THE WEEKLY OREGON STATESMAN

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* The Statesman has been established for nearly fifty-two years, and it has some subscribers who have received it nearly that long, and many who have read it for a generation. Some of these object to having the paper discontinued at the time of expiration of their subscriptions. For the benefit of these, and for other reasons, we have concluded to discontinue subscriptions only when notified to do so. All persons paying when subscribing, or paying in advance, will have the benefit of the dollar rate. But if they do not pay for six months, the rate will be $1.25 a year. Hereafter we will send the paper to all responsible persons who order it, though they may not send the money, with the understanding that they are to pay $1.25 a year, in case they let the subscription account run over six months. In order that there may be no misunderstanding, we will keep this notice standing at this place in the paper.

Cottage Grove has redeemed itself. By a vote of 4 to 1 it decided to levy a school tax and open its schools, which had been closed for lack of funds.

While it is hoped that the ransom of $72,000, reported to have been paid for the release of Miss Stone, may accomplish its purpose in giving this noble lady her liberty, yet this is not the proper way to deal with the outlaws who have infested that portion of Europe for centuries. It only encourages the crime and is a promise of a standing reward for the capture of the next missionary who goes into that section. While all will rejoice over Miss Stone's Freedom, many will question the wisdom of the means resorted to for securing her Eberty.

The boon anti-toxin has been to humanity is shown by the comparison of deaths in Chicago, from diphtheria. In 1895 the deaths from this disase numbered 1420, and during 1901 less than 500 were reported from this cause. The Chicago Record-Herald says: "Pure diphtheria anti-toxin promptly and properly administered will stop the disease without causing new complications. Its use is as wise as the use of vaccine to prevent smallpox, and the neglect of either is little less than a crime." One by one the scourges of the race are overcome by medical science and it is not unreasonable to believe that cures will soon be announced for consumption and cancer.

A petition has just been filed with the Russian Government asking for the admission of women as students to the National University. It seems absurd to Western people that such a privilege should be so long denied, but one does not have have to go far in our own country to find examples of conservatism in regard to co-education as can be found any place. Harvard University has repeatedly refused to admit women to its lectures and when the demand became so irresistible that it could not longer be withstood, a separate school was established in Cambridge for women, and goes by the name of Radcliffe College. Harvard professors are the instructors, but no woman is admitted to the classes of the university proper.

Some of the papers in the Valley have the idea that there is going to be, as one expresses it, "an awful scrap" at the Republican primaries this spring in Marion county. This is news to the people of the county where politics is the least of their troubles. There are a few howlers loose in this county, and they are giving the impression that the woods are full of them, but there is absolutely nothing to indicate that the disgruntled are so numerous as to cause a serious contest. There will be a few precincts where local factions will fight it out as usual, but as a great majority of the delegates to the county convention will be elected without opposition. There is no ground for the report that a big fight is among the probabilities at the coming primaries of the Republican party in this county.

THE OPPOSITION TO EXCLUSION.

The Chinese exclusion bill prepared by the Pacific coast delegation in Congress, is meeting with stronger opposition than its authors supposed could be brought to bear. Steamship companies and others gaining by the influx of Chinese coolies to our shores are making a strong fight against the bill. The influence of Minister Wu is felt and it is reported that many parties have been retained by him to if possible defeat legislation on this subject at the present session. John W. Foster, ex-Secretary of State, is one of the advocates retained to present the claim of the Chinese, evidently employed for the "political pull" he is supposed to possess. The San Francisco Chronicle referring to Mr. Foster and his connection with the opposition to exclusion says:

John W. Foster, who is working against Chinese exclusion for the large fee which he will get from the Chinese Minister and the Eastern interests that will be aided by allowing coolies to enter this country without check, is a Hessian in law and diplomacy, who is willing to give his services to the highest bidder. After serving as our Minister to Mexico, he coolly became attorney for Mexico against the United States and he repeated the same game after acting as United States Minister to Spain. He has served China as attorney on several occasions and he has never failed to impress the Chinese with his political influence in this country, an influence which is absolutely mythical.

