The Emporia News.

EMPORIA, FRIDAY, SETP. 20, 1878

Read article headed great slaughter.

Major Fuller went down to "the work" this week.

Senator and Mrs. Plumb returned from their Colorado trip on Wednesday.

We are pleased to see Harry E. Norton around again, after a long and severe illness.

Our subscribers in arrears will do us a great favor, and simple justice, by paying up.

Miss Annie Kinnan went to Topeka Monday to attend the Episcopal Female Seminary.

The motion for a new trial in the Bancroft case will be heard to-morrow (Friday) morning.

The agricultural editor has gone to see that Barus has a fair trot at the Kansas City exposition.

Miss Laura Burgess, of Sulphur Springs, Mo., is visiting her aunt, Mrs. E. S. Manning, of this city.

A little grading has been done on the Cottonwood bottom, and that is all. Where is the board of directors?

Parties who want their land advertised in the October Land Buyer, will please to put it on our list without delay.

There will be no excursion from any point on the A. T. & S. F. to the Kansas City fair, as the road cannot spare any coaches for extra trains.

Misses Florence and Kate Webster, of Dunlap, went through the city Wednesday on their way to Topeka to attend the Episcopal Female College.

Miss Kate S. Clisbee, of Ohio, the new music teacher at the Normal, arrived a few days ago, and is regularly installed in her duties at the school.

The ladies of the Congregational Society will hold a reception for their pastor and his family Friday evening, Sept. 20. All are cordially invited to attend.

Miss F. M. Estabrook left us Wednesday for Philadelphia. During her stay here she made many friends who will be glad to welcome her visits here in the future.

The case of Henry Wright and Bert Shaw, on trial for destroying grange regalia, at the Rinker school house, was tried the present week, and the jury brought in a verdict of acquittal.

We have been "ruminating" on an important matter this week. This month has an r in it, and we have been wondering who would be the lucky fellow to lay the first can of fresh oysters on our table.

Hon. T. E. Johnson, a prominent member of the bar, at Indianapolis, has been in town for several days this week. He owns a valuable piece of land here, and we shall not be surprised to count him a granger one of these days.

The people of Marysville gave James Smith, the republican candidate for secretary of state, a splendid reception on his return home. He is one of the most popular men in Marshall county, and the Marysville News says he will receive the unanimous vote of that county.

We give room this week for a full report of the Bancroft case, and also for a lengthy synopsis of the Republican speeches made here last Saturday to the exclusion of our usual news, southwest and state items. They both furnish important and interesting reading matter.

MORE FROM EMPORIA.—The Emporia Lodge A. O. U. W., in answer to an appeal from the Supreme Lodge, has appropriated $80 from general fund for relief of yellow fever sufferers. This is a liberal donation, and makes the Emporia contributions amount to nearly $600.

MARKETS.—Apples 50 to 75 cents, peaches, $1.25 per bushel, potatoes 40 cents—sweet potatoes $1.25 per bushel, butter 15 cents, eggs 12½ cents, cabbage 5 to 7 cents per head. Grain—Wheat, No. 2, 60 cents; No. 3, 55; No. 4, 50; rejected 30 to 40 cents; corn, 18 cents; oats 12 to 15 cents.

OFF TO THE FAIR.—Several citizens are in attendance at the Kansas City Fair this week. Among them we have the names of Capt. and Mrs. Sommers, Mrs. A. S. Moffet, Mr. and Mrs. Graham, of THE NEWS, Will Ewing, county clerk, Sam Murphy, of the P. O. D., Harry and Kittie Hood.

A gentleman who owns a farm of 125 acres three miles from Winemac, the county seat of Pulaski county, Ind., wishes to trade it in part or whole for a well improved farm in Lyon county. One with a good orchard preferred. Said farm is valued at $3,500; has an ordinary house, but a large barn and a good orchard.

ONE OF OUR BOYS.—We neglected last week to acknowledge a call from Albert Phenis, who came from New York to visit his parents and brother and sisters at Eureka. Albert is a graduate of THE NEWS office, but for four or five years has been employed in the New York Herald office. We are always glad to see him, and feel proud of his accomplishments.

Improved farm of 160 acres, adjoining the Normal school, under hedge fence and in cultivation, artesian well for stock, elegant residence and splendid barns, bearing orchard of 10,000 trees, for only $1.25 per acre, on ten years' time, without interst. A large herd of blooded stock thrown in to make this farm a bargain. If any one has a farm like this for sale at the price named, we can find buyers for it.

DIME ENTERTAINMENT.—We are promised a rare treat at the Methodist church next Wednesday evening, Sept. 25. Under the management of Mrs. Jennie Kellogg, Prof. Kennedy and Mr. Pye, some of the members and children of the Sunday school are preparing an entertainment for the above evening, to consist of vocal and instrumental music, recitations, declamations, dialogues, reading, etc. The proceeds are for the benefit of the parsonage fund, the purpose being to build an addition and remodel the old parsonage. Let there be a general attendance.

