THE GREAT NORTHWEST.

The Leading Stock Growers of the Northwest Convene at Miles City.

The Biggest Convention Ever Held in That Section—A Prospective Consolidation.

A Bozeman Sinner Goes Gunning for an Editor Because His Name was Put in the Paper.

A Brainerd Boy Beats the Best Amateur Roller Skating Record, Covering 114 Miles in Ten Hours.

Organization of the Dakota Railway Commissioners—Doings of the Wisconsin Legislature.

News Items from Various Points in the Northwest Gleaned By Globe Correspondents.

MINNESOTA.

The Champion Amateur Skater.

Special to the Globe.

BRAINERD, Minn., April 2.—In a ten hour contest at the roller skating rink, which ended at 11 o'clock to-night, Otto Oleson won the first prize, a gold medal, and beat the best amateur record in the United States. He made 114 miles and 1 lap in the ten hours, the best amateur record made heretofore being 112 miles, and the best professional record 126 miles. Oleson is only 16 years of age and is a resident of Brainerd. The second prize was won by Joe Vean, making a record of 110 miles.

Two Deaths at Worthington.

Special to the Globe.

WORTHINGTON, Minn., April 2.—Our village was excited this morning over the death of the wife of R. B. Plotts, who deceased suddenly from child birth. She was a very pleasant lady and will be greatly missed in this community. She leaves a large family to mourn her loss. She will be buried to-morrow under the auspices of the Women's Relief corps of which she was a worthy member. Stoddard post, G. A. R., will attend in a body as Mr. Plotts is adjutant of the post.

This afternoon Emory Clark of this place quietly passed away. He has been sick for several months, and he was one of the most noted attorneys of Southwestern Minnesota. He leaves a wife and two children. His death has been daily expected for some time.

Red Wing.

Holland Woodley has returned from Florida....Mrs. F. F. Hoyt of Michigan is visiting her many friends here....C. W. Mansfield is doing some fine decorating work in the residence of Hon. F. W. Hoyt, on East avenue....The Minnesota Scandinavian Relief association, whose home office is here, now have a membership of about seventeen hundred....The postoffice and banks will be closed to-day, because of Good Friday.... Services in the Episcopal church at 10:30 this morning and 7:30 to-night....Rev. William McKinley will preach at the M. E. church to-night on Why Christ Suffered.... It is believed that Mayor Howe will succeed himself. A petition has been circulated, asking him to accept a third term. No one has yet refused to sign it....Eleven prizes are offered for best costumes at the masque carnival at the rink on next Saturday night.

Northfield.

Public schools open next Monday....Mr. John Archer, formerly one of the leading horsemen of this city, and the owner of Lucy Judd, who was sold for $2,500, and who gained a record of 2:32, but has made her mile more than once in 2:20, will again take up his residence in Northfield....The county expenses during the last six-months, ending March 17, amounted to $2,490.09....Miss A. R. Sherman has gone to the world's fair....A special train will be run from Owatonna, Austin and Faribault Friday evening, to attend the skating match in the roller rink here....Sara Jane Owens, an old resident of this city, since 1854, has within a few days gone almost totally blind....The irons are being placed on the ground to build the bridge spanning the Cannon river at Cascade....During the month of March over 800 cars of material were delivered for construction of the Minnesota & Northern road, and during April over 1,000 will be shipped.

Zumbrota.

An old resident in this village, Dr. Jones, died at his home last Friday. His remains were sent to Galena, Ill., for interment.... Zumbrota is going to have a rink this season, 40x80 feet....There is much satisfaction among our people over the appointment of Rev. W. C. Rice as dairy commissioner.... A base ball club is to be organized here this summer....The G. A. R. of this place will give a grand entertainment this week, entitled "The Spy of Atlanta"....At the teachers' examination held in this place last week there were twenty-five applicants, the largest number ever in attendance in Goodhue county before at an examination.

Mankato.

Mr. J. P. Howlett has been appointed manager of the Mankato, Faribault and Owatonna Underwriters' union and will have his office in this city....Judge D. A. Dickinson of the supreme court was in the city yesterday shaking hands with his many Mankato friends....Hon. John F. Meagher has returned from his trip to Washington and the Southern states....A man named McDermott raised quite a disturbance in Butler's saloon yesterday afternoon and was promptly jerked to the lock-up by an officer.

Winona.

The Young Ladies' Christian Temperance union netted $110 by an apron festival Tuesday afternoon and evening....The ice in front of the city moved out Tuesday afternoon and the ferry will soon make regular trips to the Wisconsin shore....Building operations have commenced. Contracts for several new business blocks and residences have already been let....A mass meeting was held at the court house Wednesday evening by those opposed to the nominations made by the Democrats on Monday evening for city officers. A citizens' ticket was nominated and a comittee of ten business men from each ward will be appointed to work at the polls. A. H. Snow, Esq., and W. A. Allen, Esq., both Democrats, were nominated respectively for the offices of mayor and municipal judge.

Minnesota Items.

The residence of La Rose Webster was destroyed by fire at Morristown this week ....Morristown has a license this year.... There will be a new bridge built across the river at Morristown this summer....A Mr. Bart Grover of Zumbrota last week shipped $1,875 worth of horses to Grafton, Dak.

DAKOTA.

The Dakota Railway Commissioness Organize.

Special to the Globe.

FARGO, April 2.—The territorial board of railway commissioners held their first meeting in this city to-day, and all the members were present. The commission consists of Capt. McVay of Yankton, Col. W. M. Evans of Milbank and Capt. Griggs of Grand Forks. Col. Evans was made chairman and Judge West of Fargo was made secretary. The secretary was ordered to compile all the railway acts of the territory and publish the same in pamphlet form, and also to secure copies of the railway reports of other states and freight and passenger tariff sheets of all the railways operating in the territory. The place at which the permanent office of the commission should be established was not decided upon, but complaints arising in each one's district were referred directly to the commissioner for that district. Capt. Griggs takes the railways of the south to the forty-sixth parallel, Col Evans of Central Dakota south to Wolsey, on the main line of the Chicago & Northwestern railway and Capt. McVay the rest of the territory. The time and place of the next meeting are not decided upon.

