THE DAILY BEE

E. ROSEWATER, EDITOR.

PUBLISHED EVERY MORNING.

DEFICIAL PAPER OF THE CITY

OLLIGIUD	1 m nu	OT	11111	ULLI
TERMS	OF SUB	SCR	IPTIO	N.
The the Rop (with	out Sand	2010	ne Ye	ar # R M
Daily and Sund	ay, One Y	ear.	*******	averes Mr. W.
Three Months, Funday Ree, Or	41 424 74 47 47	****		2 N
Funday Bee, Or	ie Year.			1 76
Baturday Bee, Weekly Bee, O	ne Year			, 100
	OVERE	eo.		

Omaha, The Ree Building, South Omaha, corner N and 26th Streets Council Builds, 12 Pearl Street, Chicaco Office, 317 thamber of Commerce, New York, Koomal's, Idand 13, Tribune Building Washington, 513 Fourteenth Street

CORRESPONDENCE. All communications relating to news and editorial matter should be addressed to the Editorial Department.

BUSINESS LETTERS. All business letters and remittances should be addressed to The Ree Publishing Company. On aha. Drafts, checks and postoffice orders to be made payable to the order of the com-

The Bee Publishing Company. Proprietor

SWORN STATEMENT OF CIRCULATION State of Nebraska.

County of Douglas.

George B. Tzschuck, secretary of The Bee
Publishing company, does selemnly swear
that the actual circulation of The Daily Bee
for the week ending April 16, 1892, was as fol-

Monday, April 10 Monday, April 11. Tuesday, April 12 Wednesday, April 13 Thursday, April 14 Friday, April 15. Saturday, April 16. Saturday, April 16.... 24,450 Average....

Sworn to before presence this 15th day of April, A. D., 1802. SEAL. N. P. FEIL. Notary Public

Average Circulation for March, 24,329. HOME patronage is building up home

GEORGE B. TZSCHUCK.

Industries. Let the good work go on. ARBOR day will be well celebrated if

two trees are planted at every school in Omaha. THE modus vivendi has been prac-

war hides his ugly head as if thoroughly ashamed of himself. IF a sanitary inspector is "utterly useless" as charged by the commissioner of health why should he be merely sus-

pended? An "utterly useless" officer

should be discharged. THE investment of \$400,000 in suburban lands largely owned by non-residents, cannot help Omaha workmen to a single day's work, or put into their pockets one dollar in wages.

SENATOR GORMAN'S ill health comes at an opportune time. He can retire gracefully from the democratic national committee with this excuse and nurse his promising little presidential boomlet.

MR. MARTIN'S motion to appoint a committee of three to report a plan for beautifying the school grounds of the city was very properly adopted. The committee should include in its plans the painting of every brick school building in Omaha.

Ir is stated that Senator Hill will lav his presidential cloak around the shoulders of Calvin S. Brice when the campaign becomes too hot to make it useful to himself. Without flattery it may be remarked that the garment is a perfect fit for Brice.

CHEYENNE will probably accept \$100,000 for a public building at the hands of congress on the principle that small favors are thankfully received, but \$109,000 is too small a sum to erect a respectable federal structure in so promising a young city.

THE sitting members of the Board of Fire and Police Commissioners have filed their answer in the supreme court, and so the contest moves leisurely along. It will probably be settled by the time Governor Boyd steps out of the executive office into private life.

ELECTRICITY is already used to some extent in propelling farm machinery and in propogating plants in foreign countries. Senator Peffer's resolution asking for information concerning applied electricity will, however, evolve no new facts that are not already within

the reach of scientific people.

SOUTH OMAHA finds it necessary to resort to an occupation tax to raise funds for the conduct of the business of the municipality. This is not an uncommon proceeding in cities but to the mind of THE BEE it is an unhappy last resort excusable only when revenue can be raised by no other method.

THERE can be no question that the United States senate made a serious mistake in dismissing its executive clerk, Mr. James R. Young, without an investigation. For fifteen years Mr. Young had been a trusted and faithful official, and his character for integrity and trustworthiness was above reproach. During this long period of service the proceedings of the executive sessions of the senate were frequently made public, but not until the discussions on the Bering sea were disclosed was there any intimation of a suspicion that the leakage was through the executive clerk. There is every reason to believe that there was not the slightest ground for suspecting him in this instance, and at any rate justice required that his demand for a full and searching investigation should have been complied with. As it is public sentiment is unanimously with Mr. Young, and the natural impression is that some of the senators who were most zealous in urging his dismissal were afraid of an investigation. The matter is probably not yet fully disposed of, and Mr. Young, with a keen sense of his unjust treatment, may conclude not to drop it until he has made some disclosures that will be of general public interest. His determination to vindicate himself is entirely commendable. Meantime the incident is serving to impress more strongly upon the public mind the unrepublican character of the secret session.

