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3,922

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THE JOURNAL

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THE SUNDAY JOURNAL

THE BEST YET

Staples Tribune.

Those Sunday editions of The Minneapolis Journal are "hummers." They are the best yet.

Valuable Work.

Farmers, millers and grain trade men generally will be interested in the announcement of the production of a new hard spring wheat type by the state experimental farm at St. Anthony Park. Eleven years have been given to the experiment. This station produced the two well-known varieties of spring wheat, styled Minnesota No. 163, and Minnesota No. 169. These have been among the best producers wherever used, but the new variety promises even better results, for the records of a period of years show an average yield of 27.50 bushels an acre for No. 169, 27.57 bushels for No. 163 and 28.97 bushels for the few No. 188.

The station has given the time and attention of its best men especially to the study of the wheat plant, and surely nothing could be more important in this northwest, where in the states of Minnesota, North and South Dakota, some 200,000,000 bushels of wheat is produced in a good year. Wheat is the life blood of the commercial northwest, and whatever can be learned about it, and all that can be done to increase the return to the farmers who produce it, benefits everyone directly or indirectly.

The station carries on work in many other departments likewise very important, but nothing so excites the general interest or meets with such general commendation as the work of increasing the yields and improving the quality of the wheat.

The station is a splendid institution. President Northrop once said he considered it one of the most useful branches of the university.

While the work of the station is seen every day, and good results are apparent in every county in Minnesota, there are great benefits to the state that never can be accurately traced in their working out, nor can close estimates be made covering them. For instance, there is the bulletin with reference to smut in wheat and treatment for it. There is no possible way of following up the effects, but it is certain that farmers everywhere have read and profited by the directions, and not the least doubt that smut has been checked and millions of bushels of better wheat produced as a result. In this way the station works, occasionally presenting something openly, as in the present announcement of a new wheat type, but more often doing its work quietly and without publicity, satisfied if good results follow.

There is the opportunity here to build up an institution, that, already known far and wide in this country, may become in time the most noted agricultural school in the world.

Miss Anna Hall's bill now before the Ohio legislature providing permission for

doctors to remove by chloroform or otherwise, persons whose lives are despaired of might be described as a bill to remove the "not" from the commandment "Thou shalt not kill."

Official Investigations.

Some splenic enemies of former Governor Van Sant have been drawing comparisons between the investigation of the auditor's office under his administration and the examination of the state capital commission just finished under Governor Johnson. In their biased view the investigation of the auditor was done under Governor Van Sant's orders to destroy a political enemy, while Governor Johnson "permitted rather than ordered" the inquiry into capital accounts.

We might as well have the record straight, tho' it makes little difference to the public, as either inquiry was fully justified and no sensible person will criticize such measures to ventilate public offices. The fact is that Governor Van Sant did not order the examination of the auditor's records. It was done by the public examiner under orders from the legislature after a legislative committee had skimmed the surface. Realizing the mass of records that had laid untouched for years, and the vast interests depending on a proper conduct of such matters, the legislature directed that the public examiner should carry the work to its conclusion. The work was done, and time has fully vindicated its effort. The reformed methods inaugurated in the auditor's office, the collections of trespass are evidence, and the suits still pending, are evidence enough that the examination was needed, and are justification of its findings.

As for the examination of the capital commission, that was ordered by Governor Johnson himself, and announced by him in an interview. There was every reason why the work should be done. The commission had spent over \$4,000,000 during a period of ten years, without check of any kind from outside authority. It was due to the commission as well as to the taxpayers of the state that its accounts be reviewed. It was not necessary to find graft and dishonesty. That is something examiners look for, but hope not to find. They did make some criticisms on the capital commission which the governor considered valid, but the facts do not call for any further action, and the incident is closed.

It is just as well to tell the truth about these things, when the truth is so easy to get at.

David Graham Phillips is going to work a popular magazine on a series of articles on "The Treason of the Senate." It must be sins of omission. The senate has not done enough in the last ten years to constitute a real act of treason.

