my to the said rations so sond, and shall be authorized to locate, construct and complete, maintain and operate the railroad thus purchased, and may receive, hold and convey all municipal aid, endowments and property of any kind whatsoever upon complying with the terms and conditions upon which the carry to be had as followed to the arms. me were to be had, as fully and to the same extent as the railroad company making such sale could have done had no such sale been

This act was passed in 1881, and the section only applies to corporations of an adjoining state which shall have extended its raiirona into this state and become acorporation under the laws thereof, to mortgage, lease or sell that part of its railroad situated within this state to a railroad company within the state.

This section does not repeal sections 89 and
of chapter 16 of the compiled statutes.
Nor does it authorize a railway to lease its
entire line, that out of the state as well as that within. That statute, therefore, does not apply to nor aid this case.

not apply to nor aid this case.

So far as the power to lease is concerned, requiring the lines to be continuous, chapter 58 of the session laws of 1887 contain provisions as to the power to purchase or lease railways, which need not be noticed, as it has no application to the case at bar. The second section of the act contains a provision for the ratification of prior leases and consolidations which, at the most, can only legalize acts done in good faith where there was a want of full power to perform the same, but does not apply to cases where leases were made, or consolidations effected against the inhibitations of the statute. The against the inhibitations of the statute. The lease of the defendant, therefore, is not validated or aided by that statute. To justify the defendant in leasing its line to the B. & M. railroad company, it must be able to point to railroad company, it must be able to point to the exact statute granting such authority, which it has failed to do. (Penn. Co. vs St. Louis, Alton & W. Railroad, 118 U. S., 294.) In the opinion of the majority of the court in that case, it is said: "We think it may be stated as the just result of these cases, and on sound principle, that unless specially authorized by its charter, or aided by some other legislative action, a railroad company other legislative action, a railroad company cannot, by lease or any other contract, turn over to another company for a long period of time, its road and all its appurtenances, the use of its franchises and the exercise of its powers. Nor can any other railroad com-pany without similar authority make a contract to receive and oper-ate such road, franchises, and property of the first corporation; and that such a contract is not among the ordinary powers of a railroad company, and is not to be pre-sumed from the usual grant of powers in a railroad charter." This, in our view, is a correct statement of the law.

In Thomas vs Railroad company, 101 U. S., 71, a railroad company in New Jersey had leased its road, franchises and property for a period of twenty years, giving the lessee complete control thereof, and received as rent one-half the gross sum collected by the lessee from the operation of the road. The decision turned upon the power of the company, under its corporate authority to make the lease. The corporate authority to make the lease. The leasees insisted that a corporation may at common law do an act which is not either expressly or impliedly prohibited by its charter. To this the court responded: "We do not concur in this proposition. We take the general doctrine to be in this country, though there may be exceptional cases though there may be exceptional cases and some authorities to the contrary, that the powers of corporations organized under legislative statutes, are such, and such only, as those statutes confer. Conceding the rule applicable to all statutes, that what is fairly implied is as much granted as what is expressed, it remains that the charter of a corporation is the measure of its powers, and that the enumeration of these powers im-plies the exclusion of all others."

The doctrine as above stated meets our hearty approval. If the allegations of the in-formation are true, and they are to be so condered on demurrer to the information, the defendant induced the people along its line, from the Kansas border to the city of Lincoln, to grant liberal aid for the construction of the road. Every piece of land subject to taxation in the counties along the line of said road are, practically, mortgaged by the issuing of bonds to aid in building it. The interest has, presumably, been paid on these bonds to the present time. Many of the settlers along such road when the bonds were issued were pioneers, struggling with the hardships, poverty, privations and dif-ficulties incident to a new country. To many of them, no doubt, the taxes necessary to meet the interest, and amount required for the sinking fund, has been a . And to every one the tax was voted a constructing and operating an indeto aid in constructing and operating an inde-pendent line of railway. That was the con-tract of the parties, and the state would be derelict in its duty if it did not compel an ob-servance on the part of the defendant, of its duties. The defendant, how-ever, having obtained this bonus, sought to surrender all its powers, rights and fran-chises to another corporation for the period of 999 years. So far as the defendant is con-regred, it has ceased to operate a railway corned, it has ceased to operate a railroad, and the charge of misuser and nonuser plainly appears on the face of the record. It is not the policy of the law to allow a railroad company, organized as an independent line, to procure aid on every hand in that character, and, after the road is completed, sell out to the highest bidder. Honorable sell out to the highest bidder. Honorable and fair dealing are as essential in the dealings of a railroad corporation with individuals and the public, in the construction and operation of its road, as between individuals in the affairs of life. A railway company cannot be permitted to act in bad faith with those from whom it has received aid, upon certain conditions. Having received the concertain conditions. Having received the consideration, it must perform its part, and the parties are entitled to a liberal compliance. And while a lessee in a proper case, or assignee, or purchaser, will take a road burdened with the conditions, obligations and duties assumed by the original corporation, yet there can be no such transfer by lease, assignment or sale, without express statutory authority, and, as we find no such authority, and the defendant has been guilty of misuser and nonuser of its franchises, they are subject to forfeiture.

