

ST. PAUL NEWS.

"A TEAR WAS IN HIS EYE."

But the Crowd Burst Into Laughter at What He Took for His Handkerchief.

Officer Clouse Assumed of His Countryman—Bastardy Discharged—Local Crime Notes.

"You," said his hizzoner to James Donohoe as the latter stood up in the hall yesterday, "are charged with having been drunk and disorderly." At this a crocodile tear started to run down the grimy cheek of the prisoner whereupon he went down into his uisler for a handkerchief. He must have gotten into the wrong pocket however, for instead of finding a "wipe" he produced a pair of ladies stockings. They were red in hue and of the striped pattern, and before finding out his mistake he attempted to wipe his tears away. The appearance of the ballgarbings broke the crowd up and the titter that followed was promptly squelched by the court. Officer Galvin testified that he had found the prisoner in charge of a drunken man and that he looked at the latter stood at the bar, being robbed. The accused, stated that when arrested he was leading an intimate friend around, but as the excuse was a trifle thin he was sent out for thirty days.

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"I have been in this country a good many years," said Balliff Clouse, "but this is the first case I have seen of where the sun has turned one of my people black."

Officer Scheffer testified that he had found the prisoner on the street quarrelling with his wife. He ordered him home but Oleson refused to obey the command, and when put under arrest he showed fight, whereupon the peeler was constrained to put a head on him. The stip-burned Swede was taxed ten bills.

John Oleson was arraigned on the charge of having struck a Wabasha street saloon keeper on the head with a mallet, particulars of which appeared in previous issues of the GLOBE, and the hearing was continued to the 29th inst. He was held in the sum of \$5.

FRESH FISH!

Arrival of the Government Car with Young Fish—The Distribution of German Carp in the Northwest.

There arrived at St. Paul from Washington yesterday afternoon, via the Milwaukee & St. Paul railroad, fish car No. 2, of the United States fish commission, in charge of Mr. George H. H. Moore. This car left the government ponds at Washington, D. C., at 6 o'clock on Friday evening, the 14th, and it is laden with carp, tench, goldfish, and blue carp. The tench is an entirely new fish, so far as this country is concerned, but is well known in Germany. It is prolific and hardy, though it does not attain so rapid nor so great a growth as the German carp. It is a scale-fish, and of good flavor. The blue carp is a new variety in this country, and the present spawn will be the first that has been introduced. The goldfish, while it is a wholesome food fish, is not so desirable because of its bony character; but, as it is of a very handsome golden hue, it is looked upon as a pretty fancy fish for ponds, etc. It also comes from Germany. The car in which the fish are transported is quite a curiosity in itself. To all outward show it is just the same as an ordinary passenger coach. But the interior is quite different. It is finished in oak. At one end is Mr. Moore's private apartment, heating room, lavatory, linen closets, stationery closet, etc. Just outside of them is a cooling box for holding ice, through which the air in the tanks on either side are kept cool. These tanks take up both sides of the aisle for about two-thirds the length of the car. In these tanks, cooled by ice, are set little tin pails, each of which contains from twenty to thirty little fish floating in clear water. The fish are about five to six months old, and vary in size from one to six inches in length. Mr. Moore, who by the way, is quite a fish expert, informed a reporter for the GLOBE that the fish would be distributed from the car mostly consisting of the tench and blue carp. The fish are from Des Moines, to St. Paul, and it is from St. Paul that Minnesota, Wisconsin and Dakota will be supplied. The fish are sent to express charges and a charge of 50 cents, the weight of the tin pails, which could not ordinarily be purchased at this price. Mr. Moore stated that night hawks were great enemies of the young carp, and that such birds had been caught in the vicinity of the Washington ponds, which revealed, upon investigation, twenty young carp in their claws. The fish, according to the temperature of the climate, will grow from one to five pounds in a year, and in instances they have been known to grow seven. In Germany there have been caught carp that have weighed from fifty to sixty pounds, and as high as ninety pounds, but it is related that statements that they are but reminiscences of former glory in the fish catching line. In order to obtain these applications has first to be made to Washington. In its memorandum printed on the back of the form of application, the fish commission say: "It may be well to state that it is no use to introduce carp in waters already occupied with such fish as bass, sunfish, perch, trout, or any other fish—except species whatever; even clubs and minnows are objectionable. Although the fish supplied might not be liable to injury, their eggs and young would certainly be devoured, and no result would come from the experiment."

