WAS ARGUED AND SUBMITTED.

The Hearing of the Case Against the Tramway Company.

JUDGE BERKA'S JUSTICE MILL.

Opinions of Representative Citizens on the Police Commission and the Council—General City News.

The Two Roads.

The hearing of the argument in the case of the Omaha Railway company vs. the Cable Tramway company, exceptions on both sides taken to the report of the late commission appointed to assess damages, began yesterday morning before Judges Brewer and Dundy, in the United States circuit court.

General John C. Cowin, solicitor for the Cable Tramway company, presented their exceptions to the commissioner's report, accompanying the same with a running argument of a forcible character. Briefly the Tramway's grounds for exceptions are:

1. That commissioners have found that plaintiff company will sustain damages in the sum of $8,632.25, as the result of inaccessibility of reaching their cars by reason of location of defendants tracks. Commissioners ought not to have assessed any damages for such reasons, as this does not in law authorize any damages, the defendant company having the same right to construct its lines upon the streets as plaintiff has.

2. Said report is indefinite and uncertain. It does not state in what respect the plaintiff's lines are inaccessible.

3. That commissioners have assessed the damages by a speculative estimate on the business and profits of said company at present and in the future, when estimate should have been based upon the actual damage to plaintiff's property by depreciation of value of their property.

4. That commissioners certified that number of passengers upon plaintiff's lines on Tenth street where said lines are paralleled by the defendant's lines to be 1,266 per day, and that revenue derived from this source is $63.30 per day, that 75 per cent of said amount would be carried by cable lines as the result of the inaccessibility of reaching plaintiff's cars, and applying same rule on Twentieth street, and upon said basis have estimated the total daily damages at $26.65 per day or sum of $8,632.25 per annum. Commissioners should have found that of the 1,266 passengers on plaintiff's line on Tenth street, not more than twenty or thirty get on and off where they are paralleled by defendant—the rest get on and off where they are not paralleled. Hence there could be no damages. The same can be said of Twentieth street. They have assessed damages at 30 per cent of total amount received from all passengers, whereas they should have reported only on those seeking access to plaintiff's cars when interfered with by defendants. The commissioners have also, in making their estimate, taken as damages 30 per cent of the total receipt, whereas only 30 per cent of the net proceeds of 30 per cent of 40 per cent of the amount received by the company, as 60 per cent of their receipts go to pay expenses.

5. Commissioners have no authority to assess damages over a period of thirty years at a certain sum per annum; in fact, have no authority to assess damages at all by reason of the premises stated in their report.

6. No damages can be assessed upon grounds of inaccessibility of reaching plaintiff's cars until after defendant commences operating its line which parallel theirs.

7. The amount of damages assessed is excessive, oppressive and unwarranted, under the facts and in law.

8. For that the method of computation adopted by said commissioners in ascertaining amount of damages is unwarranted and illegal.

9. The certificate of commissioners set forth plaintiff's damages by reason of inaccessibility of reaching their tracks by reason of defendants tracks on Tenth and Twentieth streets will amount to $8,632.25 per annum, to be assessed annually for thirty years, making total damages they are to receive by defendant occupying the same streets for seven blocks, $258,967.50, is grossly excessive. And evidence does not show their property will suffer any depreciation in value by reason of elements upon which said damages are based.

10. For that the commissioners should have found the defendant was willing to build double track on Twentieth street, and allow plaintiff to use it free of charge, and that they will not be entitled to any damages with respect to Twentieth street.

In all of which particulars said defendant appeals therefrom to the judgment of this honorable court.

J. C. COWIN,
Solicitor for Defendant.

Judge Woolworth followed with a lengthy and exhaustive argument in support of the plaintiff's exceptions, which are herewith presented in synopsis:

1. That commissioners find that "at the intersection of Twentieth and Cuming streets the plaintiff has constructed crossings for their tracks and extended them northerly a few feet, indicating an intention to extend their line to Twentieth street. Beyond Twentieth and Cuming we find part of a cable line constructed. As the commissioners did not learn definitely the intentions of the plaintiff as to said extension, no damages were allowed for cost of crossing. Should plaintiff be prevented from using said crossing by reason of defendant's tracks, the commission so find that said defendant should compensate plaintiff for expense incurred in labor and material."

