

SPAIN'S SYMPATHY

Sagasta Authorizes Kindly Statement for His Government.

PAINED AT THE DREADFUL DISASTER

Formal Condolence Will Be Sent to the United States.

THINKS OCCURRENCE PURELY ACCIDENTAL

Regrets Deeply that it Occurred in Spanish Waters.

WILL BIND THE TWO NATIONS CLOSER

Council of Havana Will Bear the Entire Expense of the Funeral and Burial of the Victims.

(Copyright, 1898, by Press Publishing Company.) MADRID, Feb. 17.—(New York World Telegram—Special Telegram.)—I have seen Sagasta today, who authorized me to telegraph the following verbal statement:

"We were grieved and painfully surprised by the catastrophe in the Maine and felt it doubly because the accident took place in our waters. We cannot forget that sympathy was shown us by America when we lost our cruiser, the Reina Regente, and the minister of marine conveyed truly yesterday to General Woodford the condolence of the Spanish navy. Our representative at Washington will convey to the American government the sympathy of our sovereign, the king and the government. You may have noticed how general and sincere has been the friendly attitude of our press in commenting on this unfortunate catastrophe. I feel confident that this and the equally friendly conduct of the authorities and people of Havana will go a great way to convince America that we sympathize with her in mourning for the gallant crew and officers of the Maine. We have heartily approved the conduct of the military, naval and colonial authorities in Havana, and most anxious efforts to alleviate the disaster have elicited the official thanks of the consul and the commander of the Maine. It is known that the council of Havana has offered to cover all expense of the funeral and burial of 264 men and two officers tomorrow. Indeed, I do not apprehend any trouble arising in our relations with America. I am firmly persuaded that this purely accidental catastrophe will, if possible, make them closer and more sympathetic. I cannot give you any fresh details on the origin of the accident, but am able to state that all sources of information are unanimous in attributing it to an explosion in the interior of the vessel, similar to those that had occurred in the American war ship Cincinnati and several vessels of the European powers in the last four years."

MARIA CHRISTINA. Senora Polo y Bernabe, minister designate to the United States, visited United States Minister Woodford today.

Senor Polo, the foreign minister, has cabled President McKinley, on behalf of the government, condolences on the disaster to the Maine.

CAUSE SENSATION IN LONDON.

Report of Alleged Torpedo Hole Stirs Up the Beliefs.

(Copyright, 1898, by Press Publishing Company.) LONDON, Feb. 17.—(New York World Telegram—Special Telegram.)—According to a general view in political circles here the Maine disaster opens up the gravest possibilities for American-Spanish relations. An intense sensation was caused this afternoon by the publication of a Reuter dispatch from New York stating that an eight-inch percussion hole had been found in one of the Maine's plates. This dispatch was no sooner distributed to the evening papers than it was followed by another from the same agency appealing for its suppression, owing to representations received from the State department at Washington. But so far from acquiescing in the request the papers gave the utmost prominence to the first dispatch and added an account of Reuter's attempt to get it suppressed. The St. James Gazette states that McKinley is afraid of the consequences of this startling information leaking out.

The opinion universally expressed by members of Parliament in the lobby of the House of Commons tonight was that if the explosion is proved to have been caused by design, Spain will be obliged to refund to the United States not only the loss incurred by the destruction of the war ship, but to pay a heavy indemnity to the surviving relatives of the men killed.

John Dillon, leader of the nationalist party, who asked a question of the first lord of the admiralty on the subject of the calamity in Parliament this evening, said subsequently in the lobby: "Intense sympathy and grief exist among the members of the nationalist party with the American people in the catastrophe they have sustained. I myself am deeply grieved over the disaster to the American navy, on board whose ships I have been so frequently received with the kindest hospitality."

