THE OMAHA DAILY BEE.

SEVENTEENTH YEAR. OMAHA, TUESDAY MORNING DECEMBER 6, 1887. NUMBER 171

THE CONVENING OF CONGRESS

Both Branches of the National Legislature Formally Opened.

TURPIE SEATED BY THE SENATE

Objections Made to the Swearing in of Faulkner—Carlisle Elected Speaker of the House—Proceedings.

Some Opening Scenes.

WASHINGTON, Dec. 5.—[Special Telegram to the BEE.]—Congress, for the fiftieth time, convened to-day. It was so quiet an opening that some far-seeing statesmen have said to the BEE correspondent to-night that it is an omen of a stormy time before the heat of summer forces a vacation. But there were in attendance all the adjuncts which usually go to make up any great event at the national capitol. There were the crowd, the excitement, the flowers, the fuss and hurry; the fresh young persons and the irrepressible cranks. The day was fine and pleasant outside and, notwithstanding the cloud inside, the atmosphere in the capitol was good for the capitol. The crowd came last. The same old crowd that always attends a big day at the capitol—ladies who come early and take the best seats; men also, having nothing better to do than sit on the hard benches of the galleries, and sight-seers who came to see the opening of congress. The senate side was the attraction at first because, after all the fuss stirred up, everyone thought there was going to be a busy time on the floor. But how disappointed everyone was, because the opening of the senate was dignified and stately as it should be. But the crowds had a jolly time in looking at the people and watching the new senators on the floor.

Everyone wanted to know who occupied the seat on the last row of chairs on the democratic side which was almost hidden by flowers. At last it became known that the seat was to be occupied by Daniel, of Virginia, and then they began to count the floral tributes scattered carelessly about it. There were horse shoes and baskets, boquets and wreaths, all beautiful and sweet smelling flowers, but the floral tribute that took the cake was a rather rickety looking ladder of roses and carnations, supposed to represent the ladder of fame. On the top round were the words, "United States senate."

"Why," exclaimed an old lady in the stranger's gallery, "it was Jacob who climbed the ladder, not Daniel. Some one ought to send him a lion's den."

The only remark she got in answer was from a stout old man who was sitting next to her, "He has just left the great American bear pit across the way and by coming to the senate has got among the lions." The old lady looked at him as if she would be obliged for a diagram of his joke. A huge bank of the choicest roses were upon the desk of Senator Paddock and he was most cordially received by everyone. One of the floral tributes that attracted the most attention in the senate was a large harp on Riddleberger's desk. It was a gorgeous affair and was tied with gay ribbons and a big card.

The senate presented a strange appearance to an old timer in the gallery because there were so many new faces there to-day. The great sensation the democrats had tried to scare up did not materialize and hence the opening proceedings were very tame. The republican senators told the democrats that Faulkner, of West Virginia, could not be seated, and like good little boys the democrats obeyed. Faulkner was disappointed, because some lady friend had sent him a floral chain with an invitation to take a seat. He did take a seat but not one in the senate.

The only point of interest in the proceedings, outside the usual run of the opening of the senate, was the swearing in of Turpie of Indiana. He was nervous, and when he was asked to hold up his right hand, it trembled so that he could hardly do it.

But, even in the house the fun was supreme and the crank had full sway. The house was in a sort of a chaotic state all morning. The old members took their old seats but the new members flitted about and now and then sank into a vacant chair, only to rise again at the approach of someone with an apologetic remark, for occupying the wrong seat. The pages were kept busy all morning bringing in floral tributes for the members. The cowboy congressman from Texas, Martin, sat in a seat in the back row, looking like a fish out of water. John Baker, Morrison's successor, occupied a seat near William Walter Phelps. The Illinois member is striking in appearance, and of the antique statesman mold. He has a clean shaven face, with a light sprinkling of hair on his head. He wears an old fashioned stock and high collar. Near by sat "Deacon" White, of New York. He watched the events with interest through his gold rimmed eye-glasses. Burk Cochran, Tammany's silver tongued orator, appeared in a new suit of grayish colored clothes with striking necktie and a pleasant smile. Amos Cummings, the second New York newspaper man in this congress, stuck close to Morriman, the first one, and seemed to feel safe when under his wing. Springer danced about the floor with a red, red rose-bud in the lapel of his coat, little dreaming of the sad things in store for him, but Springer is always dancing about the floor whether he be merry or sad. Randall sat gravely behind a large green harp which had been placed on his desk. He looked sour and ill-pleased.

General Clark, the clerk, rapped the house to order and the hum of voices cleared for a while.

"I call the roll of members," began General Clarke.

"No!" shouted a strong voice from the very last seat in the public gallery in the far northeast corner, "we will begin by singing the doxology, and I want you all to join me."

