THE OMAHA DAILY BEE.

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DEBS MUST SERVE HIS TIME

Supreme Court Refuses to Grant Him a Writ of Habeas Corpus.

INJUNCTIONS AGAINST STRIKERS VALID

Bench Was Unanimously of the Opinion that the Circuit Court Has Final Jurisdiction and that the Case is Not Reviewable.

WASHINGTON, May 27.—The United States supreme court today denied the application of Eugene V. Debs, the strike leader, for a writ of habeas corpus. This is a victory for the government. No more important question, with the single exception of the income tax, has come before the supreme court during the past year than the attempt of Eugene V. Debs and other officials of the American Railway union to secure a reversal of the sentences to jail by Judge Woods for interfering with interstate commerce and the running of the mails in the great railway strike of last summer.

The history of the case is still fresh in public memory, but it has importance beyond the question of the imprisonment of the A. R. U. officers, because there is largely involved the principle of the right of judges having jurisdiction of large interests by virtue of receiverships created by them to prevent labor troubles through the instrumentality of injunctions. Nearly one-third of the railway property of the United States being in hands of receivers appointed by federal courts, the precedent thus established has wide application. Technically the application for writ of habeas corpus and certiorari arises from the case in equity of the Union Trust company against the Atchison, Topeka & Santa Fe road since the receivership, under which the circuit court exercised jurisdiction over the Santa Fe and its allied roads, was created in this case. On July 2, 1894, when the great railway strike was threatening, the receivers applied to Judge Woods of the circuit court for the northern district of Illinois for an injunction against the A. R. U. to prevent it from inciting employes to strike. Judge Woods signed the order presented, which was a sweeping one, enjoining the officers of the union from interfering with the mails or with interstate commerce, or from destroying property; from compelling or inducing the employes of the road to strike by violence or intimidation, or from aiding or abetting them to do any of these things.

The A. R. U. decreed a strike on the Illinois Central railroad, one of those included in the injunction, and the events of the strike are matters of general knowledge. The officers of the union were brought before Judge Woods for contempt of the court last December. E. V. Debs, the president, was sentenced to six months in jail, and seven others, G. W. Howard, Sylvester Keliher, L. W. Rogers, James Hogan, William E. Burns, Rollo M. Goodwin and Martin J. Elliott were sentenced to three months. It appears that the injunction had been personally served on the first four officers, but Judge Woods held that its publication in the newspapers was sufficient service in itself for all of the defendants.

BASIS OF THE DEFENSE.

An application was made to the supreme court for the release of the eight officers of the union by a writ of habeas corpus. Pending decision of the supreme court they have been given their freedom under bail. Counsel for Debs and his associates base their application on the grounds that their sentence without indictment and trial by jury was in violation of the constitution, particularly its Fifth and Sixth amendments, that the information upon which they were convicted did not show any violation of the injunction. Also, that the injunction was void, because the bill asking for it stated no case of which the court could take cognizance, and was in effect a bill by the government of the United States to maintain the public peace and enjoin the violations of the penal code. Arguments before the supreme court by C. S. Darrow and Judge Lyman Trumbull for the union, and Attorney General Olney and Assistant Whitney for the government, attracted great attention.

The decision of the court was read by Justice Brewer, and was unanimous, there being no dissenting opinion. All contentions of the government were sustained. The conclusions of the court were that the government of the United States was having jurisdiction over every foot of soil and over every individual within the boundaries of the United States, and while it was one of limited powers, it had sovereignty within those limitations. It had power to invoke civil courts to remove obstructions to interstate commerce, and the civil courts had the right to enjoin those who made obstructions to such commerce. The injunction was no bar to criminal processes for acts done in violation of the injunction. The circuit court having final jurisdiction, its act was not reviewable by the supreme court on a petition for a writ of habeas corpus, and therefore the writ was denied.

SYLLABUS OF THE DECISION.

The opinion of the court in substance was as follows:

The case presented is this: The United States, finding that the interstate transportation of persons and property, as well as the carriage of the mails, is forcibly obstructed and that a combinaton and conspiracy exists to subject the control of such transportation to the will of the conspirators, applied to one of the courts sitting as a court of equity for an injunction to restrain such obstruction and prevent carrying into effect such conspiracy. Two questions of importance are presented:

1. Are the relations of the general government to interstate commerce and the transportation of mails such as authorize a direct interference to prevent a forcible obstruction thereof?

2. If authority exists, as authority in governmental affairs implies both power and duty, has a court of equity jurisdiction to issue an injunction in aid of the performance of such duty?

First. What are the relations of the general government to interstate commerce and the transportation of mails? They are those of direct supervision, control and management. While under the dual system which prevails with us the powers of government are distributed between the state and the nation and while the latter is properly styled a government of enumerated powers, yet within the limits of such enumeration it has all the attributes of sovereignty, and in the exercise of those enumerated powers acts directly upon the citizen and not through the intermediate agency of the state.