THE WYOMING CATTLE WAR. The war between cattlemen and the settlers, generally termed rustlers, now waging in central Wyoming is but a new phase of the struggle that has followed the encroachment of the homestender upon the stock range along the whole western border and marks the climax of the most desperate resistance in the entire conflict.

Wyoming was pioneered by large cattle owners. The territorial organization was dominated by them. The stock laws were framed in their interest solely. North of the Union Pacific railway their sway was absolute. That which was most desirable-in lands, in water rights and in kindred privileges -they acquired by means often questionable or claimed by right of possession merely. The ownership of the mayerick, controversies over lands and water privileges and the stock association's system of blacklisting employes were among the principal sources of contention and ill-feeling. The mayerick law was in the interest of the large owner to the exclusion of all others. Employes were expected to 'rustle" for their employer, but were blacklisted and branded as thieves did they "rustle" for themselves.

Settlers were regarded with a jealous eye. The fact that they came upon the range was in itself considered an offeuse. If they entered land in the large pastures, contested illegal entries, or did anything in conflict with the selfasserted rights of the cattlemen, they were subjected to the most relentless oppression and intimidation; were involved in expensive litigation and had every conceivable injury and annoyance put upon them. Employes of the cattlemen received no fairer treatment. Faithful and efficient men were black listed often on slight suspicion merely

or through petty spite. The effect of this policy, pursued with the energy of so powerful an interest was to arouse a bitter sense of injustice on the part of the settlers, This condition of public sentiment, the nature of the country and the fact that the penalties for violations of the stock laws tically agreed upon and grim visaged were so severe as to render convictions next to impossible, all combined to give

immunity to the lawless element. While the cattlemen have suffered loss, the wrongs they have received at the hands of individual rustlers are but the natural result of the injustice and oppression they have practiced upon whole communities. It would be unreasonable to assume that every small cattle owner is a thief, nor justify resorting to unlawful means of redress even where the wrong is plain. The average citizen of Wyoming is thrifty, energetic and self-eliant. The differences of climate and location render his struggle to subdue and possess the land a harder one than the majority of Nebraska homesteaders have undergone and he should be accorded a word of sympathy and cheer in his present extremity. Reliable reports of the present out-

break have been hard to get. The conditions have been such as to prejudice correspondents to a greater or less extent. When the first hostile move was made by the cattlemen the correspondents generally were coerced into suppressing the news of the armed invasion. Had it not been for THE BEE the outside world would have remained in ignorance of the true state of affairs for some time at least. The first news to reach the press of the country came to THE BEE from its Casper representative and correctly forecast the events which were to transpire. From that time on THE BEE has given the news from the various points near the scene of action from twenty-four to forty-eight hours in advance of all other papers and with a clearness coming from a perfect understanding of the situation. The crisis is not yet over, but it is to be hoped that justice will prevail without the loss of mother drop of blood.

THE NAVAL APPROPRIATION.

Twenty-five democrats in the house of representatives voted in favor of an appropriation for the construction of two battle ships and ten torpedo boats in addition to those ordered by preceding congresses. This number is not sufficient, however, to relieve the democratic party of the charge of being hostile to the policy of giving the country such a navy as will be adequate for the protection of its interests in time of peace and its defense in the event of war. A large majority of the democrats of the house were opposed to appropriating more than sufficient to build a single cruiser for the navy, and there is reason to believe that many of them were reluctant to do even this, but they understand that the party could not go before the country and defend a refusal to vote any money for additions to the navy. They know that the intelligent judgment of the country would condemn the abandonment of all efforts to give the nation a naval establishment that will be a safeguard in a possible emergency, and the possession of which will do much to command for the United States the respectful consideration of

other nations. All commercial countries find it necessary to maintain a navy, but there is a very general misapprehension in this country of its purposes. These are the protection and development of commerce, the defense of American citizens and American interests in all parts of the world, and the protection of American coasts and American interests at home in time of war. In the course of the discussion of the naval appropriation bill Representative Lodge of Massachusetts said that we have got so much in the habit of referring to the decline of our foreign commerce that we are apt to forget that though its amount is relatively small-much smaller than it ought to be-it is still absolutely very large. Over 1,000,000 tons engaged in the foreign trade is an important interest, and when to that is added our great coastwise and lake traffic it will be found that we stand second in the list of nations of the world and far ahead of those that come after us in point of total tonnage. Along the Atlantic coast alone we have 1,700,000 tons of coastwise traffic and on

