THE NORTHWESTERN.

BENSCHOTER & GIBSON, Eds and Pubs.

LOUP CITY, - - NEB.

NEBRASKA NEWS.

The livery barn lately opened by John Newman at Alma was burned. The fire was of an incendiary origin. There was no insurance on the stock, most of which was gotten out. Loss, $500.

While the 3-year-old daughter of Dle Chestum, living five miles south of Decatur, was playing with an air gun, she caught her thumb in the lock, severing it at the first joint and badly mutilating it at the second.

Louis R. Larson, who for several years has run a shoe shop in Fremont, has been adjudged insane. Hard drinking is the cause of his mental disorder. For some time he has imagined that he was going to be hypnotized, and has wandered aimlessly about the country.

A water spout visited the northeast part of Cedar county thoroughly deluging the country. Houses were flooded, barns and other buildings swept away, and some stock drowned. It is reported that every bridge on the East Bow creek from its source to the Missouri has been carried away.

A Beatrice dispatch says the recent hail storm in that vicinity was more serious than at first appeared. Pigs, and even hogs, chickens and poultry, were killed by the hail by the hundreds. The damage to houses was not only to the windows, but to the roofs, the shingles being split and blown off of hundreds of buildings.

Members of company A of the Second Nebraska volunteers have erected a ten foot shaft in the cemetery to the memory of Kearney boys, members of the regiment, who died during the services in the war with Spain. The shaft will be inscribed with the names of Paul B. Jenkins and Charles M. Hatch of company A and George A. Hayden of company E. These boys died of sickness contracted in camp at Chickamauga.

Christian Croft, a German farmer and an old settler of Nemaha county living six miles south of Talmage, while, it is charged, under the influence of liquor rode to the home of his neighbor, William Groves during the absence of Mr. Groves, called Mrs. Groves out, and began, it is claimed, to use unfit language and make all kinds of threats of what he would do. Mrs. Groves ordered him off the place. He refused and she secured a revolver and emptied the contents at him, but seeing that it had no effect, as she supposed, went for a shotgun. By the time she had it ready for use Croft had had left.

One of the workmen at the Burlington & Missouri carpenter shop at Lincoln on going into the nail house found the dead body of S. E. Doyle lying at the foot of the stairway, with the neck broken and other evidences that he had been killed by a fall down the stairs. Doyle, who has been in the employ of the company for several years, had gone into the nail house just after noon, saying that he would take a nap. At the head of the open stairs was found a pillow with the imprint of his head where he had lain on it. The coroner's jury decided that death was caused by falling down the stairway.

Decoration of graves of soldier dead and memorial services meant a great deal more to York county citizens than one year ago. Since then four of York's brightest and bravest boys have died battling the foe in the Philippine islands. At 9 o'clock twenty members of the Grand Army of the Republic post marched to the cemeteries and decorated the graves of their comrades. Over 2,000 people were promptly gathered at 10 o'clock to hear the oration delivered by Rev. O. W. Fifer, one of the best ever delivered by any orator in York. In the afternoon the exercises were held in the large Methodist church, where Evangelist J. C. Redding delivered the oration.

Morgan Rice of Wakefield committed suicide by drinking concentrated lye. Deceased had been in ill health for some years and was despondent. He arose early and went to a neighbor's barn, where he poured about three tablespoonfuls of the lye into a tin cup, mixed it with water and swallowed it. He was found about two hours later by his brother, Abner Rice, and Dr. Harman was summoned, but it was too late to do more than to alleviate his sufferings and at 10 o'clock he died. Deceased was aged about thirty-five years and was unmarried. He was a farmer and had always borne a good reputation. He had three brothers and one sister, all residents of Wayne county.

The whole east side of the main business street of Curtis is in ruins from fire, which destroyed the whole east side of two blocks. The town is without adequate fire protection, and though the citizens did everything possible with the limited means at their command to stop the progress of the flames, it was of little avail until they practically burned themselves out. In the saving of property from the buildings they were a little more successful, though much that was taken out of the buildings is in a damaged condition. The places burned are: F. Hickleman, meat market; A. J. Washburn, saddlery; Johnston & Co., implements; State bank; Stoll & Rumbaugh, hardware; V. E. Palmer, general merchandise, and J. W. Adams, bit store. The loss will be near or quite $80,000.

