JUDGE HARRISON FINALLY

GOV. CLOUGH MADE THE APPOINTMENT EXPECTED

Upon the Declination of W. E. Hale, the Chief Executive Named the Man Who Has Been Looked Upon for Some Time as the Probable Appointee in the Event of a Vacancy on the Hennepin Bench.

Alexander M. Harrison, of Minneapolis, was yesterday appointed judge of the Fourth judicial district to succeed the late Seagrave Smith, W. E. Hale, to whom the governor first offered the plum, having declined it.

Mr. Harrison is a lawyer of ability, popular personally, and prominent in the secret orders. He is exalted ruler of Minneapolis lodge, B. P. O. E.

The new judge was also a member of the board of commissioners which brought in a report exonerating the state prison managers from blame for maltreatment of prisoners as charged, and some surprise has been expressed that he was not sooner appointed.

The new judge will take the oath some time this week, probably Monday, but the judges claim there is no especial hurry, and he may wait longer in order to settle up his business affairs before beginning his work for the public.

He has a wide circle of friends who rejoice at the appointment.

Mr. Harrison was born in Venango county, Pennsylvania, in 1847, Nov. 5, where he lived until 1865, when his parents moved to Fredonia, Chautauqua county, New York. He attended the common schools, and later an academy in the county. He graduated from the Fredonia academy, and studied law in the office of Judge Barker. In 1870 he graduated from Ann Arbor, in the law class, and immediately went to Charles City, Io., where he entered the law firm of Starr, Patterson & Harrison. After Mr. Patterson's death, he was the junior member of the firm with Mr. Starr. In December, 1886, Mr. Harrison removed to Minneapolis and established a partnership with J. W. Gilger. This partnership was dissolved Jan. 1, 1893, when he went in with A. H. Noyes, and it has been Harrison & Noyes ever since.

VINCENT FAMILY TANGLE.

Jury Leaves It as Knotty as It Was Before.

The divorce case of Mary A. Vincent against A. A. Vincent has resulted in a verdict that is unsatisfactory to both parties to the suit, for the reason that under it the much coveted decree of divorce cannot be granted to either.

The case was given to the jury on Wednesday morning and after wrestling with the evidence until 3 o'clock yesterday morning one of the most complicated verdicts that has ever been heard of in the courts was returned.

Three questions were involved in the case, the allegation of the plaintiff that her husband had treated her in a cruel and inhuman manner, the cross bill of the husband charging adultery with his brother, and the allegation of the wife that if the charge was true her offense had been condoned by the actions of her husband. The jury found that the allegation of cruel and inhuman treatment was without foundation, that the charge of adultery was true, but that the defense had been condoned. The findings of the jury left the case practically where it was first taken up, but it is understood that a motion will be made that the verdict be set aside and a new trial granted.

In connection with the divorce case it has been understood that the husband intended to bring a suit for $10,000 damages against his brother L. C. J. Vincent for the alleged alienation of his wife's affections, but that this has fallen through for the present, at least, on account of the unlooked for outcome of the divorce case.

JOHNNY WAGENER'S TANGLE.

Dared He Pay the Sherins the Money That He Did?

Another chapter was opened yesterday in the case of Milton B. Whitney against John Wagener, as sheriff, when the sheriff was served with the copy of a complaint in a suit to recover $703. The case originally opened with the obtaining of a judgment, by Whitney against Carrie F. Sherin and Clarence E. Sherin, in the sum of $1,769.69. The Sherins, through the father of Mrs. Sherin, became possessed of a judgment against the trustees of the Atlantic Congregational church in the sum of $703. Sheriff Wagener attached the church property under this judgment and obtained the money and paid it over to the Sherins after an application, made by Whitney to restrain him, had been denied, and attachment proceedings against it had been started. Now Whitney alleges that he had no right to turn the money over to the Sherins in the face of the judgment that he held against them, and brings the suit to recover.

The point in the case is whether the judgment obtained by the Sherins belonged to them personally or to the Sherin agency, a corporation composed of Mr. and Mrs. Sherin. Whitney claims that the judgment was the personal property of the Sherins, while Sheriff Wagener alleges that it was the property of the Sherin agency, and for that reason not liable to the attachment of Whitney.

MUST FORGE ELSEWHERE.

On This Condition Fred Harrison Is Allowed to Go.

F. C. Harrison, the Minneapolis attorney indicted by the grand jury on a charge of forgery in the second degree for passing a fraudulent check on Gustave Anderson, was discharged by Judge Bunn yesterday, and the indictment against him nolled at the request of County Attorney Anderson.

Harrison was called before Judge Bunn for a preliminary hearing and told a pitiful tale in a voice that trembled and faltered to such an extent that he was barely able to talk. He said that his health had been undermined by drink and that he had twice been confined in a sanitarium at his own request. He believed that he might have passed the check that had been the cause of his indictment but that he had no knowledge of it. As he told his story Harrison nervously clasped and unclasped his hands. When he had finished County Attorney Anderson said that he had learned that the story told by Harrison was practically true and that under the circumstances he did not believe that it was possible to procure a conviction.

Harrison was discharged with the understanding that he reside elsewhere than in Ramsey county.

GRIST OF A GRAND JURY.

Several Prisoners Were Arraigned for Trial Yesterday.

John Struckbine, indicted by the grand jury with Duncan McLennen on a charge of grand larceny in the first degree, was arraigned before Judge Bunn yesterday and entered a plea of not guilty. The indictment against Struckbine and McLennen charges them with holding up Frank Hall on the night of March 9, and relieving him of about $6. McLennen is still at liberty.

Frank Wolf, indicted on a charge of attempting to swindle with card tricks and sleight of hand, was also arraigned and entered a plea of not guilty.

The jury in the case of Andrew McCodden, who was tried under an indictment charging him with holding up Frank Wettinger and taking from him $3.60, returned a verdict of not guilty.

