

THREW IT OUT OF COURT.

Judge Wakeley Renders an Important Decision in the McCormick-Paddock Case.

FIRST DAY OF THE TERM

The Great Grand Jury—Fatally Injured White Coasting—The Ticket Raisers' Trial—A Military Romance, Etc.

District Court Opens.

At 10 o'clock yesterday morning Sheriff Coburn arose from his seat in the district court and called out in impressive tones, "Hear ye! Hear ye! Hear ye!"

The session thus being opened according to ancient custom, Judges Wakeley and Neville declared the court for the February term once more ready for business. The room was full of lawyers, anxiously awaiting several decisions which were to be rendered.

Both judges handed down some interesting decisions, the most important of which was that in the McCormick vs. Paddock case. Judge Wakeley sustained the demurrer of the defendants to the petition of the plaintiffs drawn up by Mr. Ambrose.

To fully understand the importance of this decision, it will be necessary to recount a little history. In 1869 Mrs. Mary Ann Harrington and George Smith were owners of a large tract of land in northwest Omaha, comprising some eighty acres, now known as "Smith's addition."

In that same year Mrs. Harrington died in the insane asylum at Utica, N. Y. Mr. Smith brought an action in the district court to set aside the decree of partition which had been obtained by Mr. Smith seventeen years before, so that her title to three-eighths of the property might be declared unclouded.

Judge Wakeley decided yesterday that the demurrer was based on good and sufficient grounds and fully sustained it. This action will have the effect of throwing the case out of the court of this district.

VALUABLE PROPERTY.

Twenty years ago Emma Williams, sometimes known as Emma Davis, was the leader of the demi-monde in this city, being the proprietress of an establishment near the "Military Bridge," which was at that time the most notorious place of its kind in this whole western country.

The county building presented a lively appearance yesterday afternoon. Corridor and court room were full of officials and interested spectators to witness the empanelling of the grand jury.

Court was convened shortly after 2 o'clock, Judges Neville and Wakeley on the bench. The petit jury was called, and four offered excuses for not serving. Three of these were excused: Henry Fundt, Andrew Mockelmann and Jacob Frank.

When the grand jury was called every jurymen responded to his name, but only one stood up when the question was asked if any of them were to be excused. This was B. Gordon, whose business was of such a nature as to require his constant attendance.

When the name of Peter Gross was called Peter Gross responded. Judge Neville's attention was called to the matter and Mr. Gross explained by saying he thought he was the man referred to as "Cross."

The jurymen sat in the box, their looks revealing a long way to confirm the strictures which the BEE has seen fit to put upon them. A prominent lawyer and ex-judge who sat in the court room remarked to a reporter, sotto voce:

ANOTHER ACCIDENT.

Henry Kraft, a 13 Year Old Boy, Receives Fatal Injuries While Coasting.

Another serious coasting accident happened Sunday, the fatal termination of which occurred yesterday morning. Henry Kraft, a 13-year-old boy living at the corner of Thirtieth and Hamilton streets, was coasting down Charles street, near Hamilton, racing with another boy.

When about half way down the hill he fell off the sled, and before he could get out of the way the traverse behind him, steered by a boy named John

Stabanka, ran into him and struck him in the side. He did not appear to be seriously hurt at the time, being able to walk to a neighboring house. When he reached home, however, he sank down unconscious. Medical assistance was summoned, but his condition was from the first declared hopeless.

One of the large arteries having been burst. The boy remained in an unconscious condition until 2 o'clock yesterday morning, when death occurred. Coroner Drexel went to the residence in the afternoon, and after investigating the circumstances decided that an inquest was unnecessary.

A MILITARY ROMANCE.

Story of Love, Soldier Life, Imprisonment and Pardon.

Gen. Howard has issued the order for the release of Frank A. Herbert from the military prison at Fort Leavenworth, Kan. Herbert was a common deserter and ordinarily neither interest nor importance would attach to the matter, but this case is of a slightly remarkable nature.

Herbert, the principal in the affair was a resident of Denver, Colo., up to one May day in last year. He was a musician and unskilled laborer and lodged in the household of Mrs. Mary A. Johnson, a clever and goodhearted woman. At a time prior, Herbert had lived in Cincinnati and there knew and loved a girl whose gentle personage is nameless in the romance.

