

BETWEEN LOVE AND DUTY

JUDGE KELLY'S PREDICAMENT IN A SCHOOLMAAM'S SUIT

Compelled by the Stern Exigencies of the Law to Decide Against the Fair Plaintiff, He Pays a Tribute to Her Profession, Priceless in Comparison With a Few Paltry Dollars.

Prompted on the one side by his veneration for the law, and urged by his native gallantry on the other hand, Judge Kelly stood, as it were, between love and duty, in being obliged to make a decision in the case of Catherine Putnam against the city of St. Paul.

Despite the entreaties and argument of plaintiff's counsel, despite the fact that this concerns the very flower of our citizenship, the school teachers; despite the gallantry of the court, inherent in his Irish blood and Kentucky breeding; despite the sincere admiration in which the court holds the exalted office of the teacher, and in particular the teachers of St. Paul, the inexorable law and logic of this situation compels me, as much as I regret it, to deny plaintiff the relief demanded.

In June, 1894, the school board made an estimate for the school budget for the following school year. In this budget they provided for the payment of \$18,000, and of this sum the amount provided for the payment of teachers' salaries was placed at \$90,000. The city council, in making the appropriation, cut down the estimate and time of the reduction of the allowance for the school board made a schedule of teachers' salaries for the ensuing year and appointed the teachers at fixed salaries.

Miss Putnam was appointed to teach at Hancock school at a salary of \$110 per month. After the estimate had been cut down the superintendent of schools notified the teachers that they were to receive a salary of \$100 per month in proportion to the amount of the general allowance cut off. Then the board of education called a meeting of teachers and they were informed that they would have to submit to a pro rata reduction; those who did not desire to accept the cut would be at liberty to resign.

This was in September, 1894, and it was arranged that the pro rata reduction should be made in the salaries for the month of June, 1895. Under this arrangement the city received \$75 for her work during that month. When the assignments were made the teachers were notified by the superintendent, and a test case was brought by Miss Putnam. It has dragged slowly through the courts, the city making the contention that they were no contract, and that if there had been the school board had exceeded its authority in contracting for the outlay of more money than was appropriated for the specified purpose.

In a memorandum, covering the decision, Judge Kelly reviews the case at length, and in denying the relief asked is an answer to plaintiff's demand. First—The board never undertook to make any such contract.

Second—The board has not the legal capacity to make any such contract. Third—Conceding, for the argument, the fact that the board had the legal capacity that it did make such contract, the conduct of the board and of plaintiff and her associates in this case was not that of a teaching staff of St. Paul, modified the contract so as to make lawful the reduction of the June, 1895, pay roll, of which she complains.

Any agreement, provisional or final, that was made had the condition of this law therein as clearly as if written there word for word. This was always the bargain in mind, considering the question involved.

In view of the following language in the contract: "Teachers appointed by said inspectors shall serve during the pleasure of the inspectors." It may be questioned whether any contract was made, conceding, however, that the general intent of the act, gathered from the

whole, is to make the teacher's position permanent so long as the teacher is competent and efficient, the total contract here to be paid all the teachers must never exceed in any year the appropriation.

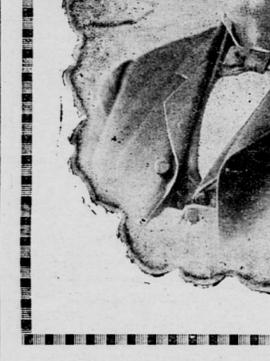
The board merely recommended the amount to be paid. They cannot fix anything until the council has acted. The board is obliged, within the appropriation named, to appoint and pay a sufficient number of teachers to properly conduct the schools during the entire period.

The board cannot pay the whole of the amount appropriated by the council for the compensation of all the teachers for a given year to a portion of those employed, and obligate the city for the compensation of the remainder. It must pay all the teachers from the aggregate appropriation and cannot exceed that sum by any device whatever. And the law will not do by implication that which the board is forbidden to do.

FORGOT HE HAD IT. Supposed Insane Man Neglected to Use His Pistol.

John Pezel, insane on the subject of matrimony, was yesterday committed to the Rochester asylum by the probate court.