Milton's

BIG BUTTER STORE.

BIG SNAP!

A fine lot of Fresh **Dairy Butter,** in 5 and 10-pound jars, at

12c, 14c, 16c and 18c

PER POUND.

About 300 jars to select from—all fresh Butter. Come early and get a good choice.

MILTON DAIRY CO.,

Corner Ninth and Wabasha.

AS A SAFEGUARD.

Such Are the State Indictments Against Southall.

The five indictments returned against J. H. Southall by the district court grand jury will not be pressed and it is probable that Southall will not be arraigned under them, as he is out of the jurisdiction of the district court while in the custody of the federal authorities.

County Attorney Anderson said yesterday that the indictments had been returned as a precaution in the event that the federal grand jury fails to indict him or fails in its prosecution.

The charge lodged against Southall by the government and under which the federal authorities hold him is forgery, while the indictments returned by the district court all charge him with grand larceny.

CIRCUIT COURT OF APPEALS.

Three Causes Come Before the August Tribunal.

The United States circuit court of appeals sat yesterday, with Judges Sanborn, Thayer and Shiras on the bench.

The following cases were called up and disposed of:

1049—John A. Brill vs. The St. Louis Car Company. Appeal from the United States circuit court, Eastern district of Missouri. Arguments concluded and cause submitted.

1051—Donald Grant vs. Henry B. Lowe. Appeal from United States circuit court, district of Minnesota. Argued and submitted.

1053—Neil D. McKenzie vs. The Poorman's Silver Mines, of Colorado. Error to United States circuit court, district of Colorado. Argument commenced for plaintiff in error and further argument postponed until tomorrow morning.

Against the Jockey Club.

Judge Lewis filed his decision yesterday in the case of the Citizens' Bank and Trust Company against S. E. Dawson et al., giving the plaintiff judgment against S. E. Dawson, F. N. Shaw and J. J. O'Connor in the sum of $1,386.04. The plaintiff sued for an additional $1,065.54, asking that it be allowed to proceed against some property alleged to be held in trust by William Dawson Sr., but that part of the case was dismissed by Judge Lewis.

Hazel Lost His Suit.

The case of William Hazel against M. Y. Bridges, in which the plaintiff, a colored man, sued for $500 damages alleging that Bridges had refused to serve him with food and had assaulted him in the Bridges restaurant in Market hall, resulted in a verdict for the defendant. The case went to the jury at 11 o'clock yesterday morning and the verdict was returned four hours later.

In the Probate Court.

Stephen Halpin, a resident of Pleasant avenue, was examined in the probate court yesterday, adjudged insane and ordered committed to the asylum at Rochester. During the examination it developed that Halpin has been a morphine "fiend" to such an extent that his mind is practically gone.

James F. Wilcox, of 85 Valley street, was also examined on an information of insanity but was discharged.

MINTZER ESTATE SPLIT

WATERS, THE ALLEGED HUSBAND, THROWN OUT OF COURT

Three Sisters, Four Nephews, Two Nieces and a Grandnephew and Some Grandnieces Are Sharers in the $100,000 That the Rich Widow Left—Order Was Made Yesterday.

The final decree in the estate of Anna R. Mintzer was filed in the probate court yesterday. The settlement of the estate has been a sensational one, and has occupied a place in the courts for some time. The decree places the personal property at $5,414.53, and the real estate at $89,524.26, and this is divided as follows:

To Sarah Klinker Solliday, Hannah Klinker Buck and Susanna Klinker Hager, sisters of Mrs. Mintzer, an undivided one-sixth each.

To William B. K. Johnson, Levi Johnson and Katherine Johnson Rosenberger, nephews and niece, an undivided one-twenty-fourth each.

To Elizabeth Walp Stahlenecker, Mathilda Walp Smith and Joseph Walp, grand nieces and nephew, an undivided one-thirtieth each.

To Theodore A. Klinker, Henry A. Klinker and Sarah Klinker Kemmerer, nephews and niece, an undivided one-eighteenth each.

To Alinda Walters Strouse, Harry Walters and Thomas Walters, grand niece and nephews, an undivided one-ninetieth each.

Katherine Groff Morgan and Clara Groff Link, grand nieces, an undivided one-sixtieth each.

The decree states that the claim of C. W. Waters, that he was Mrs. Mintzer's husband, is without foundation, and that he is not entitled to receive anything from the estate.

HOSE INSPECTORS NAMED.

Water Board Selected New Employes Yesterday.

At the meeting of the board of water commissioners held yesterday afternoon the business was routine with the exception of the appointment of a number of hose inspectors.

The hose inspector is a functionary with whom the man with the lawn to be sprinkled, the handy hydrant in the house and no license to use a hose on his premises, will have to deal. The inspector will see to it that no one uses those privileges without having the right to do so.

The inspectors appointed were: John Flood, for the Midway district; M. J. Foley for the Sixth ward; J. Mullaney, J. A. Holman, E. Monson and G. E. Morrison, for the rest of the city.

Six contracts for hydrants and other supplies for the department were approved, as were applications for the laying of six-inch mains on Taylor street, between Charlotte and Sherburne, and on Sherburne, between Lexington and Dunlap streets.

An agreement for the putting in of a party wall between the premises known as the Victoria hotel and the office of the board was arranged for with L. V. Bell.

The application of J. W. Randall to be assistant engineer at the West side high pressure station was referred to the president of the board, Commissioner Wolterstoff and the superintendent.

T. E. Murray was appointed special watchman at the Phalen station and matters involving frontage tax were laid over.

Bills to the amount of $7,021.96 were passed and the board adjourned.

LESS THAN A DOLLAR A YEAR

Susanna Scheisel Says She Was Allowed for Annie's Care.

The care of Annie Schanauble for fifteen years, from 1882 to 1897, is the basis of an action begun in the district court yesterday, in which Susanna Scheisel asks judgment against Sophia Schnauble and her husband in the sum of $2,290.