Saloons have been ordered closed in Plattsmouth on Sunday and the thirsty are somewhat disturbed over the situation.

H. M. Clark, who lives near Ithaca, lost his fine farm house and contents by fire. The origin of the fire is not known at this time. The loss will reach $1,800 and is covered by about half that amount of insurance. Mr. and Mrs. Clark were not at home and the children were able to save only a small amount of furniture from the first floor. The fire started in the second story and neighbors saw it breaking through the roof and hurriedly arrived and did what they could.

BONDSMEN GET SETBACK

Judge Frost Denies Temporary Injunction.

THE COURTS ARE COORDINATE.

Holding that the Bondsmen Have Adequate Remedy in the Suit Pending in Douglas County—A Rehearing Granted—Text of the Decision.

Judge Frost yesterday, says the Lincoln Journal, rendered his opinion in the injunction case brought by Bartley's bondsmen to determine the liability for the money lost to the state through the school warrant transaction. The temporary restraining order against the governor and attorney general before given was vacated, and the application for a temporary injunction was denied. Later, on representation of the attorneys for the bondsmen asking for a rehearing, May 31 was set as the date. Following is judge Frost's opinion:

This is an application for a temporary injunction. Because of the finality of the court's order, if the application is denied, the plaintiffs should be given the benefit of all doubt. It may also be said that the plaintiffs present a bill which appeals strongly to the conscience of the court, a bill which shows that as between them and the Omaha National bank, they are sureties and it is principal. Without passing on the sufficiency of the cause of action for equitable relief stated in the bill, it will be assumed for the purposes of this decision that its allegations are ample for that purpose.

In view of what has already been said the plaintiffs would be entitled to a temporary injunction were there no jurisdictional questions in the way. These questions involve the relations and obligations of co-ordinate courts, where one of them has acquired prior jurisdiction of the parties and of the subject matter in controversy. To the mind of the writer, the correct answers to these questions lead inevitably to one conclusion, the denial of the injunction by this court.

Briefly stated, the plaintiffs ask the district court of Lancaster county to restrain William A. Poynter and Constantine J. Smyth, who, it is alleged are respectively governor and attorney general of the state of Nebraska, their deputies and successors in office from prosecuting in the district court of Douglas county a suit pending therein in behalf of the state, and against ex-State Treasurer Bartley and his bondsmen. The injunction is prayed for only as to one item in that suit amounting to $201,884.05. As to that item this court is asked to determine whether it was embezzled by Bartley, and if it was, to order that the Omaha National bank and the bondsmen on its depository bond be compelled to pay said amount, and to fully exonerate the plaintiffs from the payment thereof. The sum in question was on deposit to the credit of the state treasurer to illegally pay a warrant which had been issued for the sole purpose of transferring from the general to the sinking fund the money lost to the latter by the failure of the Capital National bank.

The state having brought an action for that item among others in the district court of Douglas county, this court cannot interefere by injunction with the parties to that suit. Such interference would be both against public policy and against the comity which it is essential should exist between the co-ordinate courts of this land. Let it be borne in mind that the Douglas county district court possesses just as ample powers to relieve from the injustice complained of as does this court. If the injunction asked can be granted, then there is logically no reason why some other court of Douglas county, could not in turn enjoin the plaintiffs from prosecuting this action, providing the jurisdiction could be obtained over them. Conflicts of jurisdiction of this character found necessarily result in lessening the respect of the public for the courts, nor do former adjudications sanction such procedure. The law as announced by the better considered cases, gives to the court first acquiring jurisdiction the power to proceed to a final determination, and injunctions are ordinarily granted only to protect the jurisdiction of the court which has secured such priority. Our own supreme court has accepted this view. From the syllabus of the case of Prugh vs. Neb., 414, are taken the following paragraphs:

"Courts: Jurisdiction: Injunction. After a federal court has acquired jurisdiction of the parties and subject-matter of a controversy, a state court may not by injunction or otherwise interfere with the exercise of such jurisdiction."