the lakes 1,200,000 tons. This great constwise tonnage, said Mr. Lodge, as well as our foreign carrying trade, need protection-the protec-

tion of the American flag on American public ships. Commerce cannot be guarded except by a navy, and without armed protection it retreats and disappears. The duty of protecting American business interests and American citizens in all parts of the world makes a demand for a navy, and the more widespread and intricate our relations with other countries the more urgent this demand will become. But the paramount necessity for a navy is the protection of our coasts. However strong we may make the land defenses, in order to obtain complete security for the seaboard cities we must have powerful ships, heavy in guns and armor, able to fight at sea and to keep a hostile fleet from

over coming within range of our coasts This is a matter which concerns the whole people, and not those only who live on the senboard and whose interests are there. Any other view of the subject is narrow and unpatriotic, for every citizen is interested in the general safety, in the protection of our commerce on the ocean and along our coasts, and in the security of our rights and interests as a nation throughout the world. These conditions are important to the farmers of the west as well as to the merchants of the east, to the people of the interior as well as to those on the seaboard.

THE SAME OLD TACTICS. The county commissioners have once more postponed action on the proposition to submit the Nebraska Central project to the voters of Douglas county. This step is manifestly taken at the behest of parties who are interested in the existing bridge and trackage monopolies. Their tactics from the cutset have been to delay action and dilly-dally with the commissioners and load down the proposition so as to be unacceptable to investors who are disposed to embark in the enterprise.

It is proper enough to surround the bond proposition with such safeguards as will fully protect the taxpayers and will insure compliance with all the conditions under which the Nebraska Central would build its bridge and operate its line. It was also proper to invite prominent taxpayers who are not interested in choking off the project to make suggestions as to what conditions should be imposed upon the company in the interest of the community. That the county and city attorneys are competent to formulate these suggestions cannot be gainsaid. As a matter of fact they are the legal advisors of the county and city and are presumed to be competent and responsible. Assume, however, that the county and city authorities have a right to call to their aid legal experts would it be reasonable to employ attorneys who are committed against the proposition? Would not such a course justify the inference that a majority of members of the board of commissioners and council has been won over by the existing bridge and trackage monopolies and in reality have no intention of giving the people a chance to vote on any proposition that the Nebraska Central people offered to accept?

Three weeks have elapsed since the proposition was first placed before the courty commissioners and council. There certainly has been ample time for objectors and suggestors to get a hearing. There has been ample time also or the legal advisors of the city and county to perfect their propositions and ordinances. What excuse can be offered for further delay?

A STAND AND DELIVER POLICY.

A Colorado bullionaire organ wants to raise the black flag in the impending campaign. In the event of Harrison being nominated at Minneapolis and Cleveland at Chicago the silver men in Colorado and other silver-producing states shall nominate electors pledged to vote for men for president and vice president who are known to be outspoken in favor of free coinage. The bullionaire organ expresses the opinion that such a movement would sweep the silver states like a cyclone, and that if a similar course should be pursued in some of the southern states the result would be to throw the election into the house. . "The free coinage sentiment that such a canvass would stimulate." says the journal which makes this extraordinary suggestion. 'would probably insure the selection in the house of a free coinage president, and the election of a congress that would pass a free coinage law."

There is nothing to prevent the free silver people from getting together and nominating electors, who in turn might meet and cast their votes for whomsoever they pleased, but it does not follow that such a proceeding could under any circumstances result in throwing the election of president and vice president into the house of representatives, or that it would have any effect except to convince the country that the people who want to compel the government to pay them 30 per cent more for their product than its market value, and are willing to bring the country to the single silver standard, are so desperate that they will resort to anything that offers the least promise of helping their policy. But assume for the sake of argument that the proposed plan might result in throwing the election of president and vice president into the house. is there the slightest probability that the democrats of that body would reject the candidates regularly nominated by the national convention of their party and take up men whom the party could not possibly be induced to nominate? Such action would be not only demoralizing to the party, it would be fatal. As to the possible effect of the silver organ's scheme in electing a congress that would pass a free comage bill, perhaps nothing could be devised more certain to preyent such a result. It is safe to predict that it will be a very long time before another congress is elected as favorable to free silver as the present one. It is not likely that any serious effort will be made to carry out the suggestion of the Colorado free silver organ, but it is interesting as illustrating the desperation of some of the advocates of that policy.