Second. Under the power vested in congress to establish postoffices and postroads congress has by a mass of legislation established the great postoffice system of the country with all its detail of organization, its machinery for the transaction of business, defining what shall be carried and what not, and the price of carriage and also prescribing penalties for all offenses against it; obviously these powers given to the national government over the interstate commerce and in respect to the transportation of the mails were not dormant and unused. Congress had taken hold of these two matters and by various and specific acts had assumed and exercised the powers given to it and was in full discharge of its duty to regulate interstate commerce and carry the mails.

If the inhabitants of a single state or a great body of them should combine to obstruct interstate commerce or the transportation of the mails prosecutions for such offenses had in such a community would be doomed in advance to failure. And if the certainty of such failure was known and the national government had no other way to enforce the freedom of interstate commerce and the transportation of mails than by prosecution and punishment for interference therewith, the whole interests of the nation in these respects would be at the absolute mercy of a portion of the inhabitants of a single state.

But there is no such impotency in the national government. The entire strength of the nation may be used to enforce in any part of the land the full and free exercise of all national powers and the security of all rights entrusted by the constitution to its care. The strong arm of the national government may be put forth to brush away all obstructions to the freedom of interstate commerce or the transportation of the mails. If the emergency arises the army of the nation and all its navy are at the service of the nation to compel obedience to the laws.

In the case before us, the right to use force does not exclude the right of appeal to the courts for judicial determination and for the exercise of all their powers of prevention. Indeed, it is more to the praise than to the blame of the government that instead of determining for itself questions of right and wrong on the part of these petitioners and their associates and inferring that determination by the club of the policeman and the bayonet of the soldier, it submitted all those questions to the peaceful determination of judicial tribunals, and invoked their consideration and judgment as to the measure of its rights and powers and the corelative obligations of those against whom it made complaints. And it is equally to the credit of the latter that the judgment of those tribunals was by the great body of them respected, and the troubles which threatened so much disaster terminated.

Neither can it be doubted that the government has such an interest n the subject matter as enables it to appear as party plaintiff in this suit. It is said that equity only interferes for the protection of property, and that the government has no property interests. A sufficient reply is that the United States has a property in the mails, the protection of which was one of the purposes of this bill.

POWER OF CONGRESS UNABRIDGED.

Up to a recent date commerce, both interstate and international, was mainly by water and it is not strange that both the legislation of congress and the cases in the courts have been concerned principally therewith. The fact that in recent years the interstate commerce has come mainly by railroads and over artificial highways has in no manner narrowed the scope of the constitutional provision or abridged the power of congress over such commerce. On the contrary, the same fullness of control exists in the one case as in the other and the same power to remove obstructions from the one as from the other. Constitutional provisions do not change, but their operation extends to the new matters as the modes of business and the habits of life of the people vary with each succeeding generation.

That the bill filed in this case disclosed special facts calling for the exercise of the powers of the court is not open to question. The picture drawn in it of the vast interests involved, not merely of the city of Chicago and the state of Illinois, but of all the states and the general confusion into which the interstate commerce of the country was thrown through the forcible interference with that commerce; the attempted exercise by individuals of power belonging only to the government, and the threatened continuance of such invasions of public right, presents a condition of things which called for the fullest exercise of all the powers of the court. If ever there was a special exigency presented, one that demanded that the court should do all that courts can do, it is apparent on the face of this bill, and we need but turn to the public history of the day which only reaffirms, with emphasis all its allegations.

The difference between a public nuisance and a private nuisance is that one which affects the people at large and the other simply the individual. The quality of the wrong is the same and the jurisdiction of the courts over them rests upon the same principles, and goes to the same extent.

JURISDICTION NOT QUESTIONED.

The argument in opposition does not question the jurisdiction of the court, but only expediency of the action of the government in applying for its process. It surely cannot be seriously contended that the court has jurisdiction to enjoin the obstruction of a highway by a person, but that it has no jurisdiction when the obstruction is by 100 persons. It may be true, as suggested, that in the excitement of passion, a mob will pay little heed to processes issued from the courts and it may be said by counsel in argument that it would have savored somewhat of the puerile and ridiculous to have read a writ of jurisdiction to Lee's army during the late civil war. It is doubtless true that inter arma leges silent, and in the throes of the rebellion or revolution the processes of civil courts are of little avail, for the power of the courts rests on the general support of the people and their recognition of the fact that peaceful remedies are the true resort for the correction of wrongs. But does not counsel's argument imply too much?

Is it to be assumed that these defendants were conducting a rebellion or inaugurating a revolution or that they and their associates were thus placing themselves beyond the reach of the civil process of the courts? Whatever any single individual may have thought or planned, the great body of those who were engaged in these transactions contemplated neither rebellion nor revolution, and when in the due order of legal proceedings the question of right and wrong was submitted to the courts and by them decided, they unhesitatingly yielded to their decisions. The outcome by the very testimony of the defendants, attests the wisdom of the course pursued by the government and that it was well not to oppose force simply by force, but to invoke the jurisdiction and judgment of those tribunals to whom by the constitution, and in accordance with the settled conviction of all citizens, is committed the determination of questions of right and wrong between individuals, masses and states.

