PRISON DOORS YAWN

Jells Needed for Two More Inmates at the State Penitentiary.

ZRA WHITNEY SENTENCED TO DO TIME

Supreme Court Gets After Another Defaulting Ex-Treasurer.

BENJAMIN D. MILLS GOES WITH HIM

Decision Not Made Public Till the Men Wers in Custody.

RULING OF THE LOWER COURT SUSTAINED

Man Who Borrows Money of an Official, Knowing It to Be Public Funds, is Also Guilty of Embezzlement.

LINCOLN, Jan. 7 .- (Special Telegram.)-The supreme court has affirmed the judgment and sentence of the lower court in the case of Ezra Whitney, defaulting ex-treasurer of Harlan county, and Benjamia D. Mills, who participated in the embezzlement and -- against the peace and dignity of the state the law. The noise was adjusted, the trap courts have shown that it is possible to hang ceived part of the money. The decisions of Nebraska, are made public today, only after word had been received that both Mills and Whitney were safely in custody. Whitney is at Orleans and Mills is in the custody of officers here.

The charge under which Whitney was convicted was that of the embezzlement of pub-He money by an officer, and contains nothing new or different from other cases of that Bort. The conviction of Mills, however, has a great significance and the opinion of the supreme court in affirming the Judgment of the district court is regarded as one of the most important and far-reaching decisions ever handed down by the court. It is the first case under the statute of this state whereby a man has been convicted for unlawfully borrowing money of a public officer, and it is the general opinion of those who have read the decision just handed down that the way is now open for the prosecution and conviction of those who have partici pated in and profited by the stealings of Bartley and Moore, and that if it is given full force and effect in all cases the embezzling state officers will have plenty of company in the penitentlary. A large number of cases in the various counties of the state where public officers have been found short in their accounts, will also be affected by the new decision, and It is certain that there will be great uneasiness among those who have been speculating on funds furnished them by their fr ids who are in

SYLLABUS OF THE OPINION. The opicion is by Justice Harrison and the

syllabus ia as follows: In a prosecution by information the complaint and information must charge the same offense, but it is sufficient if the charge in the information is substantially the same as that alleged in the complaint; I this is so a plea of no preliminary examina tion on the ground of a variance between the complaint and information is withou force, Cowan against State, 22 Neb., 515 Hockenberger against State, 49 Neb., 706 2. If the identity of the offense charge is preserved the statement of it in the in formation or counts thereof may be varied from that of the complaint to meet a possible state of the proof,

3. The word "embezzle" includes within it import the conversion to his own use as alleged in an information against one accused of embezzlement, and it does not con stitute an information fatally defective for uncertainty as a plea that the two are joined by the copulative "and," The same is also true of the first and any other word or set of words used to express the manne of the commission of the crime

4. In an allegation of an information of the crime of embezzlement it was state that the embezziement was of the sum of \$6,000 in money: Held to be a sufficient expression of the value, the presumption being that it was lawful money

5. By section 124 of the Criminal Code any person who advises, aids or participates is the embezzlement of public money by the officer or person charged with the collection receipt, safekeeping, transfer or disburse of such money is himself guilty of embezzlement. The words "any person" refer to all and are not confined in meaning to a person or persons or officer or officer. in some manner intrusted with the collection, handling or care of public money,

6. An instruction which consisted of quo tation of the main portions of the section of the Criminal Code under which the prose cution was instituted: Held not improper o

7. An instruction in this cause in regard to consideration of circumstances: proper and when construed with the other instructions not misleading, 8. Instructions to the jury are not to b

considered together and construed as whole, and if so considered and construct they are correct, it is sufficient, 9, Certain instructions examined and held

applicable to the evidence herein and proper 10. Mere nondirection does not furnish sufficient reason for reversal on review unless proper instructions have been requested and refused. Hill against State, 42 Neb., 503; Barron against State, 47 Neb., 294,

II. Objections to the admission of evidence examined and held properly overruled, 12. To entitle a party to a new trial or the ground of newly discovered evidence is must appear that the applicant for the new trial could not "by the exercise of reasonable diligence have discovered and produced such evidence at the trial," Sections 490 and 492, Criminal Code.

