THE OMAHA DAILY BEE: WEDNESDAY, AUGUST 12, 1903.

FILES BRIEF IN RYAN CASE torney general, who holds that the clerk court in the sum of \$300, and is in the

Deputy Attorney General Argues in Favor of Amendment's Validity.

CONTRACT FOR COURT REPORTS IS LET

Error in Printed Copy of Wife Deserfion Law is Discovered Which Materially Changes Its Import.

(From a Staff Correspondent.) LINCOLN, Aug. 11.-(Special.)-Deputy Attorney General Brown today filed a brief in the Ryan injunction case, which calls,

tutional amendment of 1885 increasing the pay of legislators and the length of the egislative session. The principal contention of Mr. Ryan, in the court below, was that the act providing for a recount of inws and the statutes has misled a number the ballots, after the legislature had once of lawyers. It occurs in the law making declared the amendment lost, was special wife desertion a orime. According to both legislation of such character that it comes these books, which have both just come under the ban of the constitution aimed at from the press, there is no limit to the such laws. Mr. Brown contends that it penalty which a judge might impose for was not legislation of such character, but wife descrition. The statute reads, where on the contrary that it was an act where the penalty is touched upon, "for more than a general law could not be passed, since it applied to a single occasion. The provision of the constitution forbidding special legislation, he claims, is almed at cases where the need for the law is a continuing one. Then, too, he asserts that and the session laws, which have just been the lawmakers are restrained by the constitution and that it is not a grant of Clerk Roberts of the office of the secretary powers to which they are limited in their activities.

Since there is no inhibition in the constitution against legislation of the charac- custom, went after the excelled and encomplained of, he contends that the grossed bill. He discovered that the bill, haw enacted was valid, as an exercise of known as H. R. 328, was amended so as the plenary power lodged in the legisla- to read in the penalty clause, " not more The act was not extraordinary in than one year." The defect in the printed LUPO. its scope either, he says, because the legis- laws is due to some oversight on the part lature was acting as a board of review of the persons who prepared the copy, it where there was a question analogous to is believed. The original bills control the that involved in a contest between two printed statutes, so that the error of the candidates for an office.

Mr. Brown's principal point is that under to sentence a wife deserter for a term of the rule of contemporaneous construction years, as some thought it would. the adoption of the amendment by all the official organs of the commonwealth makes the amendment a part of the organic law He cites cases to show that the action of a state department under the amendment and then the long acquiescence therein of other departments of the state government sucd from the governor's office this mornand the judiciary ought to be conclusive as to the validity of the amendment.

Nebraska. Smith is charged with having The objection stated, in other words, is stolen three hogs worth 550 from a neighthat the long use of a constitution by the people must constitute an irrevocable adoption thereof, and the sixteen years, during which the people have regarded the amendtrace of him was lost until Sheriff Lusk of ment in question as a constituent part of the organic law, are ample to make the adoption as a part of the state constituthat Smith was there under arrest tion valid, even though there may have It is as a fugitive from justice that Smith been some irregularity in its adoption. As ustaining this contention, the case of Brittle against People, second Nebraska roport, 198, is cited. In that case the court held that the question of a constitution held that the question of the regularity of the adoption of a constitution after it goes a fugitive from justice. It was stated at into effect is a political question rather than a judicial question for the courts. In that case the part of the constitution ob-Sected to had been in force less than seven avail Smith to plead it when he shall be confronted with the charge of theft. years and, although there was evidence of trregularities, the court held that it was too late to attack it.

Print Unofficial Reports.

A contract for the printing of the five volumes of the unofficial suprems court reports was let this afternoon by Lee Herdman to the State Journal company. The released from custody on account of the State Printing board recently refused to charge brought against the pair for the have these volumes printed, notwithstand- maintenance of unlawful relations. It is

had the right to go ahead independent of county jail. the printing board. The statute says that the reporter's duty is to prepare the opinsons of the court for publication as fastas they are delivered to nim, and when Her husband is an elderly man, concerning sufficient material has accomutated to form whose moral habits she speaks in most a volume of not less than 900 pages he shall disparaging terms. He came to Lincoln to couse the same to be printed.

