The Oregonian

Entered at the Postoffice at Portland, as second-class matter. REVISED SUBSCRIPTION RATES. mail (postage prepaid in advance)— with Sunday, per month. with Sunday accepted, per year... with Sunday, per year... nuay, per year s Weekly, E months tily, per week, delivered, Eunday ex-mented .15 Daily, per week, delivered, Sunday in-

EASTERN BUSINESS OFFICE The S. C. Beckwith Special Agency-New York: Booms 42-50, Tribune building. Chicago; Rooms 510-512 Tribune building. The Oregonian does not buy poems stories from individuals, and cannot underta to return any manuscript sent to it with

ditation. No stamps should be inclosed this purpose. KEPT ON SALE. Chicago—Auditorium Annex; Postoffice lews Co., 178 Dearborn street. Denver—Julius Black, Hamilton & Kend-rick, 205-912 Seventeenth etreet, and Fruenut Bros., 605 Sixteenth street. Kansas City, Mo.—Ricksscher Cigar Co., Ninth and Wal.

inth and Walnut, Los Angeles—Harry Drapkin. Onkland, Cal.—W. H. Johnston, Four-centh and Franklin streets. -M. J. Kavanaugh, 50 South Third: L. Regelsburger, 217 First avenue

York City-L. Jones & Co., Astor Ogden-F. R. Godard and Myers & Harrop. Barkalow Bros., 1612 Farnam; Stationery Co., 1308 Farnam.

Suit Lake-Salt Lake News Co., 77 West Second South street San Francisco—J. K. Cooper Co., 746 Mar-kei street; Fosier & Crear, Ferry News Stand; Geldsmith Bros., 236 Sutter; L. E. Lee, Palace Hotel News Stand; F. W. Pitts, 1005 Marks Frank Scott, 80 Eilin; N. Wheatley, 83 Steven o; Hotel St. Francis News Stand. Washington, D. C.—Ebblit House News

PORTLAND, FRIDAY, FEBRUARY 8, 1905

THE ONE ARGUMENT.

One plausible argument is continually offered for the ship subsidy bill. It is the argument that we must have a Navy, but can't have an efficient Navy unless we have a school for seamen, and the best school for seamen is a large merchant marine. A corollary is that a Navy cannot be served in time of need without a merchant marine, to be drawn on for help in the transportation of coal, troops and supplies. This double argument is forced at all times. and now especially in the report of the Merchant Marine Commission of the House of Representatives. There is weight in it: but we are not so deficient in merchant vessels that could be used in time of need as the report would

It is not true that our merchant flag has "disappeared from the high seas." On the contrary, it is true that we have more merchant tonnage on salt water than we had in the "palmy days" of our shipping, so-called, fifty years ago. It is true, however, also, that since then every National interest and energy have far outgrown our activity and equipment in merchant vessels on the seas. On both Atlantic and Pacific there are fleets of steamers under our flag which, while not large aggregations in themselves, have a carrying capacity vastly in excess of that of double or even treble the number of clippers whose names are in the public mind associated with the period of our assumed highest prestige on the great

From the latest return of the marine gregate tonnage of all classes under the American flag was-at the close of fiscal year. June 30, 1904-at the highest figures it ever touched, namely, in their present locations, 6,291,535 tons, or 1,488,633 tons more than in 1854, when we are commonly said to hold her supremacy of the seas. From 1854 until the opening of the Civil War the aggregate, despite some fluctuations, as a whole increased, until in 1861 It stood at 5,539,813 tons. With the progress of that conflict it declined until in 1886 it touched 4,210,778. Thenceforward for the next fifteen years its progress was downward, until in 1881 it came near the 4,000,000 mark, the

of that year being 4,057,734 tons. In case last two decades the tendency has been upward, but only accentuated markedly since 1898, when we had 4,864,238 tons of merchant shipping against the 6,291,course, include the coastwise trade, from which foreign flags are excluded by law, and therein the greater part of the gain has been made.

Our tonnage, however, in trade over seas lags badly. It is not likely to rise, unaided, to its former proportions soon The question is whether it should have the subsidies demanded. The weakness of the demand, merely for the purpose of forcing domestic tonnage on a creater scale into the ocean carrying trade, is admitted; for the ready answer is that if shipowners of other countries can carry our trade so cheap, why, let them do it, and we will do something else, more profitable to ourselves. That we could do and have been doing other things with more profit is attested by the fact that all other activities have increased at a vast rate, while the progress of our shipping has been slight and small. We have had a vast continent to bustle in. Profits everywhere could be made out of the prodigality of Nature, and in all other directions on this continent more money could be made than by building ships and salling the seas. Hence our maritime interests have not grown in proportion with others; but we shall return to the seas as soon as we shall have exploited opportunities on land.

