doctrine, and thus sustaining the rights of the Kansas farmers.

"But it is most earnestly insisted by the learned counsel for appellants that the common law doctrine touching riparian rights is not applicable to the arid portions of the state, and especially to Yakima county; and this court is now urged to so decide, notwithstanding anthing it may heretofore have said to the contrary. The legislature of the territory of Washington in the year 1863 (laws 1863 p. 63) enacted that the common law of England so far as is not repugnant to, or inconsistent with, the constitution and laws of the United States and the organic act and laws of Washington territory, shall be the rule of decision in all the courts of this territory. The language of this provision was changed by the legislature in 1891 by omitting the words 'of England,' substituting the word state for territory and inserting the clause: 'Nor incompatible with the institutions and condition of society in this state.' (Code Proc. sec. 168.) But the meaning remains substantially the same. It thus appears that the common law must be our 'rule of decision' unless this case falls within the exceptions specified in the statute. Now the common law doctrine declaratory of riparian rights, as now generally understood by the courts, is not, in our judgment, inconsistent with the constitution or laws of the United States or of this state. Nor is it incompatible with the condition of society in this state, unless it can be said that the right of an individual to use and enjoy his own property is incompatible with our condition—a proposition to which, we apprehend, no one would consent for a moment. It is held by practically all the better authorities that the right of the riparian owner to the natural flow of the streams by or across his land in its accustomed channel is an incident to his estate and passes by a grant of the land unless specially reserved. It is not an easement in, nor an appurtenance to the land, but, as Angell says, is as much a part of the soil as the stones scattered over it. Ang. Water Courses, Sec. 5.

"'By the common law,' says the court, in Lux vs. Haggin, 69 Cal. 255, 10 Pac. 674, the right of the riparian proprietor to the flow of the stream is inseparably annexed to the soil, and passes with it, not as an easement or appurtenance, but as part and parcel of it. Use does not create the right and disuse can not destroy or suspend it. The right in each extends to the natural and usual flow of all the water, unless where the quantity has been diminished as a consequence of a reasonable application of it by other riparian owners for purposes hereafter to be mentioned.' And one of the purposes mentioned was irrigation.

In Washburn on Easements and Servitudes (4th Ed., pp. 316, 317), the learned author says: "The right of enjoying this flow without disturbance or interruption by any other proprietor is one jure naturae (by the law of nature), and is an incident of property in the land, not an appurtenance to it, like the right he has to enjoy the soil itself, unaffected by the tortious acts of a neighboring land owner. It is an inseparable incident to the ownership of land made by an inflexible rule of law an absolute and fixed right, and can only be lost by grant or twenty years adverse possession. (In this state by statute, an adverse possession of ten years would destroy the right). And the law on this subject is laid down by Prof. Pomeroy in language equally clear and explicit. He says: The use of the stream and of the water running through it, forms a part of the rights incident to and involved in the ownership of the lands upon its borders. This is the principle recognized by the common law, and which should be recognized by any auxiliary legislation. It is moreover, a natural law, an inevitable fact, which no legislation can change. Any statute denying this fact simply attempts an impossibility."

Thus does this court simply add to the well nigh innumerable opinions supporting the clear and settled doctrine on the subject," and verify the language of Chancellor Kent, "all the difficulty which arises consists in its application."

And this difficulty was not slight. Many people had settled on the reclaimed lands which from a condition of aridity and worthlessness were changed by the action of the diverted waters to a condition of great fertility and value. Prosperous farms and happy homes had been created in the midst of what was once a verdureless desert. The court was urged to not destroy those homes, to not reduce their occupants to a condition of penury, to not convert the lovely vista of thriving farms into the desert from which they had sprung by compelling the return to its natural channel of the water upon which all this beauty and thrift and happiness rested. In reply to this powerful appeal the court said:

"It certainly cannot be true that a difference in climatic conditions or geographical position can operate to deprive one of a right of property vested in him by a well settled rule of common law. The mere fact that the appellants will not be able to occupy or cultivate their lands as they heretofore have done unless they can irrigate them with water taken from the Ahtanum river is no sufficient reason for depriving the respondents who settled on that stream in pursuance of the laws of the United States of the natural rights incident to their more advantageous location. The necessity of one man, or of any number of men cannot justify the taking of another's property without his consent, and without compensation. If it be true, as claimed by appellants, that if the judgment of the court below is affirmed, their lands will again become a barren waste, and cease to blossom as the rose, it is equally true that if the waters of the river are diverted from its channel, the premises of the respondents will become inproductive and utterly worthless. The decision of the court below was affirmed.

