## COUNCIL BLUFFS DEPARTMENT AR

MINOR MENTION.

Special meeting Bluff City lodge No. 71, might. Work E. P. degree. The regular meeting of the Knights of Labor will be held this evening in the Royal

The Grand hotel, Council Bluffs. High class in every respect. Rates, \$2.50 per day and upward. E. F. Clarke, proprietor, Luda Hayes, colored, died yesterday at the home of her parents, 2025 Seventh avenue, at the age of 20 years. Death was caused by

W. L. Thickstun has concluded to permanently locate in Chicago. He has been elected to the position as organist in one of the largest Episcopal churches in the city, and has the training and instruction of choir of fifty boys.

An open air meeting was held last night near the Q round house, under the auspices of the socialist section of Council Bluffs. A. C. Swanholm was selected chairman. Ad-

Evangelist A. Martin of Michigan arrives In the city today. He comes to assist the Christian church in a series of revival meet-ings which they have been looking forward to for some dime. Tomorrow he will begin the work with an address at 10:30 a. m., and a lecture in the afternoon at 2:15 to men only on "The Fast Young Man." Both serves in the Tabernacle.

A billiard room is one of the recent acquisitions at the Grand hotel. The room formerly occupied by the Carbon Coal company has been refitted and converted into a cony two table billard parlor. The room has been handsomely decorated. The walls and ceilings have been under the artistic hand C. Miller and it is one of the finest bits of freeco decorative work to be seen in the The designs are neat, the colors pleasing and all of the work done in a thoroughly

Today is the time set for the conference of the property owners along Indian creek and the officers of the Iowa Construction company for the purpose of arriving at an understanding concerning the amount of damages the company must pay for the right of way along the creek. A large number of them have already visited the office of Mr. Paul and examined the plans of the proposed improvement and have signified their willing-ness to give the right of way without any consideration.

If Dohany's theater was just twice as large as it is it would have still been too small to accommodate the crush of people who striggled with each other to get into it last night when the Chase-Lister company played 'Monte Cristo." The curtain was held down ten minutes to permit the crowd to get set-tled, and when it finally went up, there was crowd jammed into the rotunda and reaching into the street, as far as the car tracks. There was not a vacant space in the build-ing anywhere large enough to accommodate a man, woman or a child. There were over 500 tickets sold more than there were scats in the house. At the matinee this afternoon the company will present "The Plunger," a most delightful little comedy, and in the evening Denman Thompson's original "Old Homestead," not the Joshua Whitcomb ver sion, which has been played here frequently On Sunday evening the love story and melodrama, "Lady Audley's Secret," will be given. People who expect to get tickets toight will have to purchase them early in

Notice to Property Owners.

All persons owning property abutting on adian creek, between Eighth and Oak streets, are hereby requested to appear at the Union Land and Improvement company's office, over Officer & Pusey's bank, on Saturday next, April 25, between the hours of 9 a. m. and 5 p. m., to determine the amount of damages accruing by reason of the con-

Riley defaulted payment, and suit was brought against James. The case as to

James was continued. demurrer was submitted to the petition of the Sieffert & Wiese Lumber company against Henry Holzfaster and others. The umber company seeks to have the township board of Minden township make a special tax levy to pay a lumber bill, amounting to sev-eral thousand dollars, and running over several years' time. It is one of those claim that Charles Altmansperger forgot to pay when he was clerk of the Minden board. The Insurance Company of North America commenced proceedings against W. A. Mynster on a mortgage for \$8,000 covering 200

Mynster springs are located on the land in The case of the Fred Miller Brewing company against the Council Bluffs Fire In surance company was submitted to the court Garnishment proceedings were commenced by B. W. Braley on J. M. Caldwell on a judgment obtained against France Neison

acres of land at the Mynster homestead.

and Lena H. Collister for \$698. Hot Bed Sash. We have 1,000 hot bed sash which we are going to close out. They won't last long. How many Jo you want? We will make you a price that can't be duplicated. C. B. Paint, Oil: ord Glass company, Masonic Temple Coursel Blass.

Hoffmayr's Fancy Patent Flour makes the best and most bread. Ask your grocer for it.