THE friends of Captain John G. Bourke of the Tenth cavalry, who are numerous in this city and the west, will be pleased to see that the house committee on Indian affairs declines to consider the charges made against him by

Garza sympathizers and other border Mexicans. Caplain Bourke is a gallant officer who knows his duty. He knows, too, how to dear with filibusterers on the frontier, and, it is this style of knowledge that makes him unpopular among the turbulent classes along the Rio Grande. His traducers are rapidly slinking out of sight. Some of them are in jail, others under bonds and still others have left the country, but the captain is still on duty.

After the Battle.

St. Paul Pioneer-Press. As the democratic monkey remarked to the democratic parrotafter the Pennsylvania convention: "It's a good thing we don't get together very often, pard."

Wise Mound Builders. Chicago Tribune. The Indian mounds in the mundated districts of Mississippi have been the means of saving hundreds of lives. The mound

Let Chicago Try It.

builders builded wiser than they know.

If Chicago really carries out its threat to raise all the money needed for the fair unless the general government loans the \$5,000,000 without security, Chicago will do a great service to the rest of the country, but chiefly to its own credit.

Enlarge the List, Governor.

Minneapolis Tribane,
Governor Boyd of Nebraska sannounces that he is for any man who can carry New York, New Jersey and Connecticut-Cleve land, if possible, Hill, if necessary. He will have to extend his list to include Harrison for those states are going republican next

> The Right Man for the Place. New York World.

It is intimated that ex-Sepator Edmunds is likely to be one of the arbitrators from the United States in the Bering sea controversy. If such an appointment should be made we can be certain that the country will not suffer for lack of astuteness, knowledge of the facts or learning in the law.

The First in Twenty Years.

Gl. be-Democrat. The coming republican national convention will be the first since 1872 without a contest for the presidential nomination. In that year Grant was renominated unanimously. There was an exciting struggle in every convention afterward up to and including that of 1888. It 1876 seven ballots were required for a choice, in 1880 thirty-six ballots, in 1884 four ballots and in 1888 eight ballots.

POULTICING ITALY'S DIGNITY.

Cincinnati Commercial: Uncle Sam's settlement with Italy, for \$25,000, of the New Orleans lynching case, is wholly satisfactory n the score of dignity, although it is cheap Globe-Democrat: If Italy could sell all of her Mafia men at the rate which the United States paid for those killed at New Orleans it would be the most profitable speculation of ner life.

New York Evening Post: But we trust some step will now by taken by the adminis-tration to deliver the government from the humiliation of inability to control the judicial proceedings to which the affair has given

New York World: 8 If the Italian government is satisfied with the reparation which we have made for the New Orleans killings, it is our turn to ask Italy to satisfy us for arresting and imprisoning an American citizen, Nicolino Mileo, on the ground that he was a fugitive from the Italian militar

Chicago Times: Italy is to receive \$25,000 indemnity for the murder of her subjects resident in the New Orleans jail. There is no question of the liberality of the price, but it does seem a little small when one reflects that the demands of the United States for cash to heal the wounds received by a few sailors at Valparaiso now exceed \$2,000,000. New York Herald: The response made by this government is an act of international comity which will doubtless lead to Minister Porter's return to Rome and the early appearance of an Italian minister at Washington. For this restoration of the friendly

for a year Secretary Blaine is to be heartily Springfield (Mass.) Republican: In accepting the indemnity which Mr. Blaue of-fers to the families of the victims of the parish prison massacre at New Orleans, Marquis Imperiali does well to reserve the right to press the suits which have been brought against the city of New Orleans and some of the leaders of the mob. This \$25,000 is only a peace offering to Italy, intended as an evidence of the friendship of the United States, and of our desire to restore the forinadequate as compensation, and not in-

BOURBON CONVENTION ECHOES.

tended as such. The compensation should

come from the individuals and the commun

ity which inflicted the loss, and not from the

country at large.

Beatrice Democrat: The democratic platform of Nebraska was subjected to a chloride of gold treatment. Blair Courier: In the estimation of many eading democrats of this section. James E Boyd is now as dead to politics as if he had

never been governor. Norfolk News: Governor Boyd captured the democratic state convention, but before the campaign is over the World-Hitchcock can put him permanently on its list as a fallen idol and blasted hope." As a Moses, Boyd isn't in it. Plattsmouth Journal: Mr. Bryan's

mark that he didn't think a banquet which

cost \$5 a pinte was a good place to judge of Nebraska democratic sentiment was a center shot at the rich men who attempt to run he democracy of this state. Fremont Flail: About the only thing the democrats of Nebraska seem to be united on is that the McKinley tariff is a dad gasted

