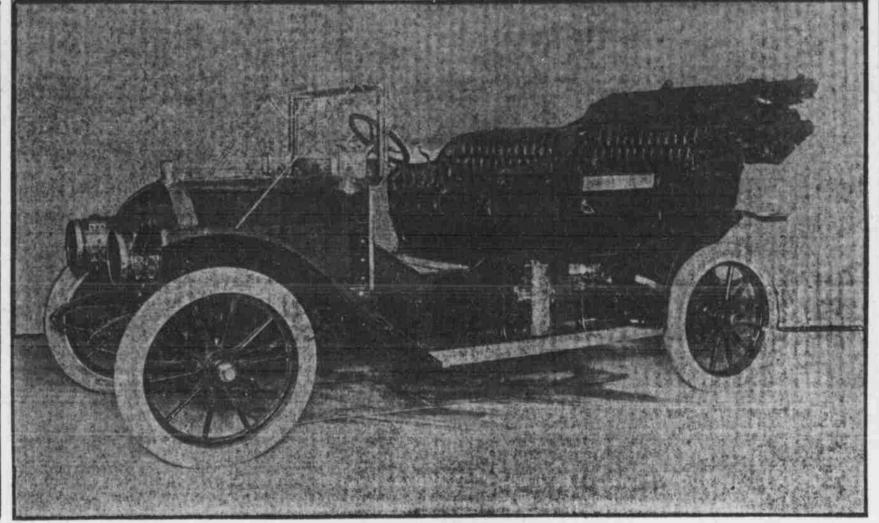
THE VELIE AUTOMOBILE

Price

Application should be made for territory, if desired, at once

TERMS: NET CASH, F.O.B. MOLINE, ILL.



MODEL A-TOURING CAR

MOTOR. 30 H. P., 4-cylinder engine, cast in pairs, water cooled; centifugal circu-TEST OF MOTOR. Each motor is tested for 3 hours under load by hydraulic dyna-

mometer. There will be no question about the power. CAM SHAFT. Machine steel mounted on 3 imported Hess Bright Ball Bearings. Pump shaft mounted on imported Hess Bright Ball Bearings. Idler gear on 2 imported Hess Bright Ball Bearings.

FRAME. Pressed steel; 24 inch drop to permit of as nearly as possible horizontal shaft drive. CRANK CASE. Highest grade of Aluminum Alloy.

WATER PUMP. Centrifugal gear driven. FAN. Aluminum, mounted on ball bearings. CARBURETER, Schebler,

TIMER. LaCoste type, ball bearing, special design.

COOLING. By centrifugal pump and radia tor of capacity 25 per cent in excess of re-

box, of ample capacity, under the crank case, through a sight feed on the dash, and back to the crank case, overflowing into oil box at a constant level. Crank case partitioned to keep oil at proper level on hills. Splash system employed. Large cups provided for bearings, so that oil is constantly flowing over all moving parts of the motor. This is the best oiling system known on high grade cars.

CLUTCH. A cone clutch of improved design is employed, and one that has proved itself in service for a number of years. Large ball thrust bearings. TRANSMISSION. Selective sliding gear-3 speeds forward, and one reverse. Roller

BRAKES. Double system; internal expanding and external contracting, on large drums on the rear hubs. Thermoid lining.

FRONT AXLE. Timpkin; 4 sets of roller bearings.

REAR AXLE. Timpkin semi-floating type; six sets of roller bearings. WHEELS. Artillery type. 34-inch on Roadster. 32-inch on Touring Car. high grade Magneto, full set of five Lamps, with Gas Generator, Speedometer, Odometer, Horn, complete Tool Kit. Many manufacturers would charge \$200 extra for the above equipment.

Complete, including \$200

equipment, consisting of

THIS CAR HAS NO EQUAL ON THE MAR-KET FOR QUALITY, BEAUTY, STRENGTH AND PRICE.

STEERING GEAR. Irreversible Worm and Sector of steel, case-hardened.

IGNITION. Double system, consisting of a 4-unit coll on dash, with storage battery and Splitdorf magneto with single coil also on dash. Magneto system is double, furnishing a means for running even in case both the coll system and magneto fail. Magneto gear driven, connected direct to pump shaft. Magneto has 4 sets of ball bearings. 2 imported F. & S.

