THE OMAHA DAILY BEE: SATURDAY, MAY 4, 1895.

Decatur and Raise a Row.

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Dollars Speht for Whisky-

Bootleggers Threatened.

100000

water and rot-gut whisky. It was not long

before drunken Indians, women as well as

men, were as thick as flies on a molasses

barrel. Depredations of all kinds were com-

mitted and excitement ran high. Drunken women paraded the streets, howling and act-ing as if bedlam had broken loose. Some

threw their arms around white men's necks and asked for a kiss. Some of the bucks,

when completely overcome with liquor, fell

dian set it on fire. The captain believes it was the evident intention to burn his home,

of in this manner.

Day in the Hill Case Spent in Arguing Its Admissibility in Evidence,

DEFENSE OUTLINES A GREAT DANGER

Sets Up the Claim that if Hill is Hold Responsible Now Every State and County Treasurer Will Be Irretrievably Rained.

LINCOLN, May 3.-(Special.)-Attorneys consumed the greater portion of the day in the case of the state against Hill and others in arguing the question of the admission of the depository bond of the Capital National the state, he becomes a folon in so doing, bank in evidence. As the case progresses it because he has deposited the state money in back because he has deposited the state money in grows more and more evident that the case at har is one of the greatest and most far reaching in its results of any which has ever been presented to the courts. Had the state expansion in the state funds by treasurers in banks, a prosecution brea more so. The decision of the jury in court helding that the practice of thirty this trial, and the charge of the court, will years had created a public policy which settle the growtion whether or not a state or exonerated the state treasurer. The case county incasurer, who in the past has depos- was the state of Wisconsin against McFet fted money in banks, has been guilty of a felony. It is claimed by the state in this trial that he is. By the defense it is claimed that he is not, but has by custom from time immemorial been entitled to do so and draw the interest thereon. The state is relying on the decision of the supreme court of Nebraska in

the Cedar county case. Attorney Ames for the defense continued his argument this morning in favor of ad-mitting the Capital National bank's depository bond in evidence. He said that he regarded this case as the most important one that had ever been tried in the state of Nebraska. Should the defense he susfained none would be injured. Of \$280,000,-600 of assessment, the amount involved. ough apparently large, was not two-tenths 1 per cent, or less than 10 cents in \$100. should the state prevail a number of just as good citizens as the court or him-self would be irretreviably ruined. Departing from the principal point in issue, the argument of Mr. Ames became quite general in character and scope. He quoted from Colorado reports a decision wherein a county treasurer was held to be simply a builte, parallel of this one. Two Missouri cases subject only to the law of bailments and were cited. In one the treasurer of the only liable under the law, unless otherwise provided by special statute

RESPONSIBILITIES OF TREASURERS. The attorney directed attention to the fact that the bond of ex-Treasurer Hill only men-tioned him as state treasurer and did not recognize him in any other way than in his official capacity. He read from Minnesota reports a case in St. Louis county in which a draft had been drawn upon the state treas-urer for \$200,000. The state treasurer had pted the draft and forwarded to the official a check for the amount. The official had failed to present the check before the bank, in which was deposited the fund, had failed. The county official sued the state treasurer for the amount, but the courts lector had neglected his. had held that the state treasurer had conducted the affair in a business like manner and was not liable. Other decisions were id by the attorney holding that county and treasurers were ballees for hire and atate that it was incumbent upon them to conduct their business only in the usual order of business. He is charged with responsibility and the

for the funds in his care and so long as he exercises no custody over them except in his efficial capacity, so long as he does not conin his own name, he is not liable for loss. In the case of Comestock against Gage, nincty-seventh Illinois, Treasurer Gage had been prosecuted for placing money in a bank, it being alloged by plaintiff that the years, ever since the organization of the bink, it being alloged by plaintin that the treasurer had loaned the money. Court had beld that while it may have been technically construed as a loan, it was not such under the statute and that the treasurer was not the statute and that the treasurer was not the statute and that the treasurer was not liable for criminal prosocution where the penalty was penal servitude. If the de-fondant in the case at bar, Ames contended, could be prozecuted criminally for depositing money in a bank, there was not a county treasurer in the state who was not lable to the same conviction. But the attorney said he would chearfully take all such cases and bring them to this court with a firm belief of success in defending them. A Michiran decision had held that money in a bank was actually in the state treasury. The case was one in which embezzlement from the state treasury was charged and defended at the certificates of deposit for \$255,000 from the state treasury was charged and defense had set up that the money was not in the treasury, having been checked out of the bank by the embezzler. A Pennsylvania case was cited in which money in the hands of a trustee was placed in a bank at a small rate of interest. The money had been lost, but the court held the trustee not liable, as had he not deposited in some bank which he believed safe, but had continued to keep a large sum about the person of trustee, he would have been negligent and guilty of improper conduct of the affairs of the estate. The counsel closed with the statement that The counsel closed with the statement that the practice of depositing public funds in banks was a matter of public law and public notoriety. It had been the custom of state and county treasurers ever since the state had motoriety. come into the union in 1866. If the people of the state had desired to change this public law they would have said so through their legislative body. So far as they had legis-lated upon the subject, it had been in the line of permitting such deposits under certain re-

