(Copyright, 1904, by Cy Warman.) ing his host said at dinner-some tainking on the not very remote yesterdays of his life.

He might have halled a hansom; indeed, he could well afford a carriage and a pair of his own, but this night be preferred to

walk home. In a parrow lane just off the Strand he found himself at the street door of a dingy brick building. Coming out of his reverie he laughed a noiseless little laugh, and stood for a moment looking up at a window which, for years, had been his one opening to the world. How many cigars had he smoked, how many air castles had he builded with one elbow on the ledge of that lonely lookout?

While, as a matter of fact, he had not foreseen this fame which was come to him, he had, in some vegue way, felt it, and had experienced no great surprise at its

It was pleasant, after years of absence dow where he had dreamed some of the resiest dreams of his life.

A year ago he lived there. Yesterday he lunched with the lord chief

Today he dined with Gladstone. Tomorrow he would sail for America. He was stealing quietly away, for he hated noise and notoriety. He was going to visit and to rest.

"Goodbye, dear old stepstone, good bye," he quoted and turned away. As he walked slowly to his luxurious apartments Atwood becan to ask himself. why he had come back to the old place at midnight and alone. Wes it Mr. Glad-

stone's reference to the old days? or Mr. Gladstone's old port? or was he losing himself in his work? Anyway he was glad that his stout limbs had carried him back that he might take leave of his old bachelor home before his

departure for America As he walked away with elevated chin his foot struck a stone. He naused and looked down. He had stumbled over the slab that covers Goldsmith's grave.

"What a narrow swath I shall be cutting a hundred years hence," said Atwood, hurrying on.

"Sycamore," always attractive, was never more so than now. Touhey, the old gardener, was arranging the rustic seats under the great trees where the robins were rioting, when a carriage swung in at the lower driveway, arched over by drooping bows of ancient forest trees.

Atwood was charmed with the place. He had come to Canada expecting to find only new crude things and was agreeably sur-

He saw, too, that the welcome accorded him was genuine. The hostess, Mrs. Deering, was sister to his mother, sweet soul, who had gone from him when he was but a boy. He admired her sons, sturdy young fellows, just merging into manhood and taking their places in the work of the world. He was charmed by his beautiful cousin Helen, and greatly amused and entertained by his maiden aunt, Phoebe, who seemed ever to be in the act of side-stepping some sudden calamity, or shying at an

Atwood was not only clever, but handsome as well, and from the day of his arrival the all right now." stald old country seat took on holiday airs. pour in from leading publishers, followed by letters inviting the visiting author to contribute to the magazines; while special writers and artists from the big dailies began to break a trail from the big towns to the northern shrine.

At the end of a week all roads seemed

to lead to "Sycamore." To be sure Atwood knew his coming would make some noise, but he had not expected it would be as loud as this. The graphed the author in the swimming pool while he was taking a morning plunge.

good to accept an assignment to do a beyond the tulip tree. short story in the vein, originated, developed and made famous by him, for the foremost magazine in America. The price fixed by the publisher was fabulous, and in in a forth ... ht there was to be an honorarturn, which, if it had come to him in the form of a retainer when he was a struggling barrister, would have taken his breath. His aunt, by this time, quite ready for a

few days' rest, he took into his confidence. He was to have his meals in his apartments and he left alone. It worked beautifully, for Mrs. Deering, being a woman, was an without saying so in so many words. It was as easy as being "out" when she was in, or "in" when she had just been "out."

In a few days everyone in the little city knew that Mr. Atwood was indisposed. Nothing serious, however-probably out in week, or two at most. Jeanstte, the parfor maid, always were a look of distress when a caller asked after the author, but he would be out soon. Sarah, the housemaid, tiptoed past his door. Mary, the for the best detective that could be had. cook, would have killed him with "delicaif he had eaten all she sent up. Touhey, the gardener, was grieved because of Atwood's fliness, but glad of the opportunity to drive the kodakers away.

