CONTRACTOR OF THE PROPERTY OF STREET

TWO SIDES TO THE STORY ARE PLAIN

Witnesses Tell Things that Do Not Reflect Much Credit on the Accused Parties-

Shady Transactions Hinted at by Several.

The investigation of the charges preferred against C. V. Mos, the newly appointed cierk at the police court, was completed last night. The testimony developed nothing new or startling and was in line with that adduced at the first meeting of the comndittee.

C. A. Patterson had known Mos for six or seven years, and first met him in the office of the Nebraska and Iowa Insurance company, when he was at the note desk. It was stated that Mos had trouble in the office over the check entry. He had given the company a mortgage for \$400, and witness understood that it was to cover a shortage in his accounts with the company. Patterson did not remember whether Mos con-tinued in the employ of the company after giving the mortgage. The witness thought L. B. Williams could give information on the

In reply to a question from Mr. Mos. Pat terson said that all he knew of the transaction was from heresay.

Bernard Riley, of Riley Bros., said Mos had been employed by the firm and had charge of the books and cash. There was deficits in the sales on three days, amounting to \$10.75 the first day, \$2.65 the second and \$1.60 on the third. He watched Mos, made the discovery of the shortage, and Mos was discharged. Witness had not known of false entries. He talked with Mos about selling his interest to his brother and witness had told Mos to close the deal, as he was ill and unable to attend to it. Mos had stated that the witness' brothers were attempting to do him up on the deal. About a Cash Item.

Michael Corcoran, who succeeded Mos as bookkeeper for Riley Bros., was there the day Mos had reft the employ of the firm. On that occasion an item of \$25 was taken from the cash drawer by Andy Riley, who said he had placed it in the safe. Mos proved in black and white that Riley had not placed the money in the safe, as there was not that much there. He had charge of the cash drawer and it was the practice for members of the firm to take money and charge it as expenses in some cases and in others no charge was made. Witness told of a transaction by which he said he was asked by Andrew Riley to make a false entry in the books with the intention of defrauding Ber nard Riley, a member of the firm. Corcoran refused and left the employ of the firm yesterday morning.

F. W. Simpson had been acquainted with

Mos six or seven years in a business way and had always found him honest and truthful.

J. M. Miller, weighmaster at the Omahr elevator, and a neighbor, testified as to Mr. Mos' good character, and in business had always found him honorable and honest. Nathan Stevens, a real estate dealer, had known Mos for six yerrs in a business social way and had always found him straightforward and upright.

J. W. Atkinson had known Mos for three

years in a business way and testified as to his good character.

His Own Version. Mr. Mos explained how he came to give

the \$400 mortgage to the Nebraska and Iowa Insurance company. He was employed by Hart for the company in December, 1886, and continued in the service until about the 1st of June the year following. His salary was fixed at \$75 the first month. Before the month had expired he received a proposition from C. E. Mayne to enter his employ at a salary of \$2,000 per year. He told Hart of this fact and Hart agreed to pay him a salary of \$100 per month and an additional \$200 quarterly. He succeeded the brother of Mr. Patterson who had testified as to the mortgage, and since that time bitter feeling had existed between them. He was in charge of the books and collections and no restraints were imposed by Hart. No objection was mised to his overdrawing his account, which he did to the extent of \$175. Hart had him a horse and buggy for \$175 on time. About this time he was called into Hart's office and requested to prepare doctored sworn statements of the condition of the concern—one for the public, another for the stockholders and the third for the use of the manager. This he re-fused to do, and then commenced a series of persecutions. Hart denied the agreement whereby he was to receive the \$200 quarterly. He was almost a stranger in the city, with no friends to stand by him and oppose such a powerful adversary as Hart and he was forced to give the \$400 mortgage to secure the payment of the \$175 he had overdrawn and for the horse and buggy. He remained in the employ of the company a few days and then left. Later the mortgage and note were returned to him by management succeeding Hart, and he did not pay a cent upon it and had never been requested to. Mos said he had refused to assist in the work of defrauding and that was why he was persecuted as he was. He produced the original note and mortgage and his dairy showing the amounts he received from the company and what he was entitled to.

When asked regarding the statements made by Bernard Riley, Mos said he was not in the store much of the time on the three days mentioned, but was out looking after collections.

He was then permitted to address the committee in his own behalf. He referred to the fact that not one of C. M. Schneider's former partners were present to substantiate his statements. He said he had always been honest and honorable, and it was because he had refused to assist in shady trans-actions that he was persecuted in this man-

ner.
The committee will meet this afternoon at 3 o'clock to reach an agreement and prepare its report.

AMUSEMENTS.

"Said Pasha" was the magnet that drew a good sized audience to the Farnam Street theaterlast night. The announcement that the Cathoun Opera company was to be here and present Stahl's rollicking, musical production was sufficient to bring out enough of Omaha's theater goers to comfortably fill the house, and all those who attended enjoyed themselves most thor-

ourhly.

The cast is an excellent one, and each and The cast is an excellent one, and each and the exery person in it is thorrughly versed in his or her part, so that the opera goes through without a single hitch or error, and at the end the audience leaves unirritated by that disagreeable feeling that follows a performance marred by "bad breaks" due to a deficient knowledge of lines or "business". In a word the edge of lines or "business." In a word, the presentation of "Said Pasha" by the Calun company is as nearly perfect as pos-

sible.

A recent valuable acquisition is Miss Carrie Godfrey, as Alti, which part was originally created for her. Miss Godfrey has a wonderful voice in compass and timbre, and the solo parts rendered by her last night were enthusiastically received. Miss Millard as Serena is sweet and charming, and Miss Flartley, with her entirely unpleasant part, as Balah Solah, is entitled to more than a little credit for her work. Messrs. Flint and Calhoun, who do the parts of Hadad and Nocky, are funny, and the word "funny" in this connection means that they produce laughter, and laughter ad lib. The chorus is excellent and well trained.