All eyes were turned in the direction of the voice and every one saw a lank man with red chin whiskers standing up in the corner of the gallery. He raised his arms and began: "Praise God from whom all blessings flow—" Here he stopped, hoping to hear some response from the floor. Bang, bang, bang, went General Clarke's gavel, but the singer did not heed the warning. Then a wild burst of laughter followed, for the man was continuing: "Praise him all creatures here below." Then his voice was drowned by the uproar of hand-clapping and laughter. Mr. Clarke's order to the sergeant-at-arms to remove the disturber of the peace did not have much effect on the singer, for he kept up the waving of his arms and his singing, and he sang it to the very end and flushed with a loud "Amen." Then he sat down as calmly as could be. The man had selected a good place, for no one could get at him, as he was in the last row, far away from the entrance door and next to a high wire screen which kept off the doorkeeper from the other gallery. Finally one of the officers reached him and he quietly got up and followed the policeman carrying with him his tall white hat and a large bundle done up in a newspaper. He was taken to the chaplain's room.

"Who are you?" was asked.

"Patrick Dugan," was the reply.

"Why did you make the disturbance?"

"To praise God. There was no prayer by the chaplain and such assemblages should not be opened without prayer to the Redeemer. Oh I'm used to this sort of treatment. I have been coming down along the Atlantic coast and have been clubbed by the police at nearly every place. At Boston they tried to brain me and break out my ribs. I have a brother who wears a robe in the Roman church and I wouldn't trade places with him." The man is weak minded and was taken to the station house.

After quiet was restored the roll was called and then the election of officers took place. General Clark must have wanted to make the house laugh when he picked out big fat Tom Reed and little thin Sunset Cox to act as an escort for Speaker Carlisle to the chair. At any rate the contrast did cause laughter and Sunset Cox seemed to enjoy the fun. After the members were sworn in they all retired to the lobby and the lottery of seat drawing began. The blindfolded page took his place and the box with the numbered balls in it was placed before him. The Nebraska delegation was not very fortunate in securing seats as their names were not early called. Mr. Dorsey got the seat he occupied in the last congress, and Mr. Laird went far over to the southwest end, near the place he sat in a year ago. Mr. McShane got a fair seat near the center of the democratic side. The Iowa delegation also fared indifferently.

Senate.

WASHINGTON, Dec. 5.—The senate chamber wore a fresh and tasteful appearance this morning. The floors and galleries were newly carpeted and the desks glistened in their coat of varnish, the odor of which mingled faintly with that of boquets and gorgeous floral devices which entwined the picture. The chief topic of conversation with the majority was the prospect of a conflict over the admission of certain democratic senators-elect, and partly because it was known that the republicans, in default of any caucus plan of action, had concluded to follow the lead of their members of the committee on privileges and elections. There had been an informal consultation, it was understood, and had reached the conclusion to make no opposition to the admission of Turpie, of Indiana, but to object to Faulkner, of West Virginia, on the ground that there were conflicting credentials from that state. The general opinion was that there would be no dead-lock and that the usual course of opening proceedings would not be broken.

Mrs. Cleveland, clad in a costume of dark green and accompanied by Mrs. Gilder, Mrs. Mingsford and several others, occupied the seats reserved for the family of the president in one of the private galleries. The diplomatic gallery was filled by members of the various legations, the front seat being occupied by the Chinese minister, his secretary and his associates.

The proceedings of the day were opened with prayer by Chaplain Rev. J. G. Butler.

President of the Senate Ingalls then took the chair and called the senate to order. He said he would now place before the senate the certificates of election, certificates of appointment and other papers received since the adjournment.

The following papers were thereupon submitted and read:

Certificate of the governor of Florida making the temporary appointment of J. J. Finlay as senator from the 4th of March, 1887, until the legislature should fill the vacancy caused by the expiration of the term of Senator Jones.

Certificate of the governor of Florida of the election by the legislature of Samuel Pasco.

Certificate of the governor of New Jersey of the election of Rufus Blodgett.

Certificate of the governor of West Virginia of the appointment by him of Daniel B. Lucas to fill the vacancy caused by the expiration of the term of Senator Camden.

Certificate of the governor of West Virginia of the summary proceedings by which the legislature in special session elected Charles J. Faulkner as senator to fill a vacancy.

Credentials of William E. Chandler as Senator from New Hampshire.

Protest of Daniel B. Lucas against the administration of the oath of office to Charles T. Faulkner. The grounds of the protest are: 1. That the executive of the state of West Virginia has not certified the election of Faulkner under the seal of the state, as required by act of congress. 2. For the reasons set out in the brief of Daniel S. Lucas, a copy of which accompanied the protest. 3. Because Charles J. Faulkner was, at the time and date of his alleged election, on the 5th of May, 1887, judge of the Thirteenth judicial district of West Virginia, and therefore ineligible to the office of senator.

The protest was laid on the table and ordered printed in the record.

The ceremony of administering the oaths of office to the newly elected senators was then proceeded with, such senators being called in parties of four, and in alphabetical order.

