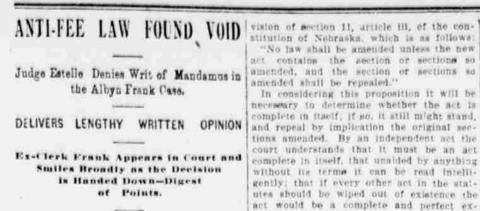
THE OMAHA DAILY BEE: TUESDAY, FEBRUARY 20, 1900.



pression of the legislative intent. This The anti-fee law enacted by the last sessection 3 as amended reads as folsion of the legislature, whereby the office TOWN: of clerk of the district court was placed on a salary basis, has been declared void. Judge Lee Estelle of the district bench so ruled yesterday in a lengthy written opinion. This decision was called forth by act standing alone would anybody be able mandamus action instituted by the county commissioners a few weeks ago to compel receive this money, and is it not necessary Albyn Frank, ex-clerk of the district court, to read in connection with this amended secto make an accounting of the fees of his tion 3 section 1 of chapter xxviil, title office for the last three months of his term, "Fees," 1899, in order to make clear and which expired January 4 this year.

The hearing was long drawn out and as follows: "The salaries and fees of the tedious and since the close of arguments several officers hereinafter named shall be Judge Estells has devoted several days to as follows." This is the entire section. It arriving at a conclusion. Judge Estelle an- is followed by section 2, which fixes the fees neunced Saturday that he would render a of the clerk of the supreme court, and then decision Monday morning, and ex-Clerk follows section 3, which fixes the fees of the Frenk was in court to hear the results. A clerk of the district court. It seems to the broad smile illumined his face when he heard court that the act in question is but a jumthe law declared void. The county attorney was not present, he having been detained quoted in Judge Vinsonhaler's court in the trial of another case. When informed of the decision, he said he would appeal to the supreme court. Frank's attorneys were in court when the decision was handed down. Within half an hour after the news be-came public advocates of the anti-fee law declared that the next legislature will en-

Judge Estelle's Decision.

On January 25, 1900, the county attorney power to appoint deputies, and deputies of filed in the district court a motion for an the district clerks shall be residents of the alternative writ of mandamus to compel county in and for which they act. Such dep-"Albyn L. Frank, late clerk of the district uties shall be sworn faithfully to perform ings are required.

ment of fees under oath as required.

Two Objections Are Noticed.

to notice but two of the objections urged vested in the clerk absolutely, whether it dividuals assisted in the last year, but you to this law. In paragraph 8 of the answer be one only or more. It may be that this know the mayor wouldn't like it it is alleged that the act is unconstitutional eaction limits the deputy to one. This court and void, being in violation of a provision is not deciding that question, but the secof section 11, article 3, of the constitution, as follows

"No bill shall contain more than one subject, and the same shall be clearly expressed in its title.

Respondents further allege that the pur- duties of his office the law required that he ported amendments and additions to original should be sworn. In section 44 of the same ment to reads as follows:

"Provided further, that if the commissioners think it necessary, said clerk may his principal." What is the condition prece- these cases are worthy he personally so be allowed one deputy at a compensation dent to the appointment of a deputy in this licits employment for his proteges so far as not to exceed one-half that allowed his prin- last named provision? Clearly the affirmation between the will permit, or in Ticket Agents Think Commissions cipal; and such other assistants, at such tive action of the county board. A declara- other cases addresses letters of recom

MOORES A POOR MAN'S MAYOR

Lends His Helpful Assistance to Rich and Poor Alike.

NONE TOO LOW TO HAVE AN AUDIENCE. He is So Popular with People

Who Are in Distress or Need Disinterested Friendly Advice.

In Mayor Moores' acknowledgment of his

"Clerk of the district court, docketrenomination at the republican city convening each cause, 75 cents. Issuing summons, "I claim that I am the poor tion he said: man's mayor. I know you when I meet you order of arrest, order of attachment, order on the streets after election as well as beof replevin, citation or any mesne process. fore, and I invite you to come and see me and filing return, 50 cents," etc. With this and tell me your tale of woe, if you have one, and you will always find me ready and to ascertain whether he was to pay or to anxious to do my very best to aid you." That this is no lile boast is attested by everyone in the city hall familiar with the horde of people, high and low, who press for an audience with the chief executive of definite the legislative intent? Section 1 is the city almost every day of the week. Maimed veterans of the war, unfortunate women with helpless children, men out of employment, have equal right of way there with silk-tiled lawyers and well dressed businees men The mayor himself will not talk about this