Colonel Watts, chief naval constructor of the Armstrongs at Newcastle-on-Tyne, who has built fleets of war ships for British and foreign powers, interviewed on the Maine explosion, said: "You might get spontaneous combustion in a coal bunker or other store in a flame flashing across and through the ventilators into the magazines. This occurred on the war ship Dufferin Spirit. The paint store became ignited spontaneously and the flame reached the magazine through the ventilators. Surreptitious access of a suicidal crank is another possibility. It was found foul play the deed must have been done by a floating mine. The necessary apparatus for a locomotive torpedo could not be brought into position to bear on a vessel without becoming known. External damage is so different from internal that this could be readily discovered by a diver."

GUNNER EXPECTED TO BE BLOWN.

Sensational Letter Written by One of the Maine's Crew.

(Copyright, 1898, by Press Publishing Company.) DETROIT, Feb. 17.—A special to the News from Bay City, Mich., says: A letter was received today from Elmer Mellestrup, gunner of the Maine, dated February 11, in which Mellestrup wrote that he would not be surprised if he should be blown up any day; that the ship was surrounded with torpedoes and could not leave the harbor without the consent and direction of the Spanish authorities.

Mellestrup's letter says: "The Spanish have a couple of gunboats and a cruiser and there are two German gunboats. The guns of Morro Castle, as pointed at us as I write. The whole bottom of the harbor is covered with torpedoes, so that if they did not want to let us out we would not be able to go very well. We are lying between the Spanish and the German men-of-war and they have picked boats out all night watching us."

In a letter of February 7 Mellestrup says: "I don't look for any trouble unless something unexpected should happen."

In a letter of January 15 Mellestrup tells of an accident aboard the cruiser Morro Castle, when five men were injured by a shot. Commenting, he says: "It is a wonder some of the ships don't blow up, they are so careless."

Searching the Coal Piles. KEY WEST, Fla., Feb. 17.—The schooner coal west, which left Washington this morning, can hardly reach Key West before the end of the week, and as the board must prepare itself for the work before leaving Key West, a day is little time enough for the and the transportation to Havana. It is not yet known where the board will hold its session at Havana, as this detail has

DEAD SAILORS ARE BURIED

Imposing Cortage Follows Remains to Cemetery.

ALL HAVANA APPEARS IN DEEP MOURNING

Spanish Officers Give Sincere Evidence of Sorrow, and Send Many Floral Tributes to the Unfortunates.

HAVANA, Feb. 17.—The interment of the martyrs of the Maine took place this afternoon about 5 o'clock. Shortly before the hour all Havana was in movement. The flags on the public buildings were at half mast, and many of the houses were in mourning. All classes were present in the throngs that filled the streets along which the funeral procession passed to the cemetery.

The order of the procession was as follows: The municipal guards on horseback, full uniform; the city fire brigade, the municipal employes, the aldermen in seven splendidly decorated cars, special cars bearing the remains, nine bodies being carried on a splendidly decorated car; the clergy, deputations consisting of the chief officers of the army, navy and volunteers, representatives of various official bureaus and of the customs house a committee representing the Chamber of Commerce, a delegation representing the grocers, the council of administration, representatives of the treasury, the press, and various political organizations, then the chief officers of the Maine, the foreign government, foreign magistrates, with their mace bearers; provincial deputies, employes of the general and regional autonomic governments, the municipal aldermen, General Parrado with four aides-de-camp, representing General Blanco (whose personal presence was not allowable under the law); having on his right United States Consul General Lee, and on his left the mayor of Havana; the marquis Larrizaga, Admiral Monterola, General Salona and other officers; two companies of marines and infantry.

The funeral music was furnished by the bands of the Isabella La Católica and Porto Rico battalions, which accompanied the bodies.

The funeral cortage started from the principal entrance of the city hall on Weyler street, then turned to the right on Mercedes street, then up O'Reilly street along the right side of Central park and finally to the right along San Rafael street to the cemetery. The population that lined the route gave every indication of the profoundest respect.