The plaintiff alleges that she cared for and maintained Annie Schnauble, who is the daughter of the defendants, for fifteen years. She says her services were reasonably worth the sum of $2,300, but that of this sum she has only received $10.

COSTS OF CANDIDACIES.

Affidavits of Expenses Are Filed by the Tardy.

Assemblyman Albrecht says that he spent a total of $138 in his campaign for re-election, of which sum the Republican city committee got $50. He was the only successful candidate to file his expense account yesterday. A few of the unfortunate ones came in with their statements.

Judge Egan only put $19 into his campaign, while R. S. McNamee got rid of $136 in his run for the treasurership.

C. W. Johnson, who picked out a particularly tough job for himself, by trying to beat John Blomquist in the First ward, only invested $9.

Mrs. Winslow's Soothing Syrup

Has been used for over fifty years by millions of mothers for their children while teething, with perfect success. It soothes the child, softens the gums, allays all pain; cures wind colic, and is the best remedy for Diarrhœa. Sold by Druggists in every part of the world. Be sure and ask for "Mrs. Winslow's Soothing Syrup," and take no other kind. Twenty-five cents a bottle.

BANKING LAW EXPLAINED

SUPREME COURT PASSES ON ITS VARIOUS INTRICACIES

Zumbrota Bank Case Brings Out an Important Ruling on Some Involved Points—Street Railway and Hastings & Dakota Road's Receiver Win Some Appeal Cases Rue's Indictment Stands.

In a decision handed down yesterday the supreme court passes on a number of disputed points in the existing laws covering banking organizations.

The case is that of Heman H. Palmer, plaintiff, vs. Bank of Zumbrota, defendant; R. P. Thacher, intervening appellant; Rev. O. Hanson et al., intervenors; Creditors, appellants, vs. E. R. Canfield et al., defendants; Sid B. Barteau et al., respondents.

The court holds that:

1. Banks organized under ch. 33, G. S. 1878, had before the passage of 145 laws 1895, the charter powers of banks of issue, whether they issued any circulating notes or not.

2. In so far as ch. 155, G. D. 1885, attempts to give authority to amend articles of incorporation in other respects than by extending the term of existence of the corporation it is unconstitutional and void, because no subject except such extension is expressed in the title of the act.

3. Sec. 13 of art. 9, of the constitution requires that a law for the organization of banks of issue shall be passed by a two-thirds vote of the legislature; held, ch. 77, G. L. 1881, which attempts to amend sec. 18, of said ch. 33, contravenes this constitutional provision and is void, because it was not passed by such a two-thirds vote.

4. Held, said sec. 18, as originally enacted, authorized banks organized under said ch. 33, to increase their capital stock by amending the articles of incorporation.

5. But as the statute is silent as to the manner in which the amendment shall be made, the same formalities are required with reference to the execution, filing and publication of the amendment, as are required with reference to the original articles of incorporation.

6. Where in amending the articles of incorporation the requirements as to these formalities were not complied with but the amendment was voted for by the stockholders, the increased stock was issued, and held by the new stockholders until, the bank being insolvent, an action was commenced to appoint a receiver for it under chapter 76, General Statutes 1894; held, as to creditors who have become such on the faith of the new stock, the holders of it are estopped to deny its validity.

7. Creditors are presumed to have trusted the bank on the faith of the increase of the stock from the time that such increase was voted.

8. But as against creditors who became such before such vote, the new stockholders are not estopped, unless there is in favor of creditors some special equity which creates such estoppel. On the facts in this case, held, there is no such equity.

9. Held, as against such creditors, the holders of the new stock who received it from the bank in lieu of claims which they formerly held as creditors of the bank, are entitled to receive and stand as creditors, not stockholders.

10. The receiver appointed in such an action has no authority to allow or disallow claims of creditors, and where he allowed same and paid a dividend thereon, and disallowed others, the court may allow the latter and order the same dividend to be first paid on them out of the fund derived from the stockholders' double liability, and order the distribution of the balance of that fund to all the creditors pro rata.

11. The order for judgment construed, and held, not to provide that creditors who failed to intervene and exhibit their claim, should receive a dividend, held error.

12. Where the purchaser of a number of the claims of creditors owed no fiduciary relation to the bank and paid a price which was not so inadequate as to shock the conscience, held, he is entitled to a dividend on the full face of the claims.

13. Held, the stockholders' double liability is an unliquidated demand, and is an action under chapter 76 to enforce it, interest should under section 5504, General Statutes 1894, be allowed on the amount of the double liability from the time of filing the decision in the court below, but not before.

14. Held, the amounts which the new stockholders, standing as creditors, may collect from the old stockholders on their double liability, should be applied as far as necessary, in payment of the amount for which such new stockholders are liable to the creditors who became such on the faith of the increase of the stock. The manner of determining the extent of this liability stated. Order modified.

MUST PROVE PERMANENCY.

Question as to Injuries in a Street Car Accident.

On errors in admission of evidence, Judge Canty yesterday granted the street railway company a new trial in the suit brought against it by Bridget McBride, who was hurt by being caught between the gates as she tried to get on one of the company's cars.

While the plaintiff insists that her injuries are permanent, the court holds that this must be clearly proved before such a judgment will stand.

The syllabus in the case is as follows:

Bridget McBride, respondent, vs. St. Paul City Railway Company, appellant.

Syllabus—1. Held the evidence will sustain a verdict for the plaintiff.

2. The plaintiff, a passenger, was injured while attempting to board one of defendant's cars, and claims she was injured by the negligence of the servants of the defendant in charge of the car.

Held, following Fonda vs. Ry. Co., 74 N. W. R., 166, it was error to charge the jury that they may consider facts proved as to the competency or incompetency of the trainmen, which tend to show that the act in question was not done by the motorman in a reasonably careful manner.