"Accordingly as a general rule, a state court will not enjoin parties to an action already in progress in a federal court from further proceeding therein."

"The exceptions to this rule are based upon the doctrine that in courts of concurrent jurisdiction that which first has obtained jurisdiction of the parties and subject-matter retains it for all purposes, and by all necessary process will protect itself in the exercise of that jurisdiction."

It is true that in that case the dispute over the jurisdiction arose between the state and federal courts. While there is a sentiment that the state courts cannot interfere with maters pending in the federal court, there are no reasons for the sentiment except such as apply with equal force to conflicts between different state courts. That was a case which appealed most strongly to the equitable powers of the court. It was sought to enjoin the United States marshal from selling a homestead, and the court concedes in the opinion that the sale should be restrained, were it not that the state courts could not interfere. It is expressly said that the owner of the homestead must go to the federal court for his relief.

There are two chief reasons why, formerly, it was necessary for courts of chancery to interfere by injunction with the litigants, in common law courts, to-wit: The later had no equitable powers, nor were there provisions for bringing in new parties, which were frequently necessary in order to make a complete defense. These reasons, however, do not exist in this state. Under our code all distinction between actions at law and suits in equity are abolished. This permits not only ancillary proceedings before the same court in order to obtain equitable relief, but also permits the setting up of an equitable defense in that very suit. There are also provisions for the bringing in of additional parties where these are made necessary by the answer of the defendant.

There is another reason, also jurisdictional why this injunction should not be granted. The action runs nominally against the governor and attorney general individually, but it is in reality against the state. The state being sovereign cannot be sued except by legislative consent. The adjudicated cases do not clearly draw the line of demarkation between what are suits against public officers, individually, and what are in reality suits against the state. The attorney general has cited the case of Fitts vs. McGhee, which was decided by the supreme court of the United States in January of the present year. That is a suit against the attorney general of Alabama, and the court there held that:

"A suit to retain officers of a state from taking any steps by means of judicial proceedings, in execution of a state statute, to which they do not hold and special relation is really a suit against the state."

While that case is perhaps not absolutely conclusive of the one at bar, still it would seem to justify the attorney general's contention that the present suit is against the state. In answer to this the plaintiffs say that as the state has descended from the plane of its sovereignty by the institution of a suit concerning this matter in the district court of Douglas county, it cannot now urge its sovereignty to prevent jurisdiction, but stands exactly as any individual would. That rule loses its force when applied to the present suit, as it is an entirely independent action. In order to get any benefit therefrom the plaintiffs must make this plea as a defense in a suit already instituted by the state in Douglas county.

In view of what has been said the application for temporary injunction must be denied and the restraining order heretofore entered, vacated.

THE CASE REHEARD.

Judge Frost this afternoon decided to allow the bondsmen of ex-State Treasurer Bartley another hearing on their petition for an injunction restraining the attorney general, governor and other state officers from prosecuting them until after the liability of the Omaha National bank for a portion of the shortage of the ex-treasurer is determined in court. Argument on the petition was made several weeks ago and Monday Judge Frost refused to grant the injunction, vacating his temporary restraining order.

When the adverse decision was rendered the attorneys for the bondsmen immediately filed objections with a motion for a rehearing, citing eight alleged errors. At the time Judge Frost expressed his willingness to have the case argued again before the entire bench if the other judges agreed. The motion was to have been argued this afternoon, but the court decided to grant another hearing without argument being made. The order of the court refusing to grant the injunction and vacating the temporary restraining order was revoked.