Elaborate preparations were made for the interment of the dead. In the morning twenty-two bodies were brought to the city hall, where they rested in coffin covered with beautiful crowns of silk ribbons with appropriate inscriptions. The crown from the city council bears the inscription: "The people of Havana to the victims of the Maine." There is a handsome crown of silk ribbons in the Spanish colors, with the inscription: "The Navy department at Havana to the victims of the Maine."

Among other tokens is one from Lawton Childs with the inscription, "To our brave dead sailors."

WAITING FOR AN INVESTIGATION.

Only Thing to Be Done in Case of Maine Disaster.

(Copyright, 1898, by Press Publishing Company.) WASHINGTON, Feb. 17.—The government has settled back into a waiting aspect in regard to the terrible marine disaster in Havana harbor. The great shock caused by the news has given way to a calmer and more judicial state of mind, and realizing from the events of the day that the court of inquiry is the sole dependence for the naval officers assigned to await the result of the inquiry by the court named today.

The officials at the Navy department devoted the day to the effort to correct the lists of living and dead, to answering frantic telegraphic appeals from relatives of men on the battleship and last, but not least, in meeting with unwavering courtesy and patience the exacting demands upon their time by the press representatives.

The dispatch of the court of inquiry, Captain Dickens, acting chief of the navigation bureau, has arranged for as well as could be from this distance. The wounded sailors in the Havana hospitals, on the Spanish flag-ship and elsewhere, when not in condition to be brought back to Key West, will be carefully looked after by Miss Clara Barton, who has been given carte blanche to buy any and everything necessary, food, clothing, delicacies, and hire of nurses and physicians. The wounded are being cared for at Key West will be taken care of in the marine hospital there. The sound survivors will be quartered in the spare army barracks there.

As to the Maine itself, notwithstanding discouraging reports from Lieutenant Hood as to its condition, the Navy department will make the effort to raise it. While this is required by every creditable sentiment, they say they are bound to remove the hull from the small harbor in any case, it may be as easy or easier to raise it as it would be to destroy the hull and machinery by the use of divers and dynamite. It is believed that this work can best be done by private wrecking corporations, and negotiations are already afoot for placing the contract, based on work by the day, at an estimated cost of \$200,000.

At the Navy department specific denial was given to the report emanating from Havana that a torpedo flotilla was about to leave Key West for Cuba. It was stated that only two torpedo boats, the Cushing and the Ericsson, are at Key West, and these have not been ordered, and will not be ordered, according to present plans, to Cuba. It was strongly asserted that no present purpose existed of sending any war ship there.

All the flags throughout the city, including those on the capitol and the department buildings, are flying at half-mast today, and among the others conspicuous is that of "Cuba libre," which flies from the staff on the Hotel Raleigh, the headquarters of the Cuban junta.

It is said at the department that to investigate the disaster can scarcely be made for the work at Havana before next Monday. Lieutenant Commander Marix, who left Washington this morning, can hardly reach Key West before the end of the week, and as the board must prepare itself for the work before leaving Key West, a day is little time enough for the and the transportation to Havana. It is not yet known where the board will hold its session at Havana, as this detail has

FRANCES E. WILLARD DEAD

Well Known Temperance Worker Passes Away in New York.

RESULT OF BREAKING OF NERVOUS SYSTEM

President of the Woman's Christian Temperance Union, Her Name is Familiar to All English Speaking People.

NEW YORK, Feb. 18.—Miss Frances E. Willard, president of the Woman's Christian Temperance Union, died shortly after midnight at the Imperial hotel in this city. At the bedside of Miss Willard at the time of her death were her niece, Mrs. W. W. Baldwin; Mrs. T. M. M. Stevens, vice president of the Woman's Christian Temperance Union; Miss Anna Gordon, Miss Willard's secretary; and Dr. Alfred K. Hill, Miss Willard's physician. Dr. Hill made the following statement tonight: "Miss Willard had suffered some years from profound anaemia and on several occasions had been given up to die. Last summer she seemed to take on a new lease of life and gained in weight and strength so that she went through her convention work at Toronto and Buffalo, which was most arduous, and came out much better than was expected. But on her arrival five weeks ago she was much prostrated and readily took to the grip, which attacked the stomach. Her interests and later the nervous system. The disease progressed favorably and in many respects she had greatly improved, when the fatal issue came and overwhelmed the nerve centers. There was no cancerous degeneration of any organ, as has been stated."

