

HEARING ON SMYTH'S MOTION

State's Application for a New Trial in a Senatorial Suit.

JUDGE POWELL LISTENS TO TESTIMONY

Attorney General Undertakes to Establish Misconduct on Part of Some of the Bartley Bondsmen Jurors.

The hearing on the motion for a new trial in the case of the State against the second term bondsmen of Joseph S. Bartley, ex-state treasurer, was taken up before Judge Powell and argued yesterday. The entire day was taken up in reading affidavits, taking testimony and listening to the arguments. When court adjourned at 6 o'clock last night Judge Powell announced that he would take the application under advisement and hand down an opinion at the earliest possible date.

The state sued to recover the sum of \$555,400 from the Bartley bondsmen, it being charged that that sum represented the amount of the treasurer's default and the sum for which the bondsmen were liable. The trial of the case was commenced on February 7 and continued during the following three weeks. The verdict returned by the jury was for the defendants. Immediately thereafter Attorney General Smyth filed a motion for a new trial, alleging in affidavits that the jury had been tampered with and that the presiding judge had sought to bear upon the twelve men to induce a verdict in favor of the defendants. To controvert these allegations the defense filed affidavits of the jurors, who alleged that their conduct was above suspicion and that they did not know during the trial that they were in violation of court etiquette. These affidavits were read to Judge Powell and he was satisfied that the affidavits there might be some oral testimony. Judge Powell said that he wanted to sift the charges to the bottom and to do so both sides would require the attendance of any and all witnesses whose names might be suggested by either side.

WHAT HYLAND TOLD SCHMIDT. J. H. Schmidt, a trust agent at Twenty-fourth and Cumings streets, was called as a witness for the state. He said that he knew James Hyland, one of the Bartley jurors. During the early part of February Hyland was in the store of the witness and remarked that he was so well known in the city that he would be likely to be drawn on any jury that would be called up. In the conversation, witness said that Hyland told him that he did not think that the Bartley bondsmen should be held liable, as the giving of a bond was a mere matter of form.

Attorney General Smyth offered to show that after the verdict had been returned witness Schmidt had a conversation with Juror Hyland, in which Hyland said that he had an opinion relative to the merits of the Bartley bondsmen and that he would favor upon that point and therefore was allowed to serve.

Attorney Cowin for the bondsmen objected to the witness Schmidt being called, claiming that a statement of the juror after the return of the verdict could not be material.

The court sustained the objection and the attorney general withdrew the offer.

The attorney general asked if it was not true that since the filing of the motion for a new trial witness had been commiserated with by the defense and requested not to give an affidavit to the state? The question was objected to by the defense and the objection was sustained on the ground of immateriality.

When cross-examined, witness Schmidt said that he mentioned to Attorney General Smyth the conversation with Juror Hyland.

"Did not Mr. Smyth say that Hyland was all right?" "I think that he said something like that," answered the witness.

The conversation with Hyland, the witness said, was in a joking manner.

On direct, the witness said, after talking to the Hyland matter, he remarked to the attorney general, "I guess I'll not say anything more about this matter, as I don't want to be drawn into it."

At the afternoon session of the court Bailiff Knodell, one of the officers of the court who was in charge of the Bartley jury, was called as a witness by the defense. In answer to questions he testified that the jurors were constantly kept together and every precaution was taken to prevent them from conversing with or recognizing any person.

Bailiff Knodell testified that the juror Hyland was in the jury room and that he saw Mr. Knodell enter a general denial of all the allegations in the affidavit of J. Smith relative to jurors receiving visitors and receiving letters, packages and parcels during the trial.

All of the evidence, Mr. Smith said, showed that the state took the \$200,000 and there was no evidence to show that it was not even divided by the defendants.

"The most charitable view I can take of the verdict is that the jurors said to themselves, 'Faxon is a good fellow, but he is old; if we render a verdict against him it will break him and it is better that the state should take the money than to compel him to suffer.' If this method was adopted, then there is no use of demanding official bonds."

