DUNIWAY DROPPED OUT

PORTLAND MAN LOST HIS GAME WITH BURNS.

Billiard Contest Is Now Between the Four San Francisco Men—National League Players Reserved.

SAN FRANCISCO, Oct. 8.—Duniway dropped out of the billiard tournament tonight, losing his game with Burns. Out of six games played he won three. He has the best general average, 4.03. He has had a bad cold for several days and this has affected his nerves. The contest is now between Burns, Taylor, Roggin and Franklin, all local men. Each has won four games out of six. To-night's score:

Burns, 150; Dunjway, 129.
Taylor, 150; Davis, 86.
Roggin, 150; Franklin, 119.

THE NATIONAL LEAGUE.

Season Closed in Chicago With Cincinnati Winning Two Games.

CHICAGO, Oct. 8.—A double-header with Cincinnati closed the season here today, the visitors taking both games and the series. Attendance, 950. The score:

First game—

	R	H	E		R	H	E
Chicago	4	13	10	Cincinnati	13	14	4

Batteries—Menefee and Donahue; Hahn and Kahoe.
Umpire—O'Day.

Second game—

	R	H	E		R	H	E
Chicago	1	2	7	Cincinnati	3	11	4

Batteries—Taylor and Dexter; Phillipps and Kahoe.
Umpire—O'Day.

Pittsburg Took the Double-Header.

ST. LOUIS, Oct. 8.—Pittsburg took the double-header today without trying. Attendance, 1300. Scores:

First game—

	R	H	E		R	H	E
St. Louis	0	4	2	Pittsburg	8	14	0

Batteries—Jones and Criger; Waddell and Zimmer.
Umpire—Emslie.

Second game—

	R	H	E		R	H	E
St. Louis	2	7	4	Pittsburg	8	18	6

Batteries—Sudhoff and Criger; Tannehill and Zimmer.
Umpire—Emslie.

National League Standing.

	Won.	Lost.	P. C.
Brooklyn	80	52	.606
Pittsburg	77	58	.570
Philadelphia	72	62	.545
Boston	65	68	.489
Chicago	64	73	.467
St. Louis	62	75	.453
Cincinnati	62	75	.453
New York	58	77	.422

PLAYERS RESERVED.

Men Who Will Form the National League Next Year.

WASHINGTON, Oct. 8.—President N. E. Young, of the National League, announces that the following players have been reserved by National League clubs for the season of 1901:

Boston—C. A. Nichols, V. G. Williams, William Dineen, E. M. Lewis, C. R. Pittinger, H. Bailey, John Barry, C. Stuart, John Freeman, Hugh Duffy, W. R. Hamilton, W. J. Clarke, William Sullivan, John Clifts, Fred Tenny, R. L. Lowe, Herman Long, James Collins.

Brooklyn—Joseph Kelly, Thomas P. Daly, H. H. Howell, W. H. Keeler, Joseph McGinnity, J. Anderson, J. Galens, Joseph Yeager, J. Huber, L. N. Cross, L. E. Demontreville, H. Jennings, W. Kennedy, J. T. McGuire, W. E. Donovan, C. J. Harris, Joseph Corbett, J. McJames, W. F. Dahlen, C. A. Farrell, F. A. Jones, F. R. Kitson, J. T. Sheckard, D. L. Fultz, M. Steel, Alex Smith, Thomas McCarthy.

Chicago—T. C. Donohue, F. L. Chance, A. F. Nicholls, Charles Dexter, Griffith, James J. Callahan, John Taylor, John Menefe, Virgil Garvin, P. Cunningham, E. K. Harvey, John Ganzel, C. L. Childs, W. J. McCormick, W. J. Bradley, James S. Ryan, Sam Meitz, Dan Green, John A. McCarthy, W. M. Thornton, W. A. Lange.

Cincinnati—Frank Hahn, Edward Scott, C. H. Peitz, J. P. Berkley, Robert Wood, T. W. Corcoran, W. C. Phillips, Samuel Crawford, L. P. Gier, George P. Magoon, M. Kahoe, E. J. Newton, Henry Steinfeldt, Charles E. Irwin, E. W. Smith, J. E. Barrett, Theodore Breitenstein, A. G. McBride, T. F. Hartsel, R. Brown.

New York—William Gleason, Charles Gettig, John J. Doyle, J. J. Warner, C. F. Foster, G. E. Van Haltren, William Joyce, W. H. Mercer, Albert Selbach, C. Hickman, L. H. Taylor, A. W. Grady, George S. Davis, E. R. Doheny, William Carrick, J. B. Seymour, Amos Rusie, Huyler Westervelt, F. E. Bowerman, E. P. Hawley, Elmer Smith, C. Mathewson, Daniel Murphy.

