

HERE IS A PUZZLE

SANDFORD B. WHITING HAS \$4,000 BUT CANNOT SEEM TO GET IT.

WILL HAVE TO TRY AGAIN.

JUDGE KELLY AFFIRMS A RULING OF THE PROBATE COURT.

WOULD OFFER NO SUGGESTIONS, BUT LEAVES IT TO INGENUITY OF COUNSEL TO ESTABLISH HIS CLIENT'S RIGHTS.

Judge Kelly filed an order yesterday in the appeal of Sandford B. Whiting from an order of the probate court disallowing his claim of \$4,000 against the estate of Flavia B. Whiting. The order of the lower court is affirmed. The case is interesting.

It seems that under the will of his father, who died about ten years ago, a legacy of \$4,000 was bequeathed to the claimant, Sandford B. Whiting, with the condition attached that the sum be paid over when he should attain the age of twenty-six years. Sandford's mother, Mrs. Flavia Whiting, was the sole executor of the last will and testament of her husband, and, acting in that capacity, she carried out all the provisions of the will except, of course, the payment of the \$4,000 legacy to Sandford, who at that time was scarcely twenty years of age.

In 1890 Mrs. Whiting died, and in 1891 Sandford was paid over when he should attain the age of twenty-six years. Sandford's mother, Mrs. Flavia Whiting, was the sole executor of the last will and testament of her husband, and, acting in that capacity, she carried out all the provisions of the will except, of course, the payment of the \$4,000 legacy to Sandford, who at that time was scarcely twenty years of age.

As soon as Sandford B. Whiting reached the age of twenty-six, which was about two years ago, he presented his claim for \$4,000 against the estate of his father. The probate court, in passing upon the petition, held that the property mentioned in the will would be brought into the fund given by his mother when she qualified as sole executrix. Mr. Whiting then filed his claim against the estate of Flavia B. Whiting in the probate court, and the probate court allowed it on the ground that it was not presented until after the expiration of the statutory period within which the law says all claims must be presented.

In affirming the order of the probate court, Judge Kelly says that the probate court was entirely warranted by the law in disallowing the claim, and as such action might seem. Judge Kelly adds that whatever proceedings are open to the claimant whereby he may establish the validity of his claim, he prefers not to make any suggestions, but rather to leave the matter to the ingenuity of counsel to determine.

SUPREME COURT DECISIONS.
Some Points on Life Insurance Law Passed Upon.

The supreme court, yesterday, affirmed the order of the lower court in the case of Georgetta Becket et al. vs. the Northwestern Masonic Aid Association, in which some life insurance points are passed upon. Following is the syllabus:

Georgetta Becket et al., respondents, vs. Northwestern Masonic Aid Association, appellants. The supreme court, yesterday, affirmed the order of the lower court in the case of Georgetta Becket et al. vs. the Northwestern Masonic Aid Association, in which some life insurance points are passed upon. Following is the syllabus:

1. Held, the district court has power to set aside an order granting a new trial on the ground that the evidence was erroneously granted, at least, if set aside before the time to appeal from it expires.

2. Held, the widow and beneficiary of the insured could not on cross-examination in an action brought by her on the life insurance policy, introduce evidence as to her husband's life, but only as to her husband's life in his lifetime.

3. The insured was found dead with a bullet hole in the back of his head and a revolver in his hand. The action was brought by his widow. The evidence tended to prove that there were no powder marks around the wound.

4. Held, for the purpose of rebutting the theory of suicide, it was competent to prove that the insured was in possession of a revolver loaded with similar cartridges, and noting at what distance from the muzzle of the revolver the bullet fired at was found to be fired.

5. Held, whether a witness is sufficiently qualified to testify as to the genuineness of a signature, and an appellate court will not hold the ruling thereon erroneous unless it is clearly so.

6. The policy required proofs of death to be furnished to the insurer, but did not state in such proofs the name of the insured. Held, plaintiff could on the trial explain and contradict statements made in such proofs as to the name of the insured.

7. Held, the verdict is sustained by the evidence. Order affirmed. —Canty, J.

Among the others was one in the long contested Crow Wing county annexation case, which affirms the action of the commissioners. Following are the syllabi in these cases:

1. An information in the nature of quo warranto was filed against the principal, with leave against a county to oust it from adjoining territory illegally annexed to the county and to the commissioners of Crow Wing county, Minn., et al., respondents.

2. Held, every presumption is in favor of the finder of the commission acting under chapter 28, Laws of 1895, that the petitions presented are conformable to law and in favor of the annexation, but such presumption may be rebutted by showing that the annexation is not supported either by the actual evidence or by a competent or proper evidence of such facts.

3. Held, the writ and information having been granted, the plaintiff is not entitled to a judgment because it does not sufficiently allege any facts to rebut such presumption. —Canty, J.

Francis S. Wheeler, respondent, vs. John D. T. Shay, Shoy doing business as T. J. Shay & Co., appellant, vs. Security Bank of Duluth, co-appellant, respondent.

A long course of dealing by an agent for his principal, during which his acts had never in any manner been repudiated by the latter, held, to raise a presumption that the agent had actual authority to do what was done by him in line with such course of dealing.