ing now. The question is whether our shipping should now be stimulated by subsidies out of the National Treasury. The only argument for it is based on the assumption that such policy is necessary for support of our navai power. Whether we shall have use for naval power no prophet can tell-or when; but there is rooted objection to subsidies, and strong disposition to believe that in any emergency we should be able to support any Navy we may have, through natural growth of the merchant marine.

hauling building material from the mills and other places of deposit in this city to the suburbs are overloaded is shocking to the common sensibilities of human nature. Willing horses, strain-pleasant one. To these, however, who ing every nerve and muscle in their bodies, move these almost impossible loads along the streets daily, almost hourly, in fact, their patient endeavor relatively very few of these in Gregon, to detail the symptoms before the Coun-The drivers, to their credit be it said, are in the main humane, making the task as easy as possible with the enormous load, for the poor ani- Middle West. That there are some

mais. Remonstrance upon this subject is due somewhere. Most likely at the lumber vards and sand and gravel depositories, where the wagons are loaded to the last ounce that they will bear for transportation. Surely horses are not so scarce or drivers so few that it is necessary thus to overload teams in order to meet the demands of building now in progress. This plea for the voiceless is entered in the hope that it will reach those who are responsible for the cruel overloading of draught horses so common in the fuel and building material business in this city.

EASY VIOLATION OF LAW.

The foresight of the framers of the Oregon constitution was remarkable, Human nature is the same in all ages and conditions. Communities, like individuals, think of themselves first and the state afterwards. Public interest must give way to private advantage. Because they knew their fellow-mar the wise men who gathered at Salem in 1857 to frame a state constitution caused to be inserted in that document the following exact and unmistakable clause:

All public institutions of the state hereafte provided for by the Legislative Assembly shall be located at the seat of government.—Section 3, article 14, constitution of Oregon.

No possible doubt can exist as to what this provision means, nor as to what the constitution-makers undertook to do. They sought to estop in the beginning the dangerous and debauching practice of legislative logrolling. It was definitely intended that all institutions conducted under the direction of the state and supported by public taxation should be located at the seat of government. This plain mandate was violated when the State University was located at Eugepe, the Soldlers' Home at Roseburg, the State Agricultural College at Corvallis and normal schools at Monmouth, Drain, Ashland and Weston. No plea that the constitution does not mean what it says can possibly be pleaded in extenuntion of the action of Legislative As semblies which apparently thought that the capital was getting too much financial consideration from the state and undertook to distribute and expend the state funds at other points. Nor can any one successfully undertake to say that the State University, or the Normal Schools, or the Soldiers' Home, are not state institutions. The Supreme Court has passed upon that precise question in the well-known case of State vs. Metschan, when it held that "an insane asylum is a public institution, and the Legislature has no power to provide for the establishment and maintenance of one at any other place than the capital." This finding of the effort to locate a branch asylum at

Union, in Eastern Oregon. It follows as a necessary deduction that the Legislature has no power to provide for the establishment and maintenance of a Normal School, or a State University, or a Soldiers' Home. or an Agricultural College, at any other point than the state capital. If, therefore, any interested person should sue out an injunction against the State Treasurer to prevent him from paying over to these institutions the priations made for them, or either of them, by the Legislature, no question can exist as to the action of the courts. We should find that the funds which are being unlawfully diverted by the Legislature to the support of institutions located in defiance of the constitution would be withheld from every one of them. The consequence would be that the Legislature would of necesstatistics of the United States the ag-Salem or submit an amendment to the of the full court of five Judges in veyed a misapprehension of his opinfor them to receive and expend funds

The Oregonian is not surprised that advocates of a new constitution, who have pushed Great Britain hardest to have been very much in earnest in their plans for a convention, are indignant that they have been defeated, in part at least, by members who seem to fear that Normal Schools and be required to give bonds for damages other institutions might by another organic law suffer a discontinuance of state aid. It is not easy to follow the days from the date of his decision. The precise line of reasoning adopted by these gentlemen, but probably it was something in this fashion: The present constitution is good enough for us because no one has ever complained when it was violated for the benefit of our respective communities. We do not know what a new constitution might do to us. It might cut us off; it might break up our successful logrolling, or it might otherwise make it difficult for us to work our fat schemes through a Legislative Assembly. The old constitution is impotent; a new constitution might be potent, because, just for the novelty of the thing and because the people undersood its provisions, there would be a disposition to enforce it.