A most earnest and eloquent appeal was made to us in eulogy of the heroic spirit of those who threw up their employment and gave up their means of earning a livelihood, not in defense of their own rights, but in sympathy for and to assist others whom they believed to have been wronged. We yield to none in our admiration of any act of heroism or self-sacrifice, but we may be permitted to add that it is a lesson which cannot be learned too soon nor too thoroughly that under this government for and by the people the means of redress of all wrongs is through the courts and at the ballot box, and that no wrong, real or fancied, carries with it legal warrant to invite as a means of redress the co-operation of a mob with its accompanying acts of violence.

SUMMING UP ITS CONCLUSIONS.

We have given to this case most careful and anxious attention, for we realize that it touches closely questions of supreme importance to the people of this country. Summing up our conclusions, we hold that the government of the United States is one having jurisdiction over every foot of soil within its territory and acting directly upon each citizen; that while it is a government of enumerated powers it has within the limits of those powers all the attributes of sovereignty; that to it is committed power over interstate commerce and the transmission of mail; that the powers thus conferred upon the national government are not formulated, but have been assumed and put into practical exercise by the legislation of congress; that in the exercise of those powers it is competent for the nation to remove all obstructions upon highways, natural or artificial, to the passage of interstate commerce or the carrying of the mail; that while it may be competent for the government (through the executive branch and in the use of the entire executive power of the nation) to forcibly remove all such obstructions, it is equally within its competency to appeal to the civil courts for an inquiry and determination as to the existence and character of any alleged obstructions, and if such are found to exist or threaten to occur to invoke the powers of those courts to remove or restrain such obstacles; that the jurisdiction of courts to interfere in such matters by injunction is one recognized from ancient times and by indubitable authority; that such jurisdiction is not ousted by the fact that the obstructions are accompanied by or consist of acts in themselves violations of the criminal laws; that the proceeding by injunction is of a civil character and may be enforced by proceedings in contemplation that the penalty for a violation of such injunction is no substitute for any criminal prosecution for offenses committed in the course of such violation; that the complaint filed in this case showed clearly an existing obstruction of artificial highways for the passage of interstate commerce and the transmission of mails—an obstruction not only temporarily existing, but threatening to continue; that under such complaint the court had power to issue its process of injunction; that, it having been issued and served on these defendants, the circuit court had authority to inquire whether its orders had been disobeyed, and when it found that they had been, then to proceed under section 725, Revised Statutes, which grants power "to punish by fine or imprisonment * * * disobedience * * * by any party * * * or other person to any lawful writ, process, order, rule, decree or command" and enter the order of punishment complained of; and, finally, that the circuit court, having full jurisdiction in the premises, in its finding of the fact of the disobedience is not open to review on habeas corpus in this or any other court.

We enter into no examination of the act of

(Continued on Second Page.)

SECRETARY GRESHAM DEAD

Grew Suddenly Worse Yesterday Afternoon and Gradually Sank Away.

HOPE ABANDONED EARLY IN THE EVENING

Kept Alive by Powerful Stimulants Until 1:15—Wife and Daughter Were at His Bedside — Son Did Not Arrive in Time.

WASHINGTON, May 28.—Secretary Gresham died at 1:15 o'clock this morning at his rooms at the Arlington hotel. Although hope of his recovery was practically abandoned when his sinking spell occurred shortly before 6 o'clock last evening, the most powerful heart stimulants known to medical science, nitro-glycerine and digitalis, were injected periodically and an infusion of normal saline solution was made through an open vein in the arm. He recovered slightly, but owing to severe rigors shortly before 11 o'clock, he began to fail rapidly and his vitality began to ebb.

The three physicians saw that the end was near, and at 12 o'clock withdrew to the anteroom, leaving in the sick room only the members of his family, Mrs. Gresham, her daughter, Mrs. Andrews, and son-in-law, Mr. Andrews and the nurses. Up to that time he had been conscious and talked at intervals. His words were full of bravery. He fully appreciated his condition and spoke words of hope and cheer to his stricken wife and daughter. Sometimes his mind wandered slightly and went back to the days of long ago, recalling incidents of life and happiness in the springtime of his life. He spoke, too, of his absent son and his private secretary, Mr. Langis, whom he loved as a son and who, like his son, was speeding to his bedside, all to late. But just before the physicians retired, he ceased speaking, though he appeared to be conscious. Mrs. Gresham sat at the bedside smoothing his fevered brow and occasionally reading to him from bible passages which he loved.

As the end approached his pulse became hardly perceptible. Gradually his eyes glazed and closed. Mrs. Gresham, with noble and heroic fortitude, continued to read the words of the gospel to her departing husband. Her daughter and son-in-law stood with bowed heads at the side of the couch.

NURSES BROUGHT THE NEWS.