SPRINGS. Front, 36-inch, semi-elliptic; rear, 44-inch, three-quarter elliptic. Oiltempered, graded steel, exceptionally elastic and easy riding.

TIRES. 32x3 1/2-inch on Touring Car; 34x3 1/2-inch on Roadster. Firestone or Hartford Goodyear quick detachable rims. WHEEL BASE, 110.

ROAD CLEARANCE. 10 1/2 inch under fly wheel.

BODIES. Regular Touring Car style. Roadster with either double rumble, single rumble, tourabout or baby tonneau.

J. J. DERIGHT & CO., OMAHA AGENTS

John Deere Plow Company

WESTERN DISTRIBUTERS OMAHA, NEBRASKA

OMAHA LIVE STOCK MARKET

Fat Cattle Quarter to Fifty Higher for the Week.

HOGS HIGHER THAN FOR WEEKS

Sheep Strong and Active, with Everything Selling Early-For Week Lambs Are Seventy-Five

SOUTH OMAHA, Dec. 26, 1908. Cattle, Hogs. Sheep.
2,417 3,481 2,839
3,064 7,319 3,676
1,926 5,858 813
730 5,066 2,546 Receipts were: Cattle. I Official Monday 2,417 Official Tuesday 3,044 Official Wednesday 1,925 Official Thursday 730 Official Friday—Hollday Estimated Saturday 154 1,782 Six days this week 8,291 Six days this week. 8.291 23.496 11.3.0

Same days 2 weeks ago. 23.686 50.677 27.735

Same days 2 weeks ago. 23.130 62.217 44.738

Same days 3 weeks ago. 22.503 52.532 20.896

Same days 4 weeks ago. 22.503 52.532 20.896

Same days 1 set year. 5.750 25.440 5.779

The following table shows the receipts of cattle, bogs and sheep at South Omaha for the year to date, compared with last year: 1908 1907. Inc. Dec. Cattle 1.021.844 1.161.815 12.972

Hogs 2.386.544 2.224.129 182.345

Sheep 2.661.844 2.000.067 50.887

The following table shows the average The following table shows the averagorice of hogs at South Omaha for the last several days, with comparisons:

Date. | 1808. | 1907. | 1906. | 1906. | 1904. | 1903. | 1902. Dec. 16. 5 30 4 23 6 4 76 4 42 4 28 6 10

Dec. 17. 5 34 4 7 6 15 4 42 4 28 6 10

Dec. 18. 5 2349 4 47 6 18 4 76 6 8 4 24 6 23

Dec. 19. 6 3046 4 34 6 19 4 84 4 50 4 31 6 01

Liec. 20. 21. 5 3046 4 34 6 19 4 84 4 50 4 31 6 01

Dec. 21. 5 3046 4 33 6 09 4 88 4 44 4 33

Dec. 22. 5 3356 6 6 8 4 99 4 38 4 29 6 15

Dec. 23. 5 38 4 44 8 4 8 4 8 4 8 4 8 6 15

Dec. 24. 5 47 4 38 6 13 4 4 3 4 48 6 27

**Dec. 25. 5 60 4 20 6 21 5 66 4 43 4 64 6 38

The official number of cars of stock brought in today by each road was: Cattle. Hogs. Sheep.H'r's. Cattle. Ho
P. R. R.
& N. W. (cast). 2
& N. W. (west). . .
& R. P. M. & O. 1
B. & Q. (cast). . .
R. L. & P. (cast). . .
Inois Central Ry. . . . Total receipts 5 The disposition of the day's receipts was as follows, each buyer purchasing the number of head indicated: Cattle, Hoge Sheep. 257 439 439 1.372 Omaha Packing Co. Cattle, He Swift and Company Cudahy Packing Co. 5 J. H. Bulla 40 Other buyers