THE RAILROAD MERGER.

A few weeks ago a large meeting of farmers in convention in North Dakota passed a resolution endorsing the action of J. J. Hill in his fight against the Union Pacific Railroad Company, which tried to get possession of the Burlington, in order to divert the traffic to its lines across the continent instead of over the Northern Pacific and Great Northern. Now come the shippers of Minneapolis, grain men, lumber men and merchants, with a petition asking Governor Van Sant to desist from further opposition to the merger. The petitioners state it is their belief that the arrangement for the control of the systems, by means of the Northern Securities Company, will be more beneficial to shippers than the existing conditions.

In view of the conflicting opinions expressed it is hard for one who has not given careful thought and made a study of the subject to determine what the interests of the people demand. In discussing this question an exchange says:

"There are those in the Northwest who believe that Governor Geer of Oregon took the only sensible view of this matter, knowing full well that companies have the same rights as individuals to buy stocks on the market and do what they will with their properties. If the same man or association of men does happen to get control of connecting or parallel lines of railroad, and attempt to operate them against the people's rights, the remedy is in Congress and can be easily invoked. If by combination the railroads can make lower rates of freight and passenger transportation and will give the people the benefit of this advantage as they have promised to do, it is difficult to see wherein the much mooted merger can hurt any one. If these promises are not kept, then the people can easily force the establishment of fair rates."

FOR PURE FOOD.

The Dairy and Food Commissioner is having a hard time with Portland milkmen who persist in selling an adulterated article to their customers, contrary to the laws of the state. Various attempts have been made to stop this practice. It has been hard to discover infringements of the law in a manner where prosecutions can be successfully prosecuted. He has resorted to another measure which he thinks is in the interest of pure food. He says:

"If the law cannot find these fellows guilty, I will devise a new scheme whereby customers being imposed upon by dishonest dealers may be protected. Every day between the hours of 10 and 11 a. m. I will receive samples of milk and test the same free of charge. I will show buyers just what they get for their good money, and if milk is found adulterated or butter is found short weight or worked over, then it is the customer's own fault if he continues to patronize the dealer from whom it was obtained. This way a milkman will soon be found out, and the result no doubt would soon lead him to change his methods, else into bankruptcy."

The World Almanac for 1902 gives a carefully revised list of the millionaires in this country, and their addresses—a list, by the way, which will no doubt be worked rather hard by solicitors and others, now that it has been published. It is not contended of course that this is absolutely accurate. It makes the number of millionaires 3,546, while the New York Herald's report made it nearly 4,000. New York state leads with 994; then follow Pennsylvania with 369, Massachusetts with 313, Illinois with 275, Ohio with 162, Missouri with 161, Michigan 111, California 110, Maryland 106, etc. Dropping to the other end, North Dakota boasts but one solitary millionaire, and Arizona, New Mexico, Wyoming, South Dakota and Arkansas only two apiece. The District of Columbia, with 49, has by far the largest number of rich men in proportion to inhabitants. This is because it has been adopted for residence purposes by people of wealth from other parts of the country.

The friends of Willamette University should come to the front and contribute their effort toward making the meetings held in the interest of that institution a success. Willamette University is the oldest institution in the Northwest, and it must become the best. It must be provided with suitable buildings, educational apparatus, and able instructors, to supplement the excellent work now being done. This will cost money, but if the many friends of the school pull together the work of raising the required amount will not be difficult. Oregon can well afford to contribute liberally to this pioneer institution; the history of which is a part of the story of the settlement and development of the state.

The Boston Transcript is trying to help along the pro-Chinese case in Congress, says the Chronicle, by circulating the mossgrown falsehood that "housekeepers on the Pacific coast are unanimous in hoping that the Chinese exclusion act may soon be repealed as a solution of the servant problem." The latter has not figured in the Chinese question since exclusion went into effect, nor does it now. The people of this coast are a unit against the repeal of the exclusion laws; that has been repeatedly proved in the most convincing manner.