Horse Thief in Limbo.

MILLER, April 2.—A young man named Adam Fost, who stole a stallion from H. H. Caldwell, a farmer living near Sioux Falls, was arrested and brought here to-day by Sheriff Dickson of Minnehaha county and Sheriff Costigan of this place. Fost was found on a claim twenty miles south in the county, to which place he was traced after an attempt to dispose of the horse in this city.

Lodged in the Penitentiary.

SIOUX FALLS, April 2.—Pat Smith, the prisoner from Bismarck who has been playing the broken-leg dodge at St. Paul, was brought here last evening by Sheriff Alex McKenzie and lodged in the penitentiary.

Fargo Amusements.

Fargo is a great town for amusements. Neither cold, rain, snow nor storm greatly modify the zest and patronage of the votaries. Two or three vaudevilles run every night, a big roller-skating rink is thronged constantly and it is related that one lady was so infatuated that she pawned her husband's Sunday pants for money to meet daily entrance fees, and a young lady cut off and sold her luxuriant hair for the same purpose. Church sociables and gatherings are also numerous. Among the dramatic and other extra entertainments on the present docket are the military drama "Under Which Flag," April 7, 8 and 9; the Broom Brigade display and dance at rink, April 10; a masquerade and fancy dress ball, April 14; on the 17th the Swedish Nightingale, Mme. Bergstrom; the Fay Templeton comic opera troupe, April 20 and 21; Janauschek, May 22, and various other incidentals, not to speak of the revival and Easter ceremonies and variations.

He Didn't Want Office.

Col. Morton, the rustler, returned this week from his trip East and to Washington, and was given quite an ovation by his friends in Fargo. The impression that he was interested in appointments is a mistake. He has a hobby or conceit that a new strain of poultry that he has developed has remarkable musical capacity, and can be taught tunes. He took a couple of dozen of the eggs with him to be materialized into chickens in the White house hennery. The president seemed much pleased, and instructed Col. Lamont, the old chum of Col. M., to give them special care. He also remarked to the colonel that he was the first Democrat from Dakota—and he thought every one of the 15,000 that voted last year had been there—who did not want some one appointed to some office. The colonel was pleased with the visit.

Dakota Newslets.

The G. A. R. post at Valley City has about fifty members, and it is expected it will become the strongest post in the territory.

The water from the eleven-thousand-feet-deep artesian well at Ipswich is so hot that it is not palatable to drink without ice.

The grand chapter and grand lodge of Masons are to meet at Fargo in June. The wonted hospitality of the city will be extended.

Milltown and Hutchinson county to the south, has made up a purse and is boring for coal. Experts from the East have been secured to manage it.

An effort is being made to establish a telephone line from Fargo to Sheldon, some thirty miles, with connections with numerous bonanza farms on the route.

Representative Huetson, who made his mark—several of them—in the legislature, is looking for a location for a colony of seventy-five families in Campbell county.

The Ashton papers want it distinctly understood, especially at Redfield, that the capital of that warlike province is at Ashton, and the "cruel war is over," till next year.

The appointment of Morris Taylor of the Yankton Herald as surveyor general is looked for as soon as Gen. Fessenden's term expires in April, and no opposition to Taylor is known.

The Democrats last week completed the organization of a club at Roscoe in Edmunds county. They favor Ziebach for governor and do not go back of the last election for political records.

It is generally insisted by the papers that Pierre owes it to its reputation to repudiate the reported action of a cemetery association there in tendering Gov. Pierce a lot and inviting its early occupation.

Cal. Uline, one of the pioneers and chiefs of the Devil's Lakers, has just returned from a visit to President Cleveland, and says there is no use in crowding. The president will take his own time to fill the positions.

The Yankton Outlook claims to have the promise of Democrats that the territory shall be divided next winter. Promises of that sort without bonds signed by the party leaders in congress will not do to count on.

Judge Edgerton sentenced a man to four years in the penitentiary for stealing Bibles from a church. The judge does not favor the distribution of the Scriptures in that way. He, however, suggested that the man be allowed to retain one of them.

One day the past week there were five weddings at Valley City. The Democrat understands that the home girls are trying to crowd matters before the country is flooded with competitors from the states brought out by the Donan bureau.

Hardly a Dakota paper can be taken up that does not contain mention of the return of parties from the states with wives gathered in the efforts of the winter. A young man who returns alone is supposed to have failed to find one willing to have him.

John Mitchell has come out from Illinois this spring and secured a section of land in Aurora county, all of which he will put in cultivation, using a steam gang plow. He thinks he will have a much better and more profitable farm than he had in Illinois at but a third of the cost. He is one of a great number.

A paper has again been started at Keystone in Dickey county, the Optic. It is a bright, interesting sheet. It is a puzzle how a genuine newspaper can live in a town of 100 people—with no land notices. A good deal of blooded stock is being shipped to that section from Illinois.

The board constructed by the legislature and governor to protect the interests of the people in railroad and elevator matters will meet in Fargo to-morrow to organize. There are numerous aspirants for secretary. Positions in connection with it are much sought as they give free range of all the railroad lines besides useful openings.

The county seat fight in Bon Homme is red hot. The vote is to be taken next Tuesday. Scotland and Tyndall are the main aspirants, the former offering $4,000 in cash and lots valued at $1,200, and Scotland about double the amount. Bon Homme also has claims, but is not regarded as much in the fight.

The committee of the Aberdeen presbytery, which comprises seventeen counties south of the forty-sixth parallel, advertises for bids for the location of a Presbyterian college. Most of the prominent towns offer inducements. There will be no lack of the higher educational institutions, even if the governor did veto a batch of them. If there is demand for them they will come without state aid.

The Duluth, Fargo & Black Hills railroad holds its annual meeting at Fargo next Monday. The president will report a few miles of the line graded, and it is possible that an effort will be made to iron a section of forty or fifty miles this year as a basis for selling bonds. There is confidence among the officers that the road will eventually be completed, but the auguries are not quite auspicious for much railroad construction this year.