Philadelphia—E. J. Delehanty, Monte Cross, J. F. Slagle, Elmer Flick, Joseph Dolan, Charles C. Fraser, Wiley Piatt, E. S. Wolverton, H. M. Duggleby, Bert Conn, M. Lajoie, R. A. Thomas, E. W. McFarland, W. B. Douglas, F. L. Donohue, William H. Bernard, Albert Orth, J. Dunn, F. Jacklitsch, Sam Thompson, R. C. Becker, Pierce Chiles.

Pittsburg—John Chesbro, Samuel Leever, Jesse Tannehill, Charles I. Zimmer, William Schriver, Claude Ritchel, Thomas W. Leach, John Wagner, Thomas L. McCreery, Charles Doyle, Charles Philippe, C. E. Waddell, John O'Connor, Thomas O'Brien, W. F. Ely, James T. Williams, C. H. Beaumont, Fred C. Clarke.

St. Louis—J. J. McGraw, W. Robinson, L. Criger, D. T. Young, J. Powell, B. Jones, W. Keiser, W. J. Wallace, D. McGann, J. C. Burkett, J. H. Heidrick, P. J. Donovan, M. J. Donlin, M. J. Hemphill, G. Schrecongost, W. J. Harper, J. Hughey, W. Sudhoff, F. Buelow, O. Krueger, C. K. Knepper, M. J. Griffin.

THE DAY'S RACES.

Charley Kerr Won the Ashland Stakes at Lexington.

LEXINGTON, Ky., Oct. 8.—The track today was in a miserable condition, owing to the continuos rain of Sunday, and the weather was cold and raw. The Ashland stakes, for 2:16 trotters, narrowed down to a field of three starters. Charley Herr was a big favorite at $50 to $8. He was never in trouble, and won with ease. The Walnut Hill cup was won in a handy manner by Chain Shot, in straight heats. Summaries:

The Ashland, $3000, for 2:16 trotters—Charley Herr won in three straight heats in 2:14, 2:15¾, 2:17¾. Neereta and Pilatus also started.

Walnut Hill cup, $3000, for 2:16 trotters—Chain Shot won in straight heats, after losing the first to Chestnut King. Time, 2:15¼, 2:17¼, 2:17. Aggie Medium, Frank Creamer, Gracie Onward, Maggie Anderson, Lady Geraldine, Annie Burns and Captor also started.

2:15 pace, purse $600—Ione won three straight heats in 2:14¾, 2:16, 2:17¼. Nonamie, Sapphire, Saul, Billy Boggs and Boughman also started.

Races at Boise.

BOISE, Idaho, Oct. 8.—Following are the summaries of the first day's racing at the Intermountain Fair:

Green trot or pace, best two in three—Umatilla won, Tommy second; best time, 3:32¾.

2:40 trot, best two in three—The Freak won, Lady Amon second, Chippa third; best time, 2:22¼.

Two-year-old trot, best two in three—Valentine won in straight heats; best time, 3:03¾.

Running, ⅝ mile—Miss Remson won, Decapo second, Jim Brown third; time, 1:02⅝. Paris mutuals paid $22 40.

Running, six and half furlongs, purse $25—Aboriginee won by a nose, Jim Bozeman second, Parliament third; time, 1:23¼. The judges declared all the pools off because Bozeman had not been properly ridden.

Races at Morris Park.

NEW YORK, Oct. 8.—Results at Morris Park:

Monday handicap, seven furlongs—Beau Ormonde won, Moore second, Hardly third; time, 1:27⅘.

Five and a half furlongs—Basuto won, Orienta second, Advocator third; time, 1:17¾.

Bally Hoo Bey handicap, 6½ furlongs—Gold Heels won, Colchester second, Choice third; time, 1:21.

One mile—Compensation won, Belgrade second, Wait Not third; time, 1:41.

One mile, selling—Annoy won, Olea second, The Amazon third; time, 1:42¾.

Mile and a sixteenth, handicap, over the hill—Potente won, Charentus second, Intrusive third; time, 1:49.

Accident at Harlem.

CHICAGO, Oct. 8.—Jockey Boland was seriously injured in the second race at Harlem today. Results:

Five furlongs—Royal Victor won, Mato second, Tola third; time, 1:01 1-5.

Six furlongs—Goal Runner won, Highland Lad second, Sir Christopher third; time, 1:14¾.

Steeplechase, short course—Arquebus won, Alice B. second, Manchie third; time, 3:46 2-5.

One mile, selling—Specific won, Scarlet Lilly second, Wax third; time, 1:41 1-5.

Six furlongs—Bonnie Lissak won, Bowen second, Port Wine third; time, 1:14 1-5.

Mile and an eighth, selling—Congoosie won, Trebor second, Nettie Regent third; time, 1:54 3-5.

Races at St. Louis.

ST. LOUIS, Oct. 8.—Results:

Selling, one mile—Celtic Bard won, W. B. Gates second, Tickful third; time, 1:46.

Selling, six furlongs—Maydine won, Belle of the Glen second, William Boyer third; time, 1:18½.