Mr. Wheedon held that, in the face of cus-tom, established policy and practice, the old law against state treasurers depositing state money in banks had become obsolete. It had been custom from time immemorial to deposit money in banks, and if that was to be changed Mr. Hill should have been given nettee to that effect. After these certificates of deposit had been received by the state from Hill and deposited in a bank to the amount of \$285,000, the sum of \$40,000 was awn out and applied to payment of state

debts. 'Now," said Mr. Wheedon, warming up. deposit. "I sak your honors how a state treasurer shall pay money out on the public school apportionment? Shall he go to each county treasurer, and individually, or by deputy, pay over the counters of those treasurers the each in gold, or silver, or greenbacks, or national bank notes? What does he do? He draws a check and malls It to the county treasurer, and, according to the counsel for

a bank before he could check against the Mr. Wheedon read a long decision from

tridge. The law at that time demanded that the state funds should be kept in the vaults of the state treasurer, and it was obligatory upon him to pay out the identical coins or pieces of money which he received. The court had held that this construction of the law was too narrow. Counsel did not believe the legislature of

this state had ever intended to legislature of the effect that money belonging to the state should be kept in the vauit of the state treasurer's office in the capitol building, and that the same currency should be paid out that back here round in the state of the state of the Boston Congregationalist, spent Thursday, and Friday. In the city, a guest that had been paid in. "This court has held so," said Judge

Wakeley. "I do not believe it," responded Mr. Wheedon. "I do not believe this court has ever ruled so; I do not believe it will rule so in the case at bar.

Counsel said that the supreme court of Wisconsin, in the face of a most stringent law, had held that state money on deposit his return. was money in the state treasury. Mr. Wheedon admitted that the supreme court of Nebraska had made a ruling on this point.

But he did not believe the case had been a parallel of this one. Two Missouri cases mounted on like steeds, caused much merri-ment. The Philomatheans listened to a state had sort a county treasurer a check on a St. Louis bank for \$3,098. For forty nock murder trial. days the county treasurer held the check without presentation. In fact, he never did present it at the bank. Meanwhile the St. Louis bank failed. It had been held that the county treasurer could not recover from the state treasurer on account of his own negligence. The other one was a case in which a taxpayer had given the collector a check for his taxes. The collector did not present it. The bank failed and the collector he Romance Languages fellowship of \$600 at returned the taxpayer a delinquent. Court

held that the collector could not recover, as the taxpayer had done his duty and the col-Abandoning the state reports, Mr. Wheedon D., are visiting with Dr. and Mrs. A. D

turned his attention to application of them to Root, their parents. the case at bar. He said that so long as the state was drawing out \$49,000 from the Capital National bank not a word of complaint had been heard. But when the bank had failed, from that moment the state tried to ing up of the school year. draw a line between the deposit of the money Homer C. House of the junior class was draw a line between the deposit of the money

BEHIND THE DEPOSITORY LAW. General John C. Cowin for the defense fol-lowed Mr. Wheedon. He'said that he disliked to add five minutes of time to the discussion of this case, but as an attorney he owed a duty to his clients. The defendant, ducting public business had been heard. There was no question at issue whether the Capital National was solvent or insolvent at the time Hill went out of office. It had falled subsequent to that time, and it had been made a depository, and its bond had

fallure.

S. W. Davis, a wealthy farmer living on

these certificates had been held without any action being taken on them. This, in itself, was rather strange. The depository law, counsel held, was a triffe ambiguous, be-Indians Take Possession of the Town of cause that while it provided that the treas-urer should deposit money in banks it did not say who was to be the judge of the re-

liability of the bank. But at any rate no money could be deposited until a bond had been approved. Again the law says the EQUAWS EMBRACE AND KISS WHITE MEN

tate treasurer shall deposit money in state positories, but Bartley had no actual Bucks by the Score Fall in the Gutter and Are Carted Off-Over a Thousand oney to depusit. He only had certificates of "I venture to say," said Mr. Lambertson "that had Bartley had \$285,000 in cash he would not have put it in the Capital Na-tional bank. Why, the very first draft of \$35,000 broke the bank. That is the evi-DECATUR, Neb., May 3 -- (Special.)-It is

dence. Had Bartley taken \$285,000 in money and given to the bank I believe he could have checked it all out and never have lost an open fact that this town has been a rendezvous for bootleggers for many years and they have carried on their nefarious trade dollar. The bank didn't have the money with the Omaha Indians in defiance of the when it issued the certificates of deposit and law, government and people. But the Decatur The court here gave notice of adjournment people don't propose to tolerate them any more. The Omaha Indians received \$25,000.

until 9 a. m. tomorrow, intimating that there would be no session in the afternoon. in money last Monday at their agency. Percapita it amounted to \$20.59. Tuesday they Light as the airy songs of larks are the dainties made with Dr. Price's Cream Bakflocked to Decatur, about 150 in number, to drown their recent trials, troubles and tribu-

ing Powder. CRETE CADETS' NEW COLORS. Presentation Speech Made by President

Perry on Behalf of Colonel Doane. CRETE, Neb., May 3 .- (Special.)-At pa rade Thursday President Perry, acting in behalf of Colonel Doane, the donor, presented

to the Doane cadets their handsome battalion colors. His presentation speech was

Thursday and Friday in the city, a guest

of President Perry. He addressed the stu-dents in chapel Friday morning. Lieutenant C. B. Hardin has received or-Colorado dog fight. But luckily no one was ders from the War department to report at Leavenworth for examination for promotion were made.