For some reason Attorney General Brewster dismissed the suits against those who have been unlawfully using the school sections, involving very large claims for damages, but Gen. Campbell has revived the matter, and the Dakota Outlook says: The United States attorney has just received instruction from Attorney General Garland to prosecute vigorously all persons who are guilty of land frauds or who have been trespassing upon school lands. This will be bad news to the bonanza farmers who for several years have been cultivating whole school sections. Heretofore the department has not been willing to allow the necessary funds to push such prosecutions. It is now hoped that Dakota school lands will be fully protected from the rapacity of the unscrupulous land shark.

MONTANA.

Assembling of the Stock Growers at Miles City.

Special to the Globe.

MILES CITY, Mont., April 2.—Fully 100 delegates to the stock growers' convention are present and more will arrive to-night. Secretary Harrison of the Montana Stock Growers' association is here advocating consolidation with the Eastern Montana association. Some opposition is met with from the Eastern Montanians. The question will be decided to-morrow. The executive committee are now in session arranging round ups and other details. Nearly all the leading stock companies of the Northwest are represented. E. S. Newman of the Niobrara Cattle company of St. Louis, Mo., and David Hunter of Hunter & Evans, Ryan Bros. of Leavenworth, Kan., and many others from the southern range of districts are also here. Fully $40,000,000 in live stock is represented here to-day. John N. Simpson of the great Continental Land & Cattle company and other prominent stock men are expected to-night. The convention excels in size and general features any such gathering ever held in Montana. In the event of consolidation it is likely that Secretary Harrison of Helena will be elected secretary of the new organization. As to the presidency it lies between Hon. Granville Stuart, now president of the Montana Stock Growers' association, and a selection from the Eastern Montana representatives. Acting Gov. Tooker will arrive from Helena to-night and deliver the commissions to the stock commissioners recently appointed by the legislature.

The number of cattle now in the territory of Montana and their value is as follows:

Counties.	No. Head.	Value.
Beaverhead	39,307	$1,375,745
Choteau	119,860	4,195,100
Custer	189,769	6,642,860
Dawson	51,992	1,819,720
Deer Lodge	32,830	1,149,050
Gallatin	59,125	2,069,375
Jefferson	26,554	829,396
Lewis & Clarke	47,855	1,674,925
Madison	24,050	841,750
Meagher	193,171	6,760,985
Missoula	19,152	670,420
Silver Bow	4,214	147,490
Yellowstone	53,084	1,857,940
Total	850,000	$30,000,000

Nearly all of these are owned by ten companies and nearly all have made their money in Montana. With this vast number of cattle for shipment to the east it is much of a wonder that a stronger competition is not made for the trade. The Union Pacific reaches after some as also does the Canadian Pacific, but the home institution, the Northern Pacific, takes the lead and does about seven-eighths of the carrying.

Went Gunning for the Editor.

Special to the Globe.

BOZEMAN, April 2.—The grand jury now in session indicted several men for living in adultery. One Sam Trice compromised by marrying a girl this morning. The others will probably be tried. Trice filled himself with whisky and went gunning for the editor of the Chronicle, because he published his name in the court proceedings. The editor being unarmed was obliged to submit to a volley of oaths, delivered on the street. Considerable excitement has been occasioned by the indictments and several citizens are badly scared by their healthy effects.

IOWA.

After the Nebraska Trade.

SIOUX CITY, April 2.—The St. Croix Lumber company of St. Paul has purchased the business of Sanborn & Follett, for twenty years engaged in the lumber business in St. Paul. The yard here is to be the distributing point for Nebraska business of the firm.

WISCONSIN.

Legislative.

Special to the Globe.

MADISON, Wis., April 2.—In the senate this morning the assembly bill giving weekly newspapers $100 for publishing the session laws was concurred in, also after many amendments the bill for the appointment of state fish and game protectors. The assembly bill providing for district school libraries was killed. A joint committee of conference of three from each house was appointed to fix upon the date for the final adjournment.

In the assembly this morning the senate bill was killed, after a long debate, which sought to place the care, control and supervision of all the highways in the hands of town supervisors. The senate bill fixing the salary of the circuit court judges at $3,600 came up on order of concurrence. The clerk was just announcing a tie vote 39 to 39, when Mr. Haben walked in and voted aye, thus breaking the tie and carrying the bill.

Assembly bills were passed as follows: Providing for the division of towns into two or more election precincts; for the appointment of a state veterinary surgeon; mustering the Milwaukee light battery into state service; increasing the per diem of state troops while in camp, and purchasing overcoats and fatigue uniforms; fixing the license fee of telegraph companies at $1 per mile on the first wire, 50 cents on the second, 35 cents on the third and 20 cents on all others. Assembly bills were killed as follows: Providing for the inspecting of steam boilers and licensing engineers thereof; providing for the appointment of a state inspector of gas meters.

ST. PAUL COURTS.

Supreme Court.

The State of Minnesota ex rel. Joseph Berger et al., relator, vs. The District Court of Ramsey County, Minnesota, respondent.

Syllabus—The city of St. Paul was authorized, under its charter, to proceed to complete the improvement undertaken in pursuance of special laws 1881, chapter 224, as amended special laws 1883, chapter 57, and to levy an assessment upon real property in the vicinity found specially benefited thereby to meet the cost and expense thereof not covered by the proceeds of the bonds of the city issued under such special act. The provisions of the charter and of the special act are to be deemed consistent for the purposes of such improvement.

Under the provisions of the charter the work of grading, filling and bridging on a public street, and also the grading of other streets in connection therewith, may be so connected together as to be properly carried in common, and be prosecuted as one entire improvement, for which a local assessment may be made by the board of public works on property specially benefited thereby.