side of his executive career, but employes of the city building, however, and men whose ble of words, unaided by section 1, above business takes them daily into the mayor's office have few scruples about uncovering what they consider the soft spot in the chief It was also certainly the opinion of the executive's heart. "Every man, woman or legislature that the act was an amendatory child who ever starts out with a grievance or an enterprise," remarked a clerk in an one, and not an independent act. This is evidenced by the fact that they entitled it: "An adjacent office, "makes a bee line for the

act to amend section 3, etc." The court is mayor. Not a day passes but what I see clearly of the opinion that the act is not 'em go by. All have a hearing and most an independent, but an amendatory one. of them get his assistance. They know as act a law that will stand the test. Judge Does the act amend section 43, chapter xix well as anybody that the mayor can't stand Estelle's decision is a voluminous docu-ment. In substance it follows: Does the act and its: "Section 43. The a story of suffering, especially if there clerk of the supreme court and of the sev-are any women or children mixed up in it." eral district courts in this state shall have Long List of Suppliants.

One of the immediate aides of the executive office added more detail to the story. "The mayor has started countless subscrip tion lists, he said, "to my personal knowlcourt, to report to the county commission- the duties of their office before they enter edge. You see the promoters feel that if ers, under oath, showing the fees received upon those duties." This provision of the they head the list with the mayor's name by him, from whom, at what time and for constitution was under consideration by the and with the round sum which they are what service, for the quarter ending Janu-supreme court in the case of Smalls against ary 1, 1900." This motion was properly White 4th Neb., 354, and it was there held clear sailing. Every time a colored preacher supported by the affidavit of Peter Hofeldt, that "Where an act is not complete in it- starts a mission church, or the Salvation one of the commissioners. The alternative self, but in its effect is simply and clearly army gives a dinner, or any one of a hundred writ was allowed, and the hearing was set amendatory of a former statute it falls other things start up you're sure to see them for February 5. The respondent, by his at-torneys, on January 29 filed an answer to and is void." This was followed by the believe the mayor gives more in proportion the writ. Under the statute no other plead- court again in the case of Sovereign against to his income than any other man in town. State, 7th Neb., 410, and these cases have You remember how he and Chief Redell car-It is claimed by the relator that under the been cited with approval and followed by ried through that firemen fund after the laws of Nebraska it was the duty of the the courts ever since their rendition. Does Mercer fire. He sent out personal letters respondent at the end of each quarter, and the case under consideration come within the all over town and got together over \$2,500, at the end of his term, to file such state- rule laid down in the above cases? Section even though the people had to take care of 42, chapter xix, provides that: "The several the First Nebraska and Ak-Sar-Ben week clerks of the district courts shall have power I could give you a list of dozen of churches, In the opinion of the court it is necessary to appoint deputies." etc. This power is charity fairs, benefit performances and in-

> "The worst of it is," concluded the clerk "he insists upon looking into each case tion left it to the absolute discretion of the himself. If he'd turn them over to some clerk, and he had to ask nor obtain no one's body else they might turn 'em down. The consent. There was a restriction, which was fact is," the speaker looked around cauthat "such deputy should be a resident of tiously, "he's more generous than he can the county," and before entering upon the afford."

Work for the Willing.

Numerous incidents might be related of section 3 are none of them expressed in the act the clerk was made "liable for all the employment secured for tradesmen out of title; none of them confined to the subject official acts of said deputy." What are the work through the efforts of Mayor Moores. matter, nor germane to the subject matter provisions of amended section 3? "If the He is daily besteged by clerks, craftsmer of said section 3. One portion of the amend- county board think necessary said clerk and laborers for advice, each bearing his own may be allowed one deputy at a compensa- particular burden of sickness or ill fortune tion not to exceed one-half that allowed When the mayor has assured himself that

One of the most curious appeals made to

to the mayor to use his good offices in

securing for her a husband. She took the

method as a last resort, she said, after eat-

ing the bread of dependence until it had be-

ome nauscating. The writer understood

that an exposition was in progress in Omaha

and felt sure that somewhere, somehow, her

the crowds in attendance.

prince charming must be concealed among

The mayor mentioned the circumstance to

FRED BETTER."