Mr. Hoar objected for the time being to administering the oath of office to Mr. Faulkner. He understood that whatever question arose concerning the title of that senator to a seat arose on the credentials themselves. While the proceedings of the legislature and history of the case were being discussed and fully recited, he gave assurance that the question should be dealt with at the earliest possible moment, so that the gentleman entitled to the seat would be able to enter on the discharge of his duties as a senator.

Mr. Kenna said the course suggested seemed eminently appropriate and he trusted that action would be taken without the formality of a vote.

This suggestion was adopted.

At the suggestion of Mr. Vest the privileges of the floor were given to Mr. Faulkner pending the decision of the contest.

Mr. Harris presented a memorial for a constitutional amendment prohibiting the manufacture, sale, importation, exportation or transportation of alcoholic drinks in the United States. Referred.

Mr. Hoar presented a memorial of F. Winter and others in respect to the seat of Senator Turpie of Indiana, and moved its reference to the committee on privileges and elections. So ordered.

Resolutions were adopted to inform the house that a quorum of the senate had assembled, and for the appointment of a committee of two senators to join a like committee of the house and inform the president that quorums of both houses had assembled, and congress was ready to receive any communication he might be pleased to make.

Messrs. Morrill and Morgan were appointed such committee on the part of the senate.

Adjourned.

House.

WASHINGTON, Dec. 5.—Long before the hour of noon the galleries of the house were crowded to the utmost capacity with spectators. Ladies were in the majority and their gay costumes lent an air of animation to the chamber. On the floor the members congregated and exchanged greetings and congratulations. At noon the clerk of the house called the body to order and was about to call the roll when a crank in the gallery started a Salvation army hymn, which he sang lustily until ejected by the doorkeeper. The clerk then proceeded with the roll call amid a great deal of confusion.

On call of the roll 313 members answered to their names and the clerk announced that more than a quorum being present the next business in order was the election of speaker.

John G. Carlisle was put in nomination by Mr. Cox, of New York, and Thomas B. Reed by Mr. Cannon, of Illinois. The vote resulted as follows: Total number votes of cast 313; of which Carlisle received 163; Reed 148, and Brumm, of Pennsylvania, 2. Of the four independents, Anderson, of Iowa, voted for Carlisle, Nicholls, of North Carolina, and Smith, of Wisconsin, for Brumm, while Hopkins of Virginia did not vote.

The clerk thereupon declared Carlisle duly elected speaker, and he was escorted to the speaker's desk by Messrs. Cox and Reed, amid loud applause. The oath of office having been administered by Mr. Kelly, of Pennsylvania, the speaker rapped the house to order and made a speech. He said in part:

Gentlemen of the House of Representatives: In assuming for the third time the duties of the laborious and responsible office for which you have just chosen me I desire to tender my grateful thanks for the distinguished favor conferred and to assure you that it will be my constant endeavor to justify the confidence reposed in me by a fair and impartial administration of the law governing your proceedings. There scarcely has ever been a time in our history when the continued prosperity of our country depended so largely upon legislation in congress as now. Whatever is done must be done here, and if nothing is done, the responsibility must rest here. It must be evident to everyone who has taken even a partial survey of public affairs that the time has now come when a revision of our revenue laws and a reduction of taxation are absolutely necessary in order to prevent a large and dangerous accumulation of money in the treasury. The financial condition of the government and the private business of the people alike demand prompt consideration of these subjects and the speedy enactment of some substantial measure of relief. Unfortunately we are menaced by dangers from opposite directions. While the policy of non-action must inevitably result, sooner or later, in serious injury to the country, we cannot be unmindful of the fact that hasty and inconsiderate legislation on subjects more or less affecting large financial and industrial interests might produce, temporarily at least, disturbances and embarrassments which a more prudent cause would entirely avoid. No part of our people are more immediately or vitally interested in the continuance of financial prosperity than those who labor for wages. Upon them and their families must always fall the most disastrous consequences of a monetary crisis, and they, too, are always the last to realize the benefit of a return to prosperous times. Then wages are always first to fall when the crisis comes and the last to rise when it passes away. Our efforts should be to afford necessary relief to all without injury to the interests of any and therefore that course of legislation should be pursued which will guarantee the laboring people of the country against the paralyzing effects of general and prolonged financial depression and at the same time time not interfere with their steady employment or deprive them of any part of the just reward they are entitled to. If this can be done, and I believe it can, if our deliberations are conducted with the wisdom or patriotism which the gravity of the situation demands, this congress will have cause to congratulate itself on an achievement which promises peace and prosperity to the country for many years to come. These remarks may be considered somewhat out of the usual course and perhaps not entirely pertinent to the occasion, but I believe you will excuse them, gentlemen, because they relate to subjects which, as we assemble here to-day, are uppermost in the minds of all people. On a correct solution of the questions which these subjects necessarily involve may depend the fate not only of political parties, but, what is far more important, the permanent welfare of the greatest and most enlightened constitution in the world.

When the applause which greeted this speech had subsided the speaker entered upon the duty of administering the oaths of office to the members-elect, who, in groups of a dozen at a time, appeared at the bar of the house and qualified. This duty having been accomplished, the speaker announced that nominations for house officers were in order.

