

CAPITAL CITY BOOM NEWS.

The Lincoln Canning and Provision Company Incorporated.

THE RAPID TRANSIT QUESTION.

A Street Road Talked of the Motive Power of Which Will Be Compressed Air or Electricity—Supreme Court.

[FROM THE BEE'S LINCOLN BUREAU.]

Yesterday two events were common topics of conversation in Lincoln, one definite and one indefinite. The definite boom was the incorporation of the Lincoln Canning and Provision company and the indefinite object of discussion was a new rapid transit company said to be passing through the first stages of organization.

NEW CORPORATIONS.

The articles of incorporation of the Lincoln Canning and Provision company, filed with the secretary of state, recite the object to be the canning of fruits, vegetables and meats, and dealing in and handling the same.

Articles of incorporation have also been filed of the Platte River Conference of the Evangelical Association of North America, for the promotion of the interests of religion and holiness.

SUPREME COURT.

But very little business was transacted in the supreme court yesterday and the session was wholly uneventful.

The court seems to be much lighter than the usual sittings and in a number of the appeals from the different districts only two or three cases have been heard or been found ready for a hearing from a district.

At the hearing of the case yesterday the court adjourned until the coming Tuesday. The following decisions were filed yesterday:

Hudd v Chicago, Burlington & Quincy railroad company. Error from Lancaster county. The judgment of the district court, so far as it refers to lots 14 and 17 in block 70, is affirmed; so far as it refers to lots 15 and 16 in block 70 it is reversed, and the cause as to them is remanded for further proceedings.

Where proceedings to condemn real estate, instituted and carried through by a railroad company, are so defective as to be void for want of jurisdiction, such proceedings will afford no defense to an action of ejectment instituted by the land owner to recover the possession of the land taken and conveyed by the railroad for right of way purposes.

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The constitutional guaranty that "the private property of no person shall be taken for public use without just compensation therefor" makes it incumbent upon a railroad company, or other governmental agency exercising the right of eminent domain, to render such compensation before the right to appropriate the property will be granted, and in case of failure to do so, the possession of the real estate by the company for railroad, or other purposes, will be illegal, and the same may be maintained by the land owner.

Where a railroad company condemns private property to public use and deposits the condemnation money with the county judge of the proper county, in accordance with law and the possession of the condemned land, the subsequent withdrawal of the deposit from the county judge for the reason that the proceedings were illegal, will be an abandonment of all rights to claim the possession of the real estate under such proceedings.

Cobb v dissent. 5. Where in a proceeding to condemn the right of way through or over the real estate of a non-resident, notice is given by publication in a newspaper of the county in which the property is situated, and the same is made at the premises on a day and hour named in the notice, such publication will give no authority to the county judge to award damages nine months after the date fixed therefor in the notice.

Where it is sought to exercise the right of eminent domain in the condemnation of the real estate of a non-resident, and notice of such intention is given by publication, the publication must be in one newspaper for three successive weeks. The publication of such notice in a daily newspaper a part of the time and the remainder of the time in a weekly (if the paper being sent to different sets of subscribers in different locations) will not confer jurisdiction, and all proceedings thereunder will be void.

A party in order to acquire title to land by the statute of limitations, must not only have a possession adverse to the true owner but must occupy the same as the owner during the entire statutory period.

In an action in ejectment against a railroad company for possession of real estate, occupied by it as a part of its right of way, the company claimed title to the property by reason of the statute of limitations. Within the time of the last preceding title commencement of the action, the railroad company sought to condemn the real estate by use of the provisions of the statute for the condemnation of real estate. This proceeding was instituted against the real owner by name, and the condemnation deposited with the county judge for him. It was held that these proceedings amounted to a recognition of the ownership of the real estate by the company, and would arrest the running of the statute, even though the proceedings were void for want of jurisdiction, or for a failure to comply with the law in the publication of the notice.

Hirsch v Miller. Error from Adams county. Affirmed. Opinion by Maxwell, C. J. 1. Under the act of 1867 in foreclosing a chattel mortgage by sale of the property, such sale is to take place in the county where the mortgage was first recorded, or in any county where the property may have been removed by consent of parties, and in which the mortgage is duly recorded. Under the act of 1870, the proper filing of a chattel mortgage takes the place of recording, but to authorize a sale under the statute where the property has been removed, by consent of parties, into a county other than that where the mortgage was first recorded, the mortgage must be duly filed in the county where the same is to take place.