Kansas educators are not behind their co-workers in other states in progressive ideas and attention to advanced methods of teaching. The text-books already issued, the product of Kansas brains and of Kansas manufacture are a credit to so young a state. W. E. Richey, county superintendent of Waubaunsee county, has just issued a work in pamphlet form —"Language Lessons for Beginners"— which is a noticeable addition to the list of Kansas text-books. It is the forerunner of a larger work, and is an attempt to correct the prevalant defective methods of teaching grammar, being based on the same principle as Hadley's and other late Language Lessons. It should receive the endorsement of all Kansas teachers.

REPUBLICAN CONVENTION.

Nomination of J. B. Moon for Sheriff.

The republican county convention assembled at Bancroft hall last Saturday, pursuant to call, to place upon the republican ticket a candidate for sheriff. It was called to order by the former chairman, H. F. Holmes, of Reading.

After taking the proper steps to provide for vacancies in the various delegations the convention proceeded to the nomination.

FIRST BALLOT.

H. B. Lowe	22
J. B. Moon	17
J. M. Kerr	12
John Bay	8
Tom. J. Fleming	13
H. F. McMillan	4
J. H. Wilhite	13

Total 89; necessary to choice 45.

SECOND BALLOT.

H. B. Lowe	18
J. B. Moon	29
J. M. Kerr	6
John Bay	8
Tom. J. Fleming	9
H. F. McMillan	4
J. H. Wilhite	16

Total, 90; necessary to choice 46.

THIRD BALLOT.

H. B. Lowe	18
J. B. Moon	39
J. M. Kerr	3
John Bay	4
Tom. J. Fleming	5
H. F. McMillan	4
J. H. Wilhite	17

Total, 90; necessary to choice 46.

FOURTH BALLOT.

J. B. Moon	47
H. B. Lowe	19
J. H. Wilhite	17
J. M. Kerr	1
H. F. McMillan	4

Mr. Moon having received a majority was declared nominated, whereupon the convention adjourned.

HOME.—Geo. W. Newman returned home from his four weeks' trip east on Saturday last. The new goods are coming in rapidly, and the store will present the usual scene of business activity from now on till the stock is reduced.

Democracy on the War Path.

The Democracy of Lyon County held a mass convention here last Saturday, and nominated a county ticket. The Democrats on the Greenback ticket were endorsed, and new men nominated for the balance. We have only room for the ticket, as follows: County Attorney, J. W. Lynn; Sheriff, J. W. Greenlee; Clerk of Court, G. M. Stowell; Register of Deeds, Simon Bucher; County Superintendent, M. Birdsall; Commissioner, Nelson Whittlesey; Representative, 82d district, J. H. Watson; 83d district, Charles Bucher.

Sunday School Convention.

Americus township Sunday school convention met September 12th, 1878, in the M. E. church, at 10 o'clock, a. m., and adjourned on account of the funeral of Mrs. Rogers.

Met at 2 o'clock p. m. in the Evangelical church. Mrs. Clark conducted the infant class in a handsome manner. After this Mr. Drake gave some valuable suggestions relative to the intermediate class. A general discussion followed. The township officers were elected as follows: President, Col. Parington; Secretary, M. McClary.

Executive committee—Mrs. Loy, Samuel Moore and S. W. Kerr.

Delegates to the county convention.. John Loy and M. McClary.

Delegates to the State convention—Revs. J. A. Collins and H. W. Chaffee.

The evening session was held in the U. P. church. A bible-class was conducted by Rev. R. Cordley, with some valuable hints. After this several speeches were made on the methods of teaching and conducting Sunday schools.

Miss Estabrook's Reading.

We have seldom attended a more pleasant entertainment than that given by Miss Estabrook and pupils, at the Presbyterian church, on Saturday evening last.

The vocal duets by Clara and Edith Williams, were very prettily sung, and showed an unusual degree of musical culture. "Papa's Letter" was recited by Mary Eastman, who gives great promise as a reader, her powers of imitation and rendering of pathetic portions being almost faultless. Her rendering of "The Relief of Lucknow" was also commendable, as was Miss Annie Kinnan's "Burning Ship," both showing careful study. Miss Josie Slocum and Miss Mattie Spencer, both well cultured, readers took part, Miss Slocum reciting effectively Whittier's poem of "The Sisters." Miss Estabrook as Brutus and Miss Spencer as Cassius, read the Quarrel of Brutus and Cassius with much feeling and fine dramatic effect. The readings by Miss Estabrook were Inez, by Buchanan Read, The Bells of Enderby, by Jean Ingelow, Dickens' Death of Little Joe, Rob the Pauper, and The Schoolmaster's Visitors, by Will Carleton, extract from Dr. Holland's "Seven Oaks," and Christmas Night at the Quarters. We have not space to particularize as to these, but the variety of selection gave fine scope for the display of her remarkable elocutionary powers.