Five and a half furlongs—Orleans won, Isobel second, Farmer Bennett third; time, 1:20½.

Six furlongs—Mis Mae Day won, Gold Ore second, Elsie Barnes third; time, 1:16½.

Mile and a sixteenth—Love's Labor won, Alice Turner second, Pinchole third; time, 1:53.

Selling, mile and a sixteenth—Grey Forge won, El Caney second, Miss Patron third; time, 1:52½.

Vanderbilt Will Race in France.

NEW YORK, Oct. 8.—William K. Vanderbilt today, at Morris Park, engaged Jockey McJoynt, to ride his horses in France. McJoynt's salary has not been made public, but he is a fairly good rider and could hardly be secured for less than $10,000 a year, particularly if he had to go to France. Next year Mr. Vanderbilt will put a string of racers on the French turf. Several years ago he purchased a number of brood mares from Pierre Lorillard and had them shipped to France, where he has an extensive stud. These mares were bred to some of the most speedy sires in France and England, and it is their product which will carry the Vanderbilt colors. In racing only horses bred in France, Mr. Vanderbilt will comply with the requirements of the French Government that in the most valuable stakes, only horses bred in France are eligible.

England Against America.

NEW YORK, Oct. 8.—A special to the Herald from London says:

The keen rivalry which has lately existed, particularly during the past season, between English and American sportsmen, has just resulted in the arrangement of a match between S. Neimann's English horse Eager, with M. Cannon up, and John A. Drake's American horse Royal Flush, with young Lester Reiff as the rider. The Hurst Turf Culb, over whose course the race will be run, has offered a magnificent gold cup worth $2500. The owners have each agreed to put up an additional 500 guineas, to go to the winner. October 27 has been fixed for the great race, and the distance is to be six furlongs flat.

Foul Was Claimed, But Not Allowed.

LOUISVILLE, Oct. 8.—Dave Sullivan outpuointed Oscar Gardner for 14 rounds of what was to have been a 20-round bout before the Nonpareil Athletic Club tonight. Gardner refused to go on for the 15th round, claiming a foul, which the referee refused to allow. The referee then gave the decision to Sullivan.

LOST IN THE DESERT.

Narrow Escape of Binger Hermann's Brother and Two Others.

CHICAGO, Oct. 8.—A dispatch to the Chronicle from Phoenix, Ariz., says:

I. B. Hanna, cousin of Mark Hanna, Superintendent of Forest Reserves for Arizona and New Mexico; A. F. Hermann, brother of Land Commissioner Binger Hermann, and W. E. Price, had a thrilling experience and almost lost their lives on the desert between the Grand Canyon of the Colorado and the Utah state line. When within 40 miles of Lees Ferry they camped for the night and their horses escaped. Pierce was lost from the party and after journeying over burning sands all day Hanna was so exhausted that he could not proceed. Hermann continued his search for water, which he discovered five miles further on. He returned with water to Hanna who was unconscious and almost dead. The folowing day a cowboy discovered Hanna and Hermann wandering aimlessly about the desert and directed them to their destination. A searching party later found Pierce, frantic with thirst. The three men were taken to Flagstaff Monday.

No Prosperity, Isn't There?

St. Paul Pioneer Press.

According to the Department of Agriculture the increase in the value of the principal farm crops and farm animals in 1899 as compared with 1896 amounted to the vast total of $836,640,209. This increase is distributed as follows:

Farm animals, not including swine	$501,444,474
Corn	138,202,143
Cotton	71,231,163
Oats	65,662,942
Hay	23,780,573
Potatoes	17,246,482
Wheat	8,942,730
Barley	7,108,015
Rye	2,252,248
Buckwheat	881,338
Total	$836,640,209

Add the greater value procured by farmers for their dairy products, flax, tobacco, etc., and the total increase would largely exceed a billion dollars. Yet Mr. Bryan tells the farmers not to be deceived by the prosperity argument of the Republicans.

Stevenson's Health.

CINCINNATI, O., Oct. 8.—A dispatch from Wooster, O., says that Hon. Adlai E. Stevenson, Democratic candidate for Vice-President, contracted a cold, owing to the sudden change in the temperature, and in consequence he was unable to leave this morning to meet his engagement at Orrville, O.

COSHOCTON, O., Oct. 8.—The following statement was issued tonight by Chairman McCabe, of the Democratic executive committee:

"Adlai E. Stevenson directed me to inform you that the report sent out reporting him as being ill is without foundation. He is in excellent health and spirits, and is filling all his engagements. He begins his campaign in West Virginal tomorrow."

Andrew C. Armstrong Dead.

NEW YORK, Oct. 8.—Andrew C. Armstrong, one of the founders of Scribner's Magazine, and one of the oldest publishers in this city, died at his country home at Stamford, Conn., tonight, aged 71.

NOT FULLY AGREED YET

WESTERN LINES STILL CONSIDERING GREAT NORTHERN'S DROP.