Wanted-Man and wife desire board and room for the summer in private family with no children. Address V. P., Bee office. Superior Court Filings. Four foreclosure suits were commenced in the superior court yesterday. Two were against E. D. and Martha W. Pratt, and in

favor of C. H. Williams, on two notes of \$400 each. J. W. Squire brought foreclosure suit against G. H. Drew et al., for \$709, and Anna K. Brumbaugh commenced foreclose proceedings against C. L. Ellers for \$676. William Siedentopf commenced suit in ejectment against Valentine Milburn and Jeremiah Belt, for possession of certain real estate upon which the defendants are trying to exercise the rights of squatter sover

Untrimmed hats, 10c and 25c. Miss Ragsdale.

The Blue Flame coal oil stove, odorless, sent on trial. You can't get a drop of oil out with every valve open only by upsetting the stove. Cole & Cole. Dr. Cleaver's office moved to 600 Broadway.

Green Goods Men Taken to Keokuk. The Vogle twins and Jim Smith, arrested for using the mails to further their green goods operations in Iowa, were taken to Keckuk last night to stand trial. They were n charge of Deputy United States Marshals Gray and Richards. This trio was arrested In Chicago some time ago and then arrested again by the Iowa federal authorities. They under bonds of \$25,000 each to appear for trial at Chicago for swindling.

Call and see our \$3 water pressure filter Cheapest high grade filter on the market. Stephan Bros., 529 Broadway. It costs no more to run our New Process

gas ranges than gasoline stoves. Cole & Cole.

Genuine Bokhara divans and new pieces of oriental furniture at the Durfee Furniture company's.

Headed for the Penitentiary. Sheriff Morgan went to Fort Madison last night in charge of John Leonard, who has been sentenced to one year's imprisonment Leonard was convicted of robbing the bars of the Rex Lumber company and J. R.

We Do the Framing!! Why? Because our goods are the best. Our prices are right, and we guarantee satisfaction. See our new pictures. H. L. SMITH & CO.

Davis. drugs, paints and glass; tel. 289.

Grievances of the Iowa Grocers Against Recent Railroad Rates and Rules.

CHARGES OF UNJUST DISCRIMINATIONS

Schemes Used to Get a Better Rate Than that Fixed by the State Railway Commission\_Favor Penny Postnuc.

hotel in this city yesterday, and passed upon a number of matters of interest to the memdresses were made by Messrs Lawry and Travis of Council Bluffs, and "General" Charles T. Kelley of Omaha. Fully 500 people listened to the tsiks. one, called for the purpose of having a love feast among the members. But the facts by smother and O. W. Younkerman. The charge was shooting with intent to commit are that the love feast developed into an indignation meeting, and a bill of grievences was formulated to be presented to the railroads and the state authorities.

The jobbing grocers feel aggrieved at the railroads on a number of grounds. In the first place, while the rates in Iowa are fixed in the main by the state rallway commissioners, the railways have a decidedly unpleasant habit of changing classifications to suit their own convenience, and to the direct detriment and loss of the shippers. One in-stance of this nature was cited in the meeting. The rate is fixed by the state law on woodenware. The rate is reasonable, but the rallways want more. To accomplish this the roads have made a rule that the minimum weight of a carload of woodenware shall be 15,000 pounds. In view of the fact that it takes a might big car to furnish room for 10,000 pounds of woodenware, it does not equire an expert mathematician to discover that the jobbers have to pay a price an a half on each carload shipment of freight of this class. The members of the association were unanimous in favor of taking united action, seeking an adjustment of this dis-

The railroads have recently made another rule in regard to the unloading of goods. This rule provides that all cars shall be unloaded within twenty-four hours after their arrival. This, the lobbers, claim, if enforced, would work a hardship on every jebbing grocer in the state. Where large shipments are made it is almost impossible to provide help and storage room enough to empty cars in the time allowed by the rule.

Then the railways have adopted another plan to get a rate better than that preperibed by the state board. If the board has placed a rate on a certain class and the railroad managers want more money for hauling a certain article, they simply jump it from one class to another, and there you

are, and what is going to be done about it. These grievances against the railway com-panies were formulated and will be used in an effort to secure a readjustment of some of the arbitrary rates and rulings recently put in force by the railroads.