Herbert returned to his native city with all the fervor of her young heart and in a tender way they struck upon an agreement to take each unto the other for life. With vows of eternal fealty and truth upon his lips Herbert took up his trombone and started for the great west, to make that fortune necessary for a setting up for life.

CONFIRMATION SERVICES.

An Interesting and Impressive Ceremony at St. Patrick's.

Apart from the usual services in St. Patrick's church Sunday there were other interesting and impressive ceremonies, which drew forth a very large congregation.

Indeed there was not standing room, for the aisles and vestibule were full and some people were obliged to go home. It had been announced that on Sunday, the 31st of January, the Rt. Rev. Bishop would administer the sacrament of confirmation to those youths who had succeeded in getting a card of qualification as a proof that they were up to the standard in their knowledge of the catechism.

Bishop O'Connor was evidently well pleased at the comportment and character of the boys and girls present, and his address to them was impressive, eloquent and highly instructive—as are all the bishop's sermons, but this seemed particularly so.

There were seventy-five youths who received the sacrament, which is a very large number, when one considers that St. Patrick's is the youngest of five parishes within the city limits of Omaha.

No better proof of the marvelous growth of the city can be had than the church attached to which are 125 families, stands on the corner of Fourteenth and Castellar streets and which was opened two years ago for the first time by the Rev. Jo. Lemette.

How It Will Work.

Mr. F. E. Bailey, the contractor, was asked yesterday what he thought about the recent action of the bricklayers in declaring nine hours a full day's work. "I shall accede to their demands," he replied, "and I don't know that the change will make much difference with me, except that I shall have to employ a larger number of men. There is one thing about the change which is not exactly right however. Each bricklayer has to have an attendant laborer, to carry bricks, mortar, etc. This man receives but \$1.75 per day and he can ill afford to lose the extra hour's work."

Of course these "helpers" can not work ten hours when the bricklayers only work nine. Yes, the latter receive on an average about \$1.50 a day for ten hours work. At the same price per hour they would receive \$4.05 for a day of nine hours' work. They can afford the change much better than the men who receive much smaller wages."

Waived Examination.

Donald B. Allan, the B & M. clerk accused of forging and altering railroad tickets, was brought before Judge Stenberg yesterday. He waived examination, and in default of \$1,000 was committed to the county jail for trial.

JANUARY AND FEBRUARY.

Statistics and Folk Lore for the Two Months.

When nature gave the circum-terrestrial elements, so to speak, the power to combine to several and changing effects, she intended alone doing the fair thing by limited human intelligence. It was clever of the old dame, for where would be society and social converse if it were not for "Nithe day, Mith Tintpkinth," "Ain't it cold?" Do you think it will snow?" etc., after the manner and methods of various peoples. So what offense then if the BEE reporter after toiling up the four cruel flights to the signal office to get the report of the past month and being told that said report was not made until the sundown observations of to-day were taken, chatted with the obliging sergeant and was given lots of interesting facts and figures about the weather in general and of the present in particular.

January has been an unusually cold month even for this rigorous winter climate. You'd have to go back a number of years to find its equal. Let me see, and the officer produced a book of records, "I will give you some of the cold days. The month entered with decent wintry weather, along about the freezing temperature, but after the first week tribulations set in. With a drop of thirty degrees the previous night, the 7th dawned at 15° below. Then the weather went in to beat the record at a stretch and tumbled to 23° on the 8th, shrinking further to 24° below on the next day. Through the remainder of that week it ran up by 20° below, 16° below to 7° below, with an interval of three days followed with the thermometer held a little above and then the month ran out varying each side of zero with the dates below, as follows—16th, 20, 17th, 48, 18th, 10th, 21st, 30th, 42, 22d, 17, 23d, 14, 24th, 4, and 29th, 4°. The warmest day was last Saturday, the 30th, when the mercury reached 42° above and a slight thaw was experienced. January has been a great month for snow. Since the first fall on New Year's day there has been constant sleighing, although the total fall has only reached 18 inches. The persistent cold weather has preserved and kept firm the snow as it fell.