A closer parallel to the contention of the farmers of the Arkansas Valley in Kansas can hardly be found. Settlers came to this valley thirty and more years ago, before the existence of the state of Colorado, and, attracted by the fertile character of the soil, and the magnificent flow of water filling the banks of the then noble river, established homes upon these lands in pursuance of the laws of the United States. Crops were planted, trees were set out, roads were surveyed, school houses and churches dotted the landscape, the universal evidence of the spread of American civilization and in a miraculously short time land whose best use had been to afford sustenance to the countless herds of buffalo was making glad the hearts of thousands of industrious and energetic citizens with its promises of wealth and all that material wealth stands for, and with its contribution to the building upof a great American commonwealth. Cities were founded, and on the solid foundation of the unsurpassed fertility of this great valley, watered by this mighty river, grew as cities never grew before.

This prosperity and this growth have been checked. The waters which in their natural course have made the Arkansas Valley in Kansas known everywhere for constant and unsurpassed fertility and beauty have ceased to flow, and with that cessation a great portion of one former prosperity has ceased to be.

A REMEDY SUGGESTED.

The prosperity of the irrigated lands in Colorado is the full complement of the adversity we suffer by reason of the wrongful appropriation, without our consent and without compensation, of our property in the use of the waters of the Arkansas River as they well want to run. If this appropriation should be allowed to continue and increase, it will be but a few years till the underflow will have disappeared; for active preparation is making for the storage of even the flood waters of the river. And should that great undertaking be completed, the filling up of the bed of the river by blowing sand, by leaves and grass, by shrubbery and trees will cease to alarm the fearful whose imagination pictures the destruction which a flood may cause; for all alike will be upland, and the Arkansas Valley will cease to exist; differing from what is now upland in one essential respect only—that the present upland has a hardpan which for a time holds the moisture which falls on it; while the valley will permit the falling rain to sink without hindrance into the thirsty sands below.

This report is submitted by the committee to the people of the Arkansas Valley in the earnest hope that they will defend their rights in the way clearly marked out by the law, and thus not only prevent any further injury, but compel a restoration of the waters of the Arkansas River to their rightful channel and bring a return of the prosperity of which they have been deprived by a wrong and unlawful diversion of those waters.

E. B. JEWETT,
Chairman.
W. J. BABB,
Secretary.
J. R. MEAD,
SILAS RUTLEDGE,
W. H. GRAVES.

A horse in the lead pulls in vain when the wheel horse lays back in the breeching. A man's body is a good deal like a team of horses, and must work harmoniously. The head may want to work, and strive ever so hard to work, but if the body is balky and sick the head will make no progress.

The man who is out of condition physically may as well give up trying to work mentally. He will not be able to do good work, or satisfactory work, and in the endeavor to do so will only do himself further harm. The reason that men have nervous exhaustion and prostration is that they try to work the brain when the body is balky. The right thing for a man to do when he finds he is out of sorts physically is to give the mind a little rest, and promptly resort to the right remedy for his physical ailments. Dr. Pierce's Golden Medical Discovery is the best of all medicines for a balky body. When the head aches, the appetite is poor, the sleep is restless, the nerves are shaky and both body and brain suffer from dullness and lassitude, it is time to resort to this great remedy. It restores the appetite, corrects all disorders of the digestion, makes assimilation perfect, invigorates the liver and purifies and nourishes the blood. It is the great blood-maker and flesh-builder. It is the best of nerve tonics and restoratives. It makes both body and brain alert and active. Medicine dealers have nothing "just as good."

"I suffered five years with an ulcer and the doctor here could not do me any good," writes Mr. John Jenkins, of Haywood, Madison Co., Va. "I took twelve bottles of Dr. Pierce's Golden Medical Discovery and I am well. I would have been in my grave if it had not been for your medicine."

For constipation and indigestion, Dr. Pierce's Pleasant Pellets are the most natural and perfect cure ever devised. They act gently but surely, and effect a *permanent cure.*

"77"
for
COLDS
Lassitude.