Attorney Cowin argued for the bondsmen, reviewed the suit from its beginning up to the date of the trial. He read the original petition and then contended that the state had been misled by the evidence and that in accordance with law, the verdict should be set aside. He contended that the parties to whom the verdict was rendered were made during Bartley's term, the only evidence being balance sheets, which had been contradicted by competent evidence of the state.

The exposition is a sure enough go now—the little donkey has arrived and taken his place on the midway—and that makes us think that perhaps you are coming to see the sights—and have been figuring on having your teeth attended to. Here—let us give you a little advice—there is going to be a big crowd there—we are bound to be rushed had not you better come in now—you can leave home in the morning and return the same day—with a complete set of new teeth—we will guarantee these teeth equal or better to any ever made—no extra charge for that work of this kind—you just let us know when you will be here—so we can be ready. I, J. W. attendant.

BAILEY.

18 Years. 3d Floor Paxton Bldg. Experience. 10th and Farnam.

A hundred times a day you see the baby just as you would like to have him in a picture—A kodak and a push on the button will secure just such a picture—cameras are not the expensive leather covered boxes of a few years ago—we can furnish you a camera at \$5 that will take a 4x5 picture—we'll warrant it to be perfect—then if you develop print and mount your own pictures the cost is only a trifle—we've complete amateur outfits that you can easily learn to operate—we will show you how.

The Aloe & Penfold Co

AMATEUR PHOTOGRAPHIC SUPPLIES 1408 Farnam Street, OMAHA, Opposite Paxton Hotel.

that he was aware of the fact that he and the jurors were to be together during the trial by McGuckin. When the jurors were out walking, they frequently saw McGuckin, who represented that he was a jurymen.

BAILIFF LAWS' VERSION.

Bailiff Laws, called by the attorneys for the bondsmen, said that he was with the jury during the trial. He was while the jury constantly said at no time did he observe any unbecoming conduct on the part of the jurors. So far as they related to the trial, he entered a juror with the jury and the two were at the Drexel hotel during the trial. He denied that he said to a juror, "I'll take care how the case goes." When the jurors were sent to the hotel they were examined before being delivered to the parties to whom they were sent. A. J. Smith and P. C. McGuckin were the only men who talked with the jury and they were both cautioned to keep away.

The affidavit of Juror Hyland was read to the defense. In the document he testified that he never saw McGuckin at the Bartley case outside of the jury room. He never said that in his judgment the Bartley bondsmen should be held liable for the state's loss.

Attorney General Smyth said that he should demand that Juror Hyland be called as a witness.

Attorney Cowin replied that he would resist the calling of the juror, to which Attorney General Smyth replied that it was only fair that the man be put on the stand.

Attorney Cowin answered by saying that if the course indicated by the attorney general was pursued, the hearing would be all right.

"I think that he said something like that," answered the witness.

The conversation with Hyland, the witness said, was in a joking manner.

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Attorney General Smyth in closing for the state said that the bondsmen's attorneys had misrepresented the facts relating to the testimony upon the trial.



Take the Baby.

Sometimes it is the little things one needs most—do you know our store is chock full of the little hardware things—cooking utensils of all kinds, shapes and sizes—a full line of granite ware—the kind that lasts forever—it won't buy any difference what you want to buy—be it a screw driver or a Van Hotel range—you will find our prices are the right kind for the very goods you are wanting—there is lots of satisfaction in knowing you are getting the best for your money—you do that here every time—a big line of builders' hardware.

A. C. RAYMER,

WE DELIVER YOUR PURCHASE. 1514 Farnam St.

In a business hall large as ours short ends of carpets and odd borders are bound to accumulate—we can't afford to cast them aside—we make them up into rugs—of different sizes—while these are in every respect equal to the regular roll carpet from which they are cut, they are priced at a great deal less—so that if we have the size your room needs you can make a big saving and at the same time secure a handsome floor covering—we've a large lot of these now made up from the very latest patterns and coloring in Brussels, Wilton and Axminster carpets.