The original constitution-builders of Oregon feared long years of logrolling, a general application of the "youscratch - my - back - and - I'll - scratchyours" policy by succeeding Legislatures, and they endeavored to stop it; but, having a high sense of the sacred importance of their mission, and the inviolable character of their duty to the state, they never dreamed that any mandate solemnly placed by them in the constitution would be regarded as merely a jest and byword by members of any Oregon Legislative Assembly.

A TOUCH OF WINTER.

The touch of Winter brought by February to the people of the Willamette Valley has given some discomfort to persons whose work is out of doors. It has also occasioned some grumbling among the class who find in the weather a fruitful and ever-present That condition seems to be approach- cause for personal grievance. It is true that, by comparison with the customary rain that is borne in on the balmy or even brisk breath of the south wind, a sharp wind, from the east, spitefully people complain let them extend the comparison between conditions designated by the official statement of temperature in Portland: "Maximum, 29 degrees; minimum, 34 degrees," with the record of 25 degrees below zero in from the pulpit that the City Council Iowa, 14 below in Michigan, 20 to 30 below in Wisconsin, 36 to 46 below in Montana, 38 below in South Dakota, 14 being a lawyer, is understood to be also humane war, though there may be hubelow in Kansas, 22 below in Illinois, 9 a qualified physician to bodies as well mane methods in warfare. below in Missouri-but why continue? fortably clad and with well-stored cellars, cold weather is merely an incident upon each day to supply its own needs, the case is quite the reverse. There are and-barring sickness, which paralyzes endeavor-there is no reason why there should be any of this class, so numer-

ous in the large cities of the East and

such even in this favored city the reports of the City Board of Charities and the officers of the Salvation Army from time to time show. To these the wind blowing out of the east brings dismay, and, if continued for even a few days, suffering. We may well believe no one in Portland will suffer unrelieved the pangs of hunger or the cruel pinch of cold during what promises to be the brief continuance of the "February cold Their necessities commend them to humanity, even though their lack of prudence and forehandedness is responsible for their condition. The effect in such cases must be dealt with mercifully, since it seems to be impossible to deal with the cause effectively In the meantime, it becomes us to be duly thankful for a climate in which an east wind and a snow storm are but occasional vagaries, and for opportunities whereby theift and industry may compass the comforts of life re gardless of weather conditions.

JUSTICE TO PEOPLE AND RAILROADS. If all thought of secret rebates, private regulations and furtive discriminations may be put aside for the pres ent and the criminal law be applied to these matters, then all other ques tions between the people and the railroads may be classed under unjust and unreasonable rates and regulations.

An infinite variety of conditions her ome into play. Rates and terms may be affected by locality in general also by classes of raw and manufactured products to be transported, by the origin and destination of the traffic, by the speed and terms of its delivery, by the division of the rate between the roads making up a through line, by competition between terminal points; and the list is not exhausted. But locallty is the essense of the matter. Facts should be locally ascertained and put in shape for adjudication. And, justice will be rendered quick and effective, if the tribunal is carried to the place and the people.

Appeal from a lower court must be speedy, easy and final except in extreme cases, where the Constitution of the United States justifies a further ap peal to the Supreme Court. The problem being so stated, the following solution is suggested:

Let the Interstate Commission be reinforced by additional members, possessing special qualifications as experts in transportation affairs. Let the Commission hold sessions in circuits covering the United States at frequent intervals. Let the functions of the Commis sion be two; the first, settlement by ar bitration of disputes. So will the greater part of the difficulties disappear. President Spencer, representing a large number of important railroads court came as a consequence of the before the committee on commerce stated the other day that 90 per cent of the cases taken to the Commission are settled before hearing is had. Sec ond, at the hearing let the facts be ascertained, evidence taken and a record made up; and this to have official character. For these duties one Commissioner would suffice. Any questions as to evidence and of law may be reserved for the Court of Commerce. Let us ac cept the constitution of the Court of Commerce suggested by the Hephurn committee. But still further let the court be strengthened in number of Judges until circuits can be arranged which shall follow the Commissioners' Court before described. One Judge can hear the questions submitted by the Commissioner on the facts shown in the record, and on the law applicable to such facts, his decision to be binding at the end of 30 days. Let the Judge's decree be considered final unconstitution that would make it lawful Washington quarterly could doubtless dispose of the appeals. A roster of the Circuit Judges could be arranged to constitute the full court without impeding the work of the circuits, no Judge