"Said Pasha" will appear this and tomor row evenings, with a matinee tomorrow evening, giving place Thursday evening to "Fatinitza," which will also be given at Saturday's matinee. "Said Pasha" is well worth seeing.

He Has Not Modified his Policy. ROME, June 5 .- The journals recognized a ergans of the vatican concur in denying that the pope has modified the scholastic policy

MR. MOS' GOOD CHARACTER | heretofore connectated in regard to the United | WERE

ENROUTE TO CHICAGO.

Enlalla Bids Adlen to New York and Leaves for the World's Fair. New York, June 5. - The Spanish princess and suite left this morning for Chicago. The party was escorted from the hotel to the ferry by a battalion of the United States signal corps, Mayor Gilroy and the reception committee. A special steamer conveyed them to Jersey City, where they took a special train on the Pennsylvania road.

ALTOONA, Pa., June 5 .- The train arrived at Harrisburg at 5 o'clock. While engines were being changed, a crowd of several hundred people surrounded the train and cheered for the infanta until she appeared at the window. She leaned out, bowing and smiling at the people, while they cheered her. Just before the train started she appeared on the rear platform and there was renewed cheering.

When she expressed a desire for Spanish cigarettes, she was told that some would be ordered at once and put on the train at the next stopping place. At Harrisburg, the Spanish cigarettes were ready for her and she smoked several of them with unfeigned

One of the most wide awake members of the princess' party is the colored boy Almaro Sargasso, who was discovered on board the Spanish man-of-war Infanta Isabella, when it sailed with the infanta from Havana, Cuba, and whom the infanta has adopted as a servant. At New York he was fitted out with a uniform of blue with brass buttons and a cap bearing her coat of arms. When asked how long he will remain with the princess Almaro said: "Until I die."

As the train entered the mountains the infanta expressed a desire to ride on the locomotive. The engineer was notified, and

preparations were quickly made to give the princess a new experience. At Mount Union, eighty-six miles west of Harrisburg, the princess, with the prince, Commander Dayls and Mr. Parke, climbed up into the cab and stood on the left side. The prince stood close by her side. Engineer Filling-ton touched the throttle, and old 1,379 started off. Faster and faster flew the train. The fireman's arm moved and the whistle shrieked three times as it rattled past a town. Then something loomed up ahead and a train going at full speed in the opposite direction passed. The princess ducked her head and put up one hand to cover one ear, while she clung still tighter to the arm of the prince with the

The train was doing better than a mile a minute. The princess held on and seemed to enjoy the sensation.

At Huntingdon the train was stopped and the princess climbed down, after having ridden twelve miles in twelve minutes. When this excitement was over dinner was served, for it was 7 o'clock. The train arrived at Altoona at S p. m. A stop of five minutes was made to change engines, and then the train went on.

FOR THE FUNERAL.

Firemen Preparing to Bury Their Dead Brothers.

A meeting of the Benevolent Association of Paid Firemen of Omaha was held yesterday afternoon at Chief Galligan's office. The meeting was for the purpose of making arrangements to attend the funeral services of the late members of the force, Captain

Cox and Pipeman Ouray.
Committees were named as follows: On resolutions—Beard, Miller and Loomis; arrangements—Lank, Dempsey and Williams; to wait upon the management of the Farnam Street theatre regarding the proposed benefit—Barnes and O'Neil. A floral offering from Postmaster Clarkson

was received and accepted with a vote of tnanks. The death benefit of \$400 in each case was

An invitation was extended to the South Omaha and Council Bluffs departments, the Durant company and the Veteran Firemen's association to attend the funerals. Chief Galligan will make a detail of mem-bers of the department to attend.

The funeral of Captain Cox will take place this afternoon at 2 o'clock from 500 South Thirty-lifth street. The remains will be buried at Council Bluffs. The hour for the burial of Pipeman Ouray has not been decided upon. Members of the ected to arrive from Chicago The time of the funeral will this morning. The time of the funeral will then be made known. Services will be held at 515 North Fourteenth street and the in-terment take place at ForeLawn.

BOOTH IS SLOWLY SINKING.

No Very Marked Change in the Great Actor's Condition. New York, June 5 .- [11.45 p. m.] -While here has been no very marked change in Booth's condition, it must be admitted that he is slowly failing.

PERSONAL PARAGRAPHS. Ex-Senator A. S. Paddock is in the city.

Bishop Worthington has gone to New

W. F. Bechel and L. A. Garner left for Chicago last evening.
C. G. H. Kastman left yesterday for Chicago to attend the opening of the Nebraska building.

Mrs. Elta Matheson, who holds a position sition in the Omaha postofilee, is spending a couple of weeks at the World's fair. Miss Emma Monzingo, clerk of the Board of Education, has returned from a week's visit to her former home in Coin. In.

A. B. Davenport, formerly chief clerk of the Millard and now manager of the Union Pacific hotel at Abilene, Kan., is at the Dr. William H. Hanchett returned vester day from the world's congress of medicine. He reports a large attendance of foreign doctors and many from Nebraska and the

At the Mercer: H. P. Johnson, Davenport; Arthur Dole, L. C. Parker, Beatrice;
C. O. Shumway, Lyons; W. P. Reushaw,
and wife, Lincoln; W. S. Lewis, Columbus;
M. G. Grobe, Lincoln; William R. White,
Chicago; F. H. Clough, Bartlet, Neb.; J.
Eisner, E. K. Butler, Chicago; George Lewis,
New York; J. C. Mason, Aurora, Ill.; Edgar Smith, Chicago; C. H. Bartlett, Muscatine. At the Mercer: H. P. Johnson, Daven

WEATHER FORECAST. Fair and Warmer, with Variable Winds, for

Nebraska. Washington, D. C., June 5.-Forecasts for Tuesday: For Nebraska and the Dakotas-Fair; warmer; variable winds. For Iowa-Fair: warmer, west to north winds.

Local Record.