robbery. But the darkest cloud that hangs over them, and which threatens to over-whelm them, has a silver lining. Hastings Nebraskan: The Omaha World-Herald says that the late democratic state convention marks a new era in democratic politics in Nebraska. There is one thing

certain the era did not open auspiciously for the party, for the indications are that it has en disrupted from crown to sole. Platte County Argus: It has remained for the Howells Journal to declare that Governor Boyd is entitled to a chance to succeed

himself. With Van Wyck in the field his "chance" would be worth about as much as the average change of a Louisiana lottery ticket to rake in the capital prize. "On fame's eternal camping ground"
Boyd has no tent to spread;
He's reached the zenith—further hopes
Are useless—he is dead.

PASSING JESTS.

Chicago Times: An undertaker's man ser-vant might property be called the valet of the shadow of death. New York Herald: If some good men were as good as they think they are the gates of heaven would need to be widened to enable

Somerville Journal: A seasonable hymn that was not sung in any of the churches is: "Where Did You Get That Hat?"

Judge: General Gorchunter (to Miss Toddworthy, who has a brother in codege—In spite of what you say, Miss Todworthy. I approve of your brother's physical training. In my youth, when I was in codege, I was the best sprinter in my class, and I never had cause to regret it.

Miss Todworthy—Very true, general, but you must remember that my brother has no idea of entering the army.

New York Tribune: Twitters-Why is this pie like the family which lives in a Harlem Landiady-You must enlighten me, my dear r. Twitters Twitters—Hedaus; it is in such small quar-

Savannah News: During the reign of the imbreda trust the members will have an open and shut" thing on prices. Binghamton Republican: An athletic record is the only thing that improves by break

AUTHORIZED BY THE CHARTER

City Attorney Connell Claims the City May Condemn Land for Parks.

THE CHARTER'S MANDATORY PROVISIONS

Under Them the Condemuation Proceed ings Were Contemplated When Bonds Were Voted-Exceptions to Judge Wakeley's Opinion-The Law.

At a recent meeting of the city council a resolution was passed asking City Attornoy Connell for his opinion as to whether the city has authority to condemn private property for park purposes. At the meeting last night Mr. Conneil presented the following reply:

OMARIA, April 18, 1892.—To the Honorable, the City Council of the City of Omaha --Genmen: In compliance with a resolution adopted by your honorable body calling upon ne for my opinion as to whether the city has authority to appropriate private property for public parks and the mode of procedure to be followed in making such appropriation. I have the honor to submit the following: It is my opinion that the city has the

right to appropriate private property for parks, and that it is the duty of the mayor and council to acquire the lands necessar for parks by condemnation proceedings. is also my opinion that before any action is taken, either for the appropriation or pur chase of land for parks, that the Board of ark Commissioners should not only de termine the land necessary for parks, but also designate the land required for park ways and boulevards connecting the severa parks proposed to be created. The provisions of the charter with respect to such duty of the Board of Park Commissioners is a follows: It shall be the duty of said board from time

to time to advise, suggest and recommend to the mayor and council a system of public parks, park ways and boulevards, or addi-tions thereto, within the city or within three miles of the limits thereof and designate the

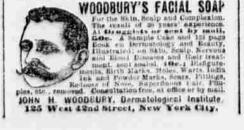
lands and grounds necessary to be used, pur-chased or appropriated for such purpose.

When this is done by the Board of Park Commissioners it then becomes the duty of the mayor and council to take such action as may become necessary for the appropria tion of the lands and grounds so designated. I submit that before any action whatever is taken by the mayor and council with reference to either the pur-chase or condemnation of land for parks, the plain letter and evident spirit of the charter should be carried out by a recom mendation on the part of the park commis sioners of a system of public parks. parkways and boulevards. It is very certain that one of the chief advantages of securing parks is the connecting boulevards between the same forming, as the charter contemplates, "a system of public parks." The desirability system of public parks." The desirability of suggesting and providing for a system of parks, parkways and boulevards as required by the charter is plainly manifest when the question of paying for the lands necessary for such purposes is considered. The pro-visions of the charter following the declaration that it shall be the duty of the mave and council to take such action as may be necessary for the appropriation of lands and grounds so designated, is as follows:

For the purpose of making payments for such lands and grounds the mayor and council shall assess such real estate as may be specially benefited by reason of the appropriation thereof for such purpose, and issue bonds as may be required for such purpose to the extent and amount required in excess of such assessment.

