ON A SHEET OF STREET OF STREET, STREET

priated in this bill except to prevent dis-

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

Gross Frauds 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

More Light Shed on it for the Benefit of the City Council.

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 clerk 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 commilttee.

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 continued in the employ of the company after giving the mortgage. The witness thought L. B. Williams could give information on the subject.

In reply to a question from Mr. Mos, Pat terson said that all he knew of the trans action 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, amount ing 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 not known of false entries. He had 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

Michael Corcoran, who succeeded Mos as bookkeeper for Riley Bros., was there the day Mos had left 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 awer and it was the practice for members of the brm to take money and charge it as expenses in some cases and in others no charge was made. Witness told of a trans-action by which he said he was asked by Andrew Riley to make a false entry in the books with the intention of defrauding Bernard 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 Omaha 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 and social way and had always found him straightforward and upright.
J. W. Atkinson had known Mos for three years in a business way and testifled 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 sold 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 not a work restaured to him by the and note were returned to him by the 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

When asked regarding the statements store much of the time on see days mentioned, but was out looking after collections.

He was then permitted to address the com-

mittee 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-The committee will meet this afternoon at

2 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-

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

A recent valuable acquisition is Miss 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 Hartley, with her entirely unpleasant part, as Balah Sojah, 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 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 even-ing, giving pince Thursday evening to "Fat-initzs," which will also be given at Satur-day's matinee. "Said Pasha" is well worth

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

EXPOUTE 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 enewed 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 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 u desire to ride on the

infanta expressed a desire to ride on the locomotive. The engineer was notified, and preparations were quickly made to give the 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 Davis and Mr. Parke, climbed up into the cab and stood on the left side. The prince stood close by her side. Engineer Fillington touched the throttle, and old 1,379 started off. Faster and faster flew the train. The fireman's arm moved and the whistle shricked three times as it rattled past a town. Then something it rattled past a town. Then something loomed up ahead and a train going at full 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 minute. The princess held on and seemed to enjoy the sensation. At Huntingdon the train was stopped and

the princess climbed down, after having rid-den 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 8 p. m. A stop of five minutes was made to change engines, and then the

FOR THE FUNERAL.

Firemen Preparing to Bury Their Dead

Brothers.
A meeting of the Benevolent Association of Paid Firemen of Omaha was held vesterday afternoon at Chief Gailigan'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 theatro regarding the proposed benefit—Barnes and O'Neil.

A floral offering from Postmaster Clarkson

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

ordered paid.

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 506 South Thirty-fifth 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 family are expected to arrive from Chicag 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 there 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

York. W. F. Bechel and L. A. Garner left for Chicago last evening. C. G. H. Kastman left yesterday for Chi-

ago 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, Ia. 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 yesterday 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, Daven-port; Arthur Dole, L. C. Parker, Beatrice; C. O. Shumway, Lyons; W. P. Renshaw, and wife, Lincoln; W. S. Lewis, Columbus; M. G. Grobe, Lincoln; W. S. Lewis, Collinolns, 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.; Ed-gar Smith, Chicago; C. H. Bartlett, Musca-

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

1893, 1892, 1891, 1890, Maximum temperature, 71°, 76°, 35°, 67°, Minimum temperature, 53°, 64°, 46°, 58°, Average temperature, 62°, 70°, 50°, 62°, Precipitation, .04°, .00°, .63°, .01° Statement showing the condition of temperature and precipitation at Omaha for the day and since March 1, 1893:

Normal temperature
Excess for the day
Deficiency since March 1
Normal precipitation Normal precipitation
Deficiency for the day
Excess since March 1 GEORGE E. HUNT, Local Forecast Official. Reports from Other Points at 8 p. m.

ature of day STATIONS. 00 Clear.
00 Cloudy.
14 Cloudy.
00 Cloudy.
00 Part cloudy.
00 Cloudy.
00 Cloudy.
00 Cloudy.
00 Clear.
00 Clear.
00 Clear.
00 Part cloudy.
00 Clear.
00 Part cloudy.
01 Clear.
02 Clear.
03 Clear.
04 Clear.
05 Clear.
06 Clear.
07 Clear. Maha St. Louis.... St. Paul..... Davenport... Kansas City. Denver Sait Lake City Rapid City Riciena Bismarck St. Vincent Miles City

Oxones M. Hunr, Local Forecast Official.

