

THE BROADWAY GRADING.

An Ordinance Necessary to Carry Out the Wishes of the Petitioners.

The Inevitable Rock Crusher Leavens Up Again in the Council.

Owners of Tall Buildings Object to Putting Up Fire Escapes - Other Business Transacted.

At last night's meeting of the city council, Aldermen Morris, Harry and Lissner, a committee on judiciary, who had in charge the matter of grading Broadway, made the following report which was concurred in by City Attorney Craven: "According to the report of the city engineer there is a total frontage on both sides of Broadway from Main street to Montana avenue of 10,003.22 feet, of which 447.62 feet are the frontage of the city on fronting streets; 5,275 feet are represented on the petition, so that the petition signed by those representing a majority of the front feet to be taxed. The petition block forms the jurisdiction for the entire proceeding, estimates the cost of grading roadway proper at \$12,800, your engineer believes in his report that it will cost \$5,298, and also shows that the grading of roadway proper will necessitate expense of interesting streets amounting to \$1,400.50. The above estimates of a city engineer do not include costs of relaying water and gas pipes or broken sewer connections. Your committee has no means of knowing what the cost of these items not included would be, and it is understood, of course, that the above estimates do not include any cost in laying of walks, rebuilding of retaining walls, or construction of steps leading up or down to lots of grade on Broadway and interesting streets. Whether this large expense on side streets was contemplated by those who signed the petition for a grading of Broadway proper, we have no means of knowing. However, the estimated cost of Broadway proper not differing largely from the estimate set in the petition and the actual cost of Broadway proper being the amount which it is proposed to raise by assessment, we think the matter of incidental expense on side streets affords a legal obstacle to the granting of the petition, but it is an argument which should address itself to the discretion of the council in determining whether or no the work would be undertaken as a business proposition for the interest of the city.

Your committee believes to make the following suggestions in case it be determined to proceed with the work as provided. The city council shall have power by ordinance to levy and collect special tax on the holders of lots on any street, lane, avenue or alley according to the respective frontage, or according to the value of the property on the lot, or according to the value of the lot, or according to the value of the building, or according to the value of the lot and building, or according to the value of the lot and building and the frontage, etc. (Page 22, Revised Ordinance, 1890.) By virtue of this provision on the ordinance commencing on page 9 of revised ordinance was passed, providing a mode of procedure (1) for cases where the assessment was made according to the frontage, and (2) for cases where the assessment is made according to the value of the property facing on said Broadway proper according to the frontage. We do not understand that you grant the petition, or must assess the cost pro rata according to the frontage. But your present ordinance above referred to regarding the mode of procedure in the assessment according to frontage, seems to contemplate that the individual owner shall be notified to do the work in front of a own lot or lots, and in case he fails to do the work, then it is to be done by him, and only the actual cost of the work in front of his property be assessed to him. Other words you could make no pro rata assessment according to the frontage. And if the frontage from Main street to Warren, where the cut begins would be free of cost, while the property from Warren to east, past the court house and beyond, taking in the crown of the hill at the end of the work, would be liable for the large portion of the cost of the entire work. Property already on grade would be free of cost. This was not contemplated by the petitioners, nor is this condition necessarily implied in the charter.

It will be necessary, therefore, if you proceed, to pass a new ordinance accommodating to the conditions of the petition and the charter. As it was not necessary to have a special ordinance for cases of this kind, and as it could have been lawful to pass a special ordinance for each incoming petition, so long as all ordinances were within the power granted by the charter, so we take that the special ordinance in question at this time to enforce a petition which the general ordinance evidently does not contemplate and for the enforcement of which does not provide. There are many particulars in the new ordinance which will require your careful attention. Your present ordinance provides that as soon as the work is done in front of each lot a certificate of actual cost of said work shall be given to the contractor, and in this way he settles his pay as the work progresses, as soon as the respective assessments are paid by the owners.