It is safe to say that very nearly \$1,000 was exchanged by the Indians for whisky. o the captaincy, and in consequence the neampment at Milford is postponed until It is not only one man who is interested in the business of selling liquor to the Indians, At Hesperia last night a rendition of Scott's but quite a number are implicated, perhaps Young Lochinvar in sillouette, closing with the lord and his lady galloping off on a saw horse, pursued in hot haste by the irate twenty. A prominent business man of this place, Henry Byram, said he had from \$200 to \$500 to invest in prosecuting the boot-leggers, and, furthermore, he emphatically stated that this godforsaken practice had to father and the assembled groomsmen stop. If the law could not stop it then other means would be necessary. About twenty citizens held a meeting and

Wednesday evening Dr. and Mrs. A. D Root opened their home to the classmates of their daughter, Miss Addie, and the seniors entertained about thirty of their friends at conversation and games. Lemon punch and des were served, and tiny May baskets of celluloid, bearing the charmed figures "95" ere given as souvenirs of the occasion. James W. Cooper of the class of '91, has just received notice that he has been awarded

> columbia law school, New York. Miss Myrtle Dean of the Conservatory, is wallace Root and wife of Hot Springs, S.

> > Tried to Burn Beck's Residence.

earth.

President Perry on Friday morning read letter in chapel from Edward Whitin of PENDER, Neb., May 3 .- (Special Telegram.)-Captain Beck is working on a clew Whitinsville, Mass., enclosing a check of \$400 which indicates that the recent fire in the and expressing hopes for a prosperous close shrubbery and dry grasses next to his residence, one mile from the agency, was an at-tempt at incendiarism. A Winnebago has receiving the congratulations of his fellow reported to the captain that an Omaha In-

tudents Thursday upon having been elected to the presidency of the Interstate Oratorical association at Galesburg, Ill. Niobrara Notes.

NIOBRARA, Neb., May 3 .--- (Special.)-The Niobrara Historical and Scientific association, with but one year's organization. has collected over 1,000 specimens. Some of them are very rare and would grace any payment from the government Monday and business has been good during the week.

R. Cash and his son, old settlers here, left for Minnesota early in the spring in quest of work and a new home, but returned a souple of days since satisfied with their pres

st of here, passed through rith a complete artesian artesian wells, which he rm at once. bridge across the Nio-s formally opened to the the reservation west of here, passed through town yesterday with a complete artestan well outfit for two artesian wells, which he

STILL STUCK ON THE BOND State Allen on the 14th of January, 1593, the time it was made, to be introduced as a defense against the bondsmen of John E. Hill. From the 5th of January until the 14th Hill. From the 5th of January until the 14th the office of state treasurer. Hill. From the 5th of January until the 14th theme cartificates had been held without any BECK MAY HAVE REGULARS

SUPREME COURT SYLLABL

On April 30 the Nebraska supreme court met pursuant to adjournment. O. H. Caldwell, esq. of Hall county was admitted to practice. South Omaha against Laufen-ILLEGAL LESSEES MUST MOVE CUT berg, dismissed. The following causes wer

berg, dismissed. The following causes were argued and submitted: Griffin against Jen-kins, on motion: Johnson against May, on motion; Wilcox hgainst State, on motion; Grossman against State, on application for ball, Funk against Kansas Manufacturing company, on motion. Opinions were hand-ed down in the following cases: Pollard against Huff. Error from Lan-caster county. Reversed. Opinion by Jus-tice Post.

tice Post. An agreement in the following form: "For value received, we hereby guarantee pay-ment of the within note at maturity or any time thereafter, waiving protest and notice of nonpayment," held not a mere guaranty, but an endorsement with an gularged ha-mitre. gram.)-Officials of the Department of Justhe and the Indian office assert positively that no information has been received from

bility. 2. An accommodation note or bill, within the meaning of the law merchant, is one which is made or accepted not upon a con-sideration, but for the purpose of encoling the payee or holder to raise money on condu-Captain Beck at the Omeha and Winnebag reservation for at least a week. They have received no requests for troops or additional the forces, and no authority has been given for the use of any military assistance. One of-

3. Evidence examined and held not to sus-tain the verdict and judgment in favor of the defendants as makers of the notes in ficial of the Indian office today said: office in all his actions in endeavoring to lations in the stimulating influences of fire-