The improvement in question in this case included an embankment, which at its base necessarily extended beyond the limits of the street, held competent for the legislature to provide as was done in the special act referred to in aid of the proceedings under the charter for the acquisition of the proper basement, or license to so use and occupy the adjoining lands for such phrpose, saving to the land-owner the right to use the land abutting on the street as graded. In the absence of any suggestion that the extension of the fill upon adjoining premises was not made in conformity with law, or that the same could in any way depreciate their value by the change wrought by the permanent improvement made thereon, evidence that they were under mortgage was immaterial.

Section 2 of the act of 1881, in reference to the grade of East Seventh street, as properly construed with other provisions of that act, was not mandatory upon the city council so as to require it to complete the grading of that street to the city limits as a part of the improvement contemplated, but the extent of the grading thereon was made subordinate to the general purposes of the act, and was largely committed to the discretion of the council.

As respects the proceedings of the board of public works in making a local assessment under the charter, the determination of the board in reference to the assessment district and what property shall be included or excluded therefrom and in the apportionment of the amount of benefit to each lot or parcel is final except in case of fraud or mistake. And whether a public improvement can be deemed local in its character does not depend upon its extent or cost, though these are elements to be considered, and the assessment can in no event exceed the special benefits to the property so affected, but must depend upon the dtermination of the city council and board of public works, to whose judgment the matter is committed by the legislature to be determined largely as a question of fact. And if it is found that property in the vicinity of the improvement is so situated and related to it as to receive special benefits in the enhancements of its value beyond that of property enerally, the improvement may, for the urposes of a special assessment, be deemed ocal, though the property in the city or ward s also generally benefited.

The extent of the assessment district must depend upon the facts of each case, but when in any case it is made clearly to appear that through fraud or mistake property is improperly included or excluded, the court may interfere to vacate or set aside an assessment.

The terms "local" or "vicinity," as used in connection with such assessment proceedings, indicate no definite limits, but are usually understood to extend to real property sufficiently near and so related to the improvement as to be found specially benefited in addition to the general benefits accruing to other property, as reported by the proper assessors.

Application of these principles to the facts of this case.

Whether the court is bound to say upon this record that the assessment in question is to be deemed made for a general and public and not for a local improvement. Such an assessment could not have been made prior to the constitutional amendment of 1869, which authorizes, through legislative intervention, assessments by municipal corporations for local improvements upon property to be benefited thereby, without regard to a cash valuation, and in such manner as the legislature may prescribe.

But taxes for local expenditure were required to be apportioned upon the property of a political subdivision or district upon the basis of a cash valuation.

Stenson vs. Smith, 8 Minn., 366.

It is now, however, left to the legislature to prescribe in what manner assessments shall be apportioned, so as to distribute the burdens thereof justly and equally, as nearly as may be, upon property to be benefited, or in proper cases upon abutting property.

These special assessments proceed upon the principle that certain property peculiarly situated in reference to an improvement is to be specially benefited in the enhancement of its value and in levying such assessments the principle of equality in their apportionment, is deemed vital as in ordinary cases of taxation under the constitution.

Noonan vs. Stillwater, 22 N. W. R.

But in the application of this rule in practice the apportionment of benefits must be committed to the judgment of officers whose determination when acting within their jurisdiction is ordinarily to be taken as conclusive in reference to the justice or propriety of the assessment as finally adjusted and completed.

Under this provision of the constitution it has been the common practice for the legislature to provide in municipal charters for local assessments for street and other improvements of the same general character, and for levying the cost in whole or in part upon the property in the vicinity thereof, found specially benefited thereby. Such improvements being public in their nature, it is rare that a case arises where the general public does not share to a greater or less extent in the benefits, though in some cases, as of alleys or lateral streets or sewers the benefit may seem to be peculiarly local. But it has never been contended that in authorizing local assessments in pursuance of this constitutional provision, municipal authorities were to be limited to such improvements as are entirely local in their character. The city at large is benefited, and at the same time special benefits in ordinary cases result to the owners of property adjoining or in the vicinity of the improvement. If the special benefits to property so locally affected are equal to the cost of the work, then an amount not exceeding the whole cost may be assessed upon such property, but if the expense thereof exceed such benefits, then the city at large shall in any event bear a portion of the burden.

Cooley on Taxation, 447; Dillon on Minn. Corp., 3. Ed. P. 757. People vs. Mayor, 63 N. Y., 298.

It would be difficult to state in what cases local assessments for benefits may or may not be made. In practice the rule is usually adopted in case of street improvements, sewers, water mains, etc., while as respects public buildings or improvements of like public character for the use of the people of a city or district the burden is properly apportioned by a general tax upon the property of a whole city, or of the district peculiarly benefited.

But in reference to the class of improvements under consideration here, grading, filling and bridging on a street for which such assessments are usually deemed applicable, the court has held that the fact that the street to be improved "is the most public thoroughfare in the city" does not prevent the improvement from being "local," but the local character of the improvement depends upon the special benefits which result to the real property adjoining or near the locality in which the improvement is made.

Rogers vs. St. Paul 22 Minn., 507.

Now, whether in any particular case the improvement partakes of this character and creates such special benefit to property in the vicinity, as well, also, as to the extent and character of such benefits must ordinarily be deemed questions of fact to be determined by the proper authorities as the legislature may prescribe. Under the charter the city council, upon the report of the board of public works, is to determine whether property could be found benefited to the extent of the expense to be incurred by an improvement, and the board of public works are to ascertain the property to be benefited and to make the assessment. In the case at bar, then, the fact that the improvement may open up a thoroughfare of great value and convenience to the city at large, or that it is extensive and costly, does not necessarily warrant the court in adjudging it one for which a local assessment may not be made upon property in the vicinity of the improvement if found specially benefited thereby; though these are elements properly to be considered by the authorities which are required to determine as to the propriety and extent of such assessment. The legislature has in this instance recognized the existence of these facts and has specially provided that the city shall bear a large proportion of the expense.

The act of 1881 in providing for an assessment was also a legislative determination of the fact that a special assessment was proper for the improvement thereby authorized. The legislative judgment in such cases except in clear cases of abuse is not receivable by the courts.

Cooley on taxation, 460—1.