The principal is dead, the agent is the husband of plaintiff, and under the statute, cannot, without her consent, be called by defendant to testify, but can be called by her; there was no direct testimony in the case that the agent had authority to bind his principal, but the acts in question, plaintiff failed to call show that he had authority to offer any evidence in rebuttal of such presumption.

Held, under all the circumstances it must be presumed that the agent had authority to bind his principal, and the court below erred in finding against this presumption. Order reversed. —Canty, J.

T. J. Shay doing business as T. J. Shay & Co., appellant, vs. Security Bank of Duluth, co-appellant, respondent.

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The principal is dead, the agent is the husband of plaintiff, and under the statute, cannot, without her consent, be called by defendant to testify, but can be called by her; there was no direct testimony in the case that the agent had authority to bind his principal, but the acts in question, plaintiff failed to call show that he had authority to offer any evidence in rebuttal of such presumption.

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The principal is dead, the agent is the husband of plaintiff, and under the statute, cannot, without her consent, be called by defendant to testify, but can be called by her; there was no direct testimony in the case that the agent had authority to bind his principal, but the acts in question, plaintiff failed to call show that he had authority to offer any evidence in rebuttal of such presumption.

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SUING THE BONDSMEN.

Uncle Sam After a Deficiency in a Postoffice.

The suit of Ira Burhans against Rufus Jefferson which has been on trial for five days before Judge Carland and a jury in the United States circuit court went to the jury yesterday afternoon.

Judge Carland thereupon opened the United States district court and a petit jury was called to the suit of the United States government against the bondsmen of Peter Barbeau, once the postmaster at Credit River, Minn. When Barbeau retired from the office of postmaster, he was short \$130 in the postal fund, so it alleged. The government first brought suit against Barbeau for the alleged deficiency in 1887. Barbeau's bondsmen were John White and John Suel, and the government has now made them parties defendant. Their defense is that the bond is not properly executed.

MRS. DONNELLY WON.
Got a Verdict of \$2,500 Against the Street Railway.

Mrs. Annie E. Donnelly, whose suit against the St. Paul Street Railway company for \$20,000 damages for personal injuries was on trial before Judge Kelly and a jury for two days, secured a verdict yesterday for \$2,500. The case went to the jury yesterday afternoon, and the jury brought in a sealed verdict yesterday morning.

RUN TO LIABILITIES.
Schedule of the Thurston Cold Storage Company.

The schedule of the assets and liabilities of John G. Elmquist, insolvent, was filed yesterday. The liabilities are \$8,653.40, the assets, \$7,937.84.

The schedule of the assets and liabilities of the Thurston Cold Storage and Warehouse company was also filed. The liabilities are \$27,273.97 and the assets, \$4,283.07.

TOWNSEND IS DISCHARGED.
Booth Packing Company Will Not Prosecute Him.

Roy Townsend, the former city bookkeeper of the Booth Packing company, who was arrested on the charge of larceny, was discharged in the police court yesterday. The amount which he was charged with embezzling was \$1,000, which was small and the matter was adjusted by friends of the young man so satisfactorily to Manager Turner, of the company, that he consented to withdraw the complaint in the case.

Mrs. Emma L. Eastman's Woes.
Mrs. Emma L. Eastman has begun an action in the district court for divorce from Samuel W. Eastman. The plaintiff is thirty-eight and the defendant forty-five years of age. They were married in this city on the 4th of July, 1878, and have five children living.

The complaint tells a story of cruel and inhuman treatment of the plaintiff by her husband. He was arrested in 1887, 1888, 1889, 1890, 1891, 1892, 1893, 1894, 1895, 1896, 1897, 1898, 1899, 1900, 1901, 1902, 1903, 1904, 1905, 1906, 1907, 1908, 1909, 1910, 1911, 1912, 1913, 1914, 1915, 1916, 1917, 1918, 1919, 1920, 1921, 1922, 1923, 1924, 1925, 1926, 1927, 1928, 1929, 1930, 1931, 1932, 1933, 1934, 1935, 1936, 1937, 1938, 1939, 1940, 1941, 1942, 1943, 1944, 1945, 1946, 1947, 1948, 1949, 1950, 1951, 1952, 1953, 1954, 1955, 1956, 1957, 1958, 1959, 1960, 1961, 1962, 1963, 1964, 1965, 1966, 1967, 1968, 1969, 1970, 1971, 1972, 1973, 1974, 1975, 1976, 1977, 1978, 1979, 1980, 1981, 1982, 1983, 1984, 1985, 1986, 1987, 1988, 1989, 1990, 1991, 1992, 1993, 1994, 1995, 1996, 1997, 1998, 1999, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2014, 2015, 2016, 2017, 2018, 2019, 2020, 2021, 2022, 2023, 2024, 2025, 2026, 2027, 2028, 2029, 2030, 2031, 2032, 2033, 2034, 2035, 2036, 2037, 2038, 2039, 2040, 2041, 2042, 2043, 2044, 2045, 2046, 2047, 2048, 2049, 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