

THE GATE CITY PUBLISHED BY THE GATE CITY COMPANY

E. F. Sidorin, Manager

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Keokuk, Iowa July 16, 1914

Before Going Away Don't forget to have The Gate City follow you by mail. To be happy and contented you must have the home news. Mail post card or phone 35.

"IN LOVE WITH HIS JOB." I haven't much faith in the man who complains Of the work he has chosen to do; He's lazy, or else he's deficient in brains.

THOUGHT FOR TODAY. Travel is fatal to prejudice.—Mark Twain.

Sydney Grundy, the dramatist, is dead in London. He was sixty-six years of age.

Dr. Maurice E. Egan, United States minister to Denmark, who has been seriously ill in Washington, is recovering.

The hunger strike in the state prison at Trenton was ended when the keeper offered the strikers lamb chops for dinner.

William Brown, who owns 100 miles square in Oregon, was a school teacher at \$40 a month twenty-seven years ago.

More than 200 letters written by Lord Nelson to his wife will be sold at public auction. They cover the period from 1785 to 1800.

The steamship Batavia, in from Hamburg, was held four hours in quarantine because a girl steerage passenger was ill of smallpox.

Sir Arthur and Lady Conan Doyle sailed for Liverpool on the White Star liner Megantic, after a tour of the United States and Canada.

King George is likely to honor the late Joseph Chamberlain by conferring a title on his widow, formerly Mary Endicott of Salem, Mass.

Pleasant A. Stovall, American minister to Switzerland, gave a dinner, a reception and a ball to celebrate the Fourth. Many prominent Swiss officials were present.

In confidential chats between women the problem of managing men becomes a comparatively simple art at which all of the parties to the conversation are pastmasters.

Medill McCormick says the Moose will have a ticket in every county in Illinois which prompts the Herd Transcript to remark that McCormick and Perkins can furnish everything but the votes.

Iowa people now own 99,000 automobiles. The automobile department of the secretary of state's office estimates these machines are worth on an average of \$1,000 each, which would make the total value of Iowa's autos \$99,000,000.

Those Baby Chauffeurs. Marshalltown Times-Republican: Surely, put the steering wheel in the hands of a 10-year-old kid and sit back on the cushions and wait. It will happen. And perhaps you will not have to wait long.

In spite of the fact that unusually large cereal and fruit crops are assured in the Spokane country, local bankers are informing Secretary of the Treasury McAdoo that they will have no need for federal funds to assist in moving the crops this year.

Secretary Wilson of the department of labor is pleased at reports he is receiving which indicate that the number of American citizens emigrating to Canada is decreasing.

President Wilson's appointment of Thomas D. Jones, a director of the International Harvester company, as governor of the federal reserve board, created by the new currency law, is attracting wide attention among farmers.

SAN FRANCISCO IN 1915. The American Medical association will hold its next annual session in San Francisco. There is a peculiar appropriateness, says the Journal of the American Medical association, in meeting next year in connection with the great exposition which is to celebrate the completion of the Panama canal.

When a law case is tried to the court, as to the facts, acts as a jury. Code section 3783. It may make a separate, or special, finding of facts, in which event its finding shall have the effect of a special verdict.

Code section 3654. In the event that it does not do so, then its general finding has no other effect than the general verdict of a jury. This doctrine was recognized early by the supreme court.

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An Open Letter to Judge Deemer Constitutional Limitations on the Supreme Court.

Hon. H. E. Deemer, Red Oak, Iowa. My Dear Judge: While it was no doubt always conceded that the constitution bound the legislature as well as the subjects, it was for a long time contended that it lay with the legislature to say whether its acts were constitutional or not.

That the constitution binds the judiciary, as well as the legislature and the subjects, is a proposition that, likewise, has never been disputed. But here the analogy ceases! The judiciary has the power that the legislature contended for.

The consequence of this state of affairs is that the judiciary violates the constitution at its pleasure. It frequently violates it by going beyond the limits of its power fixed thereby.

Section 4 of article 5 of the constitution, as to the supreme court, prescribes: "The supreme court shall have appellate jurisdiction only in cases in chancery, and shall constitute a court for the correction of errors at law, under such restrictions as the general assembly may by law prescribe."

To restrict it to confine within bounds, so that the power of the court in the correction of errors at law is not absolute under the constitution, but is also subject to limitations prescribed by the legislature.

The legislature in section 4139 of the code has prescribed that "the (supreme) court may reverse, modify or affirm the judgment, decree or order appealed from, or render such as the inferior court should have done."

Bearing in mind the distinction between cases in chancery and actions at law made by the constitution, it cannot be said the general assembly by said section enlarged, or undertook to enlarge, the constitutional power of the court.

Now actions at law are triable by jury and the constitution provides (section 9 of article 1) that "the right of trial by jury shall remain inviolate."

When a law case has been tried by a jury in fact the power of the supreme court under the constitution and section 4139 is clearly limited to reversing or affirming the judgment upon the verdict, unless there is in the case a special verdict upon which the lower court should have rendered a judgment which it did not render.