And as respects the act as amended in 1883, it was for the council to determine upon proper consideration of the question of benefits whether the work was one which, together with the appropriations provided by the city, could be lawfully proceeded with under the charter by an assessment for benefits to meet the balance of the expense, and if in the exercise of the large powers committed to their discretion the board of public works have complied with the requirements of the charter its action must necessarily be final, both as to what property is benefited, and how much, except in case of fraud or palpable mistake or unless it is made to appear that an improper rule has been followed in making the assessment.

State vs. Board of Public Works, 27 Minn., 448, State ex rel Lewis, Supra.

At the same time every reasonable intendment of good faith and regularity is to be indulged by the court in respect to the acts of such officers, while acting within their jurisdiction in the discharge of such duties.

In re Episc. School, 75 N. Y., 326. The validity of the provisions of the charter on the subject was considered and upheld in Rogers vs. St. Paul—Supra—and in Carpenter vs. same, 23 Minn., 324.

An assessment was determined to be proper in this case by the council. The improvement belongs to a class for which an assessment may be made under the charter, and the district court fails to find sufficient evidence of fraud or mistake in determining upon or adjusting such assessment to warrant its interference.

The evidence offered leaves it clear that property within the district is specially benefited, but is conflicting as to the extent and proper distribution of the benefits. The determination of the district court as to these questions must therefore stand.

The relator, however, further insists that in addition to the extensive nature of the improvement the wide area covered by the assessment upon the face of the record conclusively shows that the limits of a local assessment were exceeded.

The question is of sufficient importance to merit serious attention. There must be some reasonable limit to the exercise of these legislative functions to prevent injustice in the distribution of public burdens under the guise of local improvements. But since the power is committed to the legislature to prescribe the procedure in such cases, it is difficult for the courts to define the limit to the exercise of such power. In Guest vs. Brookly, 69 New York, Church, C. J., in commenting upon the necessity of proper safeguards for the rights of the citizen in such cases, very severely condemns the system of local assessments as generally authorized and administered in cities as inevitably tending to injustice and oppression, but observes truly that the effective remedy is not with the judiciary but with the legislative department of the government.

Ordinarily the district assessed is so situated and related to the improvement that the assessment cannot be determined to be necessarily inconsistent with justice and propriety. But if in any case it were clear that property assessed were so remote or so situated as not to be specially affected, it would properly be considered a case of fraud or mistake from which the court would relieve.

In this instance the improvement, including the bridge and viaduct, extends on Seventh street for about one mile and it is claimed that an avenue was thereby opened up over the valleys to which all of the property assessed is naturally tributary, resulting in a special increase in the value of all the property in that locality included in the district. The general rule is to consider the effect of the improvement upon the market value of the property in that locality included in the district.

People vs. Mayor 63 N. Y. 299. Cooley tax 459.

And if it be true that the value of this large number of lots under the peculiar circumstances is specially increased as compared with other property, by virtue of the improvement, the court cannot say that the improvement may not be considered local as respects the assessment district as fixed by the board.

The terms "local," "vicinity," etc., used in connection with such assessments are not to be taken as indicating any definite limits, but are usually understood to extend to the real property reported by the assessors to be actually benefited to a certain amount.

Burroughs, Taxation, section 146. Rogers vs. City, Supra. Cooley, Taxation, 429.

The question does not, therefore, depend merely upon actual distances, as appearing upon the map or plat, but upon the judgment of the assessors as well.

Extension of Hancock street, 18, Penn. st., 26.

Under the circumstances of the case and as against the determination of the proper officers charged with the responsibility of determining the facts, though the assessor's district is large and the improvement extensive and of public importance, this court is unable to say that the assessment may not have been warranted. The judgment of the district court should therefore be affirmed.

VANDERBURGH, J.

Gilfillan, C. J., being interested, took no part.

OPINION.

An assessment having been made by the board of public works for a large portion of the expense of grading and bridging Seventh street over, through and beyond Trout brook and Phalen's valley, so called, and as far west as Minnehaha avenue, including bridge culverts and masonry; and also the grading of several lateral streets extending out for a limited distance on either side of Seventh street, an application was duly made for judgment thereon to the district court of Ramsey county, which having been duly ordered and entered is brought here for review by writ of certiorari upon the record of the proceedings.

Here follows a synopsis of the special law under which the assessment was ordered. The opinion then proceeds as follows:

It will be observed that the main purpose of this legislation was to secure a permanent roadway across and over these valleys on the line of the established grade of Seventh street, involving also as a part of the improvement the grading of Seventh street, and also to provide through the issuance of bonds for a part (only) of the expense of making the improvement. But as respects the grading of Seventh street we may refer in passing to the provisions of section 2, that while it is apparent that it was contemplated that earth for the embankment would naturally be obtained from that source, yet the council were not limited to that street if earth could be found cheaper elsewhere.

(1) It is insisted by the relator that for the improvement contemplated by this legislation no assessment was warranted because the undertaking is specially authorized thereby and no provisions are made in the act as amended for such assessment. The terms of the act are very general; as amended it contemplates an earth embankment in Phalen's valley and culverts and masonry in both valleys, for the construction of a permanent roadway over both, and provides for an appropriation by the city to meet the extraordinary expense of such improvement, bearing reference expressly to the culverts and masonry. The legislature has indicated nothing further in reference to the plan, construction or cost of the improvement, but the details and the procedure were, we think, left to the council to work out under the authority of the charter. We do not doubt the correctness of the city attorney that if this is a local improvement the city council might proceed, as in other cases of grading, filling and bridging streets, to cause the cost of the same to be assessed upon property found specially benefited to the extent of such benefits. The object of the legislation is sufficiently apparent from what has been said. There is no restriction or limitation placed upon the authority of the council to proceed under the charter as in other cases to do the work and make the improvement outlined by the legislature; and there seems to be no good reason why the special act should not be consistently constructed with the charter. We must, therefore, look to the charter to ascertain the nature and extent of the authority of the council in the premises in reference to such assessment considered as an ordinary assessment for a street improvement. The production of the assessment warrant made a prima facie case for the city.