are subject to forfeiture.

2. We have placed the decision entirely upon the statute, but there are other grounds which will now be considered. Section 3, article 11 of the constitution provides that "no railroad corporation or telegraph company shall consolidate its stock, property, fran-chises or earnings, in whole or in part, with any other railroad corporation ers, in such manner as may be provided by

Section 5 also provides that "No railroad corporation shall issue any stock or bonds, except for money, labor or property actually received and applied to the purposes for which such corporation was created, and all stock, dividends and other fictitious increase stock, dividends and other fictitious increase
of the capital stock or indebtedness of any
such corporation shall be void. The capital
stock of railroad corporations shall not be
increased for any purpose, except after public notice for sixty days, in such manner as
may be provided by law.

This in an absolute prohibition against a
railroad corporation consolidating its stock

railroad corporation consolidating its stock, railroad corporation consolidating its stock, property, franchises or earnings, in whole or in part, with any other railroad corporation owning a parallel or competing line. The word 'consolidate' is here used in the sense of 'join' or 'unite." The constitutional convention aimed at practical matters. The character of the title of the parties operating a railway is of but little moment to the general public, while the requirement that different roads shall continue to be competdifferent roads shall continue to be competing lines as when they were constructed, is
of the utmost importance to all. The
law cannot be evaded, therefore,
by substituting a lease for a deed
of conveyance. It will be observed that
there are two classes of railroads to which
the prohibition applies, viz.: parallel and
conveying. As to what are parallel roads is the prohibition applies, viz.: parallel and competing. As to what are parallel roads is not now before the court; but that the defendant was a competing road is alleged in the information, admitted by the demurrer, and clearly shown from the record. It was, therefore, clearly within the inhibition of the constitution, and neither its stock, franchises or earnings can be joined to any other competing line. The prohibition against the joinder of these prohibits the leasing of such roads, Competing lines, and thus prevent a monopoly in the operation of the roads; and this it did by prohibiting the purchase or control of parallel or competing roads under the same management. As the defendant was organized prior to the adoption of the constitution, it is claimed that it would not constitution, it is claimed that it would not be subject to this restriction. There is no force, however, in this objection. The cor-poration was organized to build and operate a railroad from the Kansas line to Lincoln and Columbus. That was the very purpose of its being. It had no authority to lease its road under the statute, and was therefore deprived of no right, and the constitutional mhibition applies to it.

The attorneys for the defendant contend

that section 5, article 11, of the constitution applies more particularly to stockholders. It has a much broader scope, however. It was intended to restrict the issue of stock and bonds to the actual consideration received. one of the objects of the provision was to enable all parties to know the actual cost of all railroads within the state, so that the legislature in providing for taxing them, and for regulating the charges for transportation of persons and property, may be enabled to do so advisedly, and pass laws which shall be just, alike te the railroad companies, the public and individuals.

In any view of the case, therefore, the defendant's franchises are subject to forfeiture. The court will not, in the first instance, however, declare a forfeiture; but the lease will The demurrer is overruled and the defend ant has leave to answer by the first day of the next term of court.

Order accordingly. The other judges concur. SOUTH OMARA NEWS.