3. Held, the plaintiff is not entitled to recover for parmanent injury unless there is reasonable certainty that the injury is permanent. Measured by this rule, a certain part of the charge is held to be erroneous.

Whether such rule is a correct one to apply on the introduction of evidence, quere.

Order reversed and new trial granted.
—Canty, J.

RUSSELL SAGE WON

One of the Hastings & Dakota Land Grant Cases.

Russell Sage, as assignee of the Hastings & Dakota, won one of the cases in the supreme court yesterday, in which the decision of the lower court was reversed.

Lars Halverson, after living fifteen years on certain lands, signed a lease from the company, which claimed title.

The court holds that he cannot deny the title of the railroad company as long as he holds the lease.

The lower court, which gave Halvorson a verdict, is overruled, and the company is granted a new trial.

The syllabus follows:

Russell Sage, as assignee in trust of the Hasting & Dakota Railway Company, appellant, vs. Lars Halversen, respondent.

The tenant who takes a lease under seal, signed by both parties, cannot, as long as he remains in possession, deny his landlord's title, even though such tenant was in possession when the lease was made, and he claims that he was at that time himself the owner. In order to remove the estoppel he must surrender the possession. Conceding that he may without surrendering possession avoid the estoppel for fraud or mistake, held, the evidence does not warrant a verdict in his favor on any such ground.

Order reversed and a new trial granted.
—Canty, J.

RUE WAS SHARP,

But the Supreme Court Holds His Indictment Proper.

John J. Rue was an agent of William Deering & Co., in Chippewa county. When the Deering Harvester company succeeded to the collections of the company first named, Rue wrote to his employers that three notes, aggregating $242.60, were no good, but he thought he could make a settlement for $100. The company authorized him to use his own judgment. He secured three good notes for $291.40, principal and interest due on the old ones. These new notes he seems to have retained in his possession or turned over to one Rollefson, in whose office he made the deal, and sent the company the $100, the money being furnished by Rollefson.

The company were informed of the transaction, and had Rue arrested for the embezzlement of the three notes.

The indictment of Rue is sustained by the supreme court, the syllabus of its decision being as follows:

State of Minnesota, respondent, vs. John J. Rue, appellant.

1. An indictment for the embezzlement of certain promissory notes held sufficient, although it does not state the name of the payee of the notes.

2. In such an indictment drawn under sec. 415 of the Penal Code, it is not necessary to state that the property was embezzled without the consent of the owner.

3. Held, whether the defendant acted fraudulently or dishonestly, or derived any benefit from the transaction in which it is charged he embezzled his principal's property, was on the evidence a question for the jury.

Held, the evidence warranted a finding that defendant was the agent and trustee of said principal, although he was also employed by another principal that paid him for all of his services for both.

5. The indictment stated that such first named principal is a corporation, held, the evidence showed that it was at least a corporation de facto, and that is sufficient.

6. The defendant as such agent procured the maker of his principal's notes to renew the same and make the new notes payable to a third party who never owned or held them and defendant subsequently converted them to his own use.

Held, he was properly indicted for embezzling the new notes.

7. Held, If the admission of certain evidence as to the genuineness of a signature was error, it was error without prejudice because the instrument had already been introduced in evidence without objection on the ground that the signature had not been proved.

8. An objection that evidence is incompetent, irrelevant and immaterial does not cover the ground that the witness has not shown himself competent to testify as to value as an expert.

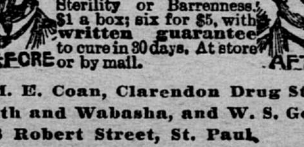
9. A certain request to charge as to reasonable doubt, held to be an invitation to the jury to disagree if possible, and it was properly refused.

10. The indictment charged that defendant had embezzled the property with the intent to deprive said owner thereof, of the property, and with intent to convert the same to defendant's own use.

Held, It is sufficient to prove the intent to deprive such true owner of his property, whether defendant intended to or did convert it to his own use or the use of some one else, other than such true owner.

11. It was, to say the least, discretionary with the trial court to allow at the request of the attorney general a private attorney employed by such owner to appear and prosecute the defendant, and it does not appear that the court abused its discretion. Order affirmed.
—Canty, J.

DR. E. C. WEST'S
NERVE AND BRAIN TREATMENT.



Red Label Special Extra Strength.
For Impotency, Loss of Power, Lost Manhood, Sterility or Barrenness. $1 a box; six for $5, with written guarantee to cure in 30 days. At store or by mail.

M. E. Coan, Clarendon Drug Store, Sixth and Wabasha, and W. S. Getty, 348 Robert Street, St. Paul.

STAND AS NUMBERED.

Supreme Court's Ruling as to Priority of Mortgages.

A decision as to priority of mortgages that pertains somewhat to technicality holds that where mortgages executed on the same land on the same day are recorded at the same hour their priority corresponds with their numbers, as recorded in the register's office.

The question of priority arose in the suit of the Continental Mutual Life Insurance Company against Silas King et al.

The syllabus of the decision is as follows:

The Continental Mutual Life Insurance Company, a corporation, appellant, vs. Silas King, William O. Long et al, respondents.

1. Where several mortgages, executed on the same day were recorded at the same hour, and each received document numbers in the register's office.

Held, under section 767, G. S. 1894, it must be presumed in the absence of any showing to the contrary that they take priority in the order in which they are numbered.

2. The year to redeem from the foreclosure sale under the second mortgage expired thirty days before the year to redeem from the foreclosure sale under the first mortgage. No redemption was made from either sale within the year allowed to the owner to redeem; eighteen subsequent lien creditors filed notices of intention to redeem from each sale, so that the successive five day periods allowed to them in which to redeem in the order of seniority after the year, extended the time of the eighteenth, or junior creditor, to ninety days after the sale. The other seventeen failed to redeem from the earlier sale, and on the ninetieth day after the sale the eighteenth creditor redeemed from both sales.