The case now rests in a much complicated condition. There is some doubt as to whether a restraining order once dissolved can be enforced again before being argued in court. This is precisely what the district court has sought to do, but the attorney general stated this afternoon that the suit against the bondsmen in Omaha could be commenced, the restraining order having been once vacated. The case in the district court here will not be argued again until Saturday and it is doubtful if it can be reached by that time. In addition to the petition for injunction another obstacle stands in the way of the prosecution. The case of the state against the bondsmen in Omaha is entered in Judge Powells docket, and even if the attorney general is permitted to go ahead with his case it is hardly probable that it would be called to trial during the present term of court, during which nearly all of the time in Judge Powell's court will be devoted to the election case. The attorney general stated this afternoon that an attempt would be made to transfer the case to another docket, intimating that he might begin the prosecution at once.

The Nebraska Crops.

U. S. Department of Agriculture, Nebraska Sec., Climate and Crop Service, Weather Bureau, University of Nebraska, Lincoln, May 30, 1899.—The past week has been warm, with more than the normal amount of cloudiness and sufficient rainfall for present needs. The average daily temperature excess has been between 2 and 3 degrees.

The rainfall has been normal or above in most parts of the state, except in the southeastern and extreme southwestern counties, where the rainfall has been light—generally less than a quarter of an inch.

This has been a good growing week, and the ground is now in excellent condition in all parts of the state. Oats, wheat, rye and barley have grown well. Rye is heading out. Corn planting has been delayed in the northeastern counties and in a few other localities by the heavy rains. Most of the corn is planted, and as a rule is coming up nicely, with a good stand. In a few of the eastern counties heavy rains have washed out corn, making replanting necessary, and in the northern counties, the cold, wet weather has caused the seed to rot in the ground somewhat; however, the stand at present promises to be above the average. Cultivation of corn has commenced in the southern counties. Pastures are in good condition, and stock on the range in western counties is doing well. Sugar beets are up, and cultivation and thinning have commenced.

G. A. LOVELAND,
Section Director, Lincoln, Neb.

NEW SPANISH MINISTER

Official Relations Broken Off During the War Finally Restored.

HONORS FOR THE REPRESENTATIVE

Meeting With the President at the White House a Memorable Occasion—Expressions of Satisfaction at Return of Peace—Incidents of the Day.

WASHINGTON, June 5.—Diplomatic relations with Spain, broken off April 21, 1898, were formally resumed at 11 o'clock Saturday, when President McKinley greeted Duc d'Arcos, the newly accredited minister to the United States, in the Blue parlor of the White House. Simultaneously in Madrid, if the program aranged was carried out, Bellamy Storer, the new United States minister to Spain, was being presented to Christiana, the queen regent, during the legal minority of his Catholic majesty, Alphonso XIII. It was a notable occasion in the world's history—the resumption of friendly relations between two nations which had been at war and in the brief struggle had changed the map of the world.

The speeches were especially notable. They were plain spoken and devoid of the usual hazy diplomatic phraseology.

The ceremony was exceedingly simple. Promptly at 11 o'clock, the hour set, the two carriages containing the Duc d'Arcos, Secretary Hay and the secretaries of the new Spanish minister, Senors Riano and Pastor, reached the White House. Quite a crowd had gathered to catch a glimpse of the new minister. The party was immediately ushered into the Blue parlor.

The duke was attired in his resplendent diplomatic uniform. Across his coat he wore a scarlet sash and on his breast sparkled the insignia of half a dozen orders, the dazzling cross of the Order of Catholic being the most conspicuous. He carried his plumed chapeau in his left hand and the copy of his address in his right. The secretaries were likewise attired in their gorgeous diplomatic uniforms.

On reaching the Blue parlor they were presented by Secretary Hay to Colonel Bingham, who remained with them while the secretary of state retired for a moment. He immediately reappeared with President McKinley, to whom he presented the Duc d'Arcos and Senors Riano and Pastor. The president was cordial but dignified in his greeting and Duc d'Arcos then read his address in Spanish. He stood a little in advance of his aides, facing the president, while to the rear and right of the president, stood Scretary Hay. Colonel Bingham and Assistant Secretary Cortelyou stood upon the left. The minister said:

Mr. President: I have the honor to place in your excellency's hands the royal letter by which her majesty, the queen regent of Spain, in the name of her august son, King Don Alfonso XIII., accredits me near this government in the capacity of envoy extraordinary and minister plenipotentiary.