A sale under the statute by the mort-

gagee by which he fails to comply with an essential requirement of the statute, will render him liable to the mortgagor for the damages which the latter may thereby sustain. A provision in the mortgage that the mortgaged property may be sold in a county other than that in which the mortgagor resides, does not waive the statutory requirement that the mortgage is to be filed in the county where the sale is to take place.

Sheddenhelm v Sheddenhelm. Error from Saline county. Dismissed. Opinion by the court.

An affidavit for service by publication in an action for divorce was as follows: In the district court of Saline county, Nebraska, State of Nebraska, plaintiff, James W. Sheddenhelm, defendant, State of Nebraska, Saline county; Nettie B. Sheddenhelm, plaintiff, in the above action, being first duly sworn, on oath says: She has this day caused a petition to be filed in said court, the object and prayer of which are to obtain a divorce with alimony from said defendant. That the defendant is a non-resident of the state of Nebraska, and that service of a summons cannot be made on him in this state. Wherefore plaintiff prays for service upon said defendant by publication.

Subscribed in my presence and sworn to before me this 9th day of September, 1886. (S. K. A.) L. H. DENISON, Notary Public, Held, sufficient. It is unnecessary in the affidavit for publication to set forth the particular cause or causes upon which a divorce is sought, and the affidavit may state or omit the same at his option.

The overruling a motion to take a default against the defendant is not a final order and not reviewable in the supreme court until after final judgment.

Clark v Clark. Appeal from Johnson county. All costs in the case, including the fee of the guardian pro tem, will be taxed against the plaintiff, and as thus modified, the judgment of the court below is affirmed. Opinion by Maxwell, C. J.

In an action to establish a trust, and for a decree quieting the title of certain lands in the plaintiff, held, that a proponent of the testimony established the trust, and that the plaintiff was entitled to the relief prayed for.

Held, that an allegation in the answer of certain defendants that a deed was obtained by fraud and misrepresentations, was not sustained by the evidence.

Where the statute of limitations has begun to run in favor of a cestui que trust, it will not be suspended by the death of the trustee.

Where a cestui que trust is in possession of the trust property as his own, the statute of limitations will not be run against him in favor of the trustee so as to bar his right to the property.

When a trust was brought against certain minor heirs; held, that as such minor heirs are unable to convey deed, they should not be taxed with the costs of the action, and that the relief will be granted to the plaintiff upon the payment of all costs.

The moon of Mahomet arose, and it shall set on Sibley; but if you will see a bottle of Dr. Bull's Cough Syrup in a handy place, you will have a quick cure for croup, coughs and colts.

The eight wonder of the world... A black man limping with rheumatism was cured by Dr. Bull's Cough Syrup. Price 25 cents a bottle.

In Favor of an Elevated Railway. To the Editor of the Bee: I should like a short space in your columns to present a few plain facts. In Chicago I found it an inconvenience hardly to be endured to be obliged to submit to the slow means of transit existing there compared with the convenience I enjoyed in New York City by the use of its elevated roads.

If this city will lend its aid to the project of building one here, thus showing a greater spirit of progress than Chicago, there is no telling how much good it may do. I anticipate it will more than double the prosperity now produced by the advertising our paved streets have given to the city.

Before becoming a resident of this city I heard from every quarter remarks made of our street pavement. Now let our people continue to make this place known to the world abroad by the introduction of conveniences to the people such as an elevated railway. If such a scheme is carried out I prophesy a growth to the city of at least 60,000 during the coming two years, not saying a word about the years that are to follow.

All those who have used an elevated railway will agree with me that if it runs but one mile it will be more agreeable to ride that mile in three minutes than to spend ten or twelve minutes in going over the same ground.

Male weakness and loss of power promptly cured. Book, 10 cents in stamps. World's Dispensary Medical Association, 603 Main street, Buffalo, N. Y.

Editor's Reply. To the Editor of the Bee: I wish to say a word to the man who is trying to "screw" me in a morning paper. I know he has no love for the bicycle riders, and I don't know that they have much affection for him. However, that cuts no figure in the case. With regard to his assertion that our track is short, I simply wish to say that it has been measured and found to be ten and one-fifth laps to the mile. It can be measured again, and I will bet this man \$50 that if he is measured it will be found to be just as measured. All our races have been run on this basis since the pole was changed.