At 1:15 o'clock his breathing ceased, a peaceful shadow passed over his pale countenance, his pulse flickered and the sorrowing family were in the presence of death. One of the nurses conveyed the news that the end had come to the physicians in the next room, and they in turn, brought it to the watchers in the reception room. Those present in the reception room were Secretary and Mrs. Lamont, Secretary Herbert, Assistant Secretary of State Uhl and Assistant Secretary of War McAddo and First Assistant Postmaster General Jones, Assistant Secretary of the Treasury Hamlin, Attorney General Olney, Colonel Corbin of the army, and the president's private secretary, Thurber. In the hotel lobby outside were a half hundred of the secretary's friends.

No arrangements will be made for the funeral until the arrival of his son today.

President Cleveland, who was at Woodley, was telephoned to and kept constantly informed as to his premier's condition. He, too, has been confined to his room, it is said, for two days by a bilious attack. He sent word that if it was possible for him to see the secretary or to be of any assistance he would be glad to come in, but the physicians stated that it would be impossible for the secretary to see any one, and he therefore decided to remain at Woodley.

Mrs. Gresham's devotion to her husband during his illness has been of the most tender, patient and faithful character. Although physically slight, she displayed, so said one who has been in the sick chamber several times a day throughout the secretary's illness, remarkable endurance and nerve. For four weeks she has hardly had her clothes off. Night and day she was at the bedside, snatching an hour or two of sleep when she could on a lounge in her room. She seemed determined to fight off death.

"If he dies," she said many times, "I lose all."

But she did not complain. With patience and devotion she ministered to his every want, giving everything her personal attention and trying to cheer and brighten him when he was peevish and fretful. The utmost persuasion was required to induce her even to lie down. Yesterday she grew so faint from sheer exhaustion that she reeled and would have fallen, had not one of the nurses caught her in her arms.

Mr. Gresham's illness began May 1, when he was attacked with acute pleurisy.

HIS LONG ILLNESS.

When he was taken sick four weeks ago the physicians diagonsed the case as gall stone in the bladder. His pleurisy symptoms were overlooked for almost thirty-six hours. As soon as Dr. W. W. Johnston, who is now the attending physician, was called, he discovered that the secretary was suffering from an acute case of pleurisy, probably caused by exposure while riding out to Woodley, the president's country home, at night. In the meantime, the gall stone had passed. The secretary's right lung was affected, the cavity being already filled with pleuritic fluid. His respiration rose to 43. The physicians decided not to tap the cavity, but to rely upon absorption to rid it of the exuded fluid. Gradually Secretary Gresham grew better. The respiration was reduced almost to normal. Last Saturday, when Dr. Johnston thought all danger past, the left lung suddenly became affected and filled rapidly. Since then either Dr. Johnston or the consulting physician have been at his bedside constantly, as have Mrs. Gresham and their son-in-law, Mr. Andrews.

He passed a very bad night Saturday night and a very bad day yesterday, suffering so much pain that last night he was placed under the influence of oplates. He has been kept more or less under their influence today. His long illness has weakened the secretary greatly, and it is said that his physicians have decided that in his exhausted condition he could not undergo an operation for the removal of the fluid. The fact that the secretary has had stomach trouble for years and has been obliged to diet militates against any rapid recovery of strength. Secretary Gresham had an attack of pleunrisy years ago. He has also suffered much from his wounds, being at one time bedridden for over a year.

SKETCH OF HIS LIFE.

Down in Harrison county, in the most southern portion of Indiana, was born on the anniversary of St. Patrick's day, March 17, 1832, in a small, unpretentious frame house, Walter Quinton Gresham, lawyer, statesman, soldier, cabinet officer and United States judge by turns.

It has been said that he is of pure American stock who can trace his native-born antecedents back 100 years. Judge Gresham can do more than this. His grandfather, George Gresham, was born in Virginia in 1776, emigrated to Kentucky in 1801, where he married a sister of Dennis Pennington, and in 1809 crossed the border line into Indiana, where he settled in Harrison county, of which he was one of the early pioneers and founders. Honest, industrious, courageous and a devout Methodist, this stalwart Virginian appears to have been a good husband and a fond father to his six children, of whom William, the eldest son, was the father of Judge Gresham.

Corydon, the seat of justice of Harrison county, about ten miles from which Judge Gresham was born, was for three years the capital of the territory and for nine years the capital of the new state. Here in 1833 came William Gresham, about a year and a half after Walter was born, to assume the duties of sheriff of Harrison county, to which office he had been elected by an almost unanimous vote. Not long was he permitted to hold office. In the spring of 1834, while attempting to serve a writ on a tough character who had violated the laws of his country, Sheriff Gresham was repulsed by a charge of lead and died inside of two hours. The wretch who committed this cowardly murder was eventually pardoned by the governor, after serving a short time in prison, to which a jury had consigned him for twenty-one years.