"As to the work under consideration it is evident that there can be no definite assessment until the whole work be completed, unless the contract be let as an entirety, and the contractor accepting all obligations and work as it is presented in the actual operation. As the contractor will want to know whether it is to be paid by the city, or by the city collecting the special assessment on the lot owners, or whether he must depend upon the collection of the assessments for his pay as now provided in the general ordinance, and also the time and manner of payment in general—all these particulars with numerous others should be settled by the council in connection with a new ordinance suggested."

After some discussion the committee's report was adopted. The subject was accordingly referred to the ordinance committee, with instructions to draft and submit the proper ordinance.

The rock crusher, which has turned out to be a contract of contention ever since it was placed in town, caused another discussion last night. The committee on streets and alleys reported that, as the crusher had to be moved from its present position, the best place to put it was on Montana avenue, where there was a quantity of small stone ready for the hopper. Aldermen Wieser and Hanley, a minority of the committee, wanted the crusher put on the Highland street quarry. Alderman Morris wanted it on Catholic hill. Alderman Lissner protested against the expense that would be entailed either at the Highland street quarry or on Catholic hill, where the rock would have to be quarried. Alderman Morris also spoke of the expense that would be necessary if the crusher were put anywhere but on Eleventh avenue. He said as good a friend of the poor man as anyone, but he did not think the city could afford to spend \$3,000 a month just to give work. If the winter could prove a hard one the council might place the crusher where men could get subsistence, at least one or two meals a day. Alderman Thompson stated that there was no question of opening up Highland street by quarrying through. There was enough rock there already to keep the crusher going four or five weeks. Alderman Wieser said the expense of hauling on the Highland street quarry would be less than from the tailings on Eleventh avenue, as it was "a down hill pull." He said it would be a benefit to the people instead of improving private property. Alderman Lissner started off to talk about the expense of running the crusher

on Highland street. Then he branched off on Alderman Thompson. "The seventh ward representative," he said, "was born with a silver spoon in his mouth. If he had a single dollar along with him, picking up a dollar like a hog?" "I call the gentleman to order," exclaimed Alderman Thompson, excitedly. "Let him speak to the subject. Silver spoons have nothing to do with the case." "The point is well taken," said Mayor Kleinschmidt.

The majority report, placing the crusher on Eleventh avenue, was adopted. The owners of several tall buildings whose interests were affected by the proposed ordinance had ordered fire escapes to be placed, asked the council to relieve them from that expense, which they consider unnecessary. The reasons given were various. One was that there were agreements from the rear that would answer the purpose better than fire escapes in front. Another was that there were no tenants in the upper part of the building. Mayor Kleinschmidt said it was not a question merely of safety to the tenants, but one of convenience for the firemen in case their services were needed. Alderman Fuller called attention to the fact that the ordinance was introduced and left the inspector no choice but to order the fire escapes put up. The matter was referred to the building inspector and the committee on fire department. It was found that some of the places had been exempted from the provisions of the fire escape ordinance by special acts of the council.

John W. Miller, who was shot by Special Policeman Michael Dooney, sent a communication to the council stating that the assault was unprovoked, and without the semblance of excuse; that the sight of one eye and probably both were effected, as well as his hearing. He speaks of the city having paid his doctor bill, and asked that some further redress be given him. Miller claims that Dooney's intemperate habits were well known and he should never have been appointed on the force. A motion by Alderman Fuller to lay the communication on the table was lost, and it was referred to the committee on judiciary.

The committee on cemetery reported that the Northern Pacific railroad was claiming part of the present graveyard under the rights of the company to 100 feet on each side of its track. The city attorney was directed to look into the question of the railroad company's right to the ground in dispute.

City Engineer Reeder reported that his negotiations for the ground necessary to open Lawrence street had not been successful, and he recommended that regular condemnation proceedings be taken. It was so ordered.

An ordinance was submitted making it unlawful to allow boys under 15 years of age to run elevators. It was referred to the ordinance committee.

A fine stock of dry goods and fancy goods to be sold at 50 cents on the dollar at 121 Broadway, in Denver block.

Do not fail to see the large line of holiday goods at The Bee Hive.