Whereas, They should have found that construction of defendant's works on Twentieth, north of Cuming, was unauthorized by law, and interfered with rights of plaintiff, and should be enjoined, and works removed.

2. That by their report the commissioners find that the annual damage by reason of defendant's lines on Tenth and Twentieth streets is $8,632.25; when as they should have found that the construction and operation of defendant's road operates a damage to plaintiff amounting to $250,000.

In all which particulars, the commissioners' report, as said complainant is advised, is erroneous, and complainant appeals therefrom to the judgment of this honorable court.

J. M. WOOLWORTH,
GEO. E. PRITCHETT,
J. M. THURSTON,
Complaintant's Solicitors.

Late in the afternoon the arguments were concluded and the case was submitted to the judge, who will weigh the points and give a decision.

POLICE COURT.

What Was Done Before Judge Berka Yesterday.

There was a full delegation before Judge Berka yesterday morning, and as they seated themselves in a disconsolate row along the benches ranging the west side of the court room, the court called:

"Mike O'Brien," and a bleared-eyed bloated-faced old bum answered to the name.

"You are charged with being drunk. What have you to say?"

"Soir, I niver knew a thing," replied Michael, and his looks did not belie his words.

"Well, I'll tell you something. You can consider yourself labeled for two days over the hill."

"Sure thing?"

"Sure."

And O'Brien sadly returned to his seat on the bench.

"Fay Revere."

And in response to this poetical cognomen a regular daisy bloomed forth in the dark and odorous court room, in the shape of a young girl, attired in a neat and well fitting tailor-made suit, with a jaunty hat, ornamented with a blue jay's wing hanging coquettishly on her left auricular, who emerged from the crowd of lazzaroni, and demurely took her stand before the judge.

"Fay, you are charged with being drunk and kicking up a fight."

"Well, your honor, it is an error. I neither get drunk nor kick up anything, let alone a fight, but my lawyer, the Hon. J. W. Byler, will arrange my matters, and the Revere superciliously returned to her chair.

"Pat Donahue you are up for committing a nuisance. What have you to say for yourself?"

"Not much, judge, only I must have been in a somnambulistic state, for I have no recomembrance o' the occurrence with which you are vainly endeavoring to refresh me memory, but—"

"There that'll do, we've no time to listen to any spread eagle addresses. Three and costs will probably assist you in avoiding hereafter pedestrianizing in your sleep."

"John Patrick Cahill, did you resist an officer?"

"Am as innocent as a new born babe, your honor. I simply inquired of the cop when he pinched Donahue here, if he had iver arristed a burglar or a thafe, and he says, be gob, I have one now, I'm thinkin'; an' brought me along wid 'im, that's all there is of it, yer honor."

"Seven fifty and costs, John Patrick, and you are excused."

Here the quiet and harmony of the proceedings were interrupted by Chief Seavey leaping from his seat near the judge, rushing into the lobby, and seizing some fellow, who had been annoying the court by loud talking, by the nape of the neck and a reef in his breeches, and throwing him head first into the street. Then a couple of officers were sic'd onto him and he was locked up. His name was John Dewey, and he wanted to bet $10 that he could clean out the whole force at one time, but finding no takers he was jammed back into the privacy of cage No. 1.

"George Hendrick's"

And George was on deck smiling like a basket of chips.

"Did you disturb the peace by trying smash Officer Newman in the jaw?" asked the court.

"I don't know whether I disturbed the peace, your honor, but I did make a sashshay at the peeler's mug, and I'd a got there, too, hadn't they doubled up on me!"

"Ten days, George."

"Thanks, awfully!"

"William Harrison, you are charged with being a vagrant and begging on the streets."

"But its false, judge, I was a trifle full, but am no vag nor beggar either, and if you'll let me off this time I'll leave the city immejitly."

"Let him out then, quick, Whalen, any man that pronounces immediately after that Bostonian fashion is entitled to his freedom. Ta ta, Harrison."

"Tra la, judge."

And then, after the disposal of a handful of drunks and box-car sleepers, the docket was closed with a bang, and the mor ning session was over.

THE COMMISSION AND COUNCIL.

What Some Citizens Have to Say About Each.

C. J. Karbach.—If I had my way I'd kick the council out because they are not acting within the intent of the law. We made the law for the police and fire commissioners, and there is no fault to be found with the fire department because the chief of that is an Irishman and there is fault found with the police chief because he is an American. If it was a question of morality the council is now sustaining an official who is one of the worst men in town and ought to be in the penitentiary.