By following these plain provisions of the harter and securing a system of parks with connecting parkways and boulevards, substantial and special benefits to adjacent lands will immediately result by reason thereof. and a very considerable portion of the cost of obtaining the necessary lands for parks parkways and boulevards can be provided for. It will then be necessary to issue bonds only to the extent and amount required in excess of such assessment. It is fair to presume that when the people of the city of Omaha voted these bonds it was on the supposition that these plain, mandatory provis-ions of the charter would be carried out, and that bonds for the payment of lands for parks, parkways and boulevards would only be is ued, to use the language of the charter, "t the extent and amount required in excess of such assessment." As the result of such a course, a very considerable portion of the bonds could be used for improving the parks, park ways and boulevards. This would result in giving employment to a large number of men and the city would immediately secure some substantial benefit from the establishment of parks, parkways and boulevards. It is a mistaken notion that the bonds were voted for the purchase of public parks. The proposition submitted to the people, which was voted at the election in November, provided that "said bonds should be issued from time to time as required for the paying for and improvement of public parks, parkways and boulevards." The proposition sub-mitted to the people made no reference to the purchase of land for parks, but evidently contemplated, as already indicated, that the proceeds from the bonds should be used for the payment of parks, parkways and boulevards, the same to be secured in the manner authorized by the charter. Excepts to Judge Wakeley's Opinion.

That the authority exists to appropriate lands for parks, parkways and boulevards, l have no doubt whatever. I recognize the learning and ability of Judge Wakeley, but after carefully reading his opinion I am in no nanner disturbed regarding the correctness of the opinion I recently furnished to the mayor. Judge Wakeley does not assert with any degree of confidence that the right to ap-propriate land for parks does not exist. The most he attempts is to create a doubt or un-certainty regarding such right, and as the interested lawyer of interested parties, who desire to unload their lands on the city at an exorbitant price, he laboriously reaches the conclusion that his clients may resist the right of the city to condemn their land for parks if they deem it to their interest to do so. In reaching this conclusion Judge Walteley states some propositions of law with regard to which there is no question or con troversy. He states that the power of a mu-nicipal corporation to condema property must be given in special or express terms, and does not arise by implication. In sup-port of this proposition he cites numerous uthorities. I do not take issue with Judge Wakeley regarding the views expressed by him on this point. He also states that "it is extremely propable that the courts would hold that the provisions of the charter for condemning private property for any public use in this city are invalid for the reason that no provision is made for any notice whatever to the person whose property is to be taken." He further says that section 118 of the charter and the following sections contain the only provisions on this subject. I concede that notice to the property owner is essential before he can be derived of his property by condemnation deprived of his property by condemnation proceedings. I, however, must decidedly take issue with Judge Wakeley that there are no valid provisions for giving notice to the property owner. If the position of Judge Wakeley is correct all proceedings for the appropriation of land by the city which have been taken for the past ten years for the opening and extending of many miles of streets and alleys and for the construction of sowers have been absolutely void. A co-siderable number of these condemnation cases have been tried before Judge Wakeley, and neither he nor the able lawyers representing the property owners ever intimate that the proceedings were void for want of sufficient notice. It is true that the section of the charter cited by Judge Wakeley does not in terms provide for such notice, but when it is admitted that the power to approprinte lands is conferred, then other section of the charter can be considered with reference to the exercise of such power. Section 15 of the charter, in express terms, gives to the mayor and council the 'power to pass any and all ordinances not repugnant to the constitution and laws of this state necessary or proper to carry into effect any or the provisions hereof



or any of the powers herein granted." Under the power given by section 15, Judge Lake a good many years ago carefully prepared an ordinance providing for the giving notice to the owners of property declared necessary to be appropriated, including the form of such notice and the manner of service, which ordinance is to be found in chapter 55 of revised ordinances of the city. Under the provisions of the charter and of the ordinance referred to, the right of eminent main has been exercised by the city for many years.

Constraing a Clause,

Section 64 of the charter to which Judge

Wakeley makes reference as having been probably repeated, did not in any manner re-late to the giving of notice to property own-ers, so that even if said section 64 is repealed it can have no bearing on the ques-tion of notice. Neither did said section 64 make any reference to parks, parkways or boulevards, so that whether it is repealed o not repealed is immaterial so far as the righ to appropriate land for parks, parkways and boulevards is concerned. It may, however, in this connection be well to consider what was intended by the legislature when it de-clared that "it is hereby the duty of the mayor and council to take such action as might be necessary for the appropriation of the lands and grounds so designated." Is it not absurd to conclude that the legislature required a duty to be performed by the mayor and council for which no authority or power existed? Is it not more reasonable to say that by expressly making it the duty of the mayor and council to appropriate lands for parks, parkways and power so to do was thereby conferred clearly showing that it was intended by this language to confer the power to appropriate lands for such purposes the following state ment immediately follows the enjoining of said duty: "And said mayor and council are further authorized upon the recommendation of said park commission," etc.