Marshall Field et al against Maxwell et al. Error from Lancaster county, Re-versed. Opinion by Justice Harrison. In an action upon an attachment under-nking, a claim due the principal in such band from the plaintiff is a proper subject if setoff. evict the settlers, since to all appearance he is simply earrying out the orders of the Interior department. The illegal lessees will be removed, and I think that it can be done without the employment of additional forces

band from the plaintiff is a proper subject of setoff. An attorney's lien for services performed in prosecuting an action is not measured by the amount which his client claims to be his due, but cannot exceed the amount in the hands of the adverse party belonging to his client or the amount owing to him, and is not paramount to any proper setoff or other available defense in such action. The Clearwater bank against Kurkonski. Error from Antelope county. Allimed, Opinion by Chief Justice Norval. Where a statute is claimed to be invalid on the ground that it was not enacted in the constitutional mode, such invalidity must be presented by the pleadings or in some other form in the trial court to be of any avail here. Such objection cannot

in the road like a wet dish rag and were picked up later by friends and carried out of town. Several wagon loads were disposed the holders will ultimately be compelled to quit the reservation. I do not think that the militla of the state of Nebraska will have Knives, pistols and all sorts of deadly weapons were as thick here as they are at a of any avail here. Such objection cannot be raised for the first time in the appellate injured, although lots of threats

within the jurisdiction of the state, have really received no official informat court.
2. That portion of section 15. chapter xxxli, Compiled Statutes, which gives to the morigagor of chattels a right of action to recover the sum therein prescribed as liquidated damages for a failure of a mortgages or his assignce to enter satisfaction of record of a chattel mortgage which has been paid within ten days after being therefor requested does not conflict with section 3, article i, nor with section 5, article vial, of the constitution of this state. Graham against Kibber, 9 Neb., 182, followed.
3. A demaind must be made upon the mortgage or his assignce for the auisfaction of a mortgage before an action can be maintained to recover the fixed sum named in suil section 5.
4. The entry of satisfaction after the statutory period will not defeat such an action. Peoria Manufacturing company against Haff. Error from Lacaster county. Ophion by Justice Post.
An accommodation maker is one who executes commercial paper without consideration in order to enable the payce or holder to thereby obtain credit. urt. 2. That portion of section 15, chapter xxxii, from the reservation, and all we know of th situation has been gained from the columns of The Bee, which you have showed us, and further reports will be awaited with in terest."

In using Dr. Price's Baking Powder you get the best results and effect the greatest possible saving.

About twenty citizens held a meeting and if the word had only been said a lynching bee would soon have been in progress and in the morning one or two bottleggers would have been dangling from the flag pole.

Everybody is excited and the good element of the town is going to make a strong effort to suppress and drive out altogether this

State extra statist Moore. Mandamus Writ denied. Opinion by Justice Harrison. In the interpretation or construction of statutes, ascertainment of the intention of the legislature is the end or purpose to be

as the strong wind was favorable to carry the fames to the dwelling. The fire was fortu-nately extinguished in time by the Indian The case of assault against Bonaparte, the



ONE ENJOYS

Both the method and results when Syrap of Figs is taken; it is pleasant and refreshing to the taste, and act gently yet promptly on the Kidneys, Liver and Bowels, cleanses the system effectually, dispeis colds, head. aches and fevers and cures habitual constipation. Syrup of Figs is the only remedy of its kind ever produced, pleasing to the taste and acceptable to the stomach, prompt in its action and truly beneficial in its effects, prepared only from the most healthy and agreeable substances, its many excellent qualities commend it to all and have made it the most popular remedy known.

Syrup of Figs is for sale in 50 cent bottles by all leading drug. gists. Any reliable druggist who may not have it on hand will procure it promptly for any one who wishes to try it. Do not accept any gubstitute.

CALIFORNIA FIG SYRUP CO. SAN FRANCISCO, CAL. LOUISVILLE, KY. NEW TORK, N.Y.

CIRCULARS AND TESTIMONIALS FREE HUDYAN

WASTING DISEASES WEAKEN WONDER fully because they weaken you slowly, gradu-ally. Do not allow this waste of body to make you apoor, flabby, immature man. Health, strength and vigor is for you whether you be rich or poor The Great Hudyan is to be had only from the Hud-son Medical Institute. This wonderful discovery was made by the specialists of the old famous Hud-son Medical Institute. It is the strongest and most powerful vitalizer made. It is so powerful that if is simply wonderful how harmless it is. You can get it from nowhere but from the Hadson Medical Institute. Write for circulars and testimonials.

This extraordinary Rejuvenator is the most wonderful discovery of the age. It has been en-dorsed by the leading scientific men of Europe and HUDYAN Is purely vegetable.

HUDYAN stops prematureness http://t.weity.days. Cures LOST MAN-HOOD, constipation, dizzlness, falling sensations, nervous twitching of the cycs and other parts. Strongthens, having are and tones the entire system. It is as cheap as any other remedy, HUDYAN cures debilly, nervousiness, emis-class and develops and restores weak persons.

sions, and develops and restores weak organs. Palus in the back, here's by duy or night stopped quickly. Over 2,000 private indorsements. Prematureness means impotency in the first

stage. It is a symptom of seminal weakness and barrenness. It can be stopped in twenty days by the use of Hudyan. Hudyan cosis no more than any other remeily.

nd for circulars and testimonials.