A resolution presenting for election the democratic caucus nominees was submitted by Mr. Cox of New York, while a similar resolution presenting the names of the republican nominees was offered by Mr. Cannon of Illinois.

Mr. Brumm of Pennsylvania put the following new ticket in the field;

For clerk—Robert Schilling, of Wisconsin.

For sergeant-at-arms—E. W. Curry, of Indiana.

For doorkeeper—J. C. Oakley, of North Carolina.

For postmaster—J. A. Campbell, of Pennsylvania.

For chaplain—Rev. W. H. Milburn, of Illinois.

The ticket was not successful, receiving the support of but three members—Messrs. Braum, Nichols, and Smith of Wisconsin.

Mr. Cannon's resolution was defeated and that offered by Mr. Cox was adopted without division.

The officers elected appeared and qualified.

A committee, consisting of Messrs. Cox, Randall and Cannon, was appointed to wait upon the president and announce to him that the house was organized and ready to receive any communication he should see fit to make.

Then the members were requested to retire behind the semi-circle of desks and the lottery for seats was begun.

At its conclusion the house adjourned.

THE GILPIN DIVORCE CASE.

Custody of the Children Given to the Governor.

DENVER, Colo., Dec. 5.—[Special Telegram to the BEE.]—Judge Rogers, of the superior court, to-day made a final order in the celebrated ex-Governor Gilpin divorce case in regard to the possession of the children. Following is a summary of the opinion: Julia P. Gilpin's bill, seeking alimony and payment of attorney's fees, ordered dismissed, William Gilpin to have the custody of the children, but the the defendant, Julia P. Gilpin, to have the right to visit the children for a space of twelve hours per week on any day she may select for that purpose and the children to have the privilege of visiting their mother one day each week at proper and reasonable hours. Should either or any of the children be taken ill and require care or nursing, the mother shall have the privilege of performing those duties. Neither of the children is to be taken from under the jurisdiction of the court by their father without notice being given to the defendant, their mother, or without formal order of the court. Lastly, the plaintiff, William Gilpin, is to pay all costs of suit.

The order made does not signify that the end of litigation in this cause celebre has yet been reached. It is more than likely that the attorneys for the defense may take and carry the case to a higher court. Mrs. Gilpin is a daughter of the late General S. H. Pratt, of St. Louis.

Death in Ice Water.

NEW YORK, Dec. 5.—[Special Telegram to the BEE.]—The Sun prints the result of inquiry into the danger of conveying infectious disease in ice used for domestic purposes. All ice used in New York and Brooklyn comes from the Hudson river between here and Poughkeepsie, and two-thirds of this supply is cut within thirty miles of Albany. Dr. Prudden's analysis of this ice shows typhoid fever and possibly cholera might be spread among the consumers. He finds an average pint of melted ice contains 500,000 living bacteria of various kinds. The Hudson ice contains more than other ice. It is certain, he says, that the ice from some parts of the Hudson must contain bacteria of typhoid fever, and must be taken living into the system with the ice water. Dr. C. T. Chander, formerly president of the board of health here, sustains this.

Business Troubles.

CINCINNATI, Dec. 5.—The Hodgen Commission company, whose main office is in Louisville, with branches at Cincinnati, Evansville, Indianapolis, Chicago, Pittsburg, Cleveland and Baltimore, is reported failed to-day on account of the steady rise in the markets. Its total liabilities are $90,000 to $100,000, with assets amounting to $40,000. The firm is a "bucket-shop" concern.

INDIANAPOLIS, Ind., Dec. 5.—Theodore Pfafflin & Co., dealers in musical instruments failed. Their liabilities are estimated at $75,000; assets unknown.

Death of the "Walking Wonder."

INDIANAPOLIS, Dec. 5.—John Owen Snyder, better known as the "Walking Wonder," died yesterday at his home at Mill Grove, Blackford county. For nearly three years previous to his death, Snyder was impelled, as he said, by some mysterious force to walk constantly, and he took his meals while continuing the ceaseless tramp. He slept but little, generally in the chair, but the minute he woke he started walking.

Anarchy and Libel.

INDIANAPOLIS, Dec. 5.—The Sentinel to-day charged Phil Rappaport, editor of the Indidiana Tribune, with making an anarchist speech yesterday, and Rappaport has caused the arrest of W. J. Craig, editor and proprietor of the Sentinel, on a charge of criminal libel.

The Fire Record.

CHATHAM, Ont., Dec. 5.—The passenger steamer C. H. Merrett, plying between here and Detroit, burned this morning, causing a loss of $18,000. She was insured for $8,000.

Doomsday Deferred.

NEW YORK, Dec. 5.—Herr Most was to have been sentenced to-day, but the case was postponed until Thursday, when a motion for a trial will be argued.

PROHIBITION SCORES A POINT.

The Supreme Court Decides the Famous Kansas Liquor Cases.