I have come to renew the relations of friendship which have existed from of old between Spain and the United States and which were interrupted by the war of last year. The treaty of peace which Spain has signed put an end to that war, and now, looking only to the future, Spain desires that her relations with this republic may be as friendly as they were in times past and from the days in which this country was struggling to gain its independence. It is my task to contribute to the renewal of these relations, to strengthen them and to draw them closer, and in the discharge of it I hope to be aided by the kindness and co-operation of your excellency and of your government.

The president responded as follows:

Mr. Minister: I receive with the greatest gratification the letter by which her majesty, the queen regent of Spain, in the name of her august son, King Alfonso XIII., has accredited you near this government as envoy extraordinary and minister plenipotentiary.

You will find, Mr. Minister, a cordial welcome in this country, not only from those whose friendship you acquired during your former residence, but from all our people, who rejoice as I do at the renewal of the ancient bonds of amity which, with a brief interruption, have united our nations for more than one hundred years. That these friendly relations may be confirmed and strengthened, to the advantage of both people, is my earnest wish and I can assure you that every member of this government will heartily co-operate with you to that desirable end.

It was noticeable that Duc d'Arcos, in referring to the gratification with which Spain resumed the friendly relations with the United States that had existed over 100 years, plainly said that these relations had been broken by war, while the president spoke only of the relations interrupted for a short time.

At the conclusion of the address, the president stepped forward and shook hands cordially with the new minister and they engaged in conversation in a low tone for a minute or two. The president gracefully inquired after the health of the queen regent and the king. He courteously referred to the duc's former residence in this country and his many friends here, and repeated the assurances of the concluding words of his formal greeting, that every one here would unite in making the minister's stay in this country pleasant and satisfactory.

The party then retired and was driven to the Arlington hotel.

High Prices for Iowa Horses.

NEW YORK, June 5.—High class saddle and harness horses under the hammer brought out a large crowd of bidders to the sale at the American Horse Exchange. The animals were brought from Iowa by W. C. Bryant, but only a part of the lot were sold. The remainder, with those owned by Douglas Brothers, also of Iowa, will be sold tonight. The star of the sale was Little Bonnie, a brown gelding, 14 hands, by Bonnie Wilkes, 2:14, for which T. W. Lawson, of Boston, paid $3,800.

COL. BRYAN AT LOUISVILLE.

What He Said in His Talk Before the Convention.

LOUISVILLE, Ky., June 5.—When Col. Bryan arrived here a great crowd met him at the depot. He was escorted to the hotel by mounted police and three bass bands and accompanied by J. P. Altgeld, George Fred Williams and bimetallic organizations, Colonel Bryan held a reception for half an hour and shook hands with hundreds of Louisville's leading citizens. After luncheon he was driven to the auditorium, where he spoke to an audience which was packed to the doors. His talk was along the lines followed by recent speeches made by him. He said:

"The object of a party is to give force and effect to the political principles entertained by the members of that party. The policy of the party is determined by the majority of its members. The democratic party adopted at Chicago principles to the conditions then existing. The conditions existing today require the aplication of the same principles. No question brought to the atention of the people by the last campaign has been settled since the close of the campaign. The republican party did not declare the existing gold standard satisfactory, but declared that it should be continued until foreign nations would join in international bimetallism. The demand for the restoration of bimetallism does not mean that there are no other issues before the people, but it means that this issue can not be laid aside or surrendered until the financial policy of the American people is determined by the American people themselves, without waiting for the aid or consent of any other nation."

In reference to the gold democrats Mr. Bryan said: "I wish to say that the men who withdrew from the party in 1896 are mistaken, in a large measure, and if I can help them to see the light and regain them as supporters of the party, I feel that the time will come when they will thank me for it."

The remainder of Mr. Bryan's remarks were confined to a condemnation of trusts, the gold standard and the so-called imperialistic policy of the republican administration, along the same lines as laid down by him in speeches in other sections of the country.