Totals 45 1.771

steers, \$5.25@6.00; fair to good range steers, \$4.50@5.25; common to fair range steers, \$1.50@4.50; good to choice cornied dows and heifers, \$4.50@5.00; good to choice grass cows and heifers, \$2.50@6.00; fair to good grass cows and heifers, \$2.00@6.75; common to fair grass cows and heifers, \$2.00@6.75; common to fair grass cows and heifers, \$2.00@6.75; common to fair grass, cows and heifers, \$2.00@6.75; common to fair grass, cows and heifers, \$2.00@6.00; stockers and feed-common to fair grass cows and heifers, \$2.00@6.75; common to fair grass cows and heifers, \$2.00@6.75; common to fair grass cows and heifers, \$2.50@6.25; common to fair grass cows and heifers, \$2.00@6.00; stockers and feed-common to fair grass cows and heifers, \$2.00@6.00; stockers and feed-common to fair grass cows and heifers, \$2.00@6.00; stockers and feed-common to fair grass cows and heifers, \$2.00@6.00; stockers and feed-common to fair grass cows and heifers, \$2.00@6.00; stockers and feed-common to fair grass cows and heifers, \$2.00@6.00; stockers and feed-common to fair grass cows and heifers, \$2.00@6.00; stockers and feed-common to fair grass cows and heifers, \$2.00@6.00; stockers and feed-common to fair grass cows and heifers, \$2.00@6.00; stockers and feed-common to fair grass cows and heifers, \$2.00@6.00; stockers and feed-common to fair grass cows and heifers, \$2.00@6.00; stockers and feed-common to fair grass cows and heifers, \$2.00@6.00; stockers and feed-common to fair grass cows and heifers, \$2.00@6.00; stockers and feed-common to fair grass cows and heifers, \$2.00@6.00; stockers and feed-common to fair grass cows and feed-common

common to fair stockers and feeders, \$2.75, \$2.75. HOGS—It is not surprising that receipts were light this morning, it being the day after a holiday, as well as a Saturday. Only twenty-four cars were reported in and these changed hands early. There were not enough to supply the demand and packers seemed to be willing to pay a good price for what little there was. It was one of those days when it was hard to determine just how the market really stood. Some light stuff brought a hig lich higher, while other light stuff of about the same quality brought steady prices with Friday. The top was \$5.85. There were hardly enough to make what is termed a bulk, but the most of the hogs sold between \$5.55.0. Taking everything into consideration, the market was \$600 thigher.

into consideration, the market was solve higher.

Receipts of hogs this week have shown a considerable falling off with last week, but still they have been decidedly larger than the same week a year ago. While the market has fluctuated back and forth to some extent, still the general tendency has been upward. At the close of the week prices are on an average 17½c higher than last week, and the highest at any time since the first week of the month.

Representative sales:

CHICAGO LIVE STOCK MARKET

Cents Higher.

CHICAGO, Dec. 28.—CATTLE—Receipts, 400 head; market steady; beeves, \$3.50@7.60; Texans. \$3.50@4.30; westerns, \$3.50@5.50; stockers and feeders, \$2.60@4.70; cows and heifers, \$3.50@4.90; caives, \$6.25@9.00.

HOGS—Receipts, 10,000 head; market 5c higher; light, \$4.65@6.75; mixed, \$5.35@6.00; rough, \$6.36@5.60; good to choice heavy, \$6.60@6.00; pigs, \$3.76@4.90; bulk of sales, \$5.50@5.85.

SHEEP AND LAMBS—Receipts, 2,500 head; market steady; natives, \$2.60@4.90;

head; market steady; natives, \$2.50@4.30 westerns, \$2.60@4.90; yearlings, \$5.00@6.25 native lambs, \$4.50@7.70; westerns, \$4.50@7.70 ST. LOUIS, Dec. 26.—CATTLE—Receipts 500 head, including 450 Texans; market

500 head, including 450 Texans; market steady; native shipping and export steers, \$4.50\(\tilde{c}\)7.85; dressed beef and butcher steers, \$4.50\(\tilde{c}\)6.50; steers under 1,000 pounds, \$3.75\(\tilde{c}\)8.65; steekers and feeders, \$3.75\(\tilde{c}\)4.65; cows and heifers, \$3.00\(\tilde{c}\)6.50; canners, \$1.75\(\tilde{c}\)2.00; bulls, \$2.75\(\tilde{c}\)4.75; calves, \$3.50\(\tilde{c}\)7.00; Texas and indian steers, \$3.00\(\tilde{c}\)6.50; cows and heifers, \$1.70\(\tilde{c}\)4.40.

