

SUPREME COURT DECISIONS.

SYLLABI. (S. F., No. 1033—Department Two—Filed June 2, 1898.) John Kelso, appellant; P. J. Cole et al., respondents. Street assessment. Affirmed.

All proceedings for work upon streets, etc., in the municipalities of this State, under the Act of March 18, 1882, and the amendments thereto, are purely statutory and can only be conducted in the cases and after the manner provided by the statutes. The authority conferred by these statutes must be strictly pursued.

Under the Street Act, the contract must be fulfilled within the time specified therein or within such further time as may have been given the contractor during the life of the contract, or no assessment can be levied; and if after the expiration of the limited time an extension is granted, and the work is completed, it forms no foundation for a valid assessment.

(S. C., No. 205—Department Two—Filed June 3, 1898.) Charles Trabling, a minor, by his guardian ad litem, respondent; California Navigation and Improvement Company, appellant. Damages for personal ejection. Reversed.

While a corporation is liable in compensatory damages for the wrongful acts of its servants, it is not liable in exemplary damages unless it is made to appear that the corporation ratified its servants' acts.

(S. F., No. 782—Department Two—Filed June 3, 1898.) Charles Flass, appellant; Catherine Flass, executrix et al., respondents. Ejectment. Reversed.

The Act of 1850 (Stats. 1850, p. 254) provides that "upon the dissolution of the community by the death of either husband or wife, one-half of the common property shall go to the survivor and the other to the descendants of the deceased husband or wife, subject to the debts of the deceased." Held, that the words "shall go" in the Act mean "shall vest," and apply equally to the descendant of the deceased husband or wife, as to the survivor, and that upon the death of the mother the children of the marriage become tenants in common with the father.

Therefore, while an action in ejectment will not lie by an heir to recover the portion inherited as against the administrator, pending the estate, it is proper for the court before which the ejectment suit is brought to ascertain and settle the respective interests of the parties. On these grounds a non-suit should not be granted.

(S. C., No. 296—Department Two—Filed June 3, 1898.) Mary E. Moore, respondent; William S. Kendall, appellant. Order dismissing proceedings for new trial affirmed.

See Section 659, subdivision 3, C. C. P. An appellant who presents proceedings for a new trial with reasonable diligence.

(L. A., No. 279—Department Two—Filed June 4, 1898.) Isaac H. Bryson, respondent; A. J. McCone et al., appellants. Damages for breach of contract. Affirmed.

The word "contractor," as used in Section 1183, C. C. P., does not apply to one who contracts to furnish material only.

Work done in placing machinery in position, ready to be used, is but the completion of the contract to deliver. A breach of contract to furnish materials is not a contract to pay money, a breach of which can only consist in a refusal to pay; in such a case, therefore, no demand is necessary before bringing an action to recover for breach.

Damages accruing after a suit for damages for breach of contract is commenced are properly allowed. Also, in such an action it is proper for the plaintiff to show the profits which he would have made.

(L. A., No. 258—Department Two—Filed June 4, 1898.) I. H. Bryson, appellant; A. J. McCone et al., respondents. Affirmed.

When the contention of an appellant is only that he is entitled to a different judgment upon the findings, there can be no use for a bill of exceptions to bring up the findings.

The appellate court cannot supply the defects in the findings. If facts exist which are not found, and which are material, the error can only be corrected by a new trial.

(L. A., No. 298—Department Two—Filed June 4, 1898.) John H. Wise et al., respondents; John L. Collins, appellant. Replevin. Affirmed.

A document not having been executed is not a written instrument within the meaning of the rule; its statements, therefore, coming from parties thereto are admissions on their part which are subject to explanation equally with like verbal admissions.

Error in the admission of testimony is cured by the subsequent introduction and admission of testimony which makes the former testimony necessary.

HEALTH STATISTICS. A Large Mortality List for the Merry Month of May. There was no meeting of the Board of Health last night, owing to lack of a quorum, and an adjournment was taken until this evening.