There will be funeral services in New York City and later in Evanston, Ill. Miss Willard's home, where the body will be taken.

The headquarters of the National Woman's Christian Temperance union at Chicago yesterday issued a call for all white ribbons in the land to pray for Miss Willard's recovery, but the notices had barely reached the mail when the end came.

Frances Elizabeth Willard was born in Chatham, N. Y., September 28, 1839. She was graduated from the Western Female college, Evanston, Ill., in 1855, became professor of natural science there in 1862 and was principal of Geneva Wesleyan seminary in 1867. The following two years she spent in the lecture of Illinois, asking for the temperance reform.

In 1874 she was professor of aesthetics in Northwestern university and dean of the Woman's college, where she developed her system of self-government, which has been adopted by other educators.

Miss Willard left her profession in 1874 to identify herself with the Woman's Christian Temperance union, serving as corresponding secretary of the national organization until 1879, and since that date as president. As secretary she organized the home protection movement and sent an appeal from nearly 200,000 persons to the legislature of Illinois asking for the temperance ballot for women.

On the death of her brother, Oliver A. Willard, in 1879, she succeeded him as editor of the Chicago Evening Post. In 1886 she accepted the leadership of the White Ribbon movement, which had obtained through her influence enactments in twelve states for the protection of women.

In 1888 she was made president of the American branch of the International Council of Women and of the World's Christian Temperance union, which she had founded five years before, and she was repeatedly re-elected.

Besides many pamphlets and contributions to magazines and the press, Miss Willard has published several volumes relating to temperance and other reforms.

Mrs. Anna Bates, wife of Charles E. Bates, died Wednesday evening after a short illness at her residence, 161 South Thirty-second street. Mrs. Bates had been a resident of this city for about twelve years, having formerly lived at Stewart, Ia., where her husband was president of the First National bank. Mrs. Bates was a member of the St. Mary's avenue Congregational church, and was quite prominent in charitable and social circles. The funeral takes place from the late residence of the deceased Saturday at 2 o'clock.

COURT OF INQUIRY IS NAMED.

Admiral Sigsbee Gives Out Names of the Members.

WASHINGTON, Feb. 17.—The Navy department received a dispatch this morning from Admiral Sigsbee, in command of the North Atlantic squadron, giving the detail of the court of inquiry to investigate the Maine disaster. It is as follows: Captain Sampson, president of the court; Captain Charles D. Johnston, Commander Schroeder and Lieutenant Commander Marix.

Captain Sampson, president of the court, is commander of the battleship Iowa, now at the Tortugas; Captain Chadwick is commander of the New York at Key West; Lieutenant Commander Schroeder is executive officer of the battleship Massachusetts, at the Tortugas; Lieutenant Commander Marix is executive officer of the Vermont. He was formerly with the Maine as executive officer before the detail of Lieutenant Commander Wainwright, who relieved him.

It is believed that under the most favorable circumstances, the investigation cannot be made for several days. Arrangements must be made for the proper working of the diving outfits and the board of inquiry must determine upon a line of action to be followed.

Commander Marix, who will be a member of the court of inquiry, has just been released from duty with the Billings court-martial in this city. He left Washington at 11 o'clock today by train for Key West and is supposed to be assigned to duty as chief advocate of the court. Probably the board will be conveyed from Havana to Key West by the Olivette or one of the lightship tenders, as it is believed that the Navy department has no intention of sending another man-of-war to Havana immediately.