Best line of neckwear in the city at The Bee Hive for sale.

SISTER BASILISI DEAD.

The Unexpected End of One of the Teachers at St. Vincent's Academy.

Sister Basilisi, one of the teachers at St. Vincent's academy, died at the St. John's hospital yesterday. Sister Basilisi was known in the world as Miss Josephine Fitzgerald, and was born in Iowa twenty-nine years ago. Her father still resides there, and she has a sister living in Clayanne, both of whom were notified of her death. She became a religious three years ago and in January last came here from the mother house in Leavenworth. As a teacher at the academy she was one of the most successful in the history of that institution, and a diligent worker and much beloved by her pupils. The cause of her death was a complication of troubles brought on by an injury to the hip. She had frequent recurrences of the trouble, but her last illness only extended from Saturday last. Her condition became so alarming yesterday morning that it was decided to remove her from the academy to the hospital, where she died a few hours later. Death was entirely unexpected. The funeral will take place on Thursday morning, at 10 o'clock, from the cathedral, and Rev. Lawrence Palladino will conduct the services. The academy were dismissed yesterday as soon as Sister Basilisi's death was learned.

The Bee Hive has a large stock of sleds, wagons, children's desks, furniture, doll cases, etc.

Hay, grain, feed and fuel delivered promptly at lowest market rates by Herbert Nicholson & Co., Ltd., corner Park and Edw. streets. Telephone 325.

THANKSGIVING DINNERS.

The Place to Go to Purchase Poultry Game and Other Good Things.

The people of Helena who wish something fine for their Thanksgiving dinner should pay a visit to the Broadway Fish Market. This popular place has laid in a supply of all the good things that usually tempt the palates of the lovers of good living. There is an abundance of game, including partridges, quail, possum, wild ducks, dressed and undressed. In the poultry line there are chickens, ducks and turkeys of all sizes. The market has also a large supply of oysters and fish. A large shipment of Michigan celery has just arrived from Kalamazoo, and is now ready for customers. Helena people believe in living on the best there is to be had and nowhere can they be better suited than at the old reliable Broadway Fish Market.

Fresh lot of New York Counts in shell, at the Motor Office.

Kid body, French limb, bisque jointed, rubber, rag and stuffed dolls of all kinds at The Bee Hive.

Legal blanks at this office.

To Dealers in Boots and Shoes.

I propose to sell in bulk for cash the balance of the stock of boots and shoes, together with fixtures remaining in the John R. Draw store, Thompson block, Helena, Mont. Bids will be received at the office of Bernard Brown, room 1, Power building, until 10 o'clock a. m., November 30, 1891. The right to reject any and all bids is reserved. C. C. NEWMAN, Assignee.

HELENA, MONT., November 25, 1891.

Miss M. E. Grogan is now prepared to do all kinds of writing at her office, 108 Granite block.

Mineral baths at Mineral Springs Hotel only 25 cents.

Go to The Bee Hive for wedding presents and holiday goods.

Bissell Carpet Sweepers.

The Bee Hive is headquarters for the celebrated Bissell carpet sweepers, and have made another cut in the prices of these well-known goods. Note our prices: Bissell's Magic sweeper, \$1. Bissell's Crown Jewel sweeper, \$1.25. Also carry the complete line of Bissell's sweepers at uniform prices. Beware of imitations.

Remember that The Bee Hive is headquarters.

Toboggans, facinators and hoods worth from \$1 to \$2, suitable for this week at The Bee Hive at 40c for choice.

STATE OR FEDERAL LAW.

Question as to Which One Fred Partello Shall Be Tried Under.

The Former Means Imprisonment While the Latter Means Hanging.

A Demurrer to the Indictments in the Barnum Cases—Zach Sales Forfeits His Bonds.