The citizens of Cottage Grove are encouraging a proposition to construct a railroad from that place to the Bohemia mines. A committee has been appointed and reports favorably upon the state of public sentiment toward the enterprise. There is general good feeling toward the road all along the route, and the committee hopes to be able to secure the right of way and additional encouragement for the builders of the road. The road would be a potent factor in opening up a very rich mining region. Cottage Grove can safely invest in such an enterprise.

It is said that ex-Secretary Gage would like to succeed William E. Mason in the United States Senate. While Mason could be improved upon in many particulars, it is not probable that the Republicans will select such a man as Gage for that purpose. Gage is a rank free trader and out of harmony with the best interests of the Republican party in many other respects. Illinois is not hard up for Senatorial timber, and Gage will doubtless be left to attend to those business matters that forced him to leave the Cabinet.

An Eastern scientist predicted a short time ago that the glacial age will return and cover the American continent again with snow and ice, and remain for a thousand years. Oregonians are wondering if the time for this event is already at hand.

WHERE MARION CRAWFORD WRITES.

F. Marion Crawford finds his ideal home in a breeze-swept villa, perched high on the picturesque cliffs of Sant' Angello di Sorrento, overlooking the beautiful Bay of Naples and its romantic shores. There is, indeed, no finer site to be found anywhere about this far-famed bay than that occupied by the "Villa Crawford," with its cheerful landward outlook over scattered towns, olive-clad hills, and fragrant grove dotted with white-walled dwellings, to where Vesuvius rears his mighty cone and Naples queens it among her subject villages, far out across the shining bay to the enchanting island of Ischia, set like a lustrous jewel in the Tyrrhenian Sea. The house itself is an unpretentious building of stucco and rough stone. It is reached by following a country road, overhung by olive, lemon and orange trees, for about a mile from Sorrento, then turning through a gray-stone gateway, embowered in ivy, and going along a narrow driveway almost to the verge of the cliff, where the villa stands, some two hundred feet above the bay.—February Ladies' Home Journal.

GILBERT CASE IS DISMISSED

Judge Bellinger Decides that A. T. Gilbert Is Solvent

PETITION IN BANKRUPTCY DISMISSED AT YESTERDAY'S SESSION OF U. S. COURT.

Condition of the Bank as to Solvency Depends Upon the Estimates of Value Placed Upon the Assets—Transfers of Property.

(From Thursday's Statesman.)

Judge C. B. Bellinger, of the United States Circuit Court, at Portland, yesterday handed down his decision in the Gilbert Bros'. bank case, by dismissing the petition in bankruptcy. The court's decision in full is as follows:

This is a proceeding in involuntary bankruptcy against A. T. and F. N. Gilbert, as partners in the conduct of the banking business of Gilbert Brothers, at Salem, Or. The petitioners in the original and amended petitions are Ida Muths, William Iwan and A. S. Eppley, creditors of Gilbert Brothers in the aggregate sum of $1978. Subsequently one Loo Jim, a creditor in the sum of $500, also filed a petition praying for an order of adjudication in bankruptcy. The acts of bankruptcy relied upon by the creditors are alleged as follows: That Gilbert Brothers, being insolvent, did within four months of the filing of the original petition transfer securities by way of preference to certain creditors to the aggregate amount in the value of $7000; that subsequent to the filing of the original petition A. T. Gilbert entered into a written stipulation in a suit then pending against Gilbert Brothers brought by or in the interest of the heirs of William Cosper deceased whereby it was stipulated that one Chaud Gatch might be appointed receiver of said firm, and that said Gatch should convert the assets of the firm into cash for the payment of all the firm's creditors and the winding up of its business; that to this end A. T. Gilbert suffered a decree to be entered in said suit, and that he thereafter transferred the assests of the firm to the receiver. Other acts of bankruptcy were alleged in the petitions filed, but upon the hearing, these were abandoned.