With a family of four children, of whom the eldest was 8 and the youngest, Walter, was 2, Colonel Gresham's widow found it a hard struggle to provide for her fatherless babies during the next few years. As soon as Benjamin, the eldest, was able to attend to the farm he shared the responsibility of its management with his mother, but Walter was of a more studious disposition than the rest of the family, and after gleaning what knowledge he could from the county schools he set his heart on entering the seminary at Corydon, where he later spent two years in study, completing his education by a year's course in the State uniersity at Bloomington. Returning home he entered the law office of William A. Porter, prosecuting attorney of Harrison county, one of the ablest jurists of that day, and in 1854, after three years of hard study, young "Wat" Gresham, as he is still called in southern Indiana, was admitted to the bar.

CAPTAIN GRESHAM IS PROMOTED.

Something in his great uncle's taste for public life appears to have been inherited by the judge, for in 1855, when the Nebraska question was being agitated, the young lawyer joined the republican party, and in 1856, when Fremont was nominated for president by his party at Philadelphia, he stumped Harrison county in support of the republican ticket. In 1860 he managed to overcome a democratic majority of 500 in his district, and was elected to the legislature.

At the outbreak of the war he was appointed colonel of the Thirty-eighth Indiana volunteers, and in December of 1861 to the command of the Fifty-third regiment. Colonel Gresham first proceeded with his regiment to St. Louis, but latetr joined Grant at Savannah, where he was assigned to Veatch's brigade of Hurlburt's division. Although anxious to participate in the fight at Shiloh, he was compelled to remain on guard at the Savannah post by order of General Grant, but later engaged in the siege of Corinth, afterward moving with the regiment to La Grange, where he joined Grant's army and took part in the north Mississippi campaign. He was afterward stationed at Memphis, was before Vicksburg, and August 11, 1863, on the recommendation of Generals Grant and Sherman, was appointed brigadier general, commanding the post at Natchez.

Subsequently he was placed in charge of the district of Natchez, succeeding General Crocker, and his wise and judicious government of that turbulent city is yet remembered by the people of that region. General Gresham remained in Natchez until the following spring, when he was placed in command of a division of the Seventeenth Corps of the Army of the Tennessee, to take part in the campaign against Atlanta. At Leggett's Hill July 20, 1864, while the hail of bullets was particularly heavy, General Gresham received a charge of shot just below the knee, causing a severe and painful wound that disabled him for a year and prevented him from seeing further service. March 15, 1865, he was brevetted major general of volunteers for gallantry before Atlanta.

The war over, he resumed his law practice at New Albany, forming a partnership with Judge Butler. In 1866 he was nominated for congress by his party, but the district being so heavily democratic, he was defeated.

APPOINTED TO THE BENCH.

In 1867 he became financial agent for his state in New York, and in 1869 President Grant, who ever had for him a warm personal regard, offered General Gresham the collectorship of the port of New Orleans, which, however, he declined. The president then urged upon him the district attorneyship of Indiana, but as General Gresham had been endeavoring to secure this office for a friend, he respectfully refused to consider it for himself. When, however, in December, 1869, the President invited him to become United States district judge for Indiana, General Gresham gracefully accepted and for nearly thirteen years presided on the bench.

In April, 1882, on the death of Postmaster General Howe, President Arthur invited Judge Gresham to leave the bench and accept a seat in his cabinet as postmaster general. For a little over two years Judge Gresham held this important position, the most conspicuous act of his administration being the determined fight he made on the Louisiana lottery people, his recommendation to congress being largely instrumental in the passage of the bill excluding all lottery matter from the United States mails.

In July, 1884, on the death of Secretary Folger, Judge Gresham was transferred to the treasury portfolio, but this office he resigned in a few months to accept the position of United States judge for the Seventh judicial district, made vacant by the retirement of Judge Drummond of Chicago. Perhaps the most celebrated instance of his moral courage on the bench was displayed in 1886, when the famous Wabash case, in which Jay Gould and his myrmidons were deeply interested, was reviewed in his court. On this occasion the Wall street wizard, who had been milking the Wabash system for millions, and had finally effected a big coup by wrecking the consolidated roads and getting his own creature appointed as receiver, experienced a severe setback from Judge Gresham, who ordered Gould's receiver dispossessed and appointed in his stead a man who would deal fairly and equitably with the creditors of the company.

In the republican convention of 1888, held in this city, the friends of Judge Gresham made galant efforts to secure him the nomination for president.

When the national committee of the people's independent party met in Omaha he was one of the men prominently mentioned for the presidential nomination, and had he been willing to accept could undoubtedly have secured the nomination. A committee waited on him to ascertain his views and he absolutely declined.

When Cleveland was elected the last time he was tendered and accepted the position of secretary of state, which he held at the time of his death.

WORK IN THE STATE DEPARTMENT.

As secretary of state in the present administration, Mr. Gresham has had to deal with perhaps more vexatious, intricate and delicate diplomatic affairs than has fallen to the share of most secretaries of state. His treatment of these was marked by the strong individuality which was part of the man. Perhaps from his long judicial experience he was disposed to view every question from the standpoint of exact and equal justice. To him it made little difference how any line of action promised to affect his own country, he could and did disabuse his mind of any personal feeling in dealing with an international question, and the first consideration with him was always absolute fairness.

