

NEW TRIAL GIVEN

Supreme Court Reverses Verdict on Burton.

DECISION NOT UNANIMOUS

Counts Relating to Place Where Senator Received Money Are Found Untrue—Judge Erred in Charge to Jury.

WASHINGTON, Jan. 16.—The cause of Senator J. R. Burton was decided by the United States Supreme Court today, dismissing the writ of certiorari to the Circuit Court of Appeals for the Eighth Circuit, and reversing the verdict of the District Court for the Eastern District of Missouri on the ground that the payments to Burton were made in Washington. The District Court was thereupon reversed and the case remanded for a new trial.

The opinion was handed down by Justice Peckham, who took up the various counts and recited the conclusions, as well as the divisions of the court, as follows: First—The question of the construction of the statute upon which this indictment was framed is the first to arise. Upon that question a majority of the court (Justices Harlan, Brown, McKenna, Holmes and Day concurring) is of the opinion that the facts alleged in the indictment show a case that is covered by the provisions of the statute, while the Chief Justice, Justice Brewer, Justice White and the writer of this opinion dissent from that view, and are of the opinion that the statute does not cover this case as alleged.

Where Lower Court Erred.

As to the sixth, seventh, eighth and ninth counts of the indictment, the court finds that the payments to which the different checks were received and paid were not true. The checks were received in Washington, endorsed by Senator Burton and deposited in the Riggs National Bank, in this city. This constituted a payment in Washington, and not in St. Louis, where the checks were afterward paid by the Commonwealth Trust Company, and the decision states that "the court in Missouri had no jurisdiction to try the offenses set forth in these counts of the indictment already referred to."

In the case at bar the proof was not disputed. The checks were passed to the credit of defendant unconditionally and without any special understanding. The custom of the bank to forward such checks for collection is a plain custom to forward for collection for itself. The only liability of defendant was on his indorsement. All this made a payment at Washington, and as a result there was a total lack of evidence to sustain the sixth, seventh, eighth and ninth counts of the indictment. The court should have, therefore, directed a verdict of not guilty on those counts under the statute.

Error in Charge to Jury.

The court also found error in the refusal of the District Court to charge as required when the jury came into court and announced its inability to agree. The failure to charge as required was because the presiding judge considered the points were objections of law, but it afterwards appeared that the points had a bearing upon the jury's consideration of the case. On this point the decision says: "Balanced as the case was in the minds of some of the jurors, doubts existing as to the defendant's guilt in the mind of at least one, it was a case where the most extreme care and caution were necessary in order that the legal rights of the defendant should be preserved. Considering the attitude of the case as it existed when the jury returned into court for further instructions, we think the defendant was entitled, as matter of legal right, to the charge asked for in regard to the points in dispute. The charges, which had been granted by the court under the circumstances stated, and it was not a matter of discretion whether the jury should, or should not, be charged as to the character of those requests. A slight thing may have turned the balance against the defendant, and the points in dispute shown by the record, and he ought not to have longer remained burdened with the character of those requests. The instructions, made by the court, and when he asked for the assertion by the court of the materiality and validity of the instrument which had already been made, the court ought to have granted the request."

No Injustice to Burton.

Justice Harlan dissented from the opinion on both points on which the lower court was reversed. He held that the failure of the court to give the instructions required did not deprive Mr. Burton of any substantial justice, and on the other count contended that the matter of the checks in Washington was merely Burton's agent in collecting money on it. "It seems to me," he added, "that in reversing the judgment upon the grounds stated, the court has sacrificed substance to mere form."

New Trial at St. Louis.

The trial under the indictment charging Senator Burton with receiving a cash payment at St. Louis will proceed immediately at that place. The Department of Justice has not yet considered the question of the trial place, the indictment alleging payments in this city. It is possible the statute of limitation may operate against it.

The Timber Resources of America.

W. Frank McClure in the December Book-Journals Magazine. Across the Great Lakes in Canada there lies one of the world's largest reserves of timber. In spite of the tariff imposed, much of this timber is today coming to the United States. The forests of the Dominion are beginning to yield abundantly. More than 1,000,000,000 feet of pine sawlogs and square timber, during a recent season, were cut upon territory held under timber license from the crown. Much of Canada's timber land has not yet even been explored. In the newly developed districts of Alberta, which are close to the Great Lakes, it is estimated that there are more than 100,000,000 cords of spruce and pine wood, while in the districts of Thunder Bay and Rainy River there are nearly 20,000,000 cords more. A belt at least 300 miles long is believed to exist in Canada between Alaska and the Atlantic.

LOGS UP A NOTCH

Yellow Fir Goes Up to \$7.25 a Thousand.

MORAL SURGERY

Recent Case in Indianapolis Attracts Wide Attention.