Miss Estabrook's voice, while possessing rare power, seems adapted to the most delicate shades of expression; and face and gesture combine in a wonderful degree to add emphasis to the idea intended to be conveyed. It is only to be regretted that there was not a larger attendance, as those absent were the losers; and in consideration of Miss Estabrook's kindness in reading for various entertainments through the summer, she should have received a more liberal patronage from the people of Emporia.

The Lyon County Bible Society beg to announce that they have received another lot of those cheap Bibles from 25 cents up, and Testaments from five cents up, now on sale at the depository in the Chicago store at cost.

Dr. J. J. Moreland, from Nebraska, will commence a series of six lectures at Bancroft Hall, on popular educational and scientific subjects, commencing this (Thursday) evening. Subject of first lecture, "The Compound Nature of Man, or the Problem of Life." The first lecture will be free to all. He will also lecture to ladies each afternoon at Grange hall, at 3 p. m. He carries personal testimonials of many of the leading citizens of the towns of Kansas where he has delivered these lectures. He is accompanied by his wife, one of the best organists in the West, and by Prof. J. W. Smith, an accomplished vocalist. Further announcements made at the halls.

A. N. Hanna is going to close out his sewing machine business. He will furnish the Singer, made by Stewart, and the improved Howe, at very low prices. It's the time to buy if you intend to get a machine this fall.

Atyeo & Herman don't care whether school keeps or not. They are bound to furnish the people cheap beef. See business notice.

Over $1,300 offered for trials of speed at the Lyon county fair, October 1st, 2d, 3d and 4th. Entries will close September 21st. Send for premium lists to W. R. Griffith, secretary.

500 sheep, and 640 acres to sell or let on shares, S. 33, 23, 12, Holmes & Holden, Emporia, or A. R. Heath, Janesville.

STATE VS. BANCROFT—CONTINUED.

Verdict of Guilty Rendered by the Jury.

We continue the report of Bancroft's testimony from our first page:

Witness was asked whether at the time he made the report to the board at Merchants hotel, and stated that it was a full report, he had not sold an additional quarter-section in Mitchell county. Said he could not state positively from memory. Had never made any changes in the report after its completion. Witness was asked whether he had or had not received any money from the sale of Normal school lands between the time of making out and delivery of plat reports to Dr. Wright and the statement to the board, March 2nd, 1878, and, if so, how much, and on what land? Witness said his answer would be entirely from memory. His best recollection was that the sale of January 19th, 1878, was the last. Had no recollection of receiving other money; if he had it was covered by an understanding with McDonald, with whom he had correspondence, to make good all money received from purchasers as soon as it was determined to whom it legally belonged. Said he had no knowledge of Crichton's going to examine Saline Co. lands. Commenced making his report in December, 1877, and made it as rapidly as he could from memoranda. Determined to make it as soon as he ascertained that he was to be disappointed in the expectation of receiving money. Was asked what he did with money received since December, 1877. Said he kept it in his possession, spent it during that time. Was asked why, if his intention was good, he kept on issuing contracts and took money, after time of beginning to make report in December; why not retain the money and pay it to the board with report? Said circumstances were such that he could not. Thought he had issued but one contract, (R. W. Lee, January 19th, 1878) in regard to which McDonald and he had correspondence. Didn't state to Crichton that he had received a letter from Burke stating that Crichton was at Salina. Was not engaged all the time from December to February in making up report. Made it as fast as he could. Had something else to do. Some days did not touch it at all. Couldn't make such a report in one or two days. (Witness made exhibit of how he kept record of land sales.) Didn't remember any question by Crichton as to lands being sold after the revocation of his agency at half their value. On or about April 18th, 1877, paid Dr. Wright about $2,800. At that time paid all he still had in his possession; didn't mean to say that was all he legally had in his possession.

Bancroft's cross-examination was conducted by Mr. Crichton. After a few questions to defendant as to his direct examination of the day preceding, the defense rested their case.

Counsel for prosecution recalled Prof. Pomeroy. Testified that he had no recollection of any conversation with Bancroft during the years 1873-4-5 or 6, in which Bancroft stated that he had sold several or any piece of Normal school land. Thought no such conversation could have occurred without being impressed on his recollection, because it was his impression that the board were not trying to, and could not, sell any lands—and, second, he was very much interested in the question whether or not the lands could be sold. Had no recollection of any conversation with Bancroft except the one previously testified to, in which Bancroft said he was not selling any land. On cross-examination Mr. Pomeroy said he came here in December, 1873. Then, and until the winter of 1875 thereafter, the Normal school had appropriations from the legislature. Had additional personal interest after the session of 1875, but had an interest in the matter all the time. Did not recollect informing Bancroft of his continuation as agent.

H. C. Cross was called. Did not recollect any conversations with Mr. Bancroft in which he said he had sold any land. Did recollect his once saying that there might possibly be sales made, as there was more inquiry. Had reported to the board from time to time, on Bancroft's statements, that no lands had been sold.