Executive Officials Will Discuss the Matter Thursday—New Rates Between Chicago and St. Paul.

CHICAGO, Oct. 8.—The Great Northern road today gave the Chicago westbound lines to understand that it would not increase the number of its low-rate excursions from Chicago to the far Northwest. Passenger officials of the Chicago lines met to consider the action of the Great Northern, but were unable to reach a satisfactory settlement. However, the matter will be discussed by the executive officials, who will meet Thursday. It is said that the Chicago and St. Paul lines will agree to a $5 rate from Chicago to St. Paul.

(The present cheapest rate between Chicago and St. Paul, in connection with the second-class round-trip rates to the Pacific Coast, is $11 for the round trip between those cities, or one first-class fare.)

FROM WOOD TO COAL.

Change of Fuel Used Between Dunsmuir and Ashland.

The Southern Pacific is about to change the fuel used for freight engines and helpers on the division between Dunsmuir, Cal., and Ashland, Or., from wood to coal. Wood has become so scarce and expensive in Northern California that this move is made in the interest of economy. The coal will come from Utah. Bunkers are being built along the line, and 17 locomotives, including a dozen "hogs," are being changed from wood to coal-burners. The company has a large quantity of wood on hand, and the regular passenger locomotives will continue to burn it until the stock shall be consumed. Then they, too, will take to coal.

Some experiments have been made burning coal out from Portland, but these, Superintendent Fields says, were not for the purpose or with a view to introducing coal as fuel here. One locomotive was fitted for coal, and it has been supplied from a new mine in the State of Washington. Mr. Fields also says the Coos Bay coal is not considered in connection with the change to go into effect south of Ashland. It may be 30 days before the change will be effected.

Engines for Southern Pacific.

NEW YORK, Oct. 8.—Announcement that the Cooke Locomotive Works, in Paterson, N. J., had received an order for 58 engines, to be built for the Southern Pacific Railway Company, has caused universal rejoicing among the locomotive-workers in Paterson, as since the closing of the Rodgers Works the outlook for engine-building had been rather discouraging. As the locomotives are to be built in a hurry, night and day forces will be organized. The work is to begin at once, and the men have been promised steady employmet for six months. Already 300 men who were formerly in the Rodgers Works have secured employment.

Each of the locomotives to be built will weigh 100 tons, and the cost is estimated at $10,000 each.

There are about 1000 men in Paterson who were employed in the Rodgers Locomotive Works. Three weeks ago Mr. Rodgers announced that he would close the works and quit the business. The city has since been making efforts to save the industry.

Ballasting Southern Pacific Track.

A good deal of work in the way of track improvement is being done on the Southern Pacific lines in Oregon. Three trains are hauling gravel from the Willamette River to ballast track as far north as Clackamas Station, about 100 miles. The Canby gravel pit does not supply satisfactory ballast gravel. The line southward to the summit of the Calapootias is also supplied from the Harrisburg pit. Between Roseburg and Oakland the ballast is supplied from the South Umpqua at Myrtle Creek. Then the Grant's Pass decomposed granite is drawn on for ballast for the stretch ending with the Grave Creek Mountain. There is another decomposed granite supply in the Siskiyous, and down in California a heavy volcanic ash is used. Track ballasting is in progress all the way from Clackamas Station to Dunsmuir.

Business of Rival Railroads.

The anunal reports of the Great Northern and Northern Pacific Railroads for the fiscal year ending June 30 last, which were completed a few days ago, show the following interesting comparison:

	N. P	G. N.
Miles of track	5,005	5,076
No. locomotives	594	550
No. passenger cars	510	427
No freight cars	21,414	22,934
Freight earnings	$22,140,180	$22,633,020
Passenger earnings	6,219,996	4,652,081
Taxes paid	850,590	990,798

New Manager of Nevada & Oregon.

RENO, Nev., Oct. 8.—T. F. Dunaway, of New York, representing the banking house of Moran Bros., New York, owners of the Nevada, California & Oregon Railway, running north from Reno, is here and will assume the management of the road, vice Arasmus Gest, resigned. Mr. Dunaway is a railroad manager of over 30 years' experience, and was until recently the superintendent of the Colorado & Southern and vice-president of the Fort Worth & Denver Railroad.

Colorado & Southern Changes.

DENVER, Colo., Oct. 8.—President Trumbull, of the Colorado & Southern, announced today that C. L. Wellington had been appointed general traffic manager of that road, succeeding B. L. Winchell, who becomes president of the Kansas City, Fort Scott & Memphis Railroad. Mr. Wellington is chairman of the Colorado Railway Association, and formerly was one of the commissioners of the Western Trunk Line Pool at Chicago.

New Line in Arizona.

PHOENIX, Ariz., Oct. 8.—A dispatch from Jerome states that plans are under way for building a railroad which will open up the Tonto Basin country and adjacent territory, which includes many rich mining claims and timber lands. The route will be from Williams to Globe.