City charter of St. Paul (compilation of 1884), chapter 7, title 1, section 51; special laws, 1884, chapter 1; special laws, 1874, chapter 1; special laws, 1875, chapter 1; State ex. rel. Lewis vs. District Court, 22 N. W. R., 297.

It therefore appeared prima facie that everything necessary to the validity of the assessment had been done. This would include the action of the council and board of public works in determining that the improvement was a local one and that real estate could be found benefited to the extent necessarily incurred thereby; and also as respects the grading of streets that it was a case where, in the grading and filling necessary to be made upon Seventh street, other streets connected therewith might also be graded at the same time, and that they were in fact so graded together as one improvement. as authorized by sec. 5, ch. 7, city charter.

Mayall vs. St. Paul, 30 Minn., 297.

The map or profile of this work gives support to this conclusion, for the several streets so graded open into Seventh street, and are graded but a short distance out therefrom, as before indicated, being so situated as conveniently to furnish earth for the embankment, and so connected with Seventh street as to make one common improvement.

(2)—The objection, therefore, which we proceed secondly to consider, viz., that "the assessment was void because it appeared to have been made for several improvements, which cannot be united in one assessment," is not to be sustained as respects the grading of these streets. The bridge over the St. Paul & Manitoba railroad, which is located on Trout brook valley, and culverts and other stone works in both valleys not fully paid for by the bonds authorized are also objected to as improperly included in the assessment. These are contemplated by the special legislation, which directed the initial point of the grade for the improvement to be fixed west of Trout brook, and authorized the culverts and masonry which were used for the bridge. The work was evidently to be one entire improvement, each part necessary to the other. The charter, chapter 7, title 1, section 2, authorizes the city to make assessments for improvements of this character on property to be benefited thereby, including filling, grading, curbing, bridging, walling and macadamizing streets; and whether uniting several of them shall be deemed to constitute one entire improvement, for which an assessment may be made upon property found to be benefited, must depend largely upon the facts of each case.

For example, in The State vs. District Court, 29 Minn., 67, it was considered that gutters and culverts might be included with grading. (Walter & Walton, 75 N. Y., 361.)

It is clear, we think, that filling, grading and bridging on a street may be so connected as to constitute a single improvement. It appears from the records of the council that they made a separate reference to the board of public works of the work of grading the streets in question, and of the roadway, or viaduct so called, over Phalen's valley in which is situated the St. Paul & Duluth railroad track, and of an iron bridge, abutments and masonry over the St. Paul & Manitoba railroad, (Trout brook), but the board of public works in their report to the council included all these several portions of the work as together constituting one improvement, and certified that they had investigated the proposed improvement and that the same was necessary and proper. They also reported that real estate to be assessed therefor could be found to be benefited to the extent of the cost, etc. And thereupon the city council adopted such report and ordered that the board cause such improvement to be made in conformity therewith, and directed that the contract be let as provided by law, and that "after such work shall be placed under contract, said board shall proceed without delay to assess the cost thereof upon property to be benefited, as prescribed by law, it being the opinion of the council that real estate to be assessed for such improvement can be found benefited to the extent of the cost, etc.," the proceedings being in the usual course under the charter. This order, with the approval of the contract by the council, constituted the authority of the board to proceed.

Charter ch. 7, sec. 28; State ex rel. Lewis vs. District Court supra.

As respects the specific objection now being considered we are therefore unable to say that one assessment might not properly be made for the whole work.

Walter vs. Walton, 75, N. Y., 361.

No error is alleged in the formal proceedings of the council or of the board in failing to comply with the charter in so far as such proceedings appear of record.

(3) The charter, ch. 7, sec. 71, requires the board in making an assessment for benefits and "in estimating the benefits to any particular lot, piece or parcel of land, to take into consideration the nature of the owner's interest, the form and position of their several parcels, etc., and any other circumstances which render it (the improvement) more or less beneficial to him or them, and the determination and assessment or estimate of said board shall be final, except where an appeal is expressly allowed," etc. It is claimed by the relator that these provisions were not complied with by the board, and also that by fraud or mistake property was improperly excluded from the operation of the assessment, and that the assessment was oppressive and unjust. Evidence was accordingly offered on both sides upon these issues before the district court, and taken together, though the opinions of witnesses greatly differ, we are unable to say that the court erred in overruling these objections to the assessment. As to the property omitted, it was left out, as the evidence on the part of the city tends to show, after careful examination and consideration by the board, because in their opinion its situation was such in respect to the improvement that it was not specially benefited thereby. Amidst the conflict of opinions it is easy to see that there may have been errors of judgment on the part of the assessors; this is necessarily incident to the performance of such duties; but we think the assessment is not shown to have been fraudulent or to have proceeded upon a wrong rule in including, excluding or valuing property. Nor does it appear that there was any lack of diligence in considering the nature of the interests of owners, or the conditions or situation of the property assessed. The decision of the board on these questions is therefore conclusive.

State ex rel. Lewis, etc., supra.

(4) It is also objected that the city was not authorized to make so wide a fill in Phalen's valley, without previously widening the street by proceedings under the charter. This is, however, answered by the suggestion that the right so to do was acquired in pursuance of the special act. If the city may under its charter grade a street and make a fill or embankment, of a height such as that the earth shall necessarily extend beyond the limits of the street in order to support it, it is competent for the legislature to provide in and out of the charter proceedings for the acquisition of such rights as were authorized in this case. The necessary right or easement was acquired in accordance with the provisions of sec. 5, act of 1881, saving to the land owner his right to the use of the land abutting on the street as graded. It is not material that the land was mortgaged. It is not suggested that the security is or could be impaired by the improvement and the city appeared to have complied with the statute in proceeding with it.

We do not see, therefore, that the relator is in a position to object on this ground.

64 N. Y., 313.

(5) It is further insisted that the assessment is unauthorized because the city changed the grade and improved Seventh street to Minnehaha avenue only, while the act of 1881 contemplated a change in the grade and the establishment of the permanent grade to the city limits. We have not failed to give due consideration to this objection, and are of the opinion that for the purposes of this improvement so much was left to the judgment and discretion of the council as to the extent of the grading to be done in connection thereto, that we are unable to say that the failure to fix such grade beyond the intersection of Seventh street and Minnehaha avenue. About ten blocks east of Phalens creek is material to the value of the assessment.