THE STATE TRIBUNAL SUSTAINED

An Opinion Which Declares Any Community Has a Right to Suppress Classes of Business Injurious to It.

A Cold Water Decision.

WASHINGTON, Dec. 5.—A very important decision and one likely to be far-reaching in its consequences was rendered in the supreme court to-day in the so-called Kansas prohibition cases of Mugler against the State of Kansas and the State of Kansas against Zeibold and others. The judgment of the court was pronounced in a long and elaborate opinion by Justice Harlan, who said:

The general question in each case is whether the prohibition statutes of Kansas are in conflict with that clause of the fourteenth amendment which provides that "No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States, nor shall any state deprive any person of life, liberty or property without due process of law." That the legislation by a state prohibiting the manufacture within her limits of intoxicating liquors, to be there sold or bartered for general use as a beverage, does not necessarily infringe any right, privilege or immunity acquired by the constitution of the United States is made clear by decisions this court rendered before and since the adoption of the fourteenth amendment. It is, however, contended that although the state may prohibit the manufacture of intoxicating liquors for sale or barter within her limits for general use as a beverage, no convention or legislature has a right under our form of government to prohibit any citizen from manufacturing for his own use or for export or storage any article of food or drink not endangering or affecting the rights of others. The argument made in support of the first branch of this proposition, briefly stated, is: that in implied compacts between the state and a citizen certain rights are preserved by the latter which are guaranteed by constitutional provision, and with which the state cannot interfere; that among those rights is that of manufacturing for one's own use, either food or drink. The proposition and argument made in support equally concede that the right to manufacture drink for one's personal use is subject to the condition that such manufacture does not endanger or affect the rights of others. If such manufacture does prejudicially affect the rights and interest of the community, it follows from the very premises stated by counsel, that a society has power to protect itself by legislation against the injurious consequences of that business. As was was said in Mum vs. Illingers, while the power does not exist with the whole people to control rights that are purely and exclusively private, the government may require each citizen so to conduct himself and so use his own property as not to unnecessarily injure another. But by whom or by what authority is it to be determined whether the manufacture of a particular article of drink, either for general use or for the personal use of the maker, will injuriously affect the public. Under our system that power is lodged with the legislative branch of the government. It belongs to that department to exert what are known as the police powers of the state. It must determine primarily what measures are appropriate or needful for the protection of public morals, public health or public safety. It does not at all follow from these principles that every statute enacted ostensibly for the promotion of these ends is to be accepted as a legitimate exertion of the police powers of the state. There are of necessity limits beyond which legislation cannot rightfully go. As the courts must obey the constitution rather than the lawmaking department of the government, it must upon its responsibility determine whether in any particular case these limits have been passed. Keeping in view these principles, as governing relations with each other of the judicial and legislative departments of the government, it is difficult to perceive any ground for the judiciary to declare that the prohibition by Kansas of the manufacture and sale within her limits of intoxicating liquors for general use there as a beverage is not fairly adapted to the end of protecting the community against the evils which confessedly result the excessive use of ardent spirits. There is here no justification for holding that the state under the guise merely of police regulations is aiming to deprive a citizen of his constitutional rights, for we cannot shut out of view the fact, within the knowledge of all, that public health, public morals and public safety may be endangered by the general use of intoxicating drinks, nor can we ignore the fact established by statistics, accessible to every one, that the disorder, pauperism and crime prevalent in the country are in a large measure directly traceable to this evil. If, therefore, the state deems the absolute prohibition of the manufacture and sale within her limits of intoxicating liquors for other than medical, scientific and manufacturing purposes to be necessary to the peace and security of society, the courts can not, without usurping legislative functions, override the will of the people as thus expressed by their chosen representatives, and so if, in the judgment of the legislature, the manufacture of intoxicating liquors for the maker's own use as a beverage would tend to cripple if not defeat her efforts to guard the community against the evils attending the excessive use of such liquors, it is not for the courts upon their views as to what is bestand safest for a community to disregard the legislative determination of that question. With reference to the assertion that prohibition of the manufacture and sale of liquor deprives the liquor dealers of their property without due process of law, the court says all property, under our form of government, is subject that it shall not be used so as to injuriously affect the rights of a community and thereby become a nuisance. The state of Kansas had a right to prohibit the liquor traffic. It did not thereby take away away the property of the brewers. It simply abated a nuisance. The property is not taken away from its owners. They are only prohibited from using it for the specific purpose which the legislature declared to be injurious to the community.

"For the reasons stated," says Justice Harlan, "we are of the opinion that Mugler, the plaintiff in error, has not been denied by the judgments of the supreme court of Kansas of any right, privilege or immunity secured to him by the constitution of the United States and its judgment in each case is accordingly affirmed. We are also of the opinion that the circuit court of the United States erred in dismissing the bill of the state in her suit against Zeibold and Hagelin. The decree in that case is reversed and the case remanded, with directions to enter a decree granting to the state such relief as the act of March 7, 1885, authorizes."