Sunday's Ball Game. Sunday next, South Omaha sports will have a chance to see what their ball club is made of. The first championship game of the season, will be played with the Metz Bros. nine, and the game will be called at 3:30. The batters position of the South Omaha nine will be as follows: McIrnery, c. f.; Faber, c; Kennelly, s. s.; Whitfield, 2d b.; Hughes, p. and captain; Hart, 1st b.; Russell, r. f; Kelly, l. f.; and Daly, 3d b.

One More Unfortunate. A melancholy procession meandered up N street yesterday and attracted more than ordinary attention. A sad looking mule slowly followed a man armed with a spade, and once in a while turned around to look reproachfully at Officer Dixon, who brought up the rear and endeavored to hide a gun from the aforesaid mule. The mule was going to its own funeral, and seemed to know it. It was suffering from an attack of glanders in the worst form, and had been turned loose by its unprincipled owner to contaminate all the live stock in South Omaha. At a preliminary hearing Veterinary Surgeon Lempke sen-tenced it to be shot, and it was shot. Now the citizens are trying to find out the owner, and

if they are successful that owner will receive all the law allows. He deserves it, The Gas Question. Doubtless the question of granting a franchise to some gas company will come up before the council to-night, and it may be as well to state that while all three applicants for the franchise mean business, they are not prepared to give everything and receive nothing. It is for the council to say whether or not they are asking too much, One thing is certain, and that is, South Omaha wants her streets lighted, and that as soon as possible. There is no use in voting down every proposition that is made, merely because a "gas" company has made it. The question is merely this: The city wants to be lighted, three companies want to light it, and the council wants to see that the citizens get the greatest possible benefit for the money they spend. They are not asked to offer factious opposition, but to make the best bargain they can under the elecum-stances, and get the city lighted.

How They Stand. The city finances are in a much better shape than some croakers care to admit. There are enough funds on hand and enough taxes due to pay all salaries and floating indebtedness, and the present judgment against the city does not amount to \$1 per

Omaha grew much faster than its most san guine friends expected, and as a matter of course the expenses grew in proportion.

This left the old council in debt, but the present members realize this, and are already taking steps to prevent a like mishap. It can be taken as official that South Omaha, with assessible property, worth over \$5,000,000, with a population of about \$5,000, and with presentate highter than those of any ts brighter than those other city in the west, owes about \$8,000.

News About the City.

The board of trade meets Saturday night. Frank Pavonka is at Louisville on W. L. Holland made a business trip to

The annual ball of the A. O. H. comes off in Hunt's hall May 16. So far applications have been made for fifty-three saloon licences.

Ralph Wilson, a Greenwood merchant, is The city council will meet on Friday night not Thursday, as proviously stated.

L. Carpenter leaves for the prohibition state in the interest of the Odd Fellows. Justice Levy claims that Winters was maliciously held and prevented from obtaining either bonds or anything else. As stated, the charge is one of fraud and it will be fought out in the courts. A writ of habaes corpus is now being applied for.

"If a man don't open his eyes he opens his pocket book," said a leading legal luminary yesterday referring to a South Omaha law suit. Let the uninitiated take warning. South Omaha democrats hold their prima

ries on Saturday night, between the hours of 5 and 7 p. m., at the Exchange hotel. So says Chairman McMillan, officially. Delegates for St. Louis will be nominated. Shooting along the streets is becoming alto-gether too promiscuous, and this afternoon Justice Levy will listen to the evidence in the case of the State vs. Horton. One shoot a week is too muce for the law-abiding citi-

It was funny. Judge Reuther called up It was funny. Judge Reuther called up Justice Levy as a witness in the Winters case yesterday and both the judge and the justice started to read out the oath to each other. Of course Judge Reuther lead the call, and as soon as they got as far as "I do solemnly swear" they both swore off, and the oath was duly administered to Justice Levy. The result of the trial was that Winters was bound over to the district court in the sum of \$700 and at present has not furnished the \$700.

Don't Get Caught

This spring with your blood full of impurities, your digestion impared, your appetite poor, kidneys and liver torpid, and whole system liable to be prostrated by disease—but get yourself into good condition, and ready for the changing and warmer weather, by taking Hood's Sarsaparilla. It stands unequalled for purifying the blood, giving an appetite, and for a general spring medicine.