W. A. L. Gibson—Both sides are wrong. Its a very bad mistake. The council ought to show some disposition to yield to make a compromise, and the commissioners are in the wrong in endeavoring to retain in position, this bone of contention. I think Mr. —— has a good suggestion. It is that a number of the leading citizens meet and agree upon a basis of compromise and endeavor to get both boards together to ratify it.

John M. Thurston—I have not thought of the subject. That is a question which I have religiously endeavored not to consider. I have not read the papers on it. But I think that I am rather councilmanicly inclined.

C. D. Dormean—I think the council is off. The people I think are willing to support the commission. The law was passed to separate the police from the control of the council, and it is not fair that the council should now attempt to defeat the wishes of the people. Charley Green told me that it was he who drew up the commission clause and he said it was fashioned after one in Cleveland, Cincinnati or some other city, and it was the intent to separate the commission from every other body.

Two Thousand Behind.

R. E. Woodward, of the firm of Gray & Woodward, steam shovel, at work on West Farnam street, swore out a warrant yesterday morning before Justice Helsley for the arrest of his partner, W. Gray, for fraud. Gray has been accustomed to collect the firm's money and pay off the hands, but Saturday evening he put about twenty of the hands off with the statement that he had no funds. That Woodward knew to be false, as Gray had collected $2,000 of the firm's money which he had not accounted for, and when called upon for a settlement Monday, refused to settle or furnish any explanation as to what disposition he had made of the money. Woodward spent half the night Monday night looking up a justice, but had to retire without getting out the necessary papers for Gray's detention, who, he thought, was preparing to jump the country.

The Army.

Colonel Henry, received the programe for the division competition of army marksmen, which is to commence int his city September 1, that is, the preliminary practice for the competition will commence on that day, though the regular competitive work will not commence until the 6th of the same month. The contest will last till the 15th of the month. The list of prizes comprises a gold medal for the best marksman, three smaller gold medals for those less distinguished and eight silver medals to the remaining members of the team in the order of their standing. There will also be given a silver medal to the man making the best score in skirmish firing. This competition will comprise four teams from the departments of Texas, Dakota, Missouri and the Platte, and each of these teams will consist of twelve men with two alternates.

THE CONTEST.

There is an interesting feature in connection with the coming competition of distinguished marksmen at Bellevue next month which must not be overlooked, and it is that this department has a larger representation of marksmen of this peculiar distinction than any other department in the country, according to the most reliable tables furnished; the number of distinguished marksmen in each department, together with the proportionate representation is as follows: Department of the east, eight men, with two men in the contest; department of Dakota, four, with one in the competition; department of the Platte, eleven distinguished marksmen and three in the contest; Missouri, two men with one in the team; Texas, seven with two on the team; Columbia, three with competition. California, four with one in the team; Arizona, two with one in the competition. The aggregate of the last figures gives a total of twelve men, three of whom, the largest representation in the contest, will be from this department. This distinction, while due largely to the greater number of regiments in the department may also be attributed the proficiency earned in their practice on the target by the soldiers in their practice. In this division competition there will be representatives of the different regiments in this department. From the Eighth there will be five, from the Sixth two, from the Seventh two and the Fourth four.

GENERAL CROOK.

General Crook arrived yesterday morning from an extended tour to Camps Douglas, DuChesne and Bridger. With reference to the second place mentioned the general said that the place was largely barren and it was like living on a road. It was indeed a god-forgiven place.

The general had had but one memorable episode in his journey and that was when a cloud burst not far from him. Beside him ran a little stream which inside of an hour and a half became a maddening, rushing torrent. It overflowed its bounds and wrought considerable damage, besides compelling General Crook's party to move to other quarters. The general goes to-morrow to Fort McKinney. This will be his first visit since 1876, and his visit at that time was occasioned by his business in the field in his campaign against the Indians.

Public Works.

Considerable annoyace is being experienced by residents of Farnam and Davenport streets, by the rejected curbing stone, which the contractor has allowed to obstruct the street.

Contractor Brennan is in Cleveland and telegraphs that he can send 1,500 feet of Berea curbing on Wednesday next with a guarantee of 1,000 feet per day every day.

