FORBID ARBITRARY TAX LEVY

Held Council May Use Discretion in Water Extension Charges ..

LAW DECIDED CONSTITUTIONAL

City Commissioners, If They Find Property Owners Will Derive Slight Benefit May Lessen Assessments.

Judges Troup, Kennedy and Day of the district court yesterday held that the city council need assess against adjacent property only such part of the cost of extending water mains as correspond to the benefits derived by the owners. The court ruled that the commissioners need not charge 50 cents a front foot against adjoining property, though the law has been supposed by the Omaha Water

The judges decided that the legislative act on which the Water board busies its claim that adjacent property can be taxed for part of the cost of extending water mains is constitutional. The decision was read by Judge Troup, the three Judges sitting en bane.

Demurrer Overraled. A demurrer by the city to the Water board's mandamus suft to compel the city commission to assess the cost of extend ing a main in district No. 2 in the vicinity of Thirty-ninth and Dewey avenue was everruled, constituting a partial victory for the Water board.

It was a qualified victory for the Water board because the judges ruled that though a writ of mandanius should issue should not compel the city commisstoners merely to sit as a board of equalization and levy the cost of the extension as certified by the board up to cents a front foot, as asked by the board in its test suit, but that the city council first must assess the property owners with reference to the benefit recelved by them and then sit as a board of equalization.

The court held that the city council must not be deprived of the privilege of determining the amount of a charge. against property for special improvement according to the benefit derived by the owner; that it is not obligatory on the foundil to assess the whole amount demanded and that if a deficit exists through failure to assess the 50 cents a foot allowed by law it must be paid by the water fund as well as the excess of cost over the 50 cents a foot.

Deputy City Attorney Lambert, taking advantage of this ruling, secured the consent of the judges to making the writ of mandamus read that the city council will be required to take action in regard to an assessment against property rather than it must make an assessment, on the ground that it may find that there is no benefit on which to base a charge against property owners.

Under this decision," said City Corporation Counsel Ben S. Baker, "the city uncil of Omaha will have power to pass on the question of benefits to Omaha residents and the councils of South Omaha and Florence will have to pass or the question in their jurisdiction, after the metropolitan water district law becomes effective, which is not until July.
"I maintained in this case that the

Water board could make no assessment whatever under the statute as worded according to this decision such maners ments may be made for benefits, but not to exceed 50 cents per front foot it the benefits are shown to be only 25 cents per front foot that is all that can be asessed against the property," May Not Appent.

legal proceedings to test the authority of acted as judges. Before the debute the Water board on other matters, and Girls' Glee club gave a few selections. to compel the water commissioner to make periodical reports to the council of the financial condition of the water plant. The court said that it must presume every act of the legislature constitutional unless the law could not be construed in accordance with the fundamental law of the state. The decision quoted the supreme court of the state to the effect that the courts are not critics of the legislaure. It also said the law could not be worked by it, unless they clearly came under the ban of the constitution.

quired to tax charges according to cost reasons why the council under the law mark the spot where the Indians actually is allowed to make the charges accord- were, then it ought to be put up in our the vision in mind and let all your future ing to benefits, because the statute pro- new court house grounds, where everyvides that the council shall "assess" one can see and admire it. The high that vision: Some day the power of exproperty owners to pay for extending school grounds are all right, but there is sees' being to distribute charges accord- there, where it will be seen only by the get it you can do anything you want to ing to benefits; and because there is young folks, and not accessible to us nothing in the statute which forbids such grown people at all."

JOHN A. SWANSON, President

a procedure, the presumption then being that the council's action must be accord-

ing to the constitution.

Counsel for the city had contended that the operation of the law would place many difficulties in the way of the city, but the judges said none of these hard ships was so great that it could not be ernoved by a clear understanding of the law. It was exmalred that any deficit left by failure of council to assess 50 cents a foot against property must be paid by the water fund, though the law merely says that the excess over 50 cents shall be paid by this fund. The point that the law provides no opportunity for immediate payment of the whole tax, but leaves the implication that it must he maid in installments, with interest, the court disposed of by saying that immediate payment is not forbidden, but that it specifically nutlifies any such meaning if the statute is interpreted otherwise by any person.