The grocers also took a hand in the penny costage matter. It was decided as the sense of the association that a penny postage rate should be made on business letters, and that ouch a change should be brought about even at the expense of an increase on the rates of a lot of stuff that now goes through the maile as second class matter. A memorial giving the views of the members of the asesciation was prepared and sent to the mem-bers of the Iowa delegation in congress, and neir efforts solicited in the direction of seturing the adoption of the penny postage

plan.
The members of the association outside of

M. N. Spencer, W. E. Fisher, Hal Fisher, Red Oak; A. Buck, L. A. Hamill, D. A. Collier, Keckuk; Theodore Blaul, A. L. Map John Blaul, Burlington; Frank L. Brown, D E. Howell, W. E. Tackenberry, C. Shenk-berg, A. O. O. Tolerton, Sloux City; Hon. J. G. Hutchinson and Samuel Mahon, Ottumwa

GOT BUT LITTLE SATISFACTION.

Decision in Case of Shaffer Against Lake Manawa Railroad Company. Judge Thornell yesterday sent his decision the case of J. C. Shaffer against the Lake Marawa Railway company, and the plaintiff got decidedly the small end of the bargain.

This suit was tried last August. Shaffer s a Chicago man, who had bought a few shares of stock in the Lake Manawa Railway He went into court, alleging a whole lot of things and made requests for a general overhauling of the business. His petition asserted that the funds of the enter-His prise were being used for purposes other than were set out in the company's plan for business, and that the operation of a saloon and bowling alley and other like sources of revenue and amusement had no part in the curriculum of a motor railway education. He asked an accounting, a judgment for \$8,000 on his share of the profits of the concern, and asked that a re-ceiver be appointed for the company. Shaffer also asked an injunction, restraining the company from operating the salcon, bowling alley, switchback or beach railway.

In his decision Judge Thornell decided that the defendants should be enjoined from operating the salcon, bowling alley and switchback. He also held that C. F. Reed was indebted to the company in the sum of \$1.558, which had been withheld by him as salary for services without the authority of the company, by charter or rules, to do so. The application for a receivership is denied and the request for a judgment and accounting is also overruled.

The costs, about \$500, are taxed, two-thirds

to the defendant, and one-third to Mr. Shaf-

Council Will Decide Today on the

ASPHALT OR BRICK.

Payement for Pearl Street. When the meeting of the property owners and those interested in the repaying of Pearl street adjourned Thursday evening it was understood that the asphalt men would rest their cause upon the strength of the original petition presented to the council. Yesterday morning the advocates of vitrified brick went o work to add a few more names to their petition. They had not gone far until they discovered that the assertion of the asphalt men that they would "stand pat" was a delucion and a spore, that they had been at work since early morning endeavoring to get new names to their request for asphalt and urging the signers for brick to change.

The fight was not all along the street dur-ing the whole day. Last night each side was ing the whole day. Last night each side was claiming the victory by a majority of about 1,700. The city council will meet as a committee of the whole at 10 o'clock this morning for the purpose of hearing the petitioners and counting up the number of feet that each petition represents. The one having the greatest number will be taken as final by the council and they will decide more than council, and they will decide upon brick or asphalt as the case may be.

In speaking of Chamberlain's Pain Balm Mesors. Daugherty of Indiana, Pa., say:
"We knew of many of our customers who have used it for rhsumatism, and they all praise it highly. We sell more of it than of any other household liniment." For sale at 25 and 50 cents per bottle by druggists.

We offer you only clean, crisp, snow white laundry work and best delivery service at Eagle laundry, 724 Broadway. Telephone 157 Spec'al Sale. Trimmed and untrimmed hats. Miss Ragsdale, No 10 Pearl.

Have you seen the new gas heating stoves at the company's office?

Wall paper cleaned, new process, with patent right at Miller's, 108 Main street.

JOBBERS HAVE A KICK COMING HARRY HISER OUT ON LIGHT BAIL PASSING OF JOEL L. STEWART Held to the Grand Jury Under Bonds of Three Hundred Dollars.

