

ST. PAUL NEWS.

A GERMAN VIEW.

St. Paul Described by One of Mr. Villard's German Guests—His Opinion of the Future Capital of the Northwest.

The New York *Belletristisches Journal* of November 21, contains an account of St. Paul written by Dr. N. Mohr, of Bremen, who visited this city with the Villard party, which we translate for the benefit of the readers of the GLOBE:

The traveler who leaving the Rocky mountains to the westward has become satiated with the prairies and wheat fields of Dakota must feel his heart bound with pleasure when he steps out on the terrace of Grote's Tivoli by the Mississippi bridge in St. Paul. The outlook is exquisite. One begins at once to endeavor to recall what similar scene it suggests in Germany, whether on the Rhine or on the Elbe. It seems so home-like to us—and yet there is an unfamiliar atmosphere about it which makes the picture doubly attractive. The mighty river, whose source is not very far distant, comes to this point from the south and sweeps gracefully along the high bluff on which St. Paul stands, soon however, resuming its original direction southwards. At Minneapolis it suddenly takes the northerly course. It breaks through the high hills which strike it there and forms the well known St. Anthony's falls, whose water power gave birth to Minneapolis and furnished the foundation of the wonderful development of that city, which progresses at an equal pace with St. Paul, and thanks to these waterfalls has built up a milling industry without a counterpart. On the left bank, upon which St. Paul stands, the bluff descends abruptly to the water, while on the right bank a gradually rising plain. A suspension bridge at a dizzy elevation connects the city with the opposite bank. The heights are covered with trees and the flat land presents a varied aspect of houses, woods and fields. Numerous islands, some bearing foliage, others mere sand bars which disappear when the Mississippi is at its normal height, checker the surface of the stream.

This lively and extensive landscape is enjoyed from the Mississippi bridge. If a person, however, is desirous of sitting down comfortably and enjoying a glass of beer he visits the above mentioned Tivoli on the terrace, which stands on the rocky height directly over the stream. Here our ears are greeted with the German language, and one might often fancy that he had exchanged the bank of the Mississippi—that stream which recalls so vividly to remembrance the deep impression it shared in our schoolboy days with the Amazon, the Ganges and the Indus, for a German *Kneipe*. But the surroundings are after all somewhat unfamiliar. A stag's head, a mountain sheep, etc., recall our mind to the fact that we are in the vicinity of the far west.

I was returning from the Yellowstone park, after a six hours' continuous journey, in the latter part of September, when I found myself in St. Paul. Four weeks previous we had arrived here to take part in the opening of the Northern Pacific railroad. All was festivity and preparation. A solemn breakfast, with speeches, a trip through the city and a visit to the railroad company's offices had occupied our time. Two days later, after we had first had some rest at Minnetonka, lake, a splendid procession took place of the industries and trades of St. Paul, which was followed on the same day by a similar festival demonstration in Minneapolis. Now, however, I saw the city in its every day garb. The excitement and decorations of the festival had long disappeared. But the city notwithstanding did not present a bad appearance. A lively activity and every section. It seems as though the hands of that commercial profit, which points in from every side cannot be filled, and in fact the city is growing wonderfully. St. Paul probably has 80,000 inhabitants—at least that is the figure at which its population is estimated. The last census in 1880, which stated the population at 42,000 was entirely inaccurate. It is believed that if the census in the directory were increased one-third a result more nearly correct would have been arrived at. When it is borne in mind that St. Paul in 1855 was but a town of 4,000 or 5,000 inhabitants it will be admitted that the most sanguine expectations of the increase and the future development of the place are far from visionary. In those times a German fellow countryman who had lived in St. Paul about thirty years, and who spoke with justifiable pride, said to me, "I saw every house erected that then stood here." At that time St. Paul was wholly dependent upon the river trade, and when winter closed navigation, and covered the Mississippi with ice, it was an important question—may a vessel, whether navigation would be resumed a few weeks earlier or later, and when the first vessel should arrive from the south with fresh supplies. All St. Paul streamed to the river bank when the longed for vessel came in. It brought the token that the long winter blockade was broken.