sitting on appeals from his own decis ions. Judge's decision to the full court should unless the carrier conformed to the rates the Judge prescribed within 30 right of appeal to the Supreme Court on constitutional questions only should be reserved, the bonds of the carrier pending such appeal being held good. In outline the plan here sketched would by the submission of all questions to the Commissioner for ascertainment of facts provide for expert work at the beginning, as the Commissioners should have expert qualifications. hearing by the one Circuit Judge would enable legal principles to be applied to the case by a Judge versed in these special questions. Easy and prompt appeal would be provided to an Appeal Court, whose decisions would command universal respect. The criminal cases first referred to, arising from secret rates, rebates and discriminations, would go to the full Court of Comfor trial. Cases would be brought before the Commission by the parties directly interested. The assumption of control by the Attorney-General or his appointee would only be required where recourse was had to him by the plaintiff voluntarily, or where a representative case was raised involving general importance. even in cases where the Attorney-General's help was invoked or was necessary in the public interest, he would represent the parties plaintiff, not the Commission or the court, as has been suggested at Washington. The courts through the whole series of events should hold the scales of justice between the parties complaining and the common carriers whose acts or neglects are complained of. ,

INHARMONY AMONG PUBLIC MEN. Harmony is a blessed thing, but even harmony will grow monotonous. Therefore an inharmonious passage of arms between the Rev. M. A. Matthews and the Seattle City Council comes as a welcome diversion to those weary of beholding the bull lie down with the bear and the lion with the lamb. Mr. Matthews, who has a Snoqualmie flow of language, recently declared showed "symptoms of graftitis." As the reverend gentleman, in addition to To thrifty people, well housed, com- is readily intelligible. The City Council heard of this charge from the pulpit -indirectly, in all probability-and said live from hand to mouth, depending tion to utter such baseless calumnies upon a body of honorable public servants. Mr. Matthews promptly offered cil itself, greatly to the surprise of the Council, and the Council accepted the offer, greatly to the surprise of the public and perhaps of Mr. Matthews. The challenge having thus been ac-

cepted, the lists were set in the Coun cil chamber, and before a cheering crowd of citizens Mr. Matthews read a statement giving a score or so of the 'symptoms of graftitis," He did not accuse the Council of graft. By no means. He merely cited indications that led him to believe "graftitis" had affected the honorable body. Matters of roofing contracts and other things that are doubtless of considerable interest to Seattle taxpayers were mentioned. Having read his communication, Mr. Matthews disregarded an urgent request to enter into a discussion and left the room.

With the departure of Mr. Matthews President Gill, of the Council, rose to make a few remarks. After pleasantly referring to the elongated minister as a 'dog, who used to run a nigger crap game in Tennessee," Mr. Gill made a few reflections upon the ancestry of Mr. Matthews, and stated that the minister would now be in the Penitentiary were it not that the proceedings would have dragged in the mire the name of a 14-year-old girl. A few more remarks of this nature and Mr. Gill was followed by Councilman Bowen, who had something to say on the subject of Mr. Matthews' personal appearance: Take Mr. Matthews' personal appearance: If you should meet him on the streets of Tacoma or Portland with his loog hair and loog-tailed coat you would ask: "What sort of graft You would say he was either a corn doctor or a patent medicine vender. Yo would not be surprised to see him take start a three-dice game. I ask his people t stigate his own character.

The bearing of this upon the question before the Council is not exactly clear, but it is interesting to note that Mr. Gill will not worry over the description of his and the other Councilmen's symptoms. His life, he said, was an open book. Mr. Matthews, on being informed of the charges against his character, also declared that he would not worry over them, and added that his life was an open book. Thus there are two open books, side by side, but it does not seem to have been decided yet how much of either Seattle will

An exceedingly distressing and pathetic accident was that which occurred near Hornellsville, N. Wednesday evening, in which women belonging to a Church Aid Society were killed by the collision of the bobsled in which they were riding with a railway express train. would think that a knowledge of the train's time in passing through a semirural section would have prevented this catastrophe, which took place in the growing dusk of the Winter evening. The merrymakers were, however, obvious to the danger of the passing train until it was upon them. The result was the loss to their homes-all being married women-and to the service of the community of half a score of earnest, energetic women. Such catastrophe is far-reaching in its effects as well as incalculable in the sorrow that it brings upon the home, and is to be deplored accordingly