February starts in at zero, with sunrise, but otherwise according to proverb, inauspicious. If to-morrow is as to-day it will be a grievance to me. On the 2d additional groundhog was seen. The legendary adventure from his hole and if he sees his shadow and fingers to bask in the warmth of the sunshine, he returns to winter quarters and there remains for four weeks more. I shall endeavor to conjure up the clouds and kick up a bad day to-morrow as I don't care to prolong the season."

The sergeant arose and from his bookcase produced a volume in which are compiled all folk lore of all people's upon the subject of weather. It was issued last year by the signal bureau under the immediate supervision of Hazen. A good deal of work has been poked at the great observer for the work, but it is interesting and valuable for all that.

"Here," resumed the officer, "since I recall the ground-hog fable, you can find a mine of interesting observations in the season contained in the legends of yore. Similar to the ground-hog the old English had it, "When the cat in February lies in the sun she will again creep behind the stove in March." All proverbs seem to point to the one end that February had rather be a boisterous and wintry month if a seasonable spring time is desired afterward. See, another says, "When the north wind does not blow in February it will surely come in March." Then in poetic strain, "If February gives much snow, a fine summer it does foreshow," and again, "of all the months in the year, curse a fair February." Then for to-morrow in particular some wisecracker has laid down in proverb that "if on the 2d of February the grease find it wet, then the sheep will have grass March 25th," while the French contradict it by saying that "February rain is only good to fill ditches." Yet taken altogether, we seem to need a bad day to-morrow and rough weather for the whole month. I must confess, however, that I am sick of arctic experiences, and would be willing to take a little relief at once, defying old proverbs for the future."

We have \$20,000 to loan at low rates in sums of \$1,000 to \$10,000 if taken within ten days. J. W. & E. L. Spear, Board of Council Bluffs.

The Union sews backwards or forwards.

He Wanted Icewater. Mention was made in the BEE some days ago of the Swede who had built a house of ice on the bottoms, in which he and his family were residing. Yesterday Officer Tom Peironet, who lives on Sixth and Division streets, was called to this ice-palace to quell a disturbance between the man and his wife. He found that the Swede had beaten his spouse terribly with a club or something of the sort.

When Officer Peironet asked the cause of the trouble, the Swede replied that his wife had refused to go out and get some ice water. "I don't see what you want with ice water like that," remarked Officer Peironet, slivering vigorously. As the woman refused to prefer any charges against her husband, he was not arrested.

It May Be Whitney.

Marshal Cummings has received a letter from Dr. J. M. Kennedy of Springdale, Arkansas, in which the writer declared that he had information as to the whereabouts of J. Whitney, the man who solded the Kansas City National Bank by forging drafts on the U. S. National bank of this city. According to Dr. Kennedy, Whitney is now at or near Springdale, Arkansas, laying low to elude detection. The writer says that he desires some information as to the reward for Whitney's arrest, and is prepared to turn him over to the law on short notice.

Why is This Thus?

"I see that Dr. Miller, one of the packing-house democrats, has gone to Washington," remarked a "slaughter-house" man to a reporter. "I understood that he had retired from politics some time ago. Why is this thus?" The reporter gave the usual explanation, "course democrat went off whistling softly, "When the Robins Nest Again."

Personal Paragraphs.

S. F. Neely, mayor of Leavenworth, Kan., is at the Paxton.

Mr. Rosewater, editor of the BEE, left for Washington yesterday.

Mrs. D. E. Thompson, Mrs. E. B. Coole and Mrs. J. A. Buckstaff of Lincoln came up to attend the carnival and are visiting at the home of Mrs. D. J. Hill.

L. J. Mallet, of the United States gen

eral service, has been promoted from the clerkship in Gen. Howard's office to a position in the quartermaster general's department.

H. A. Jones, well known to the dry goods trade of this state, has transferred his services from J. J. Brown & Co. to Toole, Rosen & Co., of St. Louis. For the past four years Mr. Jones has been connected with J. J. Brown & Co. and has formed a host of friends among the business men of the city and on the road.

