?" "In my opinion they will obey the laws. You know they are a harmless, though an exceedingly avaricious set. It would not pay them to resist the process of law."

The Spider and the Fly. A very good spider-and-fly story is told on the authority of Mr. Thomas Bell, the naturalist, who witnessed the act. "A very strong, loud, blustering fellow of a blue-bottle fly bounced accidentally into a spider's web. Down rushed the old spider and threw her long arms around his neck, but he fought and struggled, and blew his drone, and battered and tore the web into holes, and so got loose. The spider would not let go his hold, and the fly flew away with the spider."

Man Again Proves His Superiority Over Woman in Mechanics. He had a doubtful expression on his piz as he entered a hardware store in Detroit, and he spoke about the stove trade, the Wall Street panic, the Green-back convention, and several other matters before he finally said: "I think it is time to put up fly-screen doors." "Certainly." "You have springs I suppose." "Yes, sir." "Have you a spring which I can adjust?" "We have. Here is one which a boy ten years old can put on. The time for intricate springs has passed, and simplicity is the rule." "Let's see. I wonder if I can put that on?" "Of course you can. All you want are a screw-driver, and three screws. Here—this end goes on the door—that end on the casing. See? When you have it on take this wire and turn here. When the spring has the right force drop those nuts—thus. See? Why, a woman could put on one of those springs with her eyes shut—price 15 cents."

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Bones hadn't lost any of his doubtful expression as he started out. He walked home feeling as he was trying to remember just what the dealer said, and in half an hour he was at work on the door. The dealer had held the upper end of the spring to the north-west. While his door opened to the northeast. He sat down and thought and thought, and finally decided to try it, anyhow. Mrs. Bones came out and helped him, and the spring was finally put on.

"Now what!" she asked, as she opened the door and saw that it remained thus. "Why, we turn the ratchet, I suppose." "Ratchet—what's that?" "Hanged if I know. I've heard the boys say: 'Cheese the ratchet,' and that's all I know about it. Oh, yes; he said I must put this wire in the holes and turn."

"Well, go ahead." Bones turned and turned. The spring stretched at the door flew open. "That's just like you," she said, as she jumped back, "What on earth do we want of a spring to hold a door open?" "That's so—that's so. Let's take it off and turn it end for end." "This was tried, but it was no good, and Mrs. Bones cried out: 'It takes a man with brains to put on a spring!'" "And I've got more of 'em right in my heels than your whole relations have in their heads!" "Then put on that spring!" "I'm going to when I get ready. There's a particular hurry as I can see." "Maybe it's tired," she sneered. "And maybe you had better attend to your mopping."

She went in and Bones tried that spring six different ways. Then he went off and borrowed a gimblet, an inch auger, a crowbar, a jack-screw, and a pair of pincers, and he tried six other ways. He turned the old thing until the tension lifted up one end of the house, and he looked from the front gate to the alley fence for the hatchet, but the door had no spring in it. He put the spring on diagonally, crosswise, lengthwise, top for bottom, and bottom for top, and about a o'clock in the afternoon Mrs. Bones came out and found him pounding it with the crowbar, while the door had been wrenched apart and heaved into the alley. "I said you couldn't do it," she remarked. "Couldn't do what?" "Put on that spring." "Who's tried to put on a spring? We don't need any door there, and I've taken it away. It isn't at all likely that we will see three flies this summer; but if a few do come around we ain't going to murder 'em. Spring! I was just fooling you. That was a burglar alarm, and the reason I didn't put it on was because we didn't have anything to burglarize. Even if we had, I would let 'em come. A burglar can't live unless he has a fair show."

Honesty the Best Policy. In advertising a medicine it is best to be honest; deception will never do; the people won't stand it. Let the truth be known that Burdock's Blood Bitters cures scurvy, and all eruptions of the skin. This medicine is sold everywhere by druggists.

Packing Butter in Brine. Chicago Journal. A method of packing butter for its more perfect preservation, and one which is very effective, has long been in use in England. It has been recommended in this country, but has not been adopted so far as we know. It is to pack the butter in cylindrical bags of muslin, which are put in a mold for the purpose. These bags hold about two pounds, and when filled are tied tightly and packed away in brine, in tubs, pails or casks, and are headed up just as pickled pork is. The butter will absorb no more salt, is perfectly free from atmospheric exposure, is enveloped in an antiseptic fluid, and is therefore entirely safe from change, excepting so far as this may be ordinarily from within by the natural process called ripening, and which is due to the change of the milk sugar (lactose) in the butter into the milk (lactide) acid, this into butyric acid by a well understood chemical transformation of the elements. But this change goes on so slowly that the butter merely acquires a high and agreeable flavor, and no strong scent or taste is developed which would approach rancidity.

W. R. VAUGHAN. Justice of the Peace. Omaha and Council Bluffs. estate collector agent Old Fe's & Co. Bank.

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All and of the good and pleasant things that go to make up a complete and happy existence.

The town of South Omaha is situated south of the city of Omaha on the line of the U. P. Railway and it is less than 2 1/2 miles from the Omaha post office to the north line of the town site.

South Omaha is nearly 1 1/2 miles north and south by 2 1/2 east and west, and covers an area of nearly four square miles. The street yards are at the extreme southern limit.

Nearly 150 lots have been sold and the demand is on the increase. The yards are being rapidly pushed to completion.

The \$60,000 beef packing house is progressing finely. The \$30,000 Water Works are keeping pace with the other improvements, and the Hotel and Exchange Building will be erected at once.

The B. & M. and Belt Line Railways have a large force of men at work and will, in connection with the U. P. Railway, have a union depot near the park at the north end of the town. Suitable grounds will be furnished for Church and School purposes.

Now is the time to buy lots in this growing city. They will never be cheaper than they are to-day.

Apply at the Company's office, cor. of 13th and Douglas streets over the Omaha Saving Bank.

M. A. UPTON, Assistant Secretary.

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JOBBER OF Wall Paper and Window Shades

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NEW MARKHAM HOTEL

The Palace Hotel of Denver. Cor. Seventeenth and Lawrence Sts. Rooms 75c to \$2.00 per day. Special Rates by the Month. THE FINEST TABLE IN THE WEST. Conducted on the American and European Plans. Board \$7 per week. P. S. CONDIN, PROPRIETOR

Double and Single Acting Power and Hand PUMPS, STEAM PUMPS

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