WERE

ICONTINUED 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 testify that the money was all expended for traveling expenses and other necessary costs of the trip, and that in addition to the \$500 used for that purpose each 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-portation 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 respon-dents may be pronounced suilty. 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 evidence 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 specification, viz., the allowance of \$200 out 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 defi-ciency 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 impeach ment 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 to the asylum 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 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 iii of the constitution, provides: 'No allowance shall be made the incidental expenses of sofficer, except the same 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 ournment 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 "This provision declares that no money 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 authormoney. Unless it grants the authority there is none. If an officer or a number of them can take \$1 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. As Applied to Business.

"Suppose trustees having the care of prop-erty 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 expended; 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 in stances 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 ex-penses of the board. It is true Mr. Allen testifies that \$500 of this sum had been extestifies 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 \$234 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

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 spire.

It will not be seriously contended that an officer who negligently and improperly collises a fraudulent account which it was

of these frauds until about September, 1892. It appears that from the lst day of October, 1800, to the 26th day of March 1801, 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 thereof 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 in-stance. Dr. Knapp testified in effect that he did not believe the amount of coal 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. "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 adjudicate claims. State vs Babcock, 22, The very large amount of coal charged, sufficient to have supplied all the asylums 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

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 ancaster 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

comparison should have shown the fraud.

Was Not Justification.

No Excuse for Them Here.

these frauds were proved, and certainly no disposition to aid in procuring proof of the

"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 86): '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 not in any manner excuse the respondents of sins." Items for luxuries, privileges and conveniences that are alone enjoyed by the officials and their friends are too often cloaked 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 large amount of business in each of the of-fices named. This is a large and growing state, and business in all departments is 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 to the legislature through the governor, no to the legislature through the governor, no doubt the desired increase would be granted. These facts must be known to the respondents, 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 result 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 uncer-No defense of this kind can be enter tained.

How They are Responsible. "Are these acts grounds for impeachment!
"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 abil-ity.' An officer is bound to exercise ordinary care, such care as an ordi-narily 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 disregard 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 received as fair treatment as other contractors in the employment of convicts and purchase 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 disin-terested party is an admission of his unfitness, as it shows that he was drawing full pay for his services from Mosher at the same time. In addition to these facts each allowance 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 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 assing upon a matter. would be like a judge passing upon a matter not before him, such as a matter not put in ssue, and, third, the statute makes it their issue, and, third, the statute makes it their duty to investigate every claim. The protection taccorded 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 ladge of this court court not plead protection against such case. In such case his conduct and general manner of conducting 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 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.

his duty to investigate, or who unlawfully his duty to investigate, or who unlawfully draws money from the treasury is protected from the consequences of his act and so 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 none of these bonds will cover the actual loss to the state, and even if enforced would be an implementar sensely. But the giving 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 whoily 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. burg and these respondents to go to St. Louis, in all \$934.

Had Pienty of Chances.

"The overpayments for coal all in sixteen months exceed \$12,000. An ordinary prudent man would have required the vouchers 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 condone 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 have failed in that regard, the charges are 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 Verdict 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 repub-lican party would have been brighter than it is.
"In any event the trial has been and will

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

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 exouerating 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 Lin-coln rotunda this evening at 9 o'clock, when approached by a reporter for The Beg. When asked for his views on the decision, the governor replied, somewhat peremptorily: "O, I don't care to express 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 Escape Made the Principals
Postpone Their Banquet. Lincoln, Neb., June 5.-[Special Telegram to 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 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 lik. Their every word and act fully indicate that they are not happy. Even many of their staunch aumorters acknowle many of their staunch supporters acknowl edge that the majority opinion is slightly on the white wash order and that instead of being purged they have been convicted by

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

ings Cannot He Delegated. Lincoln, Neb., June 5. - [Special Telegram

the people of the state.

o THE BEE.]-Tom Benton, ex-auditor; Captain 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 convenand 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 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 in office 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."

The opinion is by Judge Norval and is con-surred in by his associates and the charges are dismissed.

Some Private Opinions. "Not having read the decision of the najority 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 state-ments made by Mr. Morton and myself during 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

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 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 successone can now predict who will be the successful candidate. It is certain that the appointment will not be made until the expiration of Mr. Baker's term in January."

Deputy United 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 had been so busy yesterday that he had not heard of the impeachment verdict until informed of it by THE BEE man.
"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. Every-body up my way was expecting a verdict of guilty. The evidence certainly looked strong guilty. The evidence certainly looked 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 McGulre; Terry, Gastright and Mack. 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 lot 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;

Bean Eaters 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 find ing 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 V June 5 - Parrott man who did the most toward defeating the Brooklyns at Eastern park. Altogether the hicagoans' fleiding was very fine. Score: Brooklyn...... 0 1 0 0 4 0 0 0 0 5 5 Chicago...... 1 1 1 0 1 0 2 1 0 7

This Corked the Dude. PHILADELPHIA, Pa., June 5.—Philadelphia on 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 Cheinnati..... 0 2 1 0 0 1 0 2 0 0-6 Hits: Philadelphia, 15; Cincinnati. 18. Errors: Philadelphia, 5; Cincinnati. 2. Earned runs: Philadelphia, 6; Cincinnati. 2. Batteries: Reefe, Clements and Cross; Mullane and Marshy. tories: Keefe Orioles Coming Fast Again.

