THREE POINTS OF LAW

LAID DOWN BY OREGON SUPREME COURT.

Indorsement on a Note Held to Be a Mere Indorsement Instead of a Guaranty—Other Opinions.

SALEM, Or., Oct. 21.—The Supreme Court today handed down opinions in three appealed cases. The points of law laid down are in brief as follows:

That the indorsement on a note: "I guarantee payment of the within note and waive demand, notice of protest and protest," may be construed to be a mere indorsement, instead of a guaranty, since a waiver is not necessary and would be an idle ceremony in a guaranty.

That it is improper to grant a nonsuit after trial where the issue is made by affirmative allegations in the answer, thus placing the burden of proof upon the defendant.

That the rights of an intervening purchaser for a valuable consideration from one holding the legal title will be enforced against a former grantor who cancels his lien and has knowledge of the possession of the subsequent purchaser.

The decisions are as follows:

Joseph Delsman, respondent, vs. S. H. Friedlander et al., appellants, from Multnomah County. Alfred F. Sears, Judge; affirmed. Opinion by Justice Wolverton.

On July 19, 1893, defendants, J. W. Baird and A. M. Baird, executed their promissory note for $1000, payable to S. H. Friedlander four months after date. In August, 1893, Delsman bought the note from Friedlander, paying him $900 therefor. At the time of the transfer the note was indorsed in blank by defendants, Friedlander and J. D. Wilcox. November 20, 1893, the note fell due, and on that date the plaintiff requested the defendants, Friedlander and Wilcox, to sign the following indorsement and guaranty: "November 20, 1893, for value received, I, or we, hereby guarantee payment of the within note and waive demand, notice of protest and protest." The signatures were made, and in consideration thereof, the plaintiff did not go to the trouble and expense of protesting the note. At the time of maturity of the note, both the Bairds had property, out of which payment of the note could have been enforced, but plaintiff took no steps to collect the note until this action was commenced against the indorsers. The Circuit Court held that under the facts stated, the defendants, Friedlander and Wilcox, were liable, and thereupon Friedlander appealed to the Supreme Court, which tribunal, in affirming the decision, says:

"The appellant maintains . . . that he is a guarantor, and that by reason of plaintiff's neglect, for more than three years, while the Bairds remained solvent, to take any steps toward the collection of the note, he is discharged from obligation. Primarily, it may be stated as a legal proposition that a guaranty of the payment of a note is an absolute undertaking to pay it when due, and that no demand or notice of non-payment is necessary to fix the liability of the guarantor, and that mere passiveness on the part of the holder will not release such guarantor, even if the maker was solvent at its maturity and thereafter became insolvent. . . . This brings us to a consideration of the nature of Friedlander's undertaking, whether as indorser or guarantor. Presumably parties enter into contracts in view of the law, and when terms or conditions are employed, wherein they are to serve a purpose. No demand or notice being requisite to charge a guarantor, a waiver thereof would have been idle ceremony upon the hypothesis that it was intended that Friedlander should enter into that relation. But if the stipulation of waiver is considered, in connection with the idea that he was to become an indorser only, then it has an important meaning, which has a significant bearing upon the transaction. Very few laymen are aware of the technical sense in which the term guaranty is often employed in contracts, and more often they use it in its general sense, as signifying to agree, promise, or undertake, and we are constrained, in view of the language employed, and the attending circumstances, to construe the undertaking to be such as arises from an indorsement with waiver of demand, notice and protest, and not as a guaranty."

A. T. Creecy, appellant, vs. R. Z. Joy, respondent, from Multnomah County, Alfred F. Sears, Jr., Judge; reversed. Opinion by Chief Justice Bean.

This was an action brought to recover on a note alleged to have been given jointly and severally by J. M. Joy and R. Z. Joy, wherein they agreed to pay plaintiff $165 50, with interest at 8 per cent and reasonable attorney's fees if suit should be brought. After alleging the execution and delivery of the note the complaint alleged that J. M. Joy had died; that there was due and owing from defendant to plaintiff on this note $165 50, with interest at 8 per cent; that $25 was a reasonable sum to be allowed as attorney's fees, and that plaintiff was the owner and holder of the note. Defendant admitted the execution and delivery of the note, but denied that any sum was "due and owing," or that defendants, "jointly and severally" promised to pay an attorney's fee, and denied that any sum was reasonable for an attorney's fee. It was also alleged that the note had been paid.