The effort started by benevolent cranks to confer on the State Reform School some other title than its fit and proper name has falled in the Oregon Legislature and even the Multnomah Senator who introduced the bill to name the institution "State School for Boys" turned against it. The remarks of Senator Haines, of Washington County, just before the bill was laid on the shelf, went to the heart of the matter and made plain talk coincide with common sense. Inasmuch as Senion, The Oregonian takes this opportunity to correct the error and to commend his remarks for their sound pre-

cept. The Oregonian has no war to make on the State University or the Agricultural College, or on any one normal school as against another. It simply sees, as all persons see who will see, that the educational standard of all these institutions has been lowered-or rather kept down-by wasteful appro priations to too many schools. What it wants to see is the humbug of the whole business exposed, and a return to proper economy and constitutional methods. If these schools must stay where they are, then by all means let us own up that we don't care anything about what the constitution says; or, if

we do care, then let us change it. While a war is raging upon the bor ders of her "administrative entity." China is evidently making progress in commercial directions, for it is now an nounced that an advertising campaign is to be instituted in behalf of green tea. The gullds which control the green-tea trade of China have experienced a loss of business of late years largely attributed to the aggressive advertising of the Ceylon teagrowers. United States Consul Anderson estimates that nearly one million dollars has been spent in advertising Ceylon tea, and the Chinese merchants have begun to realize that they must pursue similar methods.

There is no excuse in business looking even remotely to the public interest for the proposed junket of Councilmer to Los Angeles and other California cities. Certainly there is none that can be offered in the name of any present public utility or necessity. The junket, if indulged by members of the City Council at the expense of any fund in the city treasury, will be in the nature of a common hold-up. The term "graft" will not cover it. The money is there; they want it, and they propose to take it.

A terrible consequence of the recent fighting in Manchuria is the freezing to death of the wounded, left on the field without prompt attention. In the nature of things it could not be given. But what is to be said of the humanity and consideration for his troops show: by a General who insists upon precipitating a fight in bitter cold weather? It means almost certain death for such wounded as cannot take care of themselves. But there is no such thing as a

The Drain Normal School two years ago received a state appropriation of \$25,000. Last year there were two (2) graduates. Comment would be superfluous.

Sviatopolk - Mirsky's administration, says the St. Petersburg Russ, was a "ministry of good intentions." And as usual, good intentions paved the road to Avernus.

Generals January and February ap- lower class is in favor of legislation pear to have turned traitor to Russia. prevent the upper class from drinking.

NOTE AND COMMENT.

Joseph wasn't altogether a fool, Neither, it appears, is Mr. Heney.

Indictments seem to fall more plentifully than snowflakes in Oregon. It remains to be seen how much longer they will be in melting.

We used to believe Cupid was a boy, but current magazine illustrations leave us in doubt on the subject.

Dorothy Russell's runaway match ends, like so many others, in a suit for divorce, with allegations of bickerings and even beatings. An elonement is an invaluable thing to romancers, but in real life it is usually of greatest value to the

It is the little scraps of news that have most interest for us. Tomorrow we forget how many strikers were killed in Riga, or what the Little Father said to his big children, but we remember with interest such scraps of news as affect us more intimately. In one issue of an exchange we read, for example, that a farmer in Buckinghamshire has a goose which has been laying eggs for the last 50 years. Eggs are more familiar than bombs, and we take a great deal of interest in a bird that has been engaged in increasing the visible supply for half a century. Then in another column we read that Mrs. William Boyd, of Miller, S. D., killed 29 jack-rabbits at one shot from her kitchen window. The rabbits had been coming the farm in droves, and Mrs. Boyd bet her husband that she could kill more at one shot than he could carry on his back in one load. A bushel of oats sprinkled on a path brought a row of rabbits in line, Mrs. Boyd pressed the trigger and the gun did the rest. She won the bet, and will have the skins tanned to make a coverlet for the baby-sort of a Baby Bunting stunt. Perhaps the slight exercise of the imagination necessary to enter into the spirit of both these stories has something to do with their effect.

The Chinese New Year must think he has butted into a very noisy old earth.

One Edward Clarkson recently challenged Winston Churchill to a duel, with fists as the weapons, and Parisian authorities upon the code of honor are much perturbed by this innovation. A Duke, who has acted as second in more than 200 "affairs" and has even writ ten a book on the subject, thinks the idea would perhaps be tolerable in England, where boxing is a sport, and where the inhabitants have not risen to the niceties of the French procedure but on the other hand a Parisian who has fought 30 duels, crushingly says that "coachmen might fight such a duel, perhaps, but gentlemen never." The latter view is undoubtedly more in keeping with advancing civilization. To receive a fist in the eye is unpleasant to the verge of being painful. whereas a bullet purges one's honor without hurt.

permission by a Chicago court to change his name. His attorney's name

It's about time Poet and Tyrant-hater Swinburne began to pipe up.