13, Evidence held sufficient to sustain the verdict,

JUDGE HARRISON'S VIEWS. In opening the discussion of the points involved in the case, Judge Harrison says: The presecution was instituted for an al leged violation of the provisions of section 124 of the Criminal Code, which to the extent we need notice it, is as follows: "It any officer or other person charged with the collection, receipt, safe keeping, transfer or disbursement of the public money or any part thereof, belonging to the state, or to any county or precinct, organized city or village, or school district in this state, shall convert to his own use, or to the use of any other person or persons, body corporate, association or party whatever in said that the money alieged to have been any way whatever, or shall use by way of investment in any kind of security stock, loan, profit, land or merchandise, or in any other manner or form whatever, or shall loan, with or without interest, any company, corporation, association or individual any portion of the public money or any other funds, property, bonds, securities, assets or effects of any kind, received, controlled or held by him for safe keeping, transfer or disbursement, or in any other plaintiff in error for use and not for de way or manner, or for any other purpose; or if any person shall advise, aid, or in any manner participate in such act, every such act shall be deemed and held in law to be an embezziement of so much of said moneys

or other property as aforesald as shall thus e converted, used, invested, loaned or paid out as aforesaid, which is hereby declared to be a high crime, and such officer, or person or persons, shall be imprisoned in the penitentiary not less than one year or more than twenty-one years, according to the magnitude of the embezzlement, and also pay a fine equal to double of the amount of money, or other property so embezzied,

MAIN FACTS CHARGED. The various counts in the information are then quoted, the first and fourth counts having the most direct bearing on the case and upon which the most argument was made, both in the lower court and in the submis sion of the case to the supreme court, and

the judge proceeds: The first count of the information charges That Ezra S. Whitney on the 31st day of December, 1894, in Harlan county, Nebraska, being the county treasurer of that county did unlawfully and fraudulently embezzle receipt, safekeeping, transfer and disburse-ment of such money," And before said emmitted as aforesaid by the said Ezra S. incite, aid rad abet the said Ezra S. Whitney in the perpetration of said embezzlement and conversion in the manner and for a aforesaid, contrary to the form of the

And in the fourth count it is charged: That the said Ezra S, Whitney, late of the said county, on the litst of December, 1894. county of Harlan and state of Nebraska, being an officer, to-wit; being the county treasurer of the said county of Harbe collection, receipt, safekeeping, transfer nd disbursement of the public moneys belonging to the sald county, did unlawfully and fraudulently loan and convert to the use of the Benjamin D. Mills, which said money had come into the possession and custody of the said Ezra S. Whitney by virtue of his said office, and in his discharge of the duties thereof, and had been received nd was controlled and held by him, the ald Ezra S. Whitney, for safekeeping, ransfer and disbursement as county treasover as aforesaid. And the said Benjamir D. Mills, then and there being, did then and there unlawfully, knowingly and feloniously. dvise and procure the Ezra S. Whitney, punty treasurer as aforesaid, to loan him, the Benjamin D. Mills, the said \$6,000 of said sublic money, and the said Benjamia D. Mills did then and there receive from and o Ezra S. Whitney, treasurer of said Harlan ounty as aforesaid, said \$6,000, he, the said Benjamin D. Mills, then and there well mowing the same to be the public money of said Harian county, received and held as iforesaid with Intent to embezzle and conert to the use of him, the said Benjamin D. Mills, contrary to the form of the statute n such cases made and provided and against the peace and dignity of the state of Ne-

braska. WHY HE IS CONVICTED.

Following the quotation and statement of he case the opinion goes on to say: The argument for plaintiff in error is pased in part at least on the proposition that this count (the fourth) of the information charges no more than that Mills borowed the money of the county with know dge that it was the county's money, and hat this is not an offense; and proceedin rom this standpoint, among other matters urred in support of the position taken tates that section 124 of our Criminal Cods largely copied from the act of congress assed in 1846, and that it is a significant fact that the original act of congress has nce been amended to include a borrower of public money; from which the conclu passed did not include such a party; hence he amendment, and the further conclusi s drawn in argument that our section bein largely a copy of the original act of conrress, cannot or should not be construct

o include the borrower, We will say here that we can by no mean gree that the fourth count of the informa. on charges against the plaintiff in error mere naked borrowing of the money of Harlan county from its treasurer with th knowledge that it belonged to the county it charges an embezzlement of such money ts misappropriation or unlawful and felnious conversion and that plaintiff in erro did advise and procure the same, or in other words, actively participated by words or deeds in the act charge,

Section 124 of the Criminal Code embodie many of the constituent elements of th act of congress to which reference has been made; but it bears a strong resemblance, is in fact, with some few necessar; changes and omissions, the first to meet lifference in conditions and political subdivisions in this state, a reproducton of sec tion 15 of an act passed by the legislature of the state of Ohlo, April 12, 1858. Reference s made to a similar prosecution under this Ohio statute and in that case the suprem ourt of Ohio held: "By the act of April 12 1858, the party advising, aiding or particl. pating in the embezzlement of public mone by an officer or person entrusted with it, himself guilty of embezzlement, although he be not himself an officer or person en rusted with public money. The crime of advising aid or participating in an embezzlement by a public officer, is made by said act a distinct and substantiative offense and the party guilty of it may be put upor his trial and convicted, before the convic

tion of the embezzling officer." COMPLAINT IS SUFFICIENT.

coinion continues: shall advise, aid or in any manner particl pate," This clearly includes all persons, offi. cers or others entrusted with the care or custody of money, or any others. The count contained a sufficiently definite and specific charge of an embezzlement as set forth in ection 124 of the Criminal Code; hence stated a crime known to our law.