TAINTED BLOOD-Impure blood due to serious private disorders carries myriads of soreproducing germs. Then comeasure throat, pimples,

writing "or Hilaod Book" to the old physicians of the HUDSON MEDICAL INSTITUTE.

Stockton, Market and Ellis Sis.,

NAN TRANCISCO, CAL

ing hair. You can save a trip to Hot Springs by

nefarious business. One or two church members came to Editor tion in order to enable the payce or holder to thereby obtain credit. 2. One who executes a promissory note as surety for another is not an accommodation DeWitt of the News of this place the other day and requested the question be agitated that a vigilance committee be formed and maker. 3. Rule applied to evidence in support of several signers claiming to be accommodathe bootleggers be wiped off the face of the 4. A judgement that any to be reversed on ac-count of error in the admission of evidence not prejudicial to the party complaining. State ex rel School District No. 6, Thurs-to count of administration of the second second Nontember Manna Mann

accomplished. 2. Where a law is plain and certain in its terms and free from ambiguity, a reading suffices and no interpretation is needed or

proper, 2. Statutes which authorize the issuance a. Statutes which autoorize the issuance of bonds by the minor political subdivisions of the state are subjects for strict con-struction when an interpretation is neces-sary, and where from a careful study and analysis of the whole act and its several parts the meaning and intent is doubtful the doubt should be resolved in favor of the nublic or taxpavers.

mately extinguished in time by the Indian police. The care of assault against Donaparte, the structure when an interpretation is necessary, and where from a careful study and individual policies. The care of assault against Donaparte, the structure when an interpretation is necessary, and where from a careful study and individual to the whole at and the several the doubt should be resolved in favour of the putties of taxpayers.
 The act approved March 35, 187, eree the whole and the several districts to compromise their individual to taxpayers.
 The act approved March 35, 187, eree the whole and the several districts to compromise their individual to taxpayers.
 The act approved March 35, 187, eree the whole and taxpayers.
 The act approved March 36, 187, eree the structure taxpayers.
 The act approved March 36, 187, eree taxpayers.
 The act approved

Wire Fences Being Utilized in Iowa as Conductors. WEBSTER CITY, Ia., May 3.-(Special relegram.)-This section of the state is

honeycombed with telephones, and every town within a radius of fifty miles will soon be connected with Webster City. The scheme is something new and surprise ing, even to old telephone men, but it works like a charm. An inventive genius here struck the idea of making direct connections

States Troops Will Be Furnished.

Shall Give Up Their Holdings and

Leave the Reservation.

"Captain Book will be supported by this

He now has twenty Indian police to assist

him, authority having been given him re

cently to employ sixteen policomen in addi

tion to his four regulars. If, however, it de

velops that he is unable to enforce his or

ders with his present forces, he will be as sisted by a detail of regular troops. It is certain that the leases are illegal and that

any authority to go upon the Winnebago res ervation, because the reservation is no

struck the idea of making direct connections with the barbed wire of the fences that run along the praine. He tried a line first be-tween here and Duncombe. It was a suc-cess, and now he has an incorporated com-pany which has just sprang into exist-ence and is getting rich. A line was hitched onto the barbed wire fence be-tween here and Williams, twenty miles away, in one day by two men, who only used eight or ten rods of insulated whre under the road crossings that pass over the railroad. He is laying a line to Econe, forty miles away, today, and if the barbed wire fence holds out he will push on to Des Moines.

Attorneys Talk Fight. OTTUMWA, Ia., May 3.-(Special Tele gram.)-There was a sensational passage at arms by the attorneys in the Peitzmeler

arms by the attorneys in the Peitzmeler trial today. The defense had three of the culprils recently sentenced to the peniten-triary for witnesses to testify that Peitz-meier had fits in jail. This caused the de-fense to charge that the witnesses had been tampered with by officers of the court and a red hot war of words followed, the judge finally declaring that if any more imputations were made he would fine all the attorneys heavily.

Sitver's Friends Not Namerous

Will Appeal to the Governor,

SIOUN CITY, May 3.-(Special Tele-gram.)-John Manderscheid, who was fined

\$500 Tuesday for violating an infunction re-

DES MOINES, In., May 2.-(Special Tele-gram.)-In response to the widely published

gram.)-In response to the widely published call for a free silver mass meeting, about forty men of assorted politics met here to-night to devise means to carry lowe for free contage. Judge Cole, late populist can-didate for presidential elector, predict. A number of spectres were midde. At the conclusion signers to a free silver petition were called for. Twenty responded.

TELEPHONE COMPANY'S SCHEME. GREAT



And Brond Artic

IMPORTANCE OF BOND TO DEFENSE.