One night Mrs. Deering was awakened by the low muttering of distant thunder. She fell askeep again, only to be wakened by the same ominous noise. She was one of those women who can face any amount of real danger, but who tremble in the awful presence of the incomprehensible. got up and stood at the window. Away in the western sky the storm king was shaking his golden chains on a background of dead black. Without the night was noiseless. Not a leaf was moving. Mrs. Deceing threw a shawl about her ulders and sat down to watch the storm. The leaves began to nod and sway in the rising breeze. Suddenly the great trees seemed to shudder. A chain of lightning leaped from the black sky and darted, smoke-like, among the trees, leaving the darkness deeper than before. Immediately ollowing this ferret-like flash a snowwhite figure emerged from the shadows of the great birch, passed up over the shoulder of the hill and disappeared down the steep bluff in the direction of the river. A new, strange terror sat upon the soul

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of the lone watcher at the window. Shuddering, she rose and stepped into the hall passing reference to the meteoric rise of The transom was dark over Atwood's Mr. J. Spencer Atwood from law to litera- door. He had retired, though he had been ture-had set that prosperous young author in the habit of writing long after midnight. Off in another wing of the big house the boys were sleeping. She stole softly into her sister's room, which faced the west, and to her surprise found Aunt Phoebe sitting at her window. She, too, was nervous and unusually distressed. The women camped together that night. In their conversation, the little that passed, each blamed the storm for her nervous-

> Aunt Phoebe was up early the following day and began to investigate what she called the scandalous conduct of some of first, but the flery little French-Canadian their posts and hurrled to his aid. The deparlor maid soon convinced, the self-oppointed superintending housekeeper that she had not been out in her robe ds nuit. Sarah indignantly denied having left her trees. The detective, elihouetted against handed in her "notice."

from the little lane, to stand there in the nerve herself to move on Mary, the cook. stopped short. At that moment the white midnight aflence and look up at the win- in two minutes it was all over and Mary object, emerging from the shrubs, crossed Sarah, as Mary, red and perspiring, the rear of the building. The detective sigstamped up the back stair.

place," said Mary.

Mrs. Deering, who, after much diplomacy, succeeded in establishing a truce between her sister and the servants. "It's all very well for them to deny it."

said Aunt Phoebe, when her sister chided her, "but I saw a hussy come up the river path and pass around to the rear of the cornice, lowered himself by one hand and house just as you entered my room last Mrs. Deering stared at her sister.

It was Sarah's night out that night, and with the consent of Mrs. Deering Jeanette him into the drawing room. went with her.

It was midnight when the two girls en tered the lower gate and hurried along the driveway. 'There's where the dreadful man hid," said Jeanette, "to photograph Mr. Atwood in the swimming pool. Isn't

Jeanette stopped short, grasped Sarah's arm and stared in the direction of the pool. Out of the shadow of the blg birch a white figure fared, crossed an open, star-Ht space and disappeared over the shoulder of the hill in the direction of the river, The girls caught hands and raced for the

A few nights after Louis, the elder of the Deering boys, returned late from a banquet. While he was hunting the keyhole gate and rolled leisurely along the graveled he heard footsteps as of a man running along the driveway. Turning he saw a woman running straight for the front door As she came near she fell forward and he caught her in his arms.

> As he lifted the falling woman he saw : white figure pass under a tulip tree on the brow of the hill and then drop suddenly behind the bluff.

Young Deering, not wishing to alarm the household, drew his find to the front of the veranda and held her face to the starlight and began to look her over. It was Mary, the cook. He laid her

gently down on the door mat, plucked a bunch of dow-wet leaves from a tulip tree and fanned her face. "Please sur," said Mary, "would you be

so kind as to see me to the rear of the house?"

of the house Mary kept glancing back to-ward the big birch from whose dark shadows she could have sworn she had seen a ghost appear.

ness of will as an excuse. Id. 8. An instruction on the question of in-sanity in principle substantially the same as one given in Burgo against State, 26 Nebr., 643, and approved, held not erroa ghost appear.

most every member of the household had seen the white-robed figure emerge from the shadows down by the swimming pool, pass over the hill and fade in the forest that fringed the river's rim.