Water Board Has Plan Which Makes Some Men Laugh

"Here is a sample of what I call very or management and financing," said business man who was accoming his

last monthly water bill. "You see," he added, "our place has onsumed, according to this bill, 12,500 cubic feet of water in the month. At the rate of 15 cents per hundred cubic feet our bill is \$19.55. Now, here is where the funny part comes in. Mad we used 16,000 cubic feet of water our bill would ctually have been less. It comes about in this way: Consumption of 16,000 draws a rate of His cents, as against the 15-cent rate for less than that, or 13,500 which we

"In other words we might let 2.500 cubia feet of water run through our pipes as waste-sheer waste-and get the reduced rate and the reduction in feir aggregate

And he laughingly said he gidn't know out he would instruct his manager to see that at least 2,500 cubic feet of water was wasted at their place each month. That is what they call good manage

ment," the business man exclaimed in dis-"That is what our expert water boss is handing us, is it? Well, suppose I and every other business man similarly situated should waste this amount of water each month to get the decrease, what would happen?

High School Lads Lose Their Debate

debaters failed to win the debate with Sloux City Friday night at the Iowa city and the judges decided in favor of the home team, giving them possession of the trophy cup presented by W. H. Beck. The trophy becomes the permanent possession of the Sloux City High school.

Resolved, That the Commission Form of Government Should Be Adopted by Cities in the United States."

Sloux City upheld the affirmative, reprecented by Max Hamilton, Raymond Caverly and Paul Taylor, with Berkeley Michael as alternate, while the negative was championed by Omaha with Barney Kulakofsky, Earl Getcham and Percy Dalzell, with Earl Ticknor as alternate. The decision of the judges was unant-

Judge Baker said he did not believe the case would be appealed. The decision. State Normal school, C. F. Garrett, su- paid for at what it is worth and the said, in no way effects the resolution perintendent of schools at Sac City, and people all around the improvement will is McGovern, direct. C. E. Lyons, professor of public speaking the city legal department to institute ing of the University of South Dakota. acted as judges. Before the debate the

Uncle Joe Suggests Place for Monument

says that that monument to our Indians, city plan. If it did not, then he would which General Webster wants us to build not be allowed to lay out the subdivision should be located up in my part of town. where the Indians used to be when we nutlified merely for apparent injustices pioneers used to be, and where they had size for the beginning of the city plan-'Uncle Joe" Redman talking.

instead of benefits. It found two prime the way and the monument is not to city plan. water mains, the legal meaning of "as- no reason for putting such a monument

MEN SLATED FOR THE JOBS Harley G. Moorhead to Be Named for

GREEVY MAY BE ASSISTANT Rumor line it that J. H. Grossman Will Be Appointed to Judgeship Made Vacant by Kennedy's Resignation.

Election Commissionership.

Harley G. Moorhead will be appointed election commissioner of Douglas county by Governor John H. Morehead, and Mat J. Greevy will probably be named his assistant, according to statements made by the governor at a conference with Mayor Dahlman and other local demo-

crats last night. John H. Grossman probably will succeed Judge-Howard Kennedy on the district bench, although the governor said he was also considering the advisability of appointing County Attorney James

The governor said he considered Harey Moorhead bost fitted for the place and was favorably impressed with him," said Mayor Dahiman, "but he did not state outright that he would be appointed. In my opinion he will be named for the

position. "A republican must be named for chief leputy to the election commissioner, and Governor Morehead declared he would name a real, well known republican. He asked about Mat Greevy, and I told him that I considered him thoroughly qualified by experience for the place. The governor seemed to favor him, although he said he had not given the appointment of an assistant very much consideration ns yet."

Judge Howard Kennedy will leave the bench some time between the 15th and last of this month. He goes to the State is now receiving, \$5,000 a year. Gross-for the next meeting, Rev. George Ware of liquidated. At 5 p. m., a supper was cessful meeting in Elk Creek two months ture, serving in the senate.

The salary of election commissioner will be \$3,000 a year, and of the assistant \$1,500 a year. The office carries with it power to redistrict the election districts of the city and county and to appoint the judges and clerks of election.

Governor Morehead had announced his intention to name a man not connected with local political factions to any appreciable extent. Moorhead's appointment will meet with the approval of the mayor and the majority of local democrats. F. J. McShane was talked of as being a candidate but he says he did not make application for the office.

Persistent Advertising is the Road to

GIVES PICTURE

OF IDEAL CITY

(Continued from Page One.) energy and home pride of officials and citizens generally.