General fear is expressed by the old officers at the navy that the destruction of the Maine had been so complete, at least in the forward portion of the ship where the explosion is believed to have occurred, that it would be perhaps impossible to find sufficient evidence in the wreck of the hull to be able to declare with certainty the cause of the disaster. The reports coming from Havana are printed this morning describing the occurrence of the wreck yesterday strengthen these doubts. The fall of the smoke stack, the disappearance of the big turret guns, all seem to indicate that an enormous destruction has occurred below. It may be said, however, that nothing has yet developed in the news from Havana as to the appearance of the wreck or in the conflicting stories of the survivors to change the opinion of the majority of the officers stationed at the Navy department that the Maine sunk as the result of an internal explosion. As to the origin of this explosion, there is still a wide difference of opinion, but the coal bunker theory today finds very many more strong supporters than any other theory. This theory is based on the supposition that spontaneous combustion

THE BEE BULLETIN.

Weather Forecast for Nebraska—Threatening; North to East Winds.

1. Sagasta Extends Spanish Sympathy.

2. Nebraska News.

3. Senate Discusses Kansas Pacific Sale.

4. Editorial and Comment.

5. Government Weighing It.

6. Council Bluffs Local Mail.

7. General News of the Far West.

8. Site for the Arkansas River Water for the Exposition.

9. Making Money by State Progress of the Bartley Trial of the Kastner.

10. Henderson Talks on B.

11. Commercial and Financial News.

12. Winter Rest of a Race Horse.

Dry Tortugas as a Drill Ground.

TEMPERATURE AT OMAHA.

Hour. Deg. Hour. Deg. 5 a. m. 29 1 p. m. 20

6 a. m. 29 2 p. m. 20 7 a. m. 29 3 p. m. 21

8 a. m. 25 4 p. m. 20 9 a. m. 25 5 p. m. 19

10 a. m. 22 6 p. m. 19 11 a. m. 19 7 p. m. 18

12 m. 19 8 p. m. 18 9 p. m. 18

TOURING IN THE HUCKEY STATE.

Exposition Boomers Are Warmly Welcomed in Ohio.

(Copyright, 1898, by Press Publishing Company.) COLUMBUS, O., Feb. 17.—(Special Telegram.)—The delegation of the Transmississippi business men arrived here at 4 p. m. from Springfield. They were met a few miles outside the city by a committee headed by Chancellor Canfield, formerly president of the University of Nebraska, and upon their arrival immediately conveyed to the state house, where a formal reception was accorded them in the executive office. The delegates were presented to Governor Bushnell, after which they repaired to the senate chamber, which body immediately suspended business out of respect to the visitors. A golden opportunity was presented to present a plea of the exhibition, whose position in the present condition and growing popularity were voiced by Rev. Wright B. Lee, who astonished the Ohio lawmakers with an array of facts and statistics showing the increasing importance of the coming exposition.

Lieutenant Governor Jones, Senators Alexander and Cromley responded, congratulating Nebraska on its pluck and energy, and promising co-operation looking to the success of the great event of the summer. This morning the halls of legislation and the cordial reception accorded the delegation by the senate of Ohio indicate more clearly than anything thus far experienced during the trip the wide-spread interest taken in Omaha's great show.

The travelers have visited Dayton and Springfield, both important manufacturing centers, and have enlisted the interest of the great factory proprietors. At Dayton a magnificent crowd listened to the story of Omaha's white city and many of the most prominent manufacturers were emphatic in their endorsement of the venture. At Springfield the party visited the mammoth factories, talked informally with merchants, and publicly announced their conviction that the great Buckeye state ought by all means to join the great cavalcade of states whose products will be exhibited at Omaha. The newspapers have thus far been extremely kind in their references to the party and the object of their visit, and the chief public interest in the city has been centered in the visit of the delegation.

The visiting Nebraskans were received at the Great Southern tonight by the Chamber of Commerce. The spread was an elegant affair. At 8 o'clock the delegation marched in a body to the auditorium of the Board of Trade, where they were welcomed to Ohio and the city of Columbus by Governor Bushnell and Mayor Samuel L. Black, both of whom endorsed the exposition in their remarks.