Secretary Nichols' report for May shows 51 deaths, 6 of which were from typhoid fever, 3 cholera infantum, 1 diphtheria, 2 spinal meningitis, 2 typhoid-pneumonia, 1 cancer, 1 carcinoma, 1 each tumor, meningitis, paralysis, muscular atrophy, pleuro-pneumonia, hemorrhage, la grippe, gastric hemorrhage, peritonitis, enteritis, acute indigestion, uraemia, diabetes, chronic cystitis, drowning, gangrene, senile dementia, 3 "natural causes." Death rate (on yearly basis), 20.4.

Nine cases of diphtheria were reported, 3 of measles and 1 of scarlet fever.

There were 24 births, 12 being of males and the same number of females.

Head for Business. The Original Alkali baseball club was organized last night at Hilbert Bros. grocery store at Fifteenth and D streets, and is ready to play any amateur team in the city. The Valley Dancers preferred. Its players are: W. S. Fitch, late of Olympia; W. Hilbert, pitcher; H. Schoenberger, left base; B. Richmond, 2d base; C. Ream, short stop; E. Clark, 3d base; T. Diviny, left field; M. Wagner, right of Kentucky, center field; W. Cunningham of Santa Cruz, right field.

AMUSEMENTS. Announcement is made of dates taken June 17th and 18th for concerts by little Paloma Schramm of Los Angeles, the wonderful child pianist and composer, aged 9 years.

Assisted by Mrs. Beatrice Priest-Fine, soprano, well-known in Sacramento as a favorite singer.

Fruit Shipments.

Fruit is coming in fast, and the shipments are already ahead of those of last year at the same date. A fruit handler of this city thinks the year's shipments will average up well.

Yesterday 20 cars were sent out for the East—11 for New York, 10 for Chicago, 2 for St. Paul and 1 each for Pittsburg, Boston and Minneapolis.

Chinatown Again Excited. The Chinese "tongs" were in a flurry of excitement last night, and the Fong Ducks reported at police headquarters that a new consignment of Sney On highbinders had arrived in the city.

The police kept an extra watch on the headquarters of the tongs, and up to a late hour no outbreak was reported.

On the Warpath. Captain Ash arrested Andy Walker last night, and strange to say, Andy "had a gun on him." The war spirit seems to have struck him, for he had a pistol and was hunting for a haythen Jap to end the latter's earthly troubles.

SAMPSON'S POWERS ARE UNLIMITED.

(Continued from First Page.) George Perrine of New York, Walter Abbott and Henry P. Walker of Massachusetts.

AT CHICKAMAUGA.

The Hot Spell Broken by a Steady Cooling Breeze. CHICKAMAUGA NATIONAL PARK (Ga.), June 7.—The very warm weather, which has been the only drawback to the work of the park, was relieved today by a steady breeze, and the men got through their drill work with much less trouble than usual.

Regiment and company drills and some regiment camp inspections were the order of the day.

The main work of the regimental commanders, outside of the regular routine, during the next few weeks will be the recruiting of each company to its full strength of 100 men.

The Major of each battalion, accompanied by four men, will be sent out to do the recruiting. Offices will be opened in the best places in all the States represented here, and every effort will be made to finish the work in a short time.

When the regiments are recruited to full strength the park army will number 75,000 men.

The First Regiment, South Carolina Infantry, under Colonel Thompson, arrived this afternoon. It was taken through to the park soon after arriving here.

Governor Bradley, with a large party of prominent Kentuckians, arrived this evening, and will remain several days.

All the light batteries of artillery are now fully equipped, and the infantry regiments will soon receive their equipment.

The division hospitals are complete and in operation. These are the second and third divisions of the First Corps, and the second division of the Third Corps.

Colonel Hartsuff, Surgeon in Chief, states that he has sufficient medical supplies on hand to last some time. The volunteers, however, he states, expect more and use more medicine than the regulars. A large consignment of surgical instruments is en route.

Major Nye, Commissary of Subsistence, states that up to 6 o'clock last evening the volunteer army had been furnished by the Quartermaster's Department with 4,500 horses and 5,200 mules. The army is now about fully supplied with cavalry, artillery, wagon-train and officers' horses and mules, and only a few more are needed.

BLANCO CUT OFF.

Now Has No Communication by the Santiago-Hayti Cable. WASHINGTON, June 7.—Information received here to-day indicated that the French cable between Santiago de Cuba and Hayti had not been working since midnight last night.

If such is the case, the Blanco is cut off from communication with his home Government by that source.

