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SMILES IN THE COURT ROOM

Some Ripples on the Flacid Proceedings Before Judge Redick.

QUESTIONS AS TO HERAFTER RULED OUT

John L. Webster Advises Witness Not to Reply Because Even Wise Men Differ as to the Answer.

Several flashes of brightness illuminated the dull generalities of a street railway company damage suit in Judge Redick's court Friday. The occasion was the trial of the case of Benjamin Tejmer, based on personal injuries alleged to have been sustained by his little son. The first witness to make the listless court habits sit up and look was Abey Rubinstein, who is not very much larger than an old-fashioned loaf of homemade bread.

Abey's idea of a herafter. The gathering storm at once split up and was dissipated, and the questioning proceeded with reference to the philosophy of goodness, truth telling, as opposed to the danger and punishment of sin.

Abey was allowed to testify about the accident. Later on a second Abey was put on the stand, even younger and smaller. He was Abey Finkelstein, and Mr. Connell started to qualify him as a witness. This Abey also thought he would be put in jail if he told a lie.

Abey looked sideways up at the kindly man on the bench, then whispered: "A lawyer."

At another point Mr. Connell asked Abey: "If you told a lie and should die, where would you go to what would happen to you?"

John L. Webster, who had been sitting at case at one side of the room, at once arose and approached his fellow counsel. "Connell, I don't think I'd ask that question," he said with dignified severity. "Even wise men differ about that."

HONOR FOR CANON WHITMARSH Dead Prelate to Have Full Rites of Church at Funeral Service on Saturday.

Full honors will be given to the memory of Canon Whitmarsh by the Episcopal clergy at Trinity cathedral Saturday morning. The burial office and memorial eucharist will be read, in which service Rt. Rev. A. L. Williams, bishop of the diocese of Nebraska, will be celebrant. The service will begin at 10:30 a. m.

County Matters on the List Coming Convention of the State Association of County Commissioners Will Be Interesting.

Programs are out for the eleventh annual meeting of the Nebraska State Association of County Commissioners and Supervisors. The sessions will be held at the Millard hotel, beginning on Tuesday, December 12, and continuing through Wednesday and Thursday.

Divorce Case Adjusted. Defendant has waived service and entered a voluntary appearance in the case of Alexander F. Drebert against Katherine S. Drebert, which means that there will be no contest of the husband's plea for

NEW TROLLEY CARS IN TOWN Two for the Park Line Arrive and Go into Commission at Once.

Two of the new cars of the Omaha & Council Bluffs Street Railway company arrived in the city Friday and will be put in service at once, thus doing away with the necessity of running the summer cars. Way bills have been received, showing that four more cars are enroute and will be here soon. These cars are similar to the large, wide cars that were purchased for the South Omaha line last year and will be put on the Park line. They are equipped with the latest heating plants and power brakes. General Manager Smith says the Walnut Hill line will secure better service right away. This line has been badly crippled during the last few days when the tracks have been in a very slippery condition. The Hill line is one continuous line of hills and the schedule has been all shot to pieces during the last week.

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Christmas Bargains in Men's and Boys' Clothing

Men's Well Made and Guaranteed Suits and Overcoats at \$18.00, \$15.00, \$12.50, \$10.00 7.50 Children's Suits— at \$4.00, \$3.50, \$3.00 2.50 Children's Overcoats— at \$4.50, \$3.50, \$2.50 1.50 Boys' All Wool Knee Pants 50c

We also carry MEN'S HATS, SHOES, SMOKING JACKETS, BATH ROBES, FURNISHING GOODS AND LADIES' SHOES.

TAXES ALMOST ALL PAID IN

City Treasurer Hennings Has Made Remarkable Record as a Collector. With still over half a month in which to collect 1905 taxes, City Treasurer Hennings has collected 83.38 per cent of the levy, or \$19,000 less than the 90 per cent which is usually collected. Before the end of December he expects to collect the full 90 per cent. Estimating the collections for December at \$25,000 he will have collected during the year for 1905 taxes and back taxes \$198,500 in excess of the levy for 1905. Of the 1905 levy only, he has collected a total of \$1,042,993.12.