Mr. Herdman made requisition on the with him, but she defiantly declined, declarboard last January, but his request was ing that she would much prefer to remain turned down. While the new volumes will in prison for life, He wanted to accompany Judge J. S. Stull Secures the Delenot be precedents, except as to the concluher when she was released from jall, but sions reached in each case, they have been she shook him cold. Meantime her daughasked for by many members of the legal ter, Mrs. Barnes, is anxious to forgive her fraternity throughout the state and the errant husband and stop the prosecution, action of the supreme court in ordering now that her mother mems in a fair way to them printed was taken in response to that furnish the evidence necessary to convict demand. The members of the senate com- him. mittee on judiciary urged that they be Escapes from Penitentiary.

printed also. They took the ground that Fred J. Wardlow, a convict serving ten if the court was not going so have them into question the validity of the consti- printed they would make a special appropriation for the purpose and pass a special bill authorizing their publication.

Mistake in Statutes. A typographical error in both the session

armed. Cuts Throat with Rasor.

GRETNA, Neb., Aug. 11.-(Special Telegram.)-Domestic trouble was the cause of Mrs. Fred Dierks of this place attemptone year." The discoverer of the section ing to take her own life this morning. She reached the conclusion that the lawmakers cut her throat from ear to ear with a rahad neglected to amend the statute limit ing the penalty to one year or less in jall. her trouble was the cause of her attempt It turns out, however, that the statute issued by the publishers, are in error the domestic trouble was renewed this morning. She then took her husband's of state saw the published account of the long term which might await future wife windpipe and several arteries. Dr. McCardeserters and straightway, according to his of recovery are slight. Mrs. Dierks is a very much respected woman

paramour's wife, is but 2 years old, hav-

ing married, so the claims, very young

induce her to return and make her home

Woman Suce Wymore Saloons.

BEATRICE, Neb., Aug. 11 .-- (Special.)--Mrs. Ida Youngren of Wymore has begun suit in district court here for \$5.000 damages against Buhm Bros., saloonists of Wymore, by reason of the sale of liquors to printer will not make it possible for a judge her husband, Fred Youngren. Plaintiff in her petition alleges nonsupport of herself and children because of the sale of liquors | this fall. Smith Family in Pork Business. by the defendants to her husband who has

After a lapse of more than five years become an habitual drunkard. The case will Grant Smith is to be brought back from be tried at the fall term of district court. North Dakota to Burt county to answer charge of hog stealing. Regulsition was in-

Talented Young Woman Returns. ST. PAUL, Neb., Aug. 11 .- (Special.)ing calling upon the governor of North Miss Caroline D. Plasecki, eldest daugh-Dakota to allow him to be brought into ter of Colonel X. Pinsecki of this city, returned Saturday from Chicago, where she has studied of late years at the Rush boring farmer. The crime is located in Medical college. Miss Plasecki has the April, 1898, and it appears that he fied the distinguished honor of being the first Necountry immediately thereafter, so that all brasks young woman graduated with high honors from the Rush Medical college, and Burt county received recently a telegram she is receiving the congratulations of her from Stutsman county, N. D., advising him numerous friends

Fremont Property Sells Well.

will be brought to Nebraska, as the statute FREMONT, Neb., Aug. 11.-(Special.)of limitation is said to have run against The Eillick block, a two-story brick doublehis crime of theft. The fact that a war rant was issued for his arrest in the June sold by the Ellick estate to M. Havens for following his disappearance brands him as The property has always been stores. the executive office today that a fugitive productive and the price paid for it is from justice cannot claim the protection of larger than inside real estate has sold for the statute of limitations, although it may since the boom days.

Loses Life in a Stone Quarry.

William Barnes' Mother-In-Law. WEEPING WATER, Neb., Aug. 11-(Special)-Eugene, the 12-year-old son of J. Mrs. Christina Gray, the Seward woman D. Hillman, was working in a quarry near who eloped some time ago with her daughter's husband, and who was arrested with town when the embankment caved in, covering him with rock and dirt. When the her alleged paramour, has gained the favor of the county attorney and has been body was recovered life was extinct.