Yours, JOHN S. PAINCE.

Mail Notes. Vice President Potter and Treasurer Peasley, of the Burlington road, arrived in town yesterday from the east. Their visit here, they say, is of no special importance—merely one of inspection. They left yesterday afternoon at 3 o'clock on a special train for Lincoln.

General Manager Callaway is expected here from the east to-day.

A Great Battle. It is continually going on in the human system. The demon of impure blood strives to gain victory over the constitution, to ruin health, to drag victims to the grave. A good reliable medicine like Hood's Sarsaparilla is the weapon with which to defeat one's self, drive the desperate enemy from the field and restore peace and bodily health for many years. Try this peculiar medicine.

A New Building Association. Articles of incorporation were filed yesterday of the South Omaha Loan and Building association, with a capital stock of \$1,000,000. The incorporators are: T. Whittelsey, E. H. Howland, E. F. Bayliss, E. M. Hunt, J. A. Sibley, E. K. Wells, Adam Kellner, C. C. Hillier, C. C. Van Kuren, E. K. S. McCall, H. C. Bostwick, W. S. Cook, M. J. De Graff and J. D. Jones.

"Brown's Bronchial Trochae" are an effectual Cough Remedy. Sold only in boxes seriously injured.

Tuesday three bus and section men at work on the B. & M. about a mile east of the city indulged in a triangular hand car race which may cause the death of one man. His name is J. J. Fredericson and he was riding on the first car. The second collided with it and Fredericson was thrown off sustaining injuries which may prove fatal. He was brought to St. Joseph's hospital, where he now lies in a precarious condition.

Stocking-Dyer. A very delightful affair occurred Tuesday evening at the residence of Mrs. Dyer, on Farnam street, being the marriage of her daughter Mabel to Mr. George A. Stickey, of this city. The company was composed of relatives and the most

intimate friends of the parties. Misses Lena Deits and Margaret Dyer acted as bridesmaids, and Messrs. F. A. Brown and D. W. Keister as groomsmen. The ceremony was performed by Rev. A. W. Clark, of the Calvary Baptist church.

General Crook. The commanding general of this department is home again after an extended eastern trip. He was received with royal honors wherever he went, for the fame of the great Indian fighter had preceded him. He lectured in Boston and other places and made, of course, a superior impression.

ADDITIONAL COUNCIL BLUFFS. No Head For Headlines. The Globe has raised a storm about its cars by its headlines stating that Murphy was defeated by "a combination of druggists, saloonkeepers and gamblers." The spirit of the city was to elect men without much regard to party, but the democratic organ seemed to be too narrow chested to take in a full breath of free air.

Not satisfied with having two democrats chosen as aldermen, one of whom was vigorously endorsed by the unanimous voice of the republican party, it gets mad because the citizens did not select democrats, and proceeds to abuse those who voted for George Metcalf. The democratic organ ought to broaden out a little, but if it can't make that way, and can't be changed, it should be consistent enough not to talk above a whisper concerning "gamblers" and "saloonkeepers" taking part in city elections. It is hardly consistent with its railing over the election of Pat Lacy in the Third ward. Even the democrats are nettled at the partisan foolishness of the Globe, especially at such a time as this, when there is such an era of good feeling and desire to build up Council Bluffs even at the sacrifice of some party pride or the feelings of some pet candidate.

The City Council. The city council met last evening in adjourned session, and spent much time in clearing off the clerk's table. Reports of city auditor, clerk, chiefs of police and fire departments, etc., were read and placed on file.

The bond of J. D. Edmundson, as treasurer of the public library was approved.

An ordinance was introduced making it the duty of city marshal, the police force, etc., to get all information and names of witnesses in case of any accident on any accident on any public highway, as a safeguard in case of suit for damages against the city. It was referred, after its second reading, C. R. Mitchell petitioned for \$500 in bonds as pay for grading done by him, in lot of court-cases. Referred. The Wickham-Goulden tramway ordinance was, with amendments, passed. Adjourned until to-night.