In regard to the errors claimed because of defective and prejudicial instructions on part of the trial court, the opinion enters inte an exhaustive discussion, involving many le gal and technical points, and holds that there is no vital error shown on the record of the district court proceedings. The closing para graph of the opinion is as follows:

It is also urged that the evidence wa wholly insufficient to sustain the verdict, It would serve no useful purpose to quot it at length or summarize it in a statement here. After a careful examination of it we must say that while from it it might be the subject of embezzlement may have portion or all of it gone into the hands an care of the plaintiff in error for the probable purpose of being deposited in the bank a designated depository for such funds; i is clear that subsequently this purpose was | and twenty-eight seconds all signs of life charged and the money of the county was, had vanished and the most noted criminal in direct violation of the law on the subject (section 124 of the Criminal Code), al lowed by the treasurer to be retained by the posit, and this by and through the advisand procurement of the latter. That such subsequent action by which the money was

(Continued on Third Page.)

THEODORE DURRANT HANGED

Murderer of Blanche Lamont Expiates His Crime on the Gallows.

PROTESTS HIS INNOCENCE TO THE END

Received Into the Catholic Faith Just Before the March to the Gallows Was Commenced.

and convert to his own use \$6,000 of the seen under similar circumstances. Hopeful die like a Durrant." by virtue of his office, and in his discharge him, he walked to the scaffold this morning body. The prisoner's medical training seemed of the duties thereof, he as such county and made his little speech protesting his in- to have imbued him with a horror of the for that purpose at 4 o'clock Tuesday afterpurposely, fraudulently, corruptly and felon- he stood as solid as a rock while he prohim to death.

> rant's dead body dangled. The neck was up hope. broken by the fall of over five feet, and fifteen minutes later the murderer's body

was placed in the coffin. In spite of the exciting events of las an and being charged as such officer with night, when Durrent was besieged by news coper reporters and talked to his parents until 11:30, he rested easily during the night, onging to the said county, certain of said and shortly after 6 o'clock he awoke and Theodore Durrant, refusing to interfere. The money, to-wit; \$6,000 of the public money be- bade his guards good morning. Warden Hale had provided a neat suit of dark material in tion made by Attorney L. P. Beardman for honor of the occasion, and these clothes Durrant quickly donned. He noticed the ab- corpus in Durrant's behalf. This applicasence of collar and necktie, however, and tion was only made by Mr. Boardman after knowing full well-the reason for their omis- he had exhausted all other resources in slon, he asked for them, explaining that a turndown collar would not interfere with the of the court. After seeing Justices Brewer nocse. Then he sat down to a most excellent breakfast and ate heartily. During the early morning hours he did not have much to say beyond expressing a desire that no news caper men should be allowed to see him This request was complied with.

GOES BACK ON THE BAPTISTS. Consistent to the last, Durract died professing religion. But he died accepting, at the last moment, the comforts of the Catholic church, instead of those of the Baptist faith, in which he was reared. Rev. Mr. Rader, a Protestant minister, had arranged to ascend the scaffold with Durrant, but the minister would not say that he thought Durrant innocent, and the condemned man declined to ecept his services unless Mr. Rader professed belief in his innocence. Then it was that the once ardent Baptist turned to the Catholic church for consolation, and called upon Father Legan, a priest who had frequently visited him in prison, to attend him. Father In presenting the petition he had the un-Lagan responded promptly and performed the last solemn rites of the church. Durrant the members of which were present except remained in close consultation with the est, and seemed to be deeply

a the impressive ceremony. As the hour of the execution approached the prisoner became somewhat restless. His father and mother were admitted to bid him a last forewell. The elder Durrant grasped his son by the hand, and then the young man turned to comfort his mother, who cried hysterically. Durrant embraced her tenderly and saying, "The hour has come for us to part," put her gently away. The griefstricken mother was led to a private room. where she remained until after the execution His father, however, went to the execution com and, supported by two friends, saw ils son meet his death.