Pezel lived at 71 Rose street. He is an unmarried man of thirty-six years. For some time he has had queer notions about marriage and has thought himself married to various women.



Judge Daniel Buck, associate justice of the supreme court, is perhaps one of the best known jurists and citizens in the state. His professional career has only been marked by that which would elevate the bar, and as a man he stands at the very top of the profession in Minnesota.

His opinions, while on the bench, have been distinctive for their fairness, and his dispensation of justice and law has always been consistent, upholding the precepts of the golden rule. He believes in the fellowship of man, man's duty to his fellow man, and the greater part of his time in his library. He has done much during his term of office in placing the Minnesota supreme court among the most eminent tribunals of justice in the country.

His last term has not been unmarked with sadness, as Mrs. Buck has been a patient sufferer for over a year from a serious ailment, and the judge spends a great share of his time at her bedside. He has lived in this state since 1857. He was born in Booneville, N. Y., in 1831, and received his early education at Rome and Lowell, N. Y. He was a member of the house of representatives in 1869 and of the state senate in 1879 and 1881. He was for five years a member of the state normal

school, and was twice elected prosecuting attorney of Blue Earth county; he was elected associate justice of the supreme court in 1892, term commencing January, 1894. The judge has an interesting family of two children, Mr. and Mrs. Alfred Buck, of Mapleton, and a granddaughter, not the least interesting of whom is Daniel Buck Jr., the son of Mr. and Mrs. Alfred Buck, of Mapleton. Judge Buck is the president of the State Bank of Mapleton and his son takes an active part in the administration of the affairs of the institution.

His wife, who is well known to the people of the state at large, although he spends the greater part of his time in his library, she has done much during his term of office in placing the Minnesota supreme court among the most eminent tribunals of justice in the country.

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COUNTY BONDS KEPT HERE

BIDS OF ST. PAUL PEOPLE COVERED THE WHOLE LOT

In That State of Affairs, the County Board Decided to Reject the Two Bids Offered by Out-of-Town Parties—Banks Got Only a Small Share of the Series—The Loan a Popular One.

There were forty-two bidders for the fifty thousand dollars worth of \$100 bonds that are to be issued for the refunding of a part of the debt of Ramsey county and of them all the only two coming from out of town parties were rejected. The bids were opened by the county board at a special meeting held yesterday afternoon.

They came from all sorts and conditions of people, from the opulent bond broker and banker to the citizen, who wanted good security and a moderate rate of interest for his small savings.

There was also in the bids evidence of the fact that the bonds were in some instances sought as nest eggs for the hatching of future fortunes of members of the one family. This is particularly shown in the several bids received from Mrs. Rothmund for separate lots of the bonds. Mrs. Frances K. Mason, widow of the late Gen. Mason, was the largest individual bidder, and she got \$9,700 of the bonds.

All of the bids from local parties were at par. Two from prior and were at par. Two from Denison, Prior & Co., of Cleveland, offered to take the whole issue at 99 cents on the dollar if issued at 2 1/2 per cent interest, or to pay a premium of 2 1/2 per cent for the whole issue bearing 4 per cent interest.

Hayes & Sons, of Cleveland, bid for the whole issue, offering par, less \$1,275 for placing the bonds. The State Savings bank offered to take the entire issue at par and accrued interest. The bank was appointed all of the bonds left after the

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Mrs. M. A. Rothmund, 88 and 89 Union block, Cor. Fourth and Cedar, was the largest individual bidder, and she got \$9,700 of the bonds. Her bid was for \$100,000 at 99 cents on the dollar if issued at 2 1/2 per cent interest, or to pay a premium of 2 1/2 per cent for the whole issue bearing 4 per cent interest.

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Table listing names and amounts for county bonds, including C. B. Brunson, L. Blomberg, Francis Fleckard, etc.

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FRUIT IN THE FAR WEST

C. C. EMERSON RETURNS FROM THE PACIFIC SLOPE

He Made an Especial Study of the Fruit Belts of Oregon and Washington, Which Are Enjoying a Fair Prosperity This Year—Difficulties Are Arising Along the Irrigation Canals.