Eufus C. Garland, son of President Cleveland's attorney general, and who was but recently admitted to the bar here, will have a case for the supreme court of the United States involving the important question of jurisdiction on Indian reservations. Fred Partello, a Mexican, was indicted by the United States grand jury a few days ago for the crime of rape committed on one Thelma Graham, on the Crow Indian reservation, Nov. 26, 1890. Ordinarily it would seem that it should make very little difference to Partello whether he was tried for an offense against the state laws or the federal laws. But it does make a deal of difference. Under the United States criminal laws Partello can be hanged. Under Montana state laws he can only be imprisoned. Attorney Garland demurred to the jurisdiction of the United States court, claiming among other things that the government, while it had authority over the Indians had none over white men accused of offenses on reservations, which he argued should be tried by the state authorities. Judge Knowles did not take the same view of the matter, but said Attorney Garland that it was such an important matter that he would like to see it passed upon by the supreme court. Partello's case will doubt go to that tribunal. Judge Knowles, in his opinion, says:

"The United States, from the earliest organization of the national government, has assumed control over the several Indian tribes in the United States and has denied such control to the state governments. In the case of the United States vs. Sturgam the supreme court held that the Indian tribes were subject to the control of the United States and could be made subject to its laws; that the states have no right to subject the Indians to their laws as long as the Indians maintain their tribal relations; that the Indians owe no allegiance to the state within which their reservation may be established and the state gives them no protection. It was also pointed out that the United States had undertaken to control the Indians no longer by treaties, but by laws, and that this right did not come wholly from the power of congress to regulate commerce among the Indian tribes, but from the fact that congress had always assumed the control over them as the wards of the nation and as dependents upon the national government, and had always refused such power to the states. It appears to me with such a view of the law the United States would have the right to retain and reserve lands within a state upon which to place its wards, these dependants, with a view to their government, and that the states would have a right to agree to such a reservation. It would be an anomaly in government if it should be conceded that the United States had full right to govern the Indians and yet have no right to any lands upon which to place them with that object. A view is taken that a government without a country. The United States is not in the helpless position which such a contention would maintain. As an incident to govern such people by its own laws would be the right to hold lands upon which to locate and maintain them. It was also argued that while the United States could have jurisdiction over such lands as far as the Indians are concerned it would have no right over white men found within an Indian reservation such as the Crow reservation. The statute and the ordinance we have been considering say the jurisdiction and control is absolute, not a divided jurisdiction or control. And it would seem to me that this is proper. Any other view might bring on collisions between the authorities of the two governments. The white men, it was contemplated, who would be upon this reservation, would be employes or officers of the national government. And with the view of protecting the Indians the United States should have control over the white men upon an Indian reservation as well as of the Indians. The Crow reservation, notwithstanding the act admitting Montana into the union, remains then Indian country, absolutely within the jurisdiction of the United States. The general criminal laws of the United States are then in force upon it. With this view of the defendant, it must be held, was properly charged."

The Barnum Demur.

When the Barnum case was called in the United States court yesterday counsel for the accused presented to Judge Knowles a demurrer to the indictment, alleging the insufficiency of evidence, etc. The demurrer will be heard to-day. The time for the Barnum to plead to the indictments for mail robbery has been extended until after the demurrer has been passed upon.

His Bond Forfeited.

The case of Zachariah Sales, mail contractor, indicted by the United States grand jury for abandoning part of his mail, was called yesterday. Sales was not on hand, and District Attorney Weed asked that his bond be forfeited. His bondsmen are C. W. Berry and E. B. Mahoney. Judge Knowles directed that the order be issued for forfeiting the bonds.

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We have just received in our Domestic department a very beautiful line of Silk Comfortables, which we offer at attractive prices. They would make a nice Xmas Gift.

Our Fur department is complete. See out special prices on Muffs, Boas, Collars and Capes.

KNIT GOODS AND MITTENS—Our assortment in these goods is so large we have not space to describe the different qualities, but we would call special notice to our new line of Silk Mittens for Misses and Ladies.

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by taking it home. If it does not do all we claim, you need not keep it or pay for it. A child ten years old can do the family washing as easy as a grown person. Call and see the

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that revolutionize the method of washing clothes. The apparatus weighs only eight pounds. We invite country people as well as city folks to call and see the machine.

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