The editor of the Livingston, Kv. Democrat must be feeling blue. He declares with heat that "man is the ticket. only creature of God's creation that delights in the misery of his fellow creatures," and goes on to say that the cry of a pig in distress will call to its rescue all the other pige within hearing, "but nothing will call forth a haw! haw! haw! horselaugh quicker than to see his fellowman suddenly sit walk or stub his toe and fall headlong in the street." Too true! The editor must have been unlucky enough to stub his toe or to slip on the ice, and he still resents the shouts of laughter that greeted his unfortunate experience. He should cheer up, however. He will be able to laugh heartily himself when some poor fellow's hat blows off and goes hurtling down the street. Besides the editor should remembe that his fall, while unpleasant to himself, was the source of great amuse ment to others, and the greatest good to the greatest number should be a doctrine dear to the heart of a Demo crat. Charles Lamb once lost his hat, or stubbed his toe, or something of the kind, and his predicament made a sweep laugh so heartly that Elia wished he could have amused the man longer. He forgot his own vexation in the enjoyment of the other. All should follow his example-if they can.

Apparently the editor of the Telegram was the "man under the bed" in Dr. Brougher's series of sermons. WEX J.

The Wrongs of Poland. New York Evening Post. Whether it be riot or revolution that

St. Petersburg is facing, the meaning of

the outbreaks in Poland and Lithuania is not in doubt. The Poles are watching their opportunity, and Nicholas II, in hiding, as was his father 22 years ago will have to emerge to grapple not only with liberalism and nihilism and anarchy, but with what is an even grimmer specter in the eyes of Russian autocrats-the Polish question. The horrors of the insurrections of 1831 and 1883 are still unforgotten in Warsaw, as in St. Petersburg, and the Poles of Lithuania, Podolia and the Ukraine have a list of grievances almost as long as that of their brethren in Poland. It is everywhere the same dismal story, slightly varied to suit the particular locality-properties wrested from Polish landowners, locality-property virtual suppression of Pollsh as the language of courts and commerce, the more or less complete extinction of Po-lish schools, the brutal punishment of the crime of conversing in Polish in the streets or in any public place, the pro-hibition of bringing across the frontier a Polish paper from Cracow or Lemberg, the persecution of the Catholic clergy, of Jews and Ruthenian priests not to mention the sudden visits of gov ernment spies and the deportations o "suspects" to Siberia. When Alexande were full and the press was muzzled and extortion was rife, he could count on the army, the peasantry, the nobility and the church; Russia was at peace with the world, and Poland was quiet. His son finds traitors among his officers, among peasants, the aristocracy, and the priests; his armies are routed, and Poland is rest-Will Nicholas II be wiser than his father?

Class Distinctions in England.

In England the upper class gambles but does not drink; the middle drinks but does not gamble, and lower class both drinks and gambles. is a characteristic circumstance that the upper class makes laws to prevent the lower class from gambling, and that the

DIGGING INTO MYSTERIES.

Experts Are Not Infallible.

DENVER, Feb. 2.—One of the myster ies of the alleged ballot-bex stuffing at the election last November was cleared away by a witness in the Peabody-Adams Gubernatorial contest before the joint legislative committee this afternoon. experts in a number of precincts have de-clared a number of ballots probably illegal because they were not creased in such a manner as was necessary for them to be passed through the slot in such boxes.

Alderman A. D. Mauff identified his ballot, and on cross-examination he was asked to show how he folded it to put it through the slot. This brought out the statement that many of the ballots in that precinct had never been in the baliot-boxes, because there was not room for them. Instead, with the consent of the election officials and the Supreme Court watchers, they were cast in the outsid case of the ballot-box and were not foldwere put in the bellot-box proper.

Most of the witness examined this af-ternoon were foreign-born persons residing in Elyria, a suburb of this city, whose ballots had been declared by the experts to be fraudulent. They identified their ballots when they were shown them. Each witness wrote the word 'Democratic' in the same way as that

The unsealer of hallots reported on a In one bunch were found those voted by John C. Twombley, former Postmaster of Denver, and Milton Anfanger, a Republican State Senator, and two members of Mr. Anfanger, who is a member of the

committee, was shown a ballot included among those reported fraudulent, bearing the number opposite his name on the poll book. He declared the handwriting embled his very closely and he could not say that the ballot was not the one intended to vote a straight Republican ticket and was under the impression that he did so, and was surprised to find a cross opposite the name of a Democratic lieved a great deal of repeating was carried on at a number of polling places in the city where he visited during the day. Cross-examined as to his competency to contest, he admitted that from what he saw on election day he believed that a nterest of Alva Adams, and, therefore, doubted his competency to judge fairly and impartially according to the evidence admitted. He denied that his having attended meetings, caucuses and confer ences of members of the Legislature at which the question of reseating Governo Peabody was discussed would have effect on his vote. He also denied that he had received instructions from cor-porations concerning his vote on the con-

ballot among the alleged fraudulent bal-

tion judge in Precinct Six, Ward Fourlent ballots were found by experts, testified that the election was "fair and square," and that the Supreme Court watchers found no fault with the conduct Eugene F. Damm has been given from the polling places for 16 or 15 minutes, but said that his watchers and those Supreme Court were present dur ing his absence.