Warden Hale did not attempt to hurry natters, but allowed all possible time for the supreme court at Washington to take some action. Finally, when word was flashed across the continent that the supreme court had declined to interfere, the warden ordered the program of the day to be carried out. At 10:30 o'clock Durrant, accompanied by Father Lagan, appeared at the door of the execution room. He was followed by his

father, a friend, Warden Hale and the guards. His father and the friend walked round the gallows, while Durrunt and his keepers climbed to the gallows platform. Instantly on arriving at the gallows his legs and arms were pinioned, and the rope was placed upon his neck. The hangman was about to adjust the black cap, when Durrant armounced his desire to speak. PROFESSES HIS INNOCENCE

Permission was given and the doomed murderer spoke as follows:

"I desire to say that although I am an in ocent man, innocent of every crime that has een charged against me, I bear no animosity oward those that have persecuted me, not ven the press of San Francisco, which ounded me to the grave. If any man thinks am going to soring a sensation-I am not except it is a sensation that I am an innocen man brought to the grave by my persecutors But I forgive them all. They will get their justice from the great God who is master of us all and there I also expect to get justicethat is, the justice of an innocent man As to the sufficiency of the complaint, the Whether or not the perpetrators of the crime of which I am charged are discovered, it will make no difference to me now, but I say this day will be a shame to the great state of California. I forgive everybody who has perse cuted me, an innocent man, whose hands have never been stained with blood, and I go to meet my God with forgiveness for all

The words were delivered slowly and dis thectly and without emphasis. The crowd of spectators grouped closer to the woode framework that they might not lose a word of what was being said. Not a sound could e heard except the even tones of the man

bout to die. Durrant finished quietly and had scarcely oncluded when the black cap was placed over his face. At the same instant Hangman Lunt raised his hand, the trap was sprung and with a rattle Durrant's body shot through the opening. There was a sound as of a stout rope drawn taut, and a broken necked criminal swayed to and fro for a

moment, when the body became motionless The crowd surged forward, but the warder was heard to say, "Stand back." The doc tors felt the pulse and finally decided that Durrant was dead. In just eleven minutes

of the nineteenth century was dead. The body was allowed to hang for fifteen minutes. It was cut down and placed in a black coffin provided by an undertaker from San Francisco. It is not yet known what disposition of the body will be made, as Durrant's parents have been unable so far secure accommodations in any of the local

cemeteries for the body of their son, It is probable the body will be cremated. SPECTATORS HURRIED OUT.

As soon as the drop fell the spectators were hurried out of the room, and nobody remained except the physicians and the newspaper men. Durrant, sr., went to his wife, who was waiting in one of the guard rooms, and together they accompanied the

body of their son to San Francisco. The prison officials were all enthusiastic in their praise of Durrant's nerve. It had been feared by them that in spite of his apparent bravado the condemned man would break down at the last moment and make a scene. At one time, several days ago, Durrant gave evidence of a collapse, but he SAN QUENTIN, Cal., Jan. 7 .- When Wil- managed to pull his nerve together once Bam Henry Theodore Durvant died on the more and proudly declined all offers of stimugallows this morning for the murder of lants to enable him to make a bold showing

treasurer being charged with the collection, nocence as calmly and with as distinct surgical treatment of corpses, and he vowed noon. According to several vigorous expresenunciation as if he had been addressing an that no knife should ever touch his flesh, sions of opinion at the meeting of yesterday bezzlement, conversion and felony was com- assemblage of friends upon some ordinary He requested that the rope with which he prompt and decisive action to compel the topic of the day. His face was cale, and his was hanged be burned. His wishes in both water company to supply the necessary water Whitney, one Benjamin D. Mills unlawfully, eyes were red, but his voice was firm, and these respects were observed by the warden. It was a sad day, not only for Durrant, but cial committee is unsuccessful. lously did the and there procure, advise, claimed his innocence and professed forgive- for eight other murderers, who are confined ness to those who, he said, had bounded in the prison, and whose fate depended on There was not a hitch or accident to mar behalf. They were all prepared to follow tatute in such case made and provided, and the plans of Warden Hale in carrying out the same factics for delay, but now that the be known as the Bureau of Public Comfort

NO RELIEF FROM SUPREME COURT.