Lassitude, "that tired feeling," is the sign of approaching illness; it may be a Cold, La Grippe or other malady. A few doses of "77" at this early stage may "break up" the disease, preventing a long illness.

"77" cures Grip, Colds, Influenza, Catarrh, Pains and Soreness in the Head and Chest, Cough and Sore Throat.

At druggists, or sent prepaid: price, 25c. and 50c.; large pocket flask, $1. Dr. Humphreys' Manual at druggists or sent free. Humphreys' Med. Co., Cor. William & John Sts., New York. Be sure to get

H-U-M-P-H-R-E-Y-S

MUSIC AND DRAMA

The German Evangelical church of the city has once more arranged a church fair in order to raise the last of the debt on their property. It is to be hoped that the strenuous efforts of the members will be crowned with success, who are certainly worthy of the kind assistance of their fellow citizens. The fair is given under the management of the Ladies' of the church, who hav earranged unusually good musical programs for every night. The visitor will surely get his money's worth of entertainment and at the same time assist a good cause.(See ad on other page.)

"THE HERRMANNS."

The Herrmanns, Leon and Adelaide, will appear at the Crawford Grand Tuesday, October 25, in an entirely new program of magic, music, grace and dance. The name of Herrmann is a magnet which has never failed to delight and mystify large audiences the world over. Leon Herrmann, now in his third year in this country, to big success, has succeeded in keeping the name at its high niche in necromancy, and the entertainment given by him has delighted the many friends of both Carl and Alexander Herrmann. His sleight-of-hand tricks and palming border on the marvelous. The program the present season will consist of new and startling novelties, in fact it will present only what is new to the stage. Adelaide Herrmann will appear in several new dances, "The Black Butterfly," "La Satanesque" and "Silver Clouds." The artistic effect of these dances almost transcends conception. They are singularly graceful and the manipulation of the abundant draperies is infinitely varied and beautiful. The combinations of color are bewildering and fascinating. Leon Herrmann's new offerings are called "Salon Des Enchantements," "Elixir Vitae" and "A Night in Japan." The great novelty of the entertainment will undoubtedly be Adelaide Herrmann's new offering, "Ancient and Modern Fashion Plates," in which she will change costumes fifty times in ten minutes. The act is a wonderful one, the costumes marvels of beauty and each costume entirely distinct.

PLAYED EVEN

FOOTBALL GAME RESULTED IN SCORE OF 0 TO 0.

High School and Friends' University Teams Evenly Matched.

Yesterday afternoon at 3 o'clock, on the old Garfield campus, the first football game of the season was played between the Wichita High School and the Friends University teams. Nearly 1,500 people witnessed the game. This is the largest attendance ever known at a football game in the city. The day was a typical one for football with the exception of the heat.

The two teams were in good condition but lacked endurance toward the latter part of the play. Both teams were evenly matched in weight but followed entirely different tactics during the game.

The University won the toss, choosing the west goal, and the game was on when Fullback Charles of the High school kicked the ball into the University territory. It was caught by Rawson. Alexander was sent around the left end for a good gain. Several scrimmages followed, the ball finally going to the High school on a fumble. The High School made repeated gains by sending Hyde through the University line. Several attempts were made at end runs but without gain. The ball went to the University on a punt. Boyle was sent around the right end for a gain of thirty yards. Alexander went around the left end for ten yards. After several scrimmages the ball was punted by Fullback Torrey into the High School's territory. Rogers was sent around the left end for a small gain. The guards, Hyde and Ward, made small gains through the University's line, but the ball still remained on the High Schools' ground when the first half ended.

After an intermission of ten minutes the players reappeared on the field. The High School defended the west goal during this half, and the ball was kicked into their territory and luckily seized by Pyle, the University's right end. Then Alexander was sent around the left end for a small gain. After several attempts at end runs the ball went to High School on downs. Their repeated attempts to plough through the Universitys' center were repulsed and they were held down, to small gains. Finally the ball was punted by Charles into the University's territory and was safely caught by Torrey, who advanced it five yards before being downed. Pyle was repeatedly sent around the left end for good gains, when Torrey, who made the star play of the game, was sent around the right end for a gain of forty yards, thus placing the ball on High School's fifteen yard line. This was the only time that either goal was in danger. The University failing to make the required distance in the next downs the ball went to the High School. Again Ward, Rogers and Pyle were sent through the line for gains which were not sufficiently good to make the distances required. The High School finally lost the ball on downs, but soon recovered it. High School's end runs met with small gains. Hyde was then sent through center for a ten yard gain, but was downed by Torrey. Again High School tried to force their way through the ends but did not gain any. The University had just secured the ball when time was called. The ball was in the University's territory at the close, it having been forced there by the High School from their fifteen-yard line.