Held, the liens of the other seventeen were cut off and extinguished by their failure to redeem from such earlier sale, and therefore they could not redeem from the later sale on the first mortgage.

Held, further, the redemption of the eighteenth creditor from the latter sale was not premature, although the redemption was made twenty-five days before his five-day period would arrive in which to redeem from that sale. The provision of statute extending the period of redemption for each of these successive five-day periods is intended for the benefit of the creditors, not for the benefit of the holders of the sheriff's certificate, and so long as it did not interfere with the rights of any other person entitled to redeem, the eighteenth creditor could waive such extension of time.

3. Said eighteenth creditor took a conveyance from the holder of the sheriff's certificate of the foreclosure sale of the second mortgage two days after the year to redeem from that sale expired, and subsequently redeemed from himself at the time above stated.

Held, his right as such lien creditor did not merge in the title so acquired as to prevent him from redeeming as such creditor. Order affirmed. —Canty, J.

BANK IS SUSTAINED.

Washington Bank Wins the Suit of Brusegard.

Thomas Brusegaard put some checks in the Washington bank, of Minneapolis, shortly before it suspended.

Before the checks were collected the bank closed.

Brusegard sued for their return. The court holds that the checks were deposited with the condition that if they were not paid on presentation it could rescind the act of giving credit, and also holds that it has not been sworn by the plaintiff that the officers of the bank knew it was insolvent at the time that they took the checks for collection.

The syllabus is:

In rereceivership Washington bank. Thomas Brusegard, petitioner, appellant, vs. Andreas Ueland, receiver, respondent.

On the petition and answer, held the petitioner has not established the fact that when the insolvent bank received the deposit from him, its officers knew it was insolvent.

Petitioner kept an account in the bank, and it received his deposit, consisting of checks under an agreement that they should be credited to that account, and if not paid on presentation, they should be charged back against his account.

Held, the title to the checks passed to the bank, subject to the condition intended for its protection, that if the checks were not paid on presentation, it could rescind the act of giving credit, and its title would thereupon be divested.

Held, further, the failure of the bank after it had received the checks and before the same were collected, did not divest its title. Order affirmed. —Canty, J.

REAL ESTATE CONTRACT.

Its Import Made Clear by the Supreme Court.

The supreme court affirmed the decision of the lower court in the suit of C. W. Abrahamson against L. Kamberson et al.

The defendants appealed from the verdict in the case, which grew out of a dispute as to the rights conveyed in an assignment of a contract for the sale of real estate.

The syllabus of the decision is as follows:

C.W. Abrahamson, respondent, vs. L. Lamberson and G. G. Winchester, appellants.

1. An assignment by the vendee of an executory contract for the sale of real estate, held to assign all his interest, including the damages which had accrued to him by reason of the torts of the vendor in wrongfully taking possession and committing waste by removing the buildings.

2. Held, in an action for specific performance commenced by such assignee against the assignee and grantee of the vendor, such damages may be reopened against the amount due as principal or interest of the purchase price.

Held further, damages for the torts committed by the vendor after the assignment by him cannot be so recouped as against his assignee.

But when the assignment was made while the vendor was wrongfully withholding possession, the damages for continuance of such wrongful possession may be so recouped.

When the vendor assigned his interest in the executory contract of sale, and continued thereafter in possession, held, the burden is on his assignee to show in this action what rights under such contract were so assigned to him. Order affirmed.
—Canty, J.

The exhibitions of moving pictures and works of art are drawing crowded houses and are well attended by ladies and children. Admission, 10 cents; continuous entertainments. Opposite Browning, King & Co.'s.

MET DEATH IN THE SHAFT

ALEX JUNEAU KILLED BY THE COLONNADE ELEVATOR

He Was Caught Between the Counter Balance and an Exhaust Pipe and the Life Literally Crushed Out of His Body—His Cries for Help Frightened the Tenants of the Hotel.

Pinned by the heavy balancing weight in the elevator shaft of the Colonnade hotel, Alexander Juneau, a young man learning to operate the lift, was crushed to death shortly before 11 o'clock yesterday morning, within a few feet of half a dozen witnesses, powerless to render him assistance. Conscious to the moment of death, Juneau's struggles presented a frightful spectacle. His terrified cries could be heard throughout the building and people rushed from their apartments, only to be forced to turn away their eyes from the terrible fate of a human being in the clutch of an awful death from which none could rescue him.

Juneau had not yet been regularly employed to run the elevator, having only gone to the hotel yesterday to begin his apprenticeship. He spent a couple of hours riding up and down with John Walker, the regular elevator operator, and when, during a cessation of travel, Walker started to clean the windows of the car, Juneau offered to help him.

To reach the windows it is necessary to enter the shaft and mount a stepladder from a cross beam several feet below the ground floor. Juneau went into the shaft and was rubbing the rear windows when a call came for the elevator from the top floor. He stood upon the cross beam until the car ascended above him, leaving him without any support against which to steady himself. When the car goes up there is a hole of six or seven feet to the bottom of the shaft, and it is thought, fearing that he might fall or be struck by the elevator when it came down, Juneau sought a place of greater safety.

This act cost him his life. In looking about he espied a short wooden brace supporting an exhaust pipe several feet above him, on the right hand side of the shaft. Climbing upon this support Juneau wedged himself close to the pipe, but in so doing he forced his body directly into the slide where the 1,000-pound balancing weight runs.

The weight descends as the elevator goes up, but as the car runs slowly Juneau had ample time to gain the brace before it came in sight. As the car reached the fourth floor the heavy weight glided down upon the unfortunate young man, striking the back of his head, a glancing blow, and then crowding upon his shoulders.

The blow on the head was not of sufficient force to render Juneau unconscious, and he began crying wildly for help, but every second the crushing force became greater, and before any one could reach him he was in a hopelessly fatal trap.