Secretary Gresham found much to dissatisfy him with the state of our official relations when he assumed office the last time, and in his charactetristic fashion he set to work to shape these to meet his own ideas without delay. This brought him face to face with the great question of the hour at that time—the annexation of Hawaii. He had decided views on this matter, even before he came into the cabinet, and it was upon his recommendation that President Cleveland performed almost his first official act by withdrawing from the senate, where it was pending, the annexation treaty negotiated by Secretary Foster. Then Mr. Blount was sent to the island republic to make an original investigation, and upon his report the secretary made his now celebrated recommendation that the queen be restored, inasmuch as she had been deposed by the acts of officers of the United States.

While he was deep in the Hawaiian negotiation, Secretary Gresham was suddenly obliged to give attention to the Bering sea fisheries. The arbitration arranged by his predecessor was in full swing. Here was another matter with which he was not in harmony. He did not believe that the arbitration would be successful in the object aimed at by the United States. It was only by an exhibition of all the strength of his character and purpose that he succeeded in hurrying through the British Parliament an act to give effect to the arbitration and then securing the adoption of regulations to keep off the poachers.

He was married in 1858 to Miss McGrain of Corydon, Ind., and two children, a son and a daughter, have been born to them.

MURDERED HIS NEIGHBOR

Cheyenne County Farmer Instantly Killed While Riding Over the Prairie.

TROUBLE WAS OVER AN IRRIGATING DITCH

Shot in the Back with Buckshot by a Neighbor Hidden in the Bushes Who Afterwards Gives Himself Up.

SIDNEY, Neb., May 27.—(Special Telegram.)—Last evening at 7 o'clock Robert F. Fawcus was brutally murdered at his ranch five miles west of Camp Clarke and fifty miles northwest of Sidney in Cheyenne county, by F. W. Bozarth, a neighboring ranchman.

Frank Lipsky, a boy employed by Fawcus, was driving some cattle down to the lake to water and Fawcus came out on horseback to examine them. Just a quarter of a mile east of the house Fawcus was shot in the back, falling from his horse immediately. The murderer was concealed behind a clump of sagebrush and was recognized by Lipsky.

Mounting his horse Bozarth drove to his home immediately, two miles away, threw the shotgun by the side of his cabin and told his brother-in-law that he was going to Sidney to give himself up. He arrived here at 2:30 this morning, and in company with Judge Helet, his attorney, he went to Sheriff Daugherty's house, contiguous to the jail, and told the sheriff he had killed Fawcus on account of some trouble over an irrigating ditch.

W. A. Fisterman, who is in the employ of Fawcus, says that on Wednesday last Bozarth made a threat that the first man who opened the headgate he would bore full of holes. Several other witnesses heard the remark. It seems that the ditch was built by a joint stock company known as the Chimney Rock Canal company. Fawcus owned eight water rights and Bozarth three. No one can interfere with the headgate but Henry Randall, the general manager, and he turns in water enough for all. Fawcus had never been known to touch the gate. In fact, he had instructed his men to keep their hands off, and to see Randall whenever the water supply was insufficient. When Fawcus returned on Saturday from the sand hills, whither he had been about a week hunting some horses that had strayed away from his ranche, and heard the threats which Bozarth had uttered, he said he didn't think he would do it, as they had always been friendly, and that he had always loaned Bozarth anything about the place that was asked for.

Jack Crittenden, the precinct constable, was at the Fawcus ranche visiting with his wife, and on hearing the shots jumped on his horse, went in the direction the shots were fired, and arrived at Fawcus' side just as he was expiring. His last words were, "Jack, look after the things."

The shots were fired from a breech-loading shotgun, and both shells were loaded with buckshot, showing premeditation on the part of the murderer.

The deceased was well known throughout the county. He was a liberal, wholesouled fellow, in excellent circumstances, and beloved by all. He was 31 years of age, single and a member of Gering lodge of Free and Accepted Masons. He settled here nine years ago, coming direct from his native home in England. He expected to sail on June 11 for England to visit his aged parents.

Bozarth is 25 years old, a single man, medium build, and weighs about 140 pounds. He will say nothing about the crime.

Coroner Burger has started for the scene in company with Dr. A. D. Stowitts, the county physician, and will bring the body here for burial, and ultimately ship the remains to England. Fuller details will be brought out at the examination. Indignation runs very high here, and it is hard to foretell what the consequences will be when the north country becomes fully aroused.

PITCHED BATTLE NEAR WALCOTT

Four Men Wounded and Two of Them May Die.

RED CLIFF, Colo., May 27.—The first open rupture in the much talked of sheep and cattle men's war in Routt county has occurred and four men are badly wounded, two of whom may die of their injuries. The news was brought by a messenger who came for medical assistance. The messenger could give but few details of the affair. The following are the casualties resulting from it:

William Matna, long gash on forehead and cut in the ribs with a knife.