LOCATION OF ST. PAUL. The location of St. Paul at this point is not merely fortuitous. Nature had prepared here a site for a city. The walls of rock which encompass the left bank of the Mississippi sink to the water's edge at the point where the centre of St. Paul's business activity is now situated, thus making a kind of valley which the streets on both sides descend. A variety of surface is in this manner produced which relieves St. Paul from the deathlike monotony of the average American city. Of course the plan of the town was originally laid out in regular shape, but the suburbs have exerted great influence and there sharp angles occur. It is a source of regret to the citizens of St. Paul that the streets have not greater width. The river traffic plays now an unimportant role, but the fact that St. Paul lies at the head of navigation on the Mississippi—

which is as above stated is only a few miles further up the stream at St. Anthony's falls—has exerted great influence in the development of the city. This terminal point was at once the depot of supplies for the more distant parts of the country, and also the market where the manufacturers brought from a distance were exchanged for the products of the surrounding region. Only think that at St. Paul a water highway begins which never ends until it reaches the Gulf of Mexico!

The business portion of the city was originally near the river. It still remains there. The railway stations are in the lower part of the city, not far from the

river, and the streets running parallel with the Mississippi belong exclusively to business purposes. Above these begins the ever-growing area devoted to residences, churches and schools. The capitol, the seat of government of the state of Minnesota, indicates the imaginary centre of St. Paul, and will in the near future be the actual centre. That the streets are straight, that they intersect each other at right angles, that they are systematically named, those parallel with the river bearing numbers and the cross streets being the names of distinguished men, is here only in keeping with other cities. The frame building has disappeared from the river portion of the city and with the growth of the place the style of architecture has altered. Five stories or more in height rise the business houses built of granite, simple but attractive. Block follows block, but granite no longer serves the purpose, and sandstone is the material with which the newer edifices are built. For in St. Paul there is a universal hope and expectation of still further development. The city has excellent railroad connections. Upwards of a hundred and fifty trains come and go daily. The older lines connect the city with the east lakes are reached by a variety of routes, and the south also. The northern Pacific railroad stretches from St. Paul all the way to the Pacific ocean.

THE TRADE OF ST. PAUL. The trade carried on with the great emporiums, New York at the head, then Chicago, St. Louis, etc., is of a twofold character; to secure the supplies of groceries and industrial products required for distribution through the extensive region dependent upon it, and also to make itself the collecting point for the leading products of the tributary country, which in this northern latitude are wheat and cattle. There is great competition in this struggle for predominance, but the steady growth of the city's population and prosperity attests to the substantial basis of its commercial enterprise. St. Paul, and to a certain extent also the neighboring city of Minneapolis, whose great significance moreover lies in the milling and lumber interests, control the north and the northwest to such a degree that Chicago and even New York cannot compete with them. These lofty, wide and deep storehouses which make up the business section of St. Paul contain in rich variety everything that man requires for some use, for clothing or as food. As a rule the goods are sold in bulk, and the trade itself is to a great extent done by the wholesale houses, which are themselves to a great extent engaged in the carrying trade. The dry goods houses for instance carry stocks of cloth and also of ready made clothing. The aggregate contents of 275 stores, with 4,864 employes, figure up a valuation of sixty-six and two-thirds millions of dollars.

THE MANUFACTURERS OF ST. PAUL. Together with trade there has grown up in St. Paul a noteworthy manufacturing industry which gives employment to over 12,000 persons. The leading manufactures are those of mill machinery, wooden ware, machine shops and many others. The value of articles manufactured here annually is officially reported at twenty-two million dollars. Several banks—among them one German bank—assist in sustaining this trade. The opening of the Northern Pacific railroad whose management is lodged in a handsome new building in St. Paul, has, as already remarked, excited the most brilliant expectations, and in fact since that mighty scheme has been accomplished, and the ground for doubting that such anticipations will be fully realized. Numerous branch roads, built by the Transcontinental company, which is also under the Villard management, by their connections with the Northern Pacific render practicable the rapid development of the soil whose products must seek transportation over the main line, and St. Paul hopes to be prominently all that territory. The mercantile interest of St. Paul is already glancing towards the Pacific ocean, in the hope that not only will a portion of America's commerce with Eastern Asia find its way through to St. Paul over the Northern Pacific road but also that the United States will succeed in sharing to some extent with England in the enormous export trade to China, Japan and India.

But St. Paul can boast that she is not solely interested in the development of material interests. Her public schools are highly praised, eight thousand children attending them, a new state capitol is just completed and a new court house and city hall, as well as a theatre, are in progress of construction. The surroundings of the city are beautiful and will, in time, be well supplied with parks and pleasure grounds.