J. H. Crichton testified that in the conversation in Bancroft's office he had been informed by Bancroft that he had received a letter from Major Burke, at Salina, stating that he (Crichton,) was there. After some discussion whether or not Bancroft's plat report was or was not in evidence, the prosecution introduced so much of it as referred to those tracts for which they had no contracts or receipts.

Court adjourned till afternoon, when the judge read his instructions to the jury, as follows:

THE STATE OF KANSAS vs. E. P. BANCROFT. } INSTRUCTIONS.

GENTLEMEN OF THE JURY.—The defendant, E. P. Bancroft, is charged in the information filed against him with the crime of embezzlement. The information when filed contained three counts, but on motion of defendant the 2d count was stricken out, and therefore the defendant is being tried under the 1st and 3d counts stated in the information. The 1st count in said information charges in substance that the said defendant was, during all the time from the month of May, A. D. 1872, up to the 6th day of June, A. D. 1877, the duly appointed, qualified and acting agent of the State of Kansas for the sale of the lands set apart for the support and maintenance of the State Normal school at Emporia. That by virtue of said agency, he did, at different times during the continuance of said agency, sell various and divers tracts of said lands, and received as the purchase money thereof, many and large sums of money, aggregating the amount of $18,270.14; that as said agent he did, at Emporia, in the county of Lyon, in the State of Kansas, on or about the 6th day of June, 1877, unlawfully, fraudulently and feloniously embezzle and convert to his own use the sum of $9,000 of said money, so received by him as aforesaid, without the assent of the State of Kansas, or of any other person or persons thereto lawfully authorized, and that said embezzlement was, by said defendant, concealed up to the month of February, A. D. 1878.

The 3d count in said information contains substantially all the averments and charges mentioned in the 1st count, and further charges that on the 6th day of June, 1877, the said defendant had in his possession and under his control, by virtue of his said agency, the sum of $9,000, after deducting all the commissions to which he was entitled as such agent, and that said defendant failed and refused, upon demand being duly made, on or about the 6th day of June, 1877, to pay into the State treasury the said sum of $9,000, or any part thereof, and that the said $9,000, nor any part of it, had not been lost by any means beyond the control of said defendant before he had an opportunity to make delivery to his said employer, and that his said employer has at no time permitted said defendant to use said $9,000, or any part thereof, and that the said defendant concealed the fact of his said crime, and of his having said money, until the month of February, 1878.

The information in this case will be furnished you when you retire to consider of your verdict, and you are referred to the 1st and 3d counts, together with the exhibits attached thereto for a more complete statement of the charges in this case.

2d. In this, as in all other cases of prosecutions for alleged crime, the defendant is presumed to be innocent of the charges made against him, innocent of the acts alleged to have been done, and innocent of a guilty intent. This presumption continues until the contrary is proven by competent evidence.

3d. When there is a reasonable doubt whether the guilt of the defendant is satisfactorily shown by the evidence, he must be acquitted. It follows, therefore, that every ingredient and element that is necessary to constitute the crime and guilt of the defendant must be proved by the evidence beyond a reasonable doubt, before he can be found guilty.

4th. By a reasonable doubt is meant a doubt founded on reason and common sense, and not a possible or imaginary doubt, for there is scarcely anything pertainig to human affairs, and depending upon evidence to establish it, but what is susceptible of some kind of doubt. It means such a doubt without being sought after as naturally arises in the mind of the juror, and leaves him unable to say, after a fair and candid investigation of all the testimony, that he is satisfied to a moral certainty of the defendant's guilt. So long as a moral certainty is not reached, a reasonable doubt may be said to exist, and I define a moral certainty to be that degree of certainty which convinces and directs the understanding and satisfies the reason and judgment of those who are bound to act conscientiously upon it and upon the evidence which is offered to establish it. A moral certainty may be said to exist when it is not only what men in general will unhesitatingly believe to be true, but is of such a character that they will be ready and willing to act upon it in matters of the highest concern and importance to their own interests.

5th. You are the exclusive judges of the evidence, of what it proves or disproves, of its weight and of the credibility of the witnesses, and in determining as to the weight or credibility to be given to the testimony of any witness, it is proper and right for the jury to take into consideration his character, his intelligence, his means of knowing whereof he testifies, his bias or prejudice for or against the defendant, together with any personal or pecuniary interest any witness may have in the event of the prosecution as shown by the evidence. To the evidence alone you are to look. In deciding questions of fact you are not to be guided by any supposed knowledge of events or occurrences outside of the evidence. You are to allow no prejudice, passion or partiality to bias you in deciding upon your verdict. If crime is clearly proven by the evidence, it is your duty to see that it is properly punished, and it is equally and especially your duty to see that an innocent man is not punished and disgraced.