They set a watch in Mrs. Deering's room, which overlooked the grounds to the south space-writer and the kodaker had estab- and the river to the west, but the apparilished a peaceful blockade of "Sycamore." | tion failed to appear. They watched again If he showed his head someone took a shot on the following night. Midnight and nothat him. One persistent picture-maker, hav- ing came. Just as they were breaking up ing stolen into the grounds by night, hid the watch Aunt Phoebe, who had been situnder a big birch and actually photo- ting by a west window, called excitedly, "Look! Look!" One of the young men sprang to the window. He could see noth-It was probably this crowning audacity ing, but Aunt Phoebe declared she had seen more than snything else that caused At- the white thing leap into the shadow just

The whole household was by this time becoming so demoralized by the constant dread of some dire calamity that Mrs. Deering determined to take Atwood into the even; of the author finishing the story her confidence. The author laughed at first, but seeing how his aunt was distressed he promised to make the ghost's acquaintance at the earliest possible moment.

> That night he joined the watchers, but the ghost refused to walk. Another night was equally disappointing.

On the following night Mrs. Deering saw it and told Atwood so. "I have a plan." said the author, "you take my room, I'll artist in the art of making you understand take yours, and when 11:30 strikes I'll put my work aside and watch for your ghost." For three nights he worked and watched and waited, but had nothing of interest to tell his hostess when the next day dawned. Mrs. Deering returned to her apartments and Atwood to his.

That very night he saw the sprite. Aunt Phoebe saw it, too, and took to her bed. The servants had ceased to take their night brightened when assuring the visitor that out. "Sycamore" was a good imitation of a madhouse. Young Deering wired Chicago "Who has seen this thing?" was the detective's first question.

"Everybody about the place but Touhey and the author."

The detective examined the ground, and discovered that the dirt had been spaded up under the big birch. There was fresh dirt on a spade near the lodge, though Touhey said he had not used it for a week.

That night the detective sat with his back to a big tree immediately in front of the gardener's lodge, but Touhey slept like a log until the sun came in at his window." That day the detective slept. The next night he sat in a dark closet at the end of a dimly-lighted hallway, at the other and of which was the entrance to Atwood's

Near midnight the light went out, but the door never opened during the night. Young Deering kept watch in his mother's room. He owned that he had nodded, but was positive he had seen a white object for a brief moment on the brow of the hill

Atwood announced that his story would be completed and in the mail on the morrow-in time to win the honorarium. Mrs. Deering, who was almost the only person permitted to see him, heard this with a great sigh of relief, for Atwood's condition was beginning to alarm her. He was not eating, his eyes had a stony stare, the color had left his cheeks. At times he moved and spoke like one half asleep. His voice sounded as if it came from a distance. "Poor boy," said Mrs. Deering. "it's the

ghost that's wearing on him." For his third night's work the detective planned a blockade of the big birch. Two of the Deering boys and a couple of their friends were to assist him, while the third Deering was to remain with Mrs. Deering and Helen. Aunt Phoebe was out of it al-

together, keeping her room day and night. Promptly at 11 o'clock the watchers took their places under the great tress, complotely surrounding the mysterious birch. The detective having placed his men, took up a post between the pool and the point of the hill over which the ghost was said to have passed upon more than one odcasion. Nobody had ever seen the ghost coming in, but the detective took it for granted that it would enter by the same trail used when departing.

They had scarcely stationed themselves when the low-hanging boughs of the big birch parted and the white thing strode out In full view. The two women at the window gave a low cry, clutching at young Deering, who hushed them. Every man among the trees stood stone still, awed by the awful apparition. Only the detective kept a grip on his courage. He stepped out from the shadow of the tulip tree and stood in the ghost's path. The watchers at the window held their breath. Inspired suddenly by the great courage of their leader the female help. She went after Jeanette the sentinels, one after the other, left tective put up his hand as if to hold them back. The little company paused. The detective stepped to one side, and the white Then Aunt Phoebe stood Sarah up, and thing passed on, disappearing among the room during the night and promptly the star-studded sky, beckened, and the other men hurrled up to the level of the It took time, even for Aunt Phoebe, to lawn. He put up his hand and they all was packing up. "I've given notice," said an open space and passed out of view at nailed again and the others followed him "I've given them a chance to fill me to the front of the house. The watchers within joined them. Up over the roof of Aunt Phoebe, baffled and alarmed, called the summer kitchen came the ghost. Helen hid her face and shuddered. Along the eve trough the white-robed object hurried to ward the front of the house. "Hus-s-h, said the detective, "It's Atwood. If you wake him he'll fall." At the end of the roof the ghost sat down, took hold of the dropped lightly to the porch roof and stepped in through an open window to Mr. Atwood's room. The detective signalled and they followed

In an hour they were all comparatively The detective, who had been upstairs re ported Mr. Atwood sleeping like a tired child. A heap of manuscript lay upon his table with the word "Finis" written on the bottom of the last page.