RURAL BEAUTIES OF ST. PAUL. The rural beauties of St. Paul lie on the banks of its majestic river and the streets which lead thither from the city are lined with a large number of handsome country seats, surrounded by well tended, shady gardens. Frame buildings are more numerous in these localities, though they are not the exclusive habitations of the wealthy. The most prejudiced against them to abandon his double walls and careful closing of all unnecessary apertures, these houses defy the cold, even the bitter cold of Minnesota winters, and likewise keep out the summer heat, while the material of which they are constructed is, of course, much more readily operated than stone. Upon the heights overlooking the German citizens also have their residences, and are adorned with many memories of their native homes. The interior arrangements, as a rule, are naturally in keeping with the customs of the country, which in that respect are perfect down to the most trifling details, as here, individual taste conform themselves more to general habits than in the case with us.

On the street in the lower part of the town all is animation and life. The multitudes of teams of all kinds is immense. The American, and especially the western man, is a born rider and driver, and when circumstances favor him he is certain to own either a buggy or a double team. Hence, the really innumerable crowds of light vehicles which are constantly and skillfully being driven through the streets, and which, notwithstanding their apparently weak structure, withstand unharmed all the perils of these American pavements. The streets! the streets! That is the weak point in all American cities. Dirty, muddy or dusty, uneven, full of holes and promulgances, they are, without exception, a source of complaint in every part of the country, but apparently cannot be improved. St. Paul, the young and pushing city, is, perhaps, in some degree, excusable in this regard, and moreover, improvements are promised. The sidewalks are wooden throughout, and are not inconvenient provided the boards are not laid too tightly down and the holes are not too large, or too frequently encountered.

On the other side of the river, leaving the bridge to the right, a saw mill is passed, then some low and meadow lands, then comes a steep ascent, after which a person finds himself on the high bank in perfect solitude. That is a spot to bear in one's memory. At its feet flows the river, studied with wooded islands, in whose water one frequently catches the predominates. The bridge lies in the half hidden by foliage. Fort Snelling looms up on a lofty, rocky precipice of the shore. Everything is enveloped in an

atmosphere of mystery in the mellow autumn afternoon. Soon, however, we come again to humanity. There lies Mendota, the oldest settlement of the vicinity. Then we arrive at the Minnesota, which, at this point, carries us into the Father rivers. A ferry boat carries us across and we land at the base of Fort Snelling, which crowns the lofty summit of the rock. The fort was designed to protect the early settlers against the Indians, and it bears testimony to many bloody encounters in that neighborhood. Indians are still residing in the vicinity. There are still burning grounds which they regularly visit. But it is long since they have been dangerous to white men. Fort Snelling is only a military station, a rendezvous for troops ordered to the frontier. The old fort, with its warlike equipments, is surrounded with a row of cottages in which the officers reside. There are some artillery and several companies of a colored regiment stationed there. A bridge across the Mississippi brings us to the road leading back to St. Paul. The view from that point of the river, which here makes a sharp bend, and is hemmed in by steep rocky walls, is wonderfully beautiful. On an excellent highway we ride back to the city, and we are at once greeted again by its busy turmoil.

KATHER ROUGH. That Was the General Character of the Customers Brought Face to Face With Judge Burr Yesterday.

To boozers or not to boozers; that is the question that agitated the minds of a jury in the police court yesterday morning. The principle involved was that of the right of a saloon keeper to keep his joint open after midnight. The ordinance says that the conductor of a gin laboratory must turn down the breaks promptly on the stroke of twelve, and that any tippie sold after this hour is an offense against the commonwealth of Minnesota.

The little affair of N. Swanson before his honor yesterday was a case in point. He was arrested on the charge of selling booze after midnight, and the charge grew out of the assault on Tom Brennan in the bar room of Wood's theater last week. Swanson demanded a jury trial and the case was linked swiftness long drawn out. The jury found him not guilty and he was discharged.

Chas. Koch, another saloon keeper, was up on the same charge. The testimony showed that while defendant had run his ranch after 12 o'clock it was not through any intention of being crooked. On the night in question he gave an opening reception to his friends and the band played so loud that it stopped the clock and he didn't know the hour. He was discharged.