Harry Hiser, the boy who perforated the volver bullet, was given his liberty yesterday upon filing a bond for \$300. The lad was given a hearing by Police Judge McGee forward story to the court that he had given to the reporters. His only plea was that he shot to protect his sister's honor from Had Been Prominently Identified with the assaults of a confessed libertine. He frankly admitted that he followed "Cyclone" with the deliberate intention of shooting, not to frighten him, but to kill him. The The Iowa Wholesale Grocers' association concluded a two days' sension at the Grand hotel in this city yesterday, and passed upon

to await the action of the grand jury, and he ruled accordingly. His bond was fixed

showing.

McCalmut was around the streets yesterday calling upon his friends and exhibiting a very sore mouth and a badly swollen cheek. He also had a grievance against the public. He says that "Cyclone" is not his real Christian name, nor was it a term that had been applied to him to indicate his ability as a hitter of men as well as women. but that he had earned it legicimately as a lightning butcher.

CITY MANAGERS GET TOGETHER. and Council Bluffs Officials

Have a Conference. The men who get the credit and cussing for the management of the affairs of the the plains, sending long and heavily lader cities of Council Bluffs and Omaha got to-trains to Pike's peak and Montana. He congether last night in an informal manner and spent several hours in comparing beauty. marks and getting better acquainted.

Omaha officials come over and spend a few hours in the city and to limit the entertainment to handshaking and social intercourse. From that plan the program was extended until it took the form of the very complete reception tendered the visiting offi-cials last night. At 7:10 o'clock the motor of damages accruing by reason of the construction and maintenance of a sewer and railway over and along said Indian creek. The members of the association outside of Council Bluffs who attended the meeting IOWA CONSTRUCTION COMPANY. By John W. Paul, President and General Manager.

Reduction on all trimmed hats. Miss Reduction on all trimmed hats. Miss Ragedale.

District Court Cullings.

Judge Smith yesterday entered judgment against J. E. Riley, the Omaha paving contractor, in the suit of Guanella against James. In this action James was surety on Riley's In this action James was surety on Riley's locker, Davenport; W. L. Mull, Muscatine; M. N. Spencer, W. E. Fisher, Hal Fisher, Riley defaulted payment, and suit was locked and deserved and served and suit was locked and suit was locked and served and ser in the special car and given a whirl around the loop and back to the corner of Pearl and Broadway. Here the car was emptied and the visitors and local officials were each supplied with eigars and a beutonniere with the compliments of the proprietors of the Corner Cigar store. The visitors were escorted to the Grand hotel, where they arrived just in time to meet the fire depart-The visitors were which responded to an alarm turned in from that corner by Chief Temple

An informal reception was held in the rotunda of the Grand, and at 9:30 o'clock the guests and the local officials sat down to an claborate banquet. The repast was followed by a season of speech-making in which the ready talkers of the two cities vied with each other in saying pleasant things. Mayor Carson, Hon. George F. Wright, City Attorney Hazleton, City Clerk Phillips and Judge Smith stood up for Council Bluffs, while Mayor Broatch, Judge Hassall, Judge Wheeler, Assistant City Attorney Estelle and other guests responded. The party was taken back to Omaha in the special car late enough. All of the Omaha councilmen except Duncan and Jaynes, were present, and with them were the heads or representatives of every department of the city council.

SAVED BY A PLEA OF SELF-DEFENSE

Wilcox Brothers of Des Moines Will Not Be Indicted. DES MOINES, Ia., April 24.-(Special Telegram.)-The grand jury today decided not to indict Charles and Henry Wilcox, charged with murdering 'O. E. Pearson. Pearson was a prominent photographer. An altercation with the Wilcox brothers resulted in a conflict during which Pearson was thrown over the banister to the street be-low. His skull was crushed. The evidence

indicated self defense.

Berjamin T. Wendell was arrested today for bigamy. He had one wife in Boone and married another in Winterset. The first caused his arrest. William Burk was seriously wounded in a

ight today with James McGregor. They are fellow workmen in a planing mill and Burk assaulted McGregor because the latter jolted a log. Burk may not live. Domestic Troubles of a Young Couple.