Big Order for Freight Cars.

CHICAGO, Oct. 8.—Arrangements for building 3000 freight cars for the Baltimore & Ohio Railroad by the Pullman Company, at Pullman, Ill., were completed today. The contract calls for 2500 box cars, each with a capacity of 60,000 pounds, and 500 flatcars. The total cost of the rolling stock will be $1,885,000. This is the second large order for freight equipment given by the Baltimore & Ohio management within the last week. The first order was for 6000 steel cars, to cost $6,600,000.

KEYNOTE OF THE TROUBLE.

Minister Wu's Version of the Chinese Affair.

NEW YORK, Oct. 8.—A special to the Herald from Washington says:

Wu Ting Fang, the Chinese Minister to the United States, said that he had read with great interest a letter recently received from Mrs. Conger, giving her views of the Chinese people and the Chinese Government, and relating the details of the siege through which the legationers had passed. Commenting upon the causes which produced the recent outbreak and the general situation, the Minister said:

"China is passing through a most critical period, and it is a matter of deep satisfaction to me that the United States, with the same unselfish friendliness that has always characterized its relations with my Government, is using its earnest endeavors to enable it to return to its old place among the family of nations.

"If wrongs have been committed, China stands ready to make just and adequate reparation, and it is the American recognition of the sincerity of this purpose that has brought early peace within reach. Though its representatives were in the same distressing situation as were those of other nations, and though Europe, in defiance of Chinese assurances and Mr. Conger's dispatch, unitedly declared its belief in the massacre of the foreign envoys, this Government announced its faith in the Chinese word and the future proved that its position was justified.

"To add to the debt of China's gratitude, the United States did not hesitate to enter into relations with Li Hung Chang and subsequently with Prince Ching and other Chinese Peace Commissioners, and, thanks to its attitude, other nations propose to adopt a similar policy; and peaceful negotiations will soon be instituted looking to the settlement of all the questions at issue.

"But while China is no doubt responsible for much of the trouble that has occurred, it seems to me that a dispassionate consideration of all the facts will show that the blame is not entirely hers; that others as well must bear a share of the censure the civilized world is levelling at my country. The cause of the trouble is fixed by Mrs. Conger, wife of your Minister, in the letter which appeared in the Herald on last Sunday. She stated that the Chinese are a strange people to foreigners and cannot as yet be understood. But no less strange is the foreigner and his way to the Chinese. Our ways are to us the best. Their ways are to them the best.

"Mrs. Conger has struck the key-note of the trouble. Misunderstanding is at the bottom of what has occurred. Foreigners go to China and they treat the Chinese with too little consideration. They say, 'You must do what we demand,' and they insist that their wishes be carried out. They have taken Chinese territory, they have criticised the religion which is born in the Chinaman. What would the people of America say if other nations should seize their territory. What would they say if followers of Confucius or Buddha should come here and sneer at their religion? The foreigner does not understand the Chinaman, nor does the Chinaman understand the foreigner.

"It is not difficult to appreciate how it is this misunderstanding exists. Your merchant goes to China and talks a few words in 'pidgin English' with a Chinese merchant. The business is transacted satisfactorily to both—it is often said that the word of a Chinaman in a business transaction is as good as his bond—and they part. They have no opportunity of learning the good traits of each other; one suspects the other of trying to get the advantage, and it is this mutual distrust which has sowed the discord that exists.

"To my mind this does not seem surprising, in view of the fact that the United States and Great Britain have engaged in frequent controversies, and this, notwithstanding the fact that both nations speak the same language and generally have so much in common. How much more difficult, therefore, is it for China, having a different language and employing ofttimes methods entirely antagonistic to those used by foreigners, to prevent misunderstandings and preserve friendly relations with all nations.

"What further adds to the difficulty of maintaining accord between China and the rest of the world is the ignorance of foreign ways by the officials of the empire. Until their recent departure from Pekin all of the Princes had been practically their entire lives in the capital, and but a few of the Ministers had ever left the city, even for the purpose of visiting extreme parts of the empire.

"With the exception of the Tsung li Yamun, none of these officials has ever come in close contact with foreigners or foreign officials, and the relations of the Tsung li Yamun with the foreign envoys are of a most superficial character. It is not, therefore, remarkable that the Chinese officials should take action which to them is justified, but which to Western people seems wholly wrong. One looks at the circumstances through Chinese eyes and acts from the Chinese point of view; the other looks at the same circumstances through Western eyeglasses and condemns what he does not understand.

"So it seems to me the first thing that must be done is to remove as much as possible the misunderstandings that exist, and I am glad the United States and other nations have realized that there are two sides to the question and have signified their intention of listening to the views of the Chinese by entering into negotiations. Those negotiations will enable China to make her defense to show wherein the responsibility lies, and I am sure that when the world understands her motives and her position, it will be more lenient than it is today."