OFFICE OF THE WEATHER BUREAU. OMAHA June 5 .- Omaha record of temperature and rainfall, compared with corresponding days of past four years:

perature and precipitation at Omaha for the day and since March I, 1893:
 Normal temperature
 68 ○

 Excess for the day
 60

 Deficiency since March 1
 287 ○

 Normal precipitation
 18 inch

 Deficiency for the day
 14 inch

 Excess since March 1
 2.33 inch

GEORGE E. HUNT, Local Forecast Official. Reports from Other Points at 8 p. m. 1 41 81 41 0

	STATIONS.	emperature at 8 p. m	ature of day	recipitation.	*** 92
Į.	North Platte	20	71	.00	Clear.
	Valonting	70 055 144 665 170 172 600 655 144 689 654 654 654 654 654 654 654 654 654 654	70	-00	Cloudy.
M	Kearney	64	70		Cloudy.
	Chicago	TU	TE	.00	Parteloudy.
	St. Louis	72	76	.00	Cloudy.
	Davenport	60	64	.00	Part cloudy.
۲.	Kansas City	66	70	.00	Cloudy.
텧	Sait Lake City	56	64	*	Part cloudy.
	Rapid City	74	- 34	-co	Clear.
K)	I(n)one	195	62	.00	Part cloudy.
	Blamarek	64	68	.00	Clear
	St. Vincent	60	62 68 63 54	T	cloudy. Part cloudy. Cloudy. Part cloudy. Cloudy. Clear. Part cloudy. Clear. Clear. Clear. Clear. Part cloudy.
	Miles City	46	54	-01	Part cloudy.
	Galveston	74	70	.00	Part cloudy

"F" indicates trace.
Unionag E. Hunr, Local Forecast Official.

CONTINUED PROM PIRST PAGE. strained to reverse their ruling and place a different construction upon the act.

Their Word Exonerates Them It is in evidence that no itemized account of their expenses was ever filed with the board or submitted to the legislature, but each of the respondents and the warden tes-tify that the money was all expended for traveling expenses and other necessary costs trip, and that in addition to \$500 used for that purpose expended from \$15 to \$40 of his private funds. According to their testi-mony, they were absent about two weeks; that the three respondents had free trans-pertation from Lincoln to St. Louis and from Chicago to Lincoln and that the warden rode on a pass from Chicago to Lincoln. We are on this evidence alone asked to find that their legitimate expenses were less than \$500, and draw the inference that they con-verted a part of that amount—in other words that they are guilty of embezzlement. It should be remembered in the first place that this is a criminal prosecution, and we are not to enter upon the field of conjecture in search of a theory upon which the respondents may be pronounced guilty. Second, they are not contradicted by any evidence whatever; they were not even subjected to a cross-examination regarding the items ex-

"We must not be understood as holding that upon an accounting they may not be chargeable with a part or all the \$500 in question, but a finding of willful conversion in this case must rest upon suspicion alone, or at most a mere probability, and upon evie insufficient to support a verdict in civil action.

Same on the Chaplain's Trip.

"Substantially the same reason is ap-plicable to the charge contained in this next plicable to the charge contained in this next specification, viz., the allowance of \$200 out of the cell house fund to defray expenses of the chaplain and warden of the penitentiary as delegates to the prison congress at Pittsburg. In our opinion that expenditure was outside of the scope of the authority of the board, and they are liable to the state for the money so advanced. In other words, they cannot, as to that amount, claim immunity on the ground that their action was in its nature judicial. Such act, however, falls far nature judicial. Such act, however, falls far short of a misdemeanor in office. They acted from motives of humanity, without thought or possibility of gain or advantage to them-selves, which is alone a sufficient defense."

Condoned by the Legislature. Going into a discussion of the stealing at the asylum, the judges find that the state was shamefully defrauded in the matter of overcharges on coal and flour, but that the board was unable to detect the fraud, owing to its dependence on the superintend-ent, who was considered a man of strict-est probity and honor. Further than this, the fact that the legislature passed a deficiency appropriation to make up the deficit caused by these overcharges amounted to an endorsement by that body of the bills as rendered to and passed upon by the Board of Public Lands and Buildings, and therefore acts as complete exoneration of the members of the board in this connection.

In conclusion, the judges cite the lack of precedent, and go on to say that impeachment is less and less sought as a remedy for the acts charged against the respondents. England furnishes the only precedents, and in that country the use of impeachment has fallen into such disuse as to be almost obso-

JUDGE MAXWELL DISSENTS.

Opinion of the Chief Justice Sustaining His Decision of Conviction. LINCOLN, Neb., June 5 .- [Special Telegram

to THE BEE. |-Besides dissenting to the findings of Judges Post and Norval, Chief Justice Maxwell filed an opinion of his own in which he held as follows: "That there were frauds in flour contracts

there is no doubt, but the extent of such frauds it is difficult to determine. Thus in January and February, 1892, the flour was weighed, it is claimed, and the only record preserved was the stubs of weigh checks, and they are lost. There is also proof that the drayman was in the habit of leaving a number of sacks of flour at a designated place on the way to the asylum. The charges under this head are fully sustained.

"It appears that while Dorgan was possessed of the money in question he, at the request of the respondents, paid to Hopkins \$200 to enable him and Elder Howe to visit the prison congress at Pittsburg, Pa. Soon afterward the board received from him \$500 of the money belonging to the state to enable them to choose the best cells. This was charged to the cell house fund. These appropriations are justified upon the ground that the state would be benefited thereby and that therefore it was a proper expendi ture. Section 22, article ili ot the constitu-tion, provides: 'No allowance shall be made tion, provides: 'No allowance shall be made for the incidental expenses of any state officer, except the same be made by general appropriation and on account specifying each item. No money shall be drawn from the treasury except in pursuance of a specific appropriation, made for any purpose, or taken from any fund whatever, either by joint or separate resolution. The auditor shall within sixty days after the ad-

auditor shall within sixty days after the adjournment of each session of the legislature prepare and publish a full statement of all moneys expended. At such session, specifying the amount of each item and to whom and for what paid.'