By this time the family loctor, who had been called by telephone, arrived. "Let him sleep," said the doctor, when he had heard the story and looked the patient

Just as he was about to leave the room the doctor noticed the stack of manuscript turned it over and read the title of the tale that Atwood had been living for a fort-

"The Ghost of a Miser."

SUPREME COURT SYLLABI

The following opinions will be officially

11948. Rank against Garvey. Appeal from Douglas. Former judgment auhered to. Barnes, J. 1. Hector-Johnson Co. against Billings, 91 N. W. Rep., 183, distinguish Billings, 91

1. Hector-Johnson Co. against Billings, 91
N. W. Rep., 183, distinguished, and our
former judgment, \$2 N. W. Rep., 1025, is
adhered to.
12666. Bothwell against State. Error
from Cherry. Reversed and remanded.
Holcomb, C. J.
1. The generally accepted test of responsibility for crime is the capacity to undersibility for crime is the capacity to under-stand the nature of the act alleged to be criminal and the ability to distinguish be-tween right and wrong with respect to such act. Schwartz against State (Neb.), 91 N.W. Rep. 199

"Please sur," said Mary, "would you be so kind as to see me to the rear of the house?"
"Yes, yes, Mary," said Deering, "you'll be all right now."

As they passed around to the west side of the house Mary kept glancing back to-

ILLUSTRATED

APAN'S POSITION IN WAR with Russia is the subject of an interview had by Mr. Frank Carpenter with the Japanese minister to the United States. It is one of the most interesting contributions to the discussion of the present controversy and forms the leading feature of the number of The Illustrated Bee that will be out on Sunday. Another article on a similar topic is a character sketch of General Dragomiroff of the Russian army, who is considered the real head of the military operations. Kouropatkin being considered a mere lieutenant of General Dragomiroff. A story of a Macedonian incursion into Turkish territory gives vivid light on one of the phases of the transcaucasian question. It is illustrated from photographs made in Macedonia. Automobiling in Omaha is treated with care and detail, and gives considerable information concerning the topic in a general way with a good deal of detail as to the outlook for the trade and the advantages offered by owning one of the big machines that are now so popular. It is illustrated from photos made for this article by a staff artist. New York City's great growth is the subject of another special article, illustrated from recent photographs, showing how Gotham is torn up to be rebuilt. A fine picture of Hon. E. J. Burkett, the nominee of the republican state convention for the office of United States senator, will be found on the front page, with a story that tells of Mr. Burkett's rise in politics. Several other pictures of local interest will be found in this number. including a group photograph of the recent state meeting of the United Commercial Travelers at Fremont. The serial story, the Illustrated Woman's Department, and all the features of the paper will be found complete as usual. If you are not already a subscriber, you should leave your order with your newsdealer today.

THE ILLUSTRATED

ter. Affirmed. Sedgwick, J.

1. One who executes a bond under circumstances that would estop him to assert its invalidity for want of consideration cannot, in an action upon the bond, avoid liability on the ground that plaintiff is estopped to assert that there was any consideration for the bond. Estopped against estopped sets the matter at large.

2. A bond in pursuance of a statute afterwards held unconstitutional is not valid as a common law contract, if supported by a consideration independent of the statute.

3. A bond, given in an attempted appeal in an action of forcible entry and detention, conditioned for the payment of rent, is valid as a contract, if the obligor has, by reason of the bond, retained possession of the premises, though the statute authorter. Affirmed, Sedgwick, J. of the premises, though the statute author-

constitutional.

4. One or three persons who are appointed attorneys in fact by power of attorney may act for the principal, if the power of attorney contains no provision requiring more than one to join in the act.