Justice Field concurred in the opinion so far as it related to the two cases in which the state of Kansas was defendant, but dissented as to the case of the state of Kansas vs. Zeibold. He agreed, he said, to so much of the opinion as sustains the validity of the act of Kansas prohibiting the sale of intoxicants which are manufactured in the state after the passage of the act. He was not prepared, however, to say that the prohibition of the manufacture of such liquors, if intended for exportation, can be sustained, nor that the state can forbid the sale, under proper regulations for the health and morals of the people, of any article which congress may authorize to be imported. He was not ready to admit that New York or any other coast state can thus defeat an act of congress, neither could he concur in the validity of the thirteenth section of the prohibition act of Kansas, because he believed it authorized the destruction of property without due process of law.

Another Important Decision.

WASHINGTON, Dec. 5.—A decision was rendered by the United States supreme court this afternoon in the Virginia habeas corpus cases of Attorney General Ayers and the commonwealth's attorneys, Scott and McCabe, who were imprisoned by order of Judge Bond, for disobedience to a restraining order forbidding them to bring suits for the collection of taxes in cases where tenders had been made by receivable coupons cut from state bonds. This court in a very long and elaborate opinion by Judge Matthews, holds the suit in which Judge Bond issued a restraining order in the curcuit court, although nominally a suit against individuals, is in reality a suit against the state of Virginia and as such is forbidden by the eleventh amendment to the federal constitution; that the United States circuit court had therefore no authority to entertain such suit. In so doing and in issuing a restraining order to prevent the officers of the state from discharging their duties under the laws of the state, Judge Bond was acting without constitutional warrant and that the restraining order and all subsequent proceedings under it, including the arrest and imprisonment of petitioners, were illegal and without authority. The court therefore directs that the petitioners, Attorney General Ayers and the commonwealth's attorneys, Scott and McCabe, be at once discharged.

The opinion, which is that of the whole court with the exception of Judge Harlan, who dissents, sustains the state of Virginia at all points and virtually declares that a state, as a political sovereignty, cannot be sued or coerced in the federal courts, either by action brought against her by name or by action brought against her officers in their official capacity unless by express consent of the state.

This is not intended in any way to infringe upon the principle which justifies suits against individual defendants who, under cover of the authority of unconstitutional legislation by the state, are guilty of personal trespasses and wrongs. "It need not be apprehended," Justice Matthews says, "that the constitution applied to the eleventh amendment in this case will embarrass or obstruct the execution of the laws of the United States in cases where state officers are officers are guilty of acting in violation of them, because the United States deals with them as individuals owing obedience to its authority. A state has not power to impart to them any immunity for responsibility to the supreme court of the United States."

FIDELITY FRAUDS.

Damaging Evidence Continues to Be Given Against Harper.

CINCINNATI, Dec. 5.—In the Harper trial to-day Schofield, of the First National bank of New York, stated his bank had a claim of $250,000 against Receiver Armstrong, of the Fidelity bank.

Bookkeeper Walters was then cross-examined at considerable length. He said the Riverside Iron & Steel works endorsed by Harper gave them a credit of $100,000. He stated also that Harper had a fictitious credit with the First National bank of New York upon which he drew. Walters stated that he carried back to the Metropolitan National bank $100,000 which had been borrowed as a temporary loan by Harper. He thought this was June 17.

Charles A. Hunch, assistant receiving teller of the Fidelity National bank, read from the books a schedule showing the checks carried as cash items day by day during 1886 and 1887 by E. L. Harper, J. W. Wilshire, J. W. Wilshire & Co., Wilshire, Eckert & Co., E. L. Harper & Co. and Swift's Iron & Steel works. It showed May 19, 1887, a total of $862,606; May 31, $920,643; June 14, $953,743, and June 20, when the account was closed by the government, these items amounted to $1,169,266. Witness said he received his instructions with regard to these transactions from Harper. From January 1 to June 20 Harper's account was overdrawn at the last day $43,000. The Swift's iron and steel works account was overdrawn all the time in amounts ranging from $100,000 to $470,000. The ledger of the bank showed an average credit balance of about $110,000, the books failing to show the true condition of the account by from $300,000 to $406,000. Witness made similar showings with regard to Wilshire & Co.'s account and in every instance stated that the course taken was at the instance of Mr. Harper. It appeared that at the final crash Wilshire, Ecker & Co.'s overdrafts reached the enormous sum of $1,169,622, while Swift's iron and steel works account was much nearer even than it had been. Witness explained that this was done by Harper himself substituting their checks for those of the Swift iron and steel works. Harper appeared to have control of these checks, for he brought them to witness to be entered as he directed.

MISSOURI PACIFIC OFFICIALS.

Preparations For Receiving Gould, Clark and Others at Pueblo.