F. Lippert, the plasterer, who was attacked on Seventh street Monday night by the festive highway robber, appeared in court yesterday and asked to have his case reopened. He rehearsed the story of the attack, saying that he was approached by three men who jumped onto him. He resisted, drew a revolver and attempted to shoot them. The gun was one of the central fire things and on the night of the attack it had in him caps so that he could not discharge it but it had the effect to make them run. The ball for his appearance which was forfeited was refunded.

Cares of Life. As we come to them they are received, borne with and passed over with no more than a thought, if we are in the enjoyment of health, but if suffering from skin diseases of any kind they magnify a hundred fold. A. H. Wilkes, B. and E. Zimmerman, and E. Stierle, the druggists, have Dr. Bozanko's Pilo Remedy, an absolute cure. Sold at 50 cents.

Articles of Incorporation. Articles of incorporation were filed with the secretary of state yesterday by the Duluth and Western Elevator company for operating elevators and warehouses and receiving, storing, delivering and handling grain in the state of Minnesota. The corporation commences Nov. 22, 1883, to continue thirty years, with a capital stock of \$200,000 divided into 4,000 shares of \$50 each, which may be increased at any regular or special meeting of the stockholders to \$1,000,000, with a corresponding number of shares. The incorporators are Dwight G. Cutler, Wilmer W. Dows and Craig Coffield, of Duluth, and Edwin Locke and Frank R. Bunker, of Minneapolis, who are also the first board of directors.

Articles of incorporation were also filed yesterday of the Bank of Ortonville, in the county of Big Stone, with a capital stock of \$25,000, divided into 250 shares, with power to increase the same on demand. The incorporators are Bernard Derral, Albert Schfer, C. E. Brooks, C. K. Orton, Adolph Blom, Ferdinand Schumaker, Patrick Clarke, Leslie C. Lane, Richard Norrish, Henry Van Morgan, Fred Sanborn, Frank H. Dombard, Chas. E. Surley, Frank Ebbuon and Seth W. Smith.

A Remarkable Escape. Mrs. Mary A. Dailey, of Tunkhannock, Pa., was afflicted for six years with Asthma and Bronchitis, during which time the best physicians could give no relief. Her life was despaired of, until in last October she procured a bottle of Dr. Williams' Pink Pills. These pills, she said, were a source of relief, and she used them for a short time she was completely cured, gaining in flesh 50 lbs. in a few months.

TRANSPORTATION NOTES.

Trouble With the Scalpers. There was more trouble with the scalpers and the railroads yesterday, and what is more it was of a more serious character than the railroads were willing to admit. It must be borne in mind that nearly a year ago the managers of the Chicago, Milwaukee & St. Paul, the Albert Lea route, and the Chicago, St. Paul & Omaha roads entered into an agreement fixing the passenger rates between St. Paul and Chicago, and agreed to abide by them. Subsequently the local ticket agents entered into an agreement between themselves here in St. Paul, the substance of which was to maintain the rates agreed upon, and fixing local penalties for violations of the terms of the agreement. From the time of the making of the local agreement to the present time charges have been made that tickets were being sold through the compromise of the roads, at a less rate than that provided by the agreement. Of course this was denied by the roads, and still the selling of cut rate tickets went right on. Several convictions followed, but that made no difference. The scaldugeery went on until it got to a point yesterday when it had to be stopped or controlled, or an open rupture would follow.

The arbitrator business between the Green Bay, Winona & St. Paul road and the Milwaukee & Western Railroad, which was to have come before Mr. Barnes, of the Northern Pacific, as arbitrator, has been indefinitely postponed on account of the absence of the representative of the Green Bay road.

The Iowa Pool. Chicago, Nov. 25.—Representatives of the Chicago, Burlington & Quincy, Chicago & Northwestern, Chicago, Rock Island & Pacific, Wabash, Missouri Pacific, and Chicago, Milwaukee and St. Paul railroads, composing the Iowa pool, held a session here to-day to consider the differences which have threatened to dissolve the pool. The representatives of the Milwaukee & St. Paul road explained the causes which had induced that line to give notice of intention to withdraw from the combination, and declared the leading one was the refusal of the other roads to admit to the passenger pool. They claimed it to have been the understanding of the St. Paul management, which ran two passenger trains each way daily, between Chicago and Omaha, that it would be admitted to the pool on equal terms with other lines. The representative of the Burlington & Northwestern stated in the session they were willing to admit the St. Paul to the passenger pool but the Rock Island declared its intention to oppose the entry of the St. Paul until certain differences between it and the St. Paul line over the passenger traffic to the westward had been settled. The St. Paul company also claimed the right to a larger percentage of the Union Pacific business originating at Omaha. The claims of the St. Paul company were considered at length, and the tone of the debate was such as to indicate a willingness to arbitrate the matters in dispute. The St. Paul company extended the date of its notice of intention to withdraw from the pool to January 1st and the session adjourned to December 13th.