Advice Freely Bestowed.



ROSE To the Readers of the Bee

who failed to receive a sample cake of

JAP ROSE SOAP

the following particulars of what it is and what it will do will doubtless be of interest:

For Toilet and Bath

it is the most approved product of modern soap making.

It is a pure, transparent soap, made of pure oils, cocoa butter, glycerin and delicate perfumes. There is no secret in its ingredients.

The secret is in the manufacture.

You can wash *anything* with it. To the tender skin of "baby" it is a Godsend. To mankind and womankind in every walk of life it is a comfort and a blessing.

> Kirk makes it. Dealers sell it.



BELIEVE PLAN WILL FAIL NO CAUSE FOR COMPLAINT the pupils are obliged to walk more than one mile, with the exception of a few Eighth be made at the regular meeting and pupils, who are given transportation

convenience to Patrons.

"After doctors failed to cure me of pheu on the street cars to the Mason school.

tion on their part of the necessity for such dation to contractors or manufacturers compensation, and for such time, as aforesaid board may allow. And that none of deputy. True, the clerk could select or which have brought results on countless occruing to their office.

Section 3 was part of chapter xix of the statutes of 1867, entitled "Fees," and legislature has assumed in this amended secthis restricted title has been retained tion 3 to cover the whole subject matter of until the present time, and is now the deputies, having left the necessity and title of chapter axviii of the compiled compensation to the discretion of the board, statutes, 1899.

228. "where the title to a bill is to amend an existing act or section thereof, no amendment is permissible which is not germane to the subject matter of the original act or section amended." And the court in the same case further holds that where the title "is a restricted and limited one, it is not the province of the court to enlarge or amend it

This has been the law of the state even since its admission, and the opinion in the above case cites the authorities in support of this doctrine. Reference is made to that case for such authorities. The question now is: Is that portion of the amendment to section 3 germane to the subject matter of the original act, or section amended? The title to the chapter as originally passed was "Fees;" the title to the amendatory act is, "An act to amend section 3 of chapter xxviii entitled "Fees" of the compiled statutes for the year 1897, and to repeal said original section." It will be seen that the original title, "Fees," is still retained. By that portion of the amendment it is proposed to provide for a deputy and assistants to the clerk of the district court, to fix a limit on the compensation they shall receive, and to primarily vest in the county commissioners the power to determine the necessity of a deputy and assistants and the compensation they shall receive, the compensation being, however, limited to the fees of the office. By germane is, as the court understands that word, meant appropriate, relevant or related thereto.

1)

VI

Another Question.

And now remains for consideration the question, is the power to determine the nocessity of a deputy clerk and other assistants islature would ever have attempted to regurelevant or related to the "subject matter" of district court of this county without making act? It seems to the court that a mere assistants as might be necessary in order statement of the proposition suggests the that the business might be properly and exan act simply entitled "Fees" for the purpose of ascertaining whether or not a clerk of the district court was allowed to appoint him and a quarterly report of the fees of an ants he should have for the purpose of of the district court of Douglas county, and crossing. properly conducting the business of his at no place in the act to provide for any office? The court is unable to see how this deputy or other assistants. provision is germane to either "the subject

matter of the original act or section amended." Another contention is that the act is un-

constitutional and void, because in making passed it. It follows that the act is uncon-"provisions for the appointment of deputies stitutional and void. The writ is denied. and assistants in the discretion of the county commissioners for such time and for such compensation as said commissioners may determine, is amendatory of section 43, chap- the original Witch Hazel Salve. Beware of

ter xix, title "Courts," it violates that pro- all counterfeits.

WALTHAM WATCHES

The best and most reliable timekeepers

made in this country or in any other.

The "Riverside" (made-mark) movement is jeweled

For sale by all lewelers.

throughout with rubies and sapphires.

said clerks, deputies or assistants shall re- name the deputy to be appointed if the board casions. ceive any other compensation than that ac- saw fit in their discretion to allow him so Mayor Moores occurred some time ago and to do, but this is clearly a limitation on the brought forth two interesting responses. A power of the clerk vested in section 43. The woman writing from Washington appealed

Amendatory Sot Independent Act.

the compensation being limited to an amount The case of the State ex rel Gra- not exceeding one-half that allowed his ham against Tibbetts, 52 Nob., page principal. It may be noticed that in section

The court (Norval, J.) holds: 43 there was no limit to the amount of compensation a deputy might receive. Irreconcilable Sections.