It is contended that F. N. Gilbert is a partner in the business of Gilbert Brothers, and this is a question in the case, material only in the event that an act of bankruptcy is proven as alleged.

The stipulation that a receiver might be appointed, and the subsequent transfer by A. T. Gilbert, do not have the effect of a general assignment within the meaning of the bankruptcy act. This question was decided by the Circuit Court of Appeals in the Second Circuit in a recent case, in which the court says: "When the statute declares that a general assignment for the benefit of creditors is an act of bankruptcy, can it be construed to include an act which is not a general assignment? We think that it cannot, because the term has a universally understood and recognized meaning throughout the different states, and means a transfer and conveyance by a person of all his property to a named person upon a trust, which is to be worked out in some states by a court of probate and insolvency, in some states by a court of common law, and in some states by a trustee, subject only to the supervision to which any trustee is subjected. It is a deed or conveyance which the grantor makes voluntarily, or sometimes by compulsion, at the instance of a court of insolvency. A petition for the appointment of a receiver is not that proceeding which is universally recognized as an assignment, and its 'equivalency' of result, if equivalency exists, is not important. The bankruptcy statute has said that the one is an act of bankruptcy and has said nothing about the other, in direct terms; and when acts of bankruptcy are classified, as they are in the statute of 1898, it is not the province of a court to enlarge the classification because the omitted class seems to partake of the sin of the named class." In re. Empire Metallic Bedstead Co., 98 Fed. Rep. 981.

This is a much stronger case against the contention that consent to the appointment of a receiver operates as an assignment within the meaning of the bankruptcy act, than that from which the above quotation is made. The suit in which Receiver Gatch was appointed was not a friendly suit. It is not claimed that it was procured or acquiesced in by A. T. Gilbert. The bank of Gilbert Brothers had already been forced to supend by reason of a suit previously brought in the Circuit Court of the United States for this district by one of the heirs of William Cosper, claiming a liability from the bank to said heirs in the sum of $250,000. A receiver was appointed to take charge of the property and assets of the suspended bank during the pendency of the suit. The bill of complaint in that suit was dismissed for want of jurisdiction. In the meantime the administrator of the Cosper estate brought in the State Court the suit in which Gatch was appointed receiver. Both of these suits were in the same right, and hostile to the respondents. In stipulating, as he did, A. T. Gilbert acquiesced in what he could not help, and thereby saved needless expense to the estate and delay in its distribution.

To authorize an adjudication of bankruptcy, it must appear that the transfers complained of were made with intent to prefer the creditors to whom they were made. If the respondent was insolvent, and had knowledge of the fact, an intent to prefer will be conclusively presumed. There is a further presumption that the debtor knows his financial condition as to solvency, but this is a disputable presumption and if the debtor honestly believes himself to be solvent or if he establishes his want of knowledge as to his insolvency he then rebuts the presumption of an intent to prefer which arises from the fact of actual insolvency. Collier on Bankruptcy, 21. The bankruptcy act declares that a person shall be deemed insolvent within the provisions of the act whenever the aggregate of his property, exclusive of any property which he may have conveyed, transferred, concealed or removed, or permitted to be concealed or removed, with intent to defraud, hinder or delay his creditors, shall not at a fair valuation be sufficient in amount to pay his debts.

It is then necessary to know whether the respondent, A. T. Gilbert, was insolvent when he made the transfers referred to, and if so, has he established his want of knowledge at the time as to his financial condition?