Proposed Extension. ALEXANDRIA, Va., Nov. 28.—The directors of the Norfolk & Western Railroad company resolved to issue \$2,500,000 improvement and extension bonds for the purpose of building additional warehouses, coal piers, etc., at Norfolk, and also extending their new river division to open up new coal mines and building branch lines into the important mineral district adjacent to its line.

THE FIRE LADDIES. They Enjoy Themselves at Their Annual Ball at Market Hall Last Evening. Market hall has contained a great many large and fashionable throngs since its dedication but it remained for the Fire Department Relief association to test its full capacity, which was done upon the occasion of the third annual ball of the society last night. No better test of the popularity of the members of the department could have been had than that shown in the immense crowd which assembled to do honor to the occasion last night. In point of numbers it was the largest crowd that ever graced the hall, and for that matter it bears the palm for having been the best attended social gathering of the season. The hall presented a very brilliant and captivating appearance, being festooned throughout with streamers of red, white and blue, while the walls were adorned with appropriate engravings, the subjects of which represented the apparatus of the department, and the pioneer members of the association. Among other features in this respect was the first banner of the association, presented by Mr. Bart. Freley. The programme consisted of twenty-four dancing numbers, and from the grand march down each number was significant of some phase of work or experience of the department in relation to fires.

Dancing held sway until this morning, the hall fantastic being tripped to the music of Brock's Brigade and of Minneapolis all of the St. Paul bands being engaged. At midnight a substantial supper was furnished at Burns' market house restaurant. During the ball a wagon was in waiting at the entrance to convey the members off duty to their apparatus in case of an alarm. Among the visitors present was Chief Sietson, of Minneapolis, and several members from his department. Chief Black, assistant Chief Hildebrand and ex-Chief R. O. Strong, president of the association, were also present. It is estimated that the receipts will foot up over \$1,600.

Notice—A. O. U. W. The members of Concordia Lodge No. 5, and all members of other lodges are respectfully invited to attend the funeral of our late Brother, Charles Deifel, at Workman hall, Wabash street, at 1 o'clock p. m., to-day.

The Philadelphia Press says: "Henry Chaplin, the sporting and aristocratic member of the English parliament, does not like the American bullock, and Bismark has an antipathy to the American hog. The hog has been accused of many crimes, but it is difficult to see what the poor bullock has done beyond supplying the people of England with cheaper meat than they could possibly get if they had to depend upon their own limited supply of stock. Mr. Chaplin is ungrateful!"

THE COURTS.

U. S. Circuit Court. [Before Judge Nelson.] United States vs. James Gleason; stealing property of the United States; placed on the calendar.

Same vs. Thos. Regan, et al.; stealing letters from post-office same.

Same vs. James Bennett; breaking into postoffice; same.

Supreme Court. At yesterday's session all the justices were present and the following business was transacted: John Steele, respondent, vs. John W. Bond and Joanna Bond, appellants; argued and submitted.

Sanford A. Hooper, appellant, vs. The Bank of Shakopee and Foster L. Balch, substituted, etc., respondent; order to show cause why the judgment of the court below should not be disapproved; argued and submitted.

F. P. Alexander on presentation of certificates from the supreme court of the United States was admitted to practice in the courts of Minnesota.

Adjourned to 9:30 next Monday.

Sanford A. Hooper, respondent, vs. Peter Henry, appellant; Alanson Hinman, respondent, vs. Peter Henry, appellant; Sanford A. Hooper, respondent, vs. A. V. Heyderstadt, appellant; Alanson Hinman, respondent, vs. A. V. Heyderstadt, appellant.