THINKS ZOLA WILL BE ACQUITTED.

Terrorizing the Jury All That Will Prevent This Result.

(Copyright, 1898, by Press Publishing Company.) PARIS, Feb. 17.—(New York World Telegram—Special Telegram.)—Yves Guyot, former minister of justice, the chief publicist on the side of Dreyfus, who was seen this evening, says: "There is a good prospect of Zola's acquittal if a majority of the jury be not terrorized by the crowd. According to French law, if six be for and six be against, acquittal follows. So far, there is no good indication of the jury's bent, because, under the French law, if a jury exhibits such prematurely decided is annulled."

"This is the dilemma now evident in the affairs of Dreyfus. Either Dreyfus has been condemned on the bordereau not written by him, or condemned on a secret document, in which case the court-martial's verdict is null."

M. Laborie, Zola's counsel, who was seen after the court adjourned, says: "Two things are now clearly established. One is the good moral character of Dreyfus. The other is the negative fact that Dreyfus did not write the bordereau, and the positive fact that Esterhazy did. A revision is probable, but if the court of cassation quashes the original court-martial finding, that is enough, and Dreyfus must be set at liberty."

STEEN COMPLETES HIS CABINET.

(CHRISTIANIA, Feb. 17.—Ex-Premier Steen, who was entrusted with the task of forming a new ministry, completed the cabinet today and submitted the names to King Oscar. Later it was announced that the cabinet was officially appointed.

RUSSIA FORWARDS MORE TROOPS.

(CONSTANTINOPLE, Feb. 17.—The Russian auxiliary cruiser, Tamboff, passed through the Bosphorus yesterday with 2,000 soldiers and sixteen cannon, bound for Vladivostok.

JURY FINDS BERTCH GUILTY.

(CLINTON, Ia., Feb. 17.—The jury in the case of Theodore Bertch, charged with poisoning Charles Selhausen, today returned a verdict of murder in the second degree. The wife had already been convicted on the same count. Both will be sentenced to morrow.

MOVEMENTS OF OCEAN VESSELS, FEB. 17.

At New York—Sailed—München, for Bremen; Arrived—Fulda, from Naples; Lahm, from Bremen; Mobile, from London. At Bremen—Arrived—Havel, from New York. At Genoa—Arrived—California, from New York. Sailed—Weimar, for New York. At Queenstown—Sailed—Belandand, for Philadelphia; Germanic, for New York. At London—Sailed—Manitoba, for New York. At Rotterdam—Sailed—Rotterdam, for New York. At Amsterdam—Arrived—Edam, from New York.

THE BEE BULLETIN.

Weather Forecast for Nebraska—Threatening; North to East Winds.

1. Supreme Court Releases the Ex-Auditor for Technical Reasons.

HELD NOT GUILTY OF EMBEZZLEMENT

Statute Cannot Be Made to Cover His Particular Case.

HAD NO RIGHT TO COLLECT THE MONEY

Not an Agent of the State so as to Be Criminally Responsible.

JUDGE SULLIVAN'S DISSENTING OPINION

Contents that if Defendant Was Agent Enough to Take the Money He Is Agent Enough to Be Punished.

LINCOLN, Feb. 17.—(Special Telegram.)—The supreme court this afternoon handed down an opinion reversing the judgment and sentence of the lower court in the Eugene Moore case and dismissing the case. The opinion is by Commissioner Irvine, Judges Norval and Harrison and Commissioners Ryan and Ragan concurring. Judge Sullivan files a dissenting opinion. The syllabus of the opinion of the court is as follows:

Article 5, section 24, of the constitution, providing that the officers of the executive department "shall not receive to their own use any fees, costs, interest on public moneys in their hands, or in their control, perquisites of office or other compensation, and all fees that may hereafter be payable by law for services to be performed by an officer, provided for in this article of the constitution, shall be paid in advance into the state treasury, not only prohibits such officers from receiving such fees to their own use, but also prohibits all executive officers except state treasurer from receiving fees at all and requires the payment in advance into the state treasury of any such fees by whom they are payable.