By section 2, above referred to, the change of grade was to be made with reference to the improvement named in the first section, and the city council was not confined to the grading of that street in obtaining material for the embankment required to be made, and earth therefor was undoubtedly found more cheaply, as the evidence clearly shows, much nearer than on the easterly portion of Seventh street.

It will be presumed in favor of the validity of their proceedings in the premises that the grading on that street proceeded as far as was proper for the work. The change of the grade and establishment of the permanent grade was required to be a separate and independent proceeding under the charter, and had no further connection with the improvement than was essential, and the expense could not be charged in the assessment, but when required must constitute a separate undertaking. The whole matter was committed to the discretion of the council so as to adjust the contemplated grading to the practical exigencies.

Ann Bryant, appellant, vs. The City of St. Paul, respondent.

Syllabus: Where a board of health was constituted a separate body by the charter of a city and authorized generally to make and enforce sanitary regulations for the care and preservation of health; held that the city was not liable for the acts or negligence of such board in the discharge of its duties, the same being public and governmental and not corporate in their character. And it is not material whether its members derive their appointment directly from the state or they are appointed or designated by the city government in pursuance of the charter. Order sustaining demurrer affirmed and case remanded.

VANDERBURGH, J.

District Court.

[Before Judge Wilkin.]

Michael Doran vs. S. S. Eaton et al.; suit for $5,000 on mining stock sale.

Probate Court.

[Before Judge McGrorty.]

Estate of Henry H. Timme, deceased: George Mitsch and Mathias Koch appointed appraisers.

Estate of Ossian E. Dodge, deceased; letters testamentary issued to O. E. Dodge, Jr.

Estate of D. J. Evans, deceased; administrator discharged.

Guardianship of Samuel Bollinger, minor; letters issued to Vernon Bollinger.

Estate of Eslie O. Rogers, deceased; final decree entered.

Estate of Sarah M. Rogers, deceased; final decree entered.

Estate of Frank W. Rogers, deceased; inventory and appraisement filed.

LEGAL.

ADMINISTRATOR'S SALE.

Pursuant to an order of license of the Probate Court of Ramsey county, dated March 16, 1885, I, the undersigned, will on the 18th day of April, A. D. 1885, at 4 o'clock p. m., at the premises, sell at public vendue the following described real estate situate, lying and being in the county of Ramsey, state of Minnesota, to-wit: Lot twenty-three (23) of Stinson's Subdivision of block one hundred and three (103) of Lyman Dayton's Addition to St. Paul, according to the recorded plat thereof on file in the office of the Register of Deeds in and for said Ramsey county, together with the dwelling house thereon, to the highest bidder for cash

St. Paul, March 26, 1885.

JAMES G. DONNELLY,
Administrator of the estate of James O'Rourke, deceased.

P. T. KAVANAGH,
mar27-4w-f Auctioneer.

ADMINISTRATOR'S SALE.

Pursuant to an order of license of the probate court of Ramsey county, dated March 16th, 1885, I the undersigned, will on the 18th day of April, A. D. 1885, at 3 o'clock p. m., at the premises, sell at public vendue, the following described real estate situate, lying and being in the county of Ramsey, state of Minnesota, to-wit: Commencing at northwest corner of west half (w½) of the northwest quarter (nw¼) of southwest quarter (sw¼) of section twenty-eight (28), township twenty-nine (29), range twenty-two (22)), thence west one hundred and fifty-seven (157) feet to the place of beginning, thence south one hundred (100) feet, thence west one hundred and seven (107) feet, thence north one hundred (100) feet, and thence east one hundred and seven (107) feet, together with dwelling house thereon, to the highest bidder for cash.

St. Paul, March 26, 1885.

JAMES G. DONNELLY,
Administrator of the estate of Richard Madden, deceased.

P. T. KAVANAGH,
mar27-4w-fri Auctioneer.

STATE OF MINNESOTA, COUNTY OF RAMSEY—ss. In Probate Court, special term, March 26, 1885.

In the matter of the estate of Minnie Jagger, deceased.

On reading and filing the petition of Jacob F. Jagger of said county, representing among other things that Minnie Jagger, late of said county, on the 21st day of August, A. D. 1884, at St. Paul, in said county, died intestate, and being an inhabitant of this county at the time of her death, leaving goods, chattels and estate within this county, and that the said petitioner is one of the children of said deceased, and praying that administration of said estate be to him or some other suitable persons granted.

It is ordered, that said petition be heard, before the Judge of this court, on Tuesday, the 21st day of April, A. D. 1885, at ten o'clock a. m., at the Probate office in said county.

Ordered further, that notice thereof be given to the heirs of said deceased and to all persons interested, by publishing a copy of this order for three successive weeks prior to said day of hearing, in the DAILY GLOBE, a newspaper printed and published at Saint Paul, in said county.

By the Court, WM. B. McGRORTY,
[L.S.] Judge of Probate.

Attest: FRANK ROBERT, Jr., Clerk.

HOWARD CLEVELAND, Attorney for Petitioner.
mar27-4w-fri

Chancery Foreclosure Sale.

Circuit Court of the United States, District of Minnesota.

J. I. Case Threshing Machine Co., complainant, vs. William H. Billington and Mary E. Billington, defendants.

Pursuant to a decree of the Circuit Court of the United States of America, within and for the district of Minnesota, made in the above entitled cause at the December term thereof, A. D. 1884, and upon the 12th day of March, A. D. 1885, the undersigned, a Master in Chancery of said court, will sell at public vendue, to the highest bidder for cash, on Saturday, the 9th day of May, A. D. 1885, at eleven o'clock in the forenoon, at the front entrance to the United States custom house, on Wabasha street, in the city of St. Paul, in said district, (the place of holding said court) to satisfy the sum of six hundred twenty-six and 51-100 dollars, ($626.51-100) found due the complainant by the said decree, with interest and costs, the following described real estate, or so much thereof as may be sufficient for the purpose, to-wit: the southwest quarter (sw¼) of section thirty-one, township number one hundred and four (104), range twenty-four (24) west, in the county of Faribault and state of Minnesota, containing one hundred and sixty (160) acres, more or less, according to government survey.