Sneaking Neckwear. Two of the mutes in attendance at the institution for the deaf and dumb—two boys aged about thirteen—were so fascinated by some bright neckties in Reno's store that they sneaked three or four of them, with which to make a dress parade. They were caught, and confessed. The boys have heretofore borne a good reputation, and they seemed quite contented when they were released after being locked up in the calaboose for a few hours. The lads will doubtless profit by the unpleasant experience which has resulted from their penchant for neckwear. It may cause them to stop traveling on a road which might end in their getting a different sort of a necktie.

One Thousand Dollars For One. Thomas Burke was recently arrested by the police on the charge of passing a counterfeit silver dollar. He claimed that he supposed it was a good dollar and that he therefore passed it on the proprietor of a hotel in paying for a night's lodging for himself and a friend. Others claimed that Burke and his friend had been trying to pass that same dollar in several saloons and other places, but had not succeeded, so that he must have known it was a bad one. Yesterday Burke had a preliminary hearing before Commissioner Hunter, and was held to answer the action of the grand jury in the sum of \$1,000.

A Safe Deal. Yesterday the real estate firm of Peterson & Co. were moving to Sioux City and were about to load their safe when an officer seized the big iron box with a writ. It is claimed by George Rudin that the firm gave him the safe for his services in making a safe for them. As they did not intend to turn over the safe to him under this agreement he took this means of keeping the safe here until their dispute can be decided in the courts.

Personal Paragraphs. Invitations are out by which Mr. and Mrs. J. Goldberg request the company of friends at the marriage of their sister, Miss Bertha Goldberg, to Mr. Julius Roencranz, the event to take place Sunday evening, April 3, at their residence, No. 625 First avenue.

George T. Phelps, manager of the Ogden house, left last evening for New Mexico, on a brief trip, to look after some of his mining interests there.

DEAFNESS its causes, and a new and successful method of curing it, by the use of a medicine, Dr. Price's Eye, Ear, and Throat Remedy, is now being prepared. It is a simple, safe, and effective remedy, and is now being prepared. It is a simple, safe, and effective remedy, and is now being prepared.

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HEARTLESS CRUELTY. It is to be feared a poor sufferer into the belief that some worthless flimflam will cure rheumatism and neuralgia. Honesty is the best policy in the manufacture of proprietary articles as in all other matters, and the fact that the proprietors of Athliphoros have never claimed for it even all its merits would warrant has not a little to do with its wonderful popularity, and the thousands of grateful testimonials received by them show that their policy has been wise as well as right.

Athliphoros acts on the blood, muscles and joints directly. It takes the poison out of the blood and carries it out of the system; it invigorates the action of the muscles and limbers the stiffness of the joints. It reaches the liver and kidneys, cleansing them from vitriolic substances, and if followed up after the rheumatic conditions cease, it will restore these organs to regularity and health.

Dr. W. D. Bryant, Cainsville, Mo., says: "I bought a bottle of Athliphoros for a lady. She had not taken all the bottle before she was so far restored as to resume her household duties. She had been confined to her bed for three weeks, unable to turn herself. The disease was inflammatory rheumatism. She has not had a recurrence of it since. Athliphoros is all that is claimed for it."

E. Moore, Stahl, Mo., says, "Four bottles of Athliphoros cured me of rheumatism two years ago, and I have not felt a pain or ache since."

Every druggist should keep Athliphoros and Athliphoros Pills, but where they are not to be had, the druggist of the Athliphoros Co., 132 Wall st., New York, will send either, carriage paid, on receipt of regular price, which is \$1 per bottle for Athliphoros and 50c for the Pills.

For liver and kidney diseases, dyspepsia, indigestion, weakness, nervous debility, diseases of the stomach, and all ailments arising from impure blood, etc., Athliphoros Pills are unequalled.

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KEYSTONE MALT WHISKEY. Specially Distilled for Medicinal Use. THE BEST TONIC. UNEQUALED FOR CONSUMPTION. PERFECTS DIGESTION. DR. EDW. L. WALLING, Surgeon in Chief, National Guard of N. J., writes: "My attention was called to your Keystone Malt Whiskey by Mr. Labor, Druggist, of Trenton, N. J., and I have used a few bottles with far better effect than any I ever used before. I recommend your article in my practice, and find it very satisfactory."

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