> a reporter, withholding, however, the name It is absolutely impossible to reconcile these two sections, and the legislature hav- of the applicant and shortly afterward a ing seen fit to determine the way in which number of letters were received at the the clerk could appoint a deputy this ex- executive's office from eligible swains as an experiment. throughout the west. One written from cludes every other conceivable way. If the ounty commissioners should fail to declare Manhattan, Kan., read as follows:

that a deputy was necessary then the clerk Kansan Wants a Wife. would be powerless to appoint a deputy. "Dear Mayor-I read a item in The The court is of the opinion that section Omaha Bee that there were a widow lady now under consideration, is clearly amend-

had applied to you for a husband and that tory to section 43 of chapter 19, titla you went to trubble to acomodate her. Plese take some more trubble and hand her this 'Courts." The act, however, might still stand without this portion relating to depuand maybee her sorrers will come to an end, ties, even if such were declared unconsti- for I believe greatly that united we stand lion's share will be routed over the Canatutional, unless this part of the act was an and dividead we fall. Anyone who makes a dian Pacific, which continues to pay cominducement to the passage of the act without joke of this will be out time and munney. P. which the legislature would not have passed S. If this lady is gone please hand this to t. Was this part of the act relating to depu-DENIS SIMAIR." some other lady. ties an inducement to the passage of the act Another was addressed from Central City in the name of Fred Better, and read as folwithout which the legislature would not have

passed it? An inspection of the act in its lows: entirety and the chapter of which it is made "Mayor of Omaha-If that lady in The Bee part discloses the fact that section 1 of story has a friend and if they want to be the the original act and section 3 as amended wives of farmers and stock raisers on a puport to govern and control the office of the small scale, I will say that me and my clerk of the district court in counties hav- pardner are looking for two good lady correing more than 100,000 inhabitants. The court spondents. We prefer poor orfant girls, who ticket agents." will take judicial notice of the fact that this | will make good wives and know how to keep could apply only to Douglas county; that in house. Hoping to hear from you or the the district court of this county there is girls soon. I remain respectfully,

constantly a large amount of business; that at the commencement of this term there was on the docket over 1,600 civil cases and about The mayor is also called upon to lend 200 criminal cases. The business of the

courteous car to citizens with a sincere declerk's office could not be transacted without the aid of at least one deputy and other sire to advise the chief executive for the hest interests of the city. One of the most assistants. We cannot imagine how the legmarked types of this class called one day to the clerk of the district court appropriate. late and control the office of the clerk of the last week. He said that he represented the pedestrians of Omaha and sought protecthe section amended or to the title of the some provision for a deputy and such other tion against careless drivers. He had prepared an ordinance embodying his ideas. which he wished the mayor to urge before answer. Who would think of investigating peditiously conducted. It would seem very the council. The proposed ordinance was strange to provide for the fees to be paid to assure the safety of foot passengers and to the clerk, the amount to be retained by provided that drivers of vehicles of whatever sort shall blow a whistle or ring a one or more deputies, or what if any assist- office of the magnitude of the office of clerk bell twenty feet before he reaches a street It was furthermore stipulated that each driver decrease his horse's speed to a walk whenever he turns a corner.

The mayor endeavored to point out that Hence, the court is led to conclude that the scheme possesed some weak points; he the part under consideration was an in asked the man with the idea to imagine ducement to the passage of the act, without himself on Sixteenth street, with the ordiwhich the legislature would never have nance in force, each driver on the crowded

thoroughfare sounding the alarm as he approached the crosswalks. The visitor ad-mitted that the din would be considerable. DeWitt's Witch Hazel Salve is unequalled but refused to see any humor in the idea for piles, injuries and skin diseases. It is and departed to urge some councilman to push his pet measure.

MILLER GIVES HIMSELF UP

Ex-President of the Grain Growers' Association is Willing to Stand Trial for Embezslement.

P. W. Miller, ex-president of the Grain Growers' Mutual Hail association, who, with others, stands charged with embezzlement n connection with the management of the insurance concern, has surrendered to the police and has been released on bonds of \$2,000. It is understood that the other defendants will surrender as soon as they are assured that bond which they have to offer will be accepted.

Advanced for this Belief.