Preceding the address of Mr. Bryan the Hon. Matt O'Doherty, of Kentucky, addressed the convention and directed his remarks chiefly to the financial question. He dealt briefly, however, with the Filipino matter, and contended that the congress of the United States had not declared war against the Filipinos, but that President McKinley has usurped the authority vested in the congress of the United States by the constitution, which provides for such action in cases of exciting hostilities with any other nation. His contention was that the Filipinos had, like the Americans, an aversion for the tyrannical ruling of the Spanish government, and that they have been fighting to throw off the yoke of tyranny.

ESTERHAZY MAKES A STATEMENT.

The Chief Says the Army Has Abandoned Him.

LONDON, June 5.—The Daily Chronicle says that Major Comte Ferdinand Walsin Esterhazy called at its office last evening (Friday) with a confidential friend, and, after declaring that the time had arrived when the whole truth should be told, although hitherto both reason of constant orders and inducements he had kept silence on the essential point, made the following statement:

"The chiefs of the army have disgracefully abandoned me. My cup is full and I shall speak out.

"Yes, (raising his voice and glaring) it was I who wrote the bordereau. I wrote it upon orders received from Sandherr."

Esterhazy, the Chronicle says, then proceeded to explain that for months before 1893 moral proofs had been obtained of leakages which were only possible through officers belonging to the ministry of war; and it was necessary to catch the guilty party by material evidence. Hence the bordereau.

When asked what the chiefs of the French general staff would say to this confession Esterhazy, shrugging his shoulders, disdainfully replied:

"They will lie as they know how to lie, but I have them right. I have proofs that they know the whole thing and share the responsibility with me and I will produce the proofs." He then denounced the chiefs as "a set of scoundrels who have abandoned me basely,' and added:

"But at one time they used to come to thank Madame Pays for her assistance."

Esterhazy asserted that, quite recently, the chiefs sent M. Laguesse, a former deputy, to London with seductive offers to him to keep silence.

"Now they are using threats," he shouted, 'but I will not be deterred."

The Daily Chronicle got Esterhazy to sign the notes of the interview.

Ministers Sued for Damages.

LEAD, S. D., June 5.—Four ministers of this city have been sued for $5,000 damages by the managers of a female minstrel show traveling from the city. Recently the minstrel troupe was billed for an entertainment in Lead, when the pastors of the four leading churches secured an injunction preventing its appearance. The manager of the companya claims his reputation has been damaged in the sum of $5,000 damages, which he seeks to recover in the courts.

Kaiser of a More Hopeful Mind.

BERLIN, June 5.—Replying to congratulations tendered him by the Hamburg-American Steamship company on the acquisition of the Spanish islands, Emperor William sent the following dispatch:

"Your warm congratulation shows me that the importance of this acquisition for German trade and commerce and my own incessant struggle to further the same have been rightly appreciated. I, therefore, thank you most heartily and wish that upon its voyages to the new German island German shipping may continue to be accompanied by God's blessing."

Playwright David Belasco was entering the Garrick theater in New York when a diminutive newsboy rushed up, and shouted: "Wuxtry! Terrible accident to President McKinley!" Dear me!" said Belasco, fumbling in his pocket for change, "what kind of an accident did he meet with?" "Nearly drowned, sir!" replied the urchin, his eyes dancing; "he fell through a mattress into the sprin." Belasco gave him a nickle.

A man walking a day and night without resting would take 429 days to journey around the world.

Russia has four universities, at Kharkof, Jureff, Warsaw and Helsingfoers, each attended by more than 1,000 students. The university at Kief has 2,260 students, that at St. Petersburg 2,600 and that at Moscow 3,400.

God will not trust the church with souls that is not honest in its stewardship of His money.

Talk about lightning changes! Take notice of our newcomers twenty minutes after their arrival.

The question of the real estate of your soul is more profitable than the price of city lots.

Some preachers aim to make plain things mysteries instead of making mysteries plain.

Some people are like the clocks; they show by their faces what sort of a time they are having.