THE JOURNAL

VOLUME XXVII—NO. 313.

LUCIAN SWIFT, MANAGER. J. S. McLAIN, EDITOR.

PUBLISHED EVERY DAY.

SUBSCRIPTION RATES BY MAIL.

Daily and Sunday, one year..............$4.00
Daily and Sunday, six months............. 2.00
Daily and Sunday, one month.............. .40

BY CARRIER OUTSIDE THE CITY

Daily and Sunday, one month.............50c

BY CARRIER IN MINNEAPOLIS AND SUBURBS.

Daily and Sunday, one month..............45c

POSTAGE RATES OF SINGLE COPIES.

Up to 18 pages...................... 1 cent
Up to 36 pages...................... 2 cents
Up to 54 pages...................... 3 cents

All papers are continued until an explicit order is received for discontinuance and until all arrearages are paid.

PUBLICATION OFFICE—Minneapolis, Minn., Journal building, 47-49 Fourth street S.

WASHINGTON OFFICE—W. W. Jermane, chief of Washington Bureau, 901-902 Colorado building. Northwestern visitors to Washington invited to make use of reception-room, library, stationery, telephone and telegraph facilities. Central location, Fourteenth and G streets N.W. Copies of The Journal and northwestern newspapers on file.

NEW YORK OFFICE—Tribune building. D. A. CARROLL, Manager.

CHICAGO OFFICE—Tribune building. W. Y. PERRY, Manager.

LONDON—Journal on file at American Express office, 3 Waterloo place, and U. S. Express office, 99 Strand.

PARIS—Journal on file at American Express, 211 Rue Scribe, and Eagle bureau, 53 Rue Cambon.

SWEDEN—Journal on file at American Legation, Stockholm.

NORWAY—Journal on file at American consulate, Christiania.

DENMARK—Journal on file at American Legation, Copenhagen.

ST. PAUL OFFICE—420 Endicott building. Telephone N. W. Main 230.

EAST SIDE OFFICE—Central avenue and Second street. Telephone Main No. 9.

TELEPHONE—Journal has private switchboard for both lines. Call No. 9 on either line and call for department you wish to speak to.

The Drift in Russia.

The outcome in Russia depends more upon the confidence of the people in Sergius Witte than upon anything else. If Count Witte can hold the turbulent elements in control long enough to get the machinery of the new government in operation he will save the empire while reorganizing and making over the machinery of the government in such a way as to confer a large measure of liberty upon the people.

But he has a hard task. He must not only fight the radicals who want to overthrow the monarchy entirely and set up a republic, but also the reactionaries headed by the grand ducal cabal who, strange to say, are making common cause today with the socialists and all shades of radicalism, not for the same purpose ultimately, but in order to so embarrass Witte in his great work as to make a return to a military despotism inevitable. There are evidences that the reactionaries are behind the massacres and outrages and outbreaks, and are instigating the political strikes in order to compel a return to Cossack rule. If Witte can persuade the people that he is honest and is in earnest, he may yet be the preserver of the empire, the savior of Russia.

A new danger threatens in the false czar, the pretender to the throne, who is said to have already received the allegiance of 50,000 followers. It does not appear probable, however, that a movement of this kind is likely to make great progress. It is not to be expected that the people will overthrow one czar and set up another. It is either constitutional monarchy or a French reign of terror ending in a socialistic republic. Conditions in Russia are not favorable to the permanence of a republic. The ignorance of the masses and the lack of cohesiveness between the different parts of the empire do not make for stability under democratic institutions. It must be admitted that just now the control of the situation appears to be slipping away from the new prime minister.

Bro. Hearst's wrongs in New York have been given a background position by the hoss show.

Pennsylvania's Progress.

One of the chapters of Justin McCarthy's fascinating "History of Our Own Times," is entitled "Reformation in a Flood." It describes the condition of England under Gladstone's great administration beginning in 1868. The cabinet took hold of every possible subject of legislation and labored for the good of the middle class, who had long been without any benefit from parliament. The administration was unceasing in its activity and did much for the English people and finally ran the gauntlet of that most terrible of political foes, general apathy. The people actually became tired of having their wants attended to and defeated Gladstone because he had been so good. Aristides was exiled from Athens largely because folks got tired of hearing him called The Just.

The state of Pennsylvania is just entering upon a period not unlike the one described above. The state has been boss ridden for years. It has been uncomplainingly faithful to a republican machine, which was composed mostly of robbers. It sent Quays and Penroses to the senate, and tariff barons to the house, and filled the local offices with men who openly avowed that their loyalty to the machine was superior to their allegiance to the law. One district attorney when asked what he proposed to do about contract swindlers who had been indicted replied that he would resign before he would do anything which would impair "the organization." This was the spirit of Pennsylvania. But a change is visible. At the last election Pennsylvania threw off the yoke. Philadelphia elected a reform ticket by 30,000 majority. In the state a change of 600,000 votes was effected.