Upon the trial, plaintiff gave evidence of the reasonable value of the attorney's fees, and rested his case. Defendant gave evidence tending to show that the note had been settled in connection with a land transaction. Plaintiff thereupon testified in rebuttal, without objection, that, on June 16, 1893, the defendant and his father executed the note; that it had not been paid; that it was not included in the land transaction, and that it was due one day after date. After both parties had rested, defendant moved for a nonsuit on the ground that plaintiff had given no evidence tending to show when the note became due and payable. While this motion was pending, plaintiff offered in evidence a note which he averred was the one described in the complaint and which conformed to the allegations, except that it was a joint, and not a joint and several note, and was due one day after date. Objection was made to the introduction of the note, whereupon plaintiff asked permission to amend his complaint to correspond with his proof. The court admitted the note in evidence, refused to permit the amendment, and thereafter granted the nonsuit.

The Supreme Court holds that since the answer admitted the execution and delivery of the note as alleged, no proof on the part of plaintiff was necessary, except as to the attorney's fee. The only other issue was as to payment, and since the burden of proof of payment was upon the defendant, it is held error to grant a nonsuit. It is also held that if the denial that any sum is "now due and owing" raises the issue of the time when the note was due, the introduction of the note and the testimony of plaintiff supply the evidence. The fact that the note introduced was joint, while the allegation was of a joint and several note, is held to be an immaterial variance, for the other maker was dead, and the defendant could be sued without joining the representatives of the other maker. The complaint is also held good after answer by the defendant, though it would probably be defective as tested by a demurrer, since it does not allege when the note became due.

C. A. Scott, respondent, vs. Joseph R. Lewis, appellant, from Yamhill County, R. P. Boise, Judge; affirmed. Opinion by Justice Moore.

Lewis sold a tract of land to James Scott, giving a deed therefor. Thereafter James Scott sold one parcel of the tract to C. A. Scott, who went into possession, paid for the land, with the exception of a balance of $25, made improvements, and remained in open, notorious possession, under claim of right. Thereafter James Scott executed to Lewis a mortgage to the whole tract, to secure the unpaid installments of the purchase price. Default having been made in payment of the balance due Lewis, James Scott proposed to deed back the land, if Lewis would cancel the notes and mortgage. This settlement was effected. Lewis then undertook to eject C. A. Scott, whereupon this cross-bill in equity was filed, resulting in a decree in favor of Scott. The Supreme Court affirms the decree, holding that Lewis had been put upon inquiry by C. A. Scott's open possession; that since he canceled his mortgage with an opportunity to know the extent of Scott's rights, and that therefore the contract under which Scott held the land will be enforced against Lewis.

Supreme Court Orders.

Other Supreme Court proceedings today were as follows:

A. C. Palmer, respondent, vs. W. T. Casey, appellant; appellant's time to file abstract extended to December 4.

Elizabeth Robson, appellant, vs. Juliett Hamilton, respondent; appellant allowed until November 1 to file brief.

Edgar Poppleton, respondent, vs. George W. Jones et al., appellants; appellants allowed until December 1 to file brief, respondent until January 1 to file brief, and appellants until February 1 to file reply brief. Respondent excused from filing transcript in cross-appeal, but facts regarding notice of appeal and undertaking, with assignments of errors may be printed in additional abstract on cross appeal.

Thomas J. Hammer, respondent, vs. F. O. Downing et al., appellants, argued and submitted, no one appearing for respondent.

S. Normile, respondent, vs. O. R. & N. Co., appellant, appellant allowed until November 10 to file brief.

J. E. Cullison, respondent, vs. F. O. Downing et al., appellants, appellants allowed until November 6 to file brief.

A Valuable Publication.

Dalles Times-Mountaineer.

A copy of The Oregonian's handbook has been received and it is indeed one of the most unique publications ever issued in the state. It is a book of 64 pages, splendidly illustrated with maps and half-tones, and contains an invaluable lot of statistical information that is not found in any other publication. The handbook should be sent broadcast throughout the East, for it is an advertisement of this Coast that is unexcelled.

Suit for Condemnation.

OREGON CITY, Oct. 21.—A suit was filed in the Circuit Court today by the Portland City & Oregon Railway Company against Dora Quant, asking for the condemnation of a strip of land 50 feet wide in Milwaukie, through which the proposed change of route is to pass. The parties are unable to agree on damages.

Oregon Notes.

H. Longstaff, of Troy, N. Y., was at Granite last week, closing a deal for the Win Johnson placer mines on Crane Creek, five miles north of Granite.

Two large turnips were brought to Weston recently. They are as large as a man's head. Mr. Johnson says that these turnips are only average sample of the turnips grown at his place this year, and that the meat is sound and sweet throughout. They are known as the Pomeranian Globe, and are as round as a bowl, and have purple tops.

Thomas McEwen, who is fulfilling the contract for hauling 300 tons of machinery to the Hoosier Boy Gold Mining Company's property, near Canyon City, has also the contract for delivering the dredging machinery to the Pomeroy Company, of the John Day River. There are 100 tons of this machinery in the consignment, and it will be installed and put in operation as soon as its destination is reached.