Judge Wakeley in his opinion quotes another provision in section 108 which au-thorizes the park commission to purchase or condemn land in cities or villages within three miles from the corporate limits of Omaha. He, however, questions, and I think correctly, the validity or effectiveness of said power by reason of the same having been conferred on the commission in place of the mayor and council. I agree with him that it was probably intended that the power to condemn lands in adjacent cities or vi ages should be exercised by the mayor and council, and by mistake the park commission was referred to. But is it not also absurd to conclude that the right of appropriating lands for parks should exist provided such lands are in an adjacent city or village when no such right exists to appropriate open acc moccupied prairie, outside of such city or

The more carefully I examine the provisons of the charter and ordinances of the city relating to the right to appropriate lands for parks, parkways and boulevards, the more fully am I convinced of the correctness of my position. If any doubts exist as to the cor ectness of my conclusions, I would be glad have this opinion submitted to Judge Lake, who is not only one of the most eminent jurists in our state, but is also a member of the park commission and thor oughty familiar with all the provisions of the charter and ordinances relating to the right of the city to appropriate land for park pur-poses, and have him say for your guidance whether or not I am correct.

Provisions of Section 118.

If the power is conferred on the mayor and council by the provisious of sections 108 to appropriate lands for parks, parkways and boulevards there can be no doubt that a complete mode of proceedure for making such appropriation is provided by other sections of the charter. Section 118 of the charter provides as follows:

provides as follows:

Whenever it shall become necessary to appropriate private property for the use of the city for parks or parkwrys and such appropriation shall be declared necessary by ordinance, the mayor, with the approval of the council, shall appoint three dislaterested free-holders of the city, who, after duly sworn to perform the duties of their appointment with idelity and impartiality, shall assess the damages to the owners of the property respectively taken by such appropriation. Such assessed shall be reported to the council for confirmation, and if the same shall be confirmed the damages so assessed shall be paid to the owners of said property or deposited with the city treasurer subject to the orders of such property which such property wavers respectively, after which such property waves a respectively, after f such property owners respectively, after thich such property may at any time be taken or the use of the city. If the assessment be of confirmed by the council proceedings may e taken anew to assess the damages.

It will be observed that under the provisions of the section above quoted that the mode of procedure is clearly pointed out and well defined. As already shown, the ordin-ances of the city, under an express provision of the charter, provides for the notice to property owners and the manner of giving the same. As further indicating the mede of procedure, on the part of the propert owners, as well as the city, by reason of th appropriation of private property for parks and parkways, section 120 of the charter provides as follows:

In all cases of damage arising under the provision of this act the party or parties whose property is sought to be taken by the provisions of this act, shall have the right to account from such assessment of damage to provisions of this act shall have the right to appeal from such assessment of damage to the district court of the county in which said property is situated within thirty days after the assessment provided for in said act, but such appeal shall not delay the appropriation of the property is such appears sail not detay the appropriation of the property sought to be taken. The remedy by appeal herein allowed shall be deemed and held to be exclusive, and at person shall be allowed to prosecute or maintain any original action to recover any dameters of the person of the p ages herein authorized or provided for

Section 121 provides: In all cases of damages arising under the provisions of this act, upon appeal being taken by any porson from any award or assessment of damages, the city shall have the right, upon giving five days notice to the person or porsons appealing, to have said appeal piaced upon the trial docket or calendar of the court to which said appeal may be taken, at the head of the list of cases for trial, and

such appeal shall have priority and pre-cedence in the order of trial thereof over civi-actions, and the court shall so arrange th-call of cases for trial as to give such appear priority and precedence.

It will be observed from the provisions of the foregoing sections that the mode of pre-cedure for the appropriation of land for parks or boulevards is not only complete and in detail, but it is summary.