Immediate results are following. The district attorney spoken of is going to do his duty. The insurance commissioner who is a large wheel in the machine has sent word that he will support Mayor Weaver in whatever he wants done. Last but not least Governor Pennypacker, the final refuge and hope of the organization, has turned against the bosses. He has issued a call for a special session of the legislature and outlined a program of remedial legislation which would keep an honest legislature busy for six months. It cannot all pass a corrupt and pliable law-making body, but the issue will be raised and the next campaign in Pennsylvania will be for a clean legislature.

Governor Herrick's temperature is lower and no more bulletins will be issued unless there is a change for the worse.

The McCurdys' Misfortune.

Morristown, N. J., has its heroes and Richard A. McCurdy is one of them. Richard A. McCurdy did not get a Carnegie medal. He did not save a boy from drowning or rescue an abused cat from the clutches of cruel boys. No surface heroism for Richard A. McCurdy. His is of the kind that goes to the roots of one's being and brings up great trainloads of self-sacrifice.

As a young man, Mr. McCurdy got a job with the Mutual Insurance company. He grew up with it. Leaving Morristown every morning with his dinnerpail in which Mrs. McCurdy had packed tongue sandwiches and raisin pie, with cold tea in the lower compartment, he crossed over to New York and to his work. By close attention to business he had risen to the office of president and a salary of $150,000 a year. By economy and care the McCurdys were getting up in the world and McCurdy pere no longer carried a pail.

But in an evil hour the legislature began interfering in the affairs of the company. It poisoned the minds of the trustees against Mr. McCurdy and they suggested to him that his salary was larger than they could afford to pay. Did Mr. McCurdy resign? No. He was too much of a hero for that. He told the directors he has always stuck by the Mutual and he would stick to it for longer if necessary. He would not desert the company in this hour of trial. He would take $75,000 a year and try to get along on that. "I don't know how I am going to tell Mrs. McCurdy about it," he said, "for I have been telling her that I expected a raise. This will be a great blow, but she is as loyal to the Mutual as I am and I know she will stand by me." Mr. McCurdy wiped several tears from his left eye and started for Morristown.

Picture Mr. McCurdy going home to his faithful wife. He could not tell her at first, but moped about the veranda biting 50-cent cigars and throwing them in the grass. His wife noticed his nervousness and asked him about it. "What is the matter, Dick?" she said. "If you have anything on your mind, don't be afraid to tell me, for I am sure that this is the first time it has ever happened." Then he up and told her. "Maggie, the board has cut me down to $75,000."

Of course, this was a pretty severe jolt to the partner of the McCurdy joys and sorrows and privations, but after the first shock of the news, Mrs. McCurdy did not take it so badly. Mr. McCurdy was right when he said she would make any sacrifice for the Mutual. She has already begun a system of retrenchment which, it is hoped, will pull the McCurdys out even at the end of the year. No, they will not be obliged to sacrifice their home in Morristown.

Has anybody asked yet for the batting average of Prince Louis of Battenberg?

Declaring Party Affiliation.

Horace G. Hoadley, a manufacturer of Waterbury, Conn., spent some time in Minnesota this summer investigating the primary election law. Both Massachusetts and Connecticut have been agitated by a campaign for a primary law, and there is a free discussion over different features. Mr. Hoadley inquired especially into the provision of the Minnesota law, requiring voters to state their party and receive only one ballot, that of the party with which they affiliate. He claims to have found a strong sentiment in favor of striking out that provision and returning to the original Minneapolis law of 1899, which gave every voter a copy of all ballots, with freedom to make his choice in secret. He says the great objection which he found to the attempt to draw party lines at the primaries was that it was not effectual, and he quotes Mayor Jones of Minneapolis and James E. Markham, chairman of St. Paul's permanent charter commission, as of that opinion. The reason that the law is ineffectual, it is claimed, is that election officials and challengers exercise no special care, but permit voters to vote at the primaries regardless of their political affiliations. A man who asks for a republican ballot is given one without any question or any other declaration, and the same freedom of access to the democratic ballots is accorded.

The Journal has always maintained that if we are to have government by political parties, party lines ought to be drawn in the primaries, which are the successors to the old party caucus and conventions. The independent voter should have no unreasonable obstacle placed in the way of his voting at the primaries and no difficulty in naming the party which he "generally" supports. It may be true that some voting is done at the primaries which ought not be allowed, but certainly the necessity of declaring a choice of ballot is much more likely to lead to adherence to party lines in primary voting than to give the voter all the ballots and let him choose in secret which one he will mark.

Indeed, the great objection heard in the legislature to this provision of the law requiring a declaration of politics at the primary was that it would deter a good many men from going to the polls. It was opposed then as an obstruction to free voting. Now we are told that it is not only not an obstruction, but affords no protection against the abuse of the voting privilege by which men of one party vote for the candidates of another. The probabilities are that the truth is midway between these two positions—that while the declaration of party allegiance is not a serious obstacle in the way of free voting, it is much more of a protection against the abuse of the privilege by unwarranted crossing of party lines than if it were omitted.