WILLIAM M. COLVIG DECLARES FOR M'KINLEY.

Former Bryan Leader Bolts the Policy That Makes Cowards of Americans.

William M. Colvig, of Jacksonville, one of the leading lawyers of Oregon, and a Democratic warhorse of the old school, has come out against Bryan. Four years ago Mr. Colvig loyally supported Bryan, and was known as one of the best campaigners the Democracy had in Oregon. But he can't stand the Bryanite doctrine of hauling down the flag, and has declared for McKinley and Roosevelt. In a letter to George A. Steel, chairman of the Republican State Committee, offering his services for the campaign, Mr. Colvig says:

There are a goodly number of Democrats in this (Jackson) county, who, for the sake of party, might be led considerably out of the way on purely economic questions relating to governmental affairs, but when they are required, as now, by their leaders to take a position that makes them feel like American cowards, they will not go. Some of us place our love of country, its flag, its institutions, and its destiny far above party loyalty.

Mr. Colvig will be in Portland October 26 or 29, and will deliver a 30- or 40-minute speech at some meeting to be arranged by the Republican State Committee.

STATE'S HIGHEST COURT

TRIBUNAL RENDERS DECISIONS IN FIVE APPEALED CASES.

Two Former Opinions Are Affirmed, One Modified and Two Reversed and Remanded.

SALEM, Oct. 8.—In the Supreme Court today five decisions were rendered. They are as follows:

Law Guarantee & Trust Society, Ltd., of London, respondent, vs. Harvey A. Hogue, Sarah L. Hogue and Henry Jones, defendants and appellants, and Rosetta Jones, defendant and respondent; from Washington County, T. A. McBride, Judge, affirmed; opinion by Moore, J.

This was a suit to foreclose a mortgage. The defendants Harvey A. Hogue and Sarah L. Hogue, his wife, on September 1, 1892, gave to the Jarvis-Conklin Mortgage Trust Company their promissory note for $6600, payable in five years, with interest thereon at the rate of 5½ per cent per annum, payable semiannually, and stipulated therein that if either principal or interest remained unpaid 10 days after maturity, the principal should draw interest from date at the rate of 8 per cent per annum; and to secure the payment thereof executed to said company the mortgage now sought to be foreclosed. Henry Jones and wife were made defendants on the allegation that they claimed some interest in the property. The plaintiff alleges that it is a corporation, and that the Jarvis-Conklin Mortgage Trust Company is also a corporation, and that for a valuable consideration the latter assigned to the plaintiff the mortgage in question. Plaintiff prayed for a decree foreclosing the mortgage and for the recovery of the principal and 8 per cent interest, less a payment made.

The defendant Henry Jones filed an answer in the nature of a plea in abatement, alleging that he had no knowledge or information sufficient to form a belief as to whether the Jarvis-Conklin Mortgage Trust Company was or is a corporation, and in the same manner sought to controvert the allegations of the complaint respecting the assignment of the mortgage and of plaintiff's corporate existence. The defendants Hogue and wife made the same allegations on information and belief, and also alleged that they executed said note and mortgage in pursuance of a fraudulent agreement entered into with the mortgagee, whereby the latter, or the holder of said note, was to receive a greater rate of interest than is allowed by law. The trial resulted in a decree as prayed for, except that only 5½ per cent per annum was allowed from the time of default, and defendants Hogue and Jones appealed. The Supreme Court says in part:

"It is contended by defendants' counsel that the evidence introduced at the trial is insufficient to establish the corporate existence of the Jarvis-Conklin Mortgage Trust Company or of the plaintiff, and that the court erred in finding otherwise; while plaintiff's counsel insits that the transcript fails to show that Jones has any substantial interest in the result of the suit, and hence his plea is a nullity; that said plea and answer do not deny, but only allege upon information and belief a lack of knowledge respecting the incorporation of said company and society, and therefore the allegations of the complaint in these particulars are not put in issue thereby; that proof of the existence of a corporation cannot be demanded by parties who have entered into a contract with it; and that said answer, so far as it attempts to controvert the existence of the corporation, is in the nature of a plea in abatement, which, being joined with an answer on the merits, amounts to a waiver of said plea.

"The evidence shows that Jones is the equitable owner of the mortgaged premises, for whom Hogue probably holds the legal title in trust, and having been made a party defendant, he undoubtedly has the right to set forth by answer as many defenses as he had. Hill's Ann. Laws, Or., section 73.

"Our statute, in prescribing the manner of controverting the allegations of a complaint, so far as applicable herein, is as follows: The answer of the attendant shall contain (1) a specific denial of each material allegation of the complaint controverted by the defendant, or of any knowledge or information thereof sufficient to form a belief. Id., section 72. It will be remembered that the plea and answer do not deny any knowledge or information concerning the incorporation of the Jarvis-Conklin Mortgage Trust Company or of plaintiff, unless the defendants' allegations that they have no knowledge or information thereof sufficient to form a belief shall be construed as a denial."