Disregarded Plain Law.

"This provision declares that no money shall be drawn from the treasury except in shall be drawn from the treasury except in pursuance of a specific appropriation made by law, and on presentation of a warrant issued by the auditor thereon. The legislature makes appropriations. It is for it, composed as it is of the representatives of the people, to say what is for the interest of the state, and to require the expenditure of money. Unless it grants the authority there is none If an officer or money. Unless it grants the authority there is none. If an officer or a number of them can take \$! without an appropriation, and be justified in doing so, he or they may take all that there is in the treasury, if in their view the state will be benefited thereby. Money taken without an appropriation is taken not only without law, but in defiance of it, and if the principle is once established, it would lead to gross frauds and peculations. frauds and peculations.

As Applied to Business.

"Suppose trustees having the care of property and receiving the rents and profits should desire to visit distant points to enable them to administer the estate with wisdom and prudence and thereby benefit it. Could they charge this expense upon the owner or beneficiaries without their consent, lawfully expressed! No more can they do so in this instance. The state, through its legislature. must give its assent to expenditure. Otherwise the party must pay it out of his own pocket. No voucher was filed with any officer showing the amount ex-pended; nor any attempt to comply with the law. In addition to this, the cell house is not ready for the cells even now. Therefore there is no emergency. But under no view of the case can the expenditure be justified, and the fact that in one or two previous instances such expenditures were made, which do not seem to have been known, but tends to show the lax methods that seem to have prevailed with the board wherever the expenditure of money was concerned.

Some Peculiar Facts. "It also appears that the legislature made an appropriation of \$1,000 for the traveling expenses of the board. It is true Mr. Allen testifies that \$500 of this sum had been expended. He also testifies that all the members had passes, so their railroad fare was nothing. So far as he stated, the visits to the various state institutions by the board, the expenditures should not have exceeded \$100, and probably did not. If the board desired to travel on official business, it would seem that this was the fund for that purpose.
"It appears also that Dorgan used \$34 to reset the boilers in the prison, a charge which properly belonged to Mosher, and should have been paid by him.
"In addition to the ordinary provisions in "It also appears that the legislature made

should have been paid by him.

"In addition to the ordinary provisions in appropriation bills, that of 1891 contained the following:

"Section 3. Each state officer and each board entitled to draw against the appropriation provided for in this act shall keep an itemized account of all expenditures made by them, and report the same with youchers to the finance committee of the next legislature, and no officer of any institution and no state officer shall incur any indebtedness beyond the amount abore.

"The testimony shows that the respond ents made no attempt to comply with these provisions. The charges were fully sustained.

Gross Frands Were Committed. "The testimony tends to show that gross frauds were committed in the delivery of coal at the Lincoln Asylum for the Insane. The respondents claim to have been ignorant of these frauds until about September, 1892. It appears that from the 1st day of October, 1890, to the 25th day of March, 1891, the Whitebreast Coal and Lime company furnished coal for the asylum and was allowed therefore the sum of \$11, 551.95. To cover this claim an appropriation of \$12,000, or so much sthereof as might be necessary, was made, and the claim was cer tified to the auditor by the respondents. The coal was alleged to have been de-livered on the cars at Asylum switch, but the number and initials of the cars on which it was alleged the coal was delivered are not given in a single instance. Dr. Knapp testified in effect that he did not believe the amount of coal charged had been delivered. His did not believe the amount of coal charged had been delivered. His bookkeeper testified to substantially the same facts. Neither of them, however, communicated their suspicions

to the respondents. Knapp afterward approved the vouchers and they were approved by the respondents and the warrant issued. Was Not Justification. "The fact that an appropriation had been made to pay for this coal was not an adjudi-ciation of the claim, as the legislature cannot

ciation of the claim, as the legislature cannot adjudicate claims. State vs Babcock, 22, Neb., 38,

"The very large amount of coal charged, sufficient to have supplied all the asylums of the state for the time charged, asyums of the state for the time charged, certainly should have put the respondents upon inquiry. The reports for coal from other public institutions were before them and unless fraudulent vouchers were sent in from them also, which there is no claim, a comparison should have shown the fraud No examination was made, however.

"The respondents introduced evidence tending to show that last October they submitted the whole matter to the grand jury of Lancaster county, and thereby sought to bring the guilty parties to justice. It is but fair, however, to state that Governor Boyd requested them to lay the matter before the grand jury, and it is evident that the matter had acquired such publicity it could not be avoided. On this trial they in effect deny the frauds, or that if such existed they had any notice thereof in any form, and therefore are not chargeable therewith They seem also to exhibit no very friendly sentiments toward the witnesses by whom these frauds were proved, and certainly no disposition to aid in procuring proof of the

No Excuse for Them Here.

"Some reliance is placed on the approval of the asylum officers by the governor in his message of January, 1891. This, no doubt, is entitled to considerable weight, but it could not in any manner excuse the respondents from the exercise of reasonable care in the examination of the asylum vouchers. In addition to this the land commissioner in December, 1890, in his report to the governor which is in evidence, says (page 85): 'Under the existing system of furnishing supplies the appropriation funds are too frequently used in keeping with that conception of charity which declares that it "hideth a multitude of sins." Items for luxuries, privileges and conveniences that are alone enjoyed by the officials and their friends are too often cleaked in a claim for "board and clothing, fuel and lights," or some one of the other necessary funds appropriated for maintenance of the institution.