Wisconsin has provided that the voter shall be furnished all the ballots, that he shall fold the ballot which he wishes to vote separately and put it in one box while the unused ballots are returned and deposited in another. This is a simpler and better way than provided for in the law of 1899. Some experience may demonstrate whether this is a better arrangement than our own.

The action of the St. Louis doctors in publishing the names of their delinquent patients will make some people so hopping mad that they will get well without the doctor.

Reform and Restitution.

Restitution as well as reform is working in the insurance companies. If the Armstrong committee should never make a report, it has already given a good account of itself in the returns to policyholders in the New York Life, the Equitable and the Mutual. By merely scratching the surface the committee has brought back over a million dollars to the treasuries of the three companies. The Equitable has gotten back the "yellow-dog" fund of $685,000; the Depew Improvement loan of $200,000; $64,000 from Hyde and Alexander, their profits in syndicate transactions; $12,000 for the Cambon dinner, and $20,000 paid for Hyde's private car; total, $981,000 to the Equitable. The New York Life has a definite promise of the return of the $235,000 given to Hamilton to influence legislation. The Metropolitan has received back from President Hegeman $16,000 profits in syndicate transactions.

In the way of reform, things have been done. The Equitable has gotten rid of Hyde and Alexander, who drew $250,000 annually, and has in their stead Morton at $80,000—a saving of $170,000. It should be more. The Equitable has no business paying Morton $80,000 a year. Twenty-five thousand would be a big salary for him. The Mutual has coerced the senior cormorant of the McCurdy family to cut his salary from $150,000 to $75,000, and has a promise of curtailing the enormous commissions paid to the junior harpy and to the brothers-in-law and nephews.

The committee has laid a foundation for a new moral era in insurance. Of course the amounts restored are merely those which were lying in sight. There are many millions more which should be paid back. If the district attorney's office can make a criminal prosecution against the officers and directors of these companies stick, civil suits based on the same testimony may bring back a great deal of money. The New York legislature meets in January, and the committee will be ready to report some new legislation. There does not seem to be much doubt that insurance will be conducted on a different plane in the future.

There is no doubt that the moral effect of the action of the Minneapolis club in closing its buffet on Sunday, as an expression of sympathy with the mayor's Sunday closing order, will be fine. And why shouldn't an organization like that, containing many of the best and most influential men in the city, be on the side of good public morals? The question having been raised, it would have been a strange thing if the club management had taken different action.

Eighty-four dollars is the price of a saloon license in San Francisco, good for one year. The question of raising the license to $500 was submitted to the voters at the recent election, and failed to carry by nearly 3,000 votes. The strongest influence brought to bear against an increased tribute was the threat of the saloon men to abolish free lunches. There is a great field for a vigorous consecrated revivalist in 'Frisco.

The discovery of the missing papers by which it is made known that George IV. really married Mrs. Fitzherbert serves only to recall the fact that George was a pretty tough citizen, who, if he had not been born to a throne, would have reached the workhouse for non-support.

The asphalt trust charges President Castro with blackmail. While opposed to blackmail, the entire world will hope that Castro threw it into the asphalt trust good and plenty. It needs it.

One trouble with W. T. Stead's remedies for national ills is that he does not bottle them and put on a stiff price. Nothing people despise so much as free advice.

The Royal Society of Good Fellows has withdrawn from business in Massachusetts. This sounds like an association of life insurance presidents.

Secretary Shaw made some sarcastic remarks about independent voters a few days ago, and now they are out looking for a man named Shaw.

Karl declines to be handicapped with the track name of Hokun VII. There is only one Hoke un in the world, and that is Hoke one of Georgia.

Mr. Ivins was correct. McClellan is still running for mayor of New York, and the longer he runs the less certain he is of the result.

After all this would be a dull world without Stead, Lawson and Labouchere. They are all artists in their line.

The scarcity of wheelbarrow election bets this year indicates that reform has come to stay.

Lodge will not finally decide how much reciprocity he will stand for until the official count.

Lately several statesmen have acquired stiff necks bowing to the will of the people.

Warsaw seems to be passing thru one phase of a Chicago teamsters' strike.

Few petitions have been filed asking Boss Cox to reconsider.

That Cuban coup d'etat was not hentight.

Trepoff, Murphy and McCarren must go.

THE OPEN BOOK

By W. P. Kirkwood.

THRILLING ADVENTURES IN THE CANADIAN WILDS.—Jules Verbaux, the hero of Lawrence Mott's **Jules of the Great Heart,** is a hero worthy the name. A "free" trapper in the Hudson Bay company's territory, robbing the traps of the company's Indian trappers without any prickings of conscience because he regard his own rights as prior to those of the company, daring dangers of storm and wild, sly as a fox in eluding the fur company's agents put on his trail, passionate in love, a true friend, a generous enemy, and man of his word when that is once given—all this, and more, is the Homeric character that moves thru the stories that make up Mr. Mott's thoroly readable book. No one susceptive of the lure of the wild or fond of following the adventures of a character of heroic traits can fail to enjoy the tales.

LAWRENCE MOTT,
Author of "Jules of the Great Heart."