Opinion of Attorney General Hahn.

The attorney of Mower county wrote Atty. Gen. Hahn a few days since asking the following question:

"Do you construe the provisions of chapter 35, general statutes, as abrogating the punishment of crimes committed by minors under sixteen years, which a justice of the peace has found jurisdiction to punish by fine and imprisonment to imprisonment upon default of payment of fine?"

The attorney general answers, I do not in case a fine is imposed, and not in the judgment is that the defendant stand committed until the fine is paid. The commitment is not, strictly speaking, the punishment prescribed for the offense, but a means adopted to enforce the payment of the fine. (See section 171, chapter 35.) The fine is a punishment and liability is punishable by fine alone (section 166), and yet if the fine is not paid the justice may commit until it is paid, not exceeding ninety days (section 171). My

view of section 45 is that in case the given offense is punishable by imprisonment alone, or may be so punishable, and the justice in fact proposes to inflict that punishment instead of a fine, it is his duty to send the offender to the reform school rather than to the county jail.

THE COURTS.

Supreme Court.

DECISIONS.
F. W. Frisbee and M. E. Frisbee, partners, etc., respondents, vs. Horace Poole, T. F. Gilliland, et al, partners, etc., appellants.
Opinion of the court.—The terms of the mortgage are as follows: "This mortgage is given as collateral security to the payment of certain book accounts according to the terms of a certain contract bearing date of November 1, 1883, executed by the parties of the second part."

There is nothing on the face of the mortgage itself showing that it was to secure future advances.

The court upon a substantial conflict of evidence on that point, finds as a fact that the contract referred to in the mortgage, (which had been lost), did not provide for future advances to the mortgagor.

This is conclusive that the mortgage does not secure future advances.

It is therefore unnecessary to consider any other questions.

Order affirmed.

Robert Osborne vs. the Knife Falls Boom Company and the St. Louis Boom and Improvement Company.

Syllabus: It is assumed in this case that the St. Louis is a navigable river of the United States, and as such protected by our congressional enabling act and by the constitution and laws of this state, which make rivers of that character common highways, and forever free as well to the inhabitants of Minnesota as to all other citizens of the United States, without any tax, duty, impost or toll therefor. It appears that the navigability of the river in those parts of it obstructed by the defendant's boom, complained of by plaintiff, and hereafter mentioned is a mere floatability for loose logs so that the practical questions presented by the case relate solely to the rights of the plaintiff to the use of the river in those parts for the purpose of floating loose logs. Held, that the act of the legislature, chapter 106, special laws 1873 as amended by chapter 73, special laws 1878, which authorizes and requires the Knife Falls Boom company within certain limits to construct and maintain certain limits to restrict and maintain the logs of the river over as well as to take the entire control of all logs and lumber coming within such limits, and boom, scale and deliver them to the proper owners upon reasonable request. Those required to be delivered above Knife Falls to be delivered at the defendant's boom over as well as to those delivered above Knife Falls is valid and not in violation of our enabling act on state constitution, notwithstanding the works of defendant erected and operated under the act materially interfered with and in violation of the rights of plaintiff. Those required to be turned over Knife Falls to be so turned over such turning over being as to them the only delivery required, said act also authorizing said company to charge and collect boomsage from the logs of the river over as well as to those delivered above Knife Falls is valid and not in violation of our enabling act on state constitution, notwithstanding the works of defendant erected and operated under the act materially interfered with and in violation of the rights of plaintiff. Those required to be turned over Knife Falls to be so turned over such turning over being as to them the only delivery required, said act also authorizing said company to charge and collect boomsage from the logs of the river over as well as to those delivered above Knife Falls is valid and not in violation of our enabling act on state constitution, notwithstanding the works of defendant erected and operated under the act materially interfered with and in violation of the rights of plaintiff.