1256. Hackney against Hargreaves Bros. Error from Lancaster. Former judgment adhered to; reversed. Holcomb, C. J.

1264. Hackney against Raymond Bros. Clarks Co. Error from Lancaster, Former judgment vacated; reversed. Holcomb, C. J.

1. A creditor of a bankrupt cannot escape

8. An instruction on the question of insanity in principle substantiality the same
as one given in Burgo against State, 26
Nebr., 63, and approved, held not erro1. Instruction concerning what is a reasonable doubt held not prejudicially errotopous, following Leisenburg against State,
60. Nebr., 628.

3. Non-expert witnesses can be permitted
to express opinions as to the sanity or inshown other sufficient qualifications, and
have stated the facts and croumsiances,
1 upon which their opinion of mental condition, is based. Lamb against Lynch. 55
1. The Emanuel against Barnard. Error
from Dodge. Affirmed Barnex, 3.

1. Where, by attachment proceedings
without any fraudo or irregularity, certain
bona fide oreditors of an insolvent corporation secure the application of all of the
corporation who had guaranteed the payment of such claims requested, and thus
induced the creditors to institute the attachment suits, without giving the said
ready possessed, does not make such directors liable in an action at law to be
already possessed, does not make such directors liable in an action at law to the
other creditors of the corporation.

2. One or three persons who are appointed attorneys in fact by power of attone manuel against Barnard.

Error from Lancaster. Former
liagner: vector from Lancaster. Former
liagner: vector from Lancaster from the purchase of the proretion secure the application of all of the
corporation who had guaranteed the payment of such claims requested, and thus
induced the creditors to institute the attachment suits, without giving the said
rectors liable in an action at law to the
other creditors of the corporation.

2. One in tree persons who against darker

The constitutional constitutions of the corporation of the
other creditors and the other

2. In an action at law a prayer for equitable relief is of no avail unless the petition states facts which will authorise the
court to grant such relief.

2. In a constitution of the provisions of section 126,
chapter 16,

such sum as will equal the present value of the annual instantents of interest he would have paid during his life, if the incombrance had remained so long in existence, with iswful interest on the residue so ascertained from the date of payment. A Although minors may not be bound sither by contract or by estoppel, equity will not lend its affirmative aid to enable them to take an unjust advantage of the mistakes or misfortunes of their adversaries.

mistakes or misfortunes of their adversaries.

LEST. Trubull against Frey. Error, from
Kearney. Affirmed. Holcomb, C. J.

L. Evidence examined and found sufficient
to sustain the verdict of the jury.

18334. Hofrichter against Enyeart. Error,
from Butier. Reversed. Ames, C. Division No. 1.

L. Presentment, notice and protest of ne-

vision No. 1
1. Presentment, notice and protest of negotiable paper, in order to be effectual to bird an engorser, must be by one lawfully authorized by the holder to make them.

18376. Winnert against Adams. Appeal, from Lancaster. Afficmed. Albert, C. Division No. 2. Sedgwick, J., concurring separately. vision No. 2. Sedgwick, J., concurring separately.

1. A civil right is a right accorded to every member of a district, community or nation, a political right is one exercisable in the administration of government.

2. A court of equity will not undertake to supervise the acts and management of a political party for the protection of a purely political right.

1343. Wardell against Wardell Error.

purely political right.

13d3. Wardell against Wardell. Error,
from Washington. Affirmed. Ames, C.

1. Equity has jurisdiction to supply the
omissions and defects of legal procedure when necessary to accomplish the ends of the law and to the due administration of

when necessary to accomplish the ends of the law and to the due administration of justice.

2 When a husband dies the owner of a tract of land selected and occupied by himself and family as a homestead, but which exceeds the value of \$2,000 and which is so situated that the dwelling house, and the grounds upon which it stands, to the value of the homestead exemption, cannot be set apart from the residue of the tract, the district court has jurisdiction, in equity, upon application of the administrator to decree the sale of the whole tract for the payment of the debts of the deceased, and to direct that of the proceeds of the sale \$2,000 shall be invested at interest during the life of the widow, the interest and income thereof to be paid to her for her own use until her death and upon the happening of that event, the principal to descend as in case of other such exemptions.