Declines to Interfere with Execution

of Death Sentence.
WASHINGTON, Jan. 7.—The United States rendered its final decision in the case of matter was before the court on an applica- work. leave to file a petition for a writ of habeas the shape of appeals to individual members and Harlan last night, he called upon Justice Shiras before the convening of court, but met with the same denial which he had received at the hands of the other justices. He saw Mr. Shiras at his residence and to him presented his petition for appeal from brief form. Without going into the case i Justice Shiras denied the application in both cases. After this proceeding, Mr. Boardjustices and he remained to the court room with the intention of presenting the matter

man had no time left to see other individual to the congregated court. He preented a personal petition in his own name in Durrant's behalf rather than to appear as the latter's counsel. To appear in the latter role it would have been necessary for him to secure admission to the bar and that proceeding would have required time which Mr. Boardman felt he could ill afford to lose. divided attention of the entire court, all Justice Brewer, and of an audience which filled all the seats and standing room is the portion of the hall outside of the bar.

Mr. Boardman lost no time in presenting his prayer to the court. Two or three per sons were admitted to practice and the oaths administered to them had scarcely fallen from the lips of Clerk McKenny when the California attorney moved swiftly from the rear of the bar enclosure to the front, where he calmly took his position and began his presentation of the matter in hand. He began by saying that he realized that his method of presenting the case as a personal petition of his own was outside of the usual line of habeas corpus proceedings in this court. He briefly outlined the fact that Durrant was under sentence of death on the charge of murder in California and that the execution had been set for today. "I ap pear," he said, "in person, in behalf of my client, who is confined in prison in California, and who, because of this restraint, is

unable to make petition in his own behalf." He then proceeded to read his petition a length, presenting the points which he had hitherto presented to the individual justices of the court, making application for an appeal from the decision of the United States circuit court for the Northern district of California and for a writ of error to the state supreme court of California with a hope of thus getting the matter into this court and securing a stay of proceedings In the matter of Durrant's execution by obtain ing an order for a writ of habeas corpus He also set forth his action in presenting the matter to Justice Brewer, and other mem. bers of the court in their individual character. As he proceeded Mr. Boardman was frequently questioned by members of the court, whose questions were evidently made for the purpose of elucidating the points

Mr. Boardmen sought to present. He said in reply to a question from Justice Harlan that the main point in his application for an appeal in the habeas corpus proceedings before the California federal court was his reliance on his constitutional right of appeal, which he asserted had been denied by the refusal of the circuit court to grant this appeal. He also asserted that the state court, by proceeding to sentence Durrant to execution November 8, last, before the mandate of the United States supreme court refusing to grant a writ of habeas corpus had been received, violated the constitution and laws of the United States and acted as a denial of the rights of his client. Taking up the proceeding n the state supreme court, Mr. Boardman letailed some of the errors ulleged to have been committed by the court, reading minutely from the minutes of the court, closing with the presentation of the claim that the decision of the federal supreme court in the Jugiro case left no question of the right to prosecute an appeal in a similar case. It was then that Chief Justice Fuller utered a sentence which evidently forecast the

"We decided in that case," said the chief justice, "that the state courts could proceed n such cases in the absence of the mandate

of this court." With this Mr. Boardman's presentation of the case closed and the court retired for consultation at 12:28, returning at three minutes past 1. The crowd in the court room remained. The members had scarely taken their seats when the chief justice announced the decision, saying:

"In the matter of the application for

writ of habeas corpus in the case of Theo-

dore Durrant the petition to file such application is denied by the unanimous opinion of the court." Upon this announcement a majority of the spectators filed out and the court took up

(Continued on Seventh Page.)

WILL HAVE NEEDED WATER

Exposition Directory Discusses the Vexed Question Fully.

PEACEABLY OR FORCIBLY, IT MUST COME

Committee Appointed to Get the Water Company's Proposal, After Which the Course of Action Will Be Adopted.

The Board of Directors of the exposition took a turn at the water question at its regular meeting yesterday afternoon and ap-Blanche Lamont, he gave such an exhibition on the scaffold. The criminal was apparently pointed a committee to wait on the officials of ecoloress and nerve as has seldom been proud of his race, and avowed that he "would of the water company and learn what they will do toward supplying the exposition with sublic moneys belonging to that county, almost to the very last minute that some. Durrant's most urgent request of Warden the water which is absolutely necessary to 10. Bits of Feminine Gossip. which money had come into his possession thing or someone would intervene to save Hale was that no autocsy be held on his its success. This committee will report to an 11. Commercial and Financial News. adjourned meeting of the board to be held 12, "The Escape," by Cutcliffe Hyne, will be taken in case the mission of the spe-

The board also took up the matter of providing accommodations for the thousands of 11 a. m 42 the fight made by Durrant's attorney in his visitors who will be in Omaha during the coming summer and fall, and a bureau to was created and placed under the direction was sprung, the tight rope held, and Dur- a murderer in California, they have given of the Department of Ways and Means. This bureau will at once take up the work of investigating the available accommodations and finding five men who would agree to and devising plans for providing for any de- serve. ficiency. The personnel of this bureau was not determined, the appointment being left to President Wattles, who said he would decourt at three minutes past 1 o'clock today fer making the appointments until he had consulted with the directors to find men who would devote the necessary time to the