Alex Winslow, cut behind the left ear ranging downward; also cut across the neck nearly severing the artery windpipe.

Tom Dice, cut on back of the neck and badly beaten over the eyes.

John Winslow, cut several times in the back with a heavy knife.

The scene of the encounter was at a point twenty miles above Wolcott, on the Sheephorn. Wolcott is a station on the Denver & Rio Grande railway and is the starting point for stages running to Steamboat Springs, eighty miles north. For several days a collision between sheepmen and cattlemen has been expected. The bitterness between the two factions has been growing and the feeling is so intense that fighting is expected at many points.

The trouble between the sheepmen and cattlemen is the same that caused so much trouble in western Colorado last year. The sheepmen, principally from Montana and Wyoming, insist on driving their herds through Routt county as far south as Wolcott, where they expect to ship the sheep by rail to eastern markets. The cattlemen oppose this drive, saying it is only a ruse to get the sheep into Routt county for grazing purposes. Last week the cattlemen, 350 in number, met at Steamboat Springs and unanimously resolved to keep the sheepmen out, if necessary by force.

A report reached here today to the effect that a conflict has taken place between cattlemen and sheepmen in Routt county, a few miles west of Steamboat Springs, in which two cattlemen were killed and six wounded. Fifty-four thousand sheep are accompanied by nineteen wagons, each carrying from four to six men, are being driven through the country to Wolcott.

DENVER, May 27.—J. C. Edwards, the owner of 40,000 sheep in Routt county, appealed to Governor McIntyre today for protection for his property, which the cattlemen promise to slaughter, and the question brings before the chief executive a difficult subject.

Mr. Edwards says he has tried to settle the controversy amicably. He is an old resident of Colorado and a heavy taxpayer and claims the right to drive his property wherever necessary. He wants to drive his flocks through the lower part of Routt county, until a shipping point on the Rio Grande railroad can be reached and has promised the cattlemen that no damage shall be done to the range or ranch property. He has proposed to the objectors that they shall select the trail the sheep shall take, but they have demurred and have called another meeting to assemble at McCoy's, Garfield county, this week to organize for resistance. Edwards asks the governor to attend this meeting and argue for moderation and recognition of the rights of the sheep grower. What stand Governor McIntyre will take is a question which is causing some speculation at the capital. It is regarded as a foregone conclusion that the local authorities of the counties affected will be unable to stay the hands of the cattlemen when they start to keep out the intruders, and if military aid is not invoked Edwards will have a cause of legal action for damage against the state.

Seventeen Passenger Conductors Fired.

COLUMBUS, O., May 27.—Seventeen passenger conductors on the Baltimore & Ohio lines west of the Ohio river were discharged. Three are Columbus men. The others run into Chicago, Sandusky and Wheeling. The men here boarded at hotels. Spotters are said to have been working on the road recently.

YESTERDAY'S GALE IN OMAHA

Discomforts in the Streets Forgotten in Thoughts of the Fields Outside.

Yesterday's gale in Omaha from the south recalled the hot south wind that prevailed for four days last July. It was by no means so hot a wind, but it kept the streets full of dust, that found its way under window sills and doors into houses, and trees and grass seemed to suffer, for they drooped.

Discomforts in the city, however, were held at naught, provided the blow was not worse and doing damage to crops out in the state. Telegrams at the headquarters showed that it was general over the state and considerable anxiety was caused.

Among those who were in Omaha last evening and who had been traveling through the central and eastern parts of the state in the day were Matt Daugherty of Ogallala, John Peters of Albion and President Barnes of the Steate Board of Agriculture of Grand Island. These men were careful to observe the effect the wind was causing and they say that, so far as their observation went, it is not yet serious and by no means alarming. Mr. Daugherty says that in the west of Kearney rain is badly needed, and the wind, if it continues, may cause much damage. All say that in the central and eastern portions of Nebraska crops are so vigorous and so well rooted that no apprehension need be felt even if the wind continues for a day. Corn in these sections, it is admitted, will be safe even two weeks without rain, but the recent frosts have nipped oats and wheat, and for these rain is generally needed.

For some time in the city yesterday the wind came at the rate of thirty-six miles per hour. With its burden of dust it was avoided by all whose business and errands did not compel them to be on the streets.

CORN CAN STAND THE HEAT

Warm Wind in Some Sections Not at All Alarming.

ASHLAND, Neb., May 27.—(Special Telegram.)—A strong wind raised with the sun here today from the south, and at 9 a. m. became very strong and hot at intervals, continuing all day. The dust was so terrible that at times one could hardly see a block away. Trees and limbs were blown down by the strong gusts of wind. Farmers from over the country today report small grain to be badly in need of rain, and should the wind continue a day or two longer without rain the crops of oats and wheat will be materially diminished. As to corn, it can stand considerable yet, but is in need of a soaking rain. Should one come within two weeks it will meet all the needs of a good crop so far.

STROMSBURG, Neb., May 27.—(Special Telegram.)—A terrific wind has been blowing from the southwest since early this morning. The air is literally filled with sand and dust. Small grain is in a precarious condition.