While the Omaha ticket agents are not

giving general expression to their views of the outcome of the recent abolishment of all commissions, there is an undercurrent of sentiment among certain of the old-time agents, who have gone through such experiments before, that the existence of the agreement will be short-lived. This belief is based to a certain extent upon the tin selected by the officials for placing the abolishment of commissions in effect. Just now travel is light, the season being conceded a

the dullest in the year for the railroads For this reason the proposal is met with considerable indifference and inasmuch as it could not make any marked difference in the volume of business it was decided upon the bullings and will so report to the

Relative to this matter a well-known railroad man says: "The arrangement may (wenty-mile drive yesterday visiting first possibly last until early in April. Beyond the West Side, Eckerman and Ambler disthat period it cannot hold. By that time the tricts in the extreme southwest part of the Cape Nome travel, from the east to the west, city, thence to Forest school, on Thirteenth which is likely to aggregate several thousstreet, near the South Omaha line, and and, will have set in, and the railroads finally to the Sherman district near East are all going after their share of this busi-Omaha ness. You can depend on that. In order to

do it, they must pay commissions or the missions.

"And then, too, within three or four months 5,000 tickets will be sold from the northwest for the Paris exposition and I have no doubt that all lines will make a bid for this traffic. There will be no advantage in making special rates. All roads can do this. The only way in which the roads can successfully compete for business is to employ agents to hustle for it, and no one is better qualified to do this than the local

Joint Conference Opens.

SPRINGFIELD, Ill., Feb. 19 .- A joint conference of miners and operators began today, Herman Justia of Cairo was chosen chairman; W. D. Ryan, secretary-treasure)

of the Mine Workers, secretary, and E. L. Scroggs of Chicago, assistant secretary, Committees on rules and credentials were 'The miners' scale committee appointed. has not.yet reported. The scale will increase the price in the northern field 4 cents in addition to 9 cents for the entire state fixed at Indianapolis.

Traction Company Purchased.

MILWAUKEE, Feb. 19 .- A Journal special from Oshkosh, Wis, says: It is stated on reliable authority that the Citizens' Traction company of this city has been purchased by the Emerson McMillan company of New York, one of the largest street car syndicates of the east. George J. Houbsch and Otto W. VanSchroeder of St. Louis are the principal stockholders. The Traction company was incorporated at \$500,000 and controls thirty miles of track. The purchase price is no given

Railway Notes and Personals,

D. Tower, traveling freight agent ne American Refrigerator Transit com-W. E. Royster, general agent, and S.
Sanderson, traveling freight agent, of the Mobile & Ohio at Kanaas City, are Omaha

Luttor#

Mobile & Onto at Kanada and the Mathematical Visitors. General Passenger Agent Buchanan of the Elkhorn is in Hot Springs, S. D., where he will agend the week. C. H. King, general manager of the Lander Transportation company, which does all the freighting for Wyoming points west of the Elkhorn's terminus at Casper, is in the clip. T. F. Godfrey, city parsenger agent of the Missouri Pacific, has returned from Philadelphia, where he was called several weeks ago owing to the serious condition of Mrs. Godfrey's health. His wife remained at Philadelphia and is slowly improving. proving

A special train was run over the Bur-lington yesterday from Chicago to Lin-coln, to provide acromodations for the eastern delegates to the National Enter-makers' convention at Lincoln. Special cars of buttermakers also came in on the Illinois Central and the Milwaukes

Visit to South Side. Board's Committee Thinks Outlying Distric's Should Be Content.

The next district visited was the Forest, in the extreme south part of the city, room of the building has been closed and the CLAIMS GIVEN A THOROUGH INVESTIGATION Here the complaint was made that the teacher was obliged to move her desk into the hall and that pupils suffered injury to ers endorso it. Saving of Nearly Four Hundred Doltheir eyes through proximity to the blacklars Monthly to Taxpayers is Beboards. It was the opinion of the committee lieved to Justify Some Inhowever, that the school was no mor

crowded than others in the central part of

the city, notably the Central and the Kellom t was apparent, however, that there is need The committee appointed by the Board of for a new building in the south end, and the next improvement will probably be made in Education to look into the complaints made that direction. by outlying ecool districts has concluded