Both teams were loudly cheered and honors declared to be even. There is a posibility that the teams will play again to decide the tie, and they can be assured of a large crowd should they arrange the game.

The teams lined up as follows:

University.		High School.
H. Pyle	Center	Staley
Rawson	Left guard	Ward
Scott	Right guard	Hyde
Wright	Left tackle	Gertels
Baldwin	Right tackle	Garver
Parker	Left end	Keegan
E. Pyle	Right end	Alexander
Woodward	Quarterback	Herman
Boyle	Left halfback	Smith
Alexander	Right halfback	Rogers
Torrey	Fullback	Charles

NOTES OF THE GAME.

Torrey's run was the most exciting play of the afternoon.

The High School boys had good material back of the line, their tackling was good, and they were swift, but their interference was weak.

The University played a good game of interference but were weak in the line. This made their style of playing directly opposite that of the High School.

Both teams lacked unity of action and depended too much on the backs. With practice they will overcome this.

It was a fine exhibition of clean football. Not a slugger on either team, which speaks well for both.

The teams played all the better owing to the presence of the numerous young ladies from both schools. Their cheers certainly had a good deal of effect on the boys.

Many of the High School, Fairmount and Lewis Academy alumni were present. Among them were a number of men who formerly played on the teams of those schools, and they all took a lively interest in the play.

CASTORIA
For Infants and Children.
The Kind You Have Always Bought
Bears the Signature of Chas. H. Fletcher

Regular meeting of Anson Skinner Camp, No. 49, Sons of Veterans, Tuesday, October 25, at 7:30 p. m. Let every member be present as business is of importance. By order of W. C. Hoover, Capt.

The Pennsylvania association will meet in the basement of the court house on Saturday, October 29, at 2 p. m. All former citizens of Pennsylvania are invited to attend. A special invitation is extended to the ladies to meet with us.

Regular meeting of Warwick Lodge, No. 44, K. of P., Monday evening, October 24, at which meeting the Knight rank will be conferred. All members of this lodge are requested to be present, and members of Wichita lodge, No. 189 and visiting Knights in the city are cordially invited to attend. A. H. Ward, M. of W.

Program of Modern Tonties Social on Tuesday evening, October 25, corner of Topeka and Douglas avenues. No admittance fee charged:

Song ..... Quartette
Recitation ..... Miss Nancy Campbel
Vocal Solo ..... Mr. Pierrepont
Guitar Solo ..... Miss Belle Morris
Recitation ..... Mr. Walden
Vocal Solo ..... Miss Rosa Harrison
Piano Solo ..... Miss Woody
Recitation ..... Garfield Black
Vocal Solo ..... Miss Carrie Tatgenhorst
Duett ..... Miss Clara Goldstein and Miss Irene Riley.
Recitation ..... Adolph Wendell
Vocal Solo ..... Mr. Cunning
Selection ..... Miss Edna Shaw

After the program lunch will be served.

CASTORIA.
Bears the Signature of Chas. H. Fletcher. The Kind You Have Always Bought.

Do brides put a piece of their wedding cake under their pillow to dream on?—Atchison Globe.

"Ayer's Cherry Pectoral
saved the lives of two of my children when to all appearance they were in the first stage of
Consumption."
J. W. HUFFORD, Farmington, Ia.
HALF-SIZE BOTTLES, 50c.

A PRINCESS
MARRIED

a prince in the ancient city of Venice some 900 years ago. For the wedding breakfast she provided herself with a silver spoon. This set the fashion. One spoon was enough to start with. Now, if a woman hasn't two or three dozen she isn't in it.

We have a fine selection of spoons in a medium, dessert, teas, coffees, cream, olives, lemonade and souvenirs. All the novelties in sterling silver. Also the 1847 Rogers' triple plate ware.