WILLIAM A. SPENCER,
Master in Chancery.

Dated March 26, 1885.

C. H. LEE, Solicitor for complainant. mar27-7w-fr

STATE OF MINNESOTA, COUNTY OF RAMSEY—ss. In Probate Court, special term, held March 3, 1885.

In the matter of the estate of James Richardson, deceased.

On reading and filing the petition of Azel S. Leonard, administrator of said estate, setting forth that no personal estate has come to his hands; the amount of debts outstanding against said deceased, and a description of all the real estate of which said deceased died seized, and the condition and value of the respective portions thereof; and praying that license be to him granted to sell at private sale all of the real estate set forth and described in said petition;

And it appearing, by said petition, that there is not sufficient personal estate in the hands of said administrator to pay said debts, and that it is necessary in order to pay the same, to sell all of said real estate;

It is therefore ordered, that all persons interested in said estate, appear before the judge of this court, on Tuesday, the 21st day of April, A. D. 1885, at ten o'clock a. m., at the probate office in Saint Paul, in said county, then and there to show cause, (if any there be), why license should not be granted to said administrator to sell said real estate according to the prayer of said petition.

And it is further ordered, That a copy of this order shall be published for four successive weeks prior to said day of hearing, the last of which publications shall be at least fourteen days before said day of hearing, in the Daily GLOBE, a newspaper printed and published at Saint Paul in said county, and personally served on all persons interested in said estate, residing in said county, at least fourteen days before said day of hearing, and upon all other persons interested, according to law.

By the Court,
[L.S.] WM. B. McGRORTY,
Judge of Probate.

Attest: FRANK ROBERT, Jr., Clerk.

ALFRED S. HALL, Attorney for Administrator.
mar6-5w-fri

STATE OF MINNESOTA, COUNTY OF RAMSEY—ss. In Probate Court, special term, March 18, 1885.

In the matter of the estate of Thomas Lucy, deceased.

On reading and filing the petition of Daniel Lucy, administrator of said estate, setting forth the amount of personal estate that has come to his hands, and the disposition thereof; the amount of debts outstanding against said deceased, and a description of all the real estate of which said deceased died seized, and the condition and value of the respective portions thereof; and praying that license be to him granted to sell at private sale all of the real estate described in said petition.

And it appearing, by said petition, that there is not sufficient personal estate in the hands of said administrator to pay said debts, and that it is necessary in order to pay the same, to sell all of said real estate;

It is therefore ordered, that all persons interested in said estate, appear before the judge of this court, on Tuesday, the 5th day of May, A. D. 1885, at 10 o'clock a. m., at the probate office in St. Paul in said county, then and there to show cause (if any there be) why license should not be granted to said administrator to sell said real estate according to the prayer of said petition.

And it is further ordered, that a copy of this order shall be published for four successive weeks prior to said day of hearing, the last of which publications shall be at least fourteen days before said day of hearing, in the DAILY GLOBE newspaper, printed and published at St. Paul, in said county, and personally served on all persons interested in said estate, residing in said county, at least fourteen days before said day of hearing, and upon all other persons interested, according to law.

By the Court, WM. B. McGRORTY,
[L.S.] Judge of Probate.

Attest: FRANK ROBERT, Jr., Clerk.

J. J. MULLEN, Attorney for Administrator.
mar20-5w-fri

STATE OF MINNESOTA, COUNTY OF RAMSEY—ss. In Probate Court, special term, March 25, 1885.

In the matter of the estate of James Richardson, deceased.

On reading and filing the petition of Irving E. Atherton of said county, representing among other things that Azel S. Leonard of said county, was by this court, on the 18th day of August, 1884, duly appointed administrator of said estate; that said Leonard departed this life in said county on the 14th day of March, 1885, without having fully administered upon said estate, and praying that letters of administration, de bonis non, upon said estate be granted to Lucius W. Fry, or to some other suitable person.

It is ordered, that said petition be heard, before the Judge of this court, on Saturday, the 18th day of April, A. D. 1885, at ten o'clock a. m., at the probate office in said county.

Ordered further, that notice thereof be given to the heirs of said deceased and to all persons interested, by publishing a copy of this order for three successive weeks prior to said day of hearing, in the DAILY GLOBE, a newspaper, printed and published at Saint Paul in said county.

By the Court. WM. B. McGRORTY,
[L. S.] Judge of Probate.

Attest: FRANK ROBERT, Jr., Clerk.

A. S. HALL, Attorney for Petitioner.
mar27-4w-fri

Notice to Creditors.

State of Minnesota, County of Ramsey—ss. In Probate Court, Special Term, March 26, 1885.

In the matter of the estate of John M. Stark, deceased.

Notice is hereby given that the Judge of Probate of the County of Ramsey, will upon the first Monday of the month of June, A. D. 1885, at ten o'clock a. m., receive, hear, examine and adjust, all claims and demands of all persons against said deceased; and that six months from and after the date hereof have been allowed and limited for creditors to present their claims against said estate, at the expiration of which time all claims not presented or not proven to its satisfaction, shall be forever barred, unless for good cause shown further time be allowed.

By the Court,
[L.S.] WM. B. McGRORTY,
Judge of Probate.

FREDERIKA HOURNI, Administratrix. mar27-fr5w

Donaldson's Annual Clearing Sale.

25 skeins silk for 15c. Arrasene 1¾c skein. Crewels 3c. Ice wool 6c ball, Angora wool 15c ball. Zephyr 8c ounce. Germantown wool 9c skein. SAXONY 16c skein. German knitting yarn 25c. SHETLAND 18c. Stamped Pillow shams 28c pair etc., at Donaldson's, 139 Seventh street.