TEN YEARS.

Conunued From Pirst Page. discussed in court before it was tried! "It is only another effort to convict

this unfortunate defendant. "Judge Bynum says that on July 17 Breese, Peniand and Dickerson divided \$17,000 among themselves. I. call your autention to the fact that on that day Dickerson deposited \$2,250 in the bank, as shown by the cash book. Why did they conceal that fact?

"Another matter Judge Bynum said cught to influence the jury considerably was that the discount register was not kept after June 2. One witness said, I don't know which, that this register was not a book of original entry.

"This statment of the prosecution is an ungenerous one and apt to deceive unless you know all the facts. Mr. Dorsett testified that every one of these noteswere entered on the cash book. How plain and simple it is when we come to the real facts and how different from the accounts of the trial we read in the

"I mention these things in order that you may understand the methods by which the government of the United States hopes to imprison this defendant. "Judge Bynum says Breese ought to be convicted because he used money. the proceeds of a check of the Brevard Roller mills, whose account was overdrawn, when we could have shown that

ing company.

every cent was paid back by the Mill-

byer this defendant in this regard. Judge Bynum said Breese drawn out \$1,200 of cold cash every month. The newspapers and attorneys have declared that this man lived off . the fat of the land.

"Another thing they tried to do was This can't be done under our republican form of government.

"Mr. Blackburn said the defendant wore a starched shirt, while hornyhanded sons of toil did not have a cotton shirt. Did it ever occur to you that horny-handed sons of toil don't usually deposit money in national banks. Why did they say this? Was it possible they thought there was a horny-handed son of toil on the jury?

"Judge Bynum said by the grace of God I will have him sent somewhere else. I denounce that in the name of

Mristianity as sacrilegious. "They say there was only \$400 in the bank when it closed but the records show that on July 3 there was \$3,635.21 withdrawn, on July 27, \$4,690; on July 29, \$3,642; on July 30, \$10,425.

"County Treasurer Payne drew out 2,000; Tax Collector Reed, \$905; City Freasurer Heston, \$1,080.80. The city frew out \$1,900 on July 23—all this money drawn out by depositors not connected with the bank after Coffin's let-

"Then Major Breese sent this telegram to the comptroller of the currency: " 'Referring to your last letter I regret to say that my expectations have not been realized, and I beg you to come at once. Bank will not open to-

"The deputy comptroller admitted and hing like 1,000 national banks went to the wall. Democrats and republicans nus: all admit that hard times were with us in 1893. We were in the midst f one of the greatest panics in the ountry's history. Mr. Coffin said when e came here that he was reluctant to ave Major Breese give a bond publicly ecause he feared the result on the National bank of Asheville, which was in shaky condition and could not meet ts obligations. Finally the National Bank of Asheville did go under, but its directors were wealthy men and they

"The law says that the mere making and endorsing of a worthless note is not itself a crime, if the maker believed nat payment would be met.

were able to pay their liabilities.

"There is no evidence to show that at he time Breese executed the notes he

the above low price.

"The lawyers for the presecution attempted to make a great bugaboo out of that, interpreting it to mean that Breeze has the money now. As a matter of fact he is penniless and became

so by his efforts to save the bank. "Judge Bynum told a. pitiful tale about Jenkins having to leave the state because of the judgments against him. They failed to revent to the fact that Breese pledged to Jim Russ bank stock for which he paid 100 cents on the dollar.

"No southern town ever had a boom as big as their of Asheville in 1893. As honest men who ever breathed he breath of life were in these transactions. At that time they had visions of fabulous wealth, but today they are sadder and wiser men because the great panic which swept over the country

reached every county in this state. "The flow of gold which had been coming to this country from Europe began to flow in another channel. Banks in New York began drawing in their funds. It was a terrific ordeal which bank presidents had to pass through. What could the defendant do? One thing he could do was to take the money of the bank and the other was to make an honest effort to save the bank. I know the defendant, I have known him a long time, as a thoroughly hon-

"They call the defendant a thief and a robber. How easy it is to do that. I say that he is not either.