6th. The criminal statutes of Kansas applicable to the charge embraced in the 1st count in the information filed in this case read as follows: "If any officer, agent, clerk or servant of any incorporation, or any person employed in such capacity, shall embezzle or convert to his own use, without the consent of his employer, any goods, rights in action, or valuable security, or effects whatsoever, belonging to any copartnership or corporation, which shall have come into his possession or under his care, by virtue of his employment or office, he shall, on conviction thereof, be punished in the manner prescribed by law for stealing property, of the kind or value of the article so embezzled." And that portion of the criminal statutes relevent to the charge embraced in the 3d count in said information, reads as follows: "If any agent shall neglect or refuse to deliver to his employer or employers, on demand, any money, promissory note, evidence of debt or other property which may have come into his possession by virtue of such employment, after deducting his fees as attorney, charges as agent, or stipulated commission for making collection of such money, unless the same shall have been lost by means beyond his control before he had opportunity to make delivery thereof to his employer or employers, or the employer or employers have permitted him to use the same, he shall, upon conviction thereof, be punished in the manner provided in this section for unlawfully converting such money or other property to his own use."

The law as above quoted, defining the crime with which the defendant is charged, is plain and explicit in its terms, easily understood, and needs but little comment. To embezzle, therefore, is to fraudulently appropriate to one's own use, personal property (which includes money) with which one has been intrusted as an agent or officer. It is a breach of trust. The unauthorized use or conversion of that which came lawfully to the possession, or the unauthorized or willful refusal or neglect to pay over, on demand, any money or other effects lawfully in the possession of an agent or officer would, under the statutes of Kansas, amount to the crime of embezzlement.

7th. The information charges that the defendant was the agent of the State of Kansas for the sale of the lands set apart for the use and maintenance of the State Normal school at Emporia, and that while acting in that capacity, he disposed of some of said lands and converted the proceeds thereof to his own use. The law gives to the board of directors or regents of the said Normal school power to appoint such agent for the State; but so far as this prosecution is concerned it is not essential that the defendant should have been appointed at all, and no appointment need be proven. If he was permitted to act as such agent and did act as such, in the sale of said lands, this, if proved, will be sufficient to bind him as an agent of the State. If a man holds himself out to be an agent and does that which would amount to embezzlement, (or any other crime) if done by one truly an agent, he cannot be heard to say, when prosecuted, that he was in fact no agent. Claiming to be an agent and acting as such, he would not be permitted to deny it when called to account for his acts as such agent, and money received by him while acting in such capacity, would in the fullest sense come to him by virtue of his employment.

8th. When a demand is required in order to bind an agent, such demand may be made by any authorized agent of the principal, and if the jury are satisfied from the evidence that the board of regents of the state Normal school authorized any one or more of its members to make a demand on the defendant for any money which may have come to his hands from the sale of Normal school lands, this would legally empower them to make such demand. In order to constitute a legal demand no particular words are necessary to be used, if the party making the demand use language that plainly indicates to the party upon whom the demand is to be made what he is required to do. This would constitute a legal demand.

9th. The defendant, in his defense, relies to some extent upon the statute of limitations. The information charges that the embezzlement was committed on the 6th day of June, 1877. In order to sustain the information it is not necessary to prove the crime to have been committed on that day, but proff that the offense was committed at any time within two years prior to the commencement of this prosecution is sufficient. This prosecution was commenced on the 15th day of March, 1878, and therefore any money which the defendant may have received from the sale of any of the lands for the use and maintainance of the state Normal school, by virtue of his agency for the sale of the same, after the 15th day of March, 1876, could not in any wise be affected by the statute of limitations. But if the evidence satisfies the jury that the defendant received any of said money as charged in the information at any time before the 15th day of March, 1876, and that he afterwards converted the same or any portion thereof to his own use, then it will be a fact for the jury to determine from the evidence whether or not said money was so converted before or after the 15th day of March, 1876. If before, then the defendant would not be criminally liable under the first count in the information. But if after that day, he would be so far as the statute of limitation is concerned, or if the defendant at any time received any money from the sale of Normal school lands, as charged in the information, and at any time after the 15th day of March, 1876, and before this action was commenced, neglected or refused to deliver the same on demand to the board of regents of said school, or to to their authorized committee for that purpose, he would be liable under the 3rd count in said information for all money received by him at any time within three years prior to the time of making said demand, so far as the statute of limitation is concerned.

10th. The gist of every crime consists in the intention of the person charged, and unless a guilty intention is shown, no crime is proven. By a guilty intention I mean the intention to do the particular unlawful act complained of, and it makes no difference whether he considered it a crime or not. In this action the act complained of is the fraudulent conversion of money to the defendant's own use. To fraudulently convert money to your own use is to intentionally appropriate the money of another to your own use without the consent of the owner. If a man fraudulently converts money to his own use he is guilty of embezzlement, although when he converted it he intended to make it good, and had the means to do it.