Bringing the Senate in Line. Although the most recent elections of United States senators did not furnish complete evidence that they are to be reformed without the process of revising the constitution, progress toward popular control of the senate was made. The elections of La Follette in Wisconsin and Warner in Missouri without the use of money and the appointment of a man without wealth to fill the vacancy from the state of Oregon were encouraging signs.

The elections mentioned were due to outbursts of popular indignation against machine methods of choosing senators which even legislatures are occasionally bound to respect. But they did not add anything legally to the desire of the people to be represented in the senate.

However, other lines of action are working. In Louisiana, Mississippi, Alabama, Florida, Arkansas, Virginia, South Carolina and Tennessee nominations for senators are now made at legalized party primaries. The legislature merely ratifies the selections made at the polls. The weakness of this way of getting at the matter is that the legislature is not compelled to ratify. The state of Oregon had such a statute and after the first primary the legislature passed over the candidate who had been certified to it as the choice of the people. However, it is possible to secure obedience on the part of the legislature to the behest of the voters. It was obtained in Virginia, where the senatorial primary was tried last fall. The leading candidates were the governor of the state and the sitting senator, and Senator Martin not only obtained a majority of votes in the primary, but was chosen by the legislature, whose members were said to be personally more favorable to the governor.

The tendency toward true democracy, which has been the prevailing note in recent political action, will in time effect the desired change in the election of senators. The people can wipe

out legislative control of election of senators as easily as they snuffed out the electoral college. It was put in the constitution to prevent a direct vote upon president, but it has not had that effect. Without changing the constitution the people got around the college. If they cannot get around the legislative selection of senators by law, they will get around it by custom, for it is the one fixed idea in the minds of the people today that the selection of senator belongs to them and not to the legislators, who are chosen primarily for the enactment of local laws.

General "Joe" Wheeler.

General Joseph E. Wheeler signaled his early manhood by strenuous exertions against his country, and crowned the closing years of his active life with splendid service in behalf of his country. He was educated at West Point and has just taken his commission when he resigned to join the confederate army of his native state of Alabama. He rose from the rank of colonel to that of senior general of cavalry. He was a great and indefatigable fighter. His troops were everywhere opposing the advance of Rosecrans or Sherman, raiding the rear of the union forces and destroying stores. He covered the retreat of the armies of Bragg after Mission Ridge and Lookout Mountain and of Hood in the Atlanta campaign. In the latter campaign his men fought every day and gave and received punishment far beyond what is customarily expected of cavalry, for his troops fought often on foot.

Some years after the close of the war General Wheeler entered congress as a democrat and remained a member continuously from 1881 until he re-entered the army of the United States during the Spanish war. At the close of war he remained in the army and was retired with the rank of brigadier general two years ago.

Of General Wheeler's later service to his country in the Spanish war little need be said. It was not much of a war from the military point of view. The thing that brought Wheeler prominently before the public was the fact that his returning to the army was the starting of a great wave of patriotism thru the south. It brought the north and south nearer than they had been for more than a generation and did much to break down the prejudice and distrust which had existed. General Wheeler chose the psychological moment for his action, and it had a tremendous effect.

Two Notions of a Postmaster.

The congressional wrath at Postmaster General Cortelyou and his famous order is waking echoes in the expected localities. The Winona Republican and Herald, which holds a brief for "Our Jim," is out with a strong endorsement of the Missouri editor, who declaimed at the state editorial meeting against the creation of an "office-holding oligarchy." The Winona paper agrees with the man from Missouri that application of the merit system to post-offices "should have no place in a popular government."

It all depends on our idea as to a postmaster's function. If he is to serve the people primarily, and to be a factor in the improvement of the postal service, then reason demands that the man who has "made good" and has acquired valuable experience should be retained. If, on the contrary, his chief duty is to the congressman who has assumed the power to "appoint" him, then the congressman should be left free to make a change whenever his political interests require, regardless of the service.