It is contended for the petitioners that A. T. Gilbert must be presumed insolvent because he did not in his answer make a full and complete showing to the contrary. The rule invoked is a rule of good faith. Prior to the filing of the petition in bankruptcy A. T. Gilbert had assisted the receiver in the United States Court in preparing an inventory of his assets and liabilities. That inventory appears to have been full and complete. The respondent, A. T. Gilbert, advised with the receiver as to the probable loss that would result in collecting the overdrafts of the bank. Thereafter he transferred the assets of the bank to the receiver in the State Court. Attorneys who appeared for the plaintiff in the suit in the United States Court represent the petitioners here. Substantially all that is now known, after all the testimony had been taken, and all there is to know, was then a matter of public record. These facts do not authorize a presumption of insolvency against A. T. Gilbert, and such insolvency, if it existed, must be otherwise established.

The receiver appointed in the United States Circuit Court made an inventory of the assets of Gilbert Brothers from which such assets are placed, in round numbers, at $164,000, and the liabilities at $191,000. He testifies that his estimate of assets were made "from the books of the bank, from the notes that were found in the bank and the copies that were deposited as collateral, from information obtained from A. T. Gilbert and from information wherever he could find it that he deemed reliable as to the value and condition of the property.

The principal assets of Gilbert Bros. consists of overdrafts and loans and discounts, the face value of the former being $93,875, and of the latter $78,357. The condition of the bank as to solvency depends upon the estimate of the value placed upon these assets. The receiver in the United States Circuit Court valued the overdrafts at $81,922, and the loans and discounts at $65,000, a loss on the former of $11,953, and on the latter of $13,357. Mr. Conway, a man of experience in such matters, who assisted the receiver in preparing his inventory, agrees substantially in this estimate of the probable loss on overdrafts, but he estimates the loss on loans and discounts at $26,000. Since the inventory referred to was made, three-fourths in amount of the overdrafts have been collected by the State Court receiver, who testifies that the loss on this account will not exceed two, three or four thousand dollars. The loan and discount account, with the exception of some $20,000 in amount, consists of what are called piano notes. These notes are an exceptional kind of assets. They are payable generally on long time, in installments, and are secured by the instrument sold. Whale, a witness who has had some connection with this business, places the loss on these notes at $3000. A. T. Gilbert, in advising the receiver of the United States Circuit Court, estimated their value at $70,000, but he stated at the time that his estimate was low because the bank was in the hands of a receiver, that the notes were good, and ought to pay out nearly their face value, and would do so if he was able to collect them. There is a wide discrepancy between the witnesses as to the value of the other assets of A. T. Gilbert, consisting principally of real estate, so that upon the estimate of values made by the witnesses for the petitioners the liabilities of Gilbert Brothers exceed the assets by above $50,000, while upon the estimates made by the witnesses for A. T. Gilbert, his assets exceed his liabilities by about $25,000. Opinion evidence is untrustworthy at best, but this evidence has not the usual quality of expert opinion founded upon reasons which afford some basis for a judgment as to its value. The opinions in this case pro and con are mere guesses, signifying little, proving nothing. In such a case where a long and hostile inquiry has left the question of the solvency of A. T. Gilbert in doubt, what must the conclusion be as to what A. T. Gilbert himself thought of his solvency at the time the transfers complained of were made? Under the old bankruptcy act, inability to pay debts as they matured constituted insolvency. Then the matter of solvency was a simple one. Now a new test is prescribed: Does the respondent's property at a fair valuation equal his liabilities? And this is a thing about which the owner may not know, but if he himself thinks he is solvent, it is enough; and in a case like this, where others, equally capable with those who think otherwise of forming a trustworthy opinion, think the respondent solvent, it is a necessary conclusion that he thought himself so, and that he was honest in that opinion. Where the facts and circumstances permit it, the presumption must be in favor of good faith rather than the contrary.

The presumption arising from the transfer of property by an insolvent is affected by the amount of such transfer. Thus where the transfer was of all one's property, this was held to afford a violent, almost conclusive, presumption of an intent to prefer, where there were other creditors unprovided for. In re Waite, 1 Lowell, 207, Fed. Cases, 17,044; and a like effect was given in Toof vs. Martin, 13 Wal. 40, to the transfer of an insolvent "of a large part of his property." In this case the transfer was of a comparatively small part of the property of A. T. Gilbert—so small that the expediency of resorting to a bankruptcy court, rather than permit a distribution of the assets of the bank through the pending proceedings in the State Court may be doubted.