While not skilled in woodcraft, however, there is one thing Mr. Mott makes his hero do, about which he will have to "show us" as tho we were from Missouri. Jules has a novel way of throwing his enemies off his trail, described in the following paragraph:

> Meanwhile Jules tramped on into the woods; when he thought he had gone far enough for his purpose, he took off his snowshoes, slung them on his back, and swung himself up into a tree; for two hundred yards he worked his way on the branches of the spruce grove; the trees clustered thickly together in the little valley, and he had no trouble in gaining the hill on the far side.

The effect on his pursuers is what might be expected—astonishment. "Ah, diable sacre-e! Es he birrrd, den?" asks one of them, when he comes to the end of Jules' trail. He would have to be a "birrrd," it seems to us, to make good his escape by such a method. In the first place, would the spruce boughs bear up the sturdy Jules? Then, the moment he mounted into the trees would he not shake down the accumulated snow on the boughs, and leave a trail which his pursuers could not fail to discover? The distance traveled by the tree route, in the time allotted in the story, is another cause for questioning Jules' flights.

Despite these questions, tho, Mr. Mott's stories are read with keen pleasure. They have all the elements necessary to make adventures of the wild thrilling for those who have not got beyond the thrillable age.

The Century company, New York. $1.50.

LIFE OF FROUDE ONE OF THIS MONTH'S BOOKS.—A most important biography will appear early this month in "The Life of James Anthony Froude" (Charles Scribner's Sons), by Herbert Paul. A great amount of new and interesting material in regard to Froude's life and career has been gathered for this new book. Mr. Paul, who is one of the most brilliant writers of the day in England, has had the personal assistance in the preparation of the biography of Miss Froude and of Ashley Froude, the historian's only son, and has had access to the Froude family papers. For the first time Froude's relationship to the Oxford movement and the real motives and influences that affected his career have been made clear. This biography will take rank among the permanently valuable books of the year.

GRAPHIC PICTURE OF A CHILDLESS WORLD.—Modern tendencies, including that toward race suicide as shown by the lessening birth rate, are pushed to ultimate conclusions in **A World Without a Child,** a little book by Coulson Kernahan. A startling picture, done in poetic prose, is that the author draws of the race as it would be after reaching a period of absolute childlessness. It reminds one of Dante's "Inferno." The suggestion in itself is a terrifying one. Imagine a race devoid of children, without paternal, maternal or filial love, and the joys that spring from these, and how dark life would be! The book, by emphasizing the worth of these joys thru painting a life without them, is a wholesome reminder of that simpler and more natural life of whose value there is reawakening consciousness.

Fleming H. Revell company, New York. 50 cents.

AESOP'S FABLES MODERNIZED.—Aesop's Fables, adapted from the Greek by Rev. George F. Townsend, have been prepared for modern readers in strictly modern form. The fables themselves have undergone no change, but they have been put into a book up-to-date in form and make-up, and especially adapted to such a work, and have been illustrated in a way that would have made the author gasp at first, and doubtless chuckle freely afterward, could he have seen the pictures when he first wrote his tales and their morals. Take note, the morals are still preserved for modern consumption. The illustrations are by J. M. Conde, many of them are in colors, and all are highly original. Elisabeth Luther Cary writes an appreciative introduction for the book.

Moffat, Yard & Co., New York. $2 net.

BOOKS FOR BOYS AND GIRLS FROM THE LOTHROP LEE & SHEPARD FALL LISTS.—An unusually long list of attractive books for young folk comes from the Lothrop, Lee & Shepard company this fall. The following titles are included:

"Ben Pepper," one of the famous "Pepper" books. By Margaret Sidney. Illustrated. $1.50.

"Helen Grant at Aldred House." By Amanda M. Douglas, author of "Helen Grant's School-days." Illustrated. $1.25.

"American Heroes and Heroines." By Pauline Carrington Bouve. Illustrated. $1.25.

"The Boy Pathfinder, a Story of the Oregon Trail." Second volume of the "Making Our Nation Series." By William C. Sprague. Illustrated. $1.50.

"Dave Porter at Oak Hall, or the Schooldays of an American Boy." By Edward Stratemeyer. $1.25.

"When Grandmamma Was Fourteen." By Marion Harland. Illustrated. $1.25.

"The Scarlet Patch, the Story of a Boy in the Mohawk Valley." By Mary E. Q. Brush. Illustrated. $1.25.

"The Gregory Guards, a Boys' Club Which Made Men." By Emma Lee Benedict. Illustrated. $1.25.

"My Little Lady in Waiting." By Louise E. Catlin. Illustrated. $1.25.

"The Fort in the Wilderness, or The Soldier Boys of the Indian Trails." By Edward Stratemeyer. Illustrated. $1.25.

"How Barbara Kept Her Promise." By Nina Rhoades. The fifth of the "Nina Rhoades Books." Illustrated. $1.

"Dorothy Dainty at the Shore." By Amy Brooks. Illustrated. $1.

"The Children of Bedford Court." Third volume of "Janet Series." By Grace Le Baron. Illustrated. 75 cents.

"Dolly's Double, the Story of Dolly and Isabelle." By Ethel Wood. $1.