That Overwork Plea. "It is contended by the respondents that the business in their respective offices has so increased that it is impossible to give at-tention to many of the details of business that come before them and that they are therefore excusable. It is true there is a large amount of business in each of the oflarge amount of business in each of the ofnices named. This is a large and growing
state, and business in all departments is
constantly increasing. In the office of the
land commissioner, however, there are ten
clerks and one deputy, which, with the
principal, makes twelve persons. In the
office of the secretary of state one
deputy and two clerks, four persons in all. In the attorney general's office, one deputy and stenographer. If these officers need additional
assistance, if they will present their claim assistance, if they will present their claim to the legislature through the governor, no doubt the desired increase would be granted. ents, and as no such application was made, it must be because it was not considered necessary. The business of the state, however, must be conducted in a reasonably prudent and careful manner, otherwise the esult would be chaos. Suppose a merchant

or business man should urge the want of time to look after his business, and there-fore neglect it, the result would be uncertain. No defense of this kind can be enter-

How They are Responsible. "Are these acts grounds for impeachment?" All civil officers of this state shall be liable 'All civil officers of this state shall be liable to impeachment for any misdemeanor in office,' It may be well to inquire, first, what are the duties of public officers? Each one, before entering upon his duties, is required to take an oath that he will 'faithfully and impartially perform the duties of his office according to the law and the best of his ability.' ity.' An officer is bound to exercise ordinary care, such care as an ordinarily prudent man would exercise in the management of his own affairs. The respondents are to quite an extent trustees. The claim that there was no wilfull disre gard of law in the penitentiary cell house matter, is clearly shown to be unfounded. The respondents' duty to the state was in the first instance to appoint a capable, effi-cient superintendent, who would protect the rights of the state; see that the state re-ceived as fair treatment as other contractors in the employment of convicts and purchase of materials, and to exercise an apprense of materials, and to exercise a general supervision over the work; to permit no money to be drawn except on original vouchers of the persons primarily entitled to the money or their assignees.

"In all these respects there was a failure to discharge their duty. The claim that they knew nothing about Dorgan is entitled to no weight whatever. They did know that he represented the party who could and probably would profit by his being superin-tendent. Indeed, the argument that they were able to hire him cheaper than a disinterested party is an admission of his unfit-ness, as it shows that he was drawing full pay for his services from Mosher at the same time. In addition to these facts each allow ance of an estimate without a voucher was a violation of a duty by the respondents, by which they wrongfully and willfully per-mitted Dorgan to draw money from the treasury. Not Entitled to Exemption.

"It is said the respondents acted judicially in approving accounts, and therefore are not liable for their acts. The able attorneys for the respondents made no claim of this kind, and therefore it is evident they did not rely and therefore it is evident they did not rely upon it. If, in approving accounts, they act judicially, in order to protect them there are three things which must concur. First, the claim must be one they are authorized to audit; second, it must be presented in the form of a bill or voucher showing the debt and what it is for, otherwise the board would be like a judge passing, upon a matter would be like a judge passing upon a matter not before him, such as a matter not put in issue, and, third, the statute makes it their

duty to investigate every claim.

The protection laccorded to a judge against a private action does not apply when he is on trial under a specific charge of impeachment. Even a judge of this court could not plead protection against such charge. In such case his conduct and general manner of conduct ing his business may be inquired into, and if he is found guilty of misconduct, on any of the charges, he may be declared guilty. But no judicial officer is protected when he exno judicial officer is protected when he exceeds his authority, and these respondents very clearly in all they are charged with acted either without authority of law or in excess of such authority. But in my view, their duties are not judicial. In the proper sense they do not allow accounts. They merely investigate, or should investigate the vouchers and the several items thereof, to see that they conform to the contract. In other words, the duty of the board is to let contracts in a specified manner and when vouchers are presented under such contracts, which upon examination are found to be correct, they are to certify the same to the auditor. The certificate is not a flual order from which an appeal would lie and is not a judicial act.

They are Not Protected.

They Are Not Protected.

"It will not be seriously contended that an officer who negligently and improperly continue fraudulant account which is was

priated in this bill except to prevent dis- his duty to investigate, or who unlawfully lraws money from the treasury is protected from the consequences of his act and se far as I am aware no case so holds. Proof was introduced on behalf of the respondents to show that Dorgan, Knapp and others had given bonds to the state. It is evident that given bonds to the state. It is evident that none of these bonds will cover the actual loss to the state, and even if enforced would be an imadequate remedy. But the giving of the bond by an officer does not exempt him from the performance of his duty, nor relieve those who superintends his acts, from a faithful supervising of the same. The law imposes the duty of supervising with 'a reasonable degree of care.' It seems to me the respondents wholly failed in the performance of their duties in the cases specified in these charges, whereby the state, during the ten months that Dorgan was superintendent, lost a large sum of money, probably not less than \$15,000, and \$234 for resting the boilers, which was not a debt of the state, together with the sums drawn by Hopkins and Howe to go to Pittsburg and these respondents to go to St. Louis, in all \$994.

Had Pienty of Chances.

"The overpayments for coal all in sixteen months exceed \$12,000. An ordinary prudent man would have required the veuchers to be in proper form giving the numbers and weights of the several cars. There are telephones in all the public buildings, so that it would have taken but a moment to make the proper inquiries in regard to the coal and protect the interests of the state. But so far as the proof shows such inquiries were not made in a single in-stance. A public officer, like any other ser-vant, should be faithful to his employer, to see that in all matters under his control the master shall not be defrauded. In other words, he shall be faithful to his trust, not as an eye servant, but in the sight of God. That is in effect the oath that each officer takes to faithfully perform his duty.
Our public institutions should be conducted
on business principles and without fear,
favor or favoritism, and no money should be drawn from the treasury except in strict pursuance of law.

Would Produce More Evil.

"If the court should approve or even con-done the conduct of the respondents in these cases the influence of the decision will be felt in every department of business in the state as tending to weaken the sense of faithfulness of public officers and employes, and in every way prove detrimental to the best interests of society. There are an abundance of men in the state who can and if the opportunity is given by their selection to the offices filled by the respondents, will faithfully look after the interests of the state and as the respondents. terests of the state and as the respondents have failed in that regard, the charges well taken and should be sustained. I there fore vote guilty as charged.
"I fear the result of the decision, if ad-

hered to, will be to open a door to the gross-est frauds in the public institutions of the state. A number of the witnesses for the state testified if under constraint and there seemed to be powerful influence affecting some of them, aside from the immediate friends of the respondents at work in their favor. The respondents, of course, are not responsible for these influences, but it is my duty to mention them."