HOGS—Receipts, 2,500 head; market 1'c higher; pigs and lights, \$3.25\(\tilde{c}\)5.60; packers, \$3.50\(\tilde{c}\)5.87; butchers and bost heavy, \$5.90\(\tilde{c}\)6.10. 6.16, SHEEP AND LAMBS—Receipts, 150 head; market steady; native muttors, \$3.00@4.50; lambs, \$5.50@7.50; culls and bucks, \$2.50@ 4.50; stockers, \$2.60@3.59.

Sioux City Live Stock Market. SIOUX CITY, Ia., Dec. 26.—(Special Tele-gram.)—HOGS—Receipts, 1,500 head; market 5@10c higher; range, \$5.30@5.80; bulk of sales, 35.56g5.00.
CATPLE-Receipts, 100 head; market steady; beeves, \$5.00g7.00; fat cows and heifers, \$3.75g5.00; feeders, \$3.00g4.75; calves and yearlings, \$3.00g4.00.

St. Joseph Live Stock Market. ST. JOSEPH. Mo., Dec. 26.—CATTLE—Receipts, 350 head; shipped direct.
HOGS—Receipts, 1,250 head; market 1069
15c higher; active; top, \$5.90; bulk of sales,
\$5.3566.60.

Total1,994 20,032 4,397

Bank Clearings. OMAHA, Dec. 28.—Bank clearings for today were \$2.549.882.64, and for the corresponding date last year, \$1,676,101.98.

1908.

Monday \$2.283.065.79 \$2,135.174.01

Tuesday \$2.087.134.28 1,511.140.09

Wednesday 1.982.560.38 Holiday

Thursday 2.042.124.59 2.077.653.77 .. Holiday. Totals

LONDON, Dec. 24.—The weekly statement of the Bank of England shows the following changes: Total reserve, decreased.... Circulation, increased.

Bullion, decreased.

Other securities, increased.

Other deposits, increased.

Public deposits, increased.

Notes reserve, decreased. Government securities unchanged.

The proportion of the bank's reserve to liability this week is 38.30 per cent; last week it was 46.62 per cent. Clearing House Bank Statement.

NEW YOORK. Dec. 26.—The statement of clearing house banks for the week shows that the banks hold \$16.253,335 more than the requirements of the \$5 per cent cent reserve rule. This is an increase of \$5.915,535 in the proportionate cash reserve as compared with last week.

The statement follows:

 Circulation
 49,129,600

 Legal tenders
 78,262,700

 Specie
 220,118,600

 Reserve
 347,461,300

 Reserve required
 330,537,975

 Surplus
 16,923,225

 Ex-U. S. deposits
 19,239,700

·Increase. The percentage of actual reserve of the clearing house banks today was 25.58.

The statements of banks and trust companies of Greater New York not reporting to the clearing house shows that these institutions have aggregate deposits of \$1,115,-025,600. Total cash on hand, \$108,401,800, and loans amounting to \$1,057,049,200.

OMAHA GENERAL MARKET.

onditions of Trade and Quotations on

Staple and Fancy Produce.

BUTTER—Creamery, No. 1, delivered to retail trade in cartons, 31c; No. 1 in 69-1b. tubs, 90c; No. 2 in 69-1b. tubs, 28c; No. 2 in 1-ib. cartons. 29c; fancy dairy, tubs, 22@23c; packing stock, 20c.

EGGS—Fresh candled, 33c; storage, 28c.

CHEESE—Finest Wisconsin full cream, twins, 16c; young Americas, 4 in hoop, 15½c; favorite, 8 in hoop, 16c; daisies, 20 in hoop, 15½c; cream brick, full case, 16c; block swiss, 16c; full cream limburger, 16c.