CEDAR RAPIDS, Ia., April 24.-(Special Telegram.)-About five years ago Samuel Miller, a prosperous young fellow of this city, was wedded to Miss Garnett, the daughter of a wealthy farmer near this city. The married life of the young people was most happy. Lately a change has taken place, the young people parted and Mrs. Miller institu-ted divorce proceedings. The right of seeing his little daughter was denied Miller, and last night whin he met his wife out walking with the baby he tunied and accompanied her to their home. When he reached the door he took the little one and saying, "Lulu, you have kept her from me for five weeks and it will be five months before you see her again." made his escape. He refuses to give the child up and the matter will be settled in the courts. Both are prominent in the city.

Reductions in Shenandoah Schools. SHENANDOAH, Ia., April 24 .- (Special.)-The board of education has for several days been dealing with the problem of retrenchment in school matters. Only one teacher has been dropped from the corps, however, and no salaries materially cut. Superintendent F. A. Lacey was unanimously re-elected and will enter upon his fourth year of service. course of study will be modified slightly to adjust it to the new conditions.

To Manage Iowa's Semi-Centennial. DES MOINES, April 24 .- (Special Telegram.)-Governor Drake will appoint Wil liam C. McArthur and George C. Henry, both of Burlington, members of the commission to have charge of the state semi-centerolal celebration at Burlington. The other mem-ber of the commission will not be a resident seving girls wanted immediately. 132 Bwy. of Burlington. The state appropriated \$10,000 and Burlington has raised a like amount
for the celebration.

cheek of "Cyclone" McCaimut with a re- Sudden Death of One of the City's Prominent Business Men.

yesterday morning. He told the same straight- STRICKEN WITH PARALYSIS WHILE WORKING

the City's Best Business Enterprises for Thirty Years\_Sketch of a Busy Life.

Joel Littleton Stewart, the junior member of the wholesale grocery firm of Stewart Bros., died at 7:30 o'clock last night from and getting at the bottom or the facts, con-cluded that it was his duty to hold the boy suffered during the forencon.

Death came to Mr. Stewart swiftly and

western Iowa wholesale grocers at the Grand hotel. For a number of years he has had full charge of the wholesale business of the had approved the bond and told the boy he was free for the present, "Cyclone" McCalmut became very uneasy. He had no means of ascertaining the state of young Hiser's mind at the present time. There was room for a suspicion that it had not changed, and that he might get another revolver and finish the job he had begun. He concluded to take the job he had begun. He concluded to take | fell to his lot to write the report, and he legal steps to protect himself. The advice did so, writing rapidly and without hesita-of a lawyer was solicited and he appeared tion. When he finished it he passed it over in Justice Vien's court with an affidavit de-claring his belief that his life was in danger to one of the other members for examinaclaring his belief that his life was in danger and praying for the protection of the law. The justice examined the affidavit and questioned the interpretation was attracted by hearing a glight noise, and looking up from the paper him under a bond to keep the peace until they saw Mr. Stewart slipping from his chair McCalmut and his friends made a better to the floor. Before either could catch him he had fallen. The gentlemen assisted him "You are required to produce the affidavit to a seat in the chair, and a moment after of at least one additional reputable person he attempted to rise, but found himself helpwho personally knows the facts alleged to less. All sensation and control of his entire be true," remarked the court. Cyclone gave left side had vanished. Dr. Macrae was the name of Officer Murphy, and Murphy was called and advised the removal of the sick sent for, but in the court room he positively refused to make the required affidavit. Then McCalmut said Officer Claar would swear for him, and Claar was called into court, with such an extent that both the physician and the same result. This rather discouraged his family felt little alarm and made the McCalmut, and he left the court room with the promise that he would find two or three from a slight attack of paralys's and would ows who would swear to almost anything soon regain his usual good health strength. His mind was not in the least af-fected and his general physical condition semed not to have undergone any change except for the numbness of his left side. At 5 o'clock it was noticed that a stupor was creeping over him, and a short time after-ward he lapsed into unconsciousness, from which he never ralled. All the members of

the family except his two children were present when he died. Mr. Stewart has been a resident of Council Bluffe for thirty-one years and during all of that time has been prominent in business and a man of affairs. He was born in Mt. Carmel, Ill., February 19, 1837. He came to Council Bluffs in 1865, and for sev-eral years was engaged in freighting across tinued this business until the opening of the Union Pacific railroad, when he retired spent several hours in comparing beauty with, what was in those days, a great formarks and getting better acquainted.