RESEMBLES A DEATH WARRANT,

some Who Believe the Verdiet Will Be Repudiated by the People. Lincoln, Neb., June 5 .- [Special Telegram to THE BEE.]-Hon. G. M. Lambertson, who was chief counsel for the state in the impeachment trial, and incurred the deadly political enmity of the respondents and their friends by his fearless arraignment of their official acts, was found in his rooms on H street this evening. In answer to a query as to his opinion of the verdict, he said: "Well, I have not yet read the opinion of Judge Post, but have glanced over that submitted by Chief Justice Maxwell, which seemed to respond to every point in the case. In my opinion," and Mr. Lambertson leaned back reflectively in his chair, "the verdict of the chief justice, who has been on the bench for twenty years, will be accepted

as the most satisfactory to the people.
"If the supreme court had united in finding the respondents guilty the influence of such a verdict would have been most wholesome, and the outlook for the success of the republican party would have been brighter than

it is.
"In any event the trial has been and will any event the trial has been and will be to the state. prove of the greatest service to the state. It will bring about better businessmethods, will save the state \$40,000 a year and will give our officials a higher sense of public duty.'

Very Like a Death Warrant.

Hon. C. D. Casper, the democratic, and Hon. P. H. Barry, the independent member of the impeachment committee, were evidently not sure whether they were pleased or displeased over the verdict. "It was just what I expected," said Mr. Casper. "When Judges Post and Norval affixed their names to the decision exonerating the state officials in the face of the ac cumulation of evidence as to their neglect of sworn duty they signed the death warrant of the republican party in Nebraska. This is not a funeral of my seeking, and I do not feel called upon to pronounce an oration over the corpse. Thinks It Will Help the Independents.

"The verdict," said Captain Barry means the defeat of the republican party at the next election. It is partisan, biased and apparently a forced argument in behalf of the respondents. So far as I can judge from what I hear it means also an overwhelming victory for the independents next fall. The people have read the evidence in the case, and their verdict will be handed in then." Governor Crounse and Auditor Moore were in close conversation in the Hotel Lincoln rotunda this evening at 9 o'clock, when approached by a reporter for The Bgg. When asked for his views on the decision, the governor replied, somewhat per-emptorily: "O, I don't care to express my views on that subject. I believe I my views on that subject. I believe I prefer to let each citizen form his own conclusions. I would rather be quoted as having had nothing to say."

"You will understand," added Auditor Moore, "that co-ordinate officers prefer to be silent on the subject. It would hardly be proper for them to express themselves either for or against."

IT WAS NOT AN APPETIZER. Their Narrow Facape Made the Principals

Postpone Their Banquet. Lincoln, Neb., June 5 .- [Special Telegram o THE BEE. The banquet, which was to have been tendered the state officials who were before the court of impeachment, and which was to have been accompanied by a flow of wine, red fire and slow music, did not materialize. It was to have been one of the features of the evening if the court had given the gentlemen a clean bill. It is stated with authority that all preparations had been made, but the dissenting opinion of Chief Justice Maxwell has taken away all desire to congregate around the banquet board and drink wine, while the three respondents are putting on a bold front as they shake hands with the men of their ilk. Their every word and act fully indicate that they are not happy. Even many of their staunch supporters acknowledge that the majority opinion is slightly on the white wash order and that instead of

BENTON, HILL AND LEESE FREE. Power to Amend Impeachment Proceed

being purged they have been convicted by the people of the state.

ings Cannot Be Delegated. LINCOLN, Nob., June 5. - [Special Telegram o THE BEE.]-Tom Benton, ex-auditor; Cap-

tain Hill, ex-treasurer, and ex-Attorney General Leese are free men tonight so far as any action of the supreme court is concerned. With the main opinion in the impeachment case there was another opinion which sent the ex-officials out of harm's way. In substance it is as follows: "The constitution of this state confers the

sole power of impeachment upon the senate and house of representatives in joint convention, and the legislature cannot delegate that power to others. Where the legislature has adopted articles of impeachment which have been filed in this court no amendment thereof in any matter of substance can be made by any manufactures. thereof in any matter of substance can be made by any managers appointed by the legislature to prosecute the impeachment. The authority to adopt and present other or amended articles of impeachment or specification rests alone with the joint convention of the two houses of the legislature. The articles adopted

on April 7 charging them with misdemeanor ee when they were private citizens and subjecting them to impeachment would not only be extremely oppressive and expensive but would endanger their lives and liberty by exposing them against their wills to a prosecution for their conduct in exercising their political right and privileges opinion is by Judge Norval and is concurred in by his associates and the charge

Some Private Opintons. "Not having read the decision of the majority of the court, nor the dissenting opinion of Judge Maxwell," said Matt Gering of Plattsmouth to a BEE reporter at the Paxton last evening, "I do not feel competent to express a rational opinion upon the matter, although the dissenting opinion seems to confirm the so-called political statements made by Mr. Morton and myself dur-ing the last campaign. I think the decision hardly comes up to the expectations of the people; yet, it is a very serious thing to de-prive men of the right to hold office because of negligence of others."
"What is the outlook on the United States

"What is the outlook on the United States district attorney contest?"
"There are five of us who are candidates for the position. I feel hopeful, as I suppose all of the candidates do. I think the appointment will depend upon the consent of Secretary Morton, whose wishes will decide the choice of the administration. Both Mr. Mahoney and Judge Ogden are admirably fitted for the place. If I am not selected for it, I shall not feel in the least disgruntled, because I know that Mr. Morton's idea is the unification of the party, and an appointment unification of the party, and an appointmen made with that end in view will prove grati fying to every member of the democracy. No one can now predict who will be the success-

ment will not be made until the expiration of Mr. Baker's term in January." Deputy Uni ted States Marshal Liddard of Rushville was met at the Paxton. The vigilant ex-sheriff of Sarpy has made three trips to Omaha with prisoners in the past couple of weeks, covering 3,000 miles, and had been so busy yesterday that he had not heard of the impeachment verdict until in-formed of it by Taz Ber man.

ful candidate. It is certain that the appoint

"What, acquitted? You don't mean it? Well, well."