SPANISH BATTERIES SILENCED.

(Continued from First Page.) The destruction of Admiral Sampson and the destruction of the Spanish fleet. As Santiago's land defenses are reported weak, it is likely that the city will yield to a vigorous attack.

It is reported that the commander of the Reina Mercedes, second in command of the Spanish fleet under Cervera, was killed during the engagement.

The combined American and insurgent forces have been ordered to last night with guns mounted in preparation for a further movement. From Spanish sources comes a report that a party of Americans landed at Aguadores, but whether it is true or not is not known here.

The correspondent of the "Times" at Havana says the Americans' attempt to land at Aguadores was repulsed.

Penalty for Destroying Mines.

WASHINGTON, June 7.—Senator Hawley has introduced a bill for the punishment of persons who may willfully injure or destroy any submarine mine or torpedo or harbor defense system owned by the United States.

The offense is made a misdemeanor, punishable by fine or imprisonment. Mr. Hawley also introduced a bill for the punishment of persons for photographing fortifications. The offense is made a felony, punishable by imprisonment for ten years or by fine of \$25,000, or both.

New Jerusalem Church.

CLEVELAND, June 7.—The seventy-eighth session of the general conference of the New Jerusalem Church (Swedenborgians) of the United States of America began here to-day. Delegates are here from nearly all parts of the country, as well as several from foreign lands. The first day of the convention will be devoted to the counciling of ministers, in which the work of the general convention will be taken up. The convention promises to be one of the most successful in the history of the church.

Men's Black Dress Suits, Frocks and Sacks, \$10.

Our \$10 Black Clay Worsteds Suits bear out the motto of our Clothing Department: "Low price suits don't mean low class suits here." The \$10 Black Clay Worsteds Suits are not high price suits, and they're not low class suits. As popular this year as they were last year. Just so—although clay worsted has advanced in price we have not cheapened the quality of the \$10 suits in the slightest degree. The same quality of cloth as before—the same high standard of workmanship—the same high grade of trimmings.

We fit these suits just as we fit our \$25 suits—that is, we will fit you perfectly.

Business Trousers, \$2 50.

Most men are surprised when they see these trousers—far ahead of their expectations in quality and patterns. Styles suited for business or dress wear—light, medium and dark colorings. Perfect fitting—altered to fit when necessary. Price, \$2 50.

Telescope Valises.

Strong, substantial and low priced—just the thing for short journeys. Made of very heavy slate colored canvas, with copper riveted ends, and corners protected by riveted leather straps. Answer all the purposes of higher priced valises. Complete with two straps and handle. Sizes 14 to 26 inches long; prices, 35c to \$1 25 each.

Men's Tan Shoes, \$2.

Two dollars, a modest sum, buys a pair of men's tan shoes here—well made, well fitting, comfortable and dressy shoes. Nice shade of dark tan, laced, with medium square toes having neat toe caps. Two dollars will not buy better shoes for men hereabouts.

New Shirt Waists.

Women who come in our stores linger about the shirt waist section. The hundreds of waists that are continually on display make the section unusually attractive. New styles that are continually arriving add additional attractiveness. We show now six entirely new ideas in dainty summer waists. Novel and pretty effects in lawns, percales and Madras cloths. Prices, \$1, \$1 25 and \$1 50.

Blue Flame Oil Stoves.

Are you acquainted with the merits of blue flame oil stoves—the ideal summer cooking stoves? If not, let our salesmen explain them to you. There is a blue flame stove here that will make the explanation easy to comprehend. It is the New Process Blue Flame Oil Stove—so good that we are able to sell it with a strong guarantee. It bakes, broils, fries, boils and roasts—there is absolutely no danger in its use. It was a good stove last year—much better this year, as it has a number of new improvements. And to make it all the more worthy of your attention it is not high priced. For stove with two burners, \$7.

Besides the New Process we carry the Puritan Wickless Blue Flame Stove, for which we are agents in Sacramento. It's safe to say that the Puritan is the only perfect wickless blue flame stove on the market. We don't merely say that it will work perfectly—we demonstrate that it does, and guarantee that it will continue to do so.

For the Puritan, with two burners, \$7 75.

New Bicycle Hose.