Syllabus—In an action under the statute to determine adverse claims to real estate the defendant in his answer alleges title in himself and asks the court to adjudge plaintiff's claims to be void, he waives the objection that plaintiff is not in possession or that the land is not vacant and unoccupied, and plaintiff brings forward not in possession to bring the action. A mortgage contained covenants of seizure against incumbrances and of warranty. The mortgagee subsequently took an assignment of a prior outstanding mortgage. Held, that if there was no merger, said prior mortgage was by reason of the covenants in the second postponed to and subject to the second, so that when the second was foreclosed and the time to redeem expired without redemption, it cut off all rights under the first, including the right to redeem from a foreclosure thereof. Judgment affirmed in all the cases.

In the matter of the proceedings to recover a judgment for taxes against a certain tract of land situated in Olmsted county; the state of Minnesota vs. Lloyd Barber; and in the matter of the proceedings to recover a tax judgment against certain lands in the city of Rochester; the state of Minnesota vs. Sedgewick.

Syllabus—In proceedings to enforce payment of taxes against real estate under chapter 11, general statutes 1878, the list filed with the clerk is not only as to the taxes become delinquent as to the current year but as to all authorized to be placed upon it, prima facie evidence of the validity of the tax. But where there are no taxes for prior years the facts authorizing their insertion in the list must be proved. In the cases provided in section 97 of the chapter as amended, chapter 10, laws 1881, the tax for any prior year may be inserted in the list though there be no tax becoming delinquent in the current year, an owner may pay the tax for the current year, and judgment in an action between an owner and the holder of a certificate of sale for taxes involving the validity of the tax, and the sale is not in these proceedings evidence against the state of the facts on which it is based, but only of its existence. Every piece of property (not exempted) owes to the state its proportionate share of the amount necessary to be raised by taxation for the current year of the government. If not enforced by the government, it is not a tax, and it may be ascertained and enforced subsequently. If the right and opportunity is afforded the owner to show the amount to be partial, unfair or unequal, the law may direct it to be fixed prima facie by taking the amount of appearing to be extended against the property for the year on the books of the county treasurer, and even although there was no valid assessment. The endorsement by the county auditor of a conveyance of real estate of "taxes paid" does not estop the state to claim that there are taxes unpaid.

New trial ordered. GILLILLAN, C. J.

M. E. Wooding, appellant, vs. George Knickerbocker, S. E. Knickerbocker and J. G. Hayman, respondents.

Syllabus—Whether a placard placed upon a piece of furniture standing on a sidewalk in front of a store, with the words: "Taken by W. W. who could not pay for it, to be sold at a bargain," is a libel upon W. is a question for the jury. One partner in a firm engaged in dealing in furniture and draperies is not, merely because of being a partner, liable for libel published by another partner or a servant of a firm by placing a placard on a piece of furniture, the property of the firm, offering it for sale. A trial court cannot take a case from the jury and order judgment (not of dismissal) for defendant unless he is entitled to it on the pleadings and testimony. Held, that there was evidence in the case requiring it to be submitted to the jury.

Order reversed and new trial ordered. GILLILLAN, C. J.

Samuel Greenwood, appellant, vs. Theodore Sheldon, Charles Betcher, A. L. Clam and Silas B. Ford, copartners, et al., of firm known as the Clam Compounding company, respondent.

Syllabus—Articles of copartnership contained a stipulation that when the business should reach a certain degree of profitability and the firm have acquired a certain amount of property one of the partners should receive from the firm a specified amount of money of which a specified sum was to be paid to the plaintiff. Held that plaintiff, a stranger to the articles cannot maintain an action to enforce any of the other stipulations between the partners, in the articles.

Order affirmed. GILLILLAN, C. J.

C. N. Nelson Lumber company vs. J. H. Richardson and George M. Richardson, as copartners, appellants. Syllabus—An answer containing only general denial may be struck out as sham. A verified answer may be struck out as sham. Order affirmed. GILLILLAN, C. J.

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U. S. Circuit Court. [Before Judge Nelson.] United States vs. James Gleason; stealing property of the United States; placed on the calendar.

Same vs. Thos. Regan, et al.; stealing letters from post-office same.

Same vs. James Bennett; breaking into postoffice; same.

Supreme Court. At yesterday's session all the justices were present and the following business was transacted: John Steele, respondent, vs. John W. Bond and Joanna Bond, appellants; argued and submitted.