Will Keep His Stock.

Frank Murphy, president of the Nebraska National bank, has returned from New York after an absence of some weeks. He states that there is no foundation for the rumor that Mr. Clark is about to sell his horse car stock to the Metropolitan cable line. Mr. Manderson of that company is expected here in a couple of days, it is presumed to take some steps to recommence the building of the road which was undertaken last season.

Had a bilious attack and one of those ndescribable cases of constant weariness. Took quinine and other remedies without relief. Took Dr. Johnson's Red Clover Tonic; am strong and well. Asa Thompson, Logan, Ohio. C. F. Goodman Drug Co.

Enlarging the Sewers.

A meeting will be held at the board of pub lic works room this afternoon to open the bids for the placing of sewers in sewer districts 66, 67 and 68, and also for the reconstruction of sewer No. 3, which is in the alley between Farnam and Harney streets from Seventeenth to Eighth streets. new sewer that is to be put in will be a fifteen inch pipe from Seventeenth to Thirteenth streeth and a twelve inch pipe for the remaining distance in lieu of the six inch pipe



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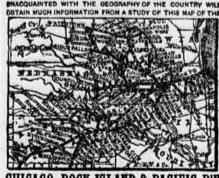
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Extends West and Southwest from Hansas City and St. Joseph to NELSON, HORTON, BELLEVILLE, TOPEKA, HEHINGTON, WICHITA, HUTCHINSON, CALDWELL, and all points in KANSAS AND SOUTHERN NEBRASKA and beyond. Entire passenger equipment of the celebrated Pullman manufacture. All safety ap

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This will be a week of rare opportunities for parents and all those who have boys to clothe. We will make a special effort in our Boys' department and will show some bargains which will eclipse anything ever before attempted.

Childrens' Blouse Suits with beautiful embroidered collars, in sizes from 4 to 10, at 95c. This suit has never been sold for less than \$1.50.

Knee Pant suits of all wool cheviots, splendid patterns, handsomely gotten up, sizes from 4 to 13 at \$2.75. Other houses would surely ask for such a suit, at least \$5.

Fine Blue Flannels, warranted indigo blue, beautifully plaited, sizes 4 to 12; as good a suit as is usually offered for \$5 or \$6. Our price is \$2.95.

We shall also offer this week some extraordinary values in Long Pant Suits. Elegant Cheviot suits, strictly all wool, of handsome colors and styles, well made, sizes from 12 to 18, at \$4.25. The actual value of this suit is almost double.

Our Long Pant suits run up to 18, and we can fit in our boys' department, at boys' suit prices, large sized young men, who would elsewhere have to pay for mens' sizes.

In place of a useless toy, usually given away to the little ones, we will this time give a benefit to mothers who will appreciate such a bargain and remember us long for it.

FOR ONE DAY ONLY.

On Wednesday, May 2, we will offer 2000 pair good knee pantt from 4 to 12, worth 50c; at 15c a pair. Make no mistake; these are no trash, but good durable pants, such as are sold by first class houses for 50c and more, and such as we can honestly recommend. We intend that these pants shall bring us thousands of little customers in the future, and we could not expect to make customers with a poor article. Remember for one day only and two pair to each customer is the limit. Out of town parties who order these pants by mail must enclose postage.

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Swan is dissolved by mutual consent, Henry
Swan retires and Z. T. Lindsey will continue the
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Lindsey assumes all liabilities of the late firm
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Omaha, April 20, 1888. Z. T. LINDSLEY,
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DROPOSALS FOR PRINTING—Headquarters
Department of the Platte, Chief Quarters
master's Office, Omaha, Neb, March 30, 1883.—
Sealed proposals, in triplicate, subject to the
usual conditions, will be received at this office
until 1 o'clock p. m. central standard time, on
Monday, April 30th, 1888, at which time and
place they will be opened in the presence of bidders, for furnishing the printing required at
Headquarters Department of the Platte during
the fiscal year ending June 30, 1889. The govern
ment reserves the right to reject any or all proposals received. Blank proposals, form of contract and printed circular giving full information as to the work required, conditions to be
observed, terms of contract and payment will
be furnished on application to this office. Envelopes containing proposals should be marked
"Proposals for Printing," and addressed to the
undersigned, WM. B. HUGHES, Chief Quartermaster.