Omaha Carpet Co

Omaha's Exclusive Carpet House, 1515 Dodge St.

business friend of mine in the hardware business told me an organization with which he was connected had just given up 75,000 feet of space, owing to some hitch in the work of the intended exhibitors, and in less than twenty-four hours every foot of the surrendered space was taken and contracts signed. While there we closed contracts for the erection of the Wisconsin building, and it will be completed within six weeks. The new 'White City' has something of the general appearance of the one at Chicago, though the buildings, of course, much smaller, but in some instances I think they are handsomer and neater."

ASSURES A MILITARY CAMP

Omaha to See a Great Gathering of Regular Soldiers.

The officials of the exposition are greatly elated over the news from Washington regarding the encampment of the regular troops of the Department of the Missouri at the Exposition grounds.

WAR DEPARTMENT'S PLEASING ACTION

Exposition Authorities Greatly Grati-fied by the News that a Contingent of Troops Has Been Ordered.

The officers of the exposition are greatly elated over the news from Washington regarding the encampment of the regular troops of the Department of the Missouri at the Exposition grounds.

FOR FUNERAL OF MRS. THURSTON.

Arrangements for the Obsequies to Be Held This Afternoon.

Senator John M. Thurston, accompanying the remains of his wife, will arrive from the east on the Burlington train this morning at 7:55. The funeral car will be dropped on the train at the Union depot that friends of the family who may desire may pass through the car before the remains are conveyed to the family residence.

The private services will be held at the Thurston residence on Sunday afternoon at 2 o'clock, and public services at All Saints' Protestant Episcopal church on Sunday afternoon at 2:30 o'clock. Rev. Dr. Mackay will officiate.

The special committee appointed by the city council to make arrangements for attending the funeral of Mrs. Senator Thurston, has this afternoon met at the city hall at 10 o'clock Sunday afternoon. They will proceed to All Saints' church in carriages and automobiles.

Mrs. Laura B. Pound, state representative of the Daughters of the American Revolution, has sent the following on the subject of the funeral of Mrs. Thurston: "Whereas, we have learned with deep sorrow of the untimely death of Mrs. John M. Thurston, late vice president of the Daughters of the American Revolution, who was taken from us while engaged in an arduous and noble mission in behalf of those struggling for freedom from an oppressive tyranny, and in a cause worthy of the highest admiration and respect, and in sympathy and condolence to those whose hearts were broken by her death, and in recognition of her noble character and especially to the bereaved family; and, therefore, be it resolved, that a copy of these resolutions be sent to the family and to the press for publication."

JOHN BARHOUSE SHOTS HIMSELF.

Serious Accident Results in an Omaha Hunter on the Platte.

John Barhouse was seriously injured by the accidental discharge of a shotgun yesterday afternoon. He had gone on a hunting expedition to the mouth of the Platte river in company with two young men named Hunt, who live in South Omaha. They were in a boat cruising along the shore when it became desirable to change seats, and in so doing Barhouse's weapon was discharged, striking him in the arm, severing an artery. Every effort was made by Barhouse's companions to assist him to Platte-mouth, several miles from the scene, but man soon became weak from loss of blood, and was in a fainting condition before he could be given surgical care. His wound, however, is thought to be dangerous. Barhouse is a carpenter and lives at 401 North Fifteenth street.

Spreads the Gospel in Wisconsin.

Chairman John C. Koch of the Wisconsin Exposition commission has been telling the people of Milwaukee about the exposition since his return from his recent visit to Omaha. In an interview published in one of the Milwaukee papers the former mayor said that the work of preparation is progressing very rapidly and satisfactorily, and he has no doubt that every inch of the fair ground will be ready by the date for the formal opening.

County Treasurer Goes to Prison.

Treasurer William H. Holdeman was committed to the jail at Kearney county today on a charge of embezzling public funds and he was sentenced to the penitentiary under the indeterminate sentence law.



Drexel Shoe Co.,

1419 FARNAM STREET

New Catalogues now ready; mailed for the asking.

PIANO SPECIALTIES.