Justice Moore expresses the opinion that the issues were properly plead, and then holds that the evidence introduced as to the corporate existence of the Jarvis-Conklin Mortgage Trust Company was not sufficient, and also that the stipulation to pay the increased rate of interest after maturity was intended as a penalty and not to evade the statute regarding usury. The opinion concludes: "But for the failure to make proof of the corporate existence of the mortgagee and its assignee, the decree, in my opinion, ought to be reversed and the suit dismissed without prejudice. My associates, however, are of the opinion that the answer of defendant Jones is insufficient as a plea in abatement, because it does not allege either positively or upon information and belief that the plaintiff is not a corporation. . . . The answer of defendant Hogue is insufficient to put in issue the corporate existence of either the plaintiff or the Jarvis Company, because it does not deny the allegations of the complaint touching their incorporation. . . . Our statute requires a specific denial, and since the answer of Hogue does not deny the corporate existence, . . . either positively or upon information and belief, no issue upon that question was presented. The error, if any, in the admission of evidence was immaterial."

J. W. Henry, appellant, vs. Yamhill County, respondent; from Yamhill County, George H. Burnett, Judge, affirmed; opinion by Wolverton, J.

The plaintiff, while acting as Sheriff of Yamhill County, Oregon, brought this suit to recover the salary of his deputy, and, a demurrer to his complaint having been sustained, judgment was rendered against him, dismissing the action, from which he appeals. The opinion of the Supreme Court says:

"The controversy involves a construction of the amendatory act of February 25, 1895 (Session Laws 1895, p. 77), regulating the compensation and mode of payment of Sheriffs and other county officers. Section 4 provides that 'the Sheriffs of the several counties in this state shall receive an annual salary as follows: Baker, $2000; Baker (first deputy), $1200; Baker (second deputy), $900; Benton, $2000; . . . Yamhill, $2000; Yamhill (deputy), $600. . . . The Sheriff of Multnomah County may appoint as many deputies as the County Court of said county shall by order authorize, one of which deputies shall be paid at the rate of $1800 per year and the others at such rate as said County Court shall by order direct, not exceeding $1200 per year.'

"Section 5 provides that 'the salaries herein provided for in favor of the said County Clerks . . . and Sheriffs shall be audited and paid by the several counties to the respective parties entitled thereto in monthly payments, and in the same manner that other county charges are paid, and no one of such officials shall be entitled to receive any fee or other compensation for his services than as above provided and as hereinafter provided.'"

The opinion then quotes section 11 of the act above mentioned and section 993 of Hill's Code, and says: "It is quite natural to suppose that the term 'Sheriff' is used in section 4 in a general sense, thus including the Sheriffs and their deputies, and that the intendment was to fix the compensation of both. . . . Section 4, construed in connection with section 993, Hill's Code, gives ample authority to the Sheriff to appoit such deputies as are desigated in the list, and section 5 provides for their payment by the county at the rate named in said list. . . . Section 11 has reference solely to the deputies appointed by their principals other than those expressly authorized by sections 1 to 4, inclusive. The Sheriffs, however, are not entitled to recover the salaries of their deputies. Such demands are personal, and should be made in the names of the deputies themselves, unless duly assigned. In this particular, the complaint fails to state a cause of action, and the demurrer was properly sustained."

State of Oregon, ex rel., George Jones, respondent, vs. George Conn, appellant, from Lake County, Hon. H. L. Benson, Judge; reversed and remanded. Opinion by Bean, C. J.

This was a proceeding for contempt, instituted by filing the affidavit of Austin S. Hammond, stating that a certain restraining order had been made by Judge Hale, of the Circuit Court, against the defendant, forbidding him to use the waters of Chewaucan River. The affidavit concludes as follows: "That I am informed and believe that said George Conn, in violation of said order, and with full knowledge thereof, and with the intention wilfully to violate and disobey the same, has been during the past two weeks, and now is, using said waters for the purpose of irrigation upon said lands, and all of them, and threatens to continue so to do, and he refuses to obey said order."

Upon the presentation of the affidavit, a citation was issued by one of the Judges of the First Judicial District, requiring the defendant to appear before him at Klamath Falls on a day named, to show cause why he should not be punished for contempt. Thereafter such proceedings were had that, at the hearing, the defendant was adjudged to be in contempt of court and sentenced to pay a fine of $1 and costs. From this judgment Conn appealed, assigning as error the insufficiency of the affidavit and want of jurisdiction. The opinion of the Supreme Court is in part as follows:

"Our statute, relating to the punishment of contempt, provides that, when not committed in the immediate view and presence of the court, 'before any proceedings can be taken therein, the facts constituting the contempt must be shown by an affidavit presented to the court or judicial officer.' Hill's Annotated Laws, section 653. This affidavit is essential to the jurisdiction of the court in all proceedings for constructive contempts, and must state facts which, if established, will constitute the offense. . . . Now, a proceeding for contempt for violating an injunction is in its nature criminal, and therefore the statute must be strictly pursued. It requires that facts shall be stated in the affidavit, and, in our judgment, a statement that the affidavit is informed and believes certain things to be true is obviously not a compliance with its provisions. Such an affidavit is not a statement of any positive fact, except the information and belief of the party making it. The statute requires the contempt shall be stated in a positive manner by some one conversant therewith. Indeed, a proper regard for the liberty of the citizen forbids any proceeding by which he may be deprived of his liberty without the information furnished by such an affidavit, and so the court hold. . . . The judgment of the court below is reversed, and the cause remanded for such further proceedings as may be proper, not inconsistent with this opinion."

Jacob Bloch, appellant, vs. Sarah Sammons, and Joseph Hubbell, respondents, from Multnomah County, E. D. Shattuck, Judge; reversed and remanded. Opinion by Bean, C. J.

This action was commenced in a Justices Court to recover possession of certain real property in the City of Portland. Plaintiff alleged ownership and right to possession. Defendant denied these allegations and alleged that he owned a life estate by courtesy, as the husband of Mary Hubbell, deceased. The reply denied this and plaintiff also alleged that he bought the property at administratrix sale, in the matter of the estate of Mary Hubbell, and that while the property was being sold at auction, the defendant willfully stood by and represented to plaintiff that he could safely buy the property, and, to induce him to bid thereon, represented that he had no interest of any kind therein and that whoever purchased it would get a title in fee thereto free from incumbrances; that the plaintiff, believing such representation and relying thereon, was induced to, and did, purchase the property at such sale for the sum of $630. The trial of the case in the Justice's Court resulted in a judgment in favor of the plaintiff, which defendant appealed to the Circuit Court, where a jury trial was had, without objections, and a verdict rendered in favor of the plaintiff. The defendant thereupon moved for judgment notwithstanding the verdict, upon the ground, among others, that the plea of estoppel set up in the plaintiff's reply is insufficient, in that it does not allege fraud on the part of the defendant Hubbell, or facts from which fraud could be inferred, nor does it allege that he had knowledge of his title at the time he made the declaration referred thereto. This motion was allowed and a judgment entered in favor of the defendant, adjudging that he is the owner of a life estate in the premises described in the complaint, and plaintiff appeals to this court. The Supreme Court says:

"The doctrine seems well supported that, if a party with full knowledge of all the facts, voluntarily represents to another who is about to purchase real estate that he has no interest therein, intending such representation to be, and it is, acted upon, he cannot afterward assert title to it himself, as against the purchaser, although he may have been ignorant, as a matter of law, of his legal rights when he made the representation, and may have intended no positive fraud. In such case fraud will be inferred. Knowledge of the true state of the title is necessarily imputed from knowledge of the facts, and whether intended or not, the subsequent assertion of title would operate as a fraud upon the purchaser in the same manner as if representation had been made with fraudulent purpose in the first instance.

As the case comes here on a motion for a judgment notwithstanding the verdict, we have no concern with the facts, and must assume that the allegations of the reply were supported by the testimony. And, since the pleading is sufficient, the judgment of the court below must be reversed and the cause remanded with instructions to overrule the motion, and for such further proceedings as may be right and proper."

R. J. Fleming, respondent, vs. John A. Carson, appellant, from Marion County, H. H. Hewitt, Judge; modified. Opinion per curiam.

This was a suit for the settlement of a copartnership existing between John A. Carson and R. J. Fleming, attorneys, doing business in Salem, Or., under the firm name of Carson & Fleming. The plaintiff also sought an injunction and the appointment of a receiver, to wind up the business of the concern. On January 7, 1898, the cause being then at issue, an application was made for the appointment of a receiver, to defeat which the defendant offered to give a bond, in an amount to be fixed by the court, to satisfy any decree that might be rendered in favor of the plaintiff. The court, however, after hearing evidence and the arguments of the respective parties thereon, made the appointment of the receiver. On the final hearing judgment was given against defendant for $146 19 and costs, and ordering that the property of the firm be sold and divided between the parties. No evidence was brought up in the Supreme Court.

The Supreme Court holds that the appointment of the receiver will not be disturbed and that it was proper to order a sale of the property, and a division of the proceeds, but since there no finding of fact to the effect that defendant was guilty of misconduct, the costs should be paid out of partnership funds.

President Goes to Washington.

CANTON, O., Oct. 8.—President McKinley drove to the railway station this morning to meet United States Senator Spooner, of Wisconsin, who made a political address in this city tonight. At 11:40 the President started for Washington, accompanied by Mrs. McKinley.

McDuffie Defeated Nelson.

INDIANAPOLIS, Oct. 8.—Eddie McDuffie won the 20-mile motor-paced match race here tonight at Newby o