Beone County Institute Opens. ALBION, Neb., Aug. 11.-(Special.)-The and two chairmen. Judge Stull informed titute opened

MADISON BEHIND BARNES Mrs. Gray, although the mother of he

> Friends Are Confident He Will Be Nomnated for Supreme Judge.

ing been removed from the grating and the grates sprung sufficiently to allow them WARM FIGHT IN NEMAHA CONVENTION to crawl through. The matter will be thoroughly investigated.

gation for District Judge and Reorganizes the County Committee.

sticking out in all directions. Conserva-MORFOLK, Neb., Aug. 11-(Special)tive farmers are predicting that fields of Madison county politics are warming up. early corn in York county promise to yield With an enthusiastic delegation behind him better than the largest crops raised. The Judge J. B. Barnes of this city will go to condition of inte corn is the very rears for manslaughter, escaped from the Lincoin next week to get the republican is making rapid progress. Nearly all of Nebraska penitentiary this afternoon. A nomination for supreme judge, and his the late corn is tasselling and a part is wagonload of convict-made brooms was friends feel that there is no question as to about ready to tassel out. With hot driven through the prison gates and it is the outcome. In the county affairs repubweather from now on it will be out of the suspected Wardlow hid himself under the licans will call a convention for Septemway when frost comes, if not too early a wagonbed, riding on the running gear, ber 29 and democrats have already set Trust. Posses are scouring the country near the their date for August 20. Republicans will prison tonight. It is feared Wardlow is without doubt renominate Judge J. F. Engine Strikes Section Man.

Boyd for the district bench, which position FREMONT, Neb., Aug. 11-(Special)is his at present. Democrats will prob-Hans Anderson, a section man on the ably name Judge Douglas Cones of Pierce, Northwestern, was struck by the Hastings although one of the party said this mornpassenger yesterday afternoon and susing that ez-Senator W. V. Allen would take it if the place were offered.

ORD, Neb., Aug. 11.-(Special.)-Every township in Valley county was represented in the court house at this place yesterday. from a visit to South Dakota Sunday, and over hy A. Ward, a ploneer settler of the rasor and cut her throat, severing the for the last fifteen years. The convention dry. was harmonious and the following county thy sewed up the wound, but her chances ticket was selected: Clerk, Alvin Blessing;

treasurer, W. McNutt; Judge, H. A. Babcock; sheriff, John Kokes; coroner, Dr. C.

A Brink; amessor, George Strathdee; su- bring an all-day electric light circuit into perintendent, Miss Alta Jones; supervisor. Norfolk was made to the city council last Dr. H. C. Perry, Delegates to the state night, E. A. Bullock of the Norfolk Elecand judicial convention were also selected. tric Light and Power company proposes Five of the nominees of the convention to do the pumping for Norfolk's water are at present holding the offices for which works plant at the average cost at which they were renominated. The ticket is genit has been done during the past three erally conceded to be a strong one and years, and offers to give twelve arc lights hopes are entertained of electing it entire free to the city if the contract is accepted.

YORK, Neb., Aug. 11.-(Special.)-The Foreman Gets Bad Fall. withdrawal from the race for the repub-NORFOLK, Neb., Aug. II.-(Special)lican nomination for superintendent of the Foreman Alke of the government building county schools by Merle Brown makes the dropped from the highest scaffold on the nomination of Charles Stewart & certainty. structure to the first floor below, yester-Mr. Brown published a card in last night's day morning and is badly lamed as a re-York Times thanking his many friends sult. He stepped backward to examine a and withdrawing from the contest. Charles piece of work when his balance was lost Stewart was appointed last month by the and his form shot downward, feet foremost, county board to fill a vacancy. Mr. Stewthrough other scaffoldings and heaps of art was superintendent of the public schools brick and stone. His clothes were torn at Humboldt, this state, and resigned his from his body in the fall. position to fill the vacancy. Lineman Robs Boys.

Warm Fight in Nemaha. AUBURN, Neb., Aug. 11-(Special.)-The republicans of this county held their county little Zieg boys took it into their heads to

convention here yesterday to elect deletake a \$20 bill and a check from its hiding gates to the state and judicial convenplace in the house and claim to have shown tions. Judge John S. Stull was permitted the same to passersby. A telephone lineby the convention to select the delegates man working nearby, they claim, came to front building on Sixth street, has been to the judicial convention, to be held in them and took the money away from them. The check was torn up and no trace as ye Beatrice August 17. The vote on this prop-\$15,000. Mr. Havens occupies one of the ostiion stood 58 for and 45 against. The has been found of the man. The boys beconvention was enthusiastic, while not al- lieve they would know the man if caught. together harmonious. M. S. McIninch, the

Beatrice Teachers Elected.