It is certain that until the city resorts to

condemnation proceedings it can never carry out what is contemplated by the charter, and what is desired by the people, a completed system of parks and boulevards. Even if the opinin of Judge Wakeley is right, and my opinion is wrong, it will be necessary to have the power conferred to appropriate private lands for parks and boulevards before any completed system can be carried out. The problem which is presented might as well be faced at this time as in the future. As I view it it is folly to purchase isolated tracts of land for para purposes unless the power exists to connect the same by boulevards. It is certain this can never be satisfactorily done except under the right of eminent domain. I contend further that it is the height of foliy to expend the entire amount of the bonds authorized to be issued for the purchase of isolated tracts of land for parks, leaving no money to improve the same or to obtain and improve boolevards. If the proper course is taken a large sum from the bonds authorized to be issued can be devoted to this purpose. I am thoroughly convinced that the price asked for some of these tracts of land, the Distin district, for instance, can be reduced one-half. Since this matter was referred to me I have talked with a large number of real estate men, and from their opinion regarding values feel justified in as serting this fact. Not only can a large amount be saved by reducing the cost of the lands desired for parks and boulevards, but, as I believe, a large amount can also be saved from the proceeds of the bonds by making assessments to the extent of special benefits on adjacent lands. Special Benefits Considered,

Judge Wakeley asserts that "there is nowhere in the charter or in the law any pro-cedure provided by which special benefits may be legally ascertained. To show that he is mistaken in his statement, I quote from section 75 of the charter, as follows

section 75 of the charter, as follows:

All special taxes to cover the cost of any public improvement herein authorized shall be levied and assessed on all lots, parts of lots and real estate bounding, abutting or adjacent to such improvement or within districts created for making such improvement to the extent of the benefits to such lots, parts of lots and real estate by reason of such improvement, such benefits to be determined by the council sitting as a board of equalization after the publication of notice to property owners as herein provided.

It is further intimated by Judge Wakeley

It is forther intimated by Judge Wakeley in his opinion that the proceedings already taken by the city council amount in legal effect to a contract for the purchase of the several tracts recommended by the park ommissioners. This intimation comes from Judge Wakeley as an interested lawyer. show that there is no ground for claiming that, the action aiready taken by the city council amounts to a contract, I would refer Judge Wakeley to an opinion rendered by him while on the bench in the case of Walacce against the city. In the case referred to it was claimed that the city council, independent of the mayor, could make a contract, and by its action bind the city. In the case referred to Judge Waxeley expressly held that no contract of the city was valid unless approved by the mayor. On this point his opinion is as follows:

opinion is as follows:

The power to make contracts is among those which by the act [the charter] is conferred upon the mayor and council. * * If the council, by a resolution on which the mayor had no opportunity to act, can clothe a city agent with the grave power to bind the city by contract the statutory prerogatives of the mayor may be wholly set to naught. For this there is no necessity or warrant.

It is for you to determine which is correct.

It is for you to determine which is correct. the opinion of Judge Wakeiey as judge on the bench, or the opinion of Judge Wakeley as attorney for interested parties desiring o forcing the city to purchase their lands for park purposes.

I have always been in favor of public improvements and am strongly in favor of se curing what the charter contemplates-a system of parks and boulevards at est day possible. I realize that as the result of condemnation proceedings a large amount of work will be added to my department. If I was to view the matter from a personal standpoint I would much prefor that the city should proceed with the proposed purchase rather than resort to condemnation proceedings. But believing that by such proceedings a large sum of money can be saved to the city, which can be devoted to the improvement of parks and boulevards, thereby furnishing work to unemployed men and give to the people some immediate benefit, I am forced to take the position I do. I now leave the matter to you for such action as you may deem proper.
Very respectfully. W. J. CONNELL. Very respectfully, City Attorney.

AN EASTER ROMANCE.

Somerville Journal. Within the pew in front she sat An exquisite new Easter hat Her figure crowned. Perhaps to see how much her style Was wondered at, once in a while She looked around.

She looked around.

He sat behind her and her glance
Suggested thoughts of sweet romance
With his soul.

To think, to act, with him were one,
She whispered, "Yes"—the thing was done
Beyond control. That was a year ago. This year They sit to ether, but a tear Bedims her eye. The hat she wears is out of date, Her heart this year is not clate, She'd like to cry. Within the year they both have learned
That luxuries are hardly carned
And cost a heap.
Last year her pa paid all her bills.
This year she has to give up frills
And get things cheap.

BROWNING, KING SER SER. W. Corner 15th and Donglas Str.

Like Little Chicks---

Our designs for Men's Spring Wear



are the latest thind out---new, fresh ang desirable. We've never had a finer assortment since we've

been here. Every imaginable style and color, to fit any shape, and to fit, too, just as if it was made expressly for you. Made like tailors make them, and sell for half tailor's prices. We've got fine Spring Suits for \$10, \$12, \$15, up to \$25 and \$30, and you can't buy them unless we make them fit perfectly. What more do you want if they fit and wear as well as anything you can buy to order?

Browning, King & Co

Open Saturdays till 17 p. m | S. W. Cor. 15th and Douglas St.

日とは完まですては水気にいい