It was the original intention to have the of Samuel Haas in the wholesale grocery founded by his brother, John T. Stewart and Mr. Haas. He devoted all of his energy to the business and built it up into one of the most prominent wholesale houses in the west. In 1870 he returned to Waukegan Ill., and was united in marriage to Miss Inabelle Cory, daughter of Dr. Cory. They returned to this city and have been con tinuous residents ever since.

> a helping hand for all who deserved and needed it. He was refined in his tastes and simple in his habits, and there was nothing in his plain and unassuming manner to in-dicate that he was one of the wealthies

men in the city. SUPREME COURT SYLLABI.

Fuller against Pauley. Appeal from Madison county. Affirmed. Opinion by Judge

A person who furnishes materials for n the erection of buildings on land to one possession thereof under contract of sale may acquire a mechanics' lien on the prem ises for any unpaid amount of the price of the materials, but if there is no agreemen between the vendor and the vendee of the land that the improvements shall be made he lien can only attach to the interest of

the lien can only attach to the interest of the vendee and will be subsequent and inferior to the lien of the vender for any balance of the purchase price for the land remaining unpaid.

2. A finding of a trial court on a point in respect to which the evidence is conficting but which there is sufficient evidence to sustain, will not be disturbed. Hanna against Buckley, Error from Dawson caunty. Reversed and remanded. Opinion by Judge Harrison.

The buyer of personal property may peaceably surrender possesion to a third person claimant thereof, but if he does so, in an action between him and the seiler, in order to sustain a claim on his part for damages for the loss of the property have the provent of the third person had a title thereto, valid and paramount to that acquired by the buyer from the seller.

2. Evidence held insufficient to sustain the verdict.

Howland against Sharp, Error from Doug-

the yerdict.

Howland against Sharp, Error from Douglas county. Reversed and remanded. Opinion by Judge Harrison.

The evidence examined and held insufficient to support the verdict of the jury.

McCle land against Scroggin. Error from Nuckolls county. Reversed and remanded. Opinion by Judge Harrison.

A motion and the affidavit filed in support thereof which did not show that if a continuance was granted the evidence of the absent witness or his personal at-

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If it's a nice,

pretty Shoe at a

Has them - All

Omaha cannot

Customers' Shoes

Shined Free.

moderate price,

What

Do You

Want?

Sargent

touch us.

Look for the Bear.

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tendance could or would be obtained. Held insufficient.

2. The cause, which may be termed ordinary, is such a degree of care as a prudent and reasonable man would exercise under the existing circumstances and conditions. Where the known risks are enhanced the degree of care should correspondingly increase.

3. The facts and circumstances in evidence in this case with reference to the management and operation of the engine of a steam thresher, more particularly in respect in the manner of dumping or throwing ashes and cinders and live coals therefrom in the stack yard near to the straw and stacks of grain, and the condition in which such ashes, cinders and coals were there left, held to present questions of negligence which should have been submitted to the jury.

Louis against Union Pacific Railroad company. Error from Platte county. Affirmed Opinion by Judge Norval.

A question of fact determined on conflicting evidence will not be received.

Chicago, Burlington & Quincy Railroad company against Hyatt. Error from Lancaster county. Affirmed. Opinion by Judge Norval.

The clerk of the district court is clothed.

caster county, Affirmed. Opinion by Judge Norval.

The clerk of the district court is clothed with power to sign and allow a bill of exceptions, when it is made to appear by affidavit that the trial judge is absent from his district.

2. The court will take judicial notice of the boundaries of a judicial district, and of the counties included therein.

3. It is the settled law of this state that the term "criminal negligence," as employed in section 3, article 1, chapter 72, compiled statutes, means gross negligence, such as amounts to a reckless disregard of one's own safety and a wiful indifference to the consequences liable to follow.