We are getting away from the old idea to a great extent, and are expecting our postmasters and other public officials to earn their salaries. There are some of the old-style postmasters left, quite too many of them, in fact. They look on the office as a private snap and earn their salaries by keeping their congressional fences in good repair, while poorly paid deputies and clerks attend to the postal service. Machine politicians of this stamp are the real "office-holding oligarchy," and congressmen who cultivate their kind do not like postmasters who cut out politics and attend to business. That is the kind of postmasters Mr. Cortelyou likes, and we believe the public looks at the question in the same way. "Rotation in office" has an attractive sound, but it usually means six men trying for every job, and spoiled for everything else, while the public service runs itself.

There is a rivalry on between two telephone companies in New York, which has already resulted in the reduction of the rate from 10 cents to 5 cents a call. The Great Eastern Telephone company, which is fighting to get a foothold in New York, claims that it will force the call rate down to 2 cents before it is thru. In Chicago the Tribune has been demanding a reduction of the call rate and has exposed the fact that the telephone companies, instead of reducing the rates, attempted to smother the public demand by putting large ads in the newspapers which they control. It must make the Minneapolis Tribune pretty sick to think of these page ads which it does not get because it is not published in Chicago.

The approaching wooden wedding of Mr. and Mrs. Alfred Gwynne Vanderbilt of our set brings to mind the necessity of providing something more unique and expensive than a bread bowl or a washtub. It may be possible to secure one of those seats on the New York Stock Exchange that are now being peddled about at \$100,000 each.

Illinois people have made the discovery that the Standard Oil company by collusion with the inspectors has been pumping out inferior oil on the people of the state and upon the federal government under the name of high test oil. In this case adulteration cannot be charged up to the ferreusness of competition.

Galesburg, Ill., finds that its city clerk has been robbing the city. Mr. Hopcraft is described in the dispatches as "single, a prominent club man and Elk, owns a yacht," etc. A "spurt" may be a good fellow, but he is not the kind to handle the public funds.

Having captured Messrs. Gaynor and Greene, the United States is having great sport with them. The probabilities are that Gaynor and Greene will not leave their native shores for some years.

"Old General Joe Wheeler," as people affectionately call him, lived a full and adventurous life. He was a man who was thoroughly alive—a good friend and a good enemy.

Castro rises to remark that he presented Mr. Taigny from relanding in order to avoid new difficulties. It seems to have been an unavailing effort.

Grover Cleveland, referee, should make a note on his cuff that Grover Cleveland, retired statesman, got a rebate on his copy of "Fads and Fancies."

The Hoosiers wish to run George Adams for congress. George is well fitted for almost anything from the insurance business up.

"Storm King" and "Old Boreas" are spending a few weeks taking the mud baths at West Baden, Ind.

Senator Tillman claimed right out in the senate that railroad stock is half water. Oh, ye tears!

KNOCKING THE PRESIDENT

Roll Call of Men and Interests Antagonistic to Mr. Roosevelt.

There are signs of what may be called a conspiracy to break down the president's popularity, and thus destroy his power to carry out his policies. Call the roll of those who might be included in this conspiracy and see who responds:

A lot of people who are afraid of a foreign policy. Bribers and corruptionists of all kinds. Corporations that fear publicity. Disappointed stockholders. Every person who stands in the way of the president ought not to have received John Mitchell or Booker T. Washington.

Financial interests that have been or are being ruined by the president's policy. Great men who find that Roosevelt is in their way.

High finance that puts itself above the law. Interests that want to kill or delay the Panama canal.

Jacobins who are ready for anything that will serve to turn the "ins" out. Every man who stands in the way of the president's policy.

Opponents of government regulation of railroads. Pennsylvania's corrupt machine, recently rebuked at the polls.

Railroads that have violated law. Sugar lobbyists who don't want fair play given to the Philippines.

Snipers who want rebates. Every man who stands in the way of the president's policy.

THE WIFE BOOK

By W. P. Kirkwood.