BALTIMORE, Md., June 5.—The Louisvilles net with another defeat at the hands of the Baltimores because of the Orioles getting a batting streak on in the eighth inning. At tendance 2,300. Score: Baltimore...... 0 0 0 2 0 0 0 3 0---Louisville..... 0 2 0 0 0 1 0 0 0--

Standing of the Teams.

Hits: Baltimore, 11; Louisville, 5. Errors: Baltimore, 1; Louisville, 4. Earned runs: Bal-timore, 1. Batteries: McMahon and Robin-son; Stratton and Grim. | W. L. P. C. | W. L. P. C. | W. L. Pittaburg | 21 | 10 | 67.7 | New York | 16 | 17 | Boston | 21 | 12 | 68.6 | Washington 15 | 16 | Philadelphia | 8 | 13 | 48.1 | 18 | Louis | 13 | 17 | Brooklyn | 17 | 14 | 54.8 | Chicago | 13 | 17 | Baltimore | 15 | 17 | 53.1 | Chicamati | 12 | 18 | Cleveland | 13 | 12 | 52.0 | Louisyille | 3 | 19 |

Jocky Club Reorganized. One of Omaha's "long felt wants" is abou to be satisfied. The Omaha Jockey club met and reorganized last night, and there will be a midsummer race meeting July 4, 5 and 6, with a program no city need be

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 president 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.

Lemars, Ia., in 1879. 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 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 BEE. |-The remains of Miss Mary Ripley, who died at Bostwick while 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 Roller 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

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

TO BE SETTLED THIS WEEK

Material for Omaha's Federal Building No Yet Determined.

SLIGHT CHANCE TO SECURE GRANIT

Supervising Architect O'Rourke Thinks If Possible to Secure an Increased

Appropriation, But This Method Will Require Time. WASHINGTON BUREAU OF THE BEE,

513 FOURTRENTH STREET, WASHINGTON, D. C., June 5. Supervising Architect O'Rourze did n 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 ca, and etherefore 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 se tled this week. "I can see but one solution of the quetion," said the supervising architect, "arthat is to readvertise for bids the specific ation calling for some other material that granite. We cannot build of granite unless the bidders come within the appropriation. It is possible, however to secure an additional appropriation sufficient to cover the cost of a granite building but this course would necessitate grant

ing, but this course would necessitate greet delay. However, I hope to have the matty straightened out within the next few days? Secretary Morton at His Desk. 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 return tomorrow morning. The secretary has spent a greater portion of the week is

Hassler's Claims Recognized.

Chicago

J. J. Hassler, of Forest City, S. D., war today appointed chief clerk of the Interio department. Mr. Hassler is an "Ex," hav-ing served as the appointment clerk of the Interior department during Cleveland' former term. He was a candidate for se; geant-at-arms of the senate, but though he was quite generally endorsed Mr. Hassle-failed to secure the nomination in caucus Subsequently he made application for chie clerkship of the Interior department, an today Secretary Hoke Smith recognized hi claims and made out the commission. M Hassler will probably assume the duties of his office this week. Nebraska Bank Examiner.

Comptroller Eckels will appoint an additional bank examiner for the state of No

braska. He said the work was too much fe one man. There is not much probabilit one man. There is not much probability that Examiner Griffith, now in charge, with be removed. While a democrat, he held office throughout the republican term because of his record for efficiency. But on application has been received for banexaminership from the state of Nebraska It came late this afternoon. The name of the applicant has not been given out yet. applicant has not been given out yet. Western Pensions. The following pensions granted are n

Jesse Glenn. Reissue—John Hondersheldt-Iowa: Original—George T. Moran, Arra B. Park. Increase—William Johnston Original widows, etc.—Mary Fisher, Mary A. Hines, mother. Miscellaneous.

ported: Nebraska: Increase - Orange Warner

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 assembly, is, however, of the opinion that the estimate, made by some of the commis-sioners, that the Briggs case from beginning to end cost the general assembly \$50,000, is nearly correct.

AYER'S Sarsaparilla

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

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, renewed health, strength, and vitality.

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Cures others, will cure you

0000000000Q Simple ailments neglected may grow deadly. A handy remedy is

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in all cases where Liver and Stomach

trouble is suspected. 000000000