BEEF CUTS—No. 1 ribs, 17½c; No. 2 ribs, 11½c; No. 3 ribs, 7c; No. 1 loins, 20c; No. 2 loins, 13c; No. 3 loins, 9c; Ni½1 chuck, 6c; No. 2 chuck, 5c; No. 3 chuck, 4½c; No. 1 round, 8½c; No. 2 round, 7c; No. 3 round, 6½c; No. 1 plate, 5½c; No. 2 plate, 4½c; No. 3 plate, 3½c.

DENSSED POLITER—Dessed bank, 10c. 3 plate, 3%c, DRESSED POULTRY—Dressed hens, 10c; DRESSED POULTRY—Dressed hens, 10c; springs. 11c; ducks. 12c; geese, 10c; tur-keys, 18c; squabs, \$2.20022.25 per doz. SUGAR-Coarse granulated, 5.50c; fine granulated, 5.70c; cubes, 6.60c; powdered,

granulated, 5.70c; cubes, 6.60c; powdered, 6.50c.

FRESH FRUITS—Apples, \$3.25@4.25 per bu. box. Lemons, \$4.00@4.50. Oranges, California, \$3.00@3.25. Bananas, 4c per lb. Grapes, Malaga, \$5.50@6.50 per keg; Callforma Emperor, 4-box crates, \$1.65@1.75.

BEEF CUTS.

Ribs: No. 1, 17c; No. 2, 12c; No. 3, 8c. Loin: No. 1, 20c; No. 2, 13%c; No. 3, 10c. Chuck: No. 1, 7c; No. 2, 15%c; No. 3, 50c. Round: No. 1 \$6c; No. 2, 5%c; No. 3, 6%c. Plate: No. 1, 6%c; No. 2, 5c; No. 3, 6%c. VEGETABLES—Celery, California, per doz., 90c; Utah, 75c; other, 60@90c. Beans, navy, No. 1, per bu., \$2.50@2.60; lima, per lb., 5%c. Cabbage, 2%c per lb. Potatoes, 50@65c. Tomatoes, per basket crate, \$2.00. Cucumbers, per doz., \$1.50@1.75. Onions, Spanish, per crate, £2.00; Texas, \$1.25 per crate, Lettuce, per doz., 45c. Peppers, southern, \$1.00 per crate. Cauliflower, \$2.50 per crate; Egyptian, \$1.50 per doz. Humquats, 35c per qt.

WEATHER IN THE GRAIN BELT

WEATHER IN THE GRAIN BELT Falr and Colder for Sunday is the Forecast.

A barometric depression, noted over the extreme upper valleys and upper lake region Thursday morning, is moving off the upper Atlantic coast this morning. This disturbance is causing generally cloudy weather throughout the eastern portion and light snows are falling in the lower lake region and south over western New York, western Pennsylvania, Virginia and North Carolina. A depression of pronounced energy overlies the extreme upper valleys and Canadian provinces, with its center over Manitoba. This depression has cauted a very rapid and decided rise in temperature in the upper Mississippi and upper Missouri valleys and throughout the Pacific coast and southeast over the lower mountain district, and is high over the extreme lower valleys and southern states. The depression over the upper valleys will move enstward, and will be followed by the western high causing colder in this vicinity tonight and Sunday, with constituted fair weather.

Omaha record of temperature and precipitation compared with the corresponding day of the last three years:

Minimum temperature in the corresponding tation compared with the corresponding Deficiency in precipitation since March 1, 42 Inches.

Deficiency corresponding period in 1905, 7.38 inches.

Deficiency corresponding period in 1906, 143 inches.

La. WELSH, Springfield, O. Peremont, Neb. Jockal Parket.

New York Noney Market.

New York Noney Market.

New York Noney Market.