W. W. Rice, of Susanville, says that 75 per cent of the supplies of the mining camp taken in this Fall have gone by way of Pendleton. Some of the teamsters who haul ore to Whitney return by way of Sumpter for goods for Susanville, but the larger share is freighted from Pendleton. The roads are good, Mr. Rice says, with the exception of some of the grades on the John Day that have been damaged by herds of cattle and sheep. In the camp 100 miners are employed at steady work.

James Gwinn, who returned recently from Wallowa County, tells the Pendleton Tribune that that section has a large hog yield. The county, he estimates, raises 10,000 hogs a year for outside markets. While there he saw 1200 head being driven to Lewiston and 1800 head to Island City. The prices are 5 cents on foot for fat hogs and 4.6 for stock hogs. The fat hogs weigh 250 pounds, and the stock hogs 180 to 200. The farmers of Wallowa County make the hog-raising business pay. Almost every land-owner raises a few, and some a great many. The hogs are pastured on alfalfa during the Summer and fattened on wheat.

Monday night, at Helix, Fred Albershardt, a German, attempted to kill his wife. He returned from Pendleton on the night train, drunk, met his wife at the gate and fired three shots at her, one of which took effect in the shoulder. The other two shots went wide of the mark. Albershardt, his wife and son had been staying at the house of John Timmerman, and it was there the shooting took place. There is no known cause for the trouble, but it is supposed family difficulties are at the bottom of the deed. The town of Helix, distant a half mile from the Timmerman place, was thrown into great excitement, and Deputy Sheriff Blakely was called from Pendleton and effected the capture of Albershardt after a chase of 15 miles to the north of town. The German is now in jail. His wife's condition, while serious, is not considered critical. Mrs. Albershardt escaped from her infuriated husband by running into the house and concealing herself.

Bears are plentiful in the Blue Mountains on Fly Creek, according to J. W. Groom, of Vinson. He and his brother, J. S. Groom and H. Blevins, one of their herders, have killed six of the animals during the past two weeks. Fly Creek is between Lehman Springs and Starkey Prairie, and some of the mountains are rugged and heavily timbered. A thrilling experience was endured by the herder, Blevins. He and his shepherd dog succeeded in running five black bears, two old ones and three cubs, up one tree. While the dog guarded the foot of the pine Blevins went for an ax to cut the tree down. When he returned he found the dog struggling with one of the cubs which had fallen from a branch of the tree. He immediately killed the young bear with his ax, but the dying groans of the cub brought the mother down the tree in defense of her offspring. The herder took refuge on an uptorn root of a big pine that had been blown down, and as the old bear came after him he beat her back with his weapon, while the dog bit her heels. She soon returned back up the tree growling fiercely. The herder then went for a gun, and when he returned he succeeded in killing one of the old bears before the family escaped. Later he shot another. J. S. Groom shot two a few days later, and J. W. Groom killed two, one of which weighed 800 pounds. The pelts were all saved.

Irving Appears in "King Charles I."

NEW YORK, Oct. 21.—The American tour of Sir Henry Irving, Ellen Terry and the members of the London Lyceum Theater Company was inaugurated at the Knickerbocker Theater tonight. The theater was filled, society liberally represented, and the distinguished English actor and his players were given an affectionate greeting. A revival of "King Charles I," in which Sir Henry first won American favor, was selected as the opening production. It was sumptuously staged and splendidly acted. The costumes were copied from the famous pictures by Van Dyke. The audience was very enthusiastic. The company will continue at the Knickerbocker for three weeks.

MONTANA'S NEW SENATOR

OVER 70 YEARS OLD, PARIS GIBSON IS NEW TO POLITICS.

Impressed With Responsibility of Congress in Disposal of Public Lands—To Champion Changes.

GREAT FALLS, Mont., Oct. 19.—To have lived nearly three-quarters of a century of a life of strenuous and successful endeavor, and yet to have had no thought of politics until he was elected a United States Senator at the age of 72, has been the career of Paris Gibson, the newly-elected colleague of Senator W. A. Clark.

Even now his thoughts are not of political measures nor party advantage. He has but one object in view, and that is the quickest and greatest possible development and population of the state in which he has been a powerful industrial factor for so many years. He comes to the Senate old in years, but with surprising physical and mental vitality, prepared to work for what he considers the measures necessary to insure continued prosperity for the Western States. His ambition is to serve upon the public lands and kindred committees. He has no aspirations to become a political power or to figure in the more important councils. These he leaves to his colleague.

Senator Gibson has positive and radical views as to legislation needed for the West; and while he recognizes the necessity of assistance from more experienced legislators, he will undoubtedly make a considerable impression before he has been long in Washington by the earnestness with which he holds to his ideas as to the most pressing needs of the Western country. He is an interesting man. Of pleasant and dignified personality, with a wide experience in large business affairs and an extensive acquaintance among the great industrial leaders.