Mr. Robert Armstrong, who for the past two years has efficiently filled an important clerkship in the transportation department at the Omaha quartermaster's depot, has just been promoted, through the efforts of Gen. Dandy, chief and depot quartermaster, to be quartermaster's agent at Valentine, near which Fort Niobrara is located. This is a very responsible position, and Mr. Armstrong will no doubt faithfully and creditably perform the duties. He is an Omaha boy—an old settler—and is widely and popularly known in this city. His many friends will be glad to hear of his promotion.

Scientific Lectures.

Another of the series of the Creighton college course of popular and scientific lectures, brilliantly illustrated, will be given next Tuesday evening, February 9, by Prof. Joseph F. Riggo, S. J., on the "Novel Features of Sound." Instructional experiments will be performed as follows: The Messenger Balls, Sound Wave, An Acoustic Caterpillar, Ripples of the Tide, "Passing Away," At Long Range, The Giant Reflectors, Acoustic Clouds, Through a Duodecimo, Echo Sound Make Silence, The Larynx, The Ophidoscope, Action of Sound on the Gassiot Star, The Gobbler Drum, Our Organ of Hearing, The Bell Telephone, Singing by Electricity, The Mechanical Telephone, A Scientific Court, The Microphone, Edison's Phonograph.

The fire department had eleven runs last month, which is one short of the best record ever made. The fires, however, have been small and inconsequential. The total loss is but \$1,225, and there were but two blazes that reached \$300. Seven of the alarms occurred at night and four in the day.

California Excursions!

Round trip tickets, good for six months, \$10. Finest scenery in the world. Stop at Denver and Salt Lake. Dates—February 3, 17, and March 3. Also popular cheap excursions every Wednesday. \$45 pays one way—Round trip, \$85. Rates coming back about the same. For further particulars write P. S. Eustis, General Passenger and Ticket Agent, Omaha, Neb.

For Selling Liquor to Minors.

Barney Shannon was before Judge Stenberg yesterday on a warrant sworn out by John D. James, agent of the Law and Order league, for selling liquor to minors. He gave bonds for his appearance, and his trial set for next Thursday.

Without an equal—Union sewing machine.

Mrs. Fountain's Departure. Mrs. Fountain has gone to Chicago. She left one day the middle of last week. She was not shy about her departure as her affairs here seem to have been settled. How this little personal matter escaped notice is not explainable. It is not known that Mr. Fountain went with her. She surely must have taken the baby and yet no certainty upon that point exists.

Union machine sews backwards or forwards.

A false alarm of fire about 10 o'clock last evening called the department to Tenth street, only to return to quarters without discovering any property in flames.

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Persons unable to visit us may be treated at their homes, by correspondence. Medicines and instruments sent by mail or express. STRICTLY CONFIDENTIAL. No names or addresses given to third parties without consent of sender. One personal interview preferred if convenient. Fifty cents for the accommodation of patients. Board and attendance at reasonable prices. Address all letters to Omaha Medical and Surgical Institute, Cor. 13th St. and Capitol Ave., OMAHA, NEB.

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THE ONLY MISFIT

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Proposes to continue their offerings of the sale of merchant tailors' misfits and uncalled for clothing garments until the last garment is sold. There still remains that excellence of high art from the leading merchant tailors throughout the country which is equal to any and surpassed by none made by any tailor in this or any other country. The agents are discontinued on the road at this season, in consequence the expense is cut off from this source the management has made the consideration for the customer, and has cut 25 per cent less the original cost to the merchant tailor, making the garments less in price than an ordinary garment can be bought for. There still remains to select from, an

OVERCOAT

Table with columns AT, FOR and descriptions of overcoat prices.

And others more expensive. The above consists of every style of cut, in plain and rough fabrics and trimmed in proportion. To these are added suitings made in the most artistic manner, cut in any style man can wish to wear and will be cut in prices as follows:

A SUIT

Table with columns AT, FOR and descriptions of suit prices.

And others more expensive. These suits consist of Prince Alberts, four button cutaway frocks, cutaway sacks, double breasted sack and straight sacks and coats, and vests in Cassimeres, Worsteads and Reefers with a selection from separate

PANTALOONS,

Table with columns AT, FOR and descriptions of pantaloons prices.

And others more expensive. These are all styles of cut and patterns including some beauties in spring bottoms. To realize the above facts is to see them now on sale.

AT THE

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