11th. If the jury believe from the evidence, that the defendant was, from the month of May, 1872, to the 6th day of June, 1877, or any portion of that time, the acting agent of the state of Kansas for the sale of the lands set apart for the support and maintenance of the state Normal school, at Emporia; that as such agent he did sell any of said lands and did receive in payment therefor any money or any interest on deferred payments on said lands; that said lands when sold belonged to the state of Kansas for the use of said Normal school; that the defendant did at any time within two years prior to the commencement of this prosecution in the county of Lyon, and the state of Kansas, fraudulently convert to his own use without the consent of the board of regents of said school, any of said money so received, after deducting his legal charges or commissions for his services as such agent, the defendent will be guilty of embezzlement under the first count in said information, and you will so find. Or if the jury are satisfied from the evidence that the defendant, as the agent of the state of Kansas for the sale of said lands, had received any money arising from the sale of said lands prior to the commencement of this prosecution; that the board of regents, by any of its members duly authorized for that purpose, demanded of the defendant any and all monies theretofore received by him by virtue of the sale of said lands which he had not legally paid over or accounted for, and that defendant refused or neglected to deliver to said board of regents, or to any of their members by said board authorized to receive the same, any and all money which he, as such agent, had received and not theretofore legally paid over, after deducting his commissions for collecting the same, not to exceed 3 per cent., then, and in that event, the defendant will be liable for all money which he may have received as such agent (and not legally accounted for) within three years prior to the time of the demand, under the 3d count in said information, and you will so find, unless you further find that the defendant was prevented from delivering the same by means beyond his control before he had opportunity to deliver the same, or had been permitted to use the same by the board of regents of said school. By "means beyond his control," is meant, that said money was lost by some casualty which the defendant could not prevent, such as loss by fire, or robbery, or some other casualty. A conversion of the money by the defendant can in no sense be said to be a loss by means beyond his control. If the jury find the defendant guilty as charged under the 1st or 3d counts in the information, or both, you will also find the amount embezzled and state it in your verdict.

12th. There is evidence tending to show that the authority of the defendant to make sale of said lands was revoked by the board of regents on the 6th day of June, 1877, and that he was notified thereof within ten days thereafter. There is also evidence before you tending to show that the defendant received some money within three or four days after the 6th day of June, 1877. Now, if the jury believe, from the evidence, that the defendant received any of said money before he had notice of his authority being revoked he would be liable for the embezzlement thereof. But if received after he had such notice he would not be liable therefor.

13th. Gentlemen of the jury: After hearing the arguments of counsel, you will assume the responsibilities of this case, and I trust and believe that it will receive your careful and candid consideration. Weigh well and carefully all the evidence, and apply it to the law as I have stated it, and return into the court such verdict as the evidence and the law require, and you will have discharged your whole duty. E. B. PEYTON, Judge.

We shall attempt no report of the arguments of counsel, which occupied the latter part of Friday afternoon and Saturday morning. It is sufficient to say that the prosecuting counsel spared no pains to secure the enforcement of the law, while great legal skill was shown in the conduct of the defense. The case was opened by Mr. Gillett, followed by Lynn for defense, Crichton for State, Scott and Ruggles for defendant, and Attorney-General Davis, who summed up the case for the State.

The case went to the jury at ——p. m. Saturday, and they, after being out about four hours returned the following verdict.

VERDICT.

STATE OF KANSAS VS. E. P. BANCROFT: We, the jury in the above entitled cause, do find the defendant guilty of embezzlement, as charged in the information under the first count, and we do find the amount of money embezzled under the first count of the information is $3,436.18, and we, the jury in the above entitled cause do find the defendant guilty of embezzlement as charged in the information under the the third count, and we do find the amount of money embezzled under the third count is $1,987.24. J. T. GALBRETH, Foreman.

Mr. Bancroft was immediately taken into custody, and defendant's counsel gave notice of a motion for a new trial.

AMERICUS.

Mr. P. Stewart brought us, a few days ago, some of the finest peaches that we have seen this year. Mr. S. will get a heavy crop of fruit from his young upland farm, this season.

Prof. Sogard's singing school will commence the first of next month.

County Treasurer Ernst is having a splendid residence built on his farm east of town.

Bids were taken last Saturday for the building of a new school house here, which is very much needed.

Mrs. DeLap and Mr. Kennedy, from Emporia, gave us a pleasant entertainment one evening last week, in reading and music. Mrs. DeLap is a fine elocutionist and her selections were good and well delivered, particularly that of the "Fall of the Pemberton Mill." The entire entertainment was worthy of a larger attendance, which we regret to say was small, partially on account of sickness.

The brass band was kindly invited to play at the speaking in Emporia, last Saturday, which invitation they respect fully declined.

DIED—In Americus, Sept. 10th, 1878, Amanda J. Lafferty, wife of D. J. Rogers, aged 42 years.

She has gone from all she loved on earth
To him who died to save;
The dear one whom we loved so well
Lies mouldering in the grave. G.

COUNCIL PROCEEDINGS.

COUNCIL CHAMBERS, Sept. 16, '78.

Regular meeting of Council. Present, Mayor Watson, and Messrs. Perley, Halleck, Lowe, Whittlesey and Theis.

Minutes of meeting held September 2nd, 1878, read and approved.

Street Commissioner reported a list of lots abutting which sidewalks had been repaired by the city in 1878, together with the cost of such repair.