The committee then drove crosstown to that sufficient reasons existed for closing the Sherman school in the north bottoms One room in this building had been closed bourd. Members Black, Smith and Johnson, two remaining open, and eight pupils have comprising the committee, indulged in a been sent to the Saratoga school. Several of them are obliged to walk nearly two

miles, and provision will be made at once for their transportation. It is believed that the committee appointed by the West Side Improvement club and others interested are not satisfied with the

finding of the school board committee and in The Eckerman school, which was closed entirely, previously held seventeen children. scattored through six grades, all reciting

GRAIN-O! GRAIN-O! in the same room in the fashion of a counry school. The Ambler school also con tained six grades in its single room, making

Remember that name when you want a delicious, appetizing, nourishing food drink to take the place of coffee. Sold by all gro-cers and liked by all who have used it. Grain-O is made of pure grain, it aids di-gestion and strengthens the nerves. It is not a stimulant, but a health builder and the children as well as the adults can drink it with great benefit. Costs about by as much as coffee. Ise and 26c per pack-age. Ask your grocer for Grain-O. up in all a membership of twenty-seven. These children were acquiring their education at an individual expense to the board of \$57 yearly, whereas children in other schools are instructed for \$18. The maying effected is in the items of janitors' and teachers' services and coal. While the teachers regularly employed cannot be dis-

charged they were given places now occu-The Stock of Slightly Used Pianospied by teachers on the extra list who are paid by the day. The total saving effected nearly all sold. Few bargains left, inby the changes amounts to \$790 a month, cluding many standard makes at still

which the board looks upon as a justificagreater reductions. Must sell during tion for some inconvenience, next few days. Don't put it off-now is Wagons Are Comfortable. the opportunity. We include the follow-

ing in our sale this week; One Hale From the Eckerman and Ambler districts Upright Piano, \$78-terms, \$5 cash, \$5 the children are transported to the Columbian and Windsor schools in comper month. One Upright Emerson Plano, \$92-terms, \$10 cash, \$5 per month. One fortable wagons. The committee examined solid oak Upright Whitney Piano, price these vehicles and found them properly enclosed with canvas and perfectly adequate. \$198-terms, \$10 cash, \$8 per month. Several pupils were questioned regarding One Upright Cabinet Grand Plano, high their preference between riding and walking. grade make, price \$215-terms, \$15 cash, In one case a Third-grader replied: "Rid-\$8.00 per month. One solid oak Standing's good enough for me," and others ard Plano, nearly new, price \$197seemed equally well entisfied. terms \$15 cash, \$8 per month. Fine ma-

The committee then visited the West Side hogany Upright Piano, as good as new, school on Forty-eighth street, south of worth \$350, only \$225-terms, \$15 cash, Leavenworth. In this building one of the \$8 per month. three rooms was closed and the Sixth and

BOWELS

CANDY

CATHARTIC

QULATE THEATINE

KEEP YOUR BLOOD CLEAN

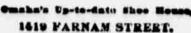
school. The committee found that none of



Drex L. Shooman is all right-

shoes. He has spent money and time in getting a shoe that is all right and our y novement of the will be, keen your rep in the shape of a dangerous. The way of keeping the salesmen know how to fit them so that they are comfortable to growing feet. He has a misses' welted sole on the wide foot form last that pleases the eye and makes the feet glad-made of light and heavy calf and kid, with spring heel. The wide range in price, \$1.75. \$2.25 and \$2.50, on these welted shoes makes it easy for one to own a pairthere is economy and health in every

Drexel Shoe Co.,



mercia I used One Minute Cough Cure and three bottles of it cured me. It is also the best remedy on earth for whooping cough. One It cured my grandchildren of the worst cases," writes John Berry, Loganton, Pa. pupils transferred to the Bancroft school. It is the only harmless remedy that gives immediate results. Cures coughs, colds, croup and throat and lung troubles. Moth-

is probable that further remonstrance will



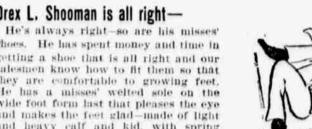
A Turkish Bath in the Racine Bath Cabnet costs but 3 cents per bath.

For Rheumatism and all blood poisoning diseases-for the quick cure of colds-for the reduction of fat, nothing else is so quick and powerful. We have them for \$7.50, \$10.00 and \$12.00. Write for catalogue

The Aloe & Penfold Co., 1408 Farnam St., Omaha.



A. HOSPE, 1513 Douglas.





Seventh grades were sent to the Columbian