A novelty in men's bicycle hose. Black, with red, white and blue tops. Bicyclists wear colors to advantage, why not wear the national colors? Price, \$1 25.

WEINSTOCK, LUBIN & CO., 400-412 K STREET, SACRAMENTO.

TODAY, SPECIAL SALE

Feather Pillows, 50c Each. At the opening of business Wednesday, June 8th, we shall place on sale 500 feather pillows, measuring 19x26 inches, each pillow containing 33 pounds of feathers, covered with the best satin tick. The quantity is large, but the value is strong. Don't wait too long. Wednesday's Price, 50c.

The Ideal Safety Razor.

The Ideal Safety Razor has a patent guard that prevents the cutting of the face while shaving. No experience necessary to use it successfully. Gentlemen, what more useful article can you take with you on an outing or camping trip? Price is only 63c.

Swing razor strops, horseshoe on one side and canvas on the other. Splendid value at the low price, 12c.

Velocipedes, \$1 50, \$1 75 and \$2 25.

Boys get the full benefit of velocipedes at this time of the year. All the velocipedes in the line we carry have adjustable seats and extra strong frames and wheels. Three sizes at \$1 50, \$1 75 and \$2.

Kaiser Silk Gloves, 50c.

You have heard of the Kaiser Silk Glove. We have sold thousands of pairs to well pleased women. Made double at the finger tips, and each glove bears a ticket guaranteeing that the fingers will not wear out sooner than the rest of the glove. Little wonder that the Kaiser Silk Gloves are so popular. You can get them here at 50c pair.

\$1 Dress Patterns.

Just now we are showing a remarkably fine assortment of new Dress Lawns at \$1 suit. Dainty patterns in attractive colorings and exceptional value at such a price. Each pattern contains 12 yards. Better values and prettier patterns cannot be had in inexpensive summer suits.

Flowers from 10 cents per spray to \$1 75.

Leghorn Flats, 25 cents to \$1 50.

Ribbon, No. 22, for 15 cents, all silk.

Ribbon, No. 60, 25 cents and upward, according to color and quality.

Untrimmed Shapes, 25 cents to \$1 50, all this season's shapes.

Call and see them at MRS. M. A. PEALER, 621-623 J St., Sacramento.

NOTICE TO CONTRACTORS.

PURSUANT TO AN ORDER OF THE Board of Trustees of the State Normal School of San Diego, California, notice is hereby given that sealed proposals will be received by said board until 10 o'clock a. m. of June 24, 1898, for furnishing the materials and performing the labor necessary for the erection and completion of the central portion of the San Diego State Normal School Building.

BRITISH CRUISER CHARYBDIS.

LONDON, June 7.—A letter has been received in this city dated from the British second-class cruiser Charybdis, which recently arrived at Las Palmas, Grand Canary. The writer says: "We have had rather a ticklish time since our arrival here, as the natives think we have formed an alliance with America, so we are quite prepared, should they attempt another Maine treacher, to-nightly ship losses all her lamps, and sentries stand ready with ball ammunition to fire on any boat approaching after dark, unless it satisfactorily answers when hailed. We have a boat armed nightly after 8 o'clock, and all the quick-firing machine gun crews are ready for action. All the water-tight doors are closed, so that it will be a pretty large hole they will have to blow in to us to sink us."

Monument for Gladstone.

LONDON, June 7.—In the House of Commons to-day a message from Queen Victoria was read announcing her majesty's intention to direct the erection of a monument to the late William E. Gladstone in Westminster Abbey, in accordance with the wish expressed in the address of the House of Commons to the Queen.

Another Spanish Complaint.

MADRID, June 7.—Duke Almodovar Rio, Minister of Foreign Affairs, has mailed to all Embassadors of Spain a note and memorandum declaring the United States has violated international law by capturing Spanish vessels before a declaration of war, by bombarding ports without notice, and by using the Spanish flag at Guantanamo.

A Welcome for the Soldiers.

LOS ANGELES, June 7.—Patriotic citizens are preparing to welcome and refresh the 1,000 soldiers who left El Paso at 6:30 this morning, and are expected to pass through here to-morrow afternoon on their way to San Francisco.

Steamer Lafayette.