YORK, Neb., Aug. 11-(Special.)-Two

on the Fourth of July. The other escape.

Mike Mostek, who was bound over on a

charge of attempted criminal assault, has

not yet been approhended, but there is little

chance for him to get far away. An ex-

amination showed that they had received

assistance from the outside, the burrs hav-

Tork Corn Looks Well.

YORK, Neb., Aug. 11.-(Special.)-The

orn crop of York county is one of the

largest acreage in many years and early

corn is tasselled and large cars of corn

NORFOLK, Neb., Aug. 11.-(Special.)-A

roposition which if it is accepted will

chairman of the county central committee, led the fight against Judge Stull. The call BEATRICE, Neb., Aug. 11 -- (Special.)did not include the election of a new cen-The Board of Education met last night and tral committee, as that was intended to be elected four new teachers as follows: deferred until the nominating convention Mathematics, W. L. Hall; English and to be held later, but at the conclusion of science, Miss Maria Upson; second and his remarks to the convention Judge Stull third grades. West school, Miss Lens moved that R. F. Neal be elected chair- Henry; manual training, Arthur Jobson. man of the county central committee and The contract for furnishing fuel for the the motion prevailed. The convention then ensuing year was let to M. T. Cummings. elected a new central committee. The re-

Beatrice Cauning Factory to Open. BEATRICE, Neb., Aug. 11 .- (Special.)the convention that he would make public The new plant of the Lang Canning and

HOSPE'S FIRE **QUICKLY ADJUSTED** ENTIRE STOCK ON SALE WEDNESDAY MORNING, AUG. 12

Hospe's fire which occurred Saturday evening at 7 o'clock on the third floor was checked at the corner of the building where it started. To put it out required a great quantity of water, which could not be confined to that noor; and therefore it damaged goods on all the floors, even to the basement. The smoke was intense; but by the prompt work of the employees the greatest portion of the stock was saved.

The goods were dried before the water left any impression. All the stock, however, had to be moved very rapidly; some got bumped; others got scratched; some slightly smoke damaged. Not enough to hurt them, but enough to get the insurance allowance, enabling the firm to sell them at such prices as will move this entire stock in less than thirty days. Over \$100,000 worth of pianos, organs, piano-players, musical instruments, art goods, pictures, frames, mirrors, pyrography stock, sheet music, talking machines, records, music boxes and disks.

Here is the greatest opportunity to secure the worldfamous pianos: Knabe's, Kimball's, Kranich & Bach's, Lindemann's, Sterling's, Hallet & Davis', Needham's, Krell's, Whitney's, Weser Bros.', Baus and Schumann. Over one-hundred pianos at prices that will sell them quick, and you will have to hustle to get in at first choice.

There are pianos in Spanish Mahogany, some in Rosewood and others in Butternut. Many in walnut; a number French walnut finish.

Remember that it is the entire stock that is included in this rire Sale.

This means Grand Pianos, Upright Pianos and the Square Pianos. It also means pianos for \$30, \$40, \$.0, \$60, \$70, \$105, \$110, \$120, \$130, \$150, \$180, \$200, \$220, \$240, \$250, \$270, \$280, \$310, \$320 and \$330, and a few of the Grands that cost but a very little more.

These prices are based on the insurance adjustment, with the freight added. With every piano we include a stool and scar. The terms of these instruments are made to suit the buyer. Our object is to move the stock. We will take as little as \$5.00 down, and as low as \$3.00 per month. On some of the high-priced planos we will ask a little more down and a little more per month. But sell we will and must, and with the terms we will not be particular.

Our organ stock, on which we received a very liberal allowance from the insurance company, we will cut prices in half. You will find the celebrated Kimball Organ, Hospe Organ, Holmes, Sterling, Star, Taylor & Farley, and Hornish & Simmons organ, which will be sold for \$10, \$15, \$20, \$25, \$30, \$35, \$40, \$45 and \$55, adding only factory freights, making the prices of the organs just

inined serious injuries. He was standing just outside the rails and watching a runaway horse instead of looking out for the train. The step of the engine cab struck sor. She was about 65 years of age, and at the republican county convention held him on the head, fracturing his skull so severely that a place of his hat penetrated at self-destruction. She returned home afternoon. The convention was presided his brain. He was taken to the hospital and the broken bones removed. Unless county, who has presided at every repub- blood poisoning sets in he will recover. The lican county convention held in the county accident occurred on a curve near the foun-Light Company Makes Offer.