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THE ST. PAUL DAILY GLOBE SATURDAY MORNING, NOVEMBER 22 1884.

LOG DRIVING ON THE ST. LOUIS RIVER.

Interesting Decision of the Supreme Court Yesterday on Lumber Navigation.

The supreme court yesterday, by Judge Berry, rendered an opinion of vast importance to all connected with the lumber interest in Minnesota and Wisconsin. Robert Osborne and others commenced action against the Knife Falls Boom company and the St. Louis River Boom Improvement company, asking for damages. That there are thousands of millions of feet of valuable pine timber upon the St. Louis river above Knife Falls, and that Duluth is the natural market therefor. Between Fond du Lac and Knife Falls, over ten miles, there is a succession of rapids over which logs have to be run loose, and only can be run during the one or two weeks of high water in the spring or in June; then they can be run easily in a few days, but are detained until the water subsides. They may become hung up for a year. The defendant companies have erected piers, booms, etc., entirely across the river, a little way above Knife Falls, and below the plaintiff's timber and blocks, the river and stop all logs. The process is necessarily slow and it is impossible to run the logs through so as to take advantage of the first water. The plaintiff desired to have the logs destined for Duluth floated up by the defendants after the water has fallen and the logs are therefore hung up until the next rise inflicting irreparable damage. Yet the defendants exact a toll of forty-five cents per thousand feet of logs, and threaten to pass and threaten to hold the logs until paid. Wherefore the plaintiff demands judgment that the defendants be forever restrained from delaying the plaintiff's logs, and that they be ordered to remove the booms, etc., and to allow them as to allow the plaintiff's logs to pass.

The defendants allege that the St. Louis river was not, until the improvements made by them, a navigable stream, but the rapids prevented it from being a highway for any purpose whatever. That, recognizing the fact, the plaintiff passed the special act relating to the Boom company, that before the plaintiff or any one else attempted to drive logs over the rapids, the defendants cleared out a channel through the rapids and also erected booms, etc., so as to drive logs over the rapids. The logs could not be driven over the rapids easily or in a few hours, and that the driving of logs has not been hindered, but the logs have been assorted and turned over the falls in the best possible manner, the works of the defendants are greatly facilitating such driving. Further, the defendant's boom, which is a market for logs, but Clogat, above Knife Falls, is the sixth and seventh folios of the plaintiff proclaiming the river navigable and a public highway, are expressly denied. No unlawful toll has been exacted and the defendant's works of great benefit and utility to all log-drivers.

The plaintiff in turn denies all the new matter of the defendants' answer.

The case was tried in the district court of Carlton county, March 21, 1884, and Judge Starns delivered the opinion of the court. The court found that the St. Louis river is navigable except between Thompson and Fond du Lac and at Knife Falls. That the general plan of the defendants' works is such as is in common use throughout the northwest and is not capable of being increased without unreasonable expense. It is not practicable to construct any booms on this river within these limits through which any considerable quantity of logs can be passed without material hindrance. That no such boom can be of service to the plaintiff. At the rapids in question the defendants have made a better channel, but it was entirely possible to float logs over them in the natural state. The plaintiffs are not entitled to the relief asked for, and an appeal memorandum. Judge Starns adds that the legislature may designate points on the river where all logs may be detained a reasonable length of time, and may authorize a corporation to stop all logs and charge a toll for passing and sorting. He does not believe that the legislature has the power to levy any toll on logs simply permitted to pass through such works. He believes that the capacity of the works can be greatly increased without altering the general plan. The matter of tolls should be left to the market. The law is settled. At the rapids in question the defendants have made a better channel, but it was entirely possible to float logs over them in the natural state. The plaintiffs are not entitled to the relief asked for, and an appeal memorandum. Judge Starns adds that the legislature may designate points on the river where all logs may be detained a reasonable length of time, and may authorize a corporation to stop all logs and charge a toll for passing and sorting. 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