Sanford A. Hooper, appellant, vs. The Bank of Shakopee and Foster L. Balch, substituted, etc., respondent; order to show cause why the judgment of the court below should not be disapproved; argued and submitted.

F. P. Alexander on presentation of certificates from the supreme court of the United States was admitted to practice in the courts of Minnesota.

Adjourned to 9:30 next Monday.

Sanford A. Hooper, respondent, vs. Peter Henry, appellant; Alanson Hinman, respondent, vs. Peter Henry, appellant; Sanford A. Hooper, respondent, vs. A. V. Heyderstadt, appellant; Alanson Hinman, respondent, vs. A. V. Heyderstadt, appellant.

Syllabus—In an action under the statute to determine adverse claims to real estate the defendant in his answer alleges title in himself and asks the court to adjudge plaintiff's claims to be void, he waives the objection that plaintiff is not in possession or that the land is not vacant and unoccupied, and plaintiff brings forward not in possession to bring the action. A mortgage contained covenants of seizure against incumbrances and of warranty. The mortgagee subsequently took an assignment of a prior outstanding mortgage. Held, that if there was no merger, said prior mortgage was by reason of the covenants in the second postponed to and subject to the second, so that when the second was foreclosed and the time to redeem expired without redemption, it cut off all rights under the first, including the right to redeem from a foreclosure thereof. Judgment affirmed in all the cases.

In the matter of the proceedings to recover a judgment for taxes against a certain tract of land situated in Olmsted county; the state of Minnesota vs. Lloyd Barber; and in the matter of the proceedings to recover a tax judgment against certain lands in the city of Rochester; the state of Minnesota vs. Sedgewick.

Syllabus—In proceedings to enforce payment of taxes against real estate under chapter 11, general statutes 1878, the list filed with the clerk is not only as to the taxes become delinquent as to the current year but as to all authorized to be placed upon it, prima facie evidence of the validity of the tax. But where there are no taxes for prior years the facts authorizing their insertion in the list must be proved. In the cases provided in section 97 of the chapter as amended, chapter 10, laws 1881, the tax for any prior year may be inserted in the list though there be no tax becoming delinquent in the current year, an owner may pay the tax for the current year, and judgment in an action between an owner and the holder of a certificate of sale for taxes involving the validity of the tax, and the sale is not in these proceedings evidence against the state of the facts on which it is based, but only of its existence. Every piece of property (not exempted) owes to the state its proportionate share of the amount necessary to be raised by taxation for the current year of the government. If not enforced by the government, it is not a tax, and it may be ascertained and enforced subsequently. If the right and opportunity is afforded the owner to show the amount to be partial, unfair or unequal, the law may direct it to be fixed prima facie by taking the amount of appearing to be extended against the property for the year on the books of the county treasurer, and even although there was no valid assessment. The endorsement by the county auditor of a conveyance of real estate of "taxes paid" does not estop the state to claim that there are taxes unpaid.

New trial ordered. GILLILLAN, C. J.

M. E. Wooding, appellant, vs. George Knickerbocker, S. E. Knickerbocker and J. G. Hayman, respondents.

Syllabus—Whether a placard placed upon a piece of furniture standing on a sidewalk in front of a store, with the words: "Taken by W. W. who could not pay for it, to be sold at a bargain," is a libel upon W. is a question for the jury. One partner in a firm engaged in dealing in furniture and draperies is not, merely because of being a partner, liable for libel published by another partner or a servant of a firm by placing a placard on a piece of furniture, the property of the firm, offering it for sale. A trial court cannot take a case from the jury and order judgment (not of dismissal) for defendant unless he is entitled to it on the pleadings and testimony. Held, that there was evidence in the case requiring it to be submitted to the jury.

Order reversed and new trial ordered. GILLILLAN, C. J.

Samuel Greenwood, appellant, vs. Theodore Sheldon, Charles Betcher, A. L. Clam and Silas B. Ford, copartners, et al., of firm known as the Clam Compounding company, respondent.

Syllabus—Articles of copartnership contained a stipulation that when the business should reach a certain degree of profitability and the firm have acquired a certain amount of property one of the partners should receive from the firm a specified amount of money of which a specified sum was to be paid to the plaintiff. Held that plaintiff, a stranger to the articles cannot maintain an action to enforce any of the other stipulations between the partners, in the articles.