New York Money Market. OMAHA, Dec. 26, 1908

NEW YORK, Dec. M.-MONEY-On call. Jacksonville, Ill. PRIME MERCANTILE PAPER-4644 *Houston

actual business in bankers' bills at \$4.8505@ 4.8515 for sixty days bills and at \$4.87 for demand. Commercial bills, \$4.84%@9.87%. BONDS—Government, unquoted; rallroad,

for the Week. NEW YORK, Dec. 2i.—Bradstreet's bank clearings report for the week ending December 24 shows an aggregate of \$3,289,584,-900, as against \$3,362,870,000 last week and \$1,824,124,000 in the corresponding week last year. The following is a list of the cities:

CITIES.	Clearings.	Inc.	Dec.	I e
New York	\$2,179,011,000	11.6		8
Chicago	254,525,000			8
Boston	155,746,000	E0 1		1
Philadelphia	126,580,000	22 1		
St. Louis	66,586,000		*****	
Pittsburg	43,774,000			1
San Francisco	34,355,000			ı.
Kansas City	42,040,000			13
Baltimore	27,978,000			١.
Baltimore	25,959,000			1
Minneapolis	17,888,000	407.0	9.5	1,
New Orleans	19,265,000	*****	8.5	1
Cleveland	14,730,000	12.6		
Detroit	13,755,000			
Louisville	14,463,000	89.7	*****	L
Los Angeles		91.3		
maha	12,978,000	38 5		B
Milwankee	11,297,000	25.0		10.4
Milwaukee	9,731,000	59.7		D
St. Paul	9,654,000	2.1	,,,,,,,	١.
Buffalo	7,758,000	37.2	*****	D
Denver	9.066,000	29.5		13
Indianapolls	8,546,000			13
Indianapolis	12,459,000		*****	1
Providence	6.874,000			1
Portland, Ore		72.1	*****	13
Albany	6,435,000	73.7	*****	13
Richmond	6.916,000	23.8	\$5000 M	и
Washington, D. C Spokane, Wash	6,090,000	53.7		13
Spokane, Wash	6,791,000	40.2		1
Balt Lake City	6,569,000	128.1		1
Columbia	5,589,000			13
St. Joseph	5,551,000	75.9	CERTAIN.	13
Atlanta	6,251,000	36.9	*****	DA.
Memphis	6,238,000	23.1		1
Tacoma	5,050,000	19.8		ю
Savannah	4,411,000		7.1	13
Toledo, O	4,781,000	20.1		Ю
Nashville	8,465,000	5.8	Second?	13
Rochester	3,228,000	25.2		13
Nashville	3,311,000	43.7		D
Des Moines	2,976,000	39.4		13
Peorla	2,994,000	55.2	Lange and	Ð
Norfolk	3,045,000			1
New Haven	2,138,000	26.6		1
Grand Rapids	2,152,000	25.9	WARRAGE.	1.1
Birmingham	2,486,000	49.7		ы
Syrucuse	-1.853.000	37.3		ы
Sloux City Springfield, Mass	2,330,000	28.7	*****	
Springfield, Mass	1,812,000	28.2		ы

other items than clearings.

REPORT OF THE CLEARING HOUSE Transactions of the Associated Banks

CITIES.	Clearings.	Inc.	Dec.
New York	\$2 172 011 000	11.6	
Chicago	254,525,000	69 4	
Chicago Boston	155,746,000	50.1	******
Philadelphia	126,580,000	99.1	*****
Philadelphia		00.1	******
Dittelaner	66,586,000	00.1	******
Pittsburg	43,774,000	4.1	*****
Ban Francisco	34,355,000	40.3	
San Francisco Kansas City Baltimore Cincinnati	42,040,000	63.7	
Battimore	27,978,000	SARTOR	
Cancinnati	25,959,000	40.2	*****
Muneupolis	17,888,000	*****	8.5
New Orleans	19,265,000		2.5
Cleveland	14,720,000	12.9	
Detroit	13,755,000	28.1	
Louisville	14,463,000	89.7	*****
Los Angeles	11,229,000	91.3	
Los Angeles	12,978,000		
Milwaukee	11,297,000		
Scattle	9,731,000	59.7	
St. Paul	9,654,000	2.1	2000000
St. Paul Buffalo	7,758,000	37.9	
Denver	9 065 000	29.5	
Indianapolis	8,546,000		
Indianapolis	12,459,000	85 9	
Providence	6.874,000		
Providence Portland, Ore	6,068,000		*****
Albany	6,435,000		
Richmond	6,916,000		
Washington D C	6,090,000		
Washington, D. C Spokane, Wash	0,000,000		
Calt Lake City			
Balt Lake City	6,569,000		
Columbus	5,589,000		
St. Joseph	5,581,000	20.2	
Attanta	6,251,000	36.9	
Memphis	6,238,000	46.1	
Tacoma	5,050,000	19.8	****
Savannah Toledo, O	4,411,000	*****	7.1
Totedo, O	4,781,000		
Nashville	8,465,000	5.8	corner.
Hochester	3,228,000	25.2	
Hartford	3,311,000	43.7	*****
Des Moines	2,976,000	22.4	
Peoria	2,994,000	55.2	
Norfolk	3,045,000		
New Haven	2,138,000	26.6	
Grand Rapids	2,152,000		*****
Birmingham	2,486,000	49.7	
SYTHOUSE	1 - T.853.000	37 9	
Springfield, Mass	2,330,000	28 7	*****
Springfield, Mass	1,812,000		
Evansville	2,097,000	64.0	******
Portland Me	1,610,000	5.4	
Portland, Me Dayton	1,892,000	50.0	*****
Little Rock	1,779,000	59.0	****
Augusta Co	2,005,000		
Augusta, Ga	2,095,000	04.1	*****
Oakland, Cal.	3,685,000	64,0	