On motion of Mr. Perley, the following was adopted:

Resolved, That there is hereby levied upon the several lots and parts of lots described in the Street Commissioner's report of September 14th, 1878, the several amounts respectively in said report stated, as a special tax for repairing sidewalks abutting the same, and the clerk is directed to certify the same to the County Clerk, to be placed upon the tax roll of 1879.

Petition of James Knox for license to keep shooting gallery on 138 Commercial street for three months, read and on motion, not granted.

On motion of Mr. Perley, the levy of the Board of Education on the taxable property of the city, and territory attached for school purposes, was approved at seven (7) mills on the dollar.

Committee on streets and alleys reported in favor of granting petition of John Crowner and others, for culvert on south avenue across Market street, and the report was adopted.

On motion of Mr. Whittlesey, the following was adopted:

Resolved, That the committee on streets and alleys are hereby instructed to cause the culvert petitioned for by John Crowner and others, on 4th avenue across Market street, to be constructed by the Street Commissioner, and road labor, the materials to be purchased.

W. P. Sexton appeared before the Council and offered to furnish stone for crossings from 6 to 8 inches thick, 16 inches wide, and not less than 5 feet long, for 15 cents per running foot. On motion of Mr. Perley the offer was accepted for 300 feet, and for as much more as the city may need.

An ordinance to satisfy the following claims was introduced, considered by section under a suspension of the rules, and adopted by a unanimous vote: A. A. Clark, costs of F. G. Hunt as clerk in Whittlesey vs, City of Emporia, $18.60; Hiram Conner, boarding prisoners in August, $18.50; same in July, $5.

Bills on Clerk's desk referred. Adjourned. E. M. FOZIER, Clerk.

ANNOUNCEMENTS.

We are authorized to announce T. Johnson as a candidate for the office of Sheriff of Lyon county, at the ensuing election.

James E. Patterson, son of James and Mary Patterson, of this city, died Sept. 8th, of summer complaint. Aged eleven months and eight days.

Thy little form is laid to rest,
Thou hast the debt of nature paid;
Thy gentle spirit is with the blest—
Is now a shining angel made

O thou good shepherd of thy sheep,
Whose tender arms the lambs do hold,
Thou wilt our precious treasure keep
And lead us safe within the fold.

We were shown this week by H. H. Clepper, Esq., an old two dollar piece of Continential paper money, issued in 1776 under an act of the Continental congress of Feb. 17, 1776. It was printed by Hall & Sellers, in 1776, and in execution hardly comes up to our modern idea of bank note work, and unlike what our latest financial Solomons would have it, promises to pay to the bearer "two Spanish milled dollars or the value thereof in gold or silver." This piece, so suggestive of the time that tried mens' souls, has been handed down as an heirloom in the family from the grand father of Mrs. Clepper, who was killed at the battle of Wyoming, and is a very interesting relic.

SPECIAL NOTICES.

Call at Osborne's and see the "Champion Monitor," the most convenient cook stove in Kansas.

Dr. J. S. Lawrence, who has been visiting various points in the State in the interest of his specialty, and Dr. T. S. Lawrence having recovered from the ill health which for the last few months has prevented her from attending to professional business, have possession of their old rooms over Wibley & Henson's store, and will now resume general practice in connection with their specialties.

FARMERS, ATTENTION.—French pays the highest market price in cash for butter and eggs.

Have you seen the Champion Monitor cook stove?

The "Champion Monitor," the best cooking stove in the world, for sale at A. G. Osborne's.

The Champion Monitor cook stove is the best. Buy it from A. G. Osborne.

EVERYBODY'S BUSINESS.

A SILVER DOLLAR.
A GREENBACK DITTO.
Buy a pair of genuine buck gauntlet gloves at 38-tf I. E. PERLEY'S

Cheap Beef.
We are now selling beef at from three to eight cents per pound. The public will please make a note of this and give us a call.
38-2m ATYEO & HERMAN.

HOMEOPATHIC MEDICINES.—We are prepared to furnish physicians and the public generally with homeopathic triturations, dilutions, mother tinctures, etc., at St. Louis prices. Orders by mail will be promptly filled, and securely packed in wooden cases.
KELLOGG & HOYT.

$1.00. $1.00. $1.00.
It is a FACT. I sell the very best fine shirt shown in the west, full finished, for only a dollar. If you see them you will buy some.
38-tf I. E. PERLEY.

Neck ties and silk handkerchiefs, "fall styles," just received at G. P. JONES & Co's.

Holmes & Holden have money to loan on Lyon county land or city property, at reasonable rates.

Ask for James Smith's Imperial cigars.

For delicate shades of mixed paints, white lead, oils, and window glass, go to NORTH & RYDER'S

Farmers attention! Just received from Boston a choice line of hand-made boots, for men as boys, cheaper than ever shown in Emporia. 38-tf I. E. PERLEY.

For Lone Star Oil, the family safeguard, go to NORTH & RYDER'S.