"The homestead law," he says, "is the only act under which the agricultural public domain should pass to private ownership, and this law should be restored to its original shape in which five years' actual residence was required before title could be secured from the Government.

"The present desert land act should be called a bill to promote perjury. It is an iniquitous law and should be repealed as soon as possible.

"About 16,000,000 acres of the public land were deeded away by the Government last year. Twenty millions will go this year. At this rate the 75,000,000 acres of easily habitable and irrigable land still owned by the Government will soon be gone.

"The land frauds of the present day are of incredible magnitude. Millions of acres are stolen every year through perjury on the part of applicants or hired agents, and by the apparent indifference, to say the least, of the officials of the Government land offices.

"One man has 250 miles of fence near Great Falls, inclosing thousands of acres of the finest farming land in the state—land to which this city has looked in the past as one of the great resources to aid in its future growth. It is capable of supporting a densely settled agricultural community, but today it is reserved for pasturage for range stock through the operations of the present landlords. That is but one instance. Mile after mile of the choicest land in the public-land states has been secured by speculators and livestock men through the fraudulent use of the land laws, and to the serious detriment of the country as a whole. It is the best of this land which is taken each year. The people of the United States are being robbed of their property, and the homeseekers are being cheated out of the chance to a start in life such as was taken advantage of by the pioneers of earlier days."

These statements are made by a conservative business man who is thoroughly familiar with all conditions prevailing. Paris Gibson would be the last man to be charged with extravagance of language by the people of his state. He was born in Maine in 1829. In 1858 he went to Minneapolis, then a frontier settlement, and was one of the pioneers of the great flouring industry of Minnesota. In 1878 he went into the sheep business in Montana at Fort Benton, and in 1882 he laid the plans for a city near the Great Falls of the Missouri, after which he named his enterprise. The bald prairie was all he had to build upon, but with prophetic eye he saw the possibilities of the surrounding country. In 1884 J. J. Hill, of the Great Northern, realized the possible future of the town of Great Falls and lent his powerful aid to Senator Gibson in its upbuilding. In 17 years, upon the site thus selected, has grown a community which prides itself upon being the second city in the State of Montana, Butte, the great mining camp, being the only one exceeding it in population or wealth.

"By means of the desert land law," says Senator Gibson, "title has been secured to miles of country about Great Falls. It is held for speculation or for stock range. Notwithstanding the provisions of the law which require reclamation and cultivation, there are thousands of these claims to which the Government has given title which look today as they did when Lewis and Clark first gazed upon them in the earliest days of discovery. The speculators are holding for a rise. The stockmen, finding the settlers crowding their ranges, get fraudulent title to check further advances of settlement.

"The state government, at the dictation of the big livestock interests, uses its power to the utmost to put the public land into big holdings for the benefit of the favored few. In the enabling act of Montana the leasing of more than 640 acres to one man is forbidden. Yet this state leases as high as 50,000 acres to a single individual. State scrip is used in such a way as to best fill the needs of the big livestock men. The State Land Board makes the state selections of Federal land as certain individuals may dictate. No pretense is made of guarding the interests of the state or of encouraging settlement. In Cascade County alone there are about 90,000 acres leased to cattlemen, much of which is land which should be used for home building.

"If Congress should cede the Federal lands to the state, in Montana, at least, a half a dozen men would control the entire state. The big range cattle interests could get the support of the big packing-house industry morally, financially and politically, and no state government as now constituted in the West could stand before the pressure which would be brought to bear in favor of big land monopolies.

"There is no time to be lost. The public domain should be dedicated to the farmers and the farmers only. They are the people who reclaim the West, build the cities and create permanent wealth. The Land Office will declare that it investigates all charges of fraud. It may do so when these charges are made, but there are few men who actually dare to contest the right of a big cattleman or sheepman to appropriate such land as he may want in any manner he may see fit. It would not be safe for the man who did, and if he was a small farmer doing business near the big stockman his ruin would be inevitable. Even when complaint is made, and special agents are sent out by the Land Office, the agents invariably fail to carry the cases through or accomplish any results. I will not say why this is so, but it is easy to surmise, for there are many notorious instances in nearly every county in Montana devoted to the grazing of livestock. For some reason or other the investigations always fail to investigate.

"Montana embraces more than 146,000 square miles and possesses great pastoral, agricultural and mining resources. It has long been known as the best watered of all the arid states, three of the great continental rivers finding their source in its mountains. Notwithstanding all these resources and the fact that it is traversed by four of the leading Western railroads, its population, according to the last census, was but little more than 230,000. Of this population 175,000 at least reside in our cities and villages, leaving not more than 55,000 who make their homes in the country. Out of this rural population, it is my belief that three-quarters are engaged in various pursuits not connected with agriculture. Such being the case, we have today no more than 12,000 to 15,000 employed in agricultural pursuits.