We are showing in our show windows this week one of those rare excursion figured walnut pianos—the graining in this particular case is most wonderful—clearly illustrating nature's most beautiful specimen—it is well worth your time to see this instrument and others in our warehouses which are specially selected for our best trade—we now show the most artistic styles ever offered to the public—in such standard makes as Knabe, Kimball, Knicker & Bach, Hallet & Davis, etc.—quality, reliability and low prices our method.

A. HOSPE,

MUSIC AND ART 1513 Douglas

Drexel L. Shooman has returned from Cuba—this is the way the Spaniards wanted him to start—but he didn't—but he is satisfied on two points—one, we are going to have war—the other that nowhere between here and Cuba, via Chicago and New York, is there shown a pair of ladies' shoes that can equal our new tan button-tops—style, fit and reasonable—some of these have the fancy—not loud—vamping tops—others kid tops—in turns and wells—the new kind or wide round toes, so popular this spring—the new tan shade—\$3 and \$4 is the price—and the money's worth is in every pair.

HURRY EXPOSITION STAMPS

Officials in Charge Urged to Get the Issue Out Quickly.

LITTLE STICKERS ARE QUITE ARTISTIC

Possibility of Regular Stamps Being Displaced by the Exposition Issue During the Big Show.

WASHINGTON, March 19.

Mr. Rosewater had a long talk to-day with Claude Johnson, in charge of the bureau of printing and engraving, in relation to the issue of stamps, and expressed himself as greatly pleased with their appropriateness and their artistic character. Mr. Rosewater regretted that there could not have been some distinctive designation on the stamps, but he was shown that neither the Columbian stamps nor those issued for the Centennial were thus marked. Later he saw Third Assistant Postmaster General Merritt and urged the importance of having the present series of stamps withdrawn from sale in order that the Omaha series of stamps may be made valuable to stamp collectors, using the element of scarcity. Merritt agreed to take up the subject, and also pledged the department to hasten their preparation.

Interior department officials are becoming greatly interested in the forthcoming congress at the Omaha exposition, some of the ablest ethnologists in the country having given a strong endorsement to the idea of securing the Indian exhibits. Secretary of the Interior, Mr. Merritt, has probably been assigned to detail work in arranging the convention, his knowledge of the tribes and customs being most exhaustive.

Notes of the Exposition.

R. P. Brinkhurst of St. Louis, the sculptor who is "doing" the sculpture on the Art building, has been awarded the contract for the construction of the building under the statutory on the part of the state.

THEY RIDICULE IT.

MANY PEOPLE RIDICULE THE IDEA OF A REMEDY FOR DYSPEPSIA AND STOMACH TROUBLES.

Ridicule, however, is not argument and fact is not stubborn. Stomach troubles are so common and in many cases so obstinate that people are apt to look with suspicion on any claimant to be a radical, permanent cure for dyspepsia and indigestion. Many such pride themselves on never being humbugged especially on medicines.

This fear of being humbugged may be carried too far; so far, in fact, that many persons suffer for years with weak digestion, rather than risk a little trouble in faithfully testing the claims of preparation so reliable and universally used as Stuart's Dyspepsia Tablets.

Stuart's Dyspepsia Tablets are vastly different in one important respect from ordinary proprietary medicines for the reason that they are not a secret patent medicine, no secret is made of the building up, but as it creates gas, acidity, headache, indigestion, and many other troubles which are often called by some other name.

They are sold by druggists everywhere at 50 cents per package. Address Stuart, Dr. Marshall, Mich., for book on stomach disease or ask your druggist for it.

Grateful Patients

G. P.'s the doctors call them, are found in every city, town and hamlet loud in their praise of "77" for Grip and Colds. I have been using "77" for Coughs, Colds and Grip with great success in my family; I find it works finely with both young and old. Please send me Manual described in your circular, that I may try the ailments of my children.—Mrs. E. P. Rappley, Franklin Place, Flushing, N. Y. This Medical Book, telling about all of Dr. Humphreys' Specifics, will be found at your druggist or mailed free.

"77" is for sale by druggists or sent on receipt of notice, 50¢ or \$1.00. Humphreys' Medicine Company, New York.