Manager J. E. Geldreich, of the hotel, was in the office but a short distance away, and ran to the shaft at Juneau's first cry. He saw the young fellow pinned against the exhaust pipe, struggling to free himself. Juneau looked at him in fearful terror and called more agonizingly for help, but there was no release for him.

Mr. Geldreich cried out to Walker to stop the elevator, but Walker did not understand the confusion, and the heavy weight continued crushing out Juneau's life. Resting upon his shoulders at the neck, the pressure of the weight increased until Juneau's suffering ended in death, his spinal column having been broken.

In the meantime a bell boy ran to the fourth floor to stop the elevator. Here it was found that the safety device on the car had set and it was necessary to pry up the elevator with a crowbar, before Juneau's body could be released.

The unfortunate young man lived under the terrible pressure of the weight about six minutes, but it must have seemed to him that even the release of death would never come, in the agony he suffered within such a short time.

Coroner Nelson investigated the circumstances of the death, and decided that it was purely an accident. He will hold no inquest. The body was taken in charge by relatives of the dead man.

Juneau was twenty-two years of age and unmarried. He lived with his parents at 544 Park avenue.

COMMENCEMENT PARTS.

List of Those Assigned Places on the High School Programme.

The names of those members of the senior class who will have places on the commencement programme were announced yesterday. The selection was made from the essays submitted by the thirty seniors having the highest record for their four years' course. The successful competitors and the subjects of the essay to be delivered commencement night, June 16, are:

"In the Vanguard" ....Florence Ely
"The Success of American Diplomacy"—
George Brock
"Iradian Lied" ....Marion Chapman
"Freedom's Cause" ....Ethel Hall
"Music Lovers"............ Frieda Naumann
"The Unknown Hero" ....Arch Vernon.
"Harmony" .... Edith Dabney
"Inventions" .... Max Lando

The valedictory will be delivered by Mary Woodward and the salutatory by Lee Kellogg.

The commencement exercises will be held in the People's church.

GRAND JURY MISTAKEN.

Supt. Fitzgerald, of the Workhouse, Heard in Reply.

Supt. John Fitzgerald, of the workhouse, suggests that the grand jury was unfamiliar with the facts when it made its report in connection with the manufacture of brooms at the workhouse.

He says that the workhouse hardly competes with the local trade because its goods are mostly shipped away. It sells only at wholesale. Brooms made in the prison at Columbus, O., on the other hand, are shipped in here and sold. Mr. Fitzgerald concludes:

"The recommendation of the grand jury, if followed out, would mean the cessation of work at the institution and an added burden to the people who pay the taxes.

"If I was to carry out the ideas of some people about running a prison I would have billiard tables, euchre decks and lawn tennis sets for the comfort of the workhouse lodgers.

"There is this to be said about broom making at the workhouse: It answers two purposes, both of which must commend themselves to the average citizen—a good revenue is raised and there is constant employment for the men who, after they leave the prison have a trade which enables them to earn an honest livelihood."

Lydia E. Pinkham

found, in treating the ills of woman, that regularity of bowels was important, and a laxative which would act in harmony with the "Vegetable Compound" necessary.

Lydia E. Pinkham's Liver Pills are the result of her study and experience. For sale everywhere. 25 cents a box.

ST. PAUL BREVITIES.

—State Auditor Robert C. Dunn is reported as steadily improving.

—Diphtheria was reported at the health office yesterday existing at No. 1909 Carroll street.

—Mrs. A. Bott, living at Reaney and Frank streets, was fined $5 yesterday for assaulting Ida Beitsch.

—The employes of the sheriff's office have made elaborate preparation for their outing Sunday at McCarron's lake. Pete Pisen is to make the "booyaw" and will go out to the scene of the festivities Saturday night.

—A continuous entertainment is now being given at 110 East Seventh street by the Alaska illustrators. They are exhibiting 200 Alaska scenes, including the four routes to the Yukon gold fields.

—Sidney Hagen, a boy living at 14 Douglas street, was thrown from a horse at Fifth and Exchange streets last evening and slightly injured. The lad received a severe shaking up and a contusion of the shoulder.

—A permit for the erection of a fire sprinkler was granted to C. D. Gilfillan yesterday, the improvement to cost $2,200, and three minor permits to allow the building of small structures made a total of $1,900 addition in improvements provided for.

—The state auditor's office yesterday sent out to the various counties drafts for the amount of principal and interest owing from them to the state on the school loans. The amounts were printed in The Globe at the time the amounts were fixed, in October last.

—William Perkins, the colored youth arrested on the charge of stealing a revolver from a second-hand store at 374 Minnesota street, was arraigned in the municipal court yesterday and held for trial today. Perkins has not long been out of the state training school, where he was sent for incorrigibility.

—Joseph Thiers, 12 years old, and Oscar Thiers, 8 years of age, brothers, who wandered away from home Wednesday morning, were found by their sister, Miss Louise Thiers, at Tenth and St. Peter streets yesterday afternoon. The youngsters said they had gotten lost, and Wednesday night they slept under an old building on Sherman street.

—A special meeting of the St. Paul Humane society and its friends is called for 11 o'clock tomorrow morning at the society's rooms, sixth floor, Chamber of Commerce building. The officers and various committees are endeavoring to extend the work of the society, and they ask all sympathizers to assist in increasing the membership.

—Work on the preparation of the room that was formerly occupied by the park board in the city hall and which is to be used by the fire alarm telegraph plant, is progressing very slowly and there is no chance for the plant to be installed within a couple of months. The new tile floor in the room has not yet been laid. The apparatus has been received, but no attempt has yet been made to install it and nothing will be done until the room is completed.

—Bids were received yesterday by the board of public works on the proposed improvement of Grand avenue from Floral to Grotto. The improvement contemplates the building of a parkway. The lowest bid was made by Thomas Linnan, he offering to put in granite curbing for $3,864, or sandstone curbing for $4,600. The bids were taken under advisement for investigation as to the details.