STRANGE TALES FROM THE ORIENT.—There is all the atmosphere and mystery of southern Asia that one could wish in "A Digit of the Moon," by F. W. Bayly. The story is told in the form of four love stories from the Hindoo, in the book. The author tells a curious story of the acquisition of the original manuscript of "A Digit of the Moon." It should not be omitted by the reader. Then follows a story possessing rare simplicity and beauty of style and much originality and imagination. It is that of a king of Persia whose heart, whose heart has never been touched by the love of woman. His courtiers are afraid that he will leave no heir to the throne. One day he sees a picture of a woman of marvellous beauty and all is changed. He is told that she is a princess of a distant realm, whose heart has never been touched by love of man, but who has had many suitors. On all suitors she imposes the test of putting to her twenty-one riddles, one each day for twenty-one days. If one be put that she cannot answer she is to accept. The king decides to try the test.

Some parts of the story might have been omitted—expurgated; they are orientally frank. Nevertheless they are all of great interest, and with unusual skill, the work with great simplicity. J. B. Putnam's Sons, New York.

"AS OTHERS SEE US." We, rating others honestly, are prone "To wonder how they, in their littleness, Can praise and give us merits of their own. And be so blind to those that we possess. We see wherein they lack; we measure all The faults which they do think they hide; We weigh their worth and see how far they fall Below the things on which they stake their pride."

We wonder why all do not stop to show Due reverence to what we deem so high; They pass us merely nodding as they go, Or overlook us as they hurry by. Perhaps when they consider you and me They, too, discover blemishes that mar; Perhaps it is our presence which they see, And not what we might be—and suppose we are. —S. E. Kieser in The Reader for February.

HOW AMERICAN ART GOT ITS START.—An interview with an art dealer, picked up by Arthur Henry in his early days in New York, and set down in "Lodgings in Town" purports to tell how good American art first got a "show." This is what Mr. Henry says: "The dealer told me that one man Clark made. He was a dealer in collars and cuffs, but he had a shrewd eye for painting just the same. He bought the early pictures of James Whistler, Homer Martin and Winslow Homer—bought them for a song. He held them for years, then sent an exhibition to club all over the country, and if anyone asked the price they were not for sale. He always insured them heavily at the club expense, and when the time came for payment the clubmen opened their eyes. When at last he announced an auction sale, buyers came from every part of the country, and competition and surplus wealth more than in past appreciation of them, ran the prices up against each other to fabulous amounts. He cleared a fortune, and since then good American art has had a show."

"Promoting" seems to be a good thing for art as well as for railroads.

Both Tarkington, who sailed for Italy in company with his wife and Mr. and Mrs. Henry, and the author of "The Conquest of Canaan," safely thru the press, have left the island of Capri and is now spending some time in the south of France. "The Conquest of Canaan," which is now in the hands of the dramatist, will be given a stage production before long.

THE ORIGIN OF BRIDGE.—Where does bridge come from? Persia is said to have given the name and the nature of the game, according to R. F. Foster, author of "Foster's Complete Bridge," was the home of this latest popular card game. Mr. Foster says in his preface: "Bridge is a game of chance, a combination or outgrowth of various other games, notably gerrachak, Siberia and preference. A game very much like bridge has long been popular in the east, and all the elements of it are to be traced in many of the older games of cards. The name is supposed to be derived from the word 'bridge,' which is popularly believed to be a Russian word and there is no such word in the Russian language. The game itself is generally credited to the east, and is said to have long been popular in Constantinople and in the eastern European Empire." Mr. Foster gives 1838 as the date of the first appearance of the game in America, when its principles were explained to some members of the New York Club by Henry J. Barry. According to the "Encyclopedia Britannica," bridge was first played in England about 1830, but did not really become popular until 1870.

Mr. Foster's book is an attractively gotten up little volume, the purpose of which is to put together everything that has been said about the game, to learn and everything connected with the game. McClure, Phillips & Co., New York. \$1.50.