29.0 85.0 48.0 14.6 54.9 6.8 28.9 64.3 30.7 69.4 6.3

*Not included in totals because containing

Philadelphia Produce Market. PHILADELPHIA, Dec. 26.- BUTTER -

PHILADELPHIA, Dec. 25.—BUTTER—Quiet but steady; extra western creamery, 25c; extra nearby pr.nts. 35c.
EGGS—Firm, but generally quiet; Pennsylvania and other nearby firsts, free cases, 34c at mark; Pennsylvania and other cu-rent receipts, in returnable cases, 35c at mark; western firsts, free cases, 34- at mark; western firsts, current receipts, free Treasury Statement.

WASHINGTON, Dec. 16.—Today's statement of the treasury balances in the general fund, exclusive of the \$150,000,000 go.d reserve, shows: Available cash balance, \$160,570,056; gold coin and bullion, \$15,885.248; gold certificates, \$82,833,200.

Chicago Produce Market. CHICAGO, Dec. 26.-The butter and eggs

board was closed today. CHEESE—Firm; daisles, 144@15c; twins, 143144c; young Americas, 144c. POULTRY—Alive, steady; turkeys, 16c; chickens, 114c; springs, 13c.

SUPREME COURT SYLLABI

15390. Stewart against The Omaha and Council Bluffs Street Railway Company. Appeal from Douglas county. Reversed and remanded. Root, C., Division No. 2.

1. A street railway company is guilty of negligence if it falls to give proper warning of the approach of its cars to a public crossing, or if it operates such cars at an unusual and excessive speed at said point.

2. A pedestrian about to cross the tracks of an ejectric street railway, at a public crossing, is not under a duty to observe

of the approach of its cars to a public crossing, or if it operates such cars at an unusual and excessive speed at said point.

2. A pedestrian about to cross the tracks of an electric street railway, at a public crossing, is not under a duty to observe the same degree of watchfulness and care, as when attempting to cross an ordinary steam railway.

3. Defendant maintains a double-track arrest railway on Tenth street in Omaha; cars north bound use the eastern track and those south bound the western one. S., about 8 o'clock in the evening of a winter day, alighted west of the track from a south bound car at a street crossing. 8, was familiar with the manner in which defendant operated its cars on said streets; he waited for an instant and gianced to the south until said car had been propelled some eight or ten feet. Not seeing or hearing a north bound car. The testimony tended to recover the said car was run down on the eastern track by a north bound car. The testimony tended to recover the said car was running at a seed. 8, was familiar with the manner in which defendant operated its cars on said streets; he waited for an instant and glanced to the south until said car had been propelled some eight or ten feet. Not seeing or hearing a north bound car he crossed the street without further looking or listening and was run down on the eastern track by a north bound car. The testimony tended to prove that said car was running at a speed of twenty miles per hour and that no warning was given of its approach until within about ten feet of Howard street and almost at the instant of the collision with plain liff. Held, that it was for the jury, and not the court, to determine whether plain tiff was guilty of contributory negligence. 15400. Chicago, Rock Island & Paiclic Railway company against Latta. Appeal from Lancaster county. Reversed and remanded. Root, J.