"It suggests the old proposition of carrying coals to Newcastle, doesn't it, but it is nevertheless a fact that they are shipping fruit from Oregon and Washington into California," said C. Emerson, the fruit and produce merchant and president of the Northern Exchange bank, who returned from the coast last evening from a flying trip to the coast, and while he was out West he inquired a little into the fruit industry of the Pacific coast states.

"The fact is that there will be no California fruit for shipment this year. The orchard country, the whole state, is suffering from a drought that not only has not any fruit for shipment at this season, but they are buying of their neighbors to the north. This shuts us out from every source of supply for our peaches and plums," continued Mr. Emerson, "but I don't know how it will affect the orange crop.

Under the conditions in California, irrigationally help the growers in Washington and Oregon, for they present a new market that they are taking advantage of. They cannot make much money as things are in supplying this market, though we buy from them to a very great extent."

"Why isn't this a good market," was asked. "It is a good enough market in some respects, and we have to buy most of our peaches and plums from them, but the drought here is a factor that must be considered by the shipper. It costs from \$250 to \$275 to lay a carload of fruit down here from, say, Walla Walla, Washington, and generally means 50 per cent of the value of the fruit. There is always the possibility of the goods falling and losing a great part of their value."

"Fruit raising as a conspicuous factor in the wealth of Washington as it was?" "Well, I don't know. My trip was a short one and I had no time to get anything like specific facts, so had to judge from general conditions. This year the fruit growers are in good luck. The crop is fairly large and the prices comparatively good. This is due to the practical failure in California. But the present conditions are the other extreme of the conditions which have prevailed. For instance, in the neighborhood of Walla Walla the fruit growers so despaired of getting a living from their orchards that they had concluded that they would have to abandon them. It actually went so far that feeling of depression, that the bankers and business men of Walla Walla had to form an association and give the orchardists a guarantee of living in order to keep them on their farms. This was a year ago last spring. The deal was actually entered into for the orchardists to give up their farms, and the guarantee of living was guaranteed to the growers. The deal was actually entered into for the orchardists to give up their farms, and the guarantee of living was guaranteed to the growers. The deal was actually entered into for the orchardists to give up their farms, and the guarantee of living was guaranteed to the growers.

"The boom that was on a few years ago in fruit lands is not heard much of now. It is a fact that the wealth of the west of both Washington and Oregon depends on the development of the orchards, but so far as I could see, it is not so much as it was. Starting a fruit farm anywhere away from the coast. All of the interior valleys have to be irrigated, and that is always an expense. The distance from a large market and lack of local consumption tends to keep down the prices. I spent some time at a fruit farm in the mountainous region of seven years old and there are 30,000 plum trees on it, in addition to about 100 acres of peaches. This year the owners will make a good thing of it. He has an immense crop, but I could get nothing like an accurate estimate of the value of it. When I was there the harvest was in full and the general business was a busy one. Men and boys are engaged in the picking, and shipments were being made at the rate of a carload a day. The fruit is packed in a little further along the shipments will amount to three carloads a day."

"I never in my life saw such an industrious lot of people as those fruit pickers. Harvesters in the wheat fields here don't work at all by comparison. Pay? Why, they make about \$150 a month, and they are getting 3 cents a box for their work. A box of fruit is about twenty pounds. As a greater part of the fruit is picked green, the men have to climb the trees and carry the fruit to a packing house in the center of the farm, and there packed for shipment. As the season advances and the market for fruit is better, the price is higher, though the fruit will be here early enough. We will have some plums and peaches here next week.

"One thing that struck me out West was the appearance of the country. I had an idea that a fruit country would be beautiful to look upon, and give every evidence of fertility. Well, the fact is that the soil of the fruit country in the interior is about as barren as you could look at anywhere. It is all irrigated, or nearly all, and the water is only carried to where it will do all the good possible. And by the way, this question of water is going to be the source of a good deal of trouble in the future. The fruit country in the interior is about as barren as you could look at anywhere. It is all irrigated, or nearly all, and the water is only carried to where it will do all the good possible. And by the way, this question of water is going to be the source of a good deal of trouble in the future. The fruit country in the interior is about as barren as you could look at anywhere. 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