—A quartette of youngsters, who have been under arrest for two weeks on the charge of breaking out Bullard Bros.' window with intentions of burglarizing the store, were discharged yesterday. The witnesses of the alleged offense were soldiers who were naturally unable to appear in court yesterday, when the case was called and the lads were discharged. They were Jessie Heller, Joseph Weneston, John Cummings and Robert E. Logie.

AT THE THEATERS.

—On account of the enormous demand for matinee tickets for "Uncle Tom's Cabin" at the Grand, the managements will give a special performance this afternoon. Several new and attractive features will be added which will be of interest to the little ones. The jubilee shouters, the cake walkers and the various specialty performers will do their utmost to add to the attractiveness of today's entertainment.

The regular Saturday matinee will occur tomorrow.

AT THE HOTELS.

ABERDEEN—L. C. Krauthoff, Kansas City; Charles Trevelyan, London; George Durand, Ruel, N. Y.; Francis Raule, Philadelphia; George Falyan, Chicago; Hugh Butler and wife, Denver; Mr. and Mrs. W. C. Sterks, Butte; Mrs. Crawford Livingston, Gerald Livingston, Miss Livingston; Rev. M. Carey, Graceville; C. S. Velie, Minneapolis.

ASTORIA—L. Fisher, Atlanta, Ga.; F. Long, Duluth; E. C. Boston, Marshall; C. W. Smithson, Spokane; R. W. Wilkinson, Fargo; Ole Larson, Fisher, Minn.; Dr. Toby and wife, River Falls; S. S. Soins, Cannon Falls; W. Ives, Chicago; A. L. Toogood and wife, New York; J. B. Owen, Marion, Io.

CLARENDON—T. J. Wilson, Chicago; R. S. Swanson, Chicago; M. H. Brockitt, Des Moines; D. D. Keer, Port Huron; Frank J. Ryan, Milwaukee; Fred Chamberlain, Chicago; O. H. Hellekson, Wheaton; J. Stein, Fargo; F. C. McKussick, Owatonna; E. H. Carpenter, Owatonna; M. J. Barrett, Minot; Mrs. M. J. Mick, Minot; H. C. Hall, Boston; M. Heffron, Rochester.

MERCHANTS'—L. N. Clausen and wife, Washburn, Wis.; H. C. Miller, Staples; H. Winter, Valley City; W. Borst and wife, Windom; R. J. McNeil, W. G. Johnson, A. D. Anderson, Alexandria; T. R. Foley, Atkin; J. C. Calderwood, Chicago; J. P. Baker, Bismarck; C. M. Larry, J. McLany, Sheldon, Io.; A. Sternfield, Chicago; A. Potts, Indianapolis; J. A. Kennedy, Madison; S. Van Kalto, St. Louis; W. L. Taylor, Appleton; W. J. Scott, St. Louis; A. C. Douglas, Chicago; H. Phillips, Mazeppa; A. H. Porter, Chicago; W. B. Douglas, Moorhead; K. G. Hall, Palo Alto, Col.; Mrs. L. Dannon, Arlington; H. Winston, New York; C. F. Engell and wife, North Branch; J. Gund, La Crosse; H. L. Norton, Durand; G. M. Sanderson, Colorado; V. S. Donkin, Spokane; J. Lepley, C. Lepley, Ft. Benton; W. F. Gardiner and wife, Des Moines; J. Ryder, Buffalo; Mrs. Kerth, Princeton.

METROPOLITAN—A. Q. Miller, Minnesota; W. Joseph Baldwin, South Peak, Col.; George W. Curtis, Chicago, Ill.; Russell Wooldridge, Louisville, Ky.; T. B. Richmond, Hartford, Conn.; J. F. Nelson and wife, Dubuque, Io.; Mrs. F. L. Schneider, Chicago, Ill.; George Brown and wife, La Crosse, Wis.; W. S. Wertz, Sidney, O.; R. R. Hall, Philadelphia, Pa.; George C. Sherman, Philadelphia, Pa.; O. R. Jennings, Detroit, Mich.; P. H. Swift, Lansing, Mich.; H. E. Harris, Helena, Mont.; Joseph R. Morris, Crookston, Minn.; E. C. Randolph, Denver, Col; R. P. Kickhous, Macon, Ga.; L. C. Meyers, Cedar Rapids, Io.

RYAN—E. R. Lightcap, Chicago; Charles F. Amidson, Fargo; A. H. Goetz, Chicago; W. P. Brown, New York; G. E. Moore, Chicago; E. A. Adams, Chicago; J. L. Baker, Chicago; Mrs. W. Davis, London; A. A. Harris, Duluth; J. L. Fitzhugh, New York; Phil Schlisminger, Milwaukee; W. Morse, Chicago; H. J. Phillips, Salem, Mass.; C. R. Lundberg, Red Wing; A. C. Douglass, Chicago; F. B. Drake, Toledo, O.; Jacob Cohn, New York; J. C. Black, New York; F. A. Lemmon, Chicago; E. J. De Hart, Portland; George W. Bartram, Philadelphia; L. A. Walker, Helena; H. H. Cheney, New York; S. M. Dazell, Spring Valley; F. S. Phinney, Chicago; C. L. Wallace, Boston; F. B. Hoskins, Fond du Lac; H. T. Sackett, Fond du Lac; G. F. Lathrop, Chicago; E. T. Bent, Oglesby, Ill.; William F. Gage, Johnston, N. Y.; Charles Riggs, Chicago.