4. Where a passenger knowingly jumps from a moving train under such circumstances as to render the act obviously and necessarily perious, and to show a willful disregard of the danger incurred thereby, it will prevent a recovery for the injuries received therefrom, Chicago, Burlington & Quincy Railroad company against Landauer, 36, Neb., 642.

5. Held, under the facts proven in the case, that plantiff was not really to such suddenly. He was attending a meeting of

auer, 36, Neb., 642.

5. Held, under the facts proven in the case, that plaintiff was not guilty of such negligence in alighting from a moving train as to defeat a recovery for injuries received therefrom. Union Pacific Railroad company against Porter, 38 Neb., 226, followed.

ompany against Porter, collowed, Burris against Court. Error from Loup County. Affirmed, Opinion by Commissionatty. Burris against Court. Error from Loup county. Affirmed. Opinion by Commissioner Ryan.

An application for a continuance is addressed to the sound discretion of the trial court, and, unless it appears that there has been an abuse of such discretion, its ruling will not be disturbed.

2. An instruction by which the court only professed to describe, and in fact did accurately describe to the jury the admission of fact of a party as the same appeared on record, cannot be assailed as erroneous on the alleged ground that the adverse party had a right in the first place to an admission of greater scope or conclusiveness than that described as a condition upon which a continuance would be denied such adverse party.

3. An admission of plaintiff that proposed witnesses of defendant, if time applied for should be allowed to procure their evidence, would give certain testimony is not equivalent to an admission that such proposed testimony is absolutely true and indisputable.

May against Hoover et al. Appeal from

able.

May against Hoover et al. Appeal from Madison county. Affirmed. Opinion by Commissioner Ragan.

Evidence examined and held to sustain the conclusion of the district court that the conveyance assailed in this action as fraudulent was neither made nor accepted with the intent to defraud, hinder or delay the creditors of the appellee.

Unland against Garten. Error from Saine county. Affirmed. Opinion by Commissioner Ragan.

To constitute a warranty it is not necessary that the word warrant should be used. It is sufficient if the language used by the vendor amounts to an undertaking or assertion on his part that the thing sold is as represented.

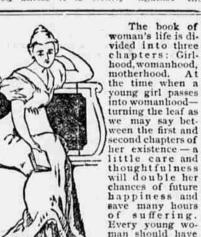
2. Whether statements made by a vendor as to the condition or quality of property offered for sale were intended by him to be warrants of the condition or quality of such property, or whether by such statements the vendor intended merely to give his opinion as to the condition or quality of such property are questions of fact for the jury. Erskine against Swanson 45 Neb. 76, followed.

Nebraska Moline Plow company against Kingman et al. Error from Webster county. Affirmed. Opinion by Commissioner Ragan.

Where a motion to discharge an attachble. May against Hoover et al. Appeal from Jacilson county. Affirmed. Opinion by

county. Affirmed. Opinion by Commissioner Ragan.

Where a motion to discharge an attachment on the ground that the facts stated in the affidavit are untrue is heard on conflicting evidence the decision of the trial court on the motion will not be disturbed unless it is clearly against the



chapters: Girl hood, womanhood, motherhood. At second chapters of her existence — a little care and thoughtfulness chances of future happiness and save many hours of suffering. Every young wo-man should have an intelligent un

derstanding of her Half-knowledge own physical make-up. Half knowledge which is little better than pure ignorance, opens the way to an untold amount of pain and wretchedness. Few women realize the influence exerted on their bodily and mental well-being by on their bodily and mental well-being by the special organism of their sex. It is hard for them to believe that the little drain which goes on from day to day is sufficient to sap away the very life forces. Yet it is so. The weakness, exhaustion, melancholy; the periodical prostration and sometimes almost torture has no other cause, two-thirds of the time, than the abnormal unhealthy condition of the generative organs. Strangely enough even doctors often fail to recognize the truth. For this condition there is no other remedy in the world so helpful and certain a Dr. Piercel's Everytic Prescription. certain as Dr. Pierce's Favorite Prescription restores health and vigor to the feminine inctions and renewed vitality to the entire body. It heals inflammation, stops dis-charges, strengthens the ligaments and builds up the internal tissues which cannot

be reached by "local treatment." It is of inestimable value to young women and to prospective mothers, greatly lessening the pains and perils of childbirth if taken during pregnancy. During the "change of life" it is invaluable. Dr. Pierce's great book, "The People's Com-mon Sense Medical Adviser," has 1008 pages, profusely illustrated. Over 90 pages are de-voted to woman's diseases with suggestions for home-treatment. It will be sent free by World's Dispensary Medical Association, 65 Main Street, Buffalo, N. Y., on receipt of 21 one-cent stamps to cover cost of mailing only.

weight of the evidence. Whipple against 11iii, 36 Neb., 720, followed.