Boston Transcript. When surgery can be depended upon in any considerable number of instances to correct not merely physical but also mental defects and moral abnormalities as well, the achievement may be regarded as the coronation of the many triumphs it has won during the last half century. A science develops this may not be too much to hope for, especially as it seems to have been already accomplished in the capital city of Indiana. The story is told of Jesse Beard, a lad of 15 years of age, who manifested a violent temper and criminal propensities. He was disobedient to his parents and detested the discipline and instruction of the schools. He ran away from home, and when upbraided threatened to kill his mother and sister. He showed tendencies somewhat similar to those that have since become notorious; but, fortunately, science took him in hand before those tendencies had expressed themselves to the same deplorable extent.

Finally he was brought by his parents before the Juvenile Court as an incorrigible. The chief probation officer was a woman and very likely a mother. At any rate, she took an interest in what seemed a desperate and hopeless case, and had the boy taken under an expert for examination. Investigation disclosed the fact that when 3 years old he had fallen into a trench, his head striking some timber, after which he was quite ill, and was threatened with brain fever. Following this lead, the surgeon located the old injury, and trephined the skull at that point, disclosing a fracture and brain depression, with chronic inflammation of the brain covering. The pressure was removed and the brain restored to its normal condition, since which time the subject has shown an entirely different disposition. He has become kind and obedient, and anxious to take up for the opportunities he had previously thrown away.

A couple of years ago Dr. Lorenz created an agreeable sensation in this country by his skill in straightening out deformed limbs among children; but how much greater would be the social benefit if deformed brains could be set right. We do not look for the time when science can make a wise man out of a congenial idiot, but there may be many cases in which accident has had a share for which science opens up a way of salvation. In fact, the doctor who operated upon the Indiana boy claims that the deformity of the skull should be corrected by artificial means soon after the child is born. "The skull can be shaped with safety any time within ten days after birth."

There may be a belated and unintentional recognition here of the claims upon which phrenology is based. There are cases of crime in which it might be more just and more humane to turn the offender over to the expert surgeon than to the executioner. The last hanging in Connecticut, we believe, was of a boy 18 years old, who had committed a murder for no reason that he could give or trace but for the fact that he was the son of his ancestors. Yet among the line of his ancestors, for two generations at least, epilepsy and habitual drunkenness were the distinguishing characteristics, and he had manifested merely hereditary traits, but the law had made no provision for these. Probably the Indianapolis boy would sooner or later have come to a similar end had he missed the good fortune to adopt for the attention of those with more advanced ideas, and the sympathies than the common. The suggestion opens up a great field for science, philanthropy and humanity.

The Moon's Craters.

Waldemar B. Koepffert in December Booklovers. If there are craters on the moon that are being built and extinct they must expect something. Judging by the discharges of our earthly volcanoes, that something must be water and carbonic acid gas. Water cannot possibly exist on the moon, for the temperature of the moon's surface during the long lunar night is probably no far from 460 degrees below the zero mark of a Fahrenheit thermometer. Ice and snow are the forms, then, which lunar water must assume. Is there any evidence of it? Hundreds of "craters" are lined with a silver coating that gleams dazingly when the sun shines full upon them. Capturing the solar rays, the same silver glow may be seen. On the slopes of the greater mountain chains, on the ramparts of huge craters the silver sheen casts its halo, fading away strangely as the sun rises higher and higher, and reappearing at sunset just before the long, cold lunar night sets in. From many of the craters, notably in the southern hemisphere, spread out for hundreds of miles—originally in the old moon of a generation ago, but in the new moon of today deep crevices illuminated only when the sun is high in the lunar heavens. What is this silvery substance that caps the Apennines of the moon, gleams on the slopes and radiates from the craters? According to the new school it is simply ice and snow, collecting at the poles, on summits, and in the very places where it ought to collect. Moreover, it partly explains the curious changes that occur at different times of the moon's stay in the sky of the crater Linnæ, the "very small, round, brilliant spot," previously mentioned; it explains the illumination of deep, snow-bottomed pits and abysses that are irky black at sunrise and sunset, and brilliantly white when the sun shines directly into them; and it explains the fading away and reappearance of white stains at different periods in the lunar day. The melting and falling of snow, the disappearance and reappearance of hoar frost, alone can account for these changes. In old descriptions they are said to be due to variations in illumination; in the philosophy of the new moon they are attributed with beautiful simplicity to the alternate evaporation and freezing of the water expelled from craters in eruption.

Courts'p and Its Coat.

Atchison Globe. A young man sued a girl in another town recently for breach of promise, estimating in the bill for damages that his time spent in courting her for three months was worth \$50. Statistics will show that the young man exaggerates his value. "Perhaps my employer doesn't give him \$5 a month, and if he worked all day and all night he couldn't earn \$75. If he were not in the girl's parlor he would be on the streets loafing, and getting into vicious company. The time spent in courting was undoubtedly wasted, but it was wanted without any more lasting effects than a scratch on the young man's conceit. His heart may have been touched, but it is doubtful if his pocketbook was. The New Jersey courts have taken up the matter of courtship costs as little as \$20. The average cost is only \$10, and the average duration is 15 months. The young woman could make more by earning her \$20 a month, and if he worked all day and night he couldn't earn \$75. 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