One Step to Be Taken. "As one step to lead toward that ideal, the power to excess condemnation must be secured for the city. The problem is now being fought out in the courts of the east and some cities already have The power of excess condemnation will give the city the right to condemn property around a park or boulevard, or wherever an improvement is being made. It can then replat and fix up that M. G. Clark, superintendent of schools, | Property and sell it for its increased Sloux City, acted as chairman of the de. value. By this method the improvement bate, while U. S. Conn of Wayne, Neb., can be made, the condemned property

but will also have better living conditions and a more beautiful city. Have a Plan. Mr. Bartlett suggested that Omaha figure out a city plan and have that plan at the city hall where anyone wanting to open up a subdivision or erect a building could go there and find whether or not "You just tell them that 'Uncle Joe' his plans conformed with the general

or erect the building

the enhanced valuation of their property.

not only financially through

He described Omaha as being of ideal their Indian burial grounds." It was ning movement, "You will fird that if you will wait until later years that there To Tax the Benefits. "There were three lots saved out of are buildings to be torn down that cost The court found that the Important the Poppleton estate that would be just vast amounts of money, and other things issue was whether the council was re- the thing, right where the sulphur already constructed to be done away with springs are. But if that is too far out of because they conflict with the delayed

"Begin planning now," he said. "Have activities work toward the realization of cess condemnation will be held by every city. It is bound to come, and when you do. There are always people who oppose increases in taxation, and the power of

WM. L. HOLZMAN, Treasurer.

THE OMAHA SUNDAY BEE: MAY 11, 1913.

with that to a satisfying extent. is a means of raising money for beauti-

Posthumous Son Is Given Judgment

AINSWORTH, Neb., May 10.-A verflet of \$5,500 in favor of Lyln Edward and Charles I. Day, Long Pine sulcon of Omaha, and the Bankers' Surety company of Cleveland, O.

Lyle Edward Rouch was born in Febmary, 1912, and is the posthumous son of to the illness of Mr. Haller, the new John F. Roach, who was killed on the city council was not sworn in until tween Long Pine and Ainsworth on the night of July 4, 1911, while in a drunken condition brought about by indulgence in pointments and advised with the council intoxicating liquors in the saloons of the defendants.

Shortly after Roach's death suit was PHONE BUILDING TO BE rought by his widow for the benefit of herself and daughter, and in November, 1911, she recovered a verdict of \$5,000. After the birth of Lyle Roach, about father, the second suit was brought.

The plaintiff was represented by M. F.

EPISCOPALIAN ASSOCIATION CONCLUDES AT HASTINGS

HASTINGS, Neb., May 10 -(Special Telgram.)-The twenty-third annual conven-

New York, were elected.

The convention was the largest ever held in the Kearney district.

MAYOR OF BLAIR TAKES

BLAIR, Neb., Many 10.-(Special.)-Mayor W. D. Haller, who was taken to rack of the Northwestern railroad be, the regular meeting on Tuesday evening. Haller took the oath of office at his residence after which he made his apover the telephone.

OF HASTINGS MATERIALS

HASTINGS, Neb., May 10 - (Special Televen months after the death of the gram.)-The Lincoln Telephone and Telegraph company today announced plans for the erection of a two-story building Harrington of O'Neill; R. M. Johnson of here to be made entirely of building ma-Omaha, and John M. Cotton of Ains- terials made in Hastings. It will be comworth, and the defendants by Judge pleted about September following, which Ritchie of Omaha, and J. A. Douglas of time the Bell and Independent plants will be consolidated as speedily as possible.

Church Burns Mortange. nembers of the Congregational church held a jubilee anniversary Friday evening, celebrating the clearing of a \$500 debt which had rested upon the church proption of the Episcopal church closed last erty. Rev. C. J. Rives is the present night with confirmation by Bishop paster of the church and it is through Beecher. Alliance was chosen as the place his untiring efforts that the debt was Evangelist Whiston, who conducted a suc-

excess condemnation will tend to do away Albance, as clerical delegate; Rev. F. served to the public and addresses made | since, was master of ceremonies, assisted Chapman of North Platte, as atternate, by W. R. Morse, Mat Roewer and Rev. Mr. Startlett favors municipal owner- and L. A. Storth of Grand Island, as lay Mr. Rives. Immediately following the ship of public utilities and pointed it out delegate, to the National convocation in addresses the mortgage was burned in the presence of the assembly,

HASTINGS CITY COUNCIL IMPOSES LIGHTING LEVY

OATH AT HIS RESIDENCE HASTINGS, Neb., May 10.—(Special Tel-Roach was returned against Joseph Wulff the Omaha hospital some weeks ago, suf- fire protection, a burden, which thus far other lot owned by Boucher on Thirtyfering with a hemorrhage is slowly im- has been carried by private consumers. sixth street between Dodge and Davenkeepers, and the Lion Bonding company proving at his borns here. He is able to Following favorable action by the counbe up and around the house a greater oil, the electric light and power rates the Farnam property. He said the deals part of the day; but it will be some will be reduced 25 per cent to a scale were made as investments. time before he can resume work. Owing which may be the lowest in the state.

BREEDE SENDS BEAR AS FOOD FOR FEAST

HASTINGS, Neb., May 10 .- (Special Telgram.)-Adam Breede, editor of the Hastings Tribune, has sent from Plains, Mont. a large bear, which he shot this week near that place. It will be prepared for an Elks club feast, to which Grand Island Elks will be invited. Mr. Breede has returned to the bunt in the northern rockies.