Two other witness identified ballots declared fraudulent by experts as their own. Deputy Sheriff Chaffer, who acted as a mocratic judge of election in Precinc Six. Ward Fourteen, identified several ballots he prepared for illiterates. these were cast for the Republican

FUSILLADE BY GENERAL BELL. He Fires Torrent of Fierce Language

at Miners' Union. DENVER. Feb. 7 .- "Military necessity recognizes no law, either civil or says Adjutant-General Shermi port, made today. Referring to the use of the troops in the mining campa dur-ing the two years of Governor Peabody's administration, the Adjutant-General uses the following language: As military commander, the authority and diguity of the State of Colorado were at all mes upheld and asserted, in seeking to amel-rate a condition of dynamite, murder and assauchation, under the guise of labor, that

Autocratic in name and speculative in its in-corporated "trusts," not the unionism recog-nized to associate with working improvement the condition of the honest working people of the state, their wives' and families' better-ment, but fire-eating Socialists and anarchists, fanned by an un-American press, the whole outfit will some day cause the lawmakers both to suppress and banish beyond the state line, such action becoming a "citizens" necessity," by the lawmakers, and necessary for the protection and welfare of the individual who labors for wages, whom individually and col-lectively I have the highest respect and regard

Will Send One Man to Prison.

CHICAGO, Feb. 2 - Representative Frank D. Comerford, who made charges of wholesale corruption in the Illinois Legislature, arrived in Chicago today from Springfield and added to his sensational statements.
"One man at least is going to the peni-

tentlary as a result of the inquiry, said. "I will make good my charges. I have the name of the man who was offered the bribe, as well as the briber.

Against Joint Statehood.

SPRINGFIELD, III., Feb. 2.-A joint resolution was laid before the House today from the Territorial Legislature of Arizons, signed by the Governor and other state officials, requesting the Il-linois Legislature to ask Illinois Senators and Congressmen to use their influence against the bill proposing joint statehood for New Mexico and Arizona.

May Oppose Joint Statehood.

MADISON, Wis., Feb. 2.—Petition were presented in both branches of the Wisconsin Legislature from the Legislature of Arizona opposing the bill in Congress which designs to make one state of Arizona and New Mexico, and asking Wisconsin representatives in Congress, through the Wisconsin Legislature, to oppose the bill.

MAY ABANDON THE TOWN.

Russians Believe Japanese Will Stifle if They Hold Sandepas.

ST. PETERSBURG, Feb. 2.-The War Office today had not received any further official dispatches from Manchuria and nothing was known of the counter attack of the Japanese from Sandepas. According to the latest official information, the abardment is continuing.

The General Staff was rejuctant to ex-press an opinion, but it was not consid-ered improbable that the Japanese may find themselves compelled to abandon Sandepas, for as pointed out in dis-Sandepas for as pointed out in dis-patches from Mukden, the position of the defenders must be well-nigh untenable on account of the burning down of the touses surrounding the central strong-told, which is still held by the Japanese. Being their citadel, it is completely covered with earth and pierced only with loopholes and embrasures for guns, and therefore the smoke from the conflagration and powder gases makes it most difficult for the defenders to breathe. In addition, under the pounding of mortars and heavy artillery, any fortification, however strong, must gradually crumble.

WORKS BOTH WAYS.

Colorado Contest Committee Finds Policy of Republicans on Tariff Draw-

OREGONIAN NEWS BUREAU, Washington, Feb. 2.-The purposes of the Republican policy on the tariff question are clearly set forth in a letter written by Secretary Shaw, of the Treasury Department, in reply to a resolution recently passed by the General Assembly of North Dakota expressing the opinion that granting a drawback on flour manufactured in part from Canadian wheat and in from home-grown wheat would practically nullify the 25-cent per bushel duty wheat. Mr. Shaw shows that the drawback is in accordance with the policy of encouraging the manufacture of goods for export abroad and contends that it is not inconsistent with that of reserving the American market for American producers. He says:

Section 15 of the Dingley tariff act relates to manufactures in bond. Material used in bonded factories pays no duty whatever, and the question of drawback does not apply Section 30 of the Dingley tariff act unequivocally permits a drawback on the exportation of articles produced wholly from imported material. This, of course, applies to flour as well as to other manufactu

Thus far there is no conflict of opinion. The only ambiguity is in reference to a drawback on the exportation of articles pro duced in part from imported and in part number of bullots which the experts had from domestic material, when the amount testified were written by the same hand, of the sported material does not as appear quantity or measure thereof can be ascertained. You will see that it is important to understand either the argument in support of the request or the effect of granting the

Legal Points in the Case. It is conceded, of course, that the amount

of imported wheat used in the manufacture of a barrel of flour does not appear to the Olney held that the amount or quantity of imported material used must appear to the eye in the completed article to entitle it is in an analogous case, held that amount of imported material was ascer-tainable in any other way than by the exercise of the sense of sight, the drawback requirement was not if the amount ing of the person charged with the respon-sibility of deciding.