> The meeting was convened about 3:30 p. m. with a bare majority of the directors pres-

The following document, to which was atached a string of signatures fully fifteen feet in length, was presented to the meeting: Whereas, It has been stated by President Wattles of the Board of Managers of the Transmississippi Exposition that the Agri-cultural society of the state of California the executive committee asks of the board esires to build an immense wine vat en the exposition grounds with a capacity of 100,000 gallons, which it will keep filled and the decisions of the California courts, in privileged to drink at will, without money or price; therefore

Resolved, That we, residents of Nebraska lo most earnestly protest against the making of such concession by the Transmissis sippi commission, believing that the permitting of such proposed exhibit of wine and its free use as a beverage by all who care o drink it, regardless of sex or age, must work untold injury to the morality of the state and the creating of appetite for strong frink in the young, will be a curse to our people and in every way detrimental to the est interests of our commonwealth,

This resolution was unanimously adopted by the Second district Woman's Christian Cemperance union at its annual convention

August 24, 1897. President Wattles stated that the only possible foundation that existed for the statements contained in the resolution was the Angeles Chamber of Commerce had made inquiry as to space charge and other items of expense for the display of a "Niagara in Wine," but no further steps had been taken, and there seemed little probability that anything would be done.

The document was placed on file.

REPORTS FROM MANAGERS. Reports from the various departments were called for and Manager Lindsey of the Department of Ways and Means asked that he be granted further time in which to publish the names of delinquent subscribers to exposition stock, as he was not ready to make the publication. The time was extended to February 15.

Manager Rosewater submitted a written annual report of the Press Bureau of the Department of Publicity and Promotion which he said showed that the bureau had meeting in the city hall regarding the statedistributed 268,412 documents of various ments of the officers of the water company kinds and had secured approximately 4,900,- during the recent suit in the federal court, 000 words of free advertising in papers of which he said disproved the statements now every class in all parts of the country. Sev- made by the water company representatives. eral of the most important publications inthe country are preparing for articles which of the Florence pumping station, Captain PRESIDENT STILLWELL'S RESPONSE.

will appear in the near future. Regarding the promotion feature of his daily consumption of Omaha, South Omaha lepartment Mr. Rosewater said he had not and East Omaha is 14,000,000 gallons and had time to prepare a written report, but he that the engines have pumped 26,000,000 galreviewed the situation briefly, telling of the lons into the mains per day. Mr. Webster work that is being done. About thirty states says that this shows that the capacity is are being promoted and the prospect for success is flattering. The western states are beginning to recognize the importance of the tendent Hunt had testified that the Burt building of western railways he said had exposition to them and the eastern states are taking a great interest. He predicts that three-fourths of the states in the union, as well as a number of the principal foreign countries, will be represented. In this connection Mr. Rosewater said he was con vinced that it will be necessary to raise more money and erect other and large ouildings to accommodate the great number of exhibits which will be received.

Manager Bruce of the Department of Exhibits submitted a written report detailing the work which was being done by the several bureaus in his department.

Monager Babcock said he had no repor to make for the Transportation departmen further than to say that progress was being made with the railroads and matters were in a satisfactory state.

Manager Lindsey brought up the question of accommodation for the many visitors who will come to Omaha during the exposition saying the matter should be agitated, as the people are coming and something must be

Dudley Smith, a member of the special join committee appointed by the Commercial club Woman's club, Exposition association and Knights of Ak-Sar-Ben, to take charge of this matter, was asked to state what had been done. He told about the meetings which have been held by the committee and the investigations which have been made to form a basis for further work. He said the sense of the committee seemed to be that the exposition directory should take the nitiative.

Mr. Rosewater said this question of taking care of the great number of people who will visit the exposition was one of the most Important matters with which the people must grapple. He said a systematic canvass of this city should be made and a coreful estimate made of what is necessary to be done. The members of the executive committee already had all they could possibly attend to, and a committee should be appointed from the board which could give several weeks to the matter.

Dudley Smith moved the appointment o a committee of five, to be known as the Bureau of Public Comfort, and to be under the direction of the Ways and Means de-

THE BEE BULLETIN.

Weather Forecast for Nebraska-

1, Two Nebraska Embezziers Sentence Theodore Durrant is Executed, The Exposition Will Have Water, Business Men Banquet Stillwell, 2. Cullings from the Pension List.