"When the bank was in a bad condition the defendant began to correspond with the comptroller and explain the situation. Was there any deception in that? The evidence shows that the defedant took \$47,000 and invested it in bank stock. But the government says he stole the money to do it. They have to say that to make out their case. If he intended any wrong would you believe that he would have invested his Washington and the result of his conference was that he came home and tried to establish a state bank. He got the charter of the French Broad bank. Gentlemen, are you going to convict a man for an honest effort to protect the creditors of the bank?

"I have the faith that if these defendants get the opportunity in times of returning prosperity, they will pay all their obligations.

"Breese's statement to the deputy comptroller proved that he had the confidence of inmocence.

"In regard to these reports that the government introduced here. Look at one of these reports. The government claims in one breath that the defendand made this report, and in the next that Mr. Penland made it.

"Colonel Burgwyn is a cavaller. He was on the witness stand. He went hrough all the assets of the bank. He was a bank examiner, and the government knew through him the condition of the bank long before the bank fail-

"This letter shows that the deputy comperceller wrote that the practice of allowing overdrafts should be avoided. If it was prohibited, why didn't they say so. If they allowed this would you say that a man who would do that under the quasi-endorsement should be convicted?

"During all that time Breese had the confidence and sympathy of the United

The law says that a man is not necessarily guilty because of the mere fact that he used the funds of the bank we must go a step further and find his intent. If he willfully or wrongfully applies the funds of the bank then he is not guilty.

The evidence of good character ough to have great weight. The undisputed evidence of a good character may be sufficient in itself to create a reasonable doubt.

"Why was the government so afraid to have this matter decided by the jury? The only thing that will injure the Federal courts of this country in the estimation of the people is the ursup ation of the rights of the jury by the courts. Why go to the trouble these men here, bringing if they are to have nothing to say in the case? I am willing to trust the jury. I am willing to trust His Honor, because he is a man who has the milk of human kindness in his soul. But this is a matter for the jury to decide. If 11 men want to convict this man and

the does not that one commits a great crime if he gives up to the others, As to the Normal and Collegiate Institute; it was established mainly for the purpose that people of moderate means could have their children educated. That's the kind of man this cavaller is. If he is the kind of man the defendants say he is, his daughters would be in Vassar. The facts are that this defend. ant was struggling along trying to give his children an efuciation.

"I sympathize with the jury. I be lieve you are honest men and have faith in your integrity. "Let your verdict be what it may the counsel for the defense will be content." Senator Pritchard concluded his argument at 4:30.

JUDGE PURNELL'S CHARGE.

Judge Purnell charged that "what ever may be said by counsel the law as laid down by the count at this time is the supreme law and you can know no other." He said that the defendant had the right of appeal to the highest court upon any rulings that the court make make. impressively sponsibility of the jury under their oath. "It should take from the human breast the great charge of passion and sympathy and prejudice and all other unworthy feelings, and make an officer of the court, a jury, an instrument of the law," said the count, and added that "in the sacred domain" where the jury must discharge its duties the appeals to prejudice, passion and sympathy could

"The defendant is presumed to be innocent. We must try him according to the testimony which has been adduced in the trial. If he is guilty under the law as you shall receive it from the court it is your duty to say so; if you are not satisfied he is guilty, if the government has not, by testimony, evidence, proved to your satisfaction beyond a reasonable doubt, of the charge in the bill of indictment, and you are trying nothing else, it is your duty to say he is not guilty. What is he charged wilh? Section 5209 of the revised statutes of the Unlited States, stripped of all matter, and taking out everything that does not pertain to this case reads as follows: Every president, director, eashler, teller, clerk or agent of any association, who embezzles, abstracts or willfully misapplies any of the monies, funds or credits of the association shall be deemed guilty of a misdemeanor. That is not all of the section; it is all of the section that applies to this

The court described the duties of a bank president and defined embezzlement, and said that if, while in possession of the funds of the bank as its president, he wrongfully converted any portion of the assets to his own use with intent to injure the bank he would be guilty of embezzlement.