NELSON, Neb., May 27.—(Special Telegram.)—A very heavy wind and dust storm has prevailed from the south for the past twenty-four hours. Old settlers say it has been one of the worst storms ever known here at this time of the year. There has been no rain to speak of this month. Unless rain comes within a few days small grain will be greatly injured.

BEAVER CITY, Neb., May 27.—(Special Telegram.)—Hot winds have blown from the southwest all day and small grain has suffered.

OAKLAND, Neb., May 27.—(Special.)—Up to date crops look well, though rain is badly needed.

HASTINGS, May 27.—(Special Telegram.)—A heavy, dry, hot wind has been blowing here all day. It carried with it a perfect cloud of dust and sand.

NEBRASKA CITY, May 27.—(Special Telegram.)—A heavy, hot wind, partaking at times almost the nature of a hurricane, prevailed here all day. The air was filled with dust and sand and crops and fruit have suffered some. A good rain will easily save crops.

DAVID CITY, Neb., May 27.—(Special.)—A wind and dust storm struck the town this morning, branches were broken from trees, and the streets are filled with dust that the city sprinklers cannot control, while in the country the dust from the fields makes farming operation impossible.

VERDON, Neb., May 27.—(Special.)—A gale is blowing from the south today, filling the air with a cloud of dust, and the hot air is scorching everything. An alarm of fire was given this morning, but proved to be only an outbuilding belonging to the butcher shop, and was soon extinguished.

WATERLOO, Neb., May 27.—(Special.)—A heavy wind and dust storm visited this place this morning, blowing down several large trees.

In spite of the very unfavorable weather we have been getting for the past two weeks, our crops look fine and the outlook at present for the coming season is very bright, the late frosts doing little or no damage. Potatoes fared the worst, but outside of putting them back a week or two they are none the worse for the nipping.

FALLS CITY, Neb., 27.—(Special.)—A hot wind from the south commenced blowing at the rate of sixty miles an hour this morning and continued up to noon. This community has had no rain for the last three weeks, and should the present hot wind continue many days without rain, crops will be a failure in this county.

BEATRICE, May 27.—(Special Telegram.)—A heavy wind from the south has prevailed here throughout the day. A number of shade trees were blown down about this city. The wind has resulted quite seriously to small grain.

LINCOLN, May 27.—(Special Telegram.)—A terrible wind storm has prevailed all day and bids fair to continue at least till morning. Large limbs were stripped from trees in the capitol grounds. Quite a large tree was blown down tonight on M street, near the Lindell hotel. The wind is in the nature of a simoon.

WYMORE, Neb., May 27.—(Special Telegram.)—Business has been practically suspended today on account of the terriffic wind and dust storm which has prevailed all day. It was a hazardous undertaking for pedestrians to appear on the streets. Trees were blown down and other damage done.

HEBRON, Neb., May 27.—(Special Telegram.)—A terrific wind and dust storm blowing from the south at a velocity of forty-five miles per hour has prevailed all day, and it appears to be increasing. Small buildings have been damaged. The wind has whipped corn and other grain considerably, and some fields have been damaged.

Damage in Iowa.

MALVERN, Ia., May 27.—(Special Telegram.)—Clouds of dust and a dry, hot wind from the south all day made life a burden here. A large quantity of fruit was blown from the trees. Rain is badly needed.

SIOUX CITY, May 27.—(Special Telegram.)—Between 10 and 12 o'clock today the thermometer rose from 62 to 98 degrees. A hot wind is blowing at the rate of forty-five miles an hour.

Chief Byrnes Retired.

NEW YORK, May 27.—Police Superintendent Byrnes has made application to the Board of Police Commissioners for retirement. The board granted the request.

In executive session of the board Commissioner Parker said that he had spoken to Chief Byrnes and that the chief had said that if in the opinion of the board the department could be better served by his retirement than by his continuance in office he would feel it his duty not to embarrass the board by continuing his presence, but would hand in his application for retirement.

"Mr. Byrnes," continued Mr. Parker, "has stated that to me not only on one occasion but several times, and in conformity with that statement and with the spirit the application for retirement by the board has been submitted."

The application was placed before the board for action and it was unanimously accepted.

Inspector Peter Conlin has been made acting chief of police. Captains M. W. Cortright, Brooks and McCullagh were appointed acting inspectors.

STAKES SET AT A MILLION

Presbyterian Assembly Will Outdo Itself in Its Anniversary Year.

PLANS FOR RAISING IT ALREADY FORMED

Twenty-Five Men Appointed to Take Charge of the Reunion Fund—Reception of Polygamous Converts in India the Cause of a Tangle.

PITTSBURG, May 27.—During the devotional services before the opening of the Presbyterian general assembly on the last day of its session it was stated that the meetings had been to the spiritual advantage of the city. The early hours of the session were devoted to miscellaneous business of minor importance to clear up the docket previous to adjourning.

The most important matter