3. Cuban Relief Commission Named. Scheme to Handle Exposition Freight, Affairs at South Omaha,

4. Editorial and Comment. 5. Condition of the City's Funds.

Manufacturing at the Exposition Hitchcock Apologizes in Open Court, 6. Council Bluffs Local Matters. Iowa Republican House Caucus.

7. Business Review of the Week, Doings of the Ohio Politicians. 8. Decision in License Case Today. Program for Jacksonian Day. Pacific Express Company Affairs.

9. Attack on the Stock Exchange.

Hour. Deg. 5 n. m..... 38 Hour. Hour. 1 p. m..... 42 6 a. m 38 2 p. m..... 43 3 p. m..... 40 4 p. m..... 40 S a. m 39 9 a. m..... 39 5 p. m..... 40 10 n. m..... 7 p. m..... 37 8 p. m..... 37 9 p. m..... 36 12 m.....

partment. This was adopted, and President Wattles announced that he would appoint the committee after consulting with directors

WATER QUESTION TAKEN UP. The meeting waited nearly an hour for Manager Kirkendall to make a report on the water works question, but as he did not appear, it was suggested that a matter of such importance should be taken up without

eremony and discussed by the board, Manager Rosewater was called upon to state the present status of the exposition and the water question. He said he hesitated somewhat to lead the discussion, as he had een falsely charged with having a selfish nterest in the affairs of the water company. He presented the serious phase of the matter briefly. He explained that water was the executive committee asks of the board of directors is that water be supplied. The committee does not ask that the franchise every visitor to the exposition will be of the water company be extended or that any other specific steps be taken, but all it caks is water. A fire would make it abso lutely impossible to hold the exposition, and the committee appeals to the directors to ce that water is furnished in order that the noney invested be not entirely lost,

Mr. Lyman said it locked as though the own was being held up by the water company in order to secure certain concessions He said it had been stated at a meeting held at the city hall that the exposition management was in collusion with the water company to secure an extension of its franhise

President Wattles said he looked at the waer question simply as a business proposition. He believed that the only logical solution of the question is the securing of water from the water company. There are many reasons why it is not advisable to procure water from any other source that seems available. as the charge might be made that the water is impure and unfit for use. He outlined the position of the water company to the effect that it has not the capacity to supply the necessary water. The president said he was opposed to the purchase of the water company's plant and believed that the bessolution of the question would be to make the best bargain that can be made which will secure the water, whether that would involve extending the franchise or not. He said he had a petition, signed by all but eight members of the board of directors, asking the city council to do the only thing the exposition management had ever asked it

to do. WHAT WEBSTER SAID.

Mr. Kilpatrick neked Mr. Webster to repeat the statements he had made to the

Mr. Webster said the engineer in charge Reynolds, had testified that the average about double the present consumption. In builders of the route in its early day. Many addition to this, Mr. Webster said, Superinstreet pumping station has a capacity of 8,000,000 gallons and the engines there are these roads had lived in the east and had kept constantly ready for use in case of accident at the Florence station. He contended that this disposes of the claim that the capacity of the plant is not sufficient to supply the exposition.

In reply to questions from other director. Mr. Webster said he believes the water con pany can be compelled by the courts to fur nish the water required by the exposition the same as it can be compelled to supply a private consumer.

Mr. Kountze asked If the company is no compelled by its franchise to supply the water required by the citizens of Omaha without having any claim for further privileges. Mr. Webster replied in the affirma-

Mr. Lindsey asked how much time would be required to get a mandamus in opera-

Mr. Webster said that would depend or the judge granting the order. He could order the water company to supply the water and no supersedeas would be taken, so that the company would be compelled to furnish the water pending a hearing of the case Mr. Webster then asked President Wattles whether the water company had told him before or after the suit brought by the city had been decided that it had not the capacity to supply the exposition. The president was not positive, but said he felt certain that the statement had been made both before and after the lecision.

WHAT THE COMPANY CAN DO. Mr. Montgomery said he is satisfied that the company has all the capacity required to furnish the exposition, but he is in doubt whether the city should buy the plant when the franchise expires or five years from that time. He depled the charge that he prepared the ordinance now pending in the council, but says he is not sure but that he favors it. He charges that the water company is simply taking advantage of the situation and trying to secure concessions and declares that steps should be taken to compel the water company to supply the exposition He reiterated a statement made by Mr. Web ster that the water company has no right to

(Continued on Second Page.)

Y FIVE CENTS.

Glories of the North and South Line Elequently Extolled.

BANQUET TO PORT ARTHUR ROUTE MEN

Officials of the Line the Guests of the Commercial Club.