Mr. Wheedon followed Ames for the de-fense. He said that the question at issue was the introduction of the depository bond of was the introduction of the depository bound of the Capital National bank as evidence. He read the depository law of the state. Mr. Wheedon claimed that, if given an opportun-ity, the defense would show that of all the moneys deposited by Treasurer Hill, all had been applied to uses of the state save the sum of \$226,000, and if given a chance, by the ad-mission of the depository bond, the defense would show that even that money had been

that money of the state had been illegally leposited, but objected to any testimony showing the contrary to be the fact. By way o hypothetical illustration Mr. Wheedon askel what right had the governor and attorney reneral to go to the treasurer and awarrant. The his money without presenting a warrant. The constitution provided that no money should a warneral to go to the treasurer and ask him for be paid out of the treasury except on a war-rant drawn by the state auditor. But suppose they had such warrant, what then? It was the duty of the treasurer to pay this warrant by a check on the depository, and how could the check be drawn if there was no money in the Capital National bank? The last legisla-ture had recognized, in its appropriations, that \$236,000 was tied up in the Capital National bank. The defense in this case had the right to show, by this depository bond, how the Mr ney became tied up in that bank. Wheedon toos up the criminal law point which he claimed was being urged by the state against defendants and said that under the law every man who accepted a check on a bank from a state treasurer became an accessory. If that was to be held to be true, no one was safe. The twolve men on his left would, when this case was over, go down to the state treasurer and receive, what? A check. Even the honorable court, when it drew its quarterly salary, accepted a check. The chief executive of the state did the same. Even the learned counsel for the state, Judge Wakeley, in whom the snows of age had not quenched the fires of genius, would for his check, and therefore he headed the long procession toward the penitentiary. At this point court adjourned until 2 p. m.

WHAT IS MONEY?

Mr. Wheedon resumed his argument in the afternoon. Counsel dwelt for some time upon the definition of the word "money He held that in the transfer between Willard and Hill and Bartley the settlement had been made in current funds, which in all commercial transactions was recognized as money. The state rested their case upon the plea that depositing money in banks by state and county treasurers was a felony. There was not a man within the sound of the counsel's voice who, if that was the law to be enforced, would render personal service for which he was to be paid in a check drawn the state treasurer, thereby becoming an accessory to a crime.

ceived the certificates of deposit for \$255,000 he had sued the bank for the amount, and suppose the bank had confessed judgment, paid the money into court, and the court had paid it to Bartley, what would have been the duty of Bartley in that case? Under the law, the bank having been made a depos-itory, it would have been obligatory on him to have paid it all back into the same bank. What position, then, would the state have been in? What would have been the differ-ning gear is painted a bright red, and the ence between Hill in that case and in the body cream while, and on the back of the present? General Cowin held that there seat are the letters in gilt, "Omaha Bee." would have been none at all. In either case Under the efficient management of Mr. the corn planter and was starting away he was innocent of any criminal complicity. Douglas, the circulation of The Bee in this The officers of the state had approved the dehe was innocent of any criminal complicity. The officers of the state had approved the depository bond, and the bank was entitled to paper the money, as it was the only depository in the state at that time. The state got its oney, all that the law provided. Rinaker, succeeding General Cowin,

mashed that amputation was necessary. He ald that, as he understood the case, the state resides at Missouri Valley. held that all damage had accrued at the time Hill had put the money in the broken bank. "Suppose, for illustration, Hill had not The Merry Makers' club gave the last ball of the season at the Masonic hall last evening, Kendrick's orchestra furnishing the muurned over actual money, but in its tead had given Bartley a lump of gold bulsic. There was a full attendance of the members of the club and many visitors from ion worth by assay and in the murket \$285.-100. Suppose that Bartley had taken this bul-lion to the bank and the bank had accepted other towns. Hamilton County's Rainfall. it for \$285,000, given the state a credit on its books for that amount, and had then failed. Judge Wakeley would have then come AURORA, Neb., May 3 .- (Special.)-An-

other inch of rain fell last night, accomin and interposed the objection that technical panied by hall, which did considerable dam-money had not been turned over. Would he age in some localities. The roof was blown age in some localities. The roof was blown off of the hardware store of C. A. Sharp, at then have been sustained by the court? put the money in a depository designated by the state, he was liable to a fine of \$5,000. "But it had been put there, and now the state ed to bar all evidence of that fact. To the be this: It desired the privilege of showing that money of the state had been illegally what money of the state had been illegally the state but its equivalent had been turned over when the bank gave the state credit on its books for \$285,000. The fact was the consideration for which the bank gave credit about that." WHAT THE state think not. But at this time Judge Wakeley could claim that gold bullion was not turned Stockham. His family resided over store and were severely frightened. were blown down, windmills demolished, and fruit destroyed in some localities. Hamilton county has had nearly five inches of rainfall this month. NIOBRARA, Neb., May 3.-(Special.)-Several fine rains have visited this locality during the past week. The new settlers on the reservation west of here, who were in