2. The fact that a co-partnership largely indebted sells most of its property and its business to one of small means in consideration of a small amount of cash and the purchaser's promissory notes is a circumstance tending to show that the transaction was fraudolent, but not conclusive nor alone sufficient evidence that it was fraudolent.

Oyier against Ross, Error from Saline county. Affirmed. Opinion by Commissioner Ragan. tendance could or would be obtained. Held

Oyler against Ross. Error from Saline county. Affirmed. Opinion by Commissioner Ragan.

A petition is not essential to confer Jurisdiction upon a county beard to open section line roads under section 40, chapter 78, compiled statutes. The only limitation upon the discretion of the board in that respect is the fundamental one of compensation for private property taken or damaged. Rose against Washington county, 42 Neb., 1, followed.

2. An order of a Board of Supervisors instructing the county clork to cause a section line road to be resurveyed and enter such survey when made of fecord is not an order for the opening of such section 40. the evidence examined and held to the finding of the district court he defendant in error had not dedi-certain real estate to the public for

as a highway, cumseh National bank against Har-... Error from Johnson county, Re-ed and remanded. Opinion by Common. Error from Johnson county. Reversed and remanded. Opinion by Commissioner Irvine.

H. sued the T. bank on a deposit. The bank answered by a general denial. During the trial it undertook to prove payment. Objection being made to the relevancy of the proof, an agreement was made in open court whereby the bank was allowed twenty days to amend its answer "in any manner," with the same effect as if presently filed, and the trial proceeded. The instructions given excluded from the jury the consideration of the issue of payment of which was finally tendered by the amended answer, filed after trial, but within the stipulated time. Held, that the plaintiff was bound by the terms of his stipulation and that the judgment must be reversed for failure to submit the issues finally framed to the jury.

2. The practice of proceeding with a trial subject to a future amendment of the pleadings criticised.

S. J. Spaulding Indicted. DES MOINES, Ia., April 24.—(Special Telegram.)-S. J. Spalding, who as treasurer of the state pharmacy commission stole \$13,-000 from the state, was indicted today for embezzlement. He will demur to the indictment and claim that there is no provision to the law requiring him to turn money over to the state treasurer; therefore that he cannot embezzie. It is true that there is no direct requirement for any settlements with the treasurer. Spaulding hopes to go free as a result of the weakness of the law. His boodsmen will set up, likewise, that the law does not require him to give a bond, and AND RETREAT FOR hence that the state cannot recover on it.

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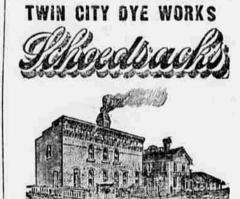
If in the enjoyment of good health, and the system is regular, laxatives or other remedies are then not needed. If afflicted with any actual disease, one may be commended to the most skillful physicians, but if in need of a laxative, one should have the best, and with the well-informed everywhere, Syrup of Figs stands highest and is most largely used and gives most general satisfaction.

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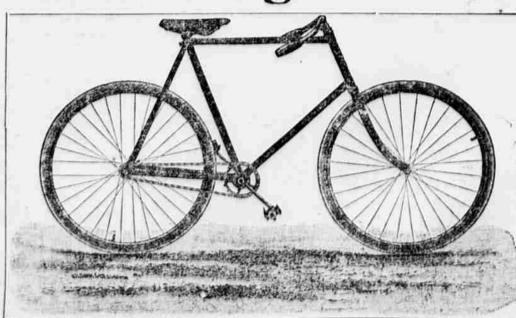
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