Call and see them.

"SIGN OF THE TIME" VARNEY 120 N. MAIN New and up to date

Miss Emma E. Johns,
In her enchanting Piano Music last night at the First M. E. church, used a

SHAW ... PIANO

And she has stated that for sympathetic touch, sweet harmony, rich, mellow, yet clear tone, as a Piano, the Shaw is supreme.

Its guarantee in every possible way makes it an instrument worthy of a place in the home of every lover of music. No trouble to buy one from us.

Thos. Shaw,
129 N. Main St.

VITALIS
THE NEW French Remedy
VITALIS PRODUCES THE ABOVE RESULTS.
CALUMET CURE CO., 334 Dearborn St. Chicago
Sold in Wichita by G Gehring and Wells W. Miller, druggists.

Chichester's English Diamond Brand.
PENNYROYAL PILLS
Original and Only Genuine.
Chichester Chemical Co., Madison Square, PHILADA., PA.

BIG G CURES in 1 to 5 days. Guaranteed not to stricture. Prevents contagion. Evans Chemical Co. CINCINNATI, O. U.S.A.
Sold by Druggists, or sent in plain wrapper, by express, prepaid, for $1.00, or 3 bottles, $2.75. Circular sent on request.

GUARANTEE ...SALE...

TOMORROW, Monday, October 24th, our big **Guarantee Sale** will commence. We will guarantee to sell you New and Up-to-Date Shoes as cheap as any place in town, taking quality into consideration, regardless of **Quit Business, Removal, Dissolution, Moving Away,** or any old kind of a sale. Come and look for yourself. You know us. When we advertise anything, it goes.

This Shoe in lace or button. Goodyear Welt or Turn. Nice, low heel. This Shoe is worth $3 of anybody's money.

Guarantee Sale Price—

$2.00

Here is a snap. Lace and button, patent leather tip or kid tip, all leather or cloth top, sewed Shoe. Regular price is $2.50. These will be sold at Guarantee Sale for

$1.50.

Men's heavy box calf, welt, calf lined, double sole, worth $5 and good value for some merchants, but the Guarantee Sale closes them out at

$4

Box calf, for men. Heavy double sole or single sole. Nice, neat style and a dressy Shoe. Guarantee Sale price will be

$3

There will be some exceptionally good values given at this sale and you should attend if you need Shoes—and if you don't need Shoes it's a good time to buy, too, as you can save money.

Yours for Shoes,

Brailsch's

120 EAST DOUGLAS AVENUE... ...WICHITA

We Are Spreading Out!

Have just added 4,000 square feet of floor space to our salesrooms. Had to do it to keep pace with the wonderful growth of our business. Our sales are steadily on the increase—every month shows an advance above the corresponding month of any previous year, and our history dates back to 1887. This is naturally a source of great satisfaction to us, for it proves conclusively that no competition is able to block the progress of this

Mammoth Housefurnishing Emporium,

Now the largest in the State, HAVING 15,000 SQUARE FEET OF FLOOR SPACE IN OUR SALESROOMS, which are now overflowing with the latest designs and finest selected stock of FURNITURE, CARPETS, STOVES AND HOUSEFURNISHINGS ever before exhibited in Wichita.

Our men are now busy taking from our two large warehouses (which are also packed with goods) Fine Furniture, Stoves, etc., which they are setting up and placing on our salesrooms floors.

You can always depend upon us selling you same goods cheaper than others. We invite our patrons and the public to call and see our new quarters. We'll have a Grand Opening later and will give each caller a souvenir which big, little, old and young will enjoy. Watch these columns for our announcement later.

SINGER & DONNELL,

216-218 North Main Street.

I Know a Man

Who, when he became sick,

Recovered

After having his prescriptions filled by

The Prescription Druggists.

Romig & Howard,
134 North Main Street. Phone 280

Theo. Paul

If you want the best Choice Meats, fresh and cured, and at the same time buy at prices that will enable you to save many dimes, better give us a trial. We handle the best of everything in Meats, and if you'll give us an opportunity we'll please you in quality and make it to your financial interest to patronize us.

Let us show you.

539 N. Main

We have noticed that most things alluring are either on an Indian or a man just married.—Atchison Globe.