At 4:15 Mr. Lambertson, for the state, said e would not go into a lenghtly discussion of such a plight until aid was rendered last fall and winter, are today a very happy and the authorities cited by the defense, but if the court would examine them it would find that in each case the moneys in banks were contented people. all put there under the laws of the state NORFOLK, Neb., May 3 .- (Special Telewhich the transactions were consummated. But the contention of the state in the case gram.)-Frank S. Stortz, a well-to-do farmer at bar was that under the law of Nebraska residing one mile east of Norfolk, committed minute Hill put any state money in k it was, under that law, a conversion suicide by hanging last night. His body was and Hill become liable to penal punishment. This court had so held in the past. Had Hill left the state's money in the state's vault, and had it been load through no negligence of his own, he would not have been liable. That was the exact distinction between the cases tited by the defense and the case at bar. stances, but has been acting queerly at times during the past year or two, and it is sup-posed he hung himself during a fit of tem-

cited by the defense and the case at bar. The state could produce numerous authori-tles to sustain itself, but why was it necesporary insanity when this very court had held with 1? Mr. Lambertson said that custom could sary BLAIR, Neb., May 3 .- (Special Telegram.) not override law. The defense had spoken Washington county is making a record of plausibly, but custom was outside of law. In the case of the state of Wisconsin against McFettridge all that had been decided was quick sentences. The burglar caught in the act of drilling into the safe of O. V. Palmer's that the state was not entitled to interest thereon. A suit had been brought to recover store yesterday morning at 2 o'clock pleaded guilty yesterday morning at 10 o'clock in the county court and today Judge Blair came up interest, and the court had held that, as there was no law authorizing state money to be placed in banks at interest, it could not col-lect interest thereon. If the court would and held an adjourned term of district court, and the burglar was sentenced to ten years in the penitentiary at hard labor. The crimexamine the various statutes of this state it would notice an absence of any reference inal gives his name as John Davis; further than this he is dumb to all questions. to checks, drafts, cortificates of deposit. Nothing is mentioned but actual money. There was a variance in the positions as-sumed by the defense. In one instance they claim the bondsmen are not liable because PIERCE, Neb., May 3.-(Special.)-A petition is being circulated through the county to be presented to Governor Holcomb, im money was not received, only certificates of deposit. In another instance they claim that ploring pardon of Henry M. Davidson, who

ploring parton of frenty at Davidson, who is now serving an eighteen months' sentence in the penitentiary. Davidson was recently sentenced for hog stealing. Owing to the fact that Davidson is a sufferer from con-sumption, and that he now ites in the penithese certificates were actual money. the equivalent of money, the equivalent of gold In citing the Cedar county case again Mr. Lambertson read to the effect that the su-preme court had heid that it would be a entiary hospital, his friends here will ask the governor to release him.

strange anomaly for a defendant to plead a felony in bar of prosecution for damages. ASHLAND, Neb., May 3 .- (Special.)-The The attorney applied this to the Hill case, and said; Board of Education has taken declsive steps "It would be a strange anomaly in law

in the reduction of expenses for the running that Hill could plead, as his counsel did plead, a felony for which he could be punisel did of the city schools next year by putting the chemistry class in the hands of Mrs. R. M. ished in bar of a suit for damages against him and his bondsmen." Scott, who is an ex-college instructor, and

The depository bond, which the defense sought to introduce in evidence, was approved by Governor Crounse and Secretary of by the court was the bond of them insolvent at the duties of that office.

public Monday. The contractors are finishing up a government bridge across Bazile creek, which will be completed Saturday.

Demand of Hee Patrons at Fremont. FREMONT, May 3 .- (Special.)-Charles

Douglass, circulator of The Bee, came out this morning with a new wagon, which he city far exceeds that of any other outside Claude Mann, a brakeman on the Elkhorn, while coupling an engine to a box car at Arlington yesterday, had his hand so badly

Nebraska Farmer Commits Suicide.

Quick Sentence of a Burglar.

Want Davidson Pardoned.

Reducing School Expenses.

SIDNEY, Neb., May 2 .- (Special Telegram.) -Mrs. William Stuht died this afternoon Trees after a short illness of Bright's disease of the kidneys. The deceased was 28 years of age and leaves four children. The funeral will take place at the Lutheran church Saturday.

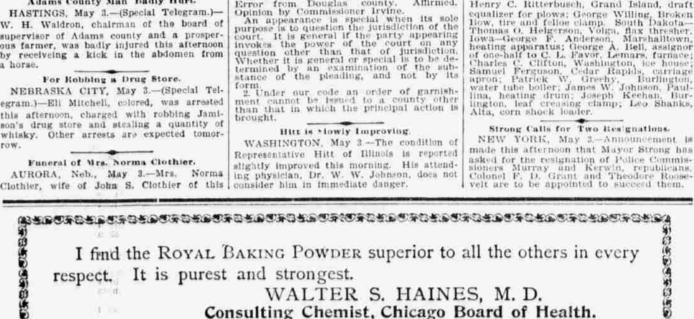
> Adams County Man Badly Hurt. HASTINGS, May 3 .- (Special Telegram.)-

W. H. Waldron, chairman of the board of supervisor of Adams county and a prosper-ous farmer, was badly injured this afternoon by receiveing a kick in the abdomen from a horse.

For Robbing a Drug Store. NEBRASKA CITY, May 3 .- (Special Telegram.)-Eli Mitchell, colored, was arrested ound about 6 o'clock this morning in the buggy shed on his farm. He came here a son's drug store and stealing a quantity of this afternoon, charged with robbing Jamifew years ago from Decorah, Ia., and leaves a while, but no children. No cause is known for the deed. He was in comfortable circum-Other arrests are expected tomor whisky.