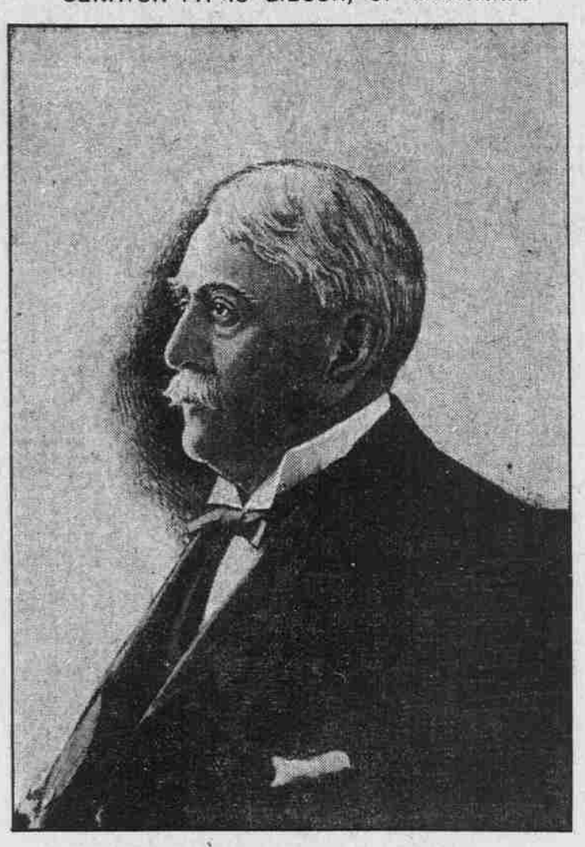
"It is a well-known fact that during the past year the great tide of immigration that has steadily set Westward has not been turned into Montana. During the last fiscal year there have been sold from the Federal lands of our state 1,157,088 acres, netting the Government more money than it has received from any other state excepting Oklahoma. This enormous acreage of land has been selected from the very choicest of the Federal lands of our state. To one unacquainted with the conditions prevailing here this would apparently mean that we had received a very large number of farm settlers. This is not the case. The bulk of these has been taken up and paid for, not by new settlers and homeseekers, but by capitalists desiring to increase their already large holdings of lands for pastoral purposes. The question now facing the people of this state is, Shall Montana, like Nevada, be delivered over to a small number of men? It is useless for the Government to attempt a reclamation of the public lands by constructing irrigation works until the land laws have been so changed as to prevent the absorption of the public domain to be improved by those whose interests demand that it should remain in an unimproved condition. The upbuilding of the West is not the issue of any one political party, but its advocates are to be found in all parties. The duty of the National Government is to provide homes for the people upon the enormous area of land still included in the National trust.

"When the desert land act is repealed and the issuing of scrip is stopped, as it should have been long ago, and the public lands are held for home building, then, and not until then, will we have laid the foundation for the upbuilding of agriculture and for an industrial growth never surpassed in any country. Twenty-five years ago California produced 56,000,000 pounds of wool from the sheep fed upon native grasses. The annual wool clip of that state has now fallen to less than 20,000,000 pounds, but California is infinitely richer because of the development of a splendid agriculture upon lands that once were only pastures for sheep."

Senator Gibson will reach Washington a few days before the assembling of Congress, and he will devote his energies, assisted by a number of other members who think as he does, toward the enactment of some legislation which will remedy the evils of which he is so keenly aware. It may be that no bill will actually pass at the coming session, but it is intended to debate the matter so thoroughly that the people of the whole country will be aroused to the necessity for action.

J. D. WHELPLEY.

SENATOR PARIS GIBSON, OF MONTANA.



WILL ADVOCATE RADICAL CHANGES IN THE LAND LAWS.

DUEL ON THE STREET

TEXAS MAN AND HIS SON WERE KILLED INSTANTLY.

Father and His Stepson in Jail for the Crime—Family Troubles at Bottom of It All.

WACO, Tex., Oct. 21.—One of the fiercest duels fought in this section since the famous Brann-Davis tragedy occurred shortly after 1 o'clock this afternoon on Austin avenue, the busiest thoroughfare in the city, and resulted in the death of two well-known citizens. The principals in the tragedy were ex-Sheriff W. T. Harris, and his son, W. T. Harris, Jr., on one side, and Dr. J. G. Lovelace, and his stepson, Z. T. Reynolds, on the other. Bad feeling has existed between the men for some time over family affairs, and trouble had been expected as a result. The men by chance met in the Turf saloon, and young Harris, it is alleged, opened fire with a shotgun on Lovelace over his (Harris') father's shoulder, but without effect. Lovelace immediately returned the fire with a revolver, killing young Harris almost instantly. Lovelace then turned his revolver on the elder Harris, who likewise was killed. Lovelace and Reynolds were both uninjured. They immediately gave themselves up, and were taken to the County Jail, and locked up to await the action of the grand jury, which is now in session.