SHERMAN—Lorin Cray, Mankato; Chas. A. Rower and wife, Denver, Col.; R. W. Sewet, Iron Mountain; D. D. Ford, Chicago; L. F. Torget, Milwaukee; Mr. and Mrs. E. G. Baxter, W. Baxter, H. Baxter, Yankton, S. D.; Rev. Berg Root and wife, Bridgeport, Conn.; M. Girlaff, Armsburg, Ont.; A. J. Henry, New York; I. G. Rich, Denver, Col.; A. L. Bond, Baltimore, Md.; E. E. Jones, Milwaukee; E. P. Ericson, Forest City, Io.; Ed Burns, James Burns, Peter Griffen, Thompson, Io.; A. W. Babbitt, Rev. D. M. Cary, Miss Marie Deleen, Forest City, Io.; T. A. Petterson, Fountain City; G. W. Devennell, Brownton, Minn.; S. H. Beandon, Ossew, Wis.; John Liden, Grand Rapids, Mich.; W. E. King, Plainview.

WINDSOR—W. C. Johnson, Duluth; J. B. Corman and wife, Duluth; S. W. Landon, Chicago; John Halderman, Chicago; G. F. Deman, Lake City; H. D. Jenckes, Jasper, Minn.; W. L. Parson, Fergus Falls; E. H. Uhl, Cincinnati, O.; C. B. Johnson and wife, Cincinnati, O.; C. A. Gabelson, Dayton, Io; G. A. Gabelson, Dayton, Io.; J. H. Rutherford, Louisville; J. M. Davis, Louisville; W. H. Hopkins, Duluth; A. T. Stebbins, Rochester; L. H. Schellbach, Granite Falls; A. E. Furguson, Dubuque; J. E. King, city; D. C. Rice, Dayton, O.; V. B. Seward, Marshall; John Baumbach, city; Joseph E. McKeown, St. Louis; Mrs. Ross, Butte, Mont.; John Wilson, Chicago; T. C. Netter, Chicago; W. W. Churchill, Winona; Miss Julia Waltman, Winona; Miss Elizabeth Whitman, Winona; C. N. Norton and wife, Mankato.

REAL ESTATE—Real estate agents who use them say The Globe's want columns bring big returns for the money invested.

VITAL STATISTICS.

MARRIAGE LICENSES.

Albert C. Bryne	Ramsey County
Cornelia M. Lalone	Ramsey County
Max J. Thompson	Hennepin County
Flora M. Brisbin	Ramsey County
Owen J. Williams	Ramsey County
Mrs. Jessie Kelly	Ramsey County

BIRTHS.

Mrs. Elias M. Hagen, 916 Magnolia	Girl
Mrs. Daniel Imhoff, 212 Fairfield avenue	Boy
Mrs. C. Larocque, 208 Grove street	Boy
Mrs. Martin Gibbons, 987 Laurel avenue	Boy
Mrs. Patrick Cusick, 477 Burgess	Girl
Mrs. A. L. Vories, The Albion	Girl

DEATHS.

Werner Carolina, 189 Dousman	65 yrs
Baby Souter, 710 De Soto	12 hrs
Emily Carrington, St. Joseph's hospital	40 yrs
James Elder, 951 Burr	80 yrs
Sadie Kaufmann, 165 Livingston	38 yrs
H. E. Sewell, 1265 Como boulevard	35 yrs
George Bauer, 178 Kentucky	12 yrs
James Fitzgerald, 456 East Fifth street	44 yrs
Winifred Towey, Transfer hotel	3 yrs
Mrs. Mary Cullen, 52 West Delos street	52 yrs

DEATHS.

FOSTER—In St. Paul, Minn., May 19, 1898, at family residence, No. 605 Dayton avenue, Thomas E. Foster, aged 25 years. Notice of funeral hereafter.

MITCHELL—At 2:30 a. m., Wednesday, May 18, 1898, Annie Iungerich, wife of Rev. Edward C. Mitchell, of this city. Funeral at New Jerusalem (Swedenborgian) church, on Monday, 23d, at 2 p. m. Minneapolis and Philadelphia, Pa., papers please copy.

AMUSEMENTS.

GRAND

SPECIAL MATINEE TODAY, FRIDAY.

UNPRECEDENTED SUCCESS OF AL. W. MARTIN'S MAMMOTH PRODUCTION,

UNCLE TOM'S CABIN.

Regular Matinee Tomorrow.

Silk Headquarters of the Northwest. Globe—5-20-'98.

Mannheimer Bros.

SIXTH AND ROBERT STREETS, ST. PAUL.

FRIDAY FACTS—PRICE-NIPPED SPECIALS.

Underwear Specials.

For Housekeepers' Day:

Our Women's 39c quality Ribbed Pants, knee or ankle length, for 25c

Our Women's $1 Tights, knee or ankle length, black, white or ecru, for 75c

Women's Long or Short Sleeve Silk Vests, today 98c

Art Embroidery Dept.

On the Third Floor.

"Remember the Maine." Sale of Souvenir Sofa Pillows—"The Maine," "Liberty" and "American Eagle"—unique and beautiful. Special, top and back 47c

The special sale of Battenberg Patterns at half-price continues Friday.

Upholstery Dept.

Specials for today:

30-inch Japanese Crepe....... 7c
36-inch Cretonne.......... 12½c
38-inch Curtain Scrim......... 5c
36 and 48-inch Fish Nets...... 22c

Wash Goods Dept.

Another big lot of those fine American Dimities, worth 15c a yard. For Friday's selling. Special 5c

$5.00 Umbrellas, $3.75.

"Dent" Umbrellas (regular price $5.00), 26 and 28-inch, with best quality of silk, steel rods and natural wood trimmed handles, every one guaranteed. Friday special $3.75

Millinery Specials.

A nice line of Straw Shapes, black and colors—**half-price** for Friday.

Absolutely the correct Sailors—made by men hatters—at **75c, $1, $2, $2 50, $3** and up.

Friday Glove Specials.

A large and most complete color assortment of 2-stud Glace Gloves—a remarkable Glove for $1.00

A new lot of 2-stud Pique, the world's best, made expressly for Manuheimer Bros. Here for $1.25

"A HANDFUL OF DIRT MAY BE A HOUSEFUL OF SHAME." KEEP YOUR HOUSE CLEAN WITH

SAPOLIO