"What do you think of it?" "Well, usually I have enough to do to look after my own business, but then I guess this is every citizen's business. The verdict is going to help the democratic party. Everybody up my way was expecting a verdict of guilty. The evidence certainly tooked strong for conviction. There was a good deal of very damning testimony given in that case."

NATIONAL LEAGUE GAMES.

Senators Jolt the Conquering Pirates Pretty Solidly for One Game.

Washington, D. C., June 5.-Terry started in to pitch for Pittsburg, but the Washingtons hit him so hard that Gastright was substituted, but he fared no better. Both were wild and ineffective. Weather hot. Score Washington... 1 8 2 0 1 4 0 0 3-14
Pittsburg... 3 0 1 1 1 0 0 0 1-7
Hits: Washington, 15; Pittsburg, 11. Errors:
Washington, 6; Pittsburg, 3. Earned runs:
Washington, 6; Pittsburg, 1. Batteries: Stensel, Duryea and McGuire; Terry, Gastright and
Mack.
Only Mike Already Banched. Only Mike Already Benched.

New York, June 5.—St. Louis was not in the game with the New Yorks. Rusic was invincible for six innings and then let up. Gleason, on the other hand, was wild and Ward's men hit him almost at will. Mike Kelly was laid off without pay until he gets into condition to play ball. Attendance 2,000. Score:

New York. . . . 2 0 1 2 0 3 2 0 *-10 St. Louis. 0 0 0 0 0 0 0 2 0 3-5 Hits: New York, 14; St. Louis, 9. Errors: New York, 3; St. Louis, 5. Earned runs: New York, 5; St. Louis, 2. Batterles: Rusle and Doyle; Gunson and Gleason. Bean Enters Got It. Boston, Mass., June 5.—The Champions

fairly won the game from the Clevelands by superior batting. It was a "scrapping game" from start to finish, both teams findfig fault with the umpire and continually fighting for points. Score: Hits: Boston, 11; Cleveland, 11. Errors: Boston, 3; Cleveland, 5. Earned runs: Boston, 7; Cleveland, 2. Batteries: Stivetts, Staley, Morritt and Gansel; Clarkson and O'Connor, Young and Zimmer.

Jiggs Parrott Wins a Game. BROOKLYN, N. Y., June 5 .- Parrott, the third baseman of the Chicago team, was the

man who did the most toward defeating the Brooklyns at Eastern park. Altogether the Chicagoans' fielding was very fine. Score: Brooklyn....... 0 1 0 0 4 0 0 0 0 0 0 Chicago 1 1 1 0 1 0 2 1 0 7 Hiss: Brooklyn, 10; Chicago, 10. Errors: Brooklyn, 2; Chicago, 2. Earned runs: Brooklyn, 3; Chicago, 3. Batteries: Haddock and Kinslow; Mauck, McGinnis and Schriver.

This Corked the Dude.

PHILADELPHIA, Pa., June 5.—Philadelphia won an interesting game in the tenth inning, after two were out, on a succession of three baggers by Cross and Allen and Keefe's single. Weather clear and hot Score: Philadelphia. 0 0 0 2 2 0 1 1 0 2-8 Cincinnati... 0 2 1 0 0 1 0 2 0 0-6 Cincinnati... 0 2 1 0 0 1 0 2 0 Cincinnati... 13.

Hits: Philadelphia, 15; Cincinnati, 18.

Errors: Philadelphia, 5; Cincinnati, 2. Earned runs: Philadelphia, 6; Cincinnati, 2. Batterles: Keefe, Clements and Cross; Mulland

Orioles Coming Fast Again.

BALTIMORE. Md., June 5.—The Louisvilles met with another defeat at the hands of the Baltimores because of the Orioles getting a batting streak on in the eighth inning. Attendance 2,300. Score:

Balumore...... 0 0 0 2 0 0 0 3 0- 5 Louisville..... 0 2 0 0 0 1 0 0 0- 5 Hits: Baltimore, 11; Louisville, 5. Errors: Baltimore, 1; Louisville, 4. Earned runs: Bal-timore, 1: Batteries: McMahon and Robin-son; Stratton and Grim. Standing of the Teams.

W. L. P. C. W. L. P. C. W. L. Pittaburg. 21 10 67.7 New York. 16 17 Boston. 21 12 63.6 Washington 15 16 Philadelphis 8 13 58.1 St. Louis. 13 17 Brooklyn 17 14 54.6 Chicago. 13 17 Baltimore. 15 17 53.1 Checkmatt. 12 18 Cleveland. 13 12 52.0 Louisville. 3 19 Jocky Club Reorganized. One of Omaha's "long felt wants" is about to be satisfied. The Omaha Jockey club

met and reorganized last night, and there

will be a midsummer race meeting July 4, 5

with a program no city need be

and 6, with There was a good attendance at last night's meeting and much interest was manifest. Judging from the enthusiasm that irradiated from the horsemen who took part in the meeting, the revivification of the jockey club means business, and it is safe to say that Omaha will again be the scene of

some interesting racing events.
Officers elected were: President, W. J Perry, the well known horseman; vice presi-dent and treasurer, P. H. Kinney; secretary J. A. Tuthili, who has a record for managing successful meetings, notably the running meet at Wahoo, Neb., in 1870, and that at Lemars, Ia., in 1879.