PUEBLO, Colo., Dec. 5.—[Special Telegram to the BEE.]—The Missouri Pacific officials including George Gould and S. H. H. Clark, will arrive in Pueblo on the morning of December 9. These gentlemen will be accompanied by various other officials of the road. Officers of the Rio Grande, and Denver, Texas & Gulf, will accompany them. A banquet will be tendered the railroad officials andi nvited guests at the Grand hotel by the Pueblo board of trade, to be followed by other festivities. The railroad officials will remain here probably until the 15th, when a grand barbecue and trades display will be held, to be followed by dancing and other festivities in the evening. This will be participated in by people of all the surrounding towns. Special rates on railroads have been secured, and trains will be run here on the day before for the purpose of bringing the people in. It will be a grand occasion.

Steamship Arrivals.

NEW YORK, Dec. 5.—[Special Telegram to the BEE.]—Arrived—The Anchoria, from Glasgow.

LIVERPOOL, Dec. 5.—Arrived—The Mentaore, from Baltimore.

SOUTHAMPTON, Dec. 5.—Arrived—The Elbe, from New York for Bremen.

PLYMOUTH, Dec. 5.—Arrived—The Moravia, from New York for Hamburg.

GLASGOW, Dec. 5.—Arrived—The State of Georgia, from New York.

QUEENSTOWN, Dec. 5.—Arrived—The Spain, from New York.

Murderer Henry Has a Hearing.

DENVER, Colo., Dec. 5.—[Special Telegram to the Bee.]—The preliminary hearing of Charles E. Henry, the nineteen year old gambler, who murdered little Effie Moore, the Palace theater variety actress three weeks, ago was held to-night before Justice Sales. Henry was admitted to bail in the sum of $20,000. A number of the prisoner's friends are here from London, Ont., and as they are reputed quite wealthy, it is thought that the amount will be deposited in the bank for his appearance for trial.

Corea and China.

SAN FRANCISCO, Dec. 5.—The steamer San Pablo arrived from Hong Kong and Yokohama this morning. China advices state that the emperor of China, having ascertained that Corea will no longer forward annual tribute to China, has issued a decree in which Corea is declared independent.

Strike of Engineers Averted.

CHICAGO, Dec. 5.—The threatened strike of stock yard switchmen has been averted, a satisfactory settlement as to rates of wages and hours of work having been arrived at this morning.

The Burlington Flyer Reaches Denver.

DENVER, Colo., Dec. 5.—[Special Telegram to the BEE.]—The Burlington fast train reached here on time to-night thirty-four hours out from Chicago.

NEWSPAPER ENTERPRISE.

The New York Herald Startles the Fogies of London.

LONDON, Dec. 5.—[Special Cablegram to the BEE.]—The New York Herald's Paris edition of Sunday created quite a stir among the ancient and cumbrous newspapers of this city. The Herald reached London early Sunday evening and was delivered throughout the city by an army of newsboys. The shops and stalls were, as usual, closed in the afternoon, but the newsboys penetrated every section of the city and disposed of thousands of copies. The paper was complete in every department. The main feature was the report of the election of President Carnot in Versailles, the scenes in the chambers, the reception of the news in Paris, and other incidents. The report was elaborate, and was interspersed with portraits of President Carnot, General Saussier, M. Freycinet, Jules Ferry and the ex-presidents of the republic. Besides it contained the regular Herald cables from this city and Berlin, and a vast amount of American news.

Inasmuch as President Carnot was comparatively unknown here his portrait attracted the most attention and comment, and his three competitors come in for interest, but in a less degree. This feat of the Herald in giving the first full account of the Paris events here reminded many of the time several years ago when it in New York gave an account of the death of ex-President Thiers on a week day morning when every London paper was silent about that event. Several club men were heard hoping that some American after the fashion of Brentano, would come to London, and especially for Sundays, open a newspaper and periodical bazaar in some central location. Every railway bookstall is closed here on Sunday and although small newsdealers here and there open their shops, they are not central or very accessible. Hence the Herald's enterprise in supplying the news on Sunday evening and favoring the newsboys attracted additional attention.

LORD LYONS.

Speechless From the Time of His Attack to His Death.

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LONDON, Dec. 5.—[New York Herald Cable—Special to the BEE.]—Lord Lyons was apparently unconscious and entirely speechless from his attack to his death. There was a faint exhibition of intelligence when he was receiving the last offices of the church. When the physicians came at early breakfast time with the intention of preparing a bulletin they fuond that at half past 8 their patient had calmly, painlessly and unconsciously passed away. So quietly was his death that his nephew, the Duke of Norfolk, his three nieces, Ladies Mary Phillipa and Margaret Howard and his private secretary, Mr. George Sheffield, who watched by the bedside, were unable to fix the minutes of dissolution from first to last. There no was opportunity to send dying messages to his only surviving sister, who is married to the Baron von Worthburg, of Bavaria, as his baronetage and barony, which he inherited, and his viscountship and recent earldom, which he himself won, were all by patent confined to his issue, and as he left none, these titles are extinct. Very recently Lord Lyons joined the Roman Catholic church, his conversion, although not much talked of, having been known to his friends and intimates for some time past. On the day of his paralytic seizure his lordship received the last sacrament at the hand of the Rt. Rev. Dr. Butt, chaplain to the Duke of Norfolk. He had been through a complete course of instruction, and since his return to London was frequently to be seen at mass at Corpus Christi church, in Maiden Lane. He had won the gratitude of the church when he prevented the expulsion of the English passionists and the breaking up of the historical college of the English Benedictes at Donay. He had cleverly asked Count Beust, the Austrian ambassador, to oppose the departure of the German Jesuits in the Eve Lafayette on intentional grounds with the secret approval of the German embassy. When the precedent had been established he good-humoredly obtained its extension to the English orders. It was arranged last evening that the body should be interred on Saturday next at Arundell at the family vault on the Duke of Norfolk's estate. The remains will be removed from the Duke of Norfolk's house, St. James square, to Arundel castle on Friday evening next. On the day of the funeral a special service will be held at the Brompton oratory for the repose of the soul of the deceased nobleman, at which Cardinal Mauning is expected to officiate.