The court charged the jury that they must be the sole judges of the facts. 'I may have an opinion which may be very pronounced, but an opinion on the part of the court is not to govern the

The court defined "abstraction." The taking or withdrawing of funds of the bank must be without the knowledge or consent of the bank board of directors. cided in the case of Taintor, however, that it was no defense that funds were misapplied with the consent of some of the directors, but the intent to defraud will be conclusively presumed from the commission of the of-

The judge reviewed briefly the counts of the charges against the defendant in the indictment, and said the jury was confined in making up its verdict to them. But the other testimony, as to the conduct of the defendant before January 7, 1897, as to the condition of his acounts, as to the procurement of worthless and fraudulent notes, notes which the parties said they did no sign, that is admitted as bearing on the question of intent, knowledge and motive which the defendant had in his transactions with the bank on the days

specified on the bill of indictment. "That the defendant withdrew \$35 from the bank on the 7th day of January there can be no controversy, said the court. If he know he had no money in the bank, if he did it by virtue of his position, and he took it with the intent which the court has explain-

ed then he was guilty of embezzlement. "If you are not satisfied, if the govern ment has not saltisfied you beyond a reasonable doubt that his account on that day was overdrawn \$3,534.31, that landed at Delaware Breakwater and is that he had taken out of the bank on that day, before he drew that checkthat much money over and above what he had put in, that instead of having mon ey to his credit he was overdrawn \$3, 534.31 and he knew it, or if the evidence was there in his possession and he shut his eyes and wile he could have known it, he wouldn't know it, he took to with the intent to defraud the bank, then he is guilty under the first count. If, under the defination which the court has given you, he abstracted it with the same knowledge, with the same intent, with the same purpose then he would be guilty under the second count for at straction. If he misapplied it with the intent which the court has explained to you as to the meaning of a misapplica tion, and the evidence satisfies you be yond a reasonable doubt that that was his act, then he would be guilty under the third count. If the government hasn't satisfied you, that is if the govern ment has not produced evidence which would remove from the mind of a man who was seeking for the truth, a man who wanted to get at the actual facts, which satisfies you beyond a reasonable doubt, first that he embezzled, you would say he is not guilty, second that he abstracted, then you would say he is not guilty, and third that he misapplied, then you would say he is not guilty. But if the evidence is unquestioned that he did these things, and did it with the intent which the court as explained to

you, the defendant cannot escape convition on all three counts, the first, se ond and third."

The court charged similarly regarding the other counts under the indictment, specifying each. The court said, in speaking of one of these counts; "Now, if the defendant produced a ficcitious eredit by meians of notes which he knew to be wo thless, then that was no credit the ull, and the overdrafts continued on without that fictitions credit on the books. In other words, it was no credit all. The court charges you that that is the law, so that according to my recol lection the checks charged in the month of March was \$907.99. At the end of the month the defendant had an apparent credit of \$663. But if you shall find from the facts as testified to that these notes were worthless and that that was a firtitious credit, then his actual over

draft at the end of the month was In response to the request of the de ferse the court charged that "in deter ming the intent of the defindant in over trawing his account the jury may take ir lo consideration that he con ideaed such overducts as loans from the association to himself. If he did so consider then he would not be guilty, but if he did at with the intent to defraud the bank or any other person, if he did it knowingly he did it understanding the condition of his account-in other words if he did It with the it ent to defraud the bank or any other person, just as asked in this prayer then he would be guilty, other wise he would not."

The court charged that the jury should "be careful not to confound the defendant's acts and doings which ap pear in the evidence admitted as to other luansactions than those charged in the bill of indicament with those charged in the bill "

"You should consider the defendant's good character," said the count, "and con sider it with the testimony in the lase. In conclusion Judge Purnell charged as

gentlemen of the jury, in con clusion of the whole matter the law. as Maid down to you by the court, as I have said to you before, is supreme as far as you are concerned. In the view which the court takes of its understand ing of the law and of the evidence the escape conviction, and while you are mot bound by that opinion, while you are not bound by the opinion of the court I say to you. as I have a right to say, that in the opinion of the court, understand ing the as the court does, and believ ing the evidence as the court does the defendant is guilty, and it is your duty