Architect Meyers approves of the substitution by the contractor of Ohio blue sand-stone for all ashlar work window heads, door jams and all exterior work above grade in the new city hall.

Attention Company.

All ex-pioneers of war are requested to meet at the office of M. R. Risdon, northwest corner of 13th and Douglas on Friday evening, August 5, at 8 o'clock p. m. sharp, for the purpose of making arrangements to especially entertain our pioneer friends during the reunion of the G. A. R. in September. Let every expioneer of war in the city be present.

S. S. AUCHMOEDY,
M. R. RISDON,
FRANK E. MOORE,

A Derelict Plumber.

Robert D. Duncan, inspector of plumbing, swore out a warrant yesterday morning for the arrest of A. C. Liehlinberger, a plumber of 110 South Thirteenth street, for cutting a street without permission, and failing to make proper returns of work, as required under a recent ordinance. Inspector Duncan finds his hands full these days in watching all the points covered by his extensive territory, and he is always up and on the go.

Fire at South Omaha.

A cottage at the west side of South Omaha caught fire from a gasoline stove yesterday afternoon and the flames spread so quickly that before the fire company arrived on the scene the building was past saving, and the entire structure burned to the ground. The house was the property of John Doe, and was occupied by the family of Charles Sprague.

School Matters.

Messrs. Redmond and Thompson of school district No. 38, came into the county superintendent's office yesterday morning and made a detailed statement of their expenses during the year. They wondered that the law was so lax as to allow directors to handle money without accounting for it, as was done in the case of district No. 53.

An Editor's Tribulations.

The case of the state vs. J. B. King, city editor of the Herald, for criminal libel, as charged by Isaac Brown, comes up for preliminary hearing before Judge Berka this afternoon at 2 o'clock.

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BAKING POWDER

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REPUTABLE BECAUSE RELIABLE.

All people of dyspeptic ways,
Should learn to lengthen out their days.
When indigestion makes a call,
Or constipation, worse than all,
Makes life a burden, heart in mind,
In TARRANT'S SELTZER health will find.

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Has a Pad different from all others, is cup shape, with Self-adjusting Ball in center, adapts itself to all positions of the body while the ball in the cup presses back the intestines just as a person does with the finger. With light pressure the Hernia is held securely day and night, and a radical cure certain. It is easy, durable and cheap. Sent by mail. Circulars free. EGLESTON TRUSS CO., Chicago, Ill.

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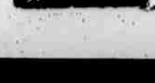

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RUPTURE cured without pain or hinderance from business.

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EYE AND EAR. Acute or Chronic Inflammation of the Eyelids or Globe and far or Near Sightedness, Inversion of the Lids, Scrofulous Eyes, Ulcerations, Inflammations, Abscess, Dimness of Vision of one or both eyes, and Tumors of Lid.

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PRIVATE DISEASES Blood poison venereal taint gleet, stricture, seminal emissions, loss of sexual power, weakness of the sexual organs, want of desire in male or female, whether from imprudent habits of young or sexual habits in mature years, or any cause that debilitates the sexual functions, speedily and permanently cured.

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ODDS AND ENDS.

The busy season being over and things not so rushing any more we have now time to look after the stock that is left, and find that we have accumulated during the season quite a few odds and ends. These consist of some single suits, one or two of a kind, and quite a lot of suit pants. Very frequently we sell the coat and vest from a suit and then the pants are left. We have placed them on a counter by themselves, and though the price was formerly very low we have marked them down still further. There are some very fine goods among them. We will sell them only as they are. That is, make no alterations as the price is so extremely low that we cannot afford to have the expense of altering them, but those who will find a fit in this lot will get the goods at about one third their value.

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The Seven Business Lots are across the street and fronting the new $75,000 hotel, now nearly completed, and the Opera House, to be built immediately.

The Eighty Dwelling Lots are adjoining the $10,000 Third Ward School House yard, and are being connected with the main streets by sidewalks, being distant only seven blocks, or three fourths of a mile nearer the business part of the city than any other additions that have recently been put on the market.

INVESTORS, DON'T DROP ALL YOUR CASH

In distant additions around Omaha and Lincoln, which have already been boomed enough for ten years, but Come to Kearney, where the boom has just commenced. The progressive and enterprising element will soon make Kearney the third, if not the second city of the state, by utilizing its

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