TABLE ROCK, Neb., May 10.-(Special.)

-Mrs. T. J. Hawkins, well known in this county, died at the home of her daughter Mrs. Whitford in Falls City on Monday She was the widow of the late T. J Hawkins, and was aged about 65 years She was a sister of Hon. J. R. Ervin, who CLARKS, Neb., May 10.-(Special.)-The | was senator from this senatorial district more than a quarter of a century ago The interment was in the Pawnee City cemetery.

The addition to the Christian church at Elk Creek was dedicated Sunday morning, a large audience being present

by the pastor, Rev. Mr. Hubbell.

Phelan and Shirley Buy More Property

Ed Phelan, one of the purchasers of the Senator Millard property at Twenty fourth and Farnam streets, has bought gram.)-A special committee of the city a lot Mx132 feet at Farnam street where council has recommended that a levy be Twenty-second street should run through made for street lighting and water for from J. J. Boucher, paying \$18,500. Anport streets was bought by Phelan with

Phelan and Michael Shirley recently bought from ex-Senator Millard the lot on Twenty-fourth street extending from Parnam to Harney street. It was given out that the price was \$150,000, but its siders say the actual consideration was about \$136,000.

CADET ENCAMPMENT IS TO HAVE REGULAR ARMY COOKS

The Omaha Hhigh school cadet camp will be at Missouri Valley this year and an assessment of \$4.50 will be made on every cadet going to camp. This sum will pay for his train fare, rent of tents and food, so that no cadet need spend a bit more than this amount

Army cooks will take charge of the ommissary department, insuring not only good mess, but plenty of it. Captain Stritzinger intends to have entertainment for the cadets furnished inside the camp He also expects to berrow shelter tents from Fort Omaha, instead of renting the regulation size as in former years. Even though the cadets are eager to save as much as possible on camp expenses by order to get a rifle range next year, they do not care to sacrifice their large tents.

Persistent Advertising is the Road to

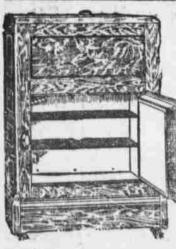
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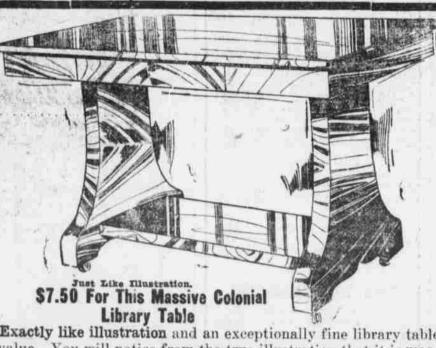
This Homefurnishing Store is for the Service of the People

THE supremacy of this store in value-giving and service is daily shown in the wonderful development of this great organization. The thousands of homes furnished by us is the best expression of the value of this store to the people of Greater Omaha. And "Your Credit is Good"—as usual.





.75 For a Splendid Made of hard wood, mineral wool filling, galvanized fron lined. A positive ice



Exactly like illustration and an exceptionally fine library table value. You will notice from the true illustration that it is massively constructed, in the modern colonial

style now so popular, has a large top, invisible drawer, highly finished in American quartered oak. Has plano polish. Truly worth \$12.50. Special: Terms, 75c cash, 75c monthly



Exactly like illustration, upholstered thro u g hout in fabricoid leather.

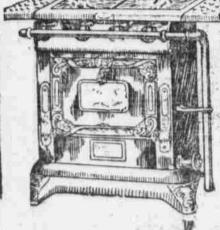
3-ROOM OUTFITS

\$7.50 Cash,\$4 Monthly





\$2.50 Nottingham Lace Curtains, 60 inch



Has two large burners on top and

good sized baking oven. Many pat-

ented features.



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fabricoid leather.

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TEAMSTERS! Look! Look! Large Wagon UMBRELLA 50c Worth \$1.50

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\$6.75 Union For This \$10.00 **Felt Mattress** A splendidly made mattress, made by a patented felting

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\$19.75 For This Massive Just like illustration. Made of solid quarter-sawed oak.

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The Hebrasha

INVESTIGATE our new way of clothes sellingstudy it from every angle. Measure the Greater Nebraska's usefulness to you by the remarkable values offered. Spring suitsthe season's smartest models-tailored by Rochester, New York's best journeymen tailors. Especially selected fabrics, bought direct

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Special Styles, values the talk of the town, at,

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YOUNG MEN'S STOUTMEN, tall BLUE SERGE extraordinary. suit values,

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