If the preferences complained of are set aside, it will add not more than one per cent to the dividends to be paid the general creditors. The difference between the face of the debts alleged to have been preferred and their pro rata without preference, distributed among the unsecured creditors, will amount to a little less than one per cent on the unsecured indebtedness, while the commissions of the referee and trustee in bankruptcy upon the estate available for general distribution, on Thielsen's estimate, will be about 1.6 per cent of the unsecured indebtedness. The accruing expenses of the receivership in the State Court will probably not equal these, and the other costs and charges that will result from the administration of the estate in a bankruptcy court, and the benefit to the unsecured creditors from such administration, if any should result, will not be appreciable.

The petitioners, however, express a hope that the bankruptcy court may succeed in discovering other assets that have been misapplied or covered up; but what the receivers have not found, and the large amount of testimony taken so far has not disclosed, is not worth considering in estimating the possible advantage to result from the exercise of jurisdiction in what is at least a doubtful case.

It is due to the petitioners, however, to state that in the petitions filed in this case certain transfers to Ladd & Bush, A. Bush, and the First National Bank of Portland, aggregating a large amount, were alleged to be preferences, but upon the hearing it was stated that the petitioners had ascertained that these transfers were for a present consideration and valid, and the complaint as to them was abandoned.

Petition dismissed.

This Climate is Good

enough for anybody with weak lungs. The patient need not travel. He can get well here with the help of Allen's Lung Balsam, taken frequently when coughing and shortness of breath after exercise serve notice upon him that serious pulmonary trouble is not far away. Allen's Lung Balsam is free from any form of opium.

THE HOUSE AN OPERA BUILT.

Francis Wilson's Beautiful Country Place Built with the Profits of "The Merry Monarch."

"'The Orchard'—so called because it was originally an apple orchard—at New Rochelle, New York, is the summer home of Francis Wilson, the comic opera star," writes Franklin B. Wiley, in the February Ladies' Home Journal. "The ground was bought and a modest house started when the run of 'The Merry Monarch' began. As the profits of that opera increased, the original plans were enlarged in one way and another, until about a third of the returns from the opera had been expended. The house is of stone and stands on a terraced knoll. From the upper windows there is a twenty-mile view of Long Island Sound; and among the furnishings are a set of dining room chairs and a settee made from the elaborately carved pew doors once in Christ Church at Stratford-on-Avon, and a chair given to Sir Edwin Landseer by Sir Walter Scott from his library at Abbotsford."

WRITERS WHOSE NAMES CONTAIN "W."

The Remarkable Persistency with Which This Letter Has Allied Itself to Literature.

Beginning with William Shakespeare, we remember instantly Sir Walter Scott, William Wordsworth, Washington Irving, William Makepeace Thackeray, Henry W. Longfellow, John G. Whittier, William Cullen Bryant, Ralph Waldo Emerson, Oliver Wendell Holmes and Walt Whitman. Others whose names occur almost simultaneously are William Cowper, Isaac Watts, Henry Ward Beecher, Daniel Webster, Wendell Phillips, George William Curtis, Richard Grant White, Julia Ward Howe, George W. Cable, William D. Howells, Charles Dudley Warner and Richard Watson Gilder. To these are easily added Sir William Blackstone, John Wesley, Edmund Waller, Nathaniel P. Willis, Walter Savage Landor, Will. Carleton, James Whitcomb Riley, Thomas Wentworth Higginson, Dr. S. Weir Mitchell, Hamilton Wright Mabie, William H. Prescott, Constance Fenimore Woolson, Mary E. Wilkins, Ella Wheeler Wilcox, and many more.—February Ladies' Home Journal.