stood that she has conferred to lawyers, on th te of the ground that the reports were not official authorities enough to convict her son-in-law here today with a large attendance. Pro and that there would be no warrant for of a serious crime when she tells her tale fessors Waterhouse of Omaha and Searprinting them. The action of Mr. Herd- in court. Meantime the son-in-law, William son of Wahoo are the instructors. The inman was taken upon the advice of the at- Barnes, has been bound over to the district stitute will remain in session this week.

The Professor Said "Don't Drink

Coffee"

(A certain Professor in a Chicago University in a late talk to students)

"We talk of drunkenness as a crime" he continued, "but tes and coffee drinking at meals is more injurious than liquor to some men."

Tes and coffee drinking, Prof. ---told his class, is responsible for much of the restlessness of the American nation.

Think they will quit?

Yes. Many of them know that with good health they can "do things" in this world, so when they find stomach trouble, weak eyes, bad blood and muddy skin, or any of the many incipient signs of disease set up by Coffee, they quit.

Then they take on

Postum Coffee

Because it furnishes the Coffee flavor, charming color and all the pleasure of Coffee drinking and does not destroy stomach and nerves but makes for the sure rebuilding of the entire body on healthful, sturdy lines.

There's a reason 8

the names of his delegates in a few days. Preserving company, one of the finest can-PLATTSMOUTH, Neb., Aug. 11 .- (Spe- ning establishments in the west, will open cial.)-Since the republicans have held their for business next Monday with a full force primaries and selected delegates to attend of hands. The sweet corn and "Bubarh the Cass county convention to be held in pack will be started on first, being followed Weeping Water Saturday, August 16, the by tomatoes, apples and pumpkins.

political pot has commenced to boil. The only fight in the primaries was for the Father Bradley Goes to Plattsmouth. nomination of county judge and Attorney PLATTSMOUTH, Neb., Aug. II.-(Spe-T. F. Wiles of this city seems to have cial)-Father Bradley of Tecumseh, chaneverything coming his way from this city cellor of the Lincoln diocase, has been seand this portion of the county, while Clar- lected as the next priest for St. John's ence Teft of Avoca has been "making hay" Catholic church in this city, to succeed the in the western portion of the county, pro- late Father Carney. Bishop Bonacum of viding all reports are true. The present in- Lincoln visited the two Catholic churches cumbent, J. E. Douglas, has made many in this city Sunday. friends during the two terms he has faith-

fully filled the office and will accept the New Elevator Near Beatrice,

Corn Needs Hot Weather.

HYMENEAL.

Richter-Renner.

PLATTSMOUTH, Neb., Aug. 11.-(Spe

cial.)-August A. Richter and Miss Anna

Will Do All This for You.

Dr. King's New Life Pills puts vim, vigo

sale by Kuhn & Co.

nomination for a third term if tendered to BEATRICE, Neb., Aug. II.-(Special)him on a "silver platter." Ground has been broken for an elevator ALBION, Neb., Aug. 11.-(Special.)-The of 20,000 bushels capacity on the Kilpatrick republican county convention will be held ranch, twelve miles west of this city. The next Saturday and new candidates are new structure will be modern in every developing every day. It is a foregone con- particular. clusion that the present incumbents in

the offices of county judge, sheriff and treasurer will be renominated and pos-WAHOO, Neb., Aug. 11.-(Special.)-A sibly the superintendent of schools. Three drimaling cold rain has been calling here all candidates are already in the field for county clerk and two for clerk of the disthe morning. Corn is in excellent condition. although this cold spell may set it back trict court and a like number for county some. assessor. The clerk of the court is the

only office now held by a fusionist. ALLEN, Neb., Aug. 11-(Special.)-The republican caucus for Springbank township was held here Saturday evening and was the largest in attendance ever held

in the history of the party in this township, over 60 per cent of the republican Renner were married Sunday sternoon at vote being present, and this township is the home of the bride's parents, Rev. A the banner republican precinct of Dixon F. Floets officiating.

county. W. J. Armour, candidate for the nomination of treasurer, was allowed to name the delegates to the county convenand now life into every nerve, muscle and tion. organ of the body. Try them. Sc. For

Death to Be Investigated.