W. T. Harris, Sr., was for six years Sheriff of this county, and made an excellent reputation in that capacity. At the time of his death he was engaged in farming and agricultural pursuits. The younger Harris was for a number of years connected with the Provident National Bank of this city, but more recently with the Cotton Belt Railroad. Dr. Lovelace is a practicing physician of this county, and Reynolds is a farmer.

The principals were all related in some degree by marriage. W. T. Harris, Jr., was unmarried. The elder Harris leaves a widow and two married daughters.

POWERS AGAIN ON THE STAND.

Denies That He Ever Conspired to Do Violence to Goebel.

GEORGETOWN, Ky., Oct. 21.—At the trial today of Caleb Powers for complicity in the Goebel murder, Powers resumed his testimony. Powers said no one ever had his personal key to his office except Leo Davidson, son of Assistant Secretary Davidson. He gave Davidson his key to keep while he was away from Frankfort from January 12 to 17. Powers said:

"I want to say that there is a possibility that the shots may have been fired from the Secretary of State's office. Duplicate keys could have been made. But when Goebel was shot I had the keys to my office in my possession."

Powers denied most emphatically that he had ever conspired with any human being to do violence to William Goebel or any other Democratic official. He said the military force was only to be used in the event that the Democrats tried to take forcible possession of the public offices before the cases of the Republican contestants had been carried to and handed down by the Supreme Court of the United States. Powers denied that he gave Youtsey a key to his office during the month of January. He was asked why he did not put Youtsey out of his office when he found him there with a gun. Powers replied: "It has not been my custom in life to control the actions of men by brute force."

James Carpenter, of Louisville, testified that when Goebel was shot he came out of the Senate building and found a number of persons lookoing up at a raised third-story window of the executive building. This is important testimony, because the prosecution has made it a point that the first floor window was the only one open on that date.

BANK SECURITIES RETURNED.

Defaulters in Massachusetts Still Have $115,000.

LOWELL, Mass., Oct. 21.—Money and securities taken from the vault of the Merchants' National Bank by Teller A. G. Smith, and Bookkeeper L. K. Swift, before they disappeared last Thursday night, were this morning returned to the bank by Lawyer Burke, of Lowell, and Messrs. Bartlett, of Eden, and Bartlett, of Boston. These lawyers have been understood to represent the absent bank men. The statement was made that the men cleaned out the bank vault before they left, in order that they might be in a position to compel the officials to promise immunity from punishment for any wrongdoing which might come to light. A bank examiner from Washington began work on the books yesterday. The bank doors opened as usual today. The following statement was made by the directors of the bank:

"The time has arrived, when the president and directors of the Merchants' National Bank feel that a statement is due the public. Certain securities belonging to the bank were taken from its vault through the collusion of two of its employes, but have been returned. The capital stock of the bank is $400,000, and its surplus and undivided profits $294,600. Both are intact except a deficiency of $115,000, which reduced the surplus and undivided profits to $179,600."

It is understood that the deficiency represents the amount lost through the operations of Swift and Smith.

SOLDIERS STOLE OATS.

Systematic Embezzlement of Government Supplies Detected.

ST. PAUL, Minn., Oct. 21.—A special to the Dispatch from Miles City, Mont., says:

What appears to be a systematic embezzlement of Government supplies, which has been going on for some time, has been detected by Captain Short and Lieutenant Foy, at Fort Keogh. The stuff appropriated consisted of oats intended for horses and daily held back from each horse. Foy and Short found a soldier driving to town at 12 o'clock Saturday with 33 sacks of oats. The driver said he was taking the oats to Aitchen's barn. He was sent to the post under guard, while Foy and Short took the oats to the barn, disguising their officers' uniforms. The men at the barn told them where to unload, and when they had done so they had the men arrested.

Aitchen, who lives opposite the barn, was awakened, but professed entire ignorance of any deal, and was greatly surprised that the barn men should have let the soldiers unload without calling him. The barn men gave bonds. Short says he is prepared to prove that this but an incident in a series of such transactions with local parties.

Attempt to Blow Up a Residence.

WILKESBARRE, Pa., Oct. 21.—A dastardly attempt to blow up the house of Reese Morgan, superintendent of the Murray mine, and kill him and his family, was made last night. Mr. Morgan's home is on Grant street, one of the resident thoroughfares of this city. He had just opened the gate to get into the house when a terrific explosion occurred which nearly knocked him off his feet. When he was able to collect himself, he saw that a portion of his dwelling had been wrecked. A further investigation showed that the whole rear portion of the house had been torn away by the explosion. The general supposition is that some mine employe who formerly worked for Mr. Morgan, and who imagined he had a grievance, is at the bottom of the plot.