"Laura in the Mountains," a sequel to "Laura's Holidays." By Henrietta R. Eliot. Illustrated. 50 cents.

"The Runaway Donkey," and other rhymes for children. By Emilie Paulson. Illustrated. $1.50.

MAN'S MOST INTERESTING STUDY: WOMAN.—"Woman, the precious porcelain of human clay," has been an object of absorbing study for man since Adam set the fashion, and will probably continue such until "the men are all transported" to some land where women are not. To get some notion as to how much the mind of man has turned womanward one should take up **Eve's Daughters,** "compiled by a mere man" and portrayed by Arthur G. Larned. Therein are almost endless epigrams on woman by men chiefly, tho some are by women, and with these are clever drawings by Mr. Larned—drawings far too many to count and portraying women in all sorts of guises, disguises and absence of guises. The book is bound in a way to make it attractive as a gift book.

Dana Estes & Co., Boston. $1.75.

THE MAGAZINES

The December Smart Set.—"Bondage," by Edna Kenton, is the title of the complete novel which opens the December **Smart Set.** It is a story of a newspaper woman who marries a young and prosperous lawyer, not for love, but for the sake of the home he can provide for her. The heroine's awakening to a realization of her selfishness, her craving for a taste of her old life in the old surroundings, and her struggle against the influence of a man who had formerly loved her, form the chief elements of a dramatic narrative. A Christmas flavor permeates the December number. "Daly's at Eight," by Ralph Henry Barbour, is a story of a lonely young bachelor's adventure at a theater on Christmas eve. "A Telephone Exchange," by Inez Haynes Gilmore, and "But Once a Year," by Ellis Parker Butler, are also light, crisp tales full of the holiday spirit. In "The Permanent Fool" the distinguished Dutch author, Maarten Maartens, proves what a gentle humorist he can be. The magazine contains much else of which space will not permit mention.

For Federal Life Insurance.—Life insurance, really to insure, should be conducted by the federal government, as it is in more enlightened countries, says Frank Putnam in **National Magazine** for December. With the credit and the resources of the whole nation behind his policy, the insured citizen could pay in his premiums with absolute certainty that they would not be wasted by extravagant managers, and that when he died his family would get what was coming to them. And he would not have to pay more than half as much as he pays now to private companies, if the experience of state insurance in New Zealand is a fair test.

AMUSEMENTS

Foyer Chat.

For the first time this season the Orpheum has two sketches on the same bill. Harry Corson Clarke and company occupy the top line with his "Strategy," and Mr. and Mrs. Alfred Kelcey are appearing in "The Tale of the Turkey." The sketches are easily "making good."

Mrs. Tom Thumb, and Ryders' wonderful monkey and baboon comedians are in the excellent bill this week at the Lyceum.

Tonight will be amateur night at the Unique, and one of the largest companies of "raw recruits" in the history of the house will try for public favor. Sweet girl singers, dashing young actors, clever acrobats, brilliant monologists and a great many entertainers in other lines are in the bill.

Tomorrow night is football night at the Metropolitan, and the wise ones, who want to see the performance of "In the Bishop's Carriage" are buying their seats today so as to avoid the rush line tomorrow night. To accommodate the numerous out-of-town visitors, an extra performance has been arranged for Sunday night.

Great interest is taken in the engagement at the Metropolitan of Robert Edeson in "Strongheart." It is perhaps true that no drama seen in Minneapolis last season was liked better than this play.

Clifford Leigh, late of the Vaudeville theater, London, will be seen as Lord Ashley, a bore, in "Ann La Mont," the new problem play by Paul Armstrong, in which Florence Roberts will interpret the title role at the Metropolitan for three nights and Saturday matinee, starting Thursday, Nov. 23.

Grace Van Studdiford and "Lady Teazle" have set a pace in the present engagement at the Auditorium that will doubtless cause discussion and comparison the remainder of the season as to the relative merits of the "trust" and "nonsyndicate" attractions. It will be interesting to see if the action of the Messrs. Shubert in sending their best attractions to Minneapolis will not have its effect on the "syndicate" plans.

"The Girl and the Bandit," this year's production of the Frank L. Perley Opera company, will be seen at the Auditorium the first half of next week, with Wednesday matinee. One of the stars is Mabel Hite, a sweet, pretty girl, who is known as "the funniest girl on the stage." She made a profound impression in "The Chaperones" and "Phrosia," and starred for a year in "The Telephone Girl."

So much interest is being manifested in the Minnesota-Nebraska football game, that the Bijou management has made arrangements to have returns read from the stage during the matinee performance of Hap Ward and company in "The Grafter" Saturday. The score of the Michigan-Wisconsin contest will also be announced.

Rose Melville in "Sis Hopkins" will be the attraction at the Bijou next week. This is Miss Melville's seventh season as the shy and awkward country girl of Posey county, Indiana.

THE SPECIAL PRIVILEGE CAMPAIGN

Kansas City Star.