BEATRICE, Neb., Aug. 11-(Special.)-The coroner's inquest to determine the cause of the death of Miss Kate Strohm, who died at Marysville, Kans., a short time ago rather suddenly, and whose remains ware interred at Holmesville, this county, is now in progress at Marysville. Owing to the prominence of the parties connected with the affair an effort was made to prevent an inquest being held, bu after a thorough investigation the authorities finally concluded to push the case, which will no doubt involve one of Marysville's prominent business men.

Coroner Walden returned from Maryaville yesterday and he stated that the trial of the case will consume the entire week. About twenty-five witnesses have been subpoensed and there promises to be some sensational developments in the case.

Killed by Lightning.

BEATRICE, Neb., Aug. 11-(Special Telegram.)-C. W. Clayton, a young farmer of Sicily township, was struck by lightning and instantly killed this morning at 10 o'clock. He had been working in the field, and was engaged in unhitching a team of mules when struck dead. One of the mules was killed, but the other escaped unharmed. The young man's parents are on their way to San Francisco to atend the Grand Army of the Republic national encampment, and word has been sent to them. Mr. Clayton was II years of age, and leaves a wife and baby 10 days

Walk Out of Columbus Jail, COLUMBUS, Neb., Aug. 11.-(Special.)-The two inmates of the county jall quietly walked out into free air during the temporary absence of Jaller Rossiter. Their absence was soon discovered, and the search at once taken up. About 9 o'clook last night Sheriff Byrnes recaptured George Rubendahl, who was awaiting trial for amount with intent to kill, committed

one-half of the factory price. We give you the goods for the difference, which the insurance company allowed us, and we will sell them on terms anywhere from \$1.00 cash down and upward, with \$1.00 to \$4.00 per month payments-stools and books are included. The piano-players are also included. And as every-

thing we had in the three stories and basement of the building carries with it reductions which will surprise the good people of Omaha. It includes the Angelus Player, Apollo, Apollette and Kimball Players, and Pianolas at the greatest reduction ever known. Same with Player Music Rolls.

Remember, every instrument is as clean and dry as when new. Every piano carries the factory as well as our guarantee (excepting a very few, which are sold at give-away prices, on account of direct damage). YOU TAKE NO CHANCES. Our word, our writing, our reputation is at stake. Examine this most extraordinary sale of the best pianos and organs and most convenient terms ever offered, before it is too late.

ART DEPARTMENT

Framed Paintings, Water Colors, Etchings, Engravings, Facsimilies, Water-Color Carbons, Photographs. Platinotypes,

at one-fourth to one-half off the price. Frames for pictures at one-half to two-thirds off our best prices. Great display of pictures at 5c, 10c, 25c, and up.

WATER-COLOR BOXES ONE-FOURTH OFF

Brushes, Oil Tube Paints, Artists' Materials-at special prices to clean up all stock which was on hand during the fire.

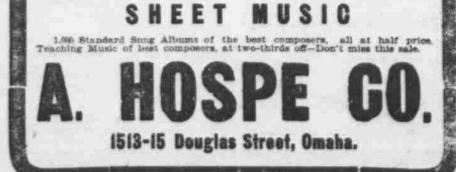
MUSICAL INSTR Some slightly damaged by smoke, others by water-nan-



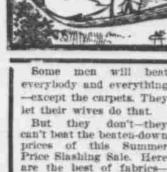


Slightly wet by water, all theroughly clean and bright, at half and two-rds prices, from 50c up. Harmonicas, 5c. 10c. 45c and 25c; former prices double. 25 per cent off on opera scores. Lots of up-to-date music, only 16c. Propular scores, 15c.

A special discount on all tritomings, such as Music Stands. Drum Sticks. Drum Belts, etc. Coth Music Bags for instruments and Wooden Violin Cases at half price.







Omaha's best dressed men. And while prices are pruned-quality is un-touched. Until Saturday, Aug. 15. you can give us \$20 and we'll give you a \$25 or \$28 sulting-o give us \$5 to get back from us \$6 or \$7 trousers.

here are the best of tail-

ors-from out of here come

MacCarthy Talloring Company, 304-306 South 16th Street Next Door to Wabash Ticket Office. - Phone ISes.