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SECURES A BUILDING LOT IN THE GREAT GAS FIELD.

One Per Cent. Cash, Then I Per Cent. Each Week Thereafter Until Full Amount is Paid,

Portland, the county seat of Jay County, Indiana is half way between Fort Wayne and Richmond. and 118 miles from Cincinnati by rail, or about 90 miles in a direct line. It is in the very heart of the largest confinuous district of natural gas-bearing land in the world: a district which has been developed and tested by hundreds of gas wells, demonstrating beyond all doubt that the gas supply is inexhaustible, and its quality for feul and illumination unsurpassed. The gas wells now in use at Portland, have an output of over 3,000,000 cubic feet daily, and this supply may be increased ad infinitum.

Large manufacturing establishments have been locating in this gas field at the rate of one per week from the date of its certain development. The city offers FREE GAS TO ALL MANUFACTORIES, and an effort is being made to have the city supply same free to families. This will insure FREE LIGHT and FREE FUEL to all.

The most densely populated districts in Europe are over the cheapest fuel, and eventually the densest population in the United States will be in this was field.

The Grand Rapids & Indiana Railroad and the Lake Erie & Western positroud give Portland a North and South and East and West outlet. The Huntry is one of the richest agricultural and stock-raising counties in the tate. Portland, with about 5,000 population, has fine Public Schools, a Normal College, three Newspapers, seven Churches, two Banks, two fine Hotels, besides lesser ones, an Opera House, and does a large wholesaie, reall, and manufacturing business.

The Evans addition adjoins the north line of Portland, and lies directly on the principal street of the town. Gas wells are within 100 feet, and lay at the southeast and southwest corners of this addition, while just west of it is a ONE HUNDRED BARREL OIL WELL.

Lots are offered in this subdivision upon the following terms viz.: 1 per cent each week thereafter (or more if so desired by purchaser) until full amount is paid, when a warantee deed will be executed for the property. A rebate of 10 per cent will be made for all cash in advance. The title to the land is perfect. On receipt of first payment a bond for a deed will be forwarded to the purchaser with the amount duly credited; also a large plat of the property and township map showing the exact location of the addition.

addition.

The lots are 25x140 and larger, fronting on 50 ft. streets with 15½ ft. alley, equal in value to lots selling in other localities of the gas belt at \$150.00, thus making it a magnificent opportunity to people of small means of adding very greatly to their wealth in a short time, and in no event can prove other than a safe investment, We advise taking two or more lots, to secure a good frontage. There are 12 lots to a block.

We offer lots at prices as follows: \$50, \$55, \$60, 65, \$70, \$75, and \$80 each, without interest, and taxes paid by us during the time the lot is being paid for. Meridian Street lots are \$90 and \$100.

If any application is received after all lots are dispoped of the moneyinclosed for first payment will be returned. No attention paid to inquires unless the 1 per cent for lot is inclosed.

Remember, the number of lots is limited, and "first come, first served."

PORTLAND, Ind., March 1, 1888.

I have made the survey and plat of the land comprised in the Evans addition to the City of Portland, Jay County, Ind., and hereby certify that there is not a lot in said subdivision that is not sutiable for building purposes, and susceptible of good drainage. The subdivision adjoins the corporation line of the city. Meridian street, which passes through the property, is the principal street of the city, and the main thoroughfare of the county leading into the city. Sixteenth street is also on important high-C. E. ROGERS.

Ex-County Surveyor and present City Civil Engineer.

We, the undersigned are familiar with the above-described property, and indorse the foregoing statements in reference thereto.

THEODORE BAILY, Mayor of the City. N. B. HAWKINS, Asst. Cashier Citizens' Bank. P. M. HEARN, Abstractor.

J. B, LOWRIE, Postmaster.

A. H. EVANS, Trustee, Portland. Indiana, or 76 Johnston Building, Cincinnati, Ohio