3. A homestead exemption is by the law of this state limited to the value of \$2,000, and if, upon the death of a husband the dwelling and the tract of land adjacent thereto selected from his estate, and occupied by himself and family as a homestead, exceeds that value and åre so situated that the dwelling, together with the incurrence of the land or in any part of it passes to the widow and heirs under the homestead act, but in lieu thereof an equitable interest to the value of \$2,000 in the entire tract does pass to them thereunder.

1344. Allen against Dunn. Appeal from

under.
1874. Allen against Dunn. Appeal from Garreid. Affirmed. Kirkpatrick, C. Division No. 3.

1. A mortgage securing a note containing a provision that in case any taxes or assessments shall be leviel against the legal holder of the indebtedness on account of the loan within the state in which the

legal holder of the indebtedness on account of the loan within the state in which the mortgaged property is situate, renders the note non-negotiable.

2. A note and mortgage executed at the same time and as parts of the same transaction will be construed together, and the purchaser of the note and mortgage will be charged with knowledge of the contents of the mortgage.

3. Contract for the loan of money as set out in the opinion, held to be usurious.

4. There is no authority under the laws of this state for the taking of interest on any loan or forebearance of money for more than one year in advance, for the purpose of obtaining more than the legal rate of interest on the money loaned.

5. An answer will be liberally construed with a view to upholding it as stating a defense, if its sufficiency is challenged for the first time on appeal.

the first time on appeal.

6. Evidence examined, and held sufficient 6. Evidence examined, and held sufficient to sustain the plea of usury.
13502 McAdams against McCook. Error from Red Willow. Reversed. Oldham. C.
1. When a city makes provision by sewers or drains, for carrying off the surface water. It may not discontinue or abundon the same when it leaves the lot owner in a worse condition than he would have been if the city had not constructed such drains.
2. It is well established rule of this court that an instruction not warranted by the pleadings nor evidence, will require a reversal of the judgment if it have a tendency to mislead the jury. Easterly against Slyke, 21 Nebraska, 611, followed and approved.

2. Instructions examined and found pre-2 Instructions judicial. 18508. Solt against Anderson. Appeal from Hamilton. Affirmed. Albert, C., Division No. 2.

1. The acknowledgment, by both husband and wife, of an instrument whereby it is sought to convey or incumber a homestead, is an essential step in the due homestead, is an essential step in the due execution of such instrument.

2. That such instrument was thus acknowledged should appear from the instrument itself in the form of a certificate of the officer before whom the acknowledgment was taken, and in the absence of such certificate, it is not competent to show by parol that the instrument was in fact acknowledged.

13517. Ebers ile against Omaha National bank. Error from Douglas. Affirmed. Ames, C.

Ames. C.

1. A part payment operates to revive a contract debt, barred by the statute of limitations of its own vigor and not as evidence of an acknowledgment or new prom-

limitations of its own vigor and not as evidence of an acknowledgment or new promise.

2. The evidence in this case held to be insufficient to support the defense of the statute of limitations.

18633. Omaha L. & T. Co. against Omaha. Appeal from Douglas. Affirmed. Ames, C. Division No. 1.

1. A purchaser at a judicial sale of lands effered subject to apparent liens, who makes no attempt to have the priority, validity or amount of the latter otherwise adjudicated until after confirmation and conveyance, is estopped to impeach them.

13588. Strong against Eggert. Error from Dawes. Reversed. Letton, C.

1. A verdict clearly contrary to the instructions of the court should be set aside.

2. Evidence examined and held, not to sustain the verdict.

13600. Kennedy against State. Error from Colfax. Affirmed. Barnes. J.

1. Evidence examined and held sufficient to sustain the verdict.

2. Where one is arrested for the crime of burglary evidence of what was found in his room at the time of his arrest together with his conduct and statements on that occapion, is proper and competent as tending to show his consciousness of innocence or guilt, as the case may be.

2. The attempts of the accused to escape, while confined in jail awaiting his trial, may be shown as an inculpatory circumstance properly to be considered by a jury, and to be given such weight as it seems fairly entitled to, with the other evidence introduced at the trial, in determining the question of his guilt or innocence.

12462. Luft against Hall. Error from Cass. Affirmed. Ames, C. Division No. 1. Unreported.

A county judge is without authority to order the amendment of a verdict after the same has been returned and the jury discharged.

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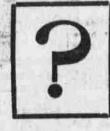
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