Officials Censured for Lynching.

HELENA, Mont., Oct. 21.—The grand jury which has been investigating the lynching of James E. Brady, which occurred here October 21, made its report today. No indictment was returned, the jury saying no evidence was found on which a conviction could be had. The report severely criticises the city and county officers for not making more strenuous efforts to discover those engaged in the lynching, recommends that Jailer George Mahrt be discharged, and also Policeman Wiesner, who was on the beat where the lynching occurred. The Sheriff is censured for not taking proper precautions to protect the prisoners, and another policeman is censured for apathy alleged to have been shown when the lynching was in progress.

Another Letter From Pat Crowe.

OMAHA, Oct. 21.—Pat Crowe has written another letter to the Chief of Police. This latest communication from the alleged kidnaper was mailed in Omaha, and states that the much-wanted Pat is secluded within 25 miles of this city. The writer insists that unless he is given assurance from the court that his bond will not exceed $500 he will not give himself up. The communication is evidently written by the same man that wrote a letter to the Chief of Police a week ago. A brother of Pat Crowe and a sister both identified the writing as that of the man who has so long evaded the police and detective forces of the country. They profess to believe that their brother is near Omaha at this time.

Famous Detective Fatally Shot.

CINCINNATI, O., Oct. 21.—Detective Calvin D. Grim was fatally shot today by John Foley, a recently released convict who was wanted for picking pockets at funerals, and whom Grim was attempting to place under arrest. Two other policemen caught Foley. Foley is also known as Dan Driscoll and as "The Goat." Grim was the leading detective in the famous Pearl Bryan murder case. Last March he served as personal guard for President McKinley at the inauguration.

Held to the Grand Jury.

CHICAGO, Oct. 21.—Dr. Orville S. Burnett, who was with Mrs. Charlotte Nichol last night when she committed suicide, and who claims to have attempted his own life, was held to the grand jury by a Coroner's jury today. It was charged that he could have kept her from the act had he tried, and that his conduct should form the basis of an investigation by the grand jury.

Noted Horsethief at Last Convicted.

MADISON, Wis., Oct. 21.—James Brown, whose right name is James Dowling, a noted horsethief, was convicted for the first time in his career in the Municipal Court here today of stealing a valuable team from a Dane County farmer on August 1, and sent to prison for five years. Brown, who is from Montana, is said to be the head of a gang of horsethieves with headquarters near Chicago.

Coroner Changed the Charge.

NEW HAVEN, Conn., Oct. 21.—Henry Macdonald Sedley, of New York, a Sheffield Scientific School freshman, was arrested today, charged with the murder of Edward Corrigan, of Willamantic, Conn., but this evening Coroner Mix, after a prolonged hearing, ordered the charge changed to breach of peace, and Sedley was released on $2000 bond. Sedley and Corrigan were scuffling in a lunch wagon yesterday morning and Corrigan fell down the stairs, receiving injuries from which he died.

Missouri Bank Robbed.

MADISON, Wis., Oct. 21.—The bank at Dane Station was robbed last night by a trio of safe robbers, who took money and notes in the vault. No trace of them has been found. The amount taken is not stated.

GUEST OF ROOSEVELT.

Marquis of Ito Was Entertained at the White House.

WASHINGTON, Oct. 21.—The distinguished Japanese statesman, Marquis Ito, was the guest of President Roosevelt at luncheon today. The Marquis called at the White House earlier in the day to pay his respects to the President. He was escorted by the resident Japanese Minister, Mr. Takahira, and by Mr. Tsudzuki, formerly Vice-Minister of Foreign Affairs of Japan, but at present acting as one of the secretaries to the Marquis. The President gave his visitors a cordial welcome. The Marquis speaks English with facility, as does Mr. Tsudzuki. The President was much interested in their conversation. Having been Prime Minister of Japan several times, and especially during the war with China, and having taken a leading part in the establishment of constitutional government in Japan, Marquis Ito is particularly well informed on topics in which the President is interested.

Mr. Tsudzuki, who is also a member of the House of Peers of Japan, and a man of strong character, is giving special attention to financial, industrial and commercial conditions in the United States, and has observed many things of interest even in the short time he has been in this country, so he was also able to add his share to the interesting conversation with the President.

It was the desire of President Roosevelt to give a dinner in honor of the visiting Japanese, and, indeed, he pressed the Marquis to accept an invitation to a dinner October 26, which is the earliest date that a formal dinner would be in order at the White House. The Marquis was obliged to decline this invitation, as it would conflict with his engagement to attend the Yale bi-centennial.

With the President and Marquis Ito at luncheon were Secretary of State Hay and Mr. Tsudzuki. After leaving the White House the Marquis and his secretary called at the State Department and paid their respects to Secretary Hay and Assistant Secretary Hill.