Then the supreme court has power to reverse the judgment upon the (general) verdict and also to render upon the special verdict the judgment of the lower court should have rendered.

In the latter event the supreme court has the precise power that is conferred upon the lower court by sections 3726 to section 3728 of the code.

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on the facts and the law, in favor of the plaintiff or the defendant.

A general verdict is so called because the whole matter in issue is thereby found generally.

A general verdict is a direct statement of a conclusion of law and an indirect statement of the facts from which the conclusion is drawn; it expressly affirms the law and inferentially the facts.

Smith v. Ireland, 4 Utah, 187. A general verdict is synthetic—a compound of law and fact. The special verdict is analytic. It finds the facts and submits the law to the court.

Now if the supreme court in law cases is, by the constitution, limited to correcting errors of law, how can that court in a case in which there is but a general finding and judgment by the lower court do ought but reverse the lower court's judgment, without violating the constitution? If there is an absence of any fact or facts to support the judgment, then the legal conclusion of the lower court is wrong, and the supreme court corrects an error of law in reversing the judgment. If the facts in the case support the judgment, no matter how the supreme court may view the evidence in the record upon the facts, there is no error of law in the judgment, and, under the constitution, that court is without authority to interfere with the judgment.

Under our constitution and statutes the power of the supreme court to review a case at law is not greater than that of the supreme court of the United States under the federal constitution and statutes.

In Martinton v. Fairbanks, 112 U. S. 670, 28 L. ed. 862, the supreme court said:

"Mr. Justice Woods delivered the opinion of the court: 'Two actions of assumpsit were brought by Fairbanks, the defendant in error, against the town of Martinton, the plaintiff in error. One action was brought upon what the declaration alleges to be 'certain instruments in writing called promissory notes or bonds or railroad bonds,' made and issued by the town. They were not under seal and were payable to bearer. The other was based on the coupons or interest, warrants, also not under seal, which had belonged to and had been detached from the said bonds. The declaration in both cases was in the form used in the action of assumpsit. The plea in both cases was the general issue. The two suits, were, by the agreement of the parties and consent of the court, consolidated and tried together. The parties filed with the clerk a stipulation in writing, by which they waived a trial by jury. 'The causes were thereupon tried by the court as one case, and its action was thus stated upon the record: 'After hearing the evidence, the court finds the issue for the plaintiff, and assesses his damages at \$11,209. Upon this finding the court entered judgment for the plaintiff for the damages so assessed. 'During the trial a bill of exceptions was taken which simply set out all of the evidence in the case, and closed as follows: 'Which was all of the evidence offered in said causes; on which evidence the court found for the plaintiff in the sum of \$11,209, and entered judgment accordingly, to all of which said defendant then and there excepted. And, as said facts do not appear of record, this bill of exceptions is prepared, and we ask that the judge may sign and seal the same; and it is done accordingly.' 'There was no demurrer to the declaration or other exception to the sufficiency of the pleadings; no exception to the rulings of the court in the progress of the trial, in the admission or exclusion of evidence, or otherwise; no request for a ruling upon the legal sufficiency or effect of the whole evidence; and there was no motion in arrest of judgment. The only matter presented by the bill of exceptions which this court is asked to review, arises upon the exception to the general finding by the court for the plaintiff, upon the evidence adduced at the trial. The defendant in error insists that, upon this state of the record, no question of law is presented which the court here can review. 'We think this contention is well founded. The provisions of the acts of congress which relate to the trial of issues of fact by the court are found in section 22 of the act of September 24, 1789, I state at L. 73, ch. 20, 'An act to establish the judicial courts of the United States,' and in section 4 of the acts of March 3, 1865, 13 state at L. 500, ch. 86, 'An act regulating proceedings in criminal cases, and for other purposes.' The provision in the act of 1789 is reproduced in section 1011 of the revised statutes, as follows: 'There shall be no reversal in the supreme court or in any circuit court upon a writ of error . . . for any error of fact.' The provisions of act of 1865 are reproduced in sections 649 and 760 of the revised statutes, as follows: section 649, 'Issues of fact in civil cases in any circuit court may be tried and determined by the court without the intervention of a jury, whenever the parties or their attorneys stipulation in writing waiving a jury. The finding of the court upon the facts, which may be either general or special, shall have the same effect as the verdict of a jury.' Section 760, 'When an issue of fact in any civil case in a circuit court is tried and determined by the court without the intervention of a jury, the finding of the court upon the facts, which may be either general or special, shall have the same effect as the verdict of a jury.' Section 760, 'When an issue of fact in any civil case in a circuit court is tried and determined by the court without the intervention of a jury, the finding of the court upon the facts, which may be either general or special, shall have the same effect as the verdict of a jury.' Section 760, 'When an issue of fact in any civil case in a circuit court is tried and determined by the court without the intervention of a jury, the finding of the court upon the facts, which may be either general or special, shall have the same effect as the verdict of a jury.' 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