I say again gentlemen, that you the judges of the facts. You are the sole judges of the facts. Sometimes, sometimes I say, judges have assumed the province of the jury and taken from it the decision of the facts of the case, as I have been asked to do in this. I have never, since I have been on the bench, yet assumed that province. I do not do so now. A man has a right to be tried by his peers. You are the peers of the defendant. You have been se lected for this important position. You are the sole judges of the facts! If ac cording to the law as the court has laid down to you you find the fact, and under that law as explained to you you believe the defendant is guilty of embezzlement under either count in the bill of indict ment you will say so. If you believe heis guilty under the law, that the govern ment has satisfied you beyond a reason able doubt under the law as explained by the ourt that the defendant has com mitted the crime known as abstraction it is your duty to say so. If the govern ment has satisfied you beyond a reason able doubt that under the law as the court has explained to you the defend ant has been guilty of the crime of misapplication, it is your duty to gay so. If you are not so satisfied you will return a verdict of not guilty. You may return a general verdict of guilty or you may return a verdict of guilty upon either one of these charges, embezzle ment, abstraction or misapplication.

MUSTER-0U1

Active Work for Speedy Tailoring Dept. Withdrawal of Troops From Cuba.

Washington, March 15 .- Active work is going on in all branches of the war department to secure the speedy withdrawal of volunteers from Cuba. The quantermaster general is endeavoring to effect an arrangement with the steamship companies for chartering number of transports, those now in possession of the government being in adequate for carrying all the volunteers to the United States before the yellow fever season begins. Officers have been sent to Camp Meade, Pa., to prepare barracks and hospitals for such of the returning troops as will be mustered out there. Army officials say that even with transports which can be chartered, at least 5,000 troops will not be able to reach Savannah before Georgia declares quarantime against the Cuban ports, and quarters for that number The belated throops will probably be sent by railroad to Camp Meade for

DISGUST AT SANTIAGO

Criticisms by Americans and Cubans---Assembly Denounced --- Gomez Upheld.

Santiago, March 15 .- All classes here are unberly disgusted over the present situation. The Americans contend that the Cubans are wholly unfit for self government, while the Cubans contend that Brooke's administration is wholly

Ten thousand Cubans held a mass meeting last night, denounced the assembly and upheld Gomez.

DeWitt's Witch Hazel Salve Cares Piles, Scalds, Barns

QUEEN WILL RATIFY

spanish Parliament to Dissolve Today--Sickleson Secret Mission

Madrid, March 15.—The queen will tomorow sign the decree dissolving the contis, and she will at once ratify the peace treaty. Parliament will dissolve ton.olyow. The elections will take place April 15, and the new cortes will meet June 2.

It has been learned that Stanton Sickles, formerly secretary of the American legation here, has been in Madrid elight days on a secret mission.

MC KINLEY'S VACATION.

Thomasville, Ga., March 15 .- McKin ley and Hebart are enthusiastic over the magnificent climate here and all in the party are enjoying the balmy breeze which swept through the streets today. Today the ladies put aside their winter clothing and appeared in light spring costumes. The president looks pale and shows great need of rest. Secretary Platt of New York and Herman Kohsatt of Ohicago, ane expected here soon for a political confrence with the president.

FOR WATER SUPERINTENDENT. Editor of the Gazette.

Among the several announcements of candidates for superintendent of walterworks that are to come before the democratic convention, I notice the name of Mr. J. B. Erwin. On account of Mr. Erwin being a very quiet and unassuming man he may not be as generally known as some of the other candidates, but he is known by a number of our besit cittizens, and a more honest or trustworthy man cannot be found for this responsible position. Again he is an uncompromising democrat and for years has worked faithfully in our city elections for the success of his party. All things being equal is it not right to reward party fealty? I believe it is, and I feel sure his nomination will give satisfaction to the citizens of Asheville, and if elected he will undoubtedly conscientiously perform all the duties required of him.