Funeral of Mrs. Norma Clothier.

AURORA, Neb., May 3 .- Mrs. Norma



la sour se sour

it very fast in shallow stewpan, with sugar. Line pic plate with the paste; wet rim; add rhubarb, cold; lay three bars pasts across, fastening ends; lay three more across, form-ing diamond-shaped spaces; lay round a rim, wash over with over and babs to cond a rim. ash over with egg, and bake in quick oven teen minutes. Put into plat of milk mixed with plat of cream, plach of salt, and three ounces of sugar, simmer over fire ten minutes; then add fifteen minutes.

Plain Boiled Custard. One quart of milk, eight eggs, poel of one

large lemon, one-quarter pound of loaf sugar. Pour milk into clean saucepon with peel of lemon, set at side of fire 20 minutes, when To Prese

Rhubarb Pie. One and one-half bunches rhubarb, one and one-half cupfuls sugar. Cut fruit in small pieces after stripping off skin, cook it very fast in shallow stewpan, with sugar. Line pie plate with the paste; wet rim; add

Pour two tablespoonfuls of bolling water over two ounces of grated chocolate; let it place, stand near the fire until perfectly dissolved. Directions for Preserving Fruit. Preserves should be kept carefully from air, in a very dry place; if they stand in warm place they will mould. They should be looked at two or three times in first two months, that they may be gently bolled again if not likely to keep. It is supposed by somethat cheap sugar will do for preserves; this is a mixtken idea; the very heat succes by degrees yelks of eight well-beaten eggs, and stir to a froth while it thickens; then

sono ruesany for violating an injunction re-straining him from selling liquors contrary to law, is making arrangements to apply to the governor for a parlos. He will rep-resent that he has not violated the line more than other liquor dealers in the city and that he is the special object of the spite of a few prohibitionists.

Plans of Sionx City Capitalists. SIOUX CITY, May 3-(Special Telegram, A number of local capitalists are planting to put a line of steamers on the river

Clinton Man Drowned,

Patents to Western Inventors.

between Sloux City and Castalia, S. D., for the purpose of bringing grain down as soon as the season opens. A company will be formed to push the plan.

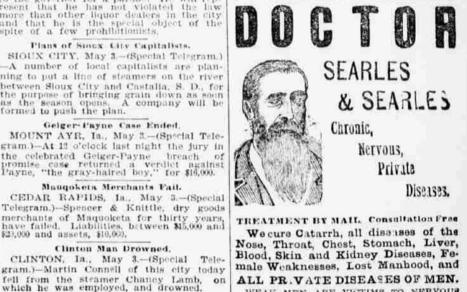
Gelger-Payne Case Ended. MOUNT AYR, Ia., May 3.-(Special Tele-

gram.)-At 12 o'clock last night the jury in the celebrated Geiger-Payne breach of promise case returned a verdict against Payne, "the gray-haired boy," for \$16,000. Mauqoketa Merchants Fail.

dence. 2. Where error is assigned upon the giving of a certain instruction, on the ground that while abstractly correct it is misleading for want of modifications, the court will not consider such assignment where it ap-pears that the whole charge is not included in the transcript, because proper modifica-tions may have been given in other in-structions.

tions may have been given in other in-structions. South Omaha National bank against Farmers and Merchants National bank. Error from Douglas county. Affirmed. Opinion by Commissioner Irvine. An appearance is special when its sole purpose is to question the jurisdiction of the court. It is general if the party appearing invokes the power of the court on any question other than that of jurisdiction. Whether it is general or special is to be de-termined by an examination of the sub-stance of the pleading, and not by its form. U. Fredericksen, Nebraska City, castor Henry C. Ritterbusch, Grand Island, draft

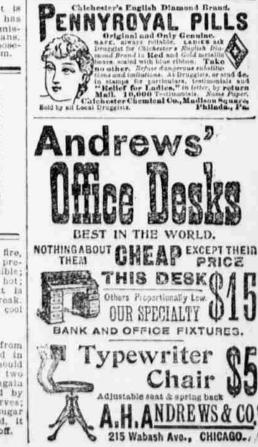
form. 2. Under our code an order of garnish-ment cannot be issued to a county other than that in which the principal action is brought.



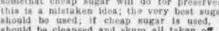
ALL PR.VATE DISEASES OF MEN. WEAK MEN ARE VICTIMS TO NERVOUS Debility or Exhaustion, Wasting Weakness, In-voluntary Losses, with Early Decay in young and middle aged; lacg of vim, rigor and weak-tand prematurely in approaching old age. All yield readily to our new treatment for loss of vital power. Call or addres with timp for circulars, free book and receipts. WASHINGTON, May 3 .- (Special Tele gram.)-Patents have been issued as folows: Nebraska-Bernard H. Noetling and

Dr. Searles and Searles, 1416 Faruam





To Pressure Strawperries.



Cover and seal jars immediately; set in a coo