Iowa Fruit Prospecta.

MALVERN, Ia., June 5 .- [Special to THE BEE.]-An interview with W. K. Follett, the veteran horticulturist, edicits the information that the prospects for small fruits, as raspberries, blackberries, strawberries and grapes, are better than for several years. The apple prospects have been good until The apple prospects have been good until within the past week, when a twig blight was noticed, which threatens to cut the crop short. Plums promise a fair crop. Cher will be almost a total failure.

Plans for Miss Ripley's Funeral. KEARNEY, Neb., June 5 .- [Special Telegram to THE BEL |-The remains of Miss Mary Ripley, who died at Boatwick while on Mary Ripley, who died at Bostwick wante on a lecturing tour, were brought here for bur-ial today. Miss Ripley was president of the Kearney Nineteenth Century club and occu-pied a prominent position in educational and temperance circles. The funeral will be held Wednesday afternoon.

Destructive Fire at Pender. PENDER, Neb., June 5.— Special Telegram to THE BEE.]—B. T. Hull & Sons' flour mill known as the Logan Valley Holier Mills burned tonight. The fire was discovered about 10 o'clock, but too late to save any-thing but about fifty bushels of wheat. The loss is closely estimated at from \$12,000 to \$14,000. The insurance is between \$8,000 and \$9,000.

Temporary office of Chas. Shiverick Co., rooms 202-203 First National ank building.

TO BE SETTLED THIS WEEP

Material for Omaha's Federal Building No. Yet Determined.

SLIGHT CHANCE TO SECURE GRANITE

Supervising Architect O'Rourke Thinks Is Possible to Secure an Increased Appropriation, But This Method Will Require Time.

WASHINGTON BUREAU OF THE BRE, 513 FOUNTEENTH STREET, WASHINGTON, D. C., June 5. Supervising Architect O'Rourke did no reach any conclusion today in the matter of the public building at Omaha. Senate Manderson was to have called upon the st pervising architect for a further conference as to the advisability of readvertising for bids. The senator, however, did not call and atherefore nothing was accomplished Mr. O'Rourke said to THE BEE corresponder this afternoon that the case was still abeyance, but it would, he thought, be set

tled this week. "I can see but one solution of the que tion," said the supervising architect, "ar that is to readvertise for bids the specifi ation calling for some other material tha granite. We cannot build of granit unless the bidders come within the appropriation. It is possible, however to secure an additional appropriation sufficient to cover the cost of a granite built ing, but this course would necessitate green delay. However, I hope to have the matter straightened out within the next few days.

Secretary Morton at His Deak. Secretary Morton, who has been abset from the city for over a week, has wire Assistant Secretary Willetts that he will re-turn tomorrow morning. The secretary has spent a greater portion of the week i

Hassler's Claims Recognized.

J. J. Hassler, of Forest City, S. D., was today appointed chief clerk of the Interiodepartment. Mr. Hassler is an "Ex," hay ing served as the appointment clerk of the Interior department during Cleveland former term. He was a candidate for sev geant-at-arms of the senate, but though if was quite generally endorsed Mr. Hassis Subsequently he made application for chie clerkship of the Interior department, and today Secretary Hoke Smith recognized he claims and made out the commission. M claims and made out the commission. Manager will probably assume the duties his office this week. Nebraska Bank Examiner. Comptroller Eckels will appoint an additional bank examiner for the state of Nebraska. He said the work was too much for

one man. There is not much probabilit, that Examiner Griffith, now in charge, will be removed. While a democrat, he held office throughout the republican term be cause of his record for efficiency. But on

application has been received for ban-examinership from the state of Nebraska It came late this afternoon. The name of the applicant has not been given out yet. Western Pensions. The following pensions granted are r Nebraska: Increase - Orange Warner Jesse Glenn, Reissue-John Hondersheldt Iowa: Original—George T. Moran, Arza B. Park. Increase—William Johnston Original widows, etc.—Mary Fisher, Mary

A. Hines, mother. Miscellaneous.

William Wagner was appointed postmaster at Amherst, Buffalo county, today, vice H. W. Kapelsky, resigned. P. S. H. What it Cost to Convict Dr. Briggs. Washington, D. C., June 5 .- It is generally agreed among Presbyterians prominently connected with the Briggs case that the expenses incurred during the entire progress of the case from its initiatory stage until the general assembly disposed of it last week. amounted to a very large sum, but it is almost impossible to make an estimate of the total amount with accuracy. Rev. Dr. Bart-

lett, who was chairman of the local commit

tee of arrangements for the general assem

biy, is, however, of the opinion that the estimate, made by some of the commis-

sioners, that the Briggs case from beginning

\$50,000, is nearly correct. AYER'S Sarsaparilla

Is superior to all other preparations claiming to be blood-purifiers. First of all, because the principal ingredient used in it is the extract of genuine Honduras sarsaparilla root, the variety richest in medicinal proper-

Cures Catarrh ties. Also, because the yellow dock, being raised expressly for the Company, is always fresh and of the very best kind. With equal discrimination and care, each of the other ingredients are selected and

compounded. It is THE Superior Medicine

because it is always the same in appearance, flavor, and effect, and, being highly concentrated, only small doses are needed. It is, therefore, the most economical blood-purifier in existence. It

Cures makes food nour-SCROFULA ishing, work pleasant, sleep refreshing, and life enjoyable. It searches out all impurities in the system and expels them harmlessly by the natural channels. AYER'S Sarsaparilla gives elasticity to the step, and imparts to the aged and infirm, re-

AYER'S Sarsaparilla
Prepared by Dr. J. C. Ayer & Co., Lowell, Mass.
Bold by all Druggists; Price \$1; six bottles, \$6.
Cures others, will cure you

909090090990 Simple ailments neglected may grow deadly. A handy remedy is

Beecham's (Worth Suines)

in all cases where Liver and Stomach trouble is suspected. 0000000000

newed health, strength, and vitality.