1. Defendant in ejectment denied plain.

from Lancaster county. Reverses manded. Root, J.

1. Defendant in ejectment denied plaintiff's title and right of possession. On the trial plaintiff proved title to said land and defendant falled in any manner to controvert the same. Held, that a judgment for defendant was not supported by the evi-

dence.

15404. Herpolshelmer Implement company against Acme Harvester company. Appear from Lancaster. Affirmed. Fawcett, J.

1. Plaintiff obtained service on defendant by an affidavit in attachment and service on V. B. as garnishee. Defendant appeared specially and challenged the jurisdiction of the court. The special appearance was overruled. Defendant not waiving, but still relying and insisting upon its objections to the jurisdiction, answered to the merits. The trial resulted in judgment for plaintiff and an order on the garnishee to pay the money into court. Defendant appearance by the money late of an order discharging the garnishee. Held, a general appearance by defendant.

2. The doctrine of res judicata is that a question once determined by a judgment on the merits is forever settled. It far as the litigants and those in privity with them are concerned. But where issue has not been joined nor any trial had on the merits the doctrine of res judicata does not apply.

3. An agent for the sale of farm maience. 1546. Herpolsheimer Implement company

merits the doctrine of res judicata does not apply.

3. An agent for the sale of farm machinery and twine, who is clothed by his principal with power "to make centracta and settlements and collect balances and the like," has full power to bind his principal by an agreement to relieve a customer to whom he has sold an amount of twine largely in excess of the demands of trads of such customer. by directing such

customer to ship such excess to other parties named by said agent.

4. Although an instruction given to the jury may be somewhat broader than the pleadings, it is not error to give it, if it be in harmony with the theory upon which both parties have tried the case.

5. Evidence examined and set out in the opinion. Held, sufficient to sustain the verdict of the jury.

16429. Chicago, Rock Island & Pacific Raffroad company against Welch. Appeal from Lancaster. Affirmed. Root, J.

1. In 1890 plaintiff purchased a tract of land 160 feet in width on the north side and 200 feet on the south side of the center line of its proposed railway, but did not record its deed until January, 1904. It constructed and operated said railway in 1890. Stortly subsequent to the making of said deed the grantors therein laid out a town site and platted the land south of that tract thus sold to plaintiff, so as to overlap plaintiff's land 190 feet. This plat was duly recorded in 1891. Plaintiff has opersted a line of railroad since 1890 over said tract of real estate. The land in dispute was sold to defendant in 1891 and is located mure than 100 but less than 200 feet from the center line of plaintiff's railroad. Defendant thereafter immediately constructed buildings upon the parcel of land purchased by 1 im and has had actual and continuous possession thereof ever since. Defendant recorded his deed in 1891. At no time preceding the service of notice on defendant to quit said land did plaintiff perform any visible act other than to operate its railway, Held, that under the recording act defendant was protected in his title to suid real estate.

2. In esectment if defendant denies plain tiffs title he may prove any defense that will defeat the action.

1555. Dunkin against Blust. Appeal from Buffalo. Judgment of district court modificated and attrimed. Calkins C. Division and actual and court modificated and attrimed. Calkins C. Division and actual and court modificated and actual and court modificated and attrimed. Calkins C. Division a

peal from Jefferson. Affirmed. Duffle, C. Division No. 1.

1. Courts are not organized to determine mere abstractions and will ordinarily refuse on their own motion to proceed in a case which involves only a right which has ceased to exist. In the instant case in view of the fact that this court has heretofore entertained and determined appeals taken by the parties in interest, from the judgment of a distinct court allowing or refusing for the sale of intoxicating liquor, we have ignored the rule above referred to and examined the record and briefs of the several parties and the evidence contained in the bill of exceptions and find no legal questions presented not heretofore determined and the judgment of the court fully supported by the evidence. court fully supported by the svidence. 1534. Chicago. Rock Island & Pacific Railway Company against Weich. Appeal from Lancaster. Affirmed. Root, J.

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