A Sicilian Murder Trial With 600 Witnesses.

London Telegraph.

Milan.—An important murder trial, which is arousing the utmost interest throughout Italy, commenced this morning at the Bologna assizes. Four out of the five accused are uninteresting types of Sicilians, but the other one, on the contrary, is a former member of Parliament, and a manager of financial establishments. He is rich, and has the reputation of having exercised for many years past a great influence in Italian Parliamentary politics.

Il Commendatore Palizzio is a Sicilian, and he is charged with having planned and ordered the murders of the landowner, Micell, and Baron Notarbartolo, which, it is alleged, were committed by the other four accused, more than one of whom was his dependent.

Micell was killed in July, 1892, near Palermo, by two shots. Notarbartolo, when traveling in Sicily in February, 1893, was thrown out of a train and crushed to death. Several persons were arrested at the time, but were soon released on the ground that such poor and obscure men were unlikely to have had any interest in the tragedy. Notarbartolo, it may be pointed out, was a very important gentleman, a director of a Sicilian bank, a scrupulously honest citizen—in fine, one of the noblest Sicilian figures.

Palizzio was charged by public opinion with being the author of the crime, so far as instigation was concerned, and the magistrates at last took a bold course of ordering his arrest. It is alleged that the accused saw in Notarbartolo an insurmountable obstacle to his speculation with money belonging to the Sicilian bank, and it is charged also, that he used his influence as a deputy to cover a great deal of dishonest work.

There are 600 witnesses in the case, and many counsel have been retained. It is expected that the trial will last over three months. At the opening proceedings the court was crowded, and the greatest interest was shown by the general public.

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Most excellent reports of the wonderful work that Malt Breakfast Food is doing for growing children come to the notice of the manufacturers every day. Many fathers and mothers declare that their little ones look more eagerly and anxiously for their dish of Malt Breakfast Food each morning than for anything else. All the children relish it, and find it delicious and appetizing. Malt Breakfast Food is giving in every instance the happy results that careful parents look for—increase in flesh, purer blood, brighter eyes, and greater bodily strength. We strongly advise parents to adopt the use of Malt Breakfast Food if their children are not showing evidence of healthy growth. For a supper dish it is equally valuable. Grocers everywhere.

WELCOMED THE RUSSIANS.

Pretty Little Tale of the Gratitude of the "Bear."

London Telegraph.

The Russians have always been celebrated for their courtesy and hospitality, and a curious example of these attributes has just occurred in Constantinople. Many years ago some English children living in a house in a prominent position on the Bosphorus used to wave to an officer on a Russian volunteer ship whenever she passed. Gradually other Russian vessels took it up till every naval or volunteer ship made a point on passing the house of whistling until someone came out and waved. As the children in time grew up the custom was dropped, until one day the Russian Ambassador, Mr. Nelloff, sent a message, asking that it might be continued, as all the Russian sailors thought the welcome brought them good luck, and looked forward to it on arriving or leaving the Bosphorus. So it began again, the Russian Ambassador himself being most particular never to pass the house without exchanging the usual salutations.

Curiously enough, during the many years this had gone on, the Russians had never met any of the English family. Last week, when the Grand Duke Alexander Michaelovich was passing down the Bosphorus in the gunboat Tobernomoritz, the captain asked his permission to whistle as usual, and the Grand Duke entered into the proceedings, waving heartily himself. On finding that none of the officers were acquainted with the English family, he told them they ought to call and thank them, and do something to show how much they appreciated the welcome. Two or three days afterward a deputation of officers in uniform arrived at the house and begged the ladies to spend a day on the gunboat. When they went they had a most enjoyable time, and were entertained in the most royal manner by the officers and their wives in the ward room, the captain and his wife being guests also. After dinner the captain made a speech and referred to the friendly salutes, which, he declared, had cheered many a sailor's heart when going out into the Black Sea, and helped to generate a kindly feeling toward the whole English Nation.

American Progress.

New York World.

In the period of a little more than 38 years the Republic has—

First—More than doubled its population.

Second—More than trebled its wealth.

Third—Multiplied the yearly value of its exports by four.

Fourth—Nearly doubled the yearly value of its imports.

Fifth—Enlarged the Union by adding to it nine states and three territories, including Alaska, with an area of nearly 600,000 square miles.

Sixth—Increased its yearly production of cotton by 228 per cent, of wheat 121 per cent, of corn 92 per cent.

Seventh—Multiplied its railroad mileage by four.

Eighth—Gained the first place among the coal, iron and steel-producing nations.

Ninth—More than trebled its annual outlay for public schools, paying nearly $150,000,000 for teachers' salaries in 1900, against $38,000,000 in 1870.

Tenth—Multiplied by four and something over the amount of its savings bank deposits.

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