CORUNNA, June 7.—The Compagnie Generale Transatlantique steamer Lafayette, from Havana and Vera Cruz, arrived here to-day. Her passengers included General Blanco's aide de camp, who bears official dispatches to the Spanish Government.

Point Applique.

This is an unusual offering of fine goods at little prices. Some of the daintiest and prettiest patterns in Art Linens that it has ever been our good fortune to have will be placed on sale at very low prices, Thursday, at the opening of business. A special arrangement with one of the largest importers of fine Art Linens placed us in possession of 180 PIECES of choice Renaissance, Point Applique, silk embroidered and lace-trimmed Art Linens in sizes ranging from 7-inch squares to large shams and table runners. All are travelers' samples, a little bit soiled from handling. One time laundering, however, will restore their original brightness to them. Our sale prices are not over one-third of their original value.

Thursday's Prices, 8c, 14c, 43c, 72c, 98c, \$1 38 and up to \$2 98 each.

Certainly an unusual offering of fine goods at little prices.

Women's Extra Size Hose.

Plain black Cotton Hose, with spliced heels and toes, extra elastic in leg, 25c. Fine gauze Hose in a plain black, elastic in leg and ankle, have double heels, toes and soles. Price, 33 1/2c.

Plain tan, with wide leg, elastic at the ankle, double heels, toes and soles. Price, 33 1/2c. Extra size Hose, in black cotton, with white feet; a comfortable feature in warm weather for women who are troubled with tender feet, 40c.

Superior quality Maco cotton, elastic in both leg and ankle, double heels, toes and soles. Good wearing hose. Price, 50c.

Carriage Paint, 40c Can.

Another addition to our paint stock—a line of carriage paints in all the leading colors, guaranteed to be the best paint of its kind made. Comes already prepared for use; is easy to apply, dries quickly and leaves a brilliant gloss. Price for pint can, 40c.

Millinery Sale.

Another lot received. Also some elegant patterns LINEN WARP at 25c yard. Heavy LINOLEUM, 50c yard laid. CASH OR CREDIT.

CHAS. M. CAMPBELL, 413 K ST.

Furniture and Carpets.

THURSDAY, JUNE 9, SPECIAL SALE OF

Point Applique. Renaissance and Fine Art Linens. This is an unusual offering of fine goods at little prices. Some of the daintiest and prettiest patterns in Art Linens that it has ever been our good fortune to have will be placed on sale at very low prices, Thursday, at the opening of business. A special arrangement with one of the largest importers of fine Art Linens placed us in possession of 180 PIECES of choice Renaissance, Point Applique, silk embroidered and lace-trimmed Art Linens in sizes ranging from 7-inch squares to large shams and table runners. All are travelers' samples, a little bit soiled from handling. One time laundering, however, will restore their original brightness to them. Our sale prices are not over one-third of their original value.

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Furniture and Carpets.

Special Values in Embroidery, 6c, 9c, 13c, 19c.

Cloth of fine, even texture, but heavy enough for good service. The embroidery designs are many in number and are all edged with button hole stitch, a feature that insures wear. The 6c yard lot runs from 2 to 3 inches wide. The 9c yard lot runs 5 inches wide. The 13c yard lot runs 9 inches wide. The 19c yard lot runs 12 inches wide.

We carry in regular stock by far the largest and most complete line of sailor hats to be found in Sacramento—there is no one to dispute the fact. The neatest in expensive hats—the newest of swell novelties. And in addition to our regular values we always have several good styles at special prices.

Costs you nothing to come in and try these hats on. We have so many shapes that it has become necessary to try on different styles before purchasing. Anything you want in sailor hats can be found here. 35c to \$1 50 each.

Sailor Hats.

Many interesting special items in summer goods at our Domestic Counter. Some of the unusual values now on sale: Openwork White Goods in pretty stripes, 10c. Lightweight Flannelettes in dark grounds with colored figures, 3 1/2c yard. Pretty Seaside Suitings in pique effects, 11c. Attractive Dress Lawns in new patterns, 10c yard.

Percasilk Dress Linings, 15c.

The newest dress linings for summer suits are the plaid, check and striped Percasilks, of which we show a complete line. These decidedly handsome tafetta dress linings have a bright silk finish and come in a number of pretty light color combinations; used for skirt facings and ruffles, as well as linings. Price, 15c.