With the closing of the western bureaus, it may be said that the people have forced the evacuation of most of the outworks of the enemy. There are still several eastern bureaus, but they will probably be abandoned. The exponents of special privilege have fallen back to their strongest fortifications, the United States senate, where they will be assaulted by the commanders of the square deal as soon as congress convenes.

BRAND NEW

Kansas City Star.

And in the general rejoicing don't forget that in Toledo Golden Rule Jones has found his legitimate successor in that aggressive young apostle of the square deal, Brand Whitlock.

SUPREME COURT

State ex rel. Brooks-Scanlon Lumber Company, respondent, vs. Knife Falls Boom Corporation, et. al., appellants:

Syllabus: First—The test in an equitable action, whether several causes of action are improperly united in the complaint, is whether all the matters alleged therein could have been included in a bill in equity under the old practice without making it multifarious. If so they may be properly united in one complaint under our code practice.

Second—An equity bill is not multifarious where one general right only is claimed by it, altho the defendants have only separate interests in distinct questions which arise out of or are connected with such right. All of the defendants, however, must be affected in some respect by the action or by some part thereof, but it is not necessary that all should be equally affected.

Third. Complaint herein construed and held that several causes of action are not improperly united therein.

Order affirmed. —Start, C. J.

State ex. rel. James H. Hoover, respondent, vs. Henry C. Brasie, as county auditor, of the county of Wright, appellant:

Syllabus: Under the provisions of chapter 208, Laws 1899, amending paragraph 1605, General Statutes 1894, the county auditor is required to issue to the holders thereof a county warrant on the county treasurer for the amount of money paid in for the redemption of lands from a tax sale, upon the presentation to him of the certificate of tax sale, or the assignment thereof, and it is no defense in a mandamus proceeding to compel the auditor to issue such warrant that a preceding county auditor, without authority, issued a warrant for the same amount to the original purchaser at the tax sale but who had duly assigned the tax certificate.

Order affirmed. —Lewis, J.

Michael C. Brady, appellant, vs. Adam Gilman, respondent:

Syllabus: First—The plaintiff filed a notice of his intention to redeem from a mortgage foreclosure sale as a judgment creditor but his judgment was not docketed until four hours after his notice was filed. He attempted to redeem by virtue of such notice. Held that he was not entitled to redeem and his attempt to do so was void.

Second—The legal fiction that there are no fractions of a day has no application to cases where the statute expressly requires that notice shall be taken of the precise time an official act is done and that a record thereof be made.

Judgment affirmed. —Start, C. J.

Herbert W. Eggleston and George M. Eggleston, copartners as Eggleston Bros., respondents, vs. Advance Thresher Company, appellant:

Syllabus: First—An agent of defendant with authority to sell its machinery for cash, or secured promissory notes, sold a threshing machine outfit and accepted and received from the purchasers (plaintiffs), without express authority, certain personal property in part payment of the purchase price. The contract of sale was subsequently rescinded by mutual consent of the parties, but the property delivered to the agent in part payment was never returned, and plaintiffs brought this action against defendant, the principal, to recover the value thereof. It is held that the manner and course of dealing between the agent and defendant, as disclosed by the evidence, was, within the rule laid down in Columbia Mill Co. vs. Bank, 52 Minn., 224, such as to charge defendant with liability for the act of the agent in taking property from plaintiffs in part payment for the machine.

Second—As between the immediate parties to a written contract, where one is induced by the false statements of the other to sign the same, he is not bound thereby and may defend against the contract on the ground of fraud, even though negligent in signing without reading it.

Third—Evidence considered and held sufficient to sustain the verdict.

Order affirmed. —Brown, J.

Emma English, respondent, vs. Minneapolis & St. Paul Suburban Railway company, appellent.

Syllabus: First—In an action to recover damages for personal injuries alleged to have been caused by the negligence of the defendant, the complaint alleged that the defendant so carelessly and negligently operated and controlled the car as to cause the car to violently collide with an iron gate extending across the tracks, thereby with great force throwing the plaintiff against the seats and other parts of the car. At the trial evidence was received from which it might reasonably be inferred that the plaintiff's injuries were caused by the manner in which the car was handled by the motorman in attempting to make a sudden stop, and not solely by the shock of the collision. Held, that the trial court did not abuse its discretion in allowing the plaintiff to amend the complaint in order to make the allegations conform to the evidence.

Second—Where it is claimed that the damages awarded by a jury in an action to recover unliquidated damages, such as an action for personal injuries, are excessive or inadequate, and were given under the influence of passion or prejudice, the motion must be made and the alleged error assigned in the trial court under the fourth subdivision of chapter 5389, general statutes 1894.

Third—The granting or refusal of a new trial upon the ground of excessive or inadequate damages appearing to have been given under the influence of passion or prejudice rests in the sound judicial discretion of the trial court, subject to review in this court under the rules applicable to other discretionary orders. It cannot be raised for the first time in this court.

Order affirmed. —Elliott, J.

Theodore R. Sorenson as executor of the estate of Albert Olson, deceased, appellant, vs. Edward Carey et al., respondents.