Thousands of dollars are now being saved every year by progressive farmers, who soon discover the great value of freely using Uncle Sam's Condition Powder in the feed of their stock; it restores the sick, increases the beauty and usefulness and promotes growth. Sold by all druggists.

For stationery, blank-books, pocket cutlery, pocket-books ane lamps, go to NORTH & RYDER'S

The very best western made flannels and jeans, extra weight, much better than eastern shoddy goods, can be found at 38tf PERLEY'S.

You can buy groceries, tobacco, cigars, candies, etc., of a better grade and at lower prices of J. M. Butler & Co. than of any other firm in the west.

J. M. Butler & Co. are creating a very large demand for their excellent five cent cigar.

"Economy is the road to wealth." Fifty cents worth of Uncle Sam's Harness Oil applied to your old harness, will make the leather look like new and keep it soft and pliable.

The 60 cent Japan tea of J. M. Butler & Co. excels anything in the west at any price.

If you don't see it ask for it. Lots of things you want and everything at rock bottom prices. 38-tf PERLEY.

J. M. Butler & Co. have just received the largest stock of teas ever brought to Emporia. Call in and examine them.

SEWING MACHINE REPAIRS AND ATTACHMENTS.—N. Herring has established a shop for repairing all kinds of sewing machines, and will furnish sewing machine attachments of every description, at Piper's gun shop, first door east of the postoffice, where he can be found from the 1st to the 15th day of each month, commencing September 1st, and at Burlington from the 16th to the close of each month. All work warranted.

Now don't you forget it, but be sure and go to J. S. Watson's for your coal. He sells the celebrated McAlister, "Black Diamond" and there is none better in the market. Also the Fort Scott and Osage Shaft, at the Emporia wood and coal yard.

J. M. Butler & Co. have for sale the finest 5 cent cigar in the west. Smoke one and you will be convinced.

J. M. Butler & Co. is the only firm in Emporia that sell Imported and Key West cigars.

NEW GOODS ARRIVING DAILY at Wibley & Henson's. They are offering candid bargains in Hosiery, Gloves, Parasols, and new fall dress goods. Take a peep at their cheap counter.

If you want a prescription neatly and carefully compounded, go to NORTH & RYDER'S.

For choice perfumeries, fine soaps and a full line of brushes, go to NORTH & RYDER'S.

FINE—James Smith's Imperial cigars.

Liverpool and London and Globe Insurance Co. of England, assets $38,000,000, surplus $6,000,000, insure against loss or damage by fire. Policies issued at current rates.
A. K. HANNA, Agent.

Uncle Sam's Nerve and Bone Liniment is for man and beast, and is a balm for every wound. Sold by all Druggists.

FOR SALE.

An Excellent House!
OF TEN ROOMS,
Situated in the best and most commanding position in Emporia, between the Neosho and Cottonwood rivers, about 400 yards west of the Normal school. The house cost upward of $6,000 dollars to build, is particularly well finished and conveniently arranged. There is a newly built barn attached to the premises, with a good corn-crib and accommodation for at least 15 horses and cows. Five acres of land, in one lot, add additional value to the property, and is well suited for a well to do farmer or stockman.

Price for the house and five acres $3,000, $2,500 of which can remain on mortgage. A sum of $1,500 cash will therefore secure this eligible property, and the opportunity is one that can not be met with in the West.

Apply to Messrs. Holmes & Holden, Emporia, or to T. J. Maltby, H. M.'s Madras C.S., as above.

N. B.—As the owner is returning to England, immediate entry can be had. 34-tf

STOTLER & GRAHAM,
Real Estate Agents
NEW THIS WEEK.

224 to 361 inclusive, are city lots, at from $10 to $100 each.

No. 362.
4 acres near Neosho river, 1½ miles northwest of Emporia; one-story house of three rooms, considerable stabling, some fruit trees and timber. Good small fruit place. $300 cash.

No. 364.
80 acres, best of land, all tillable and fenced in with adjoining farms; 60 acres in cultivation; 2 miles from Americus; range ¼ of mile distant; No. 1 location and land; no other improvements; well on adjoining farm within a few feet of the line. This is a fine bargain at $980, with $400 of it on 3 years time, if desired.

No. 366.
147 acres No. 2 bottom farm on the Cottonwood river, close to railroad station, all best of bottom land, ample range ¼ mile to the north, 50 acres timber, water furnished by river and good well, all the land fenced, timber fenced by itself; 90 acres in cultivation; good unplastered but painted 1½ story house of 4 rooms; log stable with shingle roof, corncribs, &c.; good orchard of bearing peach trees, some bearing apple trees; no better land on the river. Price $25 per acre, one-half on a year's time if desired.

No. 367.
SUBURBAN lot of 2½ acres, half a mile southeast of Emporia, enclosed, for $160. A foundation of house 14 by 22 feet laid.

No. 368.
5 acres No. 1 small fruit farm, a mile west of Emporia. Comfortable house of five