2. Compiled Statutes, chapter XIII, section 32, adopted in 1874, and relating to fees paid by insurance companies for services performed by their agents, and in their control, by the constitution of 1875, as to require such fees to be paid in advance into the treasury and prohibit the auditor from receiving them.

3. When the penal statute is made to apply only to a certain class of persons, the description of the class is so far descriptive of the offense, and that the person charged is within the class is a substantive element of the crime itself.

4. The application of the penal statute relating to the embezzlement of public moneys, applies only to officers or persons charged by law with the collection, receipt, safekeeping, transfer or disbursement of the public moneys, and those who aid or abet such officers or persons.

5. The auditor of public accounts is not a such officer charged with the collection, receipt, safekeeping, transfer or disbursement of any part of the public moneys, and therefore not within the descriptive terms of section 124 of the Criminal Code.

6. In order to punish one as for a crime the offense must be within the plain import of the words of the statute creating or defining the crime. An offense not within the words cannot be adjudged a crime, because within the reason or spirit; and this principle cannot be evaded by holding that one performing acts which are not material to the crime, and which constitute a particular class of persons is estopped from denying that he is within that class.

7. Technically NOT GUILTY.

The opinion of the court opens up as follows: "The information in this case, omitting formal parts, allegations of time and venue and other formalities not material to the question presented for review, was as follows: That Eugene Moore, then and there being an officer, to-wit: Auditor of public accounts of the state of Nebraska, and as such officer being charged with the collection, receipt, safekeeping, transfer and disbursement of the public money, and a certain part thereof belonging to the state of Nebraska, and the property of the state of Nebraska, then and there unlawfully and feloniously did fraudulently convert to his own use and to the use of certain persons, the sum of \$23,208.05 in money, the property of the state of Nebraska, which said money had then and there come into the custody and possession of the said Eugene Moore by virtue of his office as auditor of public accounts, as fees from insurance companies, then and there doing business in the state of Nebraska, for services to be performed by the said Eugene Moore, as said auditor of public accounts, in filing by the said Eugene Moore as said auditor, the annual statements and reports of insurance companies, and in issuing certificates of authority by the said Eugene Moore, as said auditor, to the agents of said insurance companies, etc. The remaining averments are chiefly in the way of particularizing the services for which the money alleged to have been converted was received. To this information the defendant pleaded guilty and there moved an arrest of judgment on the ground that the information charged no crime. The motion was overruled and the defendant sentenced to imprisonment for eight years and to pay a fine of twice the amount alleged to have been embezzled."

8. MORAL GUILT NOT CONSIDERED.

"A suggestion made in the argument and reflected in several places in the state's brief, is that the plea admitted the moral guilt of the defendant, and to quote the last sentence of the brief: 'Having pleaded guilty to all the charges of the information, this court may well hesitate before reversing his plea, and say he is not guilty after he has said he is guilty.' Surely the attorney general cannot mean to contend that because the defendant has, by his plea, admitted the facts charged and therefore a moral delinquency, he should be punished even if the law does not denounce those facts as a criminal offense. The question before us is not one of moral delinquency, but simply whether the facts charged in the information constitute a crime under the laws of this state. Defendant stands in no worse position in this respect than he would on a demurrer to the information, which would, for the purpose of the proceeding, involve the same admission."

The opinion then says that it is conceded that the information was drawn with a view to section 124 of the statutes relating to officers charged with the collection, receipt and safekeeping of public money, and that this section refers only to the particular class of persons so charged with the handling of public money. The court then says: "It goes almost without saying that no person is subject to the penalties of the statute unless he falls within the description of the class of persons to whom the statute is applicable. The description of

EUGENE MOORE FREE

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