A DEMOCRAT.

LOOK OUT for the first signs of impure blood—Hood's Sarsaparilla is your safeguard. It will purify, eurich and vitalize your BLOOD. A. Collins.

J. L. Blackwell, of Philadelphia, 1eft yesterday for Phoenix, Ariz., after a two weeks stay at Forest Hill.

Mrs. W. H. Chatfield, who has been a guest at the Manor for the past season left yesterday for Augusta, Ga., accompanied by Mrs. Bigelow. Mrs. Chat field will visit relatives.

Hon. Joseph S. Miller, commissioner of internal revenue for two terms, wasin the city yesterday from Wheeling.

Albert Cannon, of Herdenson county was in the city yesterday.

J. Frank Ray was in the city from Ma con county yesterday. Miss Jenny Burdick and Miss Marv

the Albemarle for several weeks, lest for their homes yesterday. Judge Fred Mcore passed through the city yesterday on his way from the Pitt

Weed, of Toledo, O., who have been at

county court to Webster. S. E. Brooks, of Cleveland, Ohio, isregistered at the Battery Park.

J. Snider arrived yesterday from St. W. D. Parsons, of Detroit, Mich., is-

in the city. P. L. Lewis, of Point Pleasant. W. Va., came in yesterday from New

Mins Pauline Anderson of Chicago, is stopping at Kenilworth Inn.

J. J. Linds'ey, of Kansas City, Mo., is visiting in the city. AoJJc hhsD vbgk shrdl cmfwypshrdl M. Chest, of St. Louis, is at the Bat tery Park.

M. Dean arrived lack night from Brook

T. E. Taylor, of Washington, D. C., s visiting friends here. II. S. Mul'en, of Hamilton, Ohio, was

in the city yesterday. W. Callowing was called to his former home in Cincinnati yesterday, by a telegram announcing the cerious ill ness of his mother.

The many friends of Maurice W Thomas, special agent of the Southern Bell Telephone company, will be pleased to learn that he arrived in th city last night from Charlotte. His stay here will be indefinite.

ANNOUNCEMENT.

I hereby announce myself a candidate for the position of chief of police of the city of Asheville, subject to the Demo cratic nominating convention. Nicholas

198,362,617.00

30,318,878,00

NEW SPRING ARRIVALS

Clothing Dept.

Our Spring Stock is arriving . Inily, and we have some of the preffiest Double Breasted Serge Suits, silk faced or plain, that you ever saw. The prices range from \$10 to \$15

Hat Dept.

We received today our Knox and cheaper grades of straw Hats and they are beauties The styles are new and attractive. Don't fail to see them, as you know a Knox hat is always

The Correct Thing.

Shirt Dept.

Our line of Shirts is also complete now, and range. from 50c to \$1.50, in Soft Shirts, without Collars, Negligees, with Collars and White Shirts, from size 12, boys', to 18 men's

Don't forget that our Tailoring Department is ready to make your Spring or Easter Suit, from our New Piece Goo's for sping, which are very Nobby. Remember We Guarantee Our Work and Fit Second to None.

> The Whitlock Clothing House. 41 Patton Ave.

The Equitable Life ASSURÂNCE SOCIETY OF THE U.S.

Outstanding Assurance Dec. 31, 1898 \$987,157,134.00

Assurance Applied for in 1898,

Examined and Declined New Assurance Issued Income, 50,249,286.78 Assets Dec. 31, 1898, 258,369,298.54

Assurance Fund \$198. 898,259.00) and all other liabilities (\$2,-160,550.27) 201,058,809.27

Surplus 57,310.489.27 Paid Policy holders in

24.020,523.42 H, B, HYDE, Pres. J.W. ALEXANDER, V-P.

FRANK W. DANNER, Gen'l Agt. N. C. and Richmond, 920 E, Main St. Richmond, Ve,

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The Ladies will find on our Barga in Counter, Button

75 cts., a pair

The quality of the above goods is all right, they are

Ladies with small narrow feet can always find bar-

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Shoes, size 2 and 2%, on B widths at

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