This opinion, I repeat, overraled the opinion of Attorney-General Olivey, and is as binding on the Secretary of the Treasury as though the Olivey opinion had never been endered. It does not leave the Secretary two opinions, with a discretion as to which ne he shall follow.

But, antagonistic opinion having been renered, and there being some opposition to the request. I have taken occurrion again to submit the question to the Atterney-General.
I doubt not your body will approve this course. The Treasury Department, in the execution of the laws, is controlled by the opinion of the Attorney-General, and his pinion is the department's court of last re-

Having explained what has been done, I pinion that "the grafting of the application will practically multify paragraph 234 of the Dingley law." Evidently Mr. Dingley was not of this opinion, for the two pro risions are in the same bill. But if you are correct, and if section 30 nullities arty por-tion of the act of which it is part, then the remedy is with Congress, and not with the administrative branch of the Government. The provisions of law under consideration first appear in the McKinley tariff act of 1890. In his speech explaining what was intended, after referring to the right of drawback previously granted on articles pro

ed wholly of foreign material, Mr. Mc Kinley uses this language: "We have extended this provision and in every way possible liberalized it the domestic and foreign product can be combined and still allow the experter 99 per eign material intended for export, which is in effect what free tradety and our politica

McKinley's Policy on Drawbacks.

raw material for the foreign trade."

During the speech Mr. Springer interrupt ed: "Will the gentleman permit me to ask if that applies also to wool?" To this Mr. McKinley answered: "Yes, it applies to anything they choose to import for purposes of

It therefore occurs to me that possibly you may have slightly misunderstood the intent of the Dingley tariff act and the preceding McKinley tariff act. Tariff schod-ules were enacted for the purpose of protecting the American producer within the American market, and rections 15 and 30 of the same law were enacted to aid the American producer in his efforts to success fully compete in the foreign markets. You will readily understand that Congress could not protect the American producer in for eign markets, however it might try. Taking this view of the case, you will recognize that the two provisions-protection for encouragement of American producers for the American market and drawbacks for the encouragement of American exporters-

If I understand the Dingley law correctly it in effect says to the American producer, artisan and farmer, you shall have protec-tion within the American market. Whoever invades the American market must pay duty upon the articles with which he makes in-vasion. But the same law says to the American exporter, if you will employ American labor, pay American wages, you shall have every possible advantage in your ef-fort to reach foreign markets. You shall have free iron, free lead, free wool, free hides, free wheat, free everything except la-bor. There must be neither contract labor nor coolie labor employed, even in the manufacture of goods for export. American wages must be paid so that the American laborer shall be able to put a roof over his family, unpatched clothes upon his children and have meat upon his table at least once a day. If I am correct, the Dingley law is nistent with itself, and does no violer to the principle of protection to and the encouragement of American industr

Question of Wheat Drawback.

From what I have aiready said, it will ap pear that the real baus involved is quite im-portant. The American manufacturer of flour has the unquestioned right to grind imported wheat in bund, export his product, and pay no duty. He also has the unquestioned right to grind Canadian wheat out of bond, and, if he export all his product, get a drawback equal to 90 per cent of the duty he has paid. He also has the unquestioned right to export a portion of his product, and get a proportionnic share of the 90 per cent of the duty he has paid. based upon the relative market value of portion exported and the portion entering American market for consumption. This has

Worked out in an actual example, we have this proposition: The American miller can im-port, say, four bushels of wheat, paying \$1 duty thereon, and when he exports a barrel of flour, the product of this wheat, get in draw-back, such portion of 90 cents as the market value of the barrel of flour bears to the market value of the entire product of the imported wheat. The question submitted to the Attor-ncy-General is whether the American miller can import two bushels of Canadian wheat paying 50 cents in duty, blend this with two bushels of American wheat, export a barrel of flour and recover any portion of the duty be has paid. It has from the beginning seemed a little strange to me that there should be so much objection to the consumption of a moisty

of American wheat. Believing the question has not been fairly presented to your body, I have taken the lib-erty of replying somewhat in detail to your very courteous resolution, avoided the legal questions involved. My aim has been rather to invite careful investigation of all phases of the question than to support a