Syllabus: First—By the last will and testament of the husband, he devised a life estate in lands belonging to his wife to her, together with certain personal property in value and amount exceeding that which she would have been entitled to under the statute, and directed that after the death of his wife the land and remaining personal property should be disposed of by his executor and the proceeds divided equally between his brothers and sisters and the brothers and sisters of his wife. There were no children. The wife expressly assented to the terms and provisions of the will by indorsement thereon at the time it was executed. Held, following Brown vs. Brown, 42 Minn. 270, that upon the death of the husband the wife was required to elect whether to accept or reject the provisions of the will, and that if she elected to abide thereby the will was effective as a transfer and disposal of her land; and, held further, that her express assent to the terms of the will at the time it was made, coupled with the fact that after the deah of her husband she appropriated all his personal property to her own use, amounted in contemplation of law to an election to abide by the will.

Second—The will involved in this litigation purported to devise and dispose of "my farm, consisting of about ninety-five acres in Fillmore county," and other property. Held respecting the land embraced within the designation "my farm," that the description thereof is not so indefinite as to render the will void, but ambiguous to the extent that extrinsic evidence is admissable to identify the particular land intended to be disposed of.

Oorder reversed. —Brown, J.

State ex. rel., F. T. Young, attorney general, appellant, vs. The Village of Kent, et. al., respondents.

Syllabus: Where the attorney general of the state acting in his official capacity as the chief law officer of the state, exhibits an information in the nature of quo warranto to the district court and asks that a writ issue directed to a municipal corporation requiring it to show cause why its franchise should be declared null and void, the court has no jurisdiction but must grant leave to file the information as a matter of course and direct the writ to issue. Upon the return it is the duty of the court to try the issues of law and fact presented thereby and to determine the same upon the merit; according to rules of law applicable thereto.

Where an application in a proceeding of this character is made by the attorney general to the supreme court instead of to the district court, this court will exercise the discretion given it by statute and determine whether it is a proper case in which the writ should issue out of this court. If in its judgment the application should have been made to the district court leave to file the information will be denied.

Judgment reversed. —Elliott, J.

Edward Dolson, respondent, vs. Thomas Dunham and Joseph Dunham, copartners as Dunham Brothers, appellants.

Syllabus: The giving of an instruction calculated to materially affect the verdict, which introduces into the case a new and substantial issue not presented by the pleadings nor litigated by consent, constitutes reversible error. This rule is here applied to an instruction as to warning a servant of impending danger.

Where the harm complained of in an action to recover for personal injuries, is the result of an effort to escape a sudden impending danger resulting from the negligence of the person sought to be charged, contributory negligence as a matter of law is not made out by showing that the person seeking to recover might have escaped harm by pursuing some other available course.

Plaintiff, engaged in putting a belt over a pulley in a pit underneath the frame of a sawmill, was thrown against an unprotected revolving saw when the machinery was started in motion. Held: That the question of the negligence of the defendant in too rapidly operating the machinery and the question of the contributory negligence of the defendant in placing the side of his foot against the belt of the revolving pulley to hold it on, was for the jury.

Order reversed. —Jaggard, J.

William Tweedie, appellant, vs. F. E. Olson Hardware and Furniture Company, et. al., respondents.

Syllabus: The owner of certain premises leased the same to two tenants as joint lessees for a definite period with the privilege of an additional term. Held: It was necessary for both tenants to exercise the option to continue the lease upon the expiration of the original term, but such intention might be expressed jointly or independently, or by remaining in possession; but when one of the joint tenants expressly informed the owner that he refused to extend the lease jointly with his cotenant, such cotenant having notice thereof, and the owner having acted upon such declaration, and within a reasonable time thereafter having brought an action for possession of the premises, he was entitled to recover, altho the other tenant had served notice that he would remain under the terms of the lease.

Judgmnt reversed. —Lewis, J.

Alvirna Grout, respondent, vs. D. A. Stewart, appellant.

Syllabus: An oral agreement to receive title to land by absolute conveyance from the owner, and to hold thesame as security for money advanced to a purchaser of the land for the purpose of making payments under his contract of purchase, is not contrary to the statute of frauds and may be specifically enforced against the grantee, nothwithstanding the purchaser is in possession of the premises and his contract of purchase is still in force against the owner. Certain rulings reviewed and found to contain no errir.

Order affirmed. —Lewis, J.

C. H. Wilcox, appellant, vs. Christina C. Bergman and August Bergman, respondents.

Syllabus: First—Copies of the record of deeds and other similar private writings made in a sister state are admissible in evidence in the courts of this state under the provisions of Rev. Stat. U. S. Sec. 969, when properly certified and authenticated.

Second—But they will be given such force and effect only as is given thereto by the law of the state from which they are taken; and it must appear that the record was one which was authorized and provided for by the statutes of that state.

Third—No presumption exists that the statutory law of a sister state is the same as that of this state.

Order affirmed. —Brown, J.

Patrick Welch and John Gilmer, appelltnts, vs. Northern Pacific Railroad company, respondent.

Syllabus: On defendant's motion for judgment nothwithstanding the verdict, the trial court made an order granting the same, but coupled therewith a further order that the action be dismissed. Defendant accepted the order in its entirety and caused judgment of dismissal to be entered, from which plaintiffs appeal. Held. (1) Whether the trial court has authority to dismiss an action aftetr trial upon a motion for judgment notwithstanding the verdict, quaere. (2) That plaintiffs were not prejudiced by the dismissal of this action. If the dismissal had not been ordered, defendant, under the terms of the order made, would have been entitled to a final judgment on the merits, and the order was in fact favorable and not prejudicial to plaintiffs and must be affirmed.

Judgment affirmed. —Brown, J.

Kelly Peterson by his guardian ad litem, Morton Peterson, respondent, vs. Andrew A. Storm, appellant.

Syllabus: On appeal from a judgment based on an order refusing to vacate and set aside a previous order modifying a clerk's taxation of costs and disbursements, and for leave to file a proposed supplemental affidavit in support of the original affidavit of costs and disbursements, involving as it does a review of the exercise of discretion by the trial court, cannot be considered when based upon a record which is certified to by the clerk only, and which is not, and does not purport to be, a settled case or bill of exception.

Judgment affirmed. —Jaggard, J.

Archie Caron, respondent, vs. Powers-Simpson company, appellant.

Syllabus: The relation of master and servant rests upon contract express or implied, and where there is dispute of fact as to whether the contract of employment was made with an independent contractor or the employer of such contractor it is for a jury, under proper instructions, to determine the controversy.

In this case, involving recovery for personal injuries caused by alleged negligence, there was such a dispute of fact concerning the party employing the plaintiff as should have been submitted to a jury.

Order affirmed. —Jaggard, J.

The Danvers Farmers' Elevator company, appellant, vs. Charles Johnson, respondent.

Syllabus: In this, an action to recover for the conversion of money, held that the findings of fact and decision of the trial court are sustained by the evidence.

Order affirmed. —Start, C. J.

Charles H. Dart, appellant, vs. Charles E. Richardson et al., defendants; James Mahoney, respondent.

Syllabus: The evidence considered and held to sustain the order of the trial court.

Judgment affirmed. —Elliott, J.

NORTH SIDERS "AT HOME"

Commercial Club in That District to Entertain Other Clubs.

All the commercial clubs in the city will be represented at the annual banquet of the Northside Commercial club at the Third Ward Republican hall, Nov. 23. Careful preparations by the committee on arrangements insure that the affair will be pleasant in every way.

Wallace G. Nye will preside as toastmaster, and the invocation will be offered by Rev. F. A. Sumner of Pilgrim Congregational church. Among the speakers will be Mayor D. P. Jones, James T. Elwell, president of the Eastside Commercial club, A. A. McRae, president of the Southside Commercial club, George M. Bleecker, Thomas Voegeli and Dr. Van H. Wilcox.

The reception committee consists of Dr. P. M. Hall, E. H. Scofield, J. J. Huss, Dr. L. A. Nippert, J. W. Pauly, A. E. Barker, C. N. Robinson, Robert Reed, Dr. Thomas J. Reid, Dr. Van H. Wilcox, J. F. Danek, William Bofferding, C. H. Galbraith, G. A. Bingenheimer, Dr. Edwin Shumpik and Thomas J. Skellett.

Tickets may be secured from the members or at the following places in North Minneapolis: Robertson Drug company, 1921 Washington avenue N; O. B. Skinner, 2901 Washington avenue N; Hans Dahl, 4161 Washington avenue N; V. Schuler, 401 Fourteenth avenue N; Voegeli's drugstore, 701 Twentieth avenue N; M. F. Dressler, 826 Twentieth avenue N; A. H. Persall, 929 Twentieth avenue N, and F. J. Nagle, 1105 Twenty-sixth avenue N.

ENTERTAINMENT COURSE

Y. M. C. A. Will Give Attractive Series of Evening Programs.

Arrangements have been made for an entertainment course, to be given at the Y. M. C. A., the especial object being to attract young men to the association building, Tenth street, between Nicollet and Hennepin.

The first number of the course will be a concert by the Vega Mandolin and Guitar club tomorrow evening. C. L. Fisher of Chicago will deliver a lecture Thursday, Nov. 23, on "The Strowger Automatic Telephone Exchange." This will be for women as well as men. Saturday evening, Nov. 25, the Minnesota Male quartet will give a concert, and Wednesday evening, Nov. 29, there will be an open gymnastic exhibition for men and women. Saturday evening, Dec. 2, McChesney and Nott, high-class entertainers of ancient and modern magic, will be the attraction. Saturday evening, Dec. 9, will be devoted to a civilian concert and a humorous reader.

Prices that will lure shoppers to value opportunities, are advertised in the Market Basket Column on the Want Page tonight.

Guide to Guide Books Issued by Chicago Great Western Railway.

A complete list of Guide Books to Florida, Virginia, North Carolina, Cuba, California and the Southwest. Don't fail to get one if you contemplate a Winter trip, at City Ticket Office, Fifth and Nicollet Ave., Minneapolis, Minn.

Defective Page