We have the Percasilks in plain colors, also, such as cherry, Nile, white and yellow, at the same price, 15c.

Domestic Items.

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EVENTS ON THE TURF.

RESULTS OF RACES ON EASTERN TRACKS. CINCINNATI, June 7.—Weather fine and track fast at Oakley. Results: Five furlongs, Piccola won, Nervura second, Norma Taylor third. Time—1:02. Six furlongs, Mottilla won, Violet Parson second, Ray H. third. Time—1:15 1/4. Mile and a sixteenth, Millstream won, Eddie Burke second, Skylark third. Time—1:49 1/2. The Diamond stakes, five and a half furlongs, The Barrister won, Preliminary second, Orderette third. Time—1:06 1/2. Mile and an eighth, handicap, Three Bars won, Banished second, Won't Dance third. Time—1:57. Six furlongs, Komuraki won, Kris Kringle second, Azucena third. Time—1:15. AT GRAVESEND. NEW YORK, June 7.—To-day's results at Gravesend: Five furlongs, Whiplash won, Theory second, Lepida third. Time—1:02. Mile and a sixteenth, Nuto won, Whistling Con second, Previous third. Time—1:49 1/2. Patchogue stakes, six furlongs, Cleophas won, Irish Reel second, Zaneone third. Time—1:52 1/2. Gazelle stakes, mile and an eighth, Gelsha won, Kitefoot second, Miss Miriam third. Time—1:56 1/2. Five furlongs, Alpen won, Loterer second, King Price third. Time—1:02 1/4. Mile and a sixteenth, Thomas Cat won, General Macoe second, Knight of the Garter third. Time—1:48 1/2. AT HARLEM. CHICAGO, June 7.—To-day's results at Harlem: Five furlongs, Streamer won, Cheval d'Or second, Mizouri third. Time—1:06 1/2. Six furlongs, Warren Point won, Howitzer second, Borden third. Time—1:19 1/2. Mile and an eighth, Moncreith won, Banquo II second, Joe Clark third. Time—2:01 1/2. Six furlongs, Daisy F. won, Albert Vale second, Carrie F. third. Time—1:17 1/2. Four and a half furlongs, Rush won, Ed. Tipton second, Barrabas third. Time—0:58 1/2. Six furlongs, Tom Collins won, Ramiro II second, May W. third. Time—1:17 1/2. AT DETROIT. DETROIT, June 7.—Six thousand people witnessed the second running of the Detroit Derby at the opening of the Highland Park meeting to-day. Stanton & Tucker's Strathmore colt, Isabeau, won the Derby and the \$1,500 first money in clever style from Nabob and Miss Gussie. Alice Farley and Laverock were the other starters. Results: Six furlongs, Jenney won, Takanssee second, Belle of Corsica third. Time—1:14. Half a mile, Roy Mitchell won, Contravene second, Moylett third. Time—0:40. Seven furlongs, Reprivee won, Ona-

THE BARRISTER WINS THE DIAMOND STAKES AND THREE BARS THE HANDICAP AT OAKLEY.

ST. LOUIS, June 7.—Results: Seven furlongs, Samovar won, Her Favor second, Potaris third. Time—1:32 1/2. Mile and three sixteenths, Lady of the West won, Tony Honig second, Confession third. Time—2:08 1/2. Six furlongs, Fireside won, Henrica second, St. Augustine third. Time—1:04 1/2. One mile, Libation won, Ed. Farrell second, Our Chance third. Time—1:43 1/2. Seven furlongs, Madeline won, Belle Ward second, Loving Cup third. Time—1:57 1/2. One mile, Basquil won, Domsie second, Deerfoot third. Time—1:43. BRITISH CRUISER CHARYBDIS. LONDON, June 7.—A letter has been received in this city dated from the British second-class cruiser Charybdis, which recently arrived at Las Palmas, Grand Canary. The writer says: "We have had rather a ticklish time since our arrival here, as the natives think we have formed an alliance with America, so we are quite prepared, should they attempt another Maine treacher, to-nightly ship losses all her lamps, and sentries stand ready with ball ammunition to fire on any boat approaching after dark, unless it satisfactorily answers when hailed. We have a