PRESIDENT STILLWELL'S GREAT PROMISE

Emancipation of Commercial Interests from Invidious Discrimination.

VALUE OF THE LINE TO COMMERCE

Judge McHugh of Omahn Tells the Story of the Gate City's Struggle and the Freedom Now 4 14 Open.

The reception and dinner given by the Commercial club to the officers of the Port Arthur route at the Commercial club rooms last night was one of the most successful of the many affairs undertaken by that organization. The visitors arrived early in the evening and were met at the depot by the committee appointed for the purpose, Mesars. J. H. Dumont and W. R. Bennett.

They were escorted to the Commercial club, where a number of the members had gathered and a reception was held nutil' about 7 o'clock, when the march to the dining room was taken up. Three long tables extended the full length of the large room and shorter tables extended across the room at the ends. These tables were prettily,

decorated with cut flowers and potted plants. The guests of the evening were seated at the west end of the room, President Stillwell occupying the seat of honor at the right of President Dumont of the Commercial club and at either hand were Robert Gillham, general manager of the Port Arthur route; H. C. Orr, general passenger agent; C. E. Granniss, treasurer of the Port Arthur & Mexican Gulf Steamship company; D. J. Heff, vice president of the same company; H. G. Donald, manager of European steamship connecting lines; C. A. Braley, member of the legal department of the Port Arthur route, and Edgar Mayer, private secretary of President Stillwell. The speakers of the evening occupied seats at this table. The other tables were occupied by fully 200 promnent professional and business men, all lines of trade being represented,

OPENS THE TOASTING. After the cigars were passed President Dumont of the Commercial club rapped for order. He complimented the members of the club for the large turnout and said it augured well for the future of the club. The present, he said, was an unusual occasion, as it it not often the club has the opportunity to welcome such distinguished guests. He then omplimented the management of the Port Arthur route for their foresight in wiping out the arbitrary freight rate which the peole of Omaha have been trying for years to have abolished. He discussed this question at some length and predicted that the time would soon come when this arbitrary charge

vould be entirely removed by all roads. President Dumont introduced the toastmaster of the evening, John C. Cowin, who was warmly received. He thanked the asembly for the honor conferred upon him and said he would not attempt to make a speech. but he referred briefly to the importance of railways to the commerce and life of a nation and the necessity of fair and impartial reatment to all localities. He said he knew he expressed the wishes of all present when e thanked the guests of the evening for the great favor they had conferred upon this eality. He announced that owing to the absence of W. F. Gurley the address of welcome would be omitted, but he said the

welcome would be just as cordial. General Cowin then announced the toast, 'Port Arthur Route and the West," and called upon the head of that system, President A. E. Stillwell, to respond. The applause and cheers that greeted

President Stillwell shook the building. Mr. Stillwell expressed his appreciation of the reception which had been accorded his associates and himself, and said the Port Arthur route had been built by western men for the west. He referred in a humorous strain to the difficulties which had beset the of the difficulties which had surrounded the been caused by the fact that the officers of little knowledge of the west, but the officers of the Port Arthur route all lived in the

prepared to meet the conditions constantly The speaker then sketched briefly the naure of the country through which the Port Arthur route passes. In this connection he referred to the coal fields of which Pittsburg, Kan., is the center, and remarked that great deal of this coal now comes to Omaha and much more of it will come here as soon as a short line now under construction s completed. He referred briefly to the princlpat districts along the route and the re-

west and had their interests here, and were

ources of these districts. The route, he said, ended at Port Arthur, which he said was destined to be the greatest seaport in the south. To illustrate the faith of the people interested in the route the speaker said he had issued a call in November for \$3,000,000 to build docks at Port Arthur and in December the books were closed with subscriptions amounting to \$5,-021,000. He said the canal from Port Arthur to deep water will be completed July 1 of this year, and this will finish a canol the same width and depth as the Suez canal.

He offered to furnish cars and take all present to Port Arthur some time next month o show them whether what he said is true. This offer was greeted with enthusidetic applause and expressions of approval.

The speaker then outlined the several steamship lines which are already arranged for from Port Atthur to a large number of ports in Mexico, Central and South America and European ports. The line to Mexico will be in operation next month and a large outlet will be afforded via Port Arthur to the commerce of the west.

hosts for the entertainment afforded and said he would feel much more thankful if they would all accept his invitation to visit Port Arthur. JUDGE M'HUGH ON OMAHA.

In closing, President Stillwell thanked his

After the applause had subsided the toastmaster called on W. D. McHugh to respond to the toast "Omaha as a Shipping Center." In opening Judge McHugh paid a high