A YOUNG DEVIL.

A Ten-Year-Old Roasts a Baby on a Red Hot Range.

JERSEY CITY, N. J., Dec. 5.—In the juvenile dormitory of St. Joseph's home, this evening, Frederick Riley, an incorrigible youngster of ten years took Thomas Jones, aged four to the kitchen, gagged him with a handkerchief, removed the child's pants, and deliberately placed him on a red hot range. One of the sisters was attracted by the smell of burning flesh and rescued the victim. The child cannot live. Its tormentor showed no signs of remorse.

Spanish Duties.

LONDON, Dec. 5.—The Spanish conservatives demand an increase of 25 per cent in the duties of foreign cereals, rice and cattle. Senor Sagasta has determined to respect the commercial treaties made with fourteen countries lasting until 1892, but he will tax agricultural products from America and other countries with which Spain has no commercial treaties, and will also levy duties on alcohol and petroleum.

English Justice in Ireland.

DUBLIN, Dec. 5.—Eight persons present at the famous midnight meeting of the nationalists at Woodford were sentenced there today to various terms of imprisonment. The defendants' counsel, Bowles, termed the proceedings a farce, and was thereupon ejected from the court room.

The Dynamitards.

LONDON, Dec. 5.—Hearing in the case of Thomas Callan, of Lowell, Mass., and Michael Harkins, of Philadelphia, alleged dynamiters, was resumed to-day.

Foreigners Fired From Russia.

VIENNA, Dec. 5.—All Austrian and Hungarian subjects employed in the Russian provinces bordering on Galacia and Rukovina, have been ordered to quit Russian territory before January 13.

Losses By Fire.

NEW YORK, Dec. 5.—The total losses reported by the Commercial Bulletin for the month of November reached $16,003,975, an increase of $6,000,000 over the November preceding. This is the heaviest November on record except during the time of the Boston fire.

Freycinet Officers to Form a Cabinet.

LONDON, Dec. 5.—The Paris correspondent of the Times says that Freycinet to-day called upon Sadi-Carnot and offered to form a cabinet.

SULLIVAN AND ASHTON SPAR.

America's Champion Delights a London Audience.

HE CAPTURES THE FAIR SEX.

A Couple of Speeches By the Big Bostonian Bean Eater Heartily Applauded—Will Box Before the Prince.

John's Latest Exhibition.

[Copyrigh 1887 by James Gordon Bennett.]

LONDON, Dec. 5.—[New York Herald—Special to the BEE.]—The aquarium in Brad Sanctuary street, upon which both the Abbey and parliament buildings cast their dignified shadows, is just now devoted to Sullivan, a feminine Tunis beauty and Madame Josephine's garden of living statuary, which has no rash, intruding Comstock to bid the statues farewell. Sullivan was billed among these colleagues as the American fistic marvel, but the auditors roughly called him the Irish-American slugger. He commenced to-night his second week of exhibition with Ashton, of Providence, and on the programme was placed in the number nine holes in his honor. Prices for good seats were doubled. At the extreme end of the building, in full sight of the auditors, are two drinking bars—one English, the other American—which latter is surmounted by American eagles and the Star Spangled Banner. I met the boxers and party just before the appearance of Sullivan in evening dress, who is always first introduced to an audience as preliminary to his reappearance in Adamic loose costume for his chest and arms, but tights for hips and legs. Phillips, his backer, told me that up to date Sullivan had been clearing weekly a profit of £600 here. "Last week," he added, "Sullivan averaged a profit of over £100 per night. I was offered £1,200 for twelve nights of Sullivan's engagements, but I preferred to take chances and I have done better. After this week John's engagements are Dublin on the 12th and 13th, Cork the 14th, Limerick the 15th and 16th, then back to Dublin on the 17th, Glasgow on the 19th and 20th, Aberdeen on the 21st, Dundee the 22d, Edinburgh the 23d, Preston the 24th and Manchester again on the 26th. These are all the dates yet fixed, but we certainly shall keep on showing until the end of January. Then Sullivan will start into training for his fight with Mitchell. If I win the toss for choice of battle-ground,