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OUR LETTER BOX.

Release of Bartley Bondsmen. OMAHA, Dec. 8.—To the Editor of The Bee: In your editorial under the caption, "Release of Bartley's Bondsmen," occurs the following paragraph:

The most scandalous part of the whole business was the gross neglect of former Attorney General Smith to take steps to ward off Bartley's sureties from the transfer of their properties immediately after the mandate of the Bartley embodiment had become known. The legal profession well understands that so court of equity would grant an injunction in such a case, but laymen may not, hence this letter. It would, indeed, be a novel proceeding if a plaintiff could enjoin a defendant from transferring any of his property pending a suit against him upon a claim which he denied. For such a course there is no warrant in the decisions of the supreme court of this or any other state. Few men would consent to sign bonds if they knew that in case of default on the part of their principal a court of equity might enjoin them from handling their property during the litigation. The legislature has provided for the attachment and impounding of a defendant's property in certain cases, but not in such a case as we are considering.

In Everybody's for Christmas, Lawson shows the terrible wickedness of business war triumphant. Russell shows a stronger and a better power—the power of men working for the common good.

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Illustrate: On one occasion I sought to ascertain what stock one of the sureties had in a certain large corporation doing business in Omaha. A representative of that corporation appeared in court in response to an order to do so. I asked him whether or not this surety owned any stock in the corporation which he represented. He answered no. When I sought to inquire further, being convinced that the statement was not correct, I was stopped by the court and told that I was bound by the answer and could make no further investigation in the matter. Many times the trial judge on whose docket the case was for a time refused to enforce the plain letter of the statute commanding him to advance the case for trial. You have not forgotten, I am sure, that three judges of the Lancaster county district court, sitting en banc, enjoined me from trying the case according to any principle, new or old, and that the only way in which I could get a trial of it was by disobeying the injunction. This I did, as I thought it was my duty to do, and thereby took my chances of disbarment, fine and imprisonment for contempt. In view of this what little hope would there be of my being able to have the courts make a new application of equitable principles even if I were entitled to it, which I was not.

Another and stronger reason, perhaps, for an injunction could not be obtained is that a bond would have to be given by the state. This bond would have to be in the sum of \$200,000 or \$300,000, probably. Without such a bond the injunction would be ineffective. The legislature made no provision for such a bond. How could I have procured one? It was absolutely impossible.

But suppose I had secured the injunction. The result of the litigation would be precisely the same as it is. Obtaining an injunction eight years ago would not have prevented the decision the supreme court has just rendered in favor of the bondsmen. The bondsmen having won, the injunction would necessarily be dissolved, and then the sureties would have a right of action against the state upon the injunction bond for their damages. Consequently, instead of the state collecting from the bondsmen \$200,000 or \$300,000, the bondsmen would be suing the state for perhaps that amount, with a fair chance of recovery.

Another fact which you seem to overlook: During my incumbency of the office of attorney general, the district court of Douglas county, Judge Fawcett presiding, rendered a judgment against Bartley and his sureties for \$12,000. The sureties took the case to the supreme court, where the rulings of the lower court were sustained in every particular except one, as appears from the report of the case in 29 Neb., 460. The bond upon which the lower court was reversed affected \$300,000 of the amount, but did not affect in any particular whatever the balance. The facts and the law with respect to that balance were established by that judgment beyond the peradventure of a doubt, and thereby the state was given the absolute right then and here to a judgment for at least the amount of that balance, or about \$200,000, principal and interest. The case came back to the district court for trial. Before it reached there my term of office expired and I gave way to my successor.

In view of the foregoing I am entirely willing to leave it to your readers as to whether or not I was guilty of any neglect, gross or otherwise, in the prosecution of this case. C. J. SMYTH.

Chests of silver, Edholm, Jeweler. Diamond Rings—Frenzer, 15th and Dodge.

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