THE MAGAZINES

What's in the Magazines.—True stories of important movements and of good, healthy combat are the dominant traits of McClure's for February. Even after the deep behind the curtains afforded by the sessions of the Interstate Commerce commission, and of the legislative insurance investigation, and by the upheavals of last fall's political campaign, there are no disclosures of a number concerning railroad abuses, fire insurance juggling, and political trickery which will take hard hold of every citizen. There is the case of the "Gentle," "The Gentleman from Essex" told by Lincoln Steffens, which is full of the sturdy effort of honesty and youth. It shows how a young man with aggressiveness and a conscience can beat the machine to a standstill and win for himself more than the machine dared give him because he was honest.

Other features of the magazine are "Two Years in the Arctic," in which Anthony Fiala breaks his silence as to his explorations; "Railroads on Trial," by Ray Stannard Baker; "Reminiscences of a Long Life," by Carl Schurz. Besides, there are editorials, stories and poems—real poems.

Trolley vs. the Circus.—That the trolleys of the middle west have made theater-goers of the farmers was stated to me with the greatest frankness, last summer, by James A. Bailey, proprietor of the Barnum and Bailey circus, says Karl Edwin Harriman in an article on "The Trolley Car as a Social Factor" in "The World Today" for February.

"Ten years ago this country," said Mr. Bailey, "was the richest circus country in the United States. It is still, for that matter, yet circus receipts have fallen off appreciably here in the past seven years. I blame the innumerable trolley systems which I see in this section for it. They have placed the farmers in easy touch with the towns and this has resulted in their paying too frequent visits to the town theaters. The familiarity with professional entertainments has served to lessen their interest in the circus which, ten years ago, offered them the only en-

tainment it was possible for them to enjoy."

Variety is again a marked characteristic of "The World Today" for February. This 10-cent magazine always gives a large choice of subjects, with an abundance of fine illustrations. An appreciation of President William Rainey Harper, by E. Benjamin Andrews, chancellor of the University of Nebraska, is a noteworthy feature.

Death-Rate Among African Slaves.—The death-rate among the slaves on the Portuguese island of Principe, on the African coast is 29.7 per thousand, against London's 15.7 per thousand. In other words, one in every five of the slaves die at the end of the year. Henry W. Nevins gives these appalling figures in the concluding article of his series on "The Slave Trade of Today" in the February Harper's. He describes the life on the slave plantations, the hypocritical attitude of the Portuguese planters whose pretense of kindness to the slaves is utterly disgusting, and he tells how a few of the wretched men and women escape and live like wild creatures in the deadly climate of the woods.

Things to Think About in the Reader.—There is always something in The Reader to interest the thinking man or woman—something that reaches the inner consciousness of the one who reads. The February Reader has two such articles. One is the conclusion of Dr. Hale's two-installment paper on "Tuberculosis, Climate and the Great Southwest"; the other is Talcott Williams' analytical discussion of last November's elections, which appeared under the title "The Municipal Revolution: Was It Social or Political?" One treats of the "ills of the body physical," the other of the "ills of the mind intellectual. There is food for thought in both of these articles.

Besides the serious discussions in the February Reader there are stories of great interest, essays and editorials.

AMUSEMENTS

Metropolitan—"Parisian." The story of Parisian life is one of the most beautiful legends of history, and its lessons are those that will last as long as the world exists. The play presented at the Metropolitan last evening is an arrangement of the legend in dramatic form by William Lynch Roberts, in which the author makes no claim to originality, but rather an attempt to make an old tale in a fresh and attractive form. Mr. Roberts has drawn from the same sources of inspiration that Wagner used in the opera, and pays his acknowledgments to the poems of Eschenbach and Troyes, for their assistance in the undertaking.

As is fitting with such a theme, ending in the sacred and legendary, Mr. Roberts has made a beautiful and dignified use of the formal style of diction. He has given in his play the full story of the legend, including Parsifal's parting with his mother, and the story of his birth; the fall of Amfortas, the loss of the golden spear and the infliction of the wound that will not heal. The wiles of the enchantress, the knights who are toward the guileless fool, are given a wider exploitation in the play than in the opera, but in the main the play follows the same lines, although naturally it is much more ample.

The presentation of the play last evening was exceedingly interesting, and it was put on with a lavish tastefulness of accessories that appeals to the eye in a beautiful setting. The tableaux, including the destruction of King's castle and the final unveiling of the holy grail, were especially beautiful and impressive, while the scene in the garden of enchantment with Parsifal and the flower maidens was a lovely bit of stagecraft, with less of suggestiveness, than that in the opera. The Parsifal of Mr. Grattan was a sincere, clean-cut, and convincing piece of work. His reading of the lines was especially beautiful, and his acting was very graceful. Mr. Cotton as Amfortas was also happily cast, and gave a good picture of the suffering prince. So accustomed has the public become to the pompous and pompous characters interpreted by the tall and lean, that it was a bit of a shock to see Kinglor weigh at least 200, but aside from the optical disadvantage the part was well taken. The Dwarf, Mr. Bernhard was also impressively successful.

Miss Taylor was not the ideal Kundry save in a sort of physical sturdiness of grace. Her reading was well stilted and forced, and there was little of the dramatic power which should accompany the impersonation. Miss Hampton made good Herzelede, mother of Parsifal, and the other women were admirably selected both for the good looks, grace and good voices. The rest of the cast was but mediocre, while the chorus of maidens was lacking in the impressiveness which should characterize so important a personage. —Howard Boardman.

Foyer Chat.—The most logical answer to the query, why the musical show "Piff, Paff, Pout," which comes to the Metropolitan Sunday night, had an interrupted run of eight sold months at the Casino Theatre, New York, is that B. C. Whitney has given to the public the form of entertainment that it wants. The performance is as lively as a three-ring circus, as full of making as a military band and as brimming with wit and up-to-date travesty as any performance that has come off Broadway in years. Another powerful adjunct to the success of "Piff, Paff, Pout" is that the best company obtainable has been furnished to interpret the comedy, the music and the dancing.

"The Wizard of Oz" rejuvenated by new songs and dances, enlivened by fresh droberies, and embellished by gorgeous scenic illusions, comes to the Metropolitan as a brief respite from the matinee beginning next Thursday evening. The fun of the scarecrow and the tin woodman is hilarious and rollicking to the degree that it is a comedy of gnomery and Stone, who still appear in their original character creations, it is likewise clean and wholesome.

Ralph Stuart, in the role of Reuben Warner, superintendent of the Knowlton Iron Works, in "The Lost Paradise" which is playing at the Lyceum this week, is making one of the greatest hits of his career. The play is a high-class drama dealing with problems that confront labor and capital, but its chief interest is in the beautiful love story it unfolds.

Tonight will be amateur night at the Unique theater, always an important event in theatrical circles. For the entertainment the budding Langtry, Bernharts, Marlow, Anna Helds, Terry, Mannings and Maud Adames are given an opportunity to try their abilities before the discerning eyes of the audience. The Unique has many amateurs on its list, and tonight is their night.

An audience that filled the Bijou witnessed the performance of the imitator Eva Tanguay and her clever company in "The Sambo Girl" last evening. Miss Tanguay has created a distinct and enviable position for herself, and she is accorded a warm and cordial reception nightly. The engagement will close with performance tonight, tomorrow at 2:30 p.m. and tomorrow evening.

While the fact that Salerno the juggler, was retained for a second week at the Orpheum theater has led many patrons to the conclusion that the "Pirates" women's orchestra of Boston, which is making such a big hit there this week, will also be kept beyond the limits originally set for the engagement, the management wishes to assure the public that the orchestra will be heard here for the last time tomorrow night. It has unquestionably been the biggest success of any single attraction ever offered at the Seventh street vaudeville house.

"A Strenuous Daisy" is the title given the sketch to be presented at the Orpheum theater next week by Miss Lillian Burkhardt and company.

Supreme Court

Emery Elsieb, by Iver Elsieb, his guardian ad litem, respondent, vs. Crookston Lumber company, appellant. Syllabus: A personal injury action the evidence considered and held not to show actionable negligence on the part of the defendant. Order reversed and a new trial granted. —Elliott, J.

The C. N. Schuster Land company, respondent, vs. Coolidge-Schuster company, appellant. Syllabus: A contract (set out in the opinion herein) for the purchase of land, which was made by the respondent, was held to be enforceable in equity. Judgment affirmed. —Start, C. J.

In re estate of John Tyner, deceased, Richard Tyner et al., respondents, vs. Richard Varian, Jr., et al., respondents. Syllabus: T. left a will by which, after providing for his wife during her life, he left practically all his property to the relatives of his second wife to the exclusion of his own children. The will was held to be a testamentary disposition, and the executor was held to be bound to carry out the will. Judgment affirmed. —Elliott, J.

George H. Atwood, appellant, vs. Nathan D. Lammer, et al., defendants; Nathan D. Lammer, et al., respondents. Syllabus: First—A partial payment upon a promissory note does not constitute a discharge of the note, unless the note is assigned to the payee. Second—The assignee of a promissory note of the proceeds of the sale of collateral securities which were deposited with the note at the time of its issue, is not liable for a part payment which will interrupt the running of the statute of limitations. —Elliott, J.

Leonard Berg, appellant, vs. Rachel E. Van Nest, respondent. Syllabus: Land assessed to "A et al." in legal effect assessed to A. and other parties unknown. Judgment affirmed. —Elliott, J.

D. C. McCony, respondent, vs. Bolton Oil & Gas company et al., defendants; Edwin H. Williams et al., appellants. Syllabus: A stockholder's liability for the purpose of apportioning the stock subscribed for had been fully paid in consideration of the stock received in a certain portion, was insufficient to justify a holding to that effect, but was sufficient to sustain a judgment for the balance of the capital stock of the corporation and had paid nothing therefor.

Second—The general rule, not changed by the laws of Arizona, that a stockholder's liability for unpaid subscriptions does not continue until the stock is sold, and the stockholder is not liable for the stock if he has transferred the stock except when transferred for the purpose of defrauding creditors. If a stockholder who is indebted to the company on his subscription transfers the stock without consideration, and after the corporation has become insolvent and the stock has become a fraudulent transfer is made out.

Third—Conceding that as between the parties the original contract was not enforceable, the stockholder is not liable for the stock if he has transferred the stock for a sum less than its par value, as to subsequent good faith creditors of the corporation. Where the stock is sold for a sum less than its par value, an equitable action brought by a creditor of an insolvent corporation to recover the unpaid value of the stock, except when transferred for the purpose of defrauding creditors. If a stockholder who is indebted to the company on his subscription transfers the stock without consideration, and after the corporation has become insolvent and the stock has become a fraudulent transfer is made out.

Fourth—Judgment having been recovered against the corporation in this state, where it maintained its principal place of business, it appearing that it possessed no assets in Arizona, where it was incorporated, it was not necessary to respect the statute of limitations in Arizona preliminary to bringing an action against the stockholders in this state. Order affirmed. —Lewis, J.

Albert J. Nibels, respondent, vs. B. J. Howland, et al., appellants. Syllabus: First—When an owner of personal property agrees to sell the same at a stipulated price, and the property is sold to a third party, the seller is not liable to the purchaser, who falls to pay for it in the manner provided in the contract, unless the seller is a party to the contract. Second—In such action the purchaser pleads as a defense the fact that the seller is ready and willing to perform the contract of purchase and had tendered proper conveyance in payment, and that the contract was not completed in the same, the seller may reply to such answer by admitting the contract, and allege that it was entered into by reason of the seller's fraud, and that the contract was not completed in the same, and set up the fact that such contract was joint; and an order of the court allowing such amendment is an exercise of discretion. Third—Upon a motion for a new trial on the ground that the